1/2018

JUST AFRICA
All - Africa Journal of Criminal Justice

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ALL AFRICA CRIMINAL JUSTICE SOCIETY (AACJUS)

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JUST AFRICA is a peer-reviewed academic journal that promotes academic and professional discourse and the publishing of research results on the subject of crime and criminal justice and other crime-related phenomena in the broad Criminological Sciences and applied field of criminal.

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iv. Reject (unlikely to be accepted even after revision). In this instance it would be senseless to provide feedback and the decision of the editors would be final.

Apart from scientific shortcomings or inconsistencies, the following evaluative criteria are considered:

- The theme is academically significant (timely, important, in need of being dealt with);
- The theme contributes to an existing (professional) body of knowledge (the knowledge component is useful);
- Author/s‟ goals and objectives are clearly stated;
- The article addresses (unpacks) themes logically, consistently and convincingly;
- The article demonstrates an adequate understanding of the literature in the field;
- The research design is built on adequate understanding, evidence, and informational input;
- The interpretative potential of the data has been realised;
- The article demonstrates a critical self-awareness of the author's own perspectives and interests;
- Holistically, the article is properly integrated and clearly expresses its case measured against the technical language of the field (theory, data and critical perspectives are well structured, and the presentation is clear);
- Conclusions are clearly stated and adequately tie together the elements of the article;
- The standard of writing (including spelling and grammar) is satisfactory.
- JUST AFRICA adopted the APA reference technique and it must therefore be consistently applied throughout the article;
- Sources consulted are sufficiently acknowledged (included in a list of references) and consistently cited to:
    supply academically sound evidence on which the authors base their observations;
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1. A publication fee may be levied at the discretion of the editors for every article published in the Journal. NGOs, unaffiliated authors, international scholars, etc., who do not have access to research grants to fund expenses of this nature, may be exempted.

2. Where substantial changes are deemed necessary, contributions may be referred back to authors for finalisation. Alternatively, where articles which exceed the prescribed length are accepted for publication, an additional fee per page may be levied. In instances where submissions are not satisfactory (i.e. ready for processing) and require additional attention from the editors, an additional fee may also be levied, notwithstanding the authors' status as members.

3. Manuscripts for publication or enquiries pertaining to Just Africa should be directed to: The Editor-in-Chief: Prof. (Dr.) Rajendra Parsad Gunputh at email: rpgunput@uom.ac.mu

REFERENCING GUIDELINES

Notes: References and citations should be prepared in accordance with the Just Africa adapted APA format (see examples of various reference listing types below). The „in-text" referencing format is followed by the Journal with full source referencing information listed under the heading: LIST OF REFERENCES (uppercase), which has to appear at the end of the article. All sources in the List of References must be listed alphabetically by authors' surnames, according to the following examples. Footnotes and endnotes are also acceptable for submissions with a predominantly legal context Please note the indenting of the second and additional lines of a reference listing when longer than two lines.

The use of full stops in listing: In general each separate piece of information is standardly followed by a full stop.

LIST OF REFERENCES [EXAMPLES]

Books

Ratcliffe, J. (2008). *Intelligence-led policing.* Devon: Willan Publishing.

Chapters in books

Strydom, H. & Venter, L. (2002). Sampling and sampling methods (Pp. 56-67). In A.S. de Vos, H. Strydom, C.B. Fouche & C.S.L. Delport (eds.). Research at grassroots: For the social sciences and human service professions. Pretoria: Van Schaik.

Journals

Nakison, E.D. (2010). Teachers' disciplinary approaches to students' discipline problems in Nigerian secondary schools. International NGO Journal, 5(6): 144-151.

Interviews

Riekertze, M.C. (2013). Director, Security. ABC Company. Pretoria. Personal interview. 21 May.

Newspapers

Khosa, F. (2010). Zuma must reign in our cowboy police. Sunday Times, 10 July.

Websites

Carter, B. (2012). Clever Politics. Available from: http://what-when-how.com/Theories of policing (police). Accessed on: 28 February 2013.

Legislation

Republic of South Africa. (2001). Financial Intelligence Centre Act 38. Pretoria: Government Printers.

Case Law

Mohunram v National Director of Public Prosecutions and Another (Law Review Project as Amicus Curiae). 2007 (4) SA 222 (CC).

Notes on examples:

Source references in the text are indicated by the surname/s of the author/s and the year of publication as well as the page number from where the reference is cited/sourced, for example (Foster, 2007:7) or Foster (2007:7). If you are generally referencing some information (ideas, concepts interpretations) drawn from a publication and paraphrased them, i.e. no specific page number, this can be referenced as: (cf Porter, 2012: 57-72). It would not be acceptable to merely list this reference as (Porter, 2012) without page numbers. A reader must be able to go to the Porter's publication and see where you obtained the general information being referred to from, even if from a number of pages.

Secondary referencing: For example: ….Mac (1999) (as cited in Minnaar, 2001:14)…. This is generally not acceptable in academic terms. Author/s should preferably go to the primary source, i.e. Mac (1999), and reference the information used directly from the relevant page numbers in the Morrison publication. However, sometimes in a newspaper or journal article a specific person is quoted, i.e. such person does not have a primary publication from which the information is being quoted but was interviewed. In such circumstances the person so quoted can be referenced accordingly by name as, for example, National Police Commissioner Phiyega (as cited in Brown, 2012) said that the SAPS must not compromise on service delivery…..

If more than three authors are used then all authors' names are to be indicated in the reference the first time it is used in the text, thereafter only the first author name and the term "et. al." For example: Botha et. al., 2009: 17. "et. al." is not used in the List of References. If no author is identified the appellation: Anon., must be used. If newspaper articles are cited, and if there is no author listed for the particular article, then the news source should then be used as the author, e.g. SAPA, Reuters or Africa Eye News, etc. In the List of references, a month date is always added after the newspaper title, e.g. 22 May (year date appears after author), followed by the newspaper page number (if available) where the cited article appeared.

All multiple initials are separated by full stops without any spaces in-between. The Date of Publication is placed in brackets followed by a full stop. Titles of articles, chapters or documents being referenced only have the first letter of the first word (unless a proper noun) as a capital. This rule also applies to the first word after a colon in the title. However, all words in the title of a journal (except pronouns) have the first letter as a capital. Place of publication is followed by a colon and then the publisher's name. Only book, journal and newspaper titles (not chapters or

article titles) are italicised. The volume and/or edition numbers are not part of the Journal title, i.e. are therefore not italicised. Note that the volume number is followed by the issue/edition number in brackets followed by a colon and the journal page numbers of the specific article. No use is made of abbreviations: Vol. or No. Journal titles are not abbreviated or given acronyms when referenced in the text for the first time, e.g. IJCJ is written out as: International Journal of Criminal Justice, the first time it is used as a reference in the text (and in the List of References) with the acronym in brackets after the full title (when used in the text), and thereafter you can use the acronym in the subsequent reference listings to this journal in the text. Please note the specific listing for a chapter in a publication, as well as the insertion after the chapter title of the page numbers in which it appears in the publication. If only one editor for the publication this is indicated in brackets as: (Ed.), while multiple editors will be the abbreviation: (eds). [small "e" and no full stop after the abbreviation, only after the bracket]. Note editor/s initials come before their surname in the listing of a chapter.

Referencing information from the internet: This is treated exactly the same as if it is a publication, i.e. look for an author, sometimes this is merely the organisation on whose website such information has been found; then a date for when the downloaded document was placed on the website or the report published – if none then use the appellation: (nd). You must indicate a title for the document – this can be the first heading of the document, then a publisher, usually the website organisation, e.g. Women against Drugs (WAD). No place of publication is needed unless indicated in the report/document downloaded. Then the use of the terms: „Available at:" followed by the URL web address for the downloaded document. This is followed (in brackets) with the terms: „accessed on:" or alternately the term „retrieved on:" followed by the date when such internet document was downloaded, e.g. 06/03/2012 – the date can also be written out as 6 March 2012 (required date format to be: ddmmyy). Wikipedia references are not a primary source for referencing and are not academically acceptable in this journal's articles.

If necessary, content references in the form of footnotes/endnotes may be used to provide referencing style.

TECHNICAL AND FORMATTING REQUIREMENTS

Articles that are submitted for consideration should adhere to the following minimum standards and technical and formatting requirements before submission:

1. An **electronic copy** (computer disk or document sent by e-mail (to the Editor-in-Chief) in MS Word (or Word compatible software programme). If not e-mailed, the file name of the manuscript must be specified on an accompanying computer disk.

2. **Length**: Contributions must be submitted in English and should preferably not exceed **20** typed A4 pages (electronically minimum word count should not be less than 7 **000** words (approx. **15** pages) or exceed **10 000** words (approx. **20** pages). (Extra page fees will be charged if the 20 page limit is exceeded).

3. The **title** of the article (in uppercase) and the **author's full first name and surname**, designation, institutional affiliation, address & contact email should appear on the first page.

4. A **summary/ABSTRACT** of approximately 150-300 words on the first page of the submitted article must also be included. The ABSTRACT to be **italicised.**

5. **Key words:** Directly below the ABSTRACT paragraph insert **Key Words** (maximum of **TEN** (10) – approximately **TWO** (2) lines.

6. If **funding** has been received from your University/Organisation or external funders for the research on which this article is based, such support funding can be acknowledged in the first footnote.

7. **Line spacing**: The document should be typed in A4 format using **SINGLE (1)** line spacing. No double spacing between words or after full stops and commas. Only single spacing throughout text.

8. Font: Arial 12

9. **Page numbers**: are also **TNR 12** font and centred in the **footer** section of each page.

10. **Spelling**: Please make use (choose this as your default option) of the UK spellcheck and NOT the USA one. For example, replace the „z" in organization (US spelling) with an „s" = organisation (UK spelling).

11. **Paragraphs** are indicated by a single line space before and after each paragraph (exception first paragraph after a heading, see below) and not the automated „space after a paragraph" or „space before a paragraph" function in MSWord. No indentation of the first line of paragraphs (see below exception for long quotes format).

12. **Use of quotes and italics**: Long quotes are placed in a separate paragraph and must be indented from both sides, (see below for short quotes usage) like the following:

Quotes that are 45 words long or longer (three lines and more) should be indented from both sides (of the paragraph) as in this example. If the quote is shorter than it needs to be imbedded in the text of a paragraph and set in between double quotation marks, i.e. "inverted commas".

Quotes from published information are generally not italicised. However, actual words of interviewed respondents are recommended to be italicised.

13. **Single quotation marks**: Single inverted commas are only used when you want to emphasise a term or a common saying especially when it is not a direct use of words from another author. e.g. „Zero Tolerance" or … a „live-and-let-die" approach, etc. Single quotation marks are also used for a quote within a quote, for e.g. "It was patently obvious from the research that police officers use of force was not following the regulations. As indicated by one interviewee: „they shoot wildly in a crime situation". This indicated that they needed to be trained to follow the set rules (Mistry, 2003: 6).

14. **Text justification**: Text is always full justified (squared), except for article title (left justified) and author/s name (right justified) and the heading: ABSTRACT (centered) on first page.

15. **Headings and sub-headings**: All headings and sub-headings must be bold. There is no use of numbering or underlining of headings in this journal. Only three levels of headings" format to be used, namely: Main heading which is UPPERCASE (CAPS); 2nd level, i.e. sub-heading, only the first letter of the first word in the heading is a CAP unless it is a proper noun, e.g.: Crime in Cape Town's informal settlements. 3rd level sub-sub-heading is indicated in bold and italicised with the same CAPS convention for 2nd level heading. E.g. Crime findings from the Crossroads informal settlement. All headings do not to have a full stop at the end. Note that there is no line spacing between a heading and the immediate following paragraph.

16. **Use of dates in text**: As follows – 11 September 2001 and not September 11, 2001. Also no use of abbreviations as in 1st, 2nd or 3rd just 1, 2, 3 etc. In the text do not use the date format of 11-09-2001 or 11/09/2011.

17. **Use of tables, figures, graphs and diagrams in text**: These render the layout difficult and should be used sparingly. All diagrams and tables must be numbered sequentially and referred to in the text, e.g. In Table 2 the falling statistics for the crime of murder can be discerned over the period 2000/01 to 2005/06. The use of such diagrams or tables must have a heading (also to be made bold) before the table or diagram and not after it.

18. **Use of bulleted lists**: when bullets (list of things or ideas not full sentences) are used, each bullet is closed with a semi-colon, except the second last one and the last one that have respectively a semi-colon followed by an „and", and a full stop at their end. Format wise with bulleted lists, if each bullet or bullet number is only one or possibly two lines, no spacing, but if all bullets in list are consistently longer than two-three lines put in a space in between each bullet. A line space is also inserted before the whole bulleted list and after at the end to create a space between the paragraphs and the list. In your bulleted list please use the symbol:

• and not symbols such as: »,√,*,#,Δ,◊, ■, etc. If your list is numbered, please use the numbering format as follows: 1. and not 1).

19. **Use of footnote/endnote numbers in text**: Footnote/endnote reference numbers must be placed in the text after the full stop and not before it, with no space between the two. The same applies after a comma (in the middle of a sentence), i.e. not before but after the comma. Technically footnote/endnote text is TNR10 font, single spacing, square justified with no space after the footnote text paragraph.

20. **Use of numbers/figures in text**: At the start of a sentence any number is also always written out, e.g. Thirty-three. Also percentages at the beginning of a sentence as: Seventy-five per cent…. Note the use of per cent and not % when a percentage is written out. Double figure numbers when written out in the text always have a hyphen, e.g. twenty-five or thirty-six or one-hundred-and-six. No comma is used to indicate thousands – only a space e.g. 100 000 or 12 000 or USD$1 000 000 etc. and not 100,000 or 12,000 or USD$1,000,000. Commas or full stops are only used to indicate fractions (as in percentages) in numbers of a decimal, e.g. 76,25% or 76.25%. Spacing: no spacing after currency denominator, e.g. USD$ sign and the figure (amount), e.g. $5 000 or R1 250. In addition, there is no space between a number and the percentage sign (e.g. 80% and not 80 %). Other use of spaces: No space before a colon but a space after it. For e.g.: The title of the chapter is: Analysis of research findings….and NOT….the title of the chapter is : Analysis of research findings….

21. **Titles of persons**: if part of a person's name should be abbreviated, e.g. Lt-Gen. Gerber, and not as Lieutenant- General. Note the hyphen and the full stop at the end of the abbreviation. For abbreviations a full stop is always used unless the abbreviation ends in the same letter as the long version. E.g. Dr for Doctor; Mr for Mister; etc. Other examples: Prof. = Professor; Dir = Director; Capt. = Captain; Maj. = Major.

23. **Use of abbreviations and acronyms**: When used in the text for the first time they are placed in brackets after the full term, e.g. The African Union (AU). Thereafter the abbreviation or acronym can be used. All abbreviations or acronyms are uppercase. Each letter in the abbreviation or acronym does not have a full stop in between or after each letter, e.g. Not A.U.

28. A **legislative Act** always has a capital letter „A" even when used on its own to refer to or describe a specific Act, e.g. The Act clearly states that it is illegal to trade in illegal drugs….. First letter of Acts title also has a capital letter, e.g. The Criminal Procedure Act.

29. **Use of „and" and ampersand (&)**: The ampersand symbol „&" is not used in the text at all. For example: According to Maason and Clerque (2011: 102) these types of crime were……; whereas & will be used when authors are placed in brackets as a text reference, e.g.: An analysis

of incidents showed that these types of crime were becoming more prominent over the last two years (Maason & Clerque, 2011: 102). The ampersand is also used when listing multiple authors in your List of References.

SUBMISSION OF MANUSCRIPTS

The All-African Criminal Justice Society was born in the cold winter of Polokwane, South Africa, in 2012. Members to this society had a dream: To fight against organized crimes in all its many diversified forms for a just and a better Africa - not for us - but for our elders, women and children. Our aims and objectives were three-fold: To inform, to be informed, and to come to a better understanding of organized crimes in a very transparent way and to search for solutions for better security for us all. The dream came true with the publication of a journal to reflect the same.

To support these initiatives, the Just Africa Journal therefore welcomes the submission of articles from scholars, academicians, researchers and law students from both within Africa and abroad. The submissions may be on any contemporary national or international criminological issue in the English language. SocietySubmissions must not have been published, submitted or accepted elsewhere. The final decision is taken by the All-African Criminal Justice Society and members of its Editorial Board. The Editorial Board reserves the right to edit articles.

Electronic copies of the manuscripts must be e-mailed to rpgunput@uom.ac.mu; cornelis.roeofse@ul.ac.za or Charles.oliver@ul.ac.za

Submissions should be between 5,000 to 7,000 words in length but shorter contributions would also be considered for publication. We may accept articles UP to 10,000 words to the satisfaction of the Editorial Board.

For further information, please consult the Submission Guidelines and Editorial Policy, available on the website of the Journal for Just Africa:

www.cyberdefenseresearch.com/acjus/

Authorisation to reprint or republish any articles published in the Just Africa Journal must be obtained first from the All-African Criminal Justice Societyand its Editorial Board.

CALL FOR CONTRIBUTIONS

Contributions to the Just Africa Journal is welcomed and can be sent to the Editor-in-Chief at rpgunput@uom.ac.mu in electronic format, using MS Word or a word-processing program compatible with MS Word. Respected authors are earnestly requested to adhere to the guidelines set out below. Contributions that fail to do so may be returned to authors for revision before being considered for publication.

1. Authors are required to provide their names, surnames and details of their current employment.
2. Articles should be between 5,000-7,000 words long.
3. Articles that are submitted must not have been published elsewhere.
4. All articles are submitted to referees who will determine the suitability of articles for publication and whether they fit the scope of the journal.
5. Authors are requested to submit their articles in the house style as it appears on the website.
6. Headings must be in bold and subheadings in italics but must not be numbered.
7. Footnotes must be used instead of endnotes.
8. All quotations should be put in double quotation marks and in italics.
9. The titles of statutes and legislations are not in italics.
10. References are in italics.
11. References appear at the end of the article in the Harvard style with all relevant details such as details of publications, publishers of books, page references and years of publication.
12. An ABSTRACT of 300 words must accompany the full article and the introduction must not exceed 15 lines.

CONTENTS

PREFACE BY GUEST EDITOR

This is the third edition of Just Africa. To start a journal and keep it going is no mean feat. For this the editorial team deserves credit but more importantly, the authors that have supported the Journal are the real champions of our vision to develop Just Africa into a SAPSE approved journal. In this third edition, we feature 5 articles within the study field of Criminal Justice with a variety of methodological approaches, including quantitative and even an observation study. Our vision to create opportunities for particularly African based authors to publish their research is gaining momentum. Creating African solutions for Africa's criminal justice problems is no longer a dream. This journal is a tool for exactly that. My plea is for scholars to contributions from abroad and will not discriminate against such submissions but call for research, focussing on our beautiful continent with its many challenges. Submissions, in all fields within criminal Justice are welcomed and references may include footnotes to accommodate submissions in law.
We are accepting submissions for 2018 and we want to try and publish two editions in 2018

Prof Cornelis Roelofse
Guest Editor
Department of Criminology and Criminal Justice
University of Limpopo

CAN KNOWLEDGE LEADERSHIP BE USEFUL TO POLICING? AN EXPLORATORY CONVERSATION.

Botha, C.J.[1]

The problems that exist in the world cannot be solved by the level of thinking that created them (Einstein, in Cavaleri *et al.*, 2005:20).

ABSTRACT

This is a conversation about knowledge leadership (KL) – still a relatively unexplored concept in the leadership literature. The conversation is based on Cavaleri (et al, 2005), which may be seen as a seminal work on the topic. It aims to give more conceptual clarity of knowledge leadership, with the aim of it being applied to fields of study in South African society, such as governance in general, and societal safety in particular. Finding current and relevant literature was difficult as opposed to finding literature on knowledge management (KM). The available sources consequently provided a historiography of KL, interestingly making it easier to do the conceptual analysis. It was also possible to analyse the concept to such an extent that future research topics and themes could be suggested. Cavaleri (et al, 2005) uses Koestler's work (circa 1945) as a fascinating foundation for their remit. It is argued in this conversation that the dichotomy created by Koestler with the Yogi and the Commissar, actually allows for knowledge leadership to be seen from the paradigm of ontological pluralism. The conversation also points out the linkages to other seminal works, by Taylor (on scientific management. His book Principles of Scientific Management, appeared in 1911), Covey (on personal, interpersonal and organisational leadership, 1989 and 1991), and Senge (the learning organisation, 1990).

Conceptual clarification is sought by an exploration of definitions: it first defines knowledge, then leadership and then provides an operational definition of knowledge leadership

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itself which differs somewhat from the one provided by Cavaleri (et al, 2005). Finally, the conversation briefly examines knowledge leadership theory, a model and the indispensable ingredients of knowledge leadership, namely explicit and tacit knowledge.

INTRODUCTION.

Knowledge Leadership (KL) is still a relatively unexplored concept (cf. Botha, 2016). The seminal work (Cavaleri et al, 2005) was published a mere twelve years ago. A review of the literature shows focus on aspects related to, or preceding, KL such as knowledge management (KM), the knowledge-based organization (KBO) and the learning organization (Senge, 1990) with very little on KL per se as a concept.

Knowledge however, is inextricably tied to organizational effectiveness, while leadership seeks to set direction, manage change and establish capabilities for organizational performance and improvement (Cavaleri et al, 2005: ix). The common denominator, which I submit to be effective individual and organisational performance, links knowledge to leadership in a powerful way. This linkage opens up the possibility to knowledgeably manage (as opposed to managing knowledge, see Cavaleri et al, 2005: 6) for competitive advantage.

The goal of this conversation is to journey through the epistemological intricacies of KL with the view of starting a more comprehensive discourse. Cavaleri (et al, 2005) serves as the starting point of the conversation. To manage this goal effectively, the conversation seeks to explore the following objectives:

1. To describe the development of KL as a concept;
2. To describe KL through an exploration of conceptual clarifications;
3. To describe theory related to KL; and
4. To describe a KL model; and
5. To describe KL indispensable ingredients.

THE DEVELOPMENT OF THE KL CONCEPT.

Taking a helicopter view of KL as a concept, one is able to clearly see the development of the concept through the work of notable scholars in the field until it reaches the point where KL is described contextually. Throughout this paragraph, as well as the next (paragraph 3) one is able to find the tenets of development in the works of several noted scholars. Cavaleri (et al, 2005) serves as a seminal work simply because it identifies and describes the concept KL in formal

fashion. However, Cavaleri and his fellow authors are standing on the shoulders of giants. The work of these giants is discussed in this and the next paragraph below (with references to Koestler, Taylor and Wiig based on Cavaleri et al, 2005), not necessarily time line bound, but decisively in terms of contribution to the inherent traits of what would later be described as KL.

Koestler, the Yogi and the Commissar.

One may be sure that when Koestler (Cavaleri et al, 2005) wrote about the Yogi and the Commissar in 1945, it was not done with the view of introducing KL to the world sixty years later. Yet, his contribution, as we will see, was significant and formative. Taylor, later credited with "scientific management" (circa 1900) would certainly not have expected to be quoted along the lines of leadership development so many years later. Kuhn's (1962) ground breaking work on paradigms would give direction to thinking about leadership, while Wiig's (1993) work on knowledge management would set the scene for the development of KL. Add to this the work of Covey and Senge during the period 1989 to 1991, and the scene is set for an appreciative learning journey.

KL's knowledge management (KM) roots.

According to Cavaleri (et al, 2005: 3) KL has its roots in KM. KM is originally found in the work done by Karl Wiig, with the publication of his pioneering book on KM (Knowledge Management Foundations) in 1993 (Cavaleri et al, 2005: 5). Unfortunately, most companies invested mostly in the information technology (IT) aspects of KM, leading them to manage knowledge available in IT systems (Cavaleri et al, 2005: 3). The result was that knowledge was equated simply to information. Knowledge, however, is not synonymous with information, nor is the management of knowledge the same as knowledge leadership (Cavaleri et al, 2005: 14). Companies who limit themselves to a version of KM focussed on the management of IT based information will not be able to compete as effectively as others who make use of pragmatic knowledge (see Cavaleri et al, 2005: 3). A more detailed discourse on pragmatic knowledge is offered in paragraph 3.4 below, but the term may be described for purposes of this discussion as situation-specific knowledge that works in practice (Cavaleri et al, 2005: 4).

Taylor and scientific management

The version of KM that focuses on the management of IT based information, attempts to follow a scientific approach to efficient management. This is because management theory has left students of business deeply impressed with the work of Frederick Taylor, often referred to as scientific management (Cavaleri et al, 2005: 4). IT based management of information thus makes

sense to executives, as it allows them to tap into the company's information assets for purposes of decision making. Cavaleri et al (2005: 4) criticizes the opinion that Taylor's work was scientific. At best, they say, Taylor's work could be seen as the business of a mechanical engineer, and not as that of a scientist. However, they also argue that the IT based approach to KM actually grew KM as a concept. This was so because the "scientific management" training background of executives, as well as executives' aversion to more esoteric philosophical theories from ivy covered universities, made the IT based version of KM more digestible (Cavaleri et al, 2005: 4, 6 &7).

Senge, the learning organisation and KL:

One is also able to trace KL in the work of Peter Senge, whose best-selling book (The Fifth Discipline: The Art and Practice of The Learning Organization) was published in 1990. Senge, says Cavaleri (et al, 2005: 5) integrated the scientific method of policy analysis (through the use of the system dynamics method) with the art of learning from experience. Senge's (1990) work thus indicated a way forward that linked "science" and "art" in studies of organizations. In essence, the learning organization that Senge (1990) writes about is first rooted in the term knowledge by "continuously expanding its capacity to create its future" (Senge, 1990:14). This is generative learning, learning that enhances our capacity to create (Senge, 1990:14).

Science and art?

However, it is exactly this linkage between "art" and "science" that needs more interrogation. It dispels the "KM oil well myth" (Cavaleri, et al, 2005:10-12): the authors criticize the view that companies are sitting on top of a knowledge oil well that has yet to be tapped. The greatest challenge, should this view be accepted by the company, is to decide "which extractive technology would be most efficient for getting the most knowledge out of this well at the lowest cost" (Cavaleri, et al, 2005:12). This one-sided view of IT packages managing KM, of knowledge being equal to information and of the management of information idea in KM is exactly the reason for the emergence of KL. That "science"-based view of KM ignores the "art" in the equation.

Unpacking the Yogi and the Commissar

This is where the Yogi and the Commissar enter the scene. One of the authors (Cavaleri) stumbled upon the classic 1945 work of the same title by the British philosopher Koestler, and the Yogi and the Commissar became two of the central characters in their book under discussion here. Koestler used the thinking styles of the Yogi and the Commissar to represent two divergent world views that he observed in the political systems of his era. Koestler's work would have a

major influence on Cavaleri's thinking about knowledge, leadership and the like in modern corporations (Cavaleri, et al, 2005:17). The seven core beliefs of the two characters are depicted in Table 1 below (adapted from Cavaleri, et al, 2005:55):

Table1: Seven core beliefs of Yogis and Commissars

Core beliefs	Yogi	Commissar
Change comes from..	Within	Without
The way to make change is to..	Change human experience. Help people to connect to their own values and each other. Violence is not a viable alternative.	Change the system. Change people's relationships and roles within the system. Revolution is necessary.
Values	The ends are so unpredictable that the means are more important.	The ends justify the means.
Logic/ reasoning	Has diminishing value as one approaches the truth.	Is valued above other forms of knowing. Reason is the basis of all action.
The world	Could as easily be described as a clockwork, a music box or a fishpond. A subjective, social-constructionist worldview.	Is an objective reality, orderly and knowable, with a predictable cause and effect? A mechanical-deterministic, objective-empiricist worldview.
Perception/learning	Our beliefs shape what we see in the world around us.	We see the world as it is.
Other opinions	Anyone who believes otherwise is an escapist (and a Neanderthal).	Anyone who believes otherwise is an escapist (and a wimp).

The core beliefs of Yogis and Commissars, as depicted above, leaves one with much information to explore. One may begin by looking at their respective views of the world, describing

Yogis as social-constructionists, and Commissars as objective-empiricists. As such, one may look at Yogis as the "art" part of the equation, and Commissars as the "science" part of the equation. One can then unpack the inherent dichotomy by investigating the ways in which, respectively, Yogis and Commissars look at the world, learn new things and lead their followers. These are represented in Tables 2, 3 and 4 below (adapted from Cavaleri, et al, 2005:61-62):

Table2: How Yogis and Commissars, respectively, look at the world

Yogi looking	Commissar looking
Reflectionists (actively seek the truth of the inner world).	Empiricists (actively seek the truth of the outer world).
Look for the hidden or implied meaning in search for the real truth about the world.	Look at the revealed truths of the world to understand reality.
Actively seek the underlying, hidden meaning of the revealed world; tend not to believe only what they can see, touch and feel.	Actively seek the truth of the outer world with passive eyes; tend to believe only what they can see-touch-feel.
Believe that the tangible/visible world is only a small portion of the truth.	Believe that the world has already unfolded the transparent truth before their eyes.
Desire to understand the meaning of what they see by paying greater attention to the subtle nuances.	Desire to witness or observe what unfolds before their sensors with greater attention to the details.
The process of looking is just the beginning of "sense making" (i.e., making meaningful connections to other constructs).	The process of looking is "purposefully seeing" and ordering the visual systems.

Table 3: How Yogis and Commissars, respectively, learn

Yogi learning	Commissar learning
New ideas come from inner self-development.	Search for new ideas, or review the latest and best practices in order to gain a competitive advantage.
The primary means to learning is the exploration of the hidden/implied meaning of any piece of information.	Acquisition of information (as much as possible) and its careful dissemination is the primary means to learning.
Less is more: more information often only causes confusion.	More information, therefore, is better than less to understand/ learn what action to take.
Is not particularly interested in (and tends to disregard) sophisticated analytical tools because they often only distort the truth.	Is interested in and quickly adopts sophisticated analytical tools, whether mathematical, statistical, or graphical.
The best way to learn is through reflection, connection, and then making sense of all known variables.	Experience (real life trial and error) is the best way to learn; experimentation is the second best alternative.
Holds a strong belief in the value of exploring the as-yet-unrevealed truths of all tangible/visible things.	Holds a strong belief in the value of tangible/measurable outcomes as evidence of truth in any piece of knowledge.
Must reflect and think deeply to uncover the truth. Enjoys most sense-making learning exercises.	Must see, touch, feel, and experience to believe and learn; enjoys most action-based experiential learning.
In general, reflection and hypothesizing are the basic tools of learning.	In general, action-based experimentation and experience are the basic tools of learning.

Table 4: How Yogis and Commissars, respectively, lead

Yogi leading	Commissar leading
Focus on organizational development; works with individuals in system to assure cohesion, shared vision, and core values so everyone collaborates on common goals.	Focus on structural world, develops and implements new initiatives, policies, structures, and systems.
Humanist: employees need to find their own personal truths and act on them together, thereby building enduring organizational success from shared truths.	Empiricist: experiments with new tasks/behaviours to see the tangible, measurable improvement of organizational outcomes.
Change comes from the inside out, and sometimes from the bottom up.	Change comes from the top downward.
Leading starts from understanding and revealing current shared beliefs, then shaping them into a new social reality.	Leading starts from assessment of current observable realities and ends in improvement of all measurable parameters.
The primary tools for successful leadership are continuous interaction with – and feedback from – the workers.	The primary tools for successful leadership are control, strong direction, and (when necessary) appropriate punishment.

What does the information above tell us? Besides the strong influence exerted on KL by KM and systems thinking, the concept was equally built upon insights gained from diverse fields, such as philosophical pragmatism, science, history, political theory and the social sciences (Cavaleri et al, 2005: 5). Cavaleri et al (2005: 15) can therefore conclude that knowledge leaders are both data driven and informed by their intuitive senses.

So far thus, studying the development of KL, we are provided with clear dichotomies, but also with an effort to look at balance, or at the whole by combining art and science. This will be expounded further in the next paragraph, where conceptual clarification will be interrogated.

DEFINITIONS OF KL

Apart from the work by Cavaleri (et al, 2005) little has been written on KL as a concept when compared to the available literature on KM and systems theory or the learning organisation. Some references to the concept "knowledge leadership" are found in the general literature on KM. I discuss these in paragraph 3.2 below.

The definition provided by Cavaleri (et al, 2005) is useful. However, to my mind it lacks direct reference to the epistemological, methodological and ontological basis underlying KL as a concept. This basis is probably inferred during the development of their KL model, but is not clearly described. In all fairness, the effort by Cavaleri (et al) is a "practical 'how to'" book (Coakes, 2007: 155), based on pragmatism, and therefore probably not intended to interrogate the philosophical background to the terms underlying the concept (namely "knowledge" and "leadership"). For me however, in order to assess the true value of the conceptual clarification done by Cavaleri (et al, 2005), it is necessary to first work through the philosophical basis. This is especially relevant to me since "knowledge" has a distinct philosophical history.

Clarifying KL from within a philosophical basis

I therefore embarked on a process to clarify KL as an applied concept with a solid philosophical basis. This conceptual clarification was done as follows:

- First, I made use of word and term analysis of the two main components of the concept (knowledge, as well as leadership);
- Second, I interrogated the various sources in the broader KM environment with the view of deducing themes of KL from these sources;
- Third, I interrogated Cavaleri's (et al, 2005) description. In so doing, I attempted to assess the definition of Cavaleri (et al, 2005) in terms of its roots; and
- Fourth, I attempted to develop an operational definition of KL. In doing so empathically, I hoped to allay executive "aversion to more esoteric philosophical theories from ivy covered universities" (as described in paragraph 2.2 above) by providing a workable and acceptable definition for KL for use in organizations.

Since the aim to eventually take this work into the domain of policing, it should not generate aversion amongst executives in that field, thus avoiding philosophical construct that may create such aversion.

A word and term analysis of "knowledge", and "leadership".

Knowledge

Knowledge, by its very nature, is rooted in the philosophical discourse. Roelofse, (2017) for example, states that our philosophical foundation will determine how we see the world and

that will determine how we interact with our surroundings. Epistemology, or the science of knowing (see Babbie, 2010:4), is derived from the Greek epistèmè ("real knowledge") and logos ("science" – see Snyman & Du Plessis, 1987:240). Methodology is a subfield of epistemology and "might be called the science of finding out" (Babbie, 2010:4). Methodology is therefore "a methodical and systematic inquiry" (Mouton, 1996:35) into something. Seen from the epistemological dimension, research is therefore in pursuit of valid knowledge, it is the search for truth (Mouton, 1996: 17 & 28).   Truth however, in the social sciences, may be quite an elusive concept when compared to the physical sciences. This is because ontology, the study of "being" or "reality" (see Mouton, 1996:46) is subjected to ontological pluralism, the view that reality in the social sciences may not necessarily be reduced to one "truth" only (Snyman & Du Plessis, 1987:247). The social scientist therefore, in the quest to find truth or reality, has to wade through the stormy waters of different theories of the social world, such as behaviourism or constructivism (Mouton, 1996:46). Therefore, Babbie (2010:10) posits that there is "ultimately no way people can step outside their humanness to see and understand the world as it 'really' is…" Kuhn (Babbie, 2010: 33-34; Snyman & Du Plessis, 1987:247), who popularised the term "paradigm" in his seminal work of 1962 (The structure of scientific revolutions), submitted that most researchers commit themselves to one dominant research tradition. Eventually, this would link to the paradigmatic discourse between positivists (who needed rational proof or disproof of scientific assertions, assuming a knowable, objective reality – Babbie, 2010:35) and phenomenologists who believed that "the differences between the social world and the natural world are so fundamental that there can be no basis for using the same methods and techniques in the human sciences" (Mouton, 1996:47). Covey (1989:23) also talks to paradigms in his highly successful book (The 7 habits of highly effective people, and defines paradigm to mean "a model, theory, perception, assumption, or frame of reference. In the more general sense, it's the way we 'see' the world – not in terms of our visual sense of sight, but in terms of perceiving, understanding, interpreting". A paradigm thus offers a way of looking (Babbie, 2010:44).

Given Covey's definition of the concept "paradigm" above, and because of the discussion envisaged in paragraphs 4 (a theory of KL) and 5 (a model of KL) it is noted that theory is sometimes used synonymously with paradigms and models (Musson, 2006: 33), which leads to some confusion in the social sciences. This state of affairs will receive attention as an introduction to the conceptual framework of KL discussed in paragraphs 4 and 5.

Knowledge

Against this background, I submit that <u>knowledge</u> may be described as *valid reality, ascertained through methodical and systematic inquiry from within a chosen scientific paradigm.*

Leadership

Leadership is at the centre of management systems. Yet it reflects a qualitatively different perspective than strategy, structure, technological infrastructure, or organisational culture. Therefore, it is the force that unifies and integrates the other elements of a management system (Cavaleri et al, 2005: 279).

At some stage the literature followed a path of juxtaposing management and leadership against each other, a case of management versus leadership: see, for instance, the views forwarded by Charlton (2000:55-56) and Nibley (in Shelton, 1997:127) where management is mostly depicted as an out dated way of looking at the world while leadership is seen as a new, exciting way of taking organizations into the future. For Covey (1989:101) leadership is not management. Leadership is the first creation since it focuses on the individual: habit 2 ("begin with the end in mind") is based on the principles of personal leadership. Management is the second creation: habit 3 ("put first things first") is based on the principles of personal management. He quotes both Drucker and Bennis when he writes that "Management is doing things right; leadership is doing the right things" (Covey, 1989:101). Management is consequently about efficiency, while leadership is about effectiveness. In another publication Covey (1991) brings left and right brain dominance theory into the fray. In terms of brain dominance theory (Covey, 1991:247-248), left brain dominance is about logic, sequential thinking, analysis (breaking apart), and being time bound (the emphasis is on cut-off dates). Right brain dominance, in contrast, is about emotions, holistic thinking, synthesis (putting together), and being time free. He therefore suggests (Covey, 1991:248): "Manage from the left, lead from the right". Efficient management without effective leadership is, consequently, "like straightening deck chairs on the Titanic" (Covey, 1989:102). Covey thus distinguishes between the two terms, but opens the door to a view that management (efficiency) and leadership (effectiveness) may be situated in one person. In fact, he says (Covey, 1991: 28) "..the ideal is to cultivate the ability to have crossover between the right and left sides of the brain".

One may consequently have a manager-leader, and not necessarily a leader to provide vision while a manager is needed to make the vision come true. Smit (et al, 2011) therefore includes leadership as one of the management functions in their volume on general management.

This view finds its way into the public management literature with the description by Fox (et al, 1991: 91) of managerial leadership. Leadership is in their view, one of the functions of public management (Fox et al, 1991:v). In their description of leadership, they emphasize a view that leadership is about influence (Fox, et al, 1991:93). Still within the public sector, the view expounded by Fox et al above is followed by Van der Waldt & Du Toit (1997) namely that leadership is one of the functions of the public manager. Since this thesis will eventually focus on the application of leadership in the policing context, which is de jure situated within the parameters of the public management environment in South Africa, policing management also holds the view that leadership is a managerial function (SAPS, 2007).

In a learning organization, says Senge (1990: 340), leaders are designers, stewards and teachers. This discourse is taken somewhat further by Cashman (2008: 24): his view reflects the issue of influence found in Fox (et al, 1991), Senge's (1990) view on leaders and the insertion of a qualitative viewpoint by Cavaleri (et al, 2005) when he writes that "Anyone who is authentically influencing to create value is leading". This implies that leadership is not restricted to the higher echelons of the management cadre in the organisation. His definition of leadership is therefore simply as follows: "Leadership is authentic influence that creates value" (Cashman, 2008: 24). Leadership as influence is also punted by Nahavandi (2009), Yukl (2010), DuBrin (2013), Flynn & Herrington (2015) and Botha (2016).

Lleadership

Against this background, one is now able to describe <u>leadership</u> as *authentic influence that integrates management systems on all levels of the organisation and creates value.*

3.2   Understanding KL, from a KM as a concept in the KM literature, KL is mostly described in terms of the characteristics and competence of knowledge leaders rather than subjected to a philosophical assessment of its core reason for existence, or in terms of the roles of leaders in the management of knowledge.

Capshaw & Koulopoulos (1999), for instance, reports on a multi-client study by The Delphi Group, which revealed that knowledge leaders repeatedly cited skills in knowledge collection, organization, categorization and communication, rather than advanced skills in specific information technologies, as critical to their success (Capshaw & Koulopoulos, 1999: 2). They write that "Although it is virtually impossible for an organization to leverage its collective knowledge in the absence of technology today, knowledge leaders must first possess (or quickly equip themselves with) the skills needed to traverse an organization's network through effective

face-to-face communication, as well as through electronic means" (Capshaw & Koulopoulos, 1999:2). The authors therefore found much more in terms of "soft" skills (read "art" here) than otherwise from the results of this study. They also found that knowledge leaders are found across the organization: even though many organizations have appointed dedicated chief knowledge officers (CKO's), a leadership position, the study found that knowledge leaders are found in a variety of positions. These are (Capshaw & Koulopoulos, 1999:2-3):

- The knowledge analyst: the knowledge analyst is responsible for collecting, organizing and disseminating knowledge, usually on demand. They provide knowledge leadership by becoming walking repositories of best practices, a library sharing knowledge across the organization;

- The knowledge manager: the knowledge manager is responsible for coordinating the efforts of engineers, architects and analysts. The knowledge manager may successfully fill the niche of knowledge leader where an organization suffers from a lack of coordination; and

- The knowledge steward: the knowledge steward is responsible for providing minimal, but ongoing, support to knowledge users in the form of expertise in tools, practices and methods of KM. As a knowledge leader, the value of the knowledge steward lies in a non-intrusive willingness to guide others.

Learning as the key characteristic of the knowledge leader

Viitala (2004) identifies the key characteristic of the knowledge leader as being learning, adapting this from the roles of leaders in learning organisations (coaching, facilitators, teachers, and developers - Viitala, 2004: 530). Therefore, she uses Stogdill's definition (in Viitala, 2004: 528), who defines KL as "a process whereby an individual supports other group members in learning processes needed to attain group or organisational goals". Using the roles of leaders in learning organisations as the basis for a qualitative study, she finds that KL consists of four main dimensions. These dimensions are:

- Orienteering of learning: leaders show and help others to see a direction of learning. Important guidelines for learning are, amongst others, the vision and goals of the organisation, feedback (from) and needs of clients, performance ratings, and quality indicators (Viitala, 2004: 533);

- Creating a climate that that supports learning: this dimension is based on the psychology of learning. Anxiousness and fear prevent learning. Once people feel

comfortable with others in a climate of safety and trust, they can learn from failures and mistakes, and generate the propensity to ask for and offer help (Viitala, 2004: 535);

- Supporting individual and group level learning processes: this dimension indicates the role of leaders as supporters of both individual and group learning processes. The role is analogous to that of a leader or coach. The whole learning process is attended to (Viitala, 2004: 536); and
- Acting as a role model: leaders lead learning and knowledge through their own example. To be credible, leaders themselves have to learn and constantly develop their abilities. In addition leader's enthusiasm for, and interest in, their work influence subordinates positively (Viitala, 2004: 536-537).

Van Winkelen (2006) reports on the 2005 Knowledge Leadership Awards. This is an initiative of the Henley KM Forum which aims to find and recognise individuals who are inspirational knowledge leaders in their organizations. She identifies the following characteristics of such inspirational knowledge leaders (Van Winkelen, 2006: 25):

- Determination, high emotional intelligence, the ability to harness the energy of their organisation, a collaborative style and excellent communication skills;
- The ability to act as a role model for others, in particular encouraging people to reflect, think and learn;
- Wisdom through being willing to ask for help;
- A commitment to coaching, mentoring and developing others;
- Honesty and openness in seeing the strengths and weaknesses of ideas; and
- Understanding how better knowledge practice improve performance.

Hewlett (2006), in his discussion of knowledge-based leadership, admits that simple definitions may seem elusive. In its most basic sense, he says, "knowledge-based leadership is the unleashing of knowledge and human potential to enable the organization to be successful, manage change, and thrive" (Hewlett, 2006: 5). The singular characteristic that makes humans unique in the animal kingdom, he says (Hewlett, 2006: 5), is our unique ability to think deeply and comprehensively, accumulate higher-order knowledge, and apply new knowledge to solve problems. The discovery and use of higher-order knowledge is the defining characteristic that makes possible the foundation of societies, advances in science that harness nature's bountiful gifts, and the creativity of the arts that enriches our lives (Hewlett, 2006: 5).

Lakshman (2007: 53), in his study on organizational knowledge leadership, focuses on the roles that leaders in organizations play in knowledge management. For him, ".. a reexamination (sic) of what executive leaders do is overdue, with specific reference to their knowledge management roles" (Lakshman, 2007: 53). He confirms that the leadership literature has given very little attention to the knowledge management aspects of leadership (Lakshman, 2007: 54). Continuous knowledge management is a key leadership responsibility (Lakshman, 2007: 56), which follows from the strategic responsibilities of the CEO (Lakshman, 2007: 57). This role (of leaders in knowledge management) is accomplished through the two main routes of technology, and social networks (Lakshman, 2007: 55 & 57). The latter refers to the people aspect (where teams can bring tacit knowledge into the fray, and where communication and training are utilized - Lakshman, 2007: 55 & 56) while the former refers to the building of computer based information systems (the codification approach, Lakshman, 2007:55). These manifest itself along two dimensions: the internal dimension concerns itself with the combination of people and technology for purposes of coordination, while the external dimension is about customer focussed KM (Lakshman, 2007: 70 & 71). For the purposes of this study, three issues about Lakshman's work need to be mentioned. These are:

- He is writing about the managing of knowledge, and not about knowledgably managing (see Cavaleri et al, 2005: 6 as referred to in the Introduction, paragraph 1);
- It is valuable to note that his article was published two years after Cavaleri's (et al, 2005) work. However, according to the information in the source, it was already received for publication during December 2005, revised, and then accepted for publication in April 2006. Lakshman also worked on another continent (India) and it is therefore possible that his work and that of Cavaleri (et al, 2005) were crossed in publication; and
- He describes three aspects inherent to the role of leadership in knowledge management, namely people, information technology and the customer.

Along with the sentiments expressed by Viitala (2004, above) McFarlane (2010) also proceeds along the route of placing KL in the context of learning. For him, the emphasis placed on KL should ".. come as no surprise because training, learning, education, technical proficiency and expertise are increasingly in higher demands in today's organizations as the school economy functions to change the nature and quality of the labor (sic?) force" (McFarlane, 2010: 4). Knowledge leaders share the characteristics of sharing vision, modelling the way, challenging the

process, encouraging the heart and enabling their followers to act, with effective leaders. In addition, however, knowledge leaders are lifelong learners who devote their efforts to the following:

- Building knowledge systems to ensure continuous performance improvement through systems thinking, restructuring, reengineering, and benchmarking; and
- While doing this, knowledge leaders will plan, lead, control and organize individuals and groups to use organizational structures and systems and available managerial skills (conceptual, technical, interpersonal) to respond to the challenges of the organization (McFarlane 2010: 5).

From a KM perspective therefore, the balance referred to above is now augmented with the addition of the customer to the equation.

KL, from the perspective of Cavaleri (*et al*, 2005): a further exploration

It is now more feasible to find the roots of the Cavaleri (et al, 2005) definition, as I remarked at the beginning of this paragraph, and I find it more useful now.

The contribution made by Cavaleri (et al, 2005: ix) is their combination of the philosophy, theory and literature on KM with their experience on leadership styles for the purpose of charting a new course of thinking and action. According to them knowledge is about creating, deploying, transferring, depositing and retrieving know-how (Cavaleri et al, 2005: ix). Knowledge is the product of any act of knowing and may be found in the processes, principles, procedures, programmes and policies of the organization (Cavaleri et al, 2005: 172-173). Many companies employ designated leaders, known as Chief Knowledge Officers (CKO's) who typically focus on managing knowledge via the core KM functions (Cavaleri et al, 2005: 223).

However, one of the most glaring weaknesses of the KM movement has been to overlook the importance of personal knowledge development (KD). This is perhaps the most important contribution by Cavaleri (et al, 2005), as the linkages to explicit and tacit knowledge (the indispensable ingredients of KL, paragraph 6 below) is becoming more visible.

Cavaleri's (et al, 2005) definition of KL:
Against this background, Cavaleri (et al, 2005: 232) defines KL as follows: *Knowledge leadership is the process of using personal influence to support knowledge-development*

processes and integrate them with knowledge-management initiatives to achieve an envisioned future.

Integration is therefore an important feature of KL, as it integrates KL, KM and KD inside the organization. Knowledge leaders are balanced leaders: they value both the inner world of self-knowledge and the outer world of information, and they know when to discount so-called objective data in favour of subjective principles (Cavaleri et al, 2005: 18). They are one part reflective Yogi, one part active Commissar (Cavaleri, et al, 2005:18).

Exploring an operational definition for KL.

In paragraph 3.1 above, I deduced definitions for *knowledge*, as well as for *leadership*, from the literature. Knowledge was described as *valid reality, ascertained through methodical and systematic inquiry from within a chosen scientific paradigm, while leadership was described as authentic influence that integrates management systems on all levels of the organisation and creates value.*

Examining the literature on KM in paragraph 3.2, one is able to conclude that more is written on soft skills (communication, all the competencies related to learning, support of others) than on hard skills as would be expected from an IT view on KM (as described earlier, in paragraph 2).Cavaleri's *et al.* (2005: 232) definition of KL was described in paragraph 3.3 above as follows: *Knowledge leadership is the process of using personal influence to support knowledge-development processes and integrate them with knowledge-management initiatives to achieve an envisioned future.*

Reviewing the contents of the deliberations so far

At this stage, before attempting an operational definition of KL, it may be useful to review the contents of the conversation so far. Here are the observations:

1. It is clear that authorities see and describe KL in differing (and sometimes opposing) ways. I believe this dichotomy in the literature provides for a visible distinction between the "art" and the "science" of KL. This is a clear indication of ontological pluralism (see the reference to this term, as described by Snyman & Du Plessis, 1987, in paragraph 3.1 above);

2. However, there is an equally clear indication of "balance" and "integration": see the references to Covey (1991:28), Fox (et al, 1991:91), Smit (et al 2011), Van der

Waldt & Du Toit (1997) and SAPS (2007) in paragraph 3.1, as well as Cavaleri (et al, 2005:18) in paragraph 3.3 above;

3. Lakshman's (2007) contribution is a triangulated one, with the addition of the customer to the discussion; and

4. It is therefore possible to submit that KL, as a concept, presents a Hegelian type dialectic of thesis, anti-thesis and synthesis. In other words, KL may be seen from different viewpoints, but the viewpoints may be married under the umbrella of "art" AND "science" (through valid reality), rather than be devised along the lines of "art" OR "science" (a simple, exclusive dichotomy). Such an argument can be depicted as follows (in Table 5):

Table 5: Ontological pluralism in Knowledge Leadership (KL)

Author(s)	The "art" of KL	The "science" of KL
Koestler	Yogi.	Commissar.
Covey	Right brain dominance Leader.	Left brain dominance. Manager.
Senge	The art of learning from experience.	Scientific method of policy analysis (through the use of the system dynamics method).
Cavaleri *et al*	Intuitive senses. Pragmatic knowledge. Inner world of self-knowledge. KD processes.	Data driven. Information Technology-based knowledge. Outer world of information. KM processes.
Babbie; Kuhn; Mouton	Phenomenology / interpretivism.	Positivism.
Capshaw & Koulopoulos	Soft skills, such as communication.	Knowledge leaders are found in managerial positions also, as well as across the organization.
Viitala	The art of learning.	The science of learning.

Van Winkelen	High EQ, collaborative, communication skills, learning skills (personal & towards others), encouraging, principled.	The science of communication and learning.
Hewlett	The creativity of the arts possible through KL.	Advances in science possible through KL.
McFarlane	The art of learning.	The science of learning. Knowledge leaders also plan, control and organize.

KL - the operational definition

Against this discussion, <u>knowledge leadership (KL)</u> may therefore be defined as *authentic influence on all levels of the organization based on valid reality, seeking to integrate knowledge development processes and knowledge management initiatives, and to create value to the benefit of an envisioned future.*

Explaining the operational definition

This definition of KL may be explained as follows (in Table 6):

Table 6: An operational definition of KL explained

Term in definition	Explanation
Authentic	Well-developed self-awareness that openly faces strengths, vulnerabilities, and development challenges (Cashman, 2008: 24).
Influence	Meaningful communication that connects with people by reminding self and others what is genuinely important (Cashman, 2008: 24).
All levels of the organization	Knowledge leaders are found across the organization (Capshaw & Koulopoulos, 1999).
Based on valid reality	The effect of ontological pluralism (Snyman & Du Plessis, 1989). We see reality differently. This is acceptable, as long as the validity of our views is supported by methodical and systematic inquiry from within a chosen scientific paradigm.

Integration of KD and KM processes	Knowledge leadership includes KM but must go beyond it to embrace the interpersonal, self-organizing, and *knowledge-developing* (KD) aspects of knowledge in organizations. In contrast to KM, KD is an *inside-out* process that requires leadership through visioning, coaching and mentoring (Cavaleri *et al,* 2005: 232).
Creates value	Passion and aspiration to serve multiple constituencies – self, team, organization, world, family, community, - to sustain performance and contribution over the long term (Cashman, 2008: 24).
Envisioned future	This envisioned future involves ideals for both optimum performance and knowledge mix. When knowledge leadership is done effectively, it leads to the creation of pragmatic knowledge (Cavaleri *et al,* 2005: 232).

The conceptual clarification above, paves the way for an interrogation of the conceptual framework (see De Vos (et al, 2009:34-35) of KL. This will be done by interrogating the theory underlying KL (paragraph 4) as well as the model pertaining to KL (paragraph 5).

Before embarking on this endeavour however, I need to reinforce the view offered in paragraph 3.1 above, where I remarked on Covey's (1989) definition of the concept "paradigm". I noted that he included "model" as well as "theory" in his definition. I also noted Musson's (2006:33) view that theory is sometimes used synonymously with paradigms and models, which leads to some confusion in the social sciences. I keep this in mind with the necessary respect and understanding, but will attempt to keep the terms "theory" and "model" apart for separate discussion in paragraphs 4 and 5 respectively.

THEORETICAL APPROACH TO KL

Theory has an explanatory function (Baarda & De Goede, 1995: 70; De Vos et al, 2009: 36). It is a systematic explanation of the observations that relate to a particular aspect of life (Babbie, 2010:10), an explanation of events or phenomena (Mouton, 1996: 202). It is a framework of thought that structures and guides a distinctive activity (Musson, 2006:34).

A theory may therefore be seen as a fact-based framework for explaining a phenomenon, in this case knowledge leadership. The conceptual discussion thus far supports the explanation of KL.

A KL MODEL

A social science model is a description of a social phenomenon, without attempting to explain the phenomenon (De Vos et al, 2009:36). It does not even purport to be any more than a partial representation of a given phenomenon (De Vos et al, 2009: 36; Mouton, 1996: 198). It therefore has a heuristic function: its most common characteristic is that it discovers or reveals some aspects of the phenomenon while it excludes others (De Vos et al, 2009: 36; Mouton, 1996: 198). A reason for the latter is that it highlights certain aspects of the phenomenon for purposes of further research (Mouton, 1996: 198) where certain relationships and dimensions of the phenomenon are emphasised to an unusual degree (De Vos et al, 2009: 36).

The knowledge based organization (KBO) is the theatre in which KM, and then also KL, operates. The conversation so far has not in detail concerned itself with the imperatives of KBO's yet. Therefore, pure inevitable parts (or indispensable ingredients) of KM (such as explicit and tacit knowledge, a sequential arrangement of knowledge and the knowledge worker) have not yet received the attention that it deserves. The KBO may, in fact, be seen as a model of KM and KL.

The KL Model of Indispensable Ingredients

Knowledge is created through interaction between explicit and tacit knowledge (Cavaleri et al, 2005).

Explicit knowledge

Explicit knowledge is in the public domain – it can be known by others as well. It is therefore also described as "conventional" as it may be found in books, journals, the mass media, curricula of professions and other documents (Seidler-de Alwis & Hartmann, 2008: 134; Faucher et al, 2008:5). It has all to do with codified information, information management, technology-enhanced databases, and search software (Manville, in Chatzkel, 2003: 229; Hellriegel et al, 2010: 183).

Tacit knowledge

Tacit knowledge is unconventional, unique and personal to a specific individual. It's about an individual's education, natural talent, experience, judgement (Faucher et al, 2008:5; Seidler-de Alwis & Hartmann, 2008: 134), competencies and experience (Hellriegel et al, 2010: 183). It's about "we know more than we can tell" (Polanyi, in Seidler-de Alvis & Hartmann, 2008: 134) and an unspoken understanding about something (De Brùn, 2005: 6). Generally, says Cavaleri (et al, 2005: 166), tacit knowledge refers to uncodified or informal types of know-how (knowing what to do, how to perform a task, or what sequence of steps to take), which is not easily codified or

captured by a computer network (Manville, in Chatzkel, 2003: 229). In the Czech Republic, tacit knowledge is shared by apprenticeship, storytelling and communities (Mládková, 2012). According to De Brùn (2005: 6-7) one may also distinguish between old and new knowledge: the former refers to the available explicit and tacit knowledge, while the latter refers to the development of new knowledge.

A sequential arrangement of knowledge

Knowledge, say Faucher (et al, 2008:7) may be arranged sequentially: the sequence then is data → information → knowledge → wisdom. They also explain the meaning of each of the terms in the sequential arrangement, as depicted in Table 7 below (Faucher et al, 2005: 5):

Table 7: An explanation of Faucher's (*et al*) sequential arrangement of knowledge (the sequence is from bottom to top)

KNOWLEDGE ITEM	EXPLANATION	EXPLICIT & TACIT KNOWLEDGE
Wisdom	Knowledge, processed in some meaningful ways	Most tacit
Knowledge	Information, processed in some meaningful ways	More tacit
Information	Data, processed in some meaningful ways	Lesser explicit
Data	Raw, unprocessed representations of reality	Most explicit

The relationship between explicit and tacit knowledge on the one hand, and the sequential arrangement of knowledge, is also sequential (from bottom to top): at the data level the knowledge is most explicit. It then moves sequentially towards tacit level the more it moves towards wisdom in the arrangement. Eventually data is linked most strongly with explicit knowledge, while wisdom is linked most strongly with tacit knowledge.

Enters "existence" and "enlightenment"

However, the authors assert (Faucher et al, 2005: 9) that the real borders of the knowledge system is determined by the constructs of "existence" (at the bottom) and "enlightenment" (at the

top): data, information, knowledge and wisdom are cognitive constructs that exist between these two constructs. This may be depicted as follows (in Table 8):

Table 8: n explanation of Faucher's (*et al*) adapted sequential arrangement of knowledge (the sequence is from bottom to top)

KNOWLEDGE ITEM	EXPLANATION	EXPLICIT & TACIT KNOWLEDGE
	Enlightenment	
Wisdom	Knowledge, processed in some meaningful ways	Most tacit
Knowledge	Information, processed in some meaningful ways	More tacit
Information	Data, processed in some meaningful ways	Lesser explicit
Data	Raw, unprocessed representations of reality	Most explicit
	Existence	

FUTURE RESEARCH AND APPLICATIONS

This conversation has, in its quest to make epistemological sense of KL, mostly made use of early works on KL and the related themes covered. This is also because little current research on KL is available. It is therefore necessary to identify areas of future research in order to strengthen the body of knowledge.

I stated my intention (in paragraph 3 above) to eventually do some work on knowledge leadership in policing. At this stage, and without the benefit of a full literature review, I am convinced by my participant observer status in policing** that a knowledge approach to societal safety is to be explored to its fullest consequences.

I am even more convinced of this view because of the imperatives provided for by a constitutional democracy under the rule of law – as South Africa and so many African countries are. It is clear that overt foreign financial support and technical interventions in Africa's countries are all working towards the creation and maintenance of democracy, human rights, rule of law and oversight over policing. Such a system of governance will need very special police officials:

people who do not only understand democracy, human rights, rule of law and oversight, but who live it as a habit. Therefore, once a constitutional democracy under the rule of law are accepted by all states, the next challenge would be to improve the competence of individual police officials and thereby the capacity of policing agencies.

Apart from the democratic lifestyle, it is common cause that operational policing may benefit immensely by effective intelligence led policing (Richards, 2010) which is a knowledge based endeavour. So is problem solving policing (Lab, 2010).Although teaching and learning is not the panacea for all organisational ills – good leadership, as opposed to bad and toxic leadership, will also make a difference (cf Schwella, 2013) – it stays a valuable solution for most aspects of a country's community life.

Against this background, and not attempting to provide a conclusive list, the following are useful issues for further research:

- Further exploring the ontological pluralism of KL, specifically within an African policing environment;
- More African empirical research on the characteristics of knowledge leaders, with emphasis on policing, is urgently needed;
- Research to evaluate the explicit knowledge in the learning content of African policing curricula against the imperatives of policing a constitutional democracy under the rule of law;
- Finding ways to improve individual tacit leadership amongst police officials. Following Mládková's (2012) report in this conversation, it is especially story telling that should perhaps get urgent attention. This is because Africa's people of all cultures are excellent story tellers;
- Explore the African policing agency as a knowledge based organisation in the fullest sense of the term; and
- Investigate the policing research picture of Africa, and recommend steps to increase the policing research output dramatically.

CONCLUSION

This has been a brief conceptual analysis of knowledge leadership, framed as a philosophical conversation. The conceptual analysis of knowledge leadership offered here, is a clarification and a starting point for future conversations.

It is hoped that knowledge leadership may assist us in a quest for better service delivery. It is further hoped that the intrinsic characteristics framed by knowledge leadership will assist us in developing a generation who will scoff at the negative parts of our existence (such as crime, violence and corruption) and take the country forward in another direction as the one that we have been exposed to for the past years.

LIST OF REFERENCES

Wolfson, M., Toomey, T. L., Murray, D. M., Forster, J. L. Wagenaar, A. C. and McGovern, P. G. (1996). *Policies and practices of alcohol outlets and sales to youth.* Journal of Studies on Alcohol, 57, 670–674.

Baarda, D.B. & De Goede, M.P.M. 1995. *Methoden en Technieken: Praktische handleiding voor het opzetten en uitvoeren van onderzoek.* Amstelveen: Stenfert Kroese.

Babbie, E. 2010. The Practice of Social Research. 12th edition. Belmont, CA, USA: Wadsworth.

Botha, C.J. 2016. *Knowledge Leadership in Policing.* Unpublished research paper in progress. Bellville: Stellenbosch University, School of Public Leadership.

Capshaw, S. & Koulopoulos, T.M. 1999. "Knowledge Leadership". *Information Management Magazine.* May 1999. Available at http://www.information-mangement.com/issues/19990501/20-1html. (Accessed 26 December 2011).

Cashman, K. *2008. Leadership from the Inside Out: Becoming a Leader for Life.* San Francisco: Berret-Koehler.

Cavaleri, S. & Seivert, S. with Lee, L.W. 2005. *Knowledge Leadership: the Art and Science of the* Knowledge-*based Orhanization.* Amsterdam: Elsevier/Butterworth-Heinemann.

Charlton, G. 2000. *Human habits of highly effective organisations.* Pretoria: Van Schaik.

Chatzkel, J.L. 2003. *Knowledge capital: How knowledge-based enterprises really get built.* New York: Oxford University Press.

Coakes, E. 2007. *Book Review: Knowledge Leadership: The Art and Science of the Knowledge-Based Organization.* "Knowledge Management Research and Practice". No 5. Pages 154-156.

Covey, S.R. 1989. *The 7 habits of highly effective people: Powerful lessons in personal change.* New York: Simon & Schuster.

Covey, S. R. 1991. *Principle-centred Leadership.* New York: Free Press.

De Brùn, C. 2005. "The ABC of Knowledge Management". NHS National Library for Health. UK.

De Vos, A.S., Strydom, H., Fouché, C.B. & Delport, C.S.L. 2009. *Research at Grass Roots for the Social Sciences and Human Service Professions.* Pretoria: Van Schaik.

DuBrin, A.J. 2013. *Principles of Leadership.* South-Western: Cengage Learning.

Faucher, J-B.P.L., Everett, A.M. & Lawson, R. 2008. "Reconstituting knowledge management". *Journal of Knowledge Management.* Vol. 12, No. 3.

Fox, W., Schwella, E., & Wissink, H. 1991. *Public Management.* Cape Town: Juta & Company.

Flynn, E.A. & Herrington, V. 2015. *Towards a Profession of Police Leadership.* New Perspectives in Policing Bulletin. Washington, DC: US Department of Justice, National Institute of Justice. NCJ 248573.

Hellriegel, D., Jackson, S.E., Slocum, J., Staude, G., Amos, T., Klopper, H.B., Louw, L., & Oosthuizen, T. 2010. *Management.* 3rd South African Edition. Cape Town: Oxford University Press (Southern Africa).

Hewlett, R. 2006. *The Cognitive Leader: building winning organizations through knowledge leadership.* Lanham, Md: Rowman & Littlefield Education.

Lab, S.P. 2010. *Crime Prevention: Approaches, practices and evaluations.* New Providence, NJ: LexisNexis.

Lakshman, C. 2007 "Organizational knowledge leadership: a grounded theory approach". *Leadership &* Organizational *Development Journal.* Vol. 28, No. 1. Pp 51-75. √

McFarlane, D.A. 2010. "Leadership and the Knowledge Ecosystem: Revisiting and Reconceptualizing the KMBOK Model". *Journal of Knowledge Management Practice.* Vol. 11, No. 4.

Mládková, L. 2012. "Sharing tacit knowledge within organizations: Evidence from the Czech Republic". *Global Journal of Business Research.* Vol. 6, No. 2.

Mouton, J. 1996. *Understanding social research.* Pretoria: Van Schaik.

Musson, D. 2006. *The production of mode 2 knowledge in higher education in South Africa. Unpublished* D Ed dissertation. Pretoria. University of South Africa (UNISA).

Nahavandi, A. 2009. *The Art and Science of Leadership.* Upper Saddle River, NJ. Pearson.

SAPS (The *South* African Police Service). 2007. *Management Principles: A Contemporary Edition for SAPS.* Cape Town: Juta & Co.

Richards, J. 2010. *The art and science of intelligence analysis.* Oxford: Oxford University Press.

Roelofse, C.J. 2017. A paradigm shift in pre-theoretical deliberations on crime within spiritual existentialism. *Theologia Viatorum.* Volume 41-1-2017

Schwella, E. 2013. "Bad Public Leadership in South Africa: The Jackie Selebi Case". *Scientia Militaria, South African Journal of Military Studies*. Vol 41, Nr 1, pp65-90.

Seidler-de Alwis, R. & Hartmann, E. 2008. "The use of tacit knowledge within innovative companies: knowledge management in innovative enterprises". *Journal of Knowledge Management*. Vol.12, No. 1. Pp 133-147.

Senge, P.M. 1990. *The Fifth Discipline: The Art and Practice of the Learning Orgnisation.* New York: Doubleday.

Shelton, K. (Ed) 1997. *A new paradigm of leadership*. South Provo, UT: Executive Excellence.

Smit, P.J., Cronje, G.J., Brevis, T., & Vrba, M.J. (Eds). *Management Principles: A contemporary edition for Africa.* 5th Edition. Cape Town: Juta.

Snyman, J.J. & Du Plessis, P.G.W. 1987. *Wetenskapsbeelde in die geesteswetenskappe.* RGN-studies in Navorsingsmetodologie. Pretoria: RGN.

Van der Waldt, G. & Du Toit, D.F.P. 1997. *Managing for excellence in the public sector.* Cape Town: Juta & Co, Ltd.

Van Staden, R. & Du Toit, A. 2011. "Career development of South African knowledge workers". *SAJEMS.* NS 14. No. 1.

Van Winkelen, C. 2006. "The many faces of Knowledge Leadership". *Knowledge Management Review*. No 9,1. Pages 24-27.

Viitala, R. 2004. "Towards Knowledge Leadership". *Leadership and Organization Development Journal.* No 25. Pages 528-541.

Yukl, G. 2010. *Leadership in Organisations.* Upper Saddle River, NJ. Pearson.

INMATES AND THEIR FAMILIES: EXAMINING THE EFFECTS OF INCARCERATION ON INMATE-FAMILY RELATIONSHIP AFTER THEIR RELEASE FROM THE SOUTH AFRICA PRISONS

 Matshaba, T.D[2].

ABSTRACT

South Africa has a high rate of violent crimes such as murder and rape and it also ranked ninth of incarceration rate in the world. Currently, there are about 241 prisons. These prisons have a total capacity of 118 154 sentenced inmates and awaiting trial detainees. Approximately, twenty-three thousand of these inmates are released from prisons every month, mostly under correctional supervision and parole. Although inmates undergo pre-release programmes in preparation for their release, their families will be their major support system to emotional and social reintegration. Moreover, a stable family relationship after incarceration is the key factor of preventing recidivism. However, much less is known, on how incarceration has influenced the relationship between inmates and their families and the types of psychological and social support that families can offer during re-entry process. Therefore, article intends to assess the perceptions of the inmates' in-regards to their relationship with their families. This study further aims to determining inmate's perceptions on aspects such as trust, communication, proper accommodation and emotional support from their families. A qualitative research method was used and semi-structured interviews were used to evaluate inmates and their families' relationship after their release from prisons. Findings suggest that ex-inmate received a tremendous support from their family members for only few weeks of their release and later on, they are seen as a burden to the family due to social challenges such as unemployment and lack of income. The family members also showed a lack of trust and disappointment in ex-inmates due to inmates' criminal activities that led to their incarceration

Key words*: ex-inmates; family; reintegration; incarceration and prison.*

INTRODUCTION

"When you are released from prison, you face your old problems, you have fewer resources than before in terms of housing, friends, supporting family members or sense of self, with added stigma of being an ex-inmate to complete your sense of isolation". (Hampton, 1993:159-160)

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Family is recognised as a building block of any healthy and prosperous community and nation. In South Africa, history and circumstances lead in many families living on the edge of survival (White Paper of Corrections, 2005: 43). These circumstances resulted into many dysfunctional families where the relationship between family members has been jeopardised. The circumstances are worse for those who have been incarcerated. Often, the majority of ex-inmates' family relationships that are negatively affected by their incarceration. Some of these challenges include amongst other, reunification with the family, continuing trust and lack of support. Moreover, many families affected by incarceration are themselves in need of financial stability and they also experience a range of problems such as economic hardship, social stigmatisation and emotional difficulties (Mills, 2004: 17). Stable family relationships promote the alleviation of the emotional and mental health challenges associated with incarceration. In general, the transition experience by ex-inmates as they are released from incarceration to their families is fundamentally a dynamic social process (Visher & Travis, 2003: 92). According to Naser and Visher (2006: 20) the relationship between ex-inmates and their family members are critical to successful reintegration. Maintaining a healthy relationship between inmates and their family members can prevent recidivism and assist inmates to live crime free lives after their release. According to Reichel (2001: 579) findings from a broad range of social research also demonstrate the value of family support in helping ex-inmates to cope within the normal social environment that may lead to their successful reintegration into society. Families can also offer psychological support such as pointing out negative consequences of engaging in criminal activities and encouraging a sense of responsibility during the reintegration process.

RESEARCH OBJECTIVES

The primary objective of this study was to explore the relationship between ex-inmates and their families after their release from correctional centres. The secondary objectives of this study were to:

- evaluate the psychological support received by inmates from their family members after their release;

- examine the level of trust and communication between ex-inmates and their family members;

- assess ex-inmate family arrangements with regards to their accommodation after the release; and

- establish the type stigmatisation suffered by ex-inmate from their family members.

THEORETICAL EXPLANATION

The following reintegration theories were used in this study to provide theoretical explanation on the process of inmates' reintegration into the community is based on the definition of reintegration. According to Laub and Sampson (2003: 16) reintegration can be defined as the process of transitioning from incarceration to the community. Therefore, in order to understand the process of reintegration two theoretical perspectives namely, life course theory and cognitive transformation theory will be discussed in details below.

Life course theory

Life course theory focuses on internal, individual development in individual criminality. According to this theory, offenders' behaviour are explained in four pillars namely, the criminal career paradigm, the risk factor preventing paradigm, the developmental criminology and the life course criminal criminology (Farrington, 2003: 224). Briefly, a criminal career focuses the number of crimes committed by the particular offender over a certain period of time. In the case of career paradigm, several aspects such as the time between the first and last offences, the seriousness of crime and the driving force for the participation in criminal activities are scrutinised. The risk factor paradigm derived from medical research that intends to classify the variables that forecast increased probabilities of different health outcomes that may predispose individual to criminality. However, in order to determine criminality, the risk factor paradigm to identify the probability of later offending (Farrington, 2003: 225). Developmental criminology endeavours third pillar of life course theory and focuses on the development and dynamics of antisocial behaviour and delinquency as correlated with offender age and causal factors. According to Loeber and Le Blanc (1990: 42) this theory also focuses on quantifying the number of dynamic concepts capturing change and stability over time, distinguishing activation, aggravation, desistance and distinct processes in the course of offending. The final pillar is life course criminology focuses on parenting style or delinquents. Life style course criminology also deals with the effects of life events and it holds that change does not mainly take place in a specific personal development period but it occurs throughout the entire life span. Briefly, the above mentioned pillars provide an overview on the importance of structured routine and its influence over social control. Briefly, social control allowed the introduction of the principles of dynamic spontaneity and creativeness, without sacrificing either the ideal value basis or the paternal mode of expression of control (Lanier and Henry, 2010: 65). Laub and Sampson (2003: 67) also point out that change in offenders after

their incarceration is encouraged by their desire to change, viewing change as a life time opportunity and have family, friends and the social support for this change. Moreover, Gideon (2010: 599) also supports this statement by indicating that subjective influences will not occur unless inmates have both internal and external motivation to change.

Cognitive transformation theory

Cognitive transformation holds that a family plays an important role in preventing offenders from committing further criminal activities after their release. In other words, the transition process from correctional centre back to the family assists inmates to acquire new cognitive skills. According to Klein and Baxter (2006: 3) this theory postulates that mental models are central to cognitive learning and mental models are modular. There are four elements of the desistance process as identified by Giordano, Cerkovich and Tonry (2004: 26). These scholars indicate that an individual develops openness to change in which they commence to conceive personal change. Secondly, Giordano et al (2004: 26) pointed out that people are exposed to certain circumstances that might not assist or assist them to move towards change. Several life changing circumstances that assist ex-inmates to change into being law-abiding citizens include employment opportunity, good family relationship and support and rehabilitative programmes received while incarcerated. The third element of desistance theory is the development of a conventional replacement self. In most cases inmates who are willing to change see themselves as different individuals with new personal objectives that is not in line with their previous criminality. Finally, desistance is viewed by Terry (2003:67) as a process that takes a long time to reach its destination. Within this process ex-inmates need to re-assess their lives reform their identity, differentiate themselves from previous mistakes, craft a moral tale from their experiences and express their desire to use their experiences to help others (Davis, Bahr & Ward, 2012; Maruna, 2001).

METHODOLOGY

The chosen research methodology was adopted to address the objectives of this study. In a research study, research methodology provides a clear and comprehensive approach will be utilised to address the research objectives (Rudistam and Newton, 1992: 60). Therefore, a qualitative research approach was used in this study in order to gain a better understanding of the relationship between ex-inmates and their family members. However, collected data were in instances presented in frequencies such as in the biographical variables, adding a quantitative component to the research. According to Taylor and Bogdan (1998: 8) a qualitative research approach assist the researcher to pay more focus on the participants' environmental and personal

background. Rossman and Rallis (1998: 32) also indicate that phenomenological approach focuses in-depth on the meaning of a particular experience, assuming that through communication and reflection the quintessential meaning of the experience will be reviewed. Moreover, O' Sullivan and Rassel (1995: 487) point out that qualitative research approach provide a systematic process for producing facts about the world and making plans to gain more information about the research phenomenon. In other words, people, setting and groups are not reduced to variables, but are viewed as a whole. It is therefore clear that through qualitative research approach the researcher was also able to understand the in-depth information and description of the experiences of the participants.

Sampling, data collection and analysis

In a research study, research participants are classified as group of people who share common denominators that are of interest to the researcher (Brink, 1996: 45). In the current study, the research participants will be ex-inmates who served incarceration term. In regard to sampling, purposive sampling was used. Purposive sampling is a non-probability sampling technique whereby the researcher will use his or her judgement and skills to select the participants possessing the characteristics required for this study (Babbie, 2010: 179). Data was collected by means of semi-structured interviews. Pilot and Beck (2006: 54) define a semi-structured interview as one of the interview tools in which the researcher asks questions while the ex-inmates answer to asked questions.

Semi-structured interviews focused on specific theme and cover them in a conversation style. -- The interview schedule made provision for open-ended questions on four phenomena of interest, namely, psychological support trust and communication, accommodation and stigmatisation … The lived experiences of inmates based on their responses to the four phenomena were captured and analysed According to Patton (1990: 13) "a phenomenological study focuses on the description of people experiences and how it is that they experience and what they experience".

Procedure

In order to avoid infringing on the rights of the participants, permission to conduct this study was granted by the College of Law Ethics Committee of University of South Africa and the Ethics Committee of the Department of Correctional Services. Access to ex-inmates was gained through the assistance of correctional officials working at community corrections offices. List of inmates

who were recently released were also obtained from the Head of Community Corrections at respective provinces.

DATA PRESENTATION

Biographical details of participants

Table 1: Gender of the participants

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Male	126	89.4	90.0	90.0
	Female	14	9.9	10.0	100.0
	Total	140	99.3	100.0	
Missing	System	1	.7		
Total		141	100.0		

In terms of gender, male criminality is more prevalent than female criminality. In South African correctional system, approximately 90 per cent of the total population are male. In the research, the gender equation also reflects the situation in South African prisons, with the majority of participants being male. Table 1 shows that the majority of the participants (n=126) were male while (n=14) were females. Only (n=1) of the participant did not disclose gender.

Table 2: Age of the participants

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	18 - 24 years	21	14.9	15.3	15.3
	25 - 34 years	61	43.3	44.5	59.9
	35 - 44 years	29	20.6	21.2	81.0
	45 - 54 years	18	12.8	13.1	94.2
	55 - 64 years	7	5.0	5.1	99.3
	75+	1	.7	.7	100.0
	Total	137	97.2	100.0	
Missing	System	4	2.8		
Total		141	100.0		

Table 2 above indicates that a significant proportion of the participants (n=61) were in the age group of 25-34, followed by (n=29) participants who were ranging in the age group of 35-44. These age groups are followed by (n=21) who are between 18 and 24 years of age and (n=18) in the age of 45-54, (n=7) who are ranging in the age of 55-64. Finally only (n=1) participants was older than 75.

Table 3: Ethnic group of the participants

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Black	117	83.0	85.4	85.4
	White	8	5.7	5.8	91.2
	Coloured	11	7.8	8.0	99.3
	Indian	1	.7	.7	100.0
	Total	137	97.2	100.0	
Missing	System	4	2.8		
Total		141	100.0		

Blacks occupy a large portion of the South Africa population, followed by the coloured and whites. Therefore, the figures in table 3 provide a true reflection on the ethnic group dominance in our prisons.. An overwhelming number of the participants (n=117) were black, followed by (n=11) who were coloured. Only a small number of the participants (n=8) were white and (n=1) Indian.

Table 4: Qualification of the participants

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Degree/Diploma	14	9.9	10.1	10.1
	Grade 12	30	21.3	21.7	31.9
	Secondary Education	76	53.9	55.1	87.0
	Primary Education	18	12.8	13.0	100.0
	Total	138	97.9	100.0	
Missing	System	3	2.1		
Total		141	100.0		

Studies in the field of social sciences indicate that there is a relationship between illiteracy level and the academic achievement of inmates (Alberta, 1997: 9; Matshaba, 2011: 247). Moolman and Kgosimore (1998: 46) further state that low academic achievements contribute to ignorance of the law. Therefore, Table 4 above represents the qualification of the participants. The general picture shows that a large number (n=76) has below grade 12 while (n=30) completed their grade 12. This table also indicate that (n=18) only manage to obtain their primary education and a low number (n=14) completed a degree or diploma.

FINDINGS

There were four primary phenomena addressed in the interviews and these themes include amongst other psychological support, trust and communication, accommodation and stigmatisation. Ex-inmates experience will be provided in each theme provided below. In table 6 ex-inmates frequencies per each theme were categorised into three measuring instrument, namely, general, typical and variant. General indicate the modification that allows the researcher

to discuss finding that are true for almost the entire sample. Typical include more than half of the cases and variant would include at least two cases up to the cut-off for typical

Table 5: Themes and frequencies of ex-inmates views

THEMES	FREQUENCY*
Focusing on psychological support	
Family members assisted to adapt to a normal social environment.	General (76)
Family members help to meet the physical and material needs.	Typical (45)
Family members assisted to reduce long-term negative psychological effects	Variant (20)
Focusing on trust and communication	
Family members do not have a trust on me.	General (90)
Family members are able to leave their valuable in my presence.	Typical (40)
Family member are able to freely communicate everything with me	Variant (10)
Focusing on accommodation	
No challenges experience with accommodation after incarceration	General (82)
Challenge with accommodation after incarceration	Typical (48)
Personal arrangements after incarceration in regard to accommodation	Variant (10)
Focusing on stigmatisation	
Family members view me as a criminal.	General (80)
Family members feel ashamed of me.	Typical (43)
Family members do not feel comfortable when I am around them.	Variant (18)

*Note: General= 50-90 participants; Typical= 40-25 participants; Variant= 20-2 participants

PSYCHOLOGICAL SUPPORT

Incarceration as a form of punishment was introduced with the purpose of providing inmates opportunity to rediscover their own conscience and better voice through spiritual concise and better voice through spiritual conversion (Tomar, 2013: 68). In the case of resettlement, inmates must be able to cope with the demand of everyday life and the family is viewed as a support system of ensuring the adjustment as one of the psychological process. Regarding the role of family members' assistance to adapt to a normal social life, majority of ex-inmates were certain about the family efforts. Some of the participants indicated that "*my family organised a traditional ceremony for me to free my ways, you understand that we……… African believes that prison is an evil place, so the family must slaughter something to free you from the evil spirit. My brother psychologically I am a free man……..and not more crime or any bad business*" (participant aged 35)

Another participant aged 45 also indicate that " *emotionally and psychologically I am a free man, while in prison I attended few anger management session and they help to ease my anger. My family know that I am short tempered and I fight now if someone invites me to do so………….. You know my brother that these people think that you cannot fight back but gone are those days. My family invited my uncle and other elders for a family meeting and they calm me down and show the support*"

In the case of physical and material needs one ex-inmate aged 21 also indicated that "It *tough to be in prison sir……..I served three full years in prison and the only clothes I have is those I left when I was sentenced……. I have gained a weight and all my clothes are too small…….. I am ashamed to ask around for clothes as my family member cannot afford to buy nice and cool clothes for me, buy the way……….. They are trying to make sure that I eat every day and they also ensure that I have cosmetics to wash myself*"

In the case of long-term negative psychological effects female ex-inmate who is aged 27 also indicate that " *I will be lying by saying my family did not show me a support, they were so supportive in such a way that they organise a car to come to fetch me when I was release…….. Fairly, I do not have any depression or whatever, my life is better because I am being surrounded by people who love and appreciate me*"

TRUST AND COMMUNICATION

To achieve a successful reintegration trust and communication are the most important tools that need to be encouraged amongst ex-inmates and their family members. Trust in communication is about relationship. In other words, without a commitment to truth and open communication a solid relationship cannot be formed (Kelly, 2013: 2). In general, the majority of participants indicated that family members do not trust them at all. Female ex-inmate aged 24 also indicated that "*No one seems to trust me in this house……. I tried my best to show these people that I can be trusted, last month my sister received an call to attend the interviews …… she is having a cute baby girl …… guess what my brother, she refused to leave the child with me and she told me that she will not be comfortable to leave her with me*"

A participant aged 37 emotionally shared his frustration in regard to trust and communication by indicating "*If you are from prison no one will be interested to any conversation you are trying to bring……….. It is painful in such a way that no one is interested of knowing what you have been through while you were in prison………. What is trust my brother? No one will ever trust ex-convicts, no matter what…….. These people….. I mean my parents and their grandchildren make sure that they lock everything in this house, how can you leave with people who always think that you will steal from t them, the situation is not so good at all*"

One of the participants aged 19 shared his experience and frustrations by indicating that "*to them I am just useless jail bird, how can I force them to talk to me while I can see that they are not interested on my stories, ho thata (it is tough) my brother*"

ACCOMODATION

One of the requirements for inmates to be released is the availability of accommodation. Often the social reintegration correctional officials make sure that inmates will be permanently accommodated by their families. It is therefore clear that accommodation is the most import need that ex-inmates must address upon their release (Visher et al, 2004: 134; Mgadze & Roelofse, 2017)). Despite the involvement of the Department of Correctional Services to engage with the family members of inmates, other means of securing accommodation remain very challenging. Moreover, due to their criminal records ex-inmates may be automatically excluded from any other means of securing the accommodation. In regard to accommodation, majority of inmates indicated that their family members accepted them back to their homes. Some of them were

having their own houses and lived with their families before their incarceration. Only few participants showed their frustration in-regards to accommodation.

One of the participant aged 29 indicates that "*They only accommodated me for three weeks, then my mother was always asking me about employment……… when I am planning to get a job and have my own space……. You know that how difficult for us ex-offenders to be employed, especially with criminal records…… but my own mother keep on telling me that I am old enough to share with my little brother, so sad indeed*"

Other participant aged 40 also indicated that "*my family did not want to sign for me to be release on parole…… correctional official who was dealing with my release only told me that no one seem interested on my release and my family is not prepared to leave with me…… After making peace with my situation I received a besoek (visit). It was my sister….. My brother I humble myself before my sister to assist me with temporary accommodation, she agree…….. She wants me out of her place as we agreed that I will only stay with her for few weeks. Things are not ok, where must I go now?*"

STIGMATISATION

The release of inmate into the society poses a challenge to the society and the families (Wartna and Nijssen, 2006: 97). Social stigma can be defined as a situation where the family including the society labelled ex-offenders on particular status, social circumstances and their prison experience (Ahmed and Ahmad, 2015: 22).

Also commenting on his experience on stigma, male ex-inmate aged 34 responded that "*They still see a prisoner in you, irrespective you try to be a better person… it was painful when we had a visitor, I mean a church members when my own mother introduce me as the other one I told you about to her church member……. She further indicate that I am now grown up and she think that I have learnt my lesson. My brother, what is different from me and other people? Is that the way my mother was supposed to introduce me………. It is very clear that I am side-lined because I am coming from prison*".

Also commenting on her experience on experience on stigma, a female ex-inmate aged 22 stated that "*Unlike my older sisters my family is keeping distance from me….. I only spend few months in prison but people seem to dislike me*".

According to other ex-inmate aged 45 who shared his experience state that "*life is very difficult for us people from prison, they are saying, once a prisoner always a prisoner. My children that I have raised are disrespectful and are ashamed of me…….. Yes I did my mistake but why I had to suffer the consequences of being labelled lapantiti (prisoner)…… from my own children. Although I have been divorced with their mother I deserve their respect*"

CONCLUSION AND RECOMMENDATIONS

Ex-inmates face a number of challenges and a lack of support from their own family members exacerbates the problem. Having examined four phenomena with the purpose of having a clear understanding on the relationship between inmates and their family members, it appears that almost all families are unprepared to accept one of their family members back when they have been released from prison. The author therefore recommends the following aspects in regard to maintaining a relationship amongst inmates and their family members:

- Visitation programme to be encouraged between inmates and their family members to strengthen the relationship while in prison.

- Pre-release counselling programme be conducted between inmates and their family members.

- Further psychological support programmes be provided to inmate after their release.

- Effective measures such as family support programme be established to improve the level of trust and communication between ex-inmates and their family members.

- Necessary arrangements for temporary accommodation be done by the Department of Correctional Services in the case of ex-inmates who do not have any means of accommodation.

- In order to prevent stigma, support programme also be provided to both inmate and their family members so that they can accept one another.

- Open and truthful communication between ex-inmates and family members should be established through pre-release communication therapy

REFERENCES

Alberta, A. (1997). *Inmate education.* Colombia: The John Howard Society.

Ahmed, A.M. & Ahmad, A.H. (2015). Prison, stigma, discrimination and personality as predictors of criminal recidivism: Preliminary findings. *Journal of Social and Development Sciences*, 6(2), 20-29.

Babbie, E. (2010). *The practice of social research.* London: Wadsworth Cengage Learning.

Brink, H.I. (1996). Fundamentals of research methodology for health care professionals. Kenwyn: Juta.

Davis, C, Bahr, S.J. & Ward, C. (2012). The process of offender reintegration: Perceptions of what helps prisoners re-enter society. *Criminology and Criminal Justice,* 13(4), 446-469.

Department of Correctional Services, (2005). *White paper on corrections.* Pretoria: Government Printers.

Farrington, D.P. (2000). Explaining and preventing crime: Key theoretical and empirical Issues*. Journal of Criminology,* 41(2), 221- 56.

Hampton, B. (1993). *Prison and women.* Sydney: University of New South Wales Press.

Gideon, L. (2010). Drug offenders' perception of motivation: The role of motivation in rehabilitation and reintegration. *International Journal of Offender Therapy and Comparative Criminology* 54(4). 597-610.

Giordano, P.C, Cernkovich, S.A. & Rudolf, J.A. (2002). Gender, crime and desistance: Towards a theory of cognitive transformation. *American Journal of Sociology*, 107(4), 880-1064.

Goyer, K.C. (2001). *Imprisonment in South Africa: Prison privatisation in South Africa, Issues, challenges and opportunities*. ISS Monograph 64. Pretoria: Institution for security studies.

Klein, G. & Baxter, H.C. (2006). Cognitive transformation theory: contrasting cognitive and behavioural learning. Industry Training, Simulation and Educational Conference, 2006.

Lanier, M.M & Henry, S.S. (2010). Essential criminology. Philadelphia PA: Westview Press.

Laub, J.H. & Sampson, R.J. (2003). *Shared beginning, divergent lives: Delinquent Boys to age 70.* Cambridge: Harvard University Press.

Loeber, R. & LeBlanc, M. (1990). Towards a developmental criminology. Chicago: University of Chicago Press.

Maruna, S. (2011). Re-entry as a rite passage. *Punishment & Society*, 13(1), 3-28.

Matshaba, 2011. *A* penological *perspective on unit management as a rehabilitation tool for youth offenders.* D Lit et Phil Thesis: Pretoria: University of South Africa.

Mills, A. (2005). *Great expectation: A review of the role of prisoners' families in England and Wales.* British Criminology Conference, University of Portsmouth, 6-9 July 2004.

Moolman, C.J. & Kgosimore, D. (1998). Taxi violence in South Africa: The causation factors. Acta Criminologica, 11(1), 33-42.

Neser, R.L. & Visher, C.A. (2006). Family members experience with incarceration and re-entry. Western *Criminology Review*, 7(2), 20-31.

O'Sullivan, E. & Rassel, G.R. (1995). *Research methods for public administrators.* New York: Longman.

Patton, M.Q. 1990. *Qualitative evaluation and research methods.* Newbury Park, CA: Sage.

Pilot, D.F. & Beck, C.T. (2006). *Essentials of nursing research methods, appraisal and utilisation.* Philadelphia: Lippincott.

Reichel, P.L. (2001). Corrections: Philosophies, practices and procedures. Boston: Allyn and Bacon

Rossman, R.B., & Rallis, S.F. 1998. *Learning in the field: An introduction to qualitative research.* Thousand Oaks, CA: Sage.

Rudestam, K.G, & Newton, R.R. 1992. *Surviving your dissertation: A comprehensive guide to content and process.* Califonia: Sage.

Taylor, S.J. & Bogdan, R. (1998). *Introduction to qualitative research methods: A guidebook and resource.* New York: John Wiley.

Tomar, S. (2013). The psychological effects of incarceration on inmates: Can we promote positive emotion in inmates. *Delhi Psychiatry Journal*, 16(1), 66-72.

Visher, C.A. & Travis, J. (2003). Transitions from prison to community: Understanding individual pathways. *Journal of Sociology*, 9(4), 89-113.

Wartna, B.S.J. & Nijssen, L.T.J. (2006). *National studies on recidivism: An inventory of large-scale* recidivism *research in 33 European Countries.* The Hague: WODC.

RISK MANAGEMENT AND INVESTIGATIONS: A SOUTH AFRICAN CASE STUDY

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ABSTRACT

The aim of this study was to get an understanding of how risks are identified by investigators, assessed, and managed. Investigators, complainants, victims of crimes and witnesses run the risk of being harmed, killed or their family members being injured/ killed and their personal property damaged during investigations. It is therefore essential that they are secured or protected during the course of investigations. This is only possible if there is a risk management framework aligned to the investigation plan (objectives), so that a risk assessment may be conducted and the risks accordingly managed. Managing risks during the course of investigations is complex and a developing subject and it is something that all investigators need to be aware of. A case study design was used to collect qualitative data to explore the risk management standard used by investigators in South Africa. A focus group discussion was conducted with ten (10) purposively sampled investigators, and one-on-one interviews were held with twenty (20) investigators from different organisations. These participants were sampled using the snowball sampling technique. It was found that participants were unaware of the existence of an international risk management standard ISO 31000:2009. Many organisations do not have principles, framework and processes to manage risks during investigations.

Keywords: *Risks, threat, risk management, investigation of crime, non-compliance incidents*

INTRODUCTION

Every investigation has uncertainties which prevent objectives from being achieved during the course of an investigation. These uncertainties have to be managed using a risk management standard. There is a growing body of knowledge on risk management standards presently available from international standards organisations such as the ISO 31000: 2009 (Airmic, 2010).

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It is necessary for investigators to take responsibility to conduct risk assessments to determine the nature and degree of security risks likely to confront them during the course of investigations. Investigation of crime and non-compliance incidents has proven to be a dynamic process in South Africa. Making investigation decisions that could impact on loss of life, injury and damage to property can be a risky business. It is therefore necessary to conduct a risk assessment to identify, analyse, evaluate and treat risks. This has to be done in accordance with specific principles, framework and an agreed upon process.

Presently investigation is being conducted in almost every aspect of our daily lives. It has in fact become an important part of modern society. The principles of criminal investigations are being practiced by statutory bodies, corporate entities and government departments, using different models to conduct different types of investigations. These models include intelligence led investigations, prosecution directed investigations, proactive investigations and reactive investigations (Newburn, Williamson & Wright, 2008). Identifying and responding to a risk during the course of investigations is of utmost importance. Every investigating officer or his/ her employer should have risk standards in place for the identification and treatment of risks. Historically, the culture of investigators has tended to be "averse to a risk". However, more recently a risk culture is being encouraged by International Standards Organizations (Knight, 2007) instituting risk management, whereby investigators, especially police investigators are being trained using simulated, immersive exercises so that they can 'practice' using their judgement in different scenarios in a safe environment and learn from this experience. During the course of investigations, investigators do not consider security risks that may be awaiting them; instead they approach the scene and perpetrators without conducting any form of risk assessment (Richard, Letchford & Stratton, 2008). According to Curtis and McBride (2011, p.55), "the greatest risk is not taking one". Security risk management is vital for the protection of investigators, complainants, victims and witnesses. The question to be asked is; 'What risk management standards are used by organisations to treat security risks confronting investigators, complainants, victims and witnesses '? This is what this article focuses on.

It is not about seeking to avoid a risk altogether, but to go into a situation with complete information, being prepared to manage the identified risks. Managing risk is a complex and developing subject and it is one that all investigators need to be aware of when making investigative decisions that would impact negatively on the investigation and the unit. Risks confronting investigators, complainants, victims and witnesses have to be identified by the investigator before the adversary acts. The nature, degree and scope of the risk posed by a

perpetrator/s or competitor/s in terms of harm should be assessed and managed by the investigator together with management in accordance with international standards - Risk Management Model, ISO 31000: 2009. The risk management process is made up of three distinct stages, commencing with establishing the context, followed by risk assessment, and concluding with risk treatment. Communication and monitoring is undertaken simultaneously. This is the most important part of the risk management model. This stage defines the basic parameters within which risks are to be identified, assessed, and mitigated (Smith & Brooks, 2013).

BACKGROUND TO RISK MANAGEMENT

During the 1990's Australia and New Zealand led the world in Risk Management by developing the AZ/NZS 4360:1999 as a Risk Management Model. This model was revised in 2004 as AZ/NZS 4360:2004. During this time there were a small number of competing frameworks which were regarded inferior. In 2005, the International Standards Organisation (ISO) started work on ISO 31000 using the AZ/NZS 4360:2004. On 13 November 2009, ISO 31000 was published and received widespread acclaim (Leitch, 2010). International Organisation for Standardisation (ISO) is an independent, non-governmental membership organisation and the world's largest developer of voluntary International standards. They consist of 162 member countries, including South Africa who are national standards bodies internationally, with a Central Secretariat that is based in Geneva, Switzerland (Lark, 2015).

Risk is fundamental to any activity. With empirical evidence showing that 58 police officers were killed during the course of their duty in 2015, it is clear that conducting any activity, including investigations can turn out to be a risky business (Nicholson, 2015). Risk has consequences in term of economic performance and professional reputation, but there are also environmental, safety and social considerations. These risks can be internal, external, direct or indirect. despite the underlying element of uncertainty (Roelofse, 2015), it is often possible to predict risks, and to set in motion systems and design actions to minimise their negative consequences and maximise the positive ones. Those risks that arise from disorder can be controlled through better management and governance. In this manner, businesses that adopt a risk management strategy are more likely to survive and to grow. Although many organisations do have well-structured contingency plans to deal with risks, these plans are not meant to address all forms of risks. Because of various limitations, contingency plans are more exposed to natural and man-made disasters. Neither do they engage in formal risk management processes. Vast majority of them totally ignore risk treatment measures.

The way we understand and describe risk strongly influences the way we manage the risk and hence it may have serious implications for risk management and decision making (Aven, Baraldi, Flage, & Zio, 2014). The meaning of the concept risk is dependent on the field of application, which in this case is an investigation. Managing risk is an important part of good management. It is a process that works best if embedded into existing practices and organisational processes. Organisations know that adopting International Standards, in full or part, can enable them to manage risk more effectively and therefore maximise opportunities and minimise losses in the course of achieving objective (Knight, 2007). Risk Management is about balancing different concerns, profits, service delivery, safety and, reputation. In general, one considers a set of alternatives, evaluates all the options, and makes decisions that best meets the decision maker's values and priorities.

Before looking into the risk management principles and strategies, it is useful to review two well established pillars of risk management. The first pillar is the main risk management strategies available and the second pillar is the structure of the risk management process (Aven, 2016). There are three major strategies which are commonly used to manage risks, i.e. risk informed, cautionary/precautionary and discursive strategies. The risk informed strategy refers to the treatment of risk avoidance, reduction of risk, transfer of risks, and the retention of the risks by using risks assessments in a relative way. The cautionary/precautionary strategy is said to be the most resilient. An important aspect is to be able to read signals and precursors of serious events. The discursive strategy uses measures to build confidence and trustworthiness, through reduction of un-certainties and ambiguities, clarifications of facts, involvement of affected people, deliberation and accountability. A most appropriate strategy will be the mixture of the three strategies. For the structure of the risk management process, one can follow the ISO3100:2009 standards (Renn, 2008).

Risk management is established as a scientific field which makes an important contribution in supporting decision-making in practice. Basic principles, theories and methods exist and are developing through working groups (Aven, 2016). The proponents of the ISO 31000: 2009 Risk Management Model argue that crime statistics, actionable crime information products, crime trends and the consequences of past events alone, is inadequate for delivering (expected) rational measurements of security risks in what may be considered an increasingly uncertain and changing environment. It could be argued that the present approach does not provide effective and efficient security, as security risk management has to take a greater exploratory approach (Lark, 2015). Organizations both small and big need to identify, understand and manage the

uncertainties or risks that are critical to achieving success. The ISO 31000:2009 provides a proven, resilient and reliable approach to manage risks. Organisations must understand and manage risks for the sake of sustainability. By aligning risk management with ISO 31000:2009 organisations will be able to implement risk management consistently and effectively (ISO 31000, 2009)

21ST CENTURY DEVELOPMENTS IN INVESTIGATIONS

One might wonder, why discuss the 21st century developments in investigations in this article. Since every facet of investigation is aligned to objectives, which are subjected to different types of risks (uncertainties), thus preventing objectives from being achieved during the course of investigations, it becomes necessary to discuss investigations holistically within the parameters of the risk management model. It is therefore important to consider internal control systems as being part of the risk management process. Every decision made by investigating officers implies some accompanying risk and an opportunity. Internal controls should be the responsibility of management. These should be put in place by management, in support of the risks management process. Risk management is only possible in an environment where there are strong internal controls, which are defined in the Organisational Risk Management Framework, as a system designed to protect the investigator, complainant, victim and witnesses. Risk mitigating factors are put in place to mitigate any unforeseen event from taking place. Primary examples of internal controls include policies, procedures and structured processes of the organisation, which guide our decisions and actions, thus positioning us to achieve our objectives. If these internal controls are implemented correctly, they will strengthen the organisations governance structure, improve preventive measures against injury and damage to property and criminal conduct such as corruption, human error and negligence.

According to Van Rooyen, (2008:13), "investigation can be defined as a systematic (organised) search for the truth." It consists of observation and/or enquiries with the purpose of gathering objective and subjective evidence about an alleged crime or incident. Investigation is, therefore, not merely a search for the guilty party. The authorising manager (senior manager) is the person with the authority in a corporate to initiate an investigation, while in the South African Police Service (SAPS) criminal cases are assigned by a detective commander to a detective for investigation. Criminal investigation involves locating, gathering and using information to bring criminal offenders to justice in the name of the State (Selfox, 2009). Criminal, corporate or private investigators are said to serve the interest of the corporate entity/organisation or an individual. Corporate and private investigations include the investigations of private and public matters such

as tracing missing persons, matrimonial matters, due diligence investigation, background investigations. Criminal investigation involves crimes, such as theft, fraud and other forms of white collar crime and related activities (Van Rooyen, 2008; Carlston, 2011). Corporate and private investigators conduct internal and external investigations for corporate entities and individuals. (Montgomery & Majeski, 2005). Workplace investigations refer to the lawful investigation of workplace incidents, accidents, misconduct, non-compliance, background checks etc., which is investigated with the commitment of management, using meaningful objectives, a well-conceived strategy and properly pooled resources and expertise (Ferraro & Spain, 2006). "Forensic investigations is a global phenomenon", which is considered as a paradigm of criminal investigations, and associated with the investigation of computer crimes, corruption, fraud, embezzlement and or/ other white collar crimes (Van Rooyen, 2008, 4).

As a result of globalisation and technological advances as well as porous borders and multi-national corporation and transnational organised crime, transgressions and transgressors are changing. Investigators, now more than ever before, often rely on cross-jurisdictional and international co-operation. New crimes have emerged such as theft, extortion, commercial and financial fraud, trafficking in contraband goods and services, along with new ways of using criminalistics and criminal tactics, with new sophisticated criminal networks and new criminal environments (including virtual and online environments).

These changes present challenges to investigators along with international crime. There are many new laws legislated internationally, which have a great impact in the way in which investigations should be conducted. In addition, with the advent of the internet there is an increased awareness among the criminal fraternity of forensic investigative techniques and forensic strategies, the nature of which may have been less readily accessible to the general public. 'Rapid developments in relation to closed circuit television (CCTV), mobile phone forensic telephony, automated number plate recognition (ANPR), and computer technology have all impacted significantly upon the changing face of investigations.' Most investigation units have formulated investigation policies in respect of most of these issues (Carlston, 2011:5). Technological advancement has since made the collection of evidence during the investigation process a risky business, which requires knowledge, skills and courage (Smith, Adams, Hart & Webb, 2013).

Technology used in investigations has improved the quality of investigations and enhanced criminalistics. Improved capabilities have increased the potential to solve cases by

providing timely support to investigators. Advancement in technology also challenges the traditional methods and techniques used in investigations. With technological advancement, the methods of committing crimes have become more sophisticated and so have the methods and techniques of investigations. This is coupled by huge challenges confronted by investigators in cybercrime and digital device investigations (Van Rooyen, 2008).

Criminal investigation is no longer only a law enforcement tool used to control crime by legally mandated government agencies. Instead, the principles of criminal investigations have become a process to achieve justice that is available to all facets of society reaching into boardrooms of corporate entities and offices of public officials, uncovering illegal practices and exposing a wide range of corrupt activities. Today the principles of criminal investigation are practiced in different environments, using different paradigms. This includes the corporate environment, government departments and the private security industry. This is because many corporate entities and government departments out there feel that the authorities mandated to conduct criminal investigations focus on the needs of the general public and do not have the time to spend on internal investigations affecting coporates. The focus of private security on the other hand is to protect the assets of corporates and to address the ways of preventing these assets from being abused by their employees (Maggio, 2009). This has forced the corporate environment and government departments to appoint internal investigation teams to investigate crime and policy violations, at the same time creating an opportunity for private investigators to support the corporate entities and government department who do not have the necessary investigation capacity (Van Rooyen, 2008).

Investigation is one of the functions of law enforcement, corporate entities and private Investigators. It is a function performed by organisations, companies, private security or any other entity authorised by law or by the employer of a corporate or client to conduct a specific type of investigation. It includes private and government entities. Investigators carry out criminal investigations, corporate investigations, workplace investigations and private investigations. These investigations are carried out with different aims and objectives in mind. Whenever a criminal conduct or policy violation occurs, it becomes necessary to institute investigation. The underlying premise of investigating a crime or a policy violation is to gather evidence and then to decide if there is sufficient *prima facie* evidence to prove a criminal case beyond all reasonable doubt or policy violation on a balance of probability. The burden of proof will indicate the perpetrators guilt and the type of prosecution (criminal, civil/ disciplinary) to be instituted. In cases of criminal conduct a case is registered at the local police station for the obtaining of statements,

documentary evidence and other information relating to the investigation with the object of prosecuting the perpetrator in a criminal court. Investigations of policy violation will result in corporate investigation or workplace investigations. Corporate investigators and workplace investigators also conduct criminal investigations for the corporate in support of the South African Police Service (SAPS). Private investigators conduct criminal investigations at the request of private clients in support of the South African Police Service. They also undertake corporate and/or workplace investigations at the request of clients. Statements, documentary evidence and other physical evidence relating to these investigations is obtained with the object of making a decision appropriate to the situation on hand.

The South African Police Service Act 68 of 1995, legally mandates the SAPS to investigate crime, while the Private Security Industry Regulatory Act 56 of 2001 (PSIRA), identifies the functions of a private investigator as one of the services or activities of a security service and goes further to state that no person is excluded from the definition of a private investigator if he or she conducts any investigation which falls within the exclusive function of the State. However, the Act does not impose any regulatory framework for the following categories of investigators:

a)   Auditors, accountants, attorneys, advocates or forensic scientists conducting investigations which fall within the normal and reasonable course and scope of their professional functions;

b)   Internal investigators (workplace investigators) conducting normal and reasonable investigations into employee misconduct;

c)   Internal investigators (workplace investigators) conducting investigations which a business, other than an investigation business, may undertake in the cause and scope of its normal and reasonable endeavours to safeguard its security, strategic, operational or business interests.

Specialised units are statutorily mandated within government to legally investigate specific types of crimes; however, these crimes are still registered with the SAPS, who are the accounting authority of crime statistics. The credibility of the state to conduct workplace investigations relating to criminal activities in companies and organisations has declined, leading to an increase in the number of private investigators and corporate investigators being employed by corporates. The High Court (Supreme Court) has in fact expressed its acceptance of the fact that private and corporate investigations of criminal activities occur (South Africa, 2001). The cases that follow are

examples, where the High Court (Supreme Court) made specific findings in respect of criminal investigation being conducted in support of the SAPS.

State vs Dube 2000(1) SACR53 (N): A private investigator set a trap for an employee of a vehicle manufacturer who was suspected of being involved in several cases of common theft. The investigator arranged for meetings and negotiations for the suspect to be photographed and tape-recorded.

State vs Botha and another 1995 (2) SACR 598(W): The court ruled that the fact that a corporation's internal investigation unit had conducted an investigation regarding the alleged defrauding of its pension fund was not improper.

In both these cases the court referred to the fact that various institutions conduct their own investigations and then hand the evidence over to the police for the institution of a prosecution. This development has created new opportunities for all investigators whether in private, business, or government service and all indications are that the scope will increase. Workplace investigations will include the investigation of all crimes, security breaches and policy violations (Disciplinary irregularities) as determined by management.

Every investigation will adhere to the same principles, but the amount of resources, including effort and time, that can be allocated to investigations will vary, usually in accordance with the seriousness of the crime or policy violation under investigation. There are also competing outside influences that must be negotiated by the investigating team and the investigating officers. Inevitably there will be the victims and offenders, but there may also be witnesses, media involvement, political interest and extraneous personnel at the crime scene (paramedics). All these people will add complexity to the investigation (Smith & Brooks 2013, 11).

The above discussion is crucial to give the reader an understanding of the investigation environment both internally and externally. When a risk is identified in any environment, it is important that a threat assessment is done preceding the deployment of human power and the determination of any security strategies and measures. A threat analysis attempts to answer the "what", "when", "how", and "where" of criminal activity. The threat assessment process involves identifying, assessing and managing individuals who may pose a risk of violence to an identified target (Poulin & Nemeth, 2005, 140-141).

RISK MANAGEMENT MODEL (ISO 31000:2009)

The risk management model, International Standards Organisation (ISO) 31000:2009, principles govern the risk management process, establish the values and philosophy of the process. The principles support a comprehensive and coordinated view of risk that applies to the entire organisation. Risk management principles should link the framework and the practice of risk management to the strategic goals and objectives of the organisation. Principles also help align risk management to corporate activities (ISO 31000, 2009).

The development of the framework will fully integrate the management of risk into the organisation. This will make risk management an active component in governance, strategy and planning, management, reporting processes, policies, values and culture. This will provide for the integration of risk management, reporting and accountability. This is intended to be adapted to the particular needs and structure of each organisation. The component parts of the framework include establishing the mandate, and commitment to risk management, designing the framework for managing risks, establishing a risk management policy, integration of risk management into organisational processes, internal and external communication and reporting and allocation of resources, implementing the risk management process, monitoring and review of the process and continual improvement of the framework (Knight, 2007).

The risk management process incorporates the six steps of a traditional operational risk management process, which includes identifying the risks, analysing the risks, evaluating the risks, applying risk treatment options, implementing risk mitigation and controls and monitoring results and revising where necessary. Communication and consultation should be built into the process and involve both internal and external stakeholders. Monitoring and reviewing should occur continuously throughout the process (ISO 31000,2009).

The practice of risk identification, assessment and management in an investigation requires a professional, systematic approach. Appropriate risk identification and accurate risk assessment rely on thorough information collection and intelligence. Unless all information is available to those investigating a matter, safety may be compromised. All investigators must be familiar with the basics of risk identification, so that information may be flagged and assessments may be kept up to date (Curtis and McBride, 2011; Richard et al., 2008).

The first phase of Security Risk Management involves getting to identify the security risks to which investigators are exposed to, and conducting an immediate threat assessment which process involves assessing the threats from the internal and external environments. The second

phase is then to carry out risk prioritisation to determine the probability of manifestation of each threat and this will provide the risk level when combined with the potential impact and loss. This process will determine the likelihood and consequence of the risk, and thus in need of protective counter measures. The third phase is the risk mitigation, which is "the effort to reduce loss of life and property by lessening the impact of the consequence (Curtis and McBride, 2011, 56; ASIS International, 2003,5).

RISK IDENTIFICATION IN INVESTIGATIONS

According to Roelofse (2008), the concept 'risk' may be defined in many different ways. Risk may be defined as "the potential for an unwanted outcome resulting from an incident, event or occurrence as determined by its likelihood and the consequential impact. "It deals with the possibility that some event will occur that could cause injury or death or possible damage to property. Risk is defined as the "possibility of loss resulting from a threat, security incident or event" (ASIS General Security Risk Assessment Guideline, 2003). Vellani and Nahoun (2007, 1) defines risk as "the possibility of loss, damage, or destruction as a result of a threat exploiting a specific vulnerability. "There are a number of risk factors which investigators need to take into account when investigating a case. Risks may be divided into three common categories, relating to people, property or liability (Abrie, 2008). This includes identifying risk through intelligence or information provided on specific threats by a reliable source or the information/intelligence collection unit. The identified threat is assessed to determine the risks, using a risk analysis model. This process is conducted based on full and accurate information. The identifications of those persons who may pose a serious threat of harm is the first step- in establishing the specific risk factors which apply to potential perpetrators, as well as to potential victims. (Fay, 2006; Richard et al., 2008). Risks confronting investigators from achieving objectives and ensuring a successful prosecution may be attributable to the following:

Investigating without a mandate

In the corporate environment, the investigator is mandated (given permission) to investigate a specific crime or irregularity in accordance with company policy. Conducting investigations without a written policy being in place is a dangerous practice that must be avoided. A written instruction to investigate, which is conveyed via a prescribed document (mandate), is always preferred to a mere verbal instruction. No investigation must be undertaken without obtaining a mandate. Unfortunately, a few corporate investigators have ended their careers prematurely through violating this principle (Guerin, 2007).

Failing to investigate

If a company management is aware of serious misconduct or dangerous activity in the workplace and do not do anything about it, the company could have significant legal exposure. Workplace problems should be taken seriously by instituting investigation where necessary. Failing to investigate workplace problems, can result in litigation. Never ignore complaints of wrongdoing. Even if a situation seems simple or straightforward, always do some initial research before deciding that an investigation is warranted. Make sure you know all the facts before taking disciplinary action against an employee (Newburn et al, 2008)

Conducting improper investigations by using inexperienced investigators

By using inexperienced investigators to conduct investigations may lead to conducting improper investigations, which is the opposite of an acceptable professional investigation, one in which leads and clues re properly documented and checked for follow up. Personnel bias and prejudice of the investigator slips into the process of information collection, hence evidence is overlooked or poorly and improperly handled. Finally, one should guard against incompetency in the selection of investigators to investigate a particular case (Tyska & Fennely, 1999). According to Van Rooyen (2008: 4), investigators chosen to investigate specific crimes and policy violations in a company should be experienced. They should be competent investigators with the ability to think analytically. They should be trained in the investigation of crime and irregularities as well as being familiar with the major operating systems. This investigator should develop professional contacts that would assist in conducting investigations. Performing an incomplete or sloppy investigation, failing to interview key witnesses, neglecting to review important documents, or ignoring issues that come up during the investigations, can have many negative consequences as failing to investigate at all (Guerin, 2007).

Compromising confidentiality

From a practical standpoint, talking too much during an investigation – telling a witness what another witness said, revealing your personal opinion to one of the employees involved, or publicizing the complaint in the workplace, for example can lead others to doubt your objectivity (Guerin, 2007). Companies are typically large entities with numerous personnel who communicate frequently among themselves. Given today's many modes of communication, especially electronic mail, there is substantial risk that information can be disseminated to outside parties, the media or the government, unless strict precautions are taken. It is recommended practice in the planning phase of an investigation to remind all of the participants, especially those who do not normally participate in investigations, that the information uncovered and discussed

is to remain confidential, shared with only those who need to know in performance of their duties. The participants should be requested to sign non-disclosure agreements. The failure to timely remind all the parties, at the outset and throughout the investigation, of their duty to retain confidentiality can only harm the investigation process and enhance the liability risks (Ferraro & Spain, 2006).

No record keeping/ audit trail

Almost every investigation will produce some records even if it is as simple as a note on a calendar about a call from a concerned employee or verbal disciplinary meeting with an employee. Records produced during workplace investigations and resulting disciplinary actions are often seen for the first time during administrative and judicial proceedings. This includes notes on calendars, field notes, email messages, investigative reports, conference notes, disciplinary actions and other documents produced as a result of the investigation, disciplinary action, and post investigative analysis. Proper documentation control procedures for creating, labelling, copying, tracking, distributing, and retaining investigative documents should be established. There should be proper ground rules for record keeping and creating an audit trail of the investigation. Documents may be produced at the criminal trial or disciplinary hearing that is immaterial or harmful to an investigation; investigative documents may be inadvertently inter-mixed with other records and create problems locating and editing them when requested in litigation; vital evidence may not be documented; sensitive information may be too broadly distributed, and critical document may be lost (Ferraro & Spain, 2006)Ideally, documentation controls should be established before any specific investigation and reviewed in the planning phase.

Irregular searches and monitoring

When investigating certain types of wrongdoings, investigators may need to search an employee's work area. For example, if an employee is accused of theft you may want to look in the employee's desk or locker for the stolen items. Investigators will be on a safe legal ground if a company has a policy that reserves the right to search employee workspaces. This type of policy shows that employees should not have expected the contents of their desks or lockers to be private. The more intrusive the search the more compelling the reasons must be. For example, if investigators want to search something an employee brings on company property, such as a lunch pail or backpack. Investigators must have fairly strong reasons to search. And investigators probably should not undertake this kind of a search unless your company has clearly warned employees, in written policy, that these items are subject to search. If you want to conduct an

intrusive search – for example, turning out a worker's pockets or searching an employee physically – you are asking for trouble (Newburn, et al. 2008).

As long as the company has a written policy letting workers know that it might monitor their email or use of the Internet, the company generally has a right to read employee email sent on company equipment or monitor which websites employees visit using the company's computer network. During an investigation, email messages often provide crucial proof of misconduct, such as harassment, discrimination, or threats (Guerin, 2007). The best way to avoid violating employee's privacy rights is to ask – or search for – only what you need to know. Don't search or monitor an employee without a good reason.

Past behaviour of perpetrators

One of the best predictors of future behaviour is past behaviour (Kerr, 2010). Perpetrators who have been involved in violent crimes previously are more likely to get violent again. The best way to prevent attacks from occurring on investigators is to check on the past behaviour of the perpetrator (Kerr, 2010). This information may be obtained from human resources in the case of employees and from the victims /witnesses in the case of perpetrators outside the organisation. It is therefore important to conduct background checks; security clearance and criminal record checks (Kerr, 2010). Perpetrators with a history of vandalising or destroying property may pose a serious risk to the property of the investigator such as a motor vehicle or the property of victims and complainants. This may be done with a rage or frustration. It is therefore important that the tendencies of the perpetrators are known by the investigators. Perpetrators of sexual crimes such as rape, indecent assault, crime injuria usually threaten their victims, either directly or indirectly. These threats can come in the form of written or verbal threats. Sometimes these perpetrators threaten investigators, complainants, witnesses and victims with violence months or even years in the future, and have followed through on their threats. Threats have been found to be even stronger predictors in cases of serious sexual violence. Perpetrators often identify associates of victims as secondary victims and apply violence on them. This is done to upset the victim or to harass the victim. Substance abuse is a risk factor which is commonly found to be linked to the physical conduct of the perpetrator. This type of violent attacks is aggravated by those who are mentally ill. Knowlede of the use of firearms or weapons by the perpetrator, which is provided by the victims, should be seriously considered. Perpetrators who used firearms or weapons previously or have threatened to use a firearm or weapon are at an increased risk of repeating this conduct.

Corruption

Corruption is a risk to both investigators in private and government organisations. Corruption is present in different forms in every public and private institution. There is no need for money to be involved for the crime of corruption to be committed. In fact the Prevention & Combatting of Corruption Activities Act 12 of 2004, provides for many forms of payments and favours that can give rise to corruption. This risk is more sophisticated, often more difficult to identify, quantify and protect against each occurrence of failed trust and legal and ethical responsibilities (Blount, 2003). One cannot investigate corruption or corruption related activities without having a thorough knowledge of all the relevant policies and legislations pertaining to corruption in a specific country. Internationally legislation is sometimes written in traditional legal language which some may find difficult to understand, specifically in cases involving money laundering (Van Rooyen, 2013).

RISK ANALYSIS

In risk analysis, two quantifiable areas of the risk areas measured, namely the magnitude of the potential loss and the probability that the loss will occur. Once a risk has been identified, it needs to be prioritised and managed. Risk analysis is the process of establishing the likelihood of a behaviour or event occurring, the frequency with which it occurs, whom it will or may affect and the extent to which the behaviour will cause harm, that is the impact of the event. This information may be obtained during interviews from complainants, victims, accomplices, informers, agents and other sources. Knowledge of the scene of the incident will indicate the social condition and infrastructure of the environment and the neighbourhood (Smith et al., 2013). The Risk analysis process will show the policy, or procedures in place to secure/ protect investigators, victims and witnesses, their vulnerability and what the threats are, and what is the probability that the threat will occur (Curtis and McBride, 2011).

Risk Prioritisation (Evaluation)

The prioritisation of the risk will involve the categorisation of an offender at a particular time, presenting a specific level of risk (standard, medium, high).This will help in eliminating the risk with least probability of occurrence. Some risks may be too costly to address and mitigate. We need to also identify the specific risk posed and what do we need to protect? "at all costs", what is the consequence if such events occur. During this process, focus should be on the target of the threat, threats and vulnerabilities (Curtis and McBride, 2011:59).

Risk Management

Risk management is about minimising or eliminating risks. It includes the use of various strategies by the police and/or other agencies to reduce the risk posed by the perpetrator/s confronting investigators. Investigators are exposed to risks, whether consciously or sub-consciously just as everyone else. Good understanding of the nature of the risk will enable investigators to plan resources more effectively and efficiently. Steps should be taken to identify counter measures to mitigate or eliminate the risk. The countermeasures will depend on the justification of the selected counter measures. Having selected the most appropriate countermeasure, it must be developed or implemented. The final phase will be the operationalisation of the security risk management plan (Richard, et al 2008:113; Smith et al., 2013: 51).

METHODOLOGY

The study addressed the research question, namely: What risk management standards are used by organisations to treat risks confronting investigators, complainants, victims and witnesses'? This broad question allowed a number of issues to be considered, such as security risk management principles, the framework and the presently being followed by investigators.

The case study design was used to collect qualitative data to explore the risk management standard used by investigators in private and government departments in South Africa. Based on their positions in the private and government sectors an initial number of 10 investigators from the safety and security environment were purposively sampled for a focus group discussion. From peer recommendations during the focus group discussion, additional investigators were identified for one-on-one interviews until the study sampling size (N= 10) was attained using the snowball sampling technique. On contact each investigator was interviewed. All responses were anonymous, and information such as personal details, addresses and locations were not collected to enable the participants to speak as freely as possible.

The purpose of using this methodology was to get an understanding on how risks are being managed in practice by investigators. In addition to the focus group discussion and one-one interviews, the author reviewed literature, and used his own experience in safety and security to write this article. Soon after the data was collected, it was transcribed and processed using the descriptive analysis technique.

RESULTS

The collected data was analysed, interpreted and presented in the sequence of the posed questions.

Q*1. Does your organisation have a risk management standard*
for investigators?

The results of the focus group discussion and interviews indicated that many organisations do not have risk management policies and plans in place. There is no framework in place to guide investigators on how to manage risks. Some of the participants indicated that they have contingency plans, which they use in the case of an emergency.

Q2. What standard do you use for the management of risks during investigations?

This question wanted to gauge the existence of unique risk management standards. The results of the focus groups and interviews indicated that there is no specific is standard used for the management of risks. Some of the respondents indicated that there is a contingency plan in place to address risks. None of the respondents mentioned the International Standard ISO 31000:2009. Investigators often confront risks, with available resources, as they arise. Nothing specific is planned to treat risks.

Q3. *Are you aware of any national risk standards for investigations, which is used in*
South Africa?

Question 3 attempted to understand if a single national risk standard for investigations existed in the country. The results of the focus group discussion and the interviews indicated that they are not aware of any national risk standard. Some of the investigators who studied at the University of South Africa indicated that the Programme Group: Security Management at the Technikon South Africa (TSA) developed a Security Risk Management Model (SRMM) for their National Diploma in Security Management and for the newly instituted BTech degree in Security Risk Management. This Security Risk Management Model which specifically addresses crime threats was built on the work of other practitioners and customised to the security industry. It has since been applied by some security practitioners within the South African environment.

Q4. Do you use the International Risk Management Standard ISO 31000:2009?

The results indicated that 97 percent of the respondents did not know about the International Risk Management Model ISO31000:2009. None of the respondents have used the International Risk Management Standard ISO 31000:2009.

Q5. How do you handle information relevant to incidents, vulnerabilities, threats and risks?

The results of the focus group discussion and the interviews indicated that 67 percent of the respondents informally handled information relevant to incidents, vulnerabilities, threats and risks on an ad-hoc basis. About 70 percent of the respondents indicated that they made operational decisions on the management of risks on the spur of the moment by looking at the raw information provided to them. Investigations like other disciplines embrace the knowledge and experience of their supervisors and managers to make risk management decisions on potential threats. Such an approach has been supported by many over many years, who view crime statistics that produces rational, objective and informed options from which decisions may be made. The information is not formally passed to qualified analysts to conduct a risk analysis.

Q6. Do you have any documented principles which provide the basis for the management of risks in your organization?

The results of the focus group discussion and the interviews indicated that there are no principles to communicate the value and explain the intention on and purpose of risk management. Some of the respondents indicated that they have a general code of conduct in their organisations, which is not relevant to the management of risks.

Q7. Do you have any framework which describes the implementation of risk management in your organization?

The results of the focus group discussion and the interviews indicated that the there are no designs, strategy and protocols in organisations to specifically address risk management.

Q8. Do you have any risk management process in your organization which provides a consistent and systematic approach for the assessment and treatment of risks?

The results of the focus group discussion and the interviews indicated that about 71 percent of the respondents were involved in the prevention and mitigation of risk occurrences. Sixty-nine percent were involved in the identification of risks. About 68 percent were involved in the identification of assets (people material, legalities) deserving protection. About 50 percent were involved in estimating the probability of risks occurrences, 47.1 percent on estimating the impact of risk occurrences and 44.8 percent on estimating the frequency of event occurrences. About 47 percent of the respondents were involved in making decisions on the management of risks. This confirms that the respondents made decisions for risk management rather than following a systematic process of risk assessment and treatment. To follow up questions in the

interviews, the results indicated that risk is not defined and formally analysed and treated using risk treatment plans. No evidence of recording and reporting to management could be provided by the respondents.

RECOMMENDATION

It is recommended that organisations provide a risk management standard for the management of risks during investigations. Investigators should be able to identify the risk, consider the magnitude of the threat, and the probability that the threat will occur, before proceeding on investigations.

CONCLUSION

Organisations of any size have to manage risks. Organisations that manage risks effectively will produce quality results. The implementation of risk management aligned with ISO31000:2009, is done with the primary aim of successfully achieving objectives. It is for this reason that the commitment to implement risk management must exist at all levels in the organisation. Managers at all levels should understand the benefits that risk management standards can bring to the organisation, so that they can communicate that understanding to personnel by implementing it.

Threat may be considered a significant component of risk management. A threat should not be passed over as trivial or underestimated. To understand the threat, one should examine the intentions, motives and capabilities of the perpetrator/s. Investigators may encounter aggressive and potentially violent individuals during the course of investigations. A realistic view of investigative activities can be conveyed by considering how a typical case is handled, the risks that follow in the arresting of the perpetrators, recovering exhibits, intimidation of witnesses and successfully taking a case to its conclusion in a court of law. In time investigators will have a consistent approach to security risk management and will be asking a common set of questions about the risks posed. Knowledge, skills, attitudes and courage will be crucial elements to manage the security risks in investigations.

REFERENCES

Abrie, S. (2008). *Security risk management. Study guide for PSMN03X.* Pretoria: UNISA Press.

Airmic , (2010). A Structured Approach to Enterprise Risk Management (ERM) and the requirements of ISO 31000. The Public Risk Management Association. Retrieved from https://www.theirm.org/media/886062/ISO3100_doc.pdf (accessed on 8 August 2016)

ASIS International. (2003). *The General Security Risk Assessment Guidelines.* Alexandria, Virginia, USA: ASIS International.

Aven, T. (2016). Risk assessment and risk management: Review of recent advances on their foundation. *European Journal of Operational Research.253,* 1-13.

Aven, T., Baraldi, P., Flage, R.,& Zio, E. (2014).*Uncertainties in Risk assessments.* Chicshester: Wiley.

Blount, E.C. (2003). *Occupational Crime. Deterrence, Investigation, and Reporting in Compliance with Federal Guidelines.* Boca. Raton : CRC Press.

Carlston, B. (2011).Risk Assessments. In B.Carlston, E.Volker, P.Feuilherade & A. Lategan(Eds), *Dealing with White Collar Crime* (pp 13-22). Pietermaritzburg: Intrepid.

Curtis, G. E. & McBride, R.B. (2011). *Proactive Security Administration.* Boston: Prentice Hall.

Fay, J.J. (2006). Contemporary security management. Oxford: Elsevier Butterworth-Heinemann.

Ferraro, E.F. & Spain, N. M. (2006). Investigations in the workplace. New York: Auerbach Publishers.

Guerin, L. (2007). The essential guide to workplace investigations. USA: Consolidated printers, Inc.

ISO 31000, (2009).Risk Management Principles and Guidelines. Retrieved from https://www.iso.org/obp/ui/#iso:std:iso:31000:ed-1:v1:en (accessed on 3 October 2016).

Knight, K. (2007). *Future ISO 31000 standard on risk, ISO management systems*. Retrieved from https://www.iso.org/ims (Accessed on 18August 2016).

Kerr, K.M. (2010). Workplace Violence. Burlington: Elsevier.

Lark, J. (2015). A practical guide for SME's. ISO 31000, Risk Management. Switzerland: ISO publishers.

Leitch, M. (2010). *Risk Management Model ISO 31000:2009, The New International Standard on Risk Management, Society for Risk Analysis, Risk Analysis,* 30(6).

Maggio, EJ. (2009). Private Security in the 21st Century. Concepts and Applications. Jones and Bartlett: Massachusetts.

Montgomery, R.J. & Majeski, W.J. (2005). *Corporate investigations,* 2nd edition. Arizona: Lawyers and Judges Publishing Company.

Newburn, T. Williamson, T. & Wright, A. (2008). Handbook of criminal investigation, Cullompton: Willan.

Nicolson, G. (2015). Police killings: Zuma tells cops to fight back. Daily Maverick. Retrieved from Available at: http://www.dailymaverick.co.za/article/2015-09-07-police-killings-zuma-tells-cops-to-fight-back/#.V_IaJ00U_X4 (accessed on 3 October 2016).

Poulin, K.C., & Nemeth, C.P. (2005). *Private Security and public safety. A community - based approach.* New Jersey: Prentice Hall.

Renn, O, (2008). Risk governance. Coping with uncertainties in a complex world. London: Earthscan.

Richards, L., Letchford, S. & Stratton, S. (2008). *Policing domestic violence.* Oxford: University press.

Roelofse, C.J. (2008). Vulnerability as a risk assessment tool in a business environment. *Acta Criminologica.* 21 (3), 124 – 138.

Roelofse, CJ. (2015) Security expenditure: Cost benefit analyses based on the quantified crime hypothesis. Journal for Studies in Economics and Econometrics. 39 (2). University of Stellenbosch.

South Africa, (1995). South African Police Service Act 68 of 1995. Government Gazette 16731, Pretoria: Government Printer.

South Africa, (2001). Private Security Industry Regulatory Act, 56 of 2001 (PSIRA). Pretoria: Government Printer.

Selfox, P. (2009). Criminal *investigations: an introduction to principles and practice.* Cullompton: Willan.

Smith, J.M., Adams, I., Hart, A.G., & Webb, J. (2013).*Introducing Criminal Investigations and Forensic Investigations.* Thousand Oaks: Sage.

Smith, C.L., & D.J. Brooks. (2013). *Security Science: The theory and practice of Security.* Elsievier: Butterworth-Heineman.

Tyska, L.A., Fennely, L.J. (1999). *Investigations. 150 Things you should know.* Boston: Butterworth Heinemann.

Van Rooyen, H.J.H. (2008). *The practitioners guide to forensic investigation in South Africa.* Pretoria: Henmar Publications.

Van Rooyen, H.J.H. (2013). *Investigate corruption.* Pretoria: Henmar Publications.

Vellani, K.H. & Nahoun, J. (2001).   *Applied crime analysis*. Boston: Butterworth–Heinemann.

Decided Cases

State *vs Botha and others (1) 1995 (2) SACR 598 (W).*
State vs Dube 2000 (1) SACR 53 (N).

VIOLATIONS OF SELECTED SECTIONS OF THE LIQUOR ACT (ACT 27 OF 1989) IN LIMPOPO AT NKAMBAKO VILLAGE.

Muhlari, C.[6] & Roelofse, C.J.[7]

ABSTRACT

Alcoholic beverages are part of social life in countries all over the world. It is also an income generator for restaurants, clubs, taverns and a host of other businesses. The harmful effects of excessive alcohol use are well known and legislation exists in most countries around the world to regulate the sales of liquor. Particularly, legislation is geared towards reducing abuse and preventing young people from drinking. This article is based on an observational study undertaken in three taverns over a period of 9 days (three days at each tavern). Observations on contravention of selected sections of the Liquor Act, Act 27 of 1989, that applies in Limpopo have been observed ad recorded on data sheets. The data indicate that taverns, with impunity violate the Liquor Act by continuing to sell liquor to already intoxicated patrons, youths and allows liquor to be bought by youths and taken of on-consumption premises. The findings have huge implications on crime figures in Limpopo and by implication for South Africa.

Keywords*: alcohol; youths; intoxicated; tavern; Liquor Act; observations*

INTRODUCTION

There is a great demand for alcohol throughout the world; however, research has proved that excessive alcohol consumption can lead to complex health and social problems, depending on the level of consumption (World Health *Organisation, Report 2002). In rural South Africa, taverns often referred to as shebeens,* are dispersed throughout villages, informal settlements and townships. In a study by Lekgau and Roelofse (2015), conducted in Limpopo, clearly indicated violations of licencing stipulations by tavern owners. Violations such as selling liquor to already intoxicated patrons and to juveniles were found to be to be quite common. The research on which this article is based is the outcome of an observational study conducted at three taverns in a rural

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setting in Limpopo. Activities at each tavern was observed for three days and recorded. One of the researchers actually went to the two outlets and sat inside and observed what was happening and recorded observations.

RESEARCH PROBLEM

The availability of alcohol is one of the most important factors influencing drinking habits in the world and alcohol use is a common experience among adolescents, with which many experiment. Drinking prevalence in general has increased dramatically throughout the world (Schulenburg, O'Malley, Bachman, Wadsworth, & Johnston, 1996).

The study investigated whether licenced liquor outlets in Nkambako village comply with the conditions and regulations stipulated within section 44 (1) (b) and section 44 (2) (a) of the Liquor Act, Act 27 of 1989 (hereafter referred to as the Act). The study sought to investigate whether the liquor outlets or their employees sell liquor to minors or underage persons and whether owners of liquor outlets or employees sell alcohol to people (adults) who are already intoxicated.

METHODOLOGY

Qualitative research is a process of inquiry with the goal of understanding a social or human problem from multiple perspectives, conducted in a natural. In this research project the researcher used a qualitative research design. This is because the researcher is doing this research to understand a social problem rather comparing the relationship between variables. The observations were recorded by counting people and events and these are expressed numerically. There thus a quantitative, descriptive part to the study and it is then in a sense a triangulated study (Babbie & Mouton, 2001).

The population for the research is the seven on-consumption liquor outlets situated in Nkambako village. This means that all the liquor outlets within the specified area were part of the population. A randomly selected sample of three outlets was drawn from amongst the seven outlets in the village through probability sampling.

DATA COLLECTION

Participant observation was used to collect data. Participant observation is the type of study where the researcher gets involved with the participants. One of the researchers became part of the crowd in each outlet, sitting at a table and observing what was happening (Babbie et al, 2001). This meant visiting the three selected liquor premises during their operating hours, three times in

a week on : Friday, Saturday and Sunday. These days were selected because weekends are the times of most activity at taverns. This means that a total of nine observations were made.

The data were collected using an observation sheet to record violations of the Act. Qualitative observations such as intetrpreting the body motions and speech of patrons were used to identify specific violations of the Act. These were converted into numbers as individual cases such as serving liquor to an already intoxicated person. The researchers' data collection instrument included the following variables: day of observation and time ranging from the starting time until when the liquor outlet is closed. The participants were categorised in a group (males and females). The researchers differentiated between minors and adults who are visibly intoxicated. The researcher observed visible signs of intoxication such as slurred speech, rowdiness and staggering.

DATA ANALYSIS

The data were categorised into different categories such as minors, visibly intoxicated patrons, and also the gender of the patrons were taken into consideration when analysing the data. Observation sheets were used to count observations of the behaviour that constituted violations of the relevant sections of the Act. Each case observed was logged on the sheet. These were done in hourly slots from opening of the tavern until they closed. In the end the number of male and female, as well as youths visiting the premises as well violations were counted.

OPERATIONAL DEFINITIONS

Drunkenness, in this research project, means the physiological state induced by the consumption of alcohol. The visible signs of drunkenness include the following, slurred speech, rowdiness and staggering.

Minor in this research project the researcher used his common sense and experience of the area to determine or judge if someone is legally allowed or not allowed to purchase alcohol in any liquor outlet. However, one of the researchers is an inhabitant of the area of study and are familiar with most inhabitants, therefor being able to differentiate between adults and a young person in the village.

INTERPRETATION OF THE LIQUOR ACT, ACT NO 27 OF 1989

The Liquor Act provides a framework for the distribution, selling and consumption of liquor. This legislation provides rules and regulations which liquor outlets must abide by. Also facilitates how liquor stores or outlets both on-premises and off-premises should operate in terms of selling their products to the public. In terms of the Liquor Act, the Legal age for alcohol consumption is 18 years in South Africa (Fisher, Parry, Evance & Muller, 2003).

In terms of Section 44 (2) (a) and (b) of the Act, stipulates that license holders or employees shall not (a) sell or supply liquor on the licensed premises to any person who is under the age of 18 years old, (b) shall not allow such a person who is not a person contemplated to be in any restricted part of those premises. It is also a criminal offence in terms of Section 44 (1) (b) of the Act, to sell or supply liquor to a person who is in a state of intoxication. Meaning that refusal to comply with these conditions is a criminal offence which is punishable through fines or imprisonment. (Liquor Act, 1989)

COMPLIANCE WITH AGE LIMITS

Whether minors succeed in obtaining age-restricted products depends not only on the legislation but also on the extent to which liquor outlet owners or employees comply with these age restrictions conditions. "*Supermarkets and liquor stores generally fail to see the need for extra care when young customers try to buy alcohol". Legal age restrictions without enforcement and facilitation clearly do not suffice to protect adolescents from early exposure to alcohol (*Preusser & Williams, 1992).

In research conducted by White and Swartzwelder (2004) it was found that 90% of 15-year-old adolescents have had experience with drinking alcoholic beverages, and that 52% drink alcohol on a weekly basis. Almost 20% of the male and 10% of the female 15-year-old adolescents drink more than 10 glasses of alcohol on an average weekend day, and 63% report to have been drunk at least once in their lives. Easy access to alcohol is generally assumed to play a significant role in theNetherlands as well. As stated by (White *et al* (2004)

"In *the Netherlands, the Alcohol Licensing and Catering Act prohibit retailers to sell alcohol products to underage customers. A distinction is made between "soft" alcoholic and strong alcoholic drink. The legal age limits are 16 years for soft alcoholic beverages and 18 years for strong alcoholic drinks. Since 2000, retailers are obliged to ask for identification and verify the age when young people try to buy alcohol"* (White et al, 2004).

To evaluate the effectiveness of these legal prescriptions, a Dutch research agency periodically conducted survey among managers of supermarkets, liquor stores, and the hotel and catering industry. The study found that (99%) of the supermarket managers reported to instruct their personnel about the age restrictions, and (91%) actually checked whether their cashiers observed them. In liquor stores, all managers instructed their personnel, and (78%) performed compliance checks. Moreover, (91%) of the supermarket managers and (94%) of the managers of liquor stores stated that no single offense regarding the age restrictions had occurred in their stores (Grosselt & Jenkins, 2002).

The same research agency found very different results when the informants were youngsters. Underage respondents claimed to be successful in (90%) of their attempts to buy alcohol and that is more or less freely accessible. Explanations may be sought in two directions. Adolescents may use tricks to mislead store personnel (ask older-looking friends to buy alcohol or use falsified identification. The study found that, of all purchase attempts y under-aged individuals, 86% proved to be successful (Grosselt et al, 2002).

ALCOHOL SALES TO MINORS

Studies here and abroad have found that illegal sells of alcohol to minors is a problem. In a studies conducted by Schulenburg (1996) and Lekgau and Roelofse (2015) it was found that many alcohol outlets sold alcohol to youthful-appearing study confederates. In a study by Biglan (2007) it was found that children as young as eight were frequenting taverns. It has also been noticed that most visit such places for the purpose of listening to music and watch patrons dancing the night away. Biglan also reports that girls are dragged from liquor outlets and raped. In extreme cases violence breaks out and patrons even stab each other to death while intoxicated.

THEORETICAL FRAMEWORK

For the purpose of the research, the theoretical perspectives of the rational choice theory to explain why the liquor outlet owners and employees sell liquor to minors and people who are visibly intoxicated are considered relevant and applicable. The rational choice theory says that individuals are rational thinkers; it adopts a belief that men are rational individuals who weigh means and ends, costs and benefits, and make rational decisions. According to the rational choice theory people will commit crime only to meet their commonplace needs like money, status, and excitement. Meeting these needs involves the making of decisions and choices which will always

"favour" the perpetrator. In this case the liquor outlets may sell liquor to patrons who are already in a state of intoxication, and also to minors, just for the benefit of making a profit (Scott, 2000).

From the perspective of the rational choice theory, it can be said that the liquor outlet owners or their employees are aware of the conditions which are stipulated within the Act, which stipulate that selling liquor to a patron or person who is visibly intoxicated, and selling liquor to a minor is an offence which is punishable by the law. It is also illegal to allow alcohol to be taken off that premises of an on-consumption tavern. To make a profit tavern owners and their staff violate these conditions through rational choice. The owners of liquor outlets can be seen as people who are motivated by money and by the possibility of making a profit. The competition in the market encourages businesses to maximize profits; failure to sell alcohol to minors will result in the business losing customers (Lekgau & Roelofse 2015).

DATA PRESENTATION, ANALYSIS, AND INTREPRETATON

Data were collected using a data sheet on which each observation relevant to the study were recorded. The sheet made provision for the starting time of observation at different liquor outlets and the number of patrons at different times. It also shows the difference from the starting time until the leaving time in hours and particularly it reflects the elements which were observed by the researcher. The letters M and F have been used for male and female patrons. Furthermore, the observations focused on:

- selling liquor to already intoxicate patrons;
- selling liquor to minors and allowing them to drink on the premises; and
- allowing minors to take liquor off the premises.

The data was collected over a three-week period on different days (Friday, Saturday and Sunday) at three different liquor outlets. The data is categorised into three groups: namely, Liquor outlet A, Liquor outlet B and Liquor outlet, C. within each category the data presented in tables according to the selected violations as per bullets above. The data is presented as follows and the following symbols[8] have been used on the tables to represent:

---

[8] Ø Number of visibly intoxicated patrons
® Number of minors drinking alcohol on the premises
© Number of minors buying alcohol and leaving the premises

LIQUOR OUTLET A: DAY 1 OF OBSERVATION

Table 1A: Selling liquor to visibly intoxicated patrons

Outlet no1		Starting time		After 2 hour		After 3 hours		After 4 hours		After 5 hours		After 6 hours		Tavern not closing	
Time of observation		20:00-21:00		21:00- 22		22:00-23:00		23:00-midnight		Midnight To 0100		01:00 - 0200		After 0200	
Gender		M	F	M	F	M	F	M	F	M	F	M	F	M	F
Number of patrons		22	5	30	12	40	15	30	10	24	7	15	4		
Ø				4			1			2	1	9			

A total number of 22 males and five females were drinking at the outlet between 20:00 to 21:00; it was observed that the males start early as their number was four times bigger than that of the females. As the time passes it was noticed that the number of both male and female patrons increased. From 22:00-23:00 there were 40 males and 15 females, representing the peak on the day. The number of both genders seemed to be increasing between 22:00 to midnight and decreasing after midnight. Even at the end when the outlet was closing the number of male patrons was still high when compared to that of female patrons. It is important to note that some patrons left and others came. Four males were observed to be intoxicated in the period from 21:00-22:00. These patrons had trouble in locating or going to the toilet to help themselves especially when it came to urination, they just used the nearby wall in the yard to relieve themselves. At 23:00 one female patron was seen sleeping on the floor, later at about midnight she was woken up by two males and one female. All three patrons were observed as visibly intoxicated, with signs such as staggering. At about 01:30 nine males were served more beers even with visible signs of intoxication (slurred speeches). The patrons who were observed as intoxicated are the same patrons who came or started drinking early.

Table 2A: Minors drinking liquor on the premises

Times	20:00-21:00		21:00-22:00		22:00-23:00		23:00-Midnight		Midnight-01:00		01:00-02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
®			5	2				8						

One of the researchers resides in the village and is familiar with most of the inhabitants. Five males under the age of 18, were observed drinking alcohol within the outlet premises from 21:00-22:00, and two females from 21:00-22:00. The peak of the day was observed from 22:00 to midnight.

Table 3A: Minors buying alcohol and leaving the premises

Times	20:00-21:00		21:00-22:00		22:00-23:00		23:00-Midnight		Midnight-01:00		01:00-02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
©		2				5								

From 20:00-21:00 two minors were observed buying alcohol from the outlet, and between 22:30- 23:00, five minors bought alcohol as a group. They bought alcohol without any question from the tavern operator and left.

DAY 2 OBSERVATIONS

Table 4 A: Selling alcohol to visibly intoxicated patrons

Outlet no1	Starting time	After 2 hour	After 3 hours	After 4 hours	After 5 hours	After 6 hours	Tavern not closing
Time of observation	20:00-21:00	21:00-22	22:00-23:00	23:00-midnight	Midnight To 0100	01:00 - 0200	After 0200

Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Number of patrons	25		35	15	30	20	48	27	40	20	38	12		
Ø	4		8		5	12	5	14	17	10				

The tavern was packed with patrons both males and females. The tavern was hosting a bash celebrating the 16th of June. Some local artists were invited to entertain the patrons. From 20:00-21:00 there were only 25 patrons all male adults. But it all changed very soon. From 21:00-22:00 there were 35 males and 15 females. The number of both genders increased from 22:00- midnight, and started to decrease after midnight. Between 01:00-2:00 the number of males was still high. In total 70 patrons, both males and females were observed to be drunk during the entire period of observation. The largest group of intoxicated males is 17 observed from midnight-01:00, and the largest for the females is 14 observed from 23:00-midnight. Those patrons who looked intoxicated were there earlier than others. This was observed when some patrons started to use the nearby wall as a place to urinate rather than using the toilet. Others were having problems with going to the counter to buy liquor, one male patron asked a young patron to buy alcohol on his behalf. He said that he is too drunk to wait in the line to buy liquor.

Table 5A: Minors drinking alcohol on premises

Times	20:00-21:00		21:00-22:00		22:00-23:00		23:00-Midnight		Midnight-01:00		01:00-02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
®			15	12	14	16			7	10	3			

At 21:00, 15 males and 12 females were observed drinking on the premises, and It is interesting to observe that the number of females was higher (10) than that of male (7) between midnight -01:00.

Table 6A: Minors buying alcohol and leaving the premises

Times	20:00-21:00		21:00-22:00		22:00-23:00		23:00-Midnight		Midnight-01:00		01:00-02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
©				4	1		7	10						

Minors do not buy alcohol early. The data in the table above indicate that most minors were observed from 21:00- 23:00. During this time, 22 minors bought alcohol from the outlet and left. The highest number of 10 was reached at 23:00.

DAY 3 OF OBSERVATION

Table 7A: Visibly intoxicated patrons

Date of observation														
Outlet no1	Starting time		After 2 hour		After 3 hours		After 4 hours		After 5 hours		After 6 hours		Tavern not closing	
Time	20:00 - 2100		21:00- 22		22:00-23		23:00 - midnight		Midnight To 0100		01:00 - 0200		After 0200	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Number of patrons	35	18	50	28	55	20	41	18	48	10	40	8		
Ø	2	5		10	12		9				8			

Most of the patrons were intoxicated as evidenced by having difficulty in walking straight, staggering as they were going. From 20:00-21:00 there were 35 males and 18 females. The number of males increased up to 50 from 21:00-22:00, while the number of females reached 28. The numbers of both

increased until midnight, and then started to decrease. From 01:00-02:00 the number of males was still high at 40 but the females reduced to 8. A total of 46 patrons were observed was showing signs of intoxication. Those who were drunk started drinking early. At 23:00 a male patron that was sleeping on the floor was taken home when someone came into the tavern and helped him up and supported him whilst they left the tavern.

Table 8A: Minors drinking alcohol on premises

Times	20:00-21:00		21:00-22:00		22:00-23:00		23:00-Midnight		Midnight-01:00		01:00-02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
®			10	4			8	7	7	4	5	1		

From 22:00 many minors began to enter the tavern. The numbers gradually grew to 10 males and four females by 22:00. The number of males decreased to 8 from 23:00-midnight and that of females increased to 7. After midnight the numbers of both decreased, but they were there until closing time. Some minors were still wearing school uniforms making them easily identifiable as minors.

Table 9A: Minors buying alcohol and leaving the premises

Times	20:00-21:00		21:00-22:00		22:00-23:00		23:00-Midnight		Midnight-01:00		01:00-02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
©				4			3		1					

These 8 minors were all served with alcoholic beverages.

LIQOUR OUTLET B: DAY 4 OF OBSERVATION

Table 1B: Selling liquor to visibly intoxicated patrons

Outlet no 2	Starting time		After 2 hour		After 3 hours		After 4 hours		After 5 hours		After 6 hours		Tavern not closing	
Time	20:00 -2100		21:00- 22		22:00-23		23:00 - midnight		Midnight To 0100		01:00 - 0200		After 0200	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Number of patrons	12	2	30	5	21	3	10	1	7	3	5	1		
Ø					1		2							

The number of patrons was relatively low between 20:00-21:00. At this time there were 12 males and two females. The numbers rose to 30 males by 22:00 and 21 females by 23:00, these were the highest numbers observed at any time. The number of both genders started to decline from midnight. One male patron was visibly intoxicated by 22:00 and two females by 23:00. Their condition did not prohibit the tavern to sell them more liquor.

Table 2B: M minors drinking alcohol on premises

Time	20:00-21:00		21:00-22:00		22:00-23:00		23:00-midnight		Midnight To 0100		01:00 – 02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
®					8	4	10				5	1		

About 28 minors were observed drinking within the outlet. All these minors bought alcohol straight from the counter without being questioned or asked for identification to verify their ages by the sales person. As from 20:00 to 21:00 there were no minors, but as time passed, there was again a steady increase in numbers. At 22:30 eight males and four female minors were observed buying alcohol in the tavern. At 23:50 male minors increased to ten. When the tavern was closing only five males and 1 female minor was still on the premises.

Table 3B: Minors buying alcohol and leaving the premises

Time	20:00-21:00		21:00-22:00		22:00-23:00		23:00-midnight		Midnight To 0100		01:00 – 02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
©	1			4	3									

At 20:00 one male minor was observed purchasing alcohol. Between 22:00- 23:00 another 3 males and 4 females and were observed buying alcoholic beverages over the counter. All these minors left the premises after they bought alcohol.

DAY 5 OF OBSERVATION

Table 4B: Selling liquor to visibly intoxicated patrons

Outlet no 2	Starting time		After 2 hours		After 3 hours		After 4 hours		After 5 hours		After 6 hours		Tavern not closing	
Time	20:00 -2100		21:00- 22		22:00-23		23:00 - midnight		Midnight To 0100		01:00 - 0200		After 0200	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Number of patrons	10	4	21	7	30	10	25	5	15	4	7	0		
Ø			3			4			2					

The number of female patrons is always lower when compared with that of the males. As shown in the table above, at 20:00 there were ten males and four females. Their numbers increased at 22:00 with 30 males and ten females. At 02:00 there were seven males remaining but the females left earlier. A total of nine patrons were observed as intoxicated on this night. Amongst the 9 patrons, three intoxicated males were observed at 21:00, four females at 22:00 and two males at midnight.

Table 5B: Minors drinking alcohol on premises

Time	20:00-21:00		21:00-22:00		22:00-23:00		23:00-midnight		Midnight To 0100		01:00 – 02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
®			8		2				4					

At 21:00 there were eight male minors drinking alcohol inside the tavern premises. They were joined by two females at 23:00. These two minor did not spend a long time in the tavern. They seemed to be nervous, probably knowing they should not be in the tavern. The last four male minors were observed at 23:50.

Table 6B: Minors buying alcohol and leaving the premises

Time	20:00-21:00		21:00-22:00		22:00-23:00		23:00-midnight		Midnight To 0100		01:00 – 02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
©	1					2								

About three minors were observed on this night. One male minor was observed buying alcohol at the counter at about 21:55, after buying he left, and two females were observed at around 22:55. They were escorted by adult patrons who had a car. They only stopped to refill their cooler bags.

DAY 6 OF OBSERVATION

Table 7B: Selling liquor to visibly intoxicated patrons

Outlet no 2	Starting time		After 2 hour		After 3 hours		After 4 hours		After 5 hours		After 6 hours		Tavern not closing	
Time	20:00 -2100		21:00- 22		22:00-23		23:00 - midnight		Midnight To 0100		01:00 - 0200		After 0200	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Number of patrons	10	3	15	7	10	4	4							
Ø					2									

Even here, the number of males was still high when compared with those of females. At 21:00, there were 15 males and seven females. This was the highest number observed. Only two males were observed to be drunk by 22:00. The tavern closed at mid-night. This was the first time during the observation where a tavern closed early. There was no apparent reason for this.

Table 8B: Minors drinking alcohol on premises

Time	20:00-21:00		21:00- 22:00		22:00- 23:00		23:00- midnight		Midnight To 0100		01:00 – 02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
®			5											

On this night there were no minors observed in the premises who were drinking alcohol, yet there were five male minors playing snooker.

Table 9B: Minors buying alcohol and leaving the premises

Time	20:00-21:00		21:00-22:00		22:00-23:00		23:00-midnight		Midnight To 0100		01:00 – 02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
©	3													

At 20:00 three minors came with three crates with empty beer bottles in a wheel barrow, that they traded in and bought thee crates of quarts (beer) of 750ml and left with the purchased liquor..

LIQOUR OUTLET C: DAY 7 OF OBSERVATION

Table 1C: Selling liquor to visibly intoxicated patrons

Outlet no 3	Starting time		After 2 hours		After 3 hours		After 4 hours		After 5 hours		After 6 hours		Tavern not closing	
Time	20:00 -2100		21:00- 22		22:00-23		23:00 - midnight		Midnight To 0100		01:00 - 0200		After 0200	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Number of patrons		5	20	12	28	10	25	10	18	7	12	3		
Ø					5			1	2					

The trend of the number of patrons was the same as those from previous taverns with initially low numbers of both males and females. Patronage reached the highest peak between 23:00 and midnight with 28 males and ten females. A total of 8 patrons were observed being intoxicated of these, five were males observed at 22:00, another one male at midnight and two females by 01:00.

Table 2C: Minors drinking alcohol on premises

Time	20:00-21:00		21:00-22:00		22:00-23:00		23:00-midnight		Midnight To 0100		01:00 – 02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
®			7		4				5					

At about 21:25 it was observed that seven males were drinking and playing snooker. Four females joined the patrons at about 22:50. They were sitting with older patrons and minors were also seen being accompanied by older male patrons and purchased alcohol. Five males were still in the tavern by midnight. The minors would enter the tavern in the name of playing games inside the tavern, such as snooker and using gambling machines. They mix with other patrons and freely buy liquor. Another problem is that the tavern is on the same premises as a *spaza* shop, which is Young people, coming to the *spaza* are often attracted to the Tavern by music and games. open until late hours. In a way it attracts minors to the premises.

Table 3C: Minors buying alcohol and leaving the premises

Time	20:00-21:00		21:00-22:00		22:00-23:00		23:00-midnight		Midnight To 0100		01:00 – 02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
©								8		2				

Minors were observed at different times but particularly females. Eight females were observed by 23:45, and two more females arrived between midnight and 01:00. The beers they bought were concealed in various ways such as grocery bags and under their clothes.

DAY 8 OF OBSERVATION

Table 4C: Selling liquor to visibly intoxicated patrons

Outlet no 3	Starting time		After 2 hour		After 3 hours		After 4 hours		After 5 hours		After 6 hours		Tavern not closing	
Time	20:00 -2100		21:00- 22		22:00-23		23:00 - midnight		Midnight To 0100		01:00 - 0200		After 0200	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Number of patrons	15	7	30	12	38	15	40	21	35	8	30	2	15	0
Ø					1		4					2		

The tavern was packed with patrons both males and females, for the first time in the observation an outlet did not close at 02:00. Both numbers of patrons were high. The numbers started low by 15 for males and

seven for the females. The males reached 40 and 21 for females at midnight. At 22:50 one male patron was visibly intoxicated. The patron was coming from the counter when his beer slipped out of his hands.

Another four males were observed at midnight, these patrons were having problems with going to the toilet, the owner of the tavern found them just near the exit door of the drinking hall urinating. When asked what is wrong they said that they could not reach for the toilet because the toilet was far. He asked them to go to the toilet next time. The same patrons were again seen at the counter after the incident.

At 02:00, two females were observed as intoxicated after they were seen sleeping inside the drinking area, when they were told that the tavern is closing 1 of them went straight to the counter to buy a beer and although it was already beyond closing time, the sales person still sold liquor to her.

Table 5C: Selling liquor to minors

Time	20:00-21:00		21:00- 22:00		22:00- 23:00		23:00- midnight		Midnight To 0100		01:00 – 02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
®			8			2			4					

A total of 14 minors came to the tavern at different times of the night. (eight males at 21:00, two females at 22:00 and four males at 01:00). Most of the minors were standing just next to the *spaza* shop which is located inside the tavern, and they were drinking alcohol. They just went to the counter like any other patron and bought liquor.

Table 6C: Minors buying liquor and leaving the premises

Time	20:00-21:00		21:00-22:00		22:00-23:00		23:00-midnight		Midnight To 0100		01:00 – 02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
©				4										

A group of four females were observed at 21:45; they just bought alcohol and left the premises.

DAY 9 OF OBSERVATIONS

Table 7C: Selling liquor to visibly intoxicated patrons

Outlet no 3	Starting time		After 2 hour		After 3 hours		After 4 hours		After 5 hours		After 6 hours		Tavern not closing	
Time	20:00 -2100		21:00- 22		22:00-23		23:00 - midnight		Midnight To 0100		01:00 - 0200		After 0200	
Gender of patrons	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Number of patrons	20	5	25	8	18	5	12	1	5					
Ø			1				1							

The tavern closed at 01:00, the number of males was higher than those of females. It was observed on this date that on Sundays the patrons would come to the tavern very early and the number would decrease as time went by. This may be because many people are working. Two male patrons who were seen to be visibly intoxicated, however, they were observed at different times. One was observed at about

21:00 after he was seen sleeping on the floor where his friends were sitting, another patron was observed at 23:50 who was taken home by friends after he caused a scene at the counter.

Table 8C: Selling liquor to minors

Time	20:00-21:00		21:00-22:00		22:00-23:00		23:00-midnight		Midnight To 0100		01:00 – 02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
®	5		2											

There were five male minors at 20:00. The number dropped to two by 21:00. After 21:00 until the tavern closed there were no minors on the premises.

Table 9C: Minors buying liquor and leaving the premises

Time	20:00-21:00		21:00-22:00		22:00-23:00		23:00-midnight		Midnight To 0100		01:00 – 02:00		After 02:00	
Gender	M	F	M	F	M	F	M	F	M	F	M	F	M	F
©	2													

The two minors were observed at about 20:15. They bought beer and wrapped it in plastic within sight of patrons and staff of the tavern.

DATA INTERPRETATION

The interpretation of this research data is divided into three categories namely: Selling liquor to already intoxicated patrons; Selling liquor to minors who consume it on the premises; and Selling liquor to minors who buy liquor and leave the premises.

Selling liquor to already intoxicated patrons

Data for the observations concerning this variable are presented in tables, 1A, 4A and 7A, tables: 1B, 4B and 7B, and tables 1C, 4C and 7C. These 9 tables represent the data collected from three different liquor outlets over three consecutive days, where the research was conducted. The objective was to establish whether the liquor outlets do or do not sell liquor to patrons who are visibly intoxicated. Signs of intoxication such as slurred speech, rowdiness and staggering were observed from the patrons yet they were served more liquor.

The three taverns' data are as follows, with A being the one showing the worst violation rate but this is also due to that fact that it had the most number of patrons over the three days of observation

- Tavern A - 128;
- Tavern B - 10; and
- Tavern C - 17 patrons when observed were seen as intoxicated and served more liquor.

This accumulates to 155 observed violations for this offence

Selling liquor to minors who also drink in the liquor outlet premises

At the time of the study, according to the South African legislation minor is a person who is below the age of 18 years of old, and according to the Act, alcohol should not be sold to any person who in the eyes of the law is regarded as a minor. The Act governs the sale of liquor products to the public. Failing to adhere to the conditions stipulated within the Act is a criminal offence.

Tables: 2A, 5A and 8A, Tables: 2B, 5B and 8B and Tables: 2C, 5C and 8C represent the data collected on the above violation of the Acts. Table: 2A, 5A, and 8A the data presentation from this liquor outlet shows that about 138 minors both males and females were drinking liquor which they bought from the same liquor outlet. Tables: 2B, 5B, and 8B represent the data from liquor outlet B, according to the data, this outlet was selling liquor to minors. About 42 minors were noticed to be drinking liquor in this outlet. Another 5 minors were observed within the premises, but they were not drinking liquor but playing a game (snooker). Tables: 2C, 5C, and 8C, show that from

liquor outlet C, minors had access to liquor as they pleased. About 30 minors were having drinks in this outlet.

In summary, the data for this offence are as follows:

- Tavern A - 138
- Tavern B - 48
- Tavern C – 16

The total for this offence is 202.

Selling liquor to minors who buy liquor and leave the premises

According to the Act any person who is below the prescribed age which is 18 years may not or may purchase liquor with the purpose of drinking or selling for any person. The data presentation in this category yielded the following results: Tables: 3A, 6A and 9A, shows that about 37 minors purchased liquor from outlet A without any problems. In one instance a minor bought liquor and covered it with plastic. The same applies to tables: 3B, 6B and 9B, about 14 minors bought liquor from the outlet. And tables: 3C, 6C, and 9C shows the same results. About 13 minors bought liquor at this liquor outlet.

- Tavern A – 37
- Tavern B - 14
- Tavern C – 16

A total of 67 violations were observed.

OVERVIEW OF RESEARCH FINDINGS

The research was investigating the following aspects, selling of liquor to visibly intoxicated patrons with signs of intoxication such as signs of intoxication such as slurred speech, rowdiness and staggering, selling of liquor to minors who also drink within the premises of such outlet, and lastly, selling of liquor to minors who buy as take away some minors do not drink on the premises, and mostly alcohol buy because they are sent by adults. In terms of Section 44 (2) (a) and (b) of the Act, stipulates that license holders or employees shall not (a) sell or supply liquor on the licensed premises to any person who is under the age of 18 years old, (b) shall not allow such a person who is not a person contemplated to be in any restricted part of those premises. It is also a criminal offence in terms of Section 44 (1) (b) of the Act, to sell or supply liquor to a person who is in a

state of intoxication. Data were also collected on liquor sold and not consumed on the premises (section 52). The data collected from the 3 outlets over 9 days are summarized in Table 10.

Table 10: Summarised data of the 9 observations

Offences	Tavern A Day 1	Tavern A Day 2	Tavern A Day 3	Total
Selling to intoxicate patrons	17	75	36	128
Minors drinking	15	77	46	138
Minors leaving with liquor	7	22	8	37
	Tavern B Day 1	Tavern B Day 2	Tavern B Day 3	
Selling to intoxicate patrons	3	9	2	14
Minors drinking	28	15	5	48
Minors leaving with liquor	8	3	3	14
	Tavern C Day 1	Tavern C Day 2	Tavern C Day 3	
Selling to intoxicate patrons	8	7	2	17
Minors drinking	16	14	7	37
Minors leaving with liquor	10	4	2	16
Total	112	226	111	449

Based on the findings it is evident that all three of the outlets in the study area liquor outlet owners and their employee continuously violate the selected three section of the Act and do not comply or adhere to the conditions of their licences. The research cannot be generalised but it can be conjectured that similar violations are occurring around Limpopo and other provinces. If the trend is considered to be sustained over 52 weekends it means that 23000 crimes go undetected in the three taverns. This does not take into account the other 4 days of the week and this s just in one village. This Hs huge implications for the dark figure of crime in South Africa. Of the 449 offences observed, 290 or 64,58% were committed by judgment of the observer were minors. Obviously, this is not representing almost 65% of all offences committed as not all violations were observed, for example how many adults leave the premises with liquor. The point is simply stressed that a lot of youths were observed being served liquor, be it for consumption or taking it away.

Despite knowledge of the legal requirements to run a tavern, by virtue of the clear conditions stipulated in the licence, violations occurred with impunity. This is in line with the findings of Lekgau and Roelofse (2015) and is supported by rational choice theory. The inference can be made that profit is pursued and that a rational decision is made to violate the law in order to make money. The findings of the research showed that from all mentioned categories patrons were served with liquor, despite their status of being visibly intoxicated and despite whether such a patron is a minor or not. They were served liquor from the counter by the owners or their employees without any question. From the overall point of view, the research indicates that the liquor outlets which are situated in the area of study do not adhere to the conditions and regulations stipulated within the Liquor Act, Act 27 of 1989. The data presentations from the different outlets also support this statement because the data presentation holds the proof to show that such outlets do not operate according to the law.

The researchers conclude that, based on the results of the liquor outlets which are located within the area of study do not adhere to legislation governing the selling and distribution of the liquor which is the Liquor Act, Act 27 of 1989.

RECOMMENDATIONS

Based on the study the following recommendations are proposed:

➤ More research needs to be conducted from the nature that will explain why liquor outlets sell liquor to minors as well to those patrons who are in a state of intoxication.

➢ The authorities need to find more applicable strategies which can be implemented to alleviate the situation. Regular visits to tavern by police officers and inspectors of the Liquor Board must be conducted.

➢ The punishment for violating the conditions stipulated within the Liquor Act must be severe and not just fines which at the end of the day promote the acts of violating the law.

➢ The authority should not focus on the tavern owners only, but parents as well because weak parental skill can cause the child to be delinquent and start visiting places like liquor outlets.

CONCLUSION

The research found evidence of violation of the Act, with impunity. The here selected section of the Act that was the focus of the study were regularly violated during the 9 days of observation in all three outlets that haw to consume liquor when some are even dressed in school uniforms, negating any possibility of a wrong assessment of their age. The patrons that are served more liquor after they are visibly intoxicated is further proof of the blatant violation of the Act. With crime rates as high as they are and violent crimes and particularly, domestic violence being persistent problems in our society, it is necessary to enforce the law very strictly and to suspend the licences of those owners who so willy-nilly violate the law for profit.

REFERENCES.

Aven, T. (2016). Risk assessment and risk management: Review of recent advances on their foundation. *European Journal of Operational Research.253,* 1-13.

American Medical Association. (2010). *Harmful Consequences of Alcohol Use on the* Brains *of Children, Adolescents, and College Students.* Chicago, IL: American Medical Association. & Mouton, J. (2001). T*he practice of social research.* Cape Town: Oxford University Press.

Biglan, A. (2007). *Alcohol outlet characteristics and alcohol sales to youth*: Results of alcohol purchase *surveys* in 45 Oregon communities. Prevention Science: 8, 153 159.

Bonnie, R. J. & *O'Connell*, M.E. (2004). *Reducing Underage Drinking: A Collective* Responsibility*.* Washington, DC: The National Academies Press.

Cohen, A. K. (2010). Delinquent Boys: *The Culture of the Gang*, Glencoe. IL: Free Press.

Fisher, A. J, Parry, C. D. H, Evance, J. & Muller, T. (2003). *Substance abuse by* adolescents*.* Cape Town: The Free Press

Forster, J.L., McGovern, P.G.& Wagenaar, A.C. (1994). The ability of young people to purchase alcohol without age identification in northeastern Minnesota, USA. Addiction: 89-69

Gauteng Provincial Government. (2011). Gauteng Liquor Policy, June 2011

Grosselt, J. K. & Jenkins, A. (2002). Young people's drinking behaviour: Interpretations and risk of harm. In Alcohol Concern, 100% Proof: Research for action on alcohol (pp. 50–54). London: Alcohol Concern.

Grube J. W. (1997). *Preventing sales of alcohol to minors.* New York: Sage Publications.

Miller, T. & Hendrie, D. (2009). Substance abuse prevention dollars and cents: A cost-benefit analysis, DHHS Pub. No. (SMA) 07-4298. Rockville, MD: Center for Substance Abuse Prevention, Subst ance Abuse and Mental Health Services Administration.

Lekgau, K. & Roelofse,C.J. (2015). A criminological study of the non-compliance with selected licensing conditions. Acta Criminologica. 28(2) 2015.

Preusser, D. F & Williams, A. F. (1992). *Sales of alcohol to underage purchasers in New York countries and Washington D.C.* New York: Oxford University Press.

Parry, C., Morojele, N. & Jernigan, D. (2008). A Sober South Africa. *Action for a safe SA*. South Africa the Good News, Sandton.

Schulenburg, J. (1996). Getting drunk and growing up: Trajectories of frequent binge *drinking* during the transition to young adulthood. Journal of Studies on Alcohol 57**:** 289-304.

Scott, J. (2000). Rational Choice Theory. From Understanding Contemporary Society: *Theories of The Present*, Sage Publications.

South African Government (1989) Liquor Act, Act 27 of 1989.Pretoria. Government Printers.

Stud, J. (1996). Alcohol 51: 670-674

White, A. M. and Swartzwelder, H. S. (2004). Alcohol exposure during adolescence affects vulnerability to alcohol-induced impairments during adulthood. *Alcoholism-Clinical and Experimental Research, 28*(5), 175A.

Wolfson, M., Toomey, T. L., Murray, D. M., Forster, J. L. Wagenaar, A. C. and McGovern, P. G. (1996). *Policies and practices of alcohol outlets and sales to youth*. Journal of Studies on Alcohol, 57, 670–674.

World Health Organisation, Report (2002) Alcohol in Developing Societies: A Public Health Approach, 2002. Geneva. WHO Library Cataloguing-in-Publication Data

CONSTITUTIONAL RIGHTS AND OFFENDER REHABILITATION FROM A SOUTH AFRICAN PERSPECTIVE

Muthaphuli, P[9].

ABSTRACT

With the advent of democracy in South Africa, the humane treatment of inmates began to receive renewed attention. When the White Paper on Corrections in South Africa was published in 2005, rehabilitation of inmates was made central to the new strategic direction. In an effort to determine how these two concepts have been combined in practice, the researchers visited two South African correctional centres to determine perceptions with regard to human rights within the framework of rehabilitation. Both inmates and staff were included in the research. In an effort to make the results more representative, the study was conducted at one male and one female correctional centre.

Keywords: *Constitution; Human rights; Punishment; Rehabilitation; the Correctional system*

INTRODUCTION

The history of the correctional system in South Africa shows that correctional facilities were regarded as dumping sites for unwelcome citizens of society (Muthaphuli, 2015). But the recent changed approach have ensured that correctional systems are no longer characterised by severe punishment directed at offenders, such as hard labour and torture, which are in fact a violation of human rights. Though human rights existed, they did not enjoy the same recognition in Correctional Centres. However, with the inception of the new democracy in South Africa in the early 1990s, changes started to take place and the penal system that used to operate under the Department of Justice became the independent Department of Correctional Services. In order to be in line with the provisions of the Constitution, the Department of Correctional Services has been through major changes over the years. Not only is the Department striving to be in line with the Constitution of the country, but also to meet international standards when it comes to the treatment of offenders.

In order to determine the influence of constitutional rights on the rehabilitation of offenders, it is important to understand how the concept of rehabilitation originated as a component of corrections. Punishment per se has a lengthy evolutionary history, yet imprisonment as a form of punishment has developed only over the past 250 years (Coetzee, Kruger & Loubser, 1995).

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Various efforts have been made to prevent people from re-offending, and these generally became known as rehabilitation. Rehabilitation entails an attempt to reduce the offending effect on the behaviour of the offender (Pollock, 2006). Today, in the South African context, rehabilitation within the framework of human rights has become a strategy of the South African Department of Correctional Services (White Paper on Corrections, 2005).

The 2005 White Paper on Corrections states that corrections and rehabilitation are the key concepts in the strategic direction of the Department of Correctional Services. However, the conditions within which the correctional system operates will determine whether they genuinely allow for the rehabilitation of offenders. The uniqueness of the rehabilitation process sets unlimited demands on all parties involved to ensure that offenders are indeed rehabilitated. Because of their regular contact with offenders, the role of correctional officials as rehabilitators cannot be underestimated or over-emphasised. In some instances, offenders develop a trust relationship with officials, which is vital for successful rehabilitation. Offenders are eventually returned to the community, and it is there that the effectiveness of rehabilitation really matters.

The rehabilitation process implies that offenders must be instilled with the sense of responsibility for their criminal act so that they can deviate from such acts. Sechrest, White and Brown (1979) define rehabilitation as a result of any planned intervention that reduces an offender's criminal activity, whether that reduction is mediated by personality, behaviour, abilities, attitudes, values or other factors. From this definition it can be deduced that rehabilitation is aimed at ensuring that offenders stop their offending behaviour. The introduction of the concept of rehabilitation offers offenders a sense of personal dignity and also facilitates the provision of educational skills that will prepare them for society after release. However, an offender cannot be rehabilitated unless he or she wants to be. Problems such as low self-esteem amongst offenders, overcrowding, violence and human rights violations exacerbate the hardship experienced by those in prison.

PURPOSE OF THE RESEARCH

The purpose of the research reported on here was to investigate how offender rights are provided for in South African correctional centres. The investigation focused specifically on rehabilitation. This article begins with an investigation of the theoretical application of both rehabilitation and human rights, and goes on to elaborate on the research results obtained from structured questionnaires completed by staff and inmates at two prominent South African

correctional centres. Against the backdrop of rehabilitation, specific constitutional rights formed the core of the investigation.

CREATING THE NEED FOR OFFENDER REHABILITATION

In determining the factors that influence re-offending, the British Report on Social Exclusions (2002) noted that:

- Most offenders have had no, or a limited or a severely disrupted, educational background

- Most offenders have never experienced any formal employment

- There is high rate of substance abuse amongst offenders and ex-offenders as compared to the general population

- Compared to the general population, most offenders suffer from poor mental and physical health

- Because offenders often come from social excluded groups in society that regard crime as a way of life, it is difficult to understand the behavior, reasons and conditions that lead them to commit crime

- Most offenders are from disadvantaged backgrounds which could have resulted from early institutionalization which limited their opportunities to develop their life skills which are needed for them to function in a society

- Most ex-offenders who are homeless are more likely to be reconvicted. In addition, most offenders lose their homes during custody

- Most offenders struggle financially and find themselves without having enough money, especially during the first few weeks after their release, which ultimately leads to their re-offending

- There is a poor relationship between offenders and their families and families are often not properly prepared or made part of the release of a family member

Imprisonment, whether long or short-term, has a noticeable impact on human life. According to Fox (1983: 130), the rigidity and controlled, regimented, structured environment of the correctional system requires a type of individual adaptation unlike in a free society where the normal social adjustment is required. For example, the younger the person and the longer the

period of years he or she is subjected to imprisonment, the greater the impact of such incarceration. Alternatively, if a person is incarcerated for the first time after reaching the age of 40, the impact will also be greater. Quinn (2003: 1) is of the opinion that the goals and methods which are used in detention centres, community supervision departments and parole agencies that make up the correctional system are the product of the society's belief about what constitutes fair and efficient social control at a particular time. Not only are correctional agencies designed to control and punish offenders but also to change offenders' behavior. Carney (1979: 24) notes that "the ultimate aim of corrections requires steady, patient, imaginative progress in treatment methods, protection of the public, intelligent social planning and community organizations". Within the correctional system, a positive difference can be instilled in offenders who are serving their sentences regardless of the nature and severity of their offense. The main aim of sentencing the offender to imprisonment should be to rehabilitate him or her. Within the rehabilitative ideal, the primary aim of all correctional programmes is to institute changes in the characters, attitudes as well as the unacceptable behavior of the offenders which will lead to the welfare and satisfaction of society in general. Offenders should learn sound work skills and educational programmes for them to successfully reintegrate into the society.

PROVISIONS OF THE CONSTITUTION RELATING TO OFFENDER REHABILITATION

All rights in the Constitution Act 108 of 1996 are meant for every citizen of the country, and were entrenched in the Constitution to ensure human dignity, equality and freedom for enjoyment by everyone. Because this study is based on the rights that have a direct bearing on the rehabilitation of offenders, only those rights that have such a bearing will be discussed. In addition, the rights that formed part of the investigation conducted in identified correctional centres will also be elaborated on in a separate section of this article.

Specific rights contained in the Constitution Act 108 of 1996
Life

Section 11 of the Constitution states that 'everyone has the right to life'. Although this appears very simple on the face of it, it is in fact the most important of all human rights. Without life, no other rights can apply. Unless one is alive, there is nothing to rehabilitate.

Equality

Equality is guaranteed in section 9 of the Bill of Rights. It is clear from the Constitution that every citizen of South Africa should be treated equally and that no-one should be discriminated

against on the grounds mentioned in subsection 3. Mubangizi (2004) cautions that equality does not necessarily mean that all people should be treated uniformly. Instead, it requires that those issues that are alike be treated alike, and those issues that are unalike be treated unalike. The Constitution of South Africa, like the Universal Declaration of Human Rights (articles 2 and 7), guarantees equality to everyone, including offenders, subject to the limitations clause. This equality should also prevail within the correctional system during the implementation of offender rehabilitation programmes (United Nations Economic and Social Council, 2003). Everyone in prison should have equal access to facilities, including jobs, education, library services, exercise and accommodation. However, all the rights that are entrenched in the Bill of Rights can be limited in some way or another if there is a reasonable reason for the limitation. Van der Schyff, (2005) asserts that it is understandable that the rights that are guaranteed in the Bill of Rights for every citizen are not guaranteed in an "illimitable fashion"; rather, they can be limited in order to protect the rights of others and the wellbeing of society in general.

Human dignity

Section 10 of the Bill of Rights provides that "everyone has inherent dignity and the right to have their dignity respected and protected". The dignity of every person is viewed as important, which is why the Constitution states that it should be respected and protected at all times. In view of South Africa's history of apartheid, which undermined the dignity of the large majority of the country's citizens, the right to dignity is important in ensuring that everyone gets the respect that they deserve (Devenish, 1999). Such undermining of the dignity also extended to the correctional system where offenders were seldom respected during incarceration. The dignity of offenders must never be sacrificed, even during the implementation of rehabilitation programmes. This section of the Constitution echoes article 1 of the Universal Declaration of Human Rights, which prohibits any violation of human dignity.

Freedom and security of the person

The Constitution, as indicated in section 12(1), guarantees the freedom and security of every person. It prohibits anyone from depriving another person of their freedom without justification. It also ensures that every person is protected from any cruel, inhuman or degrading punishment, which is in line with the provisions of article 5 of the Universal Declaration of Human Rights. Within the correctional context this section implies that the Department of Correctional Services is obliged to ensure the safety of offenders. It is mandated to rehabilitate offenders in a secure environment so that they can change their offending behaviour. A safe environment will

motivate offenders to participate in rehabilitation programmes, which will not be the case if their security is constantly under threat. The Department of Correctional Services must also ensure that maintaining discipline does not constitute cruel, inhuman or degrading treatment, as this would impede rehabilitation.

Slavery, servitude and forced labour

Section 13 of the Bill of Rights determines that "no one may be subjected to slavery, servitude or forced labour", and protects any person from performing forced labour. This provision is in line with article 4 of the Universal Declaration of Human Rights. The correctional system must provide offenders with meaningful programmes and training that will contribute to their successful reintegration into society. It is important to note that offenders are sent to prison as punishment and not for punishment. Punishment alone leads to the deprivation of liberty hence offenders' rights are an important agenda for prison reform. From the Constitution it is clear that forced labour is not an acceptable means of punishment; hence the correctional system cannot force offenders to perform labour unless it is for a good cause and will eventually lead to their rehabilitation.

Privacy

In terms of section 14 of the Bill of Rights "everyone has the right to privacy, which includes the right not to have their person or home searched; their property searched; their possessions seized; or the privacy of their communications infringed". The Constitution thus requires that everyone's privacy be respected, and implies that no one can search or seize another person's property without their consent unless if, according to Section 36 of the constitution such search and seizure is reasonable and justifiable in an open and democratic society. Privacy is a basic human need. It is profoundly cherished as a right by persons; both in relation to intrusion by the state and as far as other people in the community are concerned (Devenish, 1999). The implications of section 14 of the Constitution are also in line with article 12 of the Universal Declaration of Human Rights. Invasion of privacy often occurs in dormitories, during searches and during general interaction with staff. Infringements of the right to privacy must be minimal and offenders should be allowed to communicate with whomever they wish, whether by mail, telephone, or orally, without their privacy being infringed not unless if there are reasons to limit such right. The correspondence between offenders and their family members is important and can sometimes motivate the offender to participate in the rehabilitation programmes. For this reason, it should always be respected (Fisher, 1990).

Freedom of religion, belief and opinion

Section 15 of the Constitution offers every South African citizen protection to practise their religion without any interference. The right to attend religious services of one's choice and the equality of all religions are also guaranteed. In similar vein, article 18 of the Universal Declaration of Human Rights states that everyone is allowed to worship or to teach their religion. Offenders should be encouraged to worship, as religion forms an important part of personal identity (Ahdar & Leigh, 2005) Religion and rehabilitation can never be separated, as both attempt to improve human behaviour.

Freedom of expression

Section 16 of the Constitution guarantees freedom of expression for every citizen, provided it does not promote hatred amongst other races, ethnicity, genders or religions, and it gives everyone the opportunity of free speech. The implications of this section are in line with those of article 19 of the Universal Declaration of Human Rights. Within a correctional system, as long as the application of this right does not lead to propaganda for war, incitement of imminent violence; or advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm, such freedom has to be promoted. Offenders will therefore have a say in what works for them and what they require from rehabilitation programmes. Rehabilitation requires offenders to be trusted enough to make suggestions about what they regard as important in their lives.

Assembly, demonstration, picketing and petition

Section 17 of the Bill of Rights determines that "everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions". As long as it does not result in violence or disturb other people in the enjoyment of their rights, section 17 provides every citizen with the right to assemble, demonstrate, picket and to hand over petitions in order to express their opinion. This section is in line with article 20 of the Universal Declaration of Human Rights. Offenders are allowed to express their dissatisfaction as long as it does not lead to problems within the correctional centre. This normally happens through the complaints procedure and visits from interest groups, such as Independent Prison Visitors (Landman, Luyt & Du Preez, 2005).

Freedom of association

Like article 20 of the Universal Declaration of Human Rights, section 18 of the Constitution guarantees the right to freedom of association, which entitles everyone, including offenders, to support a political party and religion of their choice without being restricted by anyone or anything. According to Palmer (2001), freedom of association does not extend to offenders becoming members of gangs, as gang activities threaten the running of the correctional centre from a security perspective. Offenders must be allowed to associate with anything that will have a positive influence in their rehabilitation process. Therefore, from a rehabilitation point of view, association is limited to positive association.

Health care, food, water and social security

As indicated in article 25 of the Universal Declaration of Human Rights, everyone is entitled to adequate health care, food, clothing, housing and medical care. Section 27 of the Constitution of South Africa also provides for basic needs to every South African citizen. The Department of Correctional Services as an organ of state has an obligation to make health care, food, water and social security available to offenders. The effectiveness of rehabilitation programmes is enhanced when the above needs have been met first, as these needs are basic needs. A healthy offender who has enough food and water is more likely to participate in rehabilitation programmes than an offender who does not. Failure to supply effective health care services and food will have a negative impact on the effectiveness of rehabilitation.

Education

Section 29 of the Bill of Rights states that "everyone has the right to basic education, including adult basic education; and to further education, which the State, through reasonable measures, must make progressively available and accessible". The right to education is based on the values of human dignity. In addition, "everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable". Many offenders who are admitted have so many educational challenges which make it difficult for them to adjust to a free society. In order to ensure the effective access to and implementation of this right, the state must consider all reasonable educational alternatives, including single-medium institutions, taking into account equity, practicability, and the need to redress the results of past discriminatory laws and practices. Nowadays, survival in the society depends largely on literacy; hence, it is necessary to provide

offenders with the academic and career skills that are required for them to become constructive members of society. As Stinchcomb (2011: 251) stated, making inmates productive is the first step to keeping them out of correctional centers and making them literate is the first step towards making them productive. Not only are educational programmes for offenders aimed at providing the tools of literacy, trade or specific job skills but they also enhance the offenders' work habits, pride, dignity and self-esteem. For example, it can be an uplifting experiment if an offender who was illiterate before incarceration is able to read a story to a child during a visit.

Dlamini (1994) sees education and culture as being closely related because education is the means whereby culture is transmitted from one generation to the next. It is the responsibility of the state to provide sufficient education to its citizens in the language that they understand. Educational activities should not discriminate against any citizen, since they are all equal, as indicated in article 26 of the Universal Declaration of Human Rights. Plaatjies (2005) emphasises that educators within Correctional Services can play an important role in teaching offenders sustainable life skills. Education can contribute to the rehabilitation of an offender because it helps to instil new knowledge, skills and attitudes that can benefit the offender after release.

Access to information

In section 32 of the Bill of Rights it is stated that "everyone has the right of access to any information held by the state; and any information that is held by another person and that is required for the exercise or protection of any rights". The importance of the right to access information led to the promulgation of the Promotion of Access to Information Act 2 of 2000, which guarantees access to any information that is held by the state or any other person in order to protect or exercise other rights. Offenders are therefore also entitled to this right (Palmer, 2001). Offenders must have access to any information that can support rehabilitation. The right to information enables the offender to participate in decision-making that affects the rehabilitation process. Nowadays, most of the information is available online. For example, figuring out how to prepare a request, where to send it, how much it costs, and what sorts of information are available or excluded without access to the Internet would be difficult, in some cases prohibitively so. Prisoners, who are generally unable to access the Internet, are at a comparative disadvantage here. Therefore, the department must assist in this regard.

Just administrative action

According to section 33(1),(2), "Everyone has the right to administrative action that is lawful, reasonable and procedurally fair. Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons." The importance of the right to just administrative action also led to the enactment of the Promotion of Administrative Justice Act 3 of 2000. Burns (1998) explains that in terms of section 33 of the Bill of Rights, individuals are protected from the abuse of power, since every action has to be reasonable and fair. Burns (1998) further emphasises that the administrative justice clause has significant implications. It promotes the principle of lawfulness, the principle of procedural fairness and the principle of justifiability and reasonableness when administrative actions are taken. It requires that adequate reasons for any administrative action have to be furnished. The section requires that while the action is being performed, the principle of legality is to be applied at all times.

It is important for Correctional Services to ensure that, when taking decisions, they comply with the provisions of this section, which means that these decisions should be fair and reasonable. For offenders to accept decisions affecting them, there should be a valid reason warranting that decision. Offenders should be given the opportunity to be heard when an administrative action affects them negatively. In response they should be furnished with just reasons for the action affecting them.

Rights of detained persons

Section 35(2)(e) of the Bill of Rights states that "everyone who is detained, including every sentenced prisoner, has the right to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at state expense, of adequate accommodation, nutrition, reading material and medical treatment." Furthermore, section 35(2)(f) states that offenders have the right to communicate with their spouse or partner, next of kin, chosen religious counsellor and chosen medical practitioners.

It should be emphasised that the offender should be detained under conditions that take into account his or her human dignity. The offender must also be allowed to communicate with his or her family members. The department should strive to meet the offenders' rehabilitation needs. Cachalia et al. (1994) report that it is generally accepted knowledge that an offender's rights to adequate nutrition, reading materials and medical treatment as well as proper clothing,

housing, adequate food and medical care, protection against assault, religious right and legal rights have a positive impact on the offender's physical, mental and psychological wellbeing.

When it comes to offenders communicating with the outside world, Livingstone and Owen emphasise that "with the decline of faith in the rehabilitative capacity of prison itself, contact with the outside world as a means of reducing the debilitating effects of institutionalization has come to be seen as perhaps the most important rehabilitative strategy in the prison context" (1993, p.143).

Limitation of the rights in the constitution

The extent to which the rights of individuals, including offenders, can be limited is set out in section 36 of the Bill of Rights which states that all "the rights in the Bill may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom." In addition "the nature of the right; the importance of the purpose of limitation; the nature and the extent of the limitation; the relationship between the limitation and its purpose; and less restrictive means to achieve the purpose" should also be taken into account.

Because offenders have to rehabilitate and return to society, The Department of Correctional Services has to ensure that this purpose is achieved by all means possible. If the correctional administrators believe that the granting of certain rights will hamper the rehabilitation of an offender, they may be forced to limit these rights. For example, if a seriously ill offender is refusing to see a medical practitioner because it is his or her right whether to see a medical practitioner or not, the officials might be forced to take that offender to the medical practitioner. This will not only benefit the offender, but it will also help to prevent the spread of illness amongst offenders. Because offenders, like any other people of society, deserve full protection of their rights, it is important to provide sufficient reasons for the limitation. As indicated in section 36(d), there should be a relationship between a limitation and its purpose. Schmalleger and Smykla (2001: 275) add that institutional needs that justify the restriction of constitutional rights of offenders include maintenance of institutional order, maintenance of institutional security, the safety of staff and offenders as well as the rehabilitation of offenders. The rehabilitation of offenders can only be achieved if offenders are able to retain all their rights. Only when offenders start abusing their rights can those rights be limited on grounds that are reasonable and justifiable in an open and democratic society. Hiebert (1996: 5) confirms that "the significance of the

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limitation clause goes well beyond the symbolic recognition that the rights are not absolute and will have to be limited when in conflict with other rights".

SELECTED DEMOGRAPHICS

During the research, two large Gauteng correctional centres (one female and one male) were visited. In both correctional centres, inmates and prison staff were requested to complete a questionnaire regarding human rights perspectives at their particular correctional centre. The questionnaire covered human rights as expressed in the Bill of Rights in chapter 2 of the Constitution of South Africa. It allowed both staff and inmates to speak out concerning perceptions with regard to selected human rights, which will be discussed in detail.

The Johannesburg female correctional centre and the Krugersdorp correctional centre, a male correctional institution, were selected to participate in the research. The Johannesburg female correctional centre accommodated 619 sentenced and 355 awaiting-trial inmates in March 2016. The staff quota was 171. At Krugersdorp, 1 439 sentenced and 1 302 awaiting-trial inmates were managed by 283 staff members.

Johannesburg correctional centre is known to be a "centre of excellence". According to the Department of Correctional Services (2009), the latter concept is "an attempt to create an environment that helps in providing holistic integrated services to the offender to produce a socially responsible person." The Department of Correctional Services (DCS) seeks to eliminate in these centres of excellence, overcrowding as an inhibitor of effective service provision to the offender. The DCS also seeks to guarantee the existence of competent personnel to provide the range of services that have to be delivered to an offender.

A personal information sheet was developed to determine certain demographics of respondents. Inmates and staff respondents completed separate personal information sheets. At the two correctional centres, 208 respondents participated, of whom 93 were staff members and 115 were sentenced inmates. At the Krugersdorp facility (N=103), the inmate sample was exclusively male, while staff were mostly male. At Johannesburg, (N=105) the inmate sample was female and staff were mostly female.

Ethnic representation was as follows: 80.49% black, 6.34% white, 0.98% Indian, 8.29% coloured, and 3.90% other (e.g. foreigners). Staff representation in February 2016 (N=39 376) was as follows: black 66.96%, white 16.73%, Indian 1.67%, and coloured 14.62%.

A study of the tables reflecting age and experience revealed that 60% of the staff members fell within the age category of 30 to 40 years and 51% had less than 5 years' experience in the correctional environment. Almost 79% of the inmates fell within the age category of 20 to 35 years; the inmate population was thus a young one.

Length of sentence varied; 53.92% of inmates were serving up to 4 years, while 33.91% were serving between 5 and 14 years. The rest (12.17%) were serving 15 years or longer. Maximum sentence lengths were between 25 and 29 years, while 40% of inmates had completed less than 1 year of their sentences and 46.96% had completed between 1 and 4 years. The rest (13.04%) had completed more than 5 years.

More than half of personnel (50.54%) were relatively inexperienced (less than 5 years' service). For the rest, 31.18% had 6 to 10 years' experience, 9.68% had 11 to 15 years' experience and 8.61% had 16 to 30 years' experience. The sample generally included a balanced mix of experience. Members had been employed at the two respective correctional centres for a significant period of time, with 46% having been stationed at their current correctional centre for more than 5 years.

Most respondents (70.94%) had received no exposure to human rights information before entering the prison environment. Only 49.02% received human rights information since their incarceration. Some participants have never received any form of human rights information. More inmates than staff had had exposure to human rights information before and after entering prison.

With regard to schooling, 2.65% of inmates indicated that they had had no schooling. Nearly 9% had been exposed to primary school education (grades 1–7) and 34.51% had been exposed to junior high school education (grades 8–10). The majority (42.48%) had had exposure to senior high school education (grades 11–12). A fairly large group (11.50%) had completed tertiary education.

Completed education levels for staff starts at junior high school (grade 10); the majority (55.81%) had completed high school (grade 12). Regarding further studies, 16.28% were enrolled for studies at tertiary level. A total of 23.26% indicated that they had completed tertiary studies, while 3 were engaged in postgraduate studies.

METHODOLOGY

According to Silverman (2001) methodology defines how one will go about studying any phenomenon. In this study, the empirical portion fell largely within the quantitative paradigm. It is

nevertheless important to realise that the nature of the study necessitated the use of multiple methods, including observation, document collection, interviews and literature reviews. The methodology followed in this study therefore also included triangulation. Field notes were made to support interviews.

Scheduled structured interviews were used to gather information directly from respondents. Bless and Higson-Smith (1995) describes this method as the most constructive way of getting information directly. This method is based on a set of questions characterised by fixed wording and sequence of presentation. The researcher was directly responsible for the administration of sessions during which questionnaires were completed, while correctional staff assisted with practical arrangements.

In research of this nature (utilising questionnaires) it is important to present the questionnaire to each respondent in exactly the same way, for a number of reasons. First, it minimises the role and influence of the interviewer on responses. Second, it makes a more objective comparison of results possible. Third, it allows for smooth administration in a group of respondents (inmates) whose literacy skills may be inadequate compared with those of the general population.

Although low literacy skills may be viewed as a potential deficiency for the use of questionnaires, questionnaires have been used successfully in earlier research projects involving inmates both overseas and in South Africa (Ngobeni, 2015). In the present instance the questionnaires were self-administered, as this required minimum direct contact with the respondents. This to a large extent ensured objective responses from a group of respondents already suspicious by nature.The questionnaire exploring inmates' perspectives on human rights perspectives contained a true/false section based on the fundamental rights in the South African Constitution. Results were utilised to determine the views of inmates and correctional staff regarding adherence to certain basic human rights under conditions of incarceration.

Ethical measures were taken to ensure that the rights and privacy of participants were not infringed. First, permission was obtained for the research from the Department of Correctional Services. Participants were requested to complete consent forms before participation commenced. Steps were also taken to ensure internal validity. The importance of internal validity cannot be over-emphasised, as it determines external validity, or the degree to which findings can be generalised to other correctional centres.

The research project in itself set the boundaries for sampling. As the phenomenon was investigated among the staff and inmates of specific correctional centres, the sample could be selected only from the latter two groups. Within the above constraints, it was realised that a sample must have properties making it representative of the whole. This made the selection of a representative sample crucial. Due to the nature and content of the research project, the researcher made use of the availability sample for inmates (Bless & Higson-Smith, 1995). This entailed taking all cases on hand until the sample reached a desired size. For staff, the stratified sampling method was used to ensure the participation of both management and line staff, followed by random sampling within the homogeneous population (Babbie & Mouton, 2001).

RESEARCH FINDINGS

Right to equality

Perceptions were that inmates were not all treated equally in the correctional centres, as 54.85% of all participants (staff and inmates) indicated this. Of the inmate sample, 73.68% were of the opinion that treatment was not equal. "If you belong to a gang some staff members will give you more privileges" was confirmed by 36.23% of the entire sample. Of the inmate sample, 37.39% confirmed this.

Staff members were reported as discriminating against some inmates by 58.25% of the combined sample, while 71.93% of inmates maintained this opinion. It was reported by 52.17% of the entire sample that inmates discriminated against homosexuals inside prison. A positive response from the inmate sample was slightly higher at 60.00%. Some inmates are forced to be the wives of other inmates, as indicated by 63.77% of the entire sample. Only 52.17% of the inmate sample held this opinion, but 78.26% of the staff sample indicated it to be the case.

Right to life

Inmates indicated that they often feared for their lives inside prison or that someone could kill them; this was affirmed by 55.56%. Of the inmate sample, 52.17% indicated that they feared for their lives, while 59.78% of staff often feared that their lives were in danger. That inmates sometimes threaten to kill someone in prison was confirmed by 75.00% of the entire sample and by 71.93% of the inmate sample. Trust in colleagues is high, as 85.87% of the staff sample indicated that staff members will always protect you when your life is in danger. Of the inmate sample, only 64.35% had the same trust in staff.

Right to human dignity

Staff were reported as generally treating inmates with respect. This was confirmed by 64.39% of the entire sample and 87.78% of the staff sample. However, only 46.09% of inmates held this opinion. Mutual respect among inmates was confirmed by 75.00% of staff, but by only 59.65% of inmates. Of the entire sample, 36.23% stated that membership of a prison gang was necessary to obtain respect from others, while only 33.91% of inmates supported the statement. If you belong to a gang they will help you to be respected was denied by 65.22% of the entire sample. Of the staff sample, 75.00% denied this, while only 57.39% of inmates did so.

Right to freedom and security of the person

Of the entire sample 91.30%, and 93.04% of the inmate sample confirmed that inmates assault or fight with others. Assaults on inmates by staff members were confirmed by 59.11% of the entire sample. Only 42.86% of staff claimed that inmates were sometimes assaulted, while 72.32% of inmates agreed with the statement. Of the entire sample, 72.82% of individuals stated that they knew a large number of people who had been assaulted inside prison. Of the inmate sample, 80.87% of respondents claimed to know someone who had been assaulted, while only 62.64% of staff made the same claim.

Only 13.04% of staff claimed to have been assaulted in prison, while 27.83% of the inmate sample made the same claim. Just over half the respondents (52.20%) feared that they would be injured in prison. Of the inmate sample, 64.60% shared this fear, while only 36.96% of the staff sample did so. Lastly, it was stated by 51.46% of the entire sample that inmates carry knives or other weapons, while 56.14% of inmates confirmed this.

Right to privacy

Concerning privacy, 62.80% of the entire sample denied that inmates are never naked in front of one another. 76.09% of staff denied nudity of inmates in front of one another, while only 52.17% of inmates denied this. It was confirmed by 51.69% of the main sample that inmates and staff may not observe inmates while they take a shower. Only 54.63% of the entire sample confirmed that inmates have their own beds and sleep in privacy. The response rate of the inmate sample was slightly higher at 63.16%.

It was felt that staff members demonstrated fairly little respect when searching inmates' belongings; only 49.27% of respondents agreed that searches are executed with respect for private property. However, while 73.91% of staff claimed that staff members demonstrate respect when searching inmates' belongings, only 29.20% of inmates agreed. Theft among inmates was

confirmed by 53.14% of the entire sample, while 58.26% of inmates and 46.74% of staff confirmed this.

No privacy surrounds letters, visits and telephone calls according to 68.29% of the entire sample. Lack of privacy was confirmed by 70.33% of the staff sample and by 66.67% of inmates. Only 38.54% of the overall sample was of the opinion that inmates are never required to undress when they are searched. Of the inmate sample, 42.98% confirmed often having to undress when being searched.

Right to freedom of religion, belief and opinion

Freedom to attend church services was confirmed by 84.58% of the entire sample, while 87.39% of the inmate sample was in agreement with the statement. Freedom for all to practise their faith freely was overwhelmingly confirmed by 91.18% of the entire sample, but by only 88.50% of the inmate sample. That staff members will listen to your opinion in discussing your personal matters was positively confirmed by 68.29% of the combined sample. However, only 58.77% of the inmate sample confirmed this, whereas 80.22% of staff responded positively.

Right to freedom of association

Although gang membership is not permitted, 13.59% of the entire sample maintained that inmates are allowed to belong to gangs. Of the inmate sample, 14.91% maintained this position. It was shocking; however, to find that 11.96% of staff were of the opinion that membership of a gang is permitted. Of the entire sample, 58.74% of respondents indicated that membership of any prison gang is allowed. Belonging to a gang of your choice was confirmed by 74.56% of the inmate sample, while only 39.13% of staff believed you could belong to a gang of your choice.

The effective administration of rehabilitation

In the White Paper on Corrections in South Africa the Department of Correctional Services reports that "despite the human rights culture brought about by the new democratic dispensation and enshrined in the Constitution, the immediate post-1994 transformation of the Department focused its attention mainly on safe custody". It goes on to state that: "It must provide a sure and clear deterrent for criminals and reduce the risk of re-offending." (Department of Correctional Services, 2005). The White Paper lists the provision of an environment for controlled and phased rehabilitation interventions as the fourth key objective and the provision of corrective and development measures to the offender as key objective number six.

Although the 2005 White Paper has not given rise to complete new legislation, the portfolio committee of Parliament for Correctional Services held a sitting on 23 August 2007 to consider motivations as to why it was necessary to amend the Correctional Services Act 111 of 1998. The following reasons formed part of the official presentation made by the Department of Correctional Services:

- To change specific concepts, definitions and references in order to align the Act to the White Paper on Corrections of South Africa, 2005;

- To enact specific practices in respect of administration of Correctional Centres to promote humane treatment of inmates contravening/transgressing matters of security, management of correctional centres, discipline, etc.

- To enable public participation in rehabilitation and re-integration of offenders into the community.

- To legislate a framework in determination of parole in respect of certain categories of offenders.

- To introduce compulsory participation in certain programmes for offenders

CONCLUSION

It is hoped that the above discussion has shed some light on the state of rehabilitation in South African correctional centres. Although more resources have become available since 2003, it is clear that perceptions concerning rehabilitation are still stuck in the past. First, available funding was never fully utilised in any of the years under discussion. Second, where an increase in expenditure was observed, it was attributed to an increase in administrative expenditure, indicating that more resources were spent on staff rather than on inmates. From the results of the questionnaires it became evident that both staff and inmates were of the opinion that human rights are not upheld to the extent that they should be in the two prisons investigated. Inmates were more concerned about their rights than staff members were. In some instances there was an enormous difference in opinion concerning inmate rights, and it came as a shock to learn that more than 10% of participating staff members were of the opinion that inmates may "legally" join a gang.

One can clearly deduce that the road to marrying human rights and rehabilitation in correctional centres is still a long and difficult one. The failure to retrain personnel in the whole

process of transformation may be one of the main contributors to inadequate efforts to rehabilitate at grass roots level.

LIST OF REFERENCES

Ahdar, R & Leigh, I. (2005). *Religious freedom in the liberal state.* New York: Oxford University Press

Babbie, E. R. (2007). *The practice of social research*. Belmont, CA: Thomson Wadsworth.

Bless, C & Higson-Smith, C. (1995). *Fundamentals of social research methods: An African perspective. (2nd edition).* Cape Town: Juta.

Burns, Y. (1998). *Administrative law under the 1996 constitution.* Durban: Butterworths

Cachalia, A; Cheadle, H; Davis; D; Haysom, N; Maduna, P & Marcus, G. (1994). *Fundamental rights in the new constitution.* Kenwyn: Juta

Carney, L.P. (1979). *Introduction to correctional science (2nd ed.).* New York: McGraw-Hill.

Coetzee, W; Kruger, W & Loubser, J. (1995). *Correctional services in focus.* Randburg: Hodder & Stoughton

Devenish, G.E. (1999). *A commentary on the South African Bill of Rights.* Durban: Butterworths

Dlamini, C. (1994). Culture, education & religion (Pp. 320 – 351). In Van Wyk, D; Dugard, J; De Villiers, B & Davis, B (eds). *Rights and constitutionalism: The new South African legal order.* Kenwyn: Juta

Fisher, L. (1990). *Constitutional rights: Civil rights and civil liberties: Volume 2 of American constitutional laws.* USA: McGraw Hill

Fox, V. (1983). *Correctional institutions.* New Jersey: Prentice Hall.

Hierbert, J.L. (1996). *Limiting rights: The dilemmas of judicial review*. Montreal & Kingston: McGill Queen's University

Landman, C., Luyt, W.F.M.; & Du Preez, N. (2006). The incarcerated body: judicial inspections, human rights and religious policy in prisons in South Africa. *Studia Historiae Ecclesiasticae* 32(2), 321–343

Livingstone, S & Owen, T. (1993). Prison law: Text & materials. New York: Oxford University Press

Mubangizi, J.C. (2004). *The protection of human rights in South Africa: A legal and practical guide.* Lansdowne: Juta

Muthaphuli, P. (2015). Different route, same destination? Assessing the (r)evolution of offender reform in South Africa twenty years into democracy. *Acta Criminologica: Southern African Journal of Criminology,* Special Edition 1, January 2015, 132 –146

Ngobeni, S.C. (2015). *Intervention strategies for improving vocational rehabilitation programme for* young *adult offenders: A case study. Unpublished MA dissertation.* Limpopo: University of Limpopo

Palmer, E. (2001). *Punishment and the South African Constitution – A penological perspective. Unpublished doctoral thesis.* Pretoria, Unisa

Plaatjies, M.F. (2005). T*he application of restorative justice in the South African correctional system. Unpublished master's dissertation.* Pretoria: Unisa

Pollock, J.M. (1998). *Women's mental health and development (volume 3).* Thousand Oaks, Calif.: Sage

Quinn, J.F. (2003). *Corrections: A concise introduction (2nd ed.).* Illinois: Waveland Press.

Republic of South Africa. (1996). Constitution of the Republic of South Africa 108 of 1996. Pretoria: Government Printer

Republic of South Africa. (1998). Correctional Services Act 111 of 1998. Pretoria: Government Printer

Republic of South Africa. (2005). White Paper on Corrections. Pretoria: Government Printer

Sechrest, L; White, S.O & Brown, E.D. (Eds). (1979). T*he rehabilitation of criminal offenders: Problems and prospects.* Washington, DC: National Academy of Sciences

Silverman, D. (2001). *Interpreting qualitative data: Methods of analysing talk, text & interaction (2nd ed).* London: Sage

Stinchcomb, J.B. (2011). *Corrections: Foundations for the future (2nd ed.*). New York: Taylor & Francis.

The British Report on Social Exclusion. (2002). *Reducing re-offending by ex-prisoners: Report by the Social Exclusion Unit.* England: Office of the Deputy Prime Minister.

United *Nations* Economic and Social Council. (2003). Report of the Secretary General: Promotion & Protection of Human Rights - human bioethics, E/zn 4 2003/ 98. From: http://www.unhchr.ch/huridocda/huridoca/nsf/test-frame/a9c6597e2b057/foc/256cf7005b7eab?opendocument (Accessed on 12 February 2016)

Van der *Schyff*, G. (2005). *Limitation of rights: A study of the European Convention and the South African Bill of Rights.* Nijmegen: Wolf Legal