



Practitioners' Discourse of Juvenile Delinquency at a Child and Youth Care Centre in  
the Western Cape from 1990 to 2020.

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Word Count: 24 724

Date: 12/02/2024

The research dissertation presented for the approval of the Senate in fulfilment of part of the requirements for the *Master of Philosophy in Criminology, Law and Society*, in approved courses and a minor dissertation/ research paper. The other part of the requirement for this qualification was the completion of a programme of courses.

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### **Abstract**

This paper examines the evolving discourse of juvenile delinquency among practitioners who documented their observations and interactions with juveniles from a Western Cape Child and Youth Care Centre. It employs the Foucauldian discourse analysis approach when analysing the content of thirty learner casefiles from 1990 to 2020. The discourses are analysed in terms of shifts in power over the institutional care of the children brought on by the new democratic government, childcare and justice policies, and the coinciding growth of the restorative approach to juvenile justice.

The discourse themes examined include how practitioners consistently conceptualised the juvenile and their delinquency across the thirty years. This was seen in terms of the juvenile's medical health, their 'criminality', substance use, gang involvement, and tendency to abscond. The juveniles' history of alternative care placements was also frequently documented. Practices eclipsed by the democratic government and restorative justice movement include punitive forms of punishment at the facility and the need for documentation of the child's race. However, only after the enactment of the *Children's Act no.38 of 2005, as amended* (2010), did a restorative approach to juvenile care, outside of education and vocational training, take significant precedence.

### **Acknowledgements**

My parents, for their continuous support throughout the year. By providing a caring and safe environment, I could focus on my academic career. This project would not have been possible without your patience, guidance, and love.

The Harry Crossley Foundation for providing me with financial support to conduct this project.

My supervisor, Professor Irvin Kinnes, for his expert guidance, motivation, and mentorship throughout this research process. I appreciate his unwavering support.

Professor Simon Howell for his invaluable assistance and guidance in discourse analysis. I would also like to express my sincere gratitude to Professor Kelley Moul for always being present and available to assist me in matters concerning this project and beyond.

The Child and Youth Care Centre in the Western Cape, for providing access to the casefiles and trusting me to work with the content ethically.

## CHAPTER 1: INTRODUCTION

### 1.1. Introduction

Chapter one introduces the background of the research topic and design. It describes how this study will illuminate the extent to which practitioners' discourse in institutions reflects changes in child justice and state care over thirty years. Not knowing this is the social problem this dissertation is designed to address. The chapter then describes the benefits of conducting this study, adding to the local literature on state care of juveniles in alternative care facilities. After that, the study's aim, topic, and objectives are described. Followed by the research question(s) and its main objectives used to keep the study focused. This study's fundamental concepts are clarified, followed by the ethical considerations. The chapter concludes with an outline of the paper's structure.

### 1.2. Problem Statement

Understanding practitioners' discourse at a Child and Youth Care Centre (CYCC) will uncover how juvenile delinquents are perceived and to what extent their treatment is restorative. Juvenile delinquency is a phenomenon connected to the discourses and practices that developed within alternative care institutions for 'deviant' youth (Nilsson, 2009:369). The term is intrinsically linked to the development of state-run alternative care institutions, specifically Schools of Industries (Mennel, 1973, May, 1973; Carpenter, 1853; Nilsson, 2009), which later are absorbed under the umbrella term of a CYCC (*Children's Act no.38 of 2005 as amended*, 2010).

There have been immense and varied national efforts to improve juvenile care treatment at alternative care facilities in post-Apartheid South Africa. Yet rates of youth offending are increasing, with children committing more violent acts of crime than previously seen and at younger ages than before (Department of Justice and Constitutional Development, 2020). Additionally, the number of children sent to alternative care facilities in South Africa is expected to rise (Department of Social Development, 2020). Juvenile delinquency seemingly is increasing despite penal discourses and legislative mechanisms that have become more restorative post-

Apartheid. This led to my investigation of the extent to which shifts in policy and legislation influenced the juvenile delinquency discourse at an institutional level.

Local literature has tended to be centralised on analysing the legislative and policy shifts seen after Apartheid in their analysis of the change to the restorative justice approach to child justice and state care (Gxubane, 2012; Hargovan, 2013; Skelton & Tshehla, 2008; Skelton, 2002). It has yet to be investigated if these changes are reflected in the language of those who provide services to juveniles at state facilities.

### **1.3. Problem Context**

Knowledge of juvenile delinquency as a distinct social phenomenon resulted in concrete forms of action to take place (Mennel, 1973). This was seen with the formation of Schools of Industries aimed at correcting the juvenile through education and trade training (May, 1973). In South Africa, Schools of Industries were designed to house children deemed delinquent by the state through their minor deviant dispositions that prompted state intervention. These facilities, formed under the Union of South Africa and continued into Apartheid, were racially segregated (Chisholm, 1989) and provided punitive measures of punishment mixed with education and vocational skill training (Badroodien, 2011). Under Apartheid, juvenile delinquents of different races were perceived as unequal and were subsequently treated separately and unequally within alternative care facilities (Peté, 2015; Badroodien, 2001).

The end of the Apartheid regime drastically shifted the institutional architecture of the facility. This is seen through the numerous developments in childcare and justice legislation (*United Nations Convention on the Rights of the Child* signed by SA in 1995 (Terblanche, 2012); *The Constitution of the Republic of South Africa*, (1996), White Paper for Social Welfare, (1997); the Inter-Ministerial Committee on Youth at Risk (IMC) (1998); and the *Child Justice Bill* (2002))

These changes called for the end of punitive (corporal) punishment to discipline children and promoted a restorative justice approach to juvenile care within School of Industries (later known as Child and Youth Care Centres (CYCC)). This was further advanced with the enactment of the *Children's Act no.38 of 2005, as amended* in 2010, which advocated for a developmental and therapeutic model for juvenile delinquency

care (Jamieson, 2013). This dissertation analyses how these changes influenced the discourse held by practitioners at a CYCC from 1990 to 2020.

#### **1.4. Significance of the study**

Using a Foucauldian discourse analysis lens, this dissertation highlights how shifts in power relations over the institution after 1994 influenced the changing discourse of juvenile delinquency within an alternative care facility. It illuminates what practitioners perceived as important to record about the learner in their casefiles and how this changed over time. It also describes what treatment discourses are prevalent in the casefiles and to what extent they are restorative.

Further benefits of this project include providing empirical research on how scientific knowledge of juvenile delinquency influences treatment planning for educators, social workers, and other practitioners. Additionally, the institution can use the findings to understand how, in a snapshot, their staff conceptualise the children they provide services to and what extent their treatment planning takes on the restorative justice approach.

#### **1.5. Aim of the Study**

This study aims to investigate how shifts in power over the institution's architecture brought on by changes in childcare legislation and the growth of the restorative justice movement influenced discourses of juvenile delinquency held by practitioners at a CYCC.

#### **1.6. Research Topic**

The discourse of juvenile delinquency was held by those who recorded their interactions with juveniles in casefiles from a CYCC in the Western Cape from 1990 to 2020.

#### **1.7. Research Question**

What do the casefiles of learners at a CYCC in the Western Cape reveal about changing discourses of juvenile delinquency across thirty years and into post-Apartheid?

Sub-questions:

- What is distinctive about the juvenile delinquency discourse from 1990 to 2020? Thirty casefiles are divided into three timeframes (1990-2000, 2000-2010, 2010-2020) to examine this.
- What remains consistent in the juvenile delinquency discourse from 1990 to 2020?
- How do shifts in power relations in South Africa account for the changing juvenile delinquency discourse at the facility across thirty years?

### **1.8. Main Research Assumptions**

Within this study, it is assumed that:

- Casefiles accurately represent how practitioners view and treat the juvenile, as they provide a record of their interactions with the juvenile at the facility unaltered.
- The content of the casefiles provides the practitioners' discourse because they are the professionals who compiled the documents within it.
- Those who attend(ed) the facility are a critical example of juvenile delinquency because the state has the official view that the child is to be placed at a CYCC on court order due to their behavioural characteristics and circumstances that are perceived as requiring state intervention.

## **1.9. Research Objectives**

- Investigate why the juvenile delinquency discourse at a CYCC changes over time using the Foucauldian discourse analysis approach.
- To determine how the discourse is influenced by changes in the institutions' architecture after 1994.

## 1.10. Clarification of Concepts

Juvenile is used synonymously with youth.

Juvenile Delinquency is the phenomenon used to describe those who commit anti-social acts that result in the individual being subject to action by a court of law (Marimuthu, 2014). It combines children in need of care and those perceived as a threat to society (Carpenter, 1853) and social order. In this paper, the term combines petty crime youth offenders and those deemed likely to offend without state intervention. Children sent to the CYCC are referred to as juvenile delinquents within this study.

Child and Youth Care Centre (CYCC) is a residential facility providing state care for more than six children outside their family environment (Jamieson, 2013). Under the *Children's Act no.38 of 2005, as amended (2010)*, a CYCC houses children sent to it under 'this Act' (in need of care and protection), and those who are sent to it under a court order of the *Child Justice Act no. 75 of 2008 (2010)* and the *Children's Act, as amended (2010)* (due to a criminal offence).

Schools of Industries are alternative care and residential facilities for children sent to them under court order using the remits of the *Child Care Act (1983)*. Schools of Industries are later absorbed under the umbrella term of a CYCC.

Alternative care is any residential facility a child is sentenced to attend by the Children's court. It includes CYCC, Schools of Industries, Reformatories and Children's Homes.

Diversion means keeping the juvenile away from the formal criminal justice system and court procedures (Mujuzi, 2015). A diversionary order may include sentencing the child to a School of Industries or CYCC instead of imprisonment.

The restorative approach to juvenile justice sees an offence as a violation between people and relationships, where justice must promote healing and repair harm (Gxubane, 2012). In institutions, the aim is to rehabilitate the juvenile during their time

at an alternative care centre. In this study, the restorative justice approach to juvenile delinquency treatment is seen through provisions of education, skill training and therapeutic treatment plans.

Punitive juvenile justice is used synonymously with the retributive justice approach in this study. The focus is on seeing an offence as something that requires punishment, most often corporal punishment.

Corporal punishment is any form of physical punishment that causes an individual suffering or pain (Morrell, 2001). In this study, corporal punishment is seen through physical lashes and solitary confinement for disciplining children who misbehave at the facility.

Vocational skills refer to practical training in a skill linked to a job or trade (Field, Musset & Álvarez-Galván, 2014).

FDA: Foucauldian Discourse Analysis.

## **1.11. Ethical Considerations**

The Law Faculty Research Ethics Committee (REC) at the University of Cape Town (UCT) provided ethical clearance to conduct the analysis of the casefiles on the 5th of September, 2022. The key ethical considerations required for this study include informed consent, level of deception, privacy considerations and weighing the risks and harms ratio of conducting this research.

### 1.11.1 Informed Consent.

The custodian of the data is the specific Child and Youth Care Centre (CYCC) from which the casefiles are from. The CYCC and the UCT Criminology Centre signed a Memorandum of Understanding (MoU), which formally gave me consent to analyse the content of the casefiles [See Appendix 1: redacted MoU]. The principal of the institution is well-informed of the purpose of this research project and has permitted me to conduct this investigation. An Information Sheet outlining the purpose of this research paper and its potential risks was sent to the facility's principal and was approved before the analysis of the casefiles began.

### 1.11.2. Deception of Respondents.

There was no need to deceive the CYCC during this research project. The CYCC is aware of its purpose and research design.

### 1.11.3. Privacy.

Safeguarding the privacy of the juveniles, the staff, and the facility is crucial. All individuals mentioned within the casefiles remained anonymous throughout the research project. Each juvenile casefile was randomly assigned a number only known to me. No names or identifiable features of the juveniles are provided that would lead to their identification. Practitioners and staff members are referred to by their occupation or role at the facility, such as a social worker, a psychologist, or a doctor. To ensure the privacy of the casefiles, electronic copies were stored on a password-protected computer that is only accessible to me.

#### 1.11.4. Harms/Benefits.

Keeping the CYCC and those mentioned in the casefiles anonymous mitigates any harm the research process or findings may impose on the facility, its staff members, and the juveniles themselves. For instance, to prevent the Centre's reputation from being compromised in the eyes of the Department of Social Development or Basic Education regarding their meeting of the educational and therapeutic needs of youth at the facility. The juveniles remained anonymous to prevent their identity from being exposed, which may cause them stress or trauma. No direct contact was made with the juveniles because the data was located within their casefiles.

The benefits of conducting this research include adding to the limited literature on the discourse of juvenile delinquency in post-Apartheid South Africa. The discourse analysis highlights how our conceptualisation of those who attend state institutions changes over time, as well as treatment at state facilities. Lastly, the findings inform how policy changes in juvenile justice impact the groundwork of those who provide care to delinquent youth.

### **1.12. Structure of the Research Project**

Chapter one describes the formulation of the problem under investigation and the justifications for conducting this project.

Chapter two engages with the relevant literature on discourse analysis, juvenile delinquency, alternative care facilities and casefiles.

Chapter three provides the research design and methodology used to conduct this investigation.

Chapter four outlines the key findings of the analysis of the discourse of juvenile delinquency across the thirty years assessed.

Chapter five presents why the discourse changed using the Foucauldian discourse analysis lens. The chapter ends with recommendations for future research on children in alternative care in South Africa.

### **1.13. Conclusion**

Chapter one introduces the dissertation's topic. It describes the importance of knowing the institutional discourse of juvenile delinquency held by practitioners who provide services to the youth. As well as how this study will illuminate the extent to which discourses and practices have changed post-1994. A clear outline of the research goals, question(s), and objectives is provided to ensure the research is focused. Key concepts have been clarified to structure our understanding of the terminology in the study, and the ethical considerations have been explained for the protection of the data and its custodians.

## CHAPTER 2: LITERATURE REVIEW

### 2.1. Introduction

Chapter two critically engages with the relevant literature to this dissertation's investigation. It begins by reflecting on the applicability of Foucault's discourse analysis theory more broadly and his analysis of power relations over incarcerated inmates more specifically. This is followed by a discussion of the historical grounding of the term juvenile delinquency and its linkage to the School of Industries, later known as Child and Youth Care Centres. The discussion is then brought to the local context of the development of alternative care facilities in South Africa and the laws that govern them. It describes how the reality of children in alternative care facilities has changed in post-Apartheid South Africa. Lastly, the role of professionals within the facilities is reflected on, as well as the value of recording their interactions with juveniles in casefiles.

### 2.2. Review of Literature

#### Discourse, Discourse Analysis and Foucault.

This study analyses the discourse of juvenile delinquency held by practitioners who work with a group of children who were historically labelled as such. Discourses are the 'practices that systematically form the objects of which they speak' (Foucault, 1972:49). Discourses produce meaning and knowledge of the subject (Adams, 2017). It looks at how a particular statement appears rather than another (Foucault, 1972:27) and encompasses how our shared ways of talking about a phenomenon create the reality of that phenomenon (Blanche, Durrheim & Kelly 2014:328). They are discoverable as communicative practices embedded in institutional settings (Miller, 1990:119).

Instrumental to this study's conceptualisation of discourse is the theoretical perspective of the French philosopher Michel Foucault. Foucault's (1929-1984) theories have been hugely impactful to criminal justice scholarship (Jouet, 2022), and popular understandings of delinquency have connotations encapsulated using Foucault's work (Tiethof, 2016:112). Foucault is a famous critical theorist whose work

primarily concentrated on concepts of knowledge, power, and discourse (Mills, 2003). Discourse produces the meaning of the subject, but this must be understood in terms of the historical period to which it pertains, as well as the effects of power within the social order that produces the discourse (Adams, 2017).

Power and knowledge are central concepts in Foucault's discourse analysis theories and methods (Miller, 1990). Power relations affect people and their behaviours that either affirm or resist that influence (Mills, 2003). For Foucault, power is embedded in everything. It takes on multiple forms and plays out within institutions, families, and everyday interactions (Mills, 2003). His notion of power does not permit anything outside it (Miller, 1990). However, Miller (1990) points out that 'power in itself presupposes an array of phenomena which are not themselves power' (Miller, 1990:120). Relationships can exist that may not solely be a power relationship, even though power dynamics is inevitably part of the relationship (Miller, 1990:120). A social worker at the facility holds authority over the juvenile, and the child rebels against that authority. At the same time, the practitioner's relationship with the juvenile may be rooted in providing compassionate care and guidance. As Miller (1990:120) points out, power is a very important thing, but it may not be everything.

For Foucault (1977), power is what produces knowledge and discourse. All knowledge contains the exercise of power (Miller, 1990:117), and there is no knowledge that does not assume power relations (Foucault, 1977:27). Knowledge is understood as structured statements that are externally given to something (Miller, 1990:117). Discourse power theorists assert that objectively true knowledge is an 'effect' of power (Miller, 1990:118). Miller (1990:120), in his critical engagement with power discourse theory, argues knowledge is neither objectively true nor false, but rather a definitive perspective of some group, institution, or society (Miller, 1990:117). It is known that discourses carry meaning; it is not necessarily known that they are the objective truth (Miller, 1990). Truth talks to objectivity, whilst meaning talks to subjectivity (Miller, 1990). Meaning is inherently subjective because to have meaning, it must mean something to someone (Miller, 1990). We must distinguish between 'the real object and thoughts about that object' (Miller, 1990:118). The discourse of juvenile delinquency in this study describes the meaning of juvenile delinquency to practitioners. Not the objective truth. The purpose of the discourse is to understand and

describe the juvenile's delinquency to inform their treatment. This understanding changes over time, as do the treatment models.

Foucault's work provides a lens for the historical analysis of social conditions (Mills, 2003). His work uses accurate histories to unpack shifting discourses, and discourse power theorists focus on existing institutions and individuals in their analyses (Miller, 1990). Similarly, this dissertation analyses the content of existing casefiles over thirty years from a real state-run alternative care facility in the Western Cape.

The Foucauldian Discourse Analysis (FDA) can be used as a theoretical perspective and a methodological tool. FDA aims to unmask a social condition's influences, explanations, and themes by delving into what is known about it and breaking that down into the rules and codes that govern that knowledge (Springer & Clinton, 2015). It looks at how 'different texts with which one is dealing refer to one another, organise themselves into a single figure, converge with institutions and practices, and carry meanings that may be common to a whole period.' (Foucault, 1972:118). This paper uses this method to analyse the extent to which documents within casefiles from 1990 to 2020 relate to, or differ from, one another. As well as how their content presents a master narrative of juvenile delinquency discourses that converge with treatment practices at the facility. It looks at how shifts in power relations over the institutionalisation of juveniles in South Africa affected the discovered discourse over time.

The book by Foucault titled *Discipline and Punish* (1977) provides his Foucauldian lens for how power relations influence punishment and discipline discourses for adult offenders incarcerated. In his book, he also argues that penalty creates delinquency (1977:277). His book is a valuable base for my analysis of juvenile delinquency at a Child and Youth Care Centre (CYCC). Foucault (1977) traces how the power to (physically) punish shifted to the disciplinary power aimed at controlling and correcting inmates. Similarly, I trace how punitive forms of justice were replaced with a more restorative approach that looks at positive discipline and therapeutic treatment for juvenile treatment in CYCCs.

However, In *Discipline and Punish*, Foucault describes the shift to disciplinary power as a method to hide the repression of inmates under the illusion of rehabilitation (Jouet,

2022:209). Ideas of rehabilitation only serve to rationalise oppression (Jouet, 2022:121). From their conception, I argue that juvenile delinquents have been met with a reformist and progressive view that advocates for specialised care outside of the adult penal system (Kamenetz, 2015). Moreover, discourses are not only a function of power, but they can also function to achieve mutually beneficial social arrangements (Miller, 1990: 123). The medical discourse within hospitals is for the benefit of patient treatment (Miller, 1990:123). Similarly, juvenile delinquency knowledge and discourse within the institution can be for treatment planning aimed at their restoration and reintegration into society.

### The Categorisation of Juvenile Delinquency.

This paper examines the discourse of juvenile delinquency held by practitioners who routinely work with children at a CYCC. This reflects only one set of conceptions of juvenile delinquency knowledge and discourse. There is a multitude of discursive understandings, each informed by its context, practices, and claims of legitimacy (Springer & Clinton, 2015). My perspective on the origins of knowledge about juvenile delinquency reflects my interpretation and chosen starting point (Springer & Clinton, 2015).

Analysing the discourse of juvenile delinquency over a thirty-year time frame may be seen as problematic as the term is not in line with the legal and humanitarian frameworks in child welfare. The Google Books Ngram Viewer tool provides a visual representation of the proportion of all words within English Language books that match my search term(s) from 1500 to 2019. It demonstrates that by the 1990s, the term ‘at-risk youth’ preceded the term juvenile delinquent in popularity in books captured by Google. Other terms that may be used synonymously with juvenile delinquency include ‘youth in need of care’, which is used by legislation such as the *Children’s Act* (2005). According to the Ngram, this phrase is not popularised in English books. The phrase ‘youth in conflict with the law’ could not be analysed through Ngram as Ngram omits phrases longer than five words. However, the Ngram viewer demonstrates that the term juvenile delinquency originated around the early 1800s and continued in popularity until the 1990s.

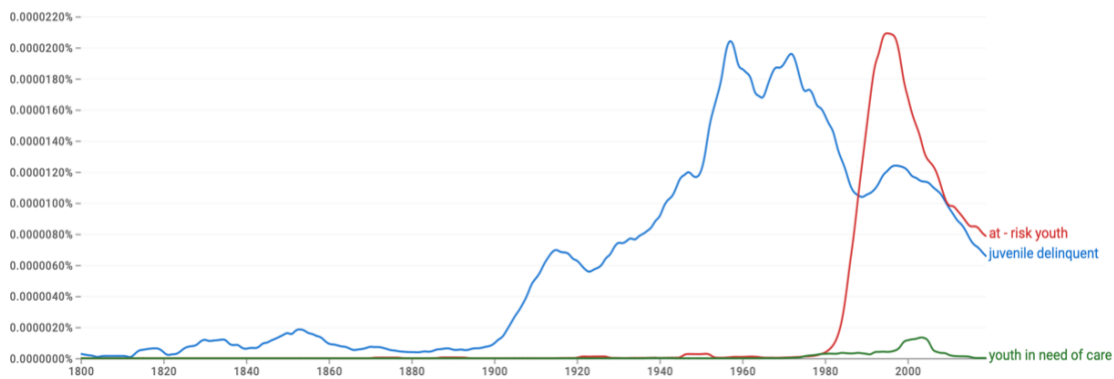


Figure 1: Screenshot of the Google Ngram website, <https://books.google.com/ngrams>

Google Nygram accounts for 6% of all books (Younes & Reips, 2019); therefore, it does not represent the popularity of terms in all known publications. However, it is helpful to show how the terminology of social conditions is historically contingent. Our way of categorising juveniles who attend alternative care centres changes over time.

New scholars may contest categorising the child as a ‘juvenile delinquent’. Tiethof (2016:117) notes in his Foucauldian analysis of delinquency that to be labelled as a delinquent is to have a narrative imposed upon one’s life which one never can completely escape. The delinquent is portrayed as a ‘thug’ with a defiant attitude towards authority (Gray, 1997:534). This is like the sociological labelling theory largely associated with Howard Becker's work (Nickerson, 2023). From a single deviant act, the child is labelled as a deviant and is forced to carry the auxiliary traits associated with that label (Becker, 1963). Being labelled as such creates the stereotype that the child is likely to commit other delinquent acts because they have no respect for authority (Becker, 1963:33).

Becker argues that deviancy results from external labels that alter a person’s self-concept (Nickerson, 2023). Labelling someone as a juvenile delinquent creates a self-fulfilling prophecy in which the individual is more likely to become the image people have of him (Becker, 1963: 34). For example, a juvenile is caught using drugs on school premises and is labelled a juvenile delinquent and expelled, yet being away from school may increase their likelihood of committing other delinquent acts. I acknowledge that the term is contested as being a negatively charged phrase. However, various scholars and authors do refer to juvenile delinquency in modern times (Vodnik,

Klimova, Pidkurkova, 2021; Development Services Group, Inc., 2015; Marimuthu, 2014; Allen, 2022; Bax & Hlsany, 2018; Nilsson, 2009). Moreover, the recognition of juvenile delinquency as a unique social problem and, consequently, the labelling of a particular group of youth as such resulted in the development of state institutions aimed at their restoration (Mennel, 1973).

Moreover, the term delinquency is commonly understood in relation to the work of Foucault (Tiethof, 2016), and his work has been used to analyse the creation of juvenile delinquency within juvenile institutions (Nilsson, 2009). Above all, I chose to use juvenile delinquents to categorise the youth who attend an alternative care facility based on my historical frame of reference for the origins of the term itself. It includes how the term is intrinsically linked to the development of Schools of Industries (Carpenter, 1851; Mennel, 1973; May, 1973; Nilsson, 2009), later known as a CYCC. As a category, juvenile delinquency is deeply connected to the practices and discourses within alternative care institutions for delinquent youth (Nilsson, 2009).

#### Historical grounding of the term Juvenile Delinquency.

The literature on juvenile delinquency demonstrates that the term was born out of concerns about a growing population of ‘neglected’ and ‘misbehaving’ urban youth perceived to be without guidance, supervision, and consistent school attendance (Carpenter, 1851; May, 1973; Mennel, 1973, US National Archives and Record Administration, 2012). The term developed from a particular ‘Western’ vision of what it means to be a youth and how an entire new justice system should be established to address the needs of those labelled as delinquent (U.S. National Archives and Records Administration, 2021).

A significant factor in developing the category of juvenile delinquents is attributed to the shift from an agrarian to an industrial economy (U.S. National Archives and Record Administration, 2021; Mennel, 1973; England, 1960). Previously, what held children accountable was an informal form of social control within communities, as families lived and worked closely together, supervising one another (U.S. National Archives and Record Administration, 2021; Mennel, 1973). Delinquent juveniles were to be dealt with by the family and community government, who were also to care for destitute and neglected individuals (young and old) within their families (Mennel,

1973). This was slacked as work was shifted from the fields to factories and shops (Mennel, 1973), and children were also withdrawn from their agricultural duties and lost their productive role in society (England, 1960).

The shift in working life disproportionality affected families of lower socio-economic status and accelerated their family's disintegration (Mennel, 1973). Youth of lower socio-economic status were perceived to be increasingly spending more time on the streets without supervision, which became a concern to the adults of privileged, higher social stances (U.S. National Archives and Record Administration, 2021). Juvenile delinquency came to be a synonym for the crimes and conditions of children from families with low socio-economic status (U.S. National Archives and Record Administration, 2021) or used to describe the criminal and vagrant status of children of the urban poor (Mennel, 1973). According to Gray (1997:529), knowledge of juvenile delinquency grew because this knowledge was needed to control and regulate the youth perceived as a threat to social order. This threat often involves the actions and behaviours of youth from families of lower socio-economic status (Gray, 1997).

However, the term juvenile delinquency only significantly took hold with the intensive growth of the study of crime in the 1830s and 40s (May, 1973). In her paper on the evolution of juvenile delinquency in the mid-19<sup>th</sup> Century, May (1973) notes that interest grew rapidly when committees focused on the increase in juvenile criminality rates (May, 1973). Those who informed the knowledge of juvenile delinquency include voluntary teachers, religious ministers, lawyers, magistrates (May, 1973) and human science experts (Nilsson, 2009). They act as social investigators into rising crime trends and lead discussions on what constitutes a misbehaving youth (May 1973). This extended to children who are not directly involved with criminality but share the characteristics of lawbreakers (May, 1973).

This is like what Foucault (1977), in *Discipline and Punish*, reflects on as the new wave of human science experts (such as psychiatrists, educationalists, prison wardens and chaplains) who judge not only the crime itself but the criminal's past and what can be expected of him in the future (Foucault, 1977:18). Once a child makes contact with the court system, they are securitised intensively. It includes analysing, dissecting, and critiquing the juvenile and their family conditions.

The judgment by a few influential experts produces the (juvenile delinquency) discourse, and it is done through the lens of their field of expertise in relation to jurisprudence (Foucault, 1977). Due to their professional statuses, their ideologies and discourses are widely accepted by society (May, 1973). Overall, the conceptualisation of juvenile delinquency was not a positive one: it focused on the characteristics that are least child-like (May 1973). Juvenile delinquents were conceptualised to be unlike other children, yet also not like adults with similar behavioural patterns (May, 1973). A plethora of interpretations of causes of delinquency in youth were assigned. Conversations on the topic alternated from a dysfunctional home environment and poor social conditioning to the urban city temptations or the unchecked curious and adventurous spirit of youth (May, 1973).

A common theme given to the cause of delinquency was parental neglect through a lack of supervision of the urban youth (May 1973). This narrative then coincides with the treatment of delinquency. By providing strict discipline and character training in a confined and structured environment, the juvenile will learn to live in a constructive and regulated manner (Gray, 1997:534). The state then began to intervene in the child-parent dynamic (May, 1973) through the formation of state-run alternative care facilities (Mennel, 1973). Juvenile delinquency discourse is related to practices that develop in and around state institutions (Nilsson, 2009:369).

By the mid-nineteenth Century, in the UK, juvenile delinquency was recognised as a distinct social problem by the state, leading to radical penal policy shifts with the formation of Reformatory schools and Industrial schools for youth in 1854 and 1857, respectively (May, 1973). The creation of the juvenile delinquent can be tied to what Foucault has termed governmentality (Nilsson, 2009). To govern is to exercise power over individuals aimed at shaping, correcting, and guiding them by modifying how they conduct themselves (Nilsson, 2009:355), which can be done in state institutions. However, delinquent youth were perceived to have habits that were only partially formed (Mennel, 1973). It was understood that children lacked full responsibility for their actions and should be dealt with through reformatory actions rather than the punitive actions given to their adult counterparts (May, 1973). Vocational and educational training was to be firmly incorporated within the facilities to turn the youth into a productive member of society (Gray, 1997).

### Schools of Industries and Reformatory Schools.

The sample of juvenile case histories under investigation is from a facility previously deemed a School of Industries in the Western Cape. The educational, penal, and social reformist Mary Carpenter played a significant role in developing how to treat and correct delinquency through Industrial Schools and Reformatories. In her book titled *'Reformatory Schools For the Children of the Perishing and Dangerous Classes, and for Juvenile Offenders'*, Carpenter (1851) argues the lack of parental enforcement of consistent school attendance was instrumental in developing these classes of youth. As such, special schools must be designed for these classes of youth where education is compulsory (Carpenter, 1851).

Carpenter (1851) explains that the perishing class of youth refers to those who have not yet fallen into actual crime but are almost sure to do so if the state does not intervene; the dangerous class of youth refers to juveniles who have committed an offence against the state. Industrial Schools are for children who have not yet committed a crime, and reformatories are for those who have (Carpenter, 1851). Although her argument talks about the perishing and dangerous youth classes, the term juvenile delinquent is commonly seen in her book (Carpenter, 1851). More directly, her book published after that is titled *'Juvenile Delinquents, Their Condition and Treatment'* (Carpenter, 1853). Here, she advocated for moral and vocational training of juvenile delinquents within Industrial Schools (Carpenter, 1853).

By 1866, in the UK, the state took responsibility for child criminal offenders and children who required state care and protection (May, 1973). This included those who seemingly wandered the streets aimlessly, those who were homeless, and those who accompanied thieves (May, 1973). Often, the term juvenile delinquency is used as an umbrella term that lumps the children's descriptions above together (along with the non-serious youth offender). The acts considered delinquent are varied. They can range from those that directly violate criminal law to petty offences (shoplifting, drug use) to status offences or norm violations (objecting to parental discipline, bunking school, staying out late or running away from home) (Marimuthu, 2014). Generally, the term refers to children who are not attending school, neglected by their parents (either purposefully or not), who display minor deviant dispositions and are at risk of falling into a life of criminality if no intervention is provided. Notably, youth become

delinquent due to the circumstances in which they were socialised, as opposed to being innate deviants who are fully responsible for their actions (Neale, 1840).

The courts and juvenile justice professionals perceive long-term corrective training at a secure centre as a means to remove the youth from negative influences and provide them with skills to better their life trajectories (Gray, 1996:534). In South Africa, the first Reformatories and School of Industries were formed in the late 1870s and early 1900s (Skelton & Tshehla, 2008).

### Juvenile Delinquency and Schools of Industries in South Africa.

The growing momentum of the welfarist approach to juvenile delinquency care in the Western Hemisphere influenced SA (Skelton & Tshehla, 2008). In 1879, the *Reformatory Institutions Act* was enacted, leading to the Porter Reformatory School in Cape Town being designed (Skelton & Tshehla, 2008). *The Prisons and Reformatories Act 13 of 1911* introduced Industrial Schools in SA (Skelton & Tshehla, 2008). Like what is described to us by Carpenter (1951), In SA, School of Industries were designed to be like reformatories but to cater for youth at risk of criminality (Chisholm, 1989:15). A dominant narrative at this time was that destitute and neglected children are likely to turn to criminality and Industrial Schools would serve as a facility aimed at preventing this (Badroodien, 2011). Industrial Schools are a less firm and less punitive version of Reformatory Schools. Schools of Industries are located somewhere in the middle between regular schooling and reformatories (Badroodien, 2011).

Shortly after the introduction of Schools of Industries, *the Children's Protection Act no. 25 of 1913* was promulgated. The Act resulted in transferring the management of Industrial Schools from the Department of Prisons to the Department of Education in 1917 (Department of Justice, 2002). Consequently, new power relations over the discourse of juvenile delinquency took hold. This centred around education instead of detention (Department of Justice, 2002). Educationists asserted that anti-social children can be 'saved' through educational programmes (Badroodien, 2001:121). Although Schools of Industries are not formal prisons and are not intended to be punitive, corporal punishment may exist within the facility alongside rehabilitative methods. Especially considering corporal punishment was frequently used to

‘discipline’ unruly boys in schools in SA up until 1994, and although illegal, it is still being used in schools twenty years later (Veriava & Power, 2017).

Children who resided at a School of Industries are to be processed through the Court, where the primary legislation to inform their intervention is the relevant Children’s Act or Child Care Act at the time. Our focus within this study is on children sent to a School of Industries (later to fall under the umbrella term of a CYCC). Therefore, the Children’s Act and its various amendments are the core legislation relating to this paper. The *Children’s Protection Act no. 25 of 1913* controlled the sending of children to a School of Industries (Skelton & Tshehla, 2008). This Act was replaced with the *Children’s Act of no.31 of 1937*, which established a Children’s Court system and further emphasised juvenile delinquency as an education problem rather than a penal one (Skelton & Tshehla, 2008). This was then repealed by the *Child Care Act no. 74 of 1983*. The *Child Care Act* stated that Schools of Industries are for children sent to it under the remits of ‘this Act’, and reformatory schools were for children sent to it under the *Criminal Procedure Act (1977)* or ‘this Act’ (Child Care Act, no. 74 of 1983, 1983:s1).

#### Juvenile Delinquency in Apartheid South Africa.

Ideas of what constitutes a juvenile, as well as a neglected, destitute, or delinquent one, are culturally specific and historically dependent. Historically, the discourse on juvenile delinquency in SA has been tainted by colonialism (and extended into the Apartheid regime) to be divided along racial lines (Peté, 2015; Badroodien, 2001). There was a segregated and differentiated way of treating juvenile delinquents of different races (Chisholm, 1989). Under the Union of South Africa, the state racially classified individuals into three categories: ‘European’, ‘native’ and ‘coloured’ (camissa museum, 2023). Under the Apartheid Regime, through the *Population Registration Act no. 30 of 1950*, children and adults were racially classified as either being ‘white’, ‘coloured’ or ‘native’ (Posel, 2001). These racial systems of classification were also used to inform the placement and treatment of juvenile delinquents at alternative care facilities.

From its design, government Industrial Schools were devised for poor ‘whites’ to combat ‘poor whiteism’ during a time of economic depression and hardships in the

early 1900s (Chisholm, 1989:6/7). The first 'non-white' Industrial School was only seen in 1948 (Badroodien, 2011). However, there were racially segregated Reformatory Schools From 1911 onwards for children of other racial identities aside from 'white' (Chisholm, 1989). Reformatories were designed as an alternative to prison for youth offenders who were classified as 'black' or 'white' and were from the new social class of proletarian wage labourers (Chisholm, 1989:7). The historical narratives of 'black' and 'coloured' juvenile offending and delinquency in SA are missing in general (Chisholm, 1989). Constructs of meaning and knowledge are connected to power imbalances (Khan & MacEachen, 2021). What was known about juvenile delinquency focused on the realities of 'white' youth under Apartheid, whilst excluding or at the very least marginalising the claims and voices of those holding other racial identities.

Under the Union of South Africa and into the Apartheid Regime, Industrial Schools had different motives for juveniles of different races. Within the child protection discourses under Apartheid, recognition is given to the impact of poverty and the political uncertainty of 'white' families (Schmid, 2010:2106). 'White' juvenile delinquent discourse centred around poverty and their association with those holding other racial identities (Badroodien, 2011). In contrast, the discourse for juvenile delinquents having different racial identities aside from 'white' centred around their biological constitution, boredom, and indigent family environments (Badroodien, 2011).

The treatment of juvenile delinquents by the state was too racially unequal and segregated. Under Apartheid, School of Industries for children racially classified as 'black' or 'coloured' focused on providing trade skills to the juveniles so they could earn a living and stop acts of petty theft that impacted the 'white' population (Badroodien, 2011: 23). 'White' juvenile delinquents were more likely to be placed under reformatory supervision (Peté, 2015). Children holding other racial identities were more likely to be subjected to corporal punishment or otherwise removed from their environment if they threatened 'white' members of society (Peté, 2015). The use of corporal punishment, through whippings, was a typical sentence for youth wrongdoings in SA up until the end of the Apartheid Regime (Skelton & Tshehla,

2008). With the state recording to have carried out more than 30 000 whippings a year in the early 1990s (Skelton & Tshehla, 2008).

### Juvenile Delinquency Care in Democratic South Africa.

The democratisation of SA and the fall of the Apartheid Regime drastically restructured the country. Post-1994 children are to be treated as equals before the law, with racial discrimination favouring white juvenile delinquents not constitutional (Peté, 2015). Alongside the Democratisation of South Africa was a new wave of calls for child justice reform initiatives (Hargovan, 2013), which followed the international restorative justice movement that was gaining momentum at this time (Skelton, 2002). Restorative justice seeks to restore the well-being of victims, the community, and the offenders affected, while also focusing on preventing future offending (Holtzhausen, 2012). Within the restorative justice approach, is diversion. Diversion aims to keep children away from the formal justice system (Hargovan, 2013). Placement of a child in alternative state care institutions is a diversionary option as it keeps the child out of the formal prison system. This restorative framework for dealing with children is a relatively recent shift in South Africa's juvenile justice system that followed the democratisation of SA (Skelton, 2002; Hargovan, 2013). This was evident in the drastic increase in the number of children presented with diversionary programmes from 1996 onwards (South African National Institute for Crime Prevention and the Reintegration of Offenders [NICRO], 2003).

Other significant factors that changed how juvenile delinquents are treated in post-Apartheid SA occurred in 1995 with the signing and ratification of the agreement with the *United Nations Convention on the Rights of the Child*, promoting the child's best interest standard for children in conflict with the law (Terblanche, 2012) and that all children are entitled to special care and protection by the state without distinction of race, colour, language, or other status (*Convention of the Rights on the Rights of the Child*, 1989). Under section 28(1)(b) of *The Constitution of the Republic of South Africa, 1996*, every child has the right to appropriate alternative care if removed from their family environment. Under section 28(1)(c), a child has the right to be protected from neglect, maltreatment, or degradation (*The Constitution of the Republic of South Africa, 1996*).

Influential policies include the White Paper for Social Welfare (1997) and the Inter-Ministerial Committee on Youth at Risk (IMC) (1998). Both put forward a restorative justice approach that endorsed diversion, early intervention and prevention when dealing with youth in conflict with the law (Gxubane, 2012). In 2000, the SA Commission stated that diversion options must promote a restorative justice framework (Gxubane, 2012). During this significant time for child justice in SA, The *Child Justice Bill of 2002* was put forward, which asserted that all children should be considered for diversion (Child Justice Bill, 2002). The above changes in the late 1990s and early 2000s demonstrate the immense national effort in promoting the restorative justice approach to juvenile delinquency care.

Currently, the essential legislation for juvenile delinquents and their care in state-run alternative care facilities is the *Children's Act no. 38 of 2005, as amended* (2010). Since 2010, not much has changed regarding legislations that govern alternative care facilities and child placement therein. *The Children's Amendment Act no.17 of 2016* (2017) amends the adoption provisions and specific definitions unrelated to Child and Youth Care Centres (CYCC). Overall, The *Children's Act no. 38 of 2005, as amended* (2010), controls the maintenance and management of CYCCs in SA and who can be sent to a CYCC. It was also with this Act that CYCCs were to become the responsibility of the provincial Department of Social Development rather than remaining with the provisional Department of Education (*Children's Act no 38 of 2005, as amended*, 2010, s:196(3))

A CYCC is defined within the Act as an institution that provides residential care for six or more children outside their family environment by a residential care programme suitable for the child (*Children's Act no, 38 of 2005, as amended*, 2010:s191). Chapter 13, section 196(4) of the *Children's Act, as amended* (2010), states all previously existing Schools of Industries, Reform schools, Children's Homes, places of safety, and secure care facilities must be re-registered as a CYCC. The impact of combining all these alternative state care facilities under one umbrella term means the conceptualisation of juvenile delinquency within the facilities broadened.

Previously, Schools of Industries were for children needing care and protection (addressed solely using the *Child Care Act*, 1983). With the enactment of the

*Children's Act no. 38 of 2005 as amended* (2010), the School of Industries must re-register as a CYCC and take in children sentenced to it due to a criminal offence (using the *Child Justice Act, 2008*) and those deemed in need of care. A child is considered in need of care and protection in line with the Act if the child is neglected, homeless or addicted to an illegal substance, has been exploited, or if their behaviour is uncontrollable (*Children's Act, as amended, 2010:s150*). The ethos of the *Children's Act no.38 of 2005, as amended* (2010), is to set out the principles for the care and protection of children and to give effect their rights, as set out in the Constitution. The ethos of the *Child Justice Act no. 75 of 2008* (2010) is to reduce youth offending and prevent recidivism by promoting a restorative justice framework for dealing with children in conflict with the law (Gxubane, 2012; Hargovan, 2013).

What is described above is the changes in child justice in South Africa during apartheid and after. No research has been done to determine how the language we use when working with juvenile delinquents reflects the new power relations over the institutionalisation of juveniles. Nor has there been research on whether the discourse themes seen during Apartheid are still prevalent in 2020, despite the fundamental philosophical changes that took place regarding the treatment of this group after 1994. The article by Cooper & Foster (2008) analyses masculinity discourses among male offenders in SA. However, masculinity forms only a part of discourses on juvenile delinquency. Furthermore, Cooper & Foster (2008) looked at the discourse represented in the language of the youth. This paper analyses the discourses of those working with youth at a CYCC. It does so over a thirty-year time frame to account for changes in discourse and what they mean to juvenile treatment within secure facilities.

Despite national efforts to reduce youth offending through the restorative justice approach, rates of juvenile delinquency are increasing. During the financial year 2019/2020, there was a 49% increase in children aged 12 at a preliminary inquiry compared to what was reported in the previous year (Department of Justice and Constitutional Development, 2020). Children are seemingly involved in criminality and at younger ages than previously observed (Department of Justice and Constitutional Development, 2020). Moreover, it is predicted that the number of children placed under alternative care will increase (Department of Social Development, 2020). According to the National Child Care and Protection Policy of

2019, childcare and protection in SA has not achieved its developmental objectives, with many children still trapped in environments that put them at high risk of poverty, violence, neglect, and abuse (Department of Social Development, 2019:45). This further promotes the importance of researching how juveniles at secure care facilities are viewed and treated by those who provide them with services aimed at their restoration and reintegration.

A CYCC has its own internal manager and staff members who work at the facility in shifts. Staff members at the facility can include child and youth care workers, probation officers, social auxiliary workers, youth workers and development workers (Jamieson, 2013). I add administrators, educationists, psychologists, medical staff and social workers to this. This study analyses the discourse seen in learner casefiles of juveniles at the facility that the professionals mentioned above compile. Casefiles, through their paperwork and documentation, make the discourse held by social service professionals visible (Capus & Grisot, 2023). The casefiles provide a formidable master narrative that legitimises the decision-making process of the child's treatment (Capus & Grisot, 2023). At a CYCC, each juvenile is allocated a casefile. The casefile is there for staff and management at the CYCC to record the child's behaviours, treatments, and progress. Their categorising and dividing practices are detailed within the casefile (Nilsson, 2009:358); as such, it reflects how practitioners view and understand the juveniles' behaviours. From this position, I have come to analyse the changing discourse of juvenile delinquency held by practitioners.

### **2.3. Conclusion**

Chapter two describes how new powers over the institutionalisation of juveniles post-1994 will be used to reflect on shifts in the discourse of juvenile delinquency over thirty years. It began by explaining the Foucauldian discourse analysis theory and methods and the applicability of his arguments in *Discipline and Punish*. It then provided the historical grounding of the term juvenile delinquency and its association with the School of Industries, both internationally and locally. This is followed by a discussion of the realities of juveniles sent to alternative care facilities during Apartheid and after. Lastly, it describes the professionals at the facility that make up

the discourse, and how their notions in the learner casefiles will illuminate this. Chapter three then describes the research methods used to conduct this analysis.

## CHAPTER 3: METHODOLOGY

### **3.1. Introduction**

Chapter three outlines the research design and methodologies used to analyse the content of the casefiles. It includes a description of the sampling method used to collect ten casefiles from three distinct timeframes. Case study research was used as the data collection approach, and the Foucauldian discourse analysis method was adopted to analyse the casefiles. The steps taken to organise the data are provided below. The chapter ends by providing the limitations of the research design and a reflection on my potential to introduce bias in the study.

### **3.2. Research Design**

This project adopts a qualitative single-case study research design. It looks at the content of the casefiles of juveniles from one Child and Youth Care Centre (CYCC) to investigate the discourses of juvenile delinquency across time. This study is qualitative as the data is written words, not numerical information (Gerard, 2010). Qualitative research helps us understand people's underlying opinions and motivations as expressed in their wording (Quintão & Andrade, 2020) and does not use standardised and objective forms of measurement as quantitative research is geared towards (Durrheim & Painter, 2014: 132). The purpose is to explore and describe the discourses of juvenile delinquency, as expressed in the language of those who work closely with a group labelled as such. This makes this study qualitative in nature. To conduct this investigation, thirty juvenile casefiles spanning across a thirty-year timeframe (1990-2020) were analysed.

### **3.3. Population and Sampling**

#### 3.3.1. Sampling Method.

The sampling method is a systematic stratified sampling strategy as part of purposeful sampling. This sampling technique is used when a full sample frame cannot be determined (Gerard, 2010), such as in this instance, where having access to all learner casefiles from this institution was not attainable.

The sampling is purposeful because I specifically looked for casefiles that fell into predetermined timeframes. Random, non-purposeful sampling would mean I have no control over what casefiles from what years are part of the sample. Overall, thirty casefiles that span over thirty years were included.

To analyse what the discourse was during Apartheid, ten casefiles were selected of juveniles who entered the facility from 1990 (but not after 1994) and left before the end of 2000. To analyse if there was a shift in the approach to juvenile justice in the early 2000s (Skelton, 2002; Gxubane, 2012), ten casefiles from 2000 to 2010 were incorporated. Lastly, to see the impact of the *Children's Act no. 38 of 2005, as amended* (2010) which commenced in 2010 (Proudlock & Jamieson, 2010), I included ten casefiles from 2010 to 2020.

The systematic stratified sampling strategy was used to reduce the risk of bias arising from choosing case-confirming files. This strategy consisted of organising all the casefiles provided to me into three timeframes (1990 - 2000: 2000- 2010: 2010 - 2020). I then determined how many files are under each timeframe and divided that number by ten (answer = nth file). I then selected every nth file in the group until I had ten files for that timeframe. The process was repeated for the two other piles. The sample size is 30, as 30 learner casefiles were included in the analysis.

Inclusionary criteria for a casefile are that it must be for a youth who no longer stays at the Centre to ensure only completed casefiles are analysed. The juvenile must have entered and left the facility during the timeframe they were under. For example, the child must have entered in (or after) 2000 and left before the end of 2010. Except for the timeframe 1990 to 2000, where the juvenile must have entered before or during 1994. This is done to ensure they entered under the Apartheid era. Lastly, the juvenile must be between the ages of 12 and 19 at the time of entry to be assured they still fall under the classification of juvenile. Regarding the exclusionary criteria for a juvenile's file, those who entered before 1990 and those after 2020 were excluded, as this is the cut-off period of analysis for this research project.

### 3.3.2. Sampling Procedures.

To gain access to the casefiles from the specific CYCC, the facility was contacted by the Centre of Criminology at the University of Cape Town (UCT). The opportunity to work with this CYCC was available because of this facility's connections with UCT. A Memorandum of Understanding (MoU) was signed between the Faculty of Law at UCT and the specific CYCC (See Appendix 1: Redacted MoU). This formally granted the researcher permission to analyse the content of the learner casefiles. The casefiles were transported from the Centre to a secure UCT campus location. After electronic copies of the casefiles were made, the physical case files were returned to the authorised person associated with the facility.

### 3.3.3. Sample Characteristics.

The sample consists of thirty casefiles from one CYCC in the Western Cape. The facility accommodates young boys aged 12 and 19. Children are placed at the facility under court order if they are found to need care and protection or as part of a diversionary order for an alleged crime. The institution serves as an alternative care facility. Children stay at the facility full-time but can visit home on the weekends and when holiday leave is organised.

The content of the casefiles is secondary data. Casefiles were composed for reasons unrelated to this research project. Each juvenile delinquent has his own casefile, and all learners are males. Other than their gender, it is presumed that the youth differ in ethnicity, age, and socio-economic background.

Under the Apartheid regime, this CYCC from which the casefiles are from was allocated for deviant boys racially classified as 'coloured'. After South Africa became a Democracy in 1994, male juveniles of all races could be placed at this facility. Although the researcher controlled neither race nor gender, the history of the nature of the institution inevitably meant the sample of casefiles belonged to male juvenile delinquents only, and those who entered before 1994 would have been racially classified as 'coloured'.

## **3.4. Data Collection Approach**

To collect the data for analysis, each document within each casefile was scanned using an application designed for mobile phones to scan documents in high resolution. This

application allows one to create folders for the casefiles. I created folders for each timeframe and allocated each casefile in their folder a number from one to ten. This created electronic versions of the casefiles organised within their distinct timeframes. The electronic copies of the files were then uploaded onto the software program Nvivo for coding purposes.

#### 3.4.1. Data Collection Method.

The data collection method is through case study research because the goal is to analyse a single social unit in depth in a real-life context (Lindegger, 2014). Other research methods (surveys, interviews, and ethnographies) are not suitable to analyse discourse over a thirty-year timeframe. I cannot observe practitioners at a CYCC for over thirty years, nor can I hold interviews or survey practitioners who worked at this CYCC over thirty years. This makes case study research the appropriate data collection method for the goals of this paper. This collection method is aimed at providing the researcher with a comprehensive understanding of a bounded unit (Schoch, 2020:246), such as the understanding of juvenile delinquency within casefiles of learners from one facility.

The single-case study approach is suitable when it represents a critical example of the phenomenon under investigation (Kelley, 2014). In this instance, troubled juveniles sentenced to a residential facility are a critical representation of a juvenile delinquent. Due to time constraints and limitations on the length of the research project at a Master's level, it was not feasible to conduct a multiple case study design in which case files from two CYCCs could be analysed.

#### 3.4.2. Data Collection Tools and Apparatus.

The data collection tools for this research project include the physical casefiles of the juveniles, a computer, an external hard drive, a mobile phone, an application for scanning files, a reliable internet connection, Microsoft Excel, Microsoft Word, and the software application Nvivo.

### **3.5. Research Sites**

The casefiles were collected from the CYCC and stored at UCT. On campus, the casefiles were securely stowed and only accessible to myself and my supervisor. After electronic copies of the casefiles were made, I had no further contact with the physical files.

### 3.6. Data Analysis Method

This research study uses the Foucauldian discourse analysis (FDA) method that falls under a constructionist paradigm. FDA analyses how power relations influence our construction of meaning, which creates the version of reality we see (Khan & MacEachen, 2021). Shifts in power relations are used to understand how and why the discourse of juvenile delinquency changes in South Africa over time.

To conduct the discourse analysis in a systematic and reproducible way, Schneider (2013) proposed several steps to help guide a researcher:

- a) Establish the context in which the casefiles are produced (Chapter 4, 4.3. Casefiles Profiles and below).
- b) Describe the structure of the casefiles (Chapter 4, 4.3. Casefiles Profiles).
- c) Prepare material for analysis (using the mobile phone scanning application, Nvivo software and Microsoft Excel).
- d) Code your data (Using Nvivo Software).
- e) Explore how the discourse strands are structured (Chapter 4).
- f) Examine discursive statements (Chapter 4).
- g) Identify linguistic mechanisms (Chapter 4).
- h) Interpret the data (Chapter 4 and Chapter 5).
- o) Present your findings (Chapter 4 and Chapter 5).

Central to the FDA is to ask questions about ‘*who*’, ‘*how*’, ‘*why*’ as well as ‘*when*’ and ‘*where*’ (Springer & Clinton, 2015) the perceived discourse is seen. FDA is well suited to this study that investigates *how* and *why* certain statements, biases and questions around juvenile delinquency continue or change within the work of practitioners at a CYCC (see Chapter 4). ‘*When*’ the knowledge of juvenile delinquency came into the space is answered throughout Chapters Two and Four. Lastly, ‘*who*’ the knowledge creators are in this study refers to the individuals who created the content within the learner casefiles (Chapter 4, 4.3).

### 3.7. Limitations of the Study

Several limitations to the study design may hinder the quality and reliability of the findings of this research project. This refers to the reliability and validity of the study. Case study research does not have structured or well-defined protocols (Quintão & Andrade, 2020; Yin, 2009) nor discourse analysis (Blanche, Durrheim & Kelly, 2014). Researchers must rely on their instincts and abilities to structure and analyse the data (Reis, 2009). If another researcher was presented with the same data set, it is unlikely they would interpret it in the same way (Yin, 2009), which reduces the reliability of the study. To combat this, I communicated through several draft reports given to their supervisor on the accuracy of their interpretations of the raw data. Additionally, the data collection process and analysis technique are described as explicitly as possible within Chapter 3 to aid in the reproducibility of the findings if the same methodologies were deployed. There is the potential to introduce bias when choosing cases that one thinks best illustrate their argument. The systematic stratified sampling technique was used to reduce this risk, and the researcher did not deviate from the chosen cases.

Determining how many cases one should include in one's study is essential to ensure one has covered the full scope of the field. There is no hard rule on this. This study has a small sample size of only 30 casefiles. Moreover, all casefiles are from one facility. This lack of diversity and small sample size limits the ability to conclude that what is presented here is a conclusive and whole description of all discourses of juvenile delinquency in SA. However, this project aims to explore the discourses of juvenile delinquency and does not provide an exhaustive list of all possible discourse themes. Rather, it analyses the themes that were most commonly reported on within casefiles across three decades.

For qualitative research to have construct validity, the researcher must be sure they evaluated the study's concepts (Yin, 2009). This is addressed under Clarification of Concepts in Chapter 1. Moreover, this dissertation's supervisor reviewed the descriptions of the discourse themes. External validity looks at whether the findings accurately represent the studied phenomenon (Yin, 2009) (generalizability). Case study research is critiqued for not being externally valid (Yin, 2009). However, a crucial case demonstrates generalizability because if it is true in this clear, exceptional

case, then it is likely true for all cases (Flyvbjerg, 2006). Juveniles sentenced to a CYCC are a critical and accurate depiction of juvenile delinquents. Thus, the findings of this study may reflect the juvenile delinquency discourses held at other institutional facilities.

Another limitation of this study is that there are potential rival explanations for my findings. The way juvenile delinquents are constructed in this study may depend on what professional wrote that report in the casefile, not the broader policy shifts. Discourses could also be influenced by their reason for placement at the CYCC, whereby children in need of care may be met with different discourses than those accused of a crime. Although qualitative research cannot directly determine cause and effect, I have attempted to account for any potential rival explanations to my findings in Chapters 4 and 5.

Features of the casefiles that limited this analysis process include eligible handwriting in some notes and some photocopies of documents where the ink did not transfer well. Individual counselling sometimes referenced group process notes with more detail about encounters. However, I did not have access to group files and notes, excluding this from my analysis. Furthermore, it is unlikely that every interaction with the juvenile is processed in the casefiles. The discourses found are based purely on what was filed in the casefiles, and some casefiles were more consistently updated than others. Consequently, not picking up discourse themes in specific timeframes does not necessarily mean the discourse wasn't present; instead, it was not documented.

### **3.8. Reflexivity**

Reflexivity is the process of acknowledging and reflecting on the personal attributes that the researcher has that may influence the research process (Eagle, Hayes & Sibanda, 2014).

The data collection approach meant my attributes could not influence the information in the casefiles. Entire casefiles with their original content were provided unaltered. If I were to conduct interviews with the juveniles or staff members, I would have to reflect on how my appearance and mannerisms may influence what is shared with me. As the casefiles are secondary data, I had no direct contact with the youth or staff. Yet,

my position as a young white, English-speaking female could influence my analysis of the content within the casefiles.

Afrikaans is my second language, and many documents within the casefiles were in Afrikaans, especially those pre-1994. I had to rely on my parents, supervisor, and translation applications to assist me with translations. This resulted in the data analysis process taking longer than expected, and crucial information may have been missed. As a white female born in post-Apartheid South Africa, my ability to connect and understand the impact of the atrocities of the Apartheid Regime on the minds and lives of individuals in South Africa is limited in certain ways. I do not have the same frame of reference of practitioners providing services within facilities, nor of the children who are receiving services. I am analysing the casefiles as an outsider, contributing to the making of the juvenile delinquent as a documented subject.

### **3.9. Conclusion**

Chapter three presents the research design and methodologies used to conduct this discourse analysis. It describes the sampling technique and strategy used to select casefiles from 1990 to 2020. As well as the data collection approach and methods used to analyse the casefiles. The next chapter presents the central findings that emerged from this research process.

## CHAPTER 4: FINDINGS

### 4.1. Introduction

Chapter four presents this research's findings, divided along the three timeframes assessed. It begins with a description of the demographic features of the juvenile delinquents and the casefiles' profiles. After that, the different discourse themes found in the casefiles are provided. These are presented in two steps. Firstly, it discusses how practitioners perceived the juvenile and their delinquency (4.4.). Secondly, how they treated their delinquency (4.5.). These both make up the discourse of juvenile delinquency in this study.

### 4.2. Demographic Profile of Juvenile Delinquents at the Facility

Understanding juvenile demographics provides insight into why certain discourses are seen in specific timeframes and not others. Below is a description of the juvenile's average age on entry, duration of stay, reason for entry at the facility, and previous placement before entry at the facility.

#### 4.2.2. Age.

All casefiles belonged to male delinquents between 12 and 19 years old at the time of arrival at the facility. The average age of the juveniles when they entered the facility across the thirty years assessed was 15. The youngest individual who entered was 12, and the oldest was 19 (see table 1 below).

*Table 1: Age on Entry*

	1990-2000	2000-2010	2010-2020	Total.
Average Age	15	15	14.7	15
Minimum (youngest)	12	13	12	12
Max (oldest)	19	17	16	17

Source: casefiles

Table 1 demonstrates that the average age juveniles entered the facility across thirty years remained around 15. This contradicts the findings by the Department of Justice and Constitutional Development (2020) that children are committing crimes at younger ages than seen in previous years. However, the facility does not only house youth offenders but also those deemed in need of care and protection (*Children's Act no.38 of 2005 as amended, 2010*). Perhaps children are committing offences at younger ages, but my findings show they are not being placed at the CYCC at younger ages than before. However, a sample size of ten files for each timeframe is not large enough to say this with any degree of certainty.

#### 4.2.3. Duration of Stay.

This refers to how long the juvenile delinquents stayed at the facility within the assessed timeframes. Across the 30 years, an individual's average time at the centre was two years. The shortest time spent at the facility was two months, and the longest was six years.

*Table 2: Duration of Stay*

	1990-2000	2000-2010	2010-2020	Total
Average (years)	3	2	1.3	2 (years)
Minimum (months)	1 month	2 months	2 months	1.7 (years)
Maximum (years)	4 years	6 years	3 years	4 (years)

Source: Casefiles

The table above shows that juveniles were sentenced to shorter stays at the facility over time. Between 1990 and 2000, the average time a juvenile spent at the centre was three years; this dropped to an average of two years between 2000 and 2010 and further down to one and a half years after 2010. Longer stays mean juveniles are kept away from their families and cultures for longer periods of time. This could negatively affect

their ability to reintegrate into their families and communities. On the other hand, longer stays mean the individual is not being released back into the community from which their deviant behaviour originated too soon. In terms of the casefiles content, generally speaking, the longer the juvenile stayed at the facility, the more content there was to analyse. However, this was not always the case. Casefiles between 2000 and 2010 had significantly less content in their files, despite the average duration of stay during this timeframe being two years.

#### 4.2.4. Reason for Entry.

Their reason for entry was indicated on their intake sheet within the casefile. Overall, most casefiles belong to juveniles who were placed at the centre because they were deemed in need of care (60% of the sample). The remaining juveniles (40%) were placed at the centre as part of a diversionary sentencing option for the criminal offence.

*Table 3: Reason for Entry*

Reason:	1990-2000	2000-2010	2010-2020	Total
In need of care	5	3	10	18
Criminal Activity	5	7	0	12
Total	10	10	10	30

Source: Casefiles

The table above shows an increase in the number of children placed at the facility due to criminality after 2000 (to 70%), but by 2010, no children were placed there due to criminality, as all were deemed in need of care.

These findings are in slight conflict with the childcare legislation. Between 1990 and 2000s, the main legislation that informed the regulations of Schools of Industries was the *Child Care Act, no. 74 of 1983* (1983), which states that Schools of Industries are

for children deemed in need of care, and reformatories for those who commit offences. Yet, within this sample, 50% of children sent to the facility between 1990 to 2000 were sent there due to criminality. By 2003, the Law Reform Commission proposed the *Children's Amendment Bill* (2003). The Bill (ss167(c)) states a child can be placed in alternative care on the court order of 'this Act' or the *Criminal Procedures Act, 1977*. This meant alternative facilities, including Schools of Industries, could also take in children who have undergone criminal court processes. This could be used to account for the rise in children with criminal histories at the facility between 2000 and 2010.

By 2010, the *Children's Act no. 38 of 2005 as amended* (2010) stated that CYCC (which absorbed Schools of Industries) could house children in need of care and those that criminally offend. Within my sample, no children after 2010 were sent to the facility due to criminality, even though the law permits it. The lack of perceived criminality during this timeframe may be due to the small sample size of only ten juveniles for this timeframe.

#### 4.2.5. Types of Offences.

When a child was placed at the facility for a criminal offence, the exact crime was noted on their intake page. If the child was placed after being deemed in need of care, the behaviour leading to that judgment was not described on the intake page (intake page states the reason for entry as '*sorgbehoewend*' or 'needing care' in English). The table below (3B) describes the different types of criminal offences that lead to placement at this CYCC. As none of the juveniles from the timeframe 2010 to 2020 were placed because of a criminal offence, this timeframe is excluded.

*Table 3B: Range of Criminal Offences*

Criminal Offences:	1990-2000	2000-2010	Total
Theft	2	1	3
Property Damage	1	2	3
Robbery	1	0	1

Housebreak-in	2	2	4
Shoplifting	1	0	1
Total:	7 (70%)	5 (50%)	20

Source: Casefiles

The most common criminal activity leading to placement at the facility was house break-in. This was followed by theft and property damage, then robbery and shoplifting. None of the offences mentioned are particularly violent or aggressive. However, being institutionalised includes being removed from one's home and community, which is a severe form of intervention and punishment, in my opinion. Youth who commit petty crimes could be presented with other diversionary options. Such as compulsory counselling and therapy, placement under a probation officer's supervision, or community service (Gallinetti, 2009). However, one must consider that this may not be their first offence or that placement at the facility is needed because other options have not worked to correct their behaviours.

#### 4.2.6. Place of Origin.

Children sent to the facility were seen to either come directly from their primary caregivers' homes or other places of alternative care. What is presented below is a discussion of how many came from a home environment versus another alternative care facility (such as a Children's home, reformatory schools, foster care, and other CYCCs).

##### 1990 to 2000.

Half of the juveniles (50%) came from other places of alternative care, and the other half came directly from their primary caregiver's home. Of those from alternative care facilities, one was from foster care. The remaining four came from other 'places of safety and detention',

##### 2000 to 2010.

During this timeframe, nine juveniles came directly from family (90%), with only one from alternative care (foster care) (10%).

#### 2010 to 2020.

During this period, eight (80%) juveniles were at another place of alternative care before entering this facility. Seven came from other CYCCs, and one came from a drug and alcohol rehabilitative centre. Only two juveniles (20%) came directly from their family or caregiver environments.

#### Place of Origin Across Time.

Within this sample, 47% came directly from other places of alternative care, and the remaining 53% came from their primary caregiver's home. After 2010, the number of juveniles from other alternative care forms drastically increased. Only 10% of those at the facility between 2000 and 2010 were from a place of alternative care. Compared to 80% between 2010 and 2020. Interestingly, all children placed at the facility after 2010 were deemed in need of care (see 4.2.4 Reason for Entry), not because of direct criminal activity. This indicates that children after 2010 were being transferred from one facility to another as their behavioural issues were not being addressed at the previous place of safety, and they still need care and protection. This is discussed at greater lengths in the theme 'in and out of the system' (4.4.7).

### **4.3. Casefiles Profiles and Contents**

The casefiles are composed of various documents and notes pertaining to the juvenile. All casefiles are made of cardboard, and the documents are printed or handwritten. Most of the documents were photocopies. From 2010 to 2020, printed copies of emails were filed, as opposed to 1990 to 2000, when fax copies of letters (often written with a type-writing machine) were observed. The content of the casefiles prior to 2000 was written in Afrikaans, casefiles between 2000 and 2010 were a mixture of Afrikaans and English, and the content of the casefiles after 2010 was predominantly written in English. Under the Apartheid era, Afrikaans (along with English) was an official language of South Africa. Afrikaans is perceived as the 'colonial' language associated with the 'white' Afrikaner oppressor, although widely spoken by individuals of various races (South African History Online [SAHO], 2021). The Constitution of South Africa

brought in eleven official languages, of which Afrikaans is one (Posel & Zeller, 2019). The steady transition from Afrikaans to English in the casefiles reflects how English has established itself as the *lingua franca* language in post-Apartheid South Africa and which now dominates the language in education, economy, and public life (Deumert, 2010:15).

The same types of professionals produced the documents and notes in the casefiles across all timeframes. These include teachers, medical doctors, social workers, psychologists, occupational therapists, probation officers, police officers, facility administrators and legal practitioners (regarding court documents). Another significant role player from the facility is the institution's principal. Having similar types of professionals improves the reliability of the findings; differences in juvenile delinquency discourses will not be because of differences in the types of practitioners who compiled the casefiles. The layout of the documents with the casefiles was similar across the three decades. The most recent documents about the child's stay are on top, and the oldest documents, from when the child first entered the facility, are near the back of the file.

#### Similarities in Casefile Content Across all Timeframes.

All casefiles have a cover page and an intake page. The cover page is on the front of the casefile, visible before you open the file. It indicates the juvenile's name, casefile number and date of entry. The intake page is often the first page of the casefile, and describes why the child is at the facility, their date of birth, date of entry and date of departure (amongst other things).

Only one casefile across the thirty years assessed did not include a Professional Social Welfare report. This report provides recommendations to the Children's Court for the placement of the child in alternative care. Court documents were seen in all casefiles across all timeframes assessed. This is because the facility is a legal entity, and a child can only be placed at it through a court order. If a child is transferred to this facility from another alternative care facility, this must be done through a court order, in line with the *Children's Act no.38 of 2005, as amended* (2010).

Other commonly seen documents within casefiles across the thirty years include photocopies of the juvenile's birth certificate, academic reports, workshop progress reports and individual development plans. Lastly, process notes by staff from the facility were commonly seen in all timeframes.

#### Unique Content of Casefiles in Specific Timeframes.

Overall, casefiles from the timeframe 1900 to 2000 contained documents similar to those seen in the timeframe 2000 to 2010. It was only after 2010 that the casefiles' content changed significantly. Only casefiles from 1990 to 2010 included a punishment record page and a physical description sheet. Casefiles from these two timeframes also contained a standardised document titled '*Uitvoerige Beskrywing en Merke*' ('Physical Description and Marks' in English). This form notes the child's identifiable features as well as disabilities. The casefiles belonging to the first two timeframes also contain documents from the South African Police Service (warrant for arrest, charge sheets, and body receipts).

One uniqueness only seen in the casefiles before the 2000s is a black and white photograph of juveniles in their file. A total of six out of ten casefiles had a picture of themselves stapled to their punishment record. The photo shows the child's head and upper body while holding up a sign with their casefile number written on it. The significance of this is discussed in depth under the discourse theme of 'The Criminal'.

Content unique to those who attended the facility between 2010 and 2020 includes the Application for Admission form to the CYCC and Learner Placement Forms. As well as the Reception Observation Assessment and Referral (ROAR) and Treatment Centre assessment reports. The ROAR treatment centre was established in 2016 (Department of Social Development, 2017). Documents that concern COVID-19 were also uniquely seen. These letters were sent to the child's caregiver, who must indicate that they have not presented with any symptoms of COVID before the child is released to visit his family.

#### Name of the Facility

The name of the facility within the casefiles changed across the timeframes assessed. From 1990 to 2000, the institution was referred to solely as a School of Industries (in Afrikaans, a '*Nywerheidskool*'). Casefiles from 2000 to 2010 sometimes referred to it as a School of Industries but more commonly called it a Youth Care and Education Centre (or '*Jeugsorg and Onderwys Sentrum*' in Afrikaans). Casefiles after 2010 referred to it as CYCC most commonly, but sometimes included a 'Youth Care and Education Centre'. These findings indicate that after the 2000s, the institution became less referred to as a School of Industries in favour of CYCC. The change in the naming of the facility in post-Apartheid SA allows the facility to move away from the connotations of the racially segregated School of Industries, rooted under the Union of South Africa and continued into Apartheid.

#### **4.4. Juvenile Delinquency Discourse**

Below are the main themes related to how juveniles and their delinquency were commonly reported on across the three timeframes. The discourses construct the delinquent as an object of social science and investigation (Gray, 1997:528), which is used to inform their treatment. In this study, this includes reporting on the juvenile's delinquency in terms of their medical health, substance usage, gang involvement, 'criminality', tendency to abscond and, lastly, history of alternative care placement. Overall, these themes varied in prevalence and meaning within the distinct timeframes. Below, I have also reflected on whether the discourse is racist or not within the casefiles, as historically, the discourse of juvenile delinquency (and their subsequent treatment by law) was racially informed.

Sometimes, multiple discourse themes exist within one document, which is referred to in this report as a within-document reference. Other times, a full document pertains to one discourse strand only.

##### 4.4.1. Racism Within the Juvenile Delinquency Discourse.

SA has a known legacy of racial discrimination that led to the brutalising oppression of adults and children deemed 'black' or 'coloured' under the Apartheid regime. This

had a lasting impact on most South Africans' minds, experiences, and life trajectories. There was a non-provision of child welfare care for children classified racially as 'black' or 'coloured' (Schmid, 2010). Subsequent treatment of juvenile delinquency was racially unequal (Peté, 2015).

Consequently, the topic of race must be considered when analysing data produced in this study. The types of documents within a casefile that contain discourse of race include the professional social welfare report and those produced by the South African Police. Overall, a racist juvenile delinquency discourse was not significant in this study, and no racist remarks towards the juvenile or their circumstances were seen after 2000.

#### 1990 to 2000.

Seven of the ten juveniles under this timeframe were categorised as 'coloured', and three did not have their race mentioned. As discussed in Chapter 3 (under Sampling Characteristics), before 1994, this facility only housed those deemed as 'coloured' male juveniles. Indicating the juvenile's race is understood to be related to determining suitable placement in alternative care available for 'coloured' children.

However, a clear example of the racist juvenile delinquency discourse during this timeframe is seen in one casefile (in their social welfare report). In this report, the practitioner states:

'The family already has a criminal history, concerned was born out of wedlock of his parents – the father is a black man, and the mother is a coloured.'

This quote shows how the practitioner saw the relationship between the juveniles' parents as a crime, which in turn means the juveniles' existence is a crime. Children with a family history of criminality are more likely to become deviant than those with law-abiding parents (Wright & Wright, 1993). This is perhaps what the social worker was trying to allude to in the above comment. In my opinion, the above quote reads as if the practitioner understands the child's delinquency to be attributed to, in part, the interracial relationship of his parents. In this way, their delinquency discourse is racist.

#### 2000 to 2010.

The same police-related documents and social welfare reports were seen during this timeframe as described above. However, these documents no longer required the officer to indicate the individual's race (section was removed). Or, if there was a section of this, the word 'race' was replaced with 'population group'. Although meaning the same thing, this does reflect the movement away from the Apartheid framing of the classification system. However, no documents during this timeframe had this section filled out. This perhaps reflects a discourse of uncertainty on the part of officials in the new democratic environment on how to respond to race categorisations.

#### 2010 to 2020.

There were no South African Police documents within any casefiles from 2010 to 2020. This is because juveniles sent to the facility were deemed in need of care, not due to their criminal activity (See Table 3A: Reason for Entry). No social welfare reports commented on the child's race during this timeframe.

#### Racist Juvenile Delinquency Discourse Across Time.

Racism within the juvenile delinquency discourse was very minimal within this study. A difference in the meaning ascribed to the child's behaviours in terms of race was only seen once, and that was before the 2000s. Documents within the casefiles up until 2010 sometimes included a section to state the race or population group of the juvenile. However, it was not used in conjunction with an understanding of the juvenile's behaviours, actions, or general state of being. The purpose of the population group section within the standardised documents is more likely to be for statistical reporting purposes. It is not part of the discourse held by practitioners in that it is not a shared way in which practitioners talk about the juvenile or their behaviours.

After the year 2000, the child's race was no longer seen as a priority to report on in this study. This is in alignment with the Democratisation of SA in 1994, which also ended the racial discrimination and segregation of youth of different races (Larson, 2019). However, because the child's race was no longer included in the reports after 2000, one could not tell what extent the institution became more racially integrated in post-Apartheid SA. Nor could I reflect on how the child's race may have influenced the

discourses of practitioners. Nevertheless, the findings above indicate that in post-Apartheid SA, juvenile delinquency discourse is not racist.

#### 4.4.2. Medicalised Juvenile Delinquency Discourse.

This strand relates to the high prevalence of references to the child's medical health across the thirty years. This includes entire documents that outline what medical treatments the juvenile has had (doctor appointments, surgeries, medical examinations), as well as within-document references that look at the physical and mental health of the juvenile. The findings suggest an intense focus on the child's physical health, especially from 1990 to 2000s. With time, there was an increase in the importance of mental health when talking about the juvenile delinquent.

##### 1990 to 2000.

Juveniles who were at the facility during this timeframe had copies of the court-ordered medical assessment report and medical certificate, which is required under regulations of the *Child Care Act* (1983). This document describes the child's identifiable features, age estimation, and the presence of any physical disabilities. Casefiles under this timeframe also include results of a Venereal Disease Research Laboratory (VDRL) test. The VDRL test is used to determine whether the individual has syphilis or not (Holm, 2018). Syphilis is a sexually transmitted infection (STI) that had a high prevalence rate in SA during the 1990s (Kularatne et al., 2018). Presumably, the tests were done to control the potential of the STI spreading in and around the facility. It could also be tested to determine if the child needed treatment during their time at the CYCC. However, no documents for the treatment of syphilis were seen in the casefiles.

Some casefiles contained a summary of all medical treatments they received during their stay. There are also letters from doctors regarding medication, dosage instructions and the healing process of wounds. Letters from the facility to the caregivers of the juvenile were also seen, which asked for consent to perform a medical procedure on the learner. Within the professional social welfare report, some practitioners do comment on the juvenile's child's medical conditions. As an example, one probation officer wrote:

‘[name of juvenile] has limited intellectual abilities, and his cognitive development is far below his chronological age level...’.

Lastly, references to the child's medical health regarding physiological makeup are on a standardised form titled ‘*Uitvoerige Beskrywing en Merke*’, which translates to ‘Detailed Description and Marks’. This form contains a section to indicate whether the juvenile has a speech impediment, physical defect, or other uniqueness.

#### 2000 to 2010

Fewer medical references were seen during this timeframe than in the previous assessed timeframe. The commonly seen documents include the medical report and certificate in line with the *Child Care Act* (1983) as described above. As well as the document titled ‘Detailed Description and Marks’. No copies of a VRL test for syphilis were seen. The professional social welfare report revealed within-document references to this discourse. In one report, a social worker commented:

‘However, his appearance shows features of foetal alcohol syndrome. His class teacher confirmed that he is dyslexic and cannot read and write. His intellectual ability appears to be limited.’

Comments regarding Foetal Alcohol Syndrome (FAS) during this timeframe were seen on more than one occasion.

#### 2010 to 2020

Full document references in casefiles under this timeframe include the court-ordered medical report in Section 48(2) of the *Children’s Act, as amended* (2010). Questions and statements regarding the mental health of the juvenile were uniquely seen during this timeframe. Within the ROAR and Treatment Centre assessment reports, comments seen include:

‘[name of juvenile] was admitted with no medical or psychiatric comorbidities...’  
and,

‘No medical or psychiatric illnesses picked up’.

The Application for Admission forms ask if the child has any physical disabilities, intellectual disabilities, or any psychiatric illness. Another section in the form asks to indicate if the child has anxiety or a mood disorder. Only one juvenile's casefile had this section filled out (indicating the juvenile has anxiety). Regardless, the mere presence of these questions indicates that a psychiatric discourse to juvenile delinquency care is growing within institutions.

References to FAS continued into this timeframe. For example, in one report, the practitioner stated:

'The biological mother was abusing alcohol while pregnant with the child concerned and the child can possibly have Foetal Alcohol Syndrome (FAS) as there are some similar traits shown by the child. The traits observed by the undersigned social worker include; small head size, hyperactive behaviour, difficulty paying attention and difficulty with school work.'

The above quote shows how the child's traits were seen in relation to a medical condition.

#### Medical Discourse Across Time.

Physical health was foremost seen through the court-ordered medical assessments of juveniles once sentenced to alternative care centres (under regulations of the *Child Care Act* (1983) and the *Children's Act* (2005)). Similarly, Nilsson (2009:358) notes the medicalisation model of juvenile delinquency promoted through the medical and psychiatric examination of all juveniles admitted to a reformatory prison. Some casefiles did speak to the child's behaviours in terms of symptoms of FAS. FAS is a syndrome that is caused by their mother's abuse of alcohol during pregnancy (Streissguth, Bookstein, Barr, Sampson, O'Malley, & Young, 2004). Research suggests that adolescent males with FAS are more likely to be in trouble with the law (Streissguth, Bookstein, Barr, Sampson, O'Malley, & Young, 2004). However, it is risky to correlate their behaviours to an incurable condition, such as FAS. It promotes the idea that they are not responsible for their behaviours.

The purpose of the assessment of FAS is to better understand the child's needs and how to address them appropriately within the facility. As such, the assessment of FAS

by social workers is positive. Although social workers are not medical professionals, so there is a risk that these juveniles are being mislabelled with FAS.

Overall, there were far more references to the physical conditions of the child during the timeframe 1990 to 2000 compared to the other timeframes. Mental health, in terms of psychiatric illness, appeared in casefiles after 2010.

#### 4.4.3. The Substance User.

Almost all casefiles across all timeframes assessed mentioned the juvenile's use or abuse of illegal substances when describing their delinquent behaviours. The types of illicit substances used by juveniles include cannabis (known colloquially as 'dagga'), alcohol and cigarettes, methamphetamine (known as 'tik'), mandrax (which is the synthetic drug methaqualone, which is then often mixed with cannabis (Chelin, 2021), and glue sniffing, which isn't illegal but is a harmful substance that alters one's cognition (Jansen, Richter, Griesel & Joubert, 1990). The study indicates that there were changes in the types and amounts of substances used by juveniles over time.

##### 1990 to 2000

Seven out of the ten casefiles (70%) from this timeframe reported on the juvenile's substance usage. Juveniles either smoked cannabis or cigarettes, drank alcohol or did a combination of these. The most common type of substance used by juveniles within this timeframe was cannabis, followed by alcohol, then cigarettes.

##### 2000 to 2010

All ten juveniles under this timeframe reported using at least one substance (100%). The majority used a combination of two of the following drugs: glue sniffing, cannabis, cigarettes, alcohol, and/or 'tik'. Cannabis was the most common, with seven (70%) casefiles reporting on it. Two juveniles sniffed glue, and one juvenile used 'tik'.

##### 2010 to 2020

All ten juveniles within this timeframe used substances (100%). Two casefiles said the juvenile uses drugs but did not indicate which type. The most common drug used was cannabis (80%). Four juveniles used 'tik', and two used mandrax (along with cannabis and tik).

#### Discourse of The Substance User Across Time.

With each subsequent timeframe analysed, a new drug was reported. From 1990 to 2000, cannabis, alcohol and cigarettes were the drugs used. After 2000, tik and glue sniffing was introduced. After 2010, mandrax was reported on. Juveniles who stayed at the facility after the 2000s reported using more harmful drugs than in previous years. Although casefiles never directly refer to the juvenile as a drug addict or substance user, their substance usage was perceived to be important to report on. Almost all casefiles had references to it, and as such, it is a common way practitioners conceptualise juvenile delinquents at the facility.

#### 4.4.4. The Criminal.

This refers to how the language in the casefiles promotes the theme of being ‘a criminal’ in their conceptualisation of the juvenile delinquent. References to this discourse theme are seen within the documents compiled by the South African Police Service (SAPS), mugshots of the juveniles at intake, and in their professional social welfare reports. SAPS documents were only seen in casefiles of juveniles sent to the facility due to a criminal offence. The SAPS documents include the Body Receipt form, indicating that the child is held in a police cell. The SAPS Charge Sheet states what the juvenile was criminally charged for (See 4.2.5. Types of Offences). Lastly, the Warrant for Detention Form orders the juvenile to be sent to the facility. Overall, findings indicate the theme decreased over time and dissipated by 2010.

#### 1990 to 2000.

Unique to this timeframe are photographs of the juveniles holding up a sign with their casefile number on it. Having the juvenile hold a sign that indicates their designated file number instead of their name dehumanises him as he is forced to conform to the system's way of identifying him (a number, no longer a name). Police take mugshots of individuals after they have arrested them for committing a crime as part of being booked into the system (Lee, 2018). In this study, these photographs were taken by the facility's staff on entry, not by a police officer. The taking of a mugshot of the juvenile perpetuates the discourse of the juvenile delinquent as a ‘criminal’, as it is similar to how police take mugshots of individuals they arrest for crimes.

1990 to 2000 and 2000 to 2010.

Casefiles from 1990 to 2010 had SAPS documents and welfare reports that did contain ‘the criminal’ juvenile delinquency discourse. The Warrant for Detention Form refers to the juvenile as ‘the accused’. This form also referred to the facility as a prison. The form states the following:

‘[juvenile’s name] is to be placed in the custody of your prison.’

and

‘The accused has been informed of the date of trial...’

This above quote reflects how SAPS saw the CYCC as a prison and those sent to it as alleged criminals. Other documents include the SAPS Charge sheet, where the juvenile is referred to as ‘the accused’ across the document. As well as the Body Receipt form, which states one must indicate the name of the ‘prisoner’ and their ‘prison number’.

2010 to 2020.

No juveniles who stayed at the facility from 2010 to 2020 had any mentions of ‘the accused,’ ‘the prisoner,’ or ‘the criminal’ in their casefiles. This is because no SAPS-related documents were seen during this timeframe, as all children placed at the facility were those deemed in need of care and not due to criminality (4.2.4. Reason for Entry).

The Criminal Discourse Across Time.

After the 2000s, no mugshots of the juveniles were seen. Casefiles from 1990 until 2010 had documents that referred to the juvenile as ‘the accused’ or ‘the prisoner’. These findings show that the casefiles perpetuate the conceptualisation of the juvenile as ‘a criminal’ during Apartheid and in post-Apartheid South Africa. The child only needs to commit one offence to have the ‘criminal’ label in their casefiles. The label of the juvenile as a ‘criminal’ places negative stereotypes on the child (Nickerson, 2023). The word carries several secondary traits that characterise anyone with the label, such as someone who has no respect for the law and is likely to continue to commit future offences (Becker, 1963). After 2010, no juveniles were conceptualised as ‘criminals’.

#### 4.4.5. The Gangster.

The juvenile delinquency discourse of the gangster is reflected in references to gang-affiliated tattoos, questions regarding their gang involvement and admitted gang membership. These comments are often seen in the social welfare report and as part of their reason for needing placement in alternative care. Findings indicate that gangsterism discourse is more prevalent in recent years than in the past but exists minimally in the institution.

#### 1990-2000.

One juvenile had a tattoo of the word 'Boy Form' on his right arm. However, no literature speaks to 'Boy Form' being a known gang in SA. It cannot be asserted that this juvenile is a gang member based on this tattoo. One casefile mentions that the child denies gang membership. This indicates that practitioners ask whether the child is part of a gang. Most casefiles during this timeframe included comments that the juvenile associated with negative friends or those older than him. Youth gang involvement is not part of the discourse of juvenile delinquency during this timeframe.

#### 2000 to 2010.

Only one casefile mentioned gangsterism involvement. In this juvenile's casefile, it was noted that he was a member of the 'Sexy Boys' gang and had a tattoo with this gang's name on him. Other casefiles contained comments that the child associates with negative friends, friends who are criminals, or those older than them.

#### 2010 to 2020.

Overall, four casefiles from this timeframe included this discourse theme. Two juveniles directly admitted to being gangsters. Another reports he picks fights with gangsters, not that he is one. The other juvenile's file says older people use him to commit crimes, which are presumed to be adult gangsters.

#### The Gangster Discourse Across Time.

Gangsterism is unique to the post-Apartheid discourse. Yet, findings indicate a low prevalence of youth gangsterism. It is perhaps not as significant as the media and public discourse portray it to be. Peetz (2010) notes that the discourse used in the media for youth violence is often centred around youth gangs. Many news houses have

articles that talk about youth gangsterism in South Africa being a prevalent and shocking phenomenon (Ebrahim & Solomons, 2023; Sofianos, 2021; Kiewit, 2019; Oliver, 2020; Sibiya, 2023; News24, 2017).

Moreover, the article by Cooper & Foster (2008) noted that within their sample of 25 male youth offenders, the majority were involved in gangs (19 out of 25). Within this study's sample, only five out of the thirty juveniles mentioned the theme of gangsterism, and only three of those five had direct links to gangs (one with a 'Sexy Boys' tattoo, and two directly admitting they were part of a gang). However, Cooper & Foster's (2008) sample was of juveniles awaiting trial. The juveniles at this facility are a combination of those accused of a crime and those deemed in need of care and protection by the state. In my opinion, criminals are more likely to be gangsters than juveniles deemed in need of care due to behavioural issues. This may account low prevalence of youth gangsterism within this study.

#### 4.4.6. The Absconder.

This theme concerns how practitioners consistently refer to the juvenile as 'the absconder' within their casefiles. To abscond from the facility means the juvenile left the facility without authorisation or did not return after being given authorisation to leave. The theme was most prevalent between 2000 and 2010 and significantly decreased after 2010.

#### Prevalence of Abscondment.

From 1990 to 2000, the average number of times a juvenile absconded from the facility was twice, with 70% of the juveniles having run away at least once. From 2000 to 2010, the average time a juvenile ran away from the facility was three times, with 90% of the sample having absconded at least once. Lastly, from 2010 to 2020, only one (10%) juvenile had absconded from the facility.

#### Documents pertaining to the Discourse theme of the Absconder.

These include within-document references and whole-document references. For the timeframes 1990 to 2000 and 2000 to 2010, various documents directly refer to the juvenile as '*die drooster*' ('the absconder').

A letter sent to the Children's Court, in line with article 30 of the *Child Care Act* (1983), is titled '*Drosterondersoek*:' (Afrikaans for 'Absconder Investigation'). It is an internal letter produced by the CYCC to note that the learner has absconded formally. The facility also sends a letter to the Department of Education and Culture and the child's parents or primary caregivers. As well as a letter to the police station commander.

Within-document references for casefiles from 1990 to 2000 and 2000 to 2010 are seen on the cover page of casefiles. The page contains a table for a staff member to fill in what date the juvenile ran away and what date they returned. Presumably, the reason for having this on the cover page is that it can quickly alert a practitioner if the individual is currently at the facility or not. However, this table could create bias, where those who have an extensive record of absconding could be perceived differently from those who do not have this table filled out. After 2010, the cover page no longer contained this absconding table.

Only one casefile between 2010 and 2020 referenced a juvenile's abscondment tendencies. This was seen in their progress report. Here, the practitioner did not directly refer to the child as an absconder but merely stated that he had run away numerous times.

#### The Discourse of the Absconder Across Time.

During the timeframes 1990 to 2000 and 2000 to 2010, juveniles were directly described as 'the absconder'. Referring to someone consistently as a deserter creates a negative image of someone as unreliable, uncontrollable and a troublemaker. However, being removed from one's home environment and placed into a residential facility is a traumatic experience. Running away should not be seen as part of their delinquency or something that requires punishment (see Table 4A on punishments received for abscondment) but rather as part of their rebellious energy (Tiethof, 2016) and as a reaction to being institutionalised.

In terms of the lack of abscondment after 2010, juveniles stayed at the facility for shorter periods than those from the previous two timeframes (See 4.2.3. Duration of Stay) and almost came from other places of alternative stay, not family environments

(4.2.6. Place of Origin), so it is less likely that they were going to abscond. It is not necessarily that practitioners stopped seeing these individuals as absconders, but instead, they didn't run away, so practitioners did not refer to them as such. There is the potential that the juveniles did abscond between 2010 and 2020, but this was not being recorded in casefiles.

#### 4.4.7. Legal Discourse: 'In and Out of the System'.

Legal documentation and court orders are commonly seen throughout the casefiles during all timeframes assessed. Legal documents are prevalent because a juvenile is placed, transferred, and removed from the centre on court order. After 2010, the number of transfer and release court orders drastically increased in the casefiles. As such, it became a shared way for practitioners to discuss the juvenile in casefiles. This resulted in the new legal juvenile discourse subtheme: that of being tossed 'in and out of the system'.

#### 'In and Out of The System'.

Removal of a child already in alternative care and transferring a child to a new place of safety are part of sections 171 and 173, respectively, of the *Children's Act, 2005, as amended* (2010). 80% of the juveniles under the timeframe 2010 to 2020 were transferred to this CYCC from other places of alternative care (foster care, other CYCCs, or children's homes). This is compared to only 10% of juveniles from other alternative care centres from 2000 to 2010 (see 4.2.6. Place of Origin). This shows a drastic increase in the continuous transfer of children to and from different state facilities. Moreover, all children after 2010 were placed at the CYCC due to needing care (4.2.4.). As such, their previous placement options were unsuitable, their behaviours were not addressed, and they required further intervention. This generally goes against the ideas of restorative juvenile justice that aim to teach children skills to reduce their deviancy and prevent future contact with the system (Holtzhausen, 2012).

### **4.5. Discourse of Juvenile Justice, Treatment and Delinquency**

Juvenile justice discourses are analysed because there was a philosophical shift away from a punitive justice approach in favour of a more restorative approach around the late 1990s in SA (Skelton, 2002). The research addresses how this shift influenced the

discourse of juvenile delinquency treatment at the facility. Findings indicate education and trade training are still seen as an essential part of the treatment for their delinquency. Punitive methods dissipated after the 2000s, and a greater emphasis on the therapeutic restorative justice approach began to take precedence, especially after 2010.

#### 4.5.1. Vocational skills & Juvenile Delinquency.

Vocational skill training, along with education, has always been part of the treatment discourse of delinquency in alternative care facilities (May 1973: Carpenter, 1853; Badroodien, 2011). Vocational skill training, used synonymously with trade training, refers to the provisions of practical training linked to the prospect of a job (Field, Musset & Álvarez-Galván, 2014). There are workshops for trade training on the facility's grounds, and juveniles are allowed to work outside the facility. Overall, trade references decreased over time. What is described below is how the casefiles over the years demonstrate this.

##### 1990 to 2000.

The type of trade training the juvenile participated in whilst at the facility is written on the intake page. For juveniles from this timeframe, trades include: *'schoenmaker'* (cobbler), a *'meubelmaker'* (carpenter), a *'schilder'* (painter), and a *'diukklopper'* (panel beater), a *'motorwerktuigkundige'* (car mechanic), and lastly, as an *'Elektrisien'* (electrician).

Full-document references to trade training include a Technical Report from the facility that indicates what grade the juvenile achieved for the practical subject of *'leerbewerking'* (leatherwork). As leatherwork was never reported as their vocational skill on the intake page, this report indicates juveniles partook in various trade workshops. Other full-reference documents include an administrative report from the Department of Education and Culture that outlined what trade the child is learning and their workshop record. There are also letters in which caregivers have consented to the juvenile to work outside the facility.

##### 2000 to 2010.

Trade training juveniles received under this timeframe included ‘*houtberwerking*’ (woodwork), ‘*motorwerktuigkundige*’ (car mechanic), and arts and crafts. No other documents on trade were seen during this timeframe.

#### 2010 to 2020.

The types of trades juveniles partook in include welding, mechanical work and arts and crafts. Another within-document reference to trade was within the Learner Placement Forms, which talked about the juvenile’s previous experience in trade training. There was an internal Workshop Placement Change Form in one casefile, authorising the child to move from one workshop to another.

#### Vocational Skills Discourse Across Time.

Casefiles of juveniles between 1990 and the 2000s had significantly more references to trade training than those of the other timeframes assessed. During this timeframe, six different types of trades were mentioned, whereas between 2000 and 2010, only three types were noted. Juveniles who attended the facility after the 2000s partook in the arts and crafts trade. Expression of one’s creativity, such as through art, has been recognised for its restorative qualities and has proven to help in prison settings to reduce stress and strengthen relationships (Van Lith, Fenner & Schofield, 2009).

Across all timeframes assessed, the intake page contained a section regarding the workshop the juvenile is part of. However, the language on this form changed over time. From 1990 to 2000 and from 2000 to 2010, the juvenile was referred to by the job title, not the trade itself (for example, what is written on the report under trade is a carpenter, not carpentry). Casefiles after 2010 did not refer to the juvenile as the professional job title, but just the skill he is learning (*car mechanics* is the skill filled out on this form).

Under Apartheid, the reason why ‘coloured’ boys were labelled deviant was linked to poverty and aimlessness and providing them with education and vocational skills would make them into productive citizens (Badroodien, 2011). This explains the high prevalence of trade training references between 1990 and 2000. Trade training as part of treatment for juvenile delinquency at the facility is still seen today. Trade training

and skill development are restorative as they have been shown to reduce recidivism rates of crime in youth offenders (Farrell, Betsinger & Hammond, 2018).

#### 4.5.2. Education & Juvenile Delinquency.

Education is a crucial element in the casefiles across the thirty years accessed. The facility itself was previously referred to as a School of Industries. Throughout the thirty years assessed, the head of the facility was referred to as a principal and the juvenile as 'the pupil'. This further strengthens education as instrumental to juvenile delinquency treatment. All casefiles have a reference to the child's educational level on the intake page and all have references to school attendance history in the social welfare report. Although educational development is referred to across all timeframes assessed, the prevalence and the types of documents changed over time.

##### 1990 to 2000.

Juveniles who attended the facility during this timeframe had the most references to their educational needs and intellect. Aside from the intake page and social welfare report, there is the Physical Description and Marks Form, which discusses intellectual disabilities. Academic progress reports indicate the juveniles' scores for different subjects (English, Afrikaans, maths, science, and technical progress), as well as academic certificates. Administrative reports to the Department of Education and Culture on the child's highest certificate received for academics were also filed.

Unique to juveniles under this timeframe was an entry test conducted by the School of Industries, including intelligence and scholastic test scores (for Afrikaans, English, and maths). The two intelligence tests that were administered were the '*Fick-skaal*' ('Fick-Scale) and Koh's intelligence tests.

##### 2000 to 2010.

Juveniles from this timeframe also had a reference to their educational progress on the intake page and social welfare reports. These casefiles also had the Physical Description and Marks Form to indicate intellectual disabilities. They also contained academic progress reports from the facility, which test the same subjects mentioned above. Generally, there were far fewer documents about their educational progress than in the previous timeframe. Is it likely that these documents were not filed in their

casefiles rather than academic tests not being administered. No forms of intelligence testing were seen.

#### 2010 to 2020.

The intake form included a section on academics and their social welfare reports. The Application for Admission form also has a section regarding the juvenile's current level of education. Furthermore, the ROAR programme assessment report included a section regarding their prior school attendance and the general level/grade the child is in. Lastly, the Learner Placement Form has a section to indicate the academic background of the juvenile.

#### Educational Discourse Across the Thirty Years.

Although education within juvenile delinquency treatment was seen across all timeframes, far more documents were seen from 1990 to 2000 than in the other timeframes assessed.

What was uniquely seen in casefiles from 1990 to 2000s was intelligence testing of the juveniles. '*The Fick-skaal*' test (or 'Fick-scale' in English) is the Afrikaans version of the intelligence test developed by the Harvard-trained psychometrician, Professor L. M. Fick., for South African youth (Fleisch, 1993). The test was standardised on 'white' young children, which meant children of other races in South Africa performed poorer on the test than 'white' children due to other factors aside from intelligence (Fleisch, 1993). Professor Fick put it down to differences in nonverbal intelligence in 'black' and 'white' children (Laher & Cockcroft, 2013). The Koh's test refers to the Block Design Tests developed by S.C. Kohs, a standardised non-verbal test to measure intelligence (Kohs, 1920). The Koh's block test requires the individual to assemble blocks painted in different colours to match a pattern and, therefore, can be used to test intelligence for non-English speaking or Afrikaans speaking individuals (Kohs, 1920).

Schools of Industries in South Africa were built to provide education (and trade training) to children to transform the deviant into working and educated citizens (Badroodien, 2011). This explains the high prevalence and focus on the juveniles' intellectual abilities and educational progress within the facility between 1990 and 2000. However, the promotion of educational movement in facilities did not mean they

lost their punitive measures (Badroodien, 2011). In this study, this is seen through the documentation of the use of corporal punishment within the facility.

#### 4.5.3. Punitive Juvenile Justice Discourse.

A punitive approach to juvenile justice is rooted in religious beliefs and views criminal activity as a 'sin' that must be punished (Gxubane, 2012:103). Punishing includes having them endure suffering as a form of payback to the community and victim(s) of the behaviour impacted (Gxubane, 2012). Within this report, punitive discourse is seen through forms of corporal punishment used at the facility. Corporal punishment includes deliberate acts to punish an individual physically (Morrell, 2001). Within the casefiles, this is seen through lashes and solitary confinement. Below are all the references to punitive forms of punishment across the different timeframes. The findings indicate that corporal punishment ended in the 2000s and was replaced with 'discipline'.

##### 1990 to 2000.

Juveniles who attended during this timeframe all contain a Punishment Record form, or '*Strafrekord*' in Afrikaans. It is located on the back of the front cover of the casefile, visible as soon as you open the file. This record outlines all offences and punishments the juvenile received during their stay at the facility. The casefiles also contained Punishment Reports, providing a more detailed description of the offence and the punishment received.

During this timeframe, a juvenile's average number of punishments during their stay was three. Eight out of the ten juveniles received at least one form of corporal punishment during their stay (80%). The most common type of punishment received for an offence was lashes and sent to a location known as 'Delta' for a certain amount of time. It was observed that the other dormitories on the property are labelled 'Alpha', 'Beta' and so on. The only mention of 'Delta' is on punishment records or reports; as such, it is presumed that Delta is a dormitory on the property that a juvenile is sent to as a form of punishment. The types of offences and the forms of punishment juveniles receive are presented below.

Table 4A: 1990-2000: Types of Offences and Punishments

<b>Offence Committed:</b>	<b>Punishment received:</b>
Absconding from the facility	Lashes and/or time in Delta
Doing drugs or assisting others to do so	Time in Delta, lashes, community service
Broke into a Workshop	Lashes and time in Delta
Got a tattoo	Lashes and time in Delta
Possession of a Dangerous Weapon	Community service
Guinea fowl hunting	Community Service
Damage to property	Lashes
Assault with a dangerous weapon	Lashes
Engaging in Sodomy	Sent to Delta, illegible handwriting, reference to a psychologist is made.
Not attending trade workshop	Lashes

The number of lashes received for one offence ranged between three and four. The amount of time a juvenile was sent to Delta varied between a weekend, fourteen days, and a month. Only one juvenile from this timeframe received community service in response to an offence (this juvenile committed seven offences whilst at the facility, three of which he received community service for). As only one of the ten juveniles received community service, 90% of those who committed a rule violation received corporal punishment at the facility.

#### 2000 to 2010.

All juveniles from this timeframe have the same Punishment Record table on the back of the cover page of their casefiles. However, the Punishment Report was replaced with a new report titled Learner Offences and Disciplinary Matters. The prevalence of

offending behaviours during this timeframe drastically decreased compared to the previous timeframe assessed. Only three of the ten casefiles (30%) had an offence recorded on the Punishment Record. The highest number of offences committed by one juvenile was two. When a juvenile did offend, the types of punishment received differed from what was described in the previous period.

*Table 4B: 2000-2010: Types of Offences and Punishment*

<b>Offence Committed:</b>	<b>Punishment Received:</b>
Absconding from facility numerous times	no petty cash, weekend and holiday and counselling
Abusive language towards teachers, refusing to work and fighting in class	A formal apology and community service
Not attending Workshop (jumped through a window to leave)	Community service (four hours)
Sold personal items for drugs, used drugs and absconded from facility	no weekend away, no holiday

No juveniles after the 2000s received any lashes, and no juveniles were sent to Delta. The punishments received included either having one's privileges revoked, community service or, in one instance, apologising to the individual he offended, a type of victim-offender mediation. Even though juveniles from this timeframe had the highest rates of abandonment across the thirty years assessed (4.4.6. The Absconder), only one juvenile from this timeframe received a consequence for absconding. Either the tolerance for this offending behaviour increased, or children were absconding and breaking the rules, but it was not recorded in the casefiles. The lack of documentation of disciplinary matters is reflective of the general lack of documents in all casefiles under this timeframe.

#### 2010 to 2020

Juveniles who attended the facility during this timeframe did not have a Punishment Record in their casefiles or any Punishment or Disciplinary reports. It is unknown how the facility dealt with rule violations, escapes, and other offences.

#### Punitive Justice Discourse Across the Thirty Years.

As time progressed, far less offences were recorded in the casefiles. Between the 1990s and 2000s, 80% of children had broken a rule at the institution at least once. This dropped to 30% from 2000 to 2010 and 0% after 2010. Before 2000, juveniles were receiving lashes and sent into a form of solitary confinement, which fall under a punitive justice approach. After the 2000s, the word punishment was replaced with discipline, and corporal punishment was replaced with community service and revoked privileges.

In South Africa, punitive forms of punishment existed alongside education and trade training (Badroodien, 2011). By the late 1990s, the punitive approach to juvenile justice was beginning to be replaced with a more restorative one (Skelton, 2002; Gxubane, 2013) with knowledge gained on how punitive punishment seldom reforms delinquents (Morrell, 2001). In this study, no forms of punitive punishment methods were seen after the 2000s. As such, the growth of the restorative justice movement and new democratic legislation had the power to change the treatment discourses of juveniles within the facility towards positive discipline.

#### 4.5.4. Restorative Juvenile Justice Discourse.

Restorative juvenile justice promotes the rehabilitation of the offender rather than purely punishing them (Gxubane, 2012). Restorative justice programmes effectively reduce offender recidivism rates (Farrell, Betsinger & Hammond, 2018). Beyond education and vocational skills, references to restorative justice discourse are seen through avenues of therapeutic interventions. This includes individualised care plans, aftercare services, Family Group Conference (FGC), individual or group counselling sessions and intervention and prevention programmes. What is presented below is how the prevalence of the other restorative justice avenues, outside of education and trade training, has increased over the years.

### 1990 to 2000.

Two casefiles from this timeframe had letters regarding the juveniles' progress after leaving the facility. Aftercare services are restorative because they ensure the successful reintegration of the juvenile into society through provisions of ongoing support services after institutionalisation (White, 2018). Other references to this discourse are seen through the notes of individual counselling sessions. Most casefiles did have a type of Individualised Development Plan (IDP), titled '*Plasing van Leerlinge*', which translates to 'Placement of Learner'. This plan is used to determine the appropriate grade and workshop placement for the child at the facility. It did not mention therapeutic programmes the child should or could partake in, or the child's strengths and skills that could be utilised for treatment.

### 2000 to 2010.

Counselling notes were seen in casefiles during this timeframe. Three casefiles contained the '*Plasing van Leerlinge*' form. One casefile contained a Care Plan, or '*Sorgplan*' in Afrikaans. The '*Sorgplan*' included an evaluation of the child's sense of belonging, independence, generosity, and mastery of skills. The presence of this document reflects the upcoming shift in focus on the child's strengths in individualised treatment planning at the facility.

### 2010 to 2020.

There was a significant increase in the number of references to the restorative justice discourse during this timeframe. This includes documents pertaining to Family Group Conferencing (FGC). FGC is a type of mediation session where multiple players come together to have an open dialogue regarding the juveniles' behaviours and their impact on others (Schoeman, 2012). As early as the 1990s, FGC was promoted within SA (Skelton, 2002). Within this study, casefiles only after 2010 included FGC notes. Overall, three juveniles had FGC to either discuss poor behaviours at the facility or develop an exit plan for when they leave. However, none of the FGC sessions included the victim or community members at the meeting. This is generally not in line with the goals of FGC, which is to foster reconciliation between the victim and offender and society (Schoeman, 2012). However, the mere presence of FGC in casefiles after 2010 indicates that the facility is including more restorative measures in recent times.

Another full-document reference to this theme includes copies of process notes from individual counselling sessions. Also, the ROAR and Treatment Centre Assessment Report that comments on what interventions are needed for this specific juvenile. Five of the ten casefiles contained this assessment report (50%). The Application for Admission Form reports on various aspects of the child, including previous interventions received and emotional and behavioural aspects of the child (trust, self-image, attachment style and emotional intelligence).

Individual Development Plans (IDPs), which are designed by the staff of the facility, are seen in most of the casefiles under this timeframe. These IDPs analyse four factors: independence (life goals, sense of responsibility, self-control), belonging (relationships with others and support systems), generosity (sharing with others, willingness to help) and mastery (strengths and achievements of the youth). For each factor, the practitioner has indicated the juvenile's developmental challenges and strengths. A Behavioural Assessment Report was also seen. This report is completed after the juvenile has completed the intervention programme RECONNECT, which is a three-day programme aimed at addressing behavioural issues and substance abuse. Lastly, references to restorative justice include individual counselling sessions and sessions with an occupational therapist.

#### Restorative Juvenile Justice Discourse Across the Thirty Years.

Restorative justice discourse was seen across all thirty years assessed but increased in prevalence over time. Prior to the 2000s, the only mention of a restorative justice approach outside of education and vocational training was that of after-care services. Recognition of the strengths of the child was seen between 2000 and 2010, but only on one occasion. It was only after 2010 that the discourse theme drastically increased. The shift towards the holistic understanding and assessments of juveniles after 2010 most likely reflects the positive impact of law reform with the enactment of the *Children's Act no.38 of 2005, as amended* (2010). This is analysed in more depth in the next chapter.

#### **4.6. Conclusion**

This finding presented in chapter four is the discourse of juvenile delinquency across thirty years. It includes ways in which practitioners commonly reported on the juvenile's behaviours, characteristics, and circumstances. The way in which their delinquency was treated across the thirty years has been described. Including the transition from punitive measures towards a purely restorative approach to juvenile care, especially seen after 2010. The next chapter analyses the changes in the discourse in terms of shifts in power over the institutionalisation of the juveniles across the thirty years assessed.

## CHAPTER 5: CONCLUSION AND RECOMMENDATIONS

### 5.1. Introduction

This dissertation analyses the changes in the discourse of juvenile delinquency brought on by the end of the Apartheid regime, the growth of the restorative approach to juvenile justice, and changes in childcare legislation and policies. This chapter begins by reflecting on the applicability of Foucault's theories of delinquency and disciplinary power within penal institutions. It then reflects on the impact of democratic policies and the welfarist movement on the transition from punitive punishment to disciplinary mechanisms within the facility. Thereafter, it describes the discourse themes that pertain to how the juvenile (and their delinquency) were conceptualised across the thirty years. Lastly, it describes the impact of the *Children's Act, no.38 of 2005, as amended* (2010) on the growth of a restorative justice treatment model at the facility.

### 5.2. Background

Within this paper, I have defined those who attend a CYCC as juvenile delinquents. Using Foucault's work, scholars have analysed how discourses produced around juveniles in detention centres resulted in a new category of youth emerging, that of the juvenile delinquent (Nilsson, 2009:354). Children within state institutions are subjected to a similar examination and surveillance as adults in prisons. Foucault (1977:251/252) describes a prison as the 'artificial and coercive theatre in which his life will be examined from top to bottom'. A prison is a place that holds the individual under permanent observation, which is extended through the recording in reports (Foucault, 1977:249). Casefiles of learners are an extension of the facility's surveillance as thoughts and interactions with the juvenile are recorded. This invasive recording is recognised as having a positive role in informing an individual treatment plan (Foucault, 1977:250).

The Foucauldian analogy of the carceral archipelago is applicable within alternative care facilities such as a CYCC. The carceral archipelago refers to the context of a

physically confined space that uses constant discipline through surveillance (Tiethof, 2016:110). It operates as a network of social structures that exist (everywhere) to produce disciplined and orderly citizens (Tiethof, 2016:113).

The CYCC is on a fenced-in property, confining the children to the premises of the institution. There are different dormitories on the property, allocated names such as 'Alpha' and 'Beta'. This is used to categorise and separate different juveniles at the facility, but it also aids in the staff's ability to monitor the children. The windows of the buildings have bars on them. Perhaps to prevent thieves coming in, or otherwise keep the children from going out. Children have access to the full premise of the institution, but at the same time, they are under a schedule that dictates their movements.

Within a penal institution, 'treatment' is met with a disciplinary regime that prescribes rules and regulations of inmates' conduct to control their movements, emotions, and appetite (Mills, 2003). Within the CYCC, children are told when and where they can eat and sleep, when they can leave the facility, and when they cannot. Education and vocational skill training are compulsory, and all activities are under the surveillance of round-the-clock staff members. The aim is to reorganise behaviours to control it (Foucault, 1977). This is a form of power relations: surveillance allows power over the behavioural code of the 'prisoner' who has internalised this code and will behave accordingly, even when not directly supervised (Mills, 2003). It includes the institution's strategies and techniques to internalise specific ways of thinking and behaving (Mills, 2003). Potentially to create what Tiethof (2016:111) calls capable and 'docile' delinquents produced for their utility.

In *Discipline and Punish*, Foucault (1977) explains how discipline became the primary power technique around the 19<sup>th</sup> Century, replacing the more punitive (physical) forms of punishments used in the past. Discipline shifted our attention away from the punishment of the criminal act to regulating the character and lifestyle of the delinquent (Gray, 1997:529). Nilsson (2009:365) notes how detention centres for young offenders were centred around rehabilitative principles rather than retributive ones. However, this does not account for corporal (physical) punishment being used alongside institutions' rehabilitative programmes and disciplinary mechanisms. Badroodien (2011:22) noted that the new emphasis on educational intervention in

institutions in the 1930s did not mean that they lost their punitive dimensions. Within this study, corporal punishment was used alongside the dictation of their every movement and provision of treatment programmes (educational and vocational training) up until the 2000s.

### **5.3. Main Conclusions**

#### Democracy and the Restorative Justice Movement.

Casefiles after the 2000s did not include punitive measures of punishment, nor was there any racist commentary concerning the behaviours or characteristics of the juvenile delinquent. These discourses and practices were eclipsed by the new policies that emerged from the democratic government and the coinciding growth of the welfarist movement and restorative justice approach to child justice.

Corporal punishment for rule violations at the facility was highly prevalent between 1990 and 2000. Corporal punishment for youth wrongdoings was a typical sentence given to children under the Apartheid Regime (Skelton & Tshehla, 2008) and often used in Schools during this time (Veriava & Power, 2017). Post-2000, no casefile child had any mention of corporal punishment, regardless of whether the child committed violations or not. The outlawing of corporal punishment to ‘discipline’ juveniles that occurred with the Democratisation of SA (Veriava & Power, 2017) directly influenced the content of the casefiles regarding their documentation of the juveniles' rule violations. This aligns with the literature that states with the end of Apartheid came the end of the use of corporal punishment in child justice (Skelton & Tshehla, 2008).

Throughout the thirty years assessed, children committed violations at the facility. However, the way the facility handled punishment for offences changed over time. After the 2000s, the word ‘punishment’ was replaced with ‘discipline’ in casefiles. Consequences for rule violations changed to community service and revoking privileges. Discipline is still used today to teach children what is acceptable and how to control their behaviours (Korioth, 2018). Discipline seeks to retrain the individual to choose to do the right thing (Mills, 2003). In this way, the institution can mould the youth to obey orders and rules through self-regulation.

Discipline, when positive, is viewed as a part of a protective framework suitable for use in the management of the behaviours of children at a CYCC (Jamieson, 2013). Discipline, as a method of providing a consequence for rule violations at the facility, reflects a paradox. The institution wants to discipline and maintain a smooth order, and the (societies) desire to rehabilitate the youth (Nilsson, 2009:359).

Apartheid included brutal and oppressive policies of underdevelopment, segregation and discrimination for ‘black’ and ‘coloured’ families that served to weaken their capabilities and capacities ferociously (Schmid, 2010). Under the rule of South African Colonies and into the Apartheid Regime, child welfare services were racially differentiated, with the general non-provision of services for those not classified as ‘white’ (Schmid, 2010). During this time, the juvenile delinquency discourse was racist (Badroodien, 2001; Chisholm, 1989), and the treatment was unequal (Peté, 2015). Understanding juvenile behaviour was informed by the child race under the Apartheid Regime, and as such, I felt it was important to look at the prevalence of ‘racism’ within the casefiles of juveniles. The findings suggest that the race of the child had very little importance in understanding the juvenile’s behaviours or for treatment planning. Only one casefile within this study included a racist comment, and this was seen during the Apartheid timeframe.

No casefiles after 2000 indicated the race or population group of the child, nor was their race used to explain behaviours or plan treatment. This is reflective of powers brought with the democratisation of SA and its marking of racial discrimination of children unconstitutional (Peté, 2015). As well as that of The United Nations *Convention on the Rights of the Child* (1989), which advocates that children are entitled to protection and care by the state without discrimination of their race or other features.

#### Conceptualising the Delinquency Across Thirty Years.

The content of the casefiles illuminates what practitioners felt was important to record about the juvenile. Juvenile delinquency is a category filled with concepts and ideas informed by different scientific disciplines, including biology, sociology, medicine,

psychology and the like (Nilsson, 2009:366/7). These human science experts attempt to understand and explain their behaviours. The findings indicate practitioners commonly conceptualised the juvenile and their delinquency in relation to their medical health, substance usage and gang involvement. Juveniles are also conceptualised as ‘criminals’ and absconders. Lastly, their history of alternative care placement was frequently reported on. The prevalence of each of the themes varied across the thirty years.

Overall, these themes are interpreted as being aimed at justifying their placement at the facility, as well as to aid in treatment planning that is suited to the individual needs of a juvenile. Miller (1990) highlights how discourse is not wholly a function of power, and it can be for the benefit of treatment (Miller, 1990).

The physical health and presence of (physical or intellectual) conditions of the juvenile were reported on in casefiles across the thirty years assessed. A particular ‘medical condition’ associated with their behaviours in the casefiles was Foetal Alcohol Syndrome (FAS). Comments of FAS likely have to do with Individual Development Plans. However, there was no mention of interventions specifically for children with FAS within the casefiles. The mental or psychiatric health of the juvenile was only recorded in documents after 2010. The inclusion of the mental health assessment casefiles is a positive development. A study conducted in the US found that up to 80% of incarcerated youth will have at least one diagnosable mental health disorder and the symptoms of mental disorders have been shown to increase the likelihood that a youth will commit deviant behaviours (Underwood & Washington, 2016). Interestingly, Nilsson (2009:358) noted juveniles in Sweden underwent psychiatric (and physical) examination upon entry to a reformatory prison in the mid to late 1900s. Within this study, psychiatric discourse was only seen after 2010.

Spanning three decades, practitioners reported on the extent of the juvenile’s involvement with negative peer groups and gangs. Similarly, Gray (1997) notes the seriousness with which juvenile justice professionals in Hong Kong take youth gangsterism (and association with other delinquents) in their sentencing decisions (Gray, 1997). Although these remarks were seen across the thirty years assessed, hardly any youth from this study were gangsters. Within the casefiles, greater focus

was given to whether the child associates with negative friends, known gang members or is being used by adults to commit crimes. I believe the presence of the discourse strand is related to the known risk factor of deviant peer relations for juvenile delinquency (Bax & Hlasny, 2018), and institutionalisation removes them from that negative influence. Not because the practitioners view the youth as gangsters. Further research with a larger sample size that looks at children from more than one CYCC would be needed to determine the extent of youth gangsterism at secure care facilities.

Another common theme throughout this study was the description of the juvenile as a substance user. Not only did the prevalence of drug usage increase over time, but the types of substances being abused were more dangerous and addictive than before. Their diagnosis in terms of substance dependence allows for individualised interventions to be planned. However, only casefiles after 2010 contained documents that relate to substance abuse treatment. Research is recommended to assess what other substance-use rehabilitation services are in place at alternative care centres. Although the conceptualising of their delinquency in terms of their substance use increased over time, the theme of the 'criminal' is not as clear cut.

The discourse of juvenile delinquency as a criminal was seen from 1990 until 2010. Those who entered under Apartheid had a mugshot of themselves in their casefile, further perpetuating the discourse of the juvenile as a criminal. Although no casefiles after 2000 contained this 'mugshot', references to them as the accused or a prisoner was still seen until 2010. Juveniles who were admitted to the facility after 2010 were not referred to as 'criminals', 'accused' or 'prisoners'. This was because they were placed there after being deemed in need of state care and protection, not for committing a criminal offence.

As a discourse theme, the absconder refers to how practitioners consistently refer to the juvenile as 'the absconder' from 1990 until 2010. This makes it part of the discourse during Apartheid and after. The discourse carries meaning. The child then carries these auxiliary traits associated with this label (Becker, 1963) as someone who is uncontrollable and unreliable. Someone who requires strict monitoring and surveillance. Categories such as 'the escaper' are created by the institution in accordance with an administrative logic (Nilsson, 2009:367). The 'escaper' category

is seen as a testing point in the juvenile's willingness to conform to the institution's internal rules (Nilsson, 2009:367). Abscondment within the facility could be understood as resisting the institution's perpetual surveillance. As Foucault argues, power is not purely negative; it allows new forms of behaviours to occur (Mills, 2003). The formation and conceptualisation of delinquency must include their rebellious energy (Tiethof, 2016).

References to the juvenile as an absconder were most prevalent from 2000 to 2010. Perhaps the drop in punitive measures and the increased use of disciplinary powers in the CYCC after the 2000s can be used to account for the increase of abscondment from the facility after the 2000s. However, casefiles after 2010 did not reference the juvenile as an absconder, despite discipline, surveillance and supervision continuing. Although the lack of reference to this theme does not mean juveniles did not run away after 2010, perhaps their escapes were not being recorded in the casefiles.

Another discourse theme seen across the three decades was references to the child's history of alternative care placement (the phenomenon which I have termed as being tossed 'in and out of the system'). This was seen through the high prevalence of transfer and removal court letters within casefiles, specifically after 2010. This indicates that other options aside from placement at this CYCC were tried but unsuccessful in bringing about behavioural changes. In this way, one can view being tossed 'in and out the system' as an expression of the juvenile justice system's dedication to finding a suitable facility that can cater to the needs of the child. However, frequently being transferred in and out of alternative care institutions is generally not in line with a restorative justice approach to juvenile care.

The restorative justice approach focuses on the rehabilitation of juveniles to reduce their risk of criminality or deviancy (Holtzhausen, 2012). The approach is not effective if juveniles are routinely being transferred from one facility to another or released and readmitted. Similarly, Nilsson (2009:363) notes the lack of reformation of young offenders in reformatory prisons, which he attributes to (amongst other things) the constant transporting of youth between institutions, the facility's unrealistic expectations of rehabilitation, their lack of qualified personnel and lack of resources.

Foucault (1977:277) argues that penalty creates delinquency partly due to its non-rehabilitative mechanisms that increase one's chance of being brought back to the criminal justice system. This includes the inability to obtain employment due to a criminal record, probation restrictions, mandated residency in certain areas and limitations on residing in others (Foucault, 1977:282). Similarly, after a child leaves the institution, they are provided with ongoing supervision (after-care). Yet, this continued monitorisation may increase their risk of being sent back to a state-run facility compared to if they were not supervised.

The lack of job prospects for adult criminals can be compared to how children who have been sentenced to a CYCC may struggle to be accepted by private schools or universities due to their history of institutionalisation. I stress private schools here, as public schools in South Africa must admit learners (and serve their educational needs) without discrimination, and school is compulsory for children aged seven to fifteen (*South African Schools Act, no. 84 of 1996*, 1996), which I presume includes those with a history of institutionalisation.

However, institutional children may fail to reintegrate into the mainstream educational system, and school attendance can be a requirement for youth on 'probation' (Development Services Group, Inc., 2019). If the child is not attending school, their after-care social worker may recommend a deeper involvement with the juvenile justice system (Development Service Group, Inc. 2019:5). Placement at juvenile residential facilities has been linked to an increased chance of adult criminality and a decreased chance of completing high school (Development Services Group, Inc. 2019).

Juvenile state institutions, although aimed at restoration and reintegration, may inadvertently create, or sustain, juvenile delinquency. This is like the self-fulfilling prophecy of the labelling theory in which being labelled as a juvenile delinquent sets in motion specific mechanisms (such as after-care supervision and rejected school placement) that may further shape the individual into their label (Becker, 1963:35). These are the mechanisms that reinforce delinquency that exist alongside the programmes for correcting it (Nilsson, 2009).

#### Restorative Justice in Juvenile Delinquency Treatment.

Foucault describes (adult) prisons as operating under the illusion of rehabilitation (Jouet, 2022:209). ‘The prison is the place where the power to punish, which no longer dares to manifest itself openly, silently organises a field of objectivity in which punishment will be able to function openly as treatment...’ (Foucault, 1997:225). Adult penal systems do not seek to correct or change behaviour but conceal and contain it (Tiethof, 2016:127). Other theorists have argued against Foucault’s morbid interpretation of rehabilitation in prisons. Prisons can rehabilitate and use experts to evaluate and treat offenders (Jouet, 2022:203). This is even more evident in the practices within CYCCs.

Youth care facilities use disciplinary powers to control and restructure juvenile behaviour, but this is aimed at providing them with the skills to flourish as productive citizens in the outside world. The ethos of Schools of Industries and CYCC is different from that of prisons for adults. This was blatantly seen when Schools of Industries were transferred from the Department of Prisons to the Department of Education in 1917 (Department of Justice, 2002). Treatment for their rehabilitation is at the foreground of juvenile delinquency ‘care’ within alternative care facilities.

From 1990 to 2000, casefiles extensively examined and reported on the juveniles’ education and vocational progress. Education and vocational skill training have been the predominant treatment mechanisms within Schools of Industries and are viewed as the means to rehabilitate the juvenile (Badroodien, 2011; Carpenter, 1851; May 1973). This explains the intense focus on juveniles’ intellectual abilities, trade skill development and educational progress within the School of Industries from 1990 to 2000.

Although the child’s educational progress decreased over time, it did so to a lesser extent than references to their vocational skill training. The facility referred to the head of the institute as a principal throughout the thirty years. Additionally, documents unrelated to the child’s educational needs or progress consistently referred to the juvenile as ‘*leerlinge*’, which translates to learner or pupil. Nilsson (2009:357) noted that juveniles at reformatory prisons are purposefully referred to as pupils to distinguish them from young offenders accused of serious crimes.

The importance of education in delinquency rehabilitation is still widely acknowledged in literature today (Case & Hazel, 2020; Blomberg, Bales, Mann & Piquero, Berk, 2011; Hall, 2015; Case & Hazel, 2020). Education is the cornerstone of treatment at the facility.

Interestingly, casefiles from 2000 to 2010 had the fewest references to education and vocational training. Despite the facility operating under the Department of Basic Education until the *Children's Act no.38 of 2005, as amended* (2010) was enacted. However, casefiles during this timeframe had significantly fewer documents for almost every discourse theme analysed. Documents were not as vigorously filed in casefiles as compared to the other timeframes assessed.

#### Impact of the enactment of the Children's Act, as amended (2010).

It was only after 2010 that the prevalence of the restorative discourse theme (outside of education and trade) significantly increased. This includes the addition of Family Group Conferencing (FGC), ROAR treatment centre reports, and behavioural assessment reports from the three-day intervention programme (RECONNECT). IDPs now include the strengths of the child as well as their challenges. These new intervention programmes and reports were seen along with notes from sessions with psychologists, occupational therapists, and individual counselling. The increased therapeutic and restorative programmes at the facility are a response to the enactment of the *Children's Act no.38 of 2005, as amended* (2010). This Act strongly emphasised programmes catering to children's therapeutic and developmental needs in alternative care centres (Jamieson, 2013). This contrasts with the *Child Care Act of 1983*, which used a facility-based approach focused on the material needs of youth at the centre (Jamieson, 2013).

The enactment of the *Children's Act* resulted in a shift in power relations over the control of CYCC from the Department of Basic Education (DBE) to the Department of Social Development (DSD). The departments have different mandates. The DBE focuses on providing for South Africans' educational needs (Department of Basic Education, 2011). The DSD is committed to alleviating poverty and improving the lives of those most vulnerable through social welfare and protection services

(Department of Social Development, 2021). The DSD is potentially more likely to focus on the therapeutic and holistic treatment of delinquency outside of education. This is also evident in the inclusion of mental health assessments and the introduction of substance-use intervention programmes, which were not seen in casefiles before 2010. The child's physical, mental, social, educational, and vocational needs are being addressed, providing for a more holistic approach to juvenile care within institutions.

A significant development in the discourse was the inclusion of the strengths of the juvenile. This took great precedence after 2010. It aligns with the theoretical model of Strengths Perspective Theory, which looks to develop strategies that harness the strengths of the juvenile to address areas of concern (Oliphant & Pavlic, 2012). This indicates that juveniles at facilities are not only conceptualised in terms of characteristics that make them different to 'non-delinquent' juveniles. It now includes their positive traits, their character and attribute strengths. The shift of focus to the strengths of juveniles reflects an important change in the discourse of juvenile delinquency within institutions.

#### **5.4. Recommendation for Further Research**

Recommendations for future research on the discourse of juvenile delinquency are presented below. This includes accounting for the different fields of knowledge held by various role players within alternative care facilities, that would portray different juvenile delinquency discourses. I have attempted to combine the above (as it is captured in one casefile) to provide an overview of the juvenile delinquency discourse by those who work with them. A separation of the different discourses of different practitioners is highly recommended. It would be helpful to look at the discourse held by the media, the discourses held by caregivers of the juveniles, and the discourses the juveniles have of themselves.

It is also recommended that a study be conducted that includes a sample of both male and female juvenile delinquents. This study exclusively looked at male juvenile delinquents, and findings may not hold for female delinquents. It is recommended that a multiple case study design be used to evaluate casefiles from more

than one facility. This ensures that the themes discovered here are not unique to this CYCC. It could also be useful to gather data from CYCC in different provinces in SA. This will help ensure that the findings in this study are not representative of the discourse of juvenile delinquency only seen in the Western Cape and, therefore, not reflective of all discourses seen across SA.

A discourse analysis of juvenile delinquency with a larger sample size would be beneficial. This research dissertation was largely exploratory and did not attempt to account for all the potential discourses pertaining to juvenile delinquency. A more extensive project with a much larger sample size is needed to form a complete account of juvenile delinquency discourse. Lastly, a quantitative study on this topic would be helpful to determine if there is a statistically significant increase or decrease in specific discourse themes.

## **5.5. Conclusion**

This study sought to investigate what casefiles of learners at a CYCC in the Western Cape revealed about the changing discourse of juvenile delinquency across thirty years. This chapter revealed that new democratic policies and legislative shifts corresponded with the end of corporal punishment practices at the facility and race-related discourses. Certain discourse themes remained across the thirty years but changed in prevalence and meaning. Lastly, it was discovered that the restorative justice movement reflected most in the discourse after 2010. This chapter concluded by providing recommendations for future research on a topic related to discourses around juveniles in alternative care facilities.

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**Appendices:**  
Appendix 1: Redacted MoU.

██████ Youth Care & Education Centre  
 ██████ seugsorg & Onderwys Sentrum  
 Private Bag / Privaatsak X4  
 ██████  
 7808



Telephone: 021 001 0848

Cell: 0846660606

E-mail: ██████

**Memorandum of Understanding**

Made and entered into by and between

And ██████ YOUTH CARE CENTRE ("Party A")  
 UCT (Centre of Criminology)  
 Rondebosch, Cape Town 7700 ("Party B")  
 Tel. Nos. 021 6509111 Fax:

This is an agreement between "Party A", hereinafter called OYCC and "Party B", hereinafter called UCT CENTRE OF CRIMINOLOGY.

**PURPOSE**

The purpose of this MOU is to formalize the working relationship between the two parties and to identify the roles and responsibilities of each party as they relate to practical and operational arrangements in execution of Research activities.

In particular, this MOU is intended to facilitate access to UCT Centre for Criminology and to grant them access to the OYCC learner files, materials and resources for research purposes.

**GENERAL CONDITIONS**

1. The MOU is historically located in the synergy and vision shared between the OYCC board of governors and UCT as a hub of educational integrity and excellence and the optimal utilization of resources to serve with distinction the needs of our communities.
2. OYCC shall not be liable for any injuries, damage, inconvenience or loss sustained by UCT or any member of the UCT group inside or outside the premises of Ottery.
3. Ottery Youth Care Centre will provide access to the Centre to its immediate buildings as well as files and historical materials and documents stored in different departments to advance research into the historical lives of children as well as staff members
4. UCT further undertakes to restore the filing system to its original state or alternatively create an archival space that will allow students access to the materials for research purposes.
5. Students will deal with information contained in learner files with utmost confidentiality and in line with relevant and legally required ethical protocols.
6. Any aspect not covered by this MOU will be addressed through further consultation and mutual agreement.

SIGNED at ██████ on the 19<sup>th</sup> DAY of August 2022.

WITNESS: \_\_\_\_\_

Name: \_\_\_\_\_

*Kelly Munnik*  
 (USER)  
 UCT - Centre of CRIMINOLOGY

WITNESS: \_\_\_\_\_

Name: M. Mahadick

(LESSOR / School Rep)

WITNESS: \_\_\_\_\_

(SGB)  
 Name: Prof. A. Badroodien (CHAIRMAN)