

Exploring Diversion Programmes for Youth in Conflict with the Law: Case Studies of the Youth Empowerment Scheme Programme at NICRO, Durban, South Africa

by

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DECLARATION

I, Precious Nolwazi Ntuli declare that

- (i) The research reported in this dissertation, except where otherwise indicated, is my original research.
- (ii) This dissertation has not been submitted for any degree or examination at any other university.
- (iii) This dissertation does not contain other persons' data, or other information, unless specifically acknowledged as being sourced from them.
- (iv) Where other written sources have been quoted, then:
 - a) Their words have been re-written but the general information attributed to them has been referenced;
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- (v) This dissertation does not contain text copied and pasted from the Internet, unless specifically acknowledged, and the source being detailed in the dissertation/thesis and in the References sections.

Signed:

.....

.....

Supervisor

DEDICATION

This study is dedicated in memory of my late grandmother, Mrs Getrude Ntuli, who has played an enormous role in my upbringing. It is sad that you did not get the opportunity to witness your granddaughter's greatest achievement. Above all, it is regretful that I did not get the chance to make you happy. Thank you for raising me well, Grandma! You will always be remembered. May your soul rest in peace.

This study is also dedicated in memory of my late son, Samukelo Mavundla. The hardest thing that I have ever had to endure was to hear that your heart stopped beating. I wished at that moment that I could trade places with you. Although I loved you dearly, I could not make you stay. It felt as if I was buried alive. You may be gone, but I will love you every second of my life. Rest in peace, my son.

I also dedicate this work to my loving daughter, Luyanda Mavundla. I love you, Luyanda. You are my strength and my source of happiness and, most importantly, you are a blessing from God.

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ABSTRACT

The high level of crime in South Africa remains a concern. More particularly, crime that involves youth offenders puts them at high risk of becoming involved with the criminal justice system. Although some studies showed that diversion programmes succeed in reducing re-offending, some showed that these programmes had no impact, and some showed that they had a negative impact. Despite some success in reducing crime among youth who were in conflict with the law by means of rehabilitating them in diversion programmes, some youth find it difficult to live their lives in harmony with the behavioural norms of their society and they are often tempted to deviate due to their circumstances. Even though much work has been done in recent years through diversion programmes and although efforts have been made to determine the effectiveness of diversion programmes, an illumination of the perspectives and understanding of youth is limited in the literature. Therefore, this study engaged in an explorative research process in order to provide a detailed description of youths' understanding of their own criminal behaviour after completing the Youth Empowerment Scheme programme. The study also aimed at and was able to identify factors that contributed to the criminal behaviour of young people in the South African society.

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ACRONYMS

CJA: Child Justice Act

CJA: Criminal Justice Act

DSD: Department of Social Development

KZN: KwaZulu-Natal

NPO: Non-profit Organisation

NGO: Non-profit Government Organisation

NYP: National Youth Police

NICRO: National Institute for Crime prevention and Reintegration of Offenders

RSA: Republic of South Africa

SAPS: South African Police Services

UNICEF: United Nations Children's Fund

YES: Youth Empowerment Scheme

CHAPTER ONE

INTRODUCTION AND BACKGROUND

1.1 Introduction

Traditionally, the youth of South Africa is regarded as an essential asset to the nation. They are not only an extremely important resource of the state, but they are also a change agent. The youth of South Africa is perceived as pioneers of economic, social, political and cultural transformation and a driving force of change (National Youth Police, 2009-2014). However, many youths in South Africa have encountered so many challenges that they have been left with no choice but to participate in criminal activities. Arguably, the volatile socioeconomic conditions after 1994 in South Africa have caused many people to face various challenges that have resulted in the perception that the day-to-day challenges of living in South Africa can only be addressed by committing crime. Most disturbing is the prevalence of crime committed by youths. Therefore, we cannot ignore the fact that anti-social behaviour is fuelled by various factors. For example, the criminal behaviour of youths may be influenced by a lack of parental support or the destructive environment that the child is exposed to that may turn him/her into an offender.

According to Marsh (1999), South Africa has consistently experienced crime problems and, despite several initiatives by the government to curb this scourge, the level of crime in South Africa has remained alarmingly high since 1994. Skelton (2002) point out that Durban is the fastest growing city in the country, with very high levels of poverty. Children that are living at the edge of over-stretched families are going to the streets to see what they can find. This is reflected in the high intake of new cases in the judicial system, which appears to be growing on a monthly basis (Skelton, 2002).

The Constitution of the Republic of South Africa (South Africa, 1996) provides that children's rights should be protected at all times. It further provides children with specific safeguards and upholds that a child's best interests are of paramount importance in every matter concerning a child. For example, according to Section 28(1), a child should not be detained except as a measure of last resort (South Africa, 1996). Therefore, imprisonment is not a recommended option for children in conflict with the law. The Child Justice Act (CJA) 75 of 2008 (South Africa, 2008) is another effort by the government that is aimed at protecting children's constitutional rights when they are in conflict with the law. The CJA aims to expand and entrench the principles of restorative justice in the criminal justice system for children who are in conflict with the law, while ensuring that they accept responsibility and accountability for the crimes they committed. The Act also recognises the present realities of crime in the country and the need to be proactive in crime prevention, by placing emphasis on the effective rehabilitation and reintegration of children into society in order to reduce the potential for re-offending. The CJA regards intervention as a must initiative towards preventing children's antisocial behaviour. Therefore, this study sought to explore how affected youth reacted to a diversion programme in the South African context. The study focused in particular on this phenomenon on the outskirts of KwaZulu-Natal.

The current chapter focuses on the motivation for the study, problem formulation, and the research statement. The chapter also provides a brief description of the research methodology and provides the layout of the subsequent chapters.

1.2 Location of the Study

This study was conducted in KwaZulu-Natal province in South Africa, and therefore the socio-economic context of South Africa and KwaZulu-Natal is vital in understanding the background of this study. South Africa has a population of 46 million people and (18.7%) is under the age of 25

years (Pelser, 2008). According to du Plessis (2006), South Africa is characterised by a densely controlled input market, which has been impacted by both the social and economic implications of the political regime of the apartheid era, which has resulted in high rates of unemployment. Currently, South Africa is disrupted by crime that seems unlikely to decrease in the near future. Theft and drug-related crimes remain major concerns in the country, with over 360 000 and 260 000 reported crimes in these categories respectively, followed by more than a quarter of a million house break-ins (Statistics South Africa, 2015; SAPS, 2014). Recent data compiled by the Institute for Economics and Peace (IPE) show that, when it comes to societal safety and security, South Africa ranks as the fifteenth worst country in the world, and it is the eighteenth most violent with nearly 34 murders recorded per 100,000 people between 2015 and 2016 (Statistics South Africa, 2015). For example, there were 16 194 reported murder cases in 2014, most of which (3 561) occurred in KwaZulu-Natal. Furthermore, there were 62 267 reported sexual crime cases in 2014, most of which (11 661) again occurred in KwaZulu-Natal. According to the IEP, South Africa is in conflict internally, and this conflict is predominantly driven by poverty, inequality, and the slow pace of reform by the government, which are factors which, in turn, promote crime, violent strike actions, and political confrontation (Statistics South Africa, 2015; SAPS, 2014). In particular, criminal behaviour seems to develop among youths, as they are growing up in a complex and confusing country. A child is part of the society in which he/she lives, yet the social structure that should ensure a well-organised process of socialisation is extremely vulnerable in the South African context in general, but more specifically among the youth in both urban and rural contexts. The traditional patterns and relationships that guide transitions between family, school and work are collapsing nowadays for many young people in South Africa. According to Fajnzylber, Lederman and Loayza (2002), crime has several attributing elements such as economic recession,

poverty and unemployment, the level of crime, the age structure of the population, and the moral degradation within the society. However, this does not imply that criminal behaviour is exclusively associated with the unpleasant socio-economic and political conditions that are prevalent in the country, but it seems evident that many youth offenders emanate from backgrounds characterised by such issues (Clark, 2012). Hence, the causes of the high crime rate are difficult to isolate. Arguably, standards of living in South Africa are becoming more diverse and less predictable, and it has been the researcher's observation that economic opportunities are becoming fewer for larger numbers of youth who wish to enter the world of work. For these reasons, the young people of South Africa may easily be drawn into criminal behaviour.

1.3 Motivation for the Study

Crime has been and remains a major concern in South Africa. Although individuals go through various developmental stages during their lifespan and are faced with various new challenges, it is disturbing that the sheer reality for many youth in South Africa is that violence and crime have become a way of life. High rates of crime that are threatening their environment both directly and indirectly affect their psychological, emotional, developmental and physical well-being (Burton, Leoschut & Bonara, 2009:1; Clark, 2012). South Africa's youth experience significant violence in their own homes both as victims and as witnesses. This observation is validated by the findings of a study by Burton (2008). Moreover, Pelsier (2008) found that more than three-quarters of the youth offenders in this study (76.2%) had themselves been victims of crime, as they had been victims of mainly assault (44.1%), robbery (43.5%), theft (22.3%) and home burglary (15.8%).

According to Clark (2012), crime is not a recent problem in South Africa and this author argues that crime has become increasingly violent since the abolishment of apartheid. Therefore, it is

considered among the most difficult of the many challenges facing South Africa (Demombynes & Ozler, 2008:265). What is most disturbing is that youths between the ages of 12 and 22 constitute a considerable percentage of both victims and perpetrators of crime in the country (Burton, 2007:1). Pelser's (2008) study confirmed this, as it indicated that most youth offenders committed their first offence between the age of 10–15 years (43.5%); 16–18 years (35.9%), and 19–25 years (18.7%). These data confirm the unfortunate situation that South Africa has many young offenders.

Burton (2008) warns that experience of and exposure to violence in any environment at a young age increase the risk of later victimisation as well as the likelihood of antisocial behaviour later in life. Burton (2016) argues that current conditions in South Africa are filled with opportunities in the social environment for the youth to learn violent behaviour. This implies that they become deficient in opportunities to acquire prosocial behaviour and accomplish positive educational and economic goals. Leonschut and Bonora (2007:89) emphasise that youth criminality is one of the primary challenges facing contemporary South Africa.

Harvey and Fine (2004) argue that young individuals who have emotions of anger are most likely to engage in criminal behaviour, whereas Clark (2012:78) maintains that it is virtually impossible to effectively address a problem without understanding its exact causes. Clark (2012) further explains that South Africa's size and diversity contribute to the difficulty of identifying the precise causes of youth violence. Therefore, because most crimes are committed by youth, there is a great need for diversion programmes because imprisonment is not regarded as the best option for handling youth offenders.

Various aspects influence youth offending, including the biology of the individual, family environment, society, and peers. According to Bezuidenhout (2013:70), criminogenic risk factors can occur in the community, family, school and among peer groups. These factors do not function

independently but affect one another. Furthermore, no single factor is dominant enough to foresee with certainty which youth will become violent or criminally involved (Bezuidenhout, 2013). Therefore, it is essential to understand the root of antisocial behaviour in order to ensure that the youth's needs are met.

Diversion initiatives do not merely aim to separate youth from adults in the criminal justice system, but also aim to prevent the negative effects of labelling and stigmatisation that are associated with the formal processing of youth involved in offending behaviour. Such programmes also aim to enable youth offenders to understand and acknowledge their criminal behaviour. Although a growing body of research has demonstrated the profound effect of diversion programmes in reducing recidivism, some studies hold opposing views concerning net widening (Macallair & Males, 2004). However, investigations into the perspectives of youth who participated in diversion programmes are limited in the literature. Clark (2012) suggests that deeper insight into this phenomenon will require extensive field work and case study based analysis that focus on specific areas (e.g., urban and rural) or particular towns and cities. Therefore, the rationale for the current study developed out of curiosity with regards to how youths react to this kind of rehabilitation. The study therefore focused on youth in areas on the outskirts of Durban in the KwaZulu-Natal province of South Africa. The researcher wanted to explore whether the Youth Empowerment Scheme programme provides the youth in this area with appropriate life skills to successfully return to the community as self-regulated and law-abiding individuals. The study also attempted to understand what aspects need to be addressed to prevent recidivism.

1.4 Problem Statement

The high level of crime in South Africa remains a concern, and crimes that particularly involve youth offenders put them at high risk of becoming involved in the criminal justice system. Despite some success in reducing crime among youth who are in conflict with the law by means of rehabilitating them through diversion programmes, these youth often find it difficult to live their lives in harmony with all the behavioural norms of their society and they are sometimes tempted to deviate due to circumstances (Muntigh & Shapiro, 1997). As the Constitution of the Republic of South Africa condemns the imprisonment of children except as a measure of last resort, there is a great need for diversion programmes. According to Stout (2006:129) diversion is “central to the aim of achieving a South African child a justice regime that is compliant with constitutional and international obligations”. Moreover, plans for South African child justice are dependent on large numbers of youth offenders being diverted. Despite this ideal, diversion research has focused on meta-analysis to determine the effectiveness of diversion programmes, and this focus has marginalised youths’ perspectives on and experiences of diversion programmes. Therefore, the study aimed to explore whether youths’ understanding of criminal activity and complicity had been altered through completing such a diversion programme.

1.5 Research Statement

A review of the literature has revealed that diversion research has focused predominantly on meta-analysis to determine the effectiveness of diversion programmes, whereas youths’ perspectives on and experiences of diversion programmes have not been explored in depth. It was argued that the profile and experiences of youth who had been in conflict with the law should be illuminated, as their perceptions would provide important information in order to identify the factors that contributed to their delinquent behaviour.

1.6 Aim of the Research

The study aimed to explore the impact of diversion on a sample of youths who had been referred to the Youth Empowerment Scheme programme that is offered by National Institute for Crime prevention and Reintegration of Offenders (NICRO) in the Durban area. More specifically, the study aimed to establish whether these youths' understanding of their own criminal behaviour had changed after completing the program and to identify factors that contributed to their criminal behaviour. The research questions that underpinned the study therefore aimed to explore to what extent these youth offenders' understanding of their own criminal behaviour had been altered by their involvement in the diversion programme.

1.7 Objectives of the Study

The objectives of the study were to:

- Explore which behavioural patterns were addressed by the diversion programme for youths that had been referred because they were in conflict with the law;
- Assess whether the Youth Empowerment Scheme programme served the function of holding youths who had been in conflict with the law accountable for their behaviour; and to
- Establish whether the Youth Empowerment Scheme programme provided youths with appropriate life skills that they would need to successfully return to the community as self-regulated and law-abiding individuals.

1.8 Research Questions

The questions that needed to be answered in this research are as follows:

- Does the Youth Empowerment Scheme programme create the capacity for self-discipline among youths in conflict with the law?
- What value does the Youth Empowerment Scheme programme add to the lives of youths who were previously in conflict with the law, if any?
- Does the Youth Empowerment Scheme programme succeed in rehabilitating youths who have been in conflict with the law?

1.9 Value of the Study in Terms of Research Development

According to (Regoli & Hewitt, 1991:399), it is important “for lawmakers, policy makers, and people who are involved in the field of juvenile justice to be aware of both the safeguards that are needed in diversion and how these can be made available”. The view that is widely encouraged is that “diversion should be evaluated according to its success in reducing recidivism or balancing the costs and benefits” of such a programme. However, it is argued that it is more likely that its future will hinge on socio-political developments in the various branches of the juvenile justice system (Regoli & Hewitt, 1991). The employment of the diversion movement by juvenile justice officials may lead one to conclude that the purposes of diversion have been deprived. This is because what began as an effort to establish alternative methods for handling problems among the youth became a warrant to increase discretion and extended control where there was none before (Regoli & Hewitt, 1991). In this context Regoli and Hewitt (1991:399) argues, “too many diversion [systems] represent yet another intimidating social control system with law reflectiveness and accountability”. Singh (2016:1) maintains that, in South Africa, there is “inadequate knowledge regarding the rate of recidivism [and] the role that reintegration and rehabilitation programmes can play to restrain the high rate of recidivism”. She points out that “most information is anecdotal

[and] based on the high turnover of offenders entering and leaving correctional institutions” (Singh, 2016: 1).

In view of the above arguments, the researcher decided to undertake a study to explore the impact of diversion programmes on youths in conflict with the law and to explore whether the Youth Empowerment Scheme programme provided such youth with appropriate life skills to successfully return to the community as self-regulated and law-abiding individuals. A further aim was to understand what aspects needed to be addressed to prevent recidivism in order to provide diversion programmes that will be beneficial to youths who are in conflict with the law and to the community at large.

Therefore, because the study gained insight into the problems faced by youths before they were referred to the diversion programme and the extent to which involvement in the programme was beneficial to them, it will benefit the criminal justice system, the Department of Social Development, Nicro, and most importantly the community at large. By authentically illuminating the reality of how youth react to this kind of diversionary option, the study will assist in informing the CJS and policy makers as to what can be done to upgrade the effectiveness of such programmes and other similar initiatives.

1.10 Key Concepts

Diversion Programme: Diversion programmes intend to redirect youth away from crime and involvement in the juvenile justice system, while still holding them accountable for their actions (Beck, 2006). Muntigh and Shapiro (1997:7) define diversion as “channelling of prima facie cases from the formal criminal justice system on certain conditions to extra-judicial programmes, at the discretion of the prosecution”.

NICRO: This is an acronym for the National Institute for Crime Prevention and Reintegration of Offenders. NICRO is a registered non-profit organisation (NPO). Accreditation status was granted to this organisation in line with Section 56 (2) (f) of the Child Justice Act No. 75 of 2008.

Restorative Justice: According to the Probation Services Act No. 116 of 1991, restorative justice means the promotion of reconciliation, restitution and responsibility through the involvement of parents, families, victims, and communities.

Youth/child: The Child Justice Act No. 75 of 2008 refers to a child (interchangeably used in this dissertation as the youth or youths) as any person under the age of 18 years. In certain circumstances, it refers to a person who is 18 years or older but under the age of 21 years whose conduct is dealt with in terms of section 4(2) of the Act. The term ‘children [or child] in conflict with the law’ refers to anyone under 18 years of age who comes into contact with the criminal justice system as a result of being suspected or accused of committing an offence (UNICEF, 2006).

Youth Empowerment Scheme programme: Referral to this programme is an alternative sanction that is used to deal with youth offenders in order to avoid a criminal record and incarceration. The programme is intended to provide such offenders with positive life skills for a crime-free future.

1.11 Motivation for a Qualitative Research Approach

The study made use of a qualitative approach using a case study design to explore diversion programmes for youth in conflict with the law who had been referred to the Youth Empowerment Scheme programme. The use of this design was influenced by the fact that most diversion research has focused primarily on meta-analysis to determine the effectiveness of diversion programmes. Therefore, the aim of the study was to explore the manner in which the youth reacted to this type of diversionary program. In particular, the purpose was to find out whether youths' understanding of their own criminal behaviour had been altered by completing the programme. In this context, the qualitative approach seemed appropriate for this study. As suggested by Richie and Lewis (in Alpaslan, 2010:14), this approach is suitable if the study: (i) seeks to explore and describe a context, an experience or process; (ii) seeks to discover or learn more about the phenomenon; (iii) develops an understanding of an experience or context; and (iv) aims to report on an experience, context or process. Therefore, in order to explore how youth offenders reacted to this type of rehabilitation initiative, the researcher decided to use this approach in order to engage in an interview discussion with the participants. This approach was selected as it would facilitate an illumination of their understanding of their own criminal behaviour after completing the Youth Empowerment Scheme program at Nicro, Durban. However, the results of the study cannot be generalised as the scope was relatively limited in terms of study area and sample size (Babbie & Mouton, 2011).

1.11 Research design

Within the qualitative approach, the researcher employed an explorative research design in order to provide a detailed description of what was explored during the investigation of youths' understanding of their own criminal behaviour after completing the Youth Empowerment Scheme programme. According to Bless and Smith (2000:41), "the purpose of exploratory research is to gain a broad understanding of a phenomenon, community or person". The unit of analysis was youth offenders between the ages of 15–19 years. The sample comprised youths who had committed petty crimes such as shoplifting, malicious damage to property, common assault, and being in possession of prohibited substances such as dagga. In order to collect the data, the researcher made use of semi-structured interviews. Qualitative research attempts to study human action from the perspective of social actors themselves (Babbie & Mouton, 2001:270). In this regard, qualitative methods are ideally used for gaining a true understanding of the social aspects that influence the commission of crime and to determine how formal structures (e.g., the police and the criminal justice system) and informal structures (communities) react to this threat. It also explains crime in culturally grounded contexts (Tewksbury, 2009:38).

1.12 Structure of the Dissertation

Chapter one: This chapter outlines the aim and background of the study and provides the objectives and questions that supported the research process. Furthermore, this chapter presents a discussion on the value of the study and includes a brief outline of the research methodology that was used.

Chapter two: This chapter gives a review of related literature on diversion programmes. This chapter also elucidates the impact of diversion programmes on youth in conflict with the law, the history of child justice in South Africa, and factors that contribute to child delinquency.

Chapter three: In this chapter, the two theories that guided the interpretation of the data are explained. In brief, this study was informed by the labelling theory and the differential association theory.

Chapter four: This chapter focuses on the research design and the methodology that was employed to achieve the objectives of the study.

Chapter five: In this chapter, the data are presented, analysed and interpreted. The findings that were underpinned by the theoretical framework are discussed with reference to the research questions and objectives.

Chapter six: This chapter focuses on the conclusions and recommendations of the study. A summary of the overall findings of the research is provided as well.

1.13 Conclusion

This introductory chapter explained what the study entailed and provided its epistemological stance. The chapter explained some of the important concepts relevant to youth offenders and explained the position of the youth in the South African society with particular reference to the commission of crime. The context of the study was also explained with reference to the socioeconomic conditions that were prevalent in South Africa and KwaZulu-Natal at the time of the study. This was done in order to provide an understanding of the conditions that might have resulted in the various factors that influenced youth delinquency, which was the general theme on which the study was based. This chapter indicated that crime in democratic South Africa remained alarmingly high, and that it particularly involved youth offenders. This fact has necessitated the introduction of diversion programmes for addressing this issue and to effectively deal with youths

who have been in conflict with the law in order to reduce their potential for re-offending. This chapter also raised the concern that although multiple studies have been conducted on the effectiveness of diversion programmes, the perspectives of youths in conflict with the law have been limited in scholarly investigations.

This study aimed to address the main research questions in order to determine whether youth offenders' understanding of their own criminal behaviour had been altered by completing the Youth Empowerment Scheme programme. To answer the research questions, data were collected from youth offenders who had participated in the programme in order to explore the impact of the programme on their views, attitudes and behaviour. The following chapter will provide a review of related literature.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

Diversion is one of the areas that is aimed at channelling youth away from the criminal justice system through reintegrative programmes, if they take responsibility for the crimes they have committed. In certain circumstances, youth who have been in conflict with the law can be diverted to diversion programmes; as a result, they avoid a criminal record as well as the negative effects that can label them for life and damage their chances of obtaining employment in the future. Muntigh and Shapiro (1997:4) point out that diversion is one of the fields in which “rapid advances can be made in making the criminal justice system more humane and more effective”.

Haines and Case (in Bezuidenhout, 2013:61) protest that incomplete or broken families, dysfunctional family life, lack of parental supervision, erratic and harsh disciplinary methods, domestic violence, parental involvement in criminal behaviour, and the erosion of traditional values are risk factors that are related to youth misbehaviour and delinquency. Therefore, it is important to analyse this concern holistically before we can conceptualise the involvement of the youth in various criminal behaviours.

Before 1994, South Africa did not give many of its children, particularly black children, and the opportunity to live and act like children. Moreover, because of circumstances that have been perpetuated by apartheid policies, some children in democratic South Africa find themselves in conflict with the law. Furthermore, before the Child Justice Act of 2008 was brought into effect, youth offenders were prosecuted under the Criminal Procedure Act in the absence of any consideration for children and their context.

The Child Justice Act of 2008 provides that child justice matters are managed in a rights-based manner and that children suspected of committing a crime are assisted in turning their lives around and becoming productive members of society by engaging with them in restorative justice measures, diversions, and alternative sentencing options. The Child Justice Act places a strong emphasis on rehabilitation and the re-integration of youth who are in conflict with the law into society so that they can grow up and contribute to society.

According to Muntingh and Shapiro (1997:4), diversion is “a shift away from punitive and retributive criminal justice towards rehabilitative, educational and developmental options aimed at promoting restoration, reconciliation and healing”. Badenhorst (2011:5) maintains that diversion “gives children a chance to avoid the stigmatisation and negative labelling from formal processing in the juvenile justice system, while at the same time teaching them accountability and responsibility for their actions”. However, a number of concerns have been raised regarding the practice of referring youth to diversion programmes. Regoli and Hewitt (1991:396) argue that, while it may seem as if diversion reduces caseloads, it is not necessarily true. They argue that because diversion programmes handle some individuals who would not otherwise have come into contact with the police, diversion programmes may increase the number of cases sent to court.

In light of the above, the focus of this chapter is on diversion programmes for youth who found themselves in conflict with the law due to criminal acts and behaviour. Relevant literature regarding diversion programmes and the factors that contribute to offending behaviour are unpicked and discussed. The chapter also presents a discussion on the justice process and examines different forms of punishment. Nicro’s role in terms of diversion programmes is also elucidated. The purpose of the literature review is to provide a broad understanding of the impact of diversion programmes and how the youth reacts to this kind of rehabilitation initiative. It explores the

findings of previous studies that have evaluated the effectiveness of diversion programmes as background information pertaining to this study. In this process, gaps in the literature were identified which this study aimed to fill.

The study focused on youth who had been in conflict with the law and who had been referred to the Youth Empowerment Scheme programme. The focus was on establishing selected youths' understanding of their own criminal behaviour after completing the programme, as well as on identifying factors that contributed to their criminal behaviour. The participants had been referred to the programme by a magistrate's court. These youth had committed petty crimes such as shoplifting, malicious damage to property, common assault, and possession of dagga. Armed robbery, murder and rape offenders are excluded from the Youth Empowerment Scheme programme and youth who had committed such criminal acts were therefore excluded from this study. Not only first-time offenders qualify for this programme, and youth between the ages of 12 to 18 years are referred and accepted. However, prosecutors may use their own discretion to refer 19-year-olds who are still attending school. Participation is strictly voluntary; however, the youth needs to acknowledge that a crime has been committed before he/she is diverted to this type of diversionary alternative.

2.2 What is a Diversion Programme?

Knowledge of the aims and objectives of diversion programmes is crucial in order to fully understand the programmes that are currently being conducted in South Africa. Post 1994, diversion programmes were established to protect the rights of children in South Africa. The Child Justice Act No. 75 of 2008 (South Africa, 2008) was one such effort by the government to protect children's constitutional rights when they are in conflict with the law. The Child Justice Act seeks to ensure that children who are found guilty of committing a crime are able to turn their lives

around and become productive members of society. This is done by engaging with the child through restorative justice measures, diversion initiatives, and other alternative sentencing options.

Bynum and Thomas (1996:430) define diversion as “an attempt to divert, or channel out, youthful offenders from the juvenile justice system”. Lundman (1993) argues that the concept of diversion is based on the labelling theory, which holds that processing certain youth through the juvenile justice system may do more harm than good. The basis of the diversion argument is that formal court procedures may inadvertently stigmatise a youth for having committed a relatively minor act that may best have been handled outside the formal justice system. The primary goal of diversion programmes is therefore to reduce recidivism without having to officially process the youth in the criminal justice system. In addition, diversion programmes are also designed to reduce court caseloads, police agency costs and the time officers spend on case processing so that officers and courts can focus more on serious crimes. It also aims at enabling the youth in conflict with the law to acknowledge and understand their behaviour.

Frank (2006:116) states that prevention of offending by and the victimisation of young people (particularly young men) is a key crime strategy in South Africa. He explains that the focus on youth offenders often disguises those young people who are the targets of criminals. Frank (2006) also indicates that the experiences of youth offenders usually create the conditions and constraints by which they have to live their lives. It is therefore important to look at the causes of criminal behaviour among the youth and to assist them to revert their behaviour by means of diversion programmes in an effort to rehabilitate juvenile delinquents. Bezuidenhout et al. (2008) maintain that the Child Justice Act aims to establish a criminal justice process for children accused of committing offences that protect the rights of children as entrenched in the Constitution and as provided for in international instruments such as the UN Convention on the Rights of the Child.

The Child Justice Act thus emphasises the involvement of parents, families, victims and communities in the child justice process in order to encourage the reintegration of young offenders into society. It is important to keep young people out of jail through alternative rehabilitation options. The Child Justice Act thus stipulates that diversion should be the first option, as it prevents a child from acquiring a criminal record and limits the consequences of stigmatisation and labelling associated with child offenders.

According to Burke (2008:211), offending behaviour programmes are designed “to prevent or at least minimise offending by children and young people [as] research evidence has shown that they can make a remarkable contribution to the reduction of criminality”. Based on his conclusions, the impact of offending behaviour programmes has been found to be overall positive. Moreover, interventions that have been applied in controlled experimental trials have resulted in a reduction in recidivism compared with control samples, and therefore such interventions have been perceived as worthwhile (Burke, 2008). Greenwood (2008) explains that preventing delinquency does not only save young lives from being wasted, but also prevents the onset of adult criminal careers and reduces the burden of crime on its victims and on society.

2.3 Youth Offending and Deviant Behaviour

Empirical observation has shown that South Africa is characterised by high rates of crime and that a high number of young people are in conflict with the law. Arguably, these youth derive predominantly from poor communities. Moreover, youth who experience failure at school associate themselves with peers who are engaged in deviant behaviour and this results in their involvement with the criminal justice system. Scholars such as Tshiwula (1998), Bezuidenhout (2013) and Siegel (2008) maintain that criminality in the home, broken homes, domestic violence, environmental influences, school and parenting factors (such as parents’ inability to communicate

and provide proper discipline) may play a significant role in determining whether youth misbehave. Gottfredson and Hirschi (in Regoli, Hewitt & Delisi 2008: 214) maintain that parents should consistently and appropriately supervise and punish their children for disruptive or dangerous behaviour. Should they fail to do so children will not develop self-control. They further explain that self-control is a characteristic that is unlikely to be learned later in life.

Gottfredson and Hirschi (in, Regoli et al. 2008) view deviant behaviour as essentially unsocial behaviour and hold that self-control is an acquired characteristic that is produced through early childhood socialisation. They therefore highlight the importance of the stability of self-control over the life course and emphasise how, in the absence of self-control, criminal and related behaviours tend to remain stable over time. Both the social theory and the self-control theory observe the importance of family-related variables in reducing deviant behaviour.

Hirschi's social bonding theory (1967) ascribes delinquent behaviour to the quality of the bond an individual has with society, and explains that delinquent acts result when an individual's bond with society is weak or broken. Hirschi further identifies four elements of social bonding: attachment, involvement, commitment and belief. Attachment is the main element because it owns the most attention in Hirschi's theory. A young person's level of attachment to significant others – for example to parents, peers and role models or institutions such as a club or a school – may inhibit deviant behaviour. An assessment of conformity is to ask juveniles whether it matters what their parents think of them. Attachment is crucial in creating conformity even when others are delinquent, for example in the case where a parent committed a crime for which he/she was convicted (Siegel, 2011).

Involvement refers to the type of activities that youth are involved. Research has shown that youth who participate in conventional leisure activities, such as supervised social activities and

noncompetitive sports, are less likely to engage in delinquency than those who are participating in unconventional leisure activities and unsupervised, peer-oriented social pursuits. In spite of the gender differences in involvement, members of both sexes are less likely to commit a crime if they are engaged in conventional activities (Siegel, 2011).

Commitment represents a person's long-term goals (such as educational or occupational pursuits) and reduces the likelihood of deviant behaviour, because it might endanger the individual's potential to attain these goals. Hirschi assumes that children who are committed to a school and educational achievement are less likely to become involved in delinquent behaviour than those who lack such commitment. Children who commit themselves to deviant behaviour are more likely to fail in school and children who fail in school are more likely to later to drink and engage in deviant behaviour (Siege, 2011).

According to Bezuidenhout et al. (2009), belief in Hirschi's theory refers to the acknowledgement that society's rules are legitimate. An individual with this belief obeys society's rules and norms, feels morally obliged to obey them, and is less likely to deviate from them. Siegel (2011) points out those children who live in areas marked by strong religious values and who hold strong religious beliefs themselves are less likely to engage in delinquent behaviour than adolescents who do not hold such beliefs or who live in less religious communities.

Based on these four elements, it is clear that the bond between the individual and society plays a huge role in a person's life. It is likely that if any of the bonds are weakened, the sense of freedom to commit a crime may increase. Tshiwula (1998:23) indicates that the difference between the personal and social control theories of delinquency "lies in the assumption of the social control theory that social bonds and attachments are stronger protection against delinquency than are personality characteristics". Matza (in Tshiwula, 1998) views juvenile delinquents as young people

who have an extent of will and choice. At the same time, he realises that there are social forces surrounding the individual. He observes the delinquent in the middle between freedom and control. This explains why some delinquents are not committing delinquency all the time and why they later stop committing crimes.

Matza (in Tshiwula, 1998) shares many of the assumptions found in the theory of differential association. The main difference seems to be that drift assumes that delinquency is based largely on a juvenile's choices at a specific moment in a current situation. The second assumption is that delinquents' behaviours are aggravated because of a sense of injustice and they are angry about what they perceive to be discriminatory law enforcement practices and community reactions to their misbehaviour. In other words, youth offenders are likely to be influenced by both adult and peer perceptions. Tshiwula (1998:25) concludes, "Juveniles seem to be caught between parents and peers" and further argues, "juveniles' choices are based on the strength of their bonding with parents and peers. If the bond is strong with parents or peers, juveniles will choose the one that affirms their good feeling about themselves".

Lemert (in Tshiwula, 2008) developed the concepts of primary and secondary deviance, which became the central elements of the development of the labelling theory. This theory contends that if a young person is labelled as deviant, this may perpetuate delinquency, especially if the society responds to them as if the negative description were correct. Basically, this means that repetition of delinquency is a consequence of having been labelled as delinquent in the first place. This label may eventually change a youth's self-image to a point where the youth begins to identify himself or herself as delinquent. Scholars support the conclusion that the most serious consequences occur when negative labels are introduced in a setting that has continuing significance to the individual who has been labelled in a way that blocks any future opportunities for the individual. For example,

some youths are labelled as troublemakers in school and they are placed in a class of similar pupils. As a result, their capacity to change is almost impossible in such an environment.

2.4 Factors Contributing to Deviant Behaviour

The factors that may influence offending behaviour among the youth are discussed under the following sub-headings. There are a number of factors that may increase the likelihood of the youth engaging in antisocial acts. Some of these will be discussed.

2.4.1 Family-related factors

As predicted by Hirschi (in Siegel, 2008) children with strong social bonds are less likely to be involved in delinquent behaviour than those who have weak social bonds. According to Hirschi, a factor that prevents an individual from acting upon internal motivations to engage in delinquent activities is informal social bonds through the process of socialisation (Siegel, 2008).

The family is usually the first institution with which an individual interacts. According to Siegel (2008), parenting factors, such as the ability to communicate and to provide proper discipline, may play a critical role in determining whether individuals misbehave as children and even later in life. Siegel (2008) maintains that children who have troubled home lives display lower levels of self-esteem and are more vulnerable to antisocial behaviours. Siegel (2008) holds that children who grow up in homes where parents lack strict discipline and where children lack the involvement of parents in their lives are vulnerable to antisocial activities. Connections have been found among corporal punishment, delinquency, anger, spousal abuse, depression and adult crime.

Bezuidenhout (2013) notes that broken homes refer to the absence of the father or mother. Homes without both parents, together with poverty, were two main issues that youths involved in research projects mentioned as factors that influenced their decision to commit a crime. Lerner and

Spanier's input (in Tshiwula, 1998) on the broken family issue is that adolescents who have no proper role models or adopt role models who encourage offending behaviour might involve themselves in criminal activities. The meta-analysis conducted by Wells and Rankin (1991) maintains that broken homes are most likely related to offending behaviour when they are caused by divorce or separation rather than by death. Most studies have found that children who come from broken families are more likely to deviate than children from intact families.

Fergusson and Horwood (1998) found that young people who were exposed to inter-parental violence were more likely to commit both violent and property crimes. Murray and Farrington (2010) concur and state that family-related risk factors include poor parenting skills, family disruptions, low attachment to parents, and parents with criminality or substance abuse problems.

2.4.2 Peer influences

Several studies have shown a consistent relationship between involvement in delinquent behaviour and delinquent peer group pressure. McCord, Widom and Crowell (2001) reports that factors such as "peer delinquent behaviour, peer approval of delinquent behaviour attachment or allegiance to peers, time spent with peers, and peer pressure for deviance have all been associated with adolescent antisocial behaviour". Siegel & Welsh (2009:290) maintains that delinquent peers cause law-abiding youth to be involved in troublesome acts. Youth who associate themselves with antisocial peers are more likely to become delinquent regardless of their own personality or the form of supervision they receive at home. Even law-abiding youths are likely to get involved in antisocial behaviour if they are associated with friends who initiate them into delinquent careers.

2.4.3 School-related risk factors

Bezuidenhout (2013:79) and Muncie, Talbot and Walters (2010) show that factors contributing to youth delinquency at school level are usually related to low achievement at school, poor school

attendance, and lack of commitment to the school. Disorganised conditions in and around schools, the role of pupils and the role of the educators, aggressive behaviour (for example bullying among the students), growing up in a deprived community with low-income families, high rates of unemployment, and turnover of the population are factors that result in high levels of vandalism and negative behaviour. Maree (2000:4) states that the following are the main causes of crime in South African schools: involvement in gang activities; lack of transformation in schools; negative perceptions among different racial group learners; the presence of guns; the use and abuse of substances; a lack of counselling services; intolerance towards learners of other races; religion and gender; parental apathy; and the hero worshipping of criminals and gang leaders.

Andersson and Stavrou (in Bezuidenhout, 2013:81–82) emphasise that “dropping out of school reduces the chances of youth developing the social skills gained there, such as meeting deadlines, following instructions, and being able to deal constructively with their peers”. The school is one of the most important socialising agents in society. Adolescents who do not have consistent access to a school run the risk of becoming involved in antisocial behaviour. However, having access to a school does not necessarily imply a positive influence, as poor academic performance can lead to a negative attitude towards school and this may influence and enhance antisocial behaviour in a child (Bezuidenhout , 2013).

2.4.4 Environmental factors

In her study of Black juveniles in Durban, South Africa, Glanz (in Tshiwula, 1998:59) reported that exposure to criminality in the community context proved a significant predictor of antisocial behaviour for both males and females. The study indicated that the respondents who had been exposed to crime in their communities reported a greater extent of offending behaviour. Bezuidenhout maintains that community disorganisation, economic inequality and relative

deprivation, high unemployment rates and the availability of alcohol and drugs may contribute to antisocial misbehaviour. The environment in which youth are reared can influence tendencies towards delinquency. Although research findings have supported the conclusion that no single risk factor accounts for youth antisocial behaviour and that no single path leads to a life of crime, research has not clearly identified all the causal paths that lead to youth delinquency or the factors that cause different individuals to pursue different paths in life (Bezuidenhout, 2013).

2.5 The Effectiveness of Diversion Programs

According to Burke (2008:211), diversion programmes are designed to prevent, or at least minimise, offending by children and young people and research evidence has shown that they can make a remarkable contribution to the reduction of criminality. Based on his conclusions, the impact of offending behaviour programmes has been found to be on the whole positive and when interventions have been studied in controlled experimental trials, they have resulted in a reduction in recidivism compared with control samples and are therefore perceived as worthwhile. Greenwood (2008) maintains that preventing delinquency does not only save young lives from being wasted, but also prevents the onset of adult criminal careers and reduces the burden of crime on its victims and on society.

Wilson and Hoge (2013) conducted a meta-analysis study on the effect of youth diversion programmes on recidivism. Their study was a meta-analysis evaluation and included data from 73 diversion programmes analysing 14 573 diverted youth and 18 840 youth processed by the traditional justice system. The study examined the recidivism rate of youth offenders referred to a diversion program compared to those processed through a traditional justice system. Wilson and Hoge (2013) found that the recidivism rate for all diverted youth had an unweighted average base rate of 31.5%, and the recidivism rate for traditionally processed youth had an average of 41.3%,

which was significantly different from that of diverted youth. In 60 of the 73 programmes, the recidivism rate of diverted youth was lower than that of youth processed by the traditional justice system.

A number of studies have shown that diversion programmes reduced recidivism among diverted youth when compared to youth processed by the traditional justice system (Elliott, 1997; Lipsey, Wilson & Cothorn, 2000; Wood, 2003; Andrews & Bonta, 2010; Wilson & Hoge, 2013). A limited number of studies have demonstrated no effect (see Drake, Fergusson & Briggs, 2014) or increased recidivism (Lincoln, 1976; Dunford & Knowles, 1978).

In an evaluation study conducted by Muntigh (2001), one of the primary aims was to measure the recidivism rate of diversion participants. The study found that the programme had a good impact on the youth. When they were asked what they had learnt in the programme, their responses were “to stay out of trouble”, “crime doesn’t pay”, “to take responsibility for your own life”, “responsible decision-making”, “to stay away from bad influences/friends”, and “to obey the law”. The participants gave a number of positive responses. Most of them had no negative feedback on the programme. However, the negative experiences that were raised by the participants covered a range of issues ranging from conflict during the programme to programme content and administrative arrangements. The item with the highest frequency was the sharing of personal experiences with other programme participants. Muntigh points out that although this might be an uncomfortable experience, it is part of the process of taking responsibility. Muntigh (2001) concluded that the majority of participants reported that they had developed a positive personal change after completing the programme, with the emphasis on responsible decision-making. Muntigh found that 6.7% re-offended in the first 12 months after participating in a diversion programme and a further 9.8% re-offence was recorded in the second survey. The average time

lapse from the completion of the programme to re-offending was 7.2 months. The first 12-month period after completing the programme appeared to be a crucial period as more than 50% of re-offending took place in that period. Owing to the low number of recidivists, it was difficult to make generalisations based on this study. Muntingh (2001) pointed out that the majority of recidivists committed property crimes.

Lipsey (2009) focused his meta-analysis on youth treatment philosophies and concluded that when controlling for methodological and sample characteristics, the context in which treatment programmes were delivered (for example diversion, probation, supervision or incarceration) did not influence effectiveness. However, he did find that skill-building interventions (for example cognitive-behavioural therapy) were more effective in diversion settings than when offered through probation supervision or in a custodial facility.

Proponents of diversion argue that programmes are less stigmatising than formal court involvement. Diversion reduces recidivism rates and provides youth with services they would not have received in the formal justice system (Beck et al. 2006). However, opponents argue that diversion programmes increase social control and self-reported delinquency among the youth, and can lead to the disproportionate representation of a minority of youth, as the process of selecting youth for diversion may be arbitrary in terms of juvenile justice and delinquency prevention (2010).

Warner (2014) points out that one of the largest problems facing the juvenile justice system is how to better handle juvenile crime without causing the juvenile to revert to criminal behaviour. Another problem is to assist youth to understand and acknowledge that the crime they committed was an offence that should not have occurred. Muntingh (2001) laments the fact that much work

has been done in recent years on the effectiveness and the impact of diversion programmes but with little data to support it.

The summary results of the meta-analyses conducted by Wilson and Hoge (2013) indicated that diversion programmes were more effective in reducing recidivism than the traditional justice system. This conclusion is consistent with the proposition derived from the labelling and differential association theories. However, these scholars' findings differed from those of previous meta-analysis studies on diversion, as the latter studies concluded that diversion produced no significant effects on the youth (Gensheimer, Mayer, Gottschalk, & Davidson, 1986; Drake et al., 2014). This controversy thus prompted the need to explore to what extent an investigation into a diversion programme in the Durban area could contribute to this debate and add to the discourse on the possible impact of the Youth Empowerment Scheme programme on youths who may be selected to participate in the programme.

One study that was conducted (Lipsey, Howell, Marion, Chapman, & Caver, 2010:5) on the effectiveness of diversion programmes found that it was difficult to determine their impact. The latter authors concluded that an increasing body of research should seek evidence to address this problem, but the findings of this research have not been well integrated into most juvenile justice systems. Therefore, continued research development within the framework of diversion is crucial in order to keep abreast of current changes and challenges.

2.6 Background of the Child Justice Act No. 75 of 2008

The Child Justice Bill (49 of 2002) that was introduced in Parliament on 08 August 2002 recommended that children accused of crimes be diverted from the criminal justice system to community-based, non-custodial programmes. It instituted a criminal justice process for children

who committed offences to protect their rights in accordance with the Constitution. Its aim was to make punishment rehabilitative and restorative. Bezuidenhout and Joubert (2008:152) explain that before the Child Justice Bill, juvenile offenders were prosecuted under the Criminal Procedure Act, which lacked any consideration for children and their context. Due to significant delays, the Bill was eventually approved in May 2009 and came into effect on 1 April 2010. On this date, the Child Justice Act No. 75 of 2008 came into operation. Bezuidenhout (2013:219) describes this day as a historic day for the protection of the rights of children in South Africa. The Children's Act No. 38 of 2005 (Chapter 11 inserted by Section 10 of Act 41 of 2007) regards intervention programmes as a must initiative towards preventing children's antisocial behaviour. Thus the Bill of Rights that is entrenched as Section 28 in the Constitution of the Republic of South Africa (South Africa, 1996) maintains that: (i) children's rights should be protected at all times; (ii) a child's best interests are of paramount importance in every matter concerning a child; and that (iii) a child means a person under the age of 18 years.

2.7 Aims of Diversion Programmes

According to Muntingh and Shapiro (1997:7), the primary aims of diversion are to:

- make offenders responsible and accountable for their actions;
- provide an opportunity for reparation;
- identify underlying problems motivating offending behaviour;
- prevent most first-time or petty crime offenders from receiving a criminal record and being labelled as criminals;

- provide educational and rehabilitative programmes for the benefit of all parties concerned; and to
- reduce the caseload of the formal justice system.

2.7.1 Objectives of Diversion Programmes

Section 51 of the Child Justice Act No. 75 of 2008 holds that the objectives of diversion are to:

- deal with a child outside the formal criminal justice system in appropriate cases;
- encourage the child to be accountable for the harm caused by him or her;
- meet the particular needs of the individual child;
- promote the reintegration of the child into his or her family and community;
- provide an opportunity for reparation to those affected by the harm;
- promote reconciliation between the child and the person or community affected by the harm caused by the child;
- prevent stigmatising the child and to reduce the adverse consequences flowing from being subjected to the criminal justice system;
- reduce the potential for re-offending;
- prevent the child from being burdened with a criminal record;
- promote the dignity and well-being of the child; and to
- facilitate the development of the child's sense of self-worth and his/her ability to contribute to society.

Before the Child Justice Bill, juvenile offenders were prosecuted under criminal procedure provision in the absence of any consideration for children and their context. A correctional

sentence was the answer in South Africa and once you were involved in the correctional system, a life of crime was difficult to avoid due to the stigmatisation that came as part of the baggage of being a convict. However, since 1994 there has been a shift away from punitive practices and retribution towards rehabilitation, education and restorative justice. In this context, Fake (2005) points out that diversion is one of the areas where the criminal justice system can be more effective in reducing crime. The latter author explains that diversion has the added advantage of being more humanitarian than some of the old retributive methods as it promotes less stigmatisation. However, Muntingh and Shapiro (1997:7) maintain that diversion is not without dangers and a fine balance needs to be achieved between appropriate diversion and what is known as widening the net. Diversion programmes: an overview (2016) describes net widening as “a programme that is set up to divert the youth away from an institutional placement or some other type of juvenile court disposition; but, instead, it merely brings more youth into the juvenile system who previously would never have entered [it]”.

2.7.2 Consideration of diversion

Section 52 of the Child Justice Act No. 75 of 2008 (South Africa, 2008) sets out the criteria for a child to be considered for diversion. A case may, after consideration of all relevant information presented at a preliminary inquiry, including whether the child has a record of previous diversions, be considered for diversion if:

- the child acknowledges responsibility for the offence;
- the child has not been unduly influenced to acknowledge responsibility;
- there is a prima facie case against the child;
- the child and his or her parents or guardian consent to diversion;

- the prosecutor or Director of Public Prosecutions indicates that the child may be diverted in accordance with subsections (2) and (3) of the CJA.

In addition, a prosecutor may consider the views of the victim or any person who has a direct interest in the affairs of the victim in the decision to divert the case. The prosecutor may also consult with the police official responsible for the investigation of the matter about the prospects of diverting a case. When dealing with more serious criminal cases, the Director of Public Prosecutions may decide to divert a matter after the victim or a representative of the victim has stated that the case may be diverted. The victim also has a say in the content of the diversion option and conditions relating to compensation or the rendering of a specific benefit or services (Bezuidenhout, 2013:179).

2.7.3 Diversion options

Section 55 of the CJA No.75 of 2008 states that diversion must be structured in a way that creates a balance between the circumstances of the child, the nature of the offence, and the interests of society, and it:

- must not be exploitative, harmful or hazardous to the child's physical or mental health;
- should not interfere with the child's schooling;
- should be appropriate to the age and maturity of the child;
- should not be structured in a manner that completely excludes certain children due to a lack of resources, finances or different circumstances;
- must be sensitive to the circumstances of the victim;
- must, where reasonably possible, impart useful skills; and it must

- include a restorative justice element which aims at healing relationships, including the relationship with the victim.

2.8 Retributive Justice versus Restorative Justice

Although South Africa has faced high levels of crime rates involving young people, criminal justice is trying, in every possible way, to figure out a way to handle these young people without putting them in a correctional facility. Since 1994, South Africa has faced many challenges, but none is as widely experienced as crime. The day-to-day reality of living in South Africa is characterised by crime, violence and uncertainty. Thus, the criminal justice system is undeniably overloaded. Not surprisingly, the criminal justice system is seen by many to be biased, unrepresentative and unjust. However, there are signs of shifting away from punitive and retributive criminal justice practices towards rehabilitative, educational and restorative options. Diversion is one of the fields in which rapid advances can be made in making the criminal justice system more effective (Muntingh & Shapiro, 1997:4). When youths who are in conflict with the law are imprisoned, it can aggravate the situation, which can lead them to limit their future choices. When these young individuals have completed their prison sentences and leave the institution of incarceration, the behaviour of most of them towards life has not changed; instead, their negative perception of life has been confirmed (Fake, 2005). Therefore, there is a great need for diversion programmes in order to be able to assist these young people to transform the way they think about their past, present and their future and, most importantly, about themselves as individuals and how they see themselves and significant others.

Restorative justice programmes focus on repairing the harm caused by crime while holding the offender responsible for his/her actions and helping him/her to take responsibility for making amends. These programmes are designed to render a more satisfying sense of justice. They involve

all affected parties namely the victims, offenders, and members of the community in processes where they can identify with and address their needs in the aftermath of a crime. During these processes, all are guided to try to find a resolution that will provide reparation and healing and that will prevent future harm (Sullivan & Tifft, 2008). It is within this paradigm that the National Institute for Crime Prevention and Reintegration of Offenders (NICRO) runs its diversionary programmes and seeks to empower the offenders, victims and the community from the basis of the criminal justice system. NICRO offers five diversionary options that are rooted in the paradigm of restorative justice and that stand in contrast to retributive justice.

2.9 Nicro's Diversionary Options

According to Muntigh and Shapiro (1997: 7), diversion can be described as the channelling of prima facie cases from the formal criminal justice system on certain conditions to extra-judicial programmes, at the discretion of the prosecution. These programmes were initiated by an NPO, NICRO in conjunction with Lawyers for Human Rights and senior state prosecutors in the early 1990s, and they are supervised and conducted by qualified social workers employed by NICRO. These programmes were initiated as an alternative to court procedures and sentencing to give young offenders a second chance to be productive and to acknowledge that their behaviour was unacceptable. The types of crime referred are minor property crimes such as theft, shoplifting, malicious damage to property and possession of harmful substances. A small percentage of violent offenders and perpetrators of victimless offences are also referred. Varieties of methods are used, including life skills programmes, family and group conferences, victim-offender mediation, and community service. At present, Nicro offers five diversionary options mostly to the youth, which are Victim Offender Mediation, Pre-Trial Community Service, the Youth Empowerment Scheme programme, the Journey programme, and Family Group Conferencing.

2.9.1 The Youth Empowerment Scheme Programme (YES)

The National Institute for Crime Prevention and Reintegration of Offenders established the Youth Empowerment Scheme programme in 1993 in conjunction with magistrate's courts across South Africa. Initially called the Youth Offender programme, this life skills programme was later renamed the Youth Empowerment Scheme (YES) programme. *Mapping the Future* is the title of the updated and improved manual that is used in the programme.

The YES programme is an alternative sanction that is used to deal with youth offenders in order to avoid a criminal record and it equips these youths with positive life skills. The programme consists of 12 sessions held one afternoon per week over 12 consecutive weeks. The sessions focus on crime awareness, self-concept, assertiveness, decision-making, norms and laws, and the parent-child relationship. The sessions are meant to allow youth offenders to reflect on their contact with the criminal justice system and their self-concept, and it promotes and motivates self-acceptance and a positive attitude towards oneself and the importance of behaving within acceptable societal norms.

A 1998 evaluation of youth who participated in the programme showed that only 6.5% re-offended in the first twelve months after participation in the programme. In 2013, the manual was redesigned and adapted to suit current trends in South Africa. This programme aims to fill the gap and provide the participants with a life skills map that will assist them in making the correct choices in their own environments, no matter how difficult the situation may be (NICRO, 2013). It was in this light that the current study attempted to establish to what extent the youth reacted to this kind of rehabilitation initiative in a contemporary context.

2.9.2 Selection criteria

Youth offenders are referred to the programme by a magistrate's court. These are youths that have been arrested for petty crimes such as shoplifting and damage to property. Armed robbery, murder and rape offenders are excluded from the programme, and so are offenders with a long criminal record. However, youth offenders do not have to be first-time offenders in order to qualify. The most suitable ages for participants that are included in the Youth Empowerment Scheme programme are between 12 and 18 years. Prosecutors may however, use their discretion to include 19-year-olds who are still attending school. It is required that the youth offender must have a fixed address as this allows a certain amount of control to be exercised over the whereabouts of the young offenders. The fixed address could be a place of safety. Participation in the programme is strictly voluntary, thus there must be an admission of guilt on the part of the youth offender before she or he is considered for a diversionary alternative. It is required that a parent or guardian of the youth offender who is prepared to take responsibility for his/her attendance be present in court, and this person should also attend the first and last sessions of the diversion programme with their children.

2.9.3 Aims of the Youth Empowerment Scheme programme

The Youth Empowerment Scheme programme aims to provide young people with skills that will help them to understand themselves, to relate to others, and to take responsibility for their actions. It thus provides them with an opportunity to express their ideas, opinions and feelings in a constructive way and provides them with the skills to cope with the challenges that they face in their living environment (NICRO, 2013).

2.9.4 Youth Empowerment Scheme programme content

A diversionary programme is an alternative sanction that is used to deal with youth offenders in order to prevent them from being burdened with a criminal record. It provides them with life skills while it also attempts to punish them for committing a crime. However, the focus is not on punishment, but on enabling a young person to acquire life skills that will assist him/her to stay out of trouble. The overall goal of the programme is to encourage the youth offender to behave within acceptable societal norms. The Youth Empowerment Scheme programme consists of 12 sessions held one afternoon per week over 12 consecutive weeks.

The first session focuses on the consequences of being burdened with a criminal record. Youth offenders and their parents attend this session as it aims to improve relationships and communication between parents and children. Only the youth offender attends a second session on self-concept. The objectives of this session are to enable the participants to critically and constructively assess themselves; to be able to relate their self-image to their behaviour, values and beliefs about themselves; and to identify and describe their talents, strengths and weaknesses. The goal of session three is to empower participants to understand the concept of responsibility in relation to their choices, attitudes and actions in order to be able to turn failure into valuable lessons for the future. Session four deals with stereotyping and the shame problem. This session aims to identify the stereotypes the participants ascribe to and assists them in taking steps to undo this stereotypical behaviour. Session 5 aims to empower participants to understand the concept of their rights in relation to responsibility. This session emphasises the link between rights and responsibilities. Young people often use their rights as an excuse for unacceptable behaviour as they usually fail to understand that rights come with responsibilities. The main aims of this session are to enable the youth to understand their rights, to enable them to understand that these rights are

linked to certain responsibilities, and to enable them to respect the rights of other individuals and to respect these rights. Session six deals with the concept of respect. The main purpose of this session is to assist the participants to understand that what they think about themselves and how they treat themselves will influence how others will treat them. After successful completion of this session, the participants are expected to be able to understand what respect means and be able to express the importance of respect in their lives. Furthermore, they are guided to be able to understand that self-respect is closely related to behaviour and that respect earns respect. Session seven focuses on enabling the participants to understand the need for laws and norms in society, and why it is crucial that all individuals adhere to these laws and norms. The main aim of this session is for the participants to understand the consequences of breaking the law, to understand the importance of laws, to be encouraged to respect laws and others, and thus to develop an understanding of the purpose of sanctions.

Session eight focuses on getting the participants to explore and understand the concept of respect. This focus is premised on the fact that sustainable law and order is based in the first instance of respect for oneself and, secondly, on respect for others. The main aims of the session are that the participants are able to promote respect and gender equality, that they are able to treat others and their environment with more respect, and that they are able to resist peer pressure so that each remains true to his/her unique self.

Session nine is about assertiveness. The goal of this session is to develop the participants' conflict resolution skills. This session aims to enable the participants to understand that conflict is natural, that they become empowered to deal with conflict, and that they learn to communicate effectively. The main goal of session ten is to allow the participants to explore and examine the influence of decision making in their lives and to practise making good decisions. Furthermore, it enables them

to understand the vital link between decision-making and crime, self-concept, and assertive behaviour.

Session 11 explores the consequences of irrational and negative thinking. After completion of this session, the participants are expected to be aware of the negative and irrational thinking cycle that they are caught in and that limits their potential to follow their dreams in life. It is also expected that they should be able to apply visualization thoughts, and that they should be able to stop and reframe strategies to change negative and irrational thinking. They are also taught to be committed to choosing a different life path than their current one, and they are encouraged to apply a more positive attitude to their daily lives and to develop high levels of motivation. The last session is based on mapping the future. The main goal of session 12 is to support the participants in realising that their past does not dictate their future (NICRO, 2013).

2.10 Conclusion

Diversion involves the referral of youth offenders away from the criminal courts when appropriate, and it serves various purposes. These include encouraging the youth to take responsibility for their actions, allowing victims to express their views on the harm that the offender caused, and advocating reconciliation between the offender and the victim. The Child Justice Act No. 75 of 2008 seeks to address the problems encountered in the field of child justice and aims to revolutionise the criminal justice system in South Africa, particularly in relation to youth who are in conflict with the law. At the same time, this Act envisages that youth will acquire a sense of dignity and self-worth. The CJA also provides for mechanisms that should motivate youth offenders to respect the rights of other individuals. In this context, the introduction of diversion programmes and the underlying principles of restorative justice in the child justice system have been most constructive. The Act features the central goal of achieving a system that allows youth

offenders to participate in a meaningful process through which they will come to recognise that their actions were offensive to society and their victims. Furthermore, the Act envisions restitution and reducing the possibility of re-offending.

The Child Justice Act No. 75 of 2008 represents a central break from the manner in which South Africa treated its youth in conflict with the law in the past. It is a prominent example of legislation that gives not only content to the rights of the youth as advocated in the Constitution, but it also provides a practical basis from which such rights may be realised. Moreover, it allows all those involved, in their various services, to acquire the necessary tools with which to truly break the cycle of crime (Bezuidenhout, 2013). Data from previous studies have shown that both individual variables and environmental conditions are essential in taking responsibility for offending behaviour. Data have also revealed that youths' behaviour is most likely to be influenced by how society views them. It is therefore very important that youths' perception of fair treatment by the criminal justice system and the community as a whole has a positive effect on their emotional attitude and behavioural outcomes. Effective diversion programmes for youth in conflict with the law can be achieved through supportive structures. Such structures will enable them to avoid future criminal behaviour and will involve them in activities that should promote constructive growth and enhance self-esteem.

However, it is a matter of concern that diversion is not without danger; thus, a good balance needs to be achieved between appropriate diversion initiatives and what is known as widening the net. Despite some success in reducing crime among youth offenders by means of diverting them away from the formal criminal justice system, there is limited evidence of their perspectives and understanding of diversion programmes in the literature. Therefore, this study aimed to determine whether the Youth Empowerment Scheme programme altered youth offenders' understanding of

their own criminal behaviour and to identify the factors that contributed to their criminal behaviour. In the latter instance, the literature suggests that factors such as family background, schooling, peer pressure, and environmental influences be investigated. The following chapter discusses the theoretical framework within which the study was located.

CHAPTER THREE

THEORETICAL FRAMEWORK

3.1 Introduction

Different theories are used in research in order to locate a study within a particular framework. As a result, various theories have been developed to explain crime and deviance and to guide crime prevention initiatives. Theories are used as the theoretical framework that can hold or support a theory that guides a research study (Swanson & Chermack, 2013). For example, a theoretical framework introduces and describes the theory that explains why the research problem under study exists (Swanson & Chermack, 2013). The theories that will be illuminated in this chapter framed the concepts of youth offending and diversion programmes as the central themes of this study. Youth offenders learn to engage in crime in the same way that they learn to engage in confirming behaviour through association with significant others. In this context, the theories that were employed in this study aimed to support an understanding of youth offending within the social context. Therefore, misbehaviour among youth occurs not only as a result of biological factors, but psychological and social factors are predominant in creating deviant behaviour (Regoli, Hewitt & DeLisi, 2008).

Various theories are used to explain crime and deviance, and the application of these theories creates a better understanding of the reasons why youth commit offences. The current study was guided by two theories, namely the labelling theory (Becker, 1963) and the differential association theory (Sutherland, 1947).

The social process approach theory encompasses several spheres. These include:

- The social learning theory: This theory suggests that individuals learn the techniques and attitudes of crime from close relationships with criminal peers. This theory emphasises that crime is a learned behaviour.
- The social control theory: This theory maintains that every person has the potential to become a criminal, but most individuals are controlled by their bonds to society. Crime occurs when forces that bind people to society are weakened or broken.
- The social reaction (labelling) theory: This theory holds that people become criminals when significant members of the society label them as such and they accept those labels as a personal identity (Siegel, 2011:168).

Social learning theories support the view that crime is a product of learning the norms, values, and behaviours associated with criminal behaviour. There are two branches of the social learning theory: the differential association theory and the neutralisation theory. The differential association theory suggests that people commit a crime when their social learning leads them to perceive more definitions favouring crime than favouring conventional behaviour. The neutralisation theory proposes that law violators learn to neutralise conventional values and attitudes, which enables them to move back and forth between criminal behaviour and conventional behaviour (Siegel, 2011:176).

According to Wilson and Hoge (2012:497), “theoretical support for the use of diversion, whether involving therapeutic interventions or not, is provided by the labelling theory of Becker (1963) and the differential association theory of Sutherland (1947)”. Therefore, the labelling theory and the differential association theory were used to guide the research project, as these theories hold the principle that when youth offenders are diverted away from formal court procedures to re-

integrative diversion programmes, both the potential for being labelled a criminal and the learning of criminal behaviour are reduced.

3.2 Theoretical Basis for the treatment of Offenders

3.2.1 Classical theories of crime and punishment

The classical school of criminology is a broad label for a group of theorists of crime and punishment who were against spiritual explanations of crime that formed the basis for criminal justice policies (Bayens and Smykla, 2013:66). Beccaria (in Bayens and Smykla, 2013) posited that human beings act on self-interest and are capable of considering the advantages and disadvantages of courses of action. Classical theorists believed that a well-organised government would construct laws and punishments in such a way that individuals would understand that peaceful and noncriminal actions would be in their own interest through strategies of punishment based on deterrence (Bayens and Smykla, 2013). The practical difficulty with the classical school that grew out of Beccaria's work was that every individual was treated in the same manner, because the determinant of punishment was the act and not the offender. Consequently, youth offenders were treated the same as adults, first-time offenders were treated the same as re-offenders, and those who were mentally challenged were treated the same as those who were not mentally challenged (Bayens and Smykla, 2013). Critics complained about this one-dimensional view of crime and punishment and advocated the need for revision of the law so that judges could exercise discretion in considering age, criminal history, mental condition, and external forces (Bayens and Smykla, 2013:59).

The practical revisions that followed led to what is called the 'neoclassical school of criminology'. Although crime statistics were not regularly collected during the 18th and 19th centuries, the dominant belief was that changes in punishment policies alone would not reduce crime. This

concern prompted new thinking about crime, and supporters were referred to as the ‘positivist school’. Their goal was to study the causes of crime, whether these causes originated from the individual or from society (Bayens and Smykla, 2013:59–60).

Two major concepts of the classical school, namely deterrence and rationality, continued to shape criminal justice policies for some time. Two relevant theories emerged, namely the rational choice theory and the routine activities theory. Clarke and Cornish (in Lilly, Cullen & Ball, 2007) assumed that an individual made a rational choice to commit a crime by weighing the risks and benefits. If the risks outweighed the benefits, then the person would not commit the act. Consequently, practitioners and scholars began to question whether crime-producing traits and factors could be isolated and whether treatment could be administered to eliminate or control trait or factor (Bayens and Smykla, 2013:60). Once again, the focus was on the offence that was committed, and not on the offender.

In order to get closer to the offender, the routine activities theory, which was based on the deterrence and rationality theory, was developed by Cohen and Felson (1979). The routine activities theory focuses on opportunity and lifestyle issues. These theorists suggest that for crime to occur, three factors must be present: “an offender who is motivated to commit the crime; an appropriate victim; and the absence of capable guardians” (Newburn, 2007:952). Cohen and Felson believe that most violent and property crimes entail direct contact between the offender and the target (Vold, Bernard and Snipes, 2002:205).

When viewing these theories critically, it is clear that policy implications based on the classical theory of crime propose the creation of a system of criminal justice that is based on the legal definitions of crime rather than on a concern with criminal behaviour (Bayens & Smykla, 2013:60–61). The rational choice theory has some similarities with the routine activity theory, as

both hold in common a focus on the occurrence and nature of the crime and not the profile of the perpetrator. They are both concerned with how a combination of circumstances forms individuals to act (rational choice) or which acts of a particular class (routine activities) (Joubert et al. 2009:22).

Some approaches focus on biological causes, while others focus on psychological or social causes. Bayens and Smykla (2013:61) point out that the positivist approach was developed to explain crime, and not to promote community-based punishments. They further explain that research on the positivist approaches has produced mixed results and that a great deal more investigation is needed in this field. Biology criminologist, Mednick (in Bayens & Smykla, 2013: 63) studied the relationship between the autonomic nervous system (ANS) and criminal behaviour and found that individuals who are not easily aroused emotionally are less responsive to conditioning, whether punishment or reward follows the criminal act. They are also more likely to resist socialisation and more likely to break the law without fearing legal consequences. The biological school of criminology argues that certain biological characteristics increase the chances that individuals will engage in criminal behaviour (Bayens & Smykla, 2013:63).

Freud (in Bayens & Smykla 2013:64) studied the role of the unconscious mind in shaping behaviour, and then progressed from the study of the unconscious to a focus on intelligence, personality, and impulsivity as the causes of crime. Bayens and Smykla (2013) explain that the argument that grew out of Freud's psychoanalytic line of thinking is that crime is an expression of buried internal conflicts that result from trauma and deprivations during childhood, such as a poor early relationship with the mother or father, fixation at a stage of emotional development, and/or repressed sexuality or guilt.

The majority of criminologists have questioned Freud's psychoanalytic approach because it lacks empirical measurement. However, Walter (in Bayens & Smykla, 2013: 68) "advocates for cognitive restructuring, which is a problem-focused intervention that emphasises changing the way one perceives, reflects, and thinks through modelling, graduated practice, role playing, reinforcement, and concrete verbal suggestions". He bases his argument on his findings and asserts that cognitive restructuring produced a statistically significant 7% to 8% average reduction in recidivism rates for programme participants compared with a treatment-as-usual group (Bayens & Smykla, 2013:68). Cognitive theorists observe how thinking and moral judgement influence individuals' behaviour (Hunter & Dantzker, 2002:67).

The psychoanalytical approach focuses on childhood root causes and brings these to consciousness so that problems can be effectively controlled. Its perspective is based on the belief that thought and emotions are significant causes of behaviour (Bayens & Smykla, 2013). Policy stemming from intelligence theory deals with school failure, while trait-based personality theory favours individualised treatment for offenders to learn new rules, perceive punishment, or experience pain. Impulsive theory favours the behaviour control theory through reinforcement and correcting faulty (Bayens & Smykla, 2013:69).

3.2.2 Theories of the sociological school of criminology

The theories of the sociological school are in contrast to classical and psychological approaches, as they focus on the characteristics of the individual rather than on the nature of the crime. The sociological school of criminology thus shifts the discourse on crime and its causes to the external forces that affect individual behaviour. The sociological school encompasses the largest number of criminological theories (Bayens & Smykla, 2013:69). However, for explaining how these

theories related to this particular study, only a brief overview of the major spheres of sociological theory will be discussed.

The social disorganisation theory states, “Individuals become criminals when they are isolated from mainstream culture and are instead immersed in impoverished and dilapidated neighbourhoods that have their own sets of norms and values” (Bayens & Smykla, 2013:69). According to Bayens and Smykla (2013:69), these socially disorganised areas often result in anomie, a breakdown of social norms, and conditions in which those norms no longer control the activities of the members of the society. Bayens and Smykla (2013) further explain that without well-defined rules, individuals have difficulty adjusting to changing conditions in life, which results in dissatisfaction, frustration, conflict, and eventually in criminal behaviour. As the theories of social disorganisation and anomie were developing, the principles of social learning were also taking form. For example, the social learning theory argues that behaviour may be reinforced not only by expectations of rewards and punishment, but also by expectations that are learned by observing what happens to other individuals (Bayens & Smykla, 2013:72). Particularly, Edwin Sutherland and Donald Cressey theorise that criminals learn to commit crimes the same way as they learn any other behaviour. They refer to this idea as the differential association theory (Bayens & Smykla, 2013).

The differential theory proposes that individuals learn values from significant others (e.g., parents, family, close friends and business associates) around them. Those values either support or oppose criminal behaviour (Bayens & Smykla, 2013). Scholars such as Burgess, Ronald, Akers, and Jeffrey (in Bayens & Smykla, 2013) point out that learning criminal behaviour depends on the feedback individuals receive from their environment and how they evaluate their own behaviour

through interaction with significant others and groups. They refer to this approach as the differential reinforcement theory.

A final social learning approach is referred to as the neutralisation theory. This theory focuses on phrases offenders use to justify offending behaviour, for example by claiming that an action was committed 'in self-defense' (Bayens & Smykla, 2013). Nevertheless, the social control theory emphasises the idea that individuals commit criminal acts because the forces restraining them from doing so are weak, and not because the forces driving them to do so are strong. It is only when controls break down that criminal behaviour is likely to result (Bayens & Smykla, 2013).

Although the theories discussed above propose how the social environment influences individuals to engage in criminal activities, they give little attention to the official reaction to crime specifically, the reaction of the police, courts, and correctional agencies. According to Bayens & Smykla (2013), the social reaction theory (also referred to as the labelling theory) fills this gap. According to the labelling theory, "official efforts to control crime often increase crime. Individuals who are arrested, prosecuted, and punished are labelled as criminals. When confronted with a label applied by those with power and authority, the individual has little power to resist his or her identification with it. Society then views and treats these individuals as criminals, and this increases the likelihood of subsequent crime for several reasons" (Bayens & Smykla, 2013:75). The following section presents a brief discussion of the two theories that framed this study, namely the labelling theory and the differential association theory.

3.3 The Labelling Theory

According to Regoli and Hewitt (1991), there are two variations of the labelling theory, namely the interactionist perspective and the social reaction perspective. Frank Tannenbaum and Edwin Lemert established the interactionist perspective. This perspective focuses on self-identification

and is concerned with what is in the minds of offenders themselves (Regoli & Hewitt, 1991:123). Howard Becker and Edwin Schur proposed the social reaction perspective. This perspective focuses on the identity of individuals as assigned by significant members of society and is concerned with what is on the minds of those members of society (Regoli & Hewitt, 1991:123).

Becker argues that, regardless of what other qualities an individual has, a label of delinquency will convey a strong impact on the minds of others (Regoli & Hewitt, 1991). The labelling theory was developed by Becker in an attempt to explain how some rules carry the power of legislation, while other rules carry less power or apply only within the subculture. Becker (1963, cited in Joubert et al. 2009) argue that once a person has been labelled as deviant, opportunities for becoming a law-abiding individual become limited. Instead, the behavioural opportunities that are available are largely deviant. The labelling theory demonstrates that continued deviant behaviour is therefore not a matter of choice, but takes place because a person's choice has been limited by society. Becker describes labelling as a cause of crime because society regards the actions of the offender as deviant and this forces the offender in the direction of continued delinquency. The labelling theory further holds that deviant behaviour is a social product created by society. Whether a juvenile is labelled as deviant thus depends on the reaction of other people to the act, and not the activity itself (Joubert et al. 2009). According to Bohm (cited in Hess, 2010:83), the labelling theory is based on three propositions, which are summarised as follows:

- Humans act towards things based on the meanings the things have for them.
- The meaning of things arises out of social interaction.
- These meanings are handled in and modified through an interpretative process that people use to deal with things they encounter.

Messer and Robert (in Hess, 2004) explain that the labelling theory makes its principle contribution by calling attention to the interaction between social control and self-identity. Strangely, the labelling theory proposes that official determination to control crime may actually increase it. Hess (2004) further explains that when individuals are labelled as delinquents, significant others may treat them as such. As a result, this may increase the likelihood of those labelled individuals having difficulty associating with non-delinquents, which may lead them to associate with others that are also labelled as delinquents in order to fit in and feel like they belong. Hess (2004) states that according to the labelling theory, it is essential to differentiate between primary deviance and secondary deviance, and explains that primary deviance is the initial criminal act and secondary deviance is the acceptance of the criminal label, which subsequently leads to the commission of other crimes. The labelling theory further emphasises that a youth who has been labelled as delinquent may accept the label and this may lead to a self-fulfilling prophecy that may intensify delinquent acts (Hess, 2004). The influence of the labelling theory is evident in the creation of separate terminology for the juvenile and adult courts. Even the term 'delinquent' is an attempt to avoid labelling a youth offender as a criminal.

The labelling theory examines how the self-identity and behaviour of individuals may be influenced by terms used to label them. This theory thus holds that labelling an individual is related to the concept of a self-fulfilling prophecy and stereotyping (Hess, 2010). The theory also holds that deviance is not inherent to an act, but instead focuses on those who are seen as deviant from standard cultural norms (Tierney, 1996). It can be argued that the individual's perception of unprejudiced treatment by society or by the justice system has an effect on their behavioural outcomes. Erikson (in Tierney, 1996:141) states that "deviance is not a property inherent in certain

forms of behaviour; instead, it is a property conferred upon these forms by the audiences which directly or indirectly witness them".

Becker (in Regoli & Hewitt, 1991) states that deviants are not all the same. For example, some offenders who are labelled deviant have actually been falsely accused, whereas others have broken rules but have never been caught or labelled. Therefore, Becker focuses on how individuals acquire their labels (Regoli & Hewitt, 1991). Lawson and Heaton (1999:91) explain that labelling theorists are not arguing that those who have been labelled do not commit antisocial behaviour, but their argument is because those who have been labelled are treated differently once the label has been attached. While it may be possible to reject the label, labelling theorists argue that those who have been labelled are most likely to take the status and behaviour of the label, thus fulfilling the prophecy. The labelling theory thus views deviant behaviour as an outcome of negativity labelling. Tierney (1996) maintains that the labelling application has psychological implications in that those who have been labelled may come to see themselves in terms of the label. Furthermore, such labelling is likely to have an impact on the way in which individuals labelled as deviant are treated by society in the future.

The labelling theory thus hypothesises that negative labels promote deviant behaviour. For example, an individual who is labelled is most likely to conform to the meaning of the judgement. Therefore, the labelling theory maintains that it is possible to prevent social deviance through limited social shaming that result in labels being attached to individuals. This requires the replacing of annoyance provoked by what is perceived as unfair treatment with the ability to tolerate the existence of opinions or behaviour that one disagrees with (Joubert et al. 2009). In this context, the labelling theory places emphasis on the rehabilitation of offenders through reconstruction of their label. Prevention policies include client empowerment schemes, mediation and reconciliation

of victim and offender, restitution, reparation, and alternatives to prison programmes such as diversion (Lawson & Heaton, 1999). Proponents of diversion maintain that such programmes are less stigmatising than formal court involvement. It is believed that diversion reduces recidivism rates and provides youth with services they would not have received in the formal justice system (Beck et al. 2006). Lundman (1993) concludes that processing certain youth through the juvenile justice system may do more harm than good because it stigmatises them for having committed minor acts that may have been more appropriately handled outside the formal criminal justice system. In view of this, it can be argued that individuals who are labelled as deviant are likely to take on a deviant self-identity, and they thus become more rather than less deviant than if they have not been labelled. Labelling a deviant or juvenile offender can have an impact on how this person defines him- or herself, and this will influence future behaviour and dictate the social roles the youth will adopt (Akers, 1994).

Empsey (in Lawson et al. 1999) states that labelling theorists advocate the deinstitutionalisation of youths who are in conflict with the law, arguing that incarceration is more likely to lead to recidivism than other forms of punishment. Therefore, the main reason for diversion programmes is to keep the youth away from the formal juvenile justice system and being stigmatised by it. This reason is supported by the labelling theory which maintains that processing the youth through the juvenile justice system may do more harm than good because it stigmatises them and places them in a cycle of escalating delinquent acts and social control (Lundman, 1993; Hess, 2004).

3.4 Evaluating the Labelling Theory

According to Regoli, Hewitt and Delisi (2008), Becker and Schur (in Regoli et al. 2008) base labelling on two basic issues: the effects of labelling on self-identification as presented by Tannenbaum, Lemert, and the social reaction to deviance that is presented. However, Regoli et al.

(2008) states that there are two serious objections to the labelling theory. The first objection is that it is too simplistic to argue that a negative label causes delinquency. This author argues that, while official labels may play a role in future antisocial behaviour, there is not sufficient evidence to show what the actual effects of labelling are. The labelling theory thus places too much emphasis on the impact of official interactions, such as those between an adolescent and the juvenile court. Unofficial interactions are not as crucial as official interactions in the production of delinquency. As a result, the labelling theory has received some criticism for not considering the structure and society as a whole; for example, labelling theorists are inclined to focus on the everyday activities of individuals and societies and do not take into account the structural conditions, such as poverty and inequality within which these activities take place (Lawson & Heaton, 1999).

Furthermore, the labelling theory suggests that interventions increase delinquency. Contrary to this view, Knutsson (in Regoli & Hewitt, 1991) argues that the labelling theory relieves people of moral responsibility for their behaviour. Wellford (in Regoli & Hewitt, 1991) maintain that to assume that no act is inherent or criminal is naïve.

However, regardless of the criticisms of the labelling theory in explaining delinquency, the theory has been influential in explaining the need for diversion programmes and has contributed to the development of these programmes in cases involving youth offenders. Moreover, the influence of the labelling theory has assisted in the creation of separate terminology for juvenile and adult courts. Even the use of the term 'delinquent' is an attempt to avoid labelling a youth offender as a criminal.

3.5 The Differential Association Theory

Edwin Sutherland (1883–1950) proposed the differential association theory. Sutherland proposes that criminal behaviour is learned through imitation or modelling (Hess, 2010). In his book

Principles of Criminology (1939) with Cressey, Sutherland outlines the nine principles of the differential association theory. Among their propositions are the following (Hess, 2010:82):

- Criminal behaviour is learned in interaction with other persons in a process of communication.
- The principal part of the learning of criminal behaviour occurs within intimate personal groups.
- The process of learning criminal behaviour by association with criminal and anti-criminal patterns involves all the mechanisms involved in any other type of learning.
- A person becomes delinquent because of an excess of definitions that are favourable to the violation of law over definitions that are unfavourable to the violation of the law.

Bohm (in Hess, 2010) explains that the differential association theory is an important theory of crime causation because it explains criminal behaviour and its prevention through the concepts of positive reinforcement, negative reinforcement, extinction, punishment, and modelling or imitation. The differential association theory thus suggests that crime is committed because it is positively reinforced, negatively reinforced or imitated. Bohm (in Hess, 2010) explains these terms as follows:

- Positive reinforcement presents a stimulus that increases a response. The stimulus may be material or psychological.
- Negative reinforcement reduces a stimulus that increases a response. This is usually referred to as aversion stimuli such as fear of pain or poverty.
- Extinction is a process through which behaviour that was positively reinforced is no longer reinforced.
- Punishment presents an aversive stimulus to decrease response through punishment.

According to the differential association theory, criminal behaviour is decreased through the process of reinforcement and punishment (Hess, 2010). This theory holds that crime is a product of learning the norms, values, and behaviours associated with antisocial behaviour (Hess, 2010). Social learning includes the actual practices of antisocial behaviour as well as the psychological aspects of criminality (Siegel, 2011). According to Sutherland (in Hewitt, 1991), social groups are characterised by different attitudes towards delinquent acts. If an environment has common attitudes that do not condemn criminality, then it is likely to display high rates of criminality. Conversely, those who hold disapproving attitudes towards criminality are unlikely to be drawn to crime.

The differential association theory attempts to explain both the process by which a person learns to engage in crime and the content of what is learned. According to Sutherland, differential association refers to the principle that criminal acts are related to an individual's frequent or constant exposure to antisocial attitudes and values (Joubert et al. 2009). The differential association theory thus argues that antisocial attitudes and behaviours are learned through the social learning process. It is believed that association with significant others – particularly with family, friends and peers – has a huge influence on the development of deviant behaviour and an antisocial attitude (Siegel, 2011). Relationships with these influential individuals thus shape and control the way individuals, and particularly youth, interpret everyday events (Siegel, 2011).

Sutherland proposes that learning criminal behaviour by association with criminal and anti-criminal patterns involves all of the mechanisms that are involved in any other learning process (Siegel, 2011). Learning criminal patterns is similar to learning nearly all other patterns and is not a matter of mere imitation (Siegel, 2011). Sutherland further explains that although criminal behaviour expresses general needs and values, it is not excused by those general needs and values,

because noncriminal behaviour expresses the same needs and values (Siegel, 2011). The differential association theory thus holds that people learn criminal behaviour and attitudes from their significant others.

The premise for using this theory in this study was that the learning process does not only influence individuals negatively but also positively, such as when youth offenders are diverted away from formal court procedures to diversion programmes. In this process, the potential for being labelled and learning further criminal behaviour is reduced.

3.6 Evaluation of the Differential Association Theory

According to Siegel (2011), the differential association theory is important because it does not specify that criminals come from a disorganised environment or are members of a lower class. The theory holds that differential associations are not based on social class, therefore this implies that deviant learning experiences can affect youths from all classes. However, Sutherland's work has been criticised because it fails to account for the origin of criminal definitions. The critiques of the differential association theory question how the first criminal learnt necessary techniques and definitions in order to pass them on (Siegel, 2011). Furthermore, the differential association theory is criticised because it assumes that antisocial acts are analytical, and it thus ignores biological factors such as that an individual may be suffering from chronic mental disorder that may result in abnormal or violent social behaviour (Siegel, 2011). However, despite this criticism, the theory was essential in supporting this study of delinquent and criminal behaviour as it facilitated an explanation of the roles that family, peers, and education played in shaping criminal and conventional behaviours (Siegel, 2011). Moreover, the differential association theory was influential in explaining the process through which antisocial behaviour occurred. These theories

thus presented a suitable framework for understanding delinquent acts, which was a fundamental element of this study.

3.7 Contextualising the Labelling and Differential Association Theories

Diversion practices have been implemented not only to channel children away from the formal court system into re-integrative programmes in order to avoid the stigmatising and even ruthless effects of the formal criminal justice system, but also to offer youth an opportunity to avoid a criminal record while at the same time teaching them accountability and responsibility for the offences they committed. The Child Justice Act (CJA) No. 75 of 2008 seeks to address the difficulties encountered in the field of child justice within the framework of current legislation in order to revolutionise the criminal justice system in South Africa, particularly in relation to youth in conflict with the law, while ensuring that a child's sense of dignity and self-worth is recognised as provided for in the Constitution. Furthermore, the CJA provides the mechanisms that ensure that a child respects the rights of others.

In this regard, the formal introduction of diversion programmes in line with the underlying principles of restorative justice into the child justice system is quite central in the protection of the rights of children in South Africa. It incorporates the primary goal of achieving a system that allows youth offenders to participate in a meaningful process of acknowledging that their behaviour has been unacceptable. Moreover, rehabilitating them potentially reduces the possibility of re-offending. Therefore, the two theoretical frameworks that were discussed above, namely the labelling theory and the differential association theory were appropriate for this particular study.

This study sought to explore the impact of diversion programmes in order to establish whether youth offenders' understanding of their criminal behaviour had been altered after completing the programme. According to Wilson and Hoge (2013), theoretical support for the use of diversion

programmes is provided by both the labelling theory and the differential association theory. The labelling theory emphasises the negative consequences of labelling a youth as delinquent and proposes that labelling a youth creates an expectation of continued antisocial behaviour, which may in turn limit access to conventional roles and opportunities. The differential association theory argues that antisocial behaviours are learned through the social learning process. Association with significant others displaying such attitudes and behaviours encourages the adoption of these attitudes by the youth. Diversion can assist to reduce the impact of labelling and association with antisocial peers by reducing youths' exposure to the formal justice system. Moreover, the youth can also learn good behaviour by means of diversion programmes (Wilson & Hoge, 2013). Therefore, the principles of these theories are in line with a diversion process and the underlying principles of the restorative justice system. For this reason, these theories were applicable to this study because diversion programmes give children a chance to avoid criminal records. This prevents them from being labelled as delinquent while at the same time teaching them good behaviour and accepting accountability and responsibility for their actions.

3.8 Conclusion

This chapter has explained the two theories that contextualised this study in terms of youth offending and diversion. Despite the fact that the labelling theory and the differential association theory vary, they both convey a common understanding of crime which is based on individuals and their interaction with significant others. The labelling theory places emphasis on the negative consequences of labelling a youth as a delinquent as it argues that labelling forces the offender in the direction of continued delinquency, which may in turn limit access to conventional behaviours and opportunities to become productive members of society. The differential association theory

views crime because of interpersonal influences. In essence, the latter theory argues that criminal attitudes and behaviours are learned through the social learning process.

Association with significant others, particularly with family members and peers who display antisocial attitudes, encourages the adoption of such attitudes and behaviours by the youth. Therefore, diversion programmes were introduced to provide an alternative to incarceration in order to reduce the impact of labelling and association with delinquent peers by reducing youths' exposure to the criminal justice system while enabling them to take responsibility for their crimes. Both these theories support the use of diversion programmes as they hold the principle that when youth offenders are diverted away from formal court procedures to re-integrative diversion programmes, the potential for being labelled and the learning of criminal behaviour is reduced. Thus, youth can learn and adopt good behaviour through diversion programmes.

As these theories relate to the acceptance and popularity of diversion programmes, they assisted the researcher in explaining the impact of diversion programmes on youth offenders and in analysing how they saw themselves as individuals after completing the Youth Empowerment Scheme programme. One of the major reasons for diversion programmes is to keep the youth away from formal court procedures and being stigmatised by these processes. This line of reasoning is thus supported by the labelling theory which maintains that processing youth through the juvenile justice system may do more harm than good because it stigmatises them and forces them into a cycle of escalating delinquent acts and social sanctions. The premise behind using the differential association and labelling theories in this study was that the learning process does not only influence individuals negatively, but also positively. Therefore, when youth offenders are diverted away from formal court procedures to diversion programmes, the potential for being labelled and

learning criminal behaviour is reduced. The following chapter will discuss the methodology that was used to conduct the study.

CHAPTER FOUR

RESEARCH METHODOLOGY

4.1 Introduction

A research methodology is a collection of methods used to conduct a research study and to arrive at conclusions concerning the topic of the study (Schoeman, 2014). According to Dawson (2002:64), a methodology is “a diligent and systematic inquiry or investigation into a subject to discover or revise facts, theories, and applications”. Grinnell and Unrau (2005:15) see scientific method as the many ideas, rules, techniques, principles, procedures and approaches that the research community uses for the solving problems and to gain knowledge. According to Neuman (2000:6), social sciences involve “the study of people, their beliefs, behaviour, interaction, and institutions”. Furthermore, according to De Vos et al. (2011:5), social sciences can be viewed as “those sciences that deal with a particular phase or aspect of human society”. The advantage of social sciences research is that it provides “contextualised and authentic interpretations of the phenomenon being studied by utilising a collection of methods that systematically produce [sic] new discoveries about the social world” (Bachman & Schutt, 2011:74). This chapter presents the research methodology that was adopted in this study. It discusses the research design and setting, the study population, sampling procedures, data collection strategies, data analysis, ethical considerations, data management, and the limitations of the study.

4.2 Research Methodology: an Overview

Research methods can be divided into two broad approaches, namely quantitative and qualitative research. In quantitative research, data are numerical and can be ordered in terms of magnitude. In qualitative research, the data are mostly written and spoken words or observations that do not have

a direct numerical interpretation. However, whether quantitative or qualitative, “all research is based on certain underlying assumptions about which research methods are acceptable and appropriate in order to learn more about a phenomenon” (Schoeman, 2014:3). Each research approach has a unique methodology, which is enriched in the philosophical assumptions of the study. According to Schoeman (2014:5), a qualitative study is usually “inductive and formed by the researcher’s collection and analysis of the data”. The researcher thus follows a specific approach to data collection and analysis that is unique to qualitative research.

According to Lichtman (2010:5), qualitative research is a general term that represents the way a researcher collects, organises and interprets information that has been acquired from individuals, using their eyes and ears as filters. Lichtman (in Schoeman, 2014) further explains that qualitative research usually involves in-depth interviews or observation of individuals in their natural environment and social settings. Therefore, qualitative research differs from quantitative research, which relies on hypothesis testing, cause and effect, and statistical analysis. Particularly, the purpose of qualitative research is to examine the participants’ understanding and views of their social environment. Emphasis is therefore placed on the researcher’s direct involvement in the research process.

Dantzer and Hunter (2006:67) define qualitative research as “an examination and interpretation of observations as expressed by the researcher’s words rather than numerical assignments”. Schoeman (2014:11) maintains that this definition also emphasises the researcher’s participatory role in the research process. Schoeman explains that the presentation of the data is in a verbal format, as opposed to the numerical format used in a quantitative approach. According to Bachman and Schutt (2011:16), qualitative research makes use of methods such as observations and in-depth interviews in order to capture social life as the participants experience (or experienced) it. They

further explain that the data are mostly in the form of written or spoken words or observations that do not rely on numerical interpretation.

For the purpose of this study, the researcher used a qualitative approach. The researcher's choice was motivated by the authenticity of the qualitative paradigm. In this context, qualitative research strives to explore the inner experiences of participants in order to establish how meanings are formed during interactions between individuals, as well as through cultural influences (Schoeman, 2014). Therefore, the purpose of qualitative research is to describe or understand the phenomenon that is being studied from the participants' perspectives. Qualitative research provides an in-depth understanding of how the collected data influence and are influenced by the research participants. Thus, it facilitates an understanding of experiences, perceptions and processes within a specific context and from the perspectives of those, being studied (Schoeman, 2014:16). This approach was therefore also chosen because of its exploratory quality. This approach enabled the selected youth offenders who had been referred to the Youth Empowerment Scheme programme to share their perspectives and understanding of their own criminal behaviour after completing the programme.

4.3 Research Design

Research designs are plans that guide the arrangement of conditions for collection and analysis of data in a manner that aims to combine relevant information with the research purpose (Bacharach, 1999). Within the qualitative approach, the researcher employed an exploratory research design in order to provide a detailed description of what was explored during the investigation of the youths' understanding of their own criminal behaviour after completing the Youth Empowerment Scheme programme. According to Bless and Smith (2000:41), "the purpose of an exploratory research is to gain a broad understanding of a phenomenon, community or person". Furthermore, Durrheim

(2006) states that in qualitative research; data are collected in the form of spoken language. The purpose of collecting data from the youth who participated in the programme was achieved by using semi-structured interviews. Thus, the researcher was able to seek clarity by using interview skills to ensure that the data that were obtained from the participants were thick and accurate. Moreover, this design also allowed the participants the opportunity to engage with the researcher in an interview and to share their perspectives freely. As a result, the researcher was able to gain rich and detailed descriptions of how these youth reacted to this programme. Through semi-structured and further probing questions, the participants freely and voluntarily shared their background and experiences with the researcher. This design allowed the researcher to identify and analyse various themes that emanated from the data. This enabled the researcher to address the research questions and to determine whether youth offenders' understanding of their own criminal behaviour had been altered through completing the Youth Empowerment Scheme programme.

4.4 Target Population

According to Bless and Smith (2006:99), population refers to a target or a set of elements that the researcher focuses upon and to which the results obtained by testing the sample should be generalised. Moreover, the concept 'population' as defined by Welman, Kruger & Mitchell (20005:52) as "the study of objects and consists of individuals, groups, an organisation, human products and events or the conditions which they are exposed to". In this study, the researcher targeted youth who had been in conflict with the law and who had been diverted to the Youth Empowerment Scheme programme at NICRO, Durban. Due to financial, time and demographic constraints, the entire population was not included in the study. The researcher obtained data from a representative sample of ten male participants from a group that had participated in the

programme. The selection of only male participants was due to the need for a sample population that would be gender homogeneous for consistency and ease of comparison.

4. 4.1 Sampling

According to Durkheim (2006:49), “sampling is the selection of research participants from an entire population, and involves decisions about which people, events, behaviours and/or social process to observe”. There are no rules for sample size in qualitative inquiry. However, sample size depends on “what we want to know, the purpose of the inquiry, what is it at stake, what will be useful, what will have credibility, and what can be done with the available time and resources” (Patton, 2002:244). Within the paradigm of non-probability sampling, the researcher used purposive sampling. Purposive sampling is commonly used in qualitative research when the researcher has a specific reason for involving particular participants for the study (Babbie & Mouton, 2011). The purpose of collecting data from the youth was to establish whether the youth offenders’ understanding of their own criminal behaviour is different after completing the Youth Empowerment Scheme programme.

The participants were thus selected by means of the purposive sampling technique. Purposive sampling is when the researcher uses his or her own judgement and handpicks participants from a target population for inclusion in the study based on pre-set criteria for inclusion. In this context the researcher actively seeks out and selects those participants who are informed and information-rich and possess first-hand experience of the culture, social process or phenomenon the researcher wants to investigate and who will be the best suited to answer the interview questions (Alpaslan, 2010:20). For the purpose of this study, a purposive sample was selected, with due permission, from the case files of youth offenders at NICRO, Durban. The selection criteria were that the youth had to be in conflict with the law, had to be between the ages of 15–19, and had been referred by

the Bridge City court and the Durban court, both of which are in Durban, KwaZulu-Natal. The sample consisted of ten African male participants who had participated in the programme. Thus, the focus was on youth offenders who had been diverted to the Youth Empowerment Scheme programme. The researcher selected participants who had completed all stages of intervention (i.e., the assessment programme session and the follow-up phase).

4. 4.2 Data Collection

According to Maree (2010:70), data collection in qualitative studies may be done through social interaction with participants, field studies, participant observation, and semi-structured interviews. For data collection, it is imperative that ethical procedures must be adhered to, and therefore permission to conduct the study was sought from and granted by NICRO, Durban (see appendix two). The researcher used semi-structured, one-on-one interviews. These interviews were guided by an interview schedule that contained pre-designed open-ended questions. The questions required biographical data and the respondents' views on and experiences of the outcomes of the programme. Biographical questions were included in order to assist the researcher to establish the participants' background. The questions based on the outcome of the programme were aimed to explore whether the participants had undergone behavioural change or not. Researchers use semi-structured interviews in order to gain a detailed representation of a participant's beliefs about, or perceptions or accounts of, a particular topic (De Vos et al. 2011:351). The value of semi-structured interviews is that it gives the researcher and the participant considerable flexibility to address additional issues that are related to, but may not have been included in, the interview schedule. This method enables the researcher to follow up particular interesting avenues that emerge in the interview, and the participant is able to give a fuller picture. Semi-structured

interviews are suitable when one is particularly interested in complexity or process, or when an issue is controversial or personal (De Vos et al. 2011:351-352).

The interviews were converted to case studies due to the intensive and in-depth interviews conducted. During the interviews, the researcher did not only use the main questions to stimulate discussion about relevant themes, but also probed for deeper insight and made use of follow-up questions when needed in order to encourage the participants to unfold important issues. This approach enabled the researcher to obtain in-depth information and ensured that the research topic was covered comprehensively. Rubin and Rubin (2005:13) explain that questions should be asked in order to clarify information as well as to address gaps in the information. The researcher therefore needs to listen to what is said as well as to what is not said. However, Schoeman (20:14) warns that the researcher's ethical responsibility towards participants also requires him or her to be qualified to conduct interviews with vulnerable participants. This requires that the researcher is equipped with basic communication skills such as attentiveness, good listening, and empathy. As a qualified social worker, the researcher was thus able to create a safe space for the participants during the interviews, as their comfort and sense of security were vital in order to enable them to share their perspectives freely and openly.

The researcher used listening skills when conducting the interviews with the participants by listening to them and responding verbally and non-verbally (e.g., using body language such as nodding). She paid total attention to the participants in order to understand their experiential world, their perceptions about the diversion programme, and their realities. It was important to listen carefully to what the participants had experienced and how they were experiencing their world at the time in order to be able to discover whether their understanding of their own criminal behaviour had altered by completing the YES programme. Rubin and Rubin (2005:14) suggest that such

research requires “intense listening, a respect for and curiosity about what people say, a willingness to acknowledge what is not understood, and the ability to ask about what is not yet known”.

In light of the above, the researcher used attending when conducting the interviews in order to gain the trust of the participants. Attending is described as a way in which the researcher orientates him- or herself physically and psychologically towards the participants so that they feel sufficiently at ease to share their experiences, ideas and emotions (Grobler & Schenck, 2009:46). The participants therefore shared their perspectives of the diversion programme and their personal experiences as individuals frankly and openly. However, some questions triggered disturbing emotions in some of the participants, but because of the safe space that the researcher created, the participants were able to express their emotions freely without fear of being judged. One participant shared very disturbing information, as he told the researcher that he wanted to kill the police officer who had arrested him although he was innocent. The participant strongly believed that he had been wrongfully arrested because there was no evidence. As a qualified social worker, the researcher had to put professional values into practice and she debriefed the participant.

Empathy is empathy in any culture or language. It is a way of being sensitive and attentive to others regardless of whom the researcher is in contact with. The researcher applied empathy by putting herself in the participants’ shoes and understanding their frame of reference. According to Grobler and Schenck (2009:53), empathy means being able to see what an individual’s world is like to him or her and how the person perceives themselves. The impact of using this skill during data collection relied on effective attending and listening to participants, which were achieved by the researcher without being judgmental.

The purpose of collecting data from youth who had participated in the programme was to obtain in-depth insight into whether their understanding of their own criminal behaviour had been altered

through participation in the YES programme. Researchers use semi-structured interviews in order to gain detailed information about participants' beliefs, perceptions or accounts of a particular phenomenon (Greeff, 2005:297). Furthermore, Greeff (2005:288) points out that the researcher must also ask open-ended questions which do not predetermine the answers and must allow room for the participants to respond in their own words. The interviews took one hour per participant. The interviews were conducted in isiZulu at the NICRO office in Durban and were later translated by the researcher and checked by a colleague for accuracy and authenticity. The questions and consent forms that had been designed in English were translated into isiZulu because the majority of the participants spoke isiZulu. All the participants provided voluntary permission for the interviews to be tape-recorded.

4. 4.3 Data analysis

Glass (2004) defines data analysis as a practice according to which raw data are ordered and organised so that useful information can be extracted. According to Creswell (2009), qualitative procedures have unique steps in data analysis. In this study, the data were analysed by means of a thematic analysis process. This analysis method was used because it enhances the analysis of acquired data in conjunction with the objectives of the study. Data collection was done through social interaction with the participants in order to gain an in-depth understanding of whether the selected youths' understanding of their own criminal behaviour had been altered by completing the programme. In applying the thematic analysis method, the researcher used the six phases of thematic analysis as explained by Braun and Clarke (2006). Thematic analysis is a method for identifying, analysing and reporting patterns (or themes) within data and grouping them to highlight themes that emerge from the qualitative data (Braun & Clarke, 2006).

The first step involved familiarisation and immersion where the researcher familiarised herself with the verbal data that had been collected from the participants. The interviews were translated and transcribed individually. During this phase, the researcher re-read the data many times, making notes and marking ideas for coding, as suggested by Braun and Clarke (2006). The researcher read the data repeatedly and highlighted texts with different coloured pens for examination purposes, and she formulated ideas at this stage for use in the analysis of the findings. The researcher found this useful as it allowed developing an understanding of all the information as it was collected during the interviews.

The second step was to generate initial codes. During this step, the researcher generated an initial list of ideas about what was in the data and what was interesting about it. This phase then involved identifying interesting aspects in the data items that might form the basis of repeated patterns across the data (Bryman, in Braun & Clarke, 2006). During this step, the researcher used coloured pens to identify segments of the data following the highlights that had been made during the familiarisation and immersion phases. In order to make sense, the data were categorised into themes (i.e., repeated information across the interviews) and all common issues relating to the research questions were identified and noted. Sub-themes were also developed and noted in order to render the large body of data manageable, presentable and understandable to the reader.

The third step in data analysis began when all the data had been coded. This phase progresses the analysis of the data to a broader level of themes rather than codes, and it involves sorting the different codes into potential themes and codifying all the relevant coded data extracts within identified themes (Braun & Wilkinson, in Braun & Clarke, 2006). Segments of data that had earlier been highlighted with the same coloured pen were therefore arranged into one group and the same was done with the other themes and sub-themes that had been identified with the same coloured

pen. New themes also emerged, and some were discarded or allocated to new categories. In total, three main themes emerged from the data and these were linked with the sub-themes under each theme. In this manner, the perspectives of the selected youth who had been in conflict with the law and the impact of the diversion programme that they had been exposed to were explored and illustrated in terms of the themes and sub-themes that had been identified.

The fourth step in the data analysis process was reviewing the themes. According to Braun & Clarke (2006), phase four begins when the researcher has formulated a set of themes, and it involves the refinement of those themes. Paton (in Braun & Clarke, 2006) explains how the analysis of coded data enables the researcher to determine which themes appear to form a coherent pattern, what their context is, and the dependability of individual themes in relation to the data set. In doing this, the researcher re-read the themes that had been generated and coded. This involved checking whether all aspects relating to the impact of the Youth Empowerment Scheme programme and the perspectives of the youth in conflict with the law had been generated, and included any other factors that affected these youth and how they reacted to this kind of rehabilitation.

The fifth step that was applied in analysing the data was defining and naming themes. In this phase, themes are defined and refined and the data within them are analysed. This process allows the researcher to identify the 'essence' of what each theme is about and to determine what aspect of the data each theme captures (Braun & Clarke, 2006). In applying this process, the researcher went back to the collated data for each theme and organised them into coherent and within consistent descriptions.

The final step in the data analysis was producing the report. In this phase the researcher is expected to provide sufficient evidence of the themes within the data (Braun & Clarke, 2006). The

researcher thus analysed the data with reference to the objectives of the study in order to assess if the interpretation answered the main research questions. The responses of the participants were quoted during the entire writing-up process in order to provide detailed and authentic descriptions of the participants' perspectives regarding the research questions.

4. 5 Trustworthiness

Struwig and Stead (2013:136) explain that trustworthiness refers to “concerns about the truth value of the research project”. In the research process, rigour means quality and by enhancing rigour, the researcher addresses the issues of validity and reliability. According to Given (in Struwig & Stead, 2013), rigour results in trustworthy findings. According to Gibbs (in Creswell, 2009:182), “qualitative validity means that the researcher checks for accuracy of the findings by employing certain procedures, while qualitative reliability indicates that the researcher's approach is consistent across different researchers and different projects”. The four ways to ensure trustworthiness are credibility, transferability, dependability, and confirmability (Lincoln & Guba, cited in De Vos et al. 2011).

De Vos et al. (2011:419) define credibility as “the alternative to internal validity in which the goal is to demonstrate that the inquiry was conducted in such a manner as to ensure that the subject was accurately identified and described”. For the purpose of this study, the researcher discussed the research topic with the supervisor at NICRO, who had knowledge and understanding of the background of the youth who had been in conflict with the law and who participated in the Youth Empowerment Scheme programme. The sample was selected from NICRO's case files. Thus, to ensure credibility, the researcher took accurate records from Nicro case files and the authenticity of the youth offenders who had participated in the programme was validated through confirming their identity numbers, which appeared in the files.

The researcher's interest in the study was prompted by a desire to determine whether the YES programme provided youth with the life skills that are needed to successfully return to the community as self-regulated and law abiding individuals. Moreover, the researcher wanted to understand what aspects needed to be addressed to prevent recidivism in order to prevent youth from re-offending. The participants demonstrated their interest in this study by consenting to participate. This voluntary consent enhanced the credibility of the study because the participants were able to engage in discussions willingly during one-on-one interviews.

Transferability refers to the extent to which the findings of the research can be transferred from a specific situation or case to another (De Vos et al. 2011). Qualitative research provides detailed information. The advantage of qualitative methods is that they provide more in-depth understanding of crime, criminals and the justice system than would be possible if only quantitative research is used (Tewksbury, 2009:38). Moreover, Welman et al. (2005:8) explain, "qualitative research methods are to establish the socially constructed nature of reality to stress the relation between the research and the objectives of the study, as well as to emphasise the value-laden nature of the enquiry". In compliance with this requirement, the researcher provided a detailed description on what was explored during the exploration of diversion programmes for youth in conflict with the law. The researcher ensured that clear descriptions of the information that was obtained from the participants' responses were discussed throughout the data analysis process.

According to Blanche, Durrheim and Painter (2006:152), "reliability refers to the dependability of the measurement instrument – that is the extent to which the instrument yields the same results on repeated trials". Dependability refers to whether the findings will be consistent if the research should again be conducted with the same people or in a similar environment (Babbie & Mouton, 2011). A semi-structured one-on-one interview guide with open-ended questions was used. This

type of interview suited the study because it did not have a rigid set of predetermined questions. Therefore, it allowed the participants to share their perspectives and understanding of their criminal behaviour and this allowed the researcher to explore the participants' views on the topic. De Vos et al. (2011:351) mention that this method gives the researcher and the participant much more flexibility. Furthermore, it enables the researcher to follow up on particularly interesting avenues that emerge in the interview, and the participant is able to give a fuller picture. In qualitative research, trustworthiness is the main principle. For this reason, the researcher had to verify the trustworthiness of the results by being neutral during the interviews. Neutrality implies the exclusion of the researcher's own prejudice and bias from the results of the study.

According to Babbie and Mouton (2001), conformability is the degree to which the findings are the product of the focus of the inquiry and not the biases of the researcher. In adhering to this requirement, the researcher ensured that the data would be presented in a truthful manner as provided by the youth who had participated in the Youth Empowerment Scheme programme. Audio-recordings were used to ensure that valuable and authentic information was collected. As mentioned by Smith et al. (in De Vos et al 2011), a tape recorder allows a much fuller record than notes taken during the interview. Tape-recording the interviews allowed the researcher to concentrate on how each interview was proceeding and when and how to probe. However, tape recording does have disadvantages. For example, at the beginning of the interviews the participants did not feel comfortable being taped. The researcher had to explain the purpose of using the tape recorder and guided the participants to understand that a tape recorder would be used to ensure that the interviews were captured correctly in the transcripts and that this would assist in documenting their responses truthfully. The interviews were translated and verbatim, unedited

transcripts of the interviews are presented in this study report according to the most meaningful themes that emerged from the data.

4. 6 Ethical Considerations and Safety Issues

“Ethics are norms or standard of behaviour that guide moral choices about our behaviour and our relationships” (Cooper, 2003:120). The word ethics means, “conforming to the standard of conduct of a given profession or group” (Babbie, 2010:70). When conducting this research, ethical approval was obtained from the Research Ethics Committee of the University of KwaZulu-Natal (UKZN) (see appendix three). The researcher was responsible for protecting the participants. Prior to the data collection stage, arrangements were made that consisted of e-mailing the NICRO supervisor to discuss arrangements for the data collection process and requesting telephone numbers of the participants. The researcher called the participants to establish their willingness to participate in the study. The participants were asked to attend a group meeting. At this meeting, the researcher explained and clarified the purpose of the study to the participants and discussed the contents of the informed consent form and the cover letters. The letters and consent form were translated into isiZulu at an appropriate language level in order to enable all the participants to understand the aims and objectives of the study as well as their rights as willing participants.

All the participants were asked to take the letters that explained the research purpose and the informed consent form to their parents or guardians, because some of the participants were under the age of 18 years. The researcher informed the participants that participation in the research project was voluntary and that they were free to withdraw at any time. The researcher informed the participants that they were not compelled in any way to take part in this research project and that their decision to participate would not affect them in any way in the future. The researcher explained to the participants that if they agreed to take part, they still had the right to change their

minds any time during the study and to withdraw. The participants were informed about the purpose of the study. Raune (2005) states that informed consent and voluntary participation refer to the right of the research participant to be fully informed about all aspects of a research project that might influence their decision to participate. He further suggests that freedom of choice and self-determination are at the heart of the informed consent principle.

The participants were assured that the data would be handled confidentiality and that the results would be used for research purposes only. The researcher explained to the participants that all the information that might identify them personally would be removed so that no one would be able to link them to any of the information that they would share during the interviews. The researcher ensured their anonymity by providing the participants with pseudonyms. The participants had the right to privacy. The researcher informed the participants that the information collected would remain confidential. These assurances enabled the participants to freely express themselves during the interviews. Du Plooy (2007:149) states that confidentiality in terms of research occurs when a researcher undertakes not to publicly link a specific response or behaviour with a particular research participant. The word anonymity as described by Babbie (2010:66) is when the people who read the research report cannot link any given response with a given respondent.

After the researcher had documented all the data in the draft report, tape recordings and notes were erased to ensure confidentiality. The researcher avoided deception by not withholding information from the participants and by not offering incorrect information to them. One participant asked the researcher if she was employed as a social worker because he wanted to come to her if he needed someone to talk to in the future. The researcher explained to the participant that although she was a qualified social worker, she was unemployed at the time of the study. The researcher also prevented deception by clarifying the aims and objectives of the study. According to Struwig and

Stead (2013), deception refers to misleading any participant, deliberately misrepresenting facts, or withholding information from the participants. Bachman and Schutt (2011:68) advise researchers to debrief participants if there is any possibility that harm came to them. The purpose of debriefing is to reduce any form of psychological harm to the participants. The researcher informed the participants that counselling services would be available for those who might need it. The researcher noted that some of the participants came from good homes and had good relationships with their families; however, some participants were living in vulnerable life circumstances – particularly those who had lost their parents. The researcher made every effort to reduce any psychological harm by ensuring that the nature of the study did not expose the participants to physical or psychological harm or discomfort. Based on the participants' responses, it was evident that the YES programme had had a positive impact on them. Despite their circumstances, they seemed positive about their future.

4. 7 Limitations of the Study

The study had various limitations that arose due to challenges concerning the feasibility of the topic. As a result, the collection of data took three months (January 2017 to 30 March 2017). Although there were challenges in collecting the data, the researcher understood that a study of this nature could not be completed in a short period as it involved youth offenders who had been involved in a diversion programme and the topic was aimed at the participants who had completed the programme. Although the project was feasible, gaining access to interview them was not easy because some of these youths were still in school and lived far from the NICRO offices.

The sample consisted of ten participants who had participated in the YES programme. They were between 15 and 19 years old. The focus was only on youth offenders who had been diverted to the Youth Empowerment Scheme programme. Therefore, the study could not integrate the data with

those of other individuals, such as social workers, parents, siblings, relatives and neighbours, to confirm the impact of the programme on youth who participated in the Youth Empowerment Scheme programme.

Another limitation was that the study only focused on youth who had participated in the programme offered by NICRO in Durban. The study was not extend to other areas. Moreover, some identified participants could not make it for their interviews due to financial or transport problems, and some who were still at school could not miss their classes. The researcher had to set alternative dates that suited them.

Some participants tended to cancel the interviews at the last minute without explanation. In these instances, the researcher had to respect their frame of reference and allow their self-determination. In order to maintain research ethics, the researcher had to uphold the principle of respect for persons throughout the research project. According to Schoeman (2014:114), “research participants should be treated as autonomous agents who are able to make their own decisions and act independently”.

Another consideration was that this study did not include participants from various race groups. It was carried out among isiZulu speaking participants only. Therefore, the findings are contextualised within the isiZulu speaking community. However, regardless of the challenges, the participants were determined to be part of the study, and the researcher and participants managed to overcome these various challenges.

4. 8 Conclusion

A research methodology does not only assist the reader to comprehend the context of the study and how it was implemented throughout, but it also offers a context in which to enable other

researchers who are interested in the same field to conduct comparable studies. This chapter presented a discussion on the methodology that was adopted in executing this study and provided a detailed description of the methodology that was followed. The discussion covered the research design, the purposive sampling technique, the data collection process using a semi-structured interview schedule, and the data analysis processes. It also covered the limitations of the study and the ethical issues that had to be considered in executing the study. The findings of the study will be discussed in the next chapter.

CHAPTER FIVE

DATA ANALYSIS AND THE MAIN FINDINGS

5.1 Introduction

As mentioned in earlier chapters, diversion programmes are designed to address one or more of the following goals: to reduce offending behaviour and recidivism; to increase system efficiency; to reduce the level of youth involvement in the juvenile justice system; and to reduce costs. Young people who have been accused of committing a crime are diverted out of the formal criminal justice system into diversion programmes that are aimed at developing their life skills as an alternative sanction to incarceration. Diversion options usually depend on individual circumstances and the seriousness of the crime committed. A diversion order may include an order to complete a number of diversion programmes available at a specific organisation. According to Victor-Zietsman and Malherbe (2012:86), diversion aims to assist youth offenders to understand the impact of their crimes on others and to make sure they mend what they have done. Steyn (2010:5) maintains that diversion needs to be transformational in nature, and it must focus on changing behaviour, thought and attitude.

As mentioned in Chapter one, the study focused on the Youth Empowerment Scheme (YES) programme that is offered by NICRO, Durban. This programme aims to provide young people with appropriate life skills that will encourage them to understand the concept of responsibility in relation to their choices, mind-set and actions. The aim of the study was to explore the impact of the YES programme and, more particularly, to establish whether youth offenders' understanding of their own criminal behaviour was different after completing the programme and to identify the factors that contributed to their criminal behaviour. The sample for the study consisted of ten

African male youth offenders who had participated in the programme. This chapter deals with the data analysis and presents the findings. The data analysis is discussed in three parts. The first part provides an in-depth analysis of ten case studies to illustrate the individual biographical background and the behavioural patterns of the participating youth who had been in conflict with the law and their position within the diversion programme. The second part explores whether the diversion programme served the function of holding the youth offenders accountable for their behaviour, and the last part demonstrates how this programme assisted the youth offenders in integrating back into society.

5.2 Case Studies: Biographical Data, Background and Behavioural Patterns

This part of the chapter presents the ten case studies pertaining to the participants. The biographical information of the participants comprised age, race, academic status, home background and behavioural patterns. To obtain these data, the researcher conducted semi-structured interviews with ten purposively selected male participants. The data were analysed within the theoretical framework that underpinned this study (see Chapter three) and with reference to the literature review that was discussed in Chapter two. Braun and Clarke (2006:82) state, “the volume of a theme does not depend on quantifiable measures but rather on whether it captures something important in relation to the overall research question”. Themes and sub-themes were identified from the collected data to answer the overall research question. The purpose of identifying themes was to explore the impact of the diversion programme on the youth who had been in conflict with the law and to establish whether their understanding of their own criminal behaviour was different after completing the programme. The data analysis also attempted to identify factors that influenced their offending behaviour. The first four cases were procured from the Bridge City

Court in Kwa-Mashu Township and the next six cases were drawn from the Durban Court in Durban. What follows is a case-by-case presentation and analysis of the data.

5.2.1 Bridge City Court case studies

Case 1

Participant 1 was an 18-year-old Black African male whose main language was isiZulu. He came from Ohlange, which is in Nanda Township. He was in grade 11. He did not have a family or siblings and he did not know his biological father. His mother had passed on and he had to leave his home in KwaMashu to live with his maternal relatives. According to him, he was not related to the family that he was living with but he regarded them as his family because he had been living with them for some time. He had four cousins, three of whom attend a multiracial school. He said that he liked school but he hated going to school because the distance from home was too far and he always arrived at school tired. He did not attend a school near his home because he had been suspended from this school as he had bunked classes all the time. He would leave home going to school and ended up not going to school at all and, as a result, he received a NR (no return) status. This young man was convicted of shoplifting when he was 17 years old. Apparently he had been doing it for a long time but this was the first time that he was caught. He reported that he had been stealing for some time in order to support himself. He explained that he did not want to be a burden to the people he was living with, and sometimes when he asked for something or financial support they could not provide it. He said he did not even have school shoes and he had to walk a long distance to school. Because his mother had passed on, life was not easy for him. The main reason that led him to shoplift was that he was unable to accept that he did not have what he wanted at any particular time. Another reason was the passing of his mother, who had been the only person who had supported him because he did not know his biological father. He stole because he did not

have financial support and because he was under the influence of his peers. Due to socioeconomic factors and a lack of proper supervision by guardians, he engaged in antisocial acts. After he had been caught and diverted to the programme, he stopped shoplifting. He was also trying to quit smoking dagga. He was now enjoying going to school even though the distance was very far. He understood the purpose of attending the programme. After the programme, he did well and scored high marks at school. He also said that he enjoyed music, and he and his friends had formed a band.

Case 2

Participant 2 was a 17-year-old Black African male whose main language was isiZulu. He was in grade 10 and he enjoyed going to school. He was staying with his mother, stepfather and his four siblings in Mahoti Township. He and his siblings were in different schools. Some of his siblings were still in primary school. He reported that he had a good relationship with his family and, even though they sometimes fought, they always managed to sort out their differences. He was convicted for assault when he was 16 years old. He was arrested for assault after he and his family had attacked his cousin's boyfriend who had taken his cousin's cell phone and, as a family, they got upset and attacked the person who was seriously injured. He said that he had never injured a person before; this was the first time. He had not intended to assault the man, but what he had said about his father (stepfather) hurt him because he knew his stepfather would never do something like that. (The man had accused his stepfather of having an affair with his girlfriend.) Thus, he was very angry. He said that what the man had been saying was not true and he knew that his stepfather was wrongfully accused. He stated that he and his stepfather had a very good relationship. They usually spent time together and talked, and he described him as a loving father.

He said he knew that it was important to find a way to resolve conflict without engaging in physical fights.

Case 3

Participant 3 was an 18-year-old Black African male whose main language was isiZulu. He was from Mantiwe Township and in grade 11. He enjoyed going to school. He was living with his grandmother and cousin. His mother was staying with his stepfather in another location and his brother was staying in Newlands West with his paternal family. He was the only sibling who was still in school. His brother was a qualified teacher. He said that he had a good relationship with his family. They got along well and his brother usually visited on weekends. He was convicted for assault when he was 17 years old. He and his friends attacked one of the pupils at school because the boy had stolen his friend's school bag. When they asked him to return it, the boy refused and instead he called his friends to attack the owner of the bag. He said he had been protecting his friend. He believed that if he had not joined in, his friend would have been hurt. After the incident, he was scared of what he was going to say at home and he was also scared of going to jail, but he felt relieved when he was referred to a diversion programme. He indicated that being in conflict with the law affected his life in terms of education. He explained that he had failed a term because he had to attend the programme during school hours. He said beating that boy affected him at school because, because of that incident, he failed a school term. However, he acknowledged that he had learnt the lesson that, when having many friends, one may end up doing wrong things. However, he insisted that he could not let his friend be beaten by that boy.

Case 4

Participant 4 was a 15-year-old Black African male whose main language was isiZulu. He was in grade 9. He lived in Nanda location with his mother, brother and sister. He enjoyed school and he

was the only child who was still in school. He had a good relationship with his family, but sometimes he and his sister did not see eye to eye. For instance, when he would ask his mother for money to buy something, his sister would say that his mother should not give him the money because he would use it to buy something to smoke. He was accused of smoking dagga at school. It was the first time that he was caught but he mentioned that prior to this, the police at school for smoking had caught him but they had given him a warning and did not arrest him. He stated that his brother was a role model to him. He liked the way he dressed, as he wore designer clothes and he smoked dagga. He thought this was cool. He also started smoking and ended up enjoying it. He thought he was going to be like his brother; he described him as an intelligent person who would give him good advice, but he realised that he was not his brother and that he had his own mind and personality. He reported that he feared to go to prison. He felt like crying when he was arrested because he was scared of what his mother would say and it felt as if his life was over. Nevertheless, when he was referred to a diversion programme, he felt relieved that he was not going to prison but he also wondered what the programme would entail. He explained that he felt bad for being arrested at school because, based on what he knew, the police could not arrest a person at school. He also acknowledged that smoking dagga affected him at school, as he failed in 2016 because of dagga. He then quit smoking and he had a few friends who did not smoke.

5.2.2 Durban court case studies

Case 5

Participant 5 was a 20-year-old Black African male whose main language was isiXhosa. He was from Lamontville and lived with his mother. He was the only child still living at home. He had a good relationship with his mother. He was convicted for being in possession of dagga at school

when he was 19 years old. Therefore, the prosecutor referred him to a diversion programme because he was still attending school. The dagga that he was caught with was not his. Apparently, he had stopped smoking dagga a long time before. One student approached him at school and asked him to bring dagga for him. The next day the student did not show up to collect the parcel from him. Instead, the teacher approached him and asked him to hand in the parcel. After that, the teachers called the police. He believed he had been set up. He said they had assumed he was the dealer so they had framed him. He did not admit guilt; but because the dagga had been found in his possession, it belonged to him even though it was not his. This was the first time that he was accused of a crime. He said being naughty and wanting money led him into trouble because the dagga was not his, but he had brought it to school because he wanted money and he was going to double the price. That was the reason that he had agreed to bring it to school for the boy. He reported that when the police came to arrest him at school, he was scared and worried about what his mother would say. He was also worried about the pupils watching him being taken by the police from the school. It was a bad scene. According to him, after the incident the teachers looked at him in a different way, and they treated him as if he was a criminal. Regarding his schoolwork, the incident did not distract him even though the teachers did not like him, but that did not affect him. According to him, he was a strong person. He continued to do his schoolwork as he used to, and the incident did not affect his schoolwork or his personal life. He completed his matric and applied to university to further his education, but he was not accepted. He then applied to the South African Defence Force (SANDF). He was waiting for their response at the time of the study. He stated that his behaviour had always been good and that he was not a disruptive person. The only reason why he brought dagga to the school was that he wanted money at that particular time.

Case 6

Participant 6 was an 18-year-old Black African male whose main language was isiXhosa. He completed his matric in 2016 and he was studying Human Resources at a college. He was staying with his aunt and cousin at South Beach in Durban. His mother lived in the Eastern Cape with his brother and sister. He had a normal relationship with his family and he talked to them when he needed help. He was in grade 11 when he was accused of being in a possession of dagga and that was his first offence. He had been coming from school when the police caught him with the dagga. The police accosted him as he came out of the school gate and searched him and found the dagga. He stated that he was smoking dagga to ease the pressure, and it made him focus on his schoolwork. He explained that he had not been exposed to peer pressure as no one had forced him to smoke dagga. He emphasised that dagga made him concentrate. It would make him calm down and feel happy. He was with his friend when the police caught him but his friend was not in possession of any dagga.

He said being arrested was not pleasant because he knew everything was going to change once his family found out, the whole family was going to talk, and it was scary because he had never experienced anything like that before. He said it was not good and he did not like disappointing his mother, and he knew this incident was going to disappoint his mother. Regarding his future, he knew what the consequences would be. He was also scared of getting a criminal record because he knew once he had a criminal record, he would not be able to get a job and have a bright future. When he was referred to a diversion programme, he was relieved and regained hope and felt he was given a chance of changing his lifestyle. He said it was bad to have a criminal record at a young age.

According to him, being in conflict with the law did not affect him at school because he knew that he had to study. He said when it came to education, nothing could distract him – he knew that he had to study. However, it did affect his social life because he became quiet and withdrawn and did not talk to anyone because he knew that he had done something wrong and he was thinking a lot about what had happened. However, he still concentrated on his schoolwork because education was important to him. He explained that even after the experience, he was very dedicated to his academic work and he had liked the course very much. He quit smoking dagga, and he only smoked cigarettes.

Case 7

Participant 7n was a 17-year-old Black African male whose main language was isiZulu. He was from Amanzimtoti and in grade 11. He lived with his mother, stepfather and his two brothers and one sister. His two brothers were attending a primary school and his sister was attending a different school. He stated that he did not always enjoy going to school because there were no extra-curricular activities. He used to attend another school and when he compared the schools, they were not the same. He felt that previously he had been “up there” (i.e., popular and doing well), but now he was at the bottom. He was accused of theft after he, his friend had stolen two cellular phones that belonged to one of the pupils in his class, and he was suspended. He stated that he had had no reason to steal; it was just being naughty because he could not say that he did it for money. He explained that although he was not from a rich family, he had everything that he wanted. He did it to achieve fame at school, and for being that “cool kid” who loved girls and did silly things. He stated that he was the new kid at school and wanted to fit in and be liked the other boys. He could not face the fact that he was not popular anymore. He made it clear that it was peer pressure, as he was 16 when he was accused of the crime.

On the day that he was arrested, his mother called him in the morning and told him that his father would pick him up from school because they had to go to the police station. He said that the first thought that came to his mind was the “dagger of getting a criminal record”. He was scared of going to jail and being raped and getting Aids, and he was worried about not getting a job in the future because he would have a criminal record. When he was referred to a diversion programme, he felt like he was given a second chance at life to rectify his error. He pointed out that being in conflict with the law did not affect him at school. The only thing that he struggled with was Mathematics. He said he made sure that he did his schoolwork even when he experienced challenges. He reported that even when his biological father passed on, that did not affect him at school and after he started smoking dagga, he still made sure that he did his schoolwork. He said that he and his friends made sure that they studied “even when they were high”. One of his friends used to tell them that they should not forget why they were at school, as they were there to study. He stated that he had learnt not to repeat the same mistakes and he was now able to resist temptations. He further stated that the programme played a huge role in his life because it enabled him to change his behaviour. He was no longer smoking or stealing, and he was focusing on his studies.

Case 8

Participant 8 was a 17-year-old Black African male whose main language was isiZulu. He was in grade 9. He lived with his grandparents because his parents had passed on and he did not have any siblings. He had cousins who were not yet in school. He enjoyed school and he had a normal relationship with his grandparents. He said he had been caught by the police for possession of dagga, but he only had a cigarette, not dagga. He said that he had smoked dagga at the time but he had not been caught with it in his possession. What he did not understand was why they arrested

him without dagga in his possession. He explained that he was with his friend and they were just talking, but he made a move because he was approaching his girlfriend. He did not understand whether that was his mistake, because the police arrested only him, and not his friends. The police officer convinced him to admit guilt in order to avoid being in trouble and for his own good. He insisted that he had had no dagga in his possession and that the police had lied. He felt that he had no choice but to admit to a crime that he had not committed.

When he was asked what might have led him to smoke dagga, he replied that it was circumstances. When he was upset, it made him calm and smoking dagga made him cope at school. Peer pressure also influenced him. He was 16 years old when he was first caught by the police. He explained that he had been very upset because the police officer had lied to him and told him to relax, he would not arrest him. However, the officer left him and he spent the night in a cell. When he asked other police officers how they could have arrested him without any dagga in his possession, the police officers' response was that he had probably thrown it away. He said no one believed him because he was not a police officer. They accused him of telling lies, whereas it was the arresting police officer who was the one who actually lied. He felt that police officers were liars irrespective of their profession. He stated that he went crazy, and he could not even eat. Being referred to a diversion group made him sad and he was angry because he had been arrested for nothing. According to him, it would have been better if he had been arrested for something he had actually done, and if there was evidence that he had done it, but he was diverted for nothing and he felt angry for going through that process for something that he had not done. However, the programme assisted him to quit dagga and to behave more appropriately.

Case 9

Participant 9 was a 16-year-old Black African male whose main language was isiZulu. He was from Mayville and was in grade 11. He lived with his aunt, uncle and his five siblings. His older brother matriculated in 2016 and the young siblings were still in primary school. He enjoyed school and he had a good relationship with his family. He was convicted for carrying a dangerous weapon (a golf club) in public. He stated that he had not planned to use it on anyone, as he was with his friend and his brother on the playing ground near the school, waiting for another friend. The police assumed that he was going to use it to assault the learners from a nearby school, but he told them that he was only waiting for his friend and he asked the police officers to wait so that they could see whether he was telling the truth or not. He wanted them to see his friend when he came out of school. He was also wearing his school uniform. He reported that there was no conflict among his friends as they were waiting. They were just talking and he was playing with the golf club while talking with one of his friends. He said being arrested was scary and unexpected. He was scared of what his mother would say about the matter. Above all, he was worried that his future would be destroyed because of a golf club. He thought that he might get into trouble because he was with people who were older than he was at the wrong time. According to him, he was a humble person. He respected adults, enjoyed being around people, and he loved music. He stated that the incident did not affect him because he was still in school. However, it shocked him and it affected him personally because at times when his mother was angry with him, she always referred to what had happened. Even though his mother understood what had happened, she always reminded him that the police had once caught him, but he always explained to her that the golf club had not been carried to harm anyone. He said being referred to a diversion programme was better than getting a criminal record and he felt like he had been given a second chance. He explained that his behaviour

had always been good and that even his family knew that. He respected them and the programme had helped him to understand that carrying a dangerous object in public was not appropriate.

Case 10

Participant 10 was a 17-year-old Black African male whose main language was isiZulu. He was from Avoca and in grade 12 in a secondary school in this area. He lived with his mother and nephew. He had three older siblings. He was the only child from the family who was still in school and he enjoyed it. He was convicted for being in possession of dagga when he was 16 years and he admitted guilt. His relationship with his family was normal, and they respected one another. Although there were days when he quarrelled with his mother, it was never bad. For example, they quarrelled because he could not stop smoking. He said he had been trying but he was struggling to quit. His mother advised him to eat sweets instead of smoking dagga, but he was struggling to quit the habit. He shared that he really wanted to stop smoking. He was even thinking of admitting himself to a rehabilitation centre, but the problem was that he was in matric and very busy with his schoolwork. He was considering going for rehabilitation the next year. He said that the reason why he ended up smoking dagga was that he wanted to lose weight. Everyone was telling him that dagga would assist him to lose weight and it did help him, but it became a habit. However, he stopped smoking every day after he had been arrested. He was with his friends when he was caught, but his friends ran away and left him by himself. He reported that when, he was scared of what he would say at home and of the consequences. Moreover, he was scared of the things that might happen in prison, such as choosing a group that you could belong to. Above all, he was scared of getting a criminal record. When he was referred to a diversion programme, he felt better because he was given a second chance to mend his life. Being in conflict with the law affected him because

he lost concentration at school and focused more on smoking instead of his school work. He was certain that he would pass matric this year.

Table 1: A summary of the demographic profile of the participants

Participants	Race	Gender	Schooling	Age	Age when first accused	Offence	Number of Offences
1	Black	Male	Grade 11	18	17	Shoplifting	First-time offender
2	Black	Male	Grade 10	17	16	Assault	First-time offender
3	Black	Male	Grade 11	18	17	Assault	First-time offender
4	Black	Male	Grade 9	16	15	Possession of dagga	First-time offender
5	Black	Male	Looking for employment	20	19	Possession of dagga	First-time offender
6	Black	Male	Attending College	18	16	Possession of dagga	First-time offender
7	Black	Male	Grade 11	17	16	Theft of cellular phones	First-time Offender
8	Black	Male	Grade 9	17	16	Possession of dagga	First-time offender
9	Black	Male	Grade 11	16	15	Dangerous Weapon (golf club)	First-time offender
10	Black	Male	Grade 12	17	16	Possession of dagga	First-time offender

The participants were either isiZulu or isiXhosa speaking black male South African citizens. They came from different areas around Durban, with the majority coming from black townships. All the participants who participated in this study were male. Drug abuse was a common feature and occurred in five of the ten case studies. However, the respondents cited different reasons for being in conflict with the law. The participants belonged to different family structures. Four participants lived with their extended families, two lived with their single mothers, two lived with their mothers and stepfathers, and one lived with unrelated adults. Most of them were still in school. Only one was attending a tertiary institution and one was an unemployed Matriculant.

A glaring feature of these young offenders was that none lived within the traditional family structure of a biological father, mother and siblings. Instead, disorganised environments, negative family interactions, anxiety, peer pressure and a poor economic background had a significant impact on these youths and their circumstances led them to revert to criminal behaviour. Research studies point to a strong connection between residing in a hostile environment and participating in criminal activities (McCord, Widom & Crowell, 2001). In terms of youth offending, Sociological theories of deviance hypothesise that disorganised neighbourhoods have weak social control associations, which then cause deviant groups and activities to appear as acceptable substitutes. Experimentation with drugs and offending behaviour result in the development of a deviant lifestyle (Hunter & Dantzker, 2008).

5.3 Examining the Backgrounds of the Participants

The background of each participant will be examined. Their different circumstances will be explored in order to understand the factors that might have contributed to their antisocial acts. The negative aspects that emerged is discussed first, followed by the positive aspects. The participants' voices are presented in italics.

5.3.1 Negative aspects of the school environment

Eight participants indicated that they enjoyed going to school. However, Participants 1 and 7 did not share this view, although they had different reasons for not enjoying being in school. They described their reasons as follows: *"I like school but I do not like going there; the distance is too far and I hate going there because I arrive tired already"* (Participant 1).

When he was asked why he did not attend a nearby school, he said that he had been suspended from his previous school because he used to bunk classes all the time. Sometimes he would leave

home to go to school but ended up not going to school at all. As a result, he received NR (no return) status.

According to McCord, Widom and Crowell (2001), suspension and expulsion do not appear to reduce unwanted behaviour and both are linked to increasing offending behaviour. This is evident in the above comment, as being suspended from school did not assist the young person to change his behaviour; instead, his behaviour deteriorated. He also hated going to school because he had to walk a long distance to get there.

Another participant indicated that he sometimes enjoyed going to school and sometimes he did not, because *“there are no extra-curricular activities, no pools or soccer, nothing. Obviously, we all study, but there must be some activities. I used to study at [he named the school] and when I compare the schools, they are not the same. I feel as if I was up there and now am at the bottom”* (Participant 7).

The above quotes indicate that various factors affect youths' reluctance to attend school. In South Africa, there are many challenges that are faced by the educational system. One factor is the lack of money and limited resources. For example, most private schools have well-equipped music centres, dancing studios and sport facilities, whereas most rural and township schools are characterised by a lack of funds and facilities. According to Bezuidenhout (2013), this obvious contrast may create a sense of depression and it may negatively affect learners' self-esteem, leaving them with a feeling of worthlessness. They may therefore be at risk of becoming involved in crime.

5.3.2 Negative aspects within the family

Only one participant reported having difficulties with his family (or relatives). He said that when he was arrested he was not worried; in fact, he did not care because to him it was as if he was going home. Even though he had never been arrested before, he shared that at that time he felt fearless. He explained the reason why he felt that way: *“I can say the reason is, I wished I was dead because of the fight that had occurred at home. So being arrested was not a big deal for me”* (Participant 1).

When the participant was asked, what made him wished he was dead; he took a long breath before responding to this question. He was clearly emotional when he answered. His response was: *“When I am wrong they always remind me that am not related to them and my mother is dead. They always remind me that my mother is dead and I do not like that, because I am sure if she was still alive I would not be in this situation. But it is not in my control and I cannot do anything about it. When I do, something wrong I am in trouble; and when I behave, accordingly it is a problem again. They become jealous when I do well”* (Participant 1).

According to Kratcoski and Kratcoski (1996:128), there are three types of families that have been identified by researchers as “having some relation to delinquent behaviour: those with a disruptive family structure, those in which children have experienced parental rejection, and those characterised by a lack of consistency and adequate discipline”. The above statement from the youth illustrates that he did not get along with his relatives and, as a result, he became confused about how to behave appropriately. Research conducted by Smith and Stern (1997) and Derzon (2010) confirms that children who grow up in homes that are characterised by a lack of warmth and support, poor parenting skills, and where children’s lives are characterised by conflict or maltreatment will be more likely to be involved in antisocial behaviour.

5.3.3 Positive aspects of family life

Nine participants reported that they had a normal relationship with their families. Some explicitly indicated that they had good relationships with their parents and felt that their families provided important support for them. Indeed, each of these participants felt that it was he who had let his family down. Participant 6 said when he got arrested it was most unpleasant because he knew that everything was going to change once his family found out. The fact that his family was going to find out that he had smoked dagga was a frightening thought. *“I was scared because I have never experienced such a thing before. It was not so good. I do not like disappointing my mother and I know this whole thing was going to disappoint her”* (Participant 6).

Another participant said: *“I was scared thinking what my mother would say about this...”* [He paused as he reflected on the incident.] (Participant 8).

Participant 3 stated: *“My relationship with my family is good. We get along well and my brother usually visits us on weekends”*.

The above comments show that some participants had good relationships with their families. However, this suggests that even youths who have strong family ties can adopt delinquent behaviour. Murray and Farrington (2010) explains that the most important aspects of child rearing are monitoring children, discipline or parental reinforcement, the warmth or coldness of emotional relationships, and parental involvement with children. The participants' comments attest to the social control theory, which assumes that all individuals are potential law violators, but most are kept under control because they fear that illegal behaviour will damage their relationships with friends, family, neighbours, teachers, and employers. Without these social bonds, a person is free to commit criminal acts (Siegel, 2011:180). It is evident that the role of a parent or parents in a

child's life is fundamental, as the participants were worried about their family finding out about their criminal activities.

5.4 Exploring Behavioural Patterns in Diversion Programmes

In order to understand the behaviour patterns of youth who have been in conflict with the law, it is important to understand the root causes of their offending behaviour. Therefore, their behavioural patterns were examined in order to understand the factors that had an influence on their criminal behaviour and how their circumstances affected their lives.

5.4.1 The reasons for the youths' offending behaviour

Walsh (2012:150) explains risk factors as a variable that predicts a high likelihood of offending, and defines risk factors as "those characteristics, variables or hazards that, if present for a given individual, make it more likely that this individual will develop antisocial behaviour". Risk factors may therefore be interpreted or seen as "those conditions that increase the probability that a young person will develop one or more behavioural problems" (Haggerty & Mrazek, 1994:127).

The factors that prompted the participants' antisocial behaviour emerged from their comments. These factors could be categorised as individual circumstances, social circumstances, economic circumstances, unintentional offending, peer pressure, environmental influences, anxiety, and stress. These factors are discussed under sub-headings below.

5.4.2 Individual factors

According to Murray and Farrington (2010), risk factors are personal traits, characteristics within the environment, or conditions in the family, school or community that are linked to youths' likelihood of engaging in antisocial acts and other problem behaviours. The psychological aspects

that existed among the youths who were interviewed highlight the fact that youths acquire offending personalities, emotions and motives that prompt them to commit a crime. The offenders adopted attitudes that caused them to engage in antisocial behaviour such as shoplifting, smoking dagga, stealing, assault, and unintentional offending. The data indicated that there were various individual factors that steered these youth towards committing a crime. They offered the following reasons:

“Our family circumstances are not the same. What changed me is the passing of my mother” (Participant 1).

“I was protecting my friend. I thought if I did not join in, he would end up being hurt” (Participant 3).

“I did it for fame at school; for being that cool kid who loves girls, doing silly things. I was new at school and wanted to fit in and be like the other boys at school” (Participant 7).

“The reason why I started smoking dagga is because I wanted to lose weight” (Participant 10).

The above quotes demonstrate a number of reasons that motivated the participants’ criminal behaviour. Their reasons illustrate that their behaviour was made up of intentional endeavours by them to satisfy the needs that they personally experienced. No child is born a criminal, therefore it might be the environment, improper socialisation, peer group pressure and lack of self-esteem that steer a child to be involved in criminal acts. This view is confirmed by Pelsler (2008:8), who states that the constant exposure of the youth to crime and violence in key institutions of their socialisation – i.e., their homes, schools and direct social environments – has contributed to a significant percentage of South Africa’s youth offending population. In addition, research has indicated that “crime, and often violent crime, is a primary means for many young South Africans

to connect and bond with society, to gain respect, status and sexual partners, and to demonstrate achievement among their peers and in their community” (Bezuidenhout, 2013:37).

5.4.3 Social circumstances

Certain children live in dysfunctional families where they experience a lack of love and support. Bartollas (in Bezuidenhout, 2013:35) indicates that “the poorer a child’s interaction with family members is, the higher is the risk of his or her engaging in misbehaviour”. This statement is supported by the findings of a study that was conducted by the Centre for Justice and Crime Prevention (CJCP) on young offenders. The study discovered that most offenders (53%) stated that they had never received emotional support from their fathers, who were either not around or if they were, did not care much about their children. Such a circumstance is likely to cause strain in children, which may result in antisocial acts. According to the differential association theory, whether a person learns to obey the law or disrespect it, it is influenced by the quality of that person’s social relations (Siegel, 2011). The dysfunctional household is often the root of the offending behaviour, which was a finding in the current study as well. The following conditions were indicated:

“The person who was supporting me was my mother and she passed on and she was the only parent I knew. I do not know my biological father. When my mother passed away, I had to leave my hometown Kwa-Mashu and go live with her aunt at Inanda. I am not related to the family that I am living with, but I can call them my family because I have lived with them for a long time now. The granny that is raising me is the one who raised my mother” (Participant 1).

The above quotation reflects issues pertaining to death, broken families, lack of love and child neglect. Surely losing his mother must have been the most excruciating pain that the respondent

had to endure at a young age. Moreover, he did not know his biological father and had to move in with unfamiliar people. Such traumatic circumstances are likely to alter children's lives and drive them away from the family milieu to the environment of peers. Consequently, a threat arises when peers are used as a relief and substitute for family love and this may promote anti-social behaviour.

5.4.4 Economic circumstances

Research studies have highlighted that offending behaviour is related to low-income families, as economic stress appears to have a harmful effect on children (Pillay, 2001; Siegel, 2011; Varma, 1997). The poor economic circumstances in which many of the youth of South Africa live cause them to experience strain. As a result, they resort to crime as a coping mechanism. Some participants explained that they had committed crime because of their financial constraints. Their responses were as follows:

“What changed me is the passing of my mother. As a result, I ended up joining my friends that were shoplifting because that distracted me from thinking about my mother and I was able to get the things that I wanted. My mother was the one who was supporting me” (Participant 1).

Another participant reported that he had brought dagga to school because he wanted to make extra cash.

“I ... wanted money because the dagga was not mine – but I brought it to school because I wanted money and I was going to double the price so that is why I brought it for him” (Participant 5).

The above quotations illustrate a desire for possessions by offenders who belonged to poor families. Participant 5 did not sell dagga and he did not smoke dagga, but one of the pupils at his school asked him to buy it for him in his neighbourhood. He agreed so that he could double the

price and make money for himself. For Participant 1, shoplifting became his source of income after his mother had passed on. These findings show that economic circumstances contribute to antisocial behaviour among some youth.

5.4.5 Unintentional offending

Some participants committed a crime because of the circumstances that they faced at that particular time. This happened when offenders found themselves in situations where they engaged in criminal activities without intending to do so. One participant admitted that he and his family had attacked his cousin's boyfriend because he had taken her cell phone. The boyfriend then laid a charge of assault against the whole family. Because he was under age and still in school, he was referred to the diversion programme. He told the following story:

“We went to him to find out what happened and why he took her cell phone. He started swearing at my stepfather, accusing him of sleeping with his girlfriend. As a family, we got upset and attacked him. I have never injured anyone before. When I sit down and think about it, I did not intend to hit him but what he said about my dad (stepfather) made me angry” (Participant 2).

The youth acted without consideration of the consequences of his actions, which implies that his behaviour occurred because of circumstances. Based on his narrative, it is evident that he had not intended to assault his cousin's boyfriend but, due to the circumstances created by family and group pressure, he participated in the assault on the victim. This finding corroborates Bezuidenhout's (2013) argument that antisocial behaviour in South Africa predominantly occurs as a result of factors within the family. In most cases, young people find themselves in distress due to the disruptive family environment in which they live; therefore, because of their circumstances, they are tempted to deviate to crime. Murray and Farrington (2010) explains that household

overcrowding might be an important intervening factor between large family size and offending behaviour. The differential association theory highlights that significant others may influence offending behaviour (Siegel, 2011).

Another participant reported an incident, which was slightly different. This participant was accused of carrying a dangerous weapon (golf club) in public. He described the incident as follows:

“I was caught with a dangerous weapon – a golf club. I was not going to use it on anyone. We were sitting on the playground, opposite the school gate and the police officers assumed that I was going to assault one of the pupils with it, but I did explain to them that I was only waiting for my friend. I asked them to wait for my friend to come out from the school so that they could see whether I was telling the truth or not. I was also wearing my school uniform. I did explain that I was not going to assault anyone. There was no conflict; they found me playing with it and talking to one of my friends” (Participant 9).

What is most noticeable from the above quote is that the youth was not given any opportunity to explain himself and the police officers did not take into consideration that the youth might not have been aware that he was not supposed to carry a golf club in public. The above quotation relates to the labelling philosophy. Empirical reflection shows that, as predicted by the labelling theory, some poor and powerless people are victimised by the law and the justice system. The theory points out that “labels are not equally distributed across class and racial lines; clearly, discretion works to the disadvantaged subgroups” (Siegel, 2011:189).

5.4.6 Peer and environmental influence

According to the differential association theory as advocated by Edwin Sutherland (1947) cited in Siegel (2011), criminal behaviour is learned within intimate groups with which adolescents

associate. Relationships with these individuals affect and control the way youngsters interpret everyday events. Furthermore, research has shown that adolescents are more prone to environmental forces and peer influence compared to individuals in other stages of development (Steinberg, 2007). An indication of this was found in the narrative of one of the participants who had been charged with possession of dagga. He gave the following reason why he was smoking dagga: *“I look up to my brother – he’s my role model. I like the way he dresses. He wears label [brand] clothes and he smokes dagga so I thought it was cool and I started smoking too, and I ended up enjoying it. I thought I was going to be like him. He is intelligent. He used to give me good advice”* (Participant 4).

In some communities, the use of drugs is normal because the majority of individuals use them and youths, who have the misfortune of residing in neighbourhoods that are characterised by crime, are more likely to develop antisocial acts. The differential association theory holds that individuals learn criminal attitudes and behaviour during their adolescence from close and trusted friends or relatives (Siegel, 2011). Principles of the differential association theory are evident in the above quotation. This theory explains how risk factors can influence antisocial behaviour, especially if young people are exposed to negative stimuli and disruptive environments. It also emphasises the role of social surroundings within families, schools, and among peers and communities and how these relationships influence offending behaviour.

The interview data revealed that the majority of the participants were influenced by their peers to engage in offending behaviour:

“All of my friends were doing it. I can say maybe it was peer pressure” (Participant 1).

“Having a lot of friends, you end up doing wrong things” (Participant 3).

“Basically, I could not face the fact that was not popular anymore, so it was peer pressure”
(Participant 7).

“. . . Such as peer pressure” (Participant 8).

“Everyone was telling me that dagga will enable me to lose weight and it did help me” (Participant 10).

Bartolass (2003) states that when young people are strongly attached to their peers, spend extended time with them and when there are extensive patterns of misbehaviour, their association with their peers who engage in misbehaviour has a strong, negative effect on their own behaviour. This indicates the extent to which youths are likely to be influenced by significant others who are important to them or by those whom they consider as ‘cool’. In addition, peer pressure experienced by youths based on their circumstances is congruent with several studies that found a consistent relationship between involvement in an antisocial peer group and offending behaviour (Lipsey & Derzon, 1998; MacCord, Widom & Crowell, 2001).

The data indicated that most of the offenders who were interviewed had been influenced by their peers to engage in antisocial behaviour. Participant 1 mentioned that all of his friends were doing it and Participant 7 indicated that he could not face the fact that he was not popular anymore. This implies that young people value friendships and desire to be popular within their circle of peers, which in turn motivates them to identify with those peers whom they aim to please in order to be accepted. This is one of the concerns that is raised by Victor-Zietsman and Malherbe (2012) regarding peer pressure. They maintain that children usually attach great importance to belonging to and having an identity with peers. They also indicate that peer grouping is a powerful force and

the need to be seen as ‘grown up’ is intense and often gives a sense of status to the young person (Victor-Zietsman & Malherbe, 2012).

5.5 Anxiety and Stress as Contributing Factors to Delinquency

Experiences often create circumstances and restrictions that influence the way in which youth have to live their lives. Relative deprivation and feelings of inadequacy may therefore cause a person to experience anxiety and stress. According to the strain theory (Siegel, 2011), individuals tend to engage in crime when they experience strain. Adolescents who become frustrated or upset because of their inability to achieve social and economic success may engage in crime to reduce or escape from the strain they are experiencing. Three participants reported that they had been smoking dagga because they had experiencing stress, and dagga made them feel calm. They described their experiences as follows:

“My mind-set was messed up” (Participant 1).

“It helps me to concentrate nicely; it will keep me calm and happy” (Participant 6).

“In circumstances when I was upset it made me calm” (Participant 8).

What is noticeable from the above quotations is the prevalence of stress experienced by young people. They reported that they were smoking dagga in order to ease their tension. This finding is consistent with Agnew’s argument (in Siegel, 2011) that lack of correlation between expectations and actual achievements can cause more strain than the lack of correlation between ambition and achievements. He also identifies the elimination of positive stimuli and the presentation of negative stimuli as sources of strain. There are several ways of reacting and adapting to these sources. Agnew believes that whether or not the individual’s reactions are deviant or delinquent depends on internal and external constraining factors. These constraints incorporate the individual’s coping

skills, what type of social support is available to the individual, association with antisocial peers, and environmental variables such as social class position (Siegel, 2011). The youth in this study displayed intense feelings of sadness, which included grief, anxiety and anger. Being faced with stressful factors, they adopted smoking as a coping mechanism. The challenges that many young people face in their daily lives thus at some point may cause stress and frustration which, in turn, may lead them to resort to crime as a means of easing the strain.

5.6 Negative Labelling as a Contributing Factor

Negative labelling has an influence on the behaviour of any individual (Lawson et al. 1999). Therefore, many young people are sometimes drawn towards activities that may be defined as inappropriate or completely unacceptable by society or the criminal justice system. Youth may thus find themselves resorting to deviant behaviour due to family breakdown and environmental constraints, or maybe they are pushed into engaging in criminal activities due to the social response that labels them as deviant, delinquent, or even criminal. “The labelling perspective emphasises the process of labelling and does not see deviance as the state of being, but as an outcome of social interaction” (Joubert et al. 2009). One participant indicated how the police officer labelled him for a crime he did not commit. He discussed the incident as follows: *“I was caught by the police who said they caught me with dagga, but I only had cigarettes, not dagga. I do smoke dagga when I am upset as it makes me feel calm, but I was not caught with it. What I do not understand is how come they only took me, yet there was no dagga”* (Participant 8).

According to Becker (in Joubert et al., 2009:136), deviants are not a homogeneous group. Some individuals who have been labelled as deviant did not break any laws (i.e., they were falsely accused) and others broke the law but were not legally caught and labelled. This reflects what was expressed by the youth in the above comment. According to labelling theorists, those with power

in society force such labels on the less powerful. Whether a person is labelled as a criminal is not decided directly by the fact that an individual has violated the law. They argue that what is important is that, for the same law violating behaviour, individuals from less powerful groups will be subjected to more official labelling and punishment than the powerful groups who break the same rules. They also argue that stigmatising a person by labelling him or her as a criminal is the result; therefore, it reflects on whom that person is rather than on what he or she has done (Akers, 1997:100).

5.7 The Participants' Reaction to the Diversion Programme

When the participants were asked how they felt when they were referred to the diversion programme, their responses were varied. Some responded positively, such as the following comments:

"I felt as if I was being given a second chance. Maybe this time I can do right for myself"
(Participant 1).

"I felt relieved as if I was being given a second chance to mend my mistakes" (Participant 2).

"I felt relieved because I was not going to go to prison" (Participant 3).

"I felt relieved that I was no longer going to prison but I also wondered what the programme would entail" (Participant 4).

"I felt relieved" (Participant 5).

"I felt like I had been given a second chance to rectify my life" (Participant 7).

"It was better than getting a criminal record and I felt I had been given a second chance"
(Participant 9).

The above comments indicate that the young people felt relieved and as if this was their chance to rectify their mistakes. They also appreciated the opportunity to avoid a criminal record. Learning does not only take place through formal education, but also through the mistakes young people make. Sometimes they tend to engage in serious criminal behaviour because of their developmental age. It is therefore humane and considerate to give adolescents a second chance and to create an opportunity for them to change their mistakes into a learning experience (Bezuidenhout, 2013). The findings of the study correspond with the literature. Indeed, these youth felt relieved when they were referred to the diversion programme and appreciated the opportunity to mend their mistakes.

However, whereas most participants felt relieved for being referred and felt as if they were given a second chance, one participant shared his frustration when he was asked how he felt when he was referred to the diversion programme. This is how he answered the question: *“I felt angry because I got arrested for nothing. It would have been better if I was arrested for something I did. There was no evidence but I was diverted for nothing and I felt angry for going through this for something I did not do”* (Participant 8).

The above comment reflects the frustration of the youth and his response reveals that he felt that he had been treated unfairly. For this reason, his perception of the programme was in conflict with the intended purpose of the diversion programme. This attitude sprang from the fact that he believed that he had been treated unfairly and he strongly believed that he should not have been referred to the programme for a crime he had not committed. He even indicated that it would have been more acceptable if he had been arrested for something that he had in fact done wrong. His statement was congruent with the labelling theory. The labelling theorists argue that “crime is not an objective phenomenon; instead, it is an outcome of specific types of human interaction between

the offender-victim and the criminal justice system” (White & Haines, in Schoeman et al. 2009). Scholars further explain that a label that is attached to deviant behaviour can affect the way a young person comes to define himself or herself, which in turn will influence future conduct and dominate the social roles the young person is allowed to undertake (Dick, Pence, Jones & Geertsen, 2004).

5.8 Participants’ Reaction to being arrested

Although nine participants were relieved and felt that they were given a second chance when they were referred to the programme, one participant in particular raised concerns about how he was arrested and the reason for his arrest. Among the nine who were relieved, one participant acknowledged that the police had been doing their job to protect the community. However, he felt that he had been wrongfully arrested because he had only been playing with a golf club and he had not intended to assault anyone. He explained that when the police arrived at the playground, there was no fight or violence and therefore no reason for the police to approach them. He questioned the legal aspect of how the police could arrest someone without any firm evidence. He stated: *“I cannot blame them because they are doing their job; however, what I would like to ask them is how they can arrest someone without proof or finding out the information regarding the situation first”* (Participant 9).

For the reason that he felt that he had been illegally arrested, this participant argued that he was not supposed to be referred to the programme in the first place. Not only did he complain about being referred to the programme, but he also highlighted the fact that he had been forced into admitting guilt so that he could avoid incarceration and be referred to the diversion programme instead. The following is how he expressed his innocence: *“I do smoke dagga but I was not caught*

with it. What I do not understand is that I was not alone, how come they only took me? Yet there was no dagga” (Participant 8).

Section 1 of the Child Justice Act defines diversion as “diverting a matter involving a child away from formal court procedures when there is sufficient evidence to prosecute the child” (Bezuidenhout, 2013:177). Young offenders who meet the criteria for diversion are referred to crime prevention and developmental programmes (Sloth-Nielsen & Gallinetti, 2004:32). In order for a youth offender to be diverted, contact with the South African Police Service (SAPS) is the first point of the process. Therefore, the SAPS has a wide range of responsibilities. One such responsibility is to ensure a child’s appearance at a preliminary inquiry, mainly with an alternative to arrest as a last resort. For a child to be referred to a diversion programme, he or she has to meet the criteria for diversion as stipulated in the CJA. Section 52 of the Act stipulates that diversion should be considered if the child acknowledges responsibility. This implies that a child should not be influenced to acknowledge responsibility and the child’s and his or her parent should consent to diversion if the persecutor indicates that the matter may be diverted (Bezuidenhout, 2013). However, the findings pertaining to Participant 8 seem to differ from the definitions and criteria for diversion as stipulated in Section 1 and Section 52 of the Child Justice (Act No.75 of 2008).

Some youth thus questioned the manner in which they had been arrested and one of them even complained that he should not have been referred to the programme because there was no evidence against him. Based on what they reported, it is evident that they might have admitted to having committed the crime without intending to do so, and thus they agreed to attend the programme in order to avoid going to a correctional centre. In terms of confirming to participate in the diversion programme, the child and the parent or guardian had to sign a consent form that allowed the youth

to attend group sessions. In doing this, NICRO abides by the provisions of the Child Justice Act and the participant agreed to this to avoid a criminal record.

5.9 Impact of the Programme on Acknowledgement of Accountability

This part of the analysis assesses whether the diversion programme served the function of holding these youth accountable for their behaviour; in other words, it examines whether the programme achieved the objectives of diversion.

Section 51 of the Child Justice Act stipulates the objectives of diversion, which have been discussed in Chapter two. The study explored whether the programme met the objectives of diversion as stipulated in the Act in terms of encouraging youth to accept accountability for their offending behaviour. During the interviews, the participants were asked what they had learnt about the programme and how the Youth Empowerment Scheme programme had assisted them regarding their behaviour. The participants gave various positive responses:

“I have learnt to be positive about myself and life and my marks have improved a lot as well”

(Participant 1).

“I have learnt to respect myself and other individuals. The programme assisted me a lot”

(Participant 2).

“I learned that I should not associate myself with wrong friends because they might influence me into doing wrong things” (Participant 3).

“I learnt respect, and now I teach others that smoking dagga is illegal” (Participant 4).

“Not to repeat the same mistakes and resist temptations” (Participant 7).

“The programme assisted me to respect other individuals and behave in a good manner”
(Participant 8).

“I learnt how to behave around people and what not to carry on the streets or anywhere else because you might get arrested for carrying a knife or a club” (Participant 9).

“I learnt to behave well and [what] the consequences of a criminal record [might be]” (Participant 10).

The above responses demonstrate that the participants took responsibility for their actions. Furthermore, the programme assisted them to understand themselves and to relate to other people in a positive manner, and thus the above comments imply that the programme achieved the objectives of diversion. Chance (in Bezuidenhout, 2013; Steyn, 2005) explains that life skills programmes aim to enhance the quality of life and to prevent further offending behaviour. Moreover, the achievement of appropriate life skills strengthens a sense of responsibility and accountability. Therefore, the findings of the study corroborate the principles of the differential association theory, which holds that learning criminal behaviour patterns is similar to learning all other patterns (Siegel, 2011). This implies that when youth offenders are diverted away from formal court procedures to diversion programmes, the likelihood of learning further criminal behaviour is reduced.

5.10 The Participants as Self-Regulated and Law-Abiding Citizens

This part of the chapter is intended to demonstrate the impact of the diversion programme and how the programme assisted the participants to return to the community as productive self-regulated individuals and law-abiding individuals. Furthermore, it examines whether they had developed

appropriate life skills that would enable them to cope with the challenges in their living and community environments.

When the participants were asked if they had developed any changes in their behaviour since they participated in the Youth Empowerment Scheme programme, they gave various positive responses on how their behaviour had altered. This is how they responded to the question:

“My behaviour has improved a lot. I used to be short-tempered too much, especially when I had not smoked” (Participant 1).

“Attending this programme made me realise that it is important to associate yourself with good friends and that when you are at school you are there to learn not to associate yourself with wrong friends. It is important to focus on your school work” (Participant 2).

“Now I am a good child. I follow the rules and do what is expected of me as a child” (Participant 3).

“I do not do the things I used to do before, for example stealing money” (Participant 4).

“I now know how to keep myself well behaved. I can control myself” (Participant 6).

“I am not smoking dagga anymore” (Participant 8).

The above quotes show that the participants developed behavioural change because of their participation in the diversion programme. Certain objectives that are stipulated in Section 51 of the Child Justice Act include promoting the reintegration of the young person into his or her family and community, promoting the dignity and well-being of the child, the development of his or her sense of self-worth, and the ability to contribute to society (South Africa, 2008). Because the diversion programme is a life skills programme, it aims to ensure that “young people ... become

socially, ethically, emotionally, physically and cognitively competent, such as the ability to manage anger and stress, to maintain good interpersonal relationships, and to respect human rights” (Liese, in Bezuidenhout, 2013). An analysis of the above quotes clearly showed that these youth benefited from the programme. Furthermore, the programme seemed to have had a positive impact and it had achieved its main objective, which was to provide these young people with the skills that would ensure they would be able to make the right decisions and to comprehend the consequences of their actions.

5.11 Restorative Justice

Restorative justice programmes focus on repairing the harm caused by crime to everyone that is involved directly and indirectly while holding the youthful offender accountable for his/her actions and to guide him/her to take responsibility and for making amends (Crawford & Newburn, 2003; Maruna, Immerigeon & LeBel, 2004; Tiffit et al. 2008). In order to explore whether these youths’ understanding of their own criminal behaviour had been altered by completing the programme, the participants were asked what they would say to the victim or the arresting police officer if they should meet them again. Below are the participants’ responses:

“If I were to meet the manager of the shop, yes, I would apologise for what I did and even pay for what I stole from the shop” (Participant 1).

“I will ask him to forgive me. I would be happy if he can accept my apology” (Participant 2).

“I went to him and asked for forgiveness and he also returned the bag and asked for forgiveness” (Participant 3).

One participant who was asked what he would say to the police officer who arrested him, said: *“I always see him. I do not talk to him because if it were not because of him I would not have gone*

through all this process. But in a way, I know it helped me because it made me realise a lot of things” (Participant 6).

Burke (2008) states that restorative justice assists adolescents in realising that their actions have negatively affected the lives of other individuals. In addition, the “Child Justice Act prescribes certain objectives that the child justice court must seek to achieve. These include, among others, encouraging the young person to understand the implications of and be accountable for the harm caused” (Bezuidenhout, 2013:227). The above comments show that the participants took responsibility for their actions and they understood the need for making amends for their behaviour.

Another participant was asked the above question. This is how he responded to the question: *“I would kill him because of what he did to me. Anything could have happened to me in the cell for something I did not do. I spent a night in prison for nothing. I will never forgive him unless I find him and kill him for what he did to me” (Participant 8).*

According to the participant, he spent a night in prison for a crime he had not committed. He thus felt victimised and angry with strong feelings of vengeance for what he perceived was an unpardonable injustice committed against him. This finding was consistent with a study that was conducted by the Save the Children Fund (2006) on children in conflict with the law. In the latter study, young people complained that the police would accuse them wrongly of being drug addicts and they would take them to the police station and keep them locked up all night. Such behaviour strongly affected young peoples’ sense of justice and fairness.

Diversion programmes aim to enable young people to understand the impact of their crime and make sure they correct what they did done wrong (Victor-Zietsman & Malherbe, 2012). It also

intends to prevent a young person from being stigmatised as a deviant or delinquent because it is believed that when an individual is labelled as such, he/she are likely to take on a deviant self-identity and become more, rather than less, deviant than if he/she had not been labelled (Akers, 1994). Because there is the concern that youth offenders who enter the official criminal justice system will be at a disadvantage for the rest of their lives and that they will become more likely to resort to criminal acts in the future (Victor-Zietsman, & Malherbe , 2012), proponents of diversion argue that programmes are less stigmatising than formal court involvement. It is also argued that diversion results in a reduction of reoffending rates and that it provides adolescents with services they would not have received otherwise (Lundman, 1993; Beck et al. 2006). The intended purpose of diversion is thus in contrast with the experiences of Participant 8, in which instance the objective of restorative justice was not successful. The participant persisted in the strong belief that he had been arrested for a crime that he had not committed, and therefore he should not have been kept in the cell for an entire night. The experience of being kept in prison for something he had not done led to anxiety and developed strong feelings of hate. In this context, the labelling theory proposes that officials' determination to control crime may actually increase it (Hess, 2004).

5.12 Conclusion

During the exploration of the diversion programmes on youth who had been in conflict with the law, three themes transpired from the interviews. These identified themes indicate that a number of factors cause youth offending, namely individual factors, anxiety and stress, social circumstances, economic circumstances, negative labelling, peer pressure, and environmental influences. The study found that, in many cases, the influence of the peer group was a high stimulus for youth offending. Most of the youth were involved in crime in when they were accompanied by friends. Some even bunked classes to be with their peers, while it was also reported that a crime

had been committed in an effort to protect a friend. It was also evident that some of the youth offenders belonged to extended, reinstated or single parent families with poor socioeconomic backgrounds. However, the majority of the data showed that these diverse families were supportive. It was observed that none of these youth offender resided with both their biological parents. Only one participant reported that he was experiencing trouble with his relatives. At a certain point, he even wanted to die. As a result, he did not even care when he was arrested because to him it did not matter whether he died or went to prison. In the researcher's view as a social worker, such comments should not be taken lightly. Young people's emotions are highly flammable and, if not attended to, such threats may result in tragedy.

These young people were in conflict with the law for a number of different reasons. Some were involved in crime to ease their tension, some were prompted by peer influence, and some were involved in criminal acts for easy money. The peer group had a significant impact on the youth offenders' decision to commit an offence or acts that were in conflict with the law. The study demonstrated that it was not only individual factors that influenced these young people's offending behaviour, but that multidimensional factors influenced their offending behaviour.

The main findings were presented in this chapter. First, the case study method involved in-depth analyses of ten youth offenders' experiences and views. Individuals' biographical information and environmental backgrounds were highlighted as variables that underpinned youth offending. Secondly, the data that had been obtained using one-on-one interviews were presented. The interview schedule included 23 questions (see Appendix one) that were presented in such a manner that the answers would address various categories, namely: the biographical profile of each participant, exploring the youths' behavioural patterns in diversion programmes, assessing whether the diversion programme served the function of holding the youth accountable for their

behaviour, and establishing whether the diversion programme provided the participants with appropriate life skills to successfully return to the community as self-regulated and law-abiding individuals. After presenting the case studies with reference to the biographical profile of the participants, the researcher then presented the themes that emerged from the process of data analysis. What follow in the next chapter are the conclusions and recommendations.

CHAPTER SIX

CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction

In this final chapter of the research report, the conclusions based on the research processes, the findings that emerged from the data will be presented, and recommendations will be offered. The discussion will also explain the extent to which the research objectives were met. Furthermore, this chapter highlights other issues of concern that were raised by the participants during the interviews and that were discovered while analysing the data. It is important to note that the purpose of the study was not to measure the effectiveness of the YES programme, but to explore how youth reacted to this kind of rehabilitation initiative. Therefore, it should be noted that the outcomes of the programme are entirely based on the objectives of the study and the perspectives of the participants. The recommendations include recommendations pertaining to the NICRO diversion programme and to the criminal justice system in relation to wrongful convictions of youth. Recommendations for future research are also offered. The recommendations are based on the researcher's analyses of the findings and the literature that was reviewed.

As mentioned in Chapter one, the purpose of this study was to explore the impact of diversion programmes on youth offenders. To achieve this purpose, a sample of ten youth offenders that had participated in the Youth Empowerment Scheme programme that is offered by NICRO in Durban was identified. The research questions sought to investigate whether these youth offenders' understanding of their own offending behaviour had been altered by completing the programme. During the qualitative research process, the researcher used open-ended research questions that were crucial in exploring the impact of the diversion programme on youth who had been in conflict

with the law. The open-ended questions were formulated before commencement of the interviews and they assisted the researcher by providing direction to and focus on the data collection process.

The formulated objectives assisted the researcher to answer the research questions, and in this process the research goal was addressed, as an in-depth understanding of the impact of diversion programmes on youth offenders was achieved.

The researcher utilised a qualitative research approach, as it was well suited for exploring the views on and the impact of a diversion programme on youth offenders. By using an explorative research design, the objectives of the study were achieved. The explorative research design enabled the researcher to garner a broad understanding of the participants through an investigation of their understanding of their own criminal behaviour after completing the Youth Empowerment Scheme programme and establishing the factors that contributed to their antisocial acts. The researcher learnt more about these youths' circumstances and how they reacted to this type of rehabilitation process.

The method of data collection was also well suited to the study. Detailed information was collected by using semi-structured interviews. An interview guide (or schedule) that comprised open-ended questions guided these interviews. The researcher was able to conduct one-on-one interviews with youth offenders through NICRO, Durban. During these interviews, the participants' trust was obtained and the researcher was able to ask them about their backgrounds and the impact of the programme on their personal lives. In order to make sense of the data that had been collected from the participants, thematic analysis was conducted. Thematic analysis is a method for identifying, analysing, and reporting patterns within data and grouping them to highlight the themes that emerge from qualitative data (Braun & Clarke, 2006).

The labelling and differential association theories were used to guide this study, as these theories encompass the principle that when youth offenders are diverted away from formal court procedures to diversion programmes, the potential for being labelled and the learning of criminal behaviour are reduced. The differential association theory attempts to explain both the process by which an individual learns to engage in crime and the content of what is learned. The differential association theory provides insight into how the person learns to engage in crime and the content of what is being learned through the social learning process (Siegel, 2011). Relationships with significant others such as family and peers influence and control the way a person learns definitions of behaviour (Joubert et al. 2009). The labelling theory therefore attempts to explain the significance of diversion programmes by highlighting the dangers of processing young people through the formal criminal justice system and the fact that individuals who are labelled as deviant are likely to take on a deviant self-identity. In this process, they become more rather than less deviant than if they have not been labelled (Dick et al. 2004). This study was conducted according to an empirical research process in order to answer the research questions.

6.2 Main Conclusions

This study had three main objectives. The information that is presented below is an indication of the extent to which these objectives were met.

The objectives of the study were to:

- explore which behavioural patterns were addressed by the diversion programme for youth that had been referred because they were in conflict with the law;

- assess whether the Youth Empowerment Scheme programme served the function of holding youth who had been in conflict with the law accountable for their behaviour, and to
- establish whether the Youth Empowerment Scheme programme provided the youth with appropriate life skills to successfully return to the community as self-regulated and law-abiding individuals.

The objectives of the study were achieved and the research questions were answered. The first objective, namely to determine which behavioural patterns were addressed by the diversion programme for youth who had been in conflict with the law, was achieved. This was accomplished because the youth gave detailed descriptions of their criminal behaviour and how their behaviour had changed through participating in the diversion programme. Although two participants were struggling to quit smoking dagga, they were determined to find ways to overcome their smoking habit. Therefore, the process of change occurred for some of the youth who participated in the programme. Moreover, the programme encouraged self-discipline because the majority reported that they now understood the importance of behaving appropriately as well as the concept of responsibility in relation to their choices, mind-set, and behaviours. Only one participant felt that he was innocent and, as a result, he was determined to take revenge on the police officer who had arrested him. However, even this participant demonstrated a more positive attitude regarding the life choices he had to make in the future.

The second objective was to assess whether the Youth Empowerment Scheme programme served the function of holding the youth who had been in conflict with the law accountable for their behaviour. This objective was also achieved, because it was possible to establish that the

programme inspired the youth to accept accountability for their behaviour. The YES programme comprises twelve sessions, each of which has specific goals that are aimed to restore young people and assist them in making the right choices in their environment, no matter how difficult their circumstances may be. The programme does not focus on punishment, but it aims to enable youth offenders to acknowledge their criminal behaviour and learn from their mistakes.

The third objective was to establish whether the Youth Empowerment Scheme programme provides youth with appropriate life skills to successfully return to the community as self-regulated and law-abiding individuals. This objective was also achieved, because the researcher was able to determine that the impact of the Youth Empowerment Scheme programme was predominantly positive. The majority of the participants said that the programme had enabled them to change their behaviour. They appreciated the opportunity given to them to rectify their mistakes and they all felt that they had learnt from it. Some of these youth offenders were now teaching their peers to behave in a proper manner and to be aware of the dangers of smoking dagga.

However, it was clear that although the programme had instilled a positive impact on the youth who had participated in it, some felt that they had been unfairly treated by police officials. Two participants questioned the fact that police officers could arrest someone without evidence and that arrestees could be manipulated into admitting guilt. One participant reported that it would have been more acceptable if he had actually committed a crime. He also expressed the desire to kill the police officer because of what he had done to him. The young person was highly frustrated for being arrested and diverted to a rehabilitation programme for a crime that he had not committed. The intended goal of the restorative process was thus not achieved with this individual, because he felt that the criminal justice system had failed him and wasted his time with the diversion process.

This finding correlates with the labelling perspective on crime, as this theory warns that “once a person has been labelled as deviant, opportunities for reducing [this] behaviour become limited. Instead, the behavioural opportunities that are available are largely deviant” (Joubert et al. 2009: 135). The data showed that this young person had developed anger towards the police officer and the criminal justice system as a whole. In his view, being arrested for killing the police officer would be more acceptable, for in this instance he would at least be guilty of a crime. One of the major reasons for diversion programmes is to keep young people from further progressing into the official criminal justice system and being stigmatised by it. Furthermore, restorative justice is concerned with restoring offenders to law-abiding individuals and repairing the harm done. However, the study discovered that wrongful convictions is a major concern, as feelings of being treated unjustly and unfairly in the preliminary inquiry process may fuel the flames of criminal behaviour, particularly among young, volatile adolescents.

Two participants pleaded guilty not because they believed that they were guilty, but because they thought, being referred to the diversion programme was better than having a criminal record. The participants had gone through the entire process and completed the programme, but they still questioned the injustice of being arrested without any evidence. This finding was in contrast with the finding that the majority of the participants felt that they had been treated fairly. The latter finding indicates that a positive perception of justice may restore the present and future growth and development of offending young people.

However, for those who felt that they had been unfairly treated by the criminal justice system, it resulted in frustration and revengefulness. How do we then address the question whether the youth understood the implications of their criminal behaviour? Clearly, the youth who pleaded his innocence was not innocent of wrongdoing, as he admitted that he had engaged in wrongful

behaviour by smoking dagga before. The fact that he belaboured was that he had not been caught with dagga in his possession. The point this highlights is that the youth may tend to accept responsibility only if they are caught 'in the act', and that they are innocent until proven guilty beyond any doubt. This poses the question whether youth offenders' understanding of their own criminal behaviour will be altered by completing a diversion programme. The unfortunate answer is that the primary goal of diversion programmes may be misplaced in some instances, for instead of redirecting youths away from formal processing in the criminal justice system, diversion programmes might lead an increasing number of youths to criminal acts of retaliation. Consequently, youth who perceive themselves as being innocent may become involved in the criminal justice system through feelings of anger and frustration that may prompt them to actually commit a crime. This spiral of criminal behaviour may be prevented if innocent youth are identified and thus not referred to a diversion programme. This tendency of processing innocent youth through a diversion programme is a matter of concern, because the criminal justice system has a significant effect on the behaviour and emotional well-being of adolescents.

6.3 Recommendations

The recommendations that are offered are based on the analysis of the data and the literature that was reviewed. The recommendations focus on three dimensions: NICRO diversion programmes, the criminal justice process, and further research.

6.3.1 Nicro diversion programmes

In view of the findings pertaining to the impact of the YES programme, it became evident that the programme had a positive impact on the majority of the participants. The study demonstrated that these participants held positive views about the diversion programme and that they had begun to adopt behavioural changes such as abstaining from crime and choosing their friends wisely. In

relation to the outcomes of life skills programmes, Kok (1994) and Muntingh (2001:35-38) point out that the participants in their studies generally held positive opinions about life skills programmes. Behavioural changes in these studies also included desisting from criminal acts and choosing friends more selectively. However, the current study established that the serious issue of how youth were arrested and prosecuted and how these experiences impacted their experience of being referred to the diversion programme left one youth with emotional damage because he strongly believed that he was innocent. Because he had no power over the criminal justice system, he had no choice but to plead guilty to a crime that he had not committed. Serious consideration should therefore be given to the process of law that should prove youth guilty without reasonable doubt before they are diverted to rehabilitation programmes.

With regard to the different circumstances that the youth came from and the different socioeconomic backgrounds that impact their lives, it is recommended that, after the group sessions offered by the programme, participants should also be exposed to one-on-one counselling sessions. Such sessions will address the needs and unique conditions of individual youth offenders and create a safe space that will allow them to express themselves freely.

According to Rose (in Naidoo, 2007:75), “group work can be effective in addressing interpersonal and peer related problems”. Naidoo (2007) further stresses that participation in a group reduces stigmatisation and labelling. However, the study found that group sessions were not conducive to participants feeling safe enough to share their personal experiences and thoughts freely in all circumstances. If the researcher had not conducted one-on-one interviews, one participant would never have expressed the feeling that he wanted to kill the police officer who had arrested him. Although this desire may not necessarily result in an actual assault on the officer, the feeling of anger and injustice may continue to affect the youth and it may find expression in other severe

forms of criminal behaviour. Therefore, it is extremely important for NICRO to provide one-on-one sessions in order to find out if individuals have benefited from the programme. This will also assist counsellors in determining if any further counselling is required for an individual, as some youth may have had negative experiences of the entire process depending on how they were treated by the police and the criminal justice system as a whole. The well-being of young offenders deserves attention in order to prevent mental imbalances, as these programmes may actually be harmful to youth who are innocent. During the interviews, it was evident that some participants had not found closure and were still experiencing emotional distress.

6.3.2 The criminal justice process

Section 1 of the CJA defines diversion as “diverting a matter involving a child away from the formal court procedures when there is sufficient evidence to prosecute the child” (Bezuidenhout, 2013:177). The benefit of the diversion option includes ensuring that the youth offender is exposed to an intervention strategy that is based on his/her individual circumstances and that it is aimed at preventing him/her from re-offending. Moreover, these programmes can be utilised effectively to prevent crime and to promote public safety. However, the research found that not all youth who were diverted away from the criminal justice system process had been guilty of the crime for which they had been arrested. Some of these young people were good children who may have been wrongfully accused and diverted for an offence that they had not committed. Due to the benefits associated with admitting guilt, they agreed to admit guilt and be diverted in order to avoid a criminal record. Based on the findings of the study, exercising discretion by all role players in the criminal justice system and moderating police attitudes are two issues that need urgent attention. Therefore, the researcher recommends that policy makers in the criminal justice system revisit the aims and objectives of diversion programmes. Furthermore, professionals who are involved in the

process of ascertaining whether a child should be diverted from the criminal justice system at the preliminary inquiry stage need to determine if there is enough evidence against the young person before diverting him/her. It is vital that the criminal justice system deals with young people in a sensitive manner to ensure their well-being. Apparently, the perception of being unfairly treated by the criminal justice system has a significant psychological effect on youth.

6.3.3 Further research

- The study involved youth offenders who had participated in the Youth Empowerment Scheme programme. Because the sample size was relatively small, there is a need to conduct similar research with a larger sample size and related individuals, for instance social workers and parents, to evaluate the impact of the programme on the youth in more depth.
- The sample of this study was drawn from youth offenders in Durban in KwaZulu-Natal province. As the study site was limited in scope, further research needs to be undertaken in other areas to confirm or refute the findings.
- In view of the fact that the study did not include all the population groups comprising the ‘rainbow nation’, it is recommended that a follow-up study be undertaken to include youth from Black, White, Coloured and Indian communities. Such a study will provide a more comprehensive view of the extent of the problem of youth offenders and measures that can be employed to eradicate crime across our nation.
- The research findings demonstrated that some youth admitted guilt to offences that they had not committed. There is an urgent need for research to evaluate the preliminary inquiry proceedings involving youth in order to assess whether they are conducted in a manner that is just and non-discriminatory.

- It is also recommended that exploratory research be conducted on decision-making processes at preliminary inquiries that involve the youth. Such studies should investigate the decisions that practitioners make and the factors that influence their decisions.

Finally, in all the processes that are advocated to improve the lives of youth who are in conflict with the law, their voices should be listened to, as it was found that youths' voices on diversion programmes were limited in the literature. Therefore, it is recommended that more studies that are empirical be conducted on youth in conflict with the law in order to determine the impact of these programmes on youth offenders.

6. 4 Concluding Remarks

It was revealed that some offenders actually pleaded guilty to a crime that they had not committed because they were literally manipulated to weigh the risks and benefits of confessing versus being exposed to the long arm of the law. Two youth offenders questioned the reason for and the manner in which they had been arrested. Although their stories were slightly different, one youths' mistake almost changed his entire life, and his only way out was to plead guilty so that he could be diverted to avoid a criminal record. Another participant reported that he had been in the habit of smoking dagga, but he was not in possession of it when the police officer arrested him. This experience will stay with him for life, as he will always perceive police officers as liars and untrustworthy. These two young men both admitted guilt not because they thought they were guilty, but in order to avoid being incarcerated. During the interview, they both questioned the integrity of the police. This finding implies that some youth might actually admit guilt simply because they are afraid of going to prison, which is a matter of concern.

Although some participants felt they had been wrongfully arrested, all the participants reported a positive impact by the Youth Empowerment Scheme programme. However, some still struggled

to quit smoking. Those who had actually committed a crime were now well aware of the consequences of their acts. This means that the programme had altered their understanding of their criminal behaviour. Even the ones who felt they had been unjustly treated reported that they had learnt a lot from the programme. All the participants reported that they had learnt to respect the environment and the rights of others and that they had acquired skills to cope with the challenges in their environment. Some reported that they were now educating other young people on how to behave appropriately. This study therefore suggests that the Youth Empowerment Scheme programme has a positive impact on youth offenders. Although some had not quit smoking, they were determined to kick the habit. Some even suggested attending rehabilitation centres in the desire to live a completely rehabilitated life. However, the fact that some participants pleaded guilty to a crime that they had not committed because of the benefits associated with pleading guilty, and the fact that police officials used their authority to manipulate these youth into admitting guilt, casts a dark shadow on the good outcomes of the YES programme.

A wide variety of research has been conducted on diversion programmes. However, these studies have focused predominantly on meta-analysis to determine the effectiveness of diversion programmes. Therefore, there is a need for more empirical research into diversion programmes to determine their impact on youth offenders. This study suggests that the perception of prejudiced treatment of some youth by the criminal justice system has a critical effect on the attitudes and emotional health of youth offenders. When young people perceive that they have been unfairly treated, it may result in strain, frustration, aggression and revengefulness. Moreover, such psychological tensions can act as stimuli towards further antisocial personality disorders. The fair treatment of youth, who find themselves in conflict with the law, both during and after the alleged commission of a crime, is an essential consideration to be followed by executives in the

Department of Criminal Justice, the Department of Social Development, and non-governmental organisations.

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APPENDICES

Appendix one: Interview Schedule

Exploring Background

During the data collection process, the following biographical questions were asked to ten participants in order to form a biographical profile. This biographical information was presented descriptively.

- Gender
- How old are you?
- What is your main language?
- Who do you live with at home?
- Which school do you go to?
- Which class are you in?
- Do you enjoy school?
- Do you have siblings?
- Do you all go to the same school?
- How is your relationship with your family?

Interview Schedule Questions

To explore behavioural pattern in a diversion programme for youth in conflict with the law.

1. Tell me more about the form of crime that you allegedly committed?
2. Was it your first time being accused of any particular crime if no please explain what type of crime you were accused of?
3. Did you admit guilt?
4. In your opinion, what do you think might have caused you to be in conflict with the law?
5. How old you were when you were first accused of a crime?
6. Were you alone when you committed a crime that you were accused of?
7. Tell me about the day you were arrested?

8. How did you feel when you were referred to a diversion program?
9. How did being in conflict with the law affect your life in terms of education?

To assess whether the diversion program serves the function of holding youth in conflict with the law accountable for their behaviour.

10. What did you learn on the Youth Empowerment Scheme programme?

11. How has the Youth Empowerment Scheme programme assisted you in terms of your behaviour?

To establish whether the diversion programme provides the youth with life skills needed to successfully return to the community as productive self-regulated and law abiding individuals.

12. Have you developed any change in your behaviour since you participated on the Youth Empowerment Scheme programme?

13. If you were to meet the victim or arresting officer, what would you say to them?

Thank you very much for your time.

Appendix Two: Gate Keepers Letter



HEAD OFFICE

1 HARRINGTON STREET, CAPE TOWN, 8001, SOUTH AFRICA. PO BOX 10005, CALEDON SQUARE, 7905, SOUTH AFRICA
Tel: +27 (0)21 462 0017 Fax: +27(0)21 462 2447 E-Mail: info@nicro.org.za Website: www.nicro.org.za

Enquiries: Betzi Pierce
Reference: NICRO Research Approvals

Prof Shanta Singh
School of Applied Human Sciences
University of Natal

10 May 2016

RE: Precious Ntuli – Masters Programme at the School of Applied Human Sciences

I hereby confirm that the National Institute for Crime Prevention and Reintegration of Offenders (NICRO) has given approval to Ms Precious Ntuli for her proposed research study "Exploring Diversion programs for youth in conflict with the Law at NICRO, Durban. She will have access to NICRO's beneficiaries in the Durban office. However, be informed that services offered in this office is dependent on NICRO's approved business plans.

Please contact me should you need any further information.

Kind regards

Betzi Pierce
National Operational Manager

Appendix Three: Ethical Clearance



16 January 2017

Ms Precious N Ntuli 21672294
School of Applied Human Sciences
Howard College Campus

Dear Ms Ntuli

Protocol reference number: **MSS/1670/016M**

Project title: **Exploring diversion programs for youth in conflict with the law: A case study of the Youth Empowerment Scheme programme at Nicro, Durban**

Full Approval – Full Committee Reviewed Protocol

In response to your application received 5 October 2016, the Humanities & Social Sciences Research Ethics Committee has considered the abovementioned application and the protocol has been granted **FULL APPROVAL**.

Any alteration/s to the approved research protocol i.e. Questionnaire/interview Schedule, Informed Consent Form, Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through the amendment /modification prior to its implementation. In case you have further queries, please quote the above reference number.

PLEASE NOTE: Research data should be securely stored in the discipline/department for a period of 5 years.

The ethical clearance certificate is only valid for a period of 3 years from the date of issue. Thereafter Recertification must be applied for on an annual basis.

I take this opportunity of wishing you everything of the best with your study.

Yours faithfully

Dr Shenika Singh (Chair)
Humanities & Social Sciences Research Ethics Committee

/pm

cc Supervisor: Prof SB Singh
cc Academic Leader Research: Dr Jean Steyn
cc School Administrator: Ms Ayanda Ntuli

Humanities & Social Sciences Research Ethics Committee

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