

THE VIEWS OF SOCIAL WORKERS ON DIVERSION PROGRAMMES FOR MALE JUVENILE DELINQUENTS

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DECLARATION

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ABSTRACT

Adolescence is a challenging development stage because youths engage in risk-taking behaviour, including anti-social and criminal acts. Factors which contribute to youth becoming involved in crime include having a poor self-concept, being male, the negative behaviour of parents, family dysfunction, low socio-economic status, low literacy levels or being illiterate, peers who exercise a negative influence, and poor role models. Diversion strategies are practised worldwide, including South Africa, to deal with the growing number of youth in conflict with the law. After diversion practice was legalised in South Africa, some challenges have been experienced with implementation. However, the views of social workers are limited regarding diversion practices after the Child Justice Act no 75 of 2008 was introduced.

The objective of the study is to gain insights from social workers who facilitate diversion programmes with male juvenile delinquents. In this study, attention was paid to explaining the nature of juvenile delinquency of male adolescents in a South African context; describing diversion programmes in terms of the Child Justice Act no 75 of 2008 to deal with children outside the criminal justice system; discerning the scope, nature and contribution of diversion programmes for the rehabilitation of delinquents; investigating the views of social workers on diversion programmes for male juvenile delinquents; and to make recommendations regarding the facilitation of diversion programmes with male juvenile delinquents.

A combination of quantitative and qualitative research approaches were used in the study. The study further assumed an exploratory and descriptive research design due to the limited information available regarding the views of social workers on diversion programmes with male juvenile delinquents. A purposive sampling method was used to select the participants. Data was gathered by means of a structured questionnaire, which was administered during 20 individual interviews. This allowed for a holistic view to be gained of participants' opinions about and insights into the topic. The design of the questionnaire was based on the information obtained from the literature review. The findings of the empirical investigation mainly confirmed the findings of the literature study

that males are more vulnerable to juvenile delinquency, that parents and families play substantial roles in the causes of juvenile delinquency and, lastly, that diversion programmes offer much benefit to youth offenders.

The most important recommendations resulting from the study indicate that social workers should become more skilled and equipped to facilitate therapeutic groups as this will contribute to the reduction of re-offending. Parental and family involvement in diversion programmes is essential as it will increase the impact on the youth offender. In addition, the recommendations indicate the significance of monitoring and evaluation of diversion programmes, in this way ensuring the proper implementation of the Act. Lastly, it is suggested that more research be done about diversion practices internationally to increase knowledge regarding implementation.

OPSOMMING

Die puberteitsjare is 'n uitdagende ontwikkelingsfase omdat die jeugdige riskante gedrag toon, soos antisosiale optrede en die pleeg van misdaad. Faktore wat bydra tot die jeugdige se betrokkenheid by misdaad is die feit dat hy tot die manlike geslag behoort, 'n lae selfbeeld het, die negatiewe gedrag van ouers, uit 'n gebroke huis kom, aan lae sosio-ekonomiese status ly, die lae vlak van of geen geletterdheid het nie, vriende wat 'n negatiewe invloed uitoefen, en swak rolmodelle. Afwendingsstrategieë word wêreldwyd beoefen, ook in Suid-Afrika, om die toenemende aantal jeugdige wat met die gereg bots, te help. Nadat afwendingspraktyke in Suid-Afrika gewettig is, is sekere uitdagings in die praktyk ervaar. Min menings is deur maatskaplike werkers geopper oor afwendingspraktyke nadat bepalinge ingevolge die Kinderegtergheidswet nr 75 van 2008 toegepas is.

Die doel van die studie is om insigte te verleng van maatskaplike werkers wat afwendingsprogramme met manlike jeugmisdadigers fasiliteer. Aandag is geskenk aan die aard van jeugoortredings deur manlike jeugdige in Suid-Afrika, beskrywings van afwendingsprogramme wat jeugdige buite die strafregtelike stelsel behandel ingevolge die Kinderegtergheidswet nr 75 van 2008, om insigte te win oor die omvang, aard en bydrae van afwendingsprogramme vir manlike jeugoortreders met die oog op rehabilitasie, om die menings en insigte van maatskaplike werkers oor afwendingsprogramme vir manlike jeugoortreders te ondersoek, en om aanbevelings te doen oor die fasilitering van afwendingsprogramme vir sulke oortreders.

'n Kombinasie van kwantitatiewe en kwalitatiewe navorsingsbenaderings is in hierdie studie gevolg. Tydens hierdie ondersoek is ook beide 'n verkennende en beskrywende navorsingsontwerp benut, omdat die literatuur 'n gebrek toon aan die insigte van maatskaplike werkers oor afwendingsprogramme met manlike jeugoortreders. 'n Doelgerigte steekproeftrekking is gebruik om die deelnemers te keur. Gegewens is ingewin deur middel van 'n gestruktureerde vraelys in twintig afsonderlike onderhoude. Sodoende kon 'n geheelbeeld van die deelnemers se menings en insigte aangaande die onderwerp verkry word. Die samestelling van die vraelys is gegrond op inligting wat uit die literatuuroorsig verkry is.

Die bevindinge van die ondersoek het grootendeels dié van die literatuuoroorsig bevestig, naamlik dat mans meer kwesbaar is vir jeugoortredings, dat ouers en gesinne 'n groot rol speel in die oorsake van jeugoortredings, en dat jeugoortreders baat kan vind by afwendingsprogramme.

Die belangrikste aanbevelings voortspruitend uit hierdie studie dui daarop dat maatskaplike werkers meer vaardighede moet opdoen en toegerus moet word om terapeutiese groepe te fasiliteer aangesien dit sal bydra tot die vermindering van die herhaling van die oortreding. Dit is belangrik dat ouers en families betrokke is by afwendingsprogramme omdat dit 'n groter uitwerking op die jeugoortreder sal hê. Die aanbevelings dui ook op die belangrikheid van die monitering en evaluering van afwendingsprogramme om te verseker dat die bepalinge ingevolge die Wet korrek toegepas word. Laastens, daar word voorgestel dat meer navorsing oor afwendingspraktyke internasionaal gedoen word om kennis oor die implementering daarvan te verbreed.

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CHAPTER ONE

INTRODUCTION

1.1 PRELIMINARY STUDY AND RATIONALE

Adolescence is a time of experimentation and of trying out new behaviours in response to new situations. Young people are prone to engage in extreme and unrestricted risk-taking because they often have the egocentric belief that they are almost indestructible. There are risks which confront young people such as the influence of parents and peers, peer groups and gangs; substance use; sexual behaviour, as well as risk-taking involving anti-social behaviour (Geldard & Geldard, 2010:19).

Certain factors contribute to youth displaying anti-social and criminal behaviour. These factors include a low self-concept, the lack of parental care and irresponsible parenting (Maphila, 2000:152). Studies by Koch and Wood (2002:46, 47) as well as Geldenhuys (2007:153) indicate that poverty contributes to the criminal behaviour of adolescents. Broken homes and underachievement in school are also regarded as contributing factors (Koch & Wood, 2002:46, 47). The presence of a family member who displays criminal behaviour and commits offences also plays a role (Geldenhuys, 2007:153). Other contributing factors are the home environment, emotional adjustment, social control and social alienation (Tyson & Stones, 2002:4).

Bezuidenhout and Joubert (2003:26) add that having few or no literacy skills, growing up in an environment where education is not deemed important to improve one's social status, having to interact with peers limited to the ones that the environment offers as well as growing up in areas where role models are criminals make youth vulnerable to a life of crime. In America and in South Africa, being male rather than female puts youth at risk of engaging in crime. Bezuidenhout and Joubert (2003:121) posit that the physical superiority of males enhances their tendency towards indulging in criminal behaviour. Females are less inclined towards crime because of their passive nature and their biological roles as caretakers of children.

Taking the aforementioned factors into consideration, it is estimated by the South African Police Service that 43% of South Africa's youth are at risk of becoming offenders (Bezuidenhout & Joubert, 2003:26). Of the total number of juveniles arrested and convicted during 1999, 50.5% were convicted for property crimes, 30.8% for offenses involving aggression, 14.5% for sexual offences, 0.7% for drug-related offences and 3.4% for other offences. In 2000, the number of offences involving aggression increased because of the greater availability of illegal weapons and the violent nature of South African society (Bezuidenhout & Joubert, 2003:26,27).

Diversion initiatives have been practised since the early 1990s to deal with the growing number of youth in conflict with the law. The aims of these diversion strategies are to ensure that youth do not have to be subjected to formal court action and custody if they are arrested and prosecuted (Wood, 2003:1). As diversion projects have increased, the numbers of awaiting-trial youth and those receiving prison sentences have decreased (Sloth-Nielsen, 2007:326). There was the need for a suitable legal framework to ensure the protection of children's legal rights (Wood, 2003:2). In April 2010, the Child Justice Act no 75 of 2008 (2009:2) was implemented to establish a criminal justice system for children.

The objectives of diversion as specified in Section 51 of the Act (2009:70) is to deal, where appropriate, with children outside the formal criminal justice system; encourage the child to be accountable for the harm he or she has caused; 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 those affected by the harm to express their views regarding its impact on them; and encourage the rendering to the victim of some symbolic benefit or the delivery of some object as compensation for the harm caused. Other objectives are to promote reconciliation between the child and the person or community affected by the harm caused by the child; prevent stigmatising the child and prevent the adverse consequences that result from being subject to the criminal justice system; and reduce the potential for re-offending. Diversion initiatives also aim to prevent the child from acquiring a criminal record; to promote the dignity and well-being of the child, as well as to develop his or her sense of self-worth and ability to contribute to society.

According to the Act (2009:74), level two diversion options include referral for counselling or therapy; compulsory attendance at a centre or place for a specified vocational, educational or therapeutic purpose; referral for intensive therapy to treat or manage problems that have been identified as a cause of the child coming into conflict with the law. For the purpose of this study, the focus will fall on level two diversion options.

Different diversion programmes include life skills, community service, wilderness therapy and restorative group conferencing. Life skills programmes provide youth offenders with valuable aids to help prevent negative behaviour (Steyn, 2010:21). According to Steyn (2005:57) and Wood (2003:2), community service requires the youth offender to complete a number of hours of service. This service is completed at an establishment without payment (Steyn, 2005:57). Wilderness therapy is an experiential programme that takes place in the outdoors (Botha, 2007:16). According to Wood (2003:2) and Botha (2007:19), this programme is designed for high-risk youth. Restorative group conferencing such as victim offender mediation and family group conferencing requires the victim and offender to meet face to face (Wood, 2003:2). These conferences provide a safe place for offenders and victims to express their feelings and opinions (Steyn, 2010:141). However, it takes time to create such an environment, and requires thorough preparation.

Various approaches used in diversion programmes have particular benefits, according to Steyn (2010:141). Additionally, Botha (2007:18) states that facilitators of diversion programmes should be amenable to choosing various alternatives when engaging with youth. The type of approach chosen will be determined by the needs of the youth offender. Some offenders might need more intense or multimodal interventions due to the complex nature of their problems. Diversion programmes encourage contact between parents and diversion service providers (Steyn, 2010:142). This extends the support system of the offender, which is essential for successful rehabilitation. Studies demonstrate that youth who attended diversion life skills programmes have shown positive changes in parent-child and peer relationships. Furthermore, parents observed that the youths displayed positive attitudes, were more sensible and mature in their actions, and were less aggressive after completing the diversion life skills programme (Wessels, 1994:105).

Wood (2003:18) and Steyn (2010:142) point out that diversion programmes allow the youth offender to remain in his or her community, unlike interventions in institutions. Furthermore, intervention programmes in the community provides for effective practice as the youth offender receives the necessary support from family and positive peers during the process of learning and implementing new skills (Wood, 2003:18). However, by remaining in the environment during intervention, the continuous negative influence which has contributed to the delinquent behaviour will be a challenge.

The literature investigated for this study included information on adolescence, the scope and nature of juvenile delinquency, as well as the development of and need for juvenile justice in South Africa. Details of different diversion programmes, including the objectives and benefits, as well as the thoughts of authors regarding diversion programmes, were explored. Authors (Botha, 2007:18; Steyn, 2010:142; Wood, 2003:18) have indicated the limited views of social workers regarding diversion programmes. Therefore, there is a need to explore these views to gain a better understanding of current diversion practice as well as how the Child Justice Act 75 of 2008 is used as a guide for these practices in South Africa. Studying the opinions of facilitators of diversion programmes will provide a clearer indication of the strengths and challenges of the application of diversion. These observations of diversion can be compared with those of writers from other countries to gain a more global perspective. In this way, valuable lessons can be learned that can contribute to the development of improved and more successful interventions with juvenile delinquents.

1.2 PROBLEM STATEMENT AND FOCUS

According to various authors (Koch & Wood, 2002:46, 47; Maphila, 2000:152; Tyson & Stones, 2002:4), there are certain factors that put youth at risk of offending. Other authors (Steyn, 2005:88, 214; Wessels, 1994:105) are of the opinion that diversion programmes have a positive effect on adolescent offenders, so minimising the risks of re-offending. The use of diversion initiatives has increased since it was first implemented in 1996, and has contributed to the decrease in youth who enter the criminal justice system (Sloth-Nielsen, 2007:326). After the implementation of the Child Justice Act, there was no platform for the facilitators of diversion programmes to express their opinions regarding these programmes.

In the literature explored (Steyn, 2010:142; Wessels, 1994:105; Wood, 2003:18), the views of authors, programme facilitators and parents of youth offenders regarding diversion programmes are reflected, but there is little literature that contains the views of social workers who facilitate the programmes after the implementation of the Act. Their perspectives about diversion could add value to current diversion practices.

1.3 AIMS AND OBJECTIVES

The aim of the research is to gain an understanding of the views of social workers on diversion programmes for male juvenile delinquents. In order to achieve this aim, the following objectives were devised:

- To explain the nature of juvenile delinquency of male adolescents in a South African context;
- To describe diversion programmes in terms of the Child Justice Act no 75 of 2008 to deal with children outside the criminal justice system;
- To discern the scope, nature and contribution of diversion programmes for the rehabilitation of delinquents;
- To investigate the views of social workers regarding diversion programmes for male juvenile delinquents;
- To make recommendations regarding the facilitation of diversion programmes with male juvenile delinquents.

1.4 CLARIFICATION OF KEY CONCEPTS

For the purposes of this study, the following concepts were clarified:

1.4.1 Adolescence

Adolescence is described in the Social Work Dictionary (Barker, 2003:8) as the life cycle period between childhood and adulthood, beginning at puberty and ending with young adulthood.

1.4.2 Diversion

Gildenhuys (2002:46) defines diversion as an option available to prevent children and youths from being drawn deeper into the criminal justice system.

1.4.3 Juvenile delinquency

Juvenile delinquency is a pattern of antisocial behaviour displayed by people younger than 18 years that would be regarded as being of a criminal nature if committed by adults (Barker, 2003:235).

1.4.4 Juvenile offenders

Juvenile offenders are young people, usually under the age of legal responsibility (age 18 in most countries), who have been convicted of legal violations (Barker, 2003:235).

1.5 RESEARCH DESIGN AND METHODS

In this section, the research methodology used in this study will be discussed. A description of the research approach and research design, as well as the research methodology, will be provided.

1.5.1 Research approach

A combination of qualitative and quantitative research approaches was employed to conduct the study. De Vos, Strydom, Fouché and Delpont (2005:357) explain that a combined-method study can be described as one in which the researcher uses multiple methods of data collection and analysis. This would involve qualitative and quantitative data-collection procedures. The intention of this study was to explore perceptions of facilitators who facilitate diversion programmes with male juvenile delinquents. Another aim was to investigate the identified social problem, namely juvenile delinquency. Deductive reasoning was used as the researcher moved from general to more specific reasoning, preventing the researcher from repeating previous research.

1.5.2 Research design

The study assumed an exploratory and descriptive research design. According to authors such as Bless, Higson-Smith and Kagee (2006:47), exploratory research explores phenomena

to understand circumstances, occurrences, a community or an individual. This is accompanied by a descriptive research design to gather data about a phenomenon and provide an in-depth description of a social phenomenon, group interaction or individual (Mouton & Marais, 1988:43-44).

According to De Vos *et al.* (2005:106), the necessity for exploratory research arises from a lack of basic information about a new area of interest, or in order to become familiar with a phenomenon to develop a hypothesis or to formulate a problem. The purpose of this study was to gain an understanding of the views of facilitators of diversion programmes in South Africa. Little literature which related directly to the topic could be found. Existing literature dealt mainly with the observations of authors, parents of youth offenders regarding diversion, as well as the opinions of those who facilitate diversion programmes, but not the views of facilitators after the implementation of the Child Justice Act no 75 of 2008 in South Africa (Botha, 2007:18; Steyn, 2010:142; Wessels, 1994:105; Wood, 2003:18). As little relevant or recent literature could be found, the exploratory design was chosen in order to gain insights and to collect information regarding the topic of interest (De Vos *et al.*, 2005:106; Mouton & Marais, 1988:43).

1.5.3 Research methodology

In this section, the nature of the literature review undertaken is explained, and includes a description of the sample size, the methods of data collection, and the research instruments. This is followed by an outline of the methods of data analysis that was used.

1.5.3.1 Literature study

According to De Vos *et al.* (2005:123), it is necessary to conduct a literature study to gain a better understanding of the nature and meaning of the problem that has been identified. Articles, books, theses and legislation from the research field were reviewed. It focussed on the following aspects: adolescents, diversion programmes with delinquent youth; risk factors contributing to youths' engagement in crime, the child justice system, and statistics about youth crime.

1.5.3.2 Sampling

A sample is defined as a small portion of the total set of objects, events or people which comprise the subject of our study (De Vos, *et al.*, 2005:194). The population for this study was defined as all social workers who have facilitated diversion programmes with male adolescent offenders. These social workers come from the service area within the Western Cape. However, there are social workers who render diversion services elsewhere in South Africa, but it will not be possible to include all these social workers because of the lengthy distances to be travelled. De Vos *et al.* (2005:204) refer to population as the individuals in the universe who possess specific characteristics or a set of entities that represent all the measurements of interest to the practitioner or researcher.

Non-probability purposive sampling methods were applied (De Vos *et al.*, 2005:328). Purposive sampling is based completely on the judgement of the researcher. The sample is composed of elements that contain the most characteristic and representative attributes of the population (De Vos *et al.*, 2005:201). This method of sampling was suitable for this study as the researcher was unaware of the size of the population and a sample was chosen which was representative. The participants were chosen from different non-governmental organisations and government departments that provided diversion services to youth offenders. Identifying particulars were obtained from the different organisations and government departments and participants were selected based on criteria for inclusion. A sample size of twenty was determined for the study by using snow-ball sampling. According to De Vos *et al.* (2005:203), snowball sampling involves approaching a single case that is involved in the study in order to gain information on similar persons. This is done until the researcher has identified a sufficient number of cases to make up the sample. The researcher approached a social worker, who then provided information of more social workers who would be appropriate for the study. This was done until twenty suitable social workers were chosen. The criteria for inclusion were that they had to be registered social workers, they had to have knowledge of diversion, and they had to have experience of facilitating diversion programmes with male juvenile delinquents.

1.5.3.3 Data collection

The empirical research was conducted from May 31, 2012, until June 25, 2012. The researcher made contact with social workers who facilitated diversion programmes. After introducing herself, the researcher explained the purpose of the research. Once participants agreed to take part voluntarily, they were each required to sign a consent form. The researcher compiled a guideline with relevant themes for the interview.

(a) Research instrument

Data was collected by means of a structured interview with the aid of an interview guide. Researchers use structured interviews to gain a detailed picture of a participant's beliefs about, or perceptions or accounts of, a particular topic (De Vos *et al.*, 2005:296). The preparation of questions for the interview enabled the researcher to gain relevant information regarding the topic. De Vos *et al.* (2005:296) refer to these prepared questions as an interview schedule or guide. Producing a schedule beforehand forces the researcher to think explicitly about what he or she hopes to cover in the interview (De Vos *et al.*, 2005:296). The interviews were conducted according to the guidelines given by De Vos *et al.* (2005:297). Memorising the guide ensured that the researcher concentrated on what the participants were saying. The researcher completed the responses of the participants on an interview sheet. Open-ended and closed-ended questions were used for this interview. The open-ended questions allowed the participants to express themselves freely (De Vos *et al.*, 2005:297).

(b) Pilot study

According to De Vos *et al.* (2005:206-211), a pilot study is a small study that is conducted before the main research to determine the adequacy of the methodology, sampling instruments and analysis. A pilot study was conducted using the structured interview and it involved three interviewees. Bless *et al.* (2006:184) point out that the pilot study highlights the feasibility of the project and assists the researcher in becoming aware of any shortcomings. This, according to Bless *et al.* (2006:184), is important as it permits the researcher to make amendments to the research instrument so that it will be more effective when used to collect data. The pilot study allowed the researcher to ensure that all appropriate data was gathered given the research instrument used. Through the use of a

pilot study, the researcher was also able to confirm whether the questions and terminology used in the structured questionnaire was clear to the interviewees.

(c) Method of data analysis

The process of data analysis commenced after completion of the interviews with all twenty participants. The responses on the interview schedules were converted into appropriate text units, and were organised into computer files. Back-up copies of all data were made. De Vos *et al.* (2005:337) emphasises that it is sensible to make back-up copies of all data. The researcher had read the written responses of participants and edited these where necessary. De Vos *et al.* (2005:337) advise that it is important to read participant responses to gain a sense of the whole interview before breaking it into parts.

The qualitative data was sorted according to themes and dimensions of information. According to De Vos *et al.* (2005:338), classification involves taking the text or qualitative information apart and looking for categories, themes or dimensions of information. The quantitative data were analysed manually or by computer (De Vos *et al.*, 2005:218). Data analysis (in the quantitative paradigm) does not in itself provide answers to research questions (De Vos *et al.*, 2005:218). Therefore, summarising and interpreting the data were necessary to establish meaning. Interpretation involves making sense of the data, the “lessons learned” (De Vos *et al.*, 2005:338). This interpretation was compiled in a research report. The data were presented in text, tabular or figure form (De Vos *et al.*, 2005:339).

(d) Method of data verification

According to De Vos *et al.* (2005:351), research must conform to the following norms to ensure the trustworthiness of a study:

(i) Credibility

The researcher made use of different interviewing techniques such as paraphrasing, probing, clarification, summarising as well as focussing to ensure that the subject was correctly identified and described. Feedback with regard to the content of the interview schedule, and its applicability in obtaining the aims and objectives of the study, was obtained from the researcher’s supervisor and a pilot study.

(ii) Transferability

Transferability of the study was achieved through a detailed description of the research methodology used. This ensured the study's generalisability to other groups and contexts.

(iii) Reliability

The reliability of the study was ensured through the accurate and systematic recording of numerical data. Furthermore, the manner in which the data was verified and aggregated represented the correct responses of the respondents.

(iv) Confirmability

Confirmability was achieved by ensuring that the method in which data was collected and analysed resulted in findings which could be confirmed by another study. During the interviews, confirmability was accomplished when the researcher allowed respondents to express their views relating to the research subject, without interruption or interference.

1.5.3.4 Ethical considerations

Ethics is defined as a set of moral principles which is suggested by an individual or group, is subsequently widely accepted, and which offers rules and behavioural expectations about the most correct conduct towards experimental subjects and respondents, employers, sponsors, other researchers, assistants and students (De Vos *et al.*, 2005:57). It serves as standards and a basis in terms of which researchers can evaluate their conduct (De Vos *et al.*, 2005:57). The research was considered to contain minimal risk by the Social Work Departmental Ethical Screening Committee, and ethical clearance was granted. The following ethical conditions are relevant and were considered in conducting this study:

- **Informed consent**

Participants were provided adequate information regarding the objective of the study, the procedures to be followed, advantages and possible disadvantages, as well as the credibility of the researcher. Consent forms were given to participants to sign after they agreed voluntarily to participate in the study.

- **Deception of subjects and/or respondents**

Misrepresenting the research purpose is an ethical issue the researcher was cautioned not to do. The participation of participants was not obtained through intentionally misleading them by withholding information or by offering incorrect information.

- **Confidentiality**

Privacy implies the element of personal privacy, while confidentiality refers to dealing with information in a confidential manner (De Vos et al., 2005:61). Confidentiality was ensured by keeping all information about the participants confidential. The researcher refrained from including information about individuals which could be identified by others. Instead, averages were used in the report. No concealed media was used without the respondents' written consent. The information gained in the study was stored in a safe place.

- **Debriefing**

Debriefing of participants immediately after each interview was available. No debriefing sessions were necessary.

1.5.3.5 Limitations of the study

A limitation of the study was experienced due to the small size of the sample and, therefore, the generalisation of the findings could be limited. However, in spite of the sample size, the objectives of the study could still be achieved by means of the rich and detailed descriptions and reflections of participants.

1.6 PRESENTATION

This research study is divided into six chapters. Chapter one provides an introduction to and motivation for the study. The research methodology used in the study is also described in this chapter. This introductory chapter highlights the importance of the study, as well as what it aims to achieve and the manner in which it will do so.

Chapters two, three and four will present a literature review. In chapter two, the nature of juvenile delinquency of male adolescents in a South African context will be explained.

Chapter three describes diversion programmes in terms of the Child Justice Act no 75 of 2008, and in chapter four, the scope, nature and contribution of diversion programmes for the rehabilitation of delinquency is explored.

Data of the empirical investigation will form part of chapter 5. A full description of the participants, research design, sampling plan, data collection procedures, apparatus and measuring instruments will be given. This chapter will also include the views of social workers regarding diversion programmes with male adolescent juvenile delinquents. Findings of the data collected and a discussion will follow. The aim of the discussion will be to compare the literature review with the findings of the empirical investigation. Chapter six will provide conclusions and recommendations regarding diversion programmes. A bibliography and relevant appendices of the tools (questionnaires) used will follow.

CHAPTER TWO

THE SCOPE AND NATURE OF JUVENILE DELINQUENCY

2.1 INTRODUCTION

Crimes committed by juveniles are among the most urgent social problems (Lelekov & Kosheleva, 2008:68). The inability of youth to cope with the challenges they face during their difficult developmental stage puts them at a high risk of committing crime. This could result in more than half of society committing crime as youth forms part of the largest percentage of society. However, the incidence of juvenile crime has not been eliminated in certain societies. Law enforcement measures alone will not be enough to solve this problem (Lelekov & Kosheleva, 2008:68). Therefore, it is important to understand the youth and the environment in which they function to better appreciate the factors that contribute to youth committing crime.

To understand how this social issue has been dealt with previously and acquired the complex nature it has today, the history of youth delinquency will be reviewed. Through discussing the youth offender theoretically, the problem of delinquency is contextualised. Trends of youth in South African and international contexts will be highlighted to illustrate the differences and similarities of juvenile delinquency. The youth offender will be discussed in this chapter to develop an understanding of the individual. This discussion will focus on factors such as development stages, living environment, family structure, age, intellectual and educational features, gender and socio-economic status which distinguish the youth offender from the law abiding youth. Factors which contribute to youth committing offences will be reviewed to consider the reasons for youth offending.

2.2 CONCEPTUALISATION OF DELINQUENCY

Fuller (2009:4) and Kim and Kim (2008:446) defines delinquency as antisocial behaviour and the violation of law. Kim and Kim (2008:446) add that delinquent behaviour is characterised by neglect of duty as well as violent or criminal acts. Barker (2003:112) agrees, but also

refers to delinquency as the failure to conform to the reasonable demands of caregivers and other authorities. According to Tarry and Emler (2007:169), delinquency is conceptualised as an empirically observed behavioural pattern which includes activities such as aggression towards others, theft and malicious damage to property. Delinquency can also be defined as externalising and internalising behaviour which are related to trauma. Externalising behaviour refers to behaviour where the individual hurts others or acts out, and includes being violent or breaking the law. Internalising behaviour refers to unexpressed emotions that lead to anxiety or social withdrawal (Bourassa, 2007:698). These definitions imply the violation of laws as well as the disobeying and ignoring of rules. It also refers to delinquency as the way in which youth express and communicate their emotions as they do not always feel comfortable to speak to others about it. Delinquent behaviour could lead to more serious offending behaviour and result in a pattern of offending, which is indicative of a serious problem developing that would be difficult to resolve through intervention.

2.3 HISTORICAL PERSPECTIVES OF THE YOUTH OFFENDER

Now that delinquency has been defined, it will be easier to identify the ways in which delinquent youth were viewed and punished by different societies in the past. Earlier views of delinquent youth are discussed below and it is clarified how these views have influenced the ways in which youth are dealt with today.

2.3.1 The colonial period

The colonial period stretched from about 1636 to 1824. During this time, children in America were viewed as being unique, but before this period children did not receive special treatment and the discipline meted out was classified later as abuse (Bezuidenhout & Joubert, 2003:15). The authors point out that the family was seen as the primary source of control for children. Forms of discipline then included whippings, parents being fined for the misbehaviour of their children, or the child being removed from the parental home and placed in a setting managed by people regarded as responsible. Most children were punished and not incarcerated during this era (Bezuidenhout & Joubert, 2003:15, 16). The family practised harsher discipline which they believed would solve their children's deviant behaviour. However, this generated more fear in children, becoming a pattern that was passed on through generations. Forms of discipline that were used during this time are

regarded today as abuse. On the other hand, the behaviour of youth in Africa was controlled through initiations to remind them of the consequences of disobeying their elders (Waller, 2006:77). Unlike America, disciplining of the youth was not only practised by the family, but by the whole community.

Since 1652, South Africa's legal system was influenced mainly by European countries such as the Netherlands and Britain. Therefore, the punishment of children was influenced by the views of people from these countries. Forms of punishment in South Africa during the colonial period included the death sentence, which involved drowning, being burnt alive, or hanging. The deportation of criminals, for example British criminals to Australia, was another way in which punishment was enforced. Children who misbehaved were disciplined in the same way slaves were (Bezuidenhout & Joubert, 2003:16). This rigid view of the behaviour of children did not leave room for error or flexibility. The developmental stages of the child and adolescent, as well as the challenges of each stage, were not considered when dealing with their delinquency. In terms of how they were viewed and treated, they were expected to behave like adults. Furthermore, juvenile delinquency was created in Africa by the unequal opportunities of social and economic change as well as labour migrancy which affected the stability of the family (Waller, 2006:79). This meant that as delinquency increased, the forms of harsh punishment of children continued and nothing was done to change either.

Following the colonial period was the Industrial Era, which stretched from about 1824 to 1899. During this time, families in America were affected by the fast-developing economy, in which factories played a prominent role. Many people were encouraged to move from rural areas to the cities (Bezuidenhout & Joubert, 2003:17). This brought many challenges as life in cities differed to that in rural areas. The pace of life in the city was faster and the morals people lived by were different, with the result that children were exposed to more violence, substance use and other forms of misbehaviour which became regarded as the norm. Also at this time, children were forced into America's new factory system (Steinberg, 2009:49). They were regarded as small adults who were responsible to provide for their families, and were pushed into low-income jobs where factory labour regulations did not apply (McCutcheon, 2010:23). This resulted in children being used as cheap labour where they were abused by the employers. In this way, children were denied the chance of an

education. They weren't able to be children as they were forced into adulthood by fulfilling adult duties.

As the economy played a central role in the Industrial Era, the 1800s in America was marked by an expanding population, which made it difficult for the family to remain a close unit, explain Bezuidenhout and Joubert (2003:17). This led to the way in which children were viewed. They were regarded as vulnerable and dependent beings who needed protection from their parents, claims Furlong (2009:452), who also points out that juvenile courts were established in America in the Nineteenth Century. According to Skelton and Tshehla (2008:7), the idea of having a separate children's court for neglected, dependent and delinquent children emanated from the Illinois Juvenile Court Act of 1899 in America. On the other hand, South Africa focussed on the development of legislation such as the Children's Act, the Criminal Procedure Act and the Evidence Act to ensure the supervision of youth offenders (Skelton & Tshehla, 2008:36). Authors (Bezuidenhout & Joubert, 2003:17; Furlong, 2009:452) state that during this time, children were removed from their homes as a way of addressing the problem of delinquent behaviour. Ericson (2007:156) adds that dangerous offenders were dealt with before they could cause much harm, but this had negative consequences. This way of dealing with the problem strained the relationship between the child and the family, adding to the challenges families had to deal with, especially those who were already dealing with other social problems.

2.3.2 The Twentieth Century

On the other hand, South Africa's attention during the 1900s focussed more on politics, and the transitions which occurred in this time impacted on the youth, which led some of them to become involved in crime. This coincides with Radebe's (2007:32) view, which is that because of political divisions, young boys grew up in an environment where the gangs were their role models, and they became like the gang members once they grew up. Schmid (2007:500) states that South Africa remains in a period of transition after a decade of apartheid. Bezuidenhout and Joubert (2003:19) agree, adding that the transition was from a system of racial discrimination, inequality and oppression to a democratic one. In this system, dignity and human rights of all races were constitutionally enforced. Previously, youth were often victims of political and sociocultural crises. As a result, youth became

more assertive and they formed youth organisations to enforce their rights (Bezuidenhout & Joubert, 2003:19). Many of the activities these youths engaged in were illegal, therefore contradicting what they were fighting for.

Skelton and Tshehla (2008:9) point out that a restorative justice approach was followed in the juvenile justice system in the last two decades of the Twentieth Century in South Africa. Furthermore Sloth-Nielsen (2004:38) argues that indigenous justice systems in South Africa have practiced restorative justice methods to resolve conflict in their communities prior to colonisation. Even though restorative justice was only formally recognized in the last two decades of the Twentieth Century in South Africa, it has been in existence for a longer period. Earlier practices of restorative justice formed the foundation for more recent implementations. This approach encouraged offenders to take responsibility for their actions and to be accountable for the crimes they had committed (Skelton & Tshehla, 2008:9). Politics and the effects of apartheid have contributed much to the levels of crime among youth. It provided a breeding ground for crime and violence. Many crimes were committed by youth due to the trauma they experienced during apartheid, and this reason was also used as justification, thus the need for the restorative justice approach within the juvenile justice system to keep offenders accountable for their behaviour.

Glaser (2000:9) highlights other changes in South Africa which occurred during the 1960s and 1970s, such as the forced removals of Coloured community members from District Six to the Cape Flats. According to Glaser (2000:9), the Cape Flats, in contrast with District Six, exposed youth to more negative influences such as gangs and crime. Additionally, the forced removals in Johannesburg resulted in overcrowded living conditions in Soweto as well as the long hours adult workers spent commuting to and from their workplaces. In the 1940s, a gang culture among the youth developed in Soweto which resulted mainly from family instability as families were unable to provide the security and the sense of group identity (Radebe, 2007:20,21). These community members also lost their support systems which consisted of extended family, friends and neighbours which helped in the supervision of youth. Moving from a safe neighbourhood to one where the prevalence of crime was high created unstable circumstances for the family. This also increased the risk of youth to become involved in crime and associate with groups that exerted a negative influence.

During the 1990s, the transition to democracy in South Africa placed strain on the youth as they were removed from their homes and placed in alternative institutions such as clinic schools and child care schools to deal with their deviant behaviour. The purpose of these institutions was to separate youth offenders from adult offenders because of the negative influence of the adults on the behaviour of the youth (Bezuidenhout & Joubert, 2003:20). In 1993, says Glaser (2000:1), it was reported that less than five per cent of South African school-leavers were absorbed into the job market. Being uneducated provided few employment opportunities for youth, resulting in them staying at home and doing nothing. The resulting idleness led to many opportunities for youth to become involved in crime. Youth who have been institutionalised have problems integrating back into society because they are labelled. They also struggle to adapt to life with their families, creating conflict. Associating with peers who influence them negatively and becoming involved in crime are ways in which youth cope as they lack a support system. They might also feel too distanced from their family members and, therefore, are not comfortable depending on them for support.

Considering the juvenile justice system in America during the Twentieth Century, youth offenders were viewed in the same way as adults. Steinberg (2009:48) states that during the last two decades of the Twentieth Century, there was a shift in the way juvenile crime was viewed by policy-makers and the public in America. Youth were viewed as adults and their behaviour was not defined as delinquent. This led to youth offenders being dealt with in a punitive way in the adult court (Steinberg, 2009:48). Furthermore, Muncie (2005:4) states that welfare-based sentencing for youth offenders was criticised by society and it was argued that such interventions maintained explanations for individual pathology which undermined the right to natural justice. By dealing with youth offenders in this way, they were not rehabilitated and ended up becoming more serious criminals. Understanding the causes of the youth offender's behaviour will help to address it. However, the juvenile justice system in America focused strongly on the deeds of the individual, which did not assist in dealing with the problem.

2.4 THEORIES OF JUVENILE DELINQUENCY

To better understand how juvenile offenders differ from adult offenders, different criminological theories will be considered. These theories approach the topic from different angles, so providing a broader understanding of offending youth. Theories such as labelling theory, strain theory, social control theory, biology theory, learning theory, psychiatric theory, cognitive development theory and the attachment theory will be discussed below to explain the causes of juvenile delinquency.

2.4.1 Labelling theory

Tannenbaum's (1938:19, 20) Labelling Theory states that when conflict exists between the young delinquent and the community, two opposing definitions of the situation develops and results in the situation being interpreted and viewed differently, which affects the delinquent's behaviour. The community views the youth who has been involved in negative activities as a person who cannot be cured. The young individual becomes bad in the opinion of the community. The community finds it difficult to deal with people whose character they are unable to define (Tannenbaum, 1938:19, 20). This results in labelling and in this way, judgment is passed unconsciously. Even when individuals attempt to change their lives, they struggle because of the community's preconceived notions regarding their poor behaviour. This makes it easy for the young person to revert to old behaviour patterns, making it even more challenging to intervene and assist them. Young individuals who are labelled by their community often feel isolated and associate with peers who may belong to gangs and exercise a negative influence over them to gain sense of belonging (Tannenbaum, 1938:19, 20).

2.4.2 Strain theory

Another approach to delinquency is Agnew's Strain Theory (2001:319). According to this theory, strain or stressors increase the prevalence of negative emotions such as anger and frustration. Crime might be used to reduce the strain or to alleviate negative emotions (Agnew, 2001:319). Individuals use crime as a coping mechanism because they do not have a good support system. Agnew (2001:326) contends in his Strain Theory that there are stressors which increase the prevalence of crime. These are stressors which are seen as

unjust, exert substantial influence, are associated with low social control and create some pressure or incentive to indulge in crime as a way to cope. However, there is a strong link between strain experienced by individuals and crime. Stressors can be viewed as risk factors which increases the incidence of crime. It is not always possible to reduce these stressors, and some individuals experience more stressors than others because of internal and external factors that may play a role.

2.4.3 Social control theory

As individuals are challenged by so many social problems, they desire a life without these problems and would try to realise this at any cost. According to Hirschi and Gottfredson's (2000:64) Social Control Theory, the lack of restraint frees people to follow their human nature to provide them pleasure by any means possible. The theory argues that this lack of social control causes juvenile delinquency (Hirschi & Gottfredson, 2000:64). People would engage in illegal activities to fulfil needs such as substance use and access to economic resources. These needs are met, but at the cost of a run-in with the law or damaged family relationships. The lack of social control occurs in the absence of positive family values or the reinforcement of these values through parental supervision. Positive values will influence the young person's moral reasoning, so determining the type of decisions made.

2.4.4 Biology theory

In his Evolutionary Neuroandrogenic Theory, Ellis (2005:288) explains biological correlates of criminality and posits that aggressive and acquisitive criminal behaviour develops from human reproduction. This implies that the genetic composition of individuals determines whether they will develop criminal or problematic behaviours. It is further argued by Ellis (2005:288,295) that neurochemistry and testosterone levels increase the likelihood of aggressive and criminal behaviour among males, who are more at risk of offending as their genetic build contributes to their behaviour. This explains the reason why more males than females are involved in crime. Other biological factors that also lead to criminal behaviour are mesomorphy (persons who are abnormally muscular, especially in the upper body), maternal smoking during pregnancy, epilepsy, skin conductivity, the stress hormone cortisol as well as resting heart and pulse rates (Ellis, 2005:297-302). These factors indicate that individuals are more vulnerable than others to become involved in crime due to their

biological make-up. Environmental and social factors are usually considered when dealing with offenders. Biological factors are seldom considered and it is sometimes challenging to explain the reasons for criminal behaviour in these terms when there are no social or environmental factors present.

2.4.5 Learning theory

If biological determinists make human beings the helpless victims of forces within, learning theory makes people the helpless victims of forces outside themselves. According to Bandura's Learning Theory (1969:213), the behaviour displayed by individuals develops through observing different socialisation agents. Furthermore, the theory states that identification is the process whereby an individual repeats the thoughts, feelings or actions of another who is usually regarded as a role model. As this behaviour is modelled continuously, it will be coded into images and words into the brain of the individual who has observed the behaviour. Even when the role model is not present, the images of the modelled behaviour will be retrieved by the adolescents' memory through an event which triggers the behaviour (Bandura, 1969:20). Also, Bandura's Learning Theory (1969:220, 221) mentions that cognitive processes which control people's behaviour are verbal rather than visual. This means that people verbalise the events they observe. There are various ways people learn, but the biggest percentage of what people learn is through what they observe as well as the non-verbal messages which are communicated to them. Many times the role model from which especially adolescents learn does not exert a positive influence and this could result in the adolescent developing problem or delinquent behaviour. Adolescents usually adapt the same norms and values of the person they view as their role model. Individuals are conditioned to react in the same way as the person they observed, even in their absence. This makes it difficult to eliminate behaviour patterns which are negative as the person is controlled by their cognitive processes.

2.4.6 Psychoanalytic theory

Much of what individuals learn occurs during their childhood when they are still developing, and what they are exposed to could determine how healthy their development is. Freud (1975:401) claims in his Psychoanalytic Theory that neuroses, the first object of psychoanalytic study, are rooted in the early years of an individual's life. Normal

development from infancy to adolescence and then adulthood is not as smooth as it appears. Each development phase contains disturbing concomitants. Any problem behaviours or psychosomatic illnesses, such as anxiety, depression and sleeping disorders, which adults experience are linked with the behaviours and disorders they displayed in their childhood. It is regarded as a survival mechanism during infancy which is considered normal at the time (Freud, 1975:403). Characteristics during infancy which are viewed as normal become abnormal when it's still evident in the adult development stage. Freud's (1975:402) theory further states that a weak or imperfectly formed superego will lead to continued self-gratification irrespective of social norms, the presence or absence of guilt feelings, and whether there is hostility to authority or not. Individuals satisfy their bodily needs at the cost of the norms of society. This explains the reason for people engaging in criminal behaviour as their delayed development affects their ability to cope with the challenges which coincide with their development stage. Crime is used as a way to cope, and individuals engage in illegal activities such as substance use to fulfil their cravings and desires.

2.4.7 Cognitive development theory

Piaget (1964:20) contends that development is a spontaneous process which is linked to embryogenesis, which refers to the development of the body, nervous system as well as mental functions. Knowledge, according to Piaget (1964:20), is to know an object and to act on it. This is the reason operation is central to Cognitive Development Theory. Development is natural and every individual experiences this. However, it occurs at a different pace for each individual. People gain knowledge and learn through the way they develop. The definition of knowledge provided by Piaget (1964:20) does not just focus on information gained, but includes an action. Thus, thoughts determine a person's actions or deeds.

2.4.8 Attachment theory

The thoughts which individuals formulate are influenced by the people whom they feel attached to, claims Ainsworth (1979:935). Attachment Theory argues that infants are selective when they choose attachment figures from the individuals known to them. Not all social relationships are identified as attachments. Children might become close to peers in circumstances where appropriate attachment figures such as parents, guardians or family

members are absent (Ainsworth, 1979:935). This is usually the case when individuals come from a dysfunctional family. The child or young person doesn't have close relationships with family members and, therefore, has a strong association with peers. Many times they associate with peers who exert a negative influence on their behaviour. In terms of this theory, attachments may disrupt the individual's process of becoming independent (Ainsworth, 1979:935). When the infant or child progresses into adulthood, that individual may struggle to make decisions on his or her own or would find it difficult to function independently without the secure attachment of his or her parent. A balance is needed when parents develop attachments to their children as it could affect the child's development and interactions with other people negatively.

2.5 THE CONTEXT OF JUVENILE DELINQUENCY

Apart from explaining and understanding juvenile delinquency in the context of different theories, it is important to identify and compare similarities and differences between South Africa and other countries. This will provide a broader view on juvenile delinquency with regard to the nature of the problem as well as how it is addressed.

2.5.1 Juvenile delinquency in an international context

In the United Kingdom, studies (Chitsabesan, Kroll, Bailey, Kenning, Sneider, MacDonald & Theodosiou, 2006:534) have shown that young offenders have many prominent needs, including mental health, education/work, and social relationships. These offenders' needs were more urgent than the needs of those in secure care as their needs were not met. These research findings have resulted in many changes in the youth justice service structure. Services rendered to youth offenders have expanded and sentencing has changed, with the focus more on prevention and treatment (Chitsabesan *et al.*, 2006:534). This structure makes provision for the rehabilitation of the offender and by doing so, it could reduce the crime rate.

Studies (Tonry & Bijleveld, 2007:266) indicate that the rate of juvenile offending in the Netherlands is not high, but it is higher than other Western countries. Offences most often relate to property crimes. Other common crimes committed by youths are vandalism and public order offences, and about 20 per cent are violent offences, theft, vandalism, assault

and disturbing the public order. A smaller number of more serious offences occur such as rape, indecent assault, robberies, aggravated assault and attempted murders. Police statistics indicate that juvenile crime in Netherlands is increasing. Boys in the Netherlands are more involved in crime than girls and they commit more serious, violent crimes (Tonry & Bijleveld, 2007:266, 276). Also, boys are at higher risk of engaging in crime as they are more impulsive.

In Greece, recidivism rates among juveniles are high and some of them are likely to develop a pattern of criminal behaviour, say Maniadaki and Kakouros (2008:208). Even though the crime rate in the Netherlands is higher (Tonry & Bijleveld, 2007:266) than in Greece and other countries, the rate of recidivism in Greece is cause for concern. It is more difficult to intervene or rehabilitate individuals who show a pattern of criminal behaviour. Maniadaki and Kakouros (2008:208) point out that low parental education levels and the criminal behaviour of parents strongly correlate with the incidence of recidivism and delinquency among juvenile offenders.

In China, there is no formal juvenile justice system. Minor instances of deviant behaviour are dealt with by schools, families and neighbourhood organisations. More serious offences are dealt with in the adult court (Fuller, 2009:104). The criminal capacity for children is 16, and youth between 14 and 16 who commit serious offences will be considered to have full criminal capacity (Fuller, 2009:104). The country has a harsh criminal justice system which does not take the developmental maturity of youth into account when they are prosecuted. The juvenile justice system is more punitive than rehabilitative, which could lead to recidivism. This is in contrast to the way in which youth offenders are treated in Britain (Chitsabesan *et al.*, 2006:534). Youth crime in China is mainly committed by males (Fuller, 2009:104), which is not that different from previously mentioned countries such as the Netherlands (Tonry & Bijleveld, 2007:277).

2.5.2 Juvenile delinquency in a South African context

Shifting the focus to juvenile delinquency in South Africa, Breetzke (2010:2) and Samara (2005:210) argue that crime in South Africa is mostly committed by young males. This is similar in foreign countries such as China (Fuller, 2009:104) and the Netherlands (Tonry & Bijleveld, 2007:277). The statistics of the South African Department of Correctional Services

show an increase of incarcerated male youth since 2004 (Breetzke, 2010:2). It is clear that male juvenile delinquency is increasing and the risk of male youth to offend raises concern. According to Breetzke (2010:2), factors which contribute to this problem in South Africa include gangs, prior victimisation and poverty. Steyn, Badenhorst and Kamper (2010:173) argue that poverty did not decrease after the apartheid era. Authors such as Breetzke (2010:2) and Fuller (2009:11) add that the inequalities of apartheid led to more poverty among black South Africans than white South Africans. This made them feel more deprived and was used as a motivation to commit crime.

It is challenging to reduce these social problems, and the level of maturity among youth will determine their ability to cope with these challenges. The high crime rate has been influenced by the influx of African migrants into South Africa, of which many are illegal immigrants (Breetzke, 2010:2). Steyn *et al.* (2010:174) state that South Africa is known for violent crime, which is the most common social problem in the country. Mangona (2010:13) agrees with the aforementioned authors, and adds there is a high rate of violent crime among youth in South Africa. One of the contributing factors to this rate is that youth were exposed to and involved in xenophobic attacks which occurred in 2008 (Mangona, 2010:13). Also, youth are exposed to many other violent incidents in the communities where they live. It has become part of the norm and, therefore, youth feel comfortable using violence as a way to solve problems.

2.6 PROFILE OF THE JUVENILE OFFENDER

Juvenile delinquency is a common problem in South Africa and other countries. Therefore, it is essential to look at the characteristics of juvenile offenders to distinguish offending youth from non-offending youth. By doing so, it will be possible to develop an understanding of the challenges these juvenile offenders face.

2.6.1 Development stage

The age of youth brings challenges which could be problematic. Adolescents challenge authority and they develop a sense of self. It is, therefore, necessary for the healthy development of the adolescent's self-concept to prevent delinquent behaviour from becoming serious criminal behaviour (Fuller, 2009:18). Adolescence is also characterised by

tension between parents and the adolescent. Tension is caused by the gap in generations which affects the way parents and adolescents understand each other (Fuller, 2009:18). Furlong (2009:425) contends that many adolescents in the juvenile justice system are delayed in psychosocial maturation, making it challenging for them to progress to adulthood. By not maturing into adulthood, the individual runs the risk of developing a pattern of offending behaviour which will be difficult to correct.

Adolescents depend a lot on peers for support during this stage as challenges related to their development cause strain on their relationships with their parents. The peers they depend on for support do not always exert a positive influence, contributing to the likelihood of their engaging in illegal activities. According to Agnew's (2001:319) Strain Theory, crime is used to reduce strain or to alleviate negative emotions. In the case of the delinquent youth, their association with their deviant peers is used as a coping mechanism to alleviate negative emotions which develops from the conflict or strain they experience in their relationships with their parents.

2.6.2 Living environment

As juveniles face many challenges in their development, the environment they live in may present more challenges and social problems. Geldenhuys (2007:154) states that a high incidence of crime usually occurs in the communities in which the youth offender and his family live. Pelsier (2008:9) contends that youth offenders have a high awareness of the crime which occurs in their neighbourhoods and are acquainted with many people in the neighbourhood who are involved in illegal activities, as well as people who make a living from crime. By observing the crime in their environment, it becomes the norm and results in the young offender being comfortable in engaging in criminal activities. This coincides with Bandura's (1969:213) Learning Theory, which states that individuals develop their behaviour through observing different socialisation agents. The behaviour of community members contributes to the delinquent behaviour displayed by the youth offender as he is exposed to it continuously. Martin, Martin, Dell, Davis and Guerrieri (2008:609) also argue that juvenile delinquency is common in neighbourhoods with a low socio-economic status. Youth offenders often come from poverty stricken areas (Martin *et al.*, 2008:618). The young offender is exposed to many negative activities in such communities such as crime,

substance use and gang membership. These activities influence their deviant behaviour. Limited access to resources because of poverty also causes youth to become involved in illegal activities to satisfy their financial needs.

2.6.3 Family structure

Poverty and other social problems also influence the way in which the family of the juvenile delinquent is structured and the different roles portrayed by family members. According to authors (Hollin, Browne & Palmer, 2002:15; Maniadaki & Kakouros, 2008:212) delinquents tend to come from large families. The size of the family impacts on parental supervision as the parents are unable to monitor all their children equally. Ronis and Borduin (2007:154) contend that the families of youth offenders are characterised by high levels of dysfunction, resulting in conflict and low levels of communication within the family. The youth offender, therefore, finds it difficult to have close relationships with his or her family members as they are too preoccupied with their own problems. This results in the youth depending for his relationships on his peers, who may not always exert positive influences. This coincides with the Attachment Theory, which states that children might become close to peers in circumstances where appropriate attachment figures such as parents, guardians or family members are absent (Ainsworth, 1979:935). Martin *et al.* (2008:609) contend that youth offenders are not socialised in the way they are supposed to because they are being raised by single parents, step families or are separated from the biological parents, putting them at risk of becoming delinquent. Maniadaki and Kakouros (2008:210) and Pelsler (2008:9) point out that the youth offender may come from a family where other family members have a criminal history. The youth offender may come from a household characterised by family violence (Pelsler, 2008:9). The individual then perceives the criminal and violent behaviour of other family members as the norm and becomes unable to identify criminal or deviant behaviour as abnormal.

2.6.4 Intellectual and educational features

The things youth observe and learn from their living environment will determine their attitude towards education. According to Siennick and Staff (2008:628), Martin *et al.* (2008:608) and Ronis and Borduin (2007:154), delinquent youth complete less education and have lower academic achievement than their non-delinquent peers. Authors (Morris &

Morris, 2006:617; Chitsabesan *et al.*, 2006:538) claim that juveniles have a learning disability, with Chitsabesan *et al.* (2006:538) contending that learning disabilities could have implications for the education provided to these juveniles. Their educational needs are not always met through the limited educational opportunities provided for youth with special learning needs. This may result in the youth becoming involved in negative activities that could lead to delinquent behaviour. Many youth fail to progress well at school and some fail to complete their schooling for the reasons mentioned above. This could interfere with their healthy development. According to Agnew's (2001:319) Strain Theory, the learning disability is regarded as a strain and the delinquent behaviour displayed by the youth is their way of coping with this strain.

2.6.5 Socio-economic status

Limited or lack of education impacts on the economic circumstances of people as lower levels of education limits the opportunities for well-paying jobs. Hollin *et al.* (2002:15) state that larger families may have less economic resources, which causes stress and conflict associated with poverty. Maniadaki and Kakouros (2008:210) agree that large families live in poor economic circumstances. Geldenhuys (2007:153) adds that youth offenders come from poor and middle class families. According to Agnew's (2001:319) Strain Theory, strain or stressors such as being in an environment of poverty increase the prevalence of negative emotions such as anger and frustration. The economic position of families indirectly influences the likelihood of becoming involved in crime. This is explained in terms of Strain Theory, which states that crime may be used to reduce the strain or to alleviate negative emotions associated with the family's economic circumstances. Poverty is not the only factor that may lead to criminal or delinquent behaviour, but other factors such as substance use, violence, and so on, that are linked to living in poverty.

2.6.6 Gender

Juvenile male offenders commit more crimes than juvenile female offenders, and the crimes are more serious (Bezuidenhout & Joubert, 2003:69; Martin *et al.*, 2008:611). These authors confirm that gender is a characteristic which puts male adolescents at risk of offending as they are more likely to display risky and deviant behaviour. Factors which increase the risk of individuals offending are the same for male and female juvenile offenders (Park, Morash

& Stevens, 2010:315), but male youth offenders are exposed to more risk factors than female juvenile offenders (Bezuidenhout & Joubert, 2003:69). These risk factors put more pressure on male juvenile offenders, making it difficult for them to cope with life's challenges without engaging in crime. This corresponds with Agnew's (2001:319) Strain Theory, which states that crime may be used as a way to reduce strain. Furthermore, Park et al. (2010:314) state that there are gender differences in the nature of youths' assaultive behaviour. Although there are similarities regarding male and female juvenile offenders, there are also differences in the nature of delinquent behaviour displayed by male and female juvenile offenders, as well the level of risk they are exposed to.

2.6.7 Age

The differences between female and male juvenile offenders also extend to whether they are younger or older. According to Moffitt's Theory (Bartusch, Lynam, Moffitt & Silva, 1997:16), there are two types of offenders, namely the life-course persistent offender, and the adolescence limited offenders. Life-course persistent offenders display antisocial behaviour during adolescence and continue with criminal behaviour during adulthood. A pattern of offending has been established with life course offenders, which would make it challenging to intervene to break the cycle. Bezuidenhout and Joubert (2003:68) add that factors such as the process of development and the social roles they fulfil contribute to an individual's early and continuous involvement in crime. On the other hand, adolescence limited offenders become involved in criminal activities during adolescence (Bartusch *et al.*, 1997:16), and it is part of the normal development for youth to engage in risk-taking behaviour such as delinquency and crime.

2.7 CONTRIBUTING FACTORS TO JUVENILE DELINQUENCY

Apart from discussing the characteristics in terms of which the youth offender can be described, it is necessary to view the risk factors contributing to juvenile delinquency. These risk factors includes unsatisfactory parental behaviour, the family, child abuse/maltreatment, the presence of a delinquent sibling, economic disadvantage, genetic factors, Aids, age and ADHD (Attention-Deficit Hyperactivity Disorder).

2.7.1 Unsatisfactory parental behaviour

Parents who have performed their parental duties unsatisfactorily contribute to youth becoming juvenile offenders. Unsatisfactory parental behavior includes marital conflict, the dominance of one parent over the other in decision-making relating to the children, inconsistency between the parents in their treatment of the child, attitudes of indifference, positive rejection or neglect of the child, overly strict or erratically varying discipline and harsh methods of enforcement (Arthur, 2006:8). Poor supervision could be one of the most important ways in which parents fail to protect their children from becoming involved in criminal activity (Arthur, 2006:8; Eaton, Krueger, Johnson, McGue & Lacono, 2009:4; Hollin *et al.*, 2002:12). Eaton *et al.* (2009:4) add that poorly monitored adolescents tend to have delinquent peers, and they engage in risky sexual behaviour. Hollin *et al.* (2002:12) argue that delinquency is actually a healthy reaction to poor parenting and inadequate supervision. The balance between positive and negative parenting behaviours also determines whether it is healthy and beneficial for the child. Steinberg, Blatt-Eisengart and Cauffman (2006:55,56) view dominant parental styles, such as being authoritative, as a protective factor which decreases the risk of delinquent behaviour in adolescents.

Jennings, Maldonado-Molina, Piquero and Canino (2010:315) add that parental mental health issues relate to delinquency in youth. Research shows that youth whose parents attempted suicide engaged in more frequent and varied delinquency over time. Parental suicide can be considered a source of strain and thus a factor that put youths at greater risk of delinquency (Jennings *et al.*, 2010:315). When parents display negative behaviours, they are unable to identify negative behaviours in their children or they might be too preoccupied with their own problems, leading to them being unable to discipline their children. This could result in the maintenance of the delinquent behaviour. This corresponds with the Learning Theory (Bandura, 1969:319), which states that behaviour is driven by consequences, and those behaviours that are rewarded are more likely to re-occur.

2.7.2 Family

Unsatisfactory parental behaviour is at times the result of many other family problems. Factors such as family violence, family dysfunction and parental partner dynamics are more prevalent in the families of adolescents who display delinquent behaviour (Kim & Kim,

2008:448). Bourassa (2007:698) agrees, adding that internalised behaviours such as anxiety and social withdrawal are one of the consequences of living in an environment characterised by family violence. Male adolescents have a higher rate of delinquent behaviour due to them having more opportunities to experience and witness family violence (Kim & Kim, 2008:448). Bourassa (2007:698) argues that the presence of violence creates an unhealthy and unstable family climate that creates concern. Family violence is one of the factors which influences the increase of delinquent behaviour in adolescents. However, this is not the only factor. Another may be that the adolescent has a maladaptive trait, such as an antisocial personality (Kim & Kim, 2008:451). Youth learn to use violence to solve their problems because they observe and learn this behaviour from family members. In terms of the Learning Theory, the biggest percentage of what people learn is through what they observe. Thus, it is difficult for youth to be discouraged from partaking in the negative behaviour associated with the culture they grew up in.

2.7.3 Child abuse/maltreatment

Factors such as family violence create the platform for children to be abused or maltreated in their families. As a result of the abuse and maltreatment, not all infants develop secure attachments to their parents, according to Ainsworth's Attachment Theory (1989:709). Ryan *et al.* (2008:117) argue that adolescents who have insecure attachments with their parents have no moral restraints, which increase their risk of becoming involved in delinquent acts. According to Arthur (2006:12) and Ryan *et al.* (2008:116), the reasons children may develop poor attachments to their parents is due to their being abused or neglected. Herrenkohl and Herrenkohl (2007:553) agree that child abuse and neglect are risk factors for delinquent behaviour. Abuse and child maltreatment affect the attachment adolescents develop with their parents. This limits the adolescents' support system, which is essential for their healthy development. The development of poor attachments to parents could cause adolescents to develop poor attachments in their relationships later in life. This explains why these adolescents associate with peers who exert a negative influence over them and become involved in gangs. These negative associations create a platform for criminal activity.

2.7.4 Presence of a delinquent sibling

Authors (Alltucker, Bullis, Close & Yovanoff, 2006:481; Hollin *et al.*, 2002:10) argue that the presence of a delinquent sibling increases the risk of juvenile offending. Children from the same family will be exposed to similar risk factors within the family and in their immediate environment. Children and their siblings might react to risk factors they are exposed to in different ways, but mostly their reactions are the same as they influence each other when they observe each other's behaviours. This coincides with Ainsworth's Attachment Theory (1989:715), which states that siblings have a shared background experience which contributes to the similarities in their perception of situations and the value systems which influence their decisions. Siblings will mostly react to situations in similar ways because of their shared belief system and learning experiences.

2.7.5 Economic disadvantage

On the other hand, low socio-economic status contributes to juvenile offending as it has a negative influence on family functioning and child development (Alltucker *et al.*, 2006:481). However, authors such as Agnew, Matthews, Bucher, Welcher and Keyes (2008:159) disagree, arguing instead that socio-economic status itself does not contribute to juvenile offending, but rather the economic problems which are associated with socio-economic status. Hollin *et al.* (2002:16) and Arthur (2006:26) support this view, and state that being poor cannot be seen as the only risk factor for delinquency as large family size, single-parent families and broken homes also play a role. Arthur (2006:26) agrees, saying that economic deprivation alone does not seem to be sufficient for delinquency to develop.

Economic pressure affects parental stress, depression and marital conflict (Hollin *et al.*, 2002:15). These strains, in turn, influence parent-child and parent-adolescent relationships, which eventually leads to antisocial behaviour by the young individual (Hollin *et al.*, 2002:16). Agnew's Strain Theory (2001:319) states that strained circumstances place pressure on individuals to commit delinquent acts. Hay, Fortson, Hollist, Altheimer and Schaible (2006:327) and Arthur (2006:25) suggest that the parent-adolescent attachment differs in communities which are economically disadvantaged compared to those that are not as families living in poverty are unable to provide the necessary emotional support and stimulation critical to healthy child development. Hay *et al.* (2006:327) argue that poor

communities have lower levels of community social control, thus resulting in adolescents having greater access to opportunities to commit crime and peers who exert a negative influence. This leads to adolescents having poor attachments to their parents, which increase their risk of becoming involved in crime.

Poverty exposes people to social conditions which influence their interactions with others and their behaviours. These social conditions that adolescents are exposed to make it difficult for them to cope with life's challenges as they also do not receive the necessary emotional support from parents, thus adding to the challenges adolescents face during their development stage. The adolescents' relationships with their parents determine their vulnerability to crime, and this vulnerability or risk is increased when they are exposed to an economically disadvantaged community.

2.7.6 Genetic factors

Individuals exposed to the same social environment do not necessarily display similar delinquent behavior because of the genetic factors that also play a role. In terms of the Biological Theory, genetics affects the way in which people deal with environmental factors (Ellis, 2005:288, 295). Genetic factors play a role in the development of an antisocial personality (Hollin *et al.*, 2002:9). Guo, Roettger and Cai (2008:543) also suggests that genetics are a contributing factor, but adds genetic-environmental interactions. These two factors influence each other and increase the prevalence of delinquency. Beaver, Wright and De Lisi (2008:228) add that association with delinquent peers has been found to predict behaviours that are antisocial, criminal and involve drug use. They further argue that the selection and acceptance of adolescents into delinquent peer groups is influenced by one's genetics. Controlling these genetic factors may be challenging, but its influence is less than that of environmental factors. Hollin *et al.* (2002:11) agree, and argue that delinquents may be regarded as victims of society rather than victims of their genes. The environment, with which these genetics interact, could be more controllable. However, it is essential to gain knowledge regarding these aspects as it will provide a better understanding of the origin of delinquent behavior.

2.7.7 Age

The age of a person's first arrest determines ongoing criminal behaviour, claim Alltucker *et al.* (2006:480). The younger youth start to offend, the more likely a pattern of criminal behaviour occurs which could continue into adulthood. Once a pattern has been established, it is difficult to intervene to address the problem. Moffit's Developmental Taxonomy Theory (Bartusch *et al.*, 1997:40) states that delinquent youth are more likely to associate with delinquent peers, and are easily influenced by these peers to commit crime. The association of youth offenders with peers who exert a negative influence is a means of escape when their circumstances at home are unhealthy. By belonging to a peer group, even if it has a negative influence, the youth offender satisfies his or her need to belong, which is not satisfied by his or her family.

2.7.8 HIV/Aids

As mentioned, the rate of crimes committed by youths is higher than that of the general population, but of concern is the growing number of youth crime as a result of parents succumbing to Aids. Children who lose a parent to HIV/Aids suffer loss and grief like any other child, but there is a difference. Besides losing a parent to HIV/Aids, these children also have to endure social exclusion and prejudice, which could lead to them being excluded from education and health care. Murphy, Austin and Greenwell (2006:20) agree with Schönteich (nd:62) that the prejudice related to being HIV-positive or being related to a family member who is HIV-positive leads to further loss such as health care. Other forms of loss may include the loss of family ties, friendship, employment, housing and life insurance. The stigma related to the HIV status of parents also makes adolescents aware of other people's negative perceptions of HIV/Aids. This causes adolescents to display externalising behavior such as bullying and physical violence (Murphy *et al.*, 2006:37).

There is a difference between the behaviour of adolescents whose parents have disclosed their HIV/Aids status to them and those adolescents whose parents have not. Adolescents to whom disclosure was not made are more likely to display delinquent behaviour (Murphy *et al.*, 2006:38). Schönteich (n.d:62) concurs, pointing out that the Department of Health has predicted that children orphaned because of HIV/Aids could be at greater risk of developing antisocial behaviour. The external environment rather than the disease itself has a greater

impact on families who are affected by HIV/Aids, with adolescent delinquent behaviour being a consequence. Authors such as Romero, Teplin, McClelland, Abram, Welty and Washburn (2007:1136) point out that youth who are involved with the juvenile justice system are at risk of contracting HIV/STIs. The reason for this is that prison is a breeding ground for the spread of HIV/Aids. Youth are more likely to engage in risky behaviour such as sex and substance use, which puts them at risk of infection, say Romero *et al.* (2007:1137). The environment which youth offenders are exposed to as a result of their involvement in negative activities contributes to their vulnerability to becoming infected with HIV/Aids, adding to many other challenges which the adolescent must face in their development stage.

2.7.9 Attention Deficit-Hyperactivity Disorder (ADHD)

Another challenge youth may face is struggling with biological disorders such as Attention-Deficit Hyperactivity Disorder (ADHD). A study by Johnson and Kercher (2007:131) has found that criminal behaviour is linked to ADHD. The symptoms of ADHD influence the effect of strain on youths. This study found that youth who suffer from ADHD struggle to cope with strain in a legitimate way. This corresponds with the Strain Theory, which states that crime is one of several ways youth could respond to dealing with stress and negative emotions. Sibley, Pelham, Molina, Gnagy, Waschbusch, Biswas, MacLean, Babinski and Karsch (2011:21) agree with Johnson and Kercher (2007:135) that individuals who suffer from ADHD are more likely to become delinquent.

ADHD is associated with inattention, hyperactivity-impulsivity and combined symptoms of inattentiveness and hyperactivity-impulsivity (Johnson & Kerscher, 2007:135). Carroll, Hemingway, Bower, Ashman, Houghton and Durkin (2006:520) argue that impulsivity contributes to the antisocial behaviour of adolescents, and in turn increases the risk of their indulging in criminal behaviour. Individuals with high impulsivity display lower accuracy and faster time estimation than individuals with low impulsivity. This forms the basis of impulsive behaviours such as quick thinking and acting without thinking (Carroll *et al.*, 2006:520). These characteristics are evident of individuals who display delinquent behaviour. Proper treatment of this disorder might assist youth to cope better with life's challenges, but in most cases youth are not diagnosed. Therefore, they are unable to receive

the necessary support and treatment which could help build their coping mechanisms. As a result, youth habitually relapse into crime because their disorder is not diagnosed and they are not treated. Concurring, Zhang, Barrett, Katsiyannis and Yoon (2011:17) state that impulsivity and impaired attention processes such as ADHD are risk factors for delinquency and recidivism, and contribute to the dilemma of juvenile delinquency.

2.8 CONCLUSION

Theories discussed in this chapter explained the reasons behind juvenile delinquency. It is clear that juvenile delinquency is not a new problem, and has developed over the past decades. The way youth offenders were viewed and how their behaviour was defined, differ from the current era. The extent and nature of the problem in countries other than South Africa differ in many ways, but all of these countries experience the dilemma of juvenile delinquency. Once juvenile offenders enter the criminal justice system, their behaviours are influenced negatively and it creates a pattern of offending. Diversion programmes are used as a way to deal with juvenile offenders outside the criminal justice system, with the aim to rehabilitate them and so reduce juvenile delinquency. The following chapter will discuss and describe diversion programmes in terms of the Child Justice Act no 75 of 2008.

CHAPTER THREE

DIVERSION PROGRAMMES IN TERMS OF THE CHILD JUSTICE ACT 75 OF 2008

3.1 INTRODUCTION

The Child Justice Act 75 of 2008 (2009:2) was passed to provide an opportunity for youth in South Africa to be diverted away from the criminal justice system where suitable. However, diversion was practised before the implementation of the Act because of the need which arose for youth who committed crimes to exercise their rights. According to Davis and Busby (2006:112) and Wood (2003:1), diversion programmes limit the stigmatisation of criminal conviction and reduce the load on the criminal justice system. Diversion programmes encourage youth in conflict with the law to become constructive citizens who contribute to society. Previously, corporal punishment was used as a sentence for youth offenders in South Africa. However, this was considered to be an inhumane way of dealing with them. Initiatives implemented by NGOs in the 1990s created awareness of young people in conflict with the law. These initiatives consisted of the NGOs going into prisons, courts and police cells to assist youth offenders who were awaiting trial (Skelton & Tshehla, 2008:32).

This chapter will focus on defining diversion and the history of the development of a legal framework for youth offenders. Objectives and the minimum standards of diversion programmes will be discussed. Different diversion options as stated in the Child Justice Act 75 of 2008 will be considered, followed by the minimum standards, criteria and challenges of these diversion programmes. Also, diversion practices in other countries will be compared with those in South Africa.

3.2 DEFINITION OF DIVERSION

According to the Child Justice Act 75 of 2008 (2009:16), diversion is the deviation of a criminal matter involving a child away from formal court procedures. Authors such as McGregor (2010:31), Davis and Busby (2006:102), Brink (2010:24) as well as Skelton and

Tshehla (2008:52) agree, but Brink (2010:24) and Skelton and Tshehla (2008:52) add that children are referred to reintegrative programmes when their cases are diverted from the criminal justice system. The above definitions refer to children who were in conflict with the law being channelled away from the criminal justice system. This contributes to the prevention of recidivism, but it can only be achieved if children were rehabilitated. Children who were in conflict with the law were not always considered for diversion, hence the development of a legal framework such as the Child Justice Act 75 of 2008.

3.3 DIVERSION IN AN INTERNATIONAL CONTEXT

The purpose of considering diversion practices in other countries is to gain a global view and learn from other the experiences of others, as well as provide a point of departure regarding South African diversion programmes. The countries discussed below were chosen because they have been operating diversion programmes for many years, some in the absence of a legal framework for diversion. This was also the case in South Africa before the implementation in April 2010 of the Child Justice Act 75 of 2008.

3.3.1 Hong Kong

The 1980s and 1990s has seen an increased focus on alternatives to the courts and new community-based diversionary options in Hong Kong (Wing Lo, Wong & Maxwell, 2006:11). The Police Superintendents Discretion Scheme is used to divert youth who have committed minor offences away from the criminal justice system. Even though there were no restorative justice programmes, the youth who were warned by police were required to attend aftercare supervision. Police could also refer them to support services and require them to attend counselling sessions (Wing Lo *et al.*, 2006:11).

Wong and Wing Lo (2010:8) say restorative justice was introduced to Hong Kong in 2002 and was seen as a way to divert youth offenders away from the criminal justice system. Many concerns were raised with regards to the implementation of the restorative justice approach, some of which were that restorative justice may be a breeding ground for crime, and mediation could be influenced by political parties in Hong Kong. This approach was practised and experimented with in schools and in some welfare organisations with learners who had behavioural problems and with juveniles (Wong & Wing Lo, 2010:8,11,12). There

was uncertainty regarding the implementation of restorative justice as an option of diversion in Hong Kong because it was an unfamiliar concept. However, other diversion options were practised which were effective in some ways, but they lacked the restorative justice element. Offenders were not encouraged to repair the harm they had caused and this might have contributed to offenders re-offending. There is no legal framework for the practice of diversion, so limiting the opportunities for youth offenders to be diverted away from the criminal justice system.

3.3.2 Australia

There has been an increase in diverting drug-using offenders to treatment in Australia. Drug courts have been established to deal specifically with cases of drug-using offenders on the principle that the law is viewed as the therapeutic agent (Clancey & Howard, 2006:377,378). As substance use is considered to lead to criminal activities such as possession of illegal substances, theft, and violence due to the effect of the substance on the brain, by addressing the substance use, the criminal behaviour will be stopped or reduced. Although most offenders passing through the criminal justice system come from indigenous communities in Australia, only a small number of people from these communities were in diversion schemes (Clancey & Howard, 2006:381). Limited access to diversion services is likely to result in fewer offenders having the opportunity to be rehabilitated, thus contributing to recidivism and so continuing the cycle of crime.

Clough, Lee and Conigrave (2008:437) add that there are obstacles to the implementation of diversion programmes in Australia. There is a lack of adequately resourced diversion options and expertise to run such programmes. Suitable diversion options are not available in all communities. Also, there are often long durations between the committing of an offence and the referral of the offender to a diversion programme, which leads to misunderstanding by clients and their families of the purpose of diversion. Care-givers of children who are diverted are exhausted from the many challenges they face in their communities, which affects their motivation to become involved in diversion programmes.

3.3.3 Hungary

Although there is no formal system of diversion in Budapest, it does not mean that diversion is not practiced. These diversion practices involve the settling of minor cases which includes parents, relatives, care-givers of victims and juvenile offenders in police stations, customary courts or even with community and religious leaders (Vandi, 2007:37). Parental and family involvement in diversion programmes is essential as it contributes to a more successful intervention. This contributes to a decrease in recidivism. Hansen (2006:1) adds that because there is no separate legal system for juveniles in Hungary, restorative justice cannot be used frequently. The lack of a legal system for juveniles results in many youth being excluded from the opportunity to be rehabilitated.

3.3.4 Asia (Singapore, Japan)

There have been more attempts in recent years to deal with juvenile offenders outside the criminal justice system in Singapore. Various services and programmes as well as juvenile homes have been used in Singapore to rehabilitate youth offenders (Chen Zhang, Choo & Lim, 2009:139). Someda (2009:82) adds that the rehabilitation of offenders contributes to the reduction of recidivism in Japan. Therefore, it is in the best interests of society that offenders be rehabilitated as it addressed the problem of crime.

Diversion programmes which are used in Singapore to rehabilitate children and young people at risk of delinquency as well as those who have committed offences include the following: guidance programmes, community service orders, weekend detention orders, periodic training orders and probation orders (Chen Zhang *et al.*, 2009:139). Other diversion programmes to assist juveniles and their families in Singapore include the Streetwise Program, Youth Family Care Program and School-Probation-Courts. These programmes are used within a legal framework, the Children and Young Persons Act (Chen Zhang *et al.*, 2009:139). Added to the list of programmes is the drug court which is run as a diversion option targeting non-violent drug abusers without serious anti-social tendencies in Japan (Someda, 2009:83). The aforementioned programmes are aimed at rehabilitation and involve the family in the intervention, which is regarded as beneficial for the rehabilitation of offenders. The focus on the rehabilitation of juvenile offenders follows research which showed that punitive measures to address crime were unsuccessful.

3.3.5 USA

Wilderness adventure programmes is a 21-day diversion programme which was developed in Minnesota, America, to help young offenders address issues that led to their anti-social behaviour (Walsh & Russell, 2010:222). Other practices of diversion in the USA include restorative justice programmes, where offenders are held accountable for the harm they have caused through the crimes they have committed (Ellis, 2005:378). These programmes do not differ much from the diversion programmes in South Africa and Australia. However, it is uncertain whether it is implemented in the same way and to what extent the resources differ between programmes in the different countries. Kratcoski and Edelbacher (2009:210) further state that diversion schemes are presented by police, school and court programmes to youth offenders. Diversion is applied partially or totally, explain Kratcoski and Edelbacher (2009:211). When diversion is applied totally, the police do not act and only give the youth a warning. In partial diversion, the police refer youth who have committed minor offences to a programme. In the USA, the police are involved in managing diversion programmes. This is similar to the situation in Hong Kong, where the police refer youth offenders to diversion programmes which they manage.

3.3.6 Similarities and differences of diversion programmes in international countries (Hong Kong, Hungary, America)

Some similarities and differences are noted from the discussions above. Hong Kong and the USA make use of police to manage diversion programmes. The restorative justice approach is practised as a form of diversion in Hong Kong, Hungary and the USA. Diversion in all the countries discussed focus on rehabilitation and the approach is less punitive. A legal framework for juveniles governs diversion practices in all the aforementioned countries except Hungary. Drug courts are used as a form of diversion to address drug problems of young offenders in Asia and Australia because of the link that has been established between substance use and crime. Family involvement is encouraged by diversion practices in all the countries discussed as this contributes to the success of the intervention.

3.4 HISTORY OF THE DEVELOPMENT OF THE CHILD JUSTICE ACT 75 OF 2008 IN SOUTH AFRICA

Even though there was no separate criminal justice system for children (Gxubane, 2010:35; Brink, 2010:29), their rights were considered before the implementation of the Child Justice Act 75 of 2008. Advocacy initiatives were undertaken which led to the drafting of a Child Justice Bill, followed eventually by the implementation of the Act in 2010. The following section will focus on the history of the development of a legal framework which protects the rights of children in conflict with the law in South Africa.

The child justice movement, consisting of civil society and NGOs, became prominent in the 1990s. They created a platform for child justice-related issues in the absence of a separate criminal justice system for children (Skelton & Gallinetti, 2008:3,4). Children who were charged with crimes were tried in adult criminal courts as there were no separate courts for children (Brink, 2010:29; Skelton, 2011:417). This resulted in children being regarded and sentenced as adults, creating a cycle of crime as children who entered the criminal justice system at an early age were likely to become repeat offenders during adulthood. Gxubane (2010:35,36) explains that advocacy for the rights of children in conflict with the law was initiated after a child, Neville Snyman, who was arrested for breaking into a shop, was killed in a prison cell by adult offenders in 1992. The Child Justice Bill was drafted in the 1990s and rewritten in Parliament in 2003. For unknown reasons, nothing happened to it until the end of 2007 (Skelton & Gallinetti, 2008:3).

Previously, diversion was practised informally. The conditions for diversion were as follows: Children had to accept responsibility for the crime committed, and the parent or guardian had to be willing to take responsibility for the child's attendance at court as well as be at court him- or herself (Brink, 2010:22,23). These conditions resulted in many children being excluded from diversion because of their circumstances.

After 2003, only some children in conflict with the law were diverted away from the criminal justice system whereas, had the Child Justice Bill been speeded up, all children would have been able to get the same chance to be diverted. The bill was signed into law in May 2009, and the Act was implemented from April 1, 2010. Success with regard to the

implementation of the Child Justice Act 75 of 2008 will depend on the continued collaboration between civil society and the government (Badenhorst, 2010:1,3,5).

3.5 OBJECTIVES OF DIVERSION

It is necessary to become familiar with the objectives of diversion to understand what it is hoped will be achieved with youth offenders through the implementation of the Child Justice Act 75 of 2008.

According to Davis and Busby (2006:102), the aim of diversion is to encourage children to accept responsibility for the damage they have caused through their behaviour. Skelton and Tshehla (2008:53) concur, adding that diversion teaches children to avoid being in conflict with the law again. Furthermore, Davis and Busby (2006:112) state that diversion programmes aim to motivate youth who have been in conflict with the law to become productive citizens who contribute to society. These aims refer to diversion as stipulated before the implementation of the Child Justice Act 75 of 2008. Objectives of diversion as stated in the Act (2009:70) are as follows: To deal with a child outside the formal criminal justice system; to encourage the child to be responsible for the harm they have caused; to meet the specific needs of the child; to promote the reintegration of the child into the family and community; to provide an opportunity to those affected by the harm to express their views on its impact on them; to encourage the rendering to the victim of some symbolic benefit or the delivery of some object as compensation for the harm; to promote reconciliation between the child and the individual or community affected by the harm caused by the child; to prevent stigmatising the child and prevent the adverse consequences that flow from being subject to the criminal justice system; to reduce the potential for re-offending; to prevent the child from having a criminal record; to promote the dignity and well-being of the child, and to develop his or her sense of self-worth and ability to contribute to society.

McGregor (2010:34) states that the objectives as stated in the Act 75 are child centered, rehabilitative and focus on the reintegration of the child into his or her family and society. This means that children are not only diverted away from the criminal justice system, but they are assisted in changing their behaviour. The Act provides diversion based on

restorative justice principles, which involves the offender making amends for the harm he or she had caused (Brink, 2010:22; McGregor, 2010:34).

This follows on from what Davis and Busby (2006:102) said that diversion before the implementation of the Act aimed at encouraging youth to take responsibility for the harm they have caused. Some changes can be noted with regard to the objectives of diversion after it was written into law. These changes involved the inclusion of the restorative justice principle in diversion, preventing stigmatisation of the child and preventing the adverse consequences flowing from being subject to the criminal justice system; reducing the potential for re-offending; preventing the child from having a criminal record; promoting the dignity and well-being of the child, and the development of his or her sense of self-worth and ability to contribute to society.

Reducing recidivism, motivating children to become productive citizens and encouraging youth to take responsibility for their actions are objectives which remained the same before and after the implementation of the Act. The main focus of diversion in South Africa remains the protection of children in conflict with the law as well as assisting youth to take responsibility for the harm they have caused.

3.6 MINIMUM STANDARDS OF DIVERSION

To ensure that all children in conflict with the law benefit equally from diversion, it is essential that a minimum standard be established with regard to practising diversion, thus ensuring the protection of these children.

Skelton and Tshehla (2008:13) state that diversion options and programmes have to comply with certain minimum standards. Van der Merwe and Dawes (2009:582) agree, adding that these standards, which have been formulated before the Child Justice Act 75 of 2008, will guide diversion practice once it has been implemented. These standards include the following: Assessments must be done before the prosecutor's decision to divert cases; the assessment instruments should include information regarding individual risk factors; professionals who provide diversion services should receive training with regard to conducting thorough assessments; and finally, children with more serious problems will need more intensive and long-term interventions. These interventions would be focused on

the therapeutic needs of children, says Schmid (2007:505). Furthermore, the programme design must address the factors which contribute to the offending behaviour. Also, programmes should aim to reduce the risk factors which cause children to become involved in crime (Van der Merwe & Dawes, 2009:581,582).

Skelton and Tshehla (2008:13) add that diversion should not be exploitative, harmful and hazardous to a child's physical or mental health, with Schmid (2007:506) adding that the emphasis should be placed on family reunification and sustaining the child's bond with the family. Keeping in mind what had been said about reducing risk factors (Van der Merwe & Dawes, 2009:581,582), youth who remain in contact with their families will be able to face those challenges which put them at risk of committing crime.

The minimum standards of diversion are stated in Section 55 of the Child Justice Act, 75 of 2008 (2009:76,78), which mention that diversion options must be designed in a way that balances the circumstances of the child, the nature of the offence, and the benefit of society. Besides not being exploitative, diversion options should be appropriate to the age and maturity of the child, and it may not interfere with the child's schooling. Children may not be excluded from diversion options due to a lack of resources or finances.

Sensitivity to the circumstances of the victim should be one of the focus points of the diversion option. Useful skills should be taught in the diversion programme and a restorative justice element must be included that should focus on healing relationships, including that with the victim. An aim of the diversion programmes will be to ensure that the child understands the impact of his or her actions on others. The place where the diversion programmes are presented must be accessible to the child. Diversion programmes must be suitable to be used in a variety of situations and for a selection of offences. It is important that the effectiveness of the programmes can be measured. The promotion and development of diversion programmes nationwide is essential, bearing in mind the special needs and circumstances of children in rural areas. Parents, appropriate adults or guardians should be involved in diversion programmes.

The above-mentioned minimum standards focus on creating specialised service delivery as well as ensuring that more intensive interventions are provided for high-risk children. These minimum standards also aim to reduce those risk factors that increase the likelihood of

recidivism, so helping to break the cycle of crime. It also includes the protection of children's rights and their right to uninterrupted education. Parental involvement would ensure that the family of the offender also takes responsibility for the crime committed.

Rehabilitation of all youth should be possible as diversion programmes should be able to address any type of criminal behaviour as stated in the Child Justice Act 75 of 2008 (2009:78). However, it has been argued by Van der Merwe and Dawes (2009:583) that the minimum standards will place demands on the child justice system and the organisations who deliver diversion services. A lack of resources and limited capacity will impact on the implementation of the minimum standards required by the Act. This could delay or impact negatively on service delivery for children in conflict with the law.

3.7 DIVERSION IN A SOUTH AFRICAN CONTEXT

The development of standards to ensure that specialised services are rendered through diversion programmes will be discussed below. Criteria to ensure that the most suitable candidates are able to benefit from diversion programmes will also be considered. Also, challenges regarding the implementation of diversion programmes will be highlighted.

3.7.1 Types of diversion programmes

A consideration of diversion programmes in South Africa will be presented, as well as that of programmes overseas. Diversion options with reference to the Child Justice Act, 75 of 2008 (2009:72,74) are also discussed and a distinction is made between level one and level two diversions.

There are various options to divert youth away from the criminal justice system, with different options addressing the different needs of individuals. Davis and Busby (2006:103) contend that these diversion options promote dignity and well-being, as well as assist youth in viewing themselves as individuals who can contribute to society. It is also regarded as a more humanitarian than punitive response to child offending. McGregor (2010:31) maintains that diversion is not a soft option, even though it moves away from the punitive approach. The aim is to change the behaviour of the child, and in this way reduce crime. Van der Merwe and Dawes (2009:572) argue that diversion programmes will be more effective if these are linked to the needs and profile of the offender.

Diversion options as stated in Section 53(1) of the Child Justice Act, 75 of 2008 (2009:72) include the following: a compulsory school attendance order; family time order; good behaviour order; peer association order; reporting order; supervision and guidance order. Section 53(2) of the Act (2009:72,74) distinguishes between two levels of diversion options, depending on the seriousness of the case. Level one applies to offences in schedule 1 and level two applies to all other offences as referred to in schedules two and three, which are summarised below.

3.7.1.1 Level one diversion options

Level one as referred to in Section 53(3) of the Child Justice Act 75 of 2008 (2009:72,74) applies to offences in Schedule 1, and includes an oral or written apology, as well as a formal caution. Level one diversion options also include placements under supervision or reporting orders. Compulsory school attendance order, family time order, peer association order and a good behaviour order form part of level one diversion. It also refers to an order prohibiting the child from visiting a specific place. The youth can be referred for counselling or therapy as well. It could also be required of them to attend a specific centre for a vocational, educational or therapeutic purpose. Symbolic restitution to a specified individual, individuals, group or community, charity or welfare organisation or institution forms part of level one diversion. Then, it may also involve restitution of a specified object to a specified victim or victims. Community service under the supervision of an organisation, an individual or group as identified by the probation officer is required. The child has to provide some service to a specified victim or victims as part of a level one diversion option. This option also involves payment of compensation to a specified individual. Where there is no identifiable individual, individuals or group to whom restitution can be made, the level one diversion option will include the provision of some service or payment of compensation to a community or welfare organisation.

3.7.1.2 Level two diversion options

Level two, which is referred to in Section 53(4) of the Child Justice Act, 75 of 2008 (2009:72,74), applies to all other offences as referred to in schedules 2 and 3. Level one diversion options as mentioned in Subsection 53(3)(j) to (q) of the Act (2009:74) are included in level two diversion options. As part of a level two diversion option, compulsory

attendance at a specified centre for a specified vocational, educational or therapeutic purpose is required. These options include referring the child for intensive therapy and may necessitate a period of temporary residence. Placement under the supervision of a probation officer is another level two diversion option, and conditions may include restricting the child's movement to outside the magisterial district in which the child usually lives.

Youth offenders are court mandated to attend life skills and therapeutic programmes at an institution under supervision at, for example, a youth care facility. According to Section 53(3) of the Act (2009:74), level two diversion options also include referral for counselling or therapy. This diversion option refers to therapeutic counselling and programmes for youth who are considered high risk, as well as youth who need more intensive interventions. Different diversion programmes are evaluated below and compared with those in other countries to see what lessons can be learnt.

3.7.1.2.1 Life skills programme

Youth Empowerment Scheme (YES) is a life skills programme in South Africa which makes use of interactive and experiential learning techniques to teach children life skills (Wood, 2003:2). Steyn (2005:88) says that through social learning, children are taught to avoid re-offending.

The parents of those youth offenders who have attended a YES programme indicated that it should focus on strengthening parent-child relationships (Mankayi, 2007:72). The relationship and trust between the parent and youth offender is damaged as a result of the latter's delinquent behaviour. Youth who are emotionally supported by their parents are more successful in changing their behaviour, but this is not possible if there is a poor relationship between youth offenders and their parents. According to the study conducted by Mankayi (2007:76), it was found that the YES programme is not successful in addressing all the issues which lead to youth committing crime. Steyn (2010:144) further questions the suitability of the YES programme for youth who are caught up in addiction and gangsterism. The increasing problem of substance use among youth contributes to the causes of their delinquent and criminal behaviour. Programmes such as YES are not specialised enough to

deal with this problem, and should be supplemented with other interventions to focus on the specific needs of the youth offender.

Steyn (2010:144) points out that service providers who facilitate life skills programmes with youth offenders are of the opinion that the time allocated to the programme influences the outcomes. The short periods for youth offenders to attend the programmes does not provide them enough time to work through their issues or to build relationships with the facilitator. Many youth offenders are not motivated or ready enough to change their behaviour, and the short periods to attend the programmes is not enough time to deal with this.

In America, cognitive behavioural skills training is a diversion programme which focuses on teaching skills to change beliefs and behaviour associated with high-risk drinking. These programmes vary from alcohol-focused skills training to general life skills training (Minor, 2007:40). The diversion programme provides information and tools to teach life and decision-making skills that promote appropriate and healthy choices about alcohol or substance use (Minor, 2007:15). This is different from the objective of life skills programmes in South Africa. Other than the programmes in America, the suitability of life skills programmes in South Africa to address the needs of substance users are questioned by Steyn (2010:144). Substance abuse is a specialised field which requires longer therapeutic interventions, which is not always possible with diversion programmes.

An evaluation of the seven-week life skills psycho-educational programme in America shows that the programme is effective for early intervention with youth offenders (Lancaster, Balkin, Garcia & Valarezo, 2011:491). The younger the youths start to commit crime, the more likely they are to continue with this behaviour in adulthood. This life skills programme is able to prevent that from happening. The authors contend that life skills programmes prevent youth from re-offending by empowering them to make informed decisions regarding substance use, peers and crime. This results in secondary crime prevention. It could also be used as a primary crime prevention programme for high-risk youth.

In Australia, Clean Slate is a four-week diversion programme which is offered for first-time youth offenders. The group sessions are based on cognitive behavioral therapy. These groups focus on setting goals, reflecting on the consequences of the offending behaviour,

exploring alternatives to substance use, and learning communication, decision-making and problem-solving skills (Parliament of Victoria Drugs and Crime Prevention Committee Final Report, 2009:203). This programme is similar to that in America (Minor, 2007:40) as it includes cognitive behavioural therapy and it is more intensive than the program in South Africa (Wood, 2003:2), which focuses mainly on life skills. The lesson for South Africa is that intensive therapeutic interventions contribute to behaviour change, which in turn promotes a decrease in recidivism.

Diversion programmes in Australia offer insufficient intensive support and follow-up (Parliament of Victoria Drugs and Crime Prevention Committee Final Report, 2009:214). The progress and changed behaviour of youth can only be maintained by aftercare and support services, so helping to determine the success of the intervention.

3.7.1.2.2 Pre-trial community service

According to Steyn (2005:57) and Wood (2003:2), pre-trial community service in South Africa refers to when an individual serves a number of hours of community service. Steyn (2005:57) says such service is practised as a diversion option and is based on restorative justice principles. In terms of these principles, young offenders are given the chance to make amends for the crimes they have committed through providing voluntary service to the community. The young offenders get the chance to learn through their experiences by completing their community service, which contributes to their ability to take responsibility for their actions. Wood (2003:2) contends that one of the criteria for such service is that the youth offender accepts responsibility for the offence. However, this is challenging as many offenders are burdened with challenges such as family violence, substance use, financial problems in their households, and so on, which contribute to their behaviour and poor motivation. This affects their willingness to accept responsibility for their actions, making it difficult to change their behaviour. A more holistic approach is needed when dealing with the youth offender, and pre-trial community service does not provide the opportunity for this. Also, it does not involve the family.

A key lesson learnt about community service in South Africa is that it has to be flexible to accommodate the needs of the individual (Steyn, 2005:63). If the uniqueness of individuals and the complexity of their problems are not recognised by the diversion programme, they

might not benefit from it and it could result in re-offending. Another lesson learnt is that the community service programme should ensure that the individual is referred to an appropriate organisation to do community service (Steyn, 2005:63). The needs of the individual and specific skills they have or want to acquire will play a role in the choice of a suitable organisation. Staff of the community organisation where the community service programme is completed also serves as mentors and are expected to set a positive example.

In America, community service is practised as part of a restorative justice diversion programme. It is recommended that participants complete 40 hours community service regardless of the offence they have committed. Community service consists of group outings and services related to the offence (Sutton, Gardner & Bugenhagen, 2008:25). As in South Africa, community service is practised as a diversion programme. The difference is that community service in America is not a stand-alone programme, but is an addition to other interventions. Furthermore, diversion programmes that target youths with several problems require that they are referred to community service schemes that are appropriate for them (Hamilton, Sullivan, Veysey & Grillo, 2007:139). Not all community service placements are suitable as it does not provide learning opportunities which could encourage youth to change their behaviour.

After evaluating community service programmes in America, lower rates of recidivism were found for youth who received more hours of community service (Hamilton *et al.*, 2007:141). Motivational levels of individuals fluctuate, which influence the intervention process, and individuals may need more time to complete their hours or programme. It was also found that the setting where the diversion service is rendered affects the effectiveness of the programme. Treating juveniles within the justice system or in custodial institutions was less effective (Hamilton *et al.*, 2007:141). Sufficient support is essential for any youth offender's successful rehabilitation from their criminal behaviour. Youth offenders who receive treatment in a custodial setting do not have access to their family, which means they do not receive the necessary support and encouragement to sustain their changed behaviour.

In Germany, community service is used as an alternative after the country moved away from traditional sentencing in the 1970s (Leighton & De La Vega, 2007:18). Luna (2007:7) says cases of juveniles in Germany are diverted through informal sanctions, conditional

dismissals or non-custodial judicial orders. Sanctions include educational or training programmes, victim-offender mediation, and community service. Junger-Tas (2006:517) agrees with Luna (2007:7) that community service is used as a sanction, giving the youth offender the opportunity to be diverted from the criminal justice system. This lowers the chance of the individual becoming a repeat offender.

3.7.1.2.3 Family group conferencing

Family group conferencing includes the involvement of the family, the young individual and the victim in decision-making at a venue which is provided where a procedure is used which is culturally appropriate. The fact that the victim is affected by the offending behaviour is acknowledged at the family group conferencing. It gives the victim and the community a say in the outcome of the case as it is based on the restorative justice approach (Steyn, 2005:33; Wood, 2003:2), with the emphasis placed on preventing recidivism (Wood, 2003:2). Acknowledging the involvement of the aforementioned parties in the family group conference, Baffour (2006:557) refers to it as a mediation process where material and emotional restitution are sought. Steyn (2005:39) argues that family group conferencing encourages youths to take responsibility for their behaviour as they are confronted about the crime they have committed.

In New Zealand, family participation in family group conferencing is viewed as a priority, and the family is provided with a room during the conference in which to discuss alternatives in dealing with the offending behaviour of the youth (Maxwell & Morris, 2006:243; Rodriguez, 2007:357). New Zealand is one of the first countries to adopt a restorative justice approach which encourages the participation of all parties involved in or affected by the offence (Maxwell & Morris, 2006:243). Some Maori customs such as the whanau (extended family) meeting was integrated with the practice of family group conferencing. The custom was seen as a way to solve disputes within a family which is culturally appropriate (Maxwell & Morris, 2006:244; Mutter, Shemmings, Dugmore and Hyare, 2008:262).

Evaluations of family group conferencing in New Zealand show that the programme has been successful in providing a fair process for the victim and offender. It has also succeeded in reducing reoffending (Roche, 2006:221). On the other hand, De Beus and Rodriguez (2007:339) point out that offenders who commit more serious offences and participated in

family group conferences were more likely to re-offend than those who committed less serious offences. The pattern of the behaviour of offenders and the seriousness of their offences are indicators of whether they will benefit from certain interventions. Thus, family group conferencing as an intervention on its own may not be enough for juvenile offenders to change their behaviour.

In America, family group conferences provide the victim with the opportunity to describe how they have been affected by the crime and are afforded the chance to ask the offender questions. This face-to-face contact with the victim and everyone else affected by the offence has a greater impact as the harm which is caused by the offender is highlighted (McGarrell & Kroovand Hipple, 2007:223). Family group conferences, say Umbreit, Vos and Coates (2006:1) include people who support the victim and the offender, as well as other members from the community. This is different from Victim Offender Mediations, as these mediations involve only the victim and the offender.

A result of the family group conferencing as practised in America, contends Roche (2006:221), is that the level of satisfaction of victims and offenders with regard to the restorative justice process are higher than when matters are settled in court. A minority of restorative justice programmes do not meet the required standards, resulting in more harm to the victim either in the form of secondary trauma or in damaged family relationships (Roche, 2006:221). It has been established in Minnesota where group conferencing is practised that victims found it most helpful to talk to offenders about their experiences of the offences. This study also highlighted that negative attitudes of parents were not beneficial to the victim or offender (Umbreit *et al.*, 2006:5). Victims often do not get a chance to participate in the criminal justice process, and it does not allow them a chance to speak about the offence in court. They are left with unanswered questions, making it difficult to deal with the crime that was committed against them. Parental and family involvement in interventions is essential as it contributes to the process being more successful.

Evaluations done of family group conferencing in America show that such interventions, including mediators, should be sensitive to the needs of young women who participate in the conference, as it differs from that of young men (Baffour, 2006:572). Males are known

to commit crimes more often, therefore not much expertise has been developed when dealing with female offenders. Also, mediators in America should be well trained to understand the culture of Latino people (Baffour, 2006:572). On the other hand, mediators who participate in the restorative group conference should not intervene as it helps guard against over directive practice (Roche, 2006:226). It is important that the mediator who facilitates the family group conference be experienced and properly trained because of the delicate process of bringing victims and offenders together.

In the United Kingdom, family group conferencing has been practised in the welfare field with much success (Mutter *et al.*, 2008:262). It has also been extended to the youth justice field, a development that has already taken place in New Zealand. The victim and the offender are brought together in a safe environment where the offenders are provided the opportunity to apologise for the crime committed and the victims express how the crime has affected their lives (Mutter *et al.*, 2008:263). In America and the United Kingdom, victims get the chance through family group conferencing to express their feelings regarding the impact of the crime on their lives (McGarrell & Kroovand Hipple, 2007:223; Mutter *et al.*, 2008:263).

Research in the United Kingdom has shown that family group conferences are more effective if held earlier in the offender's criminal career (Mutter *et al.*, 2008:268). The younger a person starts to commit crime, the higher the likelihood of a pattern of criminal behaviour developing. Interventions such as family group conferences are more effective in preventing behaviour from becoming a problem when patterns have not developed yet. Family group conferences are also more fruitful where risk factors such as educational underachievement, abuse and teenage pregnancy are present in a young offender's life (Mutter *et al.*, 2008:268).

In South Africa, the Truth and Reconciliation Commission provided an example of restorative group conferencing where victims' testimonies were gathered, offenders pardoned, and recommendations were made to the government on how the harm caused by apartheid could be repaired (Roche, 2006:218). Restorative justice is also practised in poor communities where peace committees are established, consisting of volunteers. These volunteers help local residents to solve conflicts and they address social problems in the

community. However, these practices take place outside the criminal justice system (Roche, 2006:231).

There are several challenges concerning family group conferencing and the practice of restorative justice outside the criminal justice system in South Africa. At one stage, offenders responsible for the harm caused could not be held accountable as they were not mandated to participate in the conference (Roche, 2006:232). But this is no longer the case, Steyn (2010:101) points out, as family group conferencing is practised as diversion in South Africa. However, the new challenge is that few cases are referred for family group conferencing (Steyn, 2010:1). This could be due to a lack of knowledge on the part of prosecutors and probation officers, who are responsible for deciding on the referral of youth, of the type of diversion programmes available and what the outcomes entail. On the other hand, it is difficult to work with juvenile offenders who have a poor relationship with their parents or in situations where parents encourage the offending behaviour of their children (Steyn, 2010:113). The ways in which offenders have been socialised by their families shape their views about their offending behaviour, which may be an obstacle to intervention as the offender is not willing to change.

3.7.1.2.4 Victim offender mediation

Victim offender mediation is a process whereby the victim and the offender are brought together to discuss the impact of the crime on their lives with the assistance of a mediator (Skelton & Batley, 2006:15; Wood, 2003:2). At this meeting, a plan is drawn up to repair the harm done by the child who offended (Wood, 2003:2). The difference between victim offender mediation and other forms of restorative justice is that in the latter cases, other members of the community are also involved (Tränkle, 2007:399).

In America, victim offender mediation is offered to youth offenders as a diversion programme. However, it is voluntary and participation depends on the willingness of the offender (Wemmers & Cyr, 2006:103). With offenders who enter diversion programmes voluntarily, it is difficult to hold offenders accountable as the offender might drop out of the programme before completion or might not be committed to comply with the plan of restitution which is drawn up during the victim offender mediation session. Wemmers and Cyr (2006:103,104) distinguish between two types of victim offender mediation, namely

direct and indirect mediation. Direct mediation is a face-to-face meeting between the youth and the victim, facilitated by one or two project workers. During indirect mediation, there is no face-to-face contact and the dispute is settled with the victim and the offender separately.

An important aspect of the victim offender mediation programmes in America is that a burden of responsibility is placed on the victim as he or she may not necessarily wish to participate (Wemmers & Cyr, 2006:104). Part of the success of such mediation rests on the willingness of the victim to participate, but in practice this is not always the case. Victims may indicate their willingness to participate and initially may even do so, but eventually withdraw from the mediation, resulting in an incomplete process. A concern that has been raised is that victims are being used in victim offender mediations to help keep crime under control, but the process may not be to the full benefit of the victim (Wemmers & Cyr, 2006:104). Choi and Severson (2009:813) point out that if restorative group conferences such as victim offender mediations are not correctly implemented, it may cause secondary victimisation and in this way contribute to the negative views the public has about diversion, making them less willing to participate in interventions. Furthermore, Baffour (2006:575) is of the opinion that victim offender mediation should be practiced in larger cities as the impact of these mediations on African-American, Latino and Asian youth cannot be evaluated in the smaller cities and towns where it has been implemented.

In Germany, victim offender mediation is mostly used with youth offenders and the mediators are social workers, the purpose being to provide a platform for face-to-face interaction between the three parties, namely victim, offender and mediator (Tränkle, 2007:399). These mediations were integrated into the German criminal justice system in 1991. Also, victim offender mediations are used for both juvenile and adult offenders (Alexander, Gottwald & Trenczek, 2010:182; Tränkle, 2007:399). In juvenile cases, the prosecutor uses victim offender mediation to defer from formally charging the offender (Alexander *et al.*, 2010:182).

Research in Germany has shown that the objectives and goals of victim offender mediations should be clear and precise to measure the success of such programmes and so assess impact (Alexander *et al.*, 2010:209; Tränkle, 2007:411). Also, victim-offender mediation has

the potential to change the way people think about and treat each other as it is difficult to change people's perceptions with regard to offenders and justice as they are socialised in different ways by their environment (family, community, religious background), Alexander *et al.* (2010:212) point out.

On the other hand, Tränkle (2007:411) contends that mediators are not professional enough to be able to conduct victim offender mediation in Germany, and this could possibly cause more harm to the participants involved, especially the victim who could be subjected to secondary victimisation. The author also points out that victim offender mediation does not work well in a punitive law system as no allowance is made for the victim to participate in a process whereby the offender may have the opportunity to make amends for the crime committed. By being punished, it doesn't allow individuals to take responsibility for their behaviour.

3.7.1.2.5 Wilderness therapy

Children who are considered high risk and need more intensive intervention, are repeat offenders, as well as those who have dropped out of school, are chosen for the journey programme. It involves life skills and vocational training, and includes a wilderness component (Botha, 2007:17; Steyn, 2005:210; Wood, 2003:2). It is argued that the success of the rehabilitation of the youth offender is determined by parental involvement once he or she has returned to their home environment (Steyn, 2005:214).

In South Africa, wilderness therapy is referred to as outdoor programmes, and it is practised as a diversion programme to assist youth who need more intensive interventions as other interventions are not sufficient to address their needs (Steyn, 2010:73). The healing power of nature is used as a therapy to help youth reconnect with themselves. Often, the environment where the youth lives is characterised by violence and substance abuse, and crime is a risk factor which contributes to their delinquent behaviour. By removing the youth from their environment, the opportunity is created for them to learn coping skills without the interruption of the aforementioned factors which pose a risk for them to re-offend.

It has been found in outdoor programmes in South Africa that the youth are not equipped with the correct footwear, which will affect the outcomes of the programme (Steyn, 2010:85). As many of the youth come from poor families, they do not have the money to buy the right gear for the outdoors, which makes their outdoor experience more challenging. The author warns that if a thorough assessment is not done of those youths attending the outdoor programme, it could result in dynamics which will affect the group negatively. If too much time is spent on group dynamics, the learning process is limited for individuals who are willing to change their behaviour.

In New Zealand, adolescent sexual offenders are usually sent on wilderness therapy programmes with the aim of reducing re-offending. Wilderness therapy is regarded as a specialised treatment programme to assist youth who do not benefit from conventional psychotherapy (Somervell & Lambie, 2009:161,162). This coincides with what Steyn (2010:73) has pointed out, namely that some youth offenders in South Africa need more intensive intervention. Wilderness therapy programmes aim to change the behaviour of youth by placing them in the outdoors where they participate in demanding activities, after which they debrief on the experience using a form of behavioural or cognitive therapy (Dunkley, 2009:90). Tekin (2010:642) agrees with Dunkley (2009:90) that wilderness therapy programmes occurs in an outdoor setting and adds that a supplementary objective is to facilitate the personal growth of the troubled youth. The difficult activities the youth participate in during the wilderness adventure programme test their ability to cope and deal with problems under pressure. It results in much resistance from the youths, especially those who have many social problems to deal with, but it creates a huge sense of achievement when they are able to overcome the challenges on the programme.

Research on wilderness therapy as practised in New Zealand show that youth offenders are less likely to deny their offending behaviour when confronted by knowledgeable peers during their therapy sessions (Somervell & Lambie, 2009:164). Growth in the group work process is characterised by group members who confront and challenge each other. This shows that members have taken ownership of the group and are more willing to take responsibility for their behaviour. A combination of extreme physical activities and therapy was employed in effective wilderness programmes (Tekin, 2010:645). The intensity of the challenge the youth offender experiences tend to have a greater impact on their behaviour.

Wilderness and adventure programmes have been practiced in America for the past fifty years as a therapeutic intervention with youth offenders (Russell & Walsh, 2011:398). The target group is first-time youth offenders and the aim is to prevent youth from entering the juvenile justice system (Walsh, 2009:2). Wilderness programmes in New Zealand and America focus on the prevention of re-offending, and in the US is used as a diversion option (Somervell & Lambie, 2009:161; Walsh, 2009:2).

Evaluations of diversion programmes in America show that there is a lack of follow-up services for the youth who complete schemes such as wilderness and adventure programmes (Russell & Walsh, 2011:401). Follow-up services are used to monitor the impact and effectiveness of any intervention. It could help to prevent relapsing into offending behaviour by ensuring that the youth implements the skills he or she has learnt. Walsh (2009:75) says programmes which include a therapeutic component are most effective in reducing delinquent behaviour in America. Therapeutic interventions are more intense and take longer, testing the commitment of the offender and the professional facilitating the programme.

Diversion programmes as discussed in the sections above are focused on helping youth to take responsibility for their behaviour. They are taught ways of avoiding their negative behaviour and in this way, recidivism is reduced or prevented. Parental involvement is an important part of the programme, which helps to determine the success of the intervention. However, it is challenging to keep parents involved as they are exhausted from the challenges they face in their communities. The design and objectives of the diversion programmes may be suitable for the needs of the youth, but they should be implemented in the correct way with specialist staff. This is a challenge as huge caseloads could be an obstacle. It is also important that community members understand the roles they have to play in reintegrating rehabilitated youth into society.

3.7.2 Criteria for diversion programmes

As youth offenders are unique individuals with different needs, different interventions will suit them. Selection criteria have been developed for different diversion interventions which provide a guideline when choosing suitable interventions for those youth who are in conflict with the law. According to the Child Justice Act 75 of 2008 (2009:76), the following factors

should be considered when dealing with youth offenders: The diversion option must be at the appropriate level in terms of the child's cultural, religious and linguistic background, and the educational level, cognitive ability and domestic and environmental circumstances, must be taken into account; the option recommended must be in proportion to the circumstances of the child, the nature of the offence and the interests of society, as well as the child's age and developmental needs. Diversion programmes have to be culturally sensitive as many of the behaviours the youth displays are influenced by the socialisation of their families and traditions. As South Africa is a country of diverse people, it will be difficult to connect with youth if the diversion programmes recommended do not take the different cultures into account.

Although diversion programmes are used in attempts to rehabilitate youth offenders and change their behaviour, youths still find it challenging as the environments they live in are often characterised by violence, substance abuse and crime. Through these programmes, youths are taught skills to be resilient and to cope with the circumstances in their communities. Expectations and standards measuring the success of youth offenders in diversion programmes should not be too high as their environment is one of the biggest factors that make it appealing to re-offend. Diversion programmes should be appropriate to the age and development stage of the youth offender for him to benefit. It is also important for youth offenders who are involved in therapeutic or life skills groups to be grouped according to the appropriate age. Different levels of information provided by the diversion programmes should be suitable for the varying age groups and intellectual levels of youth.

In previous years, when diversion was practised without a legal framework, the criteria was as follows (Steyn, 2005:33,57,210): The young offender had to admit to the offence and agree to participate in diversion; the offence had to be petty; offenders who committed more serious crimes and had committed previous offences were considered for more intensive diversion programmes; remorse had to be shown by the offender; and he or she had to take responsibility for their actions. These criteria differed for each diversion programme. Differing from the criteria stated in the Child Justice Act 75 of 2008, offenders had to acknowledge the crimes they committed and they had to show remorse. The criteria used before the implementation of the Act excluded many offenders as they were not motivated enough to take responsibility for the crimes they had committed. Current

diversion programmes require therapeutic techniques such as motivational interviewing, which do not require offenders to admit guilt, but rather recognise that the motivation levels of individuals fluctuate before permanent change occurs (Bundy, 2004:44).

3.7.3 Challenges of diversion programmes

Van der Merwe and Dawes (2009:572) say that after evaluating the implementation of diversion programmes, it was found that the methods used in these programmes were sometimes unacceptable. The authors claim that the way diversion programmes are presented in South Africa suggests that it is not of high enough quality to achieve the reduction in recidivism in youth. The reasons for this include that diversion programmes are implemented inappropriately; few diversion programmes are evaluated; the methods used to evaluate diversion programmes are not of an acceptable quality; and diversion programmes are not enough to reduce the re-offending of youth (Steyn, 2005:64; Van der Merwe & Dawes, 2009:572; Wood, 2003:1;). Also, community service does not have a component in which the youth is confronted and required to take responsibility for their actions (Steyn, 2005:64).

Children, who are cognitively underdeveloped, claims Steyn (2010:145), struggle with diversion programmes. A challenge in previous diversion programmes has had to deal with youths of lower intellectual abilities, which is a risk factor that contributes to the delinquent behaviour of youth as discussed in the previous chapter. It is difficult for youths to gain insight into the information shared and they struggle with reading and writing in some of the activities required. To deal with such challenges, skilled and experienced staff would be needed to facilitate diversion programmes. These challenges are some of the reasons for the implementation of the Child Justice Act 75 of 2008, which aims to ensure that all youth offenders receive service of a high standard. It could not be determined conclusively whether the desired outcomes are being achieved through diversion programmes because of a lack of appropriate measuring tools.

3.8 CONCLUSION

Child justice has been reformed in South Africa to the benefit of children and their rights. The Child Justice Act 75 of 2008 is a legal framework which guides the practice of diversion in South Africa. Various diversion options are available to meet the individual needs of youth offenders. Diversion is practised internationally, and there are similarities and differences in the way it is practised in South Africa. One similarity is that it is practised based on a restorative justice approach, resulting in an emphasis being placed on the offender taking responsibility for the crime committed and repairing the harm done. This coincides with movement from a punitive criminal justice system to one where the focus is on rehabilitation. To gain a richer understanding of how diversion programmes contribute to the rehabilitation of youth offenders, such programmes will be considered in-depth in the following chapter.

CHAPTER FOUR

THE SCOPE, NATURE AND CONTRIBUTION OF DIVERSION PROGRAMMES TO THE REHABILITATION OF DELINQUENTS

4.1 INTRODUCTION

Since the implementation of the Child Justice Act 75 of 2008 (2009:2), new demands have been placed on NGOs to render intensive therapeutic services to help juvenile offenders rehabilitate. After evaluating the different diversion programmes in the previous chapter, the focus in this chapter will shift to descriptions of these programmes, including the content, structure, objectives, target groups, theoretical approaches applied as well as monitoring and evaluation tools used. The ways in which diversion programmes achieve behaviour modification and contribute to the prevention of recidivism will also be considered. One of the minimum standards for diversion programmes as stated in the Act (2009:76,78) in Section 55(2) is to teach juvenile offenders useful skills, include a restorative justice element, ensure that offenders understand the effects of their actions, be applicable to a variety of offences, and be structured in a way that the impact of the programme can be measured. Therefore, it is imperative that diversion programmes are aligned with these standards so that youth are diverted successfully from the criminal justice system. The discussion of diversion programmes below include mention of the high standard of services that are offered to youth so that the aforementioned outcomes are achieved.

4.2 DIVERSION PROGRAMMES

This section will discuss the different youth diversion programmes as referred to in Subsection 53(3)(j), (k), (l), (m), (n) and in Subsection 53(4)(b), (c) in the Act (2009:72,74), and are described as level one and level two diversions. Level one diversion refers to less intensive short-term interventions and level two diversions refer to more intensive interventions for longer periods (Gallinetti, 2009:44; Maepa, 2005:77). Level one diversions involve offenders who have committed minor offences, and level two diversions are for

those who have committed more serious crimes (Gallinetti, 2009:44). The objectives and principles of diversion programmes should be considered to understand what it is hoped will be achieved.

4.2.1 Life skills programme

Youth at risk of developing delinquent behaviour are taught life skills to prevent them from progressing to anti-social behaviour in adulthood. This section will discuss the life skills diversion programme for youth who have committed minor offences.

4.2.1.1 Description

According to Steyn (2010:20), life skills are characteristics which are developed to improve the quality of life to avoid delinquent behaviour. These characteristics are not always taught in the home environment, which makes it difficult for the youth to choose alternative actions.

Smit (2010d:2) states that the life skills programme leads to a reduction in the risk factors that could lead to antisocial behaviour and delinquency by developing social and interpersonal skills, as well as cognitive and intrapersonal skills.

Social and interpersonal skills enable youth to recognise and communicate misconceptions about high risk behaviours (Smit, 2010d:2). If the individual is unable to distinguish between right and wrong, they could easily accept violent and criminal behaviour as the norm. Cognitive skills are mental skills which allow youth to think critically and make decisions which help them to respond appropriately to different situations (Smit, 2010d:2). Reacting on impulse is a risk factor that promotes anti-social behaviour. By developing the individual's cognitive skills, they are aware of the thought processes which precede their actions. Intra-personal skills are skills which assist individuals to gain insight into their behaviour by viewing themselves objectively (Smit, 2010d:2).

Steyn (2005:76) refers to a New Directions Diversion life skills programme which consists of different components which is more than just life skills training. The programme includes workshops, group discussions, individual and group activities. Other life skills diversion programmes are the Youth Empowerment Scheme (Rooth, 2000:5) and Noupoot Youth and

Community Development Project (Steyn, 2010:29). Methodologies which are used in the life skills programme are a combination of group work and general group facilitation (Smit, 2010d:4). There are other life skills diversion programmes which have not been mentioned here.

4.2.1.2 Content and structure

A life skills programme referred to as the Youth Empowerment Scheme previously consisted of eight sessions (Rooth, 2000:21,29,39,49,61,69,83,89), but it has been adapted and now has 12 sessions. Facilitators of the programme have found that eight sessions are not enough to reflect on experiences, the practising of new skills, and for group cohesion and trust to build within the group. The 12 sessions could be run twice a week over six weeks, or once a week for 12 weeks (Smit, 2010d:3).

A life skills diversion programme facilitated by the Noupoot Youth and Community Development Project consists of eight sessions with the themes Who am I, I am, I respect you and I can say my say, I have choices, I have rights and responsibilities, I am part of..., I respect... and I commit (Steyn, 2010:29,32). Authors such as Steyn (2010:29), Smit (2010d:4) and Rooth (2000:7) say life skills programmes are interactive and are based on real life situations that are similar to the obstacles youth face daily. Youth will be more interested in the programme if they can relate to the information shared. This will encourage them to learn and change their behaviour. Themes used in group sessions are adapted by the facilitator to suit the needs of group members, making it more therapeutic as it is based on needs (Steyn, 2010:29).

In the Youth Empowerment Scheme life skills programme topics such as group goals and expectations, self-image, self-awareness, stereotyping, rights and responsibilities, respect, laws and norms, assertiveness, decision making, choosing a different life path, setting goals and committing to the future are covered. The first and last sessions include the parents (Smit, 2010d:5-12), thus giving them a chance to participate in the programme and show their support. These elements are essential for the successful rehabilitation of the youth offender. According to Steyn (2005:76), modules such as society, community and culture; the self; interpersonal and social abilities as well as future orientation is covered in the life skills programme. These modules are similar to those mentioned by Smit (2010d:5-12),

except for rights and responsibilities, which were not included. The programme mentioned by Steyn (2005:77) includes voluntary community service, where the individual is taught to care for the environment and others.

Other themes in life skills programmes are society, community and culture; the self; the ability to interact socially; and future orientation (Steyn, 2005:76). Maepa (2005:79) mentions that over and above the themes of programmes mentioned by Steyn, other themes could include conflict resolution and effective mediation, sexuality, crime awareness and crime prevention. The author mentions that the duration and number of sessions differ from each programme as indicated by Steyn (2010:29,32), Smit (2010d:3) and Rooth (2000:21,29,39,49,61,69,83,89). The length of the various programmes will determine the depth and intensity of the intervention. Longer interventions are likely to have a stronger impact as it takes time for participants to build trust and for change to occur.

4.2.1.3 Objectives

The programme is aimed at youth who are in conflict with the law, even though youth who display patterns of criminal or antisocial behaviour such as delinquency can be included. Secondly, the programme aims to teach the youth life skills which will enable them to make the right decisions (Rooth, 2000:5). Steyn (2005:75) also states that the programme aims to protect youth from negative labelling, acquiring criminal records and imprisonment. Delinquent youth who are labelled develop a negative self-image, which influences their ability to make healthy decisions. This could contribute to more offending.

Secondary crime prevention is promoted as offenders are taught skills to sustain positive or changed behaviour. The life skills programme encourages youth to take responsibility for their behaviour and make amends (Rooth, 2000:5; Smit, 2010d:2). It links with the principle of restorative justice, where offenders are taught to be accountable for their actions. Smit (2010d:2) claims the programme provides young people with appropriate life skills which prevent risky behaviour from advancing into patterns of anti-social behaviour.

Other aims of life skills programmes include preventing young offenders from entering the formal justice system, giving them a second chance, promoting reconciliation between the

victim and the offender, and promoting the campaign of restorative justice in the community (Steyn, 2010:95).

4.2.1.4 Target group

This programme includes children between the ages of 11 and 15. However, older children with poorer social and cognitive abilities can also be accommodated in the programme. Youth offenders who have committed less serious offences, are considered to be low to moderate risks, and who have not yet developed patterns of anti-social behaviour are suitable for the programme (Smit, 2010d:1). If the pattern of offending is not broken during adolescence, a life-course persistent offender will develop, according to Moffit's Theory, as mentioned in a previous chapter. This means the offending behaviour will extend beyond adolescence and continue into adulthood if there is no intervention (Bartusch *et al.*, 1997:16).

4.2.1.5 Theoretical approaches

The life skills programme is based on the Social Learning theories of Bandura (1969:213) and Akers (1973:654), as well as Sutherland's Differential Association theory (Sutherland, 1947:6). According to these theories, behaviour is learned through the interaction with and imitation of others. Sutherland (1947:8) adds that delinquent behaviour is learned by interacting with people who live in an area where crime is high. Furthermore, individuals accept the culture which surrounds them even if it is negative (Sutherland, 1947:8). Individuals are trained through the life skills programme to develop coping skills on how to deal with negative influences such as crime, drugs, gangs, and so on, in their neighbourhoods.

These coping skills include decision-making skills, ways to deal with peer pressure, and recognising high-risk situations and behaviours. Once individuals are empowered with these skills, they will have the knowledge to make the best decisions which it is hoped will decrease their delinquent behaviour. However, it remains challenging for youth to break away from the culture and negative environment in they grew up and which continues to surround them. Furthermore, Sutherland (1947:6) states that an individual becomes deviant when he or she has values that conflict with the laws and norms of society. The way in

which individuals are socialised by their environment, will determine the way in which they behave. Life skills programmes provide participants with insights into their behaviour by exploring the different value systems which influence their actions. This helps participants evaluate the acceptability of their behaviour in terms of society's norms.

Bandura's (1969:213,214) Learning Theory states that behaviour displayed by individuals develops through observing different socialisation agents. It further states that identification is the process whereby an individual repeats the thoughts, feelings or actions of another individual. Adolescent offenders usually adopt the same norms and values of the individual they view as their role model, which in most cases is not positive. The life skills programme exposes the participants to a more positive role model, such as the facilitator. This is the reason the programme facilitator should be aware of their behaviour during group sessions as the participants learn through the behaviour displayed by the facilitator. This coincides with the Learning Theory.

Smit (2010d:2) is of the opinion that children who come from a dysfunctional environment will learn negative behaviours which are in conflict with their norms and values. By making use of social skills training methods, the life skills programme helps children to learn new and constructive behaviours and skills (Smit, 2010d:3). This links with Bandura's Learning Theory, which states that behaviour is learned through observing the behaviour of others. It is challenging to teach individuals new behaviour which is in conflict with the norms they are accustomed to, such as teaching youths that the use of violence is not appropriate to solve conflict when family members act aggressively towards one another in the household.

Akers (1990:660) refers to the concept of differential reinforcement in social learning. It means that individuals become involved in acts to avoid the negative consequence. Differential reinforcement includes positive and negative reinforcement as well as positive and negative punishment (Akers, 1990:660). This means that an individual's actions are controlled by the outcomes as well as the reactions of his or her family and peers. The negative behaviour of the individual, such as using substances, is encouraged because the reaction of the parent who also uses substances will be accepting. The life skills programme focuses on the negative consequences of crime and other delinquent behaviour to encourage participants to choose not to become involved in criminal activities.

4.2.2 Pre-trial community service

By connecting with their communities through partaking in community projects, youth are able to develop their self-worth and a caring attitude towards others. A sense of belonging is also established with the youth, thus promoting the likelihood of them avoiding becoming involved in groups that might commit negative or delinquent acts. A discussion below will illustrate the way in which pre-trial community service achieves this.

4.2.2.1 Description

The system of community service orders was started overseas before being adapted and implemented in South Africa in November 1980 (Hancock, 1987:2). Programmes developed in other countries might be successfully implemented there, but are not necessarily suited to conditions in South Africa. The consequences and effects of crime on the lives of youths do not differ much across the world, resulting in some principles of diversion programmes remaining the same.

Pre-trial community service has been used for offenders who were convicted of serious crimes such as murder, culpable homicide, assault and homicide, and assault, and only included offenders over 15 years (Hancock, 1987:4,10). However, the diversion programme has been revised to suit the changing needs of youth in the 21st Century. Also, it is now known as community service learning, with the emphasis on the learning element as researchers have found that community service orders do not bring about learning and behaviour change (Smit, 2010a:1).

Smit (2010a:5) says the community service programme uses a combination of group and individual work to meet the specific needs of the youth offender, depending on the nature of his or her case and background. Experiential learning methods are used, including exposing offenders to community service work and structured reflection on their experiences to make sense of what they have learned. These experiential methods make the experience of learning more realistic for offenders so that they gain better insight into their problem behaviours. Presentations, worksheets and other learning materials are used by the community service coordinator to provide offenders with information. The offenders reflect on their learning experiences in groups and through reflective exercises such as

writing, drawing, presentations or psycho-drama (Smit, 2010a:5). Reflection makes individuals more conscious of their thinking processes, so empowering them to control their actions.

Community service programmes encourage youth offenders to respect their environment and communities (Monyatsi, 2008:35). When youth become delinquent, they often have little or no respect for themselves and others. Steyn (2005:77) and Maepa (2005:83) advocate that pre-trial community service programmes be used with other diversion programmes, the selection of interventions being determined by the needs of offenders, thus promoting a holistic approach to address problem behaviours.

4.2.2.2 Content and Structure

The duration of the programme can range from 20 to 300 hours, depending on the behavioural outcomes to be achieved (Smit, 2010a:4). Community service programmes are also used with other programmes, depending on the needs of the offender. For example, a life skills programme might not be enough to address a youth offender's needs as the time he or she has to be idle contributes to delinquent behaviour. Being involved in a pre-trial community service programme will keep the youth occupied, so decreasing the likelihood of being involved in activities that might lead to offending. The pre-trial community service programme is characterised by four phases: preparation and contracting; service in action; reflection on service; and evaluation and celebration. Preparation and contracting commences when the community service co-ordinator receives a referral to the programme (Smit, 2010a:4). An assessment is completed and pre-trial community service is chosen as the appropriate intervention. Thereafter, the co-ordinator contracts with the offender to complete the programme. An intervention plan is drawn up which indicates where the offender will complete the required hours and which assignments or community projects will be undertaken (Smit, 2010a:4). In this way, the offender gains a clear understanding of what is required and it is determined what skills the offender has or wishes to acquire.

Four preparation sessions are held over two weeks, twice a week at 2½ hours per session, and community projects are identified in which the offender will become involved (Smit, 2010a:4). These preparation sessions are held to determine the willingness of the offender to participate in the intervention, and to explain the requirements of the programme

because he or she often does not understand what outcomes are aimed at. Examples of community projects could be picking up trash along the road or in parks, creating environmentally healthy surroundings, painting crèches, planting trees or growing small vegetable gardens (Maepa, 2005:82).

In the next phase, service in action, the offender becomes involved in their communities. This entails the completion of community service learning assignments or community service work hours at a community organisation within a period of time (Smit, 2010a:4). According to Maepa (2005:82), the youth offender is placed by staff at suitable community organisations, depending on their skills, where he or she will get the chance to apply them or learn new skills. These strengths could help reduce the offender's risk to re-offend, hence the importance of suitable placements for the youth offender to complete community service. Through partaking in such a programme, offenders are encouraged to develop a sense of belonging to their communities, so engendering respect for their environment and decreasing the likelihood of being destructive towards it. Once offenders have completed the programme, they attend a final three-hour group session to reflect on their learning experiences while completing the community service assignment or project (Smit, 2010a:4). It is important that the offender makes sense of their learning through reflection as it will help them understand the consequences of their actions.

4.2.2.3 Objectives

Pre-trial community service aims to give individuals who have committed crimes the opportunity to serve the communities they have offended, to develop insight into the impact of their actions, and to become mediators of change in their communities (Smit, 2010a:2). Secondly, the purpose of the programme is to prevent recidivism. It is crucial that offenders be taught to sustain their changed behaviour as it will prevent them from being in conflict with the law again. Family support is essential for this to occur. Thirdly, it shows the community the offender's ability to do useful work and to build new expertise (Hancock, 1987:7). It is important for society to view the offender as a productive and rehabilitated citizen as the offender would be able to contribute to the community. Also, the objective of the programme is the completion of the community service. However, the completion of a programme does not necessarily mean that the offender has been rehabilitated

successfully, hence the monitoring and evaluation of the behaviour of the offender throughout the programme. Methods of monitoring and evaluation of diversion programmes will be discussed later. Lastly, pre-trial community service influences youth offenders to contribute positively to their communities and so become responsible citizens (Monyatsi, 2008:35).

4.2.2.4 Target group

The target group is youth between 13 to 18 years, and adults. Community service for youth under 15 years does not include physical labour (Smit, 2010a:1). Pre-trial community service placements can also be undertaken with offenders released on parole (Smit, 2010a:1). The learning which occurs within this programme assists the offender with rehabilitation as they learn to modify their behaviour. Previously, community service only included individuals older than 15 because no one aged 15 years and younger was allowed to do physical labour (Hancock, 1987:10). The programme cannot accommodate individuals with psychiatric problems because this might place the youth or other people at risk of being harmed (Hancock, 1987:10; Smit, 2010a:1). Offenders with a low to medium risk offending profile are suitable (Smit, 2010a:1). This means that there are no serious patterns of offending, making secondary crime prevention possible. Hancock (1987:10) adds that offenders with addiction problems are not fit for this programme. The productivity of those who are dependent on substances will be affected by such use. It will be challenging for learning to occur as the use of substances affects the chemical processes in the brain which enables individuals to think and concentrate.

4.2.2.5 Theoretical approaches

According to Smit (2010a:2), the pre-trial community service programme is based on a combination of Bandura's (1969:213) learning and behaviour modification theories, but Kolb's (1984:23) experiential learning, is used as the primary theory. Experiential learning is a holistic integrative perspective which includes experience, perception and behaviour (Kolb, 1984:23). Through the experience of completing the pre-trial community service programme, individuals are able to gain new insight which enables them to change their behaviours and learn new skills. By observing the environment where they are placed to

complete community service hours or a community project, the individuals' perception about life is changed as they realise they can add value to the lives of others.

Kolb (1984:30) is of the opinion that learning occurs through four modes of experiential learning, namely concrete experience abilities, reflective observation abilities, abstract conceptualisation abilities, and active experimentation abilities (Kolb, 1984:30). Through group sessions and individual assignments, the pre-trial community service programme provides individuals with opportunities to reflect on their learning experiences. They view their experiences from different perspectives by interacting with other participants in the group or with the facilitator during individual feedback sessions.

Furthermore, Kolb (1984:31) suggests that experiential learning is a process of relearning. This type of learning refers to the practice in which the individual's old beliefs are explored and modified. The type of community service project which is chosen for the individual is done according to his or her needs to ensure that the beliefs which sustained the individual's problem behaviour will be addressed. For example, a social drinker who has been caught for a drunken driving offence is given an assignment to research an article about a victim of an incident where someone was driving under the influence of alcohol as part of their community service. The exercise will challenge the offender's belief that drinking and driving do not have serious consequences. If the individual is able to view his or her belief as incorrect, it could influence them to change their future behaviour.

In addition, the programme uses elements of the reinforcement theory of learning and motivation. According to Bandura (1969:233), the reactions of individuals are influenced by the reinforcement consequences of the behaviour they are imitating. Bandura, Ross and Ross (1963:527) add that behaviour is learned through punishment and reward. Behaviour which is rewarded will most likely be imitated than behaviour which is punished or discouraged. By doing community service and being able to see the value and benefit of the service, participants will have a sense of achievement which will serve as their reward. The individual would have the desire to have the same behavioural consequences in future and, therefore, they would change their behaviour to produce these effects.

4.2.3 Restorative group conferencing

Restorative justice in South Africa originates from the traditional conflict resolution techniques of the Maori in New Zealand. Some elements of restorative justice have formed part of African customs and traditions for many years to resolve domestic problems and to mediate during war (Steyn, 2010:102). Restorative justice is based on conflict resolution, accountability and the active involvement of stakeholders with regard to making decisions (Steyn, 2005:13). Offenders are held accountable for their actions through repairing the damage they have caused. This is a healing process for the offender. In some cases, the victim's involvement in the restorative group conferencing will give them closure about the crime committed against them.

Restorative group conferencing is the process of restoring and mending harm caused by the offender, shifting the focus away from punishment. Through the facilitation of restorative justice processes, the offender is made aware of the impact of his or her actions on the victim and the community (Smit, nd:5). The involvement of communities could contribute to breaking down negative stereotyping of offenders, so assisting them with their rehabilitation.

4.2.3.1 Description

Restorative justice is the personal meeting between the victim or victims, the offender, the individuals who support them, as well as others who have been affected by the crime (Smit, nd:6). This engagement with the victims and those affected makes the crime more personal for the offenders and it is part of the strategy to help them become aware of the consequences of their actions. A safe environment is provided when holding a restorative group conference with the aim to hold the offender accountable for his or her behaviour (Smit, nd:5). It is important for the victim to feel safe as this will encourage their participation. Participants are led in dialogue by the facilitator where they experience each other as human beings despite the conflict, says Smit (nd:4). When individuals are able to humanise their experience, it puts them in a better position to deal with the matter and find peace. Smit (nd:4) is of the opinion that it is necessary for the facilitator to help them clear their minds so that they can focus on the needs of the parties involved in the restorative

group conference. The facilitator has to remain neutral and objective, therefore, they have to be aware of their own prejudice and feelings about the issue.

Restorative group conferencing models refer to the different strategies which are followed to bring the victim, offender and the community together to repair the harm following the offence. There are six restorative group conferencing models, namely victim-offender mediation, community reparative panels, family group conferencing, circles of understanding (include healing circles and sentencing circles), victim impact panels and victim impact classes (Smit, nd:10). For the purpose of this study, the family group conferencing and the victim offender mediation will be discussed below.

4.2.3.2 Family group conferencing

Family group conferencing was practised informally in the 1980s by concerned specialists who mediated cases for children who committed offences in the rural Western Cape to find alternatives to corporal punishment (Steyn, 2005:27). This was at a time when there was no formal justice system for child offenders. Efforts made to advocate on behalf of the rights of youth offenders such as those mentioned previously contributed to the passing of the Child Justice Act, 75 of 2008 (2009: 2). Family group conferencing is now being practised by a range of diversion service providers such as NICRO, Khulisa and the Department of Social Development (Steyn, 2005:27). Even though different service providers facilitate the family group conference, the same principle of restorative justice is incorporated into the programme, which is to repair the harm done, taking responsibility and encouraging accountability.

Family group conferencing involves the group of people most affected by the crime, such as the victim, offender, family and friends, as well as supporters of the victim and offender. These parties are brought together by a trained facilitator to discuss how they have been harmed by the offence and how it could be repaired (Smit, nd:12; Steyn, 2005:33). Steyn (2010:102) adds that offences cause emotional, physical and/or financial harm to victims, their families and the community. For this reason, it is considered that broken relationships must be repaired for the affected parties to move forward. When all who are affected by the offence are involved in the restorative justice process, it demonstrates to the offender the extent of the impact of their actions. The offender's intention might not necessarily be

to hurt their own family or friends, but it is important for them to be made aware of this as it will discourage them from repeating their destructive behaviour.

4.2.3.2.1 Objectives

Firstly, the purpose of the programme is to give the victim the opportunity to be involved in the discussion of the offence and in decisions regarding appropriate sanctions for the offender (Smit, nd:13). The programme creates the chance for questions to be answered by the offender (Steyn, 2005:33). By becoming involved in the process, the victim gains clarity and closure about the crime committed against them. The victim's readiness to make peace with the offender will determine whether they will participate in the restorative group conference. Secondly, it increases the offender's awareness of the impact on people of his or her behaviour, and they are encouraged to take responsibility for it (Smit, nd:13). Steyn (2005:33) agrees with Smit (nd:13) that the programme aims to encourage the offender to take responsibility for his or her actions, adding that the programme gives the offender the chance to apologise. The chances of re-offending could be reduced if the offender is aware of the impact of his or her actions. Thirdly, it brings the victim and the offender in contact with community support systems (Smit, nd:13). It is hoped that extended support will sustain the restoration brought about through the restorative justice process.

4.2.3.3 Victim offender mediation

The victim and the offender come together in a safe environment where they participate in a mediated discussion of the crime (Smit, nd:10). The victim is allowed to ask questions about the crime, and he or she tells the offender of its impact. The victim is also involved in developing the restoration plan (Smit, nd:10). Unanswered questions could delay the healing process for victims. In most cases, such mediation gives them some closure about what had happened to them. It also helps the victim to understand the framework which had guided the offender's thinking when committing the crime. The mediation process is not focussed on reaching a settlement, but rather a signed restitution agreement (Smit, nd:10). There is no action that could restore the harm done, but it is the mere thought of remorse accompanied by the action performed by the offender that makes a difference.

4.2.3.3.1 Objectives

The programme aims to support the healing process of the victim and it allows offenders to become aware of the impact of their actions. It takes time for victims to heal. It encourages the offender to take responsibility for his or her actions (Smit, nd:11), so promoting accountability. Also, it tries to bring about offender behaviour change. Lastly, it humanises the criminal justice experience for the victim and the offender (Smit, 2010c:2), with the offender getting the chance to develop empathy for the victim, and the victim getting the opportunity to gain closure about the offence.

4.2.3.4 Target group

The programme includes children from 10 years up to adults, with no age limit (Smit, 2010:1). Crimes such as non-violent property crimes and minor assaults are addressed through this programme (Smit, 2010c:1). According to Steyn (2005:34), offenders of serious violent crimes (murder, rape, assault with intent to cause grievous bodily harm) and abuse are not suitable for restorative group conferencing. It will be more complicated to restore the emotional and psychological harm which has been caused through these crimes. Secondary victimisation could occur if the victim is brought into the presence of the offender, and it may put them in danger. Gxubane (2010:40) asserts that cases in which there is an identifiable victim are suitable for restorative justice. This will enable a face-to-face meeting between the victim and the offender, and it will be possible for restitution to occur.

4.2.3.5 Content and structure

The process of restorative group conferencing consists of three phases, namely preparation (40 hours), the conference (7 hours) and the post-conference follow-up (12 hours) (Smit, 2010c:4; Steyn, 2005:34,35). The preparation is the longest phase because more time is needed to prepare the parties involved. This will determine the pace of the intervention as well as serve as an indication of whether the restorative group conference will take place. The actual conference is short thanks to thorough preparation, which leads to a dialogue about the offence which is formal and not long. Aftercare takes longer than the conference as it is essential to monitor the case to sustain the change which has occurred.

During the preparation phase, referrals are received and an assessment is done to determine the appropriate intervention. Contact is made with the victim and the offender, and separate meetings are held with these parties as well as their families (Smit, 2010c:4, Smit, nd:24). These meetings will determine the level of motivation of the parties to participate. It will establish whether there are unresolved issues other than the circumstances surrounding the offence. Smit (2010c:4) adds that the frequency of preparation sessions will depend on the readiness of the victim. Logistical arrangements such as preparing the venue, setting up a seating plan and providing water or refreshments also form part of the preparation phase (Smit, nd:34, Smit, 2010c:4). By undertaking logistical arrangements to prepare the venue ensures that a structured and safe environment has been created for the restorative group conference to take place.

The following phase involves the facilitation of the restorative group conference (Smit, 2010c:4; Steyn, 2005:34). It is structured, with an agenda which is set out as follows: opening and introduction, storytelling or information sharing, deliberations or responses, reaching an agreement, the way forward, and closure. This prevents the participants from dwelling off the topic, and it encourages them to show respect towards each other as well as the facilitator. A post-conference briefing and evaluation follows after the conference (Smit, 2010c:4). This will deal with any unresolved issues about the conference or the agreement reached. Through the participants' evaluation of the process, they will be able to make valuable recommendations to the facilitator.

The post-conference phase is where follow-ups take place to monitor the agreements reached during the previous phase (Smit, nd:52; Smit, 2010c:4). It encourages sustained change, and problems or relapses are identified. Administration duties such as the writing of a formal group conferencing report, process notes of the conference, and correspondence to referral agencies will form part of the post-conference follow-up (Smit, nd:52; Smit, 2010c:4). The recording of the case is an important part of the process as it forms the evidence that intervention has occurred.

4.2.3.6 Theoretical approaches

Restorative justice processes are based on a humanistic approach (Smit, 2010c:2), which views people to be responsible for their actions and as having the resources within

themselves to adjust them (Rogers, 1979:1). In the restorative group conference programme, individuals are held accountable for their behaviour by being in the presence of the victim to listen to how their actions have caused harm. This technique has a greater effect on the development of victim empathy as the use of punishment does not necessarily trigger feelings of remorse on the part of the offender.

Client-centred therapy and psychotherapy methods (Rogers, 1979:1,2) are applied in the restorative group conferencing programme, which highlights the importance of the relationship between the facilitator and the participants, as well as a strong belief in each individual's capacity for change. In terms of the client-centred approach, a climate is created by the therapist or facilitator where the client feels comfortable to change (Rogers, 1979:2). The preparation sessions of the restorative group conferencing programme focuses on taking the time to make contact with the client to build a relationship. The strength of the relationship and acceptance the client receives from the facilitator determines the success of the restorative group conference. If the preparation sessions were done thoroughly, the offender would be ready to change his or her behaviour and would be more than willing to make amends for the damage caused.

The application of the humanistic approach humanises the criminal justice experience for the victim and the offender. Individuals are assisted through the restorative group conference programme to develop victim empathy and the victim is encouraged to gain insight into the behaviour of the offender. Both the victim and the offender develop an understanding of each other's views, which could lead to changes in attitudes and behaviour. This corresponds with the humanistic approach, which holds that people need to be understood in order to help them to improve (Maslow, 1956:11).

By taking responsibility for the crime, the offender is likely to gain the respect of the victim and to regain their dignity. This corresponds to Maslow's (1954:17,18) hierarchy of needs theory, which is rooted in the humanistic approach and states that an individual's behaviour is guided by unsatisfied needs. Individuals have esteem needs, which include gaining recognition, appreciation and respect from others (Maslow, 1954:21). The individual's esteem needs will be met through the restorative group conference programme and will result in feelings of self-confidence and worth. These feelings will allow the individual to

make better choices in future and also develop a sense of caring for others. As these needs are met, it is likely that the offender will not feel the need to engage in the same negative or delinquent behaviour he or she did before entering the programme.

4.2.4 Wilderness therapy

In modern society with its fast-developing technology, youth spend less time engaging in nature, which affects their healthy development. Influences in the community contribute to delinquent behaviour by youth. Therefore, it is essential that they be removed from their normal environment to address these problem behaviours. The therapeutic element of nature is used to help the youth deal with traumatic events which led to the delinquency. Wilderness therapy programmes are facilitated by different organisations and will be discussed below.

4.2.4.1 Description

The journey of the wilderness therapy programme uses the healing power of nature, with focussed learning and therapeutic experiences, to help youth to reconnect with themselves (Smit, 2010b:2). By becoming empowered to deal with their stumbling blocks, it helps youth rediscover their self-worth and so help them with the choices they make in life. A base-camp model is used where clients spend five days living in the wilderness and taking part in therapeutic work (Smit, 2010b:4). From the base camp, participants engage in activities and experiences that focus on action-consequence learning and skills development. Facilitators use therapeutic skills, experiential learning techniques and skills to achieve the planned outcomes of the programme. Experienced facilitators are needed to create such a therapeutic environment where youth offenders can explore and overcome their challenges.

According to Smit (2010b:4), facilitators make use of obstacle courses, extreme activities and solitary experiences to create isomorphic connections to address aspects of the individual's behaviour. An isomorphic connection concerns the transfer of learning from a specific experience to other life experiences. Individuals find it difficult to achieve this as factors such as low intellect and perceptions of prejudice due to the way they have been socialised can interfere with them finding such a connection. Debriefing sessions are held

after the activity to help the individual link the learning experience to his or her own situation (Smit, 2010b:4). It is essential that these sessions take place immediately after the activities as the information regarding the experience and thoughts about it are still fresh. Other techniques used include cooperative games, problem solving, trust-building activities and keeping a journal.

The ecotherapy programme is a 14-day trail for youth in conflict with the law, says Steyn (2005:160). The approach is based on an outdoor experience which intensifies psychological awareness and results in emotional healing (Steyn, 2005:169). The healing power of nature contributes to the young offender's restoration process. Methodologies used in the programme are group processes, individual reflection as well as symbols and rituals (Steyn, 2005:169,170). This combination creates a therapeutic environment which has a greater impact to bring about behaviour change. Individuals are able to reconnect with themselves through experiencing the ecotherapy activities and thinking processes which are linked to these experiences (Steyn, 2005:170). Little thought is given to actions which enables the individual to repeat the same negative behaviour. The programme helps the young offender be aware of his or her perceptions about issues such as drugs, violence, crime, and so on, in order to make more informed decisions and prevent a relapse.

The Siyavuka programme is an adventure-based programme which is designed for youth at risk, as well as disadvantaged and traumatised youth (Steyn, 2005:183). The programme consists of adventure-based activities, group discussions and personal reflection (Steyn, 2005:187). Outdoor activities are of interest to the youth offenders and they are usually willing to participate as it involves little emotional energy. Group discussions and personal reflections are more challenging for the individuals because they find it uncomfortable to revisit traumas or emotional situations. However, it is important for the participants to have a balance of both of these types of activities as it will help them to better understand themselves. This corresponds to the humanistic approach, which states that people need to be understood in order to help improve them (Maslow, 1956:11). Youth offenders will be able to change their behaviour if they recognise the reasons for their actions.

4.2.4.2 Content and structure

The journey programme consists of three phases, namely the preparation phase, adventure therapy phase, and a reintegration phase. In the preparation phase, a referral is received and an assessment is completed. It also includes 20 hours of life skills and four pre-adventure orientation and preparation sessions (Smit, 2010b:3). Thorough preparation with the youth and their parents will motivate high involvement of the participants in the programme, so promoting a willingness on the part of offending youth to change their behaviour. The nature of the preparation will determine the success of the program. After preparation, the youth progresses to the adventure therapy phase, which involves a five-day wilderness experience. Each of the five days has a specific theme that is appropriate to addressing the problem behaviour. Many issues usually arise in the wilderness among participants which did not occur in the previous phase because the youth are removed from their normal environment and they have to learn new coping mechanisms. Therapy is needs-based, therefore the themes chosen should be flexible to suit the continuously changing needs of the specific group.

Smit (2010b:3) states that the adventure therapy phase is led by three phases, namely the cleansing phase, the personal and social responsibility phase, and the transition phase. The cleansing phase starts in the last session of the preparation phase, and continues into the first day in the wilderness. The personal and social responsibility phase develops over days two, three and four. From the evening of the fourth day, the transition phase commences and it lasts until day five. The reintegration phase of the programme follows after the participants return from the wilderness. It consists of an individual family meeting with each child's family, six follow-up sessions, a community service learning project, and a celebration session once the children have completed the programme. Although the fact that the adventure therapy phase is an intense phase of the journey, the huge challenge is when the youths return to their communities. Negative stereotyping and failure to understand the changed behaviour, as well as lack of support, could be obstacles that the youths have to deal with. Family involvement is needed for the youths to overcome these problems.

The Siyavuka programme is flexible and each intervention is planned in conjunction with the referral agency (Steyn, 2005:187). This will ensure that specific outcomes and individual

needs of the youth offenders are met. According to Steyn (2005:187), the programme consists of an entry-level course which is between seven and nine days, as well as a second level course which is seven to twelve days. The entry-level course consists of adventure-based activities such as backpacking, rock climbing and abseiling, canoeing, trust and teambuilding exercises, group discussions and personal reflection (Steyn, 2005:187). Important life and survival skills are taught through these activities which the youth offender needs to apply in their daily lives. With the necessary support from family and positive peers, the youth offender is most likely to accomplish these changes.

In the second level course, there are more challenging activities that require commitment. This course is characterised by expeditions which involve traversing rugged terrains and ecology courses that focus on relationships and the community. Lastly, the course also requires a rites of passage phase to clarify long-term objectives and to guide the young person into adulthood (Steyn, 2005:187). Challenges and obstacles such as those youth offenders overcome during the programme, gives them a sense of achievement. It builds their self-esteem and confidence, which decreases incidences of intimidation among their peers. Other methods which are also used in the programme include vision quest or solo experience, mirroring, rituals, games and activities, adventure activities as mentioned previously, community service projects, journal writing, daily chores, a talking stick, craft activities, a letter written to themselves as well as candle ceremonies. The solo experience also involves individuals spending time alone in the wilderness (Steyn, 2005:187), giving them time to think and reconnect with himself. By being in a natural environment helps the individual to restore.

Rituals from different cultures are used to mark meaningful accomplishments of change (Steyn, 2005:187). By celebrating these achievements through rituals, serves as an encouragement for the youth to sustain their changed behaviour. Community service projects allow the youth offender to give back to their community (Steyn, 2005:188). This will develop a sense of belonging with the youth offender and he or she will hopefully take more responsibility with regard to taking care of their environment. The journal writing, says Steyn (2005:188), provides the individual with the opportunity to discover his or her feelings, thoughts and experiences. It will help the individual to understand themselves and enable them to express their feelings in a more positive way.

The ecotherapy program has three phases: pre-trail preparation, the outdoor experience and intervention, as well as the returning, debriefing and post-trail support (Steyn, 2005:172,173,175). The pre-trail preparation phase has two purposes, namely to make arrangements for the outdoor experience, and to prepare participants for the journey (Steyn (2005:172). During the preparation phase, participants are psychologically prepared, expectations are clarified, and voluntary participation is emphasised (Steyn, 2005:172). Individuals are encouraged to set personal goals through exploring their expectations, and this will hopefully motivate them to work towards changing their behaviour. The youth offenders are informed about the physical risks, the need for follow-up activities, and clothing requirements. Rules and boundaries are also established (Steyn, 2005:172). The thorough preparation of participants will set a good foundation for effective wilderness therapy, and in this way will hopefully decrease and eliminate obstacles such as low motivation and poor participation.

The following phase, the outdoor experience and intervention, requires a trail which uses methods such as symbolism, rituals, narration and solitude to encourage psychological growth (Steyn, 2005:173,174,175). Symbolism is used as a metaphor during the trail for real-life situations. For example: An analogy is drawn between the name of the mountain and facing internal and external fears (Steyn, 2005:173). Youths are usually keen to use metaphors to express themselves as it doesn't make them feel exposed. Other forms of metaphors which are used in songs and poems are symbols that the youth easily relate to. However, these are not always positive symbols and usually influence the young person's behaviour negatively. Similar to the Siyavuka programme, the ecotherapy programme is based on a rites-of-passage journey which guides the young individual into adulthood (Steyn, 2005:187). Problems which occur during a child's development stages contribute to problems which arise during adolescence such as delinquency. Therefore, it is essential that the youth offender is assisted through this challenging life stage with, for example, rites-of-passage courses. Solitude is similar to the solo experience of the ecotherapy programme (Steyn, 2005:187) mentioned previously. This is a challenging but therapeutic experience for the participant. Being isolated in the wilderness forces the individual to face his or her anxieties and fears which contributed to their current situations.

The third phase – returning, debriefing and post-trail support – is the process whereby the participant returns home from the ecotherapy adventure, and is an important part of the programme. Steyn (2005:175) says the return is celebrated at the base camp of the trail site or in the community. It is essential that the participant is received by supportive and significant people in their lives such as their family. Participants will need the support of their families as their real challenge starts when they return from the camp to the community. Post-trail debriefing sessions are held which could be up to five meetings (Steyn, 2005:175). These sessions will extend the support which is available to the participants and it could prevent them from relapsing.

4.2.4.3 Objectives

Apart from encouraging the youth to acquire a greater sense of self-understanding and to improve their self-image, the programme aims to empower youth to understand others, and to develop habits and attitudes associated with responsible citizenship. It also supports youth to acquire adequate self-help skills, develop insight into the importance of relationships, and to strengthen their basic cognitive and general living skills (Smit, 2010b:2). If youth are taught to understand themselves, they will be able to communicate their needs and feelings and in this way help to reduce some of the emotional and behavioural problems they experience. The norms with which youth are brought up might not always be positive, resulting in them ending up in trouble. Diversion schemes such as the wilderness therapy programme are important in breaking down these negative norms and replacing them with more acceptable ones. However, this is challenging and the support of the offender's family will be needed. Through problem behaviours, relationships and trust are broken. It is important to assist the youth to rebuild their relationships as it will give them access to more support which they will need to sustain their changed behaviour. Other objectives of the wilderness programme include helping young people to understand the value of the environment as well as helping the young individual to recognise his or her value and that of others (Steyn, 2005:184). Youth offenders who learn to respect and take care of their environment will learn to respect themselves and others. They are unable to learn the significance of respecting themselves and others because of the surroundings in which they live, which is often marked by violence and crime.

4.2.4.4 Target group

High-risk male and female youth between 14 to 21 years are suitable for the programme. Wilderness therapy is a programme for youth who need to follow a more intensive therapeutic plan than just a diversion programme. Damaging emotional and behavioural problems are addressed (Smit, 2010b:1). The wilderness therapy programme is physically and emotionally challenging, and the programme is able to help youth deal with their issues. Combining different age groups such as younger and older youth in a group enables them to learn from each other. Older youth usually take the lead during activities and the younger ones follow their example. This could be positive peer pressure, but should be monitored carefully to eliminate potential negative influences.

4.2.4.5 Theoretical approaches

The wilderness therapy programme is an eclectic therapeutic model and is guided by a blend of learning and psychological theories, including the systems theory, rites of passage, cognitive behavioural treatment and experiential learning (Smit, 2010b:3). The Cognitive Behavioural Theory (Beck, 2005:953) states that the way in which an individual interprets external events or internal stimuli is influenced by his or her immediate or external environment such as family, friends, the neighbourhood as well as past experiences. The individual's interpretation of external events or internal stimuli misleads his or her processing of the experiences, which leads to a variety of cognitive errors (Beck, 2005:953). These distorted thoughts influence the individuals' actions negatively. The wilderness therapy programme helps individuals to find appropriate ways to deal effectively with challenging or stressful events rather than avoiding them. In doing so, cognitive errors are eliminated and positive habits are learned.

Through the wilderness therapy programme, offenders are made aware of their rigid thinking patterns, so helping them to change their behaviour. During cognitive therapy, the facilitator helps the participant to identify high-risk situations that lead to distorted thinking (Beck, Liese & Najavits, 2005:493). The participant's critical thinking and problem-solving skills are developed to help him overcome challenging events. This is done through the outdoor activities and reflective group sessions in the wilderness therapy programme. Smit (2010b:3) says the therapeutic element of nature is integrated into the programme as part

of an intensive intervention. It helps participants to deal with emotions which have been suppressed by fear, anger, depression and drugs (Smit, 2010b:3). This is a confusing and challenging time for the participants as they are confronted by the problems which caused their delinquent behaviour. Time for reflection is provided to make sense of what they are experiencing. Time to be alone is allocated to the participant during the outdoor adventure sessions of the wilderness therapy programme, allowing the participant the time for reflection without interruptions and influences from his or her normal environment.

In terms of the Systems Theory (Bronfenbrenner, 1977:514), the natural balance of human development is the scientific study of the tolerant shared place between a human being and his or her environment. There are interrelationships and influences in these different settings. This means that an individual is affected by his or her environment as they influence each other. Bronfenbrenner (1977:514) distinguishes between different systems or environments, such as the microsystem, mesosystem and macrosystem. The wilderness therapy programme applies this theory by including all the systems that are affected by the individual attending the programme. By means of a psychosocial assessment, all systems involving the individual are assessed and information is gathered to complete a thorough intervention plan. These systems consist of the family, school and other support structures such as the church.

The community as a system is included when the individual is assigned to community projects. The negative perceptions of community members about offenders are challenged and they are encouraged to serve as a protective structure. This is accomplished by organising recreational activities for youth to reduce idleness, which has been mentioned in previous chapters as one of the biggest risk factors for adolescents to become involved in crime. The family is continuously involved in the intervention by attending counselling sessions with the delinquent and parent support groups in a bid to expand the individual's support system to sustain his or her positive behavioural change.

Kolb (1984:23) states in his Experiential Learning Theory that learning occurs through emotions, touching and handling. This means that people learn through their experience. During the adventure phase or outdoor experience of the wilderness programme, participants engage in outdoor activities and obstacle courses which provide them with a

learning experience. After these activities, debriefing sessions are held where the participants are guided to make sense of their experiences. They are made aware of how they could apply their newly learnt skills to real-life situations. Furthermore, learning is a process of human adaptation, in terms of the theory (Kolb, 1984:32). Participants in the wilderness therapy programme have to adapt their thoughts, views and habits to be able to overcome the challenges in the outdoors as well as those they face in their lives.

4.3 MONITORING AND EVALUATION OF DIVERSION PROGRAMMES

After examining the diversion programmes which are offered to youth offenders, the techniques used to measure the impact of these interventions should be explored. The same methods are used to monitor and evaluate the different diversion programmes which were discussed previously, but with some programmes such as restorative group conferences and life skills programmes, extra approaches are used and will be described below. A combination of quantitative and qualitative measurement scales are used to monitor the progress made and to evaluate the impact of the programme on the offender's behaviour.

Questionnaires are completed by the offender before and after completion of the programme to measure behavioural change and shifts in the offender's attitudes or thinking. Evaluation forms are completed after the last session of the specific diversion programme to evaluate the facilitator's effectiveness and the impact of the programme (Smit, 2010a:3; Smit, 2010b:3, Smit, 2010d:3). Behaviour changes are determined by the adjustment in people's thinking. It corresponds to the Cognitive Behavioural Theory (Beck, 2005:953), which states that distorted thoughts are influenced by how an individual processes external events. These inaccurate views interfere with how individuals act and make sense of their experiences. This is the reason measurement scales evaluates people's perceptions and attitudes.

Aspects such as the victim's attitude concerning the criminal justice experience, the meeting between the offender and victim, as well as aspects of trauma and grief are measured in cases of restorative group conferences. For offenders, victim empathy and responsibility are measured. The level of compliance is also measured when a restitution plan has been drawn up which indicates the impact made through the programme (Smit, 2010c:3). The successful

completion of a programme does not necessarily mean that an impact has been made as it may take some time for the offender to be ready and willing to change their behaviour. Offenders might be cooperative during the programme as they are eager to complete the diversion, but the challenge for the individual will be to sustain the change after intervention has been terminated. Facilitators should reflect on the use of their skills and expertise as it will help them to improve the quality of the intervention provided.

Other forms of evaluation include participant observation, process notes, school and parent reports, as well as homework activities (Smit, 2010d:3). A holistic approach is used to evaluate the progress of the individual as all the systems involved influence the behaviour. This coincides with Systems Theory (Bronfenbrenner, 1977:513), which states that change in an individual is affected by different systems. The minimum standards for diversion as set out in Section 55 of the Child Justice Act (2009: 76,78) are high. Therefore, it is essential that providers of diversion services ensure that their programmes comply with these standards to make the required impact.

4.4 CONCLUSION

This chapter has covered the different diversion programmes presented by various organisations. There are some differences in the content and structure of these programmes, but there are similarities regarding the theoretical approaches used as well as the objectives. These interventions are designed to suit the different needs of youth, highlighting the complexity of the problems they experience. The minimum standards as stated in Section 2(c) of the Child Justice Act 75 of 2008 (2009:78) requires youth diversion programmes to ensure the rehabilitation of juvenile delinquents. Diversion programmes are based on theoretical approaches and principles to be therapeutic. By applying therapeutic techniques which result in behaviour modification, re-offending could be reduced as it is one of the objectives of diversion as stated in the Act (2009:70). However, the quality of diversion programmes as described in this chapter will need skilled and experienced facilitators to contribute to its success. The monitoring and evaluation of the progress by the youth offender is a continuous process which occurs throughout the diversion intervention. Motivation levels of youths fluctuate, influencing their willingness to change their

behaviour. Therefore, monitoring and evaluation are essential in identifying obstacles as these could interfere with the intervention.

CHAPTER FIVE

EMPIRICAL INVESTIGATION OF THE VIEWS OF THE FACILITATORS OF DIVERSION PROGRAMMES WITH MALE JUVENILE DELINQUENTS

5.1 INTRODUCTION

In chapters 2, 3 and 4, a literature review was undertaken which provides the basis for the empirical study as documented in chapter 5. The purpose of this chapter is to explore the views of facilitators of diversion programmes with male adolescent juvenile delinquents. Therefore, a combined exploratory and descriptive study was conducted to gain an understanding of juvenile delinquency as well as the opinion of the respondents on the facilitation of diversion programmes.

The empirical findings of this study will be presented with the aid of tables, graphs and direct quotes. Research findings will be integrated with the literature review. The empirical investigation will be clustered in five sections. Section A will focus on the research method and provides a summary of the research methodology used in the study to ensure that the context of the study is interpreted correctly. Section B consists of the biographical information of the respondents, such as years of experience as a registered social worker and years of experience in facilitating diversion programmes. Section C demonstrates and interprets the description of the empirical findings. Section D includes the empirical findings in relation to juvenile delinquency, while in Section E, the empirical findings of diversion programmes are illustrated and interpreted. Section F demonstrates the empirical findings concerning legislation with regard to diversion.

SECTION A: RESEARCH METHOD

The research method used to gather data for the analysis and interpretation of the empirical study will be presented in the section below.

5.2 PREPARATION FOR THE INVESTIGATION

5.2.1 Pilot study

A pilot study was conducted with three social workers who facilitated diversion programmes with male juvenile delinquents. The purpose of this exercise was to ascertain whether the questions were clear and easily understood. By conducting a pilot study, the researcher is made aware of shortcomings so that amendments could be made to the research instrument (Bless, Higson-Smith & Kagee, 2006:184). Two of the social workers who were interviewed were not employed at an organisation offering diversion services and question 4.1 did not provide a suitable option. Therefore, the wording of the question was adapted to provide more options, that is, currently or previously employed at. The rest of the questions were easily understood and no changes were necessary.

5.2.2 Research sample

The twenty social workers were selected because of their experience and knowledge of facilitating diversion programmes with youth offenders. This coincides with the views of De Vos *et al.* (2005:201), who state that a purposive sample is composed of elements that contain the most characteristic and representative attributes of the population. All 20 social workers were able to reflect on their experiences in their own words and from their own perspectives.

5.2.3 Research approach, design and instrument

Data was collected by means of structured interviews which consisted of open- and closed-ended questions. The open-ended questions allowed interviewees to express themselves freely (De Vos *et al.*, 2005:297). Interviews were conducted with the aid of an interview schedule in English. The interview schedule was based on the information gathered from the literature review in chapters 2, 3 and 4. The responses of participants were recorded in writing by the researcher. A combination of qualitative and quantitative research was used because it allowed the researcher to be more confident about the results obtained. The descriptive design was applied to provide an in-depth description of the nature of juvenile delinquency (Mouton & Marais, 1988:43-44). The study explored the views of facilitators of diversion programmes in South Africa as little literature relating directly to the topic

could be found. This coincides with the views of De Vos *et al.* (2005:106), which points out the necessity of exploratory research which arises from a lack of basic information on a new area of interest.

5.2.4 Data gathering and analysis

After the interviews, which were conducted from May 31, 2012, to June 25, 2012, the researcher collated the data for analysis. The responses on the interview schedules of all twenty social workers were reviewed and evaluated individually. Data was then interpreted and examined. Graphs, tables and quotes were used in support of the discussions regarding the findings of the study. First, the profile of the respondents will be presented and analysed. Next, there will be an outline of the rest of the research results according to three themes, followed by a detailed discussion. Narratives of the participants will be used in the exploration of the different themes, which will be divided further into subthemes and categories.

SECTION B: BIOGRAPHICAL INFORMATION OF RESPONDENTS

The profile of the respondents will be presented in Table 5.1 of Section B.

5.3 Profile of the social workers

In Table 5.1 below, the profiles of the respondents are illustrated, which is followed by an analysis and interpretation of data. A set of questions were asked of each respondent during the interviews to build their profiles. The biographical profile of the social workers include the years of experience being a registered social worker and years of experience facilitating diversion programmes.

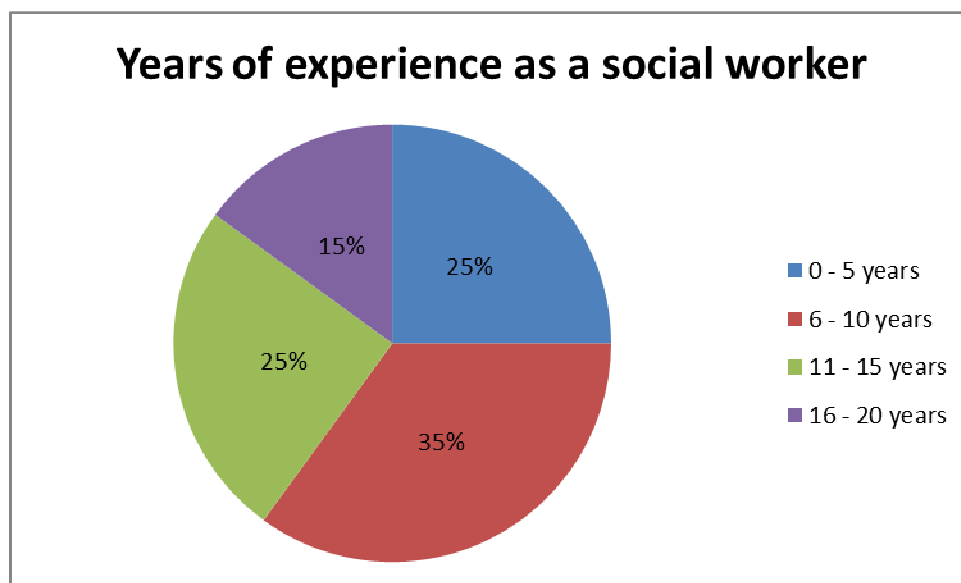
Table 5.1: Profile of the respondents

Respondents	Years of experience as a registered social worker	Years of experience as a facilitator of diversion programmes
1	16-20 years	6-10 years
2	11-15 years	0-5 years
3	6-10 years	0-5 years
4	6-10 years	0-5 years
5	6-10 years	0-5 years
6	0-5 years	0-5 years
7	6-10 years	0-5 years
8	0-5 years	0-5 years
9	6-10 years	0-5 years
10	0-5 years	0-5 years
11	16-20 years	6-10 years
12	6-10 years	0-5 years
13	0-5 years	0-5 years
14	11-15 years	6-10 years
15	16-20 years	0-5 years
16	11-15 years	0-5 years
17	6-10 years	0-5 years
18	0-5 years	0-5 years
19	11-15 years	6-10 years
20	11-15 years	0-5 years

N=20

5.3.1 Years of experience as a registered social worker

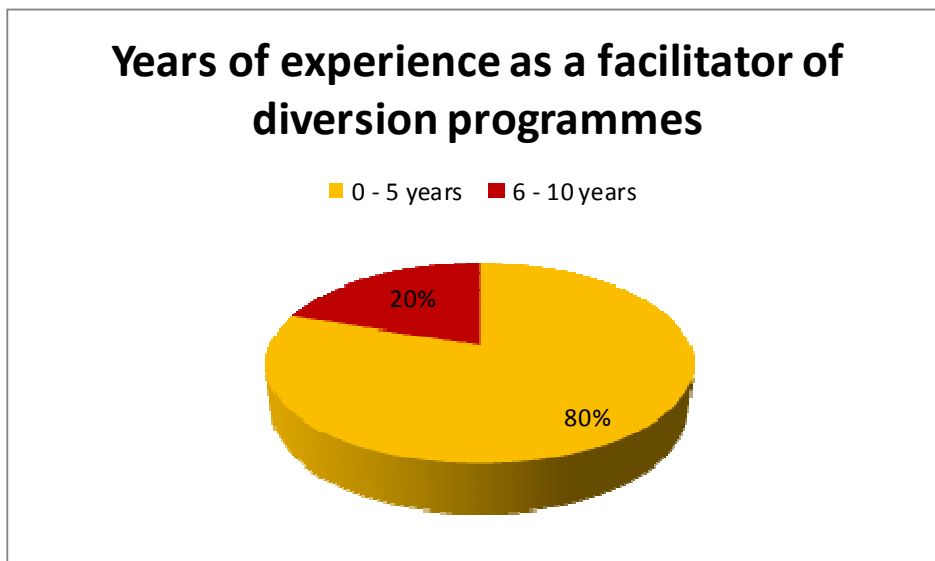
The researcher questioned the respondents to determine their years of experience as social workers. Research findings are illustrated in Figure 5.1 below:

**N=20****Figure 5.1: Years of experience as a social worker**

Five (25%) of the respondents have between 0-5 years' work experience as registered social workers. Seven (35%) respondents have between 6-10 years' work experience; five (25%) respondents have between 11-15 years' experience and three (15%) have 16-20 years' experience. In the UK, studies (Chitsabesan *et al.*, 2006:534) have shown that young offenders have many prominent needs, including mental health, education/work and social relationships. It is a demanding job to work with youth offenders, not just in countries overseas. Therefore, social workers dealing with juvenile delinquents must be experienced to be able to address their substantial needs. It can be concluded that the social workers who were interviewed have sufficient experience of working with youth offenders.

5.3.2 Years of experience as a facilitator of diversion programmes

In the section below, the number of years each respondent had facilitating diversion programmes was investigated. The results are presented in Figure 5.2, which will be followed by a discussion.



N=20

Figure 5.2: Years of experience as a facilitator of diversion programmes

The results from the research show that 16 respondents (80%), which is more than half, have 0-5 years experience in facilitating diversion programmes, and four respondents (20%), which is a much smaller percentage, have 6-10 years experience. It shows that only a few social workers have more than five years experience in facilitating diversion programmes.

However, this does not limit the reflections on their experiences. Clough *et al.* (2008:437) argue that there are certain obstacles, such as scarce expertise, which impact on the implementation of diversion programmes. Furthermore, the minimum standards in Section 55 of the Child Justice Act no 75 of 2008 (2009:76,78) requires a high standard of service delivery and more intensive interventions. It is, therefore, essential that experienced professionals be available to deliver a successful and high standard of diversion.

SECTION C: EXPOSITION OF EMPIRICAL FINDINGS

This section will concentrate on an explanation of the different themes, subthemes and categories by means of a table, which developed from the research findings. De Vos *et al.* (2005:338) supports this process by stating that classification means taking the text or qualitative information apart and looking for categories, themes or dimensions of information.

5.4 THEMES, SUBTHEMES AND CATEGORIES

Three themes emerged from the interviews. The themes were divided into subthemes which then were divided into categories and subcategories. This is presented in Table 5.2 below.

Table 5.2: Themes, subthemes and categories

Themes	Subthemes	Categories	Subcategories
1. Juvenile Delinquency	1.1. The nature of juvenile delinquency	• Definition of juvenile delinquency	<ul style="list-style-type: none"> • Substance use • Physical appearance • Attributes • Family structure • Father figures • Traumatic circumstances • Involvement in gangs • Role models • Age group • Self-esteem • Family functioning • Behaviour of parents • Educational features • Socio-economic status
		• Causes of juvenile delinquency	
		• Those responsible for juvenile delinquency	
		• Factors causing male adolescents to be vulnerable to become delinquent	
		• Profile of male juvenile delinquent	
2. Legislation	2.1. Child Justice Act no 75 of 2008	• Effect of the Act on diversion practices	<ul style="list-style-type: none"> • Positive effects versus the negative effects of the Act
		• The usefulness of the Child Justice Act as a guide	
		• Level one and level two diversion options	
		• The minimum standards ensuring that youth offenders benefit equally from diversion	
3. Diversion programmes with male juvenile delinquents	3.1. Diversion programmes	• Types of diversion programmes offered to youth in conflict with the law	<ul style="list-style-type: none"> • Programmes for special groups • Programmes for the family • Individual counselling • Cognitive therapy programmes
	3.2. Strengths and challenges of diversion programmes	• Life skills	
		• Pre-trial community service	
		• Family group conferencing	
		• Victim offender mediation	
		• Wilderness therapy	
	3.3. Other diversion programmes	• The need for other diversion programmes	
		• Additional diversion programmes	
	3.4. Selection criteria for diversion programmes	• Criteria considered when selecting male juvenile delinquents for diversion programmes	
		• The relevancy of the selection criteria	
	3.5. The application of theory in diversion programmes	• The necessity of the application of theory in diversion programmes	
		• Theories applicable for diversion programmes	
	3.6. The positive results	• The positive results of diversion programmes	
3.7. Suggestions		• Suggestions for the facilitation of diversion programmes	• Skilled professionals
			• Monitoring and evaluation
			• Adequately resourced diversion programmes
			• Diversion programmes accommodating literacy levels and special needs
			• Parental involvement in diversion programmes
			• Aftercare and follow-up
			• Accessibility of the diversion programme

SECTION D: JUVENILE DELINQUENCY

The research findings in terms of the nature of juvenile delinquency will be interpreted in this section. These will be outlined according to different themes, subthemes and categories as shown in Table 5.2.

5.5 THEME 1: JUVENILE DELINQUENCY

The first theme in this study addresses juvenile delinquency. An assessment of the respondents' understanding of the nature of juvenile delinquency is the focus of the subtheme. Findings regarding this theme will be presented according to the subthemes and categories identified during the interviews with the respondents.

5.5.1 Subtheme 1.1: The nature of juvenile delinquency

5.5.1.1 Category: Definition of juvenile delinquency

A question posed to respondents was to define juvenile delinquency. The responses of the interviewees are categorised and analysed below:

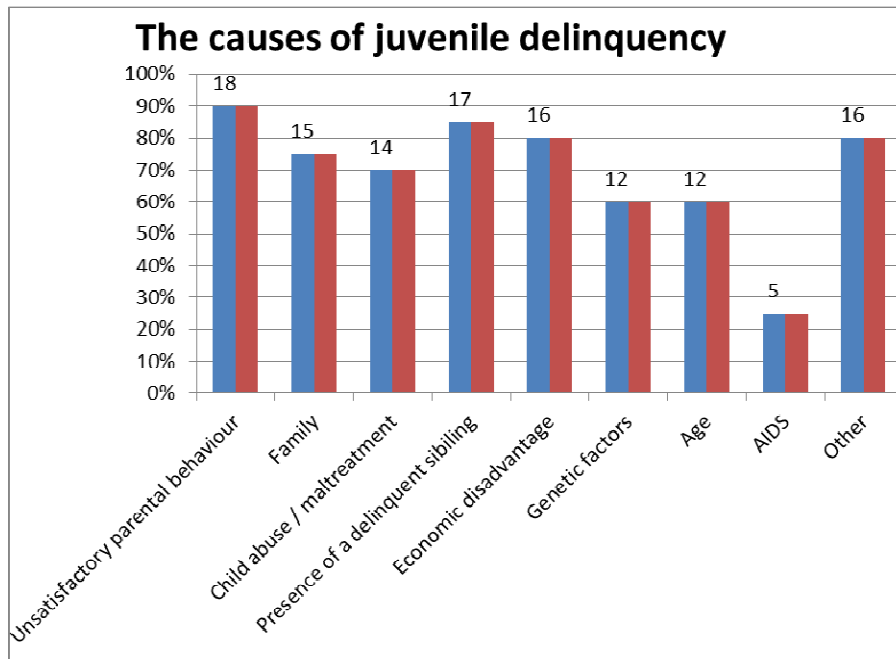
- Seven respondents (35%) said juvenile delinquency meant acts **by youth that are unlawful, youth in conflict with the law** which is a result of **peer pressure**, it reflects **poor decision making** and, lastly, (it) refers to children being **rebellious**. Authors (Barker, 2003:112; Fuller, 2009:4; Kim & Kim, 2008:446) have similar views. Interviewees' perception of juvenile delinquency confirms that it is behaviour which is criminal, but it is also typical behaviour displayed during the adolescent development stage. Thus, if youth are not properly guided and supported through this stage, they may be at risk of developing anti-social or criminal behaviour.
- Other comments made by eight respondents (40%) indicate that juvenile delinquency can be defined as youth displaying **problem behaviour**. Labelling Theory (Tannenbaum, 1938:19,20) states that the community has adverse views regarding the young individual who has been involved in negative activities, and because of this view, the youth becomes bad. Consequently, youth will display problem behaviours because of the labels given to them by the community and family members, and this interferes with their rehabilitation process.

- Views expressed by five respondents (25%) included that juvenile delinquency referred to children who were at ***constant risk of becoming involved with crime due to factors such as growing up in a culture where crime is more acceptable, lack of personal resilience, unhealthy home environment and influences of the community.*** This indicates that there are many risk factors that make youth vulnerable to become involved in crime. According to Strain Theory, strain or stressors increase the prevalence of negative emotions such as anger and frustration (Agnew, 2001:319). Furthermore, Strain Theory states that crime might be used to reduce the strain or to alleviate negative emotions. Children deal with negative emotions through displaying problem behaviours. Therefore, the interventions done with youth have to focus on teaching them how to communicate and deal with their negative feelings.

Thus, the responses by the respondents regarding the definition of juvenile delinquency indicate that it is an action which is unlawful and problematic. It recognises characteristics of the youth offender's development stage, such as rebellious behaviour and strong association with peers or vulnerability to peer pressure. The definition provided by the respondents also identifies risk factors which contribute to delinquent behaviour. Delinquent behaviour is a healthy part of the adolescent's development. However, if it continues for a substantial period, it may become a problem which will carry over into adulthood.

5.5.1.2 Category: The causes of juvenile delinquency

Interviewees were asked to provide information regarding the causes of juvenile delinquency.



N=20

Figure 5.3: Causes of juvenile delinquency

Of the 20 respondents, 18 (90%) were of the opinion that **unsatisfactory parental behaviour** was the cause of juvenile delinquency. These findings concur with the view of Arthur (2007:8), who argues that parents who have performed their parental duties unsatisfactorily contribute to youth becoming juvenile offenders. Fifteen respondents (75%) regarded the **family** as a cause. This does not correlate with the literature (Kim and Kim, 2008:448; Bourassa, 2007:698) as certain family factors such as family violence, family functioning and parental partner dynamics are only more prevalent in the families of adolescents who display delinquent behaviour, but are not viewed as the actual cause of juvenile delinquency.

Fourteen respondents (70%) consider **child abuse** and **maltreatment** to be the cause of juvenile delinquency. These findings concur with Herrenkohl and Herrenkohl (2007:553), who state that child abuse and neglect are risk factors for delinquent behaviour. Seventeen respondents (85%) viewed the **presence of a delinquent sibling** as a cause. This finding is supported in the literature (Alltucker *et al.*, 2006:481; Hollin *et al.*, 2002:10), namely that the presence of a delinquent sibling increases the risk of juvenile offending. Sixteen respondents (80%) chose **economic disadvantage** to be the cause of juvenile delinquency.

This corresponds with the views of Alltucker *et al.* (2006:481), who state that **low socio economic status** has a negative influence on family functioning and child development and contributes to juvenile offending.

Genetic factors were perceived by 12 respondents (60%) as a cause, and the same number of respondents was of the opinion that **age** contributed to juvenile delinquency. These findings concur with the literature (Guo *et al.*, 2008:543; Hollin *et al.*, 2002:9) that genetic factors play a role in the development of an antisocial personality. Respondents' opinions about **age** correlates with Alltucker *et al.* (2006:480), who argue that the younger an individual is when arrested, the greater the likelihood he will develop a pattern of criminal behaviour. Five respondents (25%) viewed **HIV/Aids** as a cause of juvenile delinquency. This does, however, not concur with the views of Murphy *et al.* (2006:37), who contend that the stigma related to the HIV/Aids status of parents causes adolescents to display externalising behaviour such as bullying and physical violence. Furthermore, Murphy *et al.* (2006:38) state that in cases where parents did not disclose their status, adolescents were more likely to display delinquent behaviour.

Consequently, a holistic approach is needed when dealing with youth offenders. This will include parents and families in interventions to remind them of their parental duties, children's rights, as well as addressing negative behaviours of other family members. The cycle of economic disadvantage is kept alive by a culture of not being ambitious, which is usually found in those communities where juvenile delinquents live. In some cases, individuals commit crime to fulfil unmet material needs. Little can be done to control the genetic factors which contribute to juvenile delinquency; however, it would be essential for professionals working with youth offenders to have knowledge about this aspect to understand their client better. Delinquent youth start to display problem behaviours at younger ages, which are not regarded as a risk for criminal behaviour. If such behaviours are not recognised and if no intervention occurs, the problem could become worse when the youth reaches adulthood. The way in which society views HIV/Aids and treats those who are infected or affected will determine how well the families of these individuals cope with the circumstances resulting from the disease.

Other causes of juvenile delinquency were given by 16 respondents (80%) and these were their comments:

- *“Peer pressure; absent parent; no supervision; child having no discipline”*
- *“Development stage; influence from environment and family (gangs, substance abuse, school drop-outs)”*
- *“Lack of support system and type of coping mechanisms available; adolescent depression; ADHD, Bad choices, Poor educational levels, personal resilience”*

Respondents indicated **peer pressure, absent parent, influences from the environment and family, ADHD** as well as **lack of support system** as reasons for juvenile delinquency. The interviewees' views regarding peer pressure correspond to those of Moffitt's Developmental Taxonomy theory (Bartusch *et al.*, 1997:40), which states that delinquent youth are more likely to associate with delinquent peers, and they are easily influenced by these peers to commit crime. The responses of participants concerning **absent parents** as a contributing factor to juvenile delinquency do not concur with the views of Maniadaki and Kakouros (2008:208), who state that low parental educational levels and the criminal behaviour of parents are strong reasons for delinquency among juvenile offenders in Greece.

According to Bandura's Learning Theory (1969:213), behaviour is learned through observing different socialisation agents. This explains how youth are influenced by their environment as they display the behaviours of the individuals they see. The views of authors (Johnson & Kercher, 2007:135; Karsch, 2011:21; Sibley *et al.*, 2011:21) correlate with those of the interviewees, namely that **individuals who suffer from ADHD** are more likely to become delinquent. According to Ronis and Borduin (2007:154), high levels of family dysfunction is present with juvenile delinquents, which leads to conflict as well as low levels of communication in the family. This influences family relationships, which could result in lack of a support system for the youth offender as everyone is preoccupied with their own problems. Respondents regard **lack of support** as another contributing factor to juvenile delinquent behaviour.

It can be concluded from these research results that peer pressure is one of the more prominent reasons for the involvement of youth in negative activities such as delinquency as adolescents feel more attached to their peers during this developmental stage. However,

it is clear that any harmful behaviour displayed by parents, whether they are absent or present, has a negative impact on the child's behaviour. Causes of juvenile delinquency is not just due to the environment, but could result from biological disorders, such as Attention Deficiency and Hyperactive Disorder (ADHD), which are less controllable, but treatable if diagnosed. Even though the environment plays a substantial role in juvenile delinquency, it will be challenging but not impossible to empower youth with skills to cope in such surroundings. A support system is essential for the healthy development and rehabilitation of the youth offender.

5.5.1.3 Category: Those responsible for the causes of juvenile delinquency

In this category, the researcher investigated those who are responsible for the causes of juvenile delinquency. According to responses from all the participants (100%), the **parents, youth offender, peers, adults, gangs, family, socialisation, government and the community** are responsible for the causes of juvenile delinquency. Some of those responsible are within the youth offender's home environment and some are outside that environment.

Various authors (Arthur, 2007:19; Breetzke, 2010:2; Chitsabesan *et al.*, 2006:534; Eaton *et al.*, 2009:4; Hollin *et al.*, 2002:12; Martin *et al.*, 2008:609; Ronis & Borduin, 2007:154; Tannenbaum, 1938:19,20) point out that certain factors, such as higher-order and unmet needs of youth offenders, negative views of the community, single parenthood, poor supervision by parents, high levels of family dysfunction, and the inequalities of apartheid contribute to delinquent behaviour or are common characteristics of delinquent youth. However, it is unclear in the literature who is responsible for juvenile delinquency and, therefore, does not concur with the opinions of interviewees. In terms of the responses of participants, it can be concluded that no single individual or institution is responsible for the causes of juvenile delinquency, but rather it is a combination of contributing factors.

5.5.1.4 Category: Factors causing male adolescents to be vulnerable to delinquency

Participants were asked to state the factors that make male adolescents vulnerable to delinquency. The comments of the respondents are illustrated in Table 5.3 and discussed below.

Table 5.3: Male vulnerability to delinquency

Factors causing male adolescents to be vulnerable to delinquency	Number of respondents (percentage)	Excerpts from interviews
Gender	2 (10%)	<i>"Globally it's proven through stats that males are the biggest offenders"</i>
Male hormones	1 (5%)	<i>"Males hormones encourage them to be aggressive and they have the urge to take risks"</i>
Environmental factors	1 (5%)	<i>"Boys are more exposed to environmental factors such as merchants, school dropouts and unemployment"</i>
Stereotypes	3 (15%)	<i>"Stereotypes such as men must be tough, stand up for themselves, protect others, and can't speak about their problems play a role"</i>
Gangsterism	1 (5%)	<i>"Boys are more involved with gangs and they want to belong to a group"</i>
Age	1 (5%)	<i>"Age is a risk factor for offending behaviour as they are more vulnerable and have a poor ability to handle issues during adolescence"</i>
Peer pressure	2 (10%)	<i>"Males are more vulnerable to peer pressure as they have a bigger urge to fit in and this contributes to their misbehaviour"</i>
Absent father figures	1 (5%)	<i>"Absence of a father figure which results in no nurturing and coaching"</i>
Impulsivity	3 (15%)	<i>"Males are more impulsive and it is common for males to take risks during their adolescent developmental stage"</i>
Single parenthood	1 (5%)	<i>"A high rate of teenage pregnancy exists which causes females to raise male children"</i>
Unexpressed emotions	2 (10%)	<i>"Parents teach their sons not to cry"</i>
Proving manhood	3 (15%)	<i>"The youth must prove themselves as a man, and this results in the display of negative behaviour"</i>
Owning problems	1 (5%)	<i>"Males feel more responsible for problems at home as they are the providers and the protectors"</i>
Poor role models	1 (5%)	<i>"Influence of a bad role model"</i>

N=20 (Some interviewees identified more than one factor)

The comments of the respondents regarding the causes of male vulnerability to juvenile delinquency range from **more males are offenders, males hormones, more exposure to environment factors, stereotypes** of being resilient, **involvement in gangs, age, more vulnerability to peer pressure, and absence of a father figure** to **impulsivity, single female parents raising male children, sons are taught not to cry, the burden felt to prove manhood, more responsibility felt for household problems, and bad role model**.

Various authors (Breetzke, 2010:2; Fuller, 2009:104; Samara, 2005:210; Tonry & Bijleveld, 2007:266,276) state that males are mostly involved in crime, which corresponds with some of the respondents' views that **males are the biggest offenders**, and refers specifically to countries such as South Africa, China and the Netherlands. In the literature it is not stated

what factors contribute to this phenomenon. Ellis (2005:288, 295) supports the view of respondents that **male hormones** (testosterone) increase the likelihood of aggressive and criminal behaviour amongst males. Authors Bezuidenhout and Joubert (2003:69) do not agree with the view of respondents that **boys are more exposed to environmental factors**, but it is suggested in the literature that male youth offenders are exposed to more risk factors than female juvenile offenders.

Labelling Theory (Tannenbaum, 1938:19,20) states that **stereotyping** by the community will affect the delinquent behaviour of youth. Negative interpretations of the youths' actions will cause deterioration in their behaviour. Breetzke (2010:2) agrees with respondents' comments that a factor such as **involvement in gangs** plays a role in juvenile delinquency in South Africa. Furlong (2009:425) further states that many adolescents in the juvenile justice system suffer from delayed psychosocial maturation. The **age** of juvenile delinquents puts them at risk of displaying delinquent behaviour as this is a normal part of their development during adolescence. However, it is essential for adolescents to develop a healthy self-concept to prevent delinquent behaviour from becoming serious criminal behaviour (Fuller, 2009:18). This is not the case with the youth offender as the pattern of their delinquent behaviour indicates that they have not succeeded in this development task.

Attachment Theory states that children may become close to peers in circumstances where appropriate attachment figures such as parents, guardians or family members are absent (Ainsworth, 1979:935). This explains the responses of interviewees that **vulnerability to peer pressure** and **absent father figures** are factors which contribute to male's susceptibility to juvenile delinquency. However, the literature (Ainsworth, 1979:935) does not specify that male adolescents are more likely than female adolescents to become close to their peers when appropriate figures such as parents are absent. On the other hand authors (Carroll *et al.*, 2006:520) argue that impulsivity plays a role in the development of anti-social behaviour in youth. This clarifies why adolescents have the urge to take risks, but it doesn't acknowledge that it only occurs with males.

The views expressed by interviewees regarding **male children being raised by single parents** corresponds to that in the literature (Martin *et al.*, 2008:609), which states that youth offenders are not socialised in the way they are supposed to because they are being raised

by a single parent. This puts the youth offender at risk of becoming delinquent. However, in the literature (Martin *et al.*, 2008:609) it is not stipulated that the gender of the single parent as indicated by respondents will affect the socialisation of male children. Furthermore, the comments from respondents suggest that male children are socialised differently to girls as they are **taught not to show emotion (cry)**. This affects the way in which male adolescents deal with negative emotions, resulting in them not developing healthy coping mechanisms.

Additionally, male adolescents have the urge to **prove themselves as a man** and they **feel responsible for problems** due to the way they have been raised. This causes much strain on the male child. In terms of Strain Theory (Agnew, 2001:319), crime might be used to reduce the strain or to alleviate negative emotions. Learning Theory (Bandura, 1969:213) contends that identification is the process whereby a person repeats the thoughts, feelings or actions of another person who is usually regarded as a role model. In the case of juvenile delinquents, they identify with the behaviour of people who are **bad role models** and this contributes to their negative behaviours such as delinquency.

Authors (Fuller, 2009:104; Tonry & Bijleveld, 2007:266, 276; Breetzke, 2010:2; Samara, 2005:210) confirm that males commit more crime, not just in South Africa and but also overseas. Furthermore, although authors (Breetzke, 2010:2; Carroll *et al.*, 2006:520; Furlong, 2009:425;) mention risk factors (gang involvement, development stage, poor role models, impulsivity) which contribute to delinquent behaviour, and Learning, Attachment and Labelling theories (Ainsworth, 1979:935; Bandura, 1969:213; Tannenbaum, 1938:19,20) advance explanations for such actions, no distinction is made between gender differences as indicated by the respondents. The different way in which male children are socialised and the way in which female parents raise their male children influence the male adolescent's perceptions of how to deal with situations. It also contributes to the different development of gender roles and what society expects from males and females. Genetics plays a dominant role in the vulnerability of male adolescents to delinquent behaviour, leading to their need to be impulsive and to prove their manhood.

5.5.1.5 Category: The profile of the male juvenile delinquent

Respondents were asked to provide information regarding the profile of the male juvenile delinquent who participated in diversion programmes.

5.5.1.5.1 Subcategory: Substance use

- **Substance use** of the male offender and family members was viewed by six respondents (30%) as a feature that is common with male juvenile delinquents.

Bandura's (1969:213) Learning Theory states that the behaviour of individuals develops through observing socialisation agents. Youth offenders learn negative behaviours such as the **use of substances** from their family with who they interact regularly. The use of substances lowers the inhibitions of individuals, and this affects their decision-making ability, often leading to risk-taking behaviour such as engaging in illegal activities.

5.5.1.5.2 Subcategory: Physical appearance

- Of the 20 respondents, three (15%) remarked on the **physical appearance** of the male juvenile delinquent and that they were *not neat, but dodgy and trendy*.

From the interviewees' remarks regarding the **physical appearance** of the youth offender, it is clear that the juvenile delinquent does not care enough about themselves to maintain good hygiene and a neat physical appearance. In terms of Learning Theory (Bandura, 1969:213), the behaviour displayed by individuals could be a result of observing different people in their environment. It can be deduced that adolescents' value system, which is strongly linked to their appearance, is influenced by the people they interact with in their environment.

5.5.1.5.3 Subcategory: Attributes

- **Attributes** regarding the male juvenile delinquents' attitudes and personalities were identified by nine (45%) respondents. These attributes include: ***stubborn, being arrogant, disrespectful, aggressive, non-cooperative, extroverted or withdrawn, attention-seeking behaviour, shy and easily influenced.***

According to Kim and Kim (2008:451), adolescent delinquency also depends on the maladaptive trait such as antisocial personality. The views of respondents correspond with

those of the authors regarding the fact that antisocial **attributes** are linked to delinquency. It can be deduced that youth offenders have different characteristics and personalities which is particular to them such as being **stubborn, arrogant, disrespectful, aggressive, non-cooperative, withdrawn or extroverted, attention seeking and easily influenced**. Youth offenders can share most of the same characteristics, yet at the same time they can still be diverse.

5.5.1.5.4 Subcategory: Family structure

- According to comments made by four respondents (20%), youth offenders are **not part of a nuclear family**.

These responses indicate that in many cases male juvenile delinquents are in the care of adults other than their biological parents, thus being **not part of a nuclear family**. According to Martin *et al.* (2008:609), youth offenders are not socialised in the way they are supposed to because they were raised by a single parent, a stepfamily, or were separated from the biological parent, thus putting the youth at risk of becoming delinquent. It can be concluded that the structure of the family of the male juvenile delinquent determines the way in which his behaviour will be influenced by the parent or caregiver.

5.5.1.5.5 Subcategory: Father figures

- Four respondents (20%) are of the opinion that youth offenders have **no father figures** or **no positive father figures**.

In terms of Attachment Theory (Ainsworth, 1979:935), the individual might struggle to make decisions on his own or find it difficult to function independently without the secure attachment of a parent. This explains the difficulty a youth offender has in making positive decisions. The lack of a father figure results in a poorly guided male youth who shows no ambition and who is easily caught up in the negative culture (criminal activities, substance use, and so on) of his environment.

5.5.1.5.6 Subcategory: Traumatic circumstances

- Of the respondents, two (10%) felt that a common feature of youth offenders is that they were **exposed to traumatic circumstances**.

According to Strain Theory, strain or stressors increase the prevalence of negative emotions, and crime might be used as a way to reduce the strain or to alleviate negative emotions (Agnew, 2001:319). **Exposure to traumatic circumstances** may contribute to the strain experienced by the youth offender. This leads to negative emotions that are reflected in the delinquent behaviour. It can be concluded that children communicate their feelings through their deeds, thus using delinquent behaviour as a reaction to their traumatic experiences.

5.5.1.5.7 Subcategory: Involvement in gangs

- According to two respondents (10%), youth offenders are usually **part of gangs**.

Delinquent youth who are labelled by their communities often feel isolated and are forced to associate with negative peer groups such as gangs to gain a sense of belonging (Tannenbaum, 1938:19, 20). This explains remarks by respondents that it is common among youth offenders to be **part of gangs** and groups that exert negative influences. Consequently, the youth offender's involvement in criminal activities increases because of his association with gangs.

5.5.1.5.8 Subcategory: Role models

- It was argued by three respondents (15%) that male juvenile delinquents have **negative role models**.

Bandura's Learning Theory (1969:213) states that youth offenders repeat the thoughts, emotions or actions of another individual. This explains why male juvenile delinquents are more prone to learn negative behaviours from their **negative role models**. Thus, it will be challenging for the youth offender to change their actions if they are in an environment where their negative behaviour is reinforced.

5.5.1.5.9 Subcategory: Age group

- Of the respondents, three (15%) indicated that the **age** group between **13 and 16 years** is characterised by youth who display delinquent behaviour.

The opinions expressed by interviewees regarding the **age** of the youth offender show that offenders are young. As youth start committing crime at a young age, there is a strong likelihood that they may become life-course persistent offenders. This concurs with Moffitt's Theory (Bartusch *et al.*, 1997:16), which states that youth display antisocial behaviour during adolescence and continue with criminal behaviour during adulthood. Therefore, proper guidance and support from parents is needed to guide adolescents through their challenging development stage.

5.5.1.5.10 Subcategory: Self-esteem

- **Low self-esteem** is a characteristic shared by youth offenders, according to three respondents (15%).

As the development stage of adolescence brings many challenges, it is essential for the healthy development of an adolescent's self-concept that their delinquent behaviour does not degenerate into serious criminal behaviour (Fuller, 2009:18). The responses of interviewees indicate that this is not the case with youth offenders as they have **low self-esteem**, which puts them at risk of becoming serious criminals. Therefore, low self-esteem will impact negatively on the development of the youth offender, making them more vulnerable to negative influences.

5.5.1.5.11 Subcategory: Family functioning

- According to seven respondents (35%), it is common for male juvenile delinquents to come from **dysfunctional families**.

Ronis and Borduin (2007:154) state that the families of youth offenders are characterised by high levels of family dysfunction. Pelsler (2008:9) adds that the household the youth offender comes from is characterised by family violence. The opinions of these authors are supported by the views of interviewees regarding the **dysfunctional families** of youth offenders. Thus, when families are dysfunctional, there is a lack of close relationships and family members are unable to give each other emotional support, in turn affecting the healthy development of the male juvenile delinquent.

5.5.1.5.12 Subcategory: Behaviour of parents

- Of the participants, four (20%) felt that **parents not fulfilling their duties** is typical in the situation of the youth offender.

Hollin *et al.* (2002:12) state that delinquency is actually a healthy reaction to poor parenting and inadequate supervision. This explains the respondents' perceptions that **parents who fail to fulfil their duties** are a common feature with male juvenile delinquents. It can be concluded that parents have a huge role to play to protect their children from negative influences and to prevent the development of delinquent behaviour.

5.5.1.5.13 Subcategory: Educational features

- **Low academic achievement** and **less education completed** by delinquent youth are features of youth offenders, according to six respondents (30%).

The views of respondents regarding **low academic achievement and less education completed** by youth offenders are supported by the opinions expressed by authors (Martin *et al.*, 2008:608; Ronis & Borduin, 2007:154; Siennick & Staff, 2008:628). A learning disability or low intellectual level of the youth offender is the reason why their achievement at school is poor. These factors contribute to the youth offender's delinquent behaviour and results in them dropping out of school. Employment and further education opportunities are limited or do not exist for youth offenders because of their low levels of academic achievement.

5.5.1.5.14 Subcategory: Socio-economic status

- Seven interviewees (35%) claim that youth offenders come from **low socio-economic and poor circumstances**.

The comments made by the participants regarding **the low socio-economic and poor environments** correspond with the views of Martin *et al.* (2008:609), who argue that juvenile delinquency is common in neighbourhoods where residents have low socio-economic status. Martin *et al.* (2008:618) contend that youth offenders come from poverty-stricken areas, while Geldenhuys (2007:153) claims they come from poor and middle class families. Thus, youth are exposed to the negative influences in their environment, which affects their value system and, in turn, determines the types of decisions they make.

It can be concluded that the profile of the male juvenile delinquent consists of factors such as both the offender and his family members using substances, the offender not having a

neat physical appearance, and having attributes such as being stubborn, smug, disrespectful, aggressive, non-cooperative, withdrawn, attention seeking and being easily influenced. Also, the youth offender is not part of a nuclear family, lacks a father figure or positive role model, and at some stage in his life, has been exposed to trauma. Furthermore, the youth offender is involved in gangs, who have provided negative role models, has low self-esteem, and comes from a dysfunctional family. Other factors are that the parents of the youth offender do not fulfil their parental duties, and the offender has completed less education, resulting in poor academic achievement.

SECTION E: LEGISLATION

In Section E, the following aspects of legislation regarding diversion in terms of the research findings will be presented and analysed: The implementation of the Child Justice Act, the usefulness of the Act as a guide, levels one and two diversion options, as well as the minimum standards ensuring youth offenders benefit equally from diversion.

5.6 THEME 2: LEGISLATION

As noted in Chapter 3, the diversion programmes in terms of the Child Justice Act no 75 of 2008 are dealt with in this section. During the interviews, respondents gave their opinions regarding various aspects of the Act. These findings will be presented, analysed and discussed according to the relevant subthemes and categories as outlined in Table 5.2.

5.6.1 Subtheme 2.1: The Child Justice Act no 75 of 2008

The subtheme, namely the Child Justice Act no 75 of 2008, was divided into four categories.

5.6.1.1 *Category: Effect of the implementation of the Act on diversion practices*

In this category, the researcher focussed on the opinions of the respondents regarding the effect of the implementation of the Act on diversion practices. These results are presented below.

5.6.1.1.1 Subcategory: Positive versus negative effects of the Act

Table 5.4: The impact of the Act

Effect of the Act	Number of respondents (percentage)	Excerpts from interviews
Positive effect	9 (45%)	<p>"All youth are considered for diversion; much more rehabilitative focus than sentence"</p> <p><i>"It enhances diversion programmes as diversion is a law; it provides a variety of diversion options to be available"</i></p> <p>"Diversion is now legislated and it gives the social worker guidelines how to do their work"</p> <p><i>"It works to an advantage to the protection of children's rights"</i></p> <p><i>"The legislation makes provision for parents to take more responsibility & be more involved with the diversion programme"</i></p>
Negative effect	7 (35%)	<p>"Resources not available to implement diversion programmes"</p> <p>"Implementation is not realistic; intention of Act is spot on"</p> <p>"Service deliverers not adequately equipped to deliver services"</p> <p><i>"There are fewer youth referrals; the reason is that service providers interpret the Act differently"</i></p> <p>"Law enforcement became more lenient; adults use youth for crime because legislation is more lenient"</p>
Both positive and negative effects	4 (20%)	<p>"Much more administrative tasks (referral, assessments) required; diversion programme must respond to needs of youth offender"</p> <p>"The Act is in the interest of the child, but not considering available resources and capacity available"</p> <p><i>"It was good – giving children a second chance and (being) tried as youth and not as adults, but didn't minimise (the number of) awaiting-trial youth"</i></p> <p>"Not a system which provides enough infrastructure; all children are considered for diversion"</p>

N=20

Judging from the majority of the responses of interviewees (9 or 45%), it is clear that the Act had a more positive effect on diversion practices, with 7 respondents (35%) disagreeing. Four respondents (20%) expressed conflicting views about the Act.

The objectives and the minimum standards which are stipulated in the Act (2009:70,72,74,76,78) are supported by the views of the respondents regarding the positive impact of the Act. These include diversion programmes being in **the child's best interest, protection of children's rights, children are given a second chance, a variety of diversion options are provided, the needs of the youth offender are addressed, all children are considered for diversion, and involvement of parents.** Comments made by the respondents regarding **diversion having a much more rehabilitative focus** correspond with the view of McGregor (2010:34). Also, Badenhorst (2010:1,3,5) confirms the views of respondents that **diversion has been legislated.** However, diversion continues to be practised without a legal

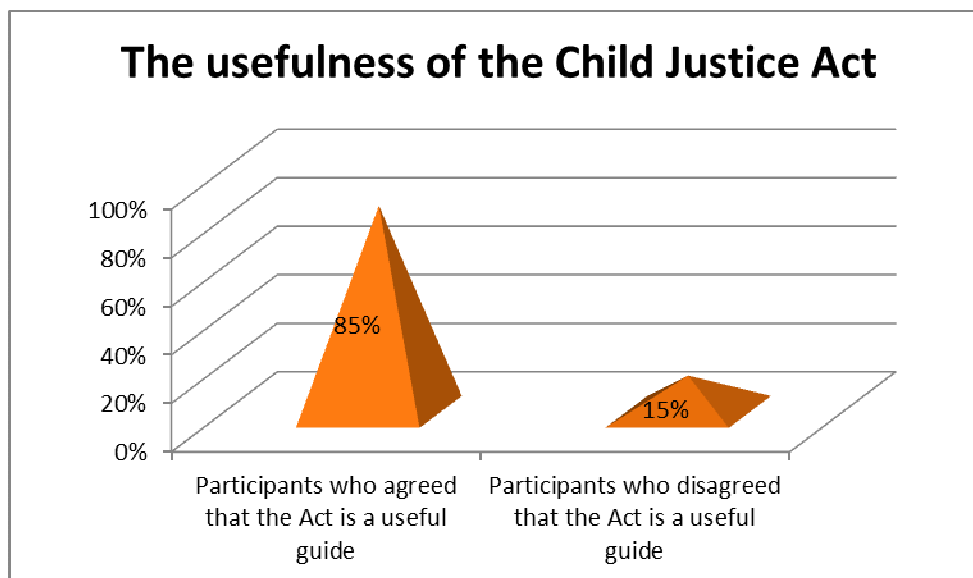
framework in countries such as Hungary (Vandi, 2007:37). This will prevent all youth from receiving an equal opportunity to be diverted away from the criminal justice system.

Success with regard to the implementation of the Act will depend on the continued collaboration between civil society and government (Badenhorst, 2010:1,3,5). The responses of the participants illustrate that there is little collaboration between government and civil society as there are many challenges – *more administrative tasks, fewer youth referrals, limited resources and capacity, poor quality of diversion services, unrealistic implementation of Act, unequipped diversion service deliverers, law enforcement becoming more lenient, high number of awaiting-trial youth and insufficient infrastructures* – regarding the successful application of the Act. There are similar obstacles with regard to the implementation of diversion programmes in Australia, such as lack of resources and limited expertise (Clough *et al.*, 2008:437).

In conclusion, the intention of the legislation may be that the child benefits, but there are many challenges regarding implementation. It may be advisable that platforms be created for opinions on the Act to be shared so that amendments are made to facilitate easier implementation.

5.6.1.2 Category: The usefulness of the Act

Respondents were asked to indicate whether the Child Justice Act is useful as a guide.



N=20

Figure 5.4: The usefulness of the Child Justice Act

Table 5.5: The Act as a guide

The usefulness of the Act	Number of respondents (percentage)	Excerpts from interviews
The Act is useful as a guide	17 (85%)	<p><i>"There are more guidelines with regard to how to deal with youth offenders"</i></p> <p><i>"Criteria/schedules of offences in Act are useful for assessment purposes"</i></p> <p><i>"It's legislated minimum standards to ensure that the best services are rendered"</i></p> <p><i>"The processes of diversion (assessment, preliminary enquiry, diverting a child) are clear in the Act"</i></p>
The Act is not useful as a guide	3 (15%)	<p><i>"There is no standardised implementation"</i></p> <p><i>"It doesn't make provision for guidelines for interventions for the physically and mentally challenged"</i></p> <p><i>"The Act does not focus on accountability"</i></p>

N=20

The views expressed by interviewees reveal that 17 respondents (85%), which is more than three-quarters, **perceive the Act to be useful as a guide**. Only 3 (15%) of the respondents disagreed. Reasons for the Act being useful is the fact that it provides clear guidelines regarding **how to deal with youth offenders** (diversion options), **criteria of inclusion and processes of diversion** such as assessment, preliminary enquiry and diverting a child. Furthermore, the Act **provides minimum standards** for diversion service delivery. The responses of the participants support the views expressed in the literature (Child Justice Act 75 of 2008, 2009:72, 74, 76; Van Der Merwe & Dawes, 2009:582; Skelton & Tshela, 2008:13). The guidelines provided by the Act will direct professionals in their practice to ensure that quality service is rendered to the youth offender and to protect the delinquent from the criminal justice system.

Those respondents who were of the opinion that the Act is not useful as a guide stated reasons such as **no standardised implementation; no provision made** for guidelines **for interventions for the physically and mentally challenged** and the Act **does not focus on accountability**. The response regarding **no standardised implementation** of the Act does not concur with the views of Skelton and Tshela (2008:13), who state that diversion options and programmes have to comply with certain minimum standards. Opinions expressed by the respondents with regard to the Act **not focussing on accountability** does not coincide with the objectives as stated in the Act (2009:70), as it sets out to encourage offenders to be responsible for the harm they have caused. Diversion options as mentioned

in Section 53(3) and Section 53(4) of the Act (2009:72,74) **does not provide specific guidelines for mentally and physically challenged youth offenders**, corresponds with the views of respondents.

It can be concluded that not all service providers are knowledgeable about the Act, as many of the gaps identified in the legislation is stated in the minimum standards and the objectives of the Act. The Act provides clear guidelines, and if service providers are knowledgeable enough to interpret the Act correctly, it could be a useful guide. However, there are loopholes with regard to specific guidelines for interventions with mentally and physically challenged youth offenders, but therapeutic interventions are applicable to any target group. It depends on the skills of the service provider to adapt the intervention to suit the needs of those individuals who are mentally and physically challenged.

5.6.1.3 Category: Level one and level two diversion options

This category focuses on the opinion of the respondents regarding level one and level two diversion options. The views expressed by the interviewees are illustrated in Table 5.5 where the heading for each diversion option and the responses obtained from the interviewees are presented.

Table 5.6: Views of respondents regarding level one and level two diversion options

Level one and two diversion options	Number of respondents agreed (percentage)	Excerpts from interviews
Effective categorising of level one and level two	16 (80%)	<p><i>"It ensures that suitable youth are grouped for intervention"</i></p> <p><i>"It's necessary as the same interventions won't apply to everyone"</i></p> <p><i>It allows schedule 2s (youth who committed more serious crimes) to be diverted"</i></p>
Ineffective categorising of level one and level two	8 (40%)	<p><i>"There is uncertainty whether there are sufficient programmes for level two"</i></p> <p><i>"It shouldn't be the only measurement to determine a diversion option"</i></p> <p><i>"Levels are focussed on the offence rather than the causes leading to the offence"</i></p> <p><i>"Level one programmes must be more therapeutic to prevent re-offending"</i></p> <p><i>"The levels are not well divided"</i></p>

N=20 (Some respondents offered views in more than one category)

Sixteen respondents (80%) view the categorising of level one and level two diversion options as effective. The following reasons were given: ensures ***suitable youth are grouped for intervention, the same interventions won't apply to everyone, and schedule 2s (youth who have committed more serious offences) can be diverted***, which was not the case before the implementation of the Act. Youths who have committed the same types of offences are offered the same category (level) of diversion options in terms of the Act (2009:72,74), and this is reflected in the views of respondents that suitable youths will be included in interventions. However, it doesn't mean that the youth offender will be placed in a group for intervention as many diversion options do not involve group work. The views of respondents confirm the provisions of Section 53(4) of the Act (2009:72,74) that schedule 2s (youths who have committed more serious crimes) can also be diverted. The Act ensures that few youths are excluded from diversion.

Van der Merwe and Dawes (2009:572) state that diversion programmes will be much more effective if it corresponds with the needs and profile of the offender. The views expressed by interviewees regarding the fact that the same interventions don't apply to everyone recognises the fact that individuals have different needs. Diversion options are now tailored to the needs of the youth offender.

It is clear from comments made by eight respondents (40%) that the ***categorising of the level one and level two diversion options are not that effective***. The reasons provided are the ***insufficiency of programmes for level two, the levels focus on the offence rather than the causes, programmes for level one are not therapeutic and the levels are not well divided***. The views of respondents regarding the insufficiency of programmes for level two diversion options are supported by Steyn (2010:144), who also questions the suitability of the YES programme in South Africa for youth who are caught up in addiction and gangsterism. In contrast to South Africa, America's life skills programmes are more adequate as it sets out to prevent the youth from re-offending (Lancaster *et al.*, 2011:491).

Level one and level two diversion options as stated in the Act (2009:72,74) are divided according to the type of offences committed by delinquents, so reflecting the responses by participants that the focus is placed on the offence. However, the intervention plan, which is

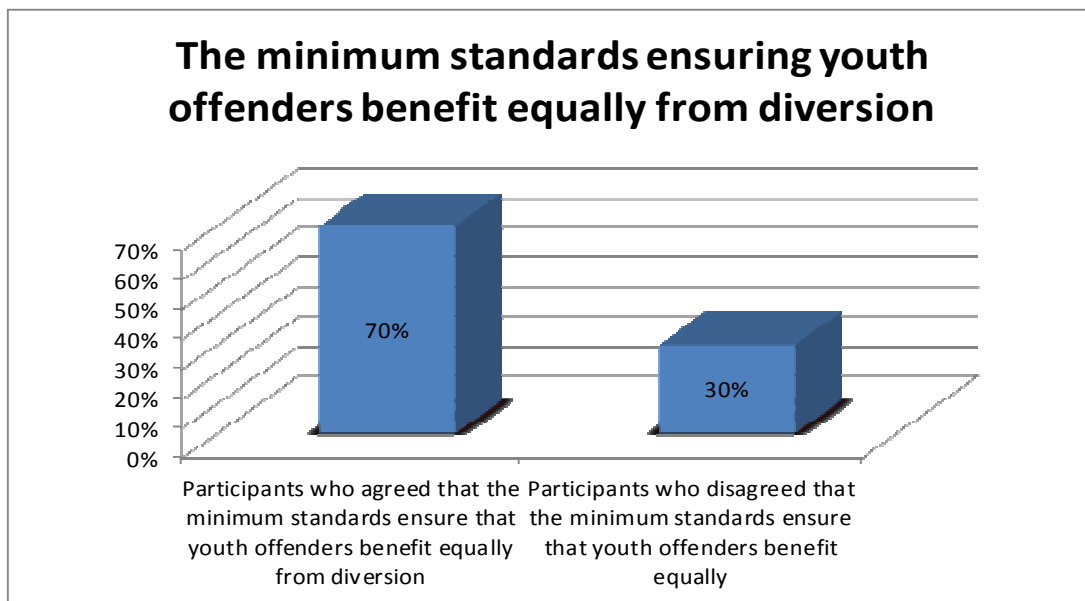
formulated after the assessment done with the delinquent, will address the causes of the offence or problem behaviour.

The views that level one diversion options need to be more therapeutic does not coincide with the legislation as contained in Section 53(3) of the Act (2009:74), which states that youth could be referred to counselling or therapy. The opinions expressed regarding the division of the different levels indicate that even though there are guidelines in the Act (2009:72,74), it is not clear enough, leaving room for misinterpretation.

In conclusion, youth offenders will be able to benefit more from various diversion options as these are designed to correspond to their type of behaviour and needs. The fact that all youth offenders are considered for diversion, including those who have committed serious crimes, promotes the likelihood of a decrease in crime as more youth have the opportunity to be rehabilitated. Level one and level two diversion options should be used as part of an intervention plan to address the specific needs of individuals. Also, adequate programmes for level two diversion options will depend on how skilled social workers are with regard to therapeutic work. Furthermore, practitioners are not well-informed about the diversion options as stated in the Act, resulting in the different levels not being used appropriately. Some programmes in South Africa are not adequate in addressing the offender's needs, but in America there has been more success with reducing the rate of recidivism as the diversion programmes include cognitive behavioural therapy. If professionals fail to interpret the Act correctly, it could affect implementation.

5.6.1.4 Category: The minimum standards ensuring that youth offenders benefit equally from diversion

In this category, respondents were asked their opinions about the minimum standards ensuring that youth offenders benefit equally from diversion.



N=20

Figure 5.5: The minimum standards ensuring that youth offenders benefit equally from diversion

It is evident from Figure 5.5 that the majority of respondents (14 or 70%) agreed that ***the minimum standards ensure that youth offenders benefit equally from diversion***. According to these respondents, the minimum standards ensure that ***more youth have the opportunity to be diverted, everyone is treated the same, the rights of the child are safeguarded*** and it ***standardises diversion services***. Furthermore, the minimum standards ***give clear guidelines, it's mandatory*** and ***there are consequences (sanctions)*** if they are not applied. The responses of the interviewees correspond with the views of the authors such as Skelton and Tshehla (2008:13) and Van der Merwe and Dawes (2009:582), which are that diversion programmes comply with certain minimum standards to ensure equal rights of all children accessing diversion.

Six (30%) of the respondents were of the opinion that ***the minimum standards do not ensure that all youth offenders benefit equally***. It has been argued by Van der Merwe and Dawes (2009:583) that the minimum standards will place demands on the child justice system and the organisations who deliver the diversion services.

The respondents pointed out the following complications with regard to the minimum standards: ***not implemented properly, some sections are vague, not all service deliverers have the necessary expertise regarding child diversion, implementation of the minimum***

standards depends on the attitudes (leniency, approachability) of various courts, what was initially planned doesn't work, not enough resources for the implementation and, lastly, the *monitoring of these minimum standards are not in place*. Consequently, there are minimum standards to provide clear guidelines and standards, but due to ambivalent attitudes towards the Act, insufficient resources, ill-equipped service providers and the lack of monitoring bodies, implementation is compromised. This limits the chances for many youth to benefit from diversion. Monitoring of the minimum standards is essential because it will eliminate many of the challenges.

SECTION F: DIVERSION PROGRAMMES

In Section F, the research findings will be interpreted in terms of the challenges, strengths, selection criteria, theoretical applications, positive results and suggestions regarding the facilitation of diversion programmes. These will be outlined according to the different themes, subthemes and categories as illustrated in Table 5.2.

5.7 THEME 3: DIVERSION PROGRAMMES WITH MALE JUVENILE DELINQUENTS

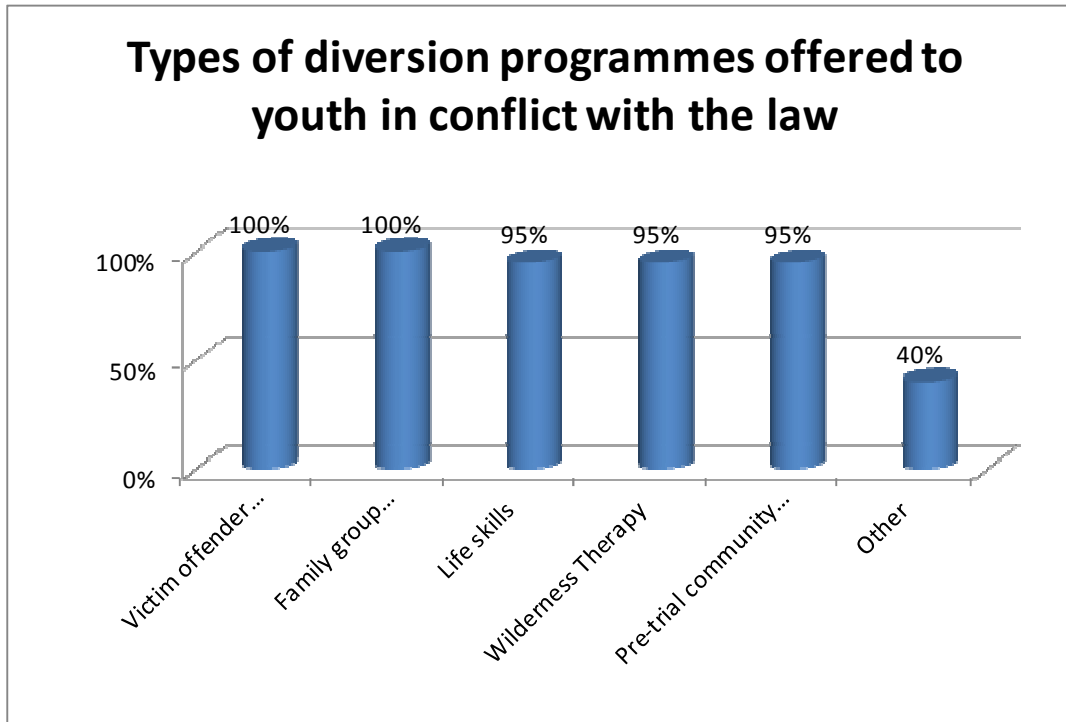
This theme deals with diversion programmes.

5.7.1 Subtheme 3.1: Diversion programmes

For this section, data was gathered on the different diversion programmes offered to youth in conflict with the law. The research findings relating to subtheme: Diversion programmes, are presented in one category.

5.7.1.1 Category: Types of diversion programmes offered to youth in conflict with the law

Respondents were asked which diversion programmes the organisation or department where they were employed provided for youth who were in conflict with the law. Research findings related to this question are presented in Figure 5.6.



N=20

Figure 5.6: Types of diversion programmes offered to youth in conflict with the law

The responses revealed that all 20 (100%) of the interviewees' places of employment offered *victim offender mediation* as well as *family group conferencing* with youth offenders. *Life skills programmes* were presented at the workplaces of 19 respondents (95%), which was the same number for those who facilitated the *Wilderness therapy programme* as well as *pre-trial community service programmes*. Eight respondents (40%) stated that their workplaces provided other diversion programmes not mentioned previously.

It is confirmed in the literature (Junger-Tas, 2006:517; Lancaster *et al.*, 2011:491; Luna, 2007:7; Minor, 2007:40; Parliament of Victoria Drugs and Crime Prevention Committee Final Report, 2009:203; Steyn, 2005:88; Steyn, 2007:57; Steyn, 2010:101; Sutton *et al.*, 2008:25; Wood, 2003:2) that life skills, community service, family group conferencing, victim offender mediation and wilderness therapy are used as diversion programmes for youth in South Africa as well as overseas (America, Australia, Germany). Other programmes mentioned by participants are: *substance abuse programmes (ADAPT, Matrix, Drug information), Say Stop, individual counselling, multi-disciplinarians, programmes adjusted according to the*

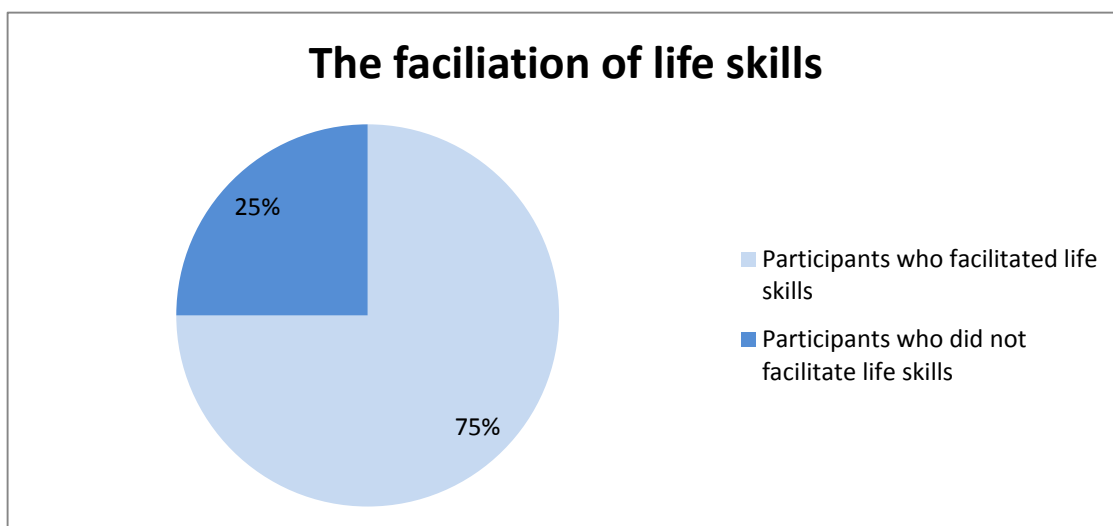
needs of youth (*sexual offence, anger management, problem solving, HIV/Aids, health*). Many of the other diversion programmes which were mentioned by the respondents focus on substance abuse and sex-related offences. This reflects current trends and how organisations have adapted to address the diverse needs of youth offenders. Substance abuse programmes, which include drug courts, have also been practised in Asia and Australia (Clancey & Howard, 2006:377,378; Someda, 2009:83). Thus, more diversion programmes are developed as trends change in South Africa and internationally. The respondents who participated in the study have much knowledge about diversion programmes, which enables them to express informed opinions about programmes in the diversion field.

5.7.2 Subtheme 3.2: Strengths and challenges of diversion programmes

The following subtheme refers to the strengths and challenges of diversion programmes. Five categories emerged from the subtheme which will be presented and discussed.

5.7.2.1 Category: Life skills

Respondents were requested to provide information regarding the strengths and challenges of the life skills programme they have facilitated. The findings are presented below, followed by an interpretation:



N=20

Figure 5.7: The facilitation of life skills

A majority of respondents, 15 or 75%, stated that they **facilitated the life skills programme**. Only 5 respondents (25%) have not facilitated such programmes. In terms of these results, most respondents were able to express opinions on the life skills programme. The following views were expressed regarding the **strengths** of the life skills programme:

- Seven respondents (35%) felt that the life skills programme provided an opportunity for the **learning of basic and needed life skills**. It also gave youth time for reflection to encourage them to be accountable for their behaviour. Wood (2003:2) shares the view that life skills are taught through the life skills programme.
- Regarding content, two interviewees (10%) said it is an **easily facilitated programme which is on the standard and level of youth**. Steyn (2010:29) states that the real-life situations used in the programme are similar to the obstacles youth face daily. Youth are able to relate to the information shared in the programme as the content is adapted to their level of understanding.
- Four respondents (20%) were of the opinion that **group work is a successful method** used in the life skills programme, creating better opportunities for learning. The Social Learning Theories of Bandura (1969:213) and Akers (1973:654), as well as Sutherland's Differential Association Theory (Sutherland, 1947:6), are implemented in the programme. This is done best in a group setting as indicated by the respondents.

Views on the **challenges** of the programme were expressed as follows:

- Of the respondents, five (25%) believed that the programme **didn't address the therapeutic needs of the individual group members**. However, these views are in contrast to those of Schmid (2007:505), who says the minimum standards stipulate that diversion interventions should be focused on the therapeutic needs of children. The responses of interviewees indicate that this is not the case, and the programme does not adhere to the minimum standards, so affecting the quality of the service rendered.
- Two respondents (10%) said the **venue of the programme was not accessible** to the youth offenders who participated. These comments do not correspond with what is stated in Section 55 of the Child Justice Act, no 75 of 2008 (2009:76,78), which

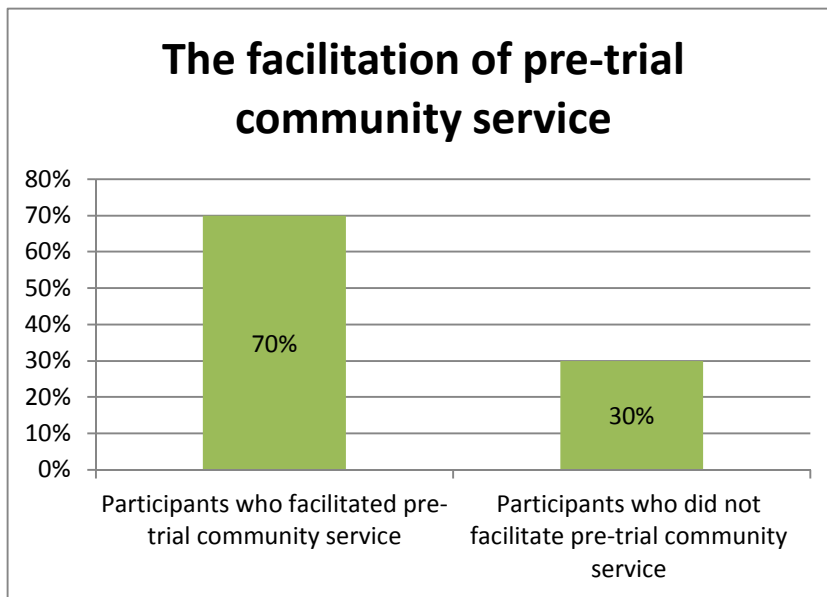
states that the location where the diversion programmes are facilitated must be accessible to the child.

- Two respondents (10%) have expressed concern about the ***non-standardised way in which programmes are facilitated***. This does not correspond with the opinions of authors such as Skelton and Tshehla (2008:13) and Van der Merwe and Dawes (2009:582). Such comments indicate that not all diversion service providers adhere to the same minimum standards.
- Four respondents (20%) hold views similar to those of Steyn (2010:145), who argues that ***children who are cognitively underdeveloped struggle with diversion programmes***. The content of the programme has to be adapted to the level of the youth offender.

It can be concluded that the life skills which the youth offender gains through the programme, is essential for building his resilience and will contribute to rehabilitation. It will be more beneficial for the youth offender if the content is adapted to his or her level. Group work creates a therapeutic environment where behaviour modification can occur. Also, in many cases the life skills programme is not properly implemented and, therefore, cannot achieve the outcome of rehabilitation. Many youth offenders will not have access to diversion services because venues are inaccessible, so contributing to the high rate of recidivism. Not complying with the minimum standards will affect the quality and outcomes of diversion services. Programme facilitators have to be skilled to work with children with cognitive challenges.

5.7.2.2 Category: Pre-trial community service

In this category, respondents were asked about the strengths and challenges of pre-trial community service, as well as whether they had facilitated such a programme.



N=20

Figure 5.8: The facilitation of pre-trial community service

Most respondents -14 (70%) - have *facilitated the pre-trial community service programme* and could reflect on their experiences. Six respondents (30%) were unable to share any experience as they had not facilitated a pre-trial community service programme. Comments on the *strengths* of the programme were as follows:

- Five respondents (25%) said youth offenders *learn to be accountable for their behaviour*. However, these views do not correspond with those of Steyn (2005:64), who argues that community service does not have a confronting element which requires the youth to take responsibility for their behaviour.
- According to three respondents (15%), the *youth learned through their participation in the programme*. These opinions coincide with the views of Smit (2010a:5), who emphasises that the experiential methods used in the pre-trial community service create opportunities for learning. Individuals learn best through their own experiences as it is a practical way of gaining knowledge.
- Four respondents (20%) said the programme *allows youth to give back to the community*. This promotes the likelihood of youth offenders respecting their environment, which coincides with the view of Monyatsi (2008:35), who argues that community service programmes encourage youth offenders to respect their environment and the community.

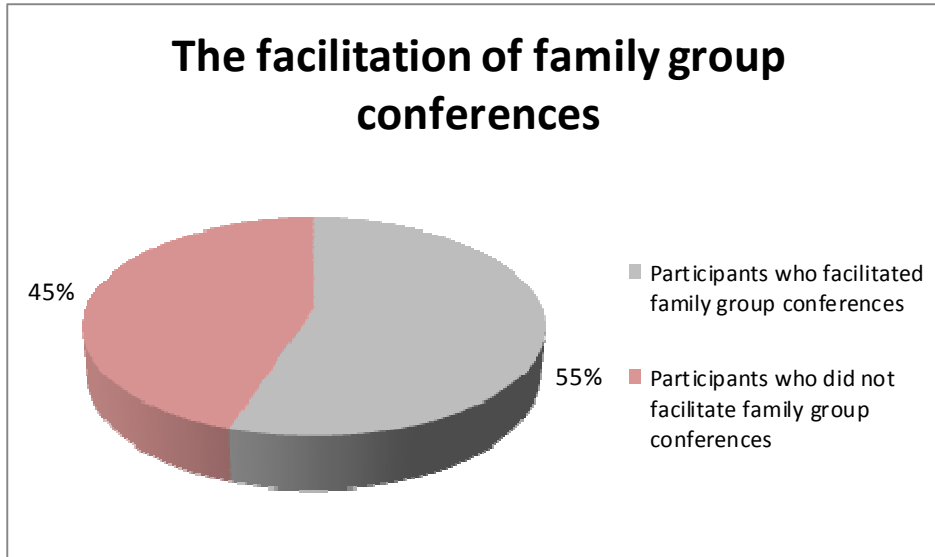
Respondents view the following as **challenges** of the programme:

- **Lack of therapeutic approaches** used in the programme is observed by three participants (15%) as a challenge. Smit (2010a:2) does not support the views of respondents that the programme is not based on theory, resulting in youth offenders being unable to gain insight into their behaviour.
- Eight respondents (40%) were of the opinion that there are **few suitable placement agencies and proper monitoring is lacking**. As a result of inappropriate placement agencies, youth offenders are labelled by the community, the outcomes of the programme are not achieved and the individual needs of youth are not met. These views are supported by those found in the literature (Hamilton *et al.*, 2007:139; Steyn, 2005:63). The negative labelling of delinquent youth by the community will result in the behaviour of the offender deteriorating, according to Tannenbaum's Labelling Theory (1938:19,20).
- Three respondents (15%) held the view that juvenile delinquents **do not show remorse for the crimes** they have committed. Wood (2003:2) states that one of the criteria for the pre-trial community service programme is that the youth offender accepts responsibility for the offence. Based on the views of respondents, it is evident that youth offenders do not regard themselves as being accountable for their actions because they do not show remorse.

By holding youth offenders accountable for their actions, they will be able to become more productive citizens in society. Change occurs through the knowledge gained by the adolescent delinquent. The youth offender's value system is affected positively through community service programmes, which enables them to make better decisions. Behaviour modification cannot occur without therapeutic intervention. It is essential to address the negative stereotyping of offenders by creating awareness as this will affect the reintegration of these individuals. The levels of motivation of offenders will determine their willingness to take responsibility for their actions.

5.7.2.3 Category: Family group conferencing

The next question to respondents was about the strengths and challenges of family group conferencing, as well as who had had experience in the facilitation of this programme.



N=20

Figure 5.9: The facilitation of family group conferences

A majority of respondents – 11 (55%) – said they had previously **facilitated family group conferences** and were able to share their experiences. Only nine respondents (45%) had never facilitated such a programme.

Responses regarding the **strengths** of family group conferences were as follows:

- Four respondents (20) contended that family group conferencing gives individuals the *opportunity to address family issues*. According to Maxwell and Morris (2006:244), and Mutter *et al.* (2008:262), family group conferencing is based on Maori traditions in New Zealand because their customs are regarded as a way to solve disputes within families. The responses of interviewees that such conferencing is an opportunity to resolve family issues show that the purpose of such a programme in South Africa corresponds to that in New Zealand.
- Comments made by two respondents (10%) regarding the fact that family group conferencing **brings all the persons involved in a face-to-face meeting** correspondent with those of Steyn (2005:33). Furthermore, McGarrell and Kroovand Hipple (2007:223) state that in America, this face-to-face contact with the victim and

everyone else involved in the offence has a greater impact as the harm which is caused by the offender is highlighted.

- Family group conferencing focuses on **reconciliation**, said two respondents (10%). Diversion aims to promote reconciliation between the adolescent and the individual or community affected by the harm caused by the juvenile as specified in Section 51 in the Child Justice Act no 75 of 2008 (2009:70). Observations by the respondents show that the outcomes of family group conferencing are in line with the objectives of diversion as stated in the Act.
- According to Steyn (2005:33), family group conferencing aims to *encourage the offender to take responsibility for his or her actions*, a contention two interviewees (10%) agree with. It is not always easy for the youth offender to take responsibility as his or her level of motivation might fluctuate.
- Of the respondents, two (10%) were of the opinion that the *family group conference is a healing process*. Baffour (2006:557) refers to a family group conference as a mediation process where material and emotional restitution are sought. The restitution forms part of the healing which occurs.
- Two respondents (10%) commented that the family group conference *helps to strengthen family relationships*. These views do not correspond with those of Steyn (2010:113), who is of the opinion that it is difficult for the programme to have an impact on juvenile offenders who have a poor relationship with their parents. However challenging it is to repair broken relationships, it is possible to encourage the family to work on rebuilding those relationships.

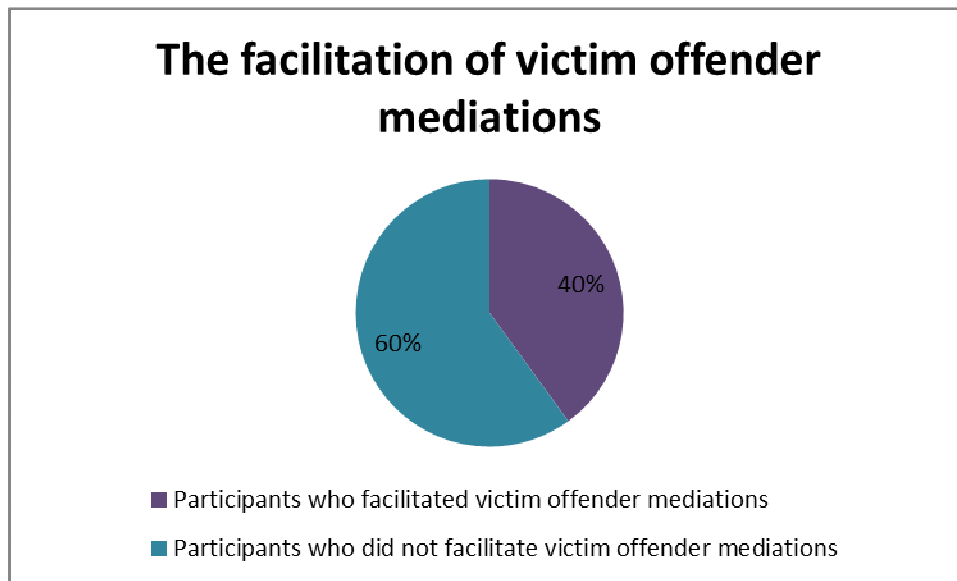
Opinions were extracted from the narratives of the interviews regarding **challenges** of the family group conference.

- Three respondents (15%) were of the opinion that **family dynamics** could interfere with the intervention process. This study has also highlighted that the negative attitude of parents was not beneficial to the victim or the offender (Umbreit *et al.*, 2006:5). Dynamics such as negative attitudes of parents as well as issues arising from broken relationships are challenging to work with, but should be addressed in the preparation phase of the family group conference.

- Three interviewees (15%) regarded *time as a challenge of family group conferences as it is a time-consuming process*. Smit (2010c:4) and Steyn (2005:34,35) explain that the process of restorative group conferencing consists of three phases, namely preparation (40 hours), the conference (7 hours), and the post conference follow-up (12 hours). Most time is spent on preparing those affected by the crime as all issues that may have a bearing on the process have to be addressed before the conference.
- Two respondents (10%) were of the opinion that it is ***difficult to get people involved with the family group conference other than the youth offender***. New Zealand is one of the first countries where the criminal justice system adopted a restorative justice approach which encouraged the participation of all parties affected by the offence, and it is regarded as a priority (Maxwell & Morris, 2006:243). However, it is challenging to change the negative perceptions of the community regarding the youth offender as highlighted by Tannenbaum's Labelling Theory (1938:19,20).

It can be concluded that the purpose of the family group conference is the same in South Africa as in a country such as New Zealand. The families of youth offenders can benefit substantially from this programme and it will increase offenders' support system. The face-to-face method used in family group conferences promotes the acknowledgement of accountability by youth offenders, as they have to be in the presence of those they have harmed through their actions. As reconciliation is facilitated through the family group conference, the negative views of the community can be changed, so contributing to the rehabilitation of the youth offender. By being accountable for their behaviour, youth offenders show their willingness to change. All parties involved in the family group conference benefit from the programme. Each case dealt with in a family group conference is unique, and the change which occurs will depend on the youth offender and his family. It is essential that all family members of youth offenders who might have an influence on their behaviour be involved. The programme is lengthy because thorough preparation is essential to the success of the intervention.

5.7.2.4 Category: Victim offender mediation



N=20

Figure 5.10: The facilitation of victim offender mediations

It emerged that more than half of the respondents – 12 (60%) – had not facilitated victim offender mediation programmes. Only 8 respondents (40%) respondents had experience. A majority of respondents could reflect on their experience regarding the victim offender mediation programme.

Responses regarding the **strengths** of the victim offender mediation programme are presented below.

- One respondent (5%) was of the opinion that **both perceptions of the offender and the victim were changed**. Alexander *et al.* (2010:212) also hold the view that victim-offender mediation could change the perceptions of offenders, but research findings goes further; pointing out that the views of victims could be changed as well. Negative perceptions, especially those of the community, could limit the opportunities and support the youth offender might receive in future.
- Four (20%) of the interviewees observed that **both the victim and the offender benefit from the victim offender mediation**. Wemmers and Cyr (2006:104) disagree, claiming that victims are being used in victim-offender mediations for the purpose of keeping crime under control and not for the full benefit for the victim. As the victim's

participation is voluntary, the victim offender mediation should be marketed to the victim in a way that highlights the benefits for them.

- One participant (5%) was of the opinion that the ***victim and offender being brought together and the victim being able to tell the offender how he or she has been affected*** by the crime can be regarded as a strength. Authors Wood (2003:2) and Skelton and Batley (2006:15) agree. The youth offender is held accountable for his actions by being in the presence of those he has harmed and being told how the crime has affected them.

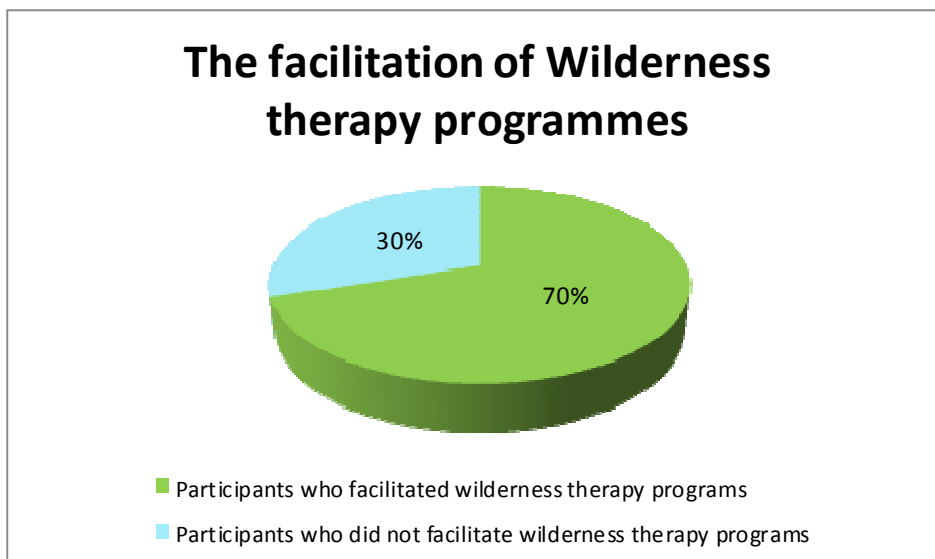
The **challenges** mentioned by respondents are as follows:

- One respondent (5%) observed that ***social workers have poor skills to facilitate victim offender mediations***. Tränkle (2007:411) agrees, adding that professionals who mediate victim offender mediation programmes in Germany do not have adequate skills. This suggests that the problem in South Africa of professionals who do not have adequate skills to facilitate diversion programmes also occurs in other countries such as Germany.
- Two respondents (10%) maintained that ***aspects (preparation) of the victim offender mediation programme were not done properly***. Choi and Severson (2009:813) argue that if restorative group conferences such as victim-offender mediations are not implemented correctly, it will cause secondary victimisation. Thus, it may be concluded that if aspects of the programme, such as the preparation, are not done properly, it could cause more harm, especially for the victim.
- According to comments made by two respondents (10%), ***the intervention process of the victim offender mediation programme is very long***. Smit (2010c:4) and Steyn (2005:34,35) explain that the process of restorative group conferencing consists of three phases, namely preparation (40 hours), the conference (7 hours), and the post-conference follow-up (12 hours). This shows that many hours, 59 in total, are required for each case involving victim offender mediation. The huge caseloads of social workers affect their ability to give the required attention to the programme and its participants.

- Wemmers and Cyr (2006:104) support the views of four respondents (20%) that ***the victim does not necessarily want to participate actively in the programme***. Factors such as the negative perceptions held by the community about offenders and the willingness of the victim to give the offender a second chance influence their decisions about taking part in the victim offender mediation.

In conclusion, victim offender mediation is a helpful tool to change negative perceptions that society might have of youth offenders. The outcomes of the victim offender mediation should be focused on the victim and the offender. It is important for the youth offender to be informed about the consequences of his behaviour and so promote the likelihood of him not re-offending. Inadequate skills of professionals facilitating diversion programmes could result in more harm to the participants in the programme. Longer interventions are more effective to achieve behaviour modification, but this is not always possible because of poor capacity and huge caseloads. Part of the success of the programme is that it creates awareness of restorative justice and the victim gets the opportunity to participate in the process which holds the youth offender accountable for his actions.

5.7.2.5 Category: Wilderness therapy



N=20

Figure 5.11: The facilitation of wilderness therapy programmes

After confirming whether they had experience in facilitating a wilderness therapy programme, interviewees were asked to give their opinions on the strengths and challenges of such a programme. As shown in Figure 5.11, most of the respondents, 14 (70%), have facilitated such a programme, and could share their experiences. Only six respondents (30%) had not been involved in facilitating such a programme.

The **strengths** of the wilderness therapy programme were mentioned as follows:

- The wilderness therapy programme uses the healing power of nature in combination with learning and therapeutic experiences to help the youth to reconnect with themselves (Smit, 2010b:2). Four respondents (20%) agreed with the author, adding that ***nature is used as an aid to contribute to change***. Youth do not have access to nature because they live in cities and lead busy lives. This affects the healthy development of the delinquent.
- The views expressed by two respondents (10%) concur with those of Smit (2010b:3), who states that ***experiential learning is used as a theoretical method*** in wilderness therapy programmes and the interviewees regard this as a positive aspect of the programme. Experiential learning makes the learning process more relevant to the youth offender, enabling them to gain insight into their behaviour.
- According to Smit (2010b:4), facilitators use obstacle courses, extreme activities and solitary experiences to create isomorphic connections to address aspects of the individual's behaviour. An isomorphic connection is the process of transferring learning from a specific experience to other life experiences. This corresponds with the opinions expressed by three respondents (15%) that the ***outdoor activities of the wilderness therapy programme are linked to the individual's real-life situation***.
- A base camp model is used where youth offenders spend five days living and participating in therapeutic work (Smit, 2010b:4). Nine participants (45%) agreed with Smit (2010b:4) that youth are taken out of their environment as they live away from home for a short period, adding that the ***youth are removed from their surroundings (which) allows them to focus on their issues***. Sometimes youth offenders are too consumed by their circumstances, which makes it difficult for them to address their problems.

- Of the respondents, four (20%) regard *the programme as therapeutic*, which adds to the impact of the intervention. According to Walsh (2009:75), programmes which include a therapeutic component are most effective in reducing the delinquent behaviour of youth in America. Therapeutic interventions are more intensive and time-consuming.
- Four respondents (20%) say the programme *allows the youth offenders time for reflection and they are able to gain insight about themselves*. These opinions correspond with the objectives of wilderness therapy programmes as outlined by Smit (2010b:2), who argues that the programme aims to support youth to acquire a greater sense of self-understanding. The delinquent behaviour displayed by the youth offender is a result of their responses to negative situations which they struggle to make sense of.
- The programme involves life skills, vocational training and a wilderness component (Wood, 2003:2). Observations from two respondents (10%) support the view of Wood (2003:2), which is that the program *develops new skills in the youth offender*. The programme is a learning opportunity for delinquents and the skills they acquire they will be able to use in the future.
- Steyn (2005:187) suggests that the methods used in the wilderness programme are vision quest or solo experience, mirroring, rituals, games and activities, adventure activities, community service projects, journal writing, daily chores, a talking stick, craft activities, a letter written to themselves, and candle ceremonies. The view of one interviewee (5%) corresponds with that of Steyn (2005:187), namely that *different methods and activities* are used in the programme. These methods create opportunities for the youth offender to develop in various ways.
- Another respondent (5%) regarded the *intense group work* used in the programme as a strength, which coincides with the view of Steyn (2005:169, 170), who states that methodologies used in the programme are group processes, individual reflection, and symbols and rituals. Group work is a therapeutic method and it creates a better environment for new behaviour to be modelled and learned.

- One interviewee (5%) agreed with Steyn (2005:187), who argues that the programme also requires a rites of passage course. The respondent regarded this as a strength of the programme.

The following **challenges** regarding the wilderness therapy programme were mentioned:

- **Substance use** was suggested by six respondents (30%) as one of the challenges experienced in the programme. A combination of extreme physical activities and therapy was used in effective wilderness programmes (Tekin, 2010:645). As substance abuse weakens the body's strength, the wilderness therapy programme will be physically challenging for those youth using substances. On the other hand, the youth offender may be suffering from withdrawal symptoms, which could cause the individual to become physically ill and unable to participate in outdoor activities.
- Two interviewees (10%) noted that **it is challenging to prepare youth offenders well** for the programme because of time limitations. During the preparation phase, participants are psychologically prepared, expectations are clarified, and voluntary participation is emphasised (Steyn, 2005:172). Smit (2010b:3) also states that in this phase, a referral is received and a specialised assessment is completed. This phase includes 20 hours of life-skills and four pre-adventure orientation and preparation sessions. The outcomes of the preparation phase as mentioned by Steyn (2005:172) and Smit (2010b:3) will not be achieved if not done properly.
- Of the respondents, six (30%) were of the opinion that **phases of the programme such as follow-up and aftercare is lacking, and preparation is not done thoroughly** because of the huge caseloads and time constraints. Furthermore, participants point out that because of these time limitations, outcomes such as behaviour modification and reintegration into the offender's surroundings are not achieved. The responses are supported by Russell and Walsh (2011:401), who state that there is a lack of appropriate follow-up services for the youth who complete programmes such as wilderness and adventure programmes.
- Views expressed by four respondents (20%) correspond with those of Tekin (2010:642) and Dunkley (2009:90), namely that **wilderness therapy programmes occur in outdoor settings**. Also, interviewees point out that the **outdoor aspect (sleeping and having time alone in nature)** of the adventure phase of the programme

is a challenge and in some cases *traumatic* for youth offenders because they miss their familiar surroundings as they are seldom away from their environments, and being so close to nature requires an adjustment.

- Facilitators of the wilderness therapy programme use therapeutic skills and experiential learning techniques and skills to achieve the outcomes of the programme (Smit, 2010b:4). Six respondents (30%) agree, and say that *adequate and skilled facilitators should facilitate wilderness therapy programmes as the lack thereof will be a challenge*. The outcomes of the programme cannot be reached if facilitators lack the necessary skills.
- *Youth being forced to participate* is viewed by one interviewee (5%) as an obstacle. However, Bundy (2004:44) disagrees, contending that youth offenders are not forced to participate in diversion programmes, but are motivated through therapeutic techniques such as motivational interviewing. Youth offenders will not be able to benefit from the programme when they are not motivated to participate as it will interfere with the intervention process.
- One respondent (5%) commented that *parents are excluded from the programme*. Steyn (2005:214) states that parental involvement in the programme will determine the successful rehabilitation of the juvenile offender once they return to their home environment. Parental involvement in the programme is essential as the offender will need support to sustain his reintegration.

It can be concluded that using nature as therapy is a successful tool. The methods used in the wilderness therapy programme, such as experiential learning, make learning more relevant, resulting in greater impact on the youth offender's behaviour. Programmes that are facilitated away from the juvenile delinquent's surroundings promote the change process because there is no interference from outside influences. Whether in South Africa or America, therapeutic interventions are more effective in preventing recidivism as the process is more intensive. If youth offenders develop insight into their behaviour, they will be able to change it. Empowering the youth offender with new skills will sustain their rehabilitation. It is beneficial to the delinquent's development to be exposed to various types of learning. More group work should be used in diversion programmes as it will add to the therapeutic element.

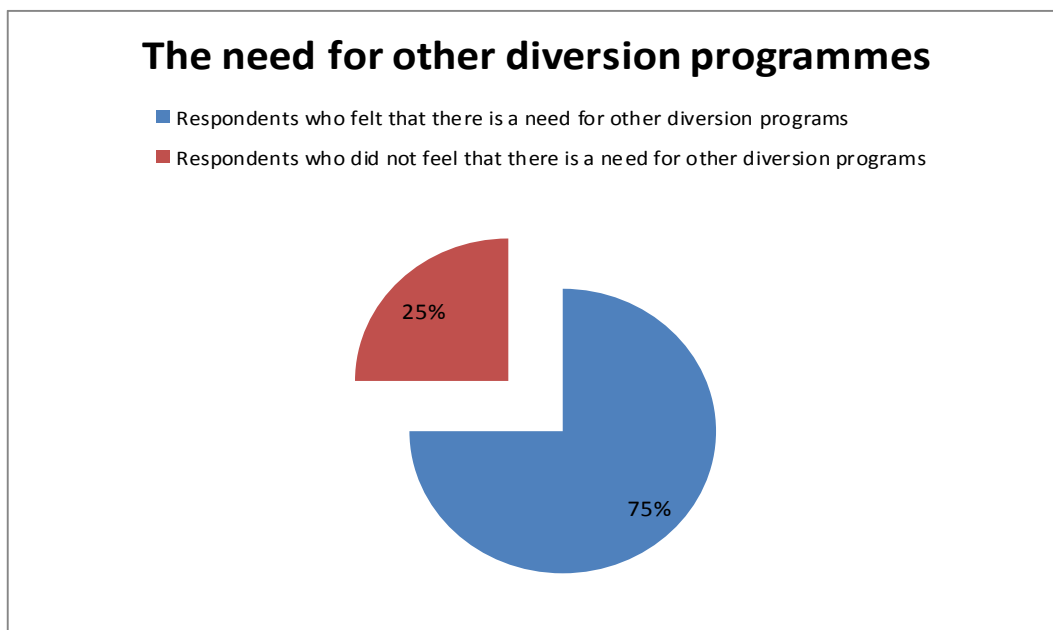
Not all cultures create opportunities for the adolescent to be guided into adulthood; therefore, the youth offender experiences an identity crisis during adolescence. Substance use by youth offenders will be a problem for the outdoor phase of the wilderness therapy programme and it will interfere with the intervention process. As the wilderness therapy programme is intensive therapeutically, thorough preparation should be done and enough time should be spent with each individual who is participating to address any issues he or she may have. It should be assessed which programme is suitable for the delinquent as not all youth will benefit from the wilderness therapy programme, especially those who find it traumatic to be in the outdoors. Facilitators who run the wilderness therapy programme should receive the necessary training to become more skilled in the therapeutic aspects, as well as outdoor facilitation. Motivational interviewing is vital to motivate the youth offender and the parents to participate in the programme.

5.7.3 Subtheme 3.3: Other diversion programmes

In this section, the need for other diversion programmes is explored. The two categories which emerged from the subtheme will be presented and discussed below.

5.7.3.1 Category: *The need for other diversion programmes*

The respondents were asked whether other diversion programmes were required. Their responses are presented in Figure 5.12, followed by a discussion.



N=20

Figure 5.12: The need for other diversion programmes

Fifteen respondents (75%) pointed out that there was a need for other diversion programmes, and five (25%) disagreed. Diversion programmes are not adequate to reduce the re-offending of youth, according to Van der Merwe and Dawes (2009:572). In a country such as Australia, for example, suitable diversion options are not available in all communities (Clough *et al.*, 2008:437). Most of the interviewees have indicated that more diversion programmes should be developed in South Africa, and the reasons for this could be those stated by Van der Merwe and Dawes (2009:572) and Clough *et al.* (2008:437) regarding the adequacy and suitability of existing programmes. The reasons given by respondents why more diversion programmes were not needed were that existing programmes **covered all the needs** and **available diversion programmes are working**. In spite of the difference of opinion between the interviewees, they have emphasised that all existing diversion programmes should be used and strengthened. It may be concluded from the responses that it is critical to develop more diversion programmes as the needs of individuals and trends within communities change continuously. The same applies to other countries such as Australia as it has been argued that existing diversion programmes are not appropriate.

5.7.3.2 Category: Additional diversion programmes

Respondents were asked to suggest other diversion programmes and the reasons they were needed. The programmes mentioned by interviewees are discussed below.

5.7.3.2.1 Subcategory: Programmes for special groups

Eight respondents (40%) suggested programmes that *give attention to special groups* such as *substance abusers, violent offenders and sexual offenders*. Some of the diversion programmes suggested by the respondents can be found in other countries, such as America, New Zealand and Asia, and these programmes focus on substance abuse problems (Clancey & Howard, 2006:377,378; Minor, 2007:40; Someda, 2009:83) and sexual offending behaviour (Somervell & Lambie, 2009:161,162) The previously mentioned diversion programmes and anger management programmes are needed in South Africa. Thus, diversion programmes should become more specialised to address the specific needs of individuals.

5.7.3.2.2 Subcategory: Programmes for the family

Five respondents (25%) observed that *programmes should be developed for the family members, including the parents* of the youth offender. According to the minimum standards as stated in Section 55 of the Child Justice Act no 75 of 2008 (2009:76,78) parents, appropriate adults or guardians should be involved in diversion programmes. Although the views expressed by interviewees thus far correspond largely with the minimum standards as mentioned in the Act, respondents were of the opinion that there was a need for diversion programmes for the parents and families of youth offenders. According to Chen Zhang, Choo and Lim (2009:139), diversion programmes for the family of the youth offender have been implemented in Asia. The involvement of family members and parents in diversion programmes would expand the much needed support of the youth offender. It can be concluded that expanded support would be beneficial for the successful rehabilitation of the adolescent delinquent.

5.7.3.2.3 Subcategory: Individual counselling

Of the respondents, two (10%) were of the opinion that *individual counselling is an essential diversion programme* for youth offenders as some problems the individual experiences cannot be addressed in a group or a programme. These responses correspond with the view of Schmid (2007:505), who says that children with more serious problems will need more intensive and long-term interventions, which can be accommodated in *individual counselling*. However, Schmid (2007:505) does not specify whether these interventions should be stand-alone or not. It may be concluded that individual counselling should be combined with other diversion programmes to address those individual needs which are not dealt with in the group or programme.

5.7.3.2.4 Subcategory: Cognitive therapy programmes

Observations made by the respondents highlight the need for diversion programmes which *focus on cognitive aspects of the child*. According to Minor (2007:40), cognitive behavioural skills training is a diversion programme which is facilitated in America. As many aspects of an individual's behaviour are influenced by his or her thoughts, it will be essential for diversion programmes to focus on cognitive aspects of the youth offender.

5.7.4 Subtheme 3.4: Selection criteria for diversion programmes

The following two categories, namely the criteria considered when selecting male juvenile delinquents for diversion programmes, and the relevancy of the selection criteria as highlighted by the respondents, are presented.

5.7.4.1 Category: Criteria considered when selecting male juvenile delinquents for diversion programmes

Respondents were asked to provide the selection criteria for diversion programmes with male juvenile delinquents. The criteria are categorised and discussed below.

5.7.4.1.1 Subcategory: Life skills

The respondents were requested to provide information regarding the selection criteria for the life skills programme. Their responses are presented in Table 5.7, followed by a discussion.

Table 5.7: Selection criteria for life skills

Selection Criteria		Number of respondents (percentages)	Excerpts from interview
Age groups	13 – 18	9 (45%)	
	other ages	2 (10%)	<i>"12-18 years"</i>
Youth with serious, violent or abusive crimes		10 (50%)	
No youth with psychiatric problems		14 (70%)	
Low to moderate risk youth offenders		13 (65%)	
Youth with addiction problems		12 (60%)	
Youth with no damaging emotional and behavioural problems, needing more intensive therapy		9 (45%)	
Other		3 (15%)	<i>"Needs of the delinquent were considered"</i>

N=20 (Some respondents identified more than one selection criteria)

Fifteen respondents (75%) were able to reflect on their experiences as the remaining sixteen (80%) respondents had never facilitated life skills programmes with youth. Nine interviewees (45%) stated that those **13-18** years were chosen for the programme, which does not correspond with the view of Smit (2010d:1) that children between 11 and 15 years be included. Two respondents (10%) chose other age groups such as **12-18 years**, which indicates the inclusion of older children, which is supported by Smit (2010d:1). However,

interviewees did not mention, as specified by Smit (2010d:1), that these are youth with lower social and cognitive abilities. It is essential that youths be grouped according to the appropriate age group and maturity level as younger youth may be more vulnerable to peer pressure when they associate with older and more mature youth.

Of the interviewees, fourteen (70%) said **youth offenders who do not have psychiatric problems** are suitable for the programme. Smit (2010d:2) states that the life skills programme improves social and interpersonal, as well as cognitive and intrapersonal skills. This might not be possible for delinquent youth who have psychiatric problems as their cognitive abilities are affected by their disorder and it will be difficult to develop such capacities. The responses of nine respondents (45%) regarding the inclusion of **low to moderate risk youth** correspond with the view of Smit (2010d:1) who, in turn, disagrees with the ten respondents (50%) that **youth with serious, violent or abusive crimes** are suitable. Programmes targeting low to moderate risk youth are not able to accommodate the needs of high risk youth as it is not such an intensive programme.

Twelve respondents (60%) were of the opinion that **youth with addiction problems were selected**. Steyn (2010:144) disagrees, and questions the suitability of the life skills programme, such as the YES programme, for youth who are caught up in addiction. Individuals who have substance abuse problems will need more specialised services, which cannot be provided in terms of the life skills programme. Smit (2010d:1) does not suggest the inclusion of youth with **damaging emotional and behavioural problems, needing more intensive therapy** in the life skills programme, so agreeing with the views of nine interviewees (45%). The life skills programme is not appropriate to address such extreme problems as it is more focussed on developing skills.

Three respondents (15%) stated that **other criteria** were considered, and that the **needs of the youth offender are considered** when choosing a programme or intervention. This was also stated in the Child Justice Act no 75 of 2008 (2009:76). If the needs of the youth offender are addressed, the individual will be able to function better and there will be no need for delinquency. Thus, life skills programmes should be used selectively in situations where there are no serious anti-social behaviours. Alternative diversion programmes should be developed to suit the needs of delinquents with psychiatric problems. Diversion

programmes should be combined with other interventions to address the extreme needs and problems of high risk youth. Many facilitators are still basing their selection criteria on standards used before the implementation of the Child Justice Act, resulting in the exclusion of many youth offenders. Many of the criteria stated in the Act make provision for therapeutic interventions.

5.7.4.1.2 Subcategory: Pre-trial community service

Respondents were asked to state the selection criteria for pre-trial community service. Their views are contained in Table 5.8, followed by an analysis.

Table 5.8: Selection criteria for pre-trial community service

Selection Criteria		Number of respondents (percentages)	Excerpts from interview
Age groups	other ages	11 (55%)	<i>"12-adulthood; 18-21; 13-17"</i>
Youth with serious, violent or abusive crimes		7 (35%)	
No youth with psychiatric problems		8 (40%)	
Low to moderate risk youth offenders		13 (65%)	
Youth with addiction problems		11(55%)	
Youth with no damaging emotional and behavioural problems, needing more intensive therapy		9 (45%)	
Other		0 (0%)	

N=20

Only 13 respondents (65%) were able to comment on this question as they have experience in facilitating the pre-trial community service programme with youth. None of the age groups provided by the researcher were chosen, only **other age groups** were regarded as appropriate by 11 respondents (55%) and these were: **12-adulthood; 18-21; 13-17**. Smit (2010a:1) does not support these views, suggesting instead 13 to 18 years. Younger youth are included in the programme as many of them come from rural and farm areas and they are unable to access other suitable programmes such as life skills programme.

Smit (2010a:1) supports the views of 13 interviewees (65%) who stated that **low to moderate risk youth** are considered for the programme, but disagrees with those of seven

respondents (35%) regarding the inclusion of **youth with serious, violent or abusive crimes**. Such youth will fall in the high risk category and other therapeutic interventions may be more appropriate for them. Of the respondents, eight (40%) did not find **youth with psychiatric problems** suitable. Smit (2010a:1) supports this view. Psychiatric problems are a more complex phenomenon which would need specialised attention. Nine respondents (45%) did not choose **youth with damaging emotional and behavioural problems that needed more intensive therapy**, which corresponds with the view of Smit (2010a:1). No other criteria were considered by the respondents.

Youth with addiction problems were considered by 11 interviewees (55%) as suitable for the programme, contradicting the view of Hancock (1987:10) that offenders with addiction problems are not fit for this programme. The youth offender may go to places where they have been placed for community service under the influence of the substance, so putting those around them in danger as they could become aggressive. Hence, diversion programmes should be made more accessible to delinquent youth in rural and farm areas. Youth falling into different age groups were included for the same programme, which indicated that the selection criteria were not consistent. Additional diversion options should be chosen to address the specific needs of individuals who are dependent on substances.

5.7.4.1.3 Subcategory: Family group conferencing

In this section, respondents mentioned the criteria used when selecting youth offenders for family group conferencing. The comments of participants are shown in Table 5.9, followed by a discussion.

Table 5.9: Selection criteria for family group conferencing

Selection Criteria		Number of respondents (percentages)	Excerpts from interview
Age groups	other ages	6 (30%)	<i>"12-adulthood"</i> <i>"Any age groups"</i>
High to moderate risk youth		9 (45%)	
No youth with serious, violent or abusive crimes		11 (55%)	
No youth with psychiatric problems		6 (30%)	
Youth with no addiction problems		9 (45%)	
Youth with damaging emotional and behavioural problems, needing more intensive therapy		5 (25%)	
Other		0 (0%)	

N=20

Eleven interviewees (55%) shared their experiences as they had previously been involved with such a programme. The inclusion of other age groups, **12-adulthood** or **any age groups** was mentioned by six respondents (30%). The views expressed by respondents regarding the age categories conflict with those of Smit (2010c:1). However, the programme is suitable for youth as well as adults; therefore the groups overlap between adolescence and adulthood. Of the respondents, nine (45%) suggested **high to moderate risk youth**. However, De Beus and Rodriguez (2007:339), say such a programme will not be sufficient to reduce recidivism, making it unsuitable for such youth.

All 11 respondents (55%) indicated that they **excluded youth with serious violent or abusive crimes** from the programme. Steyn (2005:34) supports this view. The programme is not designed to deal with such cases and it could cause secondary victimisation. Six respondents (30%) suggested that **youth with no psychiatric problems** be allowed to participate in the programme. Youth with **addiction problems** are viewed by nine respondents (45%) as appropriate candidates for the programme. Smit (2010c:1) and Steyn (2005:34) do not specify the inclusion or exclusion of youth with **no psychiatric problems or any addiction problems**. Youth offenders who have such problems would need supplementary specialised services and interventions.

According to five interviewees (25%), **youth with damaging emotional and behavioural problems, needing more intensive therapy** were chosen for the programme. Smit (2010c:1) disagrees; as such youth are more suitable for the wilderness therapy programme. The objectives of the family group conference differ from those of the wilderness programme, therefore youth with damaging emotional and behavioural problems will not benefit. Respondents did not offer other selection criteria.

It may be concluded that inconsistent implementation of the selection criteria occur as a result of insufficient knowledge about or a lack of guidelines for specific programmes. Also, facilitators do not understand the objectives of the programmes, and it may result in the selection of inappropriate youth offenders or the exclusion of certain age groups. Family group conferencing is not suitable to use for all types of crimes committed by youth

offenders as it could cause the victim more harm. Specialised interventions are needed for youth with more complex problems, such as psychiatric problems and addiction. The needs of moderate to high risk youth cannot only be addressed through family group conferences, but must be supplemented with other interventions.

5.7.4.1.4 Subcategory: Victim offender mediation

This section focuses on the selection criteria for victim offender mediation. The responses are contained in Table 5.10, followed by a discussion.

Table 5.10: Selection criteria for victim offender mediation

Selection Criteria		Number of respondents (percentages)	Excerpts from interview
	13 – 18	3 (15%)	
	other ages	3 (15%)	“15 until adulthood or any age”
High to moderate risk youth		6 (30%)	
Youth with serious, violent or abusive crimes		7 (35%)	
No youth with psychiatric problems		7 (35%)	
Low to moderate risk youth offenders		3 (15%)	
Youth with no addiction problems		1 (5%)	
Youth with damaging emotional and behavioural problems, needing more intensive therapy		2 (10%)	
Other		1 (5%)	“Accept responsibility for their actions”

N=20

Eight respondents (40%) could reflect on their experiences of this programme. Of the participants, three (20%) indicated that the selected age groups were **13-18 years** and another three (15%) chose youth offenders with **other ages such as 15 until adulthood or any age**. (Smit, 2010c:1) disagrees with these age categories. This results in the exclusion of younger children. **High to moderate risk youth** was selected by six respondents (30%). Steyn (2005:34) disagrees with the seven interviewees (35%) who suggested the inclusion of **youth with serious, violent or abusive crimes**. The harm caused by such crimes cannot be repaired in victim offender mediation.

Youth with no psychiatric problems were selected by seven respondents (35%), and **youth with addiction problems** were considered suitable by seven respondents (35%). As mentioned previously regarding the family group conferencing literature, Smit (2010c:1) and

Steyn (2005:34) do not specify the inclusion or exclusion of youth with ***no psychiatric problems or any addiction problems***. Supplementary and specialised services would be needed to address such needs. The opinions of respondents do not correspond with the view of Smit (2010b:1) that ***youth with damaging emotional and behavioural problems, needing more intensive therapy*** are suitable for the wilderness therapy programme. Six respondents (30%) agree that such youth are unsuitable to participate in the victim offender mediation. One respondent (5%) suggested that the youth should ***accept responsibility for their actions*** as other criteria. This view is supported by Steyn (2005:33,57,210). However, this will not occur in the first contact with the youth offender and it may take time to motivate the individual.

It may be concluded that there is no standardised implementation of the criteria and it excludes certain age groups, especially younger children. The types of crimes committed by the youth offender are not always suitable for the restorative justice process as it may not be beneficial to the victim to participate. There are uncertainties with regard to certain selection criteria (psychiatric and addiction problems) which could result in the inclusion of youth offenders who are not appropriate for the programme.

5.7.4.1.5 Subcategory: Wilderness therapy

The participants were asked to state the selection criteria for wilderness therapy programmes. Their responses are illustrated in Table 5.11 and debated below.

Table 5.11: Selection criteria for wilderness therapy programme

Selection Criteria		Number of respondents (percentages)	Excerpts from interview
Age groups	other ages	9 (45%)	<i>"12-21 years"</i>
High to moderate risk youth		14 (70%)	
Youth with serious, violent or abusive crimes		11 (55%)	
No youth with psychiatric problems		11 (55%)	
Youth with addiction problems		8 (40%)	
Youth with damaging emotional and behavioural problems, needing more intensive therapy		8 (40%)	
Other		1 (5%)	<i>"Males only"</i>

N=20 (Some interviewees identified more than one criteria)

Fourteen respondents (70%) are familiar with this programme and were able to draw on their experiences. Nine interviewees (45%) were of the opinion that **other age group** categories such as **12-21 years** are appropriate, but Smit (2010b:1) disagrees. The program is not appropriate for youth under 14 years as they are too young to understand the principle of rites of passage which is used in the programme. Botha (2007:17), Wood (2003:2) and Smit (2010b:1) agree with 14 respondents (70%) that only offenders regarded as **high to moderate risk** are appropriate for the programme. Eleven respondents (55%) felt that youth with **serious, violent or abusive crimes** should be included in the programme, and such youth would fall within the high to moderate risk category, a view supported by Smit (2010b:1). The wilderness therapy programme is an intensive therapeutic scheme which is able to deal with this type of youth.

Eleven respondents (55%) said youth with **psychiatric problems** were appropriate for the programme. According to Smit (2010b:2), the programme aims to assist youth to strengthen their basic cognitive and general living skills. In the case of youth who have psychiatric problems, this might be challenging as their cognitive abilities may be poor. **Youth with addiction problems** were appropriate candidates for the programme, said eight interviewees (40%). As mentioned by Steyn (2005:187) and Smit (2010b:4), the wilderness therapy programme involves physical activities during the adventure or wilderness experience. Such activities will be more hazardous for offenders suffering from withdrawal symptoms because of their substance use. Smit (2010b:1) agrees with eight respondents (40%) that **youth with damaging emotional and behavioural problems, needing more intensive therapy** would be appropriate for the programme. Youth offenders whose needs were not addressed sufficiently in other diversion programmes are usually referred to the wilderness therapy programme where they achieve more success.

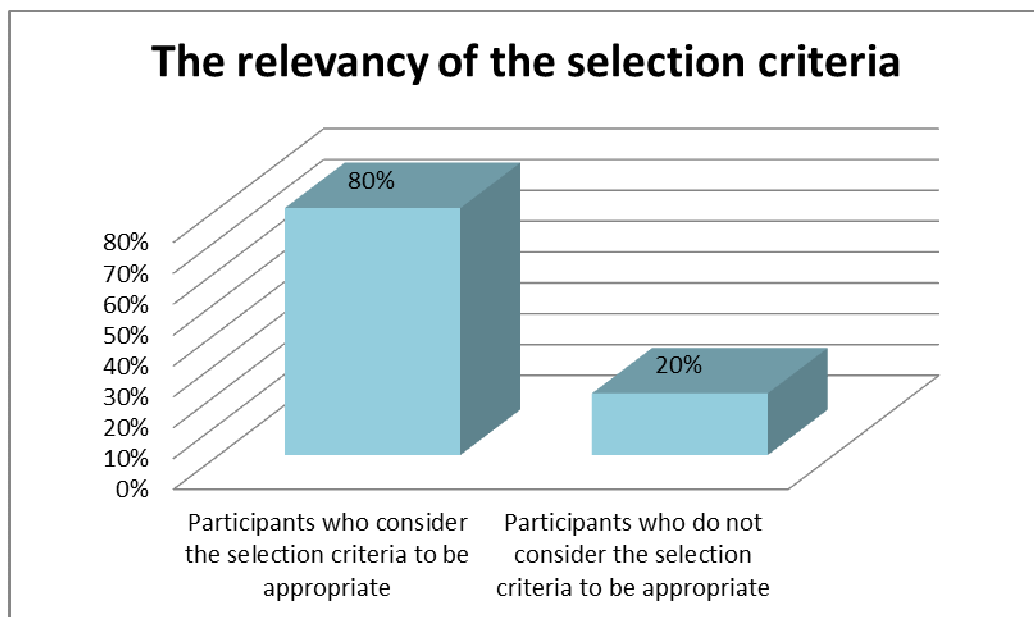
Other criteria were considered by one respondent (5%), who stated the **inclusion of only males**, but this does not correspond with the view of Smit (2010b:1). Many more males are involved in crime and fall into the high risk category, which is the reason more groups consist of males.

In conclusion, the programme is not beneficial for younger youth as they are not preparing to enter adulthood. Appropriate programmes should be chosen for the target group to

ensure that all youth benefit. Wilderness therapy programmes are a good alternative for the youth offender when other interventions they had participated in were unsuccessful. Even though there are fewer female offenders than males, wilderness therapy programmes should include groups for females.

5.7.4.2 Category: The relevancy of the selection criteria

The opinions of respondents about the relevancy of selection criteria were explored. The results are illustrated in Figure 5.13 and discussed below:



N=20

Figure 5.13: The relevancy of the selection criteria

Most respondents – 16 (80%) – regarded the selection criteria of diversion programmes as relevant, but four respondents (20%) disagreed. The reasons given by respondents who did not believe the criteria were relevant are discussed below:

- ***Everyone is included, but the programmes are not equipped to assist everyone, especially high risk youth.*** According to Steyn (2005:33,57,210), offenders who have committed more serious crimes and previous offences were considered for more intensive diversion programmes. Youth offenders have to be categorised according to the types of behaviour and risks. Diversion programmes have different outcomes and objectives, many of which can only accommodate a certain category of delinquent youth.

- Of the respondents, one (5%) felt that *the selection criteria are too prescribed; assessment and an intervention plan are needed to determine the type of intervention*. Authors (Skelton & Tshehla, 2008:13; Van der Merwe & Dawes, 2009:582) suggest that professionals who provide diversion services should receive training with regard to conducting thorough assessments. The assessment will guide the professional to make recommendations regarding the appropriate programme.
- *The inclusion of delinquent youth with addiction problems made the programme challenging*, said one respondent (5%). In Australia and Asia, offenders who use drugs are diverted to drug courts which deal specifically with such cases (Clancey & Howard, 2006: 377,378; Someda, 2009:83). Substance abuse is a specialised field and users should be placed in diversion programmes where the objective is to address the dependency problem.
- One respondent (5%) stated that *external organisations*, which the department or NGOs partner with to facilitate the adventure phase of the wilderness therapy programme, *excludes high risk children due to their strict procedures*. According to Smit (2010b:1), wilderness programmes are suitable for high risk youth. These programmes would not be appropriate for low to moderate risk youth as they would not necessarily need such intensive therapy.

Those respondents who regarded the selection criteria as relevant gave the following reasons:

- Twelve interviewees (60%) were of the opinion that the selection criteria *gives guidance on who can be accommodated* in a programme. This will ensure that the diversion programme is appropriate for the age and maturity of the youth offender as stated in the minimum standards of the Child Justice Act no 75 of 2008 (2009:76,78). Offenders will be able to develop insight into their behaviour as the diversion programme is appropriate in terms of their problems and levels of understanding.
- Four respondents (20%) said the criteria included a range of *issues of the youth offender* to ensure that the diversion programme *addresses their needs*. Thus, diversion programmes will be more effective if it is linked to the needs and profile of

the offender (Van der Merwe & Dawes, 2009:572). If diversion programmes are based more on needs, it will be more beneficial to the delinquent.

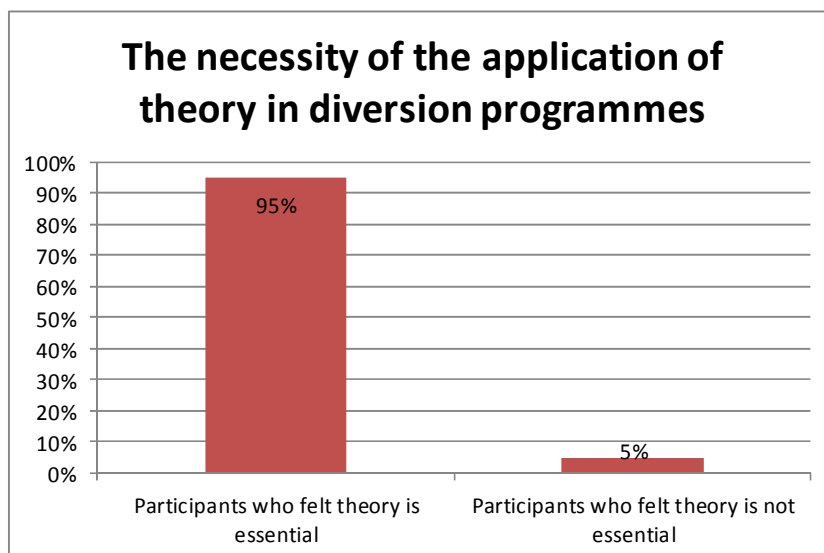
Therefore, the selection of diversion programme should not only be guided by criteria, but also by the assessment as this will reveal the needs of the delinquent. Separate diversion programmes should be developed to deal with youth who have substance dependency problems. Not all youth offenders are suited to the same diversion programme as different programmes have different objectives suitable to the varying needs and behaviours of individuals. Diversion programmes are more therapeutic when the needs of the offender are addressed.

5.7.5 Subtheme 3.5: The application of theory to diversion programmes

In this section, the application of theory to diversion programmes is investigated.

5.7.5.1 *Category: The necessity of the application of theory to diversion programmes*

This category deals with the opinions of respondents on the importance of the application of theory to diversion programmes. The responses are presented below:



N=20

Figure 5.14: The necessity of the application of theory to diversion programmes

One (5%) respondent *did not perceive theory as important* and argues that *a person is not written with a textbook, and every person's circumstances differ*.

The vast majority of respondents – 19 (95%) - argued that it was important to apply theory to diversion programmes. Excerpts from the responses are that:

- Theory helps the professional to ***understand the youth offender (behaviour, thoughts and development stages)***, said six interviewees (30%). Learning theories (Bandura *et al.*, 1963:527) explain how negative behaviour and thoughts are learned. Furthermore, the learning theory (Akers, 1990:660) explains the reasons for delinquent behaviour through the concept of differential reinforcement. It enables the professional to assist the youth offender in learning constructive behaviour.
- Of the respondents, four (20%) felt that theory ensures that interventions are ***evidence based (scientific)*** and it enables the social worker to ***measure behaviour change***. One of the objectives of diversion programmes is to reduce re-offending by the delinquent youth (Child Justice Act no 75 of 2008, 2009:70). Therefore, programmes should be based on approaches that have been proven through research to be effective.
- Theory ***provides guidelines for interventions***, according to seven respondents (35%). Walsh (2009:75) states that programmes which include a therapeutic component are most effective in reducing the delinquent behaviour of youth in America. Also, the Act (2009:74) requires that level two diversion options be therapeutic. Therefore, it is essential for the application of theory in diversion programmes.

These responses show that theory is essential as it helps to ***base interventions on science, it serves as guide*** or tool for social work practice, it ***helps to understand the individual (behaviour, thoughts and development stages)*** and it ***assists in measuring behaviour change***. Thus, evidence-based interventions will help to ensure the rehabilitation of the youth offender. The Act requires diversion programmes to be therapeutic. For interventions to be more therapeutic, it has to be integrated with theory. As theory helps the professional to understand the individual, it also helps the delinquent to develop insight into his behaviour, after which change is more likely to occur.

5.7.5.2 Category: Theories applicable to diversion programmes

The views of respondents were explored regarding which theories were applicable to diversion programmes. Respondents were given a list of theories, and asked to add others they considered important.

Table 5.12: Theories applicable to diversion programmes

Theories applicable to diversion programmes	Number of respondents (percentage)
Differential Association Theory	8 (40%)
Humanistic Approach	13 (65%)
Behaviour Modification Theory	18 (90%)
Systems Theory	18 (90%)
Cognitive Behavioural Theory	18 (90%)
Experiential Learning Theory	19 (95%)
Social Learning Theory	19 (95%)
Other applicable theories: Client centred approach, Spirituality (theory to support it lacking), Attachment Theory, Ecological perspective, Psychodynamics, Psycho- educational theory, Erikson's Development Theory, Strength-based Approach	19 (95%)

N=20 (Some respondents identified more than one theory)

Those interviewees in favour of application of theory to diversion programmes agreed with the views of Smit (2010a:2), Smit (2010b:3), Smit (2010c:3), Smit (2010d:2), Wood (2003:2) and Steyn (2005:88) that diversion programmes should apply the following theories: **social learning theory, differential association theory, behaviour modification theory, experiential learning theory, humanistic approach, systems theory and the cognitive behavioural theory**. The successful application of these theories will ensure that the male delinquent is understood, a meaningful relationship is built, and behaviour modification is achieved.

Other theories suggested as applicable to diversion programmes by the respondents were the **strength-based approach, psycho-educational theory, ecological perspective, psychodynamic theory, Erikson's development theory and the attachment theory**. Authors Smit (2010a:2), Smit (2010b:3), Smit (2010c:3), Smit (2010d:2), Wood (2003:2) and Steyn (2005:88) mention applicable theories used in diversion programs, but do not state that other theories do not apply. Different theoretical approaches may be appropriate to deal with different types of problems and behaviours. In conclusion, the integration of theory

with diversion programmes is vital, so providing different approaches to dealing with problems.

5.7.5.2.1 Subcategory: Reasons for applicable theories

Respondents were asked to give reasons for the theories chosen. Motivations for their choices as extracted from the narratives include:

Table 5.13: Motivations for the use of relevant theories

Motivations for the use of relevant theories	Number of respondents agree	Motivation: Excerpts from interviews
Deals with problem behaviour	6 (30%)	"The theoretical approaches will guide the social worker in addressing the problem behaviour "
Contextualise behaviour	5 (25%)	"It helps the facilitator to understand the behaviour that is displayed and to identify interventions which can address the problem behaviour"
Teach new behaviour	3(15%)	"To teach youth new skills & techniques "
Guides treatment	3 (15%)	"They help inform our interventions "

N=20 (Some respondents' responses were inappropriate and were not added to the results of study)

Respondents said relevant theories **address the problem behaviour, help the delinquent with learning new skills, and inform interventions**. The individual's interpretation of external events or internal stimuli misleads the individual in processing his experiences, leading to a variety of cognitive errors (Beck, 2005:953). During cognitive therapy treatment, the facilitator helps the participant identify high risk situations which lead to distorted thinking (Beck, Liese & Najavits, 2005:493). These distorted thoughts influence the individual's actions negatively and result in problem behaviours.

Based on Learning Theory (Bandura, 1969:213), which states that behaviour is learned, social skills training methods are used to assist children to learn positive behaviours and skills (Smit, 2010d:3). It is essential that the socialising agents from whom the delinquent youth learns the behaviour be included in the intervention. Since the implementation of the Child Justice Act no 75 of 2008 (2009:2), new demands have been placed on NGOs to render intensive therapeutic services to achieve the rehabilitation of juvenile offenders. The

integration of theory will add to the therapeutic nature of the diversion programme. Thus, approaching intervention holistically will contribute to the rehabilitation of the youth offender. By eliminating thinking errors, the individual's behaviour could be modified. Therefore, it is vital that theoretical approaches be used to guide interventions which are developed for the delinquent youth.

5.7.6 Subtheme 3.6: The positive results

In this section, the positive results of diversion programmes are investigated.

5.7.6.1 Category: The positive results of diversion programmes

Respondents expressed their views on the positive outcomes of diversion programmes. Excerpts obtained from the interviewees included the following:

Table 5.14: Positive results of diversion programmes

Positive results of diversion	Number of respondents agree	Motivation: Excerpts from interviews
<i>Positive behaviour change</i>	7 (35%)	"When behaviour change is observed."
<i>Learn skills</i>	3 (15%)	"Youth offenders learn skills which help them to change their behaviour."
<i>Develop insight</i>	2 (10%)	"It gives the delinquent the opportunity to gain insight into their behaviour."
<i>No criminal record</i>	3 (15%)	"The youth offender has no criminal record ."
<i>Teaches accountability</i>	5 (25%)	"The offender gets the opportunity to take responsibility for his actions ."
<i>Decrease in recidivism</i>	6 (30%)	" Fewer youth re-offend ."

N=20 (Some respondents identified more than one positive result)

Respondents said the positive results of diversion programmes included **not having a criminal record, decrease of re-offending, positive behaviour change and youth take responsibility for their actions**. The literature review (Smit, nd:11; Smit, 2010b:2; Smit, 2010d:2; Rooth, 2000:5; Steyn, 2005:75; Steyn, 2010:95; Davis & Busby, 2006:102; Skelton & Tshehla, 2008:53; Child Justice Act no 75 of 2008, 2009:70) reveals that diversion programmes aim to encourage offenders to take responsibility for their actions, attempt to impact positively on offender behaviour change, teach youth life skills which will enable them to make better decisions, reduce the potential for re-offending, and prevent the youth

from having a criminal record. It may be concluded that the objectives of diversion programmes are being achieved in bringing about the rehabilitation of youth offenders.

5.7.7 Subtheme 3.7: Suggestions

In this section, respondents' suggestions regarding diversion programmes are examined.

5.7.7.1 Category: Suggestions for the facilitation of diversion programmes

Respondents were asked to make recommendations regarding the facilitation of diversion programmes. These responses are discussed below:

5.7.7.1.1 Subcategory: Skilled professionals

Suggestions were given regarding skilled professionals. Of the respondents, five (25%) are of the opinion that *facilitators of diversion programmes should be skilled in facilitation and receive proper training*. This view does not correspond with those of Van Der Merwe and Dawes (2009:582), and Skelton and Tshehla (2008:13), who argue that professionals who provide diversion services should receive training with regard to conducting thorough assessments. However, the training that these professionals receive should be broader than just assessment, say the interviewees. It may be concluded that training covering areas of diversion other than just conducting assessments will enhance the quality of diversion services.

5.7.7.1.2 Subcategory: Monitoring and Evaluation

Respondents also made recommendations regarding the monitoring and evaluation of diversion programmes. Few programmes are evaluated, and those methods used to evaluate programmes are not acceptable (Van der Merwe & Dawes, 2009:572). Two interviewees (10%) agree with the views of Van der Merwe and Dawes (2009:572) that there is a *need for quality assurance* for diversion programmes. However, time constraints and heavy workloads are challenges which lead to this aspect of the service being neglected. If there is no monitoring and evaluation, the impact of diversion programmes cannot be assessed.

5.7.7.1.3 Subcategory: Adequately resourced diversion programmes

Proposals were made regarding the provision of sufficient resources for diversion programmes. Children may not be excluded from diversion options due to a lack of resources or finances, according to the minimum standards of diversion as stated in Section 55 of the Child Justice Act no 75 of 2008 (2009:76,78). Furthermore Clough *et al.* (2008:437) add that obstacles such as the lack of adequately resourced diversion options affect the implementation of diversion programmes in Australia. The opinions of three respondents (15%) correspond with the minimum standards in the Act as well as the views of Clough *et al.* (2008:437) that diversion programmes **need adequate resources**. The lack of resources affects the morale of facilitators negatively, which is evident in the way they facilitate the programme. Services cannot be delivered efficiently if there is a shortage of resources.

5.7.7.1.4 Subcategory: Diversion programmes accommodating literacy levels and special needs

This section includes recommendations made with regard to the literacy levels and special needs of youth offenders. According to Child Justice Act no 75 of 2008 (2009:76), the diversion option must be at the appropriate cognitive and educational level of the youth offender. Also, Steyn (2010:145) claims that children who are cognitively underdeveloped struggle with diversion programmes. According to two respondents (10%), **diversion programmes should cater for youth offenders with low or no literacy levels** as well as youth with **special needs**. Most youth offenders function at a lower cognitive level, making it challenging to facilitate diversion programmes with them. Thus, it is essential that the style of facilitation be adapted so that youth understand the programme.

5.7.7.1.5 Subcategory: Parental involvement in diversion programmes

Suggestions were made about parental involvement. The minimum standards of diversion stated in Section 55 of the Child Justice Act no 75 of 2008 (2009:76,78) specifies that parents, appropriate adults or guardians should be involved in diversion programmes. This is similar to the recommendations by three respondents (15%) that **parents should be included** in diversion programmes as working only with the youth is not effective. By involving parents in the programme, the youth offender's support system is expanded and

the parents are able to understand their child's delinquent behaviour. It can be concluded that the youth offender needs support to sustain his rehabilitation.

5.7.7.1.6 Subcategory: Aftercare and follow-up

Recommendations were made regarding aftercare and follow-up services. Diversion programmes in Australia offer insufficient intensive support and follow-up (Parliament of Victoria Drugs and Crime Prevention Committee Final Report, 2009:214). Furthermore, evaluations from diversion programmes in America show that appropriate follow-up services are lacking for the youth who complete schemes such as the wilderness and adventure programmes (Russell & Walsh, 2011:401). Of the respondents, two (10%) saw **aftercare and follow-up** as an **essential part of the diversion programme**. Although it is challenging to provide aftercare services because of heavy workloads of social workers, it remains one of the methods used to evaluate whether change has occurred. Thus, aftercare will ensure that progress is monitored and it will encourage the juvenile delinquent to maintain his rehabilitated behaviour.

5.7.7.1.7 Subcategory: Accessibility of the diversion programme

Proposals were made regarding the accessibility of diversion programmes. One respondent (5%) said the fact that diversion programmes **should be accessible** to the youth offender is in line with the minimum standards as stated in the Child Justice Act no 75 of 2008 (2009:76,78). Many delinquents are excluded from such programmes because they are not presented near where they live. This causes offenders to continue their delinquent behaviour as they are unable to obtain the necessary help. It may be concluded that the inaccessibility of diversion programmes could lead to an increase in crime committed by youth.

5.8 CONCLUSION

The aim of this study was to explore the views of social workers on diversion programmes with male juvenile delinquents. This chapter gave the results of the empirical study. First, a general profile of the respondents was compiled. Thereafter, three themes which were extracted from the gathered data were presented and interpreted. Then, the opinions of the respondents were investigated in terms of the nature of juvenile delinquency. The

responses of the interviewees showed that social workers who facilitate diversion programmes had a good general understanding of the nature of juvenile delinquency in terms of the theoretical framework as presented in chapter two. Also, respondents' perceptions regarding diversion legislation were examined. The study revealed that the intention of the Act is good, but the implementation of the legislation is not realistic as service providers interpreted it differently. Gaps were identified with regard to the monitoring of the minimum standards and guidelines for interventions with physically and mentally challenged youth offenders. Also discussed was the way in which respondents' implemented diversion programmes with male juvenile delinquents. Results of the study verified the data presented in the literature review chapters and highlighted areas where diversion programmes could be improved.

CHAPTER SIX

CONCLUSIONS AND RECOMMENDATIONS

6.1 INTRODUCTION

The purpose of the empirical study conducted in chapter 5 was to gain an understanding of the views of facilitators of diversion programmes with male juvenile delinquents. In chapter six, the conclusions based on the findings will be presented in order to make recommendations. These recommendations can be used as guidelines by social workers in the public and private sectors in the facilitation of diversion programmes.

- The aim of this study was to gain an understanding of the views of social workers on diversion programmes for male juvenile delinquents. This aim was achieved as follows:
- In chapter 1 an introduction to and motivation for the study was provided.
- In chapter 2, a theoretical overview of juvenile delinquency was presented. This drew a clear picture of the nature of juvenile delinquency involving male adolescents and its current context in South Africa and other countries.
- In chapter 3, diversion programmes in terms of the Child Justice Act no 75 of 2008 and how it dealt with children outside the criminal justice system was described.
- In chapter 4 the scope, nature and contribution of diversion programmes for the rehabilitation of delinquency were investigated.

6.2 CONCLUSIONS AND RECOMMENDATIONS

In this section, conclusions will be drawn and recommendations made based on the literature study and empirical investigation.

6.2.1 Profile of the social workers

The findings of this study regarding the profile of the social workers are as follows:

A majority of the respondents have more than five years' experience in social work, which may be taken as an indication that they have sufficient experience as social workers. However, more than half the respondents do not have more than five years' experience in the facilitation of diversion programmes. This means that the social workers facilitating diversion programmes do not have enough experience. The quality of the diversion programmes will suffer and the therapeutic element will be lacking as it requires skilful professionals to facilitate these programmes. The rehabilitation of youth offenders will be challenging as the diversion programme will not have the preferred impact.

Recommendations

The following recommendations are made:

- Consideration should be given to the selection of facilitators with more years of experience in the facilitation of diversion programmes. The expertise of such facilitators would benefit the rehabilitation of male juvenile delinquents.
- Facilitators who facilitate diversion programmes should be exposed to continuous training and mentoring to improve their skills and experience.

6.2.2 The nature of juvenile delinquency

The findings relating to the nature of juvenile delinquency were as follows:

6.2.2.1 *Definition of juvenile delinquency*

The definition of juvenile delinquency provided by the social workers included: acts by youth that are unlawful, youth in conflict with the law resulting from peer pressure, the reflection of poor decision making, children being rebellious, the display of problem behaviour, and youth being at constant risk of becoming involved in crime due to risk factors (exposure to a culture of crime, lack of personal resilience, challenging home environment, and influences of the community). All respondents were able to define juvenile delinquency, which shows that they have knowledge of the field in which they work. The terminology used to define youth offenders was more positive, with negative labelling avoided. Several definitions were provided by respondents, which indicate that the definition of juvenile delinquency is much broader and not limited to the violation of laws

and anti-social behaviour. The way in which juvenile delinquency is defined could play a role in the manner the problem is addressed.

Recommendations

- Social workers who work in the field of juvenile diversion should continuously update their knowledge regarding juvenile delinquency.
- The use of positive terminology should be promoted when speaking about the youth who commit offences.
- Approaches and techniques used in diversion programmes should address the factors included in the definition of juvenile delinquency.

6.2.2.2 Causes of juvenile delinquency

The causes of juvenile delinquency include unsatisfactory parental behaviour; family, child abuse and maltreatment; the presence of a delinquent sibling; economic disadvantage; genetic factors; age and HIV/Aids. Other causes of juvenile delinquency are substance abuse; adolescent depression; absent parental figures, which could result in a lack of supervision and poor discipline; poor education; dropping out of school; negative influences from and culture in the community and the family; political reasons, including a lack of leadership; low personal resilience; lack of coping mechanisms and support systems; poor choices and decision making; gaps in legislation (Child Justice Act no 75 of 2008) which lead to youth being exposed to circumstances which can cause them harm or lead to them having too many adult responsibilities; failure of the social welfare system, and the development stage.

Unsatisfactory parental behaviour, the presence of a delinquent sibling and economic disadvantage were regarded by social workers as the most likely causes of juvenile delinquency, while HIV/Aids was regarded as the least likely cause. Parents are the individuals who have the most influence on their children's behaviour as they are their role models. This implies that the individual learns through observing others. Where parents do not execute their parental duties satisfactorily, the youth are exposed to other risk factors, such as peers who exert a negative influence, substance abuse, poor school progress, dropping out of school, and this could lead to juvenile delinquency. The pressure of

economic disadvantage on families contributes to their dysfunction. Youth become delinquent or make poor decisions because of the tension in their families that result from economic disadvantage.

Males are more vulnerable to delinquency due to impulsivity. The fact that males need to prove themselves, the different socialisation of boys and girls resulting from gender discrimination, the extra pressure placed by peers on the male, and societal expectations of males are added factors that contribute to the vulnerability of male adolescents becoming delinquent. Lastly, the absence of a father role model or a positive father figure is a contributing factor to male delinquency. It could be argued that if males and females were socialised in similar ways, the phenomenon of mostly males being delinquent would not be prevalent. Society would then not have the high expectations of males, which would make them emotionally unbalanced to handle the pressures of life. Furthermore, males have few socialising agents they can identify with to promote positive and productive behaviour.

Individuals responsible for juvenile delinquency are the youth offender, peers, family, parents, gangs, the environment, which includes substance abuse, institutions, adults, socialisation, government and the police. The study implies that factors from the family and the individual's environment, as well as society, play a role. All these factors are to a greater or lesser extent responsible for juvenile delinquency. However, the family is the smallest unit of society where the problem starts and can be addressed. The study further suggests that poor collaboration between the government and institutions, as well as a lack of high-quality service delivery to youth, fails to protect youth from juvenile delinquency.

Recommendations

- Awareness programmes in the community should educate parents regarding their duties of protecting their children from delinquency as well as to assist parents in developing resilient characteristics in their children before they enter the early adolescent life stage.
- Support groups should be established for parents in schools and in the community to provide support and to develop coping strategies on how to deal with challenges of parenting as well as the pressures of life.
- Awareness programmes in the community should focus on the socialisation of boys and girls to decrease gender discrimination and negative stereotyping.

- Mentoring programmes should be developed in schools, the community, religious institutions and organisations dealing with youth where adolescent males can be coached and nurtured by males who are positive role models, to become responsible and productive citizens.
- Monitoring committees should be established where the government and other relevant stakeholders can collaborate to address juvenile delinquency and to achieve a better quality of service delivery.

6.2.2.3 Profile of the male juvenile delinquent

According to the social workers interviewed, the profile of the male juvenile delinquent consists of the following: an adolescent between 13 and 16 years; the self-esteem is low, the physical appearance is not tidy and hygiene is often poor, parents do not fulfil their parental duties, he or family members use substances, there is a display of anti-social personality traits (is stubborn, disrespectful, aggressive, shy, easily influenced, arrogant, non-cooperative, withdrawn or extroverted, and attention-seeking behaviour), not part of a nuclear family, the positive father figure and male role models are lacking, has been exposed to trauma, the family is dysfunctional, less education was completed, comes from lower socio-economic circumstances, and is part of a gang.

The typical age group of the male juvenile delinquent is 13 to 16 years. It is common for juvenile delinquents between these ages to display mild delinquent behaviour. Parental support is vital to guide the adolescent through this challenging development stage as it could result in continuing criminal behaviour into adulthood. Many youth offenders do not master the challenges in this development stage because of poor parental guidance and support. In addition, a positive self-esteem is necessary for the healthy development of the adolescent. Male youth offenders do not maintain good hygiene, reflecting their poor self-image which, in turn, affects their development stage.

Substance use by the offender and family members was viewed by all respondents as a feature. The use of substances lowers an individual's inhibitions and influences his ability to make good decisions. Anti-social personality traits such as being stubborn, disrespectful, aggressive, non-cooperative, withdrawn or extroverted, exhibiting attention-seeking behaviour, being shy, easily influenced and arrogant are shared by male juvenile

delinquents. These characteristics constitute a risk for the delinquent as it causes the male adolescent to be less resilient and adapt poorly. Respondents commented that youth offenders are not part of a nuclear family. It affects how the male adolescent is socialised. There is little or no male guidance for young males because the positive father figure and male role model is lacking. This influences the decisions made by and behaviour of the male adolescent.

At some stage in their lives, the delinquent youth may have been exposed to trauma. As a result, they display negative behaviours as a way of coping. Family dysfunction is prevalent with male juvenile delinquents and it results in a lack of attention, poorly formed attachments with parents, lack of supervision and discipline. It also exposes the youth to violence, abuse, substance abuse and negative parental behaviour such as parents committing crime. In a dysfunctional family, everyone is preoccupied with their own problems, leaving the youth offender feeling alone and having to carry the burden of the consequences of his own behaviour by himself. Therefore, male juvenile delinquents have a need for a sense of belonging, causing them to associate with peers, such as gangs, who exercise a negative influence.

The youth offender normally has less education, limiting their opportunities for the future, and maintaining the cycle of poverty and economic disadvantage, which is evident in the circumstances of the youth offender. It also explains why many youths are unemployed and the homes they live in overcrowded.

Recommendations

- Programmes focussing on rites of passage should be developed to guide young males into adulthood before the age of 18 years.
- Leadership camps are recommended to build the youth offender's resilience and confidence.
- Youth offenders attending diversion programmes should be given access to sport clubs and recreational activities during and after completion of the programme.
- Programmes or camps involving the whole family should be developed where the delinquent youth is encouraged to bond and build positive relationships with family members.

- More focus should be placed on awareness programmes regarding the prevention of substance abuse in communities, as well as the resources available to address the problem.
- Regular drug testing should be done at schools to detect any substance use and to address the problem at an earlier stage.
- Treatment for substance abuse should not only include the youth offender, but any other family members using substances as this will affect the individual's recovery.
- Support groups for single parents, step parents, foster parents and guardians are recommended to explore healthy ways to socialise male adolescents, especially in the absence of positive male adults.
- Trauma counselling for youth and children should be more accessible and parents should be made aware of such resources available in the community.
- A holistic approach should be followed regarding interventions with male juvenile delinquents, including all groups such as the family, school and community.
- Service providers who offer services to youth offenders should be in partnership with the local education department and advocate on behalf of the youth offenders to find ways to integrate them back into the school system, as well as providing the necessary support to teachers in dealing with delinquent youth in schools.
- Violence in the community can only be decreased through the regular promotion of the use of healthy and non-violent ways to deal with conflict. It is also recommended that parents be educated on interacting in a less violent and aggressive way with their children.

6.2.3 Legislation regarding diversion

The Child Justice Act no 75 of 2008 has been implemented since 2010. However, when social workers were probed about the effect of the application of the Act, the following emerged:

6.2.3.1 Implementation of the Child Justice Act no 75 of 2008

The effect of the implementation of the Child Justice Act on diversion is positive, particularly as regards the protection of children's rights and the raised accountability of service providers. However, the implementation of the Act is not realistic as there is a lack of

adequate resources. Furthermore, the Act has not been successful in minimising awaiting-trial youth. Monitoring committees are not in place to ensure that the minimum standards are met. The Act is seen as a helpful guide as it provides clear guidelines to practitioners when dealing with youth offenders. However, the challenges relate to the different interpretations by professionals providing diversion services, as well as a lack of knowledge about the Act. This results in the provisions of the Act being applied incorrectly and in non-standardised ways. Some challenges such as inadequate resources are experienced in other countries such as Australia. South Africa is fortunate to practise diversion within a legal framework as some countries such as Hungary do not have a separate justice system for children. This limits the youth's access to diversion and could contribute to the youth becoming adult offenders.

Recommendations

- Collaboration between different role players is needed for the effective implementation of the Act; therefore opportunities for regular networking should be created by establishing a forum focusing on issues regarding the Child Justice Act and youth diversion.
- Monitoring committees should be established to continuously monitor and evaluate diversion services.
- Stakeholders and service providers who deal with youth offenders should participate in information sessions and training regarding the Act.
- Consultations and talk shops should be held with relevant stakeholders and the broader society to evaluate the Act in order to make amendments.
- Continuous training regarding the Act should be done with all professionals involved with diversion to develop their insights.
- Awaiting-trial youth should be included in programmes as a means of rehabilitation.
- It is suggested that funding be provided by the government to appoint more social workers and adequate resources be obtained for the provision of diversion services as stated in the Act.
- More could be learned from other countries regarding the implementation of diversion legislation through research and visiting such countries.

6.2.3.2 Level one and level two diversion options

In the Act, a good distinction is made between the different diversion options, with clear guidelines regarding the choice of interventions. These options can only be effective if social workers have adequate skills to interpret them correctly. However, the findings in the study imply that some social workers are unclear about the requirements of the different diversion options. The use of one of these options should not be the only intervention or service which the youth offender receives. The assessment should inform the intervention plan for the delinquent, which may include the diversion option and other services. Concerns were raised about whether the therapeutic programmes of level two diversion options were enough to address all the individual needs of the youth offender. There are better diversion programmes in other countries, such as America, where success has been achieved in reducing re-offending.

Recommendations

- Thorough assessments have to be conducted with the youth offender and intervention plans should be formulated for each delinquent.
- An audit should be carried out regarding the needs of youth offenders and more therapeutic programmes should be developed to accommodate them.
- Social workers from different diversion service providers should hold forums where they can discuss and consult with each other regarding the diversion options for youth offenders.

6.2.3.3 Minimum standards

The minimum standards ensure that youth offenders benefit equally from diversion as it is mandatory that all service providers adhere to these standards, with sanctions being applied if this does not happen. However, according to the study, there are challenges regarding the implementation of these minimum standards. In terms of the Act, the courts decide whether youth offenders will be diverted. Also, stakeholders interpret the Act differently. Lastly, insufficient and unevenly distributed resources prevent the minimum standards being applied.

Recommendations

- Monitoring committees have to be active, otherwise the mandate in terms of the Act cannot be fulfilled.
- More funds should be made available by the government for the provision of adequate resources to implement the minimum standards.
- Forums should be established consisting of all stakeholders (police, courts, social workers, other departments and organisations rendering services to youth offenders) to evaluate and discuss issues regarding the Child Justice Act and the minimum standards.

6.2.4 Diversion programmes

This section deals with conclusions and recommendations regarding diversion programmes.

6.2.4.1 Types of diversion programmes

The respondents in the study were involved in various youth diversion programmes (life skills, pre-trial community service, family group conferencing, victim offender mediation, and wilderness therapy). This allowed them to reflect on and share their experiences regarding diversion programmes. The research findings revealed that there were more youth diversion programmes than was investigated in this empirical study. These additional options include programmes for specialised groups (substance abusers, violent offenders and sexual offenders), programmes for the family of the youth offender, individual counselling, and cognitive therapy programmes. Much can be learned from other countries, such as America, New Zealand, and those in Asia, regarding cognitive therapy options and programmes focussing on specialised groups, such as substance users and sexual offenders. However, research is needed to develop new diversion programmes in South Africa.

Recommendations

- Social workers employed at organisations delivering diversion services should facilitate more than one type of diversion programme to broaden their experience and skills.
- More diversion programmes should be developed to accommodate the diverse needs of youth offenders.

6.2.4.2 Life skills

The social workers were able to identify the strengths and challenges of the life skills programme. The strengths of such a programme include that it creates opportunities for offenders to learn basic life skills, is easily facilitated, and can be adapted easily to the level of the offender. Also, group work is facilitated easily in the programme, creating better opportunities for learning. The challenges identified include that the programme did not address the therapeutic needs of the individual group members, and programme venues are often inaccessible for offenders. Also, there is no agreed upon standard for the implementation of the programme, and youth offenders who are cognitively underdeveloped struggle to understand the content of the programme.

Recommendations

It is recommended that challenges regarding the life skills programme be dealt with in the following ways:

- Social workers should receive training to become skilled in the facilitation of therapeutic groups.
- Individual counselling should be included in the diversion programme to ensure that the individual needs of youths are met.
- Adjusting the programme style to accommodate youth with poor cognitive abilities and putting such individuals together in a group.
- Programme guidelines and manuals be developed for the different diversion programmes by government departments and organisations facilitating them.
- Diversion programmes be monitored to ensure that it is implemented in accordance with programme guidelines.
- Using venues that are more accessible for youth offenders where programmes are facilitated.

6.2.4.3 Pre-trial community service

The social workers interviewed identified the strengths and challenges of the pre-trial community service programme. The strengths include that youth offenders learn to be accountable for their actions that youth learn through participating in the programme and that offenders get the chance to give back to the community. Among the challenges are that

therapeutic approaches are lacking, there are few suitable placements agencies to send offenders to complete their community service hours, and there is often a lack of remorse by the offender for the crime committed.

Recommendations

Suggestions to restrict the challenges of the pre-trial community service programme are:

- Social workers should become skilled in the facilitation of groups receiving therapy and be able to adapt the structure of the programme to make it more therapeutic.
- More placement agencies should be sought and included in training to educate them regarding the outcomes of diversion programmes for youth.
- The programme should include individual counselling to address negative attitudes and behaviours.

6.2.4.4 Family group conferencing

Respondents pointed out that the strengths of family group conferencing include that the programme give people the opportunity to address family issues, and everyone involved in the case is brought together in a face-to-face meeting, make a bigger impact on the offender. Also, the programme focuses on reconciliation between the youth offender and the family or community, and offenders are encouraged to take responsibility for their actions. The conference is also a healing process which includes emotional and material restitution, and it helps to strengthen family relationships. Some of the challenges include the fact that family dynamics may interfere with the intervention process, the conference is time-consuming, and it is difficult to get people involved with the family group conference other than the youth offender.

Recommendations

The following recommendations are made regarding dealing with the challenges of family group conferencing:

- The social worker should spend sufficient time on thorough preparation with all the parties involved to become familiar with the family dynamics and address unresolved family issues.

- The caseloads of social workers should be reduced so that they can render a quality service and to ensure that an aftercare service is provided.
- More social workers should be appointed to relieve the aforementioned service providers of high caseloads.
- Awareness should be raised in communities regarding restorative justice to change perceptions regarding offenders and to encourage victims to become involved in such interventions.

6.2.4.5 *Victim offender mediation*

According to the respondents, the strengths of victim offender mediation are that the perceptions of the victim and offender are changed, and both victim and offender benefit from the programme. Also, the victim is able to tell the offender how he or she has been affected by the crime. Challenges that have been noted include that professionals are generally poorly skilled to manage victim offender mediations, and aspects such as the preparation are not done properly, which could cause more harm. Also, the intervention process of the victim offender mediation programme is lengthy, and the huge caseloads of social workers do not allow them to spend the required time on individual cases. Finally, the victims may be unwilling to participate in the programme.

Recommendations

Recommendations regarding the challenges of victim offender mediation are:

- Social workers should be trained in restorative group conferencing.
- More time should be spent on thorough preparation with all parties involved in the victim offender mediation.
- A lighter caseload should be allocated to social workers involved in victim offender mediations so that they are able to spend more time on individual cases.
- Awareness of restorative justice should be promoted to decrease the negative labelling of offenders.
- Guidelines should be put in place for the victim offender mediation programme, and they should be monitored.
- Social workers should have group supervisions to receive guidance regarding facilitation and to evaluate the implementation of the programme.

6.2.4.6 Wilderness therapy

The strengths of the wilderness therapy programme lies in the fact that nature is used as an aid to contribute to change, and outdoor activities are linked to the offender's real-life situation, which enables him to make links between the activity and the situation. Also, youths are removed from their surroundings, which allows them time to reflect on and gain insight into their issues and themselves, with experiential learning used to make the learning more relevant to the offender. The therapeutic nature of the programme is thought to add to the strength of the intervention. Another strength is that the offender develops new skills thanks to the programme, and different methods and activities are used, giving the youth the opportunity to develop in various ways. Furthermore, intensive group work is used in the programme, producing a better environment for new behaviour to be modelled and learned. Lastly, the programme includes a rites of passage course and this guides the youth offender into adulthood.

One of the challenges identified is that substance use is an obstacle to progress as the youth offender who uses will find it difficult to participate in the extreme physical activities of the programme. Another challenge is that phases of the programme such as follow-up, aftercare and preparation are not done thoroughly due to time constraints. Then, the outdoor aspect (sleeping and having time alone in nature) of the adventure phase of the programme can be difficult and in some cases traumatic for youth offenders. Also, the lack of skilled facilitators will affect the outcomes of the programme. Another challenge is that youth offenders forced to participate in the programme will build resistance and will not benefit. Lastly, parents are excluded from the programme and the support needed for the reintegration of the offender will be absent.

Recommendations

The challenges regarding the wilderness therapy programme may be addressed as follows:

- Youth offenders should undergo drug tests and substance use should be monitored to ensure that they are clean when they participate in the adventure phase of the programme, which is physically and mentally challenging.
- More time should be spent on preparing the youth offender and his family.

- Facilitating fewer programmes allows social workers the time to complete all phases of the programme, including aftercare and follow-up.
- Alternative interventions should be chosen if the outdoor component of the programme is too traumatic for the youth offender.
- Social workers should be trained and gain experience in the facilitation of wilderness therapy programmes.
- Individual and combined sessions with parents should be offered throughout the programme.
- Individual sessions should be held with youth offenders to address those needs which are not met in the group sessions, and to motivate them to attend the programme.

6.2.4.7 Selection criteria for diversion programmes

The following selection criteria were specified for the different diversion programmes according to the responses of the interviewees:

- Life skills

The selection criteria for the life skills programme, according to the interviewees, are that youths should be between 13 and 18 years; they should be youth with serious, violent or abusive crimes; youth offenders should not have psychiatric problems; youth should be classified as being low to moderate risk, and have addiction problems. Additional criteria are that youth offenders had to accept responsibility for their actions, and the needs of the youth offender should be considered when choosing diversion programmes. The criteria differ substantially from that prescribed in the literature (Smit, 2010d:1), possibly because the programme is based more on the needs of youth offenders.

- Pre-trial community service

Selection criteria for pre-trial community service are that age categories range from 12 year to adulthood, and 18 to 21 years and 13 to 17 years, and youth offenders should be classified as a low to moderate risk. Then, this service is suitable for youths with serious, violent or abusive crimes, and youths should not have psychiatric problems. It differs from the literature (Smit, 2010a:1) with regard to age categories and the inclusion of youth who

have committed serious offences. However, programmes are being adapted to align with the level two diversion options as stated in the Child Justice Act no 75 of 2008 (2009:72,74) which requires therapeutic interventions with youth offenders who have committed more serious offences.

- Family group conferencing

The selection criteria mentioned by the respondents are that offenders should range from 12 years to adulthood, or be in any age group, and are considered a high to moderate risk. Such conferencing is suitable for youth with addiction problems, and who have damaging emotional and behavioural problems, but they should not have psychiatric problems. Also, this is not suitable for youth who have committed serious, violent or abusive crimes. Criteria identified by the respondents are different from what is stated in the literature (Smit, 2010c:1). Inconsistent implementation could result in the objectives of the programme not being achieved or in the exclusion of certain groups of youth offenders.

- Victim offender mediation

The criteria for the victim offender mediation as suggested by the interviewees are that youth should be between 13 and 18 years, be from 15 years to adulthood, or be any age. Also, they should be regarded as high to moderate risk, and may have committed serious, violent or abusive crimes. However, they should not have psychiatric or addiction problems, and should not have damaging emotional and behavioural problems.

- Wilderness therapy

According to the respondents, the selection criteria for youth to participate in the wilderness therapy programme include that they should be between 12 and 21 years, be regarded as high to moderate risk, be youth who have committed serious, violent or abusive crimes, may have psychiatric and addiction problems, as well as have damaging emotional and behavioural problems. An added criterion is that only male youth offenders should be allowed on such a programme. The criteria are similar to those in the literature (Smit, 2010b:1), but there is a difference with regard to age categories, with the recommendation that suitable youth be selected who are able to benefit from the programme.

The social workers interviewed expressed no uniformity in terms of the criteria used for the selection of male juvenile delinquents for diversion. However, the criteria as stated in the Child Justice Act no 75 of 2008 are clear, but results from the study show that it is not interpreted in the same way. Youth are classified differently by different organisations and government departments. For example, some organisations classify individuals as youths until the age of 18, and others classify individuals as youths until the age of 21. However, this does not detract from the fact that all youth are able to benefit from diversion. All social workers in the study perceived the selection criteria as relevant and essential.

Recommendations

- It is recommended that the selection criteria across the government departments and organisations be standardised and monitored.
- Regular information sessions or consultations should be held between stakeholders regarding the criteria as set out in the Child Justice Act to ensure that it is understood correctly.
- Uniformity should be established with regard to the age limits for youth.

6.2.4.8 Application of theory to diversion programmes

It is important to apply theory to diversion programmes as it is imperative to base interventions on science. Additionally, theory serves as a guide or tool for social work practice and it promotes insights into various aspects of the individual, such as behaviour, thought patterns, and development stages. Theory also assists in measuring behaviour change.

Theories relevant to diversion programmes are social learning theory, differential association theory, behaviour modification theory, experiential learning theory, the humanistic approach, systems theory, and cognitive behavioural theory. The study has also found that other theories and theoretical approaches relevant to diversion programmes are the strength-based approach, psycho-educational theory, ecological perspective, psychodynamic theory, Erikson's development theory, and attachment theory.

It may be concluded that various theories may be applicable in diversion programmes as the needs and problems of individuals differ. The aforementioned theories help to view the

individual holistically, address problem behaviours, achieve behaviour change, inform interventions, contextualise the behaviour, and assist the youth in learning new behaviours. However, social workers should have knowledge and insight regarding the theories used in diversion programmes for them to be effective.

Recommendations

- Social workers should be supervised individually and in groups where discussions are held and supporting activities presented regarding theories to foster understanding and implementation in interventions.
- Supervisors of social workers should monitor the application of theory to encourage such application in interventions and in report writing.
- Social workers should familiarise themselves with theories other than those mentioned in this study through continuous research to better address the diverse needs of individuals.

6.2.4.9 Positive results of diversion programmes

Regarding the positive results of diversion programmes, the research findings concluded that diversion programmes are beneficial for the youth offender, their families and society as it reduces crime. The research results also confirmed that the objectives of diversion programmes as indicated by the literature are being achieved.

Recommendations

- It is recommended that organisations delivering diversion services to youth share their best practices and successes with each other to strengthen the practices of diversion service providers so that high quality programmes are implemented.

6.2.4.10 Additional suggestions regarding the facilitation of diversion programmes

Social workers were able to reflect on their experiences with diversion and they were able to make valuable proposals regarding the facilitation of diversion programmes with male juvenile delinquents. Many of the suggestions by the social workers are stated in the minimum standards of the Child Justice Act. It may be concluded that the minimum

standards are not implemented properly, and the suggestions which emerged from the study are listed below:

Recommendations

- Facilitators of diversion programme should be skilled and equipped, as well as be exposed to regular training covering different aspects of diversion other than just facilitation.
- Quality assurance for diversion programmes should be done and the team responsible for such assurance should have expertise and knowledge about diversion.
- Funds should be made available for adequate resources to implement diversion programmes in terms of the required minimum standards as stipulated in the Child Justice Act.
- Diversion programmes should be adapted to accommodate the needs of youth with little or low literacy, as well as youth with special needs.
- Parents should be included in diversion programmes so that more impact is achieved.
- Aftercare and follow-up has to be carried out with all youth offenders who have completed diversion programmes.
- Diversion programmes should be facilitated in locations which are accessible to youth offenders.

6.3 FURTHER RESEARCH

Considering the lack of research regarding the views of facilitators of diversion programmes with male juvenile delinquents, the following recommendations are made:

- Strategies for improving the implementation of the Child Justice Act for effective prevention of youth re-offending should be explored.
- The views on the effects of diversion programmes on female juvenile delinquents should be investigated.

6.4 CONCLUSION

It may be concluded from the research that social workers who are skilled and experienced in the field of diversion as well as are passionate about youth will contribute to the rehabilitation of male juvenile delinquents. Parents and families have much influence on the behaviour and development of youth. Therefore, they play a huge role in the causes of juvenile delinquency. Consequently, parents and families cannot be excluded from any intervention with youth. Males are more vulnerable to juvenile delinquency, and this links strongly with the absence of positive father figures. The Child Justice Act has clear guidelines on how to deal with youth in conflict with the law, but the implementation remains a challenge. Diversion programmes are beneficial to youth offenders if implemented properly and if it includes therapeutic interventions. However, there are obstacles in meeting the high standards set by the Act in providing quality services. Therefore, the opinions of social workers facilitating diversion programmes may assist in helping to address the challenges with diversion and meeting the high standards of the Act. Theories and international lessons learned have contributed to the understanding of juvenile delinquency, the challenges and successes with diversion programmes, the prevention of recidivism, as well as the importance of gaining insight into the different cultures of individuals.

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ADDENDUM A

STELLENBOSCH UNIVERSITY

CONSENT TO PARTICIPATE IN RESEARCH

THE VIEWS OF SOCIAL WORKERS ON DIVERSION PROGRAMMES FOR MALE JUVENILE DELINQUENTS

You are asked to participate in a research study conducted by Lizéle Kleinhans for the purpose of the fulfilment of a Master's Degree in Social Work, from the Social Work Department at Stellenbosch University. You were selected as a possible participant in this study because you are a social worker who has facilitated diversion programmes with male youth offenders.

1. PURPOSE OF THE STUDY

The study is designed to explore the views of social workers who have facilitated diversion programmes with male youth offenders.

2. PROCEDURES

If you volunteer to participate in this study, I would ask you to do the following:

Participate in one structured interview which will be conducted in a place accessible to you as the participant. The duration of the interview will be an hour and I shall record the responses of the participant on an interview sheet.

3. POTENTIAL RISKS AND DISCOMFORTS

There are no foreseeable risks, discomforts or inconveniences which will be caused by participating in the research study.

4. POTENTIAL BENEFITS TO SUBJECTS AND/OR TO SOCIETY

The benefits of this study will be to add value to current diversion practices in South Africa. However, there will be no benefit for the person participating in the research.

5. PAYMENT FOR PARTICIPATION

No payment will be made for participating in this study.

6. CONFIDENTIALITY

Any information that is obtained in connection with this study and that can be identified with you will remain confidential and will be disclosed only with your permission or as required by law. Confidentiality will be maintained by means of limiting access to the data

gathered from the study to one person, the investigator herself. The data will be kept in a safe place. Information that is gathered from the research will be categorised into themes which will be done manually. Data will be presented in text, tabular or figure form. The researcher will refrain from including information about individuals which could be identified by others.

7. PARTICIPATION AND WITHDRAWAL

You can choose whether to participate in this study or not. If you volunteer to take part in this study, you may withdraw at any time without consequences of any kind. You may also refuse to answer any questions you don't want to answer and still remain in the study. The investigator may withdraw you from this research if circumstances arise which warrant doing so.

8. IDENTIFICATION OF INVESTIGATORS

If you have any questions or concerns about the research, please feel free to contact:

Dr. L. Engelbrecht (Supervisor), Department of Social Work, Stellenbosch University,

Tel. 021-808 2073, E-Mail: lke@sun.ac.za

9. RIGHTS OF RESEARCH SUBJECTS

You may withdraw your consent at any time and discontinue participation without penalty. You are not waiving any legal claims, rights or remedies because of your participation in this research study. If you have questions regarding your rights as a research subject, contact Ms Maléne Fouché [mfouche@sun.ac.za; 021 808 4622] at the Division for Research Development.

SIGNATURE OF RESEARCH SUBJECT OR LEGAL REPRESENTATIVE
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The information above was described to me the participant by Lizéle Kleinhans in English and the participant is in command of this language or it was satisfactorily translated to him/her. The participant was given the opportunity to ask questions and these questions were answered to his/her satisfaction.

I hereby consent voluntarily to participate in this study.

Name of Participant

Signature of Participant

Date

SIGNATURE OF INVESTIGATOR

I declare that I explained the information given in this document to _____ [name of participant]. [He/She] was encouraged and given ample time to ask me any questions. This conversation was conducted in [English] and no translator was used.

Signature of Investigator

Date

ADDENDUM B

**STELLENBOSCH UNIVERSITY
DEPARTMENT OF SOCIAL WORK**

THE VIEWS OF SOCIAL WORKERS ON DIVERSION PROGRAMMES FOR MALE JUVENILE DELINQUENTS

The purpose of this interview schedule is to explore the views of social workers who have facilitated diversion programmes with male youth offenders.

• **SECTION A: BIOGRAPHICAL INFORMATION**

- How many years' experience do you have as a registered social worker?

	0 - 5	6 - 10	11 - 15	16 - 20
Years of experience				

- How many years have you been facilitating diversion programmes with male juvenile delinquents?

	0 - 5	6 - 10	11 - 15	16 - 20
Years of experience facilitating diversion programmes				

• **SECTION B: JUVENILE DELINQUENCY**

- How would you define juvenile delinquency?

.....

- What are the causes for delinquent behaviour in youth? (More than one answer can be provided)

Unsatisfactory parental behavior	
Family	
Child abuse/maltreatment	
Presence of a delinquent sibling	
Economic disadvantage	
Genetic Factors	
Age	
HIV/Aids	
Other	

- Who is responsible for the causes of juvenile delinquency?

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.....

- What factors make male adolescents more vulnerable to become delinquent?

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- Describe the profile of male juvenile delinquents who participate in diversion programmes.

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- **SECTION C: LEGISLATION**

- How did the implementation of the new Child Justice Act affect current diversion practices?

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- Is the Child Justice Act 75 of 2008 helpful as a guide?

YES	NO

Motivate your answer:

.....
.....
.....

- What is your opinion about level one and level two diversion options as stated in the Child Justice Act?

.....

- Do the minimum standards as stated in the Child Justice Act ensure that all youth offenders benefit equally from diversion?

YES	NO

Motivate your answer:

.....

- **SECTION D: PROGRAMMES FOR MALE ADOLESCENT JUVENILE DELINQUENTS**

- Which of the following programmes do you offer to youth in conflict with the law?

PROGRAM	YES	NO
Victim offender mediation		
Family group conferencing		
Life skills		
Wilderness therapy		
Pre-trial community service		
Other		

- What are the strengths and challenges of the following diversion programmes you have facilitated?

- **Life skills**

Was the program facilitated by you?

YES	NO

Strengths:

.....

Challenges:

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.....
.....
.....

- **Pre-trial community service**

Was the program facilitated by you?

YES	NO

Strengths:

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Challenges:

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- **Family group conferencing**

Was the programme facilitated by you?

YES	NO

Strengths:

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Challenges:

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- **Victim offender mediation**

Was the programme facilitated by you?

YES	NO

Strengths:

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Challenges:

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- **Wilderness therapy**

Was the programme facilitated by you?

YES	NO

Strengths:

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Challenges:

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- Is there a need for any other diversion programmes other than those mentioned previously?

YES	NO

- Name these programmes and the reason why they are needed?

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- What were the selection criteria for the male offender who participated in the following diversion programmes that you facilitated? (More than one answer may be provided)

SELECTION CRITERIA	Life skills	Pre-trial community service	Family group conferencing	Victim offender mediation	Wilderness therapy
Age groups: 14 -21 / 10 – adulthood / 13 – 18 / 11-15 / other ages					
High to moderate risk youth					
No youth with serious violent or abusive crimes					
No youth with psychiatric problems					
Low to moderate risk youth offenders					
Youth with no addiction problems					
Youth with damaging emotional and behavioural problems, needing more intensive therapy					
Other					

- Were the selection criteria relevant?

YES	NO

Explain:

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- Is it essential to apply theory in diversion programmes?

YES	NO

Motivate your answer:

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- What are the theories applicable for diversion programmes? (More than one answer may be provided)

Social Learning Theory	
Differential Association Theory	
Behaviour Modification Theory	
Experiential Learning Theory	
Humanistic Approach	
Systems Theory	
Cognitive Behavioural Theory	
Other	

Motivate your answer:

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- What are the positive results of the diversion programmes? Name them.

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- What other suggestions do you have regarding the facilitation of diversion programmes?

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