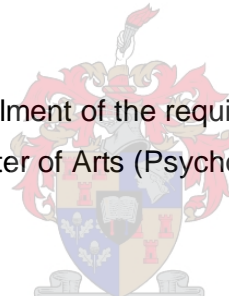


**ADOLESCENT OFFENDERS' PERCEPTIONS REGARDING
RESTORATIVE JUSTICE**

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Thesis presented in fulfillment of the requirements for the degree of
Master of Arts (Psychology)



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DECLARATION

I, the undersigned, hereby declare that the work contained in this assignment/thesis/dissertation is my own original work, and that I have not previously in its entirety or in part submitted it at any university for a degree.

A handwritten signature in black ink, appearing to be 'J.V.B.', written over a horizontal line.

Signature

2 November 2009

Date

ABSTRACT

The Department of Correctional Services (DCS) has adopted an approach to corrections based on the principle of restoration. This restoration takes place between the offender and the victim, the community and their own family and within themselves. According to DCS, rehabilitation can not take place without restoration (The White Paper on Corrections in South Africa, 2005). For this reason the DCS has shown a concerted commitment to the promotion of restorative justice programmes as part of offender rehabilitation.

The aim of the study is to assess the perception that juvenile offenders, who were in prison at the time of the study, have of restorative justice in prison. The findings obtained in this regard could be used to contribute to various aspects of restorative justice in prisons such as what offenders perceive to be indications of readiness to participate in such programmes; the perceived effect of restorative justice programmes on the offender; what facilitative mechanisms can be used, and the extent of the need to educate offenders with regard to restorative justice. The findings could be used to contribute to programme presentation and ultimately to the outcomes of restorative justice programmes in prison.

Twenty three participants that were selected were juvenile offenders aged between 18 and 20. They were all serving sentences of more than 2 years, and had served at least 2/3 of their sentence and/or are about to be released. The offences of the participants included economic, violent, sexual and homicide crimes. The DVD titled *Burning Bridges* was used as a research stimulus and data was gathered by means of individual interviews and a focus group discussion.

The data revealed that offenders need to be educated about the principles and practices of restorative justice programmes. The offenders' ability to address the victim and the community needs to be assessed, as well as their ability to recall and talk about their crime. There should also be a focus on the offenders' general behaviour in prison, which includes their willingness to use the opportunities that they receive in prison. Knowledgeable personnel should become more involved with the selection of suitable candidates, as they will be able to give a rich description of the offender that is being assessed.

OPSOMMING

Die Departement van Korrektiewe Dienste (DKD) se benadering tot korreksies is gebaseer op restorasie. Hierdie restorasie vind plaas tussen die oortreder en die slagoffer, die gemeenskap, sy/haar eie familie en ook binne die oortreder self. Volgens die DKD kan rehabilitasie van die oortreder nie plaasvind indien restorasie nie plaasgevind het nie (The White Paper on Corrections in South Africa, 2005). Vir hierdie rede het die DKD 'n verbintenis gemaak om regstellende geregtigheid programme deel te maak van die oortreder se rehabilitasie.

Die doel van die studie is om vas te stel wat jeug oortreders se persepsie van regstellende geregtigheid in tronke is. Die bevindings wat op hierdie manier verkry word kan gebruik word om 'n bydrae te lewer tot verskeie aspekte van restellende geregtigheid in tronke. Die data wat verkry word sal aandui wat jeug oortreders beskou as gereedheid om deel te neem aan sulke programme en watter voorsorgmaatreëls in plek gestel kan word om die doelwitte van die program te bereik. Die bevindings kan ook as aanduiding gebruik word of daar 'n behoefte aan onderrig aangaande regstellende geregtigheid bestaan. Die studie kan dus gebruik word om by te dra tot die aanbieding van restellende geregtigheid programme, sowel as die uitkomste van die programme in tronke.

Die 23 deelnemers wat geselekteer was, was tussen die ouderdom van 18 en 20. Hulle was almal gevonnisd oortreders wat vir meer as 2 jaar gevonnisd was, wat ten minste 2/3 van hul vonnis voltooi het en/of wat binnekort vrygelaat sou word. Die deelnemers was gevonnisd vir ekonomiese misdade, geweldsmisdade, seksuele oortredings en moord. Die DVD *Burning Bridges* was as navorsing stimulus gebruik en data is gegenereer deur middel van individuele onderhoude en fokus-groep besprekings.

Die data het aangetoon dat oortreder opgevoed moet word in verband met die beginsels en die toepassings van regstellende geregtigheid programme. Die oortreder se vermoë om met die slagoffer en die gemeenskap te praat moet geassesseer word, sowel as sy/haar vermoë om die misdaad te herroep en daaroor te praat. Daar moet ook gekyk word na die oortreder se algemene gedrag in die tronk. Dit sluit in sy/haar bereidwilligheid om die geleentheid wat in die tronk aangebied word te gebruik. Personeel wat die nodige kennis en ervaring het moet meer betrokke raak in die seleksie van geskikte kandidate, aangesien hulle instaat sal wees om 'n indiepte beskrywing te gee van die oortreder wat geassesseer word.

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CHAPTER 1

STUDY OVERVIEW

1.1 Contextualising the study

The path that leads to transition from childhood to adulthood goes through the turbulent period of adolescence. During this period the 13 year old child goes through an array of changes to become the young 23 year old adult (Sadock & Sadock, 2007). According to Newman and Newman (2003), as early adolescents undergo emotional development, they have to deal with physical maturation and with this the awareness of the need for sexual relationships. They also experience the growing need to be part of a group and to fit in with their peers. Late adolescents strive for autonomy from their parents, which means that they seek to become self-sufficient and make career decisions. During this period ideas of gender-role identity and matters of morality becomes more important to the adolescent than it was in previous life stages. The individual who moves through this period with a great amount of success and efficiency is considered to be a well adapted adult.

This path from childhood to adolescence is, however, potted with many risk factors that may obstruct normal adolescent development. Risk factors that emerge on the individual level include the need to experiment, impulsivity and poor problem-solving skills. Adolescent have a growing need to be part of a group and fit in with their peers, which can lead to association with delinquent peers, alcohol and drug abuse and experimentation with other negative behaviour including gang membership. Risk factors on the family level that may impede the adolescents development include parenting style, family structure, parental warmth and parental supervision. The community that the adolescent grows up in is a big environmental factor in their development. Social and structural conditions in the communities such as high crime rates, poverty, unemployment and availability of drugs are high risk factors (Farrington, 2002; Fuller, 2009). These risk factors can steer the adolescent in the direction of delinquency.

Adolescent delinquency is defined as behaviour that is marked by violation of the law and antisocial behaviour (Fuller, 2009). In many cases adolescent delinquency leads to conflict with the establishment, and, oftentimes, to imprisonment. In May 2009 South Africa had a prison population of 115 625 sentenced offenders, of whom 30% were between the age of 14 and 25 (Department of Correctional Services, 2009). As this age group of incarcerated

offenders has been growing rapidly, a key proposal to stop this trend is to make provisions for rehabilitation that focus on the development and education of youth offenders (The White Paper on Corrections in South Africa, 2005).

The White paper on Corrections in South Africa (2005) defines rehabilitation as:

... the result of a process that combines the correction of offending behaviour, human development and the promotion of social responsibility and values. It is a desired outcome of processes that involve both the departmental responsibilities of Government and the social responsibilities of the nation. (pp. 37)

The Department of Correctional Services (DCS) approach to corrections is based on the principle of restoration. The offender is assisted with addressing the offence that s/he has committed, while becoming accountable for their actions. Corrections may include restoration of relationships with victims, assisting the victim to reach a stage of forgiveness and the promotion of restoration of the offender as a member of the family (The White Paper on Corrections in South Africa, 2005). Rehabilitation cannot take place without restoration of the offender within the community and for this reason the Department views restoration as part of the criminal justice system, from the point of arrest throughout incarceration (The White Paper on Corrections in South Africa, 2005).

One way of promoting restoration is through restorative justice programmes in correctional centres. Restorative justice is an approach that aims to bring everyone that is involved in a specific offence together. This ensures that all issues pertaining to the crime can be collectively addressed and an attempt can be made towards restoring the relationships that were broken as a result of the crime (Cormier 2002; Zehr, 2002).

In many countries restorative justice is being used as a preferred alternative to imprisonment. However, in South Africa restorative justice is not yet part of the justice system and can therefore not be used as an alternative to prison sentencing. Restorative justice programmes are being presented at some prisons in South Africa and thus as a tool for the rehabilitation of offenders. Research has shown that the use of restorative justice in this way can be just as successful (Skelton & Batley, 2006).

1.2 Rational for the study

The DCS has laid out guidelines for how it wants restorative justice to be implemented in correctional facilities, how it wants to maintain restorative justice principles and practices and the objectives that it wants to achieve with regards to all stake-holders involved. The DCS has also made restorative justice part of its Correctional Programmes Directorate, which means that restorative justice programmes are being prescribed for offenders. Some of the outcomes of these prescribed programmes are that offenders take responsibility for their crime, that they be accountable for their actions and that offenders are willing and able to restore the harm that they have caused as a result of their crime.

To achieve the above mentioned it is necessary to assess whether or not the offender will be able to or is suitable to participate in the programme. Selecting suitable candidates will likely lead to a more successful restorative justice experience for everyone involved. Offenders will likely be more ready to accept responsibility and face up to what they have done in the past, as well as make amends and restore broken relationships. Selecting suitable candidates will ensure that the victim and the community are not subjected to unnecessary aggravation because of the way that the offenders' attitude and resistance to the process.

What is perturbing is that little or no mention is made of offenders' perception of restorative justice programmes in South African prisons. Gaining an understanding of their perception will make a valuable contribution toward the various aspects of restorative justice programmes in prison. One such contribution will be to be able to develop guidelines to assess offenders' readiness to participate in restorative justice programmes, which will enhance the attainment of the objectives of such programmes.

Using restorative justice programmes in South African prisons is a fairly new approach to correcting offender behaviour (Skelton & Batley, 2006). There are also just a few studies reporting on restorative justice programmes in prison and even less reporting on the offenders' perception of these programmes. For this reason a qualitative study that is explorative and descriptive is an appropriate approach to follow in order to determine the perception that offenders have of restorative justice. The results of this study can be used to inform recommendations on how to determine offenders' readiness to participate in restorative justice programmes. This can assist correctional staff in the selection of suitable candidates for restorative justice programmes.

1.3 Defining key concepts

The purpose of this study was to assess the adolescent offenders' perception of restorative justice programmes in South Africa. For the purpose of this study the offender is defined as an individual between the age of 18 and 20, who has been found guilty of committing a crime and is currently incarcerated at the Brandvlei Youth Centre.

Perception refers to how the offenders interpret and give meaning to the information that they receive on restorative justice. The focus of this study will be on the findings obtained from adolescent offenders by means of individual interviews and a focus group.

For the purpose of this study a restorative justice programme is operationally defined as a process that aims to resolve different issues that arise out of a crime that was committed. The programme aims to bring all the stake-holders together to address the circumstances surrounding the crime and the consequences following the crime. The process requires the offender to take responsibility and show remorse, while empowering the victim by giving them a voice and to assist them in coping with the aftermath of the crime (Cormier, 2002, Hinesa & Bazemoreb, 2003, Zehr, 2002).

1.4 Summary overview of the study

In chapter 2 the focus of content is on the juvenile offender. A brief review of the adolescent developmental stage will be presented, indicating the changes that adolescents undergo in their transition from childhood to adulthood. Next the factors that lead to adolescent delinquency will be discussed. A discussion on prison and the adolescent in prison closes this chapter.

Chapter 3 presents a literature review on restorative justice. Firstly restorative justice is defined, followed by a discussion on the principles and then the practices of restorative justice. The development of restorative justice as a reaction to critique of the retributive justice system is then discussed. Specific mention is made on the implementation of restorative justice internationally and in South Africa. Restorative justice in correctional facilities is described, followed by a discussion on restorative justice in DCS.

In chapter 4 the juvenile offender within the restorative justice programme will be discussed. The focus is on offender participation and offender readiness.

Chapter 5 outlines the qualitative methodology used in the study. Chapter 6 presents the findings and chapter 7 the discussion and recommendations.

CHAPTER 2

THE ADOLESCENT OFFENDER

2.1 The adolescent developmental stage

Adolescence is considered to be the transition period between childhood and early adulthood. This life stage can be divided into early adolescence which is between the ages of 12 to 18 and later adolescence from age 18 to 24 years (Newman & Newman, 2003). During this period of time the child goes through an array of changes to prepare him/her for adulthood. Profound biological, psychological and social development changes take place during adolescence. Biological changes that signal the start of adolescence are accelerated skeletal growth and sexual development. With this comes a growing awareness of their physical appearance compared to others. The major psychological changes are cognitive development and personality formation. Adolescents are starting to think in their own way about things around them, while they are establishing a sense of who they are and how the world perceives them. Socially, adolescents are being prepared for becoming young adults (Sadock & Sadock, 2007). Society expects the adolescent to start on his/her career path in order to be able to provide for themselves.

According to the psycho-social development theory of Erikson (1980;1994), later adolescence is characterised by the focus on identity development. Identity formation takes place through experimenting with different roles, while determining their abilities, needs and interests. The adolescent also internalise the norms, values and expectations of their cultural group in their identity formation. Sexual orientation is also part of identity formation and the adolescent experiment with their sexuality in order to express their sexual orientation (Erikson, 1994; Wait, Meyer, & Loxton, 2004). During this period the adolescent is struggling with questions as to %/ho am I? What is the meaning of my life? What do I want to do with my life? Where do I fit in?+ It is this identity that makes the adolescent unique and that will shape his/her decisions in the future. Identity formation is an on going process that continues during adulthood (Erikson, 1994; Newman & Newman, 2003; Wait et al., 2004).

According to Erikson's psycho-social development theory (1980,1994), the major developmental tasks during later adolescence are autonomy from parents, gender identity and internalised morality. During childhood the parents/caregivers are the main influence

in the child's life. The child learns from the parent and acts by modelling their behaviour. During the adolescence the child develops into someone that wants to think for themselves, make their own decisions and experience life on their own. Thus autonomy requires independence of thoughts, emotions and actions (Larson, Pearce, Sullivan & Jarrett, 2007). Adolescents also need to develop this autonomy and be self-sufficient in order for them to become well functioning adults (Wait et al., 2004).

Gender identity refers to the development of beliefs, attitudes and values on what it is to be a man or a woman (Newman & Newman, 2003). Gender identity is influenced by internal and external aspects. Internal factors include hormones and those physical changes that differentiate men from women. These factors influence the way that the adolescent view him/herself and how they compare themselves to others of the same sex. One of the most influential external factors is culture, as the role and expectations of men and women differ in each culture. During this period the adolescent also develop his/her sexual identity. Sexual orientation refers to the erotic, romantic and affectionate attraction between people (Newman & Newman, 2003). The adolescent develops a homosexual, heterosexual or bisexual orientation.

Internalised morality is all about taking the norms and values of those around them into consideration, evaluating it and then developing their own morals to live by (Wait et al., 2004). However these morals that the adolescent chose to live by will not necessarily be acceptable in their family, community or culture, as it is the adolescent own interpretation of the norms and values that they have been taught. According to Kohlberg (1976), moral reasoning is the basis for ethical behaviour. The development of moral reasoning is an ongoing process, which he divides into six stages. This means that the way that a person acts morally (or immorally) could be explained by the stage of moral reasoning he/she is at. Stage 1 is the obedience and punishment orientation where the person is just concerned with avoiding punishment for their actions (Kohlberg, 1974). Stage 2 is the self-interest orientation, where the person just takes his/her own interest into consideration when deciding on what is good or bad (Kohlberg, 1973). At stage 3 interpersonal accord and conformity leads the person to make decisions that conforms to societies expectations (Kohlberg, 1973). At stage 4 the person's behaviour is guided by an authority and social-order maintaining orientation, this means that behaviour is guided by laws of society (Kohlberg, 1973). At stage 5 behaviour is guided by what is considered to be moral by the individual and/or community in which he/she lives (Kohlberg & Lickona, 1976). At stage six

behaviour is guided by universal ethical principles, which enables the person to use abstract reasoning to decide on appropriate behaviour (Kohlberg & Lickona, 1976). Hence developing the capacity for moral reasoning is a crucial task for the adolescent.

The decisions adolescents make with regards to their developmental tasks ultimately shapes them into the person that they become and decides the way that they will live. It is, however, not a clear cut process for every adolescent. Internal and external influences such as socio-economic status, culture, family and parenting styles and community conditions are some of the main factors that influence the decision making process. These influences that prevent normal development and thus lead to delinquency will be discussed below.

2.2 Adolescent delinquency

According to Newman and Newman (2003), delinquency is behaviour that occurs as a result of the difficulty to control or regulate one's impulses. Delinquent offences are those that adults can be prosecuted for, while status offences are those that adolescents can be prosecuted for (Newman & Newman, 2003). Delinquency describes behaviour that violates the law and that is considered to be socially unacceptable (Fuller, 2009). Risk factors that lead to delinquency can be grouped into four levels: individual, family, peer-group and community (Farrington, 2002; Fuller, 2009).

On the individual level both personal and contextual factors influence the delinquent adolescent. Research has shown that biological factors such as the interaction between genetic characteristics and the environment influence the behaviour of the adolescents. Another personal factor is psychological influence on behaviour. Psychological problems such as depression and anxiety influence how the person reacts. Contextual factors are those social factors that are present in the early years of development and that can be linked to adolescent delinquency (Compas, Hinden, & Gerhardt, 1995). It can be said that adolescent delinquency occurs when there is not a good person-environment fit (Compas et al., 1995). This means that the adolescent exhibit behaviour that is not socially acceptable in society.

Characteristics associated with adolescence play an important role in explaining delinquency on an individual level. According to Erikson's psycho-social development theory (1980; 1994) adolescents want to experiment during this life stage. This can lead to

delinquency in the form of risky behaviour such as drug use and promiscuous sexual activity (Farrington, 2002). The adolescent also strives for autonomy from his/her parents and in cases where parents does not allow this, it may lead the adolescent into delinquency in order to get what they want (Erikson, 1980).

Research has shown that adolescent delinquents exhibit personality traits such as impulsivity, excitement seeking, restlessness, low self-control, risk-taking, looking for instant gratification, assertiveness and arrogance (Farrington, 2002). Another individual trait is a difficult temperament, indicated by frequent irritability, reluctance, adaptation problems and irregular habits (Farrington, 2002). Poor problem-solving skills explain why delinquents use crime and violence to deal with their problems (Fuller, 2009).

Kohlberg's (1976) theory on moral reasoning can also be used to explain adolescent delinquency. The stage of moral reasoning that a person is at could be used to explain their behaviour. For example, an adolescent at stage 2 will only be concerned with his or her own interests (Kohlberg, 1973). They will thus choose to commit a crime if it means that they will benefit from it.

Circumstances within the family can either be risk or resilience factors. Adolescents that come from broken homes, dysfunctional families, poverty and conflict are more likely to become delinquent (Council for Scientific and Industrial Research, 1998). The quality of relationships within the family can also be predictive of adolescent delinquency (CSIR, 1998). The quality of relationship between parents and children is influenced by parental supervision and involvement with the adolescents' life (Farrington, 2002; Fuller, 2009). This means that parents who are not involved in their adolescents' life will not know when they are displaying unacceptable behaviour and involved with crime. Whilst low parental supervision gives adolescents the opportunity to do what they want. Child rearing methods are also important to consider, since lack of guidance or harsh or punitive discipline may be precursors to delinquency (Farrington, 2002). It may also be considered accepted that crime runs in the family, as adolescents may learn this behaviour from family members involved in crime (Farrington, 2002).

It is important for the adolescent to fit in with the group and to feel accepted. For this reason they can get involved with others that exhibit delinquent behaviour and being part of a gang is fundamental part of the delinquent life. The adolescent thus start to

experiment with different role in order for him/her to determine where they fit into the world (Erikson, 1994). The people that adolescents are involved with often serve as their role models (Fionda, 2005; Fuller, 2009). Some male adolescents have the need to prove their masculinity and in most cases they do this by means of delinquent behaviour. Adolescent can also be materialistic and develop the need to have the latest trends in order for them to fit in with their peers. This materialism together with their need for instant gratification often leads the adolescent into a live of crime (CSIR, 1998).

Risk factors within the community can also lead to delinquency. Poverty and high unemployment forces people to find alternative means to fulfil their needs and in many cases crime is considered to be the answer. Poverty also leads to malnutrition, illnesses and neglect which in some cases force the adolescent to turn to crime for survival. Adolescent who grow up exposed to violence and drug dealing may accept these behaviour as normative, given that everyone does it (Fuller, 2009). Studies have found that chronic exposure to violence has an impact on the neurological development of adolescents (Newman & Newman, 2003). These adolescents display behaviour similar to those of post traumatic stress disorder. They have difficulties regulating emotional reactions and inhibiting aggressive impulses.

The abovementioned risk factors, together with the changes and pressure that adolescent experience during this developmental stage predisposes them into a life of delinquency, crime and ultimately prison.

2.3 Adolescents in Prison

Offenders younger than 18 are classified as children and those between the ages of 18 to 25 are classified as juveniles (The White Paper on Corrections in South Africa, 2005). Offenders are dealt with according to these age groups. The South African legal system does not have a separate statute for child and youth offenders which mean that juvenile offenders are prosecuted in the same courts as adult offenders. However the rules that are used to govern the treatment of these offenders stipulate that, once incarcerated, they should be treated differently to adult offenders (Fuller, 2009).

The juvenile justice system in South Africa works in accordance with the standards that were set by the United NationsqRules for the Protection of Juveniles Deprived of their Liberty with regards to correctional centres for juvenile offenders (The White Paper on

Corrections in South Africa, 2005). According to these standards, juvenile offenders should be kept in secure special care facilities where they are separate from adult offenders and where the environment will assist them with their rehabilitation and social reintegration.

There are currently 13 Correctional Centres in South Africa specifically designated for juvenile offenders. Statistics made available by the Department of Correctional Services (2009) showed that in July 2009 there were 35146 sentenced incarcerated offenders aged 14-25, of whom 34486 are male and 660 female. Most of these offenders were sentenced for aggressive crimes (17747), 9815 for economic crimes, 4408 for sexual crimes and 602 for narcotic crimes. This age group is considered to be one of the fastest growing offender groups in South Africa. Special attention needs to be given to these youth offenders as they are considered to be those who still have a future outside of prison even if they have a lengthy prison sentence (The White Paper on Corrections in South Africa, 2005).

In order to ensure these offenders with a future outside prison, special attention needs to be given to the needs of youth offenders in this regard. Programmes presented at correctional centres for juveniles should focus on building and strengthening family and community ties, human development and transition into adulthood and education and training. If these programmes are implemented effectively it will lead to a decrease in recidivism (The White Paper on Corrections in South Africa, 2005).

The abovementioned can only take place if rehabilitation corrects offender behaviour while assisting with human development and promoting social responsibility and values (The White Paper on Corrections in South Africa, 2005). The reality is that correctional centres are not suitable environments for rehabilitation of this nature, because the running of correctional centres is mainly based on retributive justice ideas (Elliott, 2007). This means that many personnel, as well as the community at large, have the idea that offenders need to be punished for what they did wrong and that they should not expect to have rights and privileges.

This retributive justice system does not assist the offender to take responsibility for his/her crime and it does not give the community a chance to be part of the justice system and in this way to be part of the social reintegration process of the offender. So the ultimate goals of rehabilitation cannot be met under the current retributive justice system. Fortunately, the South African government is realising this and is endeavouring to introduce restorative

justice into the South African Correctional Services. South Africa still has a way to go to consider restorative justice as an alternative to imprisonment for juvenile offenders. In line with the new Child Justice Bill (1998), there are initiatives to introduce restorative justice as part of a holistic rehabilitation programme for youth in prison.

2.4 Prison

Research has shown that it is not always clear as to why offenders are sentenced to prison and nor given alternative sentences such as community service or house arrest. Sentencing an offender to prison is also not always considered to be the most suitable punishment (Muntingh, 2001). The following theories are used to explain the purpose and suitability of prison sentences.

The purpose of sentencing, according to the retributive theory, is to punish offenders for their wrongdoings (Ashworth, 2002). This punishment should be proportionate to the harm caused by the crime (Muntingh, 2001). Deterrence theory states that the punishment that offenders experience will prevent them from committing another offence. Prison is thus seen as a preventative measure for further offending (Ashworth, 2002; Muntingh, 2001). Incapacitation theories see prison sentences as a means of removing offenders from society and placing them in an environment where they are incapable of committing crime (Ashworth, 2002; Muntingh, 2001). According to the rehabilitative theory, the purpose of prison sentencing is to place offenders into an environment where their offending behaviour can be addressed through rehabilitation. While the offender is in prison s/he should be subjected to a need-based approach to assist with their rehabilitation through therapy, counselling, skills training, and similar activities (Ashworth, 2002).

While these theories state the intended purpose of prison sentencing, in reality what is achieved by prison sentencing is hardly in line with this. Prisons are seen as institutions or societies with their own rules and regulations, which offenders should follow for their own survival (Muntingh, 2001). The experiences that offenders are exposed to in prison impact on how they think and react to the world. In many cases offenders' needs are not adequately addressed leading to behavioural problems, re-offending and problems with community reintegration upon their release (Fionda, 2005). The adolescent is at a stage where s/he experiments with different roles and experiences. If this behaviour is not properly managed, it will become part of the identity that the adolescent develops

(Newman & Newman, 2003). This negative behaviour is likely to be reinforced within the prison context.

Imprisonment invariably results in deprivation, which may lead offenders to find ways to compensate for these deprivations. Juvenile offenders are deprived of goods and luxury items to compensate for this they start to smuggle. The loss of autonomy and/or the ability to make decisions can in the long run lead to institutionalisation, meaning the inability to make decision when given the opportunity. This loss of autonomy is detrimental to the adolescent offenders development, as autonomy is one of the prime developmental tasks during this life stage (Erikson, 1980; 1994). The adolescent also develop their sexual identity during this time. Lack of access to heterosexual relations leads to homosexual experimentation and exploration and homosexual rape has become an expected part of prison experience. Security is not always sufficiently maintained, which gives the stronger and more influential prisoners the opportunity to dominate with force. In order to protect themselves, offenders become part of prison gangs, which has consequences of its own (Fuller, 2009).

Studies done by the Centre for the Study of Violence and Reconciliation (CSVr) on the impact of prison life on offenders have revealed that prison has a fundamental impact on the psychological, physical and social development of offenders (Gear, 2007). Not all offenders have access to professional help while in prison and not all offenders get the necessary emotional support from family and friends outside. The continued cycles of sexual and other form of violence in prison, does not promote healthy living, physical safety, dignity and human rights. HIV/AIDS is also spreading rapidly. These studies also found that gangs are very active in most prisons and offenders continue to join gangs because they see gang membership as essential for survival in prison (Gear, 2007). Prison overcrowding has a negative effect on the living conditions of prisoners (Mnyani, 1995).

Offenders also see prison as a school of crime with a revolving door between the inside and outside world (CSIR, 1998). In prison some offenders become more involved in crime than they were outside of prison. Offenders use their time in prison to commit acts of crime that they feel re-establish their self-worth and dignity (CSIR, 1998).

It is thus clear that imprisonment does succeed in removing offenders out of the society and in this way protecting the community from offenders. However, what happens in prison makes imprisonment in most cases ineffective and counterproductive, seeing that offenders still re-offend and thus return to prison (Mnyani, 1995). An alternative to imprisonment thus needs to be found which will benefit the offender and the community. One such alternative that is being tested is restorative justice, which focuses on restoring broken relationships rather than only punishing the offender. Advocates for restorative justice have shown that offenders are less likely to re-offend when restorative justice aspects are achieved (Dissel, 2000). These offenders are able to apologise to their victims and make amends for their crimes and this helps them to not re-offend (Dissel, 2000). Restorative justice can thus be used to assist offenders in their rehabilitation.

The next chapter will look at what restorative justice means and how it is being used in South Africa and abroad.

CHAPTER 3

RESTORATIVE JUSTICE

3.1 Defining restorative justice

Restorative justice is considered to be a philosophical framework, rather than a specific programme (Hinesa & Bazemoreb, 2003). This is because the essence of restorative justice is to restore. However the restoration process and the participants involved in the process differ from one situation to another (Tshehla, 2004). Hence what is meant by restorative justice will differ according to what the situation requires and therefore there are variations in how the concept is conceptualised and defined.

Hinesa and Bazemoreb (2003) definition emphasises several essential aspects of restorative justice, that it is a philosophical approach that places accountability on the part of the offender, but that it also addresses society's concern with the victim of the crime, crime prevention and community.

Restorative justice is not a program. It is a philosophical framework that recognizes accountability and the need to repair harm caused to victims and communities impacted by crime to the greatest extent possible. To accomplish these objectives, restorative practices bring victims, offenders and the community together in problem-solving responses that go beyond punishment in efforts to prevent crime, increase community safety, and meet the needs of those impacted by the crime. (p. 412)

Howard Zehr (2002) emphasises restorative justice as a process that brings all the stakeholders together to address a specific offence and to make things right.

Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offence and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible. (p. 37)

Cormier (2002) describes restorative justice as *an approach to justice that focuses on repairing the harm caused by crime while holding the offender responsible for his or her actions, by providing an opportunity for the parties directly affected by crime (victim(s), community and offender) to identify and address their needs in the aftermath of a crime,*

and seek a resolution that affords healing, reparation and reintegration, and prevents future harm” (p. 1). This definition places the responsibility for the crime on the offender and focuses on preventing future harm.

Giffard's (2002) definition juxtaposes restorative justice with the traditional or retributive justice system intentions.

Restorative justice represents a challenge to the conventional wisdom that in order to resolve a crime issue, it is just and right for the offender to feel the pain of imprisonment. Restorative justice puts victims back into the spotlight of the justice process. It attempts to restore the dignity of victims instead of treating them as mere witnesses. Restorative justice brings victims and offenders together in an attempt to promote community reintegration of the offender, rather than the exclusion resulting from punitive prison sentences. (p. 34)

The abovementioned definitions illustrate that what is meant by restorative justice will differ according to what the situation requires and, therefore, it is necessary to develop a working definition that will define restorative justice for the purpose of this specific study.

For the purpose of this study restorative justice is a process that aims to resolve different issues that arises out of a crime that was committed. This is done by bringing all the stakeholders together to address the circumstances surrounding the crime and the consequences following the crime. The process requires the offender to take responsibility and show remorse and also is intentional in preventing the offender from re-offending. The process aims to empower the victims of the crime by giving them a voice and to assist them in coping with the aftermath of the crime. Restorative justice thus aims to restore broken relationships and by involving all relevant stakeholders. Restorative justice goes beyond merely giving the state all the power to punish the offender and, for this reason, it is of great importance that these types of programmes are successfully implemented in prisons.

3.2 Restorative justice principles

Although what is meant by restorative justice differs from one situation to another, the concept does build on certain fundamental principles that form part of any restorative justice process (Roche, 2006). Literature on restorative justice divides these principles

into six concepts: nature of the crime; justice; role of the victim; role of the community; role of the offender and the role of the formal justice system (Ryals, 2004; Umbreit & Coates, 2000).

The restorative justice process starts at the crime that was committed against a person and not just against the state (Kurki, 1999; Zehr & Mika, 1998). For this reason the crime that has been committed must be viewed within its social context, which is why the involvement of the community is important (Marshall, 1999). Crime violates relationships within the community and restorative justice aims to restore these relationships.

The aim of justice is to repair the harm that was done as a result of the crime. Justice for crime is generally considered as payback and getting what one deserves. In terms of retributive justice this means imprisonment for offenders while victims rarely get any form of justice. Restorative justice aims to rebuild the relationships that was damaged by crime in order establish justice for everyone involved (Ryals, 2004).

Those most directly involved and affected by crime should have the opportunity to participate should they wish (Restorative Justice Centre, n.d.). This means involving the victim, community and the offender. The victims must be involved in the restorative process, to the extent that they chose to participate that will meet their needs (Umbreit & Coates, 2000). The victims must be empowered by paying attention to their needs, giving them a voice to speak, helping them to experience restitution and healing and giving them an opportunity to be part of the criminal justice process (Neser, 2001). Through this process the victims are given the opportunity to resolve issues surrounding the crime and they can get some sense of satisfaction and security (Ryals, 2004).

The crime that was committed also has an effect on the community; therefore the community must be part of the restorative justice process. The community is afforded the chance to assist both the victim and the offender and to play an active role in community protection (Neser, 2001; Ryals, 2004).

Restitution for the offender can only take place when he/she accepts responsibility for their crime and with that the obligations that they now have towards the victim and the community to compensate for the harm that they have caused (Umbreit & Coates, 2000). Through participation in the process the offender is held accountable; assisted to take responsibility for their crime; supported in restoring broken relationships and guided in their

path to rehabilitation and social reintegration (Neser, 2001; Zehr & Mika, 1998). In this way the offender is given the opportunity to be part of the process and to grow from this experience and he/she is no longer just suffering the consequences of their crime (Ryals, 2004).

Applying restorative justice principles and programmes to the sentencing of juvenile offenders does not mean that the formal justice system should be ignored or excluded. Offenders should still be held accountable by the justice system for their crime; however, an alternative punishment to incarceration, influenced by restorative justice principles, should be developed (Ryals, 2004; Umbreit & Coates, 2000). Restorative justice therefore construes crimes as not just a violation of state laws. It also requires that all parties are involved in an effort to restore broken relationships and ultimately restore the synergy that existed before the crime was committed.

3.3 Restorative justice practices

As stated earlier, what is meant by restorative justice will differ according to the circumstances surrounding the crime. For this reason different programmes based on restorative justice principles are used. The most frequently used programmes are community reparation boards, family group conferences, circle sentencing, and victim-offender mediation (VOM) (Fraley, 2001; Kurki, 1999; Umbreit & Coates, 2000).

Community reparation boards are focused on the community and provide the community with ownership of the juvenile justice system (Ryals, 2004). The community oversees the process and monitors the agreement set between the offender and the victim and the offender and the judiciary (Fraley, 2001; Umbreit & Coates, 2000).

Family group conferences focus mainly on the needs of the offender and how he/she can be reintegrated into the community in which they committed the crime. Educating the offender is much more important than meeting with the victim and the community (Kurki, 1999; Umbreit & Coates, 2000).

Circle sentencing aims to restore the balance in the community and is therefore community driven. Here the focus is mainly on the needs of the victim. The community members supporting the victim identifies key issues that they want to be addressed in

order to create an appropriate sentencing plan (Fraley, 2001; Ryals, 2004; Umbreit & Coates, 2000).

Victim-offender mediation aims to create a balance between the needs of both the victim and the offender. This programme is very structured and victims and offenders are prepared by mediators before they meet each other. The victim as well as the offender shares their experiences surrounding the crime. Together they decide how the damage caused by the crime can be repaired (Fraley, 2001; Petrellis, 2007; Ryals, 2004; Umbreit & Coates, 2000).

These models, based on restorative justice principles, were developed in different countries and adapted to meet the needs at that time. The restorative justice paradigm is ever changing and adapting.

3.4 Development of restorative justice

Restorative justice emerged in the late 1970s and was in its essence aimed at providing solutions for the problems that occurred as a result of the retributive justice system of the time (Anderson, 2008). The retributive justice system is the paradigm on which criminal justice is built. This paradigm sees crime as a violation against the state and therefore the state makes a case against the offender. The offender needs to take the blame for the crime and needs to be punished (Umbreit, Vos, Coates, & Lightfoot, 2005; Zehr, 2002). The retributive justice paradigm is considered to be offender-driven while no mention is made of the victim and/or community. The problem that occurs out of this paradigm is that offenders get sentenced to imprisonment for the crime that they have committed. This leads to overcrowding of prisons and recidivism on the part of the offender. The restorative justice paradigm was developed to address these problems that kept on occurring and that could not be dealt within the retributive justice paradigm. The restorative justice paradigm sees crime as a violation of one person by another. This paradigm does not seek blame but rather focuses on problem-solving and restitution (Zehr, 2002).

These two paradigms should, however, not be seen as opposites and restorative justice should not be seen as an alternative for the retributive justice system. This was the case in South Africa in the past, but the current Child Justice Bill and the White Paper on Corrections in South Africa show that the two paradigms can interlink with each other (Skelton, 2002).

3.5 Restorative justice internationally

The first programmes that focus on restorative justice principles can be traced back to Canada and the United StatesqMidwest. Since then restorative justice programmes have expanded throughout North America, the UK, Europe, the Pacific region, and more recently in Africa and Latin America. Restorative justice forms a part of the justice system of countries in the UK, Europe, the Pacific region and Latin America (Van Ness, 2000).

In New Zealand and the United Kingdom juvenile offenders are sent to restorative justice conferences rather than to court in an attempt to correct offender behaviour through restoration rather than imprisonment (Braithwaite, 2006; Van Ness, 2000). In Australia restorative justice forms an official part of the juvenile justice system where offenders are sent to restorative justice conferences and if an agreement can be reached, the case against the offender can be dismissed (Kurki, 1999). Restorative justice conferences take different forms, one of which is sentencing circles that originated in Canada. During these sentencing circles the offender, the victim and everyone in the community participate by grouping relevant stakeholders in circles and then discuss the crime in order to make peace, negotiate and reach a consensus (Kurki, 1999).

Restorative justice programmes are usually thought to be used in programmes outside of prison, but in the UK, Belgium and North America great interest is being shown in making prisons more restorative (Van Ness, 2000). Restorative justice in prisons mainly focuses on making the offender aware of the impact of their crime on the victim and in some cases contact with the victim is arranged through direct mediation. There is a focus on the offenders activities while in prison, thus their rehabilitation, as well as their social reintegration back into their communities.

3.6 Restorative justice in South Africa

Restorative justice in South Africa is closely linked with the African traditional justice system that uses traditional mechanisms to deal with issues of crime (Skelton & Batley, 2006). This customary law is not driven by punishment for crimes that were committed, but rather wants to effect reconciliation and correcting what went wrong. The community plays a central role within the African culture as it is the responsibility of the whole community to discipline children and when a crime was committed the community elders works towards reconciliation and restoring harmony. Crime is first dealt with at family level and then referred to the headmaster and the chief. When an offender has accepted responsibility

there is no need for severe punishment. The focus is rather on reconciliation between all parties involved and incorporating the offender back in the community (Restorative Justice Centre, n.d.)

Early attempts at restorative justice in South Africa can be traced back to the Truth and Reconciliation Commission (TRC) (Roche, 2002; 2006). The purpose of this commission was to deal with Apartheid-related offences. The TRC worked along the lines of restorative justice approaches by collecting testimonies from victims, assisting offenders to accept responsibilities for their actions, granting amnesty to offenders and helping to repair the harm done by Apartheid (Roche, 2002; 2006).

The modern international form of restorative justice in South Africa is driven by The National Institute for Crime Prevention and the Reintegration of Offenders (NICRO). NICRO started in 1910 as the South African Prisoners Aid Association to serve prisoners and their families and changed to NICRO in 1970. NICRO is today recognised as the largest and most organised civil society organisation practicing restorative justice in South Africa (Skelton & Batley, 2006).

Skelton and Batley (2006) published a study that documented current projects implementing restorative justice in all nine provinces in South Africa. The study found that the Eastern Cape has promising restorative justice programmes, but these programmes are being hampered by a lack of resources. Some promising programmes include: Department of Social Development programmes in Alice, Bloemendal, Tsomo and Zwelitsha and the Phamphamani Rape Crisis Centre. Restorative Justice programmes in the Free State are well established with partnerships between NICRO, Government and the Departments of Social Development, Justice and Correctional Services. Thusanang Advice Centre and Oranje Vroue Vereeniging are NGOs working in this province, providing crime prevention and diversion programmes.

In Gauteng the Restorative Justice Centre (RJC), NICRO and Khulisa are the major providers of direct restorative justice programmes. Khulisa programmes are directed towards at risk youth, youth diversion programmes and prisoner rehabilitation and reintegration. The Centre for the Study of Violence and Reconciliation (CSV) is involved in pre-release programmes with youth offenders at Boksburg Juvenile Correctional Centre.

Within DCS in this province it is only Leeuwkop prison that restorative justice programmes are being presented.

In KwaZulu-Natal restorative justice has a wide variety of applications. The formal criminal justice system, the National Prosecuting Authority and the magistracy shows commitment to integrating restorative justice and conferencing into their work. There are a number of programmes in this province that is not found in other provinces, for instance: Prison programmes by Phoenix Zululand, the Democracy Development Programme, Diakonia Council of Churches, Lakehaven Children's Home and Justice and Women. The contributions of traditional leaders are also taken into consideration.

In Limpopo, Mpumalanga and the Northern Cape most of the restorative justice work is being done by NICRO and Probation Services. The latter facilitates diversion programmes like family group conferencing, victim-offender conferencing, home-based supervision and crime prevention and awareness campaigns.

The majority of the population of the North West Province live in rural areas where they practice traditional methods of restorative justice. Cooperation between traditional authorities and the formal justice system is limited and the latter does not make wide use of restorative justice. Khulisa has worked with a number of offenders introducing them to restorative justice programmes like Forgiveness Workshops and the My Path programmes.

The Western Cape has a wide variety of restorative justice programmes being implemented by NICRO and Probation services. USIKO is a new Non Profit Organisation (NPO) also developing restorative justice programmes for youth offenders in the Stellenbosch region. A significant contribution is made by chaplains and ministers to bring restorative justice particularly to prisoners. Various programmes focus on community disputes for instance: The Restorative Justice Initiative, Community Networking in Gugulethu, Khayelitsha and Langa and Community Peace Programmes. There are also programmes such as the Lyndi Fourie Foundation and CSVN that deals with political issues.

The study by Skelton and Batley (2006) thus shows that restorative justice initiatives in South Africa are growing in numbers and these programmes need to be as diverse as the

country itself, in order to cater for everyone's needs. For the purpose of this study the main focus from hereon will be on restorative justice in South African prisons.

3.7 Restorative justice in correctional facilities

Restorative justice was introduced in South African prisons in 1992 when the National Institute for Crime Prevention and Reintegration of Offenders (NICRO) incorporated the restorative justice paradigm into their diversion and sentencing programmes. NICRO took special interest in victim-offender mediation and family group conferencing (Skelton, 2002). In 1994 the Juvenile Justice Consultancy, an NGO working with juvenile offenders, proposed that South Africa establish a separate juvenile justice system that operates on the principles of family group conferencing. This will mean that supporters of the offender and the victim, as well as stake-holders from the community come together to discuss issues surrounding the crime. In 1995 the government started to lead the way towards the development of a juvenile justice policy that also led to the development of the Child Justice Bill.

In 2002 DCS made a commitment to address corrections from a restorative justice point of view (Skelton & Batley, 2006). DCS hoped for positive outcomes for the victim, the community and for the offender. The victim should sense that the harm that has been done to them is acknowledged and they should experience repair and reconciliation. The community should increasingly be involved in the justice system in order for them to get a better understanding of the working thereof. With increased involvement the community is empowered to fight crime and to reintegrate offenders. The offender will be made aware of the impact of his/her crime, assisted in getting a higher educational status and improved occupational, social and decision-making skills. These programmes will assist the offender in developing an improved self image and public image to improve the generosity of the community towards the offender and increase the offenders sense of belonging to the community (Petrellis, 2007).

A number of key areas were identified by DCS. These include formal programmes like Victim offender mediation and dialogue and Family group conferences. Establishing restitution towards the victim in the form of financial restitution, personal services and written or verbal apology to victims and others affected by the crime. Establishing restitution towards the community will be in the form of community service. The establishment of victim empathy and support groups, victim or community impact panels

and community or neighbourhood impact statements will lead to more successful implementation of restorative justice within DCS (Petrellis, 2007).

Researchers, however, maintain that restorative justice initiatives do not form part of the day-to-day criminal justice system. It is believed that restorative justice initiatives remain in the realm of policy and that the implementation is insufficient (Skelton, 2002, Skelton & Batley, 2006). Where implementation is taking place it is largely driven by individuals working or volunteering in prison.

3.8 Restorative justice in the Department of Correctional Services

The DCS adopted the restorative justice approach in 2000 and this approach has formed part of the Department's strategy toward more effective rehabilitation of offenders. In 2003 the DCS started with their 'Gearing DCS for Rehabilitation' initiative. This initiative led to restorative justice forming part of the Correctional Programmes Directorate, which means that restorative justice programmes now form part of correctional programmes that are prescribed for offenders (Bailey & Ekiyor, n.d.).

Since then the DCS has taken a number of initiatives to maintain restorative justice principles. Awareness campaigns were initiated to introduce restorative justice to offenders and members. Principles of restorative justice were incorporated into offender care. A victim-offender mediation protocol was developed, as well as guidelines for victim empowerment and community participation (Bailey & Ekiyor, n.d.). It can be said that the DCS initiated the move away from a purely retributive justice system to one that incorporates the principles of a restorative justice system. Crime is no longer seen as just a violation against the state, but as harm against a victim and justice does not mean punishment but now refers to repair and healing (Bailey & Ekiyor, n.d.).

Restorative justice in the DCS has certain objectives with regards to the effect that it wants to have on offenders, victims and the community. Offenders need to be held accountable and take responsibility for their crime by facing up to what they did, understanding the impact and extent of the harm they caused and by taking steps to make things right again. Offenders should experience personal transformation through dealing with issues from their past that led them to committing crime, by making use of treatment opportunities available to them and through active participation in their own rehabilitation. Restorative

justice initiatives also strive to assist offenders in their social reintegration back into the community upon their release (Bailey & Ekiyor, n.d.).

The DCS promotes victim participation in the justice system in order to fulfil any needs that the victim might have as a result of the crime that they were exposed to. Through their participation, victims will be empowered by giving them a chance to speak about the impact that the crime has on their lives. Victims can get the chance to meet face-to-face with the offender and this will assist them in their healing process. The DCS strives to inform victims of their rights and to protect them from further harm and intimidation from the offender (Bailey & Ekiyor, n.d.).

The DCS also makes provision for community participation. Through this participation the community can provide support for both the victim and the offender. Community participation gives the offender an opportunity to show remorse and to make amends. By rebuilding the relationships between the offender and the community, social reintegration of the offender can be more successful.

A number of restorative justice programmes were implemented in South African prisons, mostly by NICRO. The Tough Enough Programme is presented to youth offenders who are within a year of their release date. This programme focuses on offenders' needs and concerns, community support, life skills training, education and job searches. At the Leeuwkop prison in Gauteng, a clinical psychologist presents a restorative justice programme aimed at assisting violent offenders towards repentance and empathy for their victims (Skelton & Batley, 2006). A restorative justice programme is also being presented at Goodwood prison in Cape Town. At this stage the programme only involves offenders, while victims and the community will be introduced at a later stage. Hope Prison Ministries is also a programme being presented to offenders at the Polsmoor prison in the Western Cape. Offenders are referred to the programme by social workers and religious care workers. Some cases of Victim Offender Mediation have taken place as part of this programme (Skelton & Batley, 2006).

The above mentioned programmes are all part of the study conducted by Skelton and Batley (2006). These programmes attract a lot of attention and has different stakeholders involved in administration, funding and presentation. There is, however, restorative justice programmes being presented at other prisons in South Africa by individual DCS personnel.

One such programme is presented at the Brandvlei Youth Centre in the Western Cape. The programme is coordinated and presented by the religious care worker at the Centre. Small groups of offenders are randomly selected and given the opportunity to participate. Topics such as pain, remorse, empathy, consequences of their crime, rehabilitation and life after prison are discussed. At this stage victims and the community cannot be included in the programme. To give the offender an idea of what a real Victim Offender Mediation session will be like, facilitators make use of role play where personnel act as the victim and the community and the offender has to address them in the appropriate manner. This programme is very small scale and has its flaws, but it is at least some attempt to include restorative justice into rehabilitation of youth offenders while in prison.

The previous discussion has highlighted that the DCS has made a commitment towards restorative justice, however the implementation of this commitment is lacking. In most cases this is because of a lack of resources such as funding and knowledgeable staff. All restorative justice programmes do not have the capacity to include victims and the community because of logistical reasons, hence the focus is mainly on the offender. Even though the DCS has a commitment to the victim and the community, the Department's biggest responsibility lies with the offender. If an offender is not ready to take responsibility for their crime, if s/he does not show remorse and do not want to meet with the victim and community, then restorative justice programmes will cause more harm than good to everyone involved. For this reason the DCS needs to focus on the effect that restorative justice programmes will have on a specific offender and the offender's readiness to participate in such programmes should be determined. One way to achieve this is by focusing on the perception that of juvenile offenders have of restorative justice programmes.

CHAPTER 4

THE ADOLESCENT OFFENDER IN THE RESTORATIVE JUSTICE PROCESS

4.1 Offender participation

Any form of restorative justice programme requires the offender to actively participate in the process. The offender needs to speak about the circumstances surrounding the crime and the effect that their crime and the consequences thereof, has had on them. The offender also needs to listen to the victim and the community and the effect that the crime has had on them. The offender needs to take responsibility for their actions, apologise and show remorse, while attempting to repair the harm that they have caused, both materially and also symbolically (Doolin, 2007).

Being accountable and accepting responsibility for the crime that he/she has committed is not easy for the offender. This is especially true when the offender has to face people close to him/her who have been hurt by the crime and the process get even harder when s/he is faced with the victim and the reality of how his/her crime has impacted the victim (Doolin, 2007; Roach, 2000). When offenders come face-to-face with their victim, it becomes much harder to distance themselves from their actions and their justifications for why they committed the crime can be directly challenged by the victim (Doolin, 2007).

Restorative justice conferences like Victim-Offender Mediation (VOM) are emotionally loaded and this requires the offender to be ready to deal with their own emotions, the emotions of their support group, as well as the emotions of the victim and their support group.

Abrams, Umbreit and Gordon (2006) conducted a study to determine young offenders' subjective experiences when taking part in VOM programmes. The general feeling from all offenders was that the victim determined the direction that the sessions took and what issues were addressed. Participation in this programme was voluntary so offenders participated for different reasons. Some chose to participate because they wanted to face up to their crime, get closure and make amends to their victim. Others chose to participate because of the personal gains they wished to achieve, for example looking more responsible in the eyes of the court (Abrams et al., 2006)

Offenders experienced different outcomes. According to the offenders, the VOC programme brought about different emotions for them: guilt, shame, nervousness, anxiety, remorse, relief, closure and satisfaction. Talking about the crime and listening to the victim brought about feelings of shame and remorse, but it also brought about relief and closure that brought healing to the victim and the offender. This healing is of utmost importance to prevent the offender from re-offending (Abrams et al., 2006). The abovementioned study supports the idea that restorative justice programmes will have an effect on the offender. It is therefore important to get an understanding of how offenders have experienced restorative justice and/or how they perceive the effect will be.

In most cases offenders take part in the restorative justice programme on referral from the court or social services. In these cases the programme is seen as an alternative form of sentencing and is based on the type of crime that the offender committed. When offenders are selected in this way it is assumed that the person doing the referral has made an accurate assessment of the suitability of the offender or that the factors related to the crime make the offender a suitable candidate for the programme (Presser & Lowenkamp, 1999).

Participation in restorative justice programmes in prison is in most cases voluntary. This means that the offender can participate in the hope of gaining forgiveness, showing that they have taken responsibility for their crime and that they have changed, mending broken relationships, getting closure, etc. On the contrary offenders also volunteer with alternative motives, for instance getting special treatment, creating the impression that they have changed and improving their chances of being released on parole. Offenders thus volunteer to participate for different reasons and the mere act of volunteering does not mean that the offender is ready or suitable to be part of the programme.

In prison offenders are chosen based on the evaluation that correctional staff make. This evaluation is based on the offenders' behaviour, attendance to correctional programmes and is motivated by the need to rehabilitate the offender and to prevent recidivism. There are a few problems with this kind of selection method. Firstly, the evaluation method used by correctional staff is subjective and will thus differ from one person to another and staff can not be consistent in their selection. Secondly, the attendance of correctional programmes is compulsory which does not mean that the offender gained from this programme just because he/she attended. Attendance to these programmes cannot be

used to show commitment and motivation on the part of the offender. Thirdly, correctional programmes and restorative justice programmes are motivated by different aims. Restorative justice aims to restore the relationship between offender, victim and the community and focuses on the wellness of all parties involved during and after the programme, while correctional programmes aim to rehabilitate offenders and prevent recidivism (Presser & Lowenkamp, 1999).

The Centre for the Study of Violence and Reconciliation (CSV) has done a number of studies in the field of restorative justice. One of these studies done by Amanda Dissel (2000) was an evaluation of programmes that used restorative justice principles and practices. From this study it becomes clear that restorative justice does indeed have an effect on everyone involved in the process and thus will have an effect on the juvenile offender as well. The study found that some of the most important agreements that were reached were for the offender to ask the victim for forgiveness and for both parties to work at restoring their relationship. The offender had to compensate for their crime and the harm done to the victim. In most cases it is expected that the offender will get professional help in order for them to change their overall behaviour. The offender is expected to show that they have learned from their mistakes and to convince the victim and the community that they will not re-offend. The offender is expected to not only change their behaviour, but also the way that they think about things. For this to be possible the offender must have the necessary level of cognitive maturity.

These above mentioned indicators show that offenders need to be screened before selected as suitable candidates for restorative justice programmes. This screening will ensure that the offender is ready to participate and thus will not cause any further harm to the victim, the community or themselves (Presser & Lowenkamp, 1999). Different kinds of screening methods are used for this purpose: Kohlberg's Standard Moral Judgment Interview, The BarOn Emotional Quotient-Inventory and The Interpersonal Maturity Level Classification (see Presser & Lowenkamp, 1999). These tools are not always available, and using them creates problems for correctional staff who are not properly trained. Moreover, these tools should be adapted for (in the case of this study) male juveniles from rural areas in South Africa. For this reason a suitable protocol should be developed to assess offender readiness to participate in restorative justice programmes.

4.2 Offender readiness

The point has been made that restorative justice programmes should cater for the unique needs that arise out of a specific case. This means that the way the programme is presented and the outcomes that need to be achieved will differ from one case to another depending on those involved. A tailor-made approach to restorative justice is needed for every different case. There are, however, certain fundamental principles to consider when screening an offender for readiness to participate in a restorative justice programme (Anderson, 2008).

When offenders are screened for selection it is important to take note of the age of the offender, the type of crime and if it is a first-time offence or not. When juvenile offenders are too young they might be too immature to be able to participate. They might not be able to take responsibility for their actions or understand the consequences thereof. Special attention also needs to be given to mediation between the victim and offender in cases of severe crimes (Giffard, 2002). Re-offending can be used as an indication of the offender's lack of commitment to his/her own rehabilitation and thus also restoration.

Offenders should willingly participate in restorative justice programmes and should therefore be well informed of the process and the outcomes of such a programme. If an offender is forced into the programme, it will be of limited benefit and worth to them and might even cause more harm to the victim (Karp, Sweet, Kirshenbaum, & Bazemore, 2004). The offender's decision to participate should not be based on ulterior motives and personal gains that he/she might have, for instance to be considered for early release and any form of compensation (Giffard, 2002). If an offender does not participate willingly, it defeats the purpose of restorative justice.

An offender should be willing and able to face up to his/her past. This means acknowledging and dealing with past experiences that contributed to his/her criminal behaviour, while not blaming circumstances for his actions. Facing up to his/her past and taking responsibility for his/her own actions are considered to be the backbone of a successful restorative justice programme (Giffard, 2002).

Zehr (1995) identified the needs that victims have and paired that with characteristics that the offender should possess in order to prevent further harm being done to the victim. The first need of the victim is empowerment. The victim needs to feel that they have the power

to influence the offender and thus the outcome of the restoration process. For this the offender needs to accept responsibility for the crime that they committed and the way it affected the victim (Zehr, 1995).

The victim is also looking for truthful answers (Zehr, 1995). For this the offender must be honest. The offender also needs moral- and cognitive maturity which will assist them in knowing what they did was wrong and seeing how it affected the victim (Presser & Lowenkamp, 1999). An immature offender might not be able to identify the wrong that they have done and might try to find reasons to justify their actions rather than taking responsibility.

The victim needs some form of compensation or recovery for their loss (Zehr, 1995). In some cases compensation might be tangible, but during the restoration process the victim can feel compensated when the offender shows true remorse. For this the offender needs to be motivated to compensate, show empathy for the losses of the victim and have emotional intelligence to show their true feelings to the victim (Zehr, 1995).

In summary some of the criteria identified that will give an indication of offender readiness are: age of the offender; the type of crime; first-time offence or not; willingness to participate; being well informed; reason(s) for participating; willing and able to face up to his/her past; taking responsibility for his/her own actions; honesty; moral- and cognitive maturity; motivation; empathy and emotional intelligence.

This study aims to explore juvenile offenders' perception of restorative justice and through this identify those characteristics that the offenders feel indicate readiness to participate in a restorative justice programme.

The methodology of the study is presented in the next chapter

CHAPTER 5

METHODOLOGY

5.1 Rational for research approach

The purpose of the research is to assess the perception that adolescent offenders have on restorative justice. The researcher is interested in the meaning and understanding that offenders have of the restorative justice approach, as well as the characteristics that offenders contend are essential to evaluate whether an offender is ready to participate in such programmes. The researcher also seeks to ascertain how offenders feel about participating in restorative justice programmes for the crimes that they have committed.

The researcher is thus interested in the offenders' subjective opinion and beliefs. In order to access the relevant information, the researcher made use of a qualitative research design.

5.2 Research design

An explorative-descriptive design was used in this study. The reason for using such a design is as follows:

This focus of research is fairly new especially within the DCS. The researcher thus opted to use an explorative-descriptive design to explore this new area of interest that can be applied in a specific setting (Babbie & Mouton, 2001; Creswell, 2003). To explore the perceptions that juvenile offenders have of restorative justice, a qualitative methodology was deemed more appropriate as qualitative research methodologies describe and explain personal experiences, behaviours, interactions and social contexts without the use of reductionistic statistical procedures or quantification (Fossey, Harvey, McDermott, & Davidson, 2002). The use of the qualitative research paradigm ensures that human action (offender readiness) is studied from an insider perspective (that of the offender) (Babbie & Mouton, 2001). Data was gathered through individual interviews and focus group discussions and provided qualitative data to the research questions from the offenders' point of view.

5.3 Participants

The study was conducted at the Brandvlei Youth Centre (BYC), where more or less 400 sentenced offenders are imprisoned. BYC is classified as a medium correctional facility, which means that these offenders are not classified as high risk. Offenders are all males between the ages of 17 and 20 and are housed in four units according to their age.

When using a qualitative design, researchers tend to make use of purposeful sampling to select participants who are the relevant sources of information (Creswell, 2003). To select their participants, researchers usually develop certain inclusion and exclusion criteria which they think are relevant to their study, before they start their sampling (Babbie & Mouton, 2001). For the purpose of this study, only offenders between the ages of 18 and 20 were considered as restorative justice programmes at BYC currently only caters for these age groups because of ethical considerations.

A second criterion was that offenders had to be serving more than 2 years or have served at least 2/3 of their sentence and are about to be released. Offenders should also to be available for the duration of the study, so offenders that were going to be transferred or released before the study was complete were not considered.

When selecting offenders to be part of a restorative justice programme, the nature of the crime that they have committed has to be taken into consideration because it has implications for when the offender and victim comes face-to-face. For the purpose of this study, three crime categories were identified and offenders were selected based on the following crime categories: sexual crimes (rape and indecent assault), homicide (murder and culpable homicide), violent crimes (assault) and economic crimes (house breaking and theft).

For the first part of the study 23 offenders were selected based on the inclusion criteria. From this group 3 offenders were selected for a pilot study, while the remaining 20 were shown a short DVD with a restorative justice theme and then took part in the subsequent discussion. From this group of twenty offenders, the researcher then purposefully selected 13 offenders to be part of the individual interviews and focus group discussion. Of the 13 selected offenders, 3 were sexual offenders, 3 committed homicide crimes, 3 committed violent crimes and 4 were imprisoned for economic crimes.

5.4 Research Procedure

As participants had had varying degrees of exposure to restorative justice programmes in the prison, the researcher opted to brief the participants about the dynamics of restorative justice programmes by using the DVD titled *Burning Bridges+* as the common research stimulus. The DVD is a 35 minute documentary based on a real life account that describes a restorative justice process involving 6 young men who were charged with the arson of an historic wooden covered bridge in Bucks County, Pennsylvania. The focus of the DVD is on a restorative conference held by the International Institute for Restorative Practices. The DVD shows the viewer the conversations that took place between the offenders, their families and the community members present at the conference. The DVD was useful in explaining principles of restorative justice as it shows the preparations for the conference, the conference itself and the aftermath thereof.

A set of questions was developed to guide the individual and focus group discussions. Before using these questions for data collection, it was discussed with personnel at the Youth Centre that work with these offenders and who know their capabilities and their level of understanding and communication. This led to a well refined set of questions that offenders would be able to understand and respond to.

A pilot study was then done with 3 offenders. They watched the DVD and took part in a discussion of it. These 3 participants were then individually interviewed and were later brought back for a focus group discussion. The researcher made use of the opportunity to discuss the process as a whole with the pilot group in order to improve the research procedure and to refine the questions.

The 20 remaining participants watched the DVD and took part in the discussion of the DVD. As the DVD is based on the US justice system, it was necessary to have a thorough discussion to ensure that the offenders understood what happened. That the DVD was also in English was problematic for some offenders to understand everything that was said. The researcher took note of those offenders who had a good understanding of the DVD and restorative justice as a whole. Those offenders that were assessed as being more suitable were selected for the data collection part of the study.

5.5 Data collection

Qualitative research aims to describe and understand what ever is being researched, unlike quantitative research which aims to explain and predict (Babbie & Mouton, 2001; Creswell, 2003). The researcher thus aimed to assess the juvenile offendersqperception of restorative justice programmes by taking note of the ways in which offenders describe how they feel about issues surrounding the restorative justice. Grouping these responses together will indicate what these offenders understand or do not understand with regards to the programme and also what criteria can be used to assess readiness to participate in such a programme.

Data collection within the qualitative research design makes use of detailed engagements with study participants and also makes use of multiple sources of data based on a flexible design (Babbie & Mouton, 2001). For this reason basic individual interviewing and focus group interviewing were used. During a qualitative interview the researcher has a general plan of enquiry but not a specific set of questions which makes the interview more like a conversation where the participant does most of the talking (Babbie & Mouton, 2001). During focus group interviewing each participant brings his individual ideas to the table and while listening to the ideas of others, participants form new meaning amongst one another (Babbie & Mouton, 2001).

No specific set of questions was used but the researcher had a general idea of the direction that the interviews would follow (see Appendix A and B for the semi-structured interview schedule).The researcher was guided by the social constructionism theory in the development of these questions. The reason for this is that this theory looks at how phenomena develop relative to the social context in which it takes place (Dickins, 2003; Kukla, 2000). Literature has shown that what is meant by restorative justice is different in each situation (Hinesa & Bazemoreb, 2003; Tshehla, 2004; Zehr, 2002). For this reason a theory that looks at how restorative justice is constructed by juvenile offenders of Brandvlei Youth Centre, was necessary. Questions where developed based on how restorative justice programmes are presented at the Youth Centre. Questions were also based on the DVD that was used as research stimulus.

For the purpose of this study the researcher first conducted individual interviews with each participant. To assess the juvenile offendersqperception of restorative justice programme, the researcher focused on the meaning and understanding that offenders have of the

restorative justice approach, how offenders were inclined to evaluate readiness to participate in such programmes and how offenders feel about participating in restorative justice programmes for the crimes that they have committed.

The offenders were given the opportunity to speak about the restorative conference depicted in the DVD and gave their opinion on restorative justice in general. Offenders were also asked to comment on the six offenders in the DVD and on what those offenders said and the emotions that they showed. The researcher also asked the offenders to think about the possibility of a restorative conference for their own crimes. Offenders were asked if they would participate in such a conference and give reasons why they would participate or why not.

After all the individual interviews were conducted, 13 participants were brought together and the same questions were again discussed in a focus group format. These participants were selected early on in the study, based on their good understanding of the DVD and restorative justice as a whole. The researcher gave the offenders feedback on the data gathered during the individual interviews. Some new topics emerged from this focus group discussion.

The researcher took note of those offenders who had a. Those offenders that were assessed as being more suitable were selected for the data collection part of the study.

5.6 Data analysis

Individual as well as focus group interviews were used as the units of analysis. Data gathered in this regard were analysed through content thematic analysis. Content thematic is used to analyse great amounts of qualitative data. Through this process of data analysis reoccurring data is identified and categorized. These categories are then coded or named, which will give the researcher an indication of what aspect of the research topic is described by that specific grouping of data (Marks, & Yardley, 2004). The next step is to make inference as to why certain data reoccurred and what is the emerging theme behind this (Mouton, 2001). For example if the offenders in the study were to consistently focus on emotions, these data would be grouped together and then coded. The researcher must then identify the possible reasons why emotions are so important to the offenders. These reasons point to an emerging theme within the data.

The different themes that emerged from this data were used to gain an understanding of the perception that the offenders have on restorative justice. The researcher thus looked for themes that indicate the meaning and understanding that offenders have of the restorative justice approach, the characteristics that offenders will use to evaluate readiness to participate in such programmes and how offenders feel about participating in restorative justice programmes for the crimes that they have committed.

The reliability and validity of the data were enhanced through the focus-group discussion. The data from the individual interviews were first analysed and the relevant themes were identified. Some of the themes that emerged here were confirmed during the focus-group discussion.

5.7 Ethical considerations

Before this study was conducted at the Brandvlei Youth Centre, the necessary approval was granted by the ethics committee of the University of Stellenbosch and as well as by the DCS (See appendix C). Potential participants to the study were informed verbally about the purpose of the study, the research process, and the proposed outcomes of the study. They also received the form of consent which provided a written description of the study. As the participants were 18 or older, they were able to give informed consent if they chose to take part in the study. Participation in this study was voluntary and offenders were informed that choosing not to participate would not have negative consequences for them. Each offender choosing to participate in the study was then given an information sheet and signed a consent form (See Appendix D).

The offenders were guaranteed that their information would be treated confidentially and anonymous. The researcher was the only person working on this study and therefore was the only one who had access to data received from the offenders during the interviews. The offenders' identities were held separate from the data and no names were used when reporting on the data. The data was used in such a way that it cannot be traced back to any particular person or event. The researcher was also sensitive to the needs and feelings of the offenders, especially when they spoke about their personal life and the crimes that they have committed. After each interview the researcher gave the offenders an opportunity to ask questions and discuss any other matters.

5.8 Reflexivity

Conducting this research at the Brandvlei Youth Centre was made easy by the fact that I did an internship at the prison for a year prior to commencing this research there. I was thus familiar with the environment and the general working of the prison. I also have close ties with the personnel which led to them assisting me as much as possible. Being a woman in an environment with only male juvenile offenders is intimidating and uncomfortable at times; however the offenders were very respectful towards me.

While doing my internship I worked with almost all the offenders at the Youth Centre at the time. I thus had a good understanding of how the way they think and how they evaluated things from an offenders point of view. I was able to conduct discussions and have interviews on a level that they would understand. I was also able to understand the underlying meaning attached to what they said and how they reacted. I was known to most of the offenders in the sample, which made it easy for them to trust me and to have an open discussion. The offenders that I have not worked with in the past were, however, not so at ease with me interviewing them. During the focus group discussion those that were familiar with me tended to overwhelm the others in getting their opinion across. In many cases one will find that offenders will say whatever they think you want to hear and they will do things to please you, just to see if it will be to their benefit. I was aware that some of the offenders tried to come up with answers that they thought I would like to hear. One offender actually mentioned that he usually tell people what he thinks they want to hear. From what he said during his individual interview it was clear that this was the case, seeing that he tried to recall all the relevant information that I thought him through the programmes that I used to present.

Whilst doing my internship at the prison I had to learn to keep a professional distance from the offender and to not get too familiar with them. During that time I also tried not to get to know too much of the offenders background and especially the type of crime that they have committed, as this information would have had an impact on the way that I worked with them. So during this study I was still aware of this professional distance that I had to keep between myself and the offenders and therefore I did not let myself get too caught up in their stories and the circumstances surrounding their crimes. However, I cannot help thinking that all the good that is being done with these offenders in prison, is so easily undone when they return to their communities with the same circumstances that led to them committing crime.

I had the impression that my prior experience with the Youth Centre and the offenders was a distinct advantage in facilitating and completing the research process.

5.9 Summary

The researcher made use of a qualitative research design to gather interview and focus group data from juvenile offenders at the Brandvlei Youth Centre. A DVD on restorative justice principles and practices was used as a research stimulus. Content thematic analysis was used to analyse the data. A variety of themes that indicate the offenders' perception of restorative justice programmes emerged from the data.

CHAPTER 6

FINDINGS

This chapter presents the findings of the study. First, a brief profile of the participants is presented to provide a broader context to the verbal data that they provided. Then the offenders' perceptions will be discussed through the focus on the meanings and understanding that the participants attach to restorative justice programmes as well as the characteristics that they identified to indicate readiness to participate in restorative justice programmes. Finally, the participants' own sentiments about participating in restorative justice programmes for their own crimes are discussed.

6.1 The Participants

There were 23 offenders who initially watched the video. Three were then chosen to participate in the pilot study (pilot), 13 were selected for the interviews and focus group discussion (See Table 1) while 7 offenders did not participate beyond watching the video.

Of the 23 offenders that took part in the study, 10 were sentenced for economic crimes which include house breaking and theft. These offenders received sentences of between 2.3 and 5.6 years. Five offenders were sentenced for violent crimes and they received sentences of between 2 and 4 years. Four of the offenders were sentenced for sexual crimes which includes rape and indecent assault. These offenders received sentences of between 4 and 7 years. The remaining 4 offenders were sentenced for homicide crimes which include culpable homicide and murder. These offenders received sentences of between 5 and 10 years.

The purpose of the study was to assess the juvenile offenders' perception of restorative justice programmes. In order to do this assessment the researcher developed three sets of questions to be used in the individual interviews as well as focus group discussion. The three sets of questions enabled the researcher to gain idea of the meaning and understanding that the participants have of the restorative justice approach, the characteristics that the participants are likely to use to evaluate readiness to participate in such programmes and how the participants feel about participating in restorative justice programmes for the crimes that they have committed.

Table 1 Description of participants

AGE	CRIME	INCARCERATION PERIOD	COMMENT
19	Economic	3 years 9 months	Interview and focus group
18	Violent	6 years	Interview and focus group
20	Economic	2 years 4 months	Interview and focus group
19	Homicide	7 years	Interview and focus group
18	Sexual	4 years 3 months	Interview and focus group
19	Homicide	8 years	Interview and focus group
18	Violent	3 years 3 months	Interview and focus group
18	Economic	5 years 6 months	Interview and focus group
20	Sexual	4 years	Interview and focus group
18	Violent	4 years	Interview and focus group
18	Economic	2 years 6 months	Interview and focus group
20	Sexual	7 years	Interview and focus group
20	Homicide	10 years	Interview and focus group

The following themes emerged from the three sets of questions:

6.2 The meaning and understanding attached to restorative justice programmes

Several of the participants expressed that restorative conferences provide offenders with an opportunity to begin to make amends for the crimes that they have committed. As participant 7 mentioned:

“It’s a great place to start to make up for our crimes because you have to face those that you have hurt so that everyone can go on with their lives.”

“Dit is `n goeie plek om te begin opmaak vir jou misdad, want jy moet die mense sien wat jy seergemaak het voordat almal kan aangaan met hul lewe.”

Everyone involved in the criminal offence gets an equal opportunity to speak their mind and to be heard. The community and the victims have the opportunity to make the offenders understand what the impact of the crime was on their lives. The offenders can assist the community and the victims to understand why the crime was committed. This was expressed as follows:

“Talking about things makes it better.” Participant 4

“As `n mens oor die dinge praat dan word dit makliker en beter.”

"The truth will set you free." Participant 23

"Die waarheid maak vry."

"Everyone affected by the crime now has the right to speak their mind and state their case." Participant 17

"Almal wat deur die misdaad geraak is mag nou hul sê sê."

Several participants indicated that special attention is given to the victim and the community. The victim and the community have questions about the crime and they want answers from the offenders. The victims and the community can inform the offenders of the consequences that they suffered as a result of the offenders actions. In most cases restorative conferences is the only way that the victim and the community are able to have an influence on the punishment that offenders will receive.

"Crime hurts the victim and then they don't even get a say in the matter, because the court decides the punishment." Participant 22

"Misdad raak die 'victim' and dan het hulle nie 'n sê nie, want die hof besluit oor die straf."

"They have to think of the punishment they want you to get." Participant 17

"Hulle moet sê watter staf jy moet kry."

Even though the offenders committed crimes and they now have to face the consequences, the participant felt that they also need special attention. The offender must get much needed assistance. Participant 18 related this as:

"Most offenders feel that they cannot be held responsible for their actions and they blame others. These people need help change this way of thinking. Some of must be helped to see the light." Participant 23

"Baie oortreders dink nie hulle is verantwoordelik vir hul dade nie en hulle plaas die skuld op ander mense. Hulle moet anders oor die goed begin dink. Party moet gehelp word om so te dink en dinge so te sien."

The restorative justice programme will enable the offender to see what they have done to the victims and the community. The offender will have an opportunity to explain the circumstances surrounding the crime and thus explain why they have committed the crime.

At the conference the offender will be able to say sorry for what they have done and to ask for forgiveness. According to the participants, this will assist the offender to take responsibility for their crime:

When you talk about what you have done, you kind of relive what happened and this makes you feel responsible.+Participant 5

“As mense oor die goed (misdade) praat is dit amper of dit weer gebeur en dit laat jou verantwoordelik voel vir wat jy gedoen het.”

When you have to explain what happened you have to think and remember what you did. You can't run away from those memories anymore.+Participant 23

“Wanneer jy vir ander mense verduidelik wat gebeur het, moet jy mooi dink en die goed wat jy gedoen het begin onthou. Dan kan jy nie meer weghardloop vir die gedagtes daarvoor nie.”

I have talked to people about my crimes and this helped me to accept responsibility.” Participant 22

“Ek het al met mense gepraat oor my misdaad en dit het my gehelp om verantwoordelikheid daarvoor te vat.”

The possibility of restorative justice programmes as an alternative form of justice, led to different opinions. Some participants felt that restorative sentences gave offenders a chance to carry on with their lives and make amends for their crimes.

“Sentencing an offender to imprisonment holds no real benefit for the community. While restorative sentences can force the offender to work for the community and pay for their crimes.” Participant 4

“Om iemand tronk toe te stuur is geen ‘benefit’ vir die gemeenskap nie. Die ‘restorative’ vonnis kan die oortreder dwing om vir die gemeenskap te werk.”

Some of the participants indicated that restorative sentences will be beneficial to the offender and the community, while prison sentences were not seen as beneficial to anyone.

“Prison sentences only punish the offender and cause more pain to everyone involved, while restorative sentences gets everyone to talk about what has happened. Talking about the crime lets you get the pain out and this can lead to closure and forgiveness.” Participant 12

“Om tronk toe te gaan straf net die oortreder en is meer pynlik vir almal wat geraak word, terwyl `n regstellende vonnis almal laat praat oor wat gebeur het. Om te praat laat die pyn uit en help met 'closure' en mense kan mekaar begin vergewe.”

On the other hand, some participants saw restorative sentences as an easy way out and not sufficient for punishing offenders for their crimes.

“It is not fair; people have to go to prison so that they can pay for their crime.”

Participant 14

“Dis nie 'fair' nie, mense moet tronk toe gaan sodat hulle kan boet vir hul misdaad.”

“They must feel the hurt that they have caused to other people. This is the only way that they will learn from their mistakes, because prison is payback.” Participant 23

“Hulle moet daai selfde pyn voel wat hulle vir ander laat voel het. Dit is die enigste manier wat hulle kan leer uit hul fout, want die tronk is 'payback' tyd.”

In line with the abovementioned some participants felt that a combination of a restorative sentence and prison sentence should be developed.

%o think restorative justice is good for everyone involved in the crime, but the offender should still go to prison too.+Participant 18

“Ek dink 'restorative justice' is baie goed vir almal wat betrokke is, maar die misdadiger moet nog tronk toe gaan ook.”

%f restorative justice will help you to take responsibility then you need to go through that. It is easier to accept a sentence when you feel it's fair and you can only feel this if you take responsibility.+Participant 12

“As dit jou gaan help verantwoordelik raak, dan moet jy dit doen. Dit is makliker om jou vonnis te aanvaar as jy dink dit is regverdig en jy voel net so as jy verantwoordelikheid gevat het vir jou dinge. ”

%e the problem is that if you were in prison the community don't want you back, but restorative justice can help to change their minds.+Participant 7

“Die probleem is as jy in die tronk was wil die gemeenskap jou nie weer hê nie, maar 'restorative justice' kan jou help om hulle te verander. ”

The participants thus felt that offenders should be exposed to restorative conferencing were they can meet with the victims and the community to talk about the crime. This will assist offenders to take responsibility for their own actions, which will help them to accept the prison sentence that they will receive. This conferencing will also assist with offender reintegration back into the community; because the community will already be prepared to accept offenders when they are released from prison.

Participants were asked if restorative sentences can be used with any type of crime. The different opinions that the participants had were based on the fact that some focused on the type of crime and the degree of harm to the victim, while others focused on the potential for a positive outcome. Those who were against the idea of restorative sentences for all types of crime, felt that this type of sentencing will only cause more pain to the victims and the community.

“Meeting with someone who murdered your child will bring back all those painful emotions.” Participant 23

“Om iemand te sien wat jou kind vermoor het, gaan al daai emosies weer terugbring.”

Participant 7 felt that this type of sentencing as a waste of time for petty crimes:

“If you steal from someone all they want is to get their things back and for you to pay for what you have done, they will not see the need in talking about it and forgiving you.”

“As jy iemand se goed gesteel het wil hulle dit net terug kry en wil hulle hê jy moet betaal vir wat jy gedoen het. Hulle wil nie nog daaroor praat nie.”

The participants who focused on the positive outcome of restorative sentences felt that these type of sentences needs to be adapted according to the circumstances of the crime:

“In most cases the circumstances in the community leads to crime. So if restorative sentences address these circumstances any crime can be dealt with in this way.”

Participant 12

“Baie kere is dit dinge in die gemeenskap wat mense laat misdaad pleeg, so as ‘n ‘restorative’ vonnis na die dinge gaan kyk kan dit vir enige misdaad werk.”

6.3 Characteristics that indicate readiness to participate in restorative justice programmes

The responses that the participants gave to the question of % you or the Case Officers had to decide if an offender is sincere about how they feel and that they want to make up for what they have done, how will you/they decide?+can be grouped into emotions, words, body language and actions.

6.3.1 Emotions

Participant 4 felt that when someone talks about the crimes that they have committed they have to show certain emotions. He expressed this as:

“There is just something about a person crying that shows that they are telling the truth.”

“Daar is net iets aan mense wat huil wat wys hulle praat die waarheid.”

According to the participants, people who commit crimes are not always in charge of their emotions. These people tend to be very aggressive, agitated, they get angry quickly, they overreact, they need instant gratification, they feel the need to break things and harm others.

“An offender that still does any of these things shows that they can not handle their own emotions and they can not go on the path of restoration.” Participant 5

“Oortreders wat nog die tipe goed doen, wys net hulle kan nie hulle emosies hanteer nie en hulle is nog nie op die pad om reg te maak vir hulle dinge nie.”

Participants expressed the need to show that they are ashamed of what they have done and they need to show that they are sorry:

%t's easy to say thing like you're sorry, but you have to show it with emotions.+
Participant 4

“Dit is maklik om te sê jy is jammer, maar jy moet emosies wys.”

6.3.2 Words and Communication

Participants mentioned that how things are said is just as important as what is said. According to participant 9, he pays attention to how a person says something if he has to decide if what was said is true or not:

%he must look me in the eye when he is telling the truth. He must also look right, like standing still, not fidgeting and not distracted.”

“When someone can look you in the eyes when talking without being uncomfortable then he is being honest.”+Participant 22

“Hy moet in my oë kyk as hy nie jok nie. Hy moet ook reg lyk, soos stil staan, nie vroetel nie en sy aandag moet by my wees.”

“As iemand in jou oë kan kyk as hy met jou praat en nie ongemaklik is nie, dan is hy eerlik.”

Participant 23 also focused on the tone of voice as well as how loud and fast a person speaks:

“When you are lying or trying to hide something you speak in a higher tone, but softly and faster. You usual just to say what is needed and then get away.”

“As mens jok of iets probeer wegsteek dan praat jy so hoog, maar sag en vinnig. Jy wil gewoonlik net sê wat nodig is en dan wil jy wegkom.”

Offenders should also stick to the point when they are talking to the victim and the community:

“When you try to confuse people you tell them different things and in the end they will not know what is the truth or not.”+Participant 16

“As jy mense deurmekaar wil maak dan vertel jy vir hulle baie goed gelyk en dan weet hulle nie wat die waarheid is en wat nie is nie.”

The offender should have a clear understanding of what is needed to restore broken relationships. They have to have a plan for how they are going to make up for their crimes:

“You have to have a plan of how you are going to pay your dues to the community. Give them specific examples of what you are going to do.” Participant 16

“Jy moet `n plan hê vir wat jy gaan doen om die gemeenskap terug te betaal. Noem vir hulle spesifieke dinge wat jy gaan doen.”

When an offender is able to do this it shows that they have taken the time to think about their crime and reflect on the consequences thereof. This is portrayed in the statement made by participant 12:

“It’s good to say sorry and ask for forgiveness, but you have to make up for the wrongs that you have done. You yourself have to decide how you’re going to do this.”

“Dit is goed om ‘sorry’ te sê en te vra hulle moet jou vergewe, maar jy moet opmaak vir die verkeerde dinge wat jy gedoen het. Net jy moet besluit hoe jy dit gaan doen.”

6.3.3 Body language

This term was used several times by the participants and they referred to different aspects that they attribute to body language.

“You need to make eye contact when you speak to people or they will think you are trying to hide something.” Participant 22

“Jy moet in mense se oë kyk as jy met hulle praat anders gaan hulle dink jy probeer iets wegsteek.”

“The way that you stand or sit can show people if you want to talk to them or not or if you are hiding something.” Participant 9

“Die manier waarop jy staan of sit kan vir mense wys of jy met hulle wil praat of of jy iets wegsteek.”

“You must show people that you are listening. So you must look at them, talk back, nod or smile or frown.” Participant 20

“Jy moet vir mense wys dat jy luister. So jy moet vir hulle kyk, terug praat, knik of ‘smile’ of frons.”

“People who are restless show that they are uncomfortable. This means that they are trying to prevent others from finding out certain things.” Participant 17

“Mense wat onrustig is wys hulle is ongemaklik. Dit beteken hulle probeer dat ander nie sekere dinge moet uitvind nie. ”

The participants also made mention of the importance of how confident an offender comes across.

“If the offender is overconfident he is trying to manipulate the people he is speaking to.”
Participant 20

“As die oortreder te ‘confident’ is probeer hy die mense met wie hy praat manipuleer. ”

“If you are confident you show that you are true to what you are saying.” Participant 5

“As jy ‘confident’ is wys jy dat jy die waarheid praat.”

“People who are confident show that they believe in themselves and what they can do. This will show everyone that they can make up for the harm that they caused through their crime.” Participant 17

“Mense wat ‘confident’ is wys dat hulle glo in hulself en dit wat hulle kan doen. Dit sal vir almal wys dat hulle kan opmaak vir wat hulle deur hul misdaad verkeerd gedoen het.”

6.3.4 Actions

Through their actions or behaviour in prison, offenders need to demonstrate that they have changed for the better:

%n prison you can prove that you have changed. You can show this by using the opportunities you get.+Participant 13

“In die tronk kan jy wys dat jy verander het. Jy kan dit wys deur die geleenthede wat jy kry te gebruik.”

+Take part in unit programmes, go to school and church and play sports.+Participant 20

“Neem deel aan programme, gaan uit skool toe en kerk toe en doen sport.”

%f you can get a job in prison as cleaner of something, you can show people that you are responsible and will work rather than steal.+Participant 7

“As jy werk in die tronk kan kry soos skoonmaker of iets, dan kan jy vir mense wys jy is verantwoordelik en dat jy sal werk eerder as steel.”

%o Do things before people have to ask you to do it. Help them and don’t expect something back.+Participant 18

“Doen dinge nog voor mense jou vra om dit te doen. Help hulle sonder om iets terug te verwag.”

%ou should not run with gangs in here and you must choose the right friend, otherwise you have not changed.+Participant 13

“Jy moet nie saam met die bendes wees hierbinne nie en jy moet die regte vriende kies, anders het jy nog nie verander nie.”

Offenders need to show that they have accepted their prison sentence and want to use the time in prison constructively:

“When you accept that you have to stay here because you did something wrong, it’s easier to go on with your life. Some people in here just go from day to day not doing

anything because they feel that they must not be here. I have accepted that I belong here so I make the best of my time here. +Participant 23

“As jy besef jy moet hierbinne bly omdat jy iets verkeerd gedoen het, is dit makliker om aan te gaan met jou lewe. Mense hierbinne gaan net van dag tot dag sonder om iets te doen, want hulle voel hulle moet nie hier wees nie. Ek het aanvaar ek hoort hier, so ek maak die beste van my tyd hier ”

Participants felt that offenders must make use of the opportunities that they get in prison:

%n here you get opportunities to play sport, go to school, to take part in drama groups, choir and radio broadcasting. All these things help to make you a better person.+Participant 13

“Hier binne kry jy kans vir sport, skool, drama, koor and radio. Al die dinge help om jou `n beter mens te maak.”

“When you do not use these opportunities that you get it shows that you are not taking the help that you can get and that you do not want to change you life.+ Participant 18

“As jy nie die kans vat wat jy kry nie wys dit dat jy nie die hulp gebruik wat jy kan kry nie en dat jy nie wil verander nie.”

There must be a change in the way that offenders interact with others:

%The way you speak to people show whether you respect that person or not. You have to use the right type of language for instance not using swearwords.+ Participant 22

“Die manier waarop jy met mense praat wys of jy hulle respekteer of nie. Jy moet die regte taal gebruik, soos om nie te vloek nie.”

“Offenders should not only talk nice where personnel can hear and see them, they need to show this respect at all times. You must respect other inmates and personnel and visitors.” Participant 23

“Gevangenis moet nie net mooi praat waar die bewaarders hulle kan hoor en sien nie, hulle moet die respek altyd wys. Jy moet die ander gevangenis, die personeel en besoekers respekteer.”

Offenders also need to have respect for themselves:

%You must respect yourself before you will respect others.+Participant 12

“Jy moet eers respek vir jouself hê voor jy ander sal respekteer.”

+Someone who respect themselves look after their bodies, they wear clean clothes, they talk about the right things and they do good things.+Participant 16

“Iemand wat hulself respekteer kyk na hulle liggaam, hulle klere is skoon, hulle praat oor die regte goed en hulle doen goeie dinge.”

“If you do not respect yourself, your good name and reputation, your body or your property, then you will not respect these things in other people.” Participant 23

“As jy nie jouself respekteer nie, ook nie jou goeie naam of reputasie nie, of jou liggaam, of jou goed nie, dan sal jy ook nie die goed in ander mense respekteer nie.”

An interesting topic that the participants addressed was that offenders cannot always be true to what they say and do:

“In prison you learn what to say and what to do in order to please others. It is a skill that you learn to survive.” Participant 23

“In die tronk leer mens wat om te sê en wat om te doen om ander gelukkig te maak. Dit is ‘n ‘skill’ wat jy leer om te oorleef.”

“You say what you know people what to hear.” Participant 12

“Jy sê wat jy weet ander wil hoor.”

“You look at the situation and then decide how to react to gain the maximum benefit from this.” Participant 18

“Jy kyk na die situasie en dan besluit jy hoe om te reageer om die meeste ‘benefit’ te kry.”

“There is almost always something else behind what offenders say and do.” Participant 13

“Daar is meeste van die tyd iets anders agter wat gevangenis sê en doen.”

“It is almost a case of showing your true colours will leave you vulnerable in a place like this and showing emotions that shows you are vulnerable is not a wise thing to do.” Participant 4

“Dit is amper as jy jou ware klere wys is jy ‘vulnerable’ in `n plek soos die en om emosies te wys wat dit wys is nie `n slim ding om te doen nie.”

In line with these comments they felt that not everyone has the necessary skills to evaluate if an offender is telling the truth. They felt that only prison wardens or case officers, who have experience in working with offenders, have the ability to evaluate offenders' words and actions.

“If you understand the dynamics within the prison and you get to know how a specific person reacts in situations in prison, only then are you able to evaluate them.” Participant 12

“As jy verstaan hoe dinge in die tronk werk en jy weet hoe daai persoon reageer in situasies in die tronk, eers dan sal jy hom kan evalueer.”

“I can tell my family that I am doing good things in prison and they will believe me. However my Case Officer knows of everything that I do wrong, because he sees me every day.” Participant 23

“Ek kan vir my mense vertel dat ek goeie dinge in die tronk doen en hulle sal my glo, maar my ‘Case Officer’ weet van alles wat ek verkeerd doen, want hy sien my elke dag.”

%Some of them just look at you and they know what you have done.+Participant 14
“Party van hulle kyk net vir jou en dan weet hulle wat jy gedoen het.”

%Not all of them are that good. You have to work here for a while to get what’s going on.+Participant 16

“Nie almal van hulle is so goed nie. Jy moet eers `n ruk hier werk om te verstaan wat hier aangaan.”

“In here you learn skills to deceive people, but those skills do not always work with the wardens because they also know those skills.” Participant 20

“Hier binne leer jy dinge om ander te mislei, maar daai dinge werk nie met die bewaarders nie want hulle ken ook al daai dinge.”

The participants thus place a lot of the responsibility on knowledgeable personnel that are familiar with an individual offender, to evaluate the readiness of that offender to participate in restorative justice programmes.

6.4 Participating in restorative justice programmes for their own crimes

The participants had a difference of opinion with regards to their willingness to participate in restorative justice programmes. Some of them were willing to participate, while other felt quite strong about not participating.

6.4.1 Willing to participate

Those who were willing to participate saw restorative justice programmes as a second chance given to them by their families and the community. The restorative conference will enable them to explain themselves and to make people understand why they did those wrongful things.

“Usually they don’t bother with you; no one wants to hear your side of the story.”

Participant 9

“Gewoontlik ‘worry’ hulle nie oor jou nie, want niemand wil jou kant van die storie hoor nie.”

“When you go to court everyone is there, but you can’t talk to them. This will give you a chance to talk to them.” Participant 16

“As jy hof toe gaan is almal daar, maar jy kan nie met hulle praat nie. Dit sal jou nou die kans gee om met hulle te praat.”

“Everyone deserves a second chance.” Participant 5

“Almal verdien `n tweede kans.”

Some of the participants in this group committed their crimes while under the influence of alcohol and/or drugs. They thus feel that they were not responsible for their actions seeing that they were not themselves.

“I have a weakness for those things; it makes me a different person.” Participant 4

“Ek het `n swakte vir daardie dinge, dit maak my `n ander mens.”

“Those drugs change a man. You do strange things that are not you. Most of the time you can not even remember afterwards.” Participant 22

“Daai dwelms verander `n man. Jy doen snaakse dinge wat nie soos jy is nie. Meeste van die tyd kan jy nie eers agterna onthou nie.”

However, they know that they have to take responsibility for taking the drugs that led to this unwanted behaviour.

%Drugs make you do strange things and you can't control it, but you can't keep blaming the drugs.+Participant 22

“Dwelms laat jou snaakse dinge doen en jy kan dit nie beheer nie, maar jy kan nie aanhou die dwels blameer nie.”

They thus see the restorative conference as an opportunity to explain their “*weakness for drugs*” and how this has led to their criminal behaviour.

The restorative conference takes place in a controlled setting, which provides the offender with some protection from the victims and the community.

“Out there if you want to say sorry people do not want to listen, they just want revenge.” Participant 9

“Daar buite wil mense nie luister as jy jammer wil sê nie, hulle soek net wraak.”

When the victim and the community come to the conference it means that they are ready to give the offender a reasonable chance to explain their actions. The conference is also arranged in such a way to give support to the offenders.

%These people will be there to help you and to get help for themselves, so they will not want to get back at you.+Participant 9

“Die mense sal daar wees om jou te help en om hulp vir hulle self te kry, so hulle sal jou nie wil terugkry nie.”

They will be able to get their conscience clean and talking about the crime will assist him to take responsibility for his own decisions.

“It will make you a better and stronger man, because you will be able to leave the past behind.” Participant 12

“Dit sal van jou `n beter en sterker mens maak, want jy sal die verlede kan agterlaat.”

The participants felt that the outcome of restorative conferences is for the offender to say that he is sorry for what he has done and for the victim and the community to accept this

apology. The offender can also be granted the opportunity to make amends for his crime, by doing those things that the community has identified. They felt that it is only then that restoration can take place.

“You must do things for the community to show that you are sorry.” Participant 4
“Jy moet dinge vir die gemeenskap doen om te wys jy is jammer.”

“When people are really sorry and they forgive each other, then their relationship will be fine again.” Participant 20

“As mense regtig jammer is en hulle vergewe mekaar, dan sal hulle verhouding weer reg wees.”

Restorative justice programmes will give offenders the opportunity to start restoring relationships. The participants felt that the most important relationship was with their parents and other family members.

%had a good upbringing and then I let my parents down. Now I have to show them and everyone else that I made wrong decisions and that it is not their fault.+
Participant 9

“Ek is goed groot gemaak en toe stel ek my ouers teleur. Nou moet ek vir hulle en almal anders wys dat ek verkeerde keuses gemaak het en dat dit nie hulle skuld is nie. ”

%o will want to make them proud of me again. This will help me to show them that I am sorry and that I will not do crime again.+ Participant 7

“Ek wil hulle weer trots maak op my. Dit sal my help om hulle te wys ek is jammer en dat ek nie weer misdad sal pleeg nie. ”

The offenders will also be able to restore their relationship with the victim and the community. In some cases the offender is known to the victim and the community and they would never have expected this sort of behaviour from the offender.

“You shock them not only with the crime, but also with the fact that you are involved in crime. They see you as a role model and then you shock them.” Participant 23
“Jy het hulle geskok met jou misdad en ook met die feit dat jy by misdad betrokke is. Hulle sien jou as `n rolmodel en toe skok jy hulle.”

"The community expected more from me. I must show them that I am not just bad."

Participant 9

"Die gemeenskap het meer van my verwag. Ek moet vir hulle wys dat ek nie net sleg is nie."

The offender thus has to restore the trust that the community had in him. In cases where the victim and the community do not know the offender, they now believe that he is a bad person and a danger to everyone. The offenders thus need to show the community the kind of person they really are.

"You must show people who do not know you that you are a good person. You are not the type of person that they believe you to be just because you committed a crime." Participant 22

"Jy moet vir die mense wat jou nie ken nie wys dat jy 'n goeie mens is. Jy is nie die tipe mens wat hulle dink jy is net omdat jy misdaad gepleeg het nie."

"When you are able to do things for the community they can see that you are not just bad." Participant 9

"As jy vir die gemeenskap dinge doen kan hulle sien dat jy nie net sleg is nie."

Participants felt that they need to restore the relationship with the community in order for them to be accepted back into the community.

"It's hard to go back to the community after prison, because they don't want you there. This will help everyone to accept each other." Participant 9

"Dit is moeilik om na die gemeenskap toe terug te gaan as jy uit die tronk kom, want hulle wil jou nie daar hê nie. Dit sal almal help om mekaar te aanvaar."

The participants believe that once you were part of a restorative justice programme, you are a changed person. If you were assisted into taking responsibility for your crime and you have managed to restore the relationships with everyone involved, you are then ready to face the consequences of your crime.

"When you see the harm that you have caused and see the pain that other have suffered because of you, you start to accept your prison sentence." Participant 13

"As jy die skade sien wat jy veroorsaak het en jy sien die pyn wat ander gehad het as gevolg van jou, dan begin jy jou tronkstraf aanvaar."

“It’s hard to be in prison and to accept that you are going to be here for a while is also hard. You need to be assisted through this programme.” Participant 18

“Dit is moeilik in die tronk en dit is moeilik om te aanvaar dat jy vir `n tyd lank hier gaan wees. Die program moet jou help.”

This realisation assists the offender to make the most of his time in prison and use all the opportunities that he gets to better himself.

6.4.2 Reluctance to participate

Participants who were reluctant to participate in restorative justice programmes used their past and their own personality as justifications for this decision. Some participants have a long history of crime and felt that they have done so many things wrong that no one will believe them when they say that they have changed.

“After a while people start to expect the worst of you every time and they believe you will never change.” Participant 23

“Na `n tyd begin mense net die ergste van jou verwag en hulle glo dat jy nooit sal verander nie.”

“After everything that I have done they will never forgive me no matter what.”

Participant 13

“Na alles wat ek gedoen het sal hulle my nooit vergewe nie maak nie saak wat nie.”

For this reason the participants did not see any reason to expose themselves to such a programme. They felt that even though they want to change, no one will give them a chance to do so.

Some participants felt that they just do not have the personality to be able to participate in such a programme. Participant 14 expressed this as follows:

I am too shy to talk to them. If everyone is watching me I will not make it.

“Ek is te skaam om met hulle te praat. As almal vir my kyk sal ek dit nooit maak nie.”

Participant 5 feels that he is too shy to speak in front of others and this will make it seem that he was hiding something.

%can't speak in front of people because I am too shy. I will be so uncomfortable that they will think I am lying and hiding things from them.+

“Ek kan nie voor mense praat nie want ek is te skaam. Ek sal so ongemaklik wees dat hulle sal dink ek jok en steek goed weg vir hulle.”

Participant 13 feels that he is not able to articulate how he feels, thus he will not know how to say sorry and make it believable. Participant 13 also felt that he is not the type of person that talk about their feelings and show emotions because this will make them vulnerable.

“When I am put on the spot I can't find the words to say how I feel. How will I know how to say sorry?”

“As ek op die ‘spot’ gesit word dan kan ek nie die regte woorde kry om te sê hoe ek voel nie. Hoe gaan ek weet hoe om jammer te sê?”

“I don't like to talk about my private things. It makes me feel weak if others know too much about me.”

“Ek hou nie daarvan om oor my privaat dinge te praat nie. Dit laat my swak voel as ander te veel van my weet.”

Some felt that they will become someone different when put on the spot.

“If I feel that I am on the spot and everyone is paying attention to me, my mind stops working and I say and do weird things.” Participant 18

“As ek voel ek is op die ‘spot’ en almal se aandag is op my, dan hou my verstand op werk en sê ek vreemde goed.”

“I say things before I can think. So I will not be able to talk to these people.”

Participant 14

“Ek sê dinge nog voor ek kan dink. So ek sal nie met die mense kan praat nie.”

The concern here is that these offenders will not likely have control over their words and actions and they may cause harm to others present at the conference.

Other participants were just not willing to participate because they did not see any good that could come from such a programme and/or they felt that they did not need to participate.

%Talking does not solve everything you know.+Participant 13

“Weet jy, praat los nie alles op nie.”

%The things that I have done are not that serious so there is no need to make such a big deal out of it.+Participant 7

“Die dinge wat ek gedoen het is nie so ernstig nie so dit is nie nodig om so groot ding daarvan te maak nie.”

Participating in such a programme does not provide them with any guarantees and they might subject themselves to such discomfort for no reason.

“What if they do not accept your apology? Then you put in so much effort for no reason. These programmes cannot fix everything.” Participant 13

“Wat as hulle nie jou verskoning aanvaar nie? Dan sit jy soveel in vir geen rede nie. Die program kan nie alles regmaak nie.”

“If this thing does not work then everyone goes through the pain for nothing. It will be difficult to make the decision to go through with it.” Participant 14

“As die ding nie werk nie gaan almal deur die pyn vir niks. Dit sal moeilik wees om te besluit om daarmee aan te gaan.”

6.4.3 Who would be at the conference and why?

Interestingly participants felt that the most important people who should be there are their own family.

%You need your family there for support.+Participant 4

“Jy het jou familie daar nodig vir ondersteuning.”

%If the victim and the community can see that you come from a good home, it will be easier for them to forgive and accept you.+Participant 7

“As die slagoffer en die gemeenskap kan sien dat jy uit `n goeie huis kom, sal dit vir hulle makliker wees om jou te vergewe en te aanvaar.”

%Our family could tell everyone that you are a good person who just made the wrong decisions.+Participant 9

“Jou mense kan vir hulle vertel dat jy `n goeie mens is wat net die verkeerde besluite gemaak het.”

They thus feel that they will need the support from their family to be able to participate in such a programme but also to demonstrate their remorse and to obtain forgiveness.

Their family would, however, not just be there for support. The offenders also felt that the relationship with their own family needed to be restored first.

%After prison you will have to go back home and they will have to want you to come back.+Participant 23

“Na jou tronkstraf oor is moet jy terug gaan huis toe en hulle sal moet wil hê dat jy kom.”

“You might never see your victim again but you have to see your family again.+ Participant 9

“Jy sal dalk nooit weer jou slagoffer sien nie, maar jy sal jou familie weer sien.”

“I disappointed my parents and I have to use every opportunity to make things right.” Participant 12

“Ek het my ouers teleurgestel en ek moet nou elke geleentheid gebruik om dinge reg te maak.”

Some conceded that the victim and their support system also need to be there.

%This will be your chance to explain yourself. Why you did what you did and why you chose to rob those people.+Participant 7

“Dit sal jou kans wees om jouself te verduidelik. Hoekom jy gedoen het wat jy gedoen het en hoekom jy gekies het om hulle te roof.”

%You will have to be face-to-face to be able to ask for their forgiveness, so you need them there.+Participant 17

“Jy sal ‘face-to-face’ moet wees om vergifnis te vra, so jy het hulle daar nodig.”

%It will be difficult for them to hear everything so they will need support from the people that they bring with them.+Participant 23

“Dit sal vir hulle moeilik wees om alles te hoor so hulle sal ondersteuning nodig hê van die mense wat hulle saambring.”

The community needs to be part of a restorative justice programme.

Crime influences the whole community. People become scared, they spend extra money to be safe and they have to help each other to deal with crime.

The community stand together against crime, so they will have to be there to protect those who can not protect themselves.+Participant 22

“Misdaad raak die hele gemeenskap. Mense raak bang, hulle spandeer ekstra geld om veilig te wees en hulle moet mekaar help om misdaad te hanteer.”

“Die gemeenskap staan saam teen misdaad, so hulle sal daar wees om die te beskerm wat nie hulself kan beskerm nie.”

Some argued that when the community forgives the offender it will be easier for the offender to be reintegrated into the community upon their release from prison.

The community does not always accept prisoners back with open arms they need help with this.+Participant 23

“Die gemeenskap aanvaar nie altyd gevangenis terug met oop arms nie, hulle moet gehelp word hiermee.”

6.5 Summary

From the qualitative data that was gathered it became apparent that the participants had a good understanding of restorative justice principles and how the programme works in practice. This is, however, not only due to watching the Burning Bridges DVD and the discussion that followed this. Some participants have already participated in a programme on restorative justice, as has been presented at the Brandvlei Youth Centre previously. Those participants (23, 22, 9, 4, 13, 12) who had prior exposure to the programme were inclined to be more actively involved in the discussion, because they had much more to contribute to the discussion.

From each of the three sets of questions several themes were identified but it was also apparent that restorative justice programmes have different meanings attached to them for the participants. Participants were also able to identify a variety of characteristics that they thought will indicate if an offender is ready to participate or not.

An interesting comment was made by one of the offenders which led to a long discussion on who would be able to assess if an offender is ready to participate in restorative justice programmes. They concluded that only knowledgeable personnel that are familiar with an

individual offender should evaluate the readiness of that offender to participate in restorative justice programmes.

Participants had a variety of reasons for why they would participate in restorative justice programmes for their own crimes. Offenders was able to move away from the DVD that they have watched and bring restorative justice to a personal level where they imagined themselves going through such a programme.

CHAPTER 7

DISCUSSION

7.1 Introduction

The purpose of the research was to assess juvenile offenders' perception of restorative justice programme. A comprehensive literature review confirmed the need for an accurate assessment of offenders' perceptions, as this will have an impact on the outcomes for all parties involved in the programme (Anderson, 2008; Karp, Sweet, Kirshenbaum, & Bazemore, 2004; Presser & Lowenkamp, 1999).

In order to gather the relevant data to make recommendations toward the implementation of restorative justice programmes, the researcher developed three sets of questions that focussed on the following: the meaning and understanding that offenders have of the restorative justice approach; the characteristics that offenders will use to evaluate readiness; how offenders feel about participating in restorative justice programmes for the crimes that they have committed.

7.2 Discussion of findings

7.2.1 Understanding of restorative justice programmes

Offenders need to be prepared before they can participate in restorative justice programmes. Part of this preparation will be to inform them how the process will be setup, the goals and aims of the programme, who will participate in the process, the role that everyone will play and what they can expect from the programme.

Before the parties can meet each other, there is much preparation that takes place (Fraley, 2001). As the participant in the study mentioned, it is important that everyone will be well prepared before they meet. The victim and the community will be prepared so that they will be willing to meet and engage with the offender and listen to what they have to say about the crime. Participant expressed concern that the victim and the community should not be there to get revenge; they would rather want to help themselves by getting answers and possible closure. The offender will also be assisted so that he/she will be able to talk to the victim and the community and he/she will also be able to discuss the circumstances surrounding the crime. The participants in the study saw that restorative justice

programmes take place in a controlled setting which will make it a safe place to interact with each other and will give everyone an equal opportunity to say what they need to say. The participants in the study felt that the latter is very important for the programme to be successful.

When assessing offenders' perception of restorative justice programmes, the offender should know what the goals and aims of the programme are. Restorative justice programmes aim to bring all the parties together to address harms, needs, and obligations, in order to heal and put things as right as possible (Zehr, 2002). The participants in the study also confirmed this. They expressed that everyone involved should be brought together and get equal opportunities to discuss issues surrounding the crime.

The goal of restorative justice is also to assist everyone that was affected by the crime. The victim gets an opportunity to let the offender see how the crime has affected them, which will assist them in dealing with the consequences of the crime. The programme will also assist the offender. According to the participants, the offender will be assisted to address the victim and the community and to be able to talk about the crime. This assistance that the offender will get will assist them to take responsibility for their crime.

Restorative justice also aims to restore the broken relationships between offenders, victims and the community as a result of the crime that was committed (Ryals, 2004; Zehr 2002). The offender needs to understand the dynamics of the relationship with the victim and the community and how this relationship was affected by their crime. In some cases where the offender does not know the victim and the community he/she might be unaware of the relationship that exists and that this relationship needs restoration through the restorative justice programmes. Participants in the study expressed that the most important relationship that needs to be restored is that between them and their family. This relationship needs to be restored because they felt that through their crime they have let their parents down and they have to make up for this. The participants also felt that they need to restore the relationship with their family because they need the support that they can then get from their family. Participants also felt that it is important to restore the relationship between them and victim and the community. When this relationship is restored it will be easier for them to be accepted back into the community upon their release from prison.

The offender should also know the role that everyone will play in the restorative justice programme. The participants in the study thought that the purpose of restorative justice programmes is to bring everyone that was involved with the crime together in a controlled environment. This will ensure that everyone gets an equal opportunity to talk about how the crime has influenced their life (Neser, 2001). The victim has the power because he/she can demand certain answers from the offenders. The offender needs to explain his/her actions to the victim and he/she must indicate how they plan to make amends for their actions. It is only when this is attained that the restoration process can begin.

The offender must be able to identify what they expect to gain from restorative justice programmes. Offenders should not have ulterior motives for participating (Giffard, 2002). The participants in the study expected to be given a second chance. This means that they will get an opportunity to explain themselves and to try and convince the victim and the community to forgive them. The participants also expect to be assisted in accepting responsibility for their crime and the consequences thereof. When offenders take responsibility for their crime, they will be able to accept their prison sentence and make the best of their time in prison and use the opportunities that they receive.

Offenders should, however, not expect to receive a lighter sentence, early release or any other form of compensation for their participation. Some participants felt that offenders should still go to prison as they need to pay for their crime and they should not expect any special treatment just because they took part in a restorative justice programme. The reasons given by offenders as to why they want to participate in restorative justice programmes will be an indication of their readiness to participate in such programmes.

The researcher was also able to identify that there exists a great need for offenders to be better educated with regards to restorative justice. The participants in the study made various comments that led the researcher to believe that they lacked proper knowledge of restorative justice. Some participant felt that restorative justice programmes do not provide them with any guarantees that they will benefit from this and for this reason they are unwilling to participate. Others believe that they have done so many wrongful things in their past, and that no one will forgive them or give them a second chance. Some participants were afraid of the pain that talking about their crime will cause them. Others felt that they do not have the right personality to be able to talk to their victim and the community about the crime. These concerns highlight the need for proper education within

the prisons of the nature and purpose of the restorative programmes and support for the offenders in preparing for the process.

7.2.2 Personality traits, abilities and behaviour

The participants in the study identified certain personality traits that can be used as an indication of offender readiness. In most cases they reflected on their own behaviour during the times when they had committed their crimes. During these times the participants described themselves as overtly aggressive, agitated, angry and they overreacted easily without thinking of the consequences of their action. Instant gratification and revenge were the driving forces behind their actions. Thus offenders who continue to express this type of behaviour without due cause may not be ready to participate in restorative justice programmes.

The offender in the restorative justice programme needs to take responsibility for his/her actions, be willing to apologise and show remorse, while attempting to repair the harm that he/she has caused, both materially and also symbolically (Doolin, 2007). In order to be able to do this the offender should be able to communicate with the victim and community in such a way that they will be able to understand what the offender is trying to say. The participants thought that the way a person says something is just as important as what they say. So offenders should be able to show the appropriate emotions that go with what they are saying. Participants also felt that offenders should also not try and confuse the victim with irrelevant information, as this can be seen as a way of avoiding discussing issues that the offender is uncomfortable with.

The offender should be comfortable to address individuals as well as the larger group. Some participants were unwilling to participate in restorative justice programmes, because of their inability to speak in front of people. They felt that they are too uncomfortable to do this and the victim and community will think that they were not telling the truth. The participants also believe that an offender must be confident but not come across as too confident. The offender needs to show that he is genuine and that he believes in his abilities and that he will be able to make amends for his crime. The offender that comes across as too confident is trying to manipulate those that he is speaking to.

The participants referred to various aspects of body language that they use to evaluate if a person is telling the truth. One of the reasons that so much emphasis was placed on this

topic was that offenders recently attended various programmes that addressed this topic. They thus used the information that they have recently required and applied it to the discussion at hand. The most important aspect that the participants look for is whether the offender is making eye contact. According to the participants, the offender should also be calm as restlessness indicated discomfort which can mean that the offender is lying. They indicated that the offender's body position should be open and indicate that they are willing to speak to the victim and the community.

The offender should also be able to react in an appropriate manner to what the victim and community is saying. Participant recalled the ways that they used to react to people: they over reacted, got angry, screamed, used bad language and said disrespectful things. They thus felt that if offenders still react to people in this way then they are not ready to participate in restorative justice programmes.

The offender should also have the ability to face up to their past and talk about their crime (Giffard, 2002). This means that he/she must recall what happened and be able to explain to the victim why they were targeted. Here some of the participants expressed their anxiety and ambivalence about engaging with restorative process. Some found the process very intimidating and indicated that they would as a result avoid getting involved. This highlights the need for thorough preparation and support of offenders for participating in the restorative process. The victim and the community will be looking for sufficient answers from the offender in this regard and therefore the offender must be able to make them understand why they did what they did. Talking about the crime will stir up emotions and the offender should be able to handle his/her own emotions as well as those of the victim and the community.

The way that offenders behave in prison will indicate their readiness to participate in restorative justice programmes. Participant felt that offenders should be able to take responsibility for their crime and the consequences thereof. It is only when this has happened that they will also be able to accept the prison sentence that they received. With this acceptance comes the realisation that they should use their time constructively and make use of the opportunities that available to them. The participants who indicated that they have taken responsibility for their crime and have accepted their prison sentence, referred to various things that they do that demonstrate that they have made some changes in their lives and that they are thus ready to take part in restorative justice

programmes. They have taken the opportunity to further their education, to participate in sport and religious activities and attend programmes and workshops. These participants also indicated that they are no longer involved in gang related activities and they chose the right friends.

The interaction that offenders have with other offenders and personnel is an indication of the level of respect that they have for others. Participants mentioned that respect will also be an indication of an offender's readiness to participate in restorative justice programmes. If an offender is unable to show respect through their daily interaction with one another, it is most likely that they will not be able to show respect to their victim and the community.

7.2.3 The role of knowledgeable personnel

The participants placed great value on the role of knowledgeable personnel in the assessment procedure. Knowledgeable personnel refer to those correctional staff that has experience in working with youth offenders and especially those who have worked with the offender that is being assessed. They felt that these personnel are best able to give testimony of the offender's behaviour over a period of time and thus assess their readiness to participate in restorative justice programmes.

Participation in restorative justice programmes in correctional facilities in South Africa is in most cases voluntary. In some cases personnel identify specific offenders that they feel need to be part of such a programme. When personnel refer offenders to the programme, it is assumed that they have the knowledge to do so (Presser & Lowenkamp, 1999). Data from this study revealed the important role that offenders perceive knowledgeable personnel can play in the selection of suitable candidates.

The participants indicated that the circumstance in prison can prevent a person from being truthful in what they say and do. They referred to the skills that they need to survive prison life and to manipulate people into seeing them for someone or something that they in fact are not. For this reason some offenders can be perceived as ready to participate in restorative justice programmes, however, it is only because they have learned how to manipulate people into believing that. However, data from this study revealed the important role that knowledgeable personnel can play in the selection of suitable candidates and thus to exclude offenders that may manipulate the inexperienced assessor.

The participants indicated that knowledgeable personnel understand the dynamics of prison life so they also know the ways that offenders adapt to these circumstances. The personnel that have experience in working with juvenile offenders have also over the years learned the same skills that these offenders use so they are thus able to identify when offenders are using these skills. These personnel know the offender well enough to know when offenders are being honest and truthful in what they are saying. These personnel can also give testimony of the offenders' general behaviour and any misconduct in prison. It, however, will be necessary that correctional staff be adequately trained to provide the support for offenders preparing for the restorative justice approach and to assist correctional social workers and psychologists with the assessment process.

7.3 Limitations of this study

Given the exploratory nature of this study, a qualitative research design was purposefully chosen with a relatively small sample. Purposeful sampling was done to ensure that the selected offenders were homogenous and would be able to meet the necessary requirements of the study. The study focused on a specific population namely young male offenders and for this reason caution should be exercised in generalising the findings to other contexts. However, the findings are sufficient to make meaningful recommendations to the DCS with regards to the implementation and presentation of restorative justice programmes.

There is a possibility that confounding variables may have influenced the data. The researcher is well known to nine of the offenders in the sample for the other four it was their first encounter with the researcher. These four offenders were not as comfortable with the researcher and therefore did not participate as actively in group discussions as the other nine offenders.

Response effect also confounded the data. The researcher worked at the Youth Centre for a year and during this time she presented a variety of programmes to the offenders. It was clear that offenders tried to incorporate what they have learned during those programmes, into the answers that they gave in this study. One example of this is the continued referral to body language in a similar way that the researcher presented that programme to them a few months ago.

The presence of security personnel at times may have influenced the offenders' level of participation.

7.4 Recommendations

One of the aims of this research project was to make recommendations for the implementation and presentation of restorative justice programmes. The following recommendations should be taken into consideration:

7.4.1 Awareness and education

Offenders need to be prepared for participating in restorative justice programmes (Giffard, 2002). This preparation can take place through creating awareness, offering training sessions and providing support in preparing for the process. Awareness should be raised for restorative justice, because this will create an interest with the offenders. This interest might lead to offenders volunteering to participate and this voluntary participation is one of the key requirements of restorative justice programmes in correctional centres in South Africa (Karp et al., 2004). Unit programmes that focus on restorative justice should be developed and can be used to create awareness and to educate offenders. These programmes can give the offender an indication of what participation in such a programme would be like, while focusing on the different aspects of restorative justice, for instance forgiveness, taking responsibility and restoration.

Offenders also need to be well educated as this research revealed many misconceptions that offenders had of restorative justice. Some participants felt that they will never be granted a second chance, that people will always believe the worst of them, that their crime was not serious enough to be dealt with through restorative justice and that the programme will not be sufficient. The research also revealed various factors that will assist offenders in making the decision to participate in restorative justice programmes. Participants saw restorative justice programmes as a second chance to make amends for their crime and to restore the relationships that were broken as a result of their crime. Participants also saw the various benefits that the programme will have for them, as the programme will assist them to take responsibility for their crime, which in turn will help them cope with being in prison. All these factors will influence the offenders' willingness to participate in restorative justice programmes. Offenders who are well educated about the restorative process will be more confident and willing to participate in such programmes (Karp et al., 2004).

Offenders need to be informed of the setup of the programme, what will be expected of them, what they can expect, who will be involved and what everyone's role will be. Participants in the study want the programme to take place in a controlled setting to give everyone an equal opportunity to discuss the issues surrounding the crime. The participants felt that it is expected of the offender to address the victim and the community and to answer their questions. As this is not an easy process, offenders will need guidance and support in how to ask for forgiveness, how to restore the broken relationships that resulted from the crime and in informing the victim and the community on how they plan to make amends for their crime.

It is strongly recommended that the offender's family be present to witness and support their process but also to restore the relationship with their family.

7.4.2 Assessment

Once offenders are sufficiently prepared they should be permitted to volunteer to participate in the programme. Those offenders that volunteer must then be screened before they can participate in order to assess their readiness (Anderson, 2008). This assessment is very important because if offenders are not ready for the process, they might cause more harm to themselves and the victim (Presser & Lowenkamp, 1999). The following should be taken into consideration when assessing offenders: their age, the type of crime(s) they have committed and whether or not they are first offenders or not (Giffard, 2002). Offenders who are too young might not have the cognitive maturity to deal with all the emotions that will come from the programme (Doolin, 2007; Roach, 2000). The type of crime will influence the type of preparation that needs to be done before the start of the programme with both the offender and the victim (Giffard, 2002). Recidivism will be an indication of the offender's commitment to his/her own rehabilitation and willingness to change their criminal behaviour.

A comprehensive assessment must also include various aspects of the offender's behaviour. Currently offenders are selected based on the evaluation that correctional staff make. This evaluation is based on the offender's behaviour, attendance to correctional programmes and is motivated by the need to rehabilitate the offender and to prevent recidivism. The findings of the present research have shown that there are more aspects to take into consideration. The offender must be assessed with regards to their knowledge

of restorative justice principles and practices. There needs to be an assessment of the offenders' ability to talk about their crime and dealing with the consequences thereof. Greater emphasis should also be placed on the offenders' general behaviour in prison.

In most cases the assessment of offenders are done by personnel who received specialised restorative justice training by the psychologist or social workers. The results from this study revealed the important role that knowledgeable personnel can play in this selection. According to the participant in this study, the assessment of offenders should be done by knowledgeable personnel who have experience in working with juvenile offenders and who preferably know the offender who is being assessed. This will enable them to assess how truthful and authentic the offender is in his/her reasons to participate. These personnel will also be able to give a rich description of the offender with special attention to their general behaviour and their overall suitability to participate in restorative justice programmes. For this reason it is recommended that DCS should involve their personnel in training to for the assessment and selection of offenders to participate in restorative justice programmes.

7.4.3 Training and skills development

The offender will need certain skills to be able to participate in restorative justice programmes, so it becomes necessary to assess whether the offender possesses the skills or if they need to be taught these skills. Participants in the study felt that an offender should be able to speak in front of a group of people and they should be able to conduct themselves in an appropriate manner. It is also important that the offender will be able to face up to their past, address issues surrounding their crime and take responsibility for their crime (Giffard, 2002). Offenders need to be able to control their emotions as the process might be very emotional for them (Presser & Lowenkamp, 1999). The offender must have taken responsibility for their crime and the consequences thereof (Giffard, 2002; Zehr, 1995). The offender must be willing and able to ask for forgiveness and show remorse (Zehr, 1995). Offenders should already be able to do this or they should be assisted by DCS personnel to acquire these skills.

It is also recommended that offenders who have already participated in a restorative justice programme should be utilised as peer mentors. Some of the participants in the study have already been part of a restorative justice programme and based on the data from their interviews, they will be able to act as peer mentors. Using offenders in this way

will be an opportunity to train them with regards to restorative justice and to develop their mentoring skills.

Training and skills development should also be done with DCS personnel. DCS has shown some commitment to promoting restorative justice programmes as part of the offender's rehabilitation path. However a comprehensive literature review has led the researcher to conclude that in reality the implementation and presentation of the programme is limited. DCS has to explore various ways to successfully implement these programmes. One way to promote this through greater participation and training for personnel in the principles and practices of restorative justice and in assessment practices.

The qualitative results from this study indicated that the abovementioned can be used as indication of juvenile offenders' perception of restorative justice programmes. These results can be used to make recommendations that may influence the implementation, presentation and outcome of restorative justice programmes in South African prisons.

7.5 Conclusion

The comprehensive literature review revealed that all parties that are involved in the restorative justice programme should be sufficiently prepared for this (Abrams et al., 2006; Giffard, 2002; Karp et al., 2004; Naser, 2001; Presser & Lowenkamp, 1999; Umbreit & Coates, 2000; Zehr, 1995; Zehr & Mika, 1998). This research focused on the preparation of the offender through assessing their perception of restorative justice programmes. The participants emphasised the following:

The offender should have a good understanding of restorative justice and what the actual programme will be like. The offender must exhibit certain personality traits and abilities that will enable them to address issues surrounding their crime and to be able to talk to everyone participating in the programme. The way that the offender conducts conversations during the restorative justice programme, can influence the decisions of the victims and the community and will ultimately have an effect on the level of success of the restorative justice programme. If an offender lacks this knowledge and skills he/she might cause more harm to themselves and the victim (Karp et al., 2004).

It is also necessary to assess the offender's general behaviour and take note of the activities that he/she takes part in while in prison. The behaviour the offender exhibits in

this regard is an indication of the level of rehabilitation that has taken place with him/her and will thus be an indication of their readiness to participate in restorative justice programmes.

When assessing the offenders' readiness to participate in restorative justice programmes, it is advisable to involve personnel that know the offender and works with him/her on a regular basis. Knowledgeable personnel will be able to give a rich description of the offender being assessed. It can also be to the benefit of the programme to involve offenders that have already taken part in restorative justice programmes and use them as peer mentors.

Assessing the perception that juvenile offenders have of restorative justice programmes is only one but an important part that may ensure a more successful restorative experience especially for the offender involved:

“Prison sentences only punish the offender and cause more pain to everyone involved, while restorative sentences gets everyone to talk about what has happened... If restorative justice will help you to take responsibility then you need to go through that. It is easier to accept a sentence when you feel it's fair and you can only feel this if you take responsibility.” Participant 12

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Appendix A: Interview schedule (Afrikaans)

ASSESSING THE READINESS OF JUVENILE OFFENDERS TO PARTICIPATE IN A RESTORATIVE JUSTICE PROGRAMME AT BRANDVLEI YOUTH CENTRE

Drie temas gaan gedek word:

1. Hoe verstaan die jeugdiges die regstellende geregtigheid benadering en watter betekenis het hulle aan die benadering?

Die navorser wil weet wat die jeugdiges dink oor regstellende geregtigheid, gebaseer op die video waarna hulle gekyk het.

Vrae wat gevra word:

- Wat dink jy is die doel van die samesprekings (conference) wat gehou is. Waarom is dit 'n regstellende benadering?
- Dink jy die samesprekings was nodig?
- Dink jy daar is iets bereik?

- Hoekom dink jy was die oortreders se familie en mense van die gemeenskap daar? Wat dink jy daarvan dat die gemeenskap die oortreders vertel het hoe hulle voel oor die misdaad?

- Wat dink jy van die feit dat die oortreders verminderde tronkstraf gekry het na die samesprekings?
- Wat dink jy is die beste straf vir misdaad: tronkstraf of regstellende geregtigheid programme? Waarom?
- Dink jy regstellende geregtigheid programme kan vir alle tipes misdade gebruik word?
- Dink jy so 'n benadering kan werk in Suid-Afrika?

2. Watter eienskappe dink die jeugdige sal aandui dat 'n persoon gereed is om deel te neem aan regstellende geregtigheid programme?

Die navorser wil weet watter eienskappe die jeugdige sal gebruik om te oordeel of iemand gereed is om aan regstellende geregtigheid programme deel te neem (volgens die jeugdige se eie mening).

Wat dink jy is die eienskappe wat die restelsel sal na kyk om te oordeel of iemand gereed is om aan regstellende geregtigheid programme deel te neem.

Vrae wat gevra word:

Dink aan die oortreders in die video.

- Wat het hulle gedoen? Wat het hulle gesê? Hoe dink jy het hulle gevoel? Het hulle enige emosies gewys?
- Dink jy die oortreders het bedoel wat hulle gesê en gedoen het? Was hulle eerlik?
- Hoe sal jy (of die Gevalle Werkers) besluit of 'n oortreder opreg en eerlik is oor hoe hulle oor hul misdaad voel en dat hulle wil regmaak wat hul verkeerd gedoen het? Wat moet hulle sê en doen?
- Dink jy dit is reg dat jeugdige tronkstraf kry vir die misdade wat hul gepleeg het? Waarom/waarom nie?
- Wat het jy sover gedoen om aan ander te bewys dat jy verander het en dat jy wil regmaak wat jy verkeerd gedoen het deur jou misdaad?

3. Hoe voel die jeugdiges daarvoor om deel te neem aan regstellende geregtigheid programme vir die misdade wat hulle gepleeg het?+

Die navorser wil weet wat die jeugdiges dink oor regstellende geregtigheid vonnisse vir hul eie misdade.

Vrae wat gevra word:

Dink oor die misdaad waarvoor jy in die tronk is.

- Wat het jy gedoen en hoekom?
- Wat het aanleiding gegee tot die misdaad?
- Watter straf het jy gekry en hoe voel jy daarvoor?

Verbeel jou jy is by 'n regstellende geregtigheid samespreking.

- Sien jy kans om in so 'n benadering betrokke te raak? Waarom/waarom nie?
- Sal jy betrokke raak as dit beteken jy kry 'n ligter vonnis of hoef nie tronk toe te gaan nie?
- Wat dink jy sal die voor- en nadele wees om deel te neem?

- As jy sou deelneem: Wie wil jy hê moet daar wees en hoekom?
- Wat sal jy vir die mense sê wat daar is?

Appendix B: Interview schedule (Original)

ASSESSING THE READINESS OF JUVENILE OFFENDERS TO PARTICIPATE IN A RESTORATIVE JUSTICE PROGRAMME AT BRANDVLEI YOUTH CENTRE

Three themes will be covered:

1. What is the understanding and the meanings that juvenile offenders attach to the restorative justice approach?+

The researcher wants to get an idea of what offenders think about restorative justice based on what they saw in the video.

Questions that will be asked:

- What do you think was the purpose of the conference that you show in the video? Why is it restorative approach?
- Do you think it was necessary?
- Do you think anything was achieved?

- Why do you think were the offenders' families and community members at the conference? How do you about the community members telling the offenders how they felt about the crime?

- After participating in the conference the offenders received a light sentence, how do you feel about this?
- What do you think is the best punishment for crime: imprisonment or restorative justice programmes? Why do you feel this way?
- Do you think restorative justice programmes can be used for all crime categories?

2. What characteristics does an offender think will indicate that someone is ready to go through a restorative justice programme?+

The researcher wants to get an idea of the characteristics that offender will use to evaluate if someone is ready to participate in restorative justice programmes.

Questions that will be asked:

- What characteristics do you think the justice system should look at to decide if a person is ready to participate in restorative justice programmes?

Think about the offenders in the video:

- What did they do? What did they say? How do you think they felt? Did they show emotions?
- Do you think the offenders were honest in what they said and the emotions that they showed?
- If you or the Case Officers had to decide if an offender is sincere about how they feel and that they want to make up for what they have done, how will you/they decide?
- Do you think it was necessary to give the offenders prison sentences as well? Why?

3. How does the offender feel about participating in a restorative justice programme for the crime that they have committed?+

The researcher wants to know what offenders think about a restorative justice sentence for their own offence.

Questions that will be asked:

Think about the crime(s) that you are in prison for.

- What did you do and why?
- What led to the crime?
- What sentence did you get? How do feel about this sentence?

Imagine yourself at a restorative justice conference.

- Will you be willing to participate in such a programme? Why/why not?
 - Will you participate if you will get a lighter sentence or not go to prison after completing the programme?
 - What will be the advantages and disadvantages?

 - If you will participate, who do you want to be there and why?
 - What will you say to everyone there?

 - What have you done since you have committed your crime, to show to others that you have changed and that you want to make up for the things that you have done wrong?
-

Appendix C: Permission letter from the Department of Correctional Services



correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

Private Bag X136, PRETORIA, 0001 Poyntons Building, C/O Church and Schubart Street, PRETORIA
Tel: (012) 307 2000, Fax: (012) 328-5111

Ms. J Janse van Rensburg
31 Eybers Street
Worcester
6850

Dear Ms. Janse van Rensburg

RE: FEEDBACK ON THE APPLICATION TO CONDUCT RESEARCH IN THE DEPARTMENT OF CORRECTIONAL SERVICES ON "ASSESSING THE READINESS OF JUVENILE OFFENDERS TO PARTICIPATE IN A RESTORATIVE JUSTICE PROGRAMME AT BRANDVLEI YOUTH CENTRE"

It is with pleasure to inform you that your request to conduct research in the Department of Correctional Services on the above topic has been approved. However you are advised that your sample should be offenders serving more than 2 years or have served 2/3 of their sentence and about to be released.

Your attention is drawn to the following:

- The relevant Area and Regional Commissioners where the research will be conducted will be informed of your proposed research project.
- Your internal guide will be **Deputy Director: Community Liaison- Ms. Lekgetho**. You are requested to contact her at telephone number (012) 305 8325 before the commencement of your research.
- It is your responsibility to make arrangements for your visiting times.
- Your identity document and this approval letter should be in your possession when visiting the center.
- You are required to use the terminology used in the White Paper on Corrections in South Africa (February 2005).
- You are not allowed to use photographic or video equipment during your visits to the Correctional Centre, however the audio recorder is allowed.
- You are required to submit your final report to the Department for approval by the Commissioner of Correctional Services before publication (including presentation at workshops, conferences, seminars, etc) of the report.
- Should you have any enquiries regarding this process, please contact the Directorate Research for assistance at telephone number 012-307-2359/2770 or 305-8523.

Thank you for your application and interest to conduct research in the Department of Correctional Services.

Yours faithfully

MS. T.M. MAGORO
DC: POLICY CO-ORDINATION & RESEARCH
DATE: 2009.07.27

Appendix D: Ethical clearance: University of Stellenbosch



UNIVERSITEIT • STELLENBOSCH • UNIVERSITY
jou kennisvenoot • your knowledge partner

24 August 2009

Tel.: 021 - 808-2687
Enquiries: Sidney Engelbrocht
Email: sidney@sun.ac.za

Reference No. 206/2009

Ms J Janse van Rensburg
Department of Psychology
University of Stellenbosch
STELLENBOSCH
7602

Ms J Janse van Rensburg

APPLICATION FOR ETHICAL CLEARANCE

With regards to your application, I would like to inform you that the project, *Assessing the readiness of juvenile offenders to participate in a restorative justice programme at Brandvlei Youth Centre*, has been approved on condition that:

1. The researcher/s remain within the procedures and protocols indicated in the proposal;
2. The researcher/s stay within the boundaries of applicable national legislation, institutional guidelines, and applicable standards of scientific rigor that are followed within this field of study and that
3. Any substantive changes to this research project should be brought to the attention of the Ethics Committee with a view to obtain ethical clearance for it.

We wish you success with your research activities.

Best regards

MRS. M. HUNTER-HÜSSELMANN

Manager: Research Information & Strategy



Afdeling Navorsingsontwikkeling • Division of Research Development

Privaat Sak/Private Bag X1 • 7602 Stellenbosch • Suid-Afrika/South Africa

Tel +27 21 808 9111 • Faks/Fax: +27 21 808 4537

Appendix E: Information sheet and Consent form

STELLENBOSCH UNIVERSITY INFORMATION SHEET & CONSENT TO PARTICIPATE IN RESEARCH

ASSESSING THE READINESS OF JUVENILE OFFENDERS TO PARTICIPATE IN A RESTORATIVE JUSTICE PROGRAMME AT BRANDVLEI YOUTH CENTRE.

You are asked to participate in a research study conducted by Miss J. Janse van Rensburg, from the Psychology Department at Stellenbosch University. The results of this study will be used in the writing of a thesis, which is part of the Master Degree in Research Psychology that Miss Janse van Rensburg is enrolled for.

You were selected as a possible participant in this study because the researcher is interested in your opinion on Restorative Justice Programmes while you are at Brandvlei Youth Centre.

1. PURPOSE OF THE STUDY

The purpose of the study is to identify the characteristics that offenders should have, which will make them suitable to be part of Restorative Justice Programmes at Brandvlei Youth Centre.

2. PROCEDURES

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

- Watch a video (Monday)

You will be shown you a video on Restorative Justice. This video will tell you what Restorative Justice is, why it is used and what people do when they take part in Restorative Justice Programmes.

- Individual interview (Tuesday or Wednesday)

In the next 2 days you will be scheduled for 1 interview with the researcher. You will be asked what you think/know about Restorative Justice Programmes.

- Focus group interview (Thursday)

All the participants will be brought together to discuss what you now know and think of Restorative Justice.

- Question / Discussions (Friday)

The researcher will be available if you have any questions or if you would like to discuss anything surrounding Restorative Justice, the research, the interviews and any other relevant issues.

Everything will take place at Brandvlei Youth Centre.

3. POTENTIAL RISKS AND DISCOMFORTS

Participating in the study will not cause you any physical and/or psychological harm or discomforts and will not pose any risks or inconveniences to you. If you feel that you need to discuss anything related to the study, if you have any questions or problems as a result of the study, the researcher has set aside a day to meet with you.

4. POTENTIAL BENEFITS TO SUBJECTS AND/OR TO SOCIETY

As a participant you will only benefit from the information that you have gained from the research process.

The outcome of the research will be a benefit to Restorative Justice Programmes that will be presented at Brandvlei Youth Centre in the future.

5. PAYMENT FOR PARTICIPATION

You will not receive any payment (money or other goods) for your participation.

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 coding. This means that your name will be replaced by a number (so you will be known as participant 1 or 2 or 3 etc.) so that no one will know what information came from which participant. After the interviews the researcher will take all the information away from Brandvlei Youth Centre and no one will have access to it.

The researcher signed a research agreement form with the Department of Correctional Services (DCS) to ensure that all participants in the study are treated ethically and that they remain anonymous at all times. This agreement also requires the researcher to make all findings known to DCS. After the data has been processed and the researcher has made her findings, it will be released to DCS. This will ensure that the research is inline with DCS requirements.

Once permission is obtained from DCS, the findings will be presented at a conference and will be published in a suitable journal. The researcher will also present her findings at an appropriate seminar at Brandvlei Youth Centre and where invited by the Department of Correctional Services.

7. PARTICIPATION AND WITHDRAWAL

You can choose whether to be in this study or not. If you volunteer to be 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 discuss it with your Case Officer and/or Head of Prison. They will be provided with the relevant contact numbers to assist you.

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, please feel free to discuss it with your Case Officer and/or Head of Prison. They will be provided with the relevant contact numbers to assist you.

CONSENT

SIGNATURE OF RESEARCH SUBJECT OR LEGAL REPRESENTATIVE
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The information above was described to me by _____ in [*Afrikaans/English*] and I am in command of this language or it was satisfactorily translated to me. I was given the opportunity to ask questions and these questions were answered to my satisfaction.

I hereby consent voluntarily to participate in this study. I have been given a copy of this form.

Name of Subject/Participant

Name of Legal Representative (if applicable)

Signature of Subject/Participant or Legal Representative

Date

SIGNATURE OF INVESTIGATOR

I declare that I explained the information given in this document to _____ [*name of the subject/participant*] and/or [his] representative _____ [*name of the representative*]. He was encouraged and given ample time to ask me any questions. This conversation was conducted in [*Afrikaans/*English/Xhosa/*Other*] and [*no translator was used/this conversation was translated into* _____ by _____].

Signature of Investigator

Date