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## CHAPTER 1

### GENERAL ORIENTATION AND RATIONALE OF THE STUDY

#### 1.1 INTRODUCTION

Misconduct, antisocial and offending (criminal) behaviour in schools is becoming a major problem in South Africa. A high percentage of these cases manifest in anti-social behaviour, for example self-harm (self-mutilation like cutting with sharp objects/burning with candles/ use and abuse of alcohol) and/or harming others or destruction of property (bullying, intimidation, vandalism of property).

Rossouw (2015) emphasises that misconduct in schools is not a problem unique to South Africa but affects many industrialised countries. Globally, discipline in schools is a persistent problem and anti-social behaviour like vandalism, afflicts countries like Britain, USA, Canada, France, the Netherlands and Australia (Reyneke, 2013). Also see Ntshangase (2015).

De Wet (in Ntshangase, 2015) states that 50% of all criminal activity reported in South Africa is committed by persons aged between 14 and 18 years, inclusive of school populations. Slabbert (Ntshangase, 2015) affirms that research on antisocial behaviour by learners is not extensive and indicates that alcohol abuse might be the precursor of antisocial behaviour or result of offending behaviour and should not be ignored. Masitsa (2008) refers to numerous newspaper reports referring to offending behaviour in South African schools. Ntshangase (2015) lists the following examples of antisocial and criminal behaviour in South African schools (Ntshangase, 2015):

- The gang-rape of a Grade 10 girl from Jules High School whilst other learners were watching and filming;
- Teachers at Silverton High School being verbally abused and threatened;
- A Limpopo teacher was held hostage by learners who demanded a ransom of R200 for his release;



- The use of khaini<sup>1</sup> that is escalating amongst school children. Packaged as tobacco, known to cause sexual arousal. Grade 9 learners (unknown number) in Lusikisiki in the Eastern Cape were reportedly using the drug in 2011;
- A report by the South African Community Epidemiology Network on Drug Use (SACENDU) released in 2010 indicates that alcohol abuse and alcoholism amongst teenagers aged below 20 years was increasing at an alarming rate. Also revealing that in the Western Cape, Mpumalanga and Limpopo, 'tik' and cannabis were the drugs of choice for teenagers;
- Cyber-bullying is rising and the case of a 15 year old Krugersdorp High School girl bullied by a group of girls in January of the same year was a case in point;
- The principal of Makhaya Sizimisele High School in Khayelitsha reported that gang warfare in his school was rife. In an incident in January 2012, five gang members were stabbed; four Grade 10 learners bullied and attacked their classmate who later committed suicide.

The current disciplinary system in schools presents many challenges as it should create a conducive environment in which teaching and learning take place. Reyneke (2013) describes disciplinary problems in South Africa as ranging from low impact misconduct, for example not doing homework, disruptive behaviour in class, as well as disobedience, to serious misbehaviour like bullying, use of alcohol and drugs, dealing in drugs, gang and sexual violence, assault and rape. She states that different approaches can be followed to enforce discipline namely retributive, positive-discipline or a restorative approach (Reyneke, 2011). According to Reyneke (2011), most schools in South Africa currently follow a retributive (punitive) approach while some are implementing positive discipline measures. Reyneke (2011) defines retributive discipline as mostly punitive in nature and associated with an authoritarian approach to discipline. Other terms used for retributive include corrective or punitive discipline. The current system also only provides a short term solution and "an entirely different approach is needed regarding the way in which troubled learners are perceived and approached" (Coetzee, 2005). Du Plessis (2018) states that discipline should be managed in a more effective manner and the approach that should be followed, should

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<sup>1</sup> Known as "the poor man's chewing tobacco from India", and is a libido-enhancing, mind-altering drug

be one of a whole-school approach. Schools are both education institutions and workplaces. Therefore, in order to improve on the discipline in the school, all interested parties, must be involved in the process of drawing up the school's code of conduct. Furthermore, it is vital that schools are safe havens to learners, where positive and effective education can take place. Stakeholders must together (as a whole) develop solutions, because solving the problems does not rest with the schools alone.

According to a publication from the Australian Government (Org, 2015), using a whole school approach, is important to promote the social and emotional wellbeing of learners. A statement is made that early childhood educators, teachers and in general, educational facilities, play a very important role in supporting the social and emotional wellbeing of children in their care, leading to more positive behaviour and improved academic achievement as well as better outcomes during adulthood. The mentioned publication (Org, 2015), provides the following key features of a whole school approach:

- It includes a methodical focus on wellbeing through all aspects of the school;
- It is essential that it is inclusive of everyone: learners, parents, staff and other professionals who are involved at the school ;
- The whole school community works together;
- The provision of specialised learning for staff;
- Ongoing and sustained action; and
- It is supported by policies and procedures.

The implication from these key factors of a whole school approach, is that a safe environment is being created. This can be observed in the learning environment, curriculum and policies and procedures as well as relationships within the school community (Org, 2015).

High rates of violence in schools can be managed by employing (or training) highly skilled educators that are able to recognise violence even before it is reported, or when violent acts are reported, the educators must be informed on the intervention procedures and the management of such incidents (Nair, 2018). Nair (2018) points out that the organisation 'Save the children' accentuated that to discipline a child in a

positive manner, does not mean allowing a learner to do what they want, or not providing rules, expectations and limits. It is vital that the Education Department ensures that the relationship between learner, teacher and parent (whole school) is strengthened, as that will ensure that dealing with the problem of violence will be effective.

Anti-social behaviour contributes to a breakdown of social norms and values and researchers should attempt to understand how to predict and prevent offending behaviour. In her quest to do exactly that, the researcher used a high school in Gauteng as a case study.

The particular school currently follows a punitive approach and according to their policy, offers support to learners in need of therapy, within the context of a “counselling” team approach” (DisciplineHead, 2014). Support is available for all types of everyday problems that learners may encounter. This team consists of teachers that have completed courses in counselling from different institutions including churches, as well as trained psychologists and qualified, registered counsellors. In most of the cases the parents are involved. However, some cases cannot be handled by this team, and they are referred to external psychologists/psychiatrists, although there is still constant support by the team and the school works closely together with the parent(s) and specialists. The researcher is of the opinion that, and based on the case studies she observed, that these actions are insufficient and no real application in practise takes place.

At the school, more serious cases of anti-social and/or offending behaviour for example alcohol, drugs and sexual related offences, are dealt with by a discipline team, comprising of the Head of discipline, an assistant as well as the school Governing Body team. The Head of discipline is appointed as a teacher and fulfils the role as discipline Head after applying for the position. In other words, the Head of discipline does not focus on discipline related issues only but is also a teacher. An assistant, also a teacher, is appointed in order to assist the Head in cases where the Head is busy teaching and a discipline problem arises. The assistant is also responsible for other administrative duties like for example sending out letters to the parents, arranging the hearings and following up on the learners. The cases of learners who made themselves guilty of more serious offences are heard at disciplinary hearings conducted by a team

of the Governing Body of the school (SGB). This SGB team in charge of the formal hearings, comprising of parents only, makes a decision after the hearing as how to deal with the offending learner. In many cases, learners will be placed on academic suspension. This means that learners still have to come to school but are withdrawn from class. Learners are also required to do a certain amount of community service. Conversely, research has proven that suspension is not effective when removing a problematic learner from the class or school, trying to provide relief to frustrated school staff or trying to get the parents attention to their child's misconduct (Iselin, 2010). Iselin (2010) rather suggests the following alternatives to suspension:

- conduct comprehensive assessments of school and learner needs in order to implement specific programs tailored to individual needs;
- proactive prevention by the school and reinforcement of positive behaviours in order to lower suspension rates;
- suspensions are reduced by Positive Behavioural Interventions (PBI);
- exploring alternatives to solve conflict by not using any form of violence;
- training in conflict resolution and expanded mental health programme outside school does not have an effect on suspension;
- exposure to cultural education may reduce teacher-student conflict, resulting in fewer suspensions;
- profiling of students does not reduce suspensions;
- corporal punishment is not effective and causes more harm physically, psychologically and emotionally.

Corporal punishment is outlawed in South Africa following a Constitutional Court decision that it constitutes cruel and inhuman punishment (Ebrahim, 2017).

The particular school which is the subject of the case study, has, in the researcher's opinion, a fairly good discipline structure in place as far as the handling of personal and social problems is concerned. The challenge however, is that once the learner has been "punished" or "sentenced", depending on the nature of the problem, the process is concluded. No aftercare or follow-up, or restorative justice, is being done in order to ensure that the imbalance caused by the offending learner's actions is redressed and order and harmony is restored (DisciplineHead, 2014).

The learner being punished for the offence may experience feelings of embarrassment or stigmatisation, and in some cases even heroism. The question remains however, if this punishment actually serve as a manner of deterrence for the learner or other learners? Or could the learner start “accepting” the label and become a habitual offender? The learner’s self-esteem may also be harmed to such an extent that the youth becomes involved in other anti-social actions to restore a sense of well-being (Lemert, 2002). According to Lemert (2002) stigmatising or the labelling of an offender could increase the likelihood of subsequent deviant behaviour. This in itself creates more and sometimes bigger problems for the community or society (school) at large. Surely, when punishment is imposed it should have an effect where the learner wants to change the offensive behaviour in order to fit back in society, in this case, being the school? In agreement with Lemert (2002), the Cambridge Study in Delinquent Development (Besemer & Farrington, 2017) reported that a conviction subsequently increases the number of individuals’ self-reported offences. According to Clark (2012), offenders will be encouraged to take responsibility for the offensive actions (crime) committed and to be faced with the situation if a restorative approach is adopted. This could serve as “restoration” and help the offending learner to learn from the experience and also to rectify his/her actions.

Restorative justice sees crime as an act against the victim and shifts the focus to repairing the harm that has been committed against the victim and the community. This paradigm proposes that the offender also needs assistance and seeks to identify what needs to change to prevent future re-offending and is aimed at promoting the dignity of victims and offenders (Department of Justice and Constitutional development, 2011/2012)

It is argued that well-adjusted learners in school will in all probability also be well-adjusted members of their community and society as a whole. According to Wachtel (2013) restorative justice practices have positive implications for all social settings; from the family, the school and later the workplace. Children growing up in high risk neighbourhoods where the community is supportive during their unruly times and are allowed to take responsibility and make amends, develop trust in the community and want to give back in a positive manner (Katz, 2016). Katz (2016) is of the opinion that restorative programs can help change a whole school climate. Alvis (2015) agrees with this opinion and states that restorative interventions can assist learners to find

alternatives to violence and it prevent learners from using negative behaviours as a way to resolve conflicts.

Against this background, the aim of the study is to develop a restorative justice model to be used in schools as an alternative to current conservative and retributive punishment oriented practices (see 1.4 below). According to Drewery (2007), such an approach will bring about a positive change of behaviour within the offending learner, within the educational context of development and learning. Apart from victim participation, such an approach will also allow for parental and peer involvement and provide direction regarding the role of the school in the process (Du Plessis, 2018).

Discipline problems for example bullying (violent offences) in South African schools are getting worse and even out of hand. The level of education is being affected by poor discipline. Osman (2017) states that if the discipline and behaviour problem is fixed, school performance will also be fixed. Education in many schools is disrupted because of bad behaviour and ill-discipline and discipline should be addressed in order to improve school performance. The leadership of the school as well as the parent has a role to play (Osman, 2017). The approach to be followed should be restorative and not punitive. This study investigates the potential of a restorative approach in South African schools and attempts to develop a model to be used.

Before the potential of a restorative approach within schools is explored, a clarification of the key concepts to be used throughout this study is provided to contextualise the study.

## **1.2 DEFINITION OF KEY CONCEPTS**

According to Bridgman (in Christensen, Johnson & Turner, 2015) each core concept in a study must be defined by the steps or operations applied to measure them. This is known as an operational definition. Operational definitions applied within the study are used as the foundation for the research questions, and the relevant theories on which it is based (Volchok, 2015). According to De Vos, Schulze and Patel (2005), concept clarification allows for mutual communication and comprehension. This allows for a common understanding of terms by both the researcher and the reader.

The following concepts are of importance and are defined below.

### **1.2.1 Anti-Social Behaviour**

Two dimensions of anti-social behaviour can be identified (Volchok, 2015). Overt anti-social behaviour includes aggressive actions, such as bullying, verbal abuse, and striking out by the learner. This kind of behaviour is more noticeable, involving destructive actions to property, such as stealing, vandalism, and arson. Covert anti-social behaviours in early childhood may include insubordination, sneaking, dishonesty, or secretly destroying another's property (Volchok, 2015). Loeber (Tompsett & Toro, 2010) further adds that covert action takes place in an obscured manner including stealing, conning, truancy, drug use and vandalism. Anti-social behaviours also include drug and alcohol abuse and high-risk activities involving self and others for example vandalism, intimidating behaviour (in groups) and harassment (Volchok, 2015). This study includes both overt and covert anti-social behaviour.

The following concept of relevance is that of risk factors, which can be either static or dynamic risk factors.

### **1.2.2 Static Versus Dynamic Risk Factors**

The underlying premise of this approach is that in a criminal justice context, it is important to distinguish higher risk offenders from lower risk offenders in order to assist the police, courts and correctional services in performing their duties as well as for protection of the general public (Bonta, 2015). The purpose for risk assessments are mainly to determine how likely it is that an offender will commit an offence and what can be done in order to decrease this likelihood.

Static risk factors are also known as historical factors for example the age of the offender at the first offence, or prior criminal history. Static risk factors are valuable in the use to assess long-term recidivism potential (Bonta, 2015). Worthy (2016) explains static factors, supporting Bonta's explanation, as historical characteristics of the offender that are deemed as unchangeable. For example, the current age of the offender, the age prior criminal history, the age of first conviction for an offense, gender and victim characteristics (e.g., male victims, female victims, stranger victims).

Bonta (2015) explains dynamic risk factors, also known as criminogenic need factors that needs to be targeting, or predictors (Andrews & Bonta, 2010), as those factors that are changeable risk factors for example those amenable to deliberate interventions (substance abuse, interpersonal relationships, increased associations with antisocial peers). Worthy (2016) agrees with Bonta's explanation and deliberates dynamic factors as factors that are considered as aspects of the offender that are amenable to change. For example, substance abuse and other antisocial traits that can be dealt with through treatment or other interventions. According to research, during the past 20 years, a number of dynamic risk factors for offending and recidivism were identified (Bonta, 2015). Based on their research, Andrews and Bonta (2010: 58, 59) concluded that "the best validated risk and/or need factors" are the following:

- history of antisocial behaviour, specifically early onset of diverse antisocial behaviour;
- antisocial personality pattern such as generalised trouble, impulsive gratification seeking and aggressive behaviour, a disregard for other persons;
- antisocial cognition such as attitudes, values, beliefs, rationalisations, resentfulness, defiance;
- antisocial associates who renders "social support for crime".

The following concept of relevance is that of the School Governing Body and the role that this body fulfils in the discipline process.

### **1.2.3 School Governing Body (SGB)**

The preamble of the National Education Policy Act, 27 of 1996, as well as the South African School's Act, 84 of 1996), guides the composition and functions of the SGB and defines a SGB as "a statutory body consisting of parents, learners and teachers who work together to promote the wellbeing and effectiveness of the school as a community in order to enhance learning and teaching". One of the most important roles of the SGB is to develop a code of conduct in consultation with the parents, learners and teachers. School rules, as well as the types of punishment in case of infringement of these rules, are set out in this code of conduct. Types of punishment included, range from the demerit and merit system; detention; community service and suspension from school (EducationDepartment, 2008).



It is important for the purposes of this study that the SGB is a team consisting of people responsible for formulating policies within the schools they serve at. This body was established under section 26 of the South African Schools Act, 84 of 1996. The Act directs the affairs of the school, in a partnership with all role players within the community, on a voluntary basis. The statutory body consists of parents, learners and teachers who apply the schools code of conduct to deal with cases where learners have broken the school rules. For disciplinary purposes, this board consists of three parents serving on the school's governing body (one of the parents is appointed as the chair person), the Head of Discipline (teacher) as the prosecuting officer, the head of discipline's assistant as the secretary and the offender's parents. The SGB has the authority to hear cases and the types of punishment they may impose include demerits, detention, community service and academic suspension.

The next concept of relevance is that of discipline and the importance of discipline in an orderly society, and more specifically in the school environment.

#### **1.2.4 Discipline**

The concept of discipline can be defined as a teaching and learning process with two distinct aims, namely: creating an orderly environment conducive to teaching and learning and secondly, teaching learners to behave in a socially acceptable manner whilst attaining self-control, which will ultimately result in respect for the rights and needs of others (Ebrahim, 2017).

Dr Shaheda Omar, director of clinical services at the Teddy Bear Clinic explains discipline as a way of teaching children acceptable behaviour through guidance and support. Omar explains discipline as the setting of limits, clarifying roles and responsibilities and creating an orderly, stable and predictable life. All of this should be in the best interest of the child (Ebrahim, 2017). With regards to discipline in schools, the National Education Policy Act, 27 of 1996 authorised the Minister of Education to institute policies regarding the control and discipline of learners to ensure that students are not subjected to physical or psychological abuse at educational institutions (Ebrahim, 2017).

Kakaza (in Ebrahim, 2017) states that the focus on discipline in schools must be on upholding and preserving a safe environment for learners. Omar stipulates that merit and demerit systems, taking away privileges and detention sessions where learners are given an opportunity to do school work as well as picking up litter on the school grounds, are viable options. She further adds that other ways where discussion and engagement allows learners to learn insight into their wrongful actions, should be encouraged (Ebrahim, 2017).

The subsequent concept of importance is that of restorative justice and the role it should play in the discipline process in the school environment.

### **1.2.5 Restorative Justice**

Braithwaite (1989) points out that the concept of restorative justice has predominated criminal justice throughout human history (Neser, 2001). Bazemore and Umbreit (2001) maintain that the origin of the principles of restorative justice can be traced to traditional reactions to crime. Restorative justice is defined as “a system of criminal justice which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large” (Zehr, 2014) (Zehr & Gohar, 2003: 11). It is the process whereby all the stakeholders get the opportunity to discuss the incident that caused harm and they also decide how to repair the harm (Braithwaite, 2004: 28).

Prison Fellowship International (PFI) (2001) states that the definition of restorative justice, which is increasingly used internationally, is:

a process whereby parties with a stake in a specific offence resolve collectively how to deal with the aftermath of the offence and its implications for the future (Prison Fellowship International, 2001-2005).

In a later edition Restorative Justice Online, a programme of the PFI centre, restorative justice is defined as:

Restorative justice is a systematic response to wrongdoing that emphasizes healing the wounds of victims, offenders and communities caused or revealed by the criminal behaviour (Prison Fellowship International, 2001-2005).

According to Umbreit (1998), the Director of the Centre for Restorative Justice and Mediation and the National Restorative Justice Training Institute in the United States of America, restorative justice focuses on elevating the role of crime victims and the community as a victim. The offender needs to be held accountable primarily to the victim and then to the community and to make whatever possible reparation for all harm caused by the crime. Bazemore and Umbreit (2001) state, “crime is sanctioned most effectively when offenders take responsibility for their crimes and the harm caused to victims, when offenders make amends by restoring losses, and when communities and victims take active roles in the sanctioning process” (Umbreit, 1998: 5).

To this, the White paper of the Department of Correctional Services (DCS), adds that offenders need to internalise the impact that their actions have had on the victims and on society as a whole (SAGovernment, 2003). Imiera (2018:147) states that “Restorative justice as a means of bringing back offenders into society can emphasize the importance of treating the true cause of crime”. Restorative justice try to find a restoration of the balance by bringing the victims back into the system and at the same time involving the perpetrators in a way that they realise the harm they have done (Imiera, 2018). Umbreit (1998:5) states, “[restorative justice] assumes that those most affected by crime should have the opportunity to become actively involved in resolving the conflict”.

According to Prison Fellowship International (2001), restorative justice views crime comprehensively and acknowledges that the harm caused by the offender harms the victim, the community and the offender. Restorative justice does not focus on how much punishment is necessary to inflict on the offender, but rather on what can be done to repair the damage caused by the crime.

Ganapathy (2006) points out that restorative justice is constructive because it is a process whereby the community and the offender can do something *for* the victim, rather than the state doing something *against* the offender.

Finally, restorative justice principles emerged clearly in the strongly established traditions of non-western societies (Neser, 2001). In the traditional reaction to crime or disputes between individuals that were regarded as members of the group, the whole group was perceived as the victim. The group to which the offender belonged was responsible for making amends to the victim and the restoration of the relationship between the two parties. One of the most important functions of the indigenous African legal systems is "...the restoration of the disturbed social equilibrium within the community" (Neser, 2001: 2). This collectively is part of the *Ubuntu* concept. Kaufmann (2016) describes *Ubuntu* as all the qualities needed in order to ensure and maintain harmony amongst the members of a society. Kaufmann (2016) includes respect, caring, sharing, trust and unselffulness as the important ethical values in *Ubuntu*. *Ubuntu* gives priority to the community's well being as a whole, and understates the importance of agreement or consensus. The concept *Ubuntu* plays a vital role in African jurisprudence (Kaufmann, 2016). If a crime is committed by an individual against another individual, the crime extends far beyond the two individuals. The people from where the offender comes from, are directly involved and the crime has implications on them as well. The punishment given will be of such nature to restore harmony.

For purposes of this study restorative justice is defined as a process followed by the school in an effort to deal with infractions of the code of conduct as part of school discipline in a manner that reconciles the "offender" with the wronged community (school community) and which repairs the harm done. It includes a change in mind-set or cognitive response to the problem of offending or antisocial behaviour which contributes to the adoption of new values and approaches to school disciplinary policy, programmes and practise, taking into account the harm done to members of the school community and addressing the imbalance created both to the victim and the community.

The following concept of significance is that of community service and the benefits it has for the offender, victim and community.

### **1.2.6 Community Service**

The rationale of community service in South African context, as a formal reaction to crime, is to give the offender the opportunity to make amends in the community where the offence was committed and allowing him/her the opportunity to compensate for harm done (Singh, 2007). It is argued that community service benefits the community as well as the offender. The community is compensated or 'paid back' by the offender and the offender is allowed to move back into the community and become a responsible and law-abiding member of the community. Furthermore, community service also acts as a deterrence because of the humiliation of the unpleasant acts performed and executed in the community where the offence took place (Singh, 2007).

The author proposes that community service should definitely deter the offender and other possible offenders. It also serves as a form of rehabilitation, as the offender, hopefully, will be successfully reintegrated into the community. However, the element of humiliation is contrary to the principals of restorative justice. It must promote the dignity of victims and offenders, especially in an educational context of development and learning.

Juvenile Justice Circles, a form of community service in schools, is associated with restorative justice where the wrong-doing must be 'righted' or negative behaviour must be changed into positive behaviour. According to the Virginia Department of Education in the USA, community service is seen as compensatory and rehabilitative and not just righting a wrong and it also strengthens the connection between the juvenile and the community and in this potentially reducing recidivism (Saunders, 2011). The author agrees with this view, but would like to add that the community service that learners have to perform, must be to the benefit of the school (community); for example, sanding desks and cleaning classrooms as a method to right the wrong that their actions brought upon the 'community'.

The subsequent concept of importance is that of the process of Victim/ Offender Mediation and its goals.

### **1.2.7 Victim / Offender Mediation (VOM)**

Victim Offender Mediation (VOMA) is the process where the victim and offender are brought together in a safe and controlled setting for the sake of mediation. The victim and offender are assisted by a mediator and the process is strictly voluntary (Parker, 2018).

The goals of the VOM are (Justice-Institute, 2007):

- Supporting the victim in the healing process by providing a safe controlled environment to meet and speak.
- Giving the offender the opportunity to understand the impact of the crime on the victim as well as allowing the offender to take responsibility for the behavior.
- Providing an opportunity for the victim and offender to develop a mutually acceptable plan in order to address the harm caused by the crime.

Finally, the concept multi-inter-trans-disciplinary is as of importance in this study of restorative discipline in South African schools as a new paradigm.

### **1.2.8 Multi–Inter-Trans-Disciplinary (MIT)**

Multi–Inter-Trans-disciplinary (MIT) research incorporates and integrates research from various disciplines to a focus area, leading to researchers being motivated to share and compare knowledge, results and findings from the different fields. The researcher strives to explore, analyse and explain restorative justice as an approach to school discipline in South African schools through an integrated method; from a traditional criminological base, in an educational environment, taking psychological and sociological processes in relation to environmental factors, as well as parental and peer influence, into consideration. It is important to remember that a school forms part of its community, and does not function in isolation. Therefore, as it is also clear from this study, it is vital that throughout the process of restoration, professionals/experts like for example the Department of Education (DE), psychologists, criminologists and social workers take hands and in a joint venture in the approach for the inclusive restoration process.

Now that the concepts have been operationalised in order to understand them within this study the researcher will present the literature available on the application of restorative justice in Schools in order to address the topic of ***A RESTORATIVE APPROACH TOWARDS SCHOOL DISCIPLINE AND BEHAVIOURAL CONDUCT IN SOUTH AFRICAN SCHOOLS: A CASE STUDY***

### **1.3 AN EXPLORATION OF LITERATURE AND THE POTENTIAL APPLICATION OF RESTORATIVE JUSTICE IN SCHOOLS**

Henning (2011: 27) states that the purpose of consulting existing literature is the “contextualisation of your study to argue a case”. According to Hart (2018) a literature study entails becoming acquainted with literature that deals broadly with the topic chosen as well as directly with research related to the study field (see Chapter 2 as well).

According to Kothari (2004) a literature review has the following value to the success of research: all available literature concerning the problem at hand must necessarily be surveyed and examined before a definition of the research problem is given. This means that the researcher must be well conversant with relevant theories in the field, reports and records, as well as all other relevant literature (conceptual as well as empirical literature). The researcher must devote sufficient time to the reviewing of research already undertaken on related problems. A literature review allows the researcher to identify what data and other materials, if any, are available for operational purposes. Knowing what data are available often serves to narrow the problem itself, as well as the technique that might be used to study. This would also help a researcher to identify gaps in the theories, enabling the researcher to take new strides in the field for furtherance of knowledge and build on existing premises. Studies on related problems are useful for indicating the type of difficulties that may be encountered in the present study, and the possible analytical shortcomings. At times, such studies may also suggest useful and even new lines of approach to the present problem (*cf.* Kothari, 2004). This enables the researcher to render an original contribution to the field of school discipline and an intervention into problem behaviour of learners.

## 1. The concept of Restorative justice

Against this background, various works were studied in order to become acquainted with the concept of restorative justice. Studies by subject exponents like Braithwaite and Strang (2017); Braithwaite (2004); Clark (2012); Reyneke (2011); Smit (2011); Suvall (2010); Besemer(2017); Ebrahim (2017); Du Plessis (2018); Nair (2018); Kaufmann (2016); Katz (2016) and Zehr and Gohar (2014) ( 2003) were considered in depth and formed a basis from which a more detailed study could be made.

## 2. Restorative justice in South Africa

Sources on restorative justice in South Africa, and especially concerning the youth (see Clark, 2012 & Suvall, 2010) form the foundation of this study. Various methodological sources entrenched in this study include authors such as Coombes (2001); Black (1999); Dantzker & Hunter (2012); Henning (2011); Kumar (2005); Lehaney (1994); Maree (2010) and Rule (2011). A personal interview with the Head of Discipline ( 2014), at the school involved with the study, was valuable as it gave further insight into the problem regarding the support of learners after the “punishment” was concluded (the value of this interview is reflected in chapter 5).

## 3. Restorative justice: Internationally

Various studies on restorative justice in international school environments were identified and best practises identified (Zehr, 2014) (Zehr & Gohar, 2003), for possible inclusion in the South African setting. Suvall (2010) proposes that punitive discipline is the dominant model in many schools in the United States of America. Punishment consists of expulsion or suspension and surveillance (the close observation of the offender/ watching the offender’s moves) that are often part of the problem and not a solution. This form of punishment offers the offender no opportunity to learn from the experience.

## 4. Restorative justice: Why and how?

The dominant aim of restorative justice is the disapproval of the offender’s behaviour but also the reintegration and support for the offender and victim. The characteristics of a punitive school policy according to Zehr and Gohar (2003) are that discipline includes a zero tolerance policy as well as the school to prison pipeline (Zehr & Gohar, 2003). One of the disadvantages of a punitive discipline system is the fact that it alienates the offender and it could be psychologically harmful to the wrongdoer at a



later stage (Suvall, 2010: 552). In other words, it creates a ripple effect, where the harm done by the offence is not repaired by the reaction but rather remains unresolved. Often, with the punitive discipline system, the needs of the victim are forgotten. Problems within the school environment can escalate if conflict is not addressed properly. One of the models that can be considered is the “family group conferencing model” (Suvall, 2010: 558). This model is discussed in detail in chapter 6 (see section 6.2.1 and section 6.2.3).

Reintegration of the offending learner is very important in solving problems in the school and community. This implies that any punitive measures must allow the learner’s acceptance back into the school community. According to Imiera (2018) as well as Kohn, schools and communities should deal with minor offences “without trying to shame or isolate offenders” (Kohn, 1996: 168). All of mankind strives for a sense of belonging and it is important while punishing offenders not to take away this “sense”. Traditional forms of punishment push away or remove the offending learner from the rest of the school/community. The goals and objectives of restorative justice are to reduce suspension, to sustain the connection with the offender and with the reintegration of the offender as the focus (Imiera, 2018). This aspect is discussed in more detail in Chapter 6 (see section 6.2).

Davis (2014) states that punitive discipline, for example suspension and expulsion from school, is not working as a method of correcting behaviour although schools are “over” relying on those punitive strategies. As a matter of fact, Davis (2014) states that it was found that schools with high suspension rates, are offering less safe environments for learners and punishment given, is observed as less reasonable, as well as having lower academic outcomes. Duncan (in Davis, 2014) made the comment that the rethinking and redesigning of school discipline practices are long overdue. Schools with zero-tolerance policies, may be under the impression that having a zero tolerance policy is the answer to bad behaviour. However, zero-tolerance approaches are short-term oriented and based on fear. It focuses only on the rule that was broken and the punishment deserved. It does not attempt to repair harm done or to repair the damage to relationships (Davis, 2014). On the other hand, school-based restorative justice

offers a more sustainable, reasonable, and respectful alternative when dealing with misbehaviour, and creates safer schools (Davis, 2014).

In order to implement restorative justice in schools Davis (2014) gives the following guidelines to schools:

### 1. Assess Need

It is important to assess the numbers regarding suspensions and expulsions at the school where restorative justice is to be implemented. This information can be obtained through the school's discipline/support office's records or in absence of a fully functional discipline/support office at a school, the Department of Education (DOE) is legally bound to keep record of expelled learners as one of the functions of the DOE is to be involved in all cases of expulsion. It is also important to assess whether there is consistency in the school's discipline practices (through case comparison) as well as determine if the school have a safe, fair, and positive learning environment?

### 2. Engage the School Community

It is vital that staff, parents, students, and the community members are satisfied with the discipline practices and outcomes at the school? If one of the parties are concerned about the negative impact of punitive discipline, investigation should be made into the matter. For example, in the United States of America it was found that suspending students just once, triples the probability that they will end up in the juvenile justice system, and doubles the chance they will drop out. A strong foundation can be laid by involving as many of the members of the school community as possible in the restorative process in the school.

### 3. Hire a Restorative Justice Coordinator

It is ideal to have a full-time restorative justice coordinator working for the school, alternatively, a trained and motivated vice principal, dean, or school counsellor can be responsible to manage training and school-wide implementation of restorative practices. The main objectives of having a full time person involved, are apart from as mentioned training and implementing, also, in order to manage the process and to give support to the offender as well as victim and the irrespective families.

#### 4. Begin Training

Training should start early in the school year with an introductory session, for as many staff as possible, including the security officers, teachers, counsellors, school administrators and support staff. This introductory training should prepare the school to implement proactive, community-building processes school-wide. With the next meeting the focus should be on a smaller group that is to be trained to facilitate the restorative discipline processes, to address rule infractions and to be used as an alternative to suspension. This group could consist of the school counsellor and discipline team.

#### 5. School-Wide Implementation

What was learned must now be put into practice, with coaching from the restorative justice coordinator or other designated person. Restorative conversation techniques should be practised.

#### 6. Institute Restorative Discipline

Alternatives for punishment must now be used as part of the restorative process. Students that WERE absent because they have been suspended should participate in healing circles. These practices must involve the parents and follow-up is very important. The school discipline policy should also be revised and updated.

#### 7. Involve Students in Peer Restorative Practices

Students must be trained to promote and facilitate circles. They must be empowered to create a safe and respectful space to talk through instead of fighting through differences

#### 8. Be Sure to Evaluate

In order to make sure you're on track, review and analyse data quarterly. Compare the past and present data on suspension rates and incidents. Question the teachers, students, and administrators regarding how they feel about their school:

Do they feel a greater sense of safety?

An increased sense of belonging?

Are relationships better among students and between students and adults?

What about between the school, parents, and community?

## 1.4 RESEARCH AIMS AND OBJECTIVES

The emphasis of a research study should visibly demonstrate what forms part of the study and what is left out (Fouche, Delpont, De Vos & Strydom, 2011: 108). The aims and objectives of the study act as an uninterrupted guide to the researcher (Fouche, et al., 2011: 194). The main purpose or aim of the study is to develop a restorative justice model to be used in South African schools, in order to bring about a change of behaviour from within the offending learner; allow for victim participation and parental involvement in the process and to direct the role of the school in the process.

In order to reach this aim the following objectives are formulated for the study;

- To reflect on the current traditional disciplinary system in South African schools.
- An exploration of risk factors that may play a role in the management of discipline related concerns and conduct.
- To demonstrate how learners at risk can be identified for intervention and counselling before they engage in offending behaviour.
- To explain restorative justice, as an alternative to traditional punishment in South African schools.
- To explain how a restorative approach would allow for peer and school involvement within a restorative approach.
- To explain how a restorative justice approach can serve to enhance the ethos of a “whole school approach”.
- To integrate and evaluate the research results to design and apply a MIT approach to restorative justice within the South African school setting system.
- To develop a South African theoretical framework to be used within the school environment as an alternative to the current punitive system through the application of restorative practices to come to the aid of troubled learners.

Traditional criminological-; sociological-; educational-; anthropological- and psychological theories will be used in order to develop a Restorative Justice model to be used in South African schools.

## **1.5 STRUCTURE AND LAYOUT OF THIS DISSERTATION**

The researcher made use of a logical structure to assemble the chapters of the dissertation in an effort to guide the reader. The study is compiled as follows:

### **CHAPTER 1: INTRODUCTION**

The first chapter introduces the reader to the area of study and its purpose. It provides a brief overview of the nature and scope of the problem. The chapter reflects the origin, rationale, value, aim and objectives of the study. Key concepts are conceptualised and contextualised. This chapter serves as an introduction to a restorative approach towards school discipline and behavioural conduct in South African schools and familiarises the reader with an understanding regarding the nature of the study, by reflecting on the current traditional disciplinary system in South African schools.

### **CHAPTER 2: THEORIES**

The second chapter provides a theoretical explanation for the development of a restorative paradigm towards discipline in a school setting. Theories regarding punishment (The *Tsedeka* (guilt release) theory; Retributive theory; Re-integrative shaming theory); theories relevant to the causes of delinquency (The Control theory; Self-control theory; Labelling theory; Learning theory and Cognitive theory), as well as possible risk factors (Family; Peers and use of drugs) are discussed in order to develop a basis for a restorative model for use in South African schools. In the first part of this chapter, theories regarding punishment will be outlined and theories related to the causes of delinquency discussed. In the second part of the chapter possible risk factors are discussed.

### **CHAPTER 3: RESEARCH METHODOLOGY AND DESIGN**

The third chapter sets out the research methodology used to gather and interpret the empirical results. The chapter reflects on the research paradigm, approach, and purpose used during the study. The research design, data collection methods, unit of

analysis, sampling, data analysis and presentation are set out in this chapter and research ethics and informed consent, validity and reliability are also discussed. This chapter pursues to afford the reader the ability to successfully grasp and understand the methods and techniques applied during the research study. To reflect on the current traditional disciplinary system in South African schools.

#### **CHAPTER 4: ANALYSIS OF QUANTITATIVE DATA**

This chapter presents the empirical results of the study. The information is predominantly presented in text format. The results are organised according to the themes or trends. Chapter four consists of the analysis and interpretation of data received by means of self-administered questionnaires. Findings obtained are presented systematically.

#### **CHAPTER 5: ANALYSIS OF QUALITATIVE DATA**

Chapter five consists of the exposition and interpretation of the case studies. The information is presented per case where after a case comparison is given. The disadvantages of the discipline process at the school where the study was done, is also discussed in chapter 5.

#### **CHAPTER 6: FINDINGS AND RESULTS, DISCUSSION, APPLICATION OF CHANGE - A RESTORATIVE JUSTICE MODEL FOR SOUTH AFRICAN SCHOOLS**

Chapter six serves as the integration of the qualitative and quantitative data. Results from the questionnaires will be integrated with the case studies. The chapter synthesises the literature, theories and empirical findings. Recommendations for the development of a restorative justice model for South African schools are discussed with the value for this approach to not only schools, but also for the larger community and society.

## **CHAPTER 7: CONCLUSION AND RECOMMENDATIONS**

This chapter embodies the achievement of the aims, objectives, recommendations and conclusion of the study. Limitations of the study as well as recommendations for further study will be discussed.

### **1.6 CONCLUSION**

Misconduct and offending behaviour in schools is an ongoing and growing problem globally. The present study follows a MIT approach to expand knowledge and insight on the phenomenon of restorative justice by developing a model to be used in schools and within the school environment. This is done to improve the disciplinary system and achieve better results in the attempt to bring about behavioural change in youths displaying deviant behaviour. The study also exhibits a risk management approach to determine to which extent risk factors may contribute to the offending behaviour of learners. The rationale for this consideration is that if risk factors were to be identified at an early stage, proactive intervention would be possible. In this chapter the structure and layout of the study was discussed; research aims and objectives were listed; a brief summary of what the literature study will entail was given and the key concepts were defined.

## CHAPTER 2

### THEORIES ON CRIME, PUNISHMENT AND YOUTH OFFENDING

#### 2.1 INTRODUCTION

Hutchinson and Oltedal (2014) defines theories as interrelated sets of concepts and propositions that are organised according to a specific system in order to explain relationships within the social world. Theory, according to Pearson (2013) is a set of interrelated ideas that attempt to describe, explain, predict and ultimately control some class of events. The concept “theory” can be defined as a set of assumptions, suggestions, or known facts that try to provide a credible or rational explanation for the interactions among a group of observed phenomenon (May, 2018).

Theory plays a vital role in the explanation and understanding of problem behaviour and the discipline system currently used in South African schools, as well as how to deal with such behaviour. Theories (personality-, structure- and process) underpinning this study include biological theory, psychological and cognitive theory, behavioural theory as well as the systems theory. The strain theory of Merton (1940's) and Agnew, Bianchi's *Tsedeka* theory (1994), the Retributive model of Zehr (1990) and Braithwaite's Reintegrative Shaming theory (1989) also add insight into the research problem. Furthermore, process theories and the punitive system theories as well as sociological theories are applied to the study, and together with the other theoretical perspectives incorporated in an alternative approach to discipline in South African schools.

#### 2.2 PERSONALITY THEORIES

Classical theories state that crime is committed as a result of using one's free will to choose behaviour that brings pleasure or avoiding behaviour that brings pain (Regis-University, 2018). Thus according to this theory punishment would therefore deter acts violating the law (Regis-University, 2018). As studies of human and social behaviour developed, positivist theories of behaviour started replacing classical theories that stated that behaviour can be influenced by biological, psychological or sociological factors and that individuals have little or no control over



their own behaviour (Regis-University, 2018). Personality theory describes criminal behaviour as the result of a defective personality or personality traits, for example aggression or impulsiveness and psychoanalytical theorists are of the opinion that criminal behaviour is a result of a mental disorder. According to this approach the criminal act is of less importance than the individual offender's traits. The fact that a crime is committed is a symptom of the underlying personality or psychological disorder. Many different personality theories attempt to explain as to why people perform deviant behaviour (Crossman, 2018). For example, personality and psychological theory includes biological-, biosocial-, behavioural-, cognitive- and psychological or psychodynamic theory (Akers & Sellers, 2013).

### **2.2.1 Biological Theories**

Biological theory attempts to explain that behaviour is predetermined and genetically founded. Steinberg (2008) concluded research on the following two questions in order to prove that biological theory does play a role in criminal activity. Firstly, why is it that risk taking increases between the phases of childhood and adolescence? Secondly, why does risk taking then decline between the phases of adolescence and adulthood? Evidence from research makes it clear that risk taking increases between childhood and adolescence because of the changes during puberty in the brain's socio-emotional system, together with an enormous secretion of dopamine, leading to a surge of reward-seeking, particularly when in the company of peers (Steinberg, 2008). On the other hand, risk taking declines between adolescence and adulthood as a result of changes in the brain's cognitive control system. These changes bring about the improved ability for the individuals' capacity for self-regulation and occurs across adolescence and young adulthood. These changes are visibly noticed in structural as well as functional changes within the prefrontal cortex and its connections to other brain regions. Because of the interactive changes, mid-adolescence is a time of heightened vulnerability to reckless, risky behaviour (Steinberg, 2008).

Graves (2017) agrees with the findings and states that by using biological theories to explain the commission of crime, the emphasis falls on physiological reasons, for example that adolescents have not yet matured to the mental reasoning of adults. According to Anderson (2007) biological factors, for example hormonal changes in the body, may influence criminal behaviour (Anderson, 2007). Biological theories can be categorised within the paradigm of positivism which proclaims that all types of

behaviour are regulated by factors outside the individual's control (Criminal-justice-research-Centre, 2018). Biological positivism emphasises that genetics and chemical imbalances in the brain may cause criminal activities (Regis-University, 2018).

### **2.2.2 Psychological and Cognitive Theories**

Psychological theories form part of the personality theories and may be used to explain how the individual's personality predisposes them to commit crimes or become involved in antisocial and offending behaviour. Criminologists that base their studies on psychological theories, explain crime as the consequence of individual factors, for example, negative experiences in early childhood and inadequate socialisation that leads to incomplete cognitive development and/or criminal thinking patterns (Byrne, 2015).

The psychodynamic theory, based upon Freud's psychoanalytical perspective, focuses on a person's personality, especially the experiencing of internal conflicts and struggles (Valdez, 2017), and explains criminal behaviour as a result of psychological immaturity and weak self-control in certain situations (Andrews & Bonta, 2010). Major risks factors include impulsivity, disturbed interpersonal relationships, low success rates in school or work and a weak superego, weak ego and problems in the family system. A weak super ego results in an individual displaying little guilt, a reckless disregard for rules and early misconduct and antisocial attitudes. A weak ego may result in generally poor skills in any field of endeavour (Andrews & Bonta, 2010).

Mood disorders are classed within the psychodynamic theory of crime as conduct disorders. These disorders describe "criminal offenders that may have a number of mood disorders that may manifest as depression, rage, narcissism and social isolation" (Criminal-justice-research-Centre, 2018:4-5). Children with conduct disorder struggle to follow rules and to behave in socially acceptable ways (Boccaccini, 2008) (Criminal-justice-research-Centre, 2018). Conduct disorders are displayed as emotional and behavioural problems in young adults. Children diagnosed with conduct disorders, are often labelled by others as "bad," "delinquent," or even "mentally ill." Children with conduct disorders are more likely to display aggressive behaviour toward others, such as bullying (Boccaccini, 2008) (Criminal-justice-research-Centre, 2018). Adolescents with conduct disorders could also be involved in early sexual activity,

property offences, lying and stealing, breaking into houses and stealing possessions. They may also steal from stores. Early intervention offers these individuals a greater probability for improvement and for ultimately living a productive and successful life (Criminal-justice-research-Centre, 2018). According to Glenn (in Glenn, Johnson & Raine, 2013) mood disorders could also be classed as antisocial personality disorder as per the Diagnostic and Statistical Manual of Mental Disorders (DSM5) (Glenn, 2013). Glenn (2013) states that the Diagnostic and Statistical Manual of Mental Disorders (DSM 5) classification of antisocial personality disorder (ASPD) defines it as individuals engaging in repetitive irresponsible, delinquent, and criminal behaviour beginning in childhood or adolescence and continuing into adulthood (Glenn, 2013).

Cherry (2017) refers to Bandura to provide another version of psychodynamic theory. There are various psychological theories to explain how and why people learn behaviour and the complexity thereof. The psychologist Albert Bandura (Cherry, 2017) proposed a social learning theory that suggests that observation, imitation, and modelling perform a primary role in this process. Bandura's theory is a combination of elements from behavioural theories (all behaviours are learned through conditioning) and cognitive theories (psychological influences such as attention and memory) (Cherry, 2017).

Elements of general personality and social psychology theories also manifest in social learning, cognitive behavioural and social cognition theories (Andrews & Bonta, 2010). The so called "Big Four" predictor variables of a crime risk, namely antisocial cognition, antisocial associates, history of antisocial behaviour and antisocial personality pattern, may be influenced or moderated by conditions in the individual's environment such as family, school, leisure and neighbourhood (Andrews & Bonta, 2010). Cognitive theory is grounded in the idea that cognitive processes are at the centre of thoughts, emotions and behaviours and highlight what people are thinking instead of what they are doing (Neese, 2018). A definition of "cognitive" is the ability to process information and has to do with an individual's ability to learn and understand (Anon., 2018). Jean Piaget, a Swiss psychologist, initially developed cognitive development theory, proposing that offenders fail to develop their moral judgement capacity beyond the pre-conventional level. Cognitive theory was further built upon by Lawrence Kohlberg (Byrne, 2015) and were further established in the 1980's, based upon Healy's claim in 1915 that, "bad habits of the mind" lead to criminal behaviour (Baro, 1999).

Behaviour can be modified by means of changing the way of thinking. A person needs to take responsibility and be held accountable for his actions. When referring to the way of thinking, it is important to keep in mind that paranoia, depression and other mental illness, may predispose certain individuals to committing offences and crimes. Feelings of worthlessness are common in major depression (Parekh, 2017), making low self-esteem a contributory factor in criminal behaviour. A study done by the Oxford University states that people diagnosed with depression are three times more likely to become involved in violent crimes like sexual offences and assault (Tran, 2015).

### **2.3 PROCESS THEORIES**

The key in understanding crime and the processes around crime, from this perspective, lies within socialisation. It is a fact “that learning and control theories both identify socialization, or the lack thereof, as the key to criminal behaviour” (Tibbetts & Schram, 2018: 287).

South Africa consists of a unique compilation of cultures and multi-ethnic groups creating difficulties when dealing with offences committed and the way that they are dealt with. Ovens (2010) gives a comparison between Western theories and the African approach. The Western theories attempt to analyse, predict and control human behaviour compared to the African approach that is in sync with a restorative approach and strives towards intuition and integration (Ovens & Prinsloo, 2010). Schoeman (in Louw & Van Wyk, 2016) agrees with this opinion and states that restorative justice is firmly rooted in African cultural traditions. Skelton (in Louw & Van Wyk, 2016) points out that there are several common factors between traditional African justice and restorative justice, namely that both processes aim for restoring the peace and reconciling harmony in the community; aim to promote social values and norms; focus on dignity and respect as central values; view crime as a harm done to the individual and the broader community; attempt to keep simplicity and informality within and during the procedure; values community participation; and place a high value on restitution and compensation by the offender (Louw & Van Wyk, 2016). Ovens (2010) is of the opinion that it is important to study the effect of culture and tradition on people’s behaviour, if we take into consideration and admit that culture may largely control the way in which we function and think. In the African culture the concept

“*Ubuntu*” inspires the rules of social interaction (Nafukho in Ovens 2010). *Ubuntu* meaning “humanity” and “a person is a person through others” and represents the rule of conduct and/or social ethic in the sense that it recognises humans as social beings with feelings and kindness who need to be with others (Ovens & Prinsloo, 2010).

Ovens (2010) states that it is important to accept the differences between people of different cultures in the treatment of offenders from a criminological perspective, both theoretically and practically, instead of using the variances to stigmatise and disadvantage them. However, in spite of the traditional inheritance of restorative justice and the knowledge and understanding of its principles, restorative justice does not play the role it deserves in South Africa’s criminal justice system (Louw & Van Wyk, 2016).

Differential association and social learning theory, re-integrative shaming and labelling theory, social bonding and control theories, deterrence and rational choice theories (process and punitive theories) all form part of process theories.

### **2.3.1 Differential Association and Social Learning Theory**

The differential association theory holds that criminal attitudes, beliefs and rationalisations are learned through exposure to pro-criminal and criminal attitudes and behaviour patterns (Andrews & Bonta, 2010). The theory of differential association theory as developed by Sutherland (Yogi, 2014) explains that criminal behaviour is learned through interaction with others in a process of communication and social relationships within intimate personal groups (Yogi, 2014). Peers and others in the environment shape (teaches) values, norms, attitudes as well as techniques and motives for criminal behaviour. Yogi (2014), gives an exposition of Sutherland’s theory of differential association that consists of nine propositions:

1. Criminal behaviour is learned behaviour.
2. Criminal Behaviour is learnt through interaction and communication with others.
3. Criminal behaviour is learnt within intimate, close groups. Therefore other influences for example the media are secondary.

4. Techniques necessary to commit crime as well as the social transmission of attitudes, values, motivations and drives for committing the crime are learnt.
5. Favourable and unfavourable behaviour is learnt (according to definitions of legal codes).
6. A person is labelled a criminal when the number of unfavourable laws becomes too much.
7. These criminal associations may vary in frequency, duration, priority and intensity.
8. The process of learning criminal behaviour by association, is not restricted to association, and can also be learnt through other instruments of learning, for example through conditioning. A child may not understand the law, and decides to take sweets from a shop and gets away with it and is thus rewarded with the free sweets, from then on the child maintains this early onset criminal behaviour as it has not been punished.
9. Sutherland claims that criminality is not just dependant on associations but also through the wider context of the individual's life.

An important feature of Sutherland's theory is the intensity as well as the frequency of the interaction that takes place, as both are decisive for explaining developing criminal activity (Yogi, 2014).

Sellers, Winfree and Akers (2012) describe the development of social learning theory, from where it originated as the differential association theory (Sutherland) through to contemporary social learning theory (explanation of deviance) that incorporates social structure as the context within which criminal behaviour is learned (Sellers, et al., 2012). Gillie (2004) states that people are influenced negatively or positively due to exposure to multiple, concurrent and interactive types of social oppression or organisational activities, in the person's social location. This social location consists of the intersection of for example age, gender, class, race and ethnicity (Gillie, 2004), where offending behaviour is learned behaviour by associating with other offenders from any race, income group or sociological background (Schubert, 2018), (Akers & Sellers, 2013).

Sykes and Matza (1957) also built on Sutherland's theory and developed a theory of delinquency and drift. Matza (1964) wrote his book "Delinquency and Drift" to explain why juveniles get involved in delinquent behaviour. Although the drift and neutralization theory displays features of the social control theories, it is not classified

as a social control theory (Mindomo, n.d.). According to social control theory, offences take place as a result of an absence of social bonds, weakness or encouragement to take part in criminal conduct. Values, norms as well as strong positive relationships prevent delinquent actions (Mindomo, n.d.). Mindomo (n.d.) explains that Matza, on the other hand, describes delinquent conduct as an action arising from a “thrill” or “rush” and states that juveniles sense a moral obligation to be bound by law. Matza is of the opinion that individuals drift from one extreme to another (between the conventional and criminal behaviour) and that feelings of guilt develop after the offence and this must be neutralised by means of denial. In other words, the individual forces himself to believe that the incident was an accident or out of his control and no one got hurt and the individual is of the opinion that what happened was not wrong (Mindomo, n.d.).

### **2.3.2 Social Bonding and Control Theories**

Sociological theories focus on social circumstances and the environment that might lead to offences and/or crime. For example, in the case of a violent and abusive parent, the parent “models” violent, abusive behaviour that might manifest in children (Graves, 2017).

Serva (2017) explains that the control theory attempts to answer the question “why do people obey the law”? It could be because they do not want to experience negative consequences or risk losing the approval from others. Another reason could be because of internal control (individual’s conscience and values) (Serva, 2017). There are four social bonds that play an integral role in the direct and indirect control of an individual namely: beliefs, commitment, attachment and involvement. The more involved in conventional activities the individual is, the less time there will be for delinquent behaviour (Hirschi, 1969).

Gottfredson and Hirschi (1990) in their Self-control theory (also known as the General theory) state that individuals develop self-control around the age of seven or eight years old and it remains relatively stable for the rest of their lives. Variation in self-control is a result of weak parenting, for example inconsistent discipline, poor supervision or no emotional involvement. According to this theory, low self-control might lead to crime, even at a very early age, especially if the situation allows it.

Individuals with low self-control are risk takers and are likely to get involved in socially unacceptable behaviour, for example underage drinking or smoking. This general tendency towards deviant behaviour was given the term “generality of deviance” (Gottfredson & Hirschi, 1990) (Akers, 2017).

Britt and Gottfredson (2003) note that crime is an individual act, and its explanation requires that we focus on the characteristics of the individuals’ who commit crimes. Whilst studying the control theory one should concentrate on such issues as self-control and social control (as the families, peers, and the criminal justice system have an effect on self-control) (Britt & Gottfredson, 2003).

According to Nieman (2002) researching theories relevant to youth offences as well as the risk factors that might be related to deviant behaviour, is important when seeking intervention programmes as well as getting a better understanding of the occurrence of antisocial and deviant behaviour. An understanding of “why” and “what” leads to offensive actions, before what can be done in order to prevent these actions and/or to intervene in cases where offending behaviour already occurred. Nieman (2002), holds the opinion that it is also important to study various theories in order to develop a restorative model to be used in South African schools (Nieman, 2002). Elements from these theoretical approaches are applied in the data collection process of this study.

### **2.3.3 Labelling Theory**

Labelling theory forms an important part of general criminological theories (Paternoster & Bachman, 2017). This theory originated from Emile Durkheim’s work on suicide and was furthered by Dr Frank Tannenbaum in the 1930’s. Dr Edwin Lemert continued building on this theory and in 1963, Dr Howard Becker wrote his book “Outsiders” in which labelling grew in popularity in the United States of America (Bond, 2015).

Becker (in Bond, 2015) states that “Deviancy is not a quality of the act a person commits but rather a consequence of the application by others of rules and sanctions to an ‘offender’. Deviant behaviour is behaviour that people so label” (Bond, 2015: 9). Cote (2002) agrees and states that according to the labelling theory, the causes of

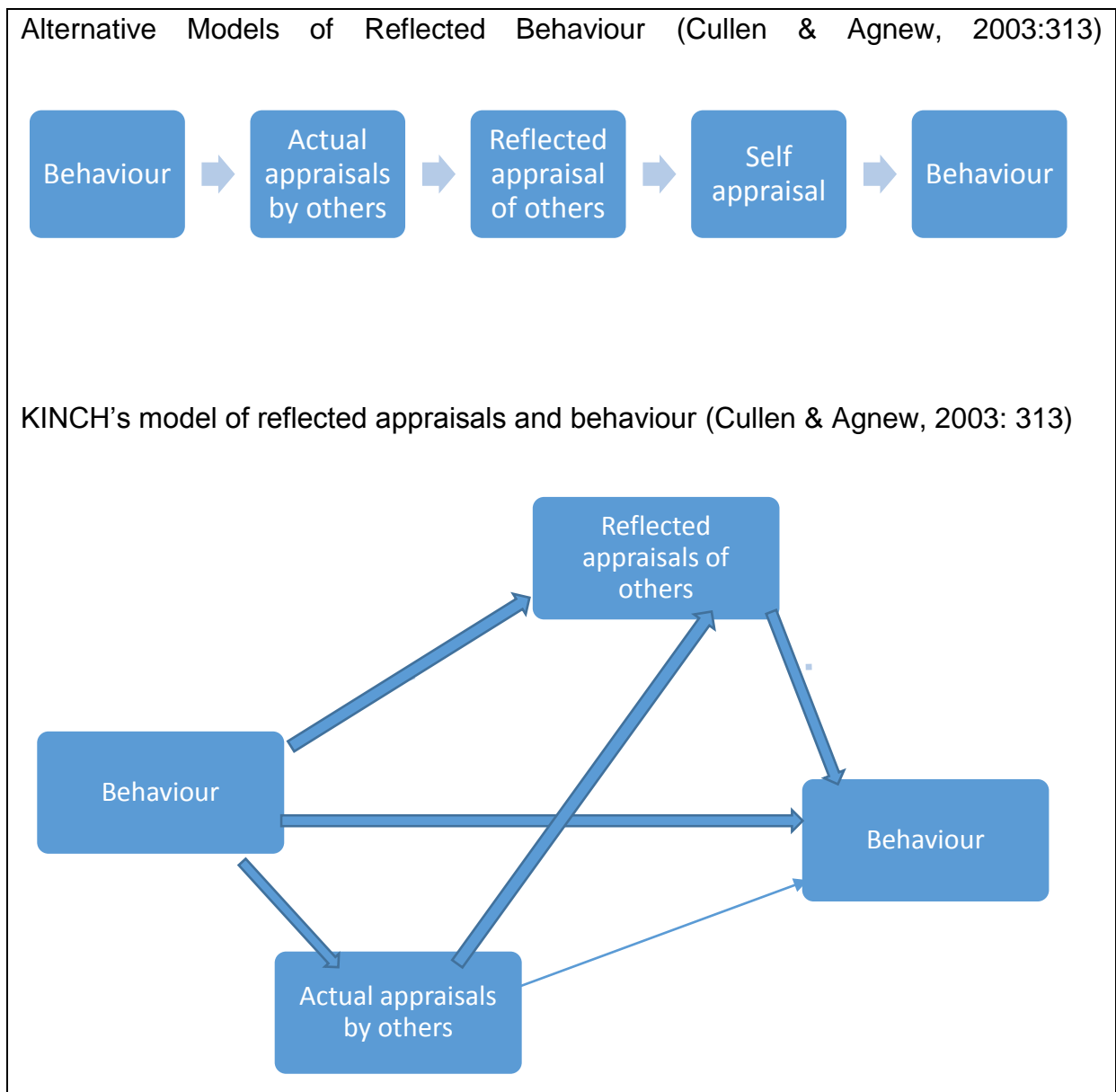


crime could be located in the way in which society responds to deviant behaviour (Cote, 2002). Akers and Sellers (2013) describe labelling as formal and informal stigmatising of members of society. According to the labelling theory, a person is viewed as a criminal the moment that the government or its representatives label the person as such and their opportunities become limited, leading to a low self-esteem, the person accepting the label and as such, the start of a vicious circle (Bond, 2015).

Rosenburg (in Ross, 1992) explains that the construction of the self-esteem consists of self-attribution, reflected appraisals and social comparison. These mechanisms play a vital role in the maintenance of the self-esteem and possible antisocial behaviour (Ross, 1992). It is therefore important that labelling does not take place as adolescents may get involved in delinquent acts in order to enhance their self-esteem and in doing so, overcome feelings of self-rejection (Kaplan, in Ross, 1992).

Kinch (in Cullen & Agnew, 2003) developed a theoretical model of reflected appraisal and behaviour from a perspective of symbolic interactionism, according to which behaviour is triggered by appraisal from others (actual appraisal and reflected appraisal) as well as self-appraisal, leading once again to behaviour, both positive and negative. The conclusion can be made from this model that negative behaviour generates negative co-operation and disrespect or the negative treatment of a person will ultimately lead to deviant behaviour (Cullen & Agnew, 2003). Kinch's (Cullen and Agnew, 2003: 313) theoretical model is depicted in an illustration below.

**Fig 2.1: Illustration of “Alternative Models Of Reflected Appraisals” as Developed by Kinch**



According to Kinch's model, a person's behaviour will determine other peoples appraisal of the person, this then will lead to the person's reflected appraisal of the self from where self-appraisal takes place, leading to specific behaviour (Cullen & Agnew, 2003). According to the revised model, Kinch (Ross, 1992) explains that actual appraisal by other people only affects behaviour by affecting a person's reflected appraisal of the self. Alternatively, actual appraisal influences behaviour directly irrespective of reflected appraisal (thin line at the bottom of the model refers).

This revised model shows that behaviour is triggered by appraisal from others (actual appraisal and reflected appraisal) as well as self-appraisal, leading once again to behaviour, either positive or negative (Ross, 1992).

The following theories look at processes that can be applied as sanctions to the problem behaviour.

#### **2.3.4 Process and Punitive Theories**

Punitive or criminal justice theories are used to discover theories concerning punishment and criminal justice (Graves, 2017).

Mohanty (2015) is of the opinion that the controversy surrounding the juvenile justice system focusing on restorative justice, even in serious crimes, calls upon the need to look into several punishment policies. Mohanty (2015) states that the dispute around the punishment of offenders has been debated for centuries. He refers to the work of Flew, Benn and Hart (in Mohanty, 2015) who defined punishment as to be something administered by society and imposed by a legal authority, which should be unpleasant for the offender that transgressed against legal rules. According to Mohanty (2015) the broad theories of punishment are divided into consequentialist (concerned with the practice of punishment if it brings out better consequences) and retributivist theories (punishment is important because it punishes the criminals in proportion to their crime, thereby restoring a proper balance). Mohanty (2015) refers to the most classic form of retributivism as deriving in the Code of Hammurabi's *lex talionis*, which stands for 'an eye for an eye and a tooth for a tooth'. Most supporters of the retributivist theories believe that if a person is guilty of a crime, the person should suffer pain (the pain has to be proportional to the crime committed).

A crucial idea in the retributivist theory is that a criminal must not be punished for what the person might do, but punishment may only be given for the crimes committed and in the amount *deserved*. The consequences of the acts are not a focal point but the only focal point is the damage which was done. In other words, the punishment is a form of 'payback' for the crimes one has committed (Mohanty, 2015). Because retributivism disregards the offender's future conduct or effects punishment can have on crime rates, it is important to note that in the cases of juvenile offenders one should

take into account the effect punishment has on the accused. Therefore, a lenient and reformatory system of punishment should be reflected in such cases (Mohanty, 2015).

In contrast to retributivism, punishment as deterrence, can be explained as punishment imposed in order to deter people from committing a crime and to discourage a person from committing a crime, as well as to make an example out of him. This theory has been criticized because it punishes offenders before they have even committed a crime according to Mohanty (2015).

The objective of traditional punishment is retribution, but according to Holmgren (2012), forgiveness is an important factor. Punishment should, therefore, be accompanied by both a deterrent and a rehabilitative value.

Compared to traditional punishment, on the other side of the scale, lies restorative justice that offers rehabilitative value. Applied within the school context, there must be a reaction to offensive behaviour of learners, of which punishment is one element. Although the researcher is of the opinion that the school which is the subject of this study, has a fairly good discipline structure in place as far as the handling of social problems of learners is concerned, traditional discipline is of no or little value. For example, as a sanction, detention is given for a specific number of hours per week. The offending learner attends the specified hours but is allowed to complete homework during the time (saving time that was supposed to be used at home), read magazines or even sleep. No form of rehabilitative behaviour takes place during the detention time. In certain cases offenders are given a sanction where they have to go and re-write the school rules and/or policies and when handed in, it is placed on a file and no one checks to see if it was properly done or by the offending learner self. It is the opinion of the researcher that getting the offending learner actively involved in the process by for example showing a video on bullying/ alcohol use and abuse/ drug use/ sexting, or whatever offence took place and getting the offending learner to complete questions on the video, the process would be more restorative.

The following table show the differences between traditional school discipline and restorative discipline (see Nieman, 2002).

**Table 2.1: A Comparison between Traditional School Discipline (currently used) and Restorative Discipline (New Approach)**

<b>CURRENTLY SCHOOL DISCIPLINE</b>	<b>NEW APPROACH RESTORATIVE DISCIPLINE</b>
Transgression is seen against school rules	Transgression is seen against school rules and individual/s (person/s)
The focus is on establishing if offender is guilty or innocent and punishment (suspension/expulsion)	The focus is on solving the problem. How to change the behaviour of the offender and reintegrate into school environment
Adversarial relationship and process	Relationship and process of dialogue and negotiation
Deterrence or prevention by imposing “pain”	Restitution: restoring of BOTH offender and victim
One social injury is replaced by another	Focus on the repair of the social injury
Victim has no role in process. Passive role	Victim plays a part in the process. The needs and rights of the victim is recognized
The accountability of the offender is defined as taking his punishment	The offender is made aware and made to understand the impact of his actions and also involved in the decision making of “how to fix” what is wrong

While schools need to impose punishment in reaction to offending behaviour, they need to move to a more restorative approach, in other words from a punitive to an approach where offending behaviour is modified and relations restored. Table 2.1 clearly illustrates the “new” approach or processes to discipline that restorative justice enables. It involves the school community as a whole in a more nurturing, healing environment.

### **2.3.5 Braithwaite: Reintegrative Shaming Theory**

Braithwaite's (1989) theory of reintegrative shaming differs from many other crime control theories in the sense, that instead of focussing on punishing or isolating the offender from society, Braithwaite (1989) places emphasis on the importance of cultural integration and he argues that the key factor to "crime control is cultural commitments" to shaming (Braithwaite, 1989). Braithwaite (1989) is of the opinion that through applying appropriate reintegrative shaming to people who offend, crime can be controlled. Braithwaite (1989) recommends that society must create an environment which will accept the offender back rather than labelling the offender to isolate him from society.

Reintegrative shaming plays the most important role in reacting to crime and crime prevention (Kim & Gerber, 2011). In societies where shame is connected to crime effectively, the crime rate will be considerably lower. Shamefulness of the criminal act could be communicated by ways of stigmatisation (disapproval). Braithwaite (1989) mentions that African societies make use of reintegrative shaming rather comprehensively (Braithwaite, 1989). He is of the opinion that sanctions that are reintegrative and focused on the action of the offender and not the offender self, are likely to reduce crime.

On the other hand, stigmatising the offender could result in more crime (Braithwaite, 1989). Braithwaite (1989) states that individuals that are stigmatised might continue to commit offences as a result of self-fulfilling the prophecy (label) that has been placed on them (Norwood, 2018). Braithwaite distinguishes two types of shame in order to explain why the crime rate is higher in some societies compared to others namely:

- Stigmatising shame which disintegrates moral bonds between the offender and the community (this kind of shame increases crime) and
- Reintegrative shame that strengthens moral bonds between the offender and the community (this type of shame decreases crime).

Families and schools must complement each other when it comes to the offending behaviour of learners (Braithwaite, 1989). The sanctions imposed by the family should also be reintegrative; children can be grounded but they are not abandoned. Grounding, a type of discipline used by parents, entails the restriction of movement

outside the house. For example not being allowed to go to friends and the movies. Parents may also withdraw certain privileges like using a cellular phone, watching television or using the computer for anything other than school work. It is usually used for older children and teens (Morin, 2001). Larzelere (2000) states that grounding by parents is a more benevolent and effective alternative for physical discipline (corporal punishment) (Larzelere, 2000). Other sanctions might include apology, monetary compensation to be paid, working for the victim/community and attending counselling conferences (Daly & Hayes, 2001).

The moment children start attending school, a more formal practice of social control kicks in, complementing the parental control (Braithwaite, 1989). Braithwaite (1989) supports social control as a method that society uses to bring about order in daily life and to influence human behaviour. Education is an important aspect of social control as it can be seen as a process of socialisation that prepares the child for social living. It modifies attitudes that were wrongly shaped in children. Families may instil improper beliefs and values in children, where education will then correct those beliefs and remove prejudices. Education teaches children the value of tolerance, social support, sacrifice and discipline (Nazam & Husain, 2016)

## **2.4 STRUCTURAL THEORIES**

Structural theory explores the relationship between an individual and institutions (Akers & Sellers, 2013), and how the complexities of the organisation such as a school, motivate those individuals functioning within the organisation. Consequently, structure theories are also referred to as organisational theories (Graves, 2017).

Youth (2016) explains that societies develop and becomes more and more complex. The role of the family is replaced by the school, work and any other social learning environments (Youth, 2016).

Theories discussed below are Bianchi's *Tsedeka* theory, the systems or organisational theory, strain theories and Zehr's retributive model.

### 2.4.1 The *TSEDEKA* Theory

Herman Bianchi, a Dutch Criminologist, worked hard in the early days of restorative justice in order to see that restorative justice be implemented effectively (Vaandering, 2011). Bianchi proposed justice as reconciliation, instead of justice as retribution (Gavrielides, 2011). “*Tsedeka*” is based on an ancient Judaic concept, namely righteousness and the release from guilt (Skoll, 2009). Bianchi viewed punishment as brutal and proposed education as deterrence; “The normative learning process cannot be fostered by fear of pain, only by identification with good examples” (Bianchi, in (Korstanje & Skoll, 2016: 68-74).

According to Vaandering (2011), Bianchi’s theory has a Judeo-Christian origin, keeping in mind what it is to be a human as well as what the concept harm means, rather than focussing on human rights. Vaandering (2011) explains that Bianchi based his arguments on Jewish insight and proposed justice as “*Tsedeka*”, meaning that “justice not made, manifest in the administration of law but rather in relationship,” as the following three characteristics indicate (Vaandering, 2011: 26): justice as *Tsedeka* is substantiated when people’s actions show they have had the good of the other in mind. Secondly it upholds relational truth, where truth is found between people, within dialogue, and judged by its result. Thirdly it occurs when people (both harmed and those causing harm) “are set free from the consequences of conflict through reparation of harm” (Vaandering, 2011: 26).

Up to this point the researcher looked at personality, process and structural explanations for criminal behaviour. The use of systems theory allows for an understanding of how these various structures interact with other structures in their environment. This move from linear explanations in personality theory, process theory and structural theories, to circular causality explained by systems theory, which allow for a more in-depth description and explanation of offending behaviour of young people.



## 2.4.2 Systems Theory

Systems theory explains that all systems exist in environments that forms part of higher order supra-systems, within smaller subsystems that are interdependent and interrelated (Heylighen & Joslyn, 1992). Systems are open to, and in interaction with their environments. They could gain new properties through development, as a result of constant change. Instead of reducing an entity (for example, a family unit) to the properties of its fragments (for example, father, mother and siblings) the systems theory emphasizes the relationships between the fragments which connect them into a whole (Heylighen & Joslyn, 1992). Von Bertalanffy (1968:55), considered as a founder and principal author of general systems theory made the statement that “The whole is more than the sum of its parts”. In this study, systems theory allows the study of learners, as they interact and make behavioural decisions within the school system.

A system can be said to consist of the following four components according to (Schwartz, 2014):

1. Objects – The fragments, elements, or undependable factors within the system. These could be abstract, physical, or both, depending on the character of the system.
2. Attributes –The qualities of the system and its objects.
3. A system consists of internal relationships between its objects.
4. A systems exist in an environment.

In other words, a system could be seen as a group of objects that influences one another within an environment. The fundamental systems-interactive paradigm of organisational analysis presents the stages of input, throughput (processing), and output, which shows the concept of “openness or closedness” (Von Bertalanffy, 1968). The difference between the two types of systems: a closed system and an open system, is that the closed system does not interact with its environment whereas the open system interacts with the environment. The closed system does not take in information and is likely to disappear (atrophy) compared to the open system that receives information, that is used to interact with its environment. The fact that the open system interacts with the environment increases its likelihood to survive and prosper (Cohen, 2016).

Systems theory is strongly linked to cybernetics, which can be described as a study of the communication and control in organisations, living organisms and machines (Heylighen & Joslyn, 1992). Its attention is on how anything (digital, biological and mechanical) processes information, reacts to information and changes that take place as a result. Cybernetics has the goal to explain multifaceted systems that consist of a large number of mutually interacting and interrelated parts, in terms of those interactions. One of the cybernetic principles is that an individual is constantly in interaction with the environment.

The environment in turn has an influence on the individual, therefore the individual as a system, changes, as the environment changes. The family is also seen as a system, or a subsystem, where its members belong to other systems (for example, agencies or organisations such as schools). Hindman (2013) identifies the spousal, parental and sibling as “subsystems”.

Rules form invisible boundaries in systems and distinguish one system from another (Hindman: 2013). These boundaries imply a hierarchy of systems, meaning that a system can exist within a system, for example, a sibling system can exist within a parental subsystem. These boundaries function as a screen for information entering in and out of the system. There is a continuum between the level of openness and closedness of a system. In a more open system, more information will be allowed in or out. It is however not healthy if the system is too open or closed. It must be balanced (Umbarger, 1983). Boundaries can be classified into three groups namely, clear, rigid and diffuse boundaries. Clear boundaries are firm but flexible boundaries that are considered as perfect for a stable family system. Family members in this system of clear boundaries, support one other and cherish each other but also allow each other the freedom to be themselves. Rigid boundaries exist where family members isolate themselves from one another and also from community systems. Diffuse boundaries are the opposite of rigid boundaries. Each individual’s personal space is invaded where there are diffuse boundaries (Umbarger, 1983). Nichols (2004) furthers this opinion and affirms that one parent’s permissiveness with children may be balanced by the other parent’s strictness.

Opic (2016) states that the family – or in this instance a school community (a system of interacting individuals where inter- personal relationships exists) - should provide acceptance of one another as all individuals need to live in the company of other

people. It is part of larger systems or supra-systems, and it includes individuals and several interdependent relationships or sub-systems, for example, sibling or marital or sub-systems. Individuals and internal sub-systems are knotted together by the complex interdependency of mutual needs, communication patterns, commitments, and loyalties. Therefore, a family is more than the sum of its parts, and the actions by one of the persons or sub-system could affect all other members of the system. Also, family members trust each other to balance the tasks of maintaining the family structure (*status quo*) while adapting to internal (developmental) and external (societal) changes. For the understanding of the family and in this instance the school, systems theory communication is essential. Verbal and non-verbal communication takes place constantly in the family and interpersonal communication can influence emotional and physical abuse in a relationship. Communication, be it verbal or non-verbal can lead to a diversity of behaviours, from intimidation to overt violence (Stark & Flitcraft, 1996: 69). It is highly probable that behaviour learned in this family system will be demonstrated in the school system.

Human behaviour is the intersection of the influences of multiple interrelated systems according to systems theory (Hutchinson & Oltedal, 2014). When attempting to understand and assist the individual during times of difficulty, individual issues, families, organisations, societies, and other systems must be considered as they are inherently involved with one another. According to the systems theory, all systems are interrelated parts constituting an ordered whole and each subsystem influences other parts of the whole. (Hutchinson & Oltedal: 2014).

Family therapy, communication therapy and the general systems perspective are viewpoints related to systems theory.

The systems theory consists of ecological systems (a person's interaction with the environment) as well as family systems (the family's influence on the individual) (Hutchinson & Oltedal, 2014). Individuals are in constant interaction with the changing environment and as a result, are influenced by the environment. The family and in this case the school, as a system of interacting individuals, where inter-personal relationships exist, could be viewed as an environment where members could influence the other members within the system emotionally or physically. The Department of Education plays an important role in this system and has to ensure that the relationship between learner, teacher and parent (whole school) is reinforced.

Verbal or non-verbal communication in these relationships can lead to a diversity of behaviours, from intimidation to overt violence (Stark & Flitcraft, 1996: 69) and it is highly probable that behaviour learned in this family system will be demonstrated in the school system. Within the different systems, rules create invisible boundaries necessary to provide for a stable family system. A learner's circumstances (environment) and behaviour at home, heavily influence any interactions at school and the learner's behaviour at school, influences interaction at home. Intervention should therefore take place on all levels. If the learner shows deviant behaviour at school, it is vital that the parent and community (environment) is involved, together with the school (teachers) in the intervention process. In the same way, if the learner is showing deviant behaviour at home, the parent should involve the community and the school in a process of resolution (Mwale, 2016).

Possible risk factors can be identified, in cases of antisocial and offending behaviour of learners at school. These risk factors predispose or increase the probability for future criminal behaviour in certain people. This may be due to personality factors or their circumstances (Andrews & Bonta, 2010). The factors include family, peer group and use of drugs.

#### **2.4.2.1 Family**

The role of the FAMILY is an important factor in contributing to juvenile offences (as discussed in paragraph 2.2.2). Inconsistent discipline, poor supervision or no emotional involvement from parents is a significant factor that contributes to juvenile offending (Hirschi, 1969) (Andrews & Bonta, 2010: 19). The family could be viewed as a sub-system of individuals interacting with one another and where inter-personal relationships exists. Clear boundaries that are firm but flexible, are considered as perfect for a stable family system and family members in a system of clear boundaries, support one other and cherish each other but also allow each other the freedom to be themselves (Umbarger, 1983) (Nichols, 2004). According to Hirschi (1969) juveniles displaying low self-control at a very early age and that are getting involved in crime especially if the situation allows it, could be as a result of family influences.

Individuals with low self-control are risk takers and are likely to get involved in socially unacceptable behaviour for example, as mentioned in paragraph 2.3.2, underage drinking or smoking. Such individuals could also involve themselves in socially offensive behaviour for example foul language and promiscuous behaviour. Gottfredson (1990) claims that an individual's self-control develops around the age of seven/eight and it remains relatively stable for the rest of their lives. Self-control may vary as a result of weak parenting for example poor parental supervision, no emotional involvement or inconsistent discipline. Individuals with low self-control might get involved in crime as they are risk takers (Akers, 2017).

According to Rose (1997) children with single parents are also more likely to get involved in criminal activities compared to children from two parent families. Where there is one parent (from the two) monitoring and controlling activities, it is more challenging for the child to get involved in criminal activities and therefore less likely to happen (Rose, 1997). Tompsett and Toro (2010) support this stating that the risk of children developing antisocial behaviour is significantly higher where parents are showing antisocial and criminal behaviour. Their children may model parent's behaviour. It might also be as a result of deviant parents not being able to monitor children as the parents are involved in deviant behaviour themselves (Tompsett & Toro, 2010). Therefore teenagers who are not supervised by parents successfully will have more chances to engage in antisocial behaviour. They could have a bigger chance of participating in deviant acts with peers due to the weakened development of social skills (Tompsett & Toro, 2010).

Learner's circumstances or environment and behaviour at home, heavily influences the way they interact at school and the learners' behaviour at school, influences their interaction at home (Victoria, 2017).

#### **2.4.2.2 Peer group**

The role of the peers is just as important in developing deviant behaviour. Individuals accept the behaviour of the group, as their own, in their association with their peers. This includes the internalising of values, norms, attitudes as well as techniques and motives for criminal behaviour (Tompsett & Toro, 2010).

Sutherland (Sellers, et al., 2012) (as discussed in paragraph 2.3.1) states that criminal behaviour is learned through interaction with others in his theory of differential association. As mentioned in paragraph 2.3.1, peers and others in the youth's environment influences the values, norms, attitudes as well as techniques and motives that involve them in criminal behaviour. Behaviour and especially criminal behaviour is learned through interaction with others. Individuals accept the behaviour of the group, as their own, by associating with their peers. Anderson (in Tompsett & al, 2010) states that teenagers who are not controlled by parents effectively will have more time to get involved in antisocial behaviour with peers due to weakened development of social skills. Tompsett & al (2010) are of the opinion that parental and peer influences explain much of the variance in antisocial behaviours.

Werner (Tompsett et al. 2010) states that the impact of deviant peers is possibly the strongest risk factor for adolescent antisocial behaviour. Adolescent crime is frequently committed in groups consisting of peers who exert pressure on each other (Andrews & Bonta, 2010).

#### **2.4.2.3 Use of drugs**

Lower levels of parental involvement and support contribute to higher levels of drug use (Jenson & Howard, 1999). In a study by Jenson and Howard (1999) they found that adjudicated delinquents were using drugs and alcohol more frequently compared to the youth in the general population. Drug use relates to crime levels. The National Council on Alcoholism and Drug Dependence (NCADD) (2018), released the statement that, four out of every five, children and teenager arrests, in the United States of America State juvenile justice systems, are for crimes that were committed whilst under the influence of alcohol or drugs. Individuals arrested for committing criminal offenses such as vandalism, theft and burglary, were tested positive for drugs, and admitted having substance abuse and/or addiction problems, or shared some combination of these characteristics (NCADD, 2018).

There are also external causes that might play a role in deviant behaviour according to Rossouw (2003). For example parents that are not disciplining children at home, parents expecting the school to teach children manners and proper conduct, lack of care at home, parents disrespecting authority as well as disrespecting educators,

exposure to alcohol, pornography, sexual abuse and drugs and the influence of the environment/ community (Rossouw, 2003).

The next theory of relevance to this study is that of strain and the role it plays in deviant or criminal behaviour.

### **2.4.3 Strain Theories**

“Strain theory constitutes one of the major explanations of crime and has much potential for controlling crime” (Criminal-justice-research-Centre, 2018:1). Strain theories are formulated around the rational concept, that when individuals are not treated well, they may develop negative feelings and involve themselves in criminal activities, and consequently explain why certain people are more likely to respond to “poor” treatment by getting involved with crime (Williams, 2012). It is proposed that certain strains or stressors increase the possibility of crime, such as rejection by parents, verbal or physical abuse, as well as punitive or abusive discipline (Criminal-justice-research-Centre, 2018). Individuals exposed to these strains experience negative emotions like anger, and they may turn to crime in an effort to cope. Involvement in criminal activities may be a way to reduce or escape from strains. Through committing a crime the individual might feel capable to seek revenge or relieve their negative emotions by for example the use of drugs (Criminal-justice-research-Centre, 2018). Strains may also intensify crime by decreasing social control, encouraging relationships with criminal peers and pro-criminal beliefs (Criminal-justice-research-Centre, 2018).

#### **2.4.3.1 Anomie theory**

Merton first developed the strain theory of deviance (Anomie) in the 1940's in order to try and explain the rise in crime rates in the United States of America at that stage (Thompson, 2016). According to Merton's theory, the cultural system of the United States of America could be blamed, as this cultural system was built on the so-called American dream, ensuring American individuals that all, regardless of ethnicity, gender or class, could obtain success and wealth. Nonetheless, not everyone achieves these goals. In order to explain the imbalance in society, Merton developed

the concept 'anomie' (Thompson, 2016). He reasoned that such an imbalanced society creates anomie. Anomie, denotes that there is tension or strain between the goals set and the means which generate dissatisfied objectives (Thompson, 2016). Merton claimed that when individuals are confronted with strain they have five ways in which to adapt, namely:

- Conformity; following cultural goals in a socially accepted way;
- Innovation: obtaining culturally approved goals by using socially unapproved or unconventional means for example dealing drugs in order to gain financial means;
- Ritualism: making use of the same socially approved means to achieve less elusive goals;
- Retreatism: rejecting both the cultural goals and the means to achieve it and then find a way to escape it and
- Rebellion: rejecting cultural goals and means and then replacing them. In other words, anomie in society (pressure to achieve materialistic success but then the lack of opportunity to achieve the success) is the cause of crime rather than the individual's flaws (Thompson, 2016).

Thompson states that Merton's strain theory only gives an explanation for economic crime, but it doesn't really explain violent crime (Thompson, 2016).

#### **2.4.3.2 General Strain Theory**

In his general strain theory, Robert Agnew explained that strain leads to negative emotions that might lead to different outcomes including delinquent behaviour (Seepersad, 2016). Agnew attempted to stipulate the conditions under which strain may lead to crime as follows: strains that are seen as unfair; high in scale; linked with low social control and those that create some incentive are most likely to lead to violent and delinquent behaviour (Seepersad, 2016).

The general strain theory describes that individuals suffering from strain, may develop negative emotions for example anger, resentment and depression or anxiety. These negative feelings require coping responses in order to relieve internal pressure experienced. These responses to strain may be emotional, behavioural or cognitive and only in *some* cases the response might be antisocial. However, the general strain theory's focus is on the antisocial adaptations and recognises several types of



antisocial adaptations. The types of antisocial behaviour according to the general strain theory includes: the retaliatory behaviour for example violent crimes; instrumental behaviour for example property crimes and escapist behaviour for example the use of drugs (Seepersad, 2016).

Agnew (Seepersad, 2016) stipulates that parental rejection is another strain threatening the child's needs, values and identity, which is likely to cause deviant behaviour. Parental rejection is strongly related to delinquency as it models aggressive behaviour that might be learnt by children. Over-strict discipline or supervision, leads to another type of strain, as adolescents sees it as unfair. Adolescents are especially guilty of committing crimes in order to "cope" and as a result of peer pressure (Seepersad, 2016).

Both Merton's anomie theory as well as the general strain theory of Agnew indicate several types of strain, that create pressures in need of coping behaviours (some of these behaviours might be deviant), which might have an effect on crime and youth violence (Seepersad, 2016). Crime and violent behaviour has become culturally acceptable and seen as "normal behaviour". A substantial number of South Africa's youth have learned and internalised and so replicated violent and criminal behaviour because of being consistently exposed to it, in their homes and schools (Pelser, 2008).

The following theory is applied in the study as an alternative paradigm towards dealing with deviant or criminal behaviour.

#### **2.4.4 Zehr: Retributive Model (1990)**

Zehr (2014) bases the interactive part of restorative justice on the concept of "*shalom*". Vaandering (2011) explains that "*Shalom*" can be understood as how God plans things to be between people, between people and God Himself as well as with nature.

According to Zehr & Gohar (2014) (2003), restorative justice offers an alternative framework for viewing transgressions (changing lenses). The principles of restorative justice are founded on the fact that crime is the violation of people; these violations create obligations and the main obligation is that the wrong must be made right. In his book "*Changing Lenses: a new focus for crime and Justice*", Zehr (1990) explains his

understanding of crime and retributive justice as the violation of the law where a person is under the obligation to make things right, compared to restorative justice which focuses on the violation of people and relationships and repairing the harm done, rather than just punishing the offender (Zehr, 1990). In his book entitled "*The little book of restorative justice*" Zehr (1990) submits that-

I often drew a sharp contrast between the "retributive" framework of the legal or criminal justice system and a more restorative approach to justice. More recently, however, I have come to believe that this polarization may be somewhat misleading (Zehr, 1990: 199).

Both the retributive and restorative models accept the fact that, the offender owes something and the victim deserves something. With the retributive model the infliction of pain is in the public interest compared to the restorative model where it is important that the needs and harm to the victim are addressed by the offender. Should justice take place in a positive way, then restorative justice has the potential to affirm both the offender and victim's lives and help them to change their lives (Imiera, 2018).

Zehr & Gohar (2014) (2003) posits that restorative justice has its origin in the efforts to deal with minor offences such as property crimes, for example burglary. However, today it is even used to deal with more serious and violent criminal acts including assault, rape and even murder. In South Africa, the Truth and Reconciliation Commission, was established in order to deal with acts in the past in a restorative manner (McLeod, 2015). Efforts are made to apply a restorative justice framework to circumstances where mass violence takes place. These methods and practices are also dispersed beyond the criminal justice system, to religious organisations, workplaces and even schools (Zehr & Gohar, 2014).

## 2.5 CONCLUSION

In this chapter the researcher described various theories in order to develop a restorative model to be used in South African schools. Risk factors were also studied as they become more pertinent in the different phases of development. The researcher is of the opinion that, when incorporating personality-, process- and structural theories, fused with possible risk factors included in each of them, a model can be developed and used for restorative discipline in South African schools. The role of the family and the role of the peer group plays a vital role in all of the theoretical components and with restorative discipline in mind, these are also the structures important in the restorative process. For example when intervention in the school system takes place, the family and the peer group should be involved in restoring the behaviour of the offender. The researcher will develop this model further in Chapter 6 in order to explain the processes that can be used to alter behaviour.

## **CHAPTER 3**

### **RESEARCH DESIGN AND METHODOLOGY**

#### **3.1 INTRODUCTION**

This study looks at the development of an innovation approach to managing discipline related concerns and conduct of learners, in a South African secondary school situated in Gauteng, South Africa through a MIT approach. The aim of the study is to explore, analyse, describe, and explain how disciplinary issues in schools can be managed within a restorative justice context and be extended to other schools in South Africa.

In order for any research to be completed in a successful way, it must be done according to a feasible plan, namely, the research design Leavy (2017); Gardner (2014). A discussion of the research design and methodology is done in this chapter to operationalise the subject in the present study, to explain how the goals and objectives, as set out in Chapter 1, were attained.

At the most basic level, social understanding is made up of ideas that deliver the connection to the social world. Philosophical views on reality and the role taken on by the researcher will outline the methodological inclinations used by the researcher (Bachman & Schutt, 2014).

#### **3.2 RESEARCH PARADIGMS/PHILOSOPHY OF SCIENCE**

Although there is no consensus regarding the meaning of the concept “paradigm” it can generally be described as a worldview, which is a way of thinking or a belief system to make sense of the complexities of the real world (Norrish, 2011). Paradigms or philosophical approaches are really about epistemology, ontology and the philosophy of science and are important theoretical constructs in illuminating fundamental assumptions regarding the nature of reality (Babbie & Mouton, 2016).

Kuhn who is credited with the conceptualisation of the concept, considers a paradigm to be a specific method used by a discipline in solving problems, viewing human experiences and structuring reality (Norrish, 2011).

It is therefore a worldview that refers to viewing phenomena in the world (Norrish, 2011). Haase and Meyers (in Racher & Robinson, 2002) agree and affirm that a paradigm is a worldview or a philosophy of science that contains research approaches and assumptions. Mouton (1998), who is an authority in the philosophy of social science, perceives philosophies of social science as representing different views and interpretations with regard to the interrelationships and interconnectedness of various scientific structures in the form of networks of propositions and assumptions regarding the nature of the social world (Mouton, 1998). According to Mouton (1998), the epistemic status of science relies on theoretical resources inclusive of theories, models, interpretations and research findings about the social world.

The following epistemological approaches contain interconnected principles which influenced the nature of this study, and which direct it towards a mixed method methodology (see 3.4.3 below).

### **3.2.1 Interpretivism / Phenomenology**

Interpretivism is based on the belief that reality is socially constructed (Bachman & Schutt, 2014). Babbie states that interpretivism has the goal to “understand” persons (Babbie & Mouton, 2008). In other words, interpretivism attempts to investigate social phenomena in order to understand - to interpret and comprehend daily happenings, experiences, social interactions and the importance of this phenomena to people (Rubin, 2010).

Wisker (2008) refers to three basic principles related to interpretivism:

- (1) people created the social world and has given a certain meaning to it;
- (2) the researcher forms part of the research and research is motivated by interests;
- (3) it is not possible to observe the social world in an objective manner since it has meaning for people only and it is created by people by means of premeditated behaviour and actions.

Interpretivists not only give facts but investigate and describe the meaning of the social world by using comparative analysis as an alternative for statistical analysis. The following steps are followed as part of the comparative analysis according to Gephart (in Boele-Woelki & Gephart, 2014):

- Incidents relevant to theoretical category are compared
- Categories and their properties are integrated
- Theory range is delimited
- Theory is formulated

Therefore, the interpretivist aims to understand and explain subjective realities that are meaningful to the partaker in the research (Rubin, 2010). Livesey (2006) enhances this view and is of the opinion that the social world could be understood differently in different circumstances as well as in different ways; for example, in order to understand another person's behaviour or actions you have to look at the world, through the eyes of the person involved in the specific behaviour or actions. Livesey (2006) further states that all in the social world is relative to all other, since we all have unique and individual experiences leading to different levels of understanding, points of views and opinions (Livesey, 2006).

Furthermore, a phenomenon is described as a philosophical theory, explaining the way that humans experience consciousness and focus on the individual's interpretation of their lived experiences as they themselves experience them (Mastin, 2018). Barnum (1998) elaborates that phenomenology is an epistemology and a method of research, asserting that things must be known in its entirety rather than by reduction to their individual parts. A phenomenological study aims to view the world or reality, through another person's eyes and to record the images of those experiences rather than find explanations and causes (Bernard, 2013).

### **3.2.2 Positivism**

Positivism could be seen as a scientific approach to social research, in order to investigate social phenomena and to explain the social world through methods

mirroring the natural sciences (Denscombe, 2010). Denscombe (2010) states that positivism involves a belief of the assumption that methods, procedures, trends and generalities as well as the cause-effect matters, are also applicable to social sciences.

People are seen objectively, therefore social scientists look to different ways to study the person in society (De Vos, 2005). According to this understanding, people, as the objects of the social sciences are suitable for the implementation of scientific methods. Furthermore, positivism involves an acceptance that knowledge can only be obtained through observation by the senses and this encloses the ability to measure and record, what would be seen as knowledge (Denscombe, 2010). Various explanations of positivism propose that scientific knowledge is attained by gathering verified facts. It is implied that science is deductive, as it attempts to extract specific proportions from general accounts of reality. Positivists see scientific theories as the providing of hypotheses that are submitted to empirical testing (De Vos, 2005).

### **3.2.3 Post- Positivism**

Post- Positivism developed as a result of frustrations fostered within the positivism approach and to address shortcomings perceived by scholars in the application of the traditional methods of positivism (Teddlie & Johnson, 2009). Glicken (2003) describes that post-positivism is more open to diverse methodological approaches. Post-positivism depends on numerous methods for capturing as much of reality as possible whilst stressing the importance of the detection and confirmation of theories. Traditional evaluation criteria, for instance internal validity, is emphasised as well as use of qualitative procedures, lending themselves to organised analysis (Denzin & Lincoln, 2011).

The approach of post-positivism embraces an acceptance that the natural sciences are not the only model for social research. The post-positivists pay attention to the question if a researcher can rely on the findings, or if it is possible to predict the outcomes of the study (Denzin & Lincoln, 2011). The findings and not the methods categorises the research as being scientific. Post-positivism reveals suspicions of fundamentals and foundational truths, explaining that following the correct technique,

is no guarantee for true results. There are many truths and truth is essentially dependant on language and is a socially constructed phenomenon.

Racher and Robinson (2002) argue that many of the assumptions on which a postpositive perspective is based, correspond with the general philosophy of phenomenology. For example, reality exists before our consciousness and is perceived by our consciousness. Through embodiment, the world and consciousness are inseparable. Reality can be wrongly understood and observed leading to behaviour that is acknowledged by the conscious as right or wrong, having an impact on data collected by the researcher. The researcher is not detached from the inquiry and indeed shapes the research process (Racher & Robinson, 2002).

In lieu of polarised stances, Van Manen (Racher & Robinson, 2002), postulates that in the human sciences, objectivity and subjectivity are not mutually exclusive categories. Both find their meaning and significance in the oriented (i.e., personal) relation that the researcher establishes with the “object” of his or her inquiry. Thus “objectivity” means that the researcher is oriented to the object, that which stands in front of him or her. Objectivity means that the researcher remains true to the object. “Subjectivity” means that one needs to be as perceptive, insightful, and discerning as one can be in order to show or disclose the object in its full richness and its greatest depth.

Clark (in Racher & Robinson, 2002:477) attest to the view that phenomenology as a method is applicable within a postpositive paradigm and within an interpretive paradigm. Ford-Gilboe (in Racher & Robinson, 2002:477) states - “in both postpositivist and interpretive paradigms, the use of quantitative and qualitative methods can be justified to meet the purposes of the research without violating paradigm assumptions”.

Racher and Robinson (2002:465) demonstrated through their research a “consistency” between postpositivism and phenomenology with some epistemological overlap, similarities and shared perspectives. This links to Mouton’s (1998: 16, 40) stance on “compatibilism” and a relaxed network of scientific propositions as opposed



to exclusive dogma. In the applied social sciences, a more pragmatic approach is followed.

The abovementioned paradigms were discussed to explain the various epistemological positions that influenced the nature of this research study in an eclectic fashion. None of the ontologies and epistemologies discussed link exclusively with the pluralistic context of this study.

### **3.3 RESEARCH DESIGN**

The research design outlines how the research will be conducted (Dantzker, 2012). This design is made up of the phases as well as processes that connect the research question to the data acquired. It is a step by step explanation of how the study will be conducted as an approach where various options are available to choose from, and to be used in order to achieve the goals and perspectives of the research. It also establishes the accountability of the research design (proof of scientific nature of the study) and it is vital to the success and acceptance thereof by the scientific community as well as to the outcomes of the research project.

Information about the research allows the reader to follow the methods and techniques as well as the reasons for the selection of a particular method followed by an illustration and/or application thereof. It then gives an indication of how these scientific requirements were realised within the context of the study (Dantzker, 2012).

For the purpose of the study the researcher uses an empirical study consisting of a case study approach, survey and the application of mixed method research comprising of a quantitative and qualitative dimension to gain insight into the unique experiences of the participants in order to derive deductions. The study attempts to understand how the participants view situations, their perceptions and perspectives. A study of diverse perspectives of the same situation enables a researcher to generalise on something. Within these contexts, use was made of a standardised self-appraisal questionnaire (MCAA); observing the disciplinary hearing process as an impartial observer, where after the case studies were accumulated by the researcher as data collection techniques.

### **3.4 RESEARCH METHODOLOGY**

In this section, the relevant research methods and data collection techniques are discussed at length. A sound research methodology is the crux of any study as it involves the appropriate techniques and procedures applied to investigate the research problem or question. According to Henning (2011) methodology is the way that we get to know and understand the world better, in a practical manner. Henning refers to methodology as “the coherent group of methods that complement one another and have the goodness of fit to deliver data and findings that will reflect the research question and suit the research purpose” (Henning, 2011: 36), and the way in which a researcher selects techniques in order to address a specific problem (Lehaney, 1994). Babbie and Mouton (2011), refer to methodology as the methods and tools the researcher uses to conduct and complete a research study.

The following were used within the study, namely; case study, mixed method research strategies of inquiry, triangulation research approach and procedures.

#### **3.4.1 Case Study**

A case study entails a detailed study describing a specific phenomenon (Okon & Sherill, 2014). Schell (1992) states that a case study is the most flexible of all research designs. It allows the researcher to retain the holistic characteristics of real-life events while investigating empirical events (Hancock & Algozzine, 2017). Bromley (1990: 302) defines a case study as a “systematic inquiry into an event or a set of related events which aim to describe and explain the phenomenon of interest”.

Qualitative approaches in research are designed to capture life events as explained by the research subjects (Hagan, 2017). Case studies are best suited when attempting to answer the how and why questions as well as “where”, as the investigator does not have control over events (Schell, 1992). Apart from the limitations, misapplication thereof can lead to incorrect and/or inconsistent findings. In the execution of case studies certain practical problems might arise for example access to information and

manipulation of information (Schell, 1992). The purpose of the inquiry will determine the number and type of case studies (Stake, 1995).

Kitchenham (2010) explains that mixed method investigation is highly effective for case studies as it allows the researcher to make use of the observed data generated from the case studies and to apply either qualitative or quantitative methods to the data extracting potential hidden information. In this study for example, the researcher accumulated the case studies after observing the hearing process (allowing the researcher to gain insight into the offending learner's context and explanation behind the violation). A quantitative survey was conducted using a self-appraisal questionnaire (MCAA) in order to determine risk factors that might have been an indication of future offending behaviour (observations will be discussed under qualitative dimension - please see paragraph 3.4.4.1). Kitchenham (2010) supports Schells' (1992) explanation of a case study. Case study research often explores/asks the descriptive questions of who, what, where and how. Solutions are offered by mixed method studies as they provide opportunities for significant questions to be asked, measured, analysed, and interpreted. Mixed method research allows the "gaps" in qualitative research methodologies to be filled or overlapped by quantitative methodologies and techniques and vice versa (Kitchenham, 2010). In this study 10 case studies were included (see Chapter 5).

### **3.4.2 Surveys**

A survey is a research methodology used in order to measure "relationships" by the use of a data collection tool called a questionnaire (Dennis, 2016). Information is collected, from a sample of individuals, through their replies to questions set out in a questionnaire. Obtaining data systematically from a broad spectrum of individuals through survey research is an efficient method of gaining information (Bachman & Schutt, 2015) Surveys are efficient research methods as time and cost of data collection does not increase substantially whilst measuring many variables. Surveys are also a popular method for research as a survey is versatile and respondents can be questioned about almost any topic imagined (Bachman & Schutt, 2014). Questionnaires will be discussed under quantitative dimension (please see paragraph 3.4.4.2).

### **3.4.3 Mixed Method Research**

Combining methods offer the best of both quantitative and qualitative research possibilities. Bryman pointed out that each represents a different philosophical, ideological and epistemological assumptions, rather than simply data gathering techniques (Bryman, 2012).

Mixed method research study is an approach in which qualitative and quantitative techniques and data are combined; or mixed in studies (Christensen, et al., 2015), 2015). Mixed method studies are an attractive approach to research as they could be used to strengthen both qualitative and quantitative research. This approach is known as a compatibility study as qualitative and quantitative data collection are complementary to one another, such as observations, interviews and other ways of collecting data (Morse & Niehaus, 2009) and can be used successfully in a single research study (Tashakkori & Teddlie, 1998). Kitchenham (2010) explains that mixed method research allows “gaps” in qualitative research methodologies to be filled or overlapped by quantitative methodologies and techniques and vice versa (Kitchenham, 2010).

Mixed method research is subject to the same consideration and constraints as any other research (Bryman, 2012). He states that mixed method research must be executed in the same manner as mono-method research. Both methods must be competently designed and conducted; must be appropriate to the research question; “it is best to be explicit about why you have conducted mixed method research and try not to think of mixed method research as made up of separate components” (Bryman, 2012:649) . Mixed method research helps to answer questions that quantitative or qualitative research cannot answer by itself (Bryman, 2012).

#### **3.4.3.1 Definition of mixed method research**

Creswell defines mixed method research as a research design where philosophical assumptions and methods of inquiry are incorporated (Creswell & Plano Clark, 2017),

where quantitative and qualitative techniques, methods and concepts are combined (Vosloo, 2014).

### **3.4.3.2 Rationale and purpose**

The goal of mixed method research is to optimise the strengths of these approaches and to minimise possible weaknesses. The reasoning behind mixed method is the aspiration to get “the whole story” (Vosloo, 2014). One of the advantages of mixed method studies is that it enables triangulation to take place (Vosloo, 2014). This is in line with Scott and Morrison’s (in Vosloo, 2014), beliefs of mixed method research, namely that triangulation is enhanced by a combination of methods; both outsider and insider perspectives are facilitated by a combination and that the research is so improved.

The researcher’s reasoning behind a mixed method research design for this research was to:

- Get a better understanding of the context in which the offender committed the offence and therefore get a clearer picture of possible risk behaviour at an early age;
- Improving research by facilitating both outsider and insider perspectives. The researcher takes on an outsider role in the quantitative strand of the study and the researcher takes on an insider role in the qualitative strand of the study and conglomerates results in order to improve the research.

### **3.4.4 Strategies Of Inquiry**

In this instance, strategies of inquiry refer to the qualitative and quantitative strategies that are applied within the context of mixed method research (Bryman, 2012). Bryman (2012) states that mixed method research must not be seen as “made up” from different components. It is best to consider how quantitative and qualitative research are related and able to extend and amplify quantitative findings (Bryman, 2012).



### **3.4.4.1 Qualitative dimension**

Qualitative research, is the enquiry process that explores and allows us to understand a human problem, by gathering data in a natural setting (Creswell, 1998). The researcher can report the views of the participants using this process. From the latter, the researcher will attempt to understand the meaning of disciplinary experiences of the learners.

Qualitative research allows the researcher to investigate people's behavior, attitudes and motives (Davies & Francis, 2011).

In qualitative research, the step of data collection is not always sequential to or separate from that of data analysis/interpretation. Rather, the data collection process is often intertwined and interactive with data analysis and interpretation. In other words, these activities often take place concurrently or inform each other in a web-like fashion (Chang, 2015: 207-221).

Willis explains that qualitative research is studies using words rather than numbers (Willis, 2008). The following data collection and sampling techniques were applied within the context of the qualitative dimension.

#### **(1) Participant observation**

The researcher attended the disciplinary hearings held at the school as an observer, in order to get a clearer understanding of the process and for background information. The information recorded during the hearings provided the researcher with an understanding of the context in which the learner got involved in the offence. Data recorded by the researcher was kept in the individual's file as per stated in a confidentiality clause.

Participant observation as a method of data collection for qualitative studies, in the field of education, has increased over recent years according to Kawulich (2005). Marshall and Rossman (in Kawulich, 2005) describe observation as a

systematic description of behaviour and events. Through the process of observation the researcher is equipped to be able to learn about people's activities in their natural environment and have an understanding of the reasons behind their behaviour and actions (Kawulich, 2005). Observation as a method of data collection is valuable as the researcher has the opportunity to perceive nonverbal expressions as well as grasp how participants communicate with one another (Kawulich, 2005). According to Kawulich (2005) the validity of the research is stronger when observation and for example questionnaires are used but notes that the degree of involvement from the researcher in the study, makes a difference in the quality and amount of data that the researcher will be able to collect. Gold (in Kawulich, 2005) describes four observer stances as follows:

- 1: The complete participant (at the one extreme) – the researcher functions as a group member and keeps the role of researcher a secret so that there are no disruption in the activities. Disadvantages are the fact that this is ethically incorrect, the group members might feel deceived and not trust the researcher when the facts are revealed and the researcher may lack objectivity.
2. The researcher is a member and the group is aware of the fact that research is done- the researcher participates but focuses on observing. Disadvantages are the level of confidentiality provided to the group and the fact that data provided to the researcher could be purposefully wrongly revealed.
3. The researcher is a participant whose main role is that of data collection and the group is fully aware of the activities- the researcher participates as observer only in order to gain a better understanding of the group activities. This allows the researcher to interact closely with all members and being able to establish an insider's identity but without physically participating in the activities.
4. The complete observer (opposite extreme)- the researcher is completely hidden from the group's view while observing or if in a public setting, then the public is completely unaware that they are being observed.

According to Kawulich (2005) the stance that provides the most ethical approach to observation, is where the researcher as observer, participates and

the group is aware of it, but the focus is on the collection of data. It is also important to preserve the participant's anonymity as part of the researcher's ethical responsibility.

For the purpose of this study the researcher participated as a participant, whose main role was that of data collection. The researcher participated as observer only. Data was collected while the researcher attended the disciplinary hearings as an observer. The researcher had the opportunity to interact closely with all members of the process and was able to establish an insider's identity, without physically participating in the activities. Information recorded during the hearings as well as all personal details regarding participants were kept as per stated in a confidentiality clause and the group was fully aware of the researcher's activities

## (2) Study population and sampling for the qualitative dimension of the study

A study population is the combination of components from which the sample is actually selected. In this case the learner population of the particular school. Sampling denotes to the collection of a subgroup of persons from a larger population (Scott & Morrison, 2007). Sampling is a process where individuals, within a larger population are selected, with the purpose of investigating the features of the larger population in detail (Coombes, 2001). Sampling refers to a chosen group within the target population (Dantzker, 2012).

In this study the researcher made use of a purposeful sampling technique. Purposeful sampling is where people are deliberately selected because of their "suitability in advancing the purpose of the research" (Rule, 2011:64). Purposeful sampling involves hand selecting the participants based on exact characteristics in order to develop a sample that is large enough yet possesses the required traits (Black, 1999).

For the current research, the researcher chose learners, which appeared in front of the SGB because of offences committed, as the study population for the qualitative phase of the proposed research. More serious cases of



delinquent behaviour are dealt with by means of a discipline team. Learners involved in misconduct are dealt with at disciplinary hearings (in cases of criminal offences or if the behaviour is deemed to be serious delinquent/anti-social behaviour). The School Governing Body (consisting of parents) makes a decision after the hearing regarding how to deal with the offending learner. In many cases learners will be placed on academic suspension. This means that learners still have to come to school but are withdrawn from class. Learners are also required to do a certain amount of community service.

Ten learners, between the ages of 13-19 years old, who had been through the process of a hearing, were selected for the case study process. These participants, in spite of disciplinary action, showed no change in behaviour. First time offenders who committed serious offences; for example alcohol use, in-sub ordinance, bullying, and violence, among others were included in this purposeful sample. Support and approval for the learner to participate in the study was gained from both the Governing Body and the parent. Part of the process was for the research participant to undergo the programme based upon the Restorative Justice model emanating from the study.

### (3) Data analysis

Tabb (2004) explains that the analysis of qualitative data is a process where there is movement from the collected "raw" data of the research study to the interpretation of the phenomena or people which we are studying, understanding of it and providing explanations around it. The aim of qualitative data analysis is to clarify how persons interpret their world or the situation they are in; why is it that they have that view on their world or situation; how they cope in their world and how they relate to other people in their world (Tabb, 2004). Bernard (2013) supports this statement and describes qualitative data analysis as the collection of data in order to provide an explanation, understanding and interpretation of the people or the situations we are studying. The aim of data analysis is to understand the constitutive components of gathered data, by concluding an inspection of the relationship between variables, constructs or concepts and to determine if there are patterns or

trends that can be recognised or isolated. Data that is not analysed is purely a collection of information.

#### (4) Trustworthiness of the data

Trustworthiness is an important concept in qualitative research because the researcher is able to define the qualities (components) of qualitative research for example, credibility, transferability, dependability and confirmability (De Vault, 2017). Validity and reliability when conducting research are equally important within qualitative and quantitative methods but they will probably have to be treated differently in order to ensure authenticity of the findings (Bush & Bell, 2002).

Merriam (2002) claims that reliability is problematic when conducting research in social sciences as human behaviour is never constant or stable (Merriam, 2002). In order to ensure credibility of the study, the researcher must select the most appropriate method of data collection. Unstructured data collection is used in most of the studies where content analysis is used (observations, interviews, written documents or combined methods). Smit (2011) is of the opinion that a credible study is where the researcher managed to accurately describe the phenomenon in question.

Triangulation where two or more methods are used to collect data to study human behaviour, is the first strategy used to warrant the credibility of a research study (Silverman, 2011).

#### **3.4.4.2 Quantitative dimension**

Quantitative research entails obtaining and evaluating data in an objective manner. This data consists of numbers and a typical method is the use of a designed questionnaire. The quantitative section of any research deals with statistical analysis of numerical data to provide quantitative information (Thietart, 2007). Quantitative research is conducted in terms of a statistical protocol and objectivity is one of the main principles thereof (Streubert & Carpenter, 2007). This approach is a structured

approach because all the elements of the research process are predetermined (Kumar, 2005).

### (1) Questionnaires as a data collection instrument

Questionnaires are tools that contain recorded questions used to collect data during research. No interviewers have to be present and the respondents can fill it in directly (Monette, Sullivan & De Jong, 2011). There are however certain disadvantages to questionnaires, one being that accuracy and variability can be lost because of the spread of responses. Scales are often used in questionnaires in order to ensure the accurate assessment thereof. For the purpose of this study's quantitative dimension, the Measures of Criminal Activities and Attitudes (MCAA) self-appraisal questionnaire/scale, developed by Mills and Kroner (2001) was applied. The MCAA is discussed in detail in Chapter 4.

### (2) Study Population/sampling

All available grade 9, 10 and 11 learners in the particular school where the research was conducted were invited to voluntarily and confidentially complete the Measures of Criminal Activities and Attitudes scale (MCAA). The questionnaires were handed to participants after consent from learners and parents were received. The researcher explained the process to the participants and was available in case of any queries. A total of 353 learners voluntarily completed the questionnaire successfully.

### (3) Data analysis

Analysing data in a quantitative manner entails changing raw data (numbers) into meaningful data through the application of critical, rational, thinking. Methods for example surveys and experiments recording variation in social life, are examples of quantitative methods of research. Schutt (2006) states that data that are treated as quantitative, are either numbers or attributes that can be arranged according to scale (Schutt, 2006). This means that quantitative

research aims to be a more objective and fair analysis, based on numerical findings (Dantzker & Hunter, 2006).

#### (4) Reliability and validity

Before attempting any research it is vital that the researcher ensures that the measurement procedures as well as instruments used for testing, are valid as well as reliable in order to produce appropriate data Fouche (2011). Maxfield (2011) state that research is valid if it measures what it claims to measure (Maxfield & Babbie, 2011).

Reliability is evident when the results are consistent. In other words, when specific measurement methods provide the same results every time they are used (Maxfield & Babbie, 2011). In other words, if another person were to replicate the research, using the same materials in order to find solutions to the same question or issue, would he reach the same conclusions? This assumes that the phenomenon captured in the data is stable (Babbie, 2016).

#### 3.4.5 Triangulation

Triangulation can be defined as a method that is used in qualitative research in order to cross check more than one data source and to make use of various procedures to evaluate the extent to which all evidence comes together. In a triangular design direct comparisons are made of both types of data (Suter, 2014).

In order to give a clearer and more comprehensive picture of the research problem, using multiple methods can help to facilitate a more in depth understanding. Triangulation is sometimes seen as a method to corroborate findings and is sometimes used as a test for validity (Sunday & Van Wyk, n.d.).

Four types of triangulation exist namely

1. **Theory/perspective triangulation** where multiple theoretical perspectives are used to examine and interpret the data.
2. **Triangulation of sources** where the consistency of different data sources are examined from within the same method.

3. **Analyst triangulation** where multiple analysts are used to review findings or multiple observers and analysts are involved. The goal is not to seek consensus, but to understand multiple ways of seeing the data
4. **Methods triangulation** where the consistency of findings generated by different data collection methods are checked. It is common to have both qualitative and quantitative data in a study (*cf.* Chapters 4 and 5).

### 3.5 ETHICAL CONSIDERATIONS

The researcher made sure that clear ethical principles guided her constantly during the research. Educational research entails research involving human beings, therefore it is imperative that ethical and legal responsibilities are understood when educational research is conducted (McMillan & Schumacher, 2010). The concept ethics can be understood as the correct behaviours and procedures that are necessary for the researcher to conduct research. Ethics in research entails what is right and what is wrong. Ethics delivers criteria by which the researcher can perceive their own work and relates to the trustworthiness, honesty and integrity of professional colleagues during the study (Leedy & Ormrod, 2010).

South Africa has number of different cultures therefore is it important that researchers are aware of the differences between the different cultural groups. Strydom in (Fouche, et al., 2011) states that cultural customs of communities must be respected. The school where data was collected has learners with various cultural and religious beliefs, as well as different home languages. The researcher will ensure that no learners' belief systems will be impinged upon and because the language of learning in the school is "English" and the restorative process takes place in English, it was important that the researcher gained the trust and cooperation of the participants whilst ensuring that their well-being is protected as individuals with communication barriers (English not being the first language or language of choice in some cases) who are involved in crime, are part of a vulnerable population (Creswell & Plano Clark, 2017).

The researcher remained honest and transparent, to ensure the trust of the participants and so gained as much information as possible. Ethical research can best be achieved by gaining informed consent, encouraging voluntary participation,

assuring confidentiality, anonymity and privacy, showing respect to all participants, and ensuring that no physical harm and distress comes to the participants.

It is vital that the participants who choose to participate in the study, are empowered in order to fulfil a collaborative role in the study (McMillan & Schumacher, 2010). Research was done with the informed consent of the learner as well as the parent and that inclusion in the study was voluntary. The research adhered to the following ethical principles:

### **3.5.1 Informed Consent**

Participants were contacted privately and asked to sign a letter of consent. An outline of the aims of the study, the nature of involvement of the participants in the study and how the data will be used was send to the parent in an information letter. Participants were informed what was to expect from them; they were informed of the nature and purpose of the research study and what their participation would entail. The participants were informed that there was no right or wrong answer to the questions. Consent was obtained from all participants before they commerce with the questionnaire.

The participants received the following documentation:

1. An information sheet **(ANNEXURE C)**
2. Child assent form **(ANNEXURE D)**
3. A parent/guardian consent form **(ANNEXURE E)**

### **3.5.2 Confidentiality**

Participants that were included in the study were assured of confidentiality and no personal identification information is to be included in the process of reporting the data (McMillan & Schumacher, 2010). Participants were assured that only the researcher and supervisor have access to the raw data as the supervisor will have to review data before being released (Creswell & Plano Clark, 2017). All data is stored on the researcher's hard drive. The results will be presented in an anonymous manner in doctoral thesis.

### **3.5.3 Protection from Harm**

No participant should be exposed to physical or psychological harm and the researcher must ensure that discussions are open, caring and fair in order to eliminate feelings of humiliation (McMillan & Schumacher, 2010). The researcher has taken the necessary steps in ensuring that all ethical issues are adhered to. Due to the sensitive nature of the study and the age of the participants, all efforts to ensure no harm to the participants in any way have been made.

### **3.5.4 Misinterpretation and Misuse of Results**

The researcher interpreted results and the results are communicated in such a way that potential misunderstanding and misuse is minimised.

### **3.5.5 UNISA Clearance and Gauteng Department of Education Approval**

Ethical clearance was obtained from UNISA. The researcher adhered to the UNISA Research Policy, UNISA Research Ethics Policy and UNISA Intellectual Property Policy. Ethical approval and ethical clearance from the College Research Ethics Review Committee was obtained as per the UNISA Research Ethics Policy. See annexure A.

Ethical approval and ethical clearance was obtained from the Gauteng Department of Education and the selected school. See annexure B.

## **3.6 CONCLUSION**

In this chapter a layout of the relevant principles underlying the research design to be utilised, were recorded. These principles are serving as the bases for Chapters 4 and 5 to follow, thereby facilitating the accomplishment of the aim and objectives of this study.



## CHAPTER 4

### IDENTIFYING LEARNERS AT RISK OF OFFENDING BEHAVIOUR

#### 4.1 INTRODUCTION

Two of the objectives of this study, is an exploration of risk factors that may play a role in the management of discipline related concerns and conduct, as well as potential offending behaviour of learners that can be identified and mediated at an early stage. This will facilitate a change of behaviour of the offending learner, allow for peer, and school involvement of a restorative nature in the process. This chapter will deal specifically with the following research objectives:

- To discuss the factors that are associated with an increased risk of the violation of classroom and school norms and offending behaviour.
- To demonstrate how learners at risk can be identified for intervention and counselling before they engage in offending behaviour.

#### 4.2 IDENTIFYING RISK FACTORS

The identification of risk factors that are precipitating the disruptive behaviour of learners “who’s circumstances, lifestyle and/or behaviour put them at risk of offending in future”, is of vital importance (Marais & Meier, 2010: 45). Childs and Ray (2017) emphasise that young persons who engage in a specific form of risk behaviour during adolescence are susceptible to the co-occurrence of other forms of risky behaviour and that the tendency to participate in any form of risk behaviour forms part of a bigger and general problem (Childs & Ray, 2017). It is only logical that multiple risk factors that coexist, enhance the probability of disruptive behaviour of the young person at risk.

The significance of antisocial attitudes among young persons has been emphasised since the 1930’s as an important variable in the prediction of antisocial behaviour (Mills, 2004) (Mills, 2002). As indicated in Chapter 2, *supra*, peers and others in the environment shape (teaches) values, norms, attitudes as well as techniques and motives for criminal behaviour. As Mills (2004: 135) emphasises, one distinct advantage of antisocial attitudes “as measured by self-report rather than the proxy of



prior antisocial behaviour” is that as a dynamic risk or need factor, it has the potential for change and might be used as a measure of intervention.

#### **4.2.1 Dynamic risk factors**

As alluded to in Chapter 1 (see 1.2.2), dynamic risk factors or criminogenic needs could be a lack of respect for authority, disruptive anti-social behaviour, antisocial friends, pro-criminal attitudes and values that are interrelated with offending behaviour, but are amenable to change (Andrews & Bonta, 2010) (Bonta, 1999).

Andrews and Bonta (2010) assert the best validated risk and/or need factors as the following:

- history of antisocial behaviour
- antisocial personality pattern, inclusive of impulsive and aggressive behaviour as well as a disregard for others
- antisocial cognition such as attitudes, values, beliefs, rationalisations, resentment, defiance
- antisocial associates.

With the aid of restorative justice practices, these dynamic risk factors can be addressed through intervention that will bring about change without only focusing on punitive measures. The restoration of the offender can be facilitated by assisting him/her to deal with the issues that led to the violation of interpersonal relationships through dialogue and cognitive therapy. The restorative justice context provides a situation conducive to the delivery of human service and facilitates an understanding of the impact of a crime on society; thereby challenging offenders’ rationalisations regarding crime and acceptance of responsibility therefore (also see 4.2.2 below).

According to Barton (2003) moral re-engagement plays an important role in restorative justice conferences where the person at risk or offender relies on “moral disengagement” mechanisms to rationalise offensive, antisocial and/or pro-criminal attitudes and behaviour. It is Barton’s (2003) view that moral disengagement mechanisms are and can be used to explain and predict the “transformative power” of efficient restorative justice encounters.

In the context of such meetings, where affected people tell the offender face to face about the disruption and the harm their actions caused, internal mechanisms of disengagement are seriously challenged and, in most cases they are successfully reversed (Barton, 2003: 4).

Barton (2003: 6) emphasises that “The development of moral maturity in terms of character, moral awareness, sensitivity and perception, and good moral judgement is a gradual and complex process” and of which “morally formative experiences” form a crucial part of Barton (2003), therefore, argues that restorative justice conferences are particularly effective in aiding the moral development of the participants. When co-learners participate in the restorative process they may act as an informal social support system “providing concrete assistance in acquiring pro-social behaviours and thus motivate the offender to change” (Andrews & Bonta, 2010: 457). Offenders need to make a cognitive shift to accept the view that their deviant lifestyle is undesirable and in the process they adopt a different self-image and adjust their lives accordingly (Loeber & Farrington, 2012).

Restorative dialogue and interactions within classroom circles (see Chapter 6.2) contribute to community building and remedy situations when “the integrity of the community is challenged by harmful behaviours” (Clifford & SineAnno, n.d.: 2). Antisocial sentiments (“surface behaviours”) (Marais & Meier, 2010: 43) can be addressed in the format of classroom dialogues (circles) where their peers can convince them why specific antisocial behaviour is unacceptable in such a way that everyone’s dignity is preserved and peaceful coexistence through respectful relationships remain the focus (Drewery, 2007). As Barton (2003: 2) puts it, critical decisions regarding justice, prevention, and welfare, “are best made by the principal parties themselves, preferably in dialogue with one another in the presence of their respective communities”. Serious disruptive behaviour such as physical violence would be dealt with formally, where parties to restorative conversations and other restorative practices would have a “significant emotional connection with a victim or offender, such as parents, friends or co-learners, and teachers who are directly affected and who constitute the victims’ and offenders’ communities of care” (Drewery, 2007: 203). Individual MCAA results (see 4.3) can be used to address specific perceptions and attitudes and to challenge rationalisations or “moral disengagement” mechanisms in this process (Barton, 2003: 4).

#### 4.2.2 The significance of antisocial thinking patterns and attitudes

Research has confirmed that thinking patterns and social attitudes (see 4.2.1) are important variables precipitating antisocial and offending behaviour (*cf.* Clark, 2011; Mandracchia, 2007; Morgan, 2015) and that a positive association exists between a person's "internalization of antisocial cognitions" and the severity of his or her criminal conduct (Whited, 2017) (Mandracchia, 2007: 501). (Also see Morgan, 2015). Furthermore, the influence of antisocial associates as part of a social network emerge consistently in criminological literature as one of the most significant predictors of offending behaviour, which increases with age (Andrews & Bonta, 2010).

Gendreau, Little, Goggin and Law (Mills, 2002: 241) therefore, concluded that

... the best recidivism predictor domains in order of mean correlation values were adult criminal history, companions, criminogenic needs (includes antisocial attitudes), and antisocial personality. In addition to community criminal behaviour, antisocial attitudes were found to be among the strongest of 16 domains in the prediction of prison misconduct.

The importance of antisocial attitudes and antisocial associates on offending behaviour is also fused on a theoretical as well as empirical level. Several researchers like Andrews, Kandel, Bagozzi and Burnkrant (Mills, 2002) confirmed the significance of peer influence and norms of the peer group towards antisocial behaviour. It is their belief that there is ample theoretical and empirical evidence to support the central importance of attitudes and associates in the prediction of behaviour (Mills, 2002). In their comparison of elements of the general strain theory, social control theory and social learning theory, Agnew and White reiterated the fact that relationships with others are a central theorem within each of the theories (Mills, 2002).

Youths with antisocial attitudes and behaviour are attracted to each other through self-selection and as a result of a lack of self-control. Interpersonal social support serves to increase the probability of offending behaviour through mutual attitudes in favour thereof. McGloin and O'Neil (in Andrews & Bonta 2010: 231) concluded that –

Self-control and antisocial peer associations were criminogenic in their own right and that a combination of poor self-control and associations with antisocial associates functioned as a unique contributory factor to crime.

Clark (2010) confirms that beliefs, attitudes and values affect the way people think and how they perceive social phenomena. Clark (2010: 87) reiterates that attitudes may “distort the way a person views reality, interacts with other people and experiences everyday life”. Perceptions and attitudes are therefore of paramount importance in the prediction of human behaviour. Not only are antisocial attitudes therefore theoretically significant, they are predictive of antisocial and criminal behaviour (Andrews & Bonta, 2010). Factors that should be identified for intervention are “antisocial cognitions, specifically, criminal thinking (i.e., a generally irresponsible way of thinking that promotes a criminal lifestyle) and antisocial attitudes (i.e., beliefs that are supportive of rule-breaking or offending behaviours” see 4.2.1) (Morgan, 2015: 1046). Antisocial attitudes are therefore thoughts, feelings and beliefs that support antisocial behaviour and criminal conduct (Andrews & Bonta, 2010). Whited (2017) defines criminogenic thinking as “thought content and process conducive to the initiation and maintenance of habitual law-breaking behaviour” (Whited, 2017: 492).

Mandracchia (in Whited, 2017) identifies the three primary characteristics of criminogenic thinking to be:

- Control (one’s need for power over oneself, others, and the environment).
- Cognitive immaturity (overly simplistic and ineffective ways of thinking and understanding the world, and having a self-pitying attitude).
- Egocentricity (an overemphasis of one’s importance and a sense of entitlement).

In an analysis conducted by Gendreau and colleagues, antisocial associates and attitudes emerged as amongst the strongest four predictors of adult criminal behaviour and recidivism (Andrews & Bonta, 2010; Visu-Petra, 2008). These results were confirmed by Simourd and Andrews (Walters, 2006) in terms of juvenile delinquency. Researchers such as Zhang, Menard and Huizinga and Engels also support these findings (*cf.* Walters, 2006). In more recent research, Boduszek (2014) confirms a robust relationship between associations with criminal friends and criminal behaviour.

Andrews and Bonta (2010) suggest the following classification of antisocial attitudes:

- Techniques of neutralisation (neutralisations, rationalisations and excuses)
- Identification of criminal others (favourable evaluations of criminal behaviour and criminal others leading to a criminal identity)
- Rejection of convention (demeaning of the significance of education, work and the authority, especially the criminal justice system).

Mills (2002: 242) reiterates that rationalisations or “excuses” are commonly used by people in excusing unfitting behaviour and typically “involve the use of external attributions as explanations for behaviour”. Rationalisation of criminal behaviour is therefore not an uncommon phenomenon. Moral evaluations of crime are fundamental to Sykes and Matza’s neutralization theory (Mills, 2002:243), where they submit that delinquents use techniques of neutralisation to “temporarily inhibit conventional morality” through techniques such as “denial of responsibility, denial of injury, denial of the victim, condemning the condemners, and appealing to higher loyalties.

Offenders also apply justification as “a more forceful defence of behaviour in that it changes the wrongfulness or antisocial nature of the behaviour into appropriate behaviour” (Mills, 2002: 243). Mills views, “the distinction ... between rationalisation and justification is conceptualised as differences in moral tone” (Mills, 2002: 242). Mills explains that if someone rationalises their criminal or antisocial behaviour, they are employing a related defence mechanism which often involves external attributions to neutralise individual accountability (Mills, 2002: 243). When someone justifies their behaviour, they are stressing the “correctness of their actions” and their strong identification with the correctness of their behaviour. This action is taking place through the “moral evaluation of crime” in terms of the preponderance of definitions favourable to crime and criminal associations. These precipitating criminal definitions and criminal associations enhance the collective approval of offending behaviour and are associated with engagement in criminal behaviour (Mills, 2002).

Whited (2017: 502) confirmed “that external influences, such as those from criminal associates, can contribute to those internal processes (i.e., criminal thinking)” to manifest in dysfunctional and offending behaviour.

The abovementioned served as the rationale to Mills and Kroner in the development of the Measures of Criminal Attitudes and Associates Instrument (*cf.* Mills & Kroner, 2001), with the objective “to develop scales that tapped dimensions of practical and theoretical relevance to criminal behaviour” (Mills , 2002: 241).

### **4.3 MEASURES OF CRIMINAL ACTIVITIES AND ATTITUDES (MCAA)**

Mills and Kroner (2001) developed the Measures of Criminal Activities and Attitudes scale (MCAA) as a means to provide measures of antisocial attitudes and associates that are significant to criminal and antisocial behaviour. Research results suggest that an antisocial attitude towards a particular social norm could result in a general antisocial attitude (Mills & Kroner 2001). This is significant in terms of intervention strategies since antisocial attitudes and associates represent dynamic criminogenic risk factors (see 4.2.1), which can be responsive to change (Morgan, 2015); (Rodrigues, 2016).

The MCAA is a two-part instrument. Part A is a self-report measure that quantifies the number of criminal associates a person reports to have. Part B, which was used for the purposes of this study, is a 46-item measure of attitudes that is composed of four scales: Violence (12 items), Entitlement (12 items), Antisocial Intent (12 items), and Associates (10 items) (Mills, 2002: 245).

The following considerations directed and informed Mills and Kroner (2001) (also see Mills, 2002) during the development of the MCAA.

#### **4.3.1 Violence**

Persons scoring high in the violence scale indicates a tolerance toward violence and attitudes that are supportive of violence. Research by Caprara, Cinanni, and Mazzotti (Mills, 2002: 242) established that “tolerance toward violence has been more strongly associated with postdictive involvement in violence than any socioeconomic variable.”

Postdictive or retrospective involvement is described by (Bear & Bloom, 2016, p. 914) as follows-

[P]eople are powerfully influenced by the situations in which they find themselves that they confabulate reasons for why they perform certain actions and that they even sometimes fail to notice what choices they made mere seconds in the past... This proposal is rooted in research suggesting that people become conscious of an event a short time after it actually occurs; hence, their conscious experience of an event can be influenced by experiences that seem to follow that event in time, but have already been processed unconsciously.

The perceptions of these individuals are indicative of a willingness to use violence to obtain a desired goal and they see violence as a common method of social interaction. In their view, self-report measures of attitudes toward violence and aggression are associated with the self-report of violent behaviour (Mills, 2002: 242). It is the objective of this scale to identify persons who are high at risk of committing interpersonal violence.

#### **4.3.2 Entitlement**

It is maintained that a sense of entitlement frequently is the reason why offenders engage in antisocial behaviour, and can be considered as a criminal "thinking style". Prior research indicated that entitlement was "one of two cognitions most highly correlated with age of first arrest and age of first incarceration" (Mills, 2002: 242). A prominent cognitive distortion is male sexual entitlement, but is also "generally more strongly correlated with the other thinking styles, suggesting a broad relationship with many criminal cognitions" (Mills, 2002: 242). High scores on the entitlement scale measure attitudes of persons who believe that they have a right to take whatever they want, for purposes of their own egocentric desires. Their perception of what others usually deserve is harsher than the perception of the typical individual. Walters and White (Mills, 2002, 242) consider entitlement to be a criminal thinking style, and view entitlement as the cognition that "tells them they have a right to take whatever they want from whoever has what they desire."

### **4.3.3 Antisocial intent**

Mills (2002: 242) describes this particular scale as “future oriented or express an intention which is consistent with theory and research in the attitudes literature showing behavioural intention to be a better predictor of future behaviour than attitudes in general” (Mills, 2002: 242). The antisocial intent scale measures perceptions of what future behaviour a person may engage in, including potential antisocial actions (Mills, 2002).

### **4.3.4 Associates**

Mills (2002, 242) emphasise that a person’s attitudes toward “criminal others” measure a unique aspect of criminal associations.

Measuring the level of identification and acceptance of criminal associates (attitudes) is viewed as important in reflecting the influence that criminal associates may have on the individual. This domain of attitudes has been shown to be relevant to recidivism and offence-based criteria (Mills 2002, 242).

High scores on the associates scale are interpreted as the endorsement of items that indicate an association with others who are involved in criminal activities, behaviours suggesting attitudes that are favourable to developing antisocial friendships.

The three scales of violence, entitlement, and antisocial intent measure dispositions toward events, whereas the associates scale primarily measures dispositions toward persons (Mills, 2002: 241).

Rationalisation of criminal conduct can be indicative of antisocial behaviour and offenders often attempt to justify their offending behaviour. Agnew (Mills, 2002: 243) observed that the differential association theory –

accounted for the moral evaluation of crime by the greater presence of definitions favourable to crime offered through criminal associations ...



suggested that measuring moral evaluation would include determining the level of approval of a criminal act, which has been shown to be associated with engaging in the criminal behaviour.

It was therefore, considered important to measure the degree of “moral pressure exerted by individuals’ beliefs”. In Agnew’s words (Mills, 2002: 243) “for example do individuals believe that violence is a required and approved response to certain types of insult, or do they simply view violence as an excusable response to insult”?

The scales of violence and entitlement were constructed to measure differences in moral tone. The distinction between rationalisation and justification, as already indicated, emerge as differences in moral tone. The violence and entitlement scales allow for the same content area to be examined for degree of moral tone as a result of justification or rationalisation (*cf.* Mills, 2002: 242). The MCAA (part B) is believed to make a unique contribution to the measurement of attitudes and associates through the use of rationalisation and justification item couplets and through a self-reported and quantifiable method (Mills & Kroner, 2001).

The MCAA has been developed with due consideration of reliability and validity prerequisites-

The MCAA has been shown to be a valid and reliable measure of antisocial attitudes and associates. Convergent validity was demonstrated through strong correlations with other measures of antisocial attitudes and discriminant validity was shown in the MCAA’s relationship with measures of anger, anxiety and depression. Factor analysis supported the four-scale structure of Part B of the MCAA and predictive validity was evident in a follow-up of post-release performance. During test development, items of the MCAA Part B were chosen in part to minimize the relationship of the scale to social desirability measures performance (Mills, 2004: 138).

Furthermore, the reliability and construct validity of the MCAA has already been confirmed by the research of Mills, (2002); Bäckström and Bjöklund (2008); Rodrigues (2016) and Whited (2017). In this particular instance the Cronbach alpha coefficient measured .904 out of a maximum statistic of 1.00. Validity is a judgment of the

theoretical soundness of an instrument and determined by multiple, independent sources of information. Evidence of the test validity of the MCAA is found in the research results of Bäckström & Bjöklund (2008), Mills et al. (2002), and Mills, Kroner, and Hemmati, (2004). The work of Myers, Brown, Greiner, and Skilling, (2012) as well as O'Hagan, Brown, Jones, and Skilling, (2018), applied the MCAA to samples of young persons of both sexes with valid results.

The following exposition describes and explains the explorative application of the MCAA in the current study. The objective is to explore the application potential of the MCAA in school context to proactively identify learners with antisocial attitudes and associates for intervention through means of restorative justice practices such as restorative classroom dialogues or conferences. This study is the first to apply the MCAA to high school learners.

#### **4.4 APPLICATION OF THE MCAA**

##### **4.4.1 Participants and procedure**

To measure the proposed constructs of the MCAA, 353 high school learners attending a secondary (high) school in the Gauteng province of South Africa, were selected by means of a non-random sampling technique (see 3.4.4.2). Although Gauteng is geographically the smallest province in South Africa, it is the economic hub of South Africa and the most populated and diverse in terms of demographical variables such as race, age, class, variety of cultures and beliefs.

Permission for the study was granted by the Department of Education and the headmaster of a secondary (high) school in the Gauteng province of South Africa. The research participants, learners attending a secondary (high) school in the Gauteng province of South Africa, were invited to take part in the study. Participants were made aware of their individual right to choose to participate in the study and were guaranteed anonymity. All ethical considerations were observed (see Chapter 3.5).

A total of 353 learners agreed to participate. Male learners comprised of 43.6 percent (n=154) of the sample as opposed to 56.4% (n=199) female participants. Table 1 reflects the gender and age distribution of the research participants who were

reasonably equally represented in each age category. The mean age measured 15.0 years (SD=1.1) and statistical variance in the sub-categories was insignificant.

**TABLE 4.1: Representative Percentages of Research Participants' Gender and Age (N=353)**

<b>Age (years)</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>Total</b>
<b>Male (%)</b>	0.6	15.3	15.3	8.2	4.2	0.0	43.6
<b>Female (%)</b>	0.6	21.8	14.7	11.3	7.4	0.6	56.4
<b>Total</b>	1.2	37.1	30.0	19.5	11.6	0.6	100.0

#### 4.4.2 Descriptive statistics of the constructs

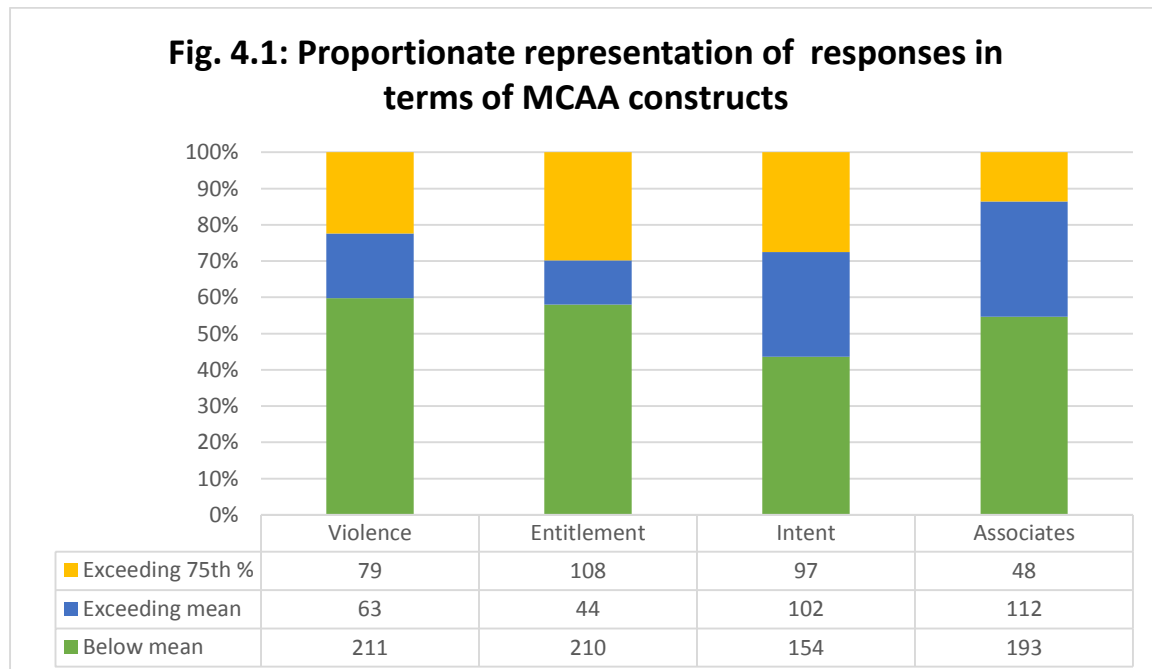
A statistical analysis was carried out to measure the research participants' disposition towards the subscales of violence, entitlement, antisocial intent and attitudes towards antisocial associates, reflected by the MCAA. A mean score was calculated for each participant's overall view of each of the MCAA constructs. The following figures are visualisations of the representative distributions and summary statistics of relevant descriptive statistics in terms of the respective constructs, as reflected in Table 2 below.

**TABLE 4.2: Summary of Descriptive Statistics of the MCAA Constructs (N=353)**

<b>SCALES</b>	<b>VIOLENCE</b>	<b>ENTITLEMENT</b>	<b>ANTISOCIAL INTENT</b>	<b>ANTISOCIAL ASSOCIATES</b>
Mean	2.3	2.5	2.1	2.1
SD	0.5	0.4	0.5	0.4
Range	2.9	2.4	2.5	2.7
Min	1.0	1.4	1.0	1.0
Max	3.9	3.7	3.5	3.7
Percentiles				
25	2.0	2.3	1.8	1.9
50	2.2	2.5	2.2	2.1
75	2.6	2.7	2.4	2.4

From the abovementioned, it emerged that approximately 60 percent (59.7%) of the participants scored below the mean statistic of the violence construct, compared to 56.9 percent for entitlement, 43.6 percent for the antisocial intent and 54.7 percent of the antisocial associates constructs. In other words, the following percentages of research participants exceeded the mean value of the respective scales; violence 40.3 percent, entitlement 43.1 percent, antisocial intent 56.4 percent and antisocial associates 45.3 percent. Of the latter, the following percentages of participants' measures exceeded the 75 percentile in terms of the constructs; violence 55.6 percent, entitlement 71.1 percent, antisocial intent 48.7 percent and antisocial associates 30 percent. The effect of these descriptive statistics is illustrated in Figure 1. The bottom part of the bars (green) represents the proportions of participants whose scores were below the mean statistic of each construct. The second part (blue) represents the number of participants whose scores exceed the mean statistic but fall below the 75<sup>th</sup> percentile, while the top part of each bar (yellow) indicate the proportion of participants whose scores exceed the 75<sup>th</sup> percentile.

**FIG. 4.1: Proportionate Representation of Responses in Terms of MCAA Constructs**



The calculated risk of the collective of the participants can be applied to build and improve the ethos of the school, can be the subject of restorative colloquia where attitudes and sentiments can be redirected and restored. Individual scores of high risk

individuals can be used for therapeutic intervention where the specific criminogenic needs can be addressed in various restorative circles.

It is important to look at the interaction between the respective scales that cumulatively increase the underlying risks.

#### 4.4.3 Inter-construct coefficients and multiple linear regression

Since the constructs are continuous measurements, the relationship between them are measured by the Pearson's Correlation Coefficient. The Pearson's Correlation Coefficient is a measure of the strength of the linear relationship between two continuous variables (Dantzker & Hunter, 2012). This coefficient varies from -1 to +1 with -1 indicating a perfect negative and +1 a perfect positive linear relationship (Tredoux & Durrheim, 2014). A coefficient of 0 indicates a total lack of any linear relationship. Coefficient statistics ranging from 0 to 0.3 are commonly considered to be weak associations, results ranging from 0.35 to 0.59 are considered moderate, and 0.60 to 1 as strong or very strong associations (Fouché & Bartley, 2011: 273-274).

Table 4.3 presents the correlation coefficients and the strength of the linear relationship between pairs of constructs.

**TABLE 4.3: Correlation Coefficients and the Strength of the Linear Relationship between Pairs of Constructs**

<b>Construct</b>	<b>Violence</b>	<b>Entitlement</b>	<b>Antisocial intent</b>	<b>Antisocial associates</b>
<b>Violence</b>	1	0.509**	0.596**	0.355**
<b>Entitlement</b>	0.509**	1	0.441**	0.243**
<b>Antisocial intent</b>	0.596**	0.441**	1	0.625**
<b>Antisocial associates</b>	0.355**	0.243**	0.625**	1

\*\* Correlations are significant at the 0.01 level

From the results above it emerges that a weak correlation exists between the antisocial associates and entitlement scales. A moderate correlation exists between the antisocial associates and violence scales, the antisocial intent and entitlement scales, with moderate to becoming strong correlations between the entitlement, antisocial intent and violence constructs. A strong correlation exists between the antisocial associates and antisocial intent scales.

A multiple linear regression analysis was conducted to determine the relationship between antisocial intent as dependent variable and antisocial associates, entitlement and violence as predictors (*cf.* Fouché & Bartley, 2011).

**TABLE 4.4: Model Summary**

<b>Model</b>	<b>R</b>	<b>R square</b>	<b>Adjusted R square</b>	<b>Std. Error of the Estimate</b>
1	.758	.574	.570	.32616

As can be seen from Table 4.4, the linear regression coefficient ( $R=.76$ ) indicates a strong correlation between dependent and independent (predictor) variables. In terms of variability ( $R\text{ square} = 0.574$ ), the model explains 57.4% of the variability within the population.

**TABLE 4.5: Analysis of Variance (Anova)**

<b>Model</b>	<b>Sum of squares</b>	<b>Df</b>	<b>Mean square</b>	<b>F</b>	<b>Sig</b>
Regression	50.339	3	16.780	157.734	.001
Residual	37.339	351	.106		
Total	87.678	354			

Table 4.5 confirms ( $F=157.734$ ;  $p= .001$ ) that a statistical significant relationship exists between antisocial intent and antisocial associates, entitlement and violence. Since the statistical results are significant, a t-test was also conducted.

**TABLE 4.6: Coefficients**

<b>Model</b>	<b>Unstandardised coefficients</b>		<b>Standardised coefficients</b>	<b>t</b>	<b>Sig</b>
	<b>B</b>	<b>Std error</b>	<b>Beta</b>		
Constant	-.395	.134		-2.946	.003
Violence	.333	.039	.367	8.642	.001
Entitlement	.196	.053	.152	3.714	.001
Antisocial associates	.592	.049	.454	12.160	.001

Table 4.6 again confirms the relationships between antisocial intent and antisocial associates, entitlement and violence, to be highly significant.

As emphasised by Holsinger (1999) who researched the outcomes of several studies on the correlation between negative attitudes, antisocial peer associations and offending behaviour “when predicting risk, and subsequently criminal behaviour, antisocial attitudes are highly predictive, and thereby revealing a dynamic risk factor that can be targeted through effective intervention” (Holsinger, 1999).

#### **4.5 CONCLUSION**

In this chapter it was illustrated how the application of the Measures of Criminal Activities and Attitudes (MCAA) can be utilised as a non-invasive means and a proactive approach through which young persons at risk of offending can be identified. The foci are antisocial cognitions, attitudes and associates which can be measured in an unobtrusive manner and those at risk can benefit from a variety of restorative practices.

Restorative justice practices can be applied to change criminal thinking patterns and antisocial attitudes in an attempt to prevent future antisocial and offending behaviour and as an alternative to retributive philosophy. Drewery (2007: 211) is of the belief that in a restorative society, “a primary objective of schooling could be to develop an understanding of how to achieve legitimate goals within relationships of mediation in

complex communities". The confidential nature of dealing with persons at risk will prevent labelling and or victimisation by co-learners.



## CHAPTER 5

### OBSERVATION OF DISCIPLINARY CASE STUDIES

#### 5.1 ORIENTATION

As previously indicated, (see 3.4.4.1), the researcher purposively selected ten disciplinary case studies, pertaining to learners who appeared before the School Governing Body (SGB) of the particular school, because of offences committed, as the study population for the qualitative phase of the study. Learners involved in misconduct are dealt with at a disciplinary hearing by the SGB where the parents are also in attendance. It is the obligation of the SGB to conduct a hearing and to “punish” the learner as a consequence of his or her transgressions.

The ten learners in question were between the ages of 13 to 19 years old at the time of their behavioural misconduct, and served as a purposive non-random sample (see Rule, 2011) for the purpose of this study. Approval for the respective learners to participate in the study was gained from both the Governing Body and the learners parents.

The researcher attended the ten disciplinary hearings as an observer, to get a clear understanding of the offending behaviour, as well as the applied disciplinary process. The information recorded during the hearings provided the researcher with an understanding of the contexts of the learners offending behaviour.

As discussed in Chapter 3, (see paragraph 3.4.1), a case study is a flexible and detailed study describing a specific phenomenon, allowing the researcher to retain the holistic characteristics of real-life events while investigating empirical events (Hancock & Algozzine, 2017). Case studies are, therefore, in depth qualitative studies of one or a few illustrative cases best suited when attempting to gain an understanding of the contexts in which the offending behaviour took place (Hagan, 2017).

As mentioned in paragraph 3.4.1.1, the researcher attended the disciplinary hearings as a *participant observer*. In other words, the researcher had no role to play in the hearings except for gathering information as part of data collection. However, the researcher was able to interact closely with all the members involved in the procedure

and was able to establish an insider's identity. As an observer participant, the researcher had the opportunity to perceive the nonverbal expressions of the offender as well as grasp how the participants communicated with one another. Information recorded during the hearings as well as all personal details regarding participants were kept, as per stated in a confidentiality clause and the group was fully aware of the researcher's activities. The participants were warranted of their anonymity, indicating to the participants that the most ethical approach to observation was used. The validity of the research was strengthened observation and the use of questionnaires (Kawulick, 2005).

For the purposes of anonymity and confidentiality, all learners who formed part of the case studies were assigned code numbers and pseudonyms.

### **5.1.1 Case Studies of Disciplinary Violations and Institutional Reaction**

Learner's ages at the stage of the offence and hearing, are indicated next to the case number as the offences did not always take place in the same year.

#### **Case 01: ES, 16 years**

**ES** is a white female and in grade 9 and was 15 years old when the offence was committed, but turned 16 shortly thereafter. ES brought alcohol onto the school premises and after having a "sip" herself before school, she gave the bottle to a friend. She was asked by another friend to bring the alcohol to school so that they (friends in the group) could all use it to "*get through the day*".

ES grew up in a house without a father and her mother raised her strictly. She did not display any other discipline problems in high school (albeit she was just in grade 9 at this stage) but there were incidents in the primary school where she would stay at friends' homes during school times and bunk school without her mother knowing. Academically she performed above average and had good relations with her teachers. She was also actively involved in extra mural activities and participated and excelled in athletics as well as netball. She was well liked and popular with her peers as well as learners from the higher grades.

ES was charged with three charges of:

- Serious misconduct that may lead to suspension;
- Bringing alcohol onto school premises, using and distributing it
- Improper Conduct.

The SGB found her guilty on all charges, and she was given a final warning (in the case of another serious offence it would lead to expulsion).

In addition, the following sanctions were given by SGB:

- i) 30 hours of community service to be completed in two months
- ii) A behavioural contract had to be signed
- iii) The schools code of conduct had to be written out
- iv) A four page essay on the effects of alcohol abuse in teenagers
- v) 5 hours contact time with a school counsellor

The moment the hearing started and ES appeared in front of the School Governing Board she showed remorse (started crying) and pleaded guilty immediately. Her mother was shocked because as mentioned she brought her up in a strict manner. All sanctions were met and ES completed her 30 hours of community service at the SPCA (although she could not complete it in the two months as she had transport problems).

After one year no serious misconduct was reported but after a year, ES does not have a strong group of friends. She started arriving late for class and homework was often not done and she was getting a high number of defaults. Academically she is not performing as well as she did, although she has a lot of potential.

The researcher is of the opinion that not all the punishment given for the offences, is suitable for the natures of the offences. Furthermore, no change of behaviour was brought about by the punishment, on the contrary she acquired more defaults than ever before and there was a decline in the standard of her academic work. Whilst bringing alcohol onto school premises, using and distributing it as indicated on the "charge sheet" is seen as a suspendable offence and improper conduct, the writing out of the schools code of conduct (which was not done completely accurately) has little or no preventative, restorative or deterrent value. The fact that ES completed her 30 hours of community service at the SPCA has no relevance to an alcohol offence and the fact that she did not complete community service in time is an indication that

no regard is shown to the seriousness of the sanction. The family (mother) of the learner should also not suffer as a result of the punishment. It obviously inconvenienced the mother financially as well as practically.

ES is obviously in need of remedial counselling and support. Her problem behaviour was not dealt with satisfactorily as the remedial actions seemed to cause more harm (she became tardy, did not complete her homework and accumulated a high number of defaults) with the abovementioned approach.

### **Case 02: SO, 16 years**

**SO** is an African female in grade 11 and 16 years old. She brought alcohol, in her school bag, onto the school premises and then consumed the alcohol at school together with her peers. She locked the alcohol away in her locker where she would consume it with her friends every now and again. SO was an academic “performer” without a previous discipline record at all, in either high school or primary school. Because of the fact that she was not a discipline problem teachers would allow her out of the class regularly as she had an excuse of feeling “sick”. She would then text her friends that were in other classes and they would meet up at the locker to have a quick “shot”.

According to SO they “*needed it to strengthen them*” as it was a very stressful time just before exams started. Later the day she was visibly under the influence of alcohol during class time and a teacher reported to the discipline office that she was to be removed from class and sent home. SO’s mother came to fetch her and SO was academically suspended till the hearing, which was a week later.

SO was charged with 3 charges of:

- Serious misconduct that may lead to suspension;
- Bringing alcohol onto school premises, using and distributing it
- Improper Conduct

The SGB found her guilty on all charges and she was given a final warning.

In addition, the following sanctions were given by the SGB:

- i) 7 days suspension.
- ii) 30 hours of community service to be completed in two.

- iii) A behavioural contract had to be signed.
- iv) The schools code of conduct had to be written out.
- v) A four page essay on the effects of alcohol abuse in teenagers.
- vi) vi) 5 hours contact time with a school counsellor.

SO's father only heard exactly what happened on the evening of the hearing. He was traumatised when he heard what she was up to and her mother kept on crying during the SGB hearing. SO apologised to her parents in front of the SGB members. SO was already placed on academic suspension awaiting the hearing so the SGB included those days in the 7 days given, as part of the sanctions. SO completed all the "punishment" accordingly and kept to the sanctions. A year later SO still performs above average academically but is no longer a "high flyer". She was chosen for a first team sports team and is popular with her peers, however she is still prone to peer pressure. No serious misconduct was reported till date but she has become promiscuous and her teachers are concerned that morally, there is a decline in her behaviour.

The researcher is of the opinion that not all the punishment given to SO for the offences, is relevant to the natures of the offences. Furthermore, no change of behaviour was brought about by the punishment, on the contrary she is still prone to peer pressure and as mentioned, her teachers are concerned about her moral state. Whilst bringing alcohol onto school premises, using and distributing it as indicated on the "charge sheet" is seen as a suspendable offence and improper conduct, the writing out of the schools code of conduct has little or no preventative, restorative or deterrent value. It is the opinion of the researcher that the parents (especially the father) of SO, were publicly humiliated.

SO is in need of serious remedial counselling and support. A learner that needs alcohol, to cope with stress at this age already, is heading for disaster. Her problem behaviour was not dealt with satisfactorily with the abovementioned approach and she received no "after care".

### **Case 03: NM, 17 years**

**NM** is a 17 year old African male in grade 11. NM consumed and was under the influence of alcohol on the school premises during school time. He had already started drinking at home before school started. He has a history of deviant behaviour and has been sitting in “high default venues” regularly before for habitual violations like late for school and class, bunking classes, homework not done, “rude” behaviour, dress code transgressions and insubordination. Learners are send to “high default venues” in cases were the defaults reach a specific amount of points. Learners are sanctioned to these venues the moment that their points reach 100 demerits. Being late for school or class, homework not done and dress code transgressions for example not wearing the correct uniform or hair that is not according to school rules accumulates 5 points for every daily transgression. Bunking class and rude behaviour accumulates to 20 points each per transgression and insubordination with 50 points.

The previous deviant behaviour also includes an incident the previous year, where he received a letter for “cheating in a test”. NM appeared in front of the SGB for the latter offence and was placed on a behaviour contract. He also received 20 hours of community service, writing out of the schools code of conduct, a two page essay on why cheating is immoral, 10 hours of contact time with a school counsellor and a final warning. In cases of serious misconduct, the SGB sanctions a learner and the parent(s), to sign a behaviour contract, as an instrument of deterrence. This contract contains a pledge by the learner to alter his behaviour in such a way that he will not be involved again, during the rest of his schooling in any offences that will cause him to appear at a hearing again. It serves as a final warning and in a case of another serious offence, expulsion will be recommended. The parents have to co-sign in order to motivate their child to keep on track. Should a learner appear at a hearing after signing such a contract, the new case will be heard with reference to the existing contract. This previous contract was signed by the father but when the matter was raised during the hearing, the father claimed he had never seen it before. The SGB questioned his signature and indicated that it might be that NM forged his signature, where after the father replied that it is possible that he (father) may have signed it. It emerged, however, that NM handed a letter, signed by his father, to the discipline office, shortly after the sanctions for the cheating case were imposed, explaining that he would not adhere to the sanctions. The matter was referred to the Gauteng

Department of Education. The secretary in the discipline office placed the letter on file and no follow up was done by the discipline office.

NM was charged with 3 charges of

- Serious misconduct that may lead to suspension;
- Bringing alcohol onto school premises, using and distributing it
- Improper Conduct

The SGB found NM guilty on all charges and he was given a final warning.

In addition, the following sanctions were given:

- i) NM is to attend detention session until his default count is below 30.
- ii) 40 hours of community service to be completed in two.
- iii) A behavioural contract had to be signed.
- iv) The schools code of conduct had to be written out .
- v) A four page essay on why schools have rules and the importance of following those rules. This essay had to be read to his Life Orientation Class.
- vi) 15 hours contact time with a school counsellor.

During the hearing NM showed no emotions and at first he pleaded not guilty to the first charge (serious misconduct) but later in the procedure he changed it to guilty. He avoided any further conversation. When asked “why did you drink at school?” he refused to answer. The father showed signs of aggression throughout the hearing and referred to sections from the School’s Act as an attempt to threaten the SGB. NM did not adhere to any of the sanctions, he did not return to school the next day and then he changed schools of his own accord. The school was contacted by the new school and asked to send his transfer card as well as all his portfolio work already completed for the year.

The researcher is of the opinion that in NM’s case, the punishment given with the first hearing did not serve a purpose at all. Even though NM previously signed a behavioural contract it did not deter him from any other violation. He did not adhere to any of the other sanctions as a letter was handed to the discipline office, signed by his father informing the school that they had approached the GDE. The fact that the discipline office did not follow up on the case, maybe contributed to the fact that NM’s

behaviour could not be changed. He still accumulated a high number of defaults thereafter for offences committed. The researcher is furthermore of the opinion that no preventative, restorative or deterrent behavioural changes can be achieved by writing out of the schools code or writing an essay that is seen as “homework”, where a learner is already not completing the day-to-day homework.

NM is in need of remedial counselling and support. His problem behaviour was not dealt with satisfactorily with the abovementioned approach. He did not receive any “after care” even though he was already on a contract, forged by himself. His father also did not offer any after care as he basically condoned his fraudulent actions and supported his son by moving him to another school.

#### **Case 04: GG, 16 years**

**GG** is a 16 year old white male in grade 11, who consumed alcohol on the school premises during school time. He asked a friend the day before to bring the alcohol to school, and to keep it in his locker and they then shared the alcohol during break.

GG had transferred to the school during the first school term and when asked by the SGB for the reason for the move, his mother commented it was needed as she moved from another province. GG’s teachers commented in confidential report forms requested from the discipline team, that he displayed no discipline problems in class as he was very quiet and actually withdrawn. Teachers were of the opinion that he was still adjusting to the new school and therefore there was no reason for concern.

GG was charged with 3 charges of:

- Serious misconduct that may lead to suspension;
- Bringing alcohol onto school premises, using and distributing it
- Improper Conduct

The SGB found him guilty on all charges and GG was given a final warning.

Consequently, the following sanctions were added by the SGB:

- i) 30 hours of community service to be completed in two months.
- ii) A behavioural contract had to be signed.



- iii) The schools code of conduct had to be written out.
- iv) A four page essay on the importance of telling the truth and being accountable. This essay is to be read to his Life Orientation Class.
- v) 10 hours contact time with a school counsellor .

GG pleaded not guilty to all charges and at first lied about asking a friend to bring the alcohol to school as well as consuming it, until he could not keep up the lies any longer. He had to, eventually, admit to the charges against him. GG's mother and his uncle (a lawyer) accompanied him. His mother was very angry and accused the chairperson of not being fair and his uncle felt that the outcome was predetermined. Never the less, GG kept to all the sanctions as ordered by the SGB.

Unfortunately, a year later GG was charged with three new charges of serious misconduct that could lead to expulsion namely: the possession and use of drugs as well as improper conduct on the school premises. He was once again found guilty and his expulsion was recommended. His mother agreed to commit him to complete an intervention programme with Drug Surveillance South Africa (DSSA), which he did and he was then moved to another school. The action plan of DSSA includes among other things, the administering of drug tests to a minimum of 50 % of learners in schools. These tests are kept confidential and the aim thereof is in order to intervene immediately if learners test positively. They are referred to intervention programmes with the consent of the parent. One of the aims of the DSSA programme, is to keep learners out of the South African criminal justice system and it is thus a restorative programme. DSSA also aims to provide a comprehensive support system to the learner and parent as well as to endeavour to eliminate drugs use in schools (Fourie, 2018).

His mother decided to move GG to a new school she felt "*it would be better for him to start over, somewhere where people did not know about his past*".

The researcher is of the opinion that the punishment given to GG for the offences, does not address the natures of the offences. In the long term, the punishment had no effect on his behaviour and possibly made his behaviour worse. In GG's case it seems to the researcher as if all sanctions were meaningless as he eventually started to use drugs as well.

GG is in need of remedial counselling and support. His problem behaviour was not dealt with satisfactorily with the abovementioned approach and he received no “after care”. Aftercare would have remedied the negative effect of the punishment on him. It is not known whether through a process of shaming him and labelling (by his peers and teachers), his behaviour became worse.

### **Case 05: SM, 14 years**

**SM** is a 14 year old African male, who encouraged other learners during break time to fight and violently attack another learner, whilst he observed the fight and was laughing. Although SM was not physically involved in the fight his instigated behaviour led to another learner being seriously injured. Three boys ended up fighting, two of the boys were SM’s friends who attacked the other learner at SM’s instruction. SM told his friends that the other learner insulted him (SM) and that his two friends had to stand up for him. School prefects managed to stop the fight and called teachers on break duty to intervene but the learner that was attacked, already sustained serious injuries and his mother had to come to school to fetch him and take him to hospital. The learner injured in the fight had to stay in hospital overnight.

SM was charged with 4 charges of:

- Serious misconduct that may lead to expulsion;
- Assault;
- Fighting and
- Improper Conduct

The SGB found SM guilty on all charges and gave him a final warning.

The following additional sanctions were given:

- i) 30 hours of community service to be completed in two months.
- ii) A behavioural contract had to be signed.
- iii) SM had to sit in a High Default venue for the duration of the June exam
- iv) A letter of apology to the school and the learners involved for his behaviour.

At the hearing SM appeared very apologetic. His mother told the SGB that “*he got a big fright*” when she fetched him from school after receiving the call from the discipline

office. That evening when a friend called to let them know that the learner has to stay in hospital he was “spooked” as he then realised the seriousness of the incident. SM adhered to all sanctions and a year later he was not involved in serious misconduct but acquired high defaults for disrespect and insubordination.

The researcher is of the opinion that in SM’s case, the punishment given for the offences, does not suit or fit the nature of the violations. Attending a high default venue during exam time and writing a letter of apology to the school and learners involved, is not sufficiently remedial action in a case where someone ended up in hospital overnight, with medical costs that the parents had to cover.

The researcher’s opinion is that writing a letter and sitting in a venue where one gets the time to study, has little or no preventative, restorative or deterrent value. The fact that a year later he was still acquiring high defaults, especially for insubordination and disrespect, is an indication that restoration did not take place and that the school should have referred the learner to a psychologist for a behavioural assessment.

SM is in need of remedial counselling and support. His problem behaviour was not dealt with satisfactorily with the abovementioned approach. SM “manipulated” two of his friends into physically fighting a battle for him to the extent that another boy ended up in hospital. Without the necessary “after care” It is possible that SM’s behaviour might evolve to more violent crimes at a later stage.

#### **Case 06: JH, 14 years**

**JH** is a 14 year old white male in grade 9. JH was involved with case 5, backing SM and contributing to instigating the fight where another learner was violently attacked. JH was not physically involved in the fight but he was “*lighting the fire by throwing oil on the fire*” according to a witness statement, in the incident where the other learner ended up in hospital with serious injuries.

JH was charged of 4 counts of

- Serious misconduct that may lead to expulsion;
- Assault;

- Fighting and
- Improper Conduct.

JH was found guilty on all charges by the SGB and given a final warning.

The following additional sanctions were given by the SGB:

- i) 30 hours of community service to be completed in two months.
- ii) A behavioural contract had to be signed .
- iii) He had to attend High Default sessions for the duration of the June exam.
- iv) A letter of apology to the school and the learners involved by his behaviour.

JH explained to the SGB that *“everyone was incited when the fighting started and a lot of other learners that managed to get away also shouted and laughed and encouraged from the side. No one thought it would end up the way it did. It was quite scary”*.

JH's father affirmed that his son was traumatised by the incident and even though he participated in the incident he was actually a bystander (vicarious) victim. JH accepted the findings of the hearing and adhered to all sanctions.

A year later he had not displayed any further serious misconduct but acquired high defaults for disrespect. He showed little respect for his peers or his teachers.

The researcher is of the opinion that in JH's case, the punishment given for the offences, does not address the nature of the violations. As mentioned in SM's case (case 5) attending a high default venue during exam time and writing a letter of apology to the school and learners involved is not adequate, where his actions resulted in the hospitalisation of a fellow learner.. As indicated the researcher is of the opinion that writing a letter and sitting in a venue where one actually gets an opportunity to study, has little or no preventative, restorative or deterrent value. In JH's case the punishment seems even harsher than that of GG. Even though he participated in the incident, he was initially just a bystander. On the other hand, there were more than a hundred learners present during the fight and the majority tried to end the fight and did not take part in any other way.

JH is in need of remedial counselling and support. His problem behaviour was not dealt with satisfactorily with the abovementioned approach. The fact that a year later he acquired high defaults for disrespect, indicates that the needed “after care” was lacking.

### **Case 07: GC, 14 years**

**GC** is a 14 year old African male, who was also involved with case 5, encouraging other learners to fight and violently attack one another on the school grounds.

GC did not get involved himself physically, but verbally encouraged the learners that were fighting to “*kill it boys*”. According to bystanders he was “extremely verbal and kept on shouting and encouraging all three boys to hit one another”.

GC was charged with 4 charges of:

- Serious misconduct that may lead to expulsion;
- Assault;
- Fighting and
- Improper Conduct.

The SGB found GC guilty on all charges and he received a final warning. In addition, the following sanctions were imposed by the SGB:

- i) 30 hours of community service to be completed in two months.
- ii) A behavioural contract had to be signed.
- iii) GC had to sit in a High Default venue for the duration of the June exam.
- iv) A letter of apology to the school and the learners involved for his behaviour.

GC arrived late for the SGB hearing as he had to wait for his father who was accompanying him. His father said that he could not understand why his son had to attend a hearing as he was not physically involved in the fight and as a matter of fact, they did not have anything to say.

The chairperson of the SGB explained that as a parent, the father signed documents when he enrolled his child, agreeing to the schools code of conduct where in it is stated that any form of violence (physical fighting, assault- also verbally) is suspendable and

could lead to expulsion. The SGB asked GC why he encouraged the learners to fight but GC could not give an answer and just said: "*I don't know*". When asked if he realises the seriousness of the incident he did reply positively with a "yes". GC had to accept the findings of the hearing and he adhered to all sanctions.

A year later he was not involved in any serious misconduct but he was continuously verbally bullying learners in his class. If a learner complained about him saying hurtful things, he would imply that the person complaining is too sensitive. He also kept on receiving defaults for being rude to teachers and disrespecting others.

The researcher is of the opinion that in GC's case, like the case for SM and JH, the punishment given for the offences, does not address the nature of the violations. As mentioned in SM's case (case 5) having to sit at a high default venue during exam time, where one gets time to study, and writing a letter of apology to the school and learners involved, is not suitable punishment where someone ended up in hospital due to his instigations. The punishment imposed had little or no preventative, restorative or deterrent value. It is clear that in GC's case no restoration took place as after a year he was still bullying fellow learners verbally. His delinquent behaviour, was still problematic and if it is not addressed as a matter of urgency, it might escalate to further more serious violations and interpersonal violence. GC continues to pose a threat to the school community.

GC is in need of remedial counselling and support. His problem behaviour was not dealt with satisfactorily with the abovementioned approach. He received no "after care" and this is visible from the fact that a year later learners complained that he was continuously verbally bullying them in his class.

### **Case 08: AP, 17 years old**

**AP** is a 17 year old Asian male, attending grade 9. AP was involved in a physical fight in class where he did not stop fighting until a teacher pulled him away from the other learner. He was totally out of control causing havoc in the classroom and traumatising the other learners. The teacher had to send a learner to call the head of discipline to remove AP from class but it was almost impossible to continue with the lesson thereafter as the other learners had to be debriefed by the school counsellor. AP had a history of violent behaviour and is unable to deal with his anger. He had previously slapped a girl.

AP was charged with 4 charges of:

- Serious misconduct that may lead to expulsion;
- Assault;
- Fighting and
- Improper Conduct.

The SGB found AP guilty on all charges and gave him a final warning. Additionally, the following sanctions were imposed by the SGB:

- i) 40 hours of community service to be completed in two months.
- ii) A behavioural contract had to be signed.
- iii) AP was required to write out the school's code of conduct.
- iv) A four page essay on anger management. This essay was read out to his grade group.
- v) 10 hours of contact time with a school counsellor.

AP claimed that the physical altercation was provoked by another boy. He could however, not elaborate on how or by whom he was provoked. AP's mother alleged that she is also struggling with his anger issues at home and asked the school for help as she already had him with a counsellor at church, but with no change visible. His mother indicated that she was at her "*wits end*" as he is 17 years old and still in grade 9. According to the counsellor at church his behaviour could be as a result of low self-esteem (possibly because of his poor performance at school). It was confirmed by the discipline team that AP attends the academic support centre (remedial help) because

he is struggling academically. The SGB however, would not accept the fact that he might be suffering with anger issues and aggression as mitigating factors.

The sanctions AP received were heavier sanctions than normal as he was already 17 years old and still in grade 9 (3 years older than most of the other learners in the grade) and the SGB explained that they were concerned that he might become a repeat violent offender. AP adhered to these sanctions and he attended more than 10 hours of contact time (his own initiative) with the counsellor who provided him with coping skills and helped him to manage his anger and violent outburst. He still displayed uncontrollable behaviour occasionally but was not involved in a physical fight at school after the hearing.

After an interview with the school counsellor, the researcher is of the opinion that in AP's case, once again, the punishment given for the offences, is not suitable regarding the nature of the violations. Writing out of the rules regarding school conduct and an essay has no preventive, restorative or deterrent value at all. Completing community service, if not linked to the actual offence, only serves as empty hours completed. In AP's case, he completed his 40 hours of work in the Media centre as he had no transport to any other institution and the SGB accepted the work at school as his hours.

### **Case 09: TM, 18 years**

**TM**, a 17 year old African male in grade 11, who was involved in a physical fight to protect his friend. His friend was attacked by a learner who lost his temper during break time because of something said to him. Fellow students and teachers could not get the boy to back off. According to TM he made the decision to get involved in the fight as he was worried that his friend might be injured badly. TM slapped the boy through his face and threw his school bag in a dustbin before teachers could break up the fight. Bystanders said that the incident was totally unnecessary as they could hear TM's friend "*throwing insults around*" and that he was in the wrong and it actually looked as if he provoked the victim and wanted him to retaliate and lose his temper.



TM was charged with 4 charges of:

- Serious misconduct that may lead to expulsion
- Assault
- Fighting and
- Improper Conduct

The SGB found TM guilty on all charges and he received a final warning, subject to the following conditions:

- i) 40 hours of community service to be completed in two months.
- ii) A behavioural contract had to be signed.
- iii) TM had to write out the schools code of conduct.
- iv) TM had to write a four page essay on avoiding conflict. This essay was to be read to his grade group.
- v) 10 hours of contact time with a school counsellor.

TM explained to the SGB, when asked at the hearing why he decided to get involved, that he was really scared that his friend might be injured badly and as a friend that is what you do.

When the chairperson asked him if it did not cross his mind that they were two against one and that the other boy could have been injured seriously, and that he (TM) had slapped him through his face. TM just shook his head in answer. His parents told the SGB that they thought that he was dealt with too harshly for something he did not start and loyalty to family and friends is a value they instilled in their children's lives. TM's parents informed the SGB that they have decided to move him to another school.

In TM's case, it is clear that a hearing without having a discussion with the parent(s) beforehand, might not be of any help to a learner. Antagonising the parent, merely gets undesired results instead of being able to rectify a learner's behaviour. In this case TM transferred to another school in his grade 11 year, which is neither ideal academically or socially, as older teenagers tend to isolate themselves socially when changing schools (see Park, 2014).

TM is in need of remedial counselling and support. His problem behaviour was not dealt with satisfactorily with the abovementioned approach. No “after care” could take place as he moved schools.

### **Case 10: LG, 15 years**

**LG** is a 15 year old white male who was caught in possession of and using cannabis on school premises. LG asked permission from a teacher to leave the classroom in order to go to the toilet. He stayed out of class for quite a long period of time according to the teacher.

The teacher reported that *“When he got back to class, some of the learners started giggling, as he came in, in a funny way. He sometimes would joke around in class and as we had to complete the work, I ignored his behaviour”*. It was break after the lesson so when the lesson ended a learner stayed behind and asked the teacher if she could not see that LG was displaying strange behaviour. The teacher went to the discipline office and asked the discipline head to go and check up on LG in the next lesson. The discipline head could pick up immediately that LG was under the influence of a substance and the parents were called in to fetch him. His mother took him for a drug test and he tested positively for cannabis. LG was then placed on a SGB hearing.

LG had 2 charges namely,

- Serious misconduct that may lead to expulsion;
- Possession of cannabis and use thereof

The SGB found him guilty on all charges and sanctioned him to 20 hours of internal community service to be completed in two months, and he was prohibited from in any first team event for the rest of his high school career.

LG’s parents were very concerned about the incident and initiated his enrolment in a comprehensive substance programme. His parents also agreed on regular drug tests at school. LG completed his internal community service with the head of discipline and a year later he was no longer using illegal substances. However, the punishment he

received led to him withdrawing from activities and friends. LG was a top athlete, with great potential as he already played for a first team in his grade 9 year. After a year he is not involved in any illegal activities and but shows signs of anti-social behaviour.

The researcher is of the opinion that in LG's case, once again, the punishment given for the offences, does not address the nature of the violations. Banning a learner from a sports team as punishment, has no preventative, restorative or deterrent value at all, on the contrary a learner could like in this case withdraw and become a bigger problem to the community/society, turning a personal asset into a liability (risk factor).

LG is in need of remedial counselling and support. His parents initiated his enrolment in a comprehensive substance programme and supported the school in agreeing on regular drug testing at school. However, as a top athlete, he withdrew from activities and friends because of no proper "after care".

## **5.2 CASE COMPARISON**

It is important to compare case studies when there is a need to understand and explain whether certain programmes, procedures or policies are used successfully (Goodrick, 2014). The researcher is of the opinion that the SGB hearing process, and the outcomes thereof, are not successful and have little preventative, restorative or deterrent discipline value.

Comparing the ten cases, it is clear that in this particular study boys are involved in offences of "assault/fighting" at school more frequently than girls. Five out of ten cases involved assault/fighting at school. In three of these cases the boys were 14 years old and in two cases they were 17 years old. Reasons why these boys fought include anger management issues (1), encouraging others to fight (inciting violence) (3) and allegedly protecting their friends (1).

Comparing the sanctions given, the following is noticeable: all five boys received a behavioural contract and final warning. SM, JH and GC each received 30 hours of community service to be completed in two months where NM and GG received 40 hours to be completed in two months. SM, JH and GC also had to attend sessions at

the High Default venue for the duration of the June exam and they had to write a letter of apology to the school and the learners involved for his behaviour. NM and GG on the other hand, also had to write out the schools code of conduct as well as write a four page essay on a topic as given by the SGB and they had to attend 10 hours contact time with a school counsellor which had to guide them to understand the reasons and consequences behind their violent actions.

Comparing the risk factors of these learners, it is very possible that within the family there are certain environmental risk factors that may have contributed to the learners' offending behaviour. GC's father could not understand why his son has to appear at a hearing for something he was not guilty of, and TM's parent's told the SGB that they believed that the sanctions given to their child were too harsh, basically ratifying aggressive and violent behaviour. In AP's case, his mother asked the school for help as she could not control his anger at home. This indicates to definitive risk factors that require serious intervention

In cases where alcohol was involved (four cases in this study), two girls and two boys were found guilty of offences involving alcohol. One boy and one girl aged 16 and one boy and one girl aged 17 were involved. Reason given by ES for the use of alcohol at school was that it helped her get through the day. SO replied: we "*needed it to strengthen us*" as it was a very stressful time just before exams started. NM and GG did not give any clear reasons as to why they consumed alcohol on school premises.

Comparing the sanctions imposed (in the alcohol cases) on ES, SO, NM and GG, it is clear that they all had to sign a behaviour contract, write out the school's code of conduct, received a final warning and were required to write a four page letter on a topic given to them related to the case. Two of the learners, NM and GG, had to read the essays to their Life Orientation classes. The researcher is of the opinion that this leads to stigmatisation and labelling of these learners. It may create conflict as the learners feel it is unfair that some learners don't have to go through the process of exposing themselves by reading their essays to a class.

Another aspect that created feelings of unfairness, in the alcohol related cases, was the fact that ES, SO and GG each received 30 hours community service and NM received 40 hours. When the SGB explained to the parents that this is because they

look at the learner's performance overall, the parents felt that the process should be re-looked as it was not fair punishment. Punishment must be consistent and not imposed arbitrarily. These parents felt that *"one can't drag the past in every time there is a problem"*. ES and SO also had to attend 5 hours of contact time with the school counsellor, NM had to attend 15 hours and GG had to attend 10 hours. SO was also suspended for 7 days compared to ES, GG and NM that were allowed to attend school.

According to the Head of Discipline, the reason for SO's suspension was in order to *"make an example of her..."* The moment that she was "caught" drinking on school premises, she was removed from all classes, her parent was contacted and she had to wait in a secluded area (the guard's hut) until her parent came to fetch her. Her parent met with the Head of Discipline and had to agree on keeping her home for a suspension period of 7 days as this was a serious offence. The researcher is of the opinion that sanctions should be equal for all learners and that the suspension given to SO was unfair. She was not able to go to school for 7 school days and had to catch up a week's academic work, a heavy load for a grade 11 learner. Also, it is the opinion of the researcher that the parent might have been in a state of shock, and therefore agreed to the terms as given by the school, instead of insisting that the child attends school as part of her constitutional rights.

LG, a 15 year old boy, was the only learner that had a drug related charge, although GG, involved in an alcohol case, was also later found guilty of a drug offence. Considering the risk factors it is clear that LG's parents are concerned parents and involved in their child's life, as they agreed that he gets tested on a regular basis at school.

According to paragraphs 1.2.2 and 4.2.1, dynamic risk factors could be for example, disruptive anti-social behaviour. Youths with anti-social attitudes and behaviour are attracted to each other because of their lack of self-control. This seems to be the case with the alcohol related cases: ES and SO brought and kept alcohol on school premises to share with friends (peers) and GG asked a friend to bring alcohol to school. Criminal associates contribute to criminal thinking which then leads to offending behaviour as is clear from the cases of SM, JH and GC. These three boys "ganged" up against another learner and they were backing one another in order to defend themselves.

### **5.3 DISADVANTAGEOUS EXPOSED DURING THE DISCIPLINARY PROCESS**

One of the main problems in this study is the fact that parents were not directly involved in the restorative process, as can be observed in the case studies. Parents were not called in prior to the hearing in a restorative process where they were informed of the infractions and had a say in the possible sanctions that could be imposed. In the hearing process parents were confronted with their children's behaviour and the schools attitude may have made them feel co-responsible and sharing blame for the incidents. During the disciplinary hearing of the offender, the parents were not consulted but instructed as to what their child was accused of. Parents sitting before the Governing Body Committee, to support their child, also experience feelings of confrontation and judgement. This experience of feelings of "blame" was affirmed to the SGB by one of the parents. The parents who made excuses for their children's behaviour were not viewed sympathetically and parents were incorrectly viewed as "secondary offenders". By involving the parents, a step towards restorative justice would have been taken and they would have been more involved in the actual punishment and probably supported it better.

A further problem was that the disciplinary process used by the school, exposed first time offenders to other children in the system with disciplinary "problem behaviour" and/or "personal problems" for example SO, who was suspended for 7 days (all the learners in class were aware of the reason as to why she was not at school). They may not have the skills or knowledge to deal with this exposure. It is important that debriefing gets the necessary attention in order to help these children to cope.

Lastly, the researcher is of the opinion that the current process is a linear process and this requires change. In order for restorative disciplinary measures to be successful referral must be circular, in other words the teacher and parent must work with the learner, and if possible experts such as psychologists and trained counsellors should play a role (whole school approach) to bring about a change of behaviour. Parents and teachers alone are not always capable of dealing with serious infractions and addressing the risk factors.

A detailed explanation of the **process** will be discussed in Chapter 6. Restorative intervention is an important process where the youth offender is concerned, as if deviant and even criminal behaviour is not addressed at an early stage, the youngsters' behaviour will eventually lead to contact with the criminal justice system and a criminal "career" - the school to prison pipeline (Zehr & Gohar, 2014).

#### **5.4 CONCLUSION**

The case studies discussed in this chapter, serve to provide a qualitative, individualised example of the offences that high school learners commit, that place them before the SGB, as well as the punishment/sanctions given by the SGB for offences if found guilty. These cases in no way can be generalised to other schools or settings, but create a qualitative context for the finding of the MCCA scale and provide a rich description of a sample of the learners who become involved in disciplinary hearings at the school.

Thus this qualitative component of the research is then integrated with the quantitative data to develop a restorative discipline model that identifies students at risk and puts in place intervention strategies' that provide real and tangible outcomes, which address the deviant behaviour in a positive manner without the current negative outcomes of labelling and stigmatisation of offending learners. Not allowing a whole school approach negates any sanctions imposed by the school. From the 10 case studies it is clear that current disciplinary processes and outcomes at the school are arbitrary and are failing and merely exacerbating the problem of discipline at the school. In the following chapter the researcher provides a detailed extrapolation of restorative justice model that illustrates the whole school approach.



## CHAPTER 6

### A PROPOSED RESTORATIVE JUSTICE MODEL FOR SOUTH AFRICAN SCHOOLS

#### 6.1 INTRODUCTION

The threat of sanctions has relative and limited deterrence value and it can be very difficult and complex to obtain high levels of compliance with the law from citizens (Tyler, 2011). As an illustration of the deterrent value of the sanctions imposed at the school in this study, it can be mentioned that in four out of the ten case studies (ES, SM, JH and GC), learners were not involved in serious misconduct within a year after the hearing but all four of them did however accumulate high demerits as a result of less serious offences like late for class, homework not done, disrespect towards peers and teachers and verbal abuse. In two of the cases, the deterrence value was less successful. SO's behaviour declined and she became promiscuous to an extent that her teachers became concerned for her safety and wellbeing. Within the year, CG was charged of another three offences, including being under the influence of drugs, in other words an escalation in the use of substances.

For a legal system to be effective, citizens should voluntarily give consent to the authorities and voluntarily cooperate. Tyler (2011) refers to Lewin's equation:  $B=f(P, E)$  namely that behaviour is understood to be the function of a person and his environment (Tyler, 2011). A person in this sense is seen as an individual shaped by values, morals, thoughts and feelings about what is appropriate to do in life, in an ethical way. The environment in Lewin's:  $B=f(P, E)$  equation includes legal officers as well as institutions enforcing rules. In a school environment the person (P) will be the learner shaped by moral values of what is right and what is wrong and what will the consequences of my actions be? In a school, the environment (E) will include the teachers, discipline officers and SGB involved in the process.

From the case studies it is clear that for some of the learners their upbringing did not support socially accepted values, norms and morals. They are therefore not always fully able to distinguish between right and wrong, and have trouble contemplating the possible consequences of their actions. This may be why the parents reacted as they did during the hearings as they did not see anything wrong in the children's' behaviour.



It may however also be a result of their feeling guilty and responsible. If a father proclaims to the SGB chairperson, that his son (GC) is innocent and that he (the father) cannot understand why his son is appearing at the hearing, in the presence of the son, who knows that he (the son) was involved in a manner, the message goes out to the child that certain things are “not as bad” and you don’t have to take responsibility for your actions. The parents of TM portrayed a message to their child that it is not “ok” to get involved in a physical fight (actually gangsterism, as this was two boys against one) but “we don’t want you to be punished too harshly”.

This can be explained by the Systems Theory that explains human behaviour as the intersection of the influences of multiple interrelated systems. All things (systems) are connected and there are consequences for the system if one part is altered as each subsystem influences other parts of the whole (Hutchinson & Oltedal, 2014). Subsystems include ecological systems (how a person interacts with the environment) as well as family systems (influence of the family system on the individual). As explained by Hutchinson and Oltedal (2014) these subsystems focus on the relations between people and the environment that people create between themselves. In an attempt to understand and give assistance to the individual, when this individual is experiencing difficult times, for example a child being exposed to a parent physically abusing the other parent or family members, it is important to consider individual issues, families, organisations, societies, and other systems, as they are inherently involved with one another. The school as the legal parent of the child (‘in loco parentis’) has the responsibility legally to ensure that, in difficult times (as mentioned), assistance and support is given to the child (Elliott, 2018).

### **6.1.1 Problems arising from the practise of maintaining corrective discipline in South African schools**

Research has focused on learner discipline in South African public schools as a serious problem (Rossouw, 2003); (Van Wyk, 2001). A lack of discipline in South African schools has an impact on the basic morals and values of the country’s social capital (Segalo & Rambuda, 2018). The absence of discipline (disruptive behaviour or other forms of misconduct), interferes with teaching and the learning process, leading to unsuccessful education.

Van der Walt (in Rossouw, 2003) states that postmodern society does not want to sacrifice freedom in order to promote conforming behaviour. This attitude leads to conflict and difference between authorities (principal/teachers) and those who are subjected to discipline (learners). Rossouw (2003) discusses the following as possible causes of misconduct that exist in schools:

- Learners influencing one another negatively- unruly, arrogant individuals are being admired and imitated.
- Lack of respect by some learners leading to for example bullying.

The following causes are external causes as mentioned by Rossouw (2015):

- Schools report that parents are not disciplining children at home
- Parents expect school to teach children manners and proper conduct
- Lack of parental care at home
- Parents disrespecting authority as well as educators
- Exposure to alcohol, pornography, sexual abuse and drugs
- Influence of the environment/ community

The researcher configured the possible internal and external causes of misconduct in schools as revealed by Rossouw (2015) in the following manner:

- Schools report that parents are not disciplining children at home. This could be as a result of lack of care at home or the fact that learners might be subject to exposure to alcohol, pornography, sexual abuse and drugs in the home
- Learners influencing one another negatively- unruly, arrogant individuals are being admired and imitated and this might lead to more learners showing deviant behaviour
- some learners showing behaviour leading to, for example, bullying others
- Parents disrespecting authority and the educators in such a manner that the school are told that they are being paid to teach the children manners
- Parents then expect the school to teach children manners and proper conduct
- Influence of the environment/ community plays a vital role as the values and morals of the community have an influence on individuals and could place a certain amount of pressure on the individual to conform

### **6.1.2 Preventative measures practised as part of maintenance of corrective discipline in South African schools**

Maree (in Rossouw, 2015) states the most basic preventative measure (discipline) is the creation of a code of conduct for each school (see section 8 of the Schools Act of 1996) where school rules and codes are drawn up. Section 8 states that the code of conduct must aim to establish a disciplined and purposeful education and learning in schools and it must prescribe behaviour that respects the rights of learners and educators (Bengu, 1998). Point 6, of the Schools Act (1996) states clearly that the child's behaviour is the parent's responsibility. Parents can therefore not expect the school to teach their children manners or proper conduct. According to point 7.3 (Schools Act, 1996) the educator has the authority to use any reasonable measure to prevent a learner from harming others or himself with the exception of corporal punishment (point 8.2: Schools Act, 1996). In cases of minor offences, corrective measures for example, verbal or written reprimand by educator or principal, supervised work that could contribute to the learners progress or school environment (school community service), compensation, replacement of goods or suspension from sports teams among other could be considered (point 10.1: Schools Act: 1996).

Criticism has been levelled at the perception that some schools are making use of community service as a replacement for corporal punishment and instances reported where this mode of corrective discipline (punishment) was abandoned (Rossouw, 2015). Another institution punished offenders by letting them wear red overalls whilst cleaning the school grounds as community service. Both these methods were found humiliating by parents and discontinued (Rossouw, 2015). It is argued that community service as such is not a problem but then humiliation should not be part thereof. Learners should for example rather sand desks after hours (Rossouw, 2015), but such a practise can be viewed as exploitative child labour.

Another method of disciplining learners in South Africa is the merit/demerit system (Rossouw, 2015). Learners lose points on a discipline scale or gain credit if they perform certain tasks. More serious disciplinary action is taken when they get to a certain point. Offences are recorded accumulatively, filed and are used to determine a proper sanction when there is either a serious offence or too many minor offences.

Some schools are using a value-driven approach as a tool in education towards discipline as values are essential for sound discipline (Rossouw: 2015). A specific value is chosen weekly or per term and discussed in Life Orientation classes, assemblies and posters are put up on notice boards. Schools that are making use of the measures such as the MCAA scale, in order to determine probable risk behaviour can use the antisocial attitudes as themes for the weekly or termly awareness campaigns.

The MCAA could be of significance as far as the awareness campaigns are as it could be addressed as an integrated (whole school) approach. Frey (1997) is of the opinion that regulating a person's behaviour by means of the use of threats only serves to undermine people's commitment to values, norms, rules and authorities.

The research conducted by Rossouw, as transcribed in the article, indicated that respect as a value can be regarded as the "missing link" in most disciplinary cases (Rossouw, 2003). Traditionally educators discipline learners by trying to get them to obey rules and finding measures that could force learners to obey and conform. There should be more focus on learner's responsibilities and obligations (Rossouw, 2015).

### **6.1.3 Restorative justice: an African approach**

Catapano (2018) suggests that if punishment is to be instructive and effective, another path is necessary and that is where restorative justice comes in. An alternative approach based mostly on listening and talking rather than on conveying consequences (Catapano, 2018).

Restorative justice is an evolving concept leading to different interpretations in different countries, relative to context. As a broad term it emphasises alternative methods of addressing issues of crime and harm done to individuals, communities or society. Restorative justice could be seen as a movement within (and sometimes outside of) the criminal justice system, with special focus on the victim, and with a special relevance to marginalized populations like women and children.

Nhlapo (2005) states that the value of restorative justice can be noticed in African thinking and is captured in the African word "*Ubuntu*". As the restorative justice debate

in South Africa is conducted largely in the context of the criminal justice system in general, dispute settlements in the traditional African sphere always entailed a strong restorative element (Nhlapo, 2005:3).

The conventional criminal justice system should tap into the institution of traditional leadership to make a significant contribution to restorative justice in South Africa (Nhlapo, 2005). In essence, traditional leaders are the custodians of restorative justice in most African communities. According to Khunou (2013) the new constitution-based rights of children, international law and especially the general principles of *Ubuntu* and jurisprudence of African traditional justice created awareness of the child justice system in the new South Africa. The Child Justice Act 75 of 2008 (CJA) was promulgated to institute a criminal justice system for children and the CJA expands on and embeds the principles of restorative justice. Khunou (2013) cites Article 40(1) of the Convention of the Rights of the Child, that reads,

State parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

The CJA and the Constitution of the Republic of South Africa, 108 of 1996 (hereinafter referred to as the Constitution) aim to improve the quality of life of all people and to free the potential of every person by all means possible. The Constitution accentuates the "best interests of children" *vide* section 28, and children are guaranteed special protection within the domain of criminal justice system.

Apart from the provisions of the Section 28(1) (g) of the Constitution, children that are in conflict with the law, are given special means of safeguarding such as; children are not to be detained and if so, then for the shortest period of time possible; children is to be treated and kept in conditions that is taking the child's age into account; and children are to be kept separately from adults. In other words, the CJA institutes a

criminal justice system for children that come in conflict with the law, in terms of the values sustaining the Constitution and the spirit of *Ubuntu*. *Ubuntu* rejects any form of degradation, abuse or maltreatment (Khunou, 2013).

The basic principle underlying the CJA, is that it diverts matters concerning children who have committed offences, away from the criminal justice and accepts the concept of restorative justice in the criminal justice system in respect of children who are in conflict with the law. Subsequently, restorative justice is defined as:

An approach to justice that aims to involve the child offender, the victim, the families concerned and the community members to collectively identify and address harms, needs and obligations through accepting responsibility, making restitution, taking measures to prevent a recurrence of the incident (Khunou, 2013).

The CJA (section 2) states that the spirit of *Ubuntu* must be promoted in the child justice system in the following ways:

- (i) development of children's sense of dignity and worth,
- (ii) holding children accountable for their actions and safe-guarding the interests of victims and community,
- (iii) (iii) reconciling by means of restorative justice, and
- (iv) (iv) getting parents, families, victims and other members of the community affected by crime involved in the procedures in order to reintegrate children.

Additionally, the preamble of the CJA recognises the fact that in South Africa, before 1994, many children, in particular African children, did not have the chance to live like children because of circumstances in which they were, and as a result came into conflict with the law. In this context, the CJA entails driving the principles of *Ubuntu*, aiming at creating a criminal justice system for children who are in conflict with the law in agreement with the underpinning values, not only in the Constitution, but also the spirit of *Ubuntu*.

*Ubuntu* emphasises restorative justice in contrast with retributive justice. Restorative justice is seen as a process involving the offender, identifying and addressing harms and obligations so that healing can take place and to put things as right as far as

possible. Khunou (2013) refers to Gibson in his book titled *Overcoming Apartheid: Can Truth Reconcile a Divided Nation?* in which he place emphasis on restorative justice as significant in the African context of *Ubuntu*, where Gibson stated that:

In traditional African thought; the emphasis is on restoring evil doers to the community rather than on punishing them. The term *Ubuntu*, which derives from the Xhosa expression *Umuntu ngumuntu ngabantu* (people are people through other people) conveys the view that an environment of right relationships is one which people are able to recognise that their humanity is inextricably bound in other humanity. *Ubuntu* emphasises the priority of 'restorative' as opposed to 'retributive justice'.

Gibson further quotes Arch Bishop Desmond Tutu describing *Ubuntu* as follows:

*Ubuntu* says I am human only because you are human. If I undermine your humanity I dehumanize myself. You must do what you can to maintain this great harmony, which is perpetually undermined by resentment, anger desire for vengeance. That is why African jurisprudence is restorative rather than retributive (Khunou, 2013).

The CJA places emphasis on restorative justice as a process in restoring the dignity of victims for example an important form of restoration contains an apology. Consequently, the objectives of the CJA connects with the spirit of *Ubuntu* centring on the principles of:

- (i) rehabilitation of the offender,
- (ii) promotion of harmony in the community,
- (iii) promotion of reconciliation
- (iv) compromise.

None of these principles features in the recorded case studies in Chapter 5. The ten individuals were not rehabilitated and in four out of the ten case studies (ES, SM, JH and GC), they were frequently involved in minor offences resulting in the accumulation of high demerits. One learner did not get involved in further offences but was showing signs of antisocial behaviour. In the one case the one learner (SO) became promiscuous and one learner (GG) was charged, within the year, of another three

charges while under the influence of drugs. Two learners left the school and cannot be reported on. In none of the cases were the victims or the victim's family involved and that created feelings of disharmony in the community. Because the victims were not involved, reconciliation and compromise did not take place.

The CJA presumes that children that comes in conflict with the law will turn their lives around and become productive members of society. The CJA attempts to create a sense of balance between the rights and responsibilities of the child offender, the victim, the family and the community and allows for healing to take place on the basis of the values of *Ubuntu*, the principle of the indigenous African traditional justice system (Khunou, 2013).

## **6.2 RESTORATIVE JUSTICE MODELS AS METHODS OF ACHIEVING DESIRED CHANGE IN BEHAVIOUR**

The goal of restorative justice, as an alternative to traditional punishment in South African schools, is to transform the way society views and responds to crime or wrong doing. The restorative processes of mediation, conferencing and circles provide a space for the offender and the victim to meet whilst allowing the community (family and friends of both the victim and offender as well as any other stakeholders) to take part in the decision making process (Van Ness, 2018). The process is designed to provide healing as well as understanding of the way in which the victim and the offender view the process. In order to reach these goals, the models builds mainly on the values of respect, honesty, listening and truth.

Van Wormer's (2009) models of restorative justice, will be discussed in conjunction with Wisconsin's (2018) view of the success these models bring about in behavioural transformation. The diversion programme of The National Institute for Crime Prevention and the Reintegration of Offenders (2018) (NICRO) was deliberated to give a clearer picture of the restorative models namely, victim/ offender conferencing; mediation model; family group conferencing; healing circles and community reparation'; all of which are considered to be fully restorative.



It needs to be emphasised that at the school in question, no opportunity is given to the victim to meet with the offender as part of the disciplinary process. The offender is placed on a SGB hearing where he/she is charged and found guilty or not. If found guilty, the learner is sanctioned (punished) and continues his schooling without any follow-up and/or support. The onus is placed on the offender to comply with the sanctions and to inform the Head of Discipline once completed. A shortcoming here, is that no one “follows up” on the offender and certain sanctions are not carried out or not carried out wholly. In certain cases, the Head of Discipline and/or the school counsellor will be directly involved, making it difficult for the offender to “escape” from not completing the sanctions properly. The victim plays NO role in this procedure. The only role that the victim has in the case is to report the incident, unless it is witnessed by a teacher or another learner who report the matter.

The victim receives no information about the hearing and NO feedback or what the outcome was, is given to the victim after the hearing. The victim’s parents are not contacted by the school at all, neither are they informed about when a hearing will take place or what the outcome is. Should the victim’s parent contact the school, then the parent is purely informed that action has been taken against the offender. In cases where witnesses, be it other learners or teachers, had to write statements on the case, they are not further included in the process and they don’t even attend the hearing as the Head of Discipline takes over the case exclusively.

### **6.2.1 Victim offender conferencing**

Van Wormer (2009) explains victim offender conferencing as the bringing together of the parties in which one person has injured the other, to resolve and to right the wrong, if possible. He describes it as a compensation agreement that is reached where the facilitator plays an active role in negotiating this agreement between the offender and the victim.

Wisconsin (2018) defines victim offender conferencing as a process which provides victims of crime, that are interested in meeting the offender, the opportunity to do so in a structured and safe environment with the help of a trained facilitator. The goal of the process is holding the wrongdoer directly accountable whilst offering important

assistance and compensation to the victim. The victim is able to get answers to questions and is directly involved in the restitution plan. It allows the offender to make restitution to the victim. According to Wisconsin (2018), victims who meet with their offender, are far more likely to be satisfied with the criminal justice system outcome compared to victims of similar offences, who go through the normal procedures without Victim Offender Conferencing opportunities.

The significance of this process is that victims are less fearful of being re-victimised after meeting the offender and offenders who meet their victim are far more likely to complete their restoration responsibilities successfully and to accept accountability for their behaviour. Research proved that significantly less serious and fewer crimes are committed by offenders who have had the opportunity to meet their victim (Wisconsin, 2018).

NICRO (2018) uses a similar method of conferencing but uses the terminology Restorative Group Conferences (RGC). The description of RGC is that restorative justice can be seen as a constructive alternative justice intervention. During this intervention individuals make use of a decision-making forum, promoting the restorative justice principle of rebuilding disruptive relationships. This RGC is a face-to-face process between a victim and offender, who are accompanied by individuals supporting them, others affected by the incident as well as a trained facilitator. The focus of the conference is placed on making things right and not punishment. Group conferencing provides those victims that are interested in meeting the offender the opportunity to do so in a safe and structured setting (NICRO: 2018).

Once again, the victim is afforded an opportunity to hold the offender accountable whilst assisting in the reparation process. Through the facilitator, the victim is then able to let the offender know, the effect of the crime and to get answers to possible questions. NICRO (2018) further states that the offender is also gaining from this process by taking direct responsibility for the crime. This process can only take place once both the victim and the offender have been through counselling and they have been properly prepared. RGC expands to six different forms (used by NICRO) namely: victim-offender mediation, family group conferences, victim impact panels, victim impact classes, healing circles and community reparative panels (NICRO, 2018).

### **6.2.2 Mediation model**

Van Wormer (2009) describes the victim/offender mediation model (VOM) as a process where equals that are in disagreement, meet and special attention is placed on each's expectations and feelings about the encounter. Both parties are getting the opportunity to tell the story in their own words and style. Wisconsin (2018) is of the opinion that VOM is one of the distinct representations of what restorative justice entails. He illustrates VOM as a process, providing the victim the opportunity to meet the offender in a structured, safe location. The process aims to hold the offender directly accountable for his behaviour whilst the victim is assisted and compensated. As mentioned in the paragraph above (par 6.2.2) NICRO (2018) includes the victim-offender mediation model in the RGC programme.

As per discussion in paragraph 6.2.1, at the school in this study, the victim and offender is at no stage given an opportunity to meet. The only role player in the discipline process, after the offence, is the offender. Ironically, the offender is able to "tell his story", in his own words and style (refer to Van Wormer's description) to a School Governing Body (board members) but the victim is left out of the process in whole.

### **6.2.3 Family Group Conferencing (FGC)**

Van Wormer (2009) states that the family group conferencing model works very well in close knit, minority communities with strong extended family ties. This model involves more participants in the process, including the offender, the victim and their respective communities as the support structure. In this model, the facilitator does not play a major role in the decision making and merely provides the setting as well as leads the discussion. Van Wormer (2009) explains that this model is especially appropriate for the needs of women, in that the focus is on parenting and helping the mother with problems, as support from other relatives is at hand and the community indirectly provides help with child care responsibilities.

O'Connor and Peterson (2014) affirms that restorative justice is internationally being revised in industrialised countries for school use and the term "restorative practices" are more often used when referring to restorative justice in schools. O'Connor and Peterson (2014) stipulate that for restorative practices to be used in a school, family

group conferencing must be able to take place and they use the definition of family group conferencing as defined by Bazemore & Umbreit (2001:5):

Family group conferencing involves the community of people most affected by the crime— the victim, the offender, and the family, friends, and key supporters of both - in deciding the resolution of a criminal or delinquent incident. The affected parties are brought together by a trained facilitator to discuss how they and others have been harmed by the offense and how that harm might be repaired.

O'Connor and Peterson (2014) explain that when family group conferencing is adapted to be used in schools, the conference would have to focus on the expectations that were identified for the school environment as well as the problems that were created through the violations of those expectations. The offender, victim, parents of the offender and parents of the victim, teachers, administrators, psychologists/ counsellors and representatives of the student body can be brought together to discuss and correct behaviour and consider fitting consequences for the actions. This should be seen as a way to “repair” the “harm” which occurred in the school as a result of the behaviour and not purely punitive.

Family group conferencing for the youth originated in New Zealand and is widely used in restorative practices for young people in the United States (Minnesota, Pennsylvania, Colorado and Illinois) as well as in Australia, England and Canada to address serious behaviour problems, aggression and disruption. Thus, family group conferencing becomes a disciplinary diversion as an alternative to suspension or expulsion (O'Connor & Peterson, 2014).

The process of family group conferencing is successfully used in schools in Nottingham, England, where each school involved trained staff in restorative conferencing (O'Connor & Peterson, 2014). In cases where problems arise the trained staff member invites the involved parties to attend a restorative conference.

The procedure is as follows according to O'Connor and Peterson (2014):

- Participants are able to discuss the incident in a calm manner;
- Parties harmed are identified and given the chance to explain how they felt, ways to amend the harm done are discussed and an apology is possibly included;

- All parties involved formulate a written agreement on actions to be taken, and
- Support is provided for the implementation of the plan.

The family group conference depends on the attendance of the family, friends and service providers to offer support to the youth and although the implementation of the agreement is ultimately the responsibility of the youth, the conference members have a duty to also monitor and provide support to the youth (O'Connor & Peterson, 2014). Bazemore & Umbreit (2001) summarise the goals of family group conferencing as follows:

- the victim has an opportunity to be directly involved in the discussion of the incident as well as in the decision making regarding sanctions to the offender
- the offender's awareness regarding the impact of deviant behaviour is increased
- the offender gets the opportunity to be accountable and take responsibility for the consequences of the destructive actions and make amends and through that shape future behaviour.

As mentioned in the paragraph par 6.2.1 NICRO (2018) includes the family group conferencing model in the RGC programme.

#### **6.2.4 Healing circles**

Van Wormer (2009) states that communication and healing are the central focus in the healing circles model. The parties involved are given a platform to express themselves with the aid of a talking stick. It does not only include victims, offenders and their communities of care but also interested members of the surrounding community as well.

Circles, according to Parker (2018) provide, in the same way as restorative processes of mediation and conferencing, the space for a meeting between the victim and offender but with the difference that it includes community involvement in the decision making process. The community participants include anyone involved with the crime. Everyone present: the victim, the offender, the victim's family, the offender's family and the community representatives, are all given a voice during the proceedings. Participation is voluntarily and a participant is only allowed to speak if he has a "talking piece" in his hand. This "talking piece" is passed around in order to give everyone the

chance to speak. The goal of the process is to bring healing and understanding to both the victim and the offender and ultimately by reaching these goals, the circle process builds on the values of listening, sharing, truth, honesty, and respect (Parker, 2018). Once the healing circles process concludes a sentencing circle determines the response whereafter the final stage of circles of support takes over in order to track the process.

### **6.2.5 Community reparation**

Gal (2011) describes the community reparation model as a model on a macro level and it falls outside the criminal justice system and child welfare context. According to Gal this model creates the opportunity for the involvement of a whole indigenous community and its traditions. Wisconsin (2018) clarifies this statement and explains that community service entails sanctioned labour that is performed by the offender in order to benefit the community. Community service is given in order to place accountability on the offender and the emphasis is neither punishment nor rehabilitation (Wisconsin, 2018).

In order for restorative justice to be effective, the worksites must be provided and the work and hours worked, must be monitored (Wisconsin, 2018). NICRO (2018) agrees that the offender must be matched and placed with a relevant community establishment where this individual will take on the community service hours and that the monitoring of the work hours of the offender is of utmost importance. NICRO (2018) includes the following as two of the most important benefits of community service:

- Value-added social behaviour- an individual who are actively involved in a programme, offering a service to others are less likely to get involved in risky activities;
- Solid bonds to the community and society-offering a service to others can give an individual a sense of belonging to and being responsible for the community.

At the school in the study, all learners that were placed on SGB hearings, received a certain amount of hours of community service, as a sanction. As discussed by the researcher in Chapter 5.1.1 and 5.2, it is the opinion of the researcher that the

community service as practised by the particular school is not successful in all case studies recorded for the purpose of this research. For example, in the case of an individual doing community service at the SPCA after being found guilty on charges of alcohol use and distribution at school, is highly questionable. Another shortcoming of the sanction of community service as given by the involved school is the fact that in majority of cases the individuals “complete” the sanctions without any supervision leaving no guarantee that the community service was actually completed and not perhaps signed off by a family member or friend.

### **6.3 IMPORTANCE OF VICTIM/OFFENDER MEETINGS**

There are numerous benefits to participation in voluntary restorative practices. Unfortunately a number of victims refuse to be part of a meeting with an offender (Gaudreault, 2005: 8). According to Gaudreault (2005) the following factors are an indication as to whether or not they want to participate:

- The type of crime and the repercussions.
- The time that has elapsed since the crime was committed
- The nature of their relationship to the offender.
- The perceptions of the offender’s ability to understand the scope of the offence and the importance of reform.
- Many victims feel it is not worth the trouble.
- Many victims question the outcome of a meeting.
- Fear of retaliation or of being in the presence of the offender.
- Some victims do not recover from the incident and others have anger issues as a result of feelings of being cast aside by social agencies or the criminal justice system.
- Some victims feel the damage is beyond repair and that they have to move on.

A victim will be less afraid of being re-victimised after meeting the offender, as discussed in paragraph 6.2.1. The fact that the victim gets the chance to contribute in the decision making concerning the sanctions given to the offender (Bazemore & Umbreit, 2001) will more likely cause the victim to be satisfied with the outcome of the justice system. The offender is allowed an opportunity to take accountability and responsibility for his actions and make amends. Individuals who are intensely involved in a programme and offering a service to others are less likely to get involved in risky activities and are able to form solid bonds with the community, attaining a feeling of belonging to- and being responsible for the community (NICRO, 2018).

#### **6.4 APPLICATION OF A RESTORATIVE JUSTICE MODEL FOR SOUTH AFRICAN SCHOOLS**

It is an objective of this study to introduce a restorative justice model to be used in South African schools so that there can be a change in behaviour from the offending learner and to give direction to the school on the role of the school in the process, as well as direction to parental, peer and community involvement in the whole school process, which forms an integral part of the restorative justice process (see chapter 1).

In order for a model to be fully restorative there are six questions to be asked according to Zehr (2003), (Zehr, 2014). He states that “It is important to view restorative justice models along a continuum, from fully restorative to not restorative, with several points or categories in between” (Zehr & Gohar, 2003: 55). One should however, ask the six key questions that are used as guidelines to analyse both the effectiveness and the extent of restorative justice models for particular situations.

These questions include:

1. Does the model address harms, needs, and causes?
2. Is it adequately victim oriented?
3. Are offenders encouraged to take responsibility?
4. Are all relevant stakeholders involved?
5. Is there an opportunity for dialogue and participatory decision making?



6. Is the model respectful to all parties?

The researcher had these questions in mind when developing the model for South African Schools.

#### **6.4.1 A Restorative Justice Model for South African Schools**

In order to develop a model for restorative discipline to be used in South African schools the researcher has integrated elements of personality, structural and process theories in an eclectic fashion (See Figure 6.2). Risk factors associated with the theories are identified and applied according to the case studies relevant to this study, and included in the model.

Nieman (2002) states that researching theories relevant to youth offences, and how they explain the risk factors that might be related to offending behaviour, are important when seeking intervention programmes as well as getting a better understanding of the occurrence of antisocial and offending behaviour. An understanding of WHY and WHAT leads to delinquent actions, before WHAT can be done in order to prevent these actions and/or to intervene in cases where delinquency already occurred. (Nieman, 2002).

The following theoretical principles are of significance.

##### **Personality theories:**

- As discussed in paragraph 2.2.1, Anderson's (2007) opinion is that biological factors might have an influence on criminal behaviour because of physiological reasons. Teenagers (the focal point of the study) have not yet matured to the mental reasoning of adults. Gottfredson (in Akers :2017) states that self-control develops around the age of 7 or 8 years and if not, those individuals will become risk takers (Akers, 2017). Risk takers are associated with involvement in drugs and alcohol at a very young age (Anderson, 2007: 4).

- In paragraph 2.2.2 it is stated that a low self-esteem could be a predisposition to crime. In Braithwaite's (1989) opinion, if sanctions are re-integrative and focus on the action of the offender and not the offender self, crime could be reduced. Should stigmatising (labelling) of the offender take place, it could result in more crimes being perpetrated (Braithwaite, 1989). According to social learning theory, behaviour is learned in a social setting and as suggested by Bandura, through observation, imitation, and modelling that perform a major role, in this process. Sutherland describes criminal behaviour as learned through interaction with others especially (Sellers, 2012). Healy (cognitive theory as psychological theory) claims that "bad habits of the mind" may lead to criminal behaviour (Baro, 1999: 466).

### **Process theories:**

- The criminal justice theory is important for the specific purpose of this study, not to punish, but to intervene and restore. As discussed in paragraph 2.3.5 these theories place emphases on "punishment", restorative justice and intervention. Bianchi (paragraph 2.4.1) states that the offender and victim are set free from the consequences of their actions once compensation or restitution takes place. It is important that the offender receives certain sanctions in order to deter the offender from causing further harm (Gavrielides, 2011). The wrong must be put right according to Zehr (paragraph 2.4.4) in order to bring about change for both the offender and the victim, and not just as punishment (Zehr & Gohar, 2003). It is vital to strengthen the moral bonds between the offender and the community and this can be achieved through reintegrative shaming according to Braithwaite (paragraph 2.3.5). As explained in this paragraph reintegrative shaming strengthen bonds, in contrast to stigmatising and shaming that disintegrates these bonds (Braithwaite, 1989).
- The sociological theories are of value in the next ways: they focus on the social conditions and the environment that might lead to offences. For example, a violent and abusive parent, models violent, abusive behaviour in children (Graves, 2017).

For this study this is important where it involves violent behaviour on the school premises, like bullying. Kinch's (2003) revised model explains that actual appraisal by other people only affects behaviour by affecting a person's reflected appraisal

of the self. Otherwise, actual appraisal influences behaviour directly, irrespective of reflected appraisal. Behaviour could have an effect on behaviour directly in the sense that if a person treats another in a respectful positive manner, the other individual will also react with respectful, positive behaviour. On the other hand, if a person behaves in a disrespectful manner towards another person, the other individual could reflect the behaviour and react with the same disrespectful treatment (Ross, 1992).

### **Risk factors under the systems theory:**

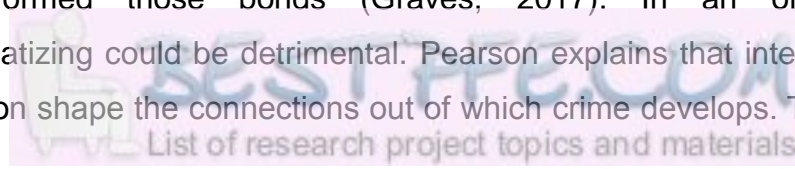
- The family could be a contributing factor where the offending behaviour of young people are concerned. Inconsistent discipline, poor supervision or no emotional involvement from parents could lead to learners involving themselves in deviant behaviour (Hirschi, 1969). Teenagers who are not supervised by parents effectively, will have a greater chance to engage themselves in antisocial behaviour (Anderson, 2007).

Higher levels of drug use can be found where there are lower levels of parental involvement and support (Jenson & Howard, 1999 :358)(Paragraph 2.4.2.3).

- The influence of peers is possibly the strongest risk factor for adolescent antisocial behaviour. Adolescent crime is frequently committed in groups consisting of peers (Brendgen in Tompsett, Anderson, 2007). Sutherland is of the opinion that peers play a vital role in influencing the values, norms, attitudes as well as techniques and motives that push people to get involved in criminal behaviour (Nieman, 2002).

### **Structural theories:**

- The organisation theory adds value in the following way: In paragraph 2.4 a discussion of Graves's opinion was given. According to this theory an organisation, in this study, a school, motivates those functioning within the organisation. Long-term social relations form mutual respect between the people who have formed those bonds (Graves, 2017). In an organisation labelling/stigmatizing could be detrimental. Pearson explains that interactions in the organisation shape the connections out of which crime develops. The way in



which society is structured and the relative degree of social organisation or disorganisation are important aspects that could influence the frequency of criminal behaviour (Pearson, 2013).

In order to develop a restorative justice model for South African schools the researcher integrated the personality-, process- and structural theories as integrating mechanism (Table 6.1).

**TABLE 6.1: Integrating Mechanism**

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">PERSONALITY THEORIES</p> <p style="text-align: center;">+                    +</p>	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">PROCESS THEORIES</p> <p style="text-align: center;">+                    +</p>	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">STUCTURAL THEORIES</p> <p style="text-align: center;">=                    =</p>	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">RESTORATIVE MODEL TO BE USED IN SOUTH AFRICAN SCHOOLS</p>
<p>In order to manage/control offences in schools, it is important that the individual develops mentally (mature) and is able to have self-control. The school curriculum (Life Orientation) plays a vital role in this development. Should a learner transgress, stigmatising (labelling) should NOT take place. Teachers and other role players need to be trained in how to deal with specific cases.</p> <p>Parents need to be informed about their own behaviour as children learn behaviour through observation, imitation and modelling (a parent that bullies at home might produce a child that bullies others at school). The school, churches and community centres could play a role in this by hosting programmes about different topics.</p>	<p>In cases of offences that took place: a process needs to be followed. This process is called a “restorative process” and NOT a disciplinary process. This should also be used as intervention.</p> <p>The offender should receive sanctions in order to right the wrong; as compensation so that both the victim and offender are satisfied with outcome, these sanctions should strengthen the bonds within the school and not disintegrate it.</p>	<p>Relationships and mutual respect are extremely important in schools (the ORGANISATION). These relationships include: learner-teacher; teacher-parent; learner-parent-teacher; teacher-teacher; parent-parent; learner-learner. (Whole school). In cases where the relationships are not intact, chances of offences taking place is higher.</p>	<p><b><u>RESTORATIVE MODEL TO BE USED IN SOUTH AFRICAN SCHOOLS</u></b></p>

In a school system, it is important that intervention takes place the moment that a learner is involved in deviant behaviour. When the first offence takes place the first stage of intervention needs to take place. Intervention during stage one should be managed by the teacher and the intervention management team. Teachers, and especially the intervention team should be well trained in managing intervention meetings and risk assessment as part of the intervention process. Ideally, learners should go through a process of risk assessment at the start of their schooling and during regular intervals at school in order for intervention to take place even before behaviour takes place that can be labelled as deviant. Without a clinical assessment

of learners it is difficult to identify which individual factors contributed to the misconduct.

Figure 6.1, below, is the researcher's own diagrammatical representation (*PROACTIVE RISK ASSESSMENT FOR RESTORATION*) and gives an explanation of this process of risk assessment as a way of intervention, pro-actively. It is important to keep the school's ethos in mind as each school has its own unique culture and the school functions as a community. The process that should be followed should be one of a whole school approach where learners, teachers, senior management, parents and other role players in the community jointly attempt to intervene before problems arise. A positive school environment with responsive management is very important together with a culture of student competence which will lead to a safe learning environment where the learner can achieve academic as well as social success (State Government of Victoria, 2018). As part of proactive intervention, discussions and debate can be performed in class circles where antisocial attitudes are purposefully condemned. "At risk" learners can also at this stage be "flagged" for interim counselling. A scale (for example MCAA) can be used to identify the needs of the learner during the counselling sessions from where the learner will either conform or at a stage transgress. Should the learner transgress, it is important to remember that the higher the needs the higher the support for this learner would be. At this stage, this is where immediate intervention should take place (with the first offence) (intervention process now moves on to figure 6.3).

Stigmatising (labelling) of the learner should NOT take place. Teachers and other role players need to be trained in how to deal with specific cases.

Should a learner progress to a second transgression or if as a first offence, a more serious offence is committed, the parent must be involved in the intervention process as part of the final stage. Parents could involve the church and community centres that could play a role in intervention by hosting programmes about different topics. This process is called a "restorative process" and NOT a retributive disciplinary process and should also be used as intervention.

The offender should receive sanctions in order to right the wrong; as compensation so that both the victim and offender are satisfied with the outcome, these sanctions should strengthen the bonds within the school and not disintegrate them. Relationships and mutual respect are extremely important in schools (the

ORGANISATION or a SYSTEM). These relationships include: learner-teacher; teacher-parent; learner-parent-teacher; teacher-teacher; parent-parent; learner-learner (Whole school). In cases where the relationships are not intact, chances of re-offending is higher.

Figure 6.1: Proactive Risk Assessment for Restoration

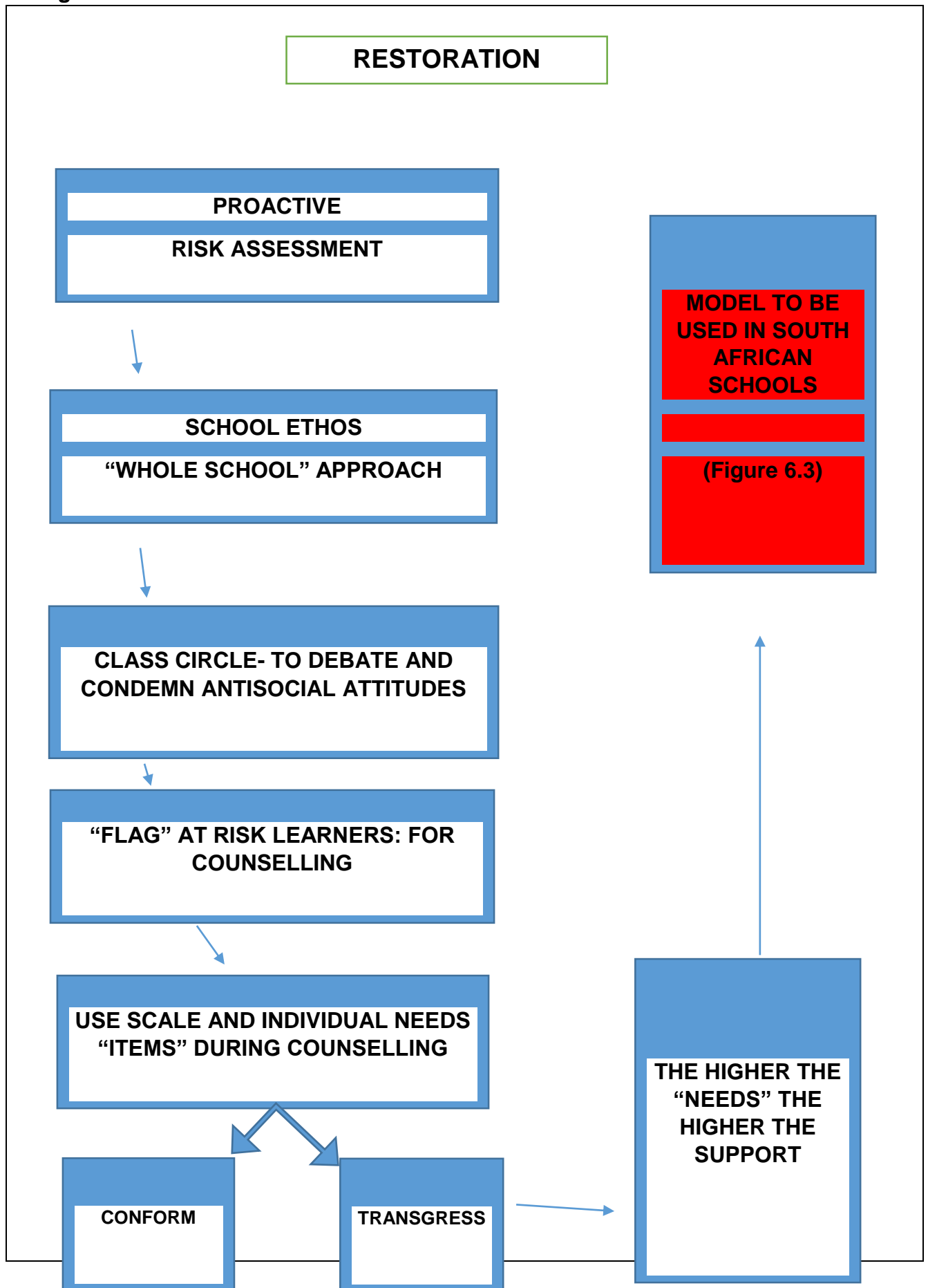
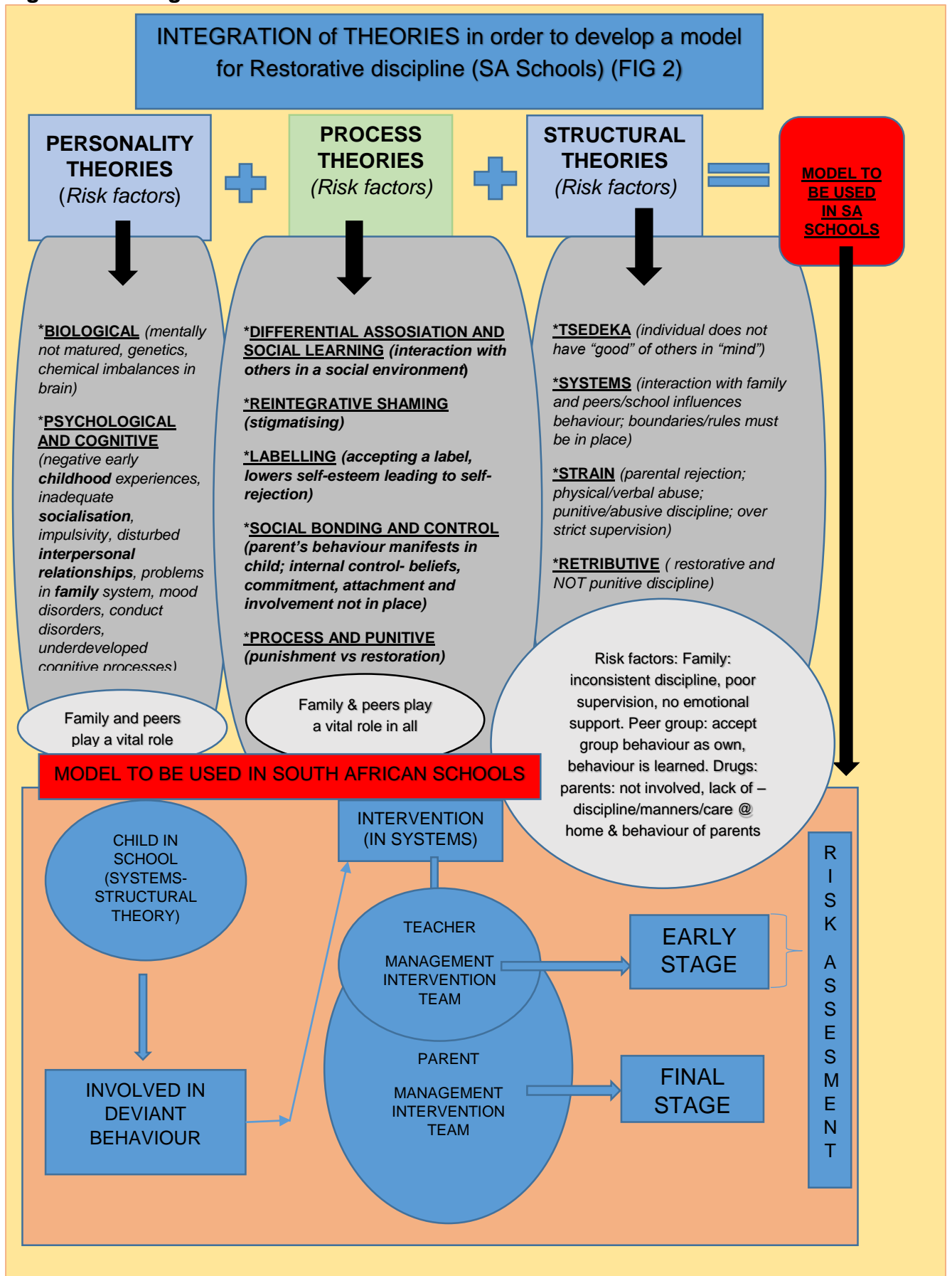
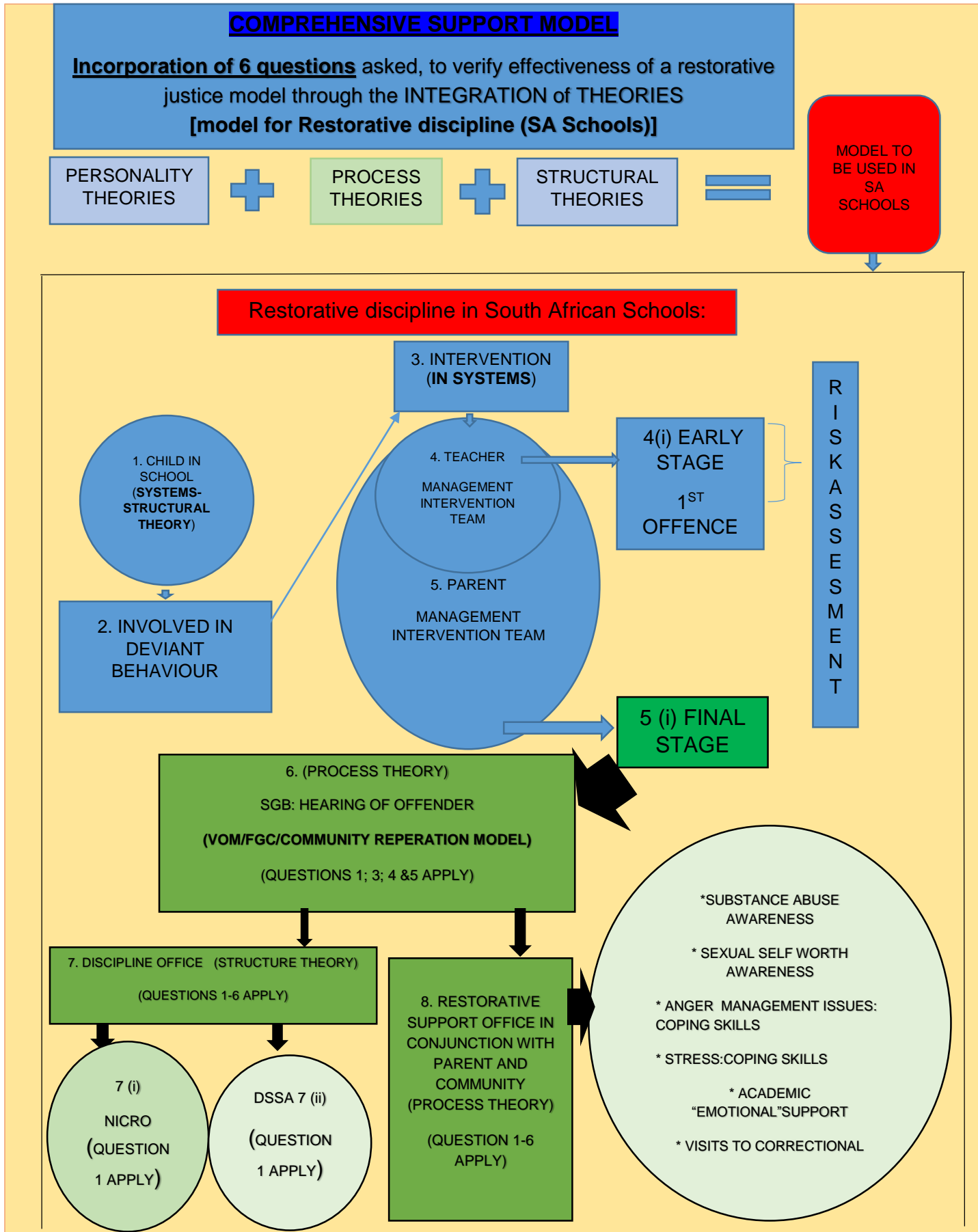




Figure 6.2: Integration of Theories



**Figure 6.3: Comprehensive Support Model**



#### 6.4.2 Explanation of the Comprehensive Support Model

As discussed in Chapter 2 (paragraph 2.5) the researcher has incorporated principles, personality theories, process theories as well as structural theories in order to develop a model to be used in South African schools. Furthermore, risk factors were identified and included, from the relevant cases in this study. In paragraph 6.4.1, it was mentioned that in the school structure (1); intervention (3); takes place the instant (2); that the child is offending. The first stage of intervention needs to take place (4i) at an early stage; and should be handled and managed by the teacher and the intervention management team (4). Teachers and the intervention team should be well trained in the risk assessment process as it plays a vital role in the intervention process. They should also be responsible for managing intervention meetings. It would be best if learners go through a process of risk assessment at the start of their schooling and thereafter during regular intervals at school in order for intervention to take place even before behaviour takes place that can be labelled as deviant.

Should a learner evolve to a second transgression or where the first offence is a serious offence, it is important that the parent and management intervention team (5) are involved in the intervention process as part of the final stage (5i). The broader community could be involved as they could play a role in intervention by hosting programmes about relevant topics. This process should be used as intervention and not as a disciplinary process, as it is restorative.

The offender should still receive sanctions in order to right the wrong and as compensation so that both the victim and offender are satisfied with outcome (see paragraph 6.4.1). Sanctions like these should reinforce the bonds within the school and not break them down. These sanctions form part of the last and final stage (5i) in the restorative discipline process to be used in South African schools.

The moment that the learner transgresses for the second time or if in the case of the first offence, it is a serious offence, the school will open an inquiry (a process) into the matter. The matter will serve at a disciplinary inquiry and the learner will be confronted by the SGB (6) with the events leading up to the inquiry. This process will be more informal and explorative (inquisitorial) than to prove the learner (adversary) guilty in an adversarial application. The SGB will start the process by reading the charges against the offender to the SGB team as well as the offender and his representatives.

Offenders will be given the opportunity to state their case and the SGB will in consultation with the restorative officer get background information (mitigating factors) on the offender. The victim and the victim's representatives must also be given the opportunity to explain the effect of the offence. At this stage it is important not to lose sight of the goal of restorative justice (to transform the way society views and responds to crime or wrong doing) and one of the following restorative models that could be used successfully in schools is the Victim Offender Conferencing Model (VOM).

As explained by Van Wormer (2009), VOM entails the bringing together of the parties in which one person has injured the other, to resolve the matter and to right the wrong, if possible. Both parties get the opportunity to tell the story in their own words and style. He describes it as a compensation agreement that is reached in a negotiating process between the offender and the victim. In schools though, it is important to also include the families (parents) of both the offender and victim. Therefore the Family Group Conferencing (FGC) model is also an important restorative model to be incorporated in the SGB hearing process. O'Connor and Peterson (2014) states that for restorative practices to be used in a school, family group conferencing must be able to take place and when family group conferencing is altered to be used in schools, the focus should be on the expectations that were identified for the school environment as well as the problems that were created through the violations of those expectations.

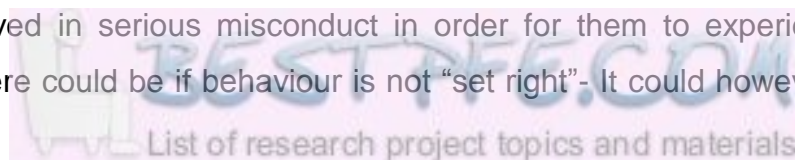
The following people should be brought together to discuss and consider fitting consequences for the actions and to correct behaviour: the offender, victim, parents of the offender and parents of the victim, teachers, administrators, psychologists/ counsellors and representatives of the student body. The purpose is not to punish, but to "repair harm" which occurred in the school as a result of the behaviour of the offender. Family group conferencing should be seen as a disciplinary diversion, as an alternative to suspension or expulsion (O'Connor & Peterson, 2014).

Once all parties were given the opportunity to discuss the offence the SGB will make a decision on whether they find the offender guilty or not guilty and sanctions will be imposed. One of the sanctions could be community reparation (service). Community reparation as a sanction could be valuable as the offender is given the opportunity to be involved with a whole indigenous community and its traditions or in this case a multicultural community (Gal, 2011).

Community service according to Wisconsin (2018), entails sanctioned labour (the emphasis is not on punishment or rehabilitation) performed by the offender, in order to benefit the community. In addition to community service as a sanction, if the offender is found guilty he is then sanctioned to the discipline office (7) for serious offences OR to the restorative support office (8) for less serious offences, for further action, instead of being suspended from school.

The Discipline Office has the responsibility to monitor and refer the offender learner to complete a programme with NICRO (7i) (South African National Institute for Crime Prevention and the Reintegration of Offenders) or with DSSA. The offender learner will attend these programmes after hours and not in school time. (7ii) (Drug Surveillance South Africa) in cases where serious offences like drug use or dealing, were committed. Programmes with NICRO and DSSA are run independently and parents have to take the responsibility to transport their children there and back. NICRO and DSSA could also offer these programmes within the communities for example in community halls, church halls or even at police stations in order to accommodate parents who are not able to drive their children elsewhere. However the school, parent and community (NICRO/DSSA) as well as the offender all work together in order to “restore” the behaviour of the offender.

In less serious cases, the offender reporting to the restorative support office will receive support (in conjunction with the parent) through following a specific programme related to the offence. The restorative support office also has the responsibility to the victim and his parent by supporting the victim through emotional counselling. Programmes offered by the restorative support office include substance abuse awareness (in cases of less serious substance abuse offences for example taking a sip of alcohol if under the influence of peer pressure); sexual self-worth awareness (cases of sexual nature like allowing another person to touch or exposing oneself nakedly or half-nakedly on social media); anger management issues- coping skills ; problems with stress – coping skills; academic “emotional support” (for example self-injury as a result of academic performance) and visits to Correctional Services (to learners involved in serious misconduct in order for them to experience what consequences there could be if behaviour is not “set right”- It could however have a



serious labelling effect and an alternative will have to be found in cases of learners that are younger than 18 years of age).

The researcher verified the suitability of the model (FINAL STAGE) against the six key questions as set out by Zehr (2003).

(6) SGB HEARING (questions 1,3,4,5 apply)

Question 1: Does the model address harms; needs and causes?

The SGB addresses harms, needs and causes during the hearing through allowing the offender, witnesses and the victim to testify and give their opinions regarding who was harmed and how, who or what caused it.

Question 3: are offenders encouraged to take responsibility?

The offender, if found guilty is given certain sanctions and by accepting to complete them properly, takes responsibility.

Question 4: are all relevant stakeholders involved?

Yes, the SGB, teachers/discipline officer/learner/parent/witnesses/victim and parent are all involved

Question 5: is there an opportunity for dialogue and participatory decision making?

All parties are given opportunity and encouraged to participate.

(7) DISCIPLINE OFFICE (questions 1-6 apply)

Question 1: Does the model address harms; needs and causes?

The discipline office addresses harms, needs and causes whilst monitoring the offender during his time of completion his programme with NICRO/DSSA

Question 2: Is it adequately victim orientated?

Discipline office follows up with restorative support office (regarding wellbeing of victim)

Question 3: are offenders encouraged to take responsibility?

The offender has the responsibility to complete certain sanctions as well as a programme with NICRO/DSSA which is monitored

Question 4: are all relevant stakeholders involved?

Yes, the teachers, discipline officer and learner - in constant interaction. Parent is involved as parent and is in constant interaction with discipline office. Community is involved-NICRO/DSSA

Question 5: is there an opportunity for dialogue and participatory decision making?

All parties are participating and in constant interaction and communicating

Question 6: Is the model respectful to all parties?

Yes. Offender, victim, all parents, all receive same treatment

(8) RESTORATIVE SUPPORT OFFICE (questions 1-6 apply)

Question 1: Does the model address harms; needs and causes?

The restorative support office addresses harms, needs and causes whilst supporting the offender- completing a programme as well as supporting the victim through counselling

Question 2: Is it adequately victim orientated?

Yes, victim receives counselling

Question 3: are offenders encouraged to take responsibility?

Yes, the offender has to complete a specific programme relating the offence

Question 4: are all relevant stakeholders involved?

Yes, the offender, victim and parents are involved

Question 5: is there an opportunity for dialogue and participatory decision making?

All parties are participating and in constant interaction and communicating

Question 6: Is the model respectful to all parties?

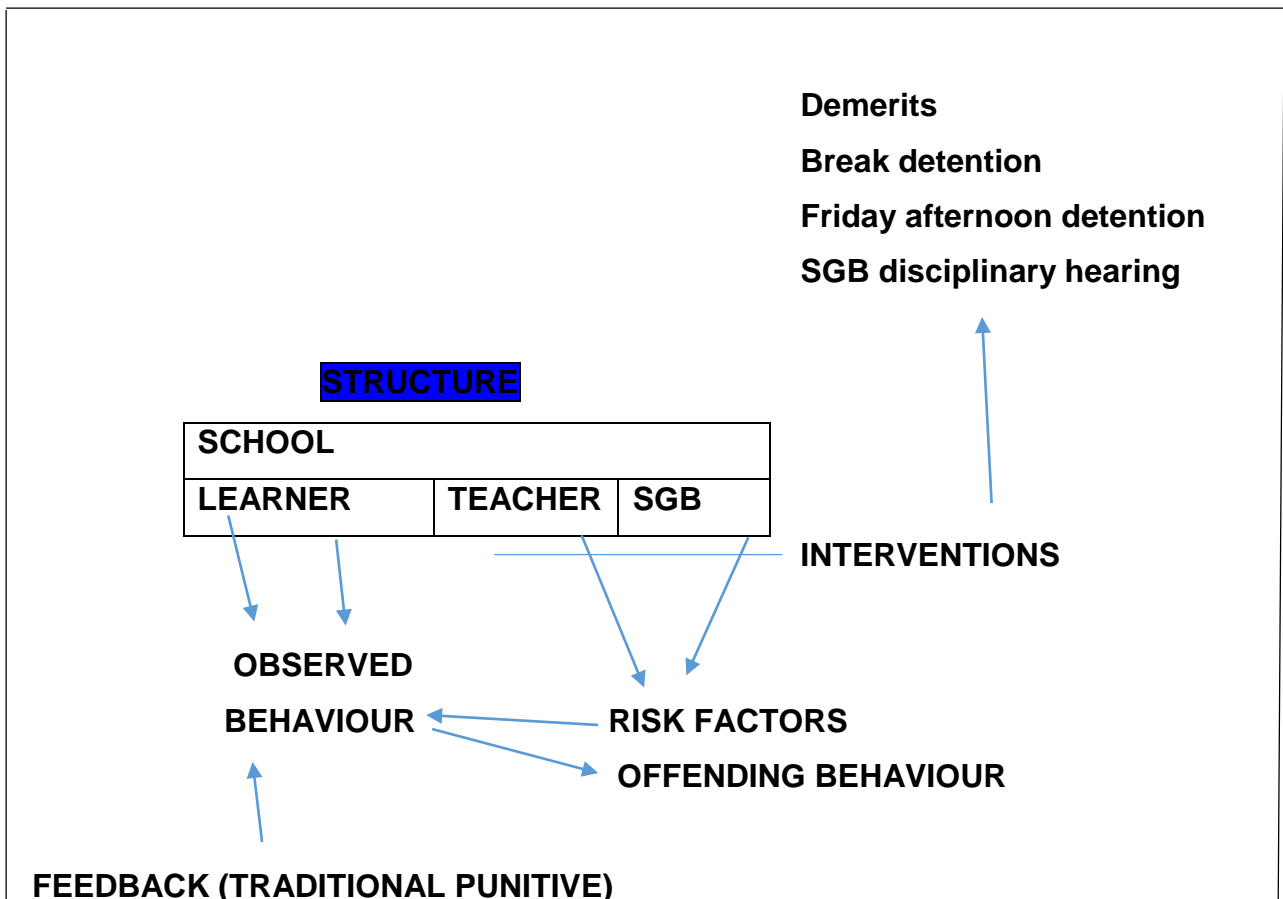
Yes. Offender, victim, all parents, all receive same treatment

After examining the restorative suitability according to the relevant questions the researcher found the model to be appropriate for use in South African schools.

## 6.5 A COMPARISON BETWEEN SCHOOL DISCIPLINE CURRENTLY AND THE NEW COMPREHENSIVE SUPPORT MODEL (RESTORATIVE DISCIPLINE)

School discipline currently focuses on retribution and the new comprehensive support model focuses on restorative justice that offers rehabilitative value.

### 6.5.1 School Discipline in South Africa Currently

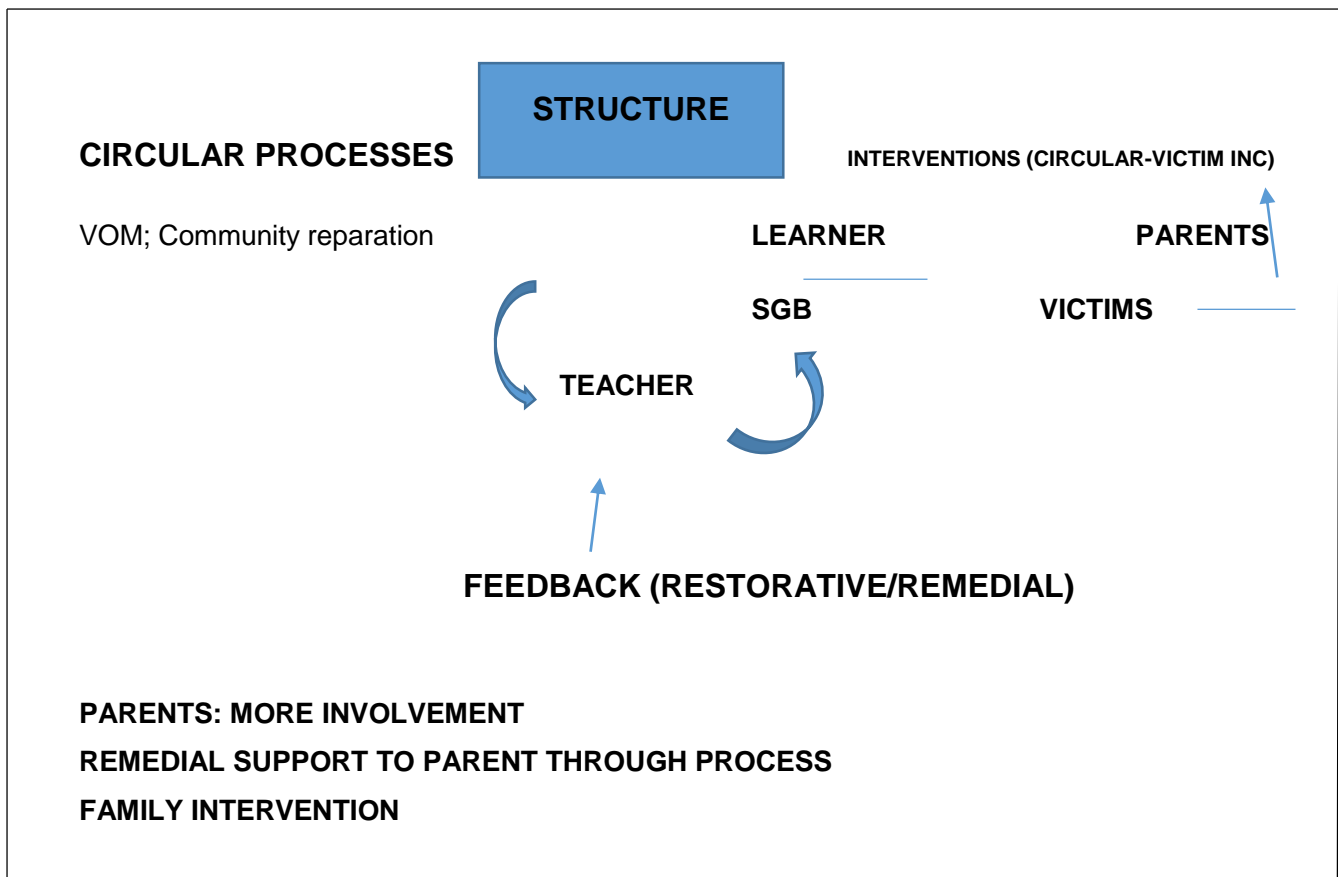


In the diagramme above the researcher illustrates a learner’s transgression (observed behaviour) as it is seen as “against school rules”. The focus is on establishing if the offender is guilty or innocent and sanctions/punishment (suspension/expulsion) is given. These processes of establishing guilt or not, are linear processes meaning that the learner gets punished straight away (demerits are given, learner is placed on break-, Friday afternoon- detention, or in cases of more serious offences the learner will be placed on a SGB meeting immediately).



Risk factors leading to transgression are ignored which leads, again, to further antisocial behaviour. In cases of intervention by the teacher or SGB, no long term improvement is seen (as can be seen from the case studies) as these interventions are as mentioned, linear interventions for example during detention the learner is to write out the school's code of conduct, or the writing of an essay on a specific topic and reading it to a class or grade group. Therefore no change in future behaviour is noticed. Feedback that is given is traditional punitive for example being punished in order to “deter” or prevent behaviour by imposing pain or even being suspended for a time period or even expelled. In reality one social injury is replaced by another. The relationships that are formed are adversarial relationships, in other words, in the process two or more people are opposing one another. In the school discipline system currently the victim has no role to play in the process and the offender has to take his punishment in order to prove he is taking accountability for his actions. This is not necessarily happening as a number of offenders do tend to take a chance with the system.

### 6.5.2 School Discipline Using the Comprehensive Support Model (Restorative Discipline)



In the diagramme above the researcher depicts a learner's transgression seen as an act against the school as an institution and a function of society, AND against an individual(s)/person(s). The focus is on solving the problem through changing the behaviour of the offender and reintegrating him into school environment. The offender, teacher and SGB is involved as well as the parent, peers and community. These processes of change of behaviour are circular processes meaning that relationships are formed and processes of dialogue and negotiation is installed. Restitution/restoring of BOTH offender and victim are important and focus is placed on the repair of the social injury. The victim plays an active part in the process and the needs and rights of the victim are recognized whilst the offender is made aware and made to understand the impact of his actions. Both the victim and offender are involved in the decision making of "how to fix" what is wrong. Parental and family involvement is important but it is also essential that the parent receives remedial support throughout the process.

## **6.6 RECOMMENDATIONS AND CONCLUSION**

The researcher is of the opinion that discipline in South African schools is facing many challenges and change is needed. Teaching and learning is constantly interrupted as a result of disruptive, antisocial and offending behaviour. The offender as well as the rest of the class mates are influenced as a result and this is leading to unsuccessful education in a country where there is already a number of learners suffering because of disadvantaged circumstances. Although sanctions or the threat thereof, has deterrent value, it is complex to achieve compliance from learners if they do not have the intention to conform.

What furthers exacerbates the discipline problem is the fact that schools are reporting that parents are not disciplining their children at home and they expect the school to teach their children values, norms and manners as well as proper conduct. Children are also not properly supervised at home and many are constantly exposed to alcohol, drugs, sexual activities, pornography and antisocial peers. This is also as a result of uncontrolled access to negative influences of social media.

Discipline in South African schools currently, is viewed as that a learner is behaving in a manner “against school rules”. If a transgression takes place, linear processes are then followed to punish the learner, so the learner is punished immediately and in most cases learners’ rebel and this leads to further deviant behaviour.

Change needs to take place so that a learner’s misbehaviour is seen as an act against the school as an institution and a function of society, AND against an individual(s)/person(s) involved. The problem needs to be solved through changing the behaviour of the offender and reintegrating him into school environment. This can be done by means of circular processes where the parents, offender, victim, teacher, SGB and community are involved. The researcher developed the comprehensive support model for South African schools with this in mind. It is therefore vital that schools’ implement the comprehensive support model in order to reintegrate learner offenders back into the school environment. Intervention is critical both reactively and pro-actively. The moment that the learner is involved in deviant behaviour it should be addressed. The researcher is of the opinion that intervention should actually take place pro-actively before the learner offends by means of a process of risk assessment. Learners with problem behaviour should be assessed. This allows for intervention before the child offends. Thus learners with underlying anger issues, for example can be identified early and can be encouraged to undergo therapy. Thus, restorative processes do not always only involve disciplinary processes.

By restoring behaviour and making offenders aware of the consequences of their actions, as well as “fixing” the problem with the young victim will not form part of or be limited to the “school-to-prison pipeline” as described by Zehr (1990).

## CHAPTER 7

### CONCLUSION AND RECOMMENDATIONS

#### 7.1 INTRODUCTION

As mentioned in Chapter 1, antisocial and criminal behaviour in schools, is not only affecting countries like Britain, USA, Canada, France, the Netherlands and Australia. It is also becoming a major problem in South African schools and 50% of all criminal activity reported in South Africa is committed by youths between 14 and 18 years of age, which is the average ages of learners attending secondary (high) schools in South Africa. Anti-social and offending behaviour by learners in schools contribute to a breakdown of social norms and values of the school that is representative of the broader society. As a social institution of learning and development, the ethos of schools must be conducive to teaching and learning. This ethos is eroded by ill-discipline and offending behaviour of learners, thereby compromising the objectives of schools as well as learners chances to learn and developed into socially well-adjusted members of society. A number of learners are still suffering educationally because of their disadvantaged circumstances in South Africa. In cases where offenders constantly disrupt the learning process, this leads to further unsuccessful educational outcomes. This negatively impacts on the discipline system in place in schools.

At the school in question a punitive oriented disciplinary team approach is followed. School rules, as well as the types of punishment in case of infringement of these rules, are set out in a code of conduct. Offending learner's cases are formally "adjudicated" at disciplinary hearings by representatives of the school's Governing Body, comprising of parents only and who are in charge of the formal hearings. The Head of Discipline at the school, acting as a "prosecutor", officially charges the offending learner, who has to enter a plea of guilty or not. The offending learner's parent(s) are allowed to attend the hearing. If found guilty, the SGB has the authority to invoke punishment in the form of demerits, detention, community service, academic suspension or ultimately expulsion. The researcher is of the opinion that the current system practised by the school in question and elsewhere, is flawed and not in the best interest of the learner.

Once the learner has been “punished” depending on the nature of the problem, the process is concluded. No aftercare or follow-up, or restorative justice, is done to ensure that the imbalance caused by the offending learner’s actions is redressed and order and harmony is restored. As illustrated by the researcher in Chapter 5, these actions (sanctions given at the hearing) may often cause more harm than good to the learner. For example in the case of ES, she had not displayed any behavioural problems in high school. She performed above average academically, as well as participated actively in extra mural activities and excelled in athletics as well as netball. She was a popular individual, however after the hearing and the sanctions she received, her behaviour became problematic. She became careless, started arriving late for class regularly and often did not do her homework. This led to a decline in her academic performance. Another example is that of SO, an academic “performer” without a prior discipline record. SO was a first team sports member and popular with her peers. After the hearing and the sanctions she was *still* prone to peer pressure and became promiscuous. There was a clear change in her behaviour.

The Constitution of the Republic of South Africa, 1996 explicitly promotes the rights of children and especially the best interests of the child. The Child Justice Act 75 of 2008 (CJA) expands on and embeds the principles within restorative justice. It is the opinion of the researcher that school-based restorative disciplinary practices, in the words of Davis (2014), offer a more sustainable, reasonable, and respectful alternative when dealing with misbehaviour, and it create safer schools.

The purpose of this study is subsequently met by the development of a restorative justice model to be used in South African schools (see below), that would constitute an original contribution to the criminological disciplines, focusing on the conduct and behaviour of young persons at risk.

To accomplish this, the researcher applies a survey method in the form of the Measures of Criminal Activities and Attitudes (MCAA) self-appraisal questionnaire/scale, developed by Mills and Kroner (2001). The purpose of the survey was to establish the social climate among learners in the school and to proactively identify factors indicative of risk to offend. A total of 353 grade 9, 10 and 11 learners voluntarily took part in the survey. Furthermore, the researcher purposively selected

ten disciplinary cases, where learners appeared before the School Governing Body (SGB) for the qualitative phase of the study. The ten learners in question were between the ages of 13 to 19 years old at the time of their behavioural misconduct, and served as a purposive non-random sample (see Rule, 2011). Approval for the respective learners to participate in the study was gained from both the Governing Body and the parents.

The researcher observed the ten disciplinary hearings that served as case studies, to get a clear understanding of the offending behaviour and the applied disciplinary process. The information recorded during the hearings provided the researcher with an understanding of the contexts of the learners offending behaviour.

## **7.2 THE RESEARCH AIM AND OBJECTIVES OF THIS STUDY**

The aim of this study is the development of a restorative disciplinary model that can be applied within South African schools, allowing for victim and community participation, and a change of the offending learner's behaviour.

In fulfilling the abovementioned aim, the following research objectives were realised.

### **7.2.1 To Reflect on the Current Traditional Disciplinary System in South African Schools**

Anecdotal evidence was provided to the fact that misconduct, antisocial and offending (criminal) behaviour is a concern in South African schools. A high percentage of these cases manifest in anti-social behaviour such as self-harming behaviour (self-mutilation like cutting with sharp objects/burning with candles) and criminal offenses including the use and abuse of alcohol and other drugs, peer victimisation (bullying), destruction of property and assault (see Ntshangase, 2015; Reyneke, 2013). Masitsa (2008) lists serious crimes such as rape, the assault of teachers and holding them hostage, cyber-bullying and gang warfare in schools to be on the increase.

In the current disciplinary system, a learner's misbehaviour is only addressed as an infraction against the school's rules and code of conduct, and it does not address the

harm. Traditionally, educators disciplined learners by enforcing the rules and finding measures to force learners to obey and conform (Rossouw, 2015). The focus is on proving the offender guilty (or innocent) of an infraction and sanctions/punishment (suspension/expulsion) follows in a linear process. Offending learners are punished for their behaviour and in some cases learners rebel against the sanctioning, which then only leads to further deviant behaviour. The process of sanctioning the misconduct of the learner, or the threat thereof, has limited deterrent value.

Reyneke (2011) confirms that the majority of schools in South Africa still follow a retributive, punitive disciplinary approach of an authoritarian nature, evident of adult-centrism. The present system only provides a short term solution while risk factors leading to the transgressions are ignored. In the current school discipline system the victim plays no role in the process and the offender is punished with little or no follow up. In the case studies observed, sanctioning as part of a final warning made little sense and left the offender at a social disadvantage as can be witnessed in the case of LG. After completing his sanctions he was not involved in another discipline related incident but the punishment he received, led to him withdrawing from social activities and friends.

### **7.2.2 To Explore Risk Factors that may Play a Role in the Management of Discipline Related Concerns and Conduct**

The second objective of the study was to explore risk factors that play a role in the management of discipline related concerns and conduct. Chapters 2, 4 and 6 (see 6.4.1) deal specially with the factors that are related to an increased risk of the violation of classroom and school norms and offending behaviour. Chapter 4 also deals with the identification of learners at risk, so that intervention and counselling can take place proactively before they engage in offending behaviour. This is of the utmost importance as multiple risk factors that coexist, heighten the probability of disruptive and offending behaviour.

The underlying premise of a risk management approach within child justice, is firstly, the importance of distinguishing young persons at risk of offending. The purpose thereof is to conclude how likely it is that a young person (learner) at risk will offend,

and secondly, what can be done in order to decrease this likelihood. Therefore, the risk principle has two components. The first component deals with the need for evidence-based risk assessment and reliable prediction. The second component focuses on the need to align the level of service to the offender's risk level. Phrased differently, the amount and intensity of treatment needed to reduce the degree of risk of offending (see Prinsloo, 2008: 2).

Contemporary risk assessments also focus upon dynamic risk factors that are responsive to change (see 1.2.2 and 4.2). They are, therefore, potential indicators for treatment and risk reduction and focus upon the probable risk of offending and reoffending by specific offenders. The practical importance of criminogenic risk *cum* need factors is that they present treatment goals that are not only linked to an offender's antisocial and offending behaviour but also the probability of his or her chances of becoming involved in more serious offending. This approach may stimulate the development of locally responsive and empowering means of managing antisocial behaviour and crime control with more emphasis on communitarianism, duty, social and moral awareness (*cf.* Prinsloo, 2008: 3).

While historical characteristics of the offender (static risk factors), such as the age of the offender at the time of the first incidence, and prior criminal history, if any, age of first conviction for an offense, victim selection and characteristics, are of importance to assess long-term criminal potential. They are considered to be a constant (Worthy, 2016; Bonta, 2015). In contrast, dynamic risk factors can be altered through considered interventions and treatment. A number of dynamic risk factors for offending and reoffending, such as substance abuse, deprivation, lack of skills, antisocial peers, pro-criminal attitudes and other antisocial traits have been identified (Worthy, 2016; Bonta, 2015). The best validated risk and/or need factors emerged in the form of early involvement in a number and variety of antisocial behaviour; antisocial personality behaviour patterns, such as impulsive gratification seeking and aggressive behaviour; antisocial cognition such as attitudes, values, beliefs, rationalisations, resentment, defiance; and antisocial associates who renders "social support for crime" (Andrews & Bonta, 2010: 59).



As mentioned in paragraph 6.4.1, it is important in a school system, that intervention takes place, the moment that a child becomes involved in deviant behaviour. Risk assessment plays an important role in the intervention process and both teachers and the intervention team should be well trained to facilitate this process. At an early stage, the moment that the first offence takes place, intervention needs to be implemented and this intervention should be managed by the teacher and the intervention management team. In more serious cases intervention should include the involvement of the parent and the broader community. It would benefit the school community if learners could go through a process of risk assessment in order to eliminate the risk of deviant behaviour before it takes place.

### **7.2.3 To Demonstrate How Learners at Risk can be Identified for Intervention and Counselling before they Engage in Offending Behaviour**

As alluded to in Chapter 1 (see 1.2.2), Chapter 4, and above, dynamic risk factors can be targeted through interventions and treatment. With the aid of restorative justice practices, these dynamic risk factors can be addressed through intervention that will facilitate change without only focusing on punitive measures. The timeous and proactive identification of troubled learners would assist in this process.

Mills and Kroner (2001) developed the Measures of Criminal Attitudes and Associates self-appraisal questionnaire (MCAA) (*cf.* Mills & Kroner, 2001), with the objective “to develop scales that tapped dimensions of practical and theoretical relevance to criminal behaviour” (Mills, 2002: 241). Part B of the scale, which was used in this study, measures: violence, entitlement, antisocial intent and antisocial associates. The MCAA scale results can be used individually, to address specific perceptions and attitudes as it provides measures of antisocial cognition, antisocial attitudes and associates, as well as violence that are significant to criminal and antisocial behaviour.

As pointed out by Rossouw (2015), learners are traditionally disciplined by attempts to get them to obey rules and by finding measures that could force learners to obey and conform. The MCAA scales can be of significance as they measure the abovementioned dynamic risk factors that can then be addressed in an integrated total institutional (whole school) approach.

In this study, a total of 353 learners voluntarily and confidentially participated in the study *vide* Chapter 4. Chapter 4 illustrated how the MCAA can be utilised as a non-invasive means and a proactive approach through which young persons at risk of offending can be identified. Pearson's Correlation (*cf.* Fouché & Bartley, 2011) confirmed a weak correlation between the antisocial associates and entitlement scales, a moderate correlation between the antisocial associates and violence scales, the antisocial intent and entitlement scales, with moderate to strong correlations between the entitlement, antisocial intent and violence constructs. A strong correlation exists between the antisocial associates and antisocial intent scales.

A multiple linear regression analysis was conducted to determine the relationship between antisocial intent as a dependent variable and antisocial associates, entitlement and violence as predictors. The results confirmed a strong correlation between the variables, explaining 57.4% of the variability within the research group. Furthermore, an ANOVA test confirmed a statistical significant relationship between antisocial intent and antisocial associates, entitlement and violence. A follow-up t-test confirmed the interactional statistical relationships between the respective variables to be highly significant.

The calculated risk of a school community can be applied to build and improve the ethos of the school. It can also be the subject of a restorative colloquia where attitudes and sentiments can be redirected and restored. Individual scores of high risk individuals can be used for therapeutic intervention where the specific criminogenic needs can be addressed in various restorative circles. This study's findings confirm the outcomes of several studies on the relationships between negative attitudes, antisocial peer associations and offending behaviour "when predicting risk, and subsequently criminal behaviour, antisocial attitudes are highly predictive, and thereby revealing a dynamic risk factor that can be targeted through effective ... intervention" (Holsinger, 1999).

#### **7.2.4 To Explain Restorative Justice, as an Alternative to Traditional Punishment in South African Schools**

Another aim of the study is to explain restorative justice, as an alternative to traditional punishment that can be applied in South African schools. Traditional punishment as set out in paragraph 7.2.1 only provides a short term solution because risk factors leading to transgression are ignored and whilst the threat of sanctions definitely have deterrence value, it can be very difficult to obtain high levels of compliance from the school community. Therefore, change in the discipline system of South African schools, is vital. Crime, according to the Restorative Justice approach, is seen as an act against the victim and it shifts the focus to repairing the harm that has been committed against the victim and the community instead of sanctioning the offender. The main objectives of restorative justice are to reduce suspension and to sustain the connection with the offender. Reintegration of the offender is the main focus. Schools following a restorative approach will deal with punishment as a means of restoring the status quo within the school community and repairing the harm done to the victim. It allows the offender to atone for the harm without the learner being labelled and stigmatised. Ensuring that this young person is not to be ostracized but rather rehabilitated and accepted back into the school community.

#### **7.2.5 To Explain How a Restorative Approach Would Allow for Peer and School Involvement within a Restorative Approach**

The fifth aim of the study is to allow for peer and school involvement within a restorative approach. A support team consisting of teachers that have completed training courses in counselling; trained psychologists and qualified, registered counsellors should be involved in the restorative process. Parents and this support team from the school should work closely together with other specialists. In more serious cases of anti-social and/or offending behaviour, a discipline team should also be involved in the restorative process in order to ensure that the offender complies with the sanctions specified by the restorative justice team. It is important that victims and their representatives also get an opportunity to explain how the offence affected them. Involving the peers and the “community” is important, as this involvement forms part of the goal of restorative justice. The victim offender conferencing model can be used successfully in schools

where the victim and offender, with their parents, can be brought together. Both the victim and offender get an opportunity to tell their story in their own words and style, in a safe environment. The offender, victim, parents of the offender and parents of the victim, teachers, administrators, psychologists/ counsellors and representatives of the student body should be present and the purpose is to “repair the harm” which took place in the school as a result of the behaviour of the offender.

#### **7.2.6 To Explain How a Restorative Justice Approach can Serve to Enhance the Ethos of a “Whole School Approach”**

Another aim of the study is to explain how a restorative justice approach can aid in enhancing the ethos of a “whole school” approach. A whole school approach is vital for promoting the social and emotional wellbeing of learners (refer Chapter 1). As was mentioned in paragraph 7.1, the school’s ethos must be conducive for teaching and learning. Ill-discipline and offending behaviour by learners erodes the ethos and this compromises the objectives of schools. Certain individuals are responsible for disruptions and the learning process of others are interfered with leading to unsuccessful educational outcomes. The role players in this process are the early childhood educators, teachers and in general, educational facilities (Education Department). An improvement of the school “climate” (environment), where the learner feels safe, will not only have an impact on the learner’s social and emotional wellbeing, but will result in better educational (academic) outcomes, leading to a more productive and operational society.

### **7.2.7 To Integrate and Evaluate the Research Results, to Design and Apply a MIT Approach to Restorative Justice within the South African School Setting System**

Another aim of the study is to integrate and evaluate the research results in order to design and apply a MIT approach to restorative justice within the South African school setting. The researcher explores, analyses and explains restorative justice as an approach to school discipline in South African schools. A traditional criminological base is incorporated, within an educational environment, taking psychological -, sociological processes in relation to environmental factors as well as parental influence, into consideration. As far as the restorative intervention process is concerned, it is important to remember that a school forms part of the community where it is situated, and does not function in isolation. Therefore, throughout the process of restoration, experts like for example the Department of Education, psychologists, criminologists and social workers will have to work together in an effort to improve the disciplinary system and achieve better results in the attempt to bring about behavioural change in youths displaying deviant behaviour. In the development of the model, MIT was successfully implemented, combining personality, process and structural theories.

### **7.2.8 To Develop a South African Theoretical Framework to be used within the School Environment as an Alternative to the Current Punitive System through the Application of Restorative Practices to come to the Aid of Troubled Learners.**

The final objective of this study is to develop a South African theoretical framework to be used within the school environment as an alternative to the current punitive system through the application of restorative practices to come to the aid of troubled learners.

The following theories were studied in order to develop a restorative model for South African schools: personality theories (biological, psychological and cognitive); process theories (differential association and social learning theory, re-integrative shaming and labelling theory, social bonding and control theories, deterrence and rational choice theories); punitive theories; structural theories (Tsedeka theory and systems theory) and strain theories (retributive theory). Risk factors that play a role in delinquent behaviour were incorporated with the mentioned theories in order to develop a

uniquely, Afrocentric, restorative model for restorative discipline in South African schools. The researcher identifies and integrates relevant elements from personality, structural and process theories (see Chapter 6). To explain the risk factors within the case studies.

### **7.3 RESEARCH DESIGN**

The epistemic stances in the philosophy of social science known as interpretivism, positivism and post-positivism were discussed to explain the various epistemological positions. These epistemological approaches represent different views and interpretations with regard to the interrelationship and interconnectedness of various scientific structures in the form of networks of propositions and assumptions regarding the nature of the social world (Mouton, 1998). These approaches contain interconnected principles which influence the nature of this study, and which direct it towards a mixed method methodology in an eclectic manner. The mixed method methodology comprises of qualitative as well as quantitative dimensions. Triangulation strengthened both dimensions. As indicated by Tashakkori and Teddlie (1998), qualitative and quantitative data collection, such as observations and other ways of collecting data (questionnaires), are complementary to one another and can be used effectively in a single research study. Vosloo (2014) states that one of the advantages of mixed method studies is that it allows for triangulation to take place.

As stated by Tabb (2004) the aim of analysing qualitative data is to clarify how persons interpret the world or the situation they are in; why it is that they have that view on their world or situation; how they cope in their world and how they relate to other people in their world. On the other hand, quantitative research aims to be a more objective and fair analysis, based on numerical findings (Dantzker & Hunter, 2006). Therefore, when one considers the aims, combining qualitative and quantitative research positively strengthens the study.

The researcher is of the opinion that by using a mixed method study, she was able to get a better understanding of the offending contexts and events pertaining to the offences committed by the learners as well as a clearer picture of possible risk behaviour at an early age.

### 7.3.1 The quantitative dimension

The main objective of this dimension was to demonstrate how at risk learners can be proactively identified for intervention through means of restorative justice, following whole school principle practices. This was done using the MCAA scale to measure the attitudes of 353 high school learners who voluntarily completed the MCAA self-appraisal questionnaire/scales, *vide* sections 1.2.2), Chapter 4 and 7.2.3 *supra*.

As discussed in paragraph 4.2.2, research confirmed that dynamic risk factors, such as antisocial cognition (thinking patterns and social attitudes) are important variables triggering antisocial and offending behaviour and also confirmed the significance of peer influence and norms of the peer group towards antisocial behaviour. Therefore, youths with antisocial attitudes and behaviour are attracted to each other through self-selection and as a result of a lack of self-control. Also, according to more recent research, a robust relationship exists between associations with criminal friends and criminal behaviour. Learners at risk can be identified by completing the MCAA scale that measures antisocial attitudes and associates that are significant to criminal and antisocial behaviour. This scale gives an indication of: tolerance toward violence: persons scoring high in the violence scale indicates a tolerance toward violence and attitudes that are supportive of violence; sense of entitlement: it is maintained that a sense of entitlement repeatedly is the reason why offenders participate in antisocial behaviour, and can be considered as a criminal “thinking style”; antisocial intent: the antisocial intent scale measures observations of future behaviour that a person possibly may engage in; associates: the confirmation indicating an association with others who are involved in criminal activities and that positively will develop to antisocial friendships.

What is important in this regard is that the MCAA is a proven valid and reliable measure of dynamic risks, especially antisocial attitudes and associates. The convergent validity of the MCAA was once again confirmed and demonstrated through this study *vide* section 4.4.3 above. The MCAA has also been designed with due

consideration of, and to minimise social desirability responding (Mills, 2002; Mills, 2004; Bäckström & Bjöklund, 2008; Rodrigues, 2016 & Whited, 2017).

From a whole school approach, the proportionate representation of the participants' responses at the school in the study, reflected in Figure 4.1 is profound. It is important to look at the interaction between the respective scales that cumulatively increase the underlying risks. The calculated risk of the collective of the participants can be applied to build and improve the ethos of the school, and can be addressed at restorative colloquia where attitudes and sentiments can be redirected and restored as part of a moral regeneration. Individual scores of high risk individuals can be used for therapeutic interventions where the specific criminogenic needs can be addressed in various restorative circles. It is important in this regard to look at the interaction between the respective construct that cumulatively increase the underlying risks.

### **7.3.2 The qualitative dimension**

As reported in Chapter 5, the researcher purposively selected ten disciplinary cases, of learners who appeared before the School Governing Body (SGB). It is the obligation of the SGB to conduct a hearing and to "punish" the learners as a consequence of any transgressions. The ten learners in question were 13 to 19 years old at the time of their behavioural misconduct. They formed part of a purposive non-random sample. The researcher attended the ten disciplinary hearings of the learners that served as case studies as an observer, to get a clear understanding of the offending behaviour, as well as the applied disciplinary process. The information recorded during the hearings provided the researcher with an understanding of the contexts of the learners' offending behaviour as well as the specific events that took place.

From her observations, the researcher concluded that the mere threat of sanctions is moderate at best. In four out of the ten case studies learners were not involved in serious misconduct within a year after the hearing but all four of them did however accumulate high demerits as a result of less serious offences like being late for class, homework not done, disrespect towards peers and teachers and verbal abuse. In two of the cases, the deterrence value was unsuccessful. SO's behaviour declined and



she became promiscuous, so that her teachers became concerned. Within a year GG received another three charges, while under the influence of drugs, in other words an escalation in the use of substances. From the case studies it is clear that factors such as inadequate parenting, a skewed socialisation process and negative values and morals played a role in the learner's behaviour. What is "right and wrong" to these learners are relative and they struggle to contemplate the possible consequences of their actions. Furthermore, some parents rationalised and even condoned their children's' behaviour, which may indicate that offences are the result of behaviour learned at home.

The analysis of the qualitative study was based on 10 learners who volunteered their participation, 8 male learners and 2 female participants. The mean age measured 16 years. Four learners (2 boys and 2 girls) were charged with substance related offences (alcohol) where friends played a role (association) and they stated that they "needed it" to get through the day. One learner was charged with the possession and use of drugs (cannabis) (antisocial intent), five learners (boys) were involved in violent offences, 2 learners (boys) denied being involved or responsible for their actions (entitlement).

**Table 7.1: Comparison of Quantitative versus Qualitative Study**

	QUANTITATIVE	QUALITATIVE
BOYS	43,6%	80%
GIRLS	56,4%	20%
MEAN AGE	15 Years	16 Years
VIOLENCE	40.3 % exceeded mean	50 % (boys only)
ENTITLEMENT	43.1 % exceeded mean	20 % (boys only)
ANTISOCIAL INTENT	56.4 % exceeded mean	10 % (boy)
ANTISOCIAL ASSOCIATION	45.3 % exceeded mean	40 % (2 girls & 2 boys)

When comparing the sanctions given, the following emerged:



- All 10 learners received a certain amount of hours of community service to be completed and 9 of them had to sign a behavioural contract, 6 learners had to write out the schools code of conduct and 6 learners had to have a certain amount of hours contact time with a school counsellor. For nine learners this was a final warning and in a case of another serious offence it would lead to expulsion;
- 6 learners had to write an essay on the topic of their offence whilst 3 learners had to write a letter of apology to the school;
- 1 learners had to attend detention sessions until his default count was below a certain number and 3 learners had to attend the June examination detention sessions;
- 1 learner was suspended for 7 days (for an offence similar to another case where the other learner did not receive suspension as a sanction), and
- 1 learner (a talented sportsman) was “banned” from all sport teams for the rest of his high school career.
- It is clear that the sanctions given, were not reasonable when considering the actual offences, as well as in the comparison of the various cases and should be levelled.

Of the ten disciplinary cases, nine learners were willing to complete the MCAA scale. Not all the questionnaires were complete though. For instance, the score on the violence scale could only be determined for five of the participants' due to items that were not answered. From a risk management perspective, the figures indicated in bold in Table 7.2 below, would be indicative of risk, especially in the instances of participants (case studies) 3, 6, 7 and especially 9 where the cumulative risk become prominent.

**Table 7.2: The Risk Profile of the Disciplinary Cases (N=9) Based on MCAA Mean Scores**

	<b>Violence</b>	<b>Entitlement</b>	<b>Antisocial intent</b>	<b>Antisocial Associates</b>
Total mean score	2.2	2.5	2.1	2.1
Participant 1 (19)	n/a	<b>3.2</b>	n/a	n/a
Participant 2 (29)	n/a	1.6	<b>2.2</b>	n/a
Participant 3 (37)	n/a	<b>2.6</b>	<b>2.2</b>	2.0
Participant 4 (53)	n/a	2.0	n/a	<b>2.3</b>
Participant 5 (145)	<b>2.3</b>	2.3	1.3	1.4
Participant 6 (187)	<b>2.3</b>	<b>2.7</b>	<b>2.6</b>	<b>3.3</b>
Participant 7 (258)	<b>3.0</b>	<b>2.6</b>	1.7	<b>2.2</b>
Participant 8 (287)	1.4	1.9	1.1	2.0
Participant 9 (298)	<b>3.8</b>	<b>3.4</b>	<b>3.3</b>	<b>2.3</b>

By means of an exploratory study, recommendations and conclusions can be made with regard to restorative discipline and behavioural conduct in South African schools. Before a discussion of recommendations and conclusions can be done, it is important to discuss the value of the research.

#### **7.4 THE VALUE OF THE RESEARCH**

As was mentioned in Chapter 1, misconduct, antisocial and offending (criminal) behaviour is becoming problematic in South African schools. Schools are facing many challenges and maintaining discipline in schools is becoming almost unmanageable. The current discipline practices do not provide solutions for the disciplinary challenges. Education, in a country where there are already difficulties within the education system, is suffering as a result of the ill - discipline and a general moral decline in society. Anti-social and offending behaviour of learners in schools contribute to a breakdown of social norms and values, not only in the school but also within the broader society. An effective disciplinary system should be implemented in schools and the discipline process should move from a punitive to a restorative system. The value of this study lies in the aim of the researcher to develop a restorative justice model to be used in South African schools by conducting a qualitative and quantitative

study. The study contributes to the practical application value of restorative justice through an empirical study, consisting of a case study approach, survey and the application of mixed method research. In this study the researcher attempted to understand the participants' view of situations, their perceptions and perspectives.

As was mentioned in paragraph 7.2.4, traditional punishment provides a short term solution, because risk factors leading to transgression are ignored. Even though the threat of sanctions definitely have deterrence value, it can be difficult to get the school community to conform. Change is vital in the discipline system of South African schools and this can be achieved by introducing a restorative justice model. The value of the research model can be found in

- 1) behavioural changes in young lives,
- 2) the possible improvement of the education system because disruptions are positively dealt with, which in its own, could lead to
- 3) positive behavioural changes among learners that has a positive effect on the wider society ( instead of antisocial behaviour that remains unchanged and unchallenged)

## **7.5 RECOMMENDATIONS FOR FURTHER RESEARCH**

The researcher is of the opinion that further research regarding a restorative approach to school discipline and behavioural conduct in South African schools is required.

Applicable recommendations based on the findings obtained are:

- Research must be done on levelling sanctions (if sanctions must form part of the restorative process for the individual)
- A study must be carried out on how to equip/train the various role players in the restorative discipline process, to be able to identify learners at risk in order to intervene timeously as well as to be able to identify and mediate potentially offending behaviour at an early stage

### **7.5.1 Levelling of sanctions**

As discussed in paragraph 7.2.4, the process of imposing sanctions, or the threat of sanctions, does have a relative deterrent value when it comes to disciplining children. Compliance and change of behaviour, can however, only be achieved if, the learners are punished justly for their behaviour. In cases where sanctions are unreasonable, learners could rebel leading to further deviant behaviour.

In this study it was discovered that in a comparison of the sanctions given to the individual cases (case studies), the sanctions were not the same and that sanctions should suit the offences and be equally imposed. Therefore, after careful consideration and research, decisions must be made to give certain sanctions for certain offences like for example, if a learner is involved in a substance abuse offence (alcohol), community service cannot be done at the SPCA but should rather be at an alcohol related institution. The writing out of the school's code of conduct in this case is also not contributing to a change of behaviour. Further studies are necessary in order to level sanctions that are fitting for specific offences.

### **7.5.2 Equipping/training the various role players in the restorative discipline process, to be able to identify learners at risk in order to intervene timeously as well as to be able to identify and mediate potent offending behaviour at an early stage**

It was mentioned in paragraph 7.2.3 that the identification of learners at risk is very important, so that intervention and counselling should take place before they engage in offending behaviour. In this instance the MCAA scale was used to measure risk. The school community would benefit if learners could go through a process of risk assessment at the start of their schooling and at regular intervals in order for intervention to take place when necessary. Unfortunately schools either don't have the expertise, or the time to carry out the testing. Identification and mediation of potential offending behaviour at an early stage is also essential. As mentioned in paragraph 7.2.3 (6.4.1), it is important to intervene the moment a child displays deviant behaviour. The role of risk assessment is an important one regarding the intervention process. As stated in paragraph 7.2.3, teachers and the intervention team, should be well trained in this process. Apart from teachers and the intervention team, a support team

consisting of trained psychologists and qualified, registered counsellors should be involved in the restorative process. As mentioned in paragraph 7.2.3, other role players throughout the process of restoration, can include experts in the Department of Education, criminologists and social workers. All these role players will have to work together in an effort to improve the disciplinary system and achieve better results in the attempt to bring about behavioural change in youths displaying deviant behaviour.

A comprehensive study must focus on how to equip/train the teachers, the intervention team, and other role players. They must have the necessary skills to be able to identify learners at risk and intervene timeously at an early stage.

## **7.6 RECOMMENDATIONS FOR THE SCHOOL COMMUNITY**

Recommendations to the school as a community based on the findings of this research are as follows:

### **7.6.1 A change in the discipline system is needed**

Schools must be aware that antisocial and criminal behaviour is a major problem in South African schools. The discipline system in schools is facing many challenges and change is needed. Where sanctions are given, it is important that the sanctions are reasonable as unjustified sanctions might lead to learners rebelling and recidivism, creating an even bigger problem than before. Dynamic risk factors for example, antisocial friends, antisocial behaviour and lack of respect for authority can be addressed through restorative rather than punitive interventions. Restorative justice expresses crime as an act against the victim and it focuses on the repairing of the harm that has been committed against the victim and the community instead of sanctioning the offender. The core goal of restorative justice is to lessen suspension and to sustain the connection with the offender. The main focus is the reintegration of the offender.

### **7.6.2 Risk factors can be identified at an early stage and will benefit the school**

As mentioned in paragraph 7.2.4, the discipline system at present, only provides a short term solution, as risk factors leading to transgression are ignored. Schools must be aware that risk factors can be identified at an early stage to the benefit of the school through for example, making use of the MCAA scale or similar instrument. The scale can be supportive in measuring tendencies towards violence, a major problem in schools, as it is able to identify persons who are high at risk, of committing interpersonal violence. The scale is also helpful in measuring “entitlement”, viewed as the perception that persons believe they have a right to take whatever they want. “Associates” are also measured and this is an indication of the association persons have with others who are involved in criminal activities that might lead to involvement of the person in such activities as well. The school will benefit if learners could go through a process of risk assessment at the start of their schooling, in order to eliminate the risk of deviant behaviour before it takes place.

### **7.6.3 Immediate intervention, is important to “safeguard” the school community**

As mentioned in paragraph 6.4.1, it is important in a school system that interventions are brought in the moment the first offence takes place. Teachers and the intervention team, are the first contact role players in the intervention process, as they deal with learners on a daily basis and they should be well trained in this process. It is also, as far as the restorative intervention process is concerned, as mentioned in paragraph 7.5.2, important to remember that experts within the Department of Education, psychologists, criminologists and social workers will have to work together in an effort to improve the disciplinary system and achieve better results in the attempt to bring about behavioural change among youths displaying deviant behaviour.

## **7.7 CONCLUSION**

Though this study is representative of 353 completed questionnaires and 10 case studies, further intensive research must be done on restorative discipline practices in South African schools and the findings must be integrated into the model, as developed by the researcher, in order to bring about change in the discipline system in South Africa.



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## ANNEXURE A: UNISA ETHICS APPROVAL

### COLLEGE OF LAW RESEARCH ETHICS REVIEW COMMITTEE

Date: 2016/06/17

Reference: ST 70

Applicant: I. Buys

Dear I. Buys  
(Supervisor: Prof M Ovens)

#### DECISION: ETHICS APPROVAL

Name	I. Buys
Proposal	A new paradigm towards school discipline in South African schools: a restorative approach
Qualification	PhD Penology

Thank you for the application for research ethics clearance by the College of Law Research Ethics Review Committee for the above mentioned research. **Final approval is granted.**

*The application was reviewed in compliance with the Unisa Policy on Research Ethics.*

*The proposed research may now commence with the proviso that:*

1. *The researcher will ensure that the research project adheres to the values and principles expressed in the Unisa Policy on Research Ethics which can be found at the following website:*

*[http://www.unisa.ac.za/cmsys/staff/contents/departments/res\\_policies/docs/Policy\\_Research%20ethics\\_rev%20app%20Council\\_22.06.2012.pdf](http://www.unisa.ac.za/cmsys/staff/contents/departments/res_policies/docs/Policy_Research%20ethics_rev%20app%20Council_22.06.2012.pdf)*

2. *Any adverse circumstances arising in the undertaking of the research project that is relevant to the ethicality of the study, as well as changes in the methodology, should be communicated in writing to the College of Law Ethical Review Committee.*

## ANNEXURE B: GDE APPROVAL

For administrative use only:  
Reference no: D2017 / 060  
enquiries: Diane Bunting 011 843 8503



GAUTENG PROVINCE

REPUBLIC OF SOUTH AFRICA

### GDE RESEARCH APPROVAL LETTER

Date:	11 May 2016
Validity of Research Approval:	11 May 2016 to 30 September 2016
Name of Researcher:	Buyis I.
Address of Researcher:	Postnet Suite 840; Private Bag X 1007; Lyttelton; 0140
Telephone / Fax Number/s:	082 756 0555; 074 401 0876
Email address:	irmabuyis@sutherlands.co.za
Research Topic:	A new paradigm towards school discipline in South African schools: A restorative approach.
Number and type of schools:	ONE Secondary School
District/s/HO	Tshwane South

**Re: Approval in Respect of Request to Conduct Research**

This letter serves to indicate that approval is hereby granted to the above-mentioned researcher to proceed with research in respect of the study indicated above. The onus rests with the researcher to negotiate appropriate and relevant time schedules with the school/s and/or offices involved. A separate copy of his letter must be presented to the Principal, SGB and the relevant District/Head Office Senior Manager confirming that permission has been granted for the research to be conducted. However participation is VOLUNTARY.

The following conditions apply to GDE research. The researcher has agreed to and may proceed with the above study subject to the conditions listed below being met. Approval may be withdrawn should any of the conditions listed below be flouted:

**CONDITIONS FOR CONDUCTING RESEARCH IN GDE**

1. The District/Head Office Senior Managers concerned, the Principals and the chairpersons of the School Governing Body (SGB) must be presented with a copy of this letter.
2. The Researcher will make every effort to obtain the goodwill and co-operation of the GDE District officials, principals, SGBs, teachers, parents and learners involved. Participation is voluntary and additional remuneration will not be paid.

*Handwritten signature and date:*  
2016/05/12

1

*Making education a societal priority*

Office of the Director: Education Research and Knowledge Management (ER&KM)  
97 Pretorius Street, Johannesburg 2001  
011 462 1000

**ANNEXURE C: INFORMATION LETTER REGARDING THE RESEARCH STUDY**  
**DONE BY MRS BUYS FOR A DOCTORATE DEGREE IN CRIMINOLOGY**

Dear sir/madam

January 2016

I, Irma Buys, in conjunction with UNISA, am conducting my Doctorate in Criminology and would greatly appreciate it if your child can participate in this study.

The aim of this study will be to develop a restorative justice model to be used in schools, in order to bring about change of behaviour from the offender learner; parental involvement in the process and to direct the role of the school in the process.

Participants will be given the questionnaire during the Life orientation examination session and will be able to ask questions before having to complete it. Participation in this study is totally voluntary without any repercussions.

I would like to assure you that all your child's personal information are completely confidential and all results will be handled with the utmost anonymity. For any questions or concerns you can contact me on [irma.buys@sutherlandhs.co.za](mailto:irma.buys@sutherlandhs.co.za)

I would like to thank you and your child for your time

Irma Buys



**ANNEXURE D: CHILD ASSENT FORM**

This study is done by Irma Buys. The aim of the study is to develop a restorative justice model to be used in schools, in order to bring about change of behaviour from the offender learner; parental involvement in the process and to direct the role of the school in the process.

I -----, understand that my parents/guardians have given me permission to participate in this study. I would like to participate in the study and is aware that Ms. Buys will use the results in order to compile a restorative justice model to be used in schools.

-----  
Signature of parent/guardian

-----  
Date

-----  
Signature of researcher

-----  
Date



**ANNEXURE E: INFORMED CONSENT FORM FOR PARENTS/GUARDIANS OF MINORS**

**Read this consent form carefully**

**Your signature is required for your child to participate in the study**

I have been informed that the purpose of the study is:

To develop a restorative justice model to be used in schools, in order to bring about change of behaviour from the offender learner; parental involvement in the process and to direct the role of the school in the process

I understand that the results of this study might be published BUT that my child's name or identity will NOT be revealed.

I understand that NO compensation will be given for participation

I have been informed that any questions I have regarding the study will be answered by Ms. Buys ([irma.buys@sutherlandhs.co.za](mailto:irma.buys@sutherlandhs.co.za))

I have read and understand above information

**Name** \_\_\_\_\_  
**Telephone number** \_\_\_\_\_  
**Signature** \_\_\_\_\_  
**Date** \_\_\_\_\_  
**(Parent/ Guardian)**