

JUVENILE DIVERSION

by

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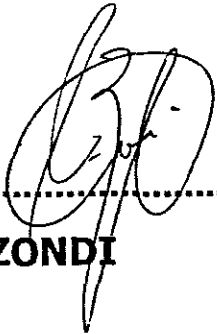
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March 2002

DECLARATION

I declare that the thesis "*Juvenile Diversion*" is my own work both in conception and in execution. All the sources that I have made use of or quoted have been acknowledged by means of complete reference.

A handwritten signature in black ink, appearing to be 'CZ ZONDI', is written over a horizontal dotted line. The signature is stylized and somewhat cursive.

CZ ZONDI

DEDICATION

This work is dedicated to:

- my loving child, Ayanda
- my family who have always been supportive
- Themba Dube whose love and encouragement has been a source of my inspiration

To all of them: Thank you

ACKNOWLEDGEMENTS

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SUMMARY

The present study entails a statistical description of juvenile diversion in Durban, KwaZulu-Natal. The handling and treatment of juvenile offenders remains a considerable problem to governments across the world. South Africa is no exception to the rule. In the past, thousands of teenagers who committed crime ended up in gaol and have been kept there for months – in most cases together with adult prisoners – awaiting their trial. Whenever they appeared in criminal courts they were seldom legally represented. For centuries, imprisonment and whipping of juvenile delinquents have been standard sentences handed down by the courts.

Lately, diversion of juvenile offenders as an alternative form of dealing with problem youth *outside the formal justice system* gained increased momentum. The National Institute for Crime Prevention and Reintegration of Offenders (NICRO) was established and instituted as a South African Prisoners Aid Association, charged with the treatment of juvenile offenders diverted to it by the Youth Court with the primary objective of successfully treating and reintegrating such offenders back into the community as worthwhile citizens.

This study is based on a statistical analysis of 275 cases of diversion at NICRO's Durban office during a six-month period, namely 1 July to 31 December 2000, for which purposes a specially devised information schedule was developed and used as a data capturing instrument.

The study aims were as follows:

- To render a theoretical exposition of the nature and extent of juvenile justice in South Africa.

- To render a theoretical exposition of juvenile diversion as an alternative to formal treatment and handling of juvenile offenders as well as the role of the National Institute for Crime Prevention and Reintegration of Offenders (NICRO) in this regard.
- To provide statistical information regarding juveniles diverted to NICRO in Durban, KwaZulu-Natal.

Data show that –

- Durban youth court diverted the largest number juvenile offenders to NICRO (69.45%).
- Most diverted juvenile offenders resided at Umlazi (32.0%), just south of Durban.
- Only 23 juveniles live with either one or both their biological parents.
- Sixty-one juveniles came from a four-child family.
- In 30 cases investigated were the juvenile offenders a "first child" in the family.
- Theft seems to be the most popular crime committed by most diverted juveniles (80.0%), followed by drug offences (7.0%).
- Two-hundred and forty out of 275 juveniles diverted to NICRO were in fact "accepted" for treatment and rehabilitation by this institute.
- The fact that juveniles did not want to accept responsibility for their criminal actions was the most popular reason for not having been accepted by NICRO.
- About 76.0% of the juveniles diverted to NICRO were accommodated under the Youth Empowerment Scheme (YES).

- Just over two-thirds of the juveniles were from incomplete families.
- In 48.0% of the cases was only one of the parents employed.

Recommendations that were put forward are firmly based on statistical information forthcoming from this investigation.

IQQQA

Lo msebenzi uchaza ngohlelo lwenani lwentsha ephambukileyo eThekwini, KwaZulu-Natal. Kuseyinselelo enkulu kohulumeni bamazwe onke omhlaba ukwelapha nokubhekana nolusha olukhubekiyo. UMzansi Afrika nawo uyingxenye yalokhu. Esikhathini esidlule izinkulungwane ngezinkulungwane zamabhungu namatshitshi aphula umthetho abezithola esesitokisini izinyanga elindele ukuqulwa kwamacala awo. Esikhathini esiningi abevama ukutoka nabantu abadala. Bekuthi uma evela ezinkantolo zokuqula amacala angavami ukuba amelwe ngabameli abesemthethweni. Emakhulwini ngamakhulu eminyaka edlule izinkantolo bezijezisa intsha ephambukileyo ngokuyifaka ejele nongokuzibhaxabula ngemvubu.

Kuthe kamuva nje kwakhona enye indlela yokubhekana nenkinga yentsha ephambukileyo ngaphandle *kokuthi* isiwe emthethweni. Inhlangano evimbela ukuphulwa komthetho yintsha eyaziwa ngokuthi iNICRO (The National Institute for Crime Prevention and Reintegration of Offenders) yamiswa ngokusemthethweni ukuthi ibe inhlangano encedisa ngeziboshwa eNingizimu Afrika (South African Prisoners Aid Association). Le nhlangano inomgono wokwelapha intsha ephambukileyo elethwa iNkantolo yeNtsha, ukuze lentsha iphindele emphakathini njengezakhimizi ezinamalungelo.

Lo msebenzi ucubungula inani lwentsha ephambukileyo engama – 275 ehhovisi leNICRO eThekwini ngesikhathi esithile. Lesi sikhathi siyizinyanga eziyisithupha, kusukela ku-1 Julayi kuya ku-31 Disemba 2000. Kwakhiwa uhlelo oluthile lokwazisa ngalokhu olwasiza ukuba lube wuzibuthe wemininingwane eqondene nabasha abohambukileyo.

Izinhloso zalo msebenzi zimi kanje:

- ukunika incazelo ehluzekile ngesimo nobungako ngenqubo yomthetho oqondene nentsha eMzansi Afrika

- ukunika incazelo ehluzekile ngokwelapha nokubhekana nolusha njengenqubo enokukhethwa kanye nokubheka ukuthi iNICRO ibambe qhaza lini kulokhu
- ukunika izinombolo noma inani lentsha esiwa kwaNICRO eThekwini, KwaZulu-Natal.

Imininingwane ikhombisa lokhu:

- Inkantolo yentsha eThekwini yasa-inani lentsha ephambukile elikhulukazi (69.45%) kwaNICRO.
- Iningi lentsha ephambukile lihlala eMlazi, duze neTheku, eningizimu yalo.
- Intsha ephambukile eyabe ihlala nabazali bobabili kumbe omunye wabo yabe ingama-23 kuphela.
- Intsha engama-61 yabe ivela emakhaya anezingane ezine.
- Entsheni engama-30 eyaphenywa, lowo owaphambuka ingane yokuqala ekhaya.
- Ukweba kungathi yicala elenziwa kakhulu intsha (80.0%) kulandele icala lezidakamizwa (7.0%).
- Labo abangama – 240 kwabangama – 275 abayintsha eyasiwa kwaNICRO bamukelwa ukubu bathole ukwelashwa nokubuyiselwa esimweni yile nhlangano.
- Isizathu esivamile esenza ukuba intsha ingemukelwa kwaNICRO wukuthi yayingavumi ukuthi yiyo ngqo imbangi yamacala.

- Intsha engama – 76.0% eyayiswa kwaNICRO yahlelelwa ukuba ngaphansi kweYES (Youth Empowerment Scheme).
- Inani elingu – $\frac{2}{3}$ lwentsha lalivela emakhaya angaphelele.
- Inani elingama – 48.0% lalivela emakhaya lapho kungoyedwa kuphela umzali owayeqashiwe, esebenza.

Izincomo ezaphakanyiswa zabe zisekwe uhlelo lokubala oluvela kulolu phenyo.

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CHAPTER 1

GENERAL ORIENTATION

1.1 INTRODUCTION

Juvenile crime has captured the attention of many institutions as well as the practitioners of different professions such as the police, correctional institutions, Social Welfare, Education as well as non-government organisations (NGO's) in South Africa, e.g. the National Institute for Crime Prevention and Reintegration of Offenders (NICRO).

The handling of the juvenile offender remains a considerable problem to governments around the world. South Africa is no exception. During 1989, the Department of National Health and Population Development, in collaboration with other relevant state departments, approached the Human Science Research Council (HSRC) and expressed concern regarding the nature and extent of juvenile offending in South Africa (Glanz 1994:5).

In the past, thousands of young people have awaited trial in prisons and police cells in South Africa, often for months. Frequently, their parents and guardians were not aware about their whereabouts and when they got into trouble through the commission of delinquent acts, they were seldomly legally represented in court. Many have not even enjoyed the assistance of a probation officer. Imprisonment and whipping have been standard sentences handed down by courts. In the 1980's hundreds of young people were detained during the states of emergency, causing a national and international outcry. However, young people detained for ordinary crimes were also slipping into the system, largely unnoticed. There was no strategy to ensure that these youngsters were treated humanely. In fact, until then there was no acknowledgement by the government departments of the children in detention (Juvenile Justice for South Africa 1994:3).

Section 29 of the Correctional Service Act, 1959 (Act No.8 of 1959), which provides for the detention of awaiting trial juveniles, was amended in 1994. The effect of this amendment which came into operation on 8 May 1995, was in general terms stating that an unconvicted person under the age of 18 years could not be kept in a prison cell, or lock-up. The problem and difficulty surrounding the practical implication of Section 29 of the Correctional Service Act, 1959 (as amended) is the unavailability of safe places.

The Child Care Amendment Act, No. 13 of 1999 (in operation from 1 January 2000) inserts a new definition of secure care facility in the Child Care Act of 1983. Secure care is defined as the "physical, behavioural and emotional containment of children offering an environment and programme conducive to their care, safety and healthy development". Section 28A states that secure care facilities are intended to be used for the reception and secure of children awaiting trial or sentence. The Minister for Social Development (previously Welfare and Population Development) would assume responsibility for the designation of facilities as secure care facilities. Some progress has been made in the 1999-2000 period towards the development of secure care facilities as an alternative to prison for awaiting trial children, as such facilities have opened in the Free State and Western Cape (Sloth-Nielsen & Muntingh 1999-2000:5).

An announcement was made by the Minister for Social Development on the 9th May 1998 about 310 youths were to be released from the Correctional Service system in KwaZulu-Natal alone. The minister also announced the launch of the "Project Go". It was launched to unblock the child and youth care system to create vacancies for children detained in prison (Sloth-Nielsen & Muntingh 1999-2000:11).

The National Institute for Crime Prevention and Reintegration of Offenders (NICRO) was established and instituted as a South African Prisoners Aid Association. Since its foundation on 06 September 1910 it has been changed into the National Institute for

Crime Prevention and Rehabilitation of offenders in 1970. In 1997, the word Rehabilitation was replaced with Reintegration (NICRO News:nd).

Diversion represents an attempt to find alternative forms of dealing with problem youth outside formal justice system (Whitehead & Lab 1990:305).

1.2 CONCEPTUALISATION

The following concepts are defined or described to show their relevance to the topic being studied and to eliminate any possible confusion that may arise from their interpretation.

1.2.1 Juvenile delinquent

Juvenile delinquency stems from the Latin word *juveniles* which means *young*. Delinquent also originate from Latin which means to *fail*. Juvenile delinquency describes a juvenile who has committed a criminal act (Romig, Cleland & Romig 1989:1). The concept denotes a child who has been officially acted upon by courts (Mqadi 1994:22). The concept is defined by presenting the legal and criminological views (Van der Walt, Cronje & Smit 1982:30).

1.2.1.1 Criminological definition

The criminological definition depends on the interest of the group or the individual dealing with juvenile misconduct at any given time or place. It comprises of cases of children alleged to have committed an offence that if committed by an adult would be a crime (Whitehead & Lab 1990:5). Such definitions rely on the juvenile justice system to determine which action to be viewed delinquent. Cronje, Van der Walt, Retief and Naude (1982:30-31) view juvenile delinquency as an

anti-social act by a non-adult not necessarily forbidden by law but not beneficial to the general welfare of the community. The criminological definition is broader and includes not only contravention of existing laws but also all forms of anti-social behaviour.

1.2.1.2 **Juridical definition**

Whitehead and Lab (1990:2-3) delineates an activity as illegal in their definition, regardless of the age of the offender, except for the label "juvenile" which is imposed. Juvenile delinquency is defined as any action by someone designated a juvenile (non-adult) that would make such a young person subject to action by a court of law (Van der Walt *et al.*1982:30).

1.2.1.3 **Status-offence definition**

Status-offence definitions of juvenile delinquency delineate juvenile delinquency from "unlawful" acts that are committed by persons of a particular status, namely a juvenile. Actions which fall under status-offence definitions include truancy, smoking, entering a bar or any place where liquor is sold, to mention a few (Whitehead & Lab 1990:5).

1.2.2 **Juvenile offender**

Juvenile offender can be defined both criminologically and juridically.

1.2.2.1 **Criminological definition**

The criminological concept refers to a non-adult who violates the norms set by a controlling group. A juvenile can be considered an

offender or delinquent if, for example, he or she adopts a certain form of behaviour, a particular hairstyle, runs away from home, associates with an undesirable person, and his or her actions are not approved by those in authority positions (Kratcoski & Kratcoski 1990:5).

1.2.2.2 **Juridical definition**

Juridically, a juvenile offender is a person designated a juvenile (non-adult) who has committed an unlawful act, found guilty in a court of law and sentenced (Van der Walt *et al.* 1982:30).

1.2.3 **Crime**

Crime is an act which is legally forbidden. In other words, antisocial conduct is not criminal until it has specifically been proscribed in the body of criminal law (Barlow 1996:7). Barlow (1996:8) defines crime as a human act that violates criminal law. This definition has two components:

- Crime involves human behaviour: This means that *someone has to perform some deviant act.*
- This kind of behaviour is identified in terms of a body of substantive law. Accordingly, a number of specific criteria must be met for an act to be considered crime.

These are:

- (i) There must be some form of conduct.
- (ii) It must constitute a social harm.
- (iii) It must be prohibited by law.
- (iv) It must be performed voluntarily.
- (v) It must be performed intentionally.

- (vi) The harm caused or inflicted must be rated to the conduct, i.e. the act must produce harm.
- (vii) The conduct must be punishable by law.

1.2.3.1 **Juridical definition**

The juridical definition of crime requires that an act must be illegal and punishable. Stanley (in Van der Walt *et al.* 1982:22) defines crime as an act which subjects the doer to legal punishment (by a court of law).

1.2.3.2 **Criminological definition**

The criminological definition delineates illegality of the act. Cullin (in Van der Walt *et al.* 1982:30) say of crime:

"Crime is an act that has been shown to be actually harmful to society or that has the power to enforce its beliefs and that places such an act under the ban of positive penalties".

1.2.4 **Diversion**

Diversion represents an attempt to find alternative forms of dealing with problems. Diversion means processing and treating juvenile offenders who are guilty of an offence outside the formal juvenile justice system because they can be "harmed" if processed through the formal criminal justice system. Diversion programmes are not preventive but rehabilitative (Whitehead & Lab 1996:265).

1.2.4.1 **Diversion: an American perspective**

In the US, diversion is classified as follows –

- True diversion, which is synonymous with screening youths. This simply entails referral of youths to sources of available help without any follow-up. There is no way to check whether the juvenile/family act on the referral (Whitehead & Lab 1996:265).
- The second stage of diversion takes place after arrest. Diversion at this point would be initiated by the police and include referral to a non-justice system agency for help with follow-up. Follow-up in this context means making sure the youth does not " ... fall through the cracks" (Whitehead & Lab 1996:265).
- Finally, diversion could occur after adjudication but before the imposition of a sentence. Diversion at this point usually takes the form of *deinstitutionalisation* (Whitehead & Lab 1990:310).

1.2.4.2 **Diversion in South Africa**

NICRO remains the primary provider of diversion programmes to the courts although the provincial Departments of Welfare are increasingly also rendering diversion programmes. Diversion services through NICRO are available in all nine provinces of South Africa (Sloth-Nielsen & Muntingh 1999-2000:16).

NICRO offers five diversion programmes, namely:

- (i) Youth Empowerment Scheme (YES). This is a life-skill training programme that involves young people and their parents or guardians.
- (ii) Pre-Trial Community Service (PTCS). It allows the offender to perform community service in lieu of prosecution.
- (iii) Family Group Conference (FGC). This is similar to victim offender mediation but involves the family and friends of the young person in a process aimed at restoring the balance and to prevent re-offending.
- (iv) Victim Offender Mediation (VOM). It brings together victims and offenders in an attempt to reach an agreement that addresses the needs of both parties.
- (v) The Journey. This is an intensive and longer term programme for those young people who are most at risk and who are challenged to engage in a long-term process of working towards constructive and independent living (Muntingh 1993:4).

1.3 RESEARCH METHODOLOGY

Research methodology is the operational framework within which facts are placed so that their meaning may be clearly understood. It refers to techniques and procedures for carrying out an enquiry and in particular, to the study of particular methods used by the researcher (Vito, Latessa & Wilson 1983:3).

Research methods are of utmost importance in any scientific inquiry. The researcher needs to allow his or her study to proceed through the following phases:

- (a) Collection of data.
- (b) Systematising and processing which allows the researcher to round off, logically and scientifically classify so that the explanation will clearly come through.
- (c) Explanation of data (Van der Walt *et al.* 1982:168).

The method of research that the researcher chooses should not lead to bias, and his/her research should not be forced into such a method for the sake of methodological design (Van der Westhuizen 1982:3).

A criminological research method chosen should function to –

- leave room for both individual and group approaches to the social phenomenon being studied.
- emphasises the achievement of the objectives rather than the collection of data.
- allows for the designing, measuring, data collecting and data processing techniques (Van der Westhuizen 1982:3).

Three major research methods are available to criminal justice researchers namely: case analysis, method of mass observation and the analytical method (Van der Walt *et al.* 1982:167).

1.3.1 Method of case analysis

This method is usually applied by a researcher when he or she wants to study the nature and extent of a social phenomenon as it manifests itself at individual human level. The case analysis research method is particularistic in nature.

1.3.2 Method of mass observation

This research method is usually used when a researcher regards crime as a mass phenomenon especially when he or she applies this method to a study of a social phenomenon by means of interpreting and explaining statistics relating to this social phenomenon, e.g. juvenile diversion. This method is particularistic in character which means that it could only be applied to analyse, interpret and explain statistics at group level (Van der Walt *et al.* 1982:170).

1.3.3 Analytical method

The analytical method is a planned way of research by transforming scientifically known things into science. This is done after placing in criminological perspective the study objectives, research techniques used and the goals to be researched.

The present study adopted the analytical method because of its non-particularist nature. According to Van der Walt *et al.* (1982:174), the analytical method is capable of employing both the case analysis and mass observation methods but in this process, they lose their status as full-fledged methods to become techniques of the analytical research method.

1.4 STATEMENT OF THE RESEARCH PROBLEM

The research problem revolves around the following questions "What should be done with juveniles in South Africa who get involved in juvenile delinquent acts?" and "Should such juvenile delinquents be processed through the criminal justice system and upon conviction be punished and thereafter be referred to a penitentiary institution (such as a prison)?" Section 29 of the Correctional Service Act (No. 8 of 1959) clearly stipulates that an unconvicted juvenile between 14 and 18 years should be detained in a correctional facility (prison), police cell or lock-up. However, when a juvenile between 17 and 18 is to be detained, he or she shall be kept in a properly equipped and secure facility managed by trained staff. Section 28(1)(g) of the Constitutional (Act 108 of 1996) supports the notion of every child having the right of not being detained in any kind of facility except as a measure of last resort.

1.5 AIMS OF THE STUDY

The present study aims to achieve the following:

- (i) To render a theoretical exposition of the nature and extent of *juvenile delinquency* and appropriate theoretical explanations of this social phenomenon.
- (ii) To render a theoretical exposition of *juvenile diversion* as an alternative to formal treatment and handling of juvenile offenders as well as the role of NICRO in this regard.
- (iii) To provide a univariate statistical description regarding juveniles diverted to NICRO in Durban.

1.6. RESEARCH TECHNIQUES

Research techniques are aids, used by the researcher to enable him or her to observe a phenomenon that cannot be satisfactorily observed by the senses alone. They are used as a means to realise the goal of a particular method (Van der Westhuizen 1982:12).

1.6.1 Social survey

A pre-coded, closed structured information schedule has been used as a data capturing instrument. This information schedule (Annexure A), has been made compatible with information contained in the case files of juvenile delinquents who have been diverted to and "treated" by NICRO in Durban. This information schedule was used in conjunction with a coding sheet (Annexure B), simply for the convenient transferring of the data to the SAS statistical analysis.

1.6.2 Measurement

Measurement determines the value of the research either qualitatively or quantitatively. Quantitative specification uses numbers whilst qualitative attributes have labels or names (Bailey 1987:61). This is supported by Van der Westhuizen (1982:107). When he refers to measurement as the allocation of numerical values to specific measurable traits (or characteristics of people, things and phenomena), in such a way that the relationships between the various gradients are taken into consideration, and a scale (measurement) has a natural zero point. He further points out that a concept implies a further refinement of interval scales: interval scales do not have a fixed zero point but ratio scales do.

In the present study, the researcher has adopted a ratio scale to measure a age, gender, race, etc. Univariate and bivariate tabular analysis of data is used because it examines the distribution of cases on only one variable at a time, e.g. age of diverted juveniles. Maxfield and Babbie (1998:362) maintain that criminal justice research adds another element which points to relationships among the variables themselves, e.g. position of juvenile as child in relationship to other brothers and sisters at home.

1.7 SAMPLING

Two broad types of sampling are distinguished in social research: (a) probability and (b) non-probability sampling. The present study employs only non-probability sampling simply because of the exploratory nature of the study into juvenile diversion and the absence of suitable sampling frames and/or sampling estimates. Probability sampling will therefore not be discussed any further. Sampling techniques are used when it is impossible to measure the entire population representing the phenomenon under study.

1.7.1 Non-probability sampling

The non-probability sampling technique employed in this study, utilised purposive (or judgmental) procedures. Maxfield and Babbie (1995:206-207) opines:

"Occasionally it may be appropriate to select a sample on the basis of your own knowledge of the population, its elements, and the nature of your research aims – in short, based on your judgement and the purpose of the study."

Sometimes it becomes necessary to consult written documents or even other types of records. In such cases, the "criminal histories" of juvenile

delinquents maintained by the police or other agencies (e.g. NICRO), provide an excellent opportunity to examine (scrutinise) such records according a pre-determined pattern to capture such information routinely collected and safeguarded. Maxfield and Babbie (1995:176) informs us that such records of juvenile offences are usually not disclosed to third parties, but " ... criminal justice researchers commonly obtain access."

Although probability sampling is central to social science research – including criminal justice research – non-probability sampling procedures have their own logic and can provide useful samples for criminal justice inquiry (Maxfield & Babbie 1995:174).

Neuman and Wiegand (2000:198), point out that purposive or judgmental sampling is usually applied in sampling *special situations* because:

"It uses the judgment of an expert in selecting cases or it selects cases with a specific purpose in mind" (namely to study juvenile delinquency without personally having to interview juveniles who have been diverted to NICRO but instead, to only consult their personal files).

These authors are satisfied that purposive sampling is appropriate when a researcher finds it necessary to study (1) "unique cases" that are especially informative in nature, (2) or when it is necessary to sample elements of a difficult-to-research, specialised population (such as prostitutes who often "operate" in dubious locations), and (3) or when a research needs to identify particular types of cases for in-depth investigation.

Non-probability sampling techniques are employed for situations in which sampling would be expensive and when precise representativeness is not necessary (Babbie 1990:97). This was done as follows:

- (1) Prior, written permission from NICRO to proceed with the present study was obtained (see Annexure C).
- (2) Researcher arbitrarily decided to select all those cases diverted to NICRO during the period 1 July 2000 to 31 December 2000.
- (3) Researcher also arbitrarily opted to include all the units or cases for the said six-month period, primarily to obtain as much as possible information regarding *diversion* of juvenile delinquents and the specific programmes offered for treatment and rehabilitation and ultimate re-integration of such offenders into the community. The data collection phase commenced during October 2001 and to this end, researcher personally gathered the required information at NICRO's office in Durban.

Purposive sampling is notably a suitable sampling technique to be used in this study as it entails *descriptive analysis of juvenile diversions in Durban and surrounding areas*. For this purpose, data have been extracted from case files kept by NICRO at their Durban office.

1.8 RESEARCH DELIMITATION

The present study has been confined to and demarcated as follows:

1.8.1 Spatial (geographical) delimitations

This investigation of the Durban Youth Court including the surroundings such as Phoenix, Chatsworth and other rural areas. Durban is a harbour city and is situated in the heart of KwaZulu-Natal, about 167 km South of Empangeni.

1.8.2 Qualitative delimitations

All case files of juvenile offenders diverted to NICRO by the juvenile or youth court during 1 July 2000 and 31 December 2000 have been observed and scrutinised for the purpose of data collection. The following information have, *inter alia*, been extracted for statistical analysis –

- (1) nature and trends of juvenile offending
- (2) South African juvenile justice system
- (3) demographic make-up of juvenile offenders diverted and involved in diversion programmes.

1.8.3 Quantitative delimitation

All case files of juvenile offenders during a six-month period have been included in this study. In this regard, 275 cases of diversion have been scrutinised, investigated and relevant statistical information surrounding each case diverted to NICRO, Durban, recorded.

1.9 STATISTICAL TECHNIQUES

Frequency distribution of data collected will be utilised to portray relevant data in either univariate or bivariate tabular format and as such, expressed in raw scores (N) and percentages (%).

1.10 CHAPTER DIVISION

Chapter 1 entails the general orientation to the study.

Chapter 2 deals with a theoretical review of the juvenile delinquency and contains, *inter alia*, some sociological theories that explain the reason(s) why juveniles engage in deviance.

Chapter 3 details the exposition of diversion of juvenile delinquents by means of exploring the nature and extent of this social phenomenon in both America and South Africa.

Chapter 4 concentrates on data analysis and interpretation, while Chapter 5 reports the most important findings, conclusions and recommendations emanating from the present investigation.

1.11 SUMMARY

The present study of juvenile diversion in Durban and surrounding areas is based on an analysis of data forthcoming from case files at NICRO's office in Durban.

This chapter mainly provides an overview of the statement of the research problem, definition of crucial concepts and an outline of the research methodology followed.

CHAPTER 2

JUVENILE DELINQUENCY

2.1 INTRODUCTION

Explanations of deviant behaviour have been the interest of criminologists throughout history. They have devoted their attention to basic questions about the nature of youth crime: *who commit delinquent acts? How much delinquency occurs each year? Is the rate of delinquent activity increasing or decreasing? How should delinquency be defined* (Siegel and Senna 1988:9).

Youth commit crimes every day. The criminal behaviour of juveniles/youth involves all kind of activity and these juveniles come from all backgrounds. According to Shoemaker (1996:3), illegal acts committed by youth under the age of 18 years are called *delinquent behaviour* and the youth committing them are referred to as delinquents.

Siegel and Senna (1988:10) say that a child can become a subject to state authority because of conduct that is illegal only because the child is under the age and they refer to those acts as status offences.

The objectives of this chapter is to analyse juvenile delinquency. Group factors such as the family, the school and the influence of the peer group are important matters. Sex and age factors have also been viewed important in the understanding of juvenile delinquency (Reid 1982:83-87).

Siegel and Senna (1988:7), explains how the concept delinquency evolved and say that prior to the twentieth century there was little distinction between adult offender and juvenile offender. Both adults and children received same form of criminal punishment.

The situation changed over the years as society becoming to be aware of the needs of the children. Today the term delinquency refers to a number of illegal activities. It can refer to a youth who commit a single act of theft or to a chronic offender arrested many times for serious violent offences.

In addition to sociologically orientated explanations, other theories explain juvenile delinquency namely differential opportunity, structure theories, cultural theory to mention a few.

2.2 PROFILE OF A JUVENILE DELINQUENT

2.2.1 Age of juvenile delinquent

The age of juvenile offenders differs from country to country. Glanz (1994:9) gives the age of less than 20 years as that of a juvenile in South Africa.

Stevens and Cloete (1990:62) say that normally a juvenile offender falls into the age group 7-18 years and in special cases between 18-21 years.

2.2.2 Who are juvenile delinquents?

According to Conklin (1999:559), a juvenile delinquent is a person who is below the legally specified age (19 in South Africa), who has been adjudged by a juvenile court to have violated the law or committed a juvenile status offence. Examples of status offences are truancy and running away from home.

Juveniles are thought to still have the potential of being rehabilitated and this is apparently why the juvenile system provides lesser punishment for them. Juveniles commit crimes knowing that the justice system will be lenient to them. They engage in what Cohen (in Siegel, 1995:195) calls "short-run

hedonism", which means that they live for today and tomorrow takes care of itself.

Collin and Beham (1981:108) suggest that high rates of delinquency are associated with low family cohesiveness, high parental conflict, large family size, incomplete families and low social class. Poor people see themselves as unfairly dealt with by society that articulates its value. By committing crime they repudiate society's view of themselves and at the same time society's standards in general.

2.2.3 Crimes committed by juveniles

Smart and Klein (in Shoemaker 1996:229) believe that acting as a male or a female is not inborn or biologically influenced. Instead, it is influenced by cultural and social definitions that one learns from childhood. They say maleness are born characteristics whereas the concept masculinity and femininity are social learned.

There are differences between the crimes committed by juvenile males and those committed by juvenile females. There is however, still controversy regarding the increased involvement of females in crime and delinquency. Studies by Adler (1975), Simon (1975), Steffensmeier and Steffensmeier (1980) (in Shoemaker 1996:104), indicate that female rates of delinquency are still lower than male rates. This may be because of the fact that females spend more time indoors. These authors agree with Bartollas (1997:73) that females are involved primarily in property crimes.

According to Bartollas (1997:74), males are more likely to be arrested for possession of stolen property, vandalism, weapon offences and assault. Cloete and Stevens (1996:64) include crimes against personal relations committed by males, citing physical built as the reason. Because males are

physically stronger than females, they find it easier to express their emotions through aggression than is the case with females. Males have more opportunities of committing property crimes like housebreaking, theft of motor vehicles and robbery because they spend more time outdoors (Bartollas 1991:34).

Women arrested for theft largely composed arrests for shoplifting. Cameron's study (in Chelsney-Lind 1997:105) of shoplifting in Chicago explains that women's prominence among those arrested for shoplifting may not reflect greater female involvement in the offence but rather differences in the way men and women shoplift. Her research revealed that women tend to steal more items than men do. Women also tend to steal several items of lesser value. Furthermore, Cameron provides the explanation given by store detectives. They suggest people tend to steal the same way they buy. Men came to the store with one item in mind. When they saw it, they took it and left the store. Women on the other hand shopped around.

Research conducted by English (1993) as cited by Chelsney-Lind (1997:107) found that men were more likely than women to report participation in burglary, whereas women were more likely than men to have participated in theft and forgery. She found the reason being that women lack the specific knowledge needed to carry out burglary.

2.3 STATISTICS OF SOUTH AFRICA

Due to the non-existence of crime statistics indicating the nature and extent of juvenile involvement in delinquent acts, it is impossible to render an accurate account of the magnitude of juvenile crime in South Africa for the period preceding the present study. Enquiries by Professor Potgieter, Head of the Criminal Justice Department at the University of Zululand revealed that the Department of Statistics, Pretoria no longer engages in collecting, recording, analysing and publishing crime

statistics. South African Police Service Headquarters, Pretoria also does not process crime statistics according to various demographic variables, which could have given an indication of the frequency of juvenile involvement in criminal actions. For these reasons the researcher arbitrarily decided to only consider statistical information regarding juvenile delinquency from the National Institute for Crime Prevention and Reintegration of Offenders (NICRO). These statistics will be discussed in Chapter four.

2.4 CAUSES OF JUVENILE DELINQUENCY

Causes of juvenile delinquency are from different dimensions. In order for a researcher to successfully address them he or she needs to approach them multi-dimensional.

2.4.1 Family and delinquency

The family and home are the primary socialisation agents in the life of children. It is therefore of utmost importance to start looking for the causes of juvenile delinquency within the family.

Studies that have examined relationship between broken homes and delinquency have consistently noted that delinquents come from broken homes (Kratcoski and Kratcoski 1990:116).

The family can be "broken" or incomplete as a result of a variety of reasons or circumstances. It could be incomplete by reason of death, desertion, divorce or separation. Some studies have sustained that police officials when interacting with young people from broken homes may decide to handle the case formally because they believe that a single parent needs more support in controlling a child's behaviour (Bartol 1991:129).

Parental discipline is a crucial point in the discussion of causes of juvenile delinquency. Sometimes parents spoil their children. They usually give an explanation that since they (the parents) had been so badly treated by their parents, they want their offspring's to have a happier childhood. This attitude has produced inconsistent or completely lacking parental discipline, which is one of the root causes of juvenile delinquency (Mannheim 1973:614).

Although parental supervision is essential, the techniques that parents employ to maintain and enforce discipline and control, scolding, unfair rules and punishments that restricts juveniles, especially for males. In addition lax discipline increase the likelihood of delinquent behaviour. Accordingly, physical and harsh punishment foster aggression from the child (Sedlitz and Jenkins 1998:59).

Lastly, there is a commonly held belief that young people who are not attached to their families are more likely to associate with delinquent peers and engage in deviant behaviour (Kratcoski and Kratcoski 1990:120).

2.4.2 School and delinquency

The school provides the first location of socialisation away from the family unit. At school the child is exposed to ideas different to those learned at home. The choice of behaviour and friends is exercised without the help of parents. The school setting is more complex than the family unit. Although schools are established and administered by adults, and the organisational goals set by adults, they are also the focal point of interaction for peer culture. In many instances the goals of the peer culture are different from those set by the school administration. Delinquency is then produced when young people have not been taught the social skills that enable them to interact appropriately with peers (Kratcoski and Kratcoski 1990:146).

Delinquency can be produced if the school fails in socialising young people. Pupils' apathy is also the cause of disciplinary problems in school. Young people view school as evil. In the process of socialisation they have ceased to view themselves as important participants in the social interaction process at school (Kratcoski and Kratcoski 1990:149).

The repressive atmosphere created at school also increases the amount of possible delinquent behaviour in school. The styles of buildings, large classes, formalised pupil-teacher contact and grading results in young people finding themselves in strange situations. This reduces opportunities for positive social interaction between school personnel and pupils. The pupils will then rely on their peers for socialisation (Kratcoski and Kratcoski 1990:149).

According to Cloete and Stevens (1990:28) the following factors contribute to delinquency in school context:

- The child who does not adjust well to school system may compensate his inability to adjust. He may steal pens, money, sandwiches and other possessions of fellow students. He is uncontrollable, smokes and plays truant. He does all this as a way of escaping the situation with which he is unable to cope.
- The child's scholastic achievement are below average and the results is failure at the end of the year. The child becomes demotivated and loose interest in school. This may lead to truancy and running away from home. They say studies have shown that 84% of delinquents failed at least once at school.

- Because of the child's inability to adjust to life at school, the child meets youngsters who have the same problem.
- These children leave school at an early stage. They have no skills needed by the outside world. They are unqualified, and have minimal chances of getting employed. This may lead to earning a living in a criminal way at a later stage.

Fear of physical violence is a contributing factor to delinquency. At school the child might join the activity of gangs for the fear of being physically harmed (Kratcoski and Kratcoski 1990:149).

2.4.3 Delinquent friends

Friends have a great influence on the behaviour of the juvenile.

According to Sedlitz and Jenkins (1998:64) the effect of friends in committing delinquency is more noticeable if the young offender is attached to his or her friends. If the young juvenile feels that the friend approve of delinquent acts, the juvenile will feel obligated to engage in delinquent acts.

2.4.4 Culture and delinquency

Mannheim (1973:563) believes that clashes between the different cultures can arise without local changes in the composition and structure of the population. These clashes negatively impact on the behaviour of juveniles.

Parents have been identified as the first and most influential educators of their children in cultural, personality and moral development. Such teaching may include the inculcation of undesirable as well as desirable attitudes and

values. Delinquent behaviour may result from youth's internalisation of attitudes that are not in accordance with accepted community norms (Kratcoski and Kratcoski 1990:120).

2.5 EXPLANATION OF JUVENILE DELINQUENCY

Juvenile delinquency is a worldwide problem, including in South Africa. Causal observation and daily newspapers attests to this. Researchers have not been able to establish causes that are most crucial in explaining delinquency. Each individual brings to a given situation unique personal characteristics that have been influenced by a number of factors. These could be family, school, peer context and community environment (Muntingh and Shapiro 1997:11). Juvenile delinquency, are those social acts (usually socially learned) of juveniles that are prohibited by law or socially disapproved.

The following socio-criminological theories will be discussed to show their relevance in explaining juvenile delinquency: social control theory, differential opportunity theory, culture conflict theory and differential association theory.

2.5.1 Social control theory

Adler, Mueller and Laufer (1995:160) inform us that *Social Control Theory* concentrates on techniques and strategies present in society that regulate human behaviour destined to foster conformity to society's rules and regulations through obedience to the influences of the *family*, the *school* and *religious beliefs*, moral values, friends, etc. Individuals' involvement in and commitment to conventional activities and values as well as greater attachment to parents, loved ones and friends, the smaller the chances are that such persons would violate the rules (norms) of society.

Social control theory is conceptualised in two different ways: (a) macro-sociological and (b) micro-sociological perspectives. The first perspective explore formal systems for the control of groups such as the legal system, laws, and law enforcement; powerful groups in society (e.g. governments); and social and economic directives. The macro-sociological perspective explains why people conform to external forces, just as the micro-sociological perspective does. Micro-sociological orientations, however, focuses primarily on *informal systems* (the family, school, peer groups, etc.) (Adler *et al.* 1995:161).

Although the issue of individual social control and its relation to juvenile delinquency had been the focal point of Jackson Toby (1957) who introduced the idea of individual "commitment" as a powerful determining force in the social control of behaviour, Scott, Briar and Irving Piliavin (1965) extended Toby's thesis by suggesting to what extent individual commitment and conformity plays a role in decreasing the chances of deviant behaviour (Adler *et al.* 1995:161).

Hirschi joined forces with the social control debate with the publication of his work: *Causes of Delinquency* in 1969. He was, therefore, not the first scholar to investigate the extent of individual self control and its relationship to juvenile delinquency. As an advocate of the micro-sociological perspective, Hirschi was less concerned about an individual's source of motivation to commit delinquent acts than in the *reasons* why people *do not* commit such deviant acts.

↓
According to Hirschi, social control theory convincingly explains *conformity* and *adherence* to society's rules – not to deviant acts (Adler *et al.* 1995:162).

Hirschi preferred four social bonds ready to promote socialisation and conformity to the rules: attachment, commitment, involvement and belief. He

claimed that the stronger these bonds the less the chances that young people (youth) will engage in delinquency. In an empirical study into (1) involvement in delinquency and (2) the strength of the four social bonds by means of a self-report study among 4 077 junior and senior high school students in California, Hirschi " ... found that weakness in any of the bonds was associated with delinquent behaviour" (Adler *et al.* 1995:162).

(1) **Attachment.** This type of social bond has three forms: attachment to parents (family ties), to school (teachers) and to peers (friends). Youth who have forged significant-attachment to their parents are likely to refrain from committing delinquent acts because such actions may cause a breach of the child-parent relationship. This kind of affection between parent and child becomes a primary deterrent to later criminal activities. This social bond (of affection) is bolstered by three factors:

- (1) amount of time the child spends with parents – especially when temptations to commit delinquent acts are high
- (2) intimacy of communication between parent and child and
- (3) affectional identity between parent and child
(Adler *et al.* 1995:162).

(2) **Commitment.** This social bond identified by Hirschi entails support and participation in social activities necessary and capable of tying the individual society's moral (or ethical) codes. The following "stakes" are necessary to foster commitment and conformity: vocational aspirations, educational expectations and

educational aspirations. Hirschi argued that the greater the aspirations and expectations the more unlikely delinquency becomes (Adler *et al.* 1995:162).

- (3) ***Involvement.*** This bond is derived from involvement in school related activities. Hirschi believed that an involvement in conventional activities does not leave time for illegal behaviour.
- (4) ***Belief.*** This bond consists of assent to the society's value system. The value system entails respect of its laws, people and institutions that enforce them. If these beliefs are absent or weakened; individuals are more likely to share in antisocial acts (Adler *et al.* 1995:163).

Social control theory, therefore, places emphasis on the crime-detering effect of strong attachment to institutions such as the family. Control theorists argue that lack of commitment to the conventional social order leaves an individual free to deviate (Glanz 1994:23).

This theory maintains that all people have potential to violate the law and the modern society presents many opportunities for illegal activity. The reasons why other people obey rules is their commitment to conformity. Criminal activity of the juvenile is thus controlled by fear of hurting their parents should they be caught (Siegel 1995:215).

The juvenile's behaviour is based on how he or she is attached to the social structures. The bond of attachment of the juvenile can control juvenile's actions. Those social structures are:

(i) **The family**

The most important explanations are the breakdown of the family. The family structure plays an important role. There is some indication that single-parent families are associated with higher rates of delinquency. If the child has no bond with his or her family, he or she is free to commit a delinquent act without taking care of how his other family might react. Children with good parent relationships always know of the expectations their parents have of them. They always consider their parent's feelings whenever they are about to act. Conklin (1995:219) say the closer a child's relationship with his or her parents, and the more intimate the communication with them, the less likely that child is to be delinquent.

(ii) **The school**

Commitment to conventional values, such as striving to get a good education is less likely to produce delinquency (Conklin 1995:219). Children who do not care about their school work are more likely to be delinquents. These children are not attached to their teachers and they do not care what their teachers think about them. Hirschi conducted research of high school students in California. One of his findings was that youth involved in conventional activity such as homework were less likely to engage in criminal behaviour (Siegel 1995:219). In his study he found that student who disliked their school work, those not concerned with their teachers opinions

and also had weakened relationship with their parents, had committed delinquent acts (Conklin 1995:219).

(iii) **The peer group**

Hirschi's study as cited by Conklin (1995:221) found that delinquents were attached to their peers. This does not mean that attachment produce delinquency. Juveniles who respect the opinions of their friends are less likely to be delinquents. Those who commit delinquent acts have no respect of their friend's opinions and they regard them as worthless.

2.5.2 **Differential opportunity structures**

This theory was developed by Richard Cloward and Lloyd Ohlin. They felt that Merton's explanation of pressures that motivate individuals to delinquency did not explain the type of crime pursued. They argued that explanations of delinquency must consider access to illegitimate avenues of gaining cultural goals, that is, avenues not condoned by dominant values (Bortner 1988:223).

According to this theory people share the same goals, however, people in the lower class have limited means of achieving them. Those who see themselves as failures in society will seek alternative ways to gain success. Juveniles who see no hope for advancement by legitimate means will join others with the same mind to form a gang (Siegel 1995:195).

Cloward and Ohlin (in Shoemaker 1995:111), found that the uneven distribution of legal and illegal means of achieving success in society represents a differential opportunity structure. To explain delinquency –

particularly urban juvenile gang delinquency – they identified three types of subcultures (Shoemaker 1995:111).

(i) **Criminal gangs**

This exists in areas where crime is defined favourably. Adult criminals create an environment for successful criminal enterprise. According to Siegel (1995:196) youths are recruited to a criminal career. They meet mature criminals who train them. They must be reliable to the adult and be dependable in their contacts in order to be acceptable.

(ii) **Conflict gangs**

These are youth that come from the community who neither provides legitimate or illegitimate opportunities. Youths become frustrated and use violence as a means of gaining status (Siegel 1995:196).

Cloward and Ohlin (1960:253) say that in the conflict subculture a "bopper" is valued for his "heart". He does no "chicken out" even when confronted by superior force.

In conflict gangs, members are always ready to use violence. Also, there are no successful adult criminal role models (Siegel 1995:196).

2.5.3 Cultural theory

The cultural deviance theory is associated with the works of Clifford Shaw and Henry McKay. The cultural theory is closely linked to the social disorganisation theory. They both explain delinquency from cultural atmosphere, however, the cultural theory has social learning underlying its perspective (Siegel and Senna 1988:125).

(i) Culture conflict theory

Thorsten Sellin was the first sociologist who stressed *culture conflict* as an explanation of crime and juvenile delinquency, based on the wisdom of the Chicago School and that of Edwin Sutherland. To Sellin, Shaw's ecological studies " ... identified neighbourhood characteristics that give rise to social attitudes which conflict with the norms of the law" (Brown, Esbensen & Geis 1996:295). He also pointed out that criminology is constantly charged with the task of explaining violation of conduct norms. The problem inherent in this mandate seems to be that conformity to the norms of many subcultures may contradict norms of the dominant culture, meaning that those who also have to adhere to such subcultures are actually "forced" to violate the norms of some social group – no matter how those people conduct or behave themselves. Important in Sellin's thesis is that crime may be explained by conduct norms learned in a subculture that does not favour the legal code (Brown *et al.* 1996:296).

Siegel (1995:196) agrees to the idea that the middle class expresses the rules of the dominant culture through criminal law. The sub-cultural groups who are excluded from the social mainstream also maintain their own set of norms and values.

People belong to different social groups, e.g. family, peers and occupational. When more rules of divergent rules govern the specific life situation in which a person finds himself, a conflict of norms exist.

According to Sellin who is the pioneer of this theory culture conflict occurs when the rules expressed in the criminal law clash with the demands of group conduct norms (Siegel 1995:193).

Accordingly, delinquency among juveniles can be produced by the effect of cultural conflict. Juveniles can assimilate delinquent behaviour of a dominant group of delinquents. Cultural factors are evident in the type of delinquency in which members of various ethnic groups engage (Shoemaker 1996:85).

Shoemaker (1996:85) further say that the process of transmitting criminal values from adults to juveniles and from older to younger juveniles does not always occur in the streets of local neighbourhoods but often through prison experience.

(ii) **Differential Association Theory**

This theory was developed by Edwin Sutherland. His focus was not so much on an association between people but around connections of ideas and behaviour (Nettler 1984:239). Brown *et al.* (1996:283) opine that the tradition of ecological research at Chicago motivated the conceptualisation of differential association by accepting that the environment (i.e. community, neighbourhood, etc.) is a major contributor to crime and delinquency. Shaw and McKay's findings that (1) crime and delinquency are more prevalent in neighbourhoods with peculiar physical and social features and (2) that criminal values are transmitted in more or less the same way as language and other cultural traits, actually sparked the notion of explaining law-violating behaviour as a product of *learning*.

According to this theory, criminality stems neither from individual traits nor socio-economic but it is a function of a learning process that could affect any individual in any culture. He proposed a list of nine principles that define different associations. These propositions specify the process by which a particular person (juvenile delinquent) engages in criminal behaviour:

- (a) Criminal behaviour is learned.
- (b) Criminal behaviour is learned in interaction with other persons in the process of communication.

- (c) The principal part of the learning of criminal behaviour occurs within personal intimate personal groups.
- (d) When criminal behaviour is learned, the learning includes:
 - techniques of crime, both complicated and simple and
 - motives, rationalisation, drives and attitudes.
- (e) The direction of motives and drives is learned from definitions of legal codes as favourable and unfavourable.
- (f) A person becomes delinquent because of an excess of definitions unfavourable to violation of law.
- (g) Differential association may vary in frequency, duration, priority and intensity.
- (h) The process of learning criminal behaviour by association with criminal and anti-criminal patterns involves all of the mechanisms that are involved in all other learning.
- (i) While criminal behaviour is an expression of general needs and values, those general needs and values do not explain it, since non-criminal

behaviour is an expression of the same needs and values (Siegel 1995:209).

According to this theory juvenile delinquency is learned in the same way as conforming behaviour. A young juvenile may experience internal conflict in trying to decide which sets of norms, values or attitudes and codes of behaviour to accept and internalise for example a youth living in a neighbourhood where crime is favourably defined. The young may be drawn to the criminal lifestyle and want the same success and live an expensive lifestyle at the same time young juveniles who have good relations with their social groups, e.g. families, school will try to instill non-delinquent values to them. Edwin Sutherland developed different association theory to apply within a single disorganised community (Kratcoski and Kratcoski 1990:65).

2.6 SUMMARY

In this chapter a brief discussion of various theories explaining juvenile delinquency has been exposed. Attempts to obtain statistics of South Africa had been made but without any success.

CHAPTER 3

JUVENILE DIVERSION

3.1 INTRODUCTION

When youthful misbehaviour reaches the point where the youth is subject to action by a juvenile court, juvenile justice has to take its course. The juvenile justice system implies diversion from the adult criminal justice system. The juvenile justice system was created in response to the harsh system for adults. Simonsen and Gordon (1982:373) see diversion as turning *from*, rather than turning *to* something. Juvenile justice has undergone major changes in its handling of youths; the most significant change in recent years has been adoption of diversion.

Diversion is another alternative to the traditional handling of juvenile offenders. Criminologists and juvenile justice practitioners felt that many juvenile offenders should not be handled by the adult juvenile justice system, but rather diverted from it. They contended that most youths who were found to be engaged in less serious delinquent offences should just be sent home by the police or court workers without any further official intervention or at most, referred to social service programs where they could be treated or dealt with (Thornton, Voigt and Doerner 1987:369). A number of factors favoured the establishment of juvenile diversion:

- the growth of the labelling perspective in criminological theory. System contact had been viewed as a stigmatising process
- the undeniably overloaded criminal justice system – often incapable of handling loads full of criminal cases

- a means of handling pre-delinquent youths who appeared to be heading for trouble in a fashion which would eliminate future offending (Thornton *et al.* 1987:370).

In the past, diversion away from the formal processing system occurred in three ways:

- Firstly, in the United States, police officers may have released a child after a warning about the possible consequences of engaging in illegal or annoying behaviour.
- Secondly, the child may have been taken to the police station and his or her parents called. The juvenile could then be warned and released into the custody of his or her parents.
- Thirdly, referral to social service agencies or community programs occurred after initial investigations by court personnel.

The present study concerns itself with juvenile referral to one such social service agency in South Africa, namely NICRO.

3.2 HISTORICAL PERSPECTIVE OF DIVERSION IN THE UNITED STATES

In 1967, the President's Commission on Law Enforcement and the Administration of Justice evaluated the status of the criminal justice system in the United States and made recommendations to improve different components of the system. This happened at a stage when diversion was advocated as an alternative for dealing with problem youth. The Commission suggested that -

- the formal sanctioning system and pronouncement of delinquency should be used only as a last resort.

- alternatives to adjudication must be developed for dealing with juveniles.
- the range of conduct for which court intervention is authorised should be narrowed (Whitehead and Lab 1990:306).

Referring to juvenile diversion as an example of secondary crime prevention, Lab (1988:127) opines that diversion is mainly intended to spare juveniles who committed status offences the negative effects present in the process of contact with the formal sanctioning system. Diversion primarily targets juveniles whose behaviour needs to be corrected 'outside' and away from a criminal or youth court in an attempt to prevent them from " ... graduating to adult crime" (Lab 1988:127).

After the recommendations of the Commission, diversion programs in the United States increased from zero to more than 150 in less than four years. Each new program added to the growing realm of diversion (Lab 1988:127).

The US juvenile justice system felt threatened because of the following factors (Whitehead and Lab 1990:307):

- In the late 1960s the country entered a period of social unrest. Youth's who rebelled were arrested and brought to the juvenile courts.
- The juvenile justice system was also criticised for failure to decrease or prevent recidivism and crime generally. There was a call for increased funding to improve the delivery of services.

3.3 JUVENILE DIVERSION IN SOUTH AFRICA

The complexity of the South African criminal justice system ensured that the moment a young offender collided with it, he or she becomes its victim. And victims generally feel self-pity and possibly the need for revenge. Rather than attempting to repair the damage or be accountable for offending behaviour, young persons tend to blame the system that pits them against adults who have university degrees and are paid to charge, try and prosecute them. In the 1980s, hundreds of young people were detained during states of emergency, causing a national and international outcry. However, young people detained for ordinary crimes were also slipping into the system largely unnoticed. There was not strategy to ensure that these youngsters were treated humanely and with adherence to just principles. In fact, until then, there was no acknowledgement by government departments that children in detention – and the lack of a comprehensive juvenile justice system – was a crisis (Juvenile Justice for South Africa 1994:3).

In 1992, after a joining campaign with other NGOs "Justice for the children; no child should be caged", NICRO introduced diversion programs for young offenders (channelling them away from the criminal justice system into programmes that make them accountable for their actions) (NICRO News, n.d.).

NICRO remains the primary providers of diversion programmes to South African courts, although provincial Departments of Social Welfare are also rendering diversion programmes (Sloth-Nielsen and Muntingh 1999-2000:16).

3.4 PURPOSE OF DIVERSION

Chapter 6 of the Child Care Act (Act 74 of 1983) provides the following purposes of diversion, namely to –

- “– encourage the child to be accountable for the harm caused;

- meet the particular needs of the individual child;
- promote the reintegration of the child into the family and community;
- provide an opportunity to those affected by the harm to express their views on its impact on them;
- encourage the rendering to the victim of some symbolic benefit or the delivery of some object as compensation for the harm;
- promote reconciliation between the child and the person or persons or community effected by the harm caused;
- prevent stigmatising the child and prevent adverse consequences flowing from being subject to the criminal justice system; and
- prevent the child from having a criminal record" (South Africa 1983, Section 48).

3.5 DIVERSIONARY PROGRAMMES

Simonsen and Gordon (1982:373) define *diversion programmes* as:

- (1) a source which provides direct service and/or referral assistance to juveniles whose status or conduct makes them subject to the jurisdiction of the juvenile court but who are referred to the program in lieu of official processing;
- (2) has a specific program design for diverted juveniles; and
- (3) produces institutional change by fostering improvement in and new commitments to youth services by existing agencies.

3.5.1 Types of diversionary programs in United States of America

There are different types of diversionary programmes that have been devised in the USA. Thornton, *et al.* (1987:370) discuss the following types:

A Type

- Agencies offering family and individual counselling,
- programs specialising in crisis intervention, and
- agencies attempting to assess the offender's need and provide answers for those needs.

B Type

These are programs that have been instigated by juvenile courts and probation departments:

- The 601 Project of the Probation Department in Sacramento, California. This was designed to provide short-term family counselling for status offenders, truants and incorrigible youth.
- The Vera project, located in New York City in the Bronx, accepted referrals of delinquent youth between the ages 12 and 15 from court workers and judge. A youth diverted to the project was given an advocate. The project also employed a forum, a panel of community volunteer judges who addressed the problems arising from minor offences.

C Type

These diversionary programs involve attempts to shock delinquents into law-abiding behaviour by visiting the prisons and coming into contact with prisoners serving life sentences. The aim of this is to scare the juveniles.

There was also the Youth Services Bureau which was to act as central co-ordinators of all community services for young people.

Whitehead and Lab (1990:313) provide the following diversion programs and practices:

| PROGRAMME | INTERVENTION METHOD |
|---|---|
| • Compton Area Juvenile Diversion Project | Intake, evaluation of needs referral |
| • Imperial Country Delinquency Intervention Diversion | Counselling, recreation |
| • Fremont Youth Service Center | Counselling, tutoring employment counselling |
| • Fresno Country Probation | Unspecified handling of family disorganisation |
| • Pre-trial Intervention and Diversion Project | Contingency contracting parent-child communication coping skills, community involvement |
| • LaColonia Youth Services Project | Counselling, tutoring recreation |
| • Mendocino Lake Youth Project | Counselling, tutoring, referral |
| • Project Interface | Counselling – drug related |
| • New Direction | Family therapy |
| • Vacaville Youth Service Diversion Unit | Counselling, tutoring, recreation, drug education, referral |
| • Vallejo Youth Service Bureau | Counselling |
| • Mid-valley Juvenile Delinquency Prevention Project | Counselling |
| • Pomona Valley Juvenile Diversion Project | Referral, counselling, monitoring |
| • Curbstone Youth Service Center | Counselling, tutoring, re-creation |
| • Siskiyou Country Juvenile Diversion Project | Intensive crisis counselling |

The most important reason for diversion from the juvenile justice system, besides the public belief that the official system is inherently bad, is to

provide services that are not available in the formal institutional system (Simonsen and Gordon 1982:382). These authors further highlight an important issue in both the adult and juvenile justice system, what is called the right to treatment which revolves around the medical model that is generally applied to correctional intervention in the USA, both adult and juvenile.

Simonsen and Gordon (1982:382) then proceed to discuss some programs that stand out as more effective or more innovative than others. These are:

(1) Neighbourhood Youth Resource Centre.

This program offers direct assistance to young offenders as well as referrals related to community agencies. It is a neighbourhood project which is able to provide a new approach to delinquency prevention, by pooling the skills and talents of a number of specialists. It specifically offers –

- (1) crisis intervention or immediate short-term aid,
- (2) casework or the development of individualised service plans leading to long-term comprehensive assistance,
- (3) group work, involving counselling and educational assistance to groups of youths,
- (4) referrals to co-operating agencies and a careful system of agency monitoring and follow-up, and
- (5) legal representation.

The foregoing program also sponsors recreational and cultural programs for juveniles on probation and legal education for neighbourhood residents.

(2) Juvenile diversion through family counselling.

This program is also referred to as the Sacramento County 601-Diversion Project. It employs the approach of mobilising a whole family in coping with the juvenile's problem and keeping the case out of court. It aims to –

- (1) reduce the number of cases going to court,
- (2) reduce the number of repeat offences,
- (3) decrease overnight detentions, and
- (4) accomplish these goals at a cost no greater than that required for regular processing of cases.

(3) Providence Educational Center (PEC).

This program requires that the state certifies all its referrals as having learning disabilities and/or behavioural disorders. Its educational program can accommodate seventy-five youths and allows most of them to remain at home while participating in intensive education and counselling programs.

(4) Community-based Adolescent Diversion Project.

In this program, a local university and criminal justice department in the adjacent communities of Champaign and Urbana, Illinois have joined forces in a successful approach to helping juveniles who got into trouble.

Juveniles are diverted after police contact and prosecutorial contact. With the assistance of experienced psychologists, volunteer undergraduates form part of a four and a half month

activity for academic curriculum credit. The juvenile signs a contract with a parent or teacher that spells out specific obligations that each party must meet. The agreements involve real life issues such as: curfew, household chores, privileges, etc.

According to Simonsen and Gordon (1982:379), the National Advisory Committee on Criminal Justice Standards and Goals offers the following guidelines for the American police to focus upon when considering either who to divert or whether to divert at all:

- (i) Nature of the alleged delinquent act
- (ii) It must be a juvenile's first delinquent act. The following must be considered –
 - the seriousness of the misconduct - it must not be a major (or serious) offence, e.g. murder, rape, etc.
 - the degree of bodily harm inflicted on the victim
 - the degree of criminal sophistication in committing the delinquent act.
- (iii) Complainant/victim's rights

When deciding whether to divert a juvenile, care should be taken to ensure that the complainant/victim is not deprived of the right to seek prosecution.

- (iv) Suspects' age.

Age should be considered an important part of this decision but not be regarded the sole criterion. Intellectual and emotional maturity do not necessarily progress with chronological age.

(v) Suspect's employment and/or family responsibilities.

It should be taken into account a suspect has a family to support or if his or her employment would be jeopardised by such delinquent adjudication.

(vi) Nature of the problem that led to the alleged delinquent act.

Knowledge that the juvenile needs professional assistance with social/personal problems should be an extremely important factor in the decision to divert him or her to a rehabilitative program.

(vii) Suspect's attitude toward self-improvement.

Attitude refers to the manner in which an individual reacts to being taken custody and charged with delinquent acts. Studies assessing a juveniles attitude show that monitory or lower-class youth may adopt a hostile attitude when they come into contact with the police than is the case with verbally skilled juvenile from a middle or upper class environment. However there is no relation to a prosperity for delinquent acts or behaviour. Thus the police should be cautious when making judgements on attitudes in this regard.

(viii) Suspect's character.

The character of a juvenile can be evaluated by assessing previous warnings, evidence of drug addiction, evidence of aggressive behaviour towards him or herself or others, etc. Experienced, carefully trained personnel must use their judgement to consider the possibility of recidivism (i.e. falling back into crime).

(ix) Availability of community-based rehabilitation programs.

Adequately and formally structured community rehabilitation programs should be available for referral. There must also be proper feedback on diverted clients.

(x) Parental responsibility.

A decision to divert the juvenile into a program must consider the degree to which the parents understand the seriousness of their child's involvement with the police, as well as their ability to control and discipline the child.

These guidelines could be a good list but the final decision lies with the discretion of the police officer involved on the one hand and the broader political mood of those in power on the other (Simonsen and Gordon 1982:382).

3.5.2 Diversion options in South Africa

According to Chapter 6 of the Child Care Act (Act 74 of 1983), a register of children who have been diverted is to be kept by the Minister of Social

Welfare and Population Development. It also points out the following diversion options in selecting program/option –

- “(a) the selection of a diversion option from an appropriate level in terms of this section;
- (b) a child’s cultural religion and linguistic background;
- (c) the child’s educational level, cognitive ability, domestic and environmental circumstances; and
- (d) the proportionality of the option recommended or selected to the circumstances of the child, the nature of the offence, and the interests of society; and
- (e) the child’s age and developmental needs” (South Africa 1983, Section 52).

For the purpose of the said Act, a range of diversion options are set out in three levels for children aged ten years or older and subject to the provisions of this Act, with level one comprising the least onerous and level three the most onerous options.

Level one diversion options are –

- “(a) an oral or written apology to a specified person or persons or institution;
- (b) a formal caution in the prescribed manner with or without conditions;
- (c) placement under a supervision and guidance order in the prescribed manner for a period not exceeding three months;
- (d) placement under a reporting in the prescribed manner;

- (e) the issue of a compulsory school attendance order in the prescribed manner of a period not exceeding three months;
- (f) the issue of a family time order in the prescribed manner for a period not exceeding three months;
- (g) the issue of a positive peer association order in the prescribed manner in respect of a specified person or persons or a specified place for a period not exceeding three months;
- (h) the issue of a good behaviour order in the prescribed manner;
- (i) the issue of an order prohibiting the child from visiting, frequenting or appearing at a specified place in the prescribed manner;
- (j) referral to counselling or therapy for a period not exceeding three months;
- (k) compulsory attendance at a specified centre or place for a specified vocational purpose and for a period not exceeding five hours each week, for a maximum of three months;
- (l) symbolic restitution to a specified person, persons, group or institution; and
- (m) restitution of a specified object to a specified victim or victims of the alleged offence where the object concerned can be returned or restored."

Level two diversion options are --

- "(a) any of the above provided that where a maximum period has been imposed in terms of (c), (d), (e), (f), (g), (h),

- (i) and (j) the maximum period must not exceed six months;
- (b) compulsory attendance at a specified centre or place for a specified vocational or educational purpose for a period not exceeding eight hours each week, for a maximum of six months;
- (c) performance without remuneration of some service for the benefit of the community under the supervision or control of an organisation or institution, or a specified person or group identified by the probation officer affecting the assessment or by the Child Justice Committee referred to in section 104 for a maximum period of 50 hours, and to be completed within a maximum period of six months;
- (d) provision of some service or benefit to a specified victim or victims in an amount which the child or the family can afford;
- (e) payment of compensation to a maximum of R500 to a specified person, persons, group or institution where the child or his or her family is able to afford this;
- (f) where there is no identifiable person or persons to whom restitution or compensation could be made, provision of some service or benefit or payment of compensation to a community organisation, charity or welfare organisation;
- (g) referral to appear at a family group conference, a victim-offender mediation or other restorative justice process approved by the Child Justice Committee referred to in Section 104 at a specified place and time; and
- (h) any two of the options listed used in combination.

Level three diversion options may only be applied in the case of a child aged 14 years or older if there is reason that a court, upon conviction of the child, would impose a sentence involving detention of such child for a period exceeding six months, and are:

- Referred to a programme with a residential element, where the duration of the programme does not exceed six months and no portion of the residence requirement exceeds 21 consecutive nights with a maximum of 35 nights during the operation of a programme.
- Performance without remuneration of some service for the benefit of the community under the supervision and control of an organisation or institution or a specified person or group identified by the probation officer effecting the assessment or by the Child Justice Committee referred to in Section 104 for a maximum period of no more than 250 hours to be completed within a maximum of 12 months.
- Where a child is over the age of compulsory school attendance as referred to in the South African School Act, 1996 (Act No. 84 of 1996), and is not attending formal schooling, compulsory attendance at a specified centre or place for a specified vocational or educational purpose for a maximum period of no more than 35 hours per week, to be completed within a maximum period of six months.
- Referral to counselling or therapeutic intervention in conjunction with any of the options listed in this subsection.

3.5.2.1 **Diversion at NICRO**

The National Institute for Crime Prevention of Offenders and Reintegration of Offenders (NICRO) is the service centre that channels young people *away* from the criminal justice system each year, to programmes that encourage them to take control of their lives and stop offending. They are urged to take responsibility for what they have done, repair the damage caused and make concrete efforts to prevent re-offending (NICRO News, n.d.).

3.5.3 **Diversion programmes at NICRO**

NICRO diversion programmes are intended to develop young people who are at risk and assist them in becoming law abiding citizens. NICRO's diversion programmes specifically aim at –

- developing young people's potential
- make young offenders accountable for their actions
- encourage them to heal the damage they have caused
- make them commit their free time to learning a new way of life and
- assist participants to map a constructive and healthy life with the assistance of those closest to them (NICRO News, n.d.).

A special programme is drawn up for each participant and usually includes one or more of the following:

(1) Youth, Empowerment Scheme (YES)

YES is a life-skills training programme that involves young people and their parents or guardian. Parents or guardians are invited to participate and are encouraged to support the progress of the participants.

(2) Pre-Trail Community Service.

This programme allows the offender to perform community service in lieu of prosecution.

(3) Victim Offender Mediation.

This programme brings together victims and offenders in an attempt to reach an agreement that addresses the needs of both parties.

(4) Family Group Conferencing.

This diversion option is similar to victim offender mediation but involves the family and friends of the young person in a process to discuss what went wrong, how it can be repaired and what can be done to put things right.

(5) The Journey.

The journey is an intensive and long-term programme for young people at risk and who are challenged to engage

in a long-term process of working towards constructive and independent living (Muntingh and Shapiro 1993:36).

3.5.4 Aims of diversion

NICRO, through careful assessment of each person referred for diversion by the public prosecutor to the diversion agency, attempts to achieve the following aims –

- make juvenile offenders responsible and accountable for their actions
- provides an opportunity for reparation
- identifies underlying problems motivating offending behaviour
- prevents most first time or petty offenders from receiving a criminal record and being labelled as criminals as this may become a self fulfilling prophecy
- provides educational and rehabilitative programmes to the benefit of all parties concerned and
- lessen the case-load of the formal judicial system.

3.6 REFERRAL PROCEDURES

According to the Child Care Act (Act No. 74 of 1983), upon selection of a diversion option, the inquiry magistrate or court must identify a probation officer to monitor the child's compliance with the conditions of the selected diversion option, and such officer must, in the event of the child's failure to comply with any conditions, notify the inquiry magistrate or court in writing of such failure (South Africa 1983, Section 6).

In order to allow for a proper discussion of current referral procedures pertaining to diversion of juveniles, the present study will concentrate on those procedures currently employed by the youth court in collaboration with NICRO, with specified reference to NICRO in Durban, KwaZulu-Natal.

The procedure starts with the prosecutor who withdraws the charge against the juvenile in a youth court on condition that such juvenile (accused) performs community service. This procedure is called: Pre-trial Community Service. The accused must accept or admit guilt, otherwise the procedure of referring him or her could not be applied.

If, for instance, a juvenile does not admit guilt on a criminal charge of a less serious nature (e.g. shoplifting), the case continues in the juvenile court. Assuming the juvenile offender admitted guilt in the juvenile court, the prosecutor then responds by sending the following details of the juvenile offender to NICRO –

- name, address, telephone number at home or work
- details of parents' particulars
- details of the charge and a description of the offence, court case number, crime register number, name and particulars of victim (if there is one), and
- any special comments or points of concern.

The accused is referred to NICRO for an assessment review within one week. The assessment review assesses whether the diverted juvenile is suitable for community service. According to Muntingh and Shapiro (1993:36), the interview normally lasts 30-60 minutes. NICRO selects a placement where the server will perform service. A contract stipulating the conditions of service is then drawn up.

In the present study, it transpired from an investigation into the case files of diverted juveniles that most of these young offenders were placed in the Youth

Empowerment Scheme (YES) – see table 4.11. The programme encourages the young offender to behave according to acceptable societal norms and to refrain from further involvement in criminal activities. Parents or guardians also attend the first and last sessions.

The standard of rules governing administration of juvenile justice also known as the "Beijing Rules" was accepted on 10 December 1985 in the General Meeting of the United Nations (Muntingh and Shapiro 1993:18). According to these rules, it was decided that where juveniles are involved in cases deserving diversion, alternatives to the existing formal criminal prosecution and sentence options must be followed.

3.6.1 Selection criteria

- Age:* Prosecutors may use their own discretion but the scheme makes provision for juveniles between 12 and 18 years.
- Address:* Diverted juveniles must have a fixed address to control the whereabouts of the young offender.
- Offence:* Only petty offences are taken into consideration when admitting a juvenile offender to the programme. Serious crimes such as robbery, rape, murder, etc. are excluded from the programme.
- Guilt:* The young offender must plead or be planning to plead guilty to the charges filed against him or her.

The Youth Empowerment Scheme (YES)

This programme is used as a diversionary procedure which minimises exposure to the criminal justice system and the negative consequences of being labelled a delinquent. It can also be used as a pre-condition with a

sentence formally handed down through the court, e.g. postponed or suspended sentences. Whether used as diversion or an alternative sentencing option, attendance of the programme provides the young offender an opportunity to take responsibility for his or her actions (Van der Sandt and Wessels 1993:18).

3.6.2 Pre-trial referral

At every youth court, the magistrate should appoint one prosecutor to handle referrals. The prosecutor, crime investigating officer and social worker identify candidates for referrals.

After the young offenders and their parents or guardians are fully informed about the YES-programme, sworn statements are signed by the child and parents/guardians (Appendix 1). Admission of guilt (Appendix 2) is signed by parents/guardians. It is clearly stated to the participants that participation is voluntary and the case would only be withdrawn if the offender meet all the requirements of diversion. It is also stressed that the offender will not retain a criminal record (Van der Sandt and Wessels 1993:18) in the case of successful diversion.

The parents/guardians should also be informed that they should attend the first and the last sessions of the programme with the offender. The prosecutor then completes information forms (Appendix 3 and 5). The original forms are handed to the parents/guardians who must present it to the course facilitator or contact person when they attend the first session at NICRO. The prosecutor keeps a register of all juveniles whose cases are withdrawn.

After a juvenile offender has completed the course, he/she returns to the court with an evaluation report from the course facilitator. The content is

discussed with the senior public prosecutor and action is taken accordingly (Appendix 4). Usually, the case is withdrawn (Van der Sandt and Wessels 1993:22).

3.6.3 Sentences

The YES-programme can also be used as part of the sentence. When a juvenile is sentenced an added condition to the sentence could be that he or she attend the YES-programme. This condition fulfils the rehabilitative component to the sentence imposed (Van der Sandt and Wessels 1993:23).

3.7 PROGRAMME CONTENT

The YES-programme is a six-session course. Though each and every session has its peculiar objectives, topics and methods, the overall goal is to encourage the juvenile offender to behave within acceptable societal norms through participation in a life skills training programme. The course deals with the causes of crime, seriousness of the crime, and consequences of behaviour and for responsible decision-making. It also provides an opportunity for both parents and children to better understand one another (Van der Sandt and Wessels 1993:24).

3.7.1 Session 1: Crime Awareness

This is the session where juveniles participate with their parents. It aims to inform and create awareness of –

- the aim and content of the programme
- the nature and causes of crime
- the effects of crime
- the seriousness and consequences of a criminal record

- the experiences and feelings resulting from their involvement in crime and the criminal justice system
- parents' experiences of the offence (Van der Sandt and Wessels 1993:24).

3.7.2 Session 2: Self-concept

This session is only attended by juveniles. It has the following objectives, namely to –

- broaden the juvenile's self-knowledge
- create awareness of factors that influence the self-concept
- allow juveniles to reflect on how their contact with the criminal justice system influenced their self-concept and
- promote and motivate self-acceptance and a positive attitude towards oneself.

3.7.3 Session 3: Assertiveness

Only juveniles attend this session which has the following objectives –

- to differentiate between aggressive, passive and assertive behaviour
- to create awareness of the advantages of assertive behaviour and
- to provide an opportunity to act out different ways of improving assertive behaviour.

3.7.4 Session 4: Decision-making

Only juveniles attend this session which has the following objectives –

- making young people aware of the importance of responsible decision-making
- making connections between decision-making and crime, self concepts and assertive behaviour
- examining the influence of peer pressure on decision-making to begin the process of constructive decision-making and planning for future goals.

3.7.5 Session 5: Norms and laws

Juveniles only attend this session. It has the following objectives –

- examining societal norms and their influence on daily life
- highlighting the consequences of societal norms being ignored and
- to promote an understanding of the law and the legal system which attempts to protect societal norms.

3.7.6 Session 6: Parent-child relationship

According to Van der Sandt and Wessels (1993:26), this session is attended by both juveniles and their parents. It also has the following objectives –

- creating awareness of the demands, problems and emotions prevalent in various stages of life
- encouraging communication and a better understanding between parents or guardians and their children and

- evaluating the parents' and child's attitudes towards and experience of the Youth Empowerment Scheme.

The Youth Empowerment Scheme provides the opportunity for diverted juveniles to "open up" and deal with what they have done and what have happened. Van der Sandt and Wessels (1993:27) view this programme as being encouragement to juveniles to focus on the positive aspects of their personality in an attempt to improve their self-esteem which has been broken down by the crime, the events surrounding it and their family's and peers reactions.

3.8 REASONS FOR DIVERSIONARY PROGRAMMES

Thornton, Voigt and Doerner (1987:372) say that those in favour of diversionary programmes have relied on three closely connected assumptions as evidence for their propositions.

- Firstly, dissatisfaction with the juvenile court. They content that the concept of diversion began with dissatisfaction in the treatment and prevention of delinquency. Furthermore, officially labelled as delinquent results in an increased likelihood of relapsing into deviant behaviour.
- Secondly, they feel that diversionary programmes are more successful in handling and reducing the number of offenders involved with criminal justice agencies at any one point in time.
- Thirdly, they feel that diversionary programmes are more successful than the juvenile court in handling delinquency and prevent future involvement in delinquency.

3.9 SUMMARY

The present Chapter renders and exposition of diversion of juvenile offenders from the criminal justice system to the programmes offered by NICRO.

In this chapter an attempt has been made to define diversion. An explanation of how diversion was introduced in both USA and South Africa also received attention.

Different diversionary programmes were also explained and attention was devoted to those programmes offered by NICRO. The Youth Empowerment Scheme (YES) had been dealt with in more detail since it is most popular diversionary programme used for young juveniles diverted to NICRO in Durban.

Finally, the procedures underlying diversion also came under scrutiny.

CHAPTER 4

ANALYSIS AND INTERPRETATION OF DATA

4.1 INTRODUCTION

Thus far, Chapter 2 has rendered an exposition of juvenile delinquency, while Chapter 3 provided valuable information about juvenile diversion away from the formal criminal justice system. The role played by NICRO also came under the spotlight. This chapter will further be devoted to univariate statistical description of various aspects relating to diverted juvenile offenders such as diverted juveniles' demographic characteristics, domestic information (juveniles' parents or guardians, number of children sharing the home of diverted juveniles, number of brothers and sisters and, most important, juvenile offending, diversion and family status of diverted juveniles.

4.2 DEMOGRAPHIC CHARACTERISTICS OF DIVERTED JUVENILE OFFENDERS

Statistical data about juvenile offenders diverted to NICRO, Durban provide valuable information about the gender, age, race, education and occupation of the 275 individuals who have been diverted from the formal juvenile justice system – see Table 4.1.

Table 4.1: Demographic Profile of Juvenile Offenders Diverted to NICRO, Durban (N=275)

| Demographic Characteristics | Frequency Distribution | |
|--|------------------------|---------------|
| | N | % |
| Gender | | |
| Male | 176 | 64,00 |
| Female | 87 | 31,64 |
| Unknown | 12 | 4,36 |
| Total | 275 | 100,00 |
| Age | | |
| Below 15 years | 56 | 20,36 |
| 15 – 17 years | 178 | 64,73 |
| 18 – 21 years | 32 | 11,64 |
| Unknown | 8 | 2,91 |
| Other | 1 | 0,36 |
| Total | 275 | 100,00 |
| Race | | |
| African | 216 | 78,55 |
| Coloured | 3 | 1,09 |
| Asian | 45 | 16,36 |
| White | 2 | 0,73 |
| Unknown | 9 | 3,27 |
| Total | 275 | 100,00 |
| Education | | |
| Below Grade 8 | 62 | 22,55 |
| Grade 8 (Std 6) | 18 | 6,55 |
| Grade 9 (Std 7) | 46 | 16,73 |
| Grade 10 (Std 8) | 58 | 21,09 |
| Grade 11 (Std 9) | 33 | 12,00 |
| Grade 12 (Std 10) | 25 | 9,09 |
| Other | 17 | 6,18 |
| Unknown | 16 | 5,82 |
| Total | 275 | 100,00 |
| Occupation | | |
| Unemployed | 4 | 1,45 |
| Self-employed | 1 | 0,36 |
| Skills/Semi-Skilled | 3 | 1,09 |
| Scholar | 213 | 77,45 |
| Student (College/Technikon/University) | 13 | 4,73 |
| Other | 6 | 2,18 |
| Unknown | 34 | 12,36 |
| Not applicable | 4 | 0,36 |
| Total | 275 | 100,00 |

The gender distribution in Table 4.1 clearly shows that male juveniles (176 or 64%) are in the majority compared to 87 (31,64%) females who have been diverted to NICRO. In 12 (4,36%) of the cases scrutinised the gender of the diverted juveniles could not be established. In explaining gender differences Siegel and Senna (1988:57) say women are inherently non-criminal, females are socialised to be less aggressive than males, police also protects female offenders from an official record.

Table 4.2: Source of referral of diverted juveniles (N=275)

| Youth Court | Frequency Distribution | |
|----------------|------------------------|---------------|
| | N | % |
| Durban | 191 | 69,45 |
| Phoenix | 28 | 10,18 |
| Verulam | 10 | 3,64 |
| Ntuzuma | 2 | 0,73 |
| Tongaat | 2 | 0,73 |
| Pinetown | - | - |
| Umlazi | 16 | 5,82 |
| Chatsworth | 1 | 0,36 |
| Amanzimtoti | 10 | 3,64 |
| Port Shepstone | 11 | 4,00 |
| Other | 4 | 1,45 |
| Total | 275 | 100,00 |

Table 4.2 shows that Durban's Youth Court committed the largest number of juvenile offenders through diversion to NICRO for treatment and reintegration into the community, namely 191 or 69,45 percent; followed by Phoenix Youth Court with 28 (10,18%) juvenile offenders. Umlazi's Youth Court diverted 16 (5,82%) cases followed by Port Shepstone on the South Coast with 11 (4,00%). Both Verulam and Amanzimtoti courts referred for treatment to NICRO in Durban.

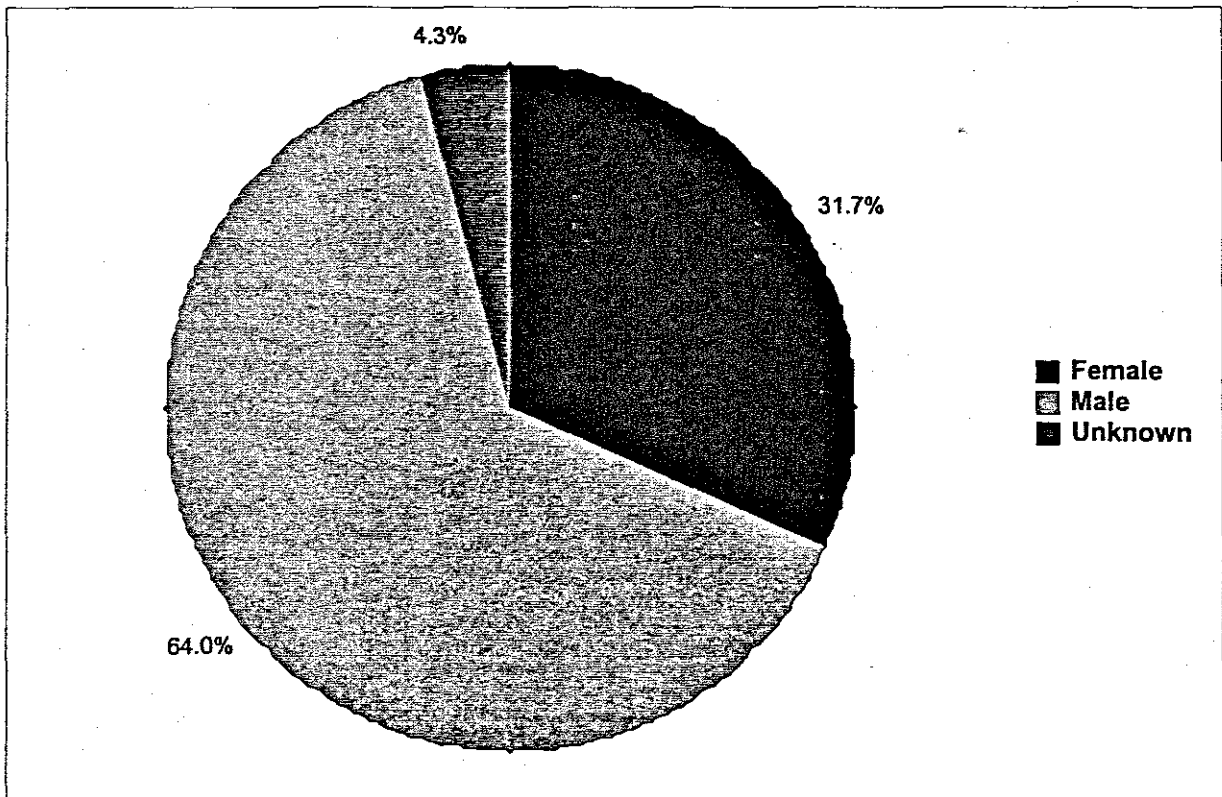
As could be expected, social changes in the form of industrialisation, urbanisation and immigration (Livingston 1996:85) which accelerated in 1994 in the post-apartheid political dispensation in South Africa, drew its fair amount of job and fortune seekers to the cities which, likewise, claimed its toll in terms of a proliferation of crime and juvenile delinquency usually committed by the so-called *inner-city* underclass (Livingston 1996:86). Immigration (in most cases illegal immigration) from neighbouring countries such as Mocambique, Angola, Democratic Republic of the Congo, etc., exacerbated circumstances for South Africa's own disadvantaged people in terms of employment. The apparent persistence of fairly high rates of serious crime and juvenile delinquency signals that

" ... things [are] still wrong in [our] society ... delinquency showed that not everybody was happy, that there [is] still a lower class, and that the general affluence had bypassed many people ... [T]he poor continue[s] a way of life ... that ha[s] its own problems and satisfactions, its own norms and values, and consequently its own high levels of crime and delinquency" (Livingston 1996:372).

According to Kratcoski and Kratcoski (1990:15), the impersonal atmosphere of city life together with large shopping centres and the availability of opportunities for shoplifting, other forms of petty thefts and dishonest practices, contacts with drug dealers, etc., that are otherwise not available in small rural areas, almost make juvenile crime look on everyday "normal phenomenon".

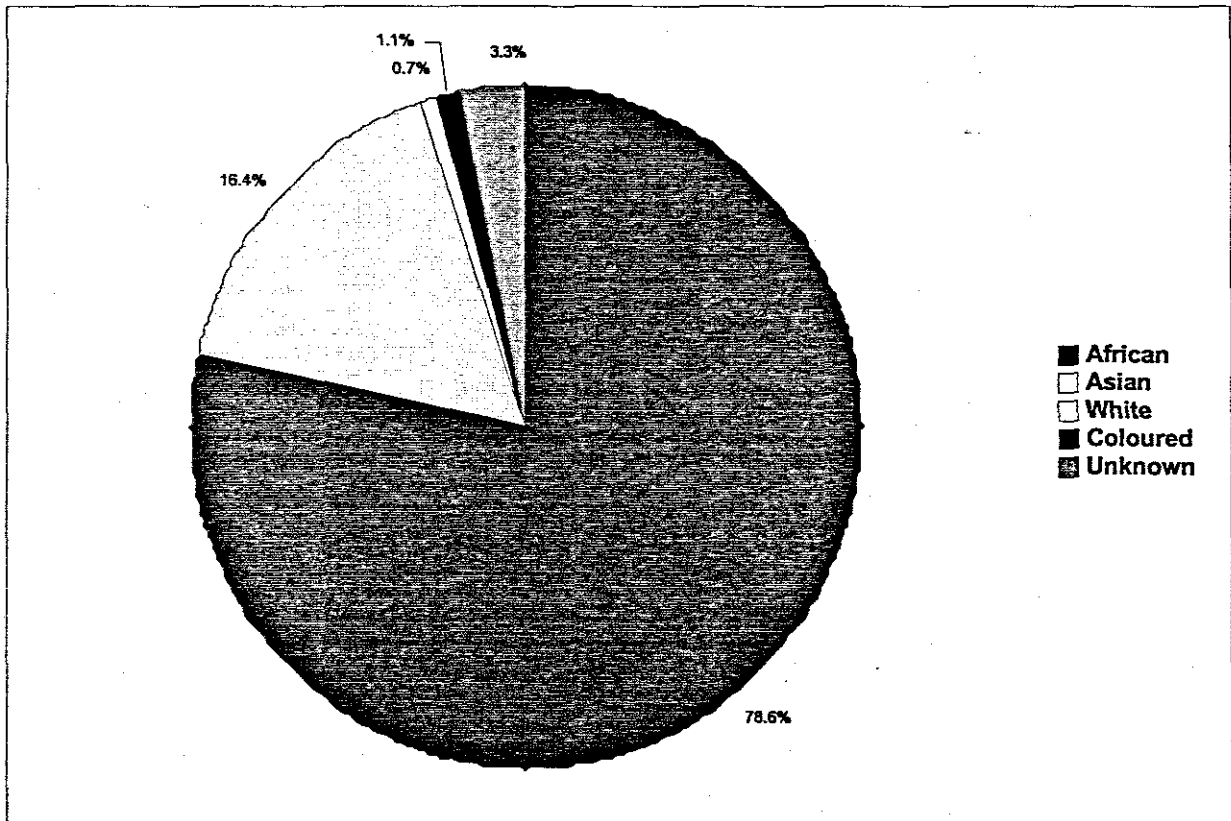
Table 4.2 provides statistical information for the creation of a demographic profile of juvenile offenders in terms of the following independent (or predictor) variables: gender, age, race, education and occupation.

Figure 4.1: Sexual Distribution of Diverted Juvenile Offenders



Analysis of distribution of offenders according to race shows that out of 275 juvenile offenders diverted to NICRO, 216 (78,55%) were Africans, 3 (1,09%) coloureds, 45 (16,36%) Asians, 2 (0,73%) whites and 9 (3,27%) were those whose race were unknown. Regarding the racial distribution it shows that African juveniles dominate in the diversion programmes. It is a known fact that Africans are mostly the low-income earners. Weatherburn and Lind (2001:71) examined the effect of social and economic stress on parenting. They found out that juveniles from low-income families were poorly supervised and are therefore prone to crime or delinquency. The following pie chart represents the racial distribution of juveniles diverted to NICRO contained in Table 4.1.

Figure 4.2: Racial Distribution of Diverted Juvenile Offenders



Racial disparities in the delinquency cannot be excluded. Siegel and Senna (1988:59) say that police are more likely to arrest and officially process black youths while treating white offenders in a more charitable manner.

Table 4.1 indicates that no less than 62 (22,55%) of the juvenile offenders admitted to NICRO's treatment programs advanced beyond Grade 7 (Std 5) at school level. Those who reached the 9th Grade accounted for 64 (23,27%), while 116 (42,18%) managed to advance to Grade 10 and beyond, i.e. Grade 12 (Std 10). Only 17 (6,18%) obtained a higher qualification than Grade 10.

Diverted juveniles below Grade 8 outnumber all other grades, in most cases they are no longer at school. If the school fails in socialising the child, there are dropouts and truants.

Young juveniles cease to view themselves as important participants at school. They then join the peers who have similar behavioural problems and are likely to engage in illegal juvenile activities (Kratcoski and Kratcoski 1990:146).

The table clearly shows that there is a high rate of delinquency amongst scholars. Kratcoski and Kratcoski (1990:146) opine that the school can be a delinquency-producing institution. The failure in academic subjects may lead a child to a situation where he or she feels ashamed and develop negative attitudes towards the school. The young juvenile then undertake delinquent behaviour as a defence mechanism.

Table 4.1 also illustrates age levels of diverted juveniles. While youths between 15–17 years were 178 (64,73%) of diverted juveniles, 56 (20,36%) below 15 years, 18–21 had 32 (11,64%) juveniles. Most of the diverted juveniles had committed theft. Siegel and Senna (1988:51) explain the decrease for ages between 18–21 years as the aging out or desistance. 1 (0,36%) that is referred under other was a male who was 40 years, no explanation was given as to the reason for diverting an adult to juvenile programmes.

4.3 DOMESTIC INFORMATION OF DIVERTED JUVENILE OFFENDERS

The domestic information of juvenile offenders diverted to NICRO in Durban will be described in Table 4.3 to 4.7.

4.3.1 Residential area

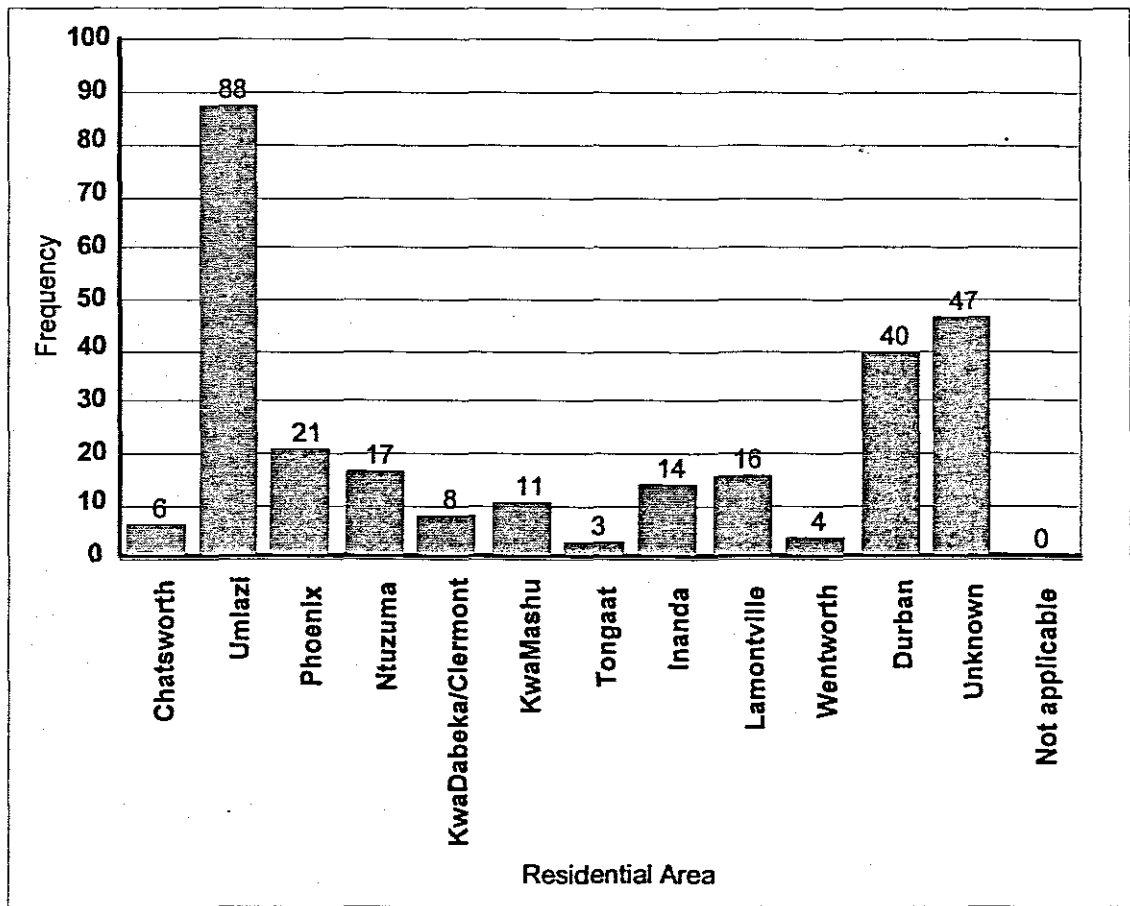
Table 4.3 specifically reports the residential areas of diverted juveniles. This kind of distribution seems to be very important to ascertain from which area the juvenile offenders lived at the time of the commission of the offence.

**Table 4.3: Residential Distribution of Diverted Juvenile Offenders
(N=275)**

| Residence | Frequency Distribution | |
|--------------------|------------------------|---------------|
| | N | % |
| Chatsworth | 6 | 2.18 |
| Umlazi | 88 | 32.00 |
| Phoenix | 21 | 7.64 |
| Ntuzuma | 17 | 6.18 |
| KwaDabeka/Clermont | 8 | 2.91 |
| KwaMashu | 11 | 4.00 |
| Tongaat | 3 | 1.09 |
| Inanda | 14 | 5.09 |
| Lamontville | 16 | 5.82 |
| Wentworth | 4 | 1.45 |
| Durban | 40 | 14.55 |
| Unknown | 47 | 17.09 |
| Not Applicable | - | - |
| Total | 275 | 100,00 |

Table 4.3 reports the residential distribution of juveniles diverted to NICRO as follows: of 275, 88 (32%) were from Umlazi, 40 (14,55%) from Durban, 21 (7,64%) from Phoenix, 17 (6,18%) from Ntuzuma, 16 (5,82%) from Lamontville, 14 (5,09%) from Inanda, 11 (4,00%) from KwaMashu, 8 (2,91%) from KwaDabeka and Clermont, 6 (2,18%) from Chatsworth, 4 (1,45%) from Wentworth and 47 (17,09%) their residence were unknown. The deduction that could be made is that most of the juveniles diverted were from Umlazi which is a predominant black township situated south of Durban dominated mainly by low family income. A study by Braithwaite (1979) in Weatherburn and Lind (2001:15) concluded that juveniles living in lower-class areas commit crime at a higher rate than juveniles living in middle-class areas.

Figure 4.3: Residential Distribution of Diverted Juveniles



The above bar chart represents residential distribution of diverted juveniles.

4.3.2 Parent or guardian of diverted juvenile offenders

The family is a frontline defence against delinquency and a disrupted family life may encourage any pre-existing forces operating in a child's life to produce delinquency (Siegel and Senna 1988:243).

Table 4.4: Juvenile Offenders Parent or Guardian

| Parent/Guardian | Frequency Distribution | |
|---|------------------------|---------------|
| | N | % |
| Biological parents (either one or both) | 23 | 8.36 |
| Grandmother/ -father | 6 | 2.18 |
| Stepmother/ -father | - | - |
| Uncle/Aunt | 6 | 2.18 |
| Other family member (sister/brother) | 1 | 0.36 |
| Other people (neighbours, adoptive parents) | 3 | 1.09 |
| Nobody | 1 | 0.36 |
| Unknown | 228 | 82.91 |
| Not Applicable | 7 | 2.55 |
| Total | 275 | 100.00 |

Table 4.4 reveals that only 23 (8.36%) of the 275 cases of juvenile diversion had either one or both biological parent(s) who cared for them at home while 6 (2.18%) only had a grandmother or grandfather and another 6 (2.18%) an uncle or aunt who fulfilled the family functions. In one single case did a sister or brother looked after the juvenile offender at the time of his or her deviancy, while in yet another case was there nobody to do so. In an alarming eighty-two percent of the case files scrutinised, could it not be established who the parent or guardian was at the time these juveniles got into trouble.

Hirschi's Control Theory explains a great deal of juvenile delinquent behaviour on the basis of a *social bond* that ties people (including juveniles) to society and it follows that when an individual's bond to society is weak or is broken juvenile delinquency may result. In a later version of control theory, Hirschi and Gottfredson developed the so-called *Self-Control Theory* and proffered that people commit crimes because something – *self control* – is lacking. People who are capable of applying self-control in their everyday life

experiences are capable of controlling their impulses and because of their capability to foresee the long-term consequences of their deeds (acts or behaviour) will, in all probability refrain from committing crime. Individuals who experience *low self control* are concerned only with gratification, i.e., what benefits the moment (the "here" and "now") can offer. The question that now arises is, *who* is responsible for cultivating a strong self-control. Where does it originate? According to Gottfredson and Hirschi (1990), the major cause of low self-control could be linked to ineffective, poor child-rearing (ineffective socialisation) in the home. Parental control is an all-important factor in the upbringing of the child.

"If the parents do not care much about the child or if they do not have the time and energy to watch for deviant behaviour or if they do not recognize the problem behaviour, the child will be less likely to develop self-control" (Livingston 1996:389-395).

Also single-parent families are often also fertile, ground for deviancy among juveniles. On the other hand, two-parent households (i.e., where both biological parents are still intact) are usually more capable of forming ties with formal and informal community groups. Single mothers, says Sampson (1986:271-311) simply "... do not have the time for such luxuries."

4.3.3 Number of children at home of diverted juveniles

The significance of a number of children is important. There are no grounds for concluding that a big family fosters juvenile delinquency. Cronje, Van der Walt, Retief and Naude (1980:83), cite a study by West and Farrington, they found a strong correlation between large families on the one hand and on the other poverty, poor housing, neglected housekeeping, poor physical care of children, etc. A large family appears to obtain criminogenic significance within a particular way of life.

Table 4.5 provides the number of children at home of diverted juveniles.

Table 4.5: Number of Children at Home of Diverted Juveniles (N=275)

| Number of Children in Home | Frequency Distribution | |
|----------------------------|------------------------|---------------|
| | N | % |
| One | 17 | 6.18 |
| Two | 46 | 16.73 |
| Three | 60 | 21.82 |
| Four | 61 | 22.18 |
| Five | 36 | 13.09 |
| Six | 20 | 7.27 |
| Seven or more | 11 | 4.00 |
| Unknown | 12 | 4.36 |
| Not Applicable | 10 | 3.64 |
| Total | 275 | 100.00 |

It appears from Table 4.5 that the size of the families of diverted juvenile offenders has a causative significance in their deviant behaviour. Families consisting of three and four children "produced" the highest number of juvenile delinquents to NICRO, namely three (60 or 21.82%) and four children (61 or 22.18%). Families who had only one child accounted for 17 (6.18%) delinquents, while those with two children had 46 (16.73%) followed by five children-families with 36 (13.09%).

4.3.4 Number of brothers and sisters of diverted juveniles

Number of brothers and sisters has a role to play. The juvenile behaviour of a child with more brothers differs from the one with more sisters. The findings can be seen in Table 4.6.

**Table 4.6: Number of Brothers and Sisters of Diverted Juveniles
(N=275)**

| Number of Brothers and Sisters | Frequency Distribution | |
|--------------------------------------|------------------------|---------------|
| | N | % |
| One brother | 7 | 2.55 |
| One sister | 9 | 3.27 |
| Equal number of brothers and sisters | 7 | 2.55 |
| More brothers than sisters | 7 | 2.55 |
| More sisters than brothers | 20 | 7.27 |
| Unknown | 215 | 78.18 |
| Only child | 9 | 3.27 |
| Not Applicable | 1 | 0.36 |
| Total | 275 | 100.00 |

Table 4.6 indicates clear differences between diverted juvenile with more brothers and the one with more sisters. It particularly shows that 20 (7.27%) of the diverted juveniles had more sisters than brothers, 9 (3.27%) had one sister and 9 (3.27%) were the only children.

Domestic jobs are activities in which each member of the family ought to participate, but they are regarded as female jobs. If the juvenile has more sisters, family chores are not likely shared, and this develops a sense of deficient responsibility in which many delinquencies are partly the result of (Van der Walt 1980:79).

A study conducted by Burt (Van der Walt *et al.* 1980:79), established that there were many only children among his delinquents. He further discovered that in their delinquent activities they tend to be "lone wolves", because they had no interaction with other children.

Out of 275 diverted juveniles 215 (78.18%) an alarming number, their brothers and sisters could not be established. There was no provision for this variable in the case files, the information could only be drawn from the statement by the guardian or parent.

4.3.5 Position of juvenile as child in relation to other brothers and sisters

The sequence of children have a criminogenic significance. Burt (in Cronje *et al.* 1976:84) established that many children among his delinquents counted as only children. He further said that because the only child has no interaction with other children in the family his or her socialisation in the family context can suffer. Table 4.7 gives a clear picture.

Table 4.7: Position of Juvenile as Child in Relation to Other Brothers and Sisters (N=275)

| Position of the Child | Frequency Distribution | |
|-----------------------|------------------------|---------------|
| | N | % |
| First child | 30 | 10.91 |
| Second child | 16 | 5.82 |
| Third child | 6 | 2.18 |
| Fourth child | 6 | 2.18 |
| Fifth child | 1 | 0.36 |
| Sixth child | - | - |
| Other | - | - |
| Unknown | 209 | 76.00 |
| Not Applicable | 7 | 2.55 |
| Total | 275 | 100.00 |

Table 4.7 reveals that there is significance difference in delinquency with regard to the position of the juvenile as child. According to the table representing the frequency distribution of position of diverted juvenile, it is as

follows: 30 (10.91%) first child, 16 (5.82%) second child, 6 (2.18%) third child, 6 (2.18%) fourth child, 1 (0.36%) fifth child, 209 (76%) unknown and 7 (2.55%) not applicable (which could be the adopted child). The high rate of first child could be the result of the effect of parenting. Parents have a tendency of neglecting the first child and pay attention to the siblings who came after him or her. According to the study by Weatherburn and Lind (2001:86), there is strong relationship between juvenile participation in crime and neglect.

McTammey (1976) as cited by Siegel and Senna (1988:248) also supported the view that unsupportive parental discipline greatly increases the probability of delinquency.

Siegel and Senna (1988:249) say that the relationship between birth order is complex, and there is still a great deal of uncertainty concerning its actual nature and direction.

4.4 JUVENILE OFFENDING

There is evidence that a number of criminal opportunity theories have been put forward which have an actual bearing on the spatial distribution of crime. They fall into two categories. Macrospatial criminal opportunity theories seek to give an account of the spatial distribution of crime in terms of variations. Microspatial criminal opportunity theories seek to give an account of the spatial distribution of crime in terms of the variations in the supply of criminal opportunities and incentives within neighbourhood (Weatherburn and Lind 2000:157). Table 4.4 shows offences committed by the diverted juveniles.

Table 4.8: Offences Committed by the Diverted Juvenile (N=275)

| Offence | Frequency Distribution | |
|------------------------------|------------------------|---------------|
| | N | % |
| Shoplifting | 13 | 4.73 |
| Theft | 219 | 79.64 |
| Pickpocketing | 1 | 0.36 |
| Malicious Injury to Property | 2 | 0.73 |
| Housebreaking | 5 | 1.82 |
| Robbery | 1 | 0.36 |
| Assault (common) | 4 | 1.45 |
| Drug offence | 19 | 6.91 |
| Gangsterism | 1 | 0.36 |
| Others | 10 | 3.64 |
| Total | 275 | 100.00 |

Table 4.8 reveals that of 275 diverted juveniles 219 committed ordinary theft. Most of the thefts were committed at shops. Since a large number of diverted juveniles were scholars, dislike of school which results in irregular attendance or non-attendance may be the cause. Cronje *et al.* (1976:185) say "the general view is that the ultimate outcome of irregular attendance or non-attendance at school is probably antisocial behaviour." Children steal because they want to satisfy their physiological basic need. They see other children eating chocolate but do not have money to buy and they steal. According to Maslow's theory of needs, higher motives appear only after the more basic ones have been satisfied. If you are starving you will probably not care what people think of your table manners (Morris 1982:292).

It is also evident that 13 of diverted juveniles committed shoplifting, children from low income households are vulnerable to delinquency. Also youth who have less interest in school or who realise that they cannot achieve their goals develop various behaviour characteristics, such as (engaging in activities of immediate kicks or

gratification without considering the long term effects of this behaviour) (Kratcoski and Kratcoski 1982:54).

With regard to the use of drugs, 19 of diverted juveniles had committed drug offences. The problem with juveniles is the transition period between childhood and adulthood. The use of drugs is indisputably related to the physical and psychological changes and needs and demands associated with these, acceptance by friends, the desire for adventure, peer groups to mention but a few (Kratcoski and Kratcoski 1982:161).

4.5 DIVERSION

4.5.1 Was juvenile offenders accepted at NICRO

The juvenile system aims at avoiding most children going through the Criminal Courts. This is achieved through the process of diversion. Diversion takes many forms, and it requires the child to acknowledge that he or she did commit the offence, and to take responsibility for his or her actions. In Chapter 3 a detailed discussion on diversion is found.

Table 4.9 reveal the accepted and those not accepted juvenile offenders at NICRO.

Table 4.9 Was Juvenile Offenders Accepted at NICRO (N=275)

| Was Juvenile Accepted | Frequency Distribution | |
|-----------------------|------------------------|---------------|
| | N | % |
| Yes | 240 | 87.27 |
| No | 35 | 12.73 |
| Total | 275 | 100.00 |

Table 4.9 shows that 240 (87.27%) juveniles diverted were accepted at NICRO. Most of the diverted juveniles were first time offenders who after having been apprehended and diverted to NICRO showed remorse and accepted responsibility.

4.5.2 Reasons for not being accepted

For the juvenile to be diverted to NICRO it is imperative that the accused admits guilt on the charges otherwise he or she is not suitable and the case should proceed to court where the accused will have the opportunity to state his case.

Table 4.10: Reasons for not being Accepted (N=275)

| Reasons | Frequency Distribution | |
|---|------------------------|---------------|
| | N | % |
| Simply did not want to accept responsibility | 14 | 5.09 |
| Offence too serious to warrant diversion | 1 | 0.36 |
| Did not want to cooperate with NICRO | 2 | 0.73 |
| Child in need of care (Children Court Inquiry) - referral to probation office (not suitable for treatment by NICRO) | 4 | 1.45 |
| Other | 13 | 4.73 |
| Unknown | 1 | 0.35 |
| Not applicable | 240 | 87.28 |
| Total | 275 | 100.00 |

Table 4.10 reveals that 240 of diverted juveniles are not applicable, that is those that were accepted to NICRO. 14 did not want to accept responsibility. One of the primary aims of diversion is to make offenders responsible for their actions, 13 were others, that was mostly those who were drug dependant and were referred to alcohol anonymous for rehabilitation.

Table 4.11: If diverted to NICRO, which programme has been implemented for treatment and ultimate reintegration of juvenile in the community (N=275)

| Programme at NICRO | Frequency Distribution | |
|------------------------------------|------------------------|---------------|
| | N | % |
| Youth Empowerment Scheme (YES) | 209 | 76.00 |
| Pre-Trial Community Service (PTCS) | 19 | 6.91 |
| Victim-Offender Mediation (VOM) | - | - |
| Family Group Conference (FGC) | - | - |
| Journey | - | - |
| Service to Family Juvenile | - | - |
| Individual Counselling | 2 | 0.73 |
| Combination of Programmes | 10 | 3.64 |
| Other | - | - |
| Not applicable (e.g. rejected) | 35 | 12.73 |
| Total | 275 | 100.00 |

Table 4.11 reveals that 209 diverted juveniles were put in a Youth Empowerment Scheme (YES). This programme is regarded as putting brake on "going off the rails". It encourages the young offender to behave within broadly acceptable societal norms in order to prevent further involvement in criminal activities (NICRO News, nd).

4.6. FAMILY STATUS OF DIVERTED JUVENILE OFFENDERS

The family is regarded as a social unit made up of father, mother and their children. This, however, is not true of many families (Good 1982:8).

The family is also affected by the structure of the family. Mqadi (1994:28) gives the following important aspects of the family.

- (a) Broken family. A family may either be physically or psychologically broken. A family may be broken physically because of the loss of either parent through death, divorce, desertion and long absence of either parent because of either employment or imprisonment. A psychologically broken family is one in which parents physically stay together but the relationships, including parental control and obligations, are such that parents are in constant conflict.
- (b) Incomplete family. The incomplete family is closely related to the above structure types. In the incomplete family one partner is missing because marriage never occurred. It is a common type in recent years and usually the single mother runs the family alone. The family consists of the mother and her children born out of wedlock.

Table 4.12 reflects the family status of diverted juveniles.

Table 4.12: Family Status of Diverted Juveniles (N=275)

| Family Status | Frequency Distribution | |
|--|------------------------|---------------|
| | N | % |
| Complete family (both biological parents live with and caring for juvenile) | 89 | 32.36 |
| Incomplete family (one or both biological parents absent through divorce, separation, death, etc.) | 176 | 64.00 |
| Incomplete family (both biological parents are alive but do not live with juvenile) | 2 | 0.73 |
| Other | 8 | 2.91 |
| Total | 275 | 100.00 |

According to Table 4.12 no less than 176 (64.00%) juvenile offenders diverted to NICRO are from incomplete families, i.e., where one or both of the offender's biological parents are absent due to divorce, separation, desertion, death, etc. In 2

(0.73%) other cases are both the biological parents alive, but do not live with the juvenile offender.

Only 89 (32.36%) of the cases scrutinised are the family structures still complete and intact and are both biological parents still caring for their children.

Table 4.13: Pearson’s Correlation: Parent/Guardian by Family Structure/ Status (N=275)

| Variable | N | \bar{x} | sd | p | r |
|--|-----|-----------|------|---------|------|
| Who acted as juvenile offender’s parent/guardian at home | 275 | 7.185 | 2.17 | 0.00046 | 0.99 |
| Family status of juvenile | 275 | 1.742 | 0.62 | - | - |

Pearson’s correlation technique

Hagan (2001:388) explains that concept of relationship that if one variable enables prediction of the values of a second variable the variables are related.

The Pearson’s Correlation Co-efficient (Pearson’s r) is an interval level measure of relationship. The formula for calculating Pearson’s r using deviation score for a simple distribution is

$$r = \frac{\sum x y}{\sqrt{\sum x^2 \sum y^2}} \text{ (Hagan 2001:390).}$$

According to Table 4.13, an extremely strong relationship exist between the following two variables:

- persons who acted as juvenile offender’s parents or guardians at home while they committed illegal acts (Table 4.4)

- family status of juvenile offender (Table 4.12).

A Pearson product moment correlation indicate that according to Table 4.12 only 89 (32.36%) of the juvenile offenders were from complete families where both biological parents were still acting as their guardians. However, over two-thirds (64.0%) of the juveniles investigated came from incomplete families. This relationship is extremely significant ($p=0.00046$) with a correlation coefficient of 0.9940.

Table 4.14: Occupation of Parents (N=275)

| Occupation | Frequency Distribution | |
|-----------------------------|------------------------|---------------|
| | N | % |
| Both parents are employed | 31 | 11.27 |
| Only one parent is employed | 132 | 48.00 |
| Both parents are unemployed | 98 | 35.64 |
| Not applicable | 14 | 5.09 |
| Total | 275 | 100.00 |

Table 4.14 shows the result of occupation of parents for juvenile participation in crime. Of 275 diverted juveniles, 132 were from families with one parent employed. Young children who come from families with low income are vulnerable to delinquency. 98 of diverted juvenile had both parents unemployed. Kratcoski and Kratcoski (1990:55) say there is relationship between poverty and delinquency.

In response to the United States' omnibus crime bill introduced in 1993, criminologists across that country reacted with great disappointment when they learned that the new juvenile justice bill aimed at trying juvenile accused of having committed violent crimes in adult courts. It was argued, at that stage, that the greatest cause of juvenile violence was fatherless households and fractured neighbourhoods. To deal with such juveniles in adult courts will do no good but

rather increase the likelihood of more violent behaviour (Lacayo 1997:64) among teenagers.

4.7 SUMMARY

The analysis and interpretation of characteristics of juvenile offenders diverted to NICRO, Durban shows that most of juvenile diverted had committed theft. Correlation was made against their age, race, educational status, marital status of their parents, their places of residence, etc. Statistical techniques was used to test correlation of items through Pearson's (r) Correlation technique to measure relationship.

CHAPTER 5

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 INTRODUCTION

This chapter presents the most salient findings, conclusions and recommendations. The latter which are based upon statistical information contained in Table 4.1 to 4.14.

The aims of the present study (par. 1.5) are precisely to investigate the handling and treatment of juvenile offenders who got involved in criminal activities such as juvenile crime. As such, study's primary objective revolved around analysing the existing approach to juvenile diversion from the formal justice system to an alternative, approved institution such as NICRO that concerns itself with accepting diverted juvenile offenders from the Youth Court for treatment and rehabilitation.

As has been recorded, the present study revolves around an investigation of the case files of 275 juvenile offenders who were diverted to NICRO between 1 July to 31 December 2000. No apparent reason existed for having chosen the specific period of six months, except for considering the availability of case files that have been finalised. Researcher's intention was not to disrupt the diversionary process or the administration of normal "business" at NICRO's office in Durban.

5.2 ACHIEVEMENT OF STUDY AIMS

Three aims (par. 1.5) intended to be realised through this investigation have been formulated, namely:

- To render a theoretical exposition of the nature and extent of juvenile delinquency and appropriate theoretical explanations of this social phenomenon.
- To render a theoretical exposition of *juvenile diversion* as an alternative method to formal treatment and handling of juvenile offenders and the role played by NICRO in this regard.
- To provide a univariate statistical description regarding juveniles diverted to NICRO in Durban.

The researcher is convinced that the present study has succeeded in the realisation of the above-mentioned aims as follows:

- **Study aim 1:**

In Chapter 2, a profile of *juvenile delinquent* was rendered together with a discussion of the causes of this social phenomenon. Likewise, four prominent sociological theories explaining this phenomenon were also discussed, namely: Hirschi's *Social Control or Bond Theory* (1969) which stresses that

" ... a person is free to commit delinquent acts because his ties to the conventional order have somehow been broken" (Brown *et al.* 1996:309);

Cloward and Ohlin's *Opportunity Theory* (1960), devised to explain gang delinquency and more specifically, innovative solution sought by juvenile delinquents in reaction to their strained circumstances. Lastly, Sellin's *Culture Conflict Theory* (1938) which actually refers to culture conflict as an explanation of crime and delinquency (Brown *et al.* 1996:295) followed by Edwin Sutherland's theory of *Differential Association*.

- **Study aim 2:**

Juvenile diversion has been discussed in Chapter 3 of this report. The historical development of this notion in the United States came under the spotlight, followed by that in South Africa. Diversionary programs or options in both America and South Africa have been highlighted and the significant role played by NICRO in South African context with specific reference to referral procedures.

- **Study aim 3:**

The empirical portion of the presented study recorded in Chapter 4 specifically deals with the statistical analysis of data relating to diversion in Durban over a six month period. All in all, fourteen tables containing univariate descriptions of such data are presented in tabular format and described and explained. The findings, conclusions and recommendations emanating from these statistical descriptions and analyses will be highlighted in the discussion below.

5.3 LIMITATIONS OF THE STUDY

It is necessary to point out the limitations and problems encountered by the researcher during the course of investigation. This will provide subsequent researchers with possible pitfalls, equipping them better with ideas of avoiding similar pitfalls. The most salient limitations are:

- (a) South African literature on juvenile diversion seems to be somewhat scanty. Only one comprehensive self-report study on juvenile delinquency is available in South Africa, namely that of Glanz (1990). Consequently, the researcher had to rely mainly on NICRO news for the compilation of diversion in South Africa.

- (b) Not all youth courts in the Durban area have diverted juveniles to NICRO. Pinetown, for instance, did not refer a single juvenile delinquent in the six month period under scrutiny.
- (c) Records from personal files of juveniles diverted to NICRO had some important information not recorded. For example, some files did not reflect all the required demographic particulars. Table 4.1 shows these missing data under the "unknown" category. While this missing data may not have seriously influenced the results of this study, it nevertheless creates an incomplete picture of the real state of affairs. See also Table 4.3.

5.4 MOST IMPORTANT FINDINGS OF THE INVESTIGATION

5.4.1 Residential distribution of juvenile offenders

The data contained in Table 4.3 clearly show that the majority of the diverted juveniles lived in Umlazi Township (32.0%) – a predominant Black residential area at the time of their diversion to and admittance at NICRO. This observation most probably coincide with data in Table 4.1 showing that 78.0 percent of these juveniles are perhaps Black male teenagers. Brown *et al.* (1996:142-143) contend that the possibility exists that African-Americans are over-represented in American crime statistics, simply because they constituted 15 percent of the total American population and accounted for 35 percent of all arrests for serious offences. Statistics show that in 1992, African-Americans committed 287,122 (45%) of all violent crimes compared to 343,338 (54%) white offenders – a considerably disproportionate rate in relations to the size of their population. South African statistics for 1987 show that 236,489 Blacks were convicted for selected serious offences (murder,

rape, assault, robbery, burglary and motor vehicle theft), compared to 34,379 white offenders (Glanz, Mostert and Hofmeyr 1992:30-34). Although these authors do not link population figures to these crime patterns *per se* it could be anticipated that Black offenders are perhaps also over-represented in South African statistics because of their dominating population figures.

Table 4.3 further reveals that 40 of the remaining cases, the juvenile offenders were living in Durban, followed by 21 from Phoenix – a predominant Asian suburb adjacent to Durban-North.

5.4.2 Parents or guardians of diverted juveniles

Table 4.4 reveals that only 23 juvenile offenders lived with either one or both their biological parents when they got into trouble as a result of crime. In yet another 17 cases, juvenile offenders were controlled by family members.

5.4.3 Crimes committed by juvenile

Theft appears to be the most popular type of crime committed by the diverted juveniles, followed by drug trafficking and to a lesser extent, shoplifting. Economic (property) crimes involve

“ ... the desire to enhance our sense of self-worth by the acquisition of things. Those unable or unwilling to obtain these tokens of self-value-money and goods – in a legitimate manner may be impelled to resort to criminal behaviour to acquire them”
(Brown *et al.* 1996:435).

Shoplifters – especially first offenders – often refuse to think of themselves as thieves and as such, do not want to be convinced by the police and/or store managers that they have actually been arrested for a crime committed (Cameron 1964:158). In terms of social control theory, Klemke (1992:97)

found that studies of the family and shoplifting are restricted to juvenile thefts and that weak social bonds in the family are moderately related to shoplifting.

5.4.4 Diversion

Two-hundred-and-forty (Table 4.10) out of 275 juvenile offenders diverted to NICRO were in fact "accepted" for treatment and rehabilitation. In one of the cases, the offence was deemed too serious to warrant diversion; two of the juveniles did not co-operate with NICRO; four juveniles were found to be children in need of care and were, subsequently, referred to the Probation Officer; and in thirteen cases were "other reasons" (e.g., drug and alcohol problems) cited for not being accepted by NICRO.

5.4.5 Programme implementation

Table 4.11 indicates that the Youth Empowerment Scheme (YES) was applied in 209 (76.0%) of the cases diverted during the six month period under review, followed by 19 cases who were subject to the Pre-Trial Community Service Programme (PTCS). Chapter 3 renders a clear exposition of the nature and extent of each diversionary programme employed by NICRO.

5.4.6 Family status of diverted juveniles

Table 4.12 reports the family status of the juvenile offenders diverted to NICRO during the six month period in the year 2000. According to this table, only 89 (i.e., about two-thirds) of the total sample group enjoyed a family life that was completely intact, (i.e., both biological parents are still alive and care for their children). However, in an astronomical 65% of all cases (N=275), juvenile offenders came from "broken" or incomplete families. When cross-correlated with statistical information contained in Table 4.4 (status of juveniles' parents and/or guardians), the data in Table 4.12 yielded an

extremely significant *relationship* in terms of Pearson's Correlation (r) – emphasising the importance of natural, family bonding between parents and their children as a “shield” against juvenile delinquency.

5.4.7 Summary

The foregoing discussion points to some interesting findings. However, it would be wise not to generalise from these findings and to rather engage in further in-depth research concerning juvenile diversion in KwaZulu-Natal and even at national level in South Africa.

5.5 CONCLUSION

The present research, conducted at NICRO's office in Durban, produced some answers about juvenile diversion in KwaZulu-Natal. Unfortunately, the descriptive nature of this study in univariate fashion does not allow for important cross-correlation of data in terms of bivariate and multivariate analyses.

Further, although the research only covered a six-month period, the researcher is confident that the information it has generated not only shed light on the problems surrounding juvenile diversion but also the “good work” that is being done by NICRO in this regard.

5.6 RECOMMENDATIONS

The following recommendations are being introduced as they relate to the data analysed in this study. These recommendations are by no means prescriptive in nature, but are merely intended to stimulate proactive steps to be taken in diversion programmes in South Africa in general and KwaZulu-Natal in particular. These recommendations should be reviewed as programmes or strategies that may channel young people away from the criminal justice system all the time and encourage

them to take control of their lives and stop offending. These recommendations are intended to develop young people who are at risk and assist them in becoming law abiding citizens.

5.6.1 In-depth research

The present research project is exploratory in nature, meaning the last word on diversion of juvenile offenders has not been spoken. In this context, it is recommended that further in-depth research into juvenile diversion be undertaken at national level and the contributions of all relevant role players in facilitating alternative methods of handling individuals (juveniles) who normally would be subjected to the formal criminal or juvenile justice system intervention. Also of primary importance would be proper establishment of the success/failure rate of diversion in each province of South Africa based on the recidivism rate of juvenile offenders. Once this information has been secured, appropriate recommendations as to how South Africa's diversionary process could be upgraded or streamlined, should be put forward for implementation.

5.6.2 The school and the prevention of juvenile delinquency

The school is an ideal type of institution to detect predelinquent tendencies and the child spends most of his or her childhood and adolescent years at school.

The recommendation on the role of the school in preventing juvenile delinquency is that it can be best achieved if carried out in conjunction with the family. The role of the school should aim at maximising the learning process and elimination of factors which may have adverse effect on the learning process and create opportunities which enhance learning.

Preventive strategies to high risk behaviour such as poor achievement at school, low resistance to peer influence and acting-out behaviour should be introduced.

5.6.3 Provision of a curriculum that focuses on criminal acts

The curriculum should focus on educating youth about juvenile crime, dangers thereof and juvenile justice system, the negative effects of involvement in crime and also diversion. This can be achieved by providing the following programmes:

- a programme that can improve self-concept of young people especially those from poor questionable neighbourhoods;
- instructing young people about drug abuse and other criminal acts preparing them to be responsible citizens.

5.6.4 Unknown categories

In this investigation it has been noted that there were more unknown categories. Table 4.1 provided valuable information in respect of role played by NICRO in this regard and providing a univariate statistical description regarding juveniles diverted to NICRO.

5.7 CONCLUSION

This study into diversion of juveniles to NICRO entails an explanatory approach towards describing exactly what transpires in NICRO, Durban. This investigation was designed to only statistically describe and analyse the demographic profile of diverted juvenile offenders in terms of gender, age, race, educational level,

occupation, etc. Chapter 4 contains valuable information about such diverted juvenile offenders. The directive recommendations have been made which the researcher believes that the policy-makers can make use of.

5.8 SUMMARY

The study on juvenile diversion has been conducted on juvenile diverted to NICRO, Durban. The sample consisted of 275 respondents. The information schedule has been used to capture information in conjunction with coding sheet to conveniently transfer data from files.

The recommendations of the study are based on the role of the juvenile justice system, family and the school in preventing juvenile delinquency.

Finally the investigation has successfully satisfied the general aims of rendering a theoretical exposition of the nature and extent of juvenile delinquency and appropriate theoretical explanations of this social phenomenon rendering a theoretical exposition of juvenile diversion as an alternative method to formal treatment and handling of juvenile offenders and the demographics of juveniles. Of 275 diverted juveniles 12 (4.36%) unknown gender, 17 (6.18%) highest standard of education unknown and 34 (12.36%) their occupation was unknown. It is recommended that NICRO records should be improved.

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ACTS

1. South African Correctional Service Act 8 of 1959
2. South African Child Care Act 74 of 1983
3. South African Child Care Act 13 of 1999
4. South African School Act 84 of 1996
5. South African Constitution 108 of 1996

JUVENILE DIVERSION IN KWAZULU-NATAL

INFORMATION SCHEDULE

SECTION A: ADMINISTRATIVE PARTICULARS

| | |
|-------------------|--|
| NICRO CASE NUMBER | |
|-------------------|--|

| | |
|-------------------|--|
| COURT CASE NUMBER | |
|-------------------|--|

VAR.1: **SOURCE OF REFERRAL?** (Tick only ONE of the juvenile and/or criminal courts located at the following places):

| | |
|---------------------------------------|----|
| Durban Court / Juvenile Court | 1 |
| Phoenix Court / Juvenile Court | 2 |
| Verulam Court / Juvenile Court | 3 |
| Ntuzuma Court / Juvenile Court | 4 |
| Tongaat Court / Juvenile Court | 5 |
| Pinetown Court / Juvenile Court | 6 |
| Umlazi Court / Juvenile Court | 7 |
| Chatsworth Court / Juvenile Court | 8 |
| Amazimtoti Court / Juvenile Court | 9 |
| Port Shepstone Court / Juvenile Court | 10 |
| Other (Specify) | 11 |

SECTION B: DEMOGRAPHIC PROFILE OF JUVENILES

VAR.2: ***GENDER?***

| | |
|---------|---|
| Male | 1 |
| Female | 2 |
| Unknown | 3 |

VAR.3: ***RACE?***

| | |
|----------|---|
| African | 1 |
| Coloured | 2 |
| Asian | 3 |
| White | 4 |
| Unknown | 5 |

VAR.4: ***AREA OF RESIDENCE?***

| | |
|-------------------------|----|
| Chatsworth | 1 |
| Umlazi | 2 |
| Phoenix | 3 |
| Ntuzuma | 4 |
| Claremont / Kwadabeka | 5 |
| KwaMashu | 6 |
| Tongaat | 7 |
| Inanda | 8 |
| Lamontville / Merebank | 9 |
| Wentworth | 10 |
| Durban | 11 |
| Other (Specify) | 12 |
| Unknown (Not specified) | 13 |
| Not applicable | 14 |

VAR.5: HIGHEST EDUCATIONAL QUALIFICATION?

| | |
|----------------------------------|---|
| Below Grade 8 (Std. 6 and lower) | 1 |
| Grade 8 (Std. 6) | 2 |
| Grade 9 (Std. 7) | 3 |
| Grade 10 (Std. 8) | 4 |
| Grade 11 (Std. 9) | 5 |
| Grade 12 (Std. 10) | 6 |
| Other (Specify | 7 |
| Unknown | 8 |

VAR.6: RACE?

| | |
|--|---|
| Unemployed | 1 |
| Self-employed | 2 |
| Skilled / semi-skilled worker | 3 |
| Scholar | 4 |
| Student (College / University / Technikon) | 5 |
| Other (Specify | 6 |
| Unknown | 7 |

VAR.7:

WHO ACT AS JUVENILE'S PARENT/GUARDIAN AT HOME?

NB: Tick only ONE block please!

| | |
|---|---|
| Biological parents (either one or both) | 1 |
| Grandmother / -father | 2 |
| Stepmother / -father | 3 |
| Uncle / Aunt | 4 |
| Other family members (sister, brother) | 5 |
| Other people (neighbours, adoptive parent(s), etc.) | 6 |
| Nobody | 7 |
| Unknown | 8 |
| Not applicable | 9 |

VAR.8:

NUMBER OF CHILDREN IN THE FAMILY?

| | |
|----------------|---|
| One | 1 |
| Two | 2 |
| Three | 3 |
| Four | 4 |
| Five | 5 |
| Six | 6 |
| More than six | 7 |
| Unknown | 8 |
| Not applicable | 9 |

VAR.9: NUMBER OF BROTHERS AND SISTERS IN THE FAMILY?

| | |
|--------------------------------------|---|
| One brother | 1 |
| One sister | 2 |
| Equal number of brothers and sisters | 3 |
| More brothers than sisters | 4 |
| More sisters than brothers | 5 |
| Unknown | 6 |
| Only child | 7 |
| Not applicable | 8 |

VAR.10: POSITION OF JUVENILE AS CHILD IN RELATION TO OTHER BROTHERS AND SISTERS IN THE HOME? (E.g., first, second, third or fourth child in the home):

| | |
|-----------------------|---|
| First child | 1 |
| Second child | 2 |
| Third child | 3 |
| Fourth child | 4 |
| Fifth child | 5 |
| Sixth child | 6 |
| Other (Specify) | 7 |
| Unknown | 8 |
| Not applicable | 9 |

SECTION C: OFFENCE PARTICULARS

BY MEANS OF A CROSS, INDICATE WHICH OF THE FOLLOWING OFFENCE(S) BELOW WERE COMMITTED BY THE JUVENILE UNDER INVESTIGATION (NB: Tick more than one offence if it is necessary):

| VAR# | - Offence - | Yes | No |
|-------------|------------------------------|------------|-----------|
| VAR.11 | Shoplifting | 1 | 2 |
| VAR.12 | Theft (Ordinary) | 1 | 2 |
| VAR.13 | Pickpocket | 1 | 2 |
| VAR.14 | Malicious damage to property | 1 | 2 |
| VAR.15 | Housebreaking | 1 | 2 |
| VAR.16 | Robbery (non-serious) | 1 | 2 |
| VAR.17 | Assault (common) | 1 | 2 |
| VAR.18 | Drug offences | 1 | 2 |
| VAR.19 | Gangsterism | 1 | 2 |
| VAR.20 | Other (Specify) | 1 | 2 |

VAR.21: WAS JUVENILE ACCEPTED AT NICRO?

| | |
|----------------|---|
| Yes | 1 |
| No | 2 |
| Not applicable | 3 |

VAR.22: **REASON(S) FOR NOT BEING ACCEPTED AT NICRO FOR DIVERSION?**

| | |
|--|---|
| Simply did not <u>want to</u> accept responsibility | 1 |
| Offense too serious to warrant diversion | 2 |
| Did not want to co-operate with NICRO | 3 |
| Child in need of care (Children's Court Inquiry) | 4 |
| Referral to Probation Officer (not suitable for treatment by NICRO – relapse into crime) | 5 |
| Other (Specify | 6 |
| Unknown | 7 |
| Not applicable | 8 |

VAR.23: **IF DIVERTED TO NICRO, WHICH PROGRAM BELOW HAS BEEN IMPLEMENTED FOR TREATMENT AND ULTIMATE REINTEGRATION OF JUVENILE IN THE COMMUNITY?**

| | |
|--|----|
| Youth Empowerment Scheme (YES) | 1 |
| Pre-Trial Community Service (PTCS) | 2 |
| Victim-Offender Mediation (VOM) | 3 |
| Family Group Conferencing (FGC) | 4 |
| Journey | 5 |
| Service to family of juvenile | 6 |
| Individual Counselling | 7 |
| Combination of programmes (e.g. YES & PTCS) | 8 |
| Other (Specify | 9 |
| Not applicable (e.g. rejected / referred back) | 10 |

VAR.24: **AGE OF JUVENILE?**

| | |
|-----------------------|---|
| Below 15 years | 1 |
| 15 – 17 years | 2 |
| 18 – 21 years | 3 |
| 22 – 25 years | 4 |
| Unknown | 5 |
| Not applicable | 6 |
| Other (Specify) | 7 |

VAR.25 **FAMILY STATUS OF JUVENILE?**

| | |
|---|---|
| Complete family (both parents are still alive, living together and caring for juvenile) | 1 |
| Incomplete family (one or both parents absent through divorce, separation, death, etc.) | 2 |
| Both parents are alive but do not live with juvenile | 3 |
| Not applicable | 4 |

VAR.26: **OCCUPATIONAL STATUS OF PARENTS / GUARDIAN?**

| | |
|-----------------------------|---|
| Both parents are employed | 1 |
| Only one parent is employed | 2 |
| Both parents are unemployed | 3 |
| Not applicable | 4 |

JUVENILE DIVERSION IN KWAZULU-NATAL

CODING SHEET

NICRO CASE# _____

COURT CASE# _____

| | |
|--------|--|
| VAR.1 | |
| VAR.2 | |
| VAR.3 | |
| VAR.4 | |
| VAR.5 | |
| VAR.6 | |
| VAR.7 | |
| VAR.8 | |
| VAR.9 | |
| VAR.10 | |
| VAR.11 | |
| VAR.12 | |
| VAR.13 | |
| VAR.14 | |
| VAR.15 | |

| | |
|--------|--|
| VAR.16 | |
| VAR.17 | |
| VAR.18 | |
| VAR.19 | |
| VAR.20 | |
| VAR.21 | |
| VAR.22 | |
| VAR.23 | |

ANNEXURE C

PERMISSION FROM NICRO TO PROCEED WITH THE STUDY

n cro

Kwazulu Natal: Durban Office

2nd Floor, United Building, 58 Field Street, Durban 4001
✉ P O Box 3986, Durban 4000
☎ (031) 304 2761 📠 (031) 304 0826
e-mail address: nicrokzn@wn.apc.org

*for a safer South Africa
yeNingizimu Afrika ephephile
woMzantsi Afrika okhuselekileyo
vir 'n veiliger Suid-Afrika
ya Afrika Borwa e bolokehileng*

14 June 2001

The Head
Department of Criminology
University of Zululand
Private Bag X1001
KWADLANGEZWA
3886

Dear Professor Potgieter

Research on Juvenile Diversion : Ms C.Z. Zondi

Your letter dated 05 June 2001 refers.

We are able to provide the information as outlined in your letter from our case files, except the information on Victims which we do not have unless it is a specific case which involves an identifiable victim, and these are very few. Obviously we are also able to provide information about NICRO.

I await contact from Ms Zondi to discuss this matter further.

Assuring you of our co-operation.

Yours faithfully



Lesleigh Timothy
Diversion Project Manager

SWORN STATEMENT BY JUVENILE OFFENDER

DECLARATION

SERIAL NUMBER: _____

I, the undersigned _____ hereby declare under oath as follows:

1. The contents of this declaration are, to the best of knowledge, true and correct.

2. On the _____ (date) was referred by the Public Prosecutor of _____ with the purpose of participating in the Youth Empowerment Scheme.

3. The Project Committee for Juvenile Offenders is given the power to apply to me all techniques or procedures that are necessary for the successful implementation of their programme.

4. I hereby freely and without undue duress admit that on or about the _____ (date) in the district _____ unlawfully and illegally _____

_____ knowing that it was wrong.

5. I affirm that I am prepared to participate in this Youth Empowerment Scheme and that I have not been forced or compelled to do so, and view my participation in the Project as to my advantage.
6. I am aware that if I am unable to attend any portion of the Project, only a valid medical certificate signed by a qualified doctor will be accepted as an excuse. I am also aware that if I am absent I must make prior contact with the Public Prosecutor at _____ to notify him/her thereof.
7. I am aware that the prosecution by the State will only be withdrawn and merely suspended (and not terminated) until the satisfactory completion of the Project.
8. I am further aware that after I have completed the Project, I must report to the office of the Control/Senior Public Prosecutor at _____ on _____ at _____ with a copy of a report on my participation and behaviour during the Project.
9. I am further aware that the Public Prosecutor, after my completion of the Project will decide if the investigation and prosecution against me will continue or be withdrawn. In making this decision the Public Prosecutor will be guided by the recommendation made by the Project Committee for Juvenile Offenders in this regard.
10. I have been informed that if any of these conditions of this declaration are not complied with, the Public Prosecutor can continue with the prosecution against me.
11. I further undertake to take no civil or criminal action of any nature against the Project Committee for Juvenile Offenders, their authorised officers or individual members of the committee.

Signed at _____ on this _____ day of _____ 19 _____

Parent/Guardian

Juvenile Offender

Signed and declared before me at _____ on this _____ day
of _____ 19 _____ by the above-mentioned who acknowledges that
he/she is aware of the contents of this declaration and understand it, that he/she
has objection to taking the oath, and that he/she considers it to be binding on his or
her conscience.

Commissioner of Oaths

Place _____

Post _____

Date _____

ANNEXURE E

SWORN STATEMENT BY PARENT(S) OR GUARDIAN(S)

SWORN STATEMENT

I/We, the undersigned, _____ in my/our capacity as the parent(s) / guardian(s) of _____ hereby declare under oath the following:

1. I/We have read through the undertaking of the Project Committee, which undertaking has duly been signed by _____ and I/we accept that the said undertaking by _____ is binding on me/us.

2. I/We have explained the aspects of the undertaking to _____ in my/our capacity as parent(s) / guardian(s) and am/are satisfied that _____ understands all contained therein.

Parent(s)

Guardian(s)

Signed at _____ on this _____ day of _____ 19 _____
by the parents of _____ who acknowledge that he/she/they is aware of the contents of this declaration and understands it, that

he/she has objection to taking the oath, and that he/she considers it to be binding on his or her conscience.

Commissioner of Oaths

Place _____

Post _____

Date _____

CASE INFORMATION FORM

YOUTH EMPOWERMENT SCHEME

INFORMATION FORM

Prosecutor's number: _____

1. Case number _____
2. District _____
3. Name _____
4. Address _____

5. Age _____
6. Parent/Guardian _____

7. Address of Parent/Guardian _____

8. Telephone number _____
9. Charges _____
10. Date of referral _____
11. Date of report back to prosecutor / postponed date to court _____

State Prosecutor

(place)

(Tel)

EVALUATION FORM

PENINSULA Youth Empowerment Scheme

Prosecutor's number _____

Project number _____

1. This serves to confirm that _____ has completed _____ out of six sessions of the Youth Empowerment Scheme which was run from the _____ until the _____.

2. Comments: _____

Project Co-ordinator