THE EXPERIENCES AND PERSPECTIVES OF USERS OF THE SERVICES OF THE

RESTORATIVE JUSTICE CENTRE IN PRETORIA

by

EDWIN DEWA

submitted in accordance with the requirements

for the degree of

MASTER OF PUBLIC HEALTH

at the

UNIVERSITY OF SOUTH AFRICA

SUPERVISOR: DR K E MOKWENA

NOVEMBER 2013

DECLARATION

I declare that the research titled **THE EXPERIENCES AND PERSPECTIVES OF USERS OF THE SERVICES OF THE RESTORATIVE JUSTICE CENTRE IN PRETORIA** is my own work and that all the sources that I have used or quoted have been indicated and acknowledge by means of complete references and that this work has not been submitted before any other degree at any other institution.

Edwin Dewa   :

Full names   **Date**

ACKNOWLEDGEMENTS

ABSTRACT

The purpose of this study was to describe the experiences and perspectives of the users of the services of the Restorative Justice Centre in Pretoria. A phenomenological study was conducted to gain insight in the participants experiences and perspectives of the the services rendered. Data collection was done using indepth interviews with a sample population of girls who were victims of sexual abuse and their caregivers. The reseacher made use of Colaizze (1978) data analysis approach following the transcription of audio recorded information.The study found that first time contact can be a daunting experience for victims, which touches on complex issues like discomfort, fear, cultural barriers and timing. Generally, clients were positive about social workers who build up a meaningful relationship based on empathy and respect. However, clients were concerned about unintentional, but insensitive behaviour by practitioners. Services that recognize a client's culture and language, as well as context are viewed as empowering. Therefore, restorative justice interventions should be holistic and consider the context in its approaches.

KEY CONCEPTS

Restorative justice; Empowerment, Restorative justice principles, children, sexual abuse, communities

TABLE OF CONTENTS

CHAPTER 1: ORIENTATION TO THE STUDY

CHAPTER 2: LITERATURE REVIEW

CHAPTER 3: RESEARCH DESIGN AND METHOD

CHAPTER 4: ANALYSIS, PRESENTATION AND DESCRIPTION OF DATA

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

CHAPTER 1:

ORIENTATION TO THE STUDY

1.1 INTRODUCTION

The wave of crime and violence in South Africa, which started to escalate in the early 1990s, has not shown a decline (Loeb Adler & Denmark, 2004). Among the types of violent crimes are the striking incidents of rape, which have been reported to be among the highest in the world (du Plessis and Louw, 2005). Crime statistics released by the South African Police Service (SAPS) indicated that from the period 1 April 2010 to 31 March 2011, rape increased by an estimated 10%, from 55 097 to 56 272 from the previous financial year. Children are often rape victims, probably because they are easier targets. Rape victims, especially children, often do not report the cases; hence there are many unreported cases in the country. Such cases are often discovered by neighbours, teachers at school, and others. This exacerbates the situation around disclosure because by the time a child intentionally or accidentally discloses that a sexual offence has been committed, it may have occurred months or even years before. Therefore, sexual offences against children are a complex problem which typically embraces social, psychological and legal considerations (Boezaart, 2009:524).

The impact and consequences of child sexual abuse are far reaching and are both physical and psychological. Finkelhor and Browne (1986) cited by Madu (2001) formulated a conceptual framework for the effects of violent sexual abuse and other forms of sexual abuse. They developed four categories of traumagenic states related to sexually abused children; traumatic sexualisation which results in the increase of salience of sexual issues and confusion about sexual identity and norms, stigmatization which results in guilt, shame and low self-esteem and suicide), betrayal of victims by the offenders who are usually trusted by the former (for example, grief, depression, and extreme dependency), and powerlessness (for example, anxiety, fear, and lowered sense of efficacy).

The physical effects of sexual abuse are severe because in most instances, it is an act of violence. In extreme cases, broken bones and even death can occur. In addition to the physical trauma they receive, child victims of crime have to endure the difficulties emerging from their victimization as well as those resulting from their participation in the adversary criminal justice (Gal, 2006: v). The process of giving evidence can be traumatic for many child victims as the experience can be confrontational, stressful and confusing. It has also been noted that, not only are individual victims marred by its consequences, but so too does it profoundly affect family systems and societies (Boezaart, 2009:523).

Maurice (2009:23) argues that while the obvious victims of child sexual abuse are the children, the abuse can traumatize the entire family system, including parents and other caregivers. Elbow and Mayfield (1991) cited in Maurice (2009:23) indicate that mothers and non-offending caregivers (that is caregivers who are not perpetrators in the cases of their children), can experience conflicting images of themselves, their children, and the offenders, which they must work through while attempting to navigate intervention systems following disclosure of abuse, and they have been found to experience psychological, social and economical consequences. Because non-offending caregivers of sexual abuse victims can be traumatized by the disclosure of the abuse, they can and should be considered secondary victims of the crime of child sexual abuse. Furthermore, Maurice (2009:23) states that caregivers play a role of the utmost importance in their children's recovery, giving them a model for how to react not only to the trauma of the abuse, but also to the subsequent interventions, including the criminal justice process. Therefore, understanding the perceptions of the caregivers as well as those of the criminal justice process becomes an important link for understanding their children's needs within the criminal justice intervention system.

The sexual abuse situation has prompted the South African government and society to make endeavours to curb and also to deal with child sexual abuse. The efforts that have been put in place include a range of legislature, policies and strategies. For instance, the Criminal Law (Sexual Offences and Related Matters) Amendment Act, No. 32 of

2007, the National Policy Guidelines for Victim Empowerment Child Protection and the re-introduction of the Family Violence and Sexual Offences units throughout the country.

Embedded in these strategies is the concept of Restorative Justice, as an approach to heal the nation of such atrocities. Restorative justice (RJ) has been seen as an attempt to move from the impersonal justice to be more community justice and victim centred. The aim is to hold offenders accountable in a meaningful way, while addressing the needs of the victims and community at large. So, people who have been victims of crime often need intervention and assistance in their bid to overcome and deal with the episode. Restorative justice seems to be gaining momentum as being an option advocated for in attempts to address the victim's needs after being assaulted.

1.2 BACKGROUND INFORMATION ABOUT THE RESEARCH PROBLEM

1.2.1 Background to the research problem

Although the concept of restorative justice is used, its adoption is not extensive. As a concept, Restorative Justice (RJ) was introduced in the Republic of South Africa in 1995 through the Inter-Ministerial Committee (IMC) through its work on young people at risk, where it was adopted as a practice principle (Skelton and Batley, 2006). The concept was effectively acknowledged and implemented in the year 2010 through legal framework and guidelines.

Its use and successes on serious offences such as rape and murder have not been documented sufficiently, thus RJ is viewed as a soft approach to deal with crime. However, studies in victimology show that victims want to participate in the process that follows their victimization to be listened to and to be informed of its progress (Strang 2002) cited in Gal (2006:59). Furthermore, researchers have concluded that no kind of abuse should be excluded from restorative justice processes, including sexual offences (Barford and Pennell, 1999) in Gal (2006).

The Restorative Justice Centre in Pretoria is an institution that has been rendering services for victims of sexual abuse. This non-profit organization centre has been using

restorative justice processes to empower both offenders and victims of crime for the past ten years of its existence. The organization has not conducted enough investigation to determine whether restorative justice processes do empower children and communities who have experienced sexual abuse. The organisation partnered with the United Nations Office on Drugs and Crime (UNODC) to conduct a victim empowerment project in 2010 and a report was developed. However, the findings of the report focused only on short term goals, hence the current study, which focuses on long term results.

The use of restorative justice principles in theory and practice has been sought by different sectors of the government in South Africa since the end of the apartheid era. The South African judicial system has recently adopted the restorative justice concept. This concept has been embraced by the legal system as an alternative model of criminal justice, seeking healing and reconciliation for offenders, victims, and the communities in which they are localised.

The Restorative Justice Centre (RJC) has also reported an increase during the period of April 2011 to March 2012, of referrals for intermediary services for sexually assaulted children (ages between 5 and 12) to its services, highlighting the need to get some indication of the results achieved by the centre. Organizations like RJC, Teddy Bear Clinic and RAPCAN among others have channelled their resources to assist sexual assault victims, with the following programmes: (a) compilation of intermediary reports, which identify and suggest to the court the most appropriate way in which the victim can give testimony (particularly children) in ways that reduces re-victimization and trauma; (b) victim impact reports – 'are statements addressing the effects of the crime on the victim, in terms of the victim's perceptions and expressions of the emotional, physical, or economic harm they sustain as a result of the crime (Van Der Merwe 2008); (c) facilitation of victim offender conferencing; family group conferencing, (d) counselling and; (e) advocacy. Though research regarding the short and long-term impact of child sexual abuse falls within the discipline of behavioural science, there has been greater recognition of the role it can, and should, play within the legal arena in recent years. In

addition, there is a new focus on the victim as introduced by restorative justice movements, sanctioned by courts, recent legislation and a Victims' Charter in South Africa. However, despite the growing awareness of the harmful effects of sexual offenses on children, the increased relevance of behavioural science during criminal trials, and the importance of considering the victims' interests during sentencing and counselling services to victims are either non-existent, offered inconsistently, or are not readily accessible (Van Der Merwe, 2008: 391).

1.2.2 Research questions

a. What are the experiences of users of the services of the Restorative Justice Centre?

b. What are the perspectives of users of the services of the Restorative Justice Centre?

c. Are restorative justice practices an empowering tool to victims of crime?

1.3 RESEARCH PROBLEM

Although the concept of restorative justice was introduced and has been in use in South Africa for more than two decades, the effectiveness of this system, as implemented by the Restorative Justice Centre, in Pretoria, has not been explored. Because many of the clients of the Restorative Justice Centre in Pretoria are women and children, their perspectives and views about the system are likely to give valuable insight regarding its usefulness and its purpose.

1.4 AIM AND OBJECTIVES OF THE STUDY

1.4.1 Research purpose

The purpose of this study is to explore and describe the experiences of the users of the Restorative Justice System, as implemented by the Restorative Justice Centre in Pretoria.

1.4.2 Research objectives

The objectives of the research study are;

    (a) To explore and describe the experiences of child victims of sexual abuse on the empowering ability of the restorative justice system.

    (b) To explore and describe the experiences of caregivers of sexually abused children on the empowering ability of the restorative justice system.

    (c) To explore and describe the long term impact of restorative justice processes on children who are victims of sexual abuse*.*

1.5 SIGNIFICANCE OF THE STUDY

The study has potential to influence policy guidelines for the expansion of the use of restorative justice processes for sexual offences victims. The study also provides information that could be used to support the effectiveness of restorative justice for victims of sexual offences.

1.6 DEFINITIONS OF TERMS

1.6.1 Empowerment

Empowerment is a multidimensional social process of enhancing the capacity of individuals or groups to help them make choices and enable them to use those choices to attain desired outcomes.

1.6.2 Restorative Justice (RJ)

There seems to be no consensus with regards to the definition of the term restorative justice. However, what seems apparent in the different definitions is its broad goal; the goal to transform the way societies view and respond to crime and related forms of troublesome behaviour (Johnstone and Van Ness, 2007:05). One can succinctly define it as an approach to justice that aims to involve the parties to a dispute and others affected by the harm (that includes, victims, offenders, families concerned and

community members) in collectively identifying harms, needs and obligations through accepting responsibility, making amends, and taking measures to prevent a recurrence of the incident and promoting reconciliation.

1.6.3 Restorative Justice Principles

Restorative justice processes are guided by a number of key principles. Skelton and Batley (2006), Zerh (2002) and Johnstone *et al* (2007) assert that there are a number of different definitions of restorative justice, and that all of them contain the following three key principles that underpin restorative justice. Firstly, crime is seen as something that causes injuries to victims, offenders and communities. It is therefore in the spirit of *ubuntu* that the criminal justice process should focus on repairing the harm caused, by seeking the healing of breaches, the redressing of imbalances and the restoration of broken relationships. Secondly, the people affected by the crime should be able to participate in decision making. Therefore, not only government, but also victims, offenders and their communities should be actively involved in the criminal justice process at the earliest point and to the maximum extent possible. Thus it can be successfully implemented from pre-charge right through to a post sentencing level. The third principle identifies the role of the government and community. The government is responsible for preserving order and the community is responsible for establishing peace.

1.6.4 Children

Children can be referred to as young human beings below the age of full physical development or below the age of majority, which is 18 years old (South Africa Children's act No. 38 of 2005) and in this study, it is those who are between the ages of 0 to 16 years old who do not have the capacity to give consent to sexual engagements.

1.6.5 Sexual Abuse

Sexual abuse refers to non consensual sexual conduct by a perpetrator using coercion or taking advantage of minors who cannot give consent (Deb and Mukherjee, 2009:18).

This includes an array of conducts, for example, grooming for sexual activities, intercourse, fondling, masturbation, pornography and other unwanted sexual acts.

1.6.6 Communities

The term community is defined in the concrete and abstract sense. In the concrete sense, this definition captures any area that people have a common culture and share common interest, as well the geographic area, for example, a township. The abstract sense of the definition refers to a group of people drawn together by common interest (Kappeler and Gaines, 2011).

1.7 THEORETICAL FOUNDATIONS OF THE STUDY

This study is based on several assumptions about restorative justice programmes on victims of crime; (a) that the response to crime should repair as much harm as possible, suffered by the victims (b) that the victims should have the opportunity to express their needs and participate in determining the best way for the offender to make reparation, and (c) the community has a role to play in contributing to this process.

1.8 RESEARCH DESIGN AND METHOD

According to Joubert and Ehrlich **(**2007:77), the research design is a structured approach followed by researchers to answer a particular research question. The research design is usually influenced by the research paradigm that one's work draws on.

1.8.1 Research paradigm

Maxwell (2005) refers to a research paradigm as a set of general philosophical assumptions about the nature of the world (ontology) and how we understand it (epistemology). The philosophy also gives specific methodological strategies of how to know the world, or gain knowledge of it (methodology). This proposed research is a qualitative study. Qualitative studies are inclined to the naturalistic paradigm. For the naturalistic inquirer, reality is multiple and subjective as it is thought to be mentally constructed by individuals. Therefore, naturalists take the position of relativism; if there

are always multiple interpretations of reality that exist in people's minds, then there is no process by which the ultimate truth or falsity of the constructions can be determined (Polit and Beck, 2012:14). Given that reality is subjective, the naturalist paradigm assumes that knowledge is maximized through interaction with the participants. As a result, the findings of the study are a product of the interaction between the researcher and the participants.

This investigation is qualitative in nature because the researcher attempts to understand the reality about restorative justice within the context of children and communities affected by sexual abuse, who received services at RJC. The goal of this research is to examine the complex phenomena of restorative justice and the reality then defined by the participants of the study.

The study complied with the characteristics of qualitative research. Firstly, the purpose of qualitative research is that of understanding; this study sought to gain an understanding of restorative justice as a concept and its effectiveness. Secondly, the study used non numerical data in its investigation, where meaning was extracted from the data gathered and results interpreted in context. The focus was holistic because answers were sought within the context in which the phenomenon of restorative justice occurred.

1.8.2 Research design

A phenomenological study is a study that attempts to understand people`s perceptions, perspectives and understanding of a particular situation (De Vos, 2011). This inquiry is a descriptive phenomenological study, where the final result of the study is a general description of the phenomenon as seen through the eyes of people who have experienced it at first hand. The assumption is that since reality is subjective, thus critical truths about reality are grounded in people's lived experiences.

This research design allowed the respondents to describe their experiences in the restorative justice processes that they partook in and then interpreted their experiences thereafter. Polit *et al* (2012:495) state that the goal of phenomenological inquiry is to

understand lived experience and the perception to which it gives. The focus of this phenomenological inquiry is the meaning of people's experiences in regard to a phenomenon (descriptive phenomenology); giving a careful description of their experiences with the RJC. This study focuses in the meaning of their experiences. Another advantage of this approach is that it is client centred; thus it is imperative to take the client's perceptions into account. The phenomenological study allows the participants to give their own subjective experiences without holding back, and this will at the end of the process, give the researcher a holistic view on the concept under study.

1.8.3 Population and sample selection

It is important to decide on the number and characteristics of the respondents who will be invited to take part in the research (Parahoo, 2006), as this will determine the amount and richness of data gathered. According to Strydom (2005:193) a population is a "…set of entities in which all the measurements of interest to the researcher are represented." Babbie and Mouton (2007:100) define a population as "…a group about whom we want to draw conclusions." In essence, a population is the total number of people from which data can potentially be collected.

In this study, all sexually abused child victims and their care-givers who participated in restorative justice processes at Restorative Justice Centre constitute the population under study. However, the sample had inclusion or exclusion criterion. The individual eligibility criteria for participation took into consideration the age of the participants. Children who participated were girls between the ages of 10 to 16 years old. Since it was going to be an expense to employ multilingual translators, participants who only speak Afrikaans were excluded.

A sample is defined by Graziano and Raulin (2000:112) as "…the subset of people drawn from the population." Babbie and Mouton (2007:164) refer to sampling as "…the process of selecting observations." Implicit from these definitions is that a sample is a proportion of the population to be studied while being able to make generalisation of the

population, and Polit, *et al* (2008) states that a carefully selected sample can provide data presentation of the population from which the sample is drawn. This research study employed a non probability approach (purposive sampling) in sampling the participants. In non probability samples elements are selected by non-random methods. In probability sampling every unit has an equal chance of being selected. On the contrary, non-probability samples are made up of units whose chances of being selected are not known. Parahoo, (1997:223) states that "…qualitative researchers often use non-probability samples because...the purpose of qualitative research is to contribute to an understanding of phenomena." This motivated the investigation to select purposive sampling method in choosing the sample. This involved the deliberate selection of the participants for the study by the researcher on the basis that those chosen could provide the necessary data. Polit *et al* (2008) argue that sampling in this subjective manner provides no external objective method to assess how typical the selected subjects are. However, in this study the aim is not to generalise the findings but to contribute to the understanding of the processes of restorative justice.

1.8.4 Data collection

In this study the data collection method employed interviews which were administered on a face-to-face basis by the researcher. Parahoo (2006:207) states that the primary tool of data collection in a phenomenological study is the interview, during which the researcher seeks to gain insight into how respondents make sense of their experiences. Parahoo (2006) asserts that a research interview is a verbal interaction between one or more researchers and one or more respondents for the purpose of collecting valid and reliable data to answer particular research questions.

The researcher conducted the interviews without a preconceived view of content to be gathered. In semi-structured interviews, the researcher prepares in advance a written topic. The structured type of interview has solid ideas of what the researcher wants to uncover and it has predetermined questions. Johns (1985) quoted by Parahoo (1997:52) points out that there is no such thing as a totally unstructured interview, and states that some structure is inevitable in research interviews. Thus, in this study, the

researcher adopted a qualitative interview method advocated by Parahoo (2006) who states that it integrates the unstructured, in-depth and open approach in collecting information. Embedded in this approach is the acknowledgement that the degree of structure and control, including the interviewing process vary from one interview to another.

This method assisted the researcher to gather as much information as possible. This is because the researcher's task was to facilitate the flow of information with little interaction. The researcher collected information from participants to the effect that there was no new information emerging, after having reached a point of saturation.

1.8.5 Data analysis

According to Jones (1988) quoted by Parahoo (1997: 53) the analysis of qualitative data, "…is a process of making sense, of finding and making a structure in the data and giving this meaning and significance for ourselves, and for any relevant audience…the way we do this and the kind of structures we look for in the data depend on the purpose of inquiry and what we see as the underlying purpose of qualitative research." One of the main features of qualitative data analysis is that data collection and analysis are carried out both concurrently and after data collection is complete (Parahoo, 2006: 391). The reseacher made use of Colaizze (1978) data analysis approach following the transcription of audio recorded information. This approach follows the requirements of bracketing, intuition, analyzing and describing, identified by Polit *et al*, (2008). Bracketing refers to the process of identifying and holding in abeyance preconceived beliefs and opinions about the phenomenon under study. In this study, bracketing means a technique of curbing potentially harmful effects of preconceptions about the phenomenon under study that may affect the research process. The second step, intuiting, refers to researchers remaining open to the meanings attributed to the respondents who experienced the phenomenon. In this study intuiting means that when the researcher synthesizes and evaluates the information, s/he considers the meanings given by the respondents. The next step is analyzing, where the extraction of significant statements are categorized and sense made from them. In this study, analysing means

generating something meaningful from the data gathered. The final step, involves a descriptive phase where the researcher deliberates and defines the phenomenon.

Holloway and Wheeler (2010:222) contend that data collection and analysis must be a simultaneous process in qualitative research. Colaizzi's data analysis method appears to be an appropriate methodology for this study because it starts making sense of the essence and meaning of the experiences of the participants' right from data collection. Holloway and Wheeler (2010) argue that qualitative data analysis involves classifying things and characterizing them to be able to understand the whole. Colaizzi's (1978) approach categorizes data into themes and subthemes to understand people's experiences. The Colaizzi analysis involves the following 7 steps that the research employed;

1. The researcher read all descriptions and findings of the participants and acquired a sense to understand them better;

2. In extraction step, significant sentences, terms, and statements related to the phenomenon under study were extracted;

3. Meanings were formulated from the significant extracted statements;

4. The researcher reviewed the statements of the participants and organized the formulated meanings into cluster of themes. To validate, the cluster themes were referred back to the original statements.

5. The researcher integrated the themes into an exhaustive description;

6. The researcher formulated the essential structure of the phenomenon;

7. For validation, the participants evaluated the results of analysis by conducting a single session with all participants.

Inherent in the study was that the researcher's findings were not entirely his presuppositions and perception but a result of a continuous interactive process with the respondents that influenced the final product.

1.9 SCOPE OF THE STUDY

The focus of this research is to describe the experiences and perspectives of users of the services of Restorative Justice Centre in Pretoria. There has not been much research conducted in the centre regarding the efficacy of restorative justice for its clients. The researcher then set out to explore the views and perspectives of the clients at the centre about the empowering ability of the restorative justice system as carried out by the centre.

Considering that there was very limited time (of 8 months) to submit an academic investigation for a Masters Programme qualification, the study was limited in its scope. The investigation was restricted to a specific crime of sexual abuse with 18 participants of which 9 were child victims and 9 their caregivers. The study used qualitative interviews which were conducted by the researcher on a face to face basis with the respondents. The questions used in the investigation were deliberately open and exploratory, as the researcher sought to discover the respondents' own views on the services rendered. The results included a rich amount of data that was analysed using an emergent strategy.

1.10 STRUCTURE OF THE DISSERTATION

This dissertation was planned to include the following chapters;

Chapter 1, which provides an orientation to the study, giving an overview of the international and South Africa's use of Restorative Justice,

Chapter 2 reviews the literature on the background and use of restorative justice, its purported benefits towards victims of crime, and the concept of victim empowerment in South Africa.

Chapter 3 outlines the research methodology, identifying the components of the methodology; that of the descriptive survey, the population and the study sample. Data collection methodology is also mapped, stating the data collecting instruments as well as the data collecting process.

In **Chapter 4**, the results, data analysis and discussion of the findings are addressed.

Chapter 5 presents the conclusion, lessons learnt and recommendations.

1.11 CONCLUSION

Violent crime in South Africa is a cause for concern. Its implications have far reaching consequences to victims of crime, offenders and the community. Efforts to deal with its ramifications have been tried by the government and other stakeholders like non-governmental organisations. RJC has been using restorative justice practices to repair harm caused and to rebuild relationships in the aftermath of crime. To ascertain the effectiveness of the practice of restorative justice as practised by RJC, I undertake a phenomenological study with 18 participants to gain insight of the clients' experiences and perceptions of the services at the centre.

CHAPTER 2:

LITERATURE REVIEW

2.1 INTRODUCTION

The purpose of this literature review is to provide the reader with a general overview of the use of Restorative Justice pertaining to victims of crime; particularly women and children regarding sexual abuse. The first part of this chapter gives a brief description of restorative justice as a movement and the conceptions thereto. Secondly, the services for victims of crime in general are identified and narrowed down to those specific within the context of South Africa. The last part explores perspectives on the use of Restorative Justice as an empowerment tool for women and children as victims of crime. This will be achieved by reviewing other studies which help articulate the aims, methods, results and implications of the reviews to the study.

2.2 RESTORATIVE JUSTICE

The definition of what constitutes restorative justice continues to be discussed, and there is yet no common definition of restorative justice. This is because it is an evolving concept that has given rise to different interpretations in different countries. It is a broad term that emphasises alternative methods of addressing issues of harm and crime. Johnstone and Van Ness (2007) claim that, people who promote restorative justice are trying to bring out ways of transformation in the way contemporary societies view and respond to crime and related forms of troublesome behaviour. Restorative justice is a movement within (and sometimes outside of) the criminal justice system, a victim centred approach, with a special relevance to marginalized populations like women and children. According to the Canadian Resource Centre for Victims of Crime (2011:02), restorative justice is not a program, but a way of looking at crime. Thus it can be defined as a response to crime that focuses on restoring losses suffered by victims, holding offenders accountable for the harm they have caused, and building peace within communities. Some of the unique features of restorative justice are its focus on building

relationships and bringing together victims, offenders and the community, and redressing harm.

Nhlapo (2005:03) asserts that the value of restorative justice is deeply embedded in African thinking and this is better captured in the African word 'ubuntu'. Elechi, Morris & Schauer (2010:73) state that the word 'ubuntu' captures the underlying African World view that expresses Africa's egalitarian, humanistic, interconnectedness, communitarian and participatory demographic values. As the restorative justice debate in South Africa is conducted largely in the context of the criminal justice system in general, disputes settlements in the traditional African sphere always entailed a strong restorative element. Thus, Nhlapo (ibid) encourages the conventional criminal justice system to tap into the institution of traditional leadership to make a significant contribution to restorative justice in South Africa. In essence, traditional leaders are the custodians of restorative justice in most Africa communities.

2.2.1 Nature of transformation

Regarding the nature of how societies should transform in the way they view and respond to crime and wrong doing, there are a range of views that are pointed out. This clearly reflects that restorative justice is a global social movement with huge internal diversity. Johnstone and Van Ness (2007) explain why restorative justice is so profoundly a contested concept by examining the practice that restorative justice is portrayed. Firstly, restorative justice is viewed as an appraisive method. Thus to those who purport to be using restorative justice, their particular practice has to be evaluated if it is properly characterised as 'restorative justice', thus meeting set standards. Secondly, it is viewed as an internally complex concept that points out that any restorative justice intervention has to satisfy the conditions mentioned by Johnstone *et al* (2007:08) below;

Relatively an informal process is advocated for which aims to involve victims, offenders and others are closely connected to them or to the crime in discussion of matters such

as what happened, what harm has resulted and what should be done to repair the harm, and perhaps to prevent further wrong doing and conflict.

Emphasis is on empowering people who have been affected by crime or other wrong doing (Ptacek, 2010: 43). Relationship building and reintegration into the society to those affected by the crime is regarded as being central. Johnstone *et al* (ibid) state that "... effort will be made by decision makers or those facilitating the decision making process to promote a response which is geared less towards stigmatization and punishing the wrongdoers and more towards ensuring that wrongdoers recognize and meet a responsibility to make amends for the harm they would have caused in a manner that directly benefits those harmed, as a first step towards their reintegration into the community of law abiding citizens."

The decision making process and its outcome should be guided by restorative principles and values which are widely regarded as desirable in any interaction between people, such as respect, self-determination and non-violence. These principles are to be put into effect by the facilitators of these encounters amongst the affected parties (Johnstone *et al,* 2007).

Albeit the fact that efforts of restorative justice should be considerate to all affected parties, significant attention is paid to the injury done to the victims and the needs that result from that, and to the plausible ways in which those needs can be addressed.

The emphasis on re-affirming or repairing relationships between people should use the power of healthy relationships to resolve difficult situations (Johnstone *et al*, 2007). Notable in this perspective is that one or more of the components need to be present in the intervention as it recognises that it is not always plausible to satisfy all of them.

Thirdly, an open concept recognises new and unforeseen developments. This is taken from the developments of beginning merely as an intervention between two parties to the involvement of other interested parties like the community and the creation of circles. It is therefore summed up that restorative justice is so much deeply contested due to the fact that it is appraisive, internally complex and an open concept that

continues to develop. However, what remains apparent is the goal of restorative justice; to transform the way society views and responds to crime or wrong doing.

Van Wormer (2009) identifies the following models of restorative justice as methods of achieving desired change;

-*Victim offender conferencing*; brings together parties in which one person has injured another, for the sake of resolution, and if possible, righting the wrong. A restitution agreement is reached with the facilitator playing an active role in negotiating this agreement between the offender and the victim. The completion of the agreement is monitored through a follow up phase (Gal, 2006), to ensure the adherence to the terms.

-*Mediation model*; implies a dispute among equals, with special attention placed on their expectations and feelings about the encounter. Here the parties are telling the story in their own words and style.

-*Family Group Conferencing* (FGC); Van Wormer (2009) argues that this model works well in close knit, minority communities with strong extended family ties. The process involves more participants involving the offender, the victim and their respective communities of support. In this model, the facilitator does not play a major role in decision making; the facilitator provides the setting and leads the discussion. Gal (2006) argues that the objective is for the decision to be made by the stakeholders and not professionals. Furthermore, it is argued that this method is suitable in cases of child abuse and neglect. It is appropriate for the needs of women in that the focus is on parenting and helping the mother with problems in support from other relatives and in direct help in child care responsibilities (van Wormer, 2009).

-*Healing circles*; in this model, communication and healing are the central focus, where the parties involved are given a platform to express themselves with the aid of a talking stick. It does not only include victims, offenders and their communities of care but interested members of the surrounding community as well.

-Community reparation; this is on a macro level and outside the criminal justice system and child welfare context. This creates the opportunity for the involvement of a whole indigenous community and its traditions (Gal, 2006).

As discussed by van Wormer (2009) above, processes such as victim offender mediation, conferencing and circles; victims, offenders and others affected by the crime meet face to face in a safe and supportive environment and play an active role in discussion and decision making. This is referred to by Johnstone and van Ness (2007:09) as the encounter conception; a term that captures one of the central ideas of the movement, that victims, offenders and other 'stakeholders' in a criminal case should be allowed to meet one another outside highly formal and professional setting such as the court room. They argue that encounters outside the court room can offer many beneficial results to participants than they can get in court rooms. However, success is not always guaranteed in these encounters as Van Wormer (2009:107) claims that restorative justice, as a grassroots process that comes in many forms, is only as good as people who guide the process. However, efforts have been made to reduce practices that reflect un-restorative processes and outcomes. For instance, Braithwaite (2003) cited in Johnstone *et al* (2007:11) suggest that there are three sorts of values to attend to. Firstly, are values that constrain the process to prevent it from becoming oppressive (like, values of non-domination, empowerment, respectful listening and equal concern for all stakeholders, among others). The second values are those that guide the process and that can be used to measure the success of the process (values such as restoration of property, emotional restoration, restoration of dignity, compassion, social support and so forth). Thirdly, values that describe certain outcomes of the process that may, but also may not, emerge from a successful restorative process (values such as remorse, apology, censure of the act, forgiveness and mercy).

Closely related to the encounter conception is the reparation conception of restorative justice. This conception is also inclined to the idea that if a person commits a wrong against another, an injustice arises which needs to be put right. Their way of correcting the injustice is focusing on repairing the harm and the relationships. This is a very

complex process, involving a wide range of things an offender might do to repair the material and symbolic harm he or she would have caused to his or her victims, which include among others, financial compensation, restitution and an apology (Johnstone *et al,* 2007). However, one of the most important components of a restorative justice intervention is that participation is voluntary. It has emerged that a significant number of victims refuse to be part of a meeting with an offender. Whether or not they want to participate depends on several factors cited by Gautdreault (2005:08): the type of crime and the repercussions, the time that has elapsed since the crime was committed, the nature of their relationship to the offender and their perceptions of the offender's ability to understand the scope of the offence and the importance of reform. Many victims feel it is not worth the trouble and question the outcome of a meeting. Fear of retaliation or simply being in the presence of the offender, the importance of getting or not getting answers to their questions and the need to turn the page are some of the reasons on which their decisions are based. Some victims do not receive any help and do not recover from the incident. Others feel very angry because they have been cast aside by social agencies or the criminal justice system. Still others feel the damage is beyond repair and that they have to move forward. They react differently and are not at the same point in their healing process. The cost-benefit analysis can therefore vary widely depending on the victim's personality, their previous experiences and the experiences resulting from their victimization.

Van Ness and Strong (2006) cited in Johnstone *et al* (2007:14) point out that the adherents to a reparative conception of restorative justice, while expressing a strong preference to encounter processes, also envisage the possibility of being partially restorative. Solutions to the problems of crime emerging outside such processes, including through reparative sanctions ordered and administered by professionals, are employed by the formal criminal justice system. Zehr (2002:56) argues that in a restorative system, services would start immediately after a crime to address victim needs and to involve the victim regardless of whether an offender is apprehended or not. He states that victim assistance cannot be seen as fully restorative, though it is an important component of a restorative system and should be seen as partly restorative.

Zehr (2002:55) indicates that "It is important to view restorative justice models along a continuum, from fully restorative to not restorative, with several points or categories in between", as illustrated in figure (i). The assertion is that the encounter processes described above are considered to be fully restorative. However, there are six key questions which are used as guidelines to analyze both the effectiveness and the extent of restorative justice models for particular situations. These questions include:

1. Does the model address harms, needs, and causes?

2. Is it adequately victim oriented?

3. Are offenders encouraged to take responsibility?

4. Are all relevant stakeholders involved?

5. Is there an opportunity for dialogue and participatory decision making?

6. Is the model respectful to all parties?

Degrees of restorative justice practices: A Continuum

Fully restorative	Mostly restorative	Partially restorative	Potentially restorative	Pseudo or non restorative
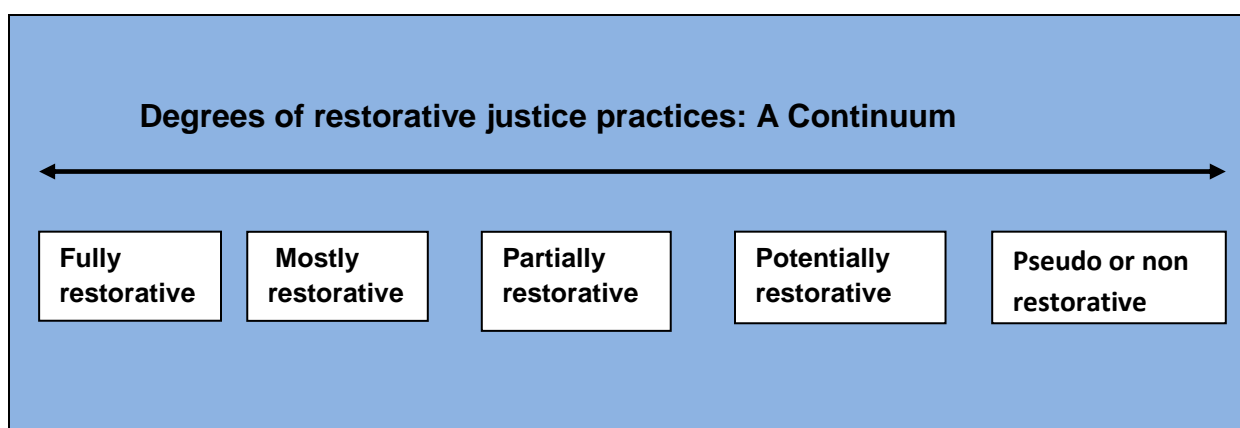
Figure (2.1) extracted from Zehr, H. (2002)

The restorative justice movement is not solely focused on offenders and victims of crime but also considers the way of life that communities should be leading. This ushers in the transformation conception of restorative justice. As purported by the movement, the goal is to transform the way in which we understand ourselves and relate to others in our day to day lives; thus changing the way communities respond to crime and wrong

doing. Ultimately, there is a need to transform the structural forms of institutions including policy frameworks. Thus it has been applied in other forms of conduct in schools and in the workplace (Johnstone & Van Ness, 2007:14). This is based on the premise that we live our lives as inextricably connected to and identifiable with other beings and the external world. Therefore, it comes to reason that in such a context, restorative justice can be used in any circumstances of our everyday lives where wrongs have been committed and justice carried out.

Ultimately the three concepts or principles upon which restorative justice is based embrace encounter, repair and transformation. However, the difference is where the emphasis is placed. In the encounter conception the emphasis is on the opportunity to meet and decide the most satisfactory response to a crime by parties to a crime. The reparative conception highlights that the response to crime must seek to repair the harms resulting from the crime. The transformation conception on the other hand draws on the vision of transformation of people and structures, based on the premise that the people as well as the environment are interrelated.

2.3 SERVICES FOR VICTIMS OF CRIME

Shloham, Knepper and Kett (2010:471) concede that the services available to victims vary greatly, as do the service providers, which vary in nature, depending on the state and country of jurisdiction. However, there are a range of initiatives that have been developed world wide over time, which Shloham *et al* (ibid) outline as including the following practices. Firstly, the victims of crime need to be kept informed about case developments and the hearing dates; victim notification. Secondly, there are opportunities now for the victims to present their experiences orally or in written statements. This is referred to as victim impact statements (VIS) or reports (VIR). Victims of crime need to be oriented into the court system where they are able to identify the role players and follow what is happening in the court set up.

There are also support services that are being offered to victims which include escorting them in the court and talking them through the court proceedings. In addition, the

victims in some settings are provided with transportation that enables them to travel to and from court.

Victims of crime can receive some form of compensation for the physical or emotional harm they would have suffered in state agencies such as a crimes compensation tribunal. Alternatively, victims may receive compensation either through civil proceedings or criminal proceedings, where a court orders that compensation be paid.

Restorative justice, as an approach is based on the idea of repairing the harm involving offenders, victims, and communities as participants in the criminal justice process, is widely used in the juvenile justice area and in the form of juvenile conferences, circle sentencing, and community reparation schemes (Shloham *et al*, 2010). There are also general support services that include programs such as counseling services, youth and women's refugees, and alcohol and drug services. These are meant to center on victims' needs, both immediate and long term.

South Africa outlines the services for victims of crime through the Service Charter for victims of Crime, a consolidation of the present legal framework relating to the rights of and services to victims of crime (DOJ&CD, 2007). The framework seeks to eliminate secondary victimization in the criminal justice process to ensure that victims remain central to the criminal justice process, to clarify the services standards that can be expected by and are to be accorded to victims whenever they come into contact with the criminal justice system, and to make provision for victims' recourse when standards are not met. The charter awards the following (7) rights for victims of crime (in line with bill of rights of the South African Constitution of 1996) with the:

(a) *Right to be treated with fairness and with repeat to your dignity-* This implies that all role players in the criminal justice system (that is; police, prosecutors, health workers, social workers and correctional service personnel) and other service providers should take measures to treat victims of crime with respect to dignity and privacy. Of note, victims should be interviewed in their languages of choice.

(b) *The right to offer information-* During the criminal investigation and trial, and thereafter, the victims have the right to offer information for consideration in deciding for participation in the criminal justice proceedings, by attending bail hearing, the trial, sentencing proceedings and or parole board hearing. There is also opportunity to make a statement to court to give evidence during the sentencing proceedings to give input of crime to the court's attention.

(c) *The right to receive information-* the victim has the right to be informed of their rights and how to exercise them. Therefore, (i) explanations are to be given in their own language (ii) right to receive information and to be informed of all relevant services to the victims by service providers (iii) one's role in the case and of the approximate duration of the case, and (iv) to request status of case (and reason for a decision).

(d) *The right to protection-* the right to be free from intimidation, harassment, fear, tampering, bribery, corruption and abuse. If a victim is a witness, they must report any threats to the police or senior state prosecutor. This will ensure their safety as a witness and the availability of their testimony, and prevent them from withdrawing from giving evidence as a result of undue influence.

(e) *The right to assistance-* victims have the right to request assistance and, where relevant, have access to available social, health and counseling services, as well as legal assistance which are responsive to their needs (and the charter states the roles of the service providers).

(f) *The right to compensation-* victims have a right to compensation to loss or damaged property as a result of a crime committed against them. Compensation simply refers to an amount of money that a criminal court awards the victim who has suffered loss or damage to property, including money, as a result of a criminal act or omission by the person convicted of committing the crime. The victims can request to be present at court on the date of sentencing of the accused and request the prosecutor to apply to court for a compensation order in terms of section 297 and 300 of the Criminal Procedure Act, Act 51 of 1977(South Africa 1977).

(g) *The right to restitution*- "Restitution" refers to cases where the court, after conviction, orders the accused to give back the property or goods that have been taken from the victim unlawfully, or to repair the property or goods that have been unlawfully damaged, in order to restore the position the victim was in prior to the commission of the offence.

The Charter gives provision for who the victims should contact in the event where they are not satisfied with the services rendered.

The Department of Social Development (DSD, 2008) has the responsibility to ensure provision of processes and programmes at a pre-trial and presentence level, including the funding of such programmes. Through the Minimum Standards for Service Delivery in Victim Empowerment as prescribed by (DSD, 2008:05), South Africa has established guidelines for practitioners regarding what is expected of them in implementing victim services. It outlines 14 principles of victim empowerment services which include the following: (1) Accountability from anyone who intervenes with all victims and offenders for the delivery of an appropriate and quality service; (2) Empowerment for all the participants; (3) Participation of all parties in all stages; (4) Services should be contextualised within the family, the extended family and the community; (5) Services to be contextualised with the community environment; (6) A continuum of care and development for all victims of crime and perpetrators, ensuring access to the least restrictive, least intrusive and most empowering environment and or programmes appropriate to their individual developmental and therapeutic needs; (7) The services offered to all parties should be holistic; (8) Continuity of care and development- there should be continued support networks and resources, when necessary, should be encouraged after disengagement from the system (9) Normalisation -all victims of crime and violence including perpetrators should be exposed to normative challenges, activities, and opportunities, which promote participation and development; (10) Effectiveness and efficiency of services rendered to the participants; (11) Person centred- there should be positive developmental experiences, support and capacity building should be ensured through regular developmental assessment and programmes which strengthen all victims of crime and violence including perpetrators'

development; (12) All rights for all South Africans (inclusive of victims and perpetrators of crime violence) as established in the South African Constitution, the Victims Charter and the various international conventions ratified by South Africa; (13) Restorative Justice as an approach that is adopted in responding to crime an violence, and ; (14) All the services to victims and offenders of crime should be the most appropriate to the individual, the family and the community.

Having noted the services for victims of crime in general, there are those that are specific to victims of sexual and violent crimes. For instance, they have the right to be interviewed in a manner that does not prejudice their dignity and privacy. Furthermore, they have the right to express their views whenever the authorities consider withholding the criminal process ("close the case"), to accept a plea bargain, to release the accused from jail, or pardon the accused (Shloham *et al,* 2010:471).

2.4 PERSPECTIVES ON THE USE OF RESTORATIVE JUSTICE AS AN EMPOWERMENT TOOL

As indicated (*in Chapter 2*) the term empowerment has different meanings in different socio-cultural and political settings but what is apparent is that there are numerous terms that are associated with it, which include; self-strength, control, self power, self reliance, own choice, life of dignity according to one's values, capability of fighting for one's right, independence, own decision making being free, awakening and capability, among others. These definitions are embedded in local value and belief system. Barker (2003:142) cited in Van Wormer (2009:117) quotes the Social Work Dictionary as defining empowerment in terms of helping individuals "…increase their personal, interpersonal, socio-economic and political strength and develop influence towards improving their circumstances." With regards to relationships, empowerment occurs in both personal and structural levels (Van Wormer, 2009:02). So how does restorative justice purport to attain the different facets of empowering child victims of crime and their care givers?

Restorative justice as a process and its relevance (to women who have been victimized by physical and sexual abuse) is seen from a feminist perspective, postulated by Van Wormer (2009:1) as having the following benefits;(a) as being solution based rather than problem based, (b) giving voice to marginalized people (c) focus on healing and reconciliation. In her study van Wormer (2009) identified four models most relevant to women's victimization as victim offender conferencing, family group conferencing, healing circles and community reparations. Clearly from the models identified, mediation is omitted based on the premise that in mediation usually the dispute is among equals, of which from a feminist perspective this is irrelevant in gendered crimes.

The encounters offer victims avenues for receiving restitution, the opportunity to be involved in decision in the aftermath of the crime, reduced fear and an increase sense of safety, and may help them understand the offender's circumstances that led to the commission of a crime. Shloham, *et al* (2010:472), state that it is not necessarily victim-centered per se*,* even though the victim may possibly gain some sense of satisfaction. However, a focus on conflict resolution process which involves some form of mediation and restorative justice brings attention on restoring dominion or personal liberty. As a result, there is promotion of active participation by the victim and attempts to make good the harm in a ways that rectify or improve relationships and recourses for all concerned.

Family Group Conferences (FGCs) are considered to be the most appropriate intervention methods for the cases that involve children. According to (Melton & Limber 1992) cited in Gal (2006:3), studies on childhood victimization typically focus on issues such as children's re-victimization and their status as witnesses, while neglecting others such as children's understanding of the process and their ability to engage in decision making process. However, it is argued that restorative justice, at least ostensibly offers child victims an opportunity to be involved in a group discussion whereby their harm is acknowledged, their behaviour validated, and the perpetrator apologises and reparation is negotiated.

It is acknowledged that issues of self-blame have the potential of being resolved as the victim is given an opportunity to discuss their behaviour with sympathetic listeners. The

fact that the child is partaking in the processes with the significant others, emphasis is placed on the continued support during and after the process, by care-givers to empower and heal the child. Gal (2006:142) purport that there are strengthened family ties and feelings of unity as there would be enhanced caring for children. Van Wormer (2009:186) argues that from a victims' view, empowerment is seen as being heard, receiving an apology, and then begin the process of healing; where healing implies a sense of recovery, and a degree of closure.

In a study conducted by Gal (2006:143) *"Looking After Children",* a measurement that focused on children's well-being, there was significant success regarding many aspects of life after an FGC, such as health, education, relationships and identity; in a project involving 26 children, 16 improved their well-being, 9 regressed, 1 remained the same.

The fact that restorative justice processes involve the preparation of parties prior to the engagement, it is commended by Gal (2006:143) who argues that when the victim is a child, the individual preparation is even more important, as it gives the opportunity to identify the specific needs-rights of children and provide them with the appropriate tools to overcome their weaker positions due to age, lack of experience and past victimization. Lamb, La Rooy, Malloy, and Katz (2011) agree that a child might feel intimidated by the presence of too many people when giving a testimony and thus suggest that efforts should be made to make the child comfortable, to provide comfortable interview rooms and consider the child's age and developmental stage.

The preparation therefore gives the facilitator the opportunity to decide whether to include the child in the intervention conference or exclude her or him, thus choosing an alternative method of participation. This is to be based on the child's own choice or the facilitators concern of the child's well-being (Gal, 2006:144). Therefore, it also embraces the reparation conception which considers the possibility of not being able to bring the parties together.

However, it should be noted that, restorative justice may put children in vulnerable or undesirable situations. This might emanate as a result of inadequate preparation,

support and retrospective debriefing. Graham & Fitzgerald (2005) cited in Gal (2006:144) argue that children's sadness and pain might grow following their participation in a restorative justice process. Gautdreault (2005) criticises restorative justice, particularly the conditions aimed at fostering the participation of victims and offenders. He argues the victim and the offender's statuses are not being carefully assessed and that their needs do not undergone a comprehensive analysis and that some studies show that victims are pressured to take part in mediation or meeting circles.

Van Der Merwe (2009) identifies the principles of restorative justice to those of therapeutic jurisprudence for judicial officers and the victims' welfare. She makes out a victim impact statement or report as a vital instrument that a court can sanction when dealing with a case. This is inline with the reparation conception which identifies professionals as being instrumental in the empowerment of participants of restorative justice processes. By understanding a victim's harm and by being sensitive, proactive and showing interest in what happens to the victim after the trial, the therapeutic opportunity in the sentencing process is extended to include the victim's interest. Therefore, receiving counselling, court preparations, and getting informed about the case can be explained also as being inclined to victim empowerment.

2.5 CURRENT RESEARCH

In the quest to understanding what literature says about the effectiveness of restorative justice models in empowering victims of sexual assaults, there seems to be limited studies conducted. Umbreit *et al* (2003) cited in van Wormer (2009) highlights the fact that research involving domestic violence and rape is only in its infancy. However, this does not mean that there have not been any attempts; some research does exist.

Maurice (2009) maintains that perceptions of non-offending caregivers of child sexual abuse victims in the criminal justice system explains that the factors caregivers consider when forming perceptions of justice follow their experience with the criminal justice system. This hinges on the tenets of the social justice theory which include distributive

justice, the justice of outcomes, and procedural justice, and the justice of procedures. For instance, caregivers with prosecuted cases were less satisfied with the outcome when they wanted further prosecution. However, what was profound in the study was that caregivers were willing to pursue restorative justice interventions, but got satisfaction with a combination of restorative justice interventions and some aspects of the criminal justice intervention. The results of the study showed that care-givers preferred both accountability interventions and treatment interventions that included health care over other restorative justice interventions and restitution.

The study also found that there was significant influence regarding ethnicity of caregivers when forming perception. It suggested that ethnic backgrounds included different cultural understanding of justice. Therefore, the demographics could have an impact on the clients who are given services in settings related to criminal justice system.

The study had been carried out using both quantitative and qualitative methods. However, due to the small sample size and the exploratory nature of the study, Maurice (2009) concedes that because the findings could not be generalised, perhaps the most helpful data collected is qualitative. Restorative justice has been reported to impact positively on the lives of the victims. Gal (2006) examines the applicability of restorative justice to child victims by looking at five schemes from New Zealand, Australia and Canada of which deal with sexual assault among other abuses. She concludes that restorative justice fosters the equal participation of the stakeholders and focuses on their emotional and social rehabilitation while respecting their human rights. The study establishes that there are concerns regarding the involvement of children in restorative justice processes; the fear of re-victimization, power imbalances and intimidating encounters with the offender and the offender's support group. Pertinent to the varying levels of success of the intervention involving children is the training and personal skills of the facilitator.

2.6 CONCLUSION

Restorative justice is an ever evolving concept whose main goal is to transform the way in which the community views and responds to crime and other forms of wrong doing. There have been great developments regarding the involvement of the rights and needs of victims within the criminal justice system. This has been evidenced in the adoption and use of restorative justice among other instruments and interventions like the victims' charter and the sexual offences act in the South African justice system. However, there is limited evidence with regards to the evaluation of its impact on the perception of the users of restorative justice processes globally and in South Africa. This study explores the perceptions of the users of restorative justice, from RJC in healing and empowering particularly sexual abused children and their care-givers. Informed by Gal's (2006) research, I had to pay attention to the factors that influence the perceptions of the users of restorative justice. The research employs a qualitative method as it is exploratory in nature. It is clear that quantitative methods yield very limited information and that generalizability is difficult in the study conducted by Gal (2006). The survey method used was face to face data collection method as opposed to mailing; this was to increase response rate as well as accessibility. More information on the research design and the reason for its selection is discussed in detail in the following chapter.

CHAPTER 3:

RESEARCH METHODOLOGY

3.1 INTRODUCTION

A qualitative method is used to collect data that informs about the experiences of the users of services at Restorative Justice Centre in Pretoria. Qualitative research is defined by Polit & Beck (2004:729) as, "…the investigation of phenomena, typically in an in-depth and holistic fashion, through the collection of rich narrative materials using a flexible research design." This method was employed because of the many advantages it provides with reference to the aim of the study; to gain insight in peoples' experiences. Jourbert & Ehrlich (2007:319) argue that among other advantages, a qualitative method is often the only methodology used when the aim is to get an in-depth sense of what people think of a particular object or event. In qualitative studies, it is believed that narrative descriptions are primarily the qualitative data that researchers collect (Polit & Beck, 2008:60). Compared to quantitative research activities which involve a fairly linear progression of tasks, qualitative researchers have a flexible approach to the collection and analysis of data.

```
        ┌─────────────────────────────┐
        │   Research Methodology      │
        │                             │
        │  Descriptive Phenomenology  │
        └─────────────────────────────┘
                      │
        ┌─────────────────────────────┐
        │       Population            │
        └─────────────────────────────┘
                      │
        ┌─────────────────────────────┐
        │      Study Sample           │
        └─────────────────────────────┘
                      │
   ┌──────────────────┴──────────────────┐
┌──────────────────────┐      ┌──────────────────────────┐
│ Purposive sampling of│      │ Purposive sampling of non│
│ sexually abused      │      │ offending caregivers of  │
│ children             │      │ child victims            │
└──────────────────────┘      └──────────────────────────┘
   └──────────────────┬──────────────────┘
        ┌─────────────────────────────┐
        │ Data collection: in-depth   │
        │ interviews                  │
        └─────────────────────────────┘
                      │
        ┌─────────────────────────────┐
        │ Data capturing: Transcribing│
        │ Data organizing & management│
        └─────────────────────────────┘
                      │
        ┌─────────────────────────────┐
        │ Qualitative data analysis   │
        └─────────────────────────────┘
                      │
        ┌─────────────────────────────┐
        │ Descriptive Reporting;      │
        │ describing, concluding &    │
        │ recommending                │
        └─────────────────────────────┘
```
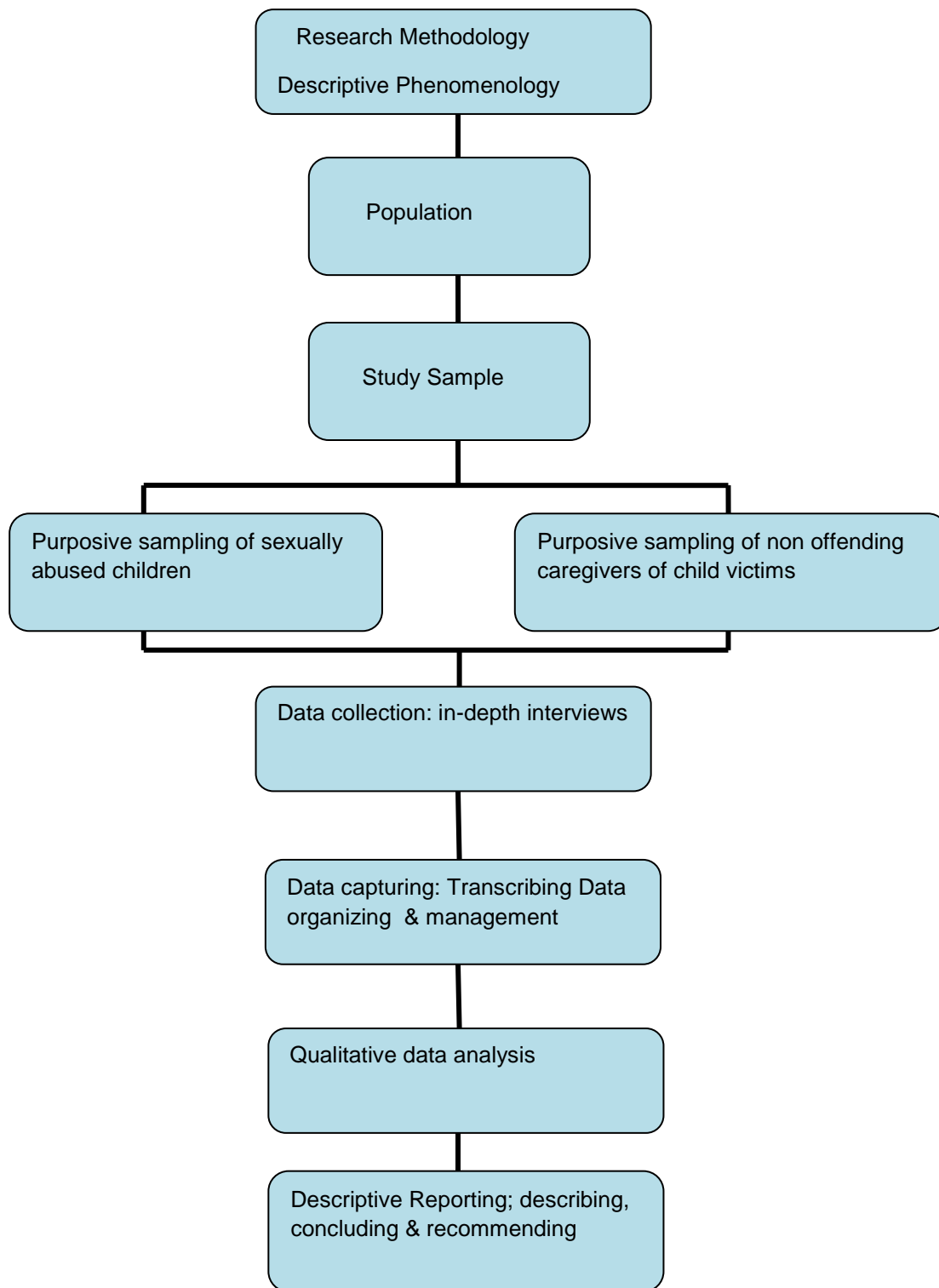
Figure (3.1) Research methodology framework

3.2 COMPONENTS OF THE RESEARCH METHODOLOGY

The research methodology and design basically develop from responding to aspects relating to the research problem. The research problem informs the approach in this study to be qualitative. The approach then informs the design, of which descriptive phenomenology was utilized, determining the nature of the data collected. Appreciating the nature of data influences the decision about which instrument to be employed for data collection.

3.2.1 Descriptive Phenomenology

A phenomenological study was conducted with child victims of sexual abuse and their non-offending care-givers who received services at Restorative Justice Centre, as they participated in the criminal justice system in Pretoria. The study was to gain insight in the experiences and perceptions of the users of services at Restorative Justice Centre. Polit and Beck (2008:64) state that phenomenology is an approach of thinking about what life experiences of people are like and what they mean, where the phenomenological researcher asks the question: what is the essence of this phenomenon to those who experienced it? Streubert, Speziale and Carpenter (2007:75) define phenomenology as a science whose purpose is to describe particular phenomena, or the appearance of things, as live experiences method. They further argue that, as a research method, it is rigorous, critical and a systematic investigation of a phenomenon (Streubert, Speziale and Carpenter, 2007:81).

The methodology adopted for the descriptive phenomenology study involved bracketing, intuiting, analyzing and describing (Polit & Beck, 2012:495). Bracketing refers to the process of identifying and holding in abeyance of preconceived beliefs and opinions about the phenomenon under investigation. The second step is intuiting; it occurs when the researcher remains open to the meanings given by those who experienced it. The analyzing phase involves extracting significant statements, categorizing them and making sense of the essential meaning of the phenomenon. The final phase, which is

descriptive, occurs when the researcher comes to understand and define the phenomenon.

3.2.2 Research Population

The population in this study comprised of children and their care-givers who received services at Restorative Justice Centre in Pretoria. Parahoo (2006:257) defines population as the total number of units from which data can be collected. Having an array of clients receiving services at restorative justice centre, it was not possible to include the entire population for this study. Thus, the direction sought focused on the term 'population' as referring to the aggregate or totality of those conforming to a set of specifications (Polit and Beck, 2012:274). Thus, a target population with inclusion and exclusion criteria, mentioned below, was adhered to. The target populations were girls between the ages of 10 to 16 years old. This age group was chosen because the girls were viewed as appropriate participants who could express themselves during data collection. There was further consideration of their care-givers who participated and received services in the centre. In addition, the participants considered were those who had been victims of sexual abuse and had received the services for a year or more.

3.2.3 Study Sample

To select an unbiased representation of the population from which data was to be gathered, purposive sampling method was used. Polit and Beck, (2012) assert that sampling should be both appropriate and adequate. Appropriateness means that the method of sampling fits the aim of the study and helps in the understanding of the research problem, and, adequate if it generates sufficient, relevant and quality data. Purposive sampling was identified as the most appropriate and adequate method for this investigation.

Streubert Speziale and Carpenter (2007:94) state that this method of sampling selects individuals for the study participation based on their particular knowledge of the phenomenon for the purpose of sharing particular information. Patton (1990:169) cited in Streubert Speziale and Carpenter (2007:95), argue that "…the logic and power of

purposeful sampling lies in selecting information-rich cases for study in depth." Information-rich cases are those from which one can learn a great deal about issues of importance to the purpose of the research; hence the phrase purposeful sampling. The respondents who were selected were contacted and asked to participate and to prepare for the meetings. The total sample size for this study was 18 participants, comprising of 9 girls and 9 care-givers.

3.2.4 Recruitment

The recruitment process was based on the purposive sampling technique. Therefore, recruitment efforts targeted individuals who were known to have fallen under the category of specific cases (of sexual abuse). The researcher used case managers who are social workers to make contact with potential participants as they were known to them and had first-hand knowledge of the clients' 'criminal' cases and the processes undertaken. The case managers had to introduce the study to the clients and obtain permission to be contacted by the researcher.

3.3 DATA COLLECTION

3.3.1 Modification of the intended data collection method

The approved data collection method for this study was to employ both in-depth interviews and focus groups. However, the researcher only managed to use in-depth interviews due to a number of shortcomings that had adverse implications to the proposed method of data collection. Firstly, the researcher had challenges in accessing the participants as he could not acquire their files in time. Due to the fact that the study is carried out within a certain time frame, as per the university requirements, the researcher had to revert into using the most efficient method to collect the necessary data. In-depth interviews, based on literature review and their purpose to this study appeared to be the ideal method to use.

3.3.2 Data Collection Methods

In this study, the data was collected through unstructured interviews. This method of data collection was opted for because it gave the researcher the opportunity of clearing assumptions and presuppositions, as well as allowing the participants more control of the discussion. Polit and Beck (2008:392) state that unstructured interviews are the mode of choice when researchers do not have a clear idea of what it is that they do not know. Thus, they do not begin with a series of prepared questions because they do not yet know what to ask or even where to begin. The researcher asks a broad question relating to the research topic, generally referred to as a grand tour question, for example*; what are the views of users regarding the healing and empowerment services received at the Restorative Justice Centre in Pretoria?* However, subsequent questions in the study became focused as the responses from the participants provided direction. Unstructured interviews are heavily relied to upon by phenomenological, grounded theory, and ethnographic studies (Polit and Beck, 2008).

Interviews are regarded in most research circles as being costly and time consuming. However, its advantages far outweigh the disadvantages. Usually the response rate tends to be higher in face to face interviews compared to self-administered questionnaires. Polit and Beck (2008: 424) maintain that a well designed and properly conducted interview normally achieves response rates in the vicinity of 80% to 90%. Interviews also offer the participants the opportunity to seek clarity of ambiguous or confusing questions. In addition, it provides the researcher with the opportunity to probe more to get more information. Streubert Speziale and Carpenter, (2007) state that an unstructured interview provides the opportunity for greater latitude in the answers provided as the interviews are generally conducted face to face. Individual interviews were conducted with each participant.

3.3.3 Data Collection support material

Polit and Beck (2008:755) define an instrument as "…a device used for data collection, for example a questionnaire, a test or an observational schedule." The data collection

supporting material used in this study was a tape-recorder. The selection of this instrument was derived from the literature reviewed, the research question, research objectives and the overall purpose of the study. Holloway and Wheeler (2010:95) state that researchers must preserve the participants' words as accurate as possible, and the best form of recording interview data is tape recording. Tape recorders provide a level of detail and accuracy not obtainable from memory or by taking notes (Liamputtong and Ezzy, 2005:67). The fact that the data collected followed an unstructured format, tape recording meant that all the information discussed in the interviews could be retrieved. The respondents could talk for a long time without being interrupted which could allow a flow of ideas from them. Holloway and Wheeler (2010:96) support the use of tape recorders by stating that "a room away from noise and disturbances enhances not only the quality of the tape but also the interview itself; participants feel free to talk without interruption."

3.3.4 Data Collection Process

Data was collected among the participants through unstructured interviews. However, before entering the field to conduct the interviews the researcher considered the following exercises:

Training of field workers

There was one data collector that was selected by the researcher. The data collector was trained by the researcher.

The ability to speak and understand local languages and culture, and having knowledge and understanding of the local area was important because the person was going to be able to relate well with the participants. The researcher selected someone who grew up in the community and spoke the local language as a first language. Having a social worker background was also a requirement because the participants who were being investigated could have had emotional implications to the participants and it needed a person who could pick these up and know what to do should such situations arise.

The data collector recruited for this study assisted in collecting information from participants, and therefore he was supposed to transcribe all the interviews. The data collector was trained by the researcher to be able to introduce and explain the objectives of the study to the participants. A discussion of data collection skills and skill-building exercises on interviewing and interpersonal communication was also conducted with the data collector. In addition, a discussion on the grand tour question was also conducted. This was to ensure that the meaning of the question was not lost in translation.

Furthermore, there was practice in the use of the instrument through role play to ascertain the ability to use it. Finally, there was a discussion of ethical issues pertaining to the study.

Pilot testing was conducted at Restorative Justice Centre offices with a few clients who had received services at the centre (but not selected for the study sample). The pilot in this study was done to check if the questions asked were complex or not. Parahoo (2006) confirms that piloting an instrument in a qualitative study many times can improve its generalizability, which can be useful for other researchers to borrow and adapt for use in replication studies.

Data collection

Data collection was conducted on a one-on-one basis with the participants. Interviews were carried out using a face-to-face data collection technique, with at least two sittings with each participant. The first interview entailed the gathering of initial data and the second sitting was set out to do member checking and also to find out if there was further information that the respondents wanted to add. The interviews were scheduled to suit the respondents' daily agendas and, as a result, in-home interviews were arranged in advance. During the data collection process, the data collector introduced himself to the respondents. An overview of the goals and objectives of the study were provided. The participants were informed of the estimated duration of the interviews. They were also notified that the interviews could be recurrent as the study was reflexive

in nature. The information gathered was held in strict confidentiality. The participants were assured that their names would not be published in any of the documents produced. Of importance to the study, was the obtaining of consent for voluntary participation by the respondents and also for the use of tape recorders during the interviews. (Refer to informed consent).

In qualitative studies data generation or collection continues until the researcher believes saturation has been achieved, that is, when no new themes emerge from the participants and the data are repeating. Based on this premise, Streubert Speziale and Carpenter, (2007:95) argue that data collection must continue until the researcher is assured saturation has been achieved. The respondents were also informed about what the data was going to be used for. Morse (1989) cited in Streubert Speziale and Carpenter, (2007:95) who state that saturation is a myth, in the sense that another sample of a similar study may yield different results. Thus, Streubert (1991) cited in Streubert Speziale and Carpenter, (2007) challenges phenomenological researchers to interview a variety of participants from a variety of backgrounds, age ranges, and cultural environment to maximize the likelihood of discovering the essence of a phenomenon across groups. This was employed in this study as evidenced by the sample composition.

On completion of data collection, the data collector transcribed the recorded information verbatim into documents that were handed to the researcher. Most of the interviews that were done in the languages the researcher understood were personally transcribed. This was due to the fact that when researchers transcribe their own tapes it presents an opportunity to immerse themselves in the data, and they become sensitive to issues of importance (Holloway and Wheeler, 2010:282).

3.3.5 Ethical Considerations

The personal nature of phenomenological research results in several ethical considerations for the researcher. Norwood (2009:69) states that "in research, ethical decisions are a product of careful deliberation, choice and accountability on the part of

the researcher during the entire research process." Informed consent, anonymity, confidentiality, data generation, treatment of publication and participator-researcher relationship are being identified among others as central to such studies (Streubert Speziale and Carpenter, 2007). Ethical issues used to guide research decisions and research conduct in this study are based on the three ethical principles identified in the Belmont Report – beneficence, respect for human dignity, justice and fair treatment. In this study, ethical approval was obtained from the University of South Africa (Health Studies Higher Degrees Committee).

Beneficence

The principle of beneficence is based on the maxim, "Do no harm" and it encompasses three duties; (1) the duty to protect from harm (2) the duty to protect from exploitation and (3) the duty to balance risk and benefits.

The researcher endeavored to protect the participants from discomfort and harm. It is argued that, "psychological consequences such as stress, emotional upset, and self doubt are particularly important to consider in qualitative studies where participants are asked to talk about sensitive issues, traumatic events, as well as their response to the situation" Norwood (2009:70). The study was conducted by a professional (Social Worker), who was also able to recognize untoward effects of the research and responded appropriately.

The researcher maintained freedom from exploitation of the participants during and after the study. The involvement of the participants in the study did not expose them in a situation that they were not prepared for. They knew before hand the nature of the study which was conducted in the manner they understood. In addition, the information gained through the study was not used for personal gain by the researcher, in that there were no financial gains obtained.

The dilemma of balancing the risk and benefits of the study were also considered. Norwood (2009:70) states that "the likely benefits of study findings to society must be at-least commensurate with the risk associated with participation". Consideration was

given to the immediate and delayed physical, psychological, social and economic risks. The topic in discussion involved the participants to relive some of the traumatic experiences in their lives that involved violent abuse towards them directly and indirectly. This led to an invasion of privacy. Loss of time and convenience on the part of the participants are some of the risks explored in the study. However, the study also provides possible benefits for the different study participants. The benefits identified include access to potential helpful interventions. Participants who indicated that they still needed counseling were referred to relevant service providers near their communities. Furthermore, the study provides emotional catharsis; as a result of a secondary opportunity to express feelings about the crime and the legal process. Due to the fact that their participation provided an understanding of the phenomenon, it offered a sense of purpose and the opportunity to help others for the respondents.

Respect for human dignity

The second principle is based on respect for human dignity, and it encompasses two components; (1) the right to self determination and (2) the right to full disclosure to participants' relevant information about the proposed study, including aspects like its purpose, potential benefits and risks.

Self determination in research implies that individuals who are being recruited to take part in a research study must be able to make their own decisions about participation without fear or risk of incurring a penalty or prejudicial treatment if they decline (Norwood, 2009:70). The researcher made sure that the participants were not coerced into participating in the study by providing information that was succinct, with no exaggerated promises of benefits for participation, or any threats. Individual participants gave written consent to the study and the objectives were explained to them. The participants were informed that they had the right to withdraw from the study at any stage of the interview or discussion without any penalty imposed upon them. The researcher did not coerce any respondent during the investigation to participate but chose other participants with similar characteristics as those that had withdrawn. However, Norwood (2009:73) warns that vulnerable subject populations (including

children) are particularly prone to coercion since even minimal rewards for participation can be difficult for them to refuse. Furthermore, minors are considered vulnerable because they are legally unable to give informed consent and maybe cognitively unable to fully comprehend study information.

Information was made available to child respondents regarding the purpose and nature of the study in age appropriate language. The information also included the estimated time span, the nature of questions to be asked, among other things, and thereafter the participants gave permission for participation (signing consent and assent forms). The right to full disclosure and self determination are closely linked as a participant cannot make a meaningful and valid decision about taking part in the study without full disclosure. Therefore, the researcher provided important information pertaining to the study before getting an informed consent from the participants. Ultimately, the right to full disclosure is operationalized through informed consent procedures (Norwood, 2009:70).

Justice/ fair treatment

The principle of justice or fair treatment was also used as a guiding principle in the study. The principle of justice and fair treatment includes the participants' rights to fair treatment and privacy. The participants were allowed access to the researcher and ask any questions. The researcher made an undertaking to honour all the agreements made with the participants, regarding the nature of the study and participation and how the data was going to be collected, presented and used. The data collected was treated with confidentiality; the researcher used pseudonyms to disguise the participants' identities, the data collected was stored in a password secured computer limiting its access. The researcher also provided assurance of confidentiality to the participants.

3.3.6 Data Analysis

The purpose of data analysis is to organize, provide structure and elicit meaning from research data (Polit and Beck, 2012:556). Parahoo (2006:391) argues that generally, qualitative researchers do not subscribe to the notion of measurement and therefore, do

not attribute values to the concepts that they study. Thus, Jones (1988) cited in Parahoo (1997:53) states that qualitative data analysis "is a process of making sense, of finding and making a structure in the data and giving this meaning and significance to ourselves, and for any relevant audiences... the way we do this and the kind of structures we look for in the data depend on the purpose of the enquiry and what we see as the *underlying purpose of qualitative research*". In data analysis for phenomenological inquiry, the researcher aims to uncover and produce a description of the lived experience (Holloway and Wheeler, 2010:222).

From the literature reviewed, it is clear that there are a range of approaches to analyse qualitative data, however, inherent in all the approaches is structuring the data into themes and categories. The analytical process of exploring data for common themes which are then arranged into units of meanings or codes is referred to by Joubert, *et al* (2007) as content analysis. The procedural steps taken by the researcher to uncover and produce a description of the lived experiences of the participants in the research was through the use of a seven stage process analysis discussed by Colaizzi (1978) cited in (Polit and Beck, 2012) and (Holloway and Wheeler, 2010). The qualitative data analysis process used in this study followed the sequence illustrated in figure (3.2). The procedure comprised of the following steps;

Firstly, the transcripts of the interviews of all the participants' descriptions were read in order to acquire a feeling from them regarding their experiences as a whole and to make sense out of them. Secondly, the descriptions were relooked with the intention to extract from them significant statements and phrases which pertained to the investigated phenomenon. Step 3 involved efforts to formulate a meaning of each significant statement. The formulated meanings were then organized into clusters of themes, which are presented in chapter 4. These themes were validated by referring them back to the original transcripts also noting discrepancies. The next step involved consolidating everything into an exhaustive description of the experiences and perspectives of the users of the services of the RJC. The researcher then formulated the essential structure of the phenomenon. Finally, for validation the participants

evaluated the results of analysis by conducting a single session with all participants asking them about the findings.

Step1; reading all the descriptions of the participants in order to acquire a feeling for them, and make sense out of them

Step2: return to each description and extract from them phrases or sentences which directly pertain to the investigated phenomenon (extracting significant statements).

Step 3: Try to spell out the meaning of each significant statement (formulating meanings).

Step4:Organising the formulated meanings into clusters of themes (a) refer these clusters of themes back to the original protocols in order to validate them (b)note discrepancies among/ between the various clusters, avoiding temptation of ignoring data or themes that do not fit.

Step5: Integrate results into an exhaustive description of the phenomenon which was under study.

Step6: Formulate an exhaustive description of the phenomenon under study (identification of its fundamental structure)

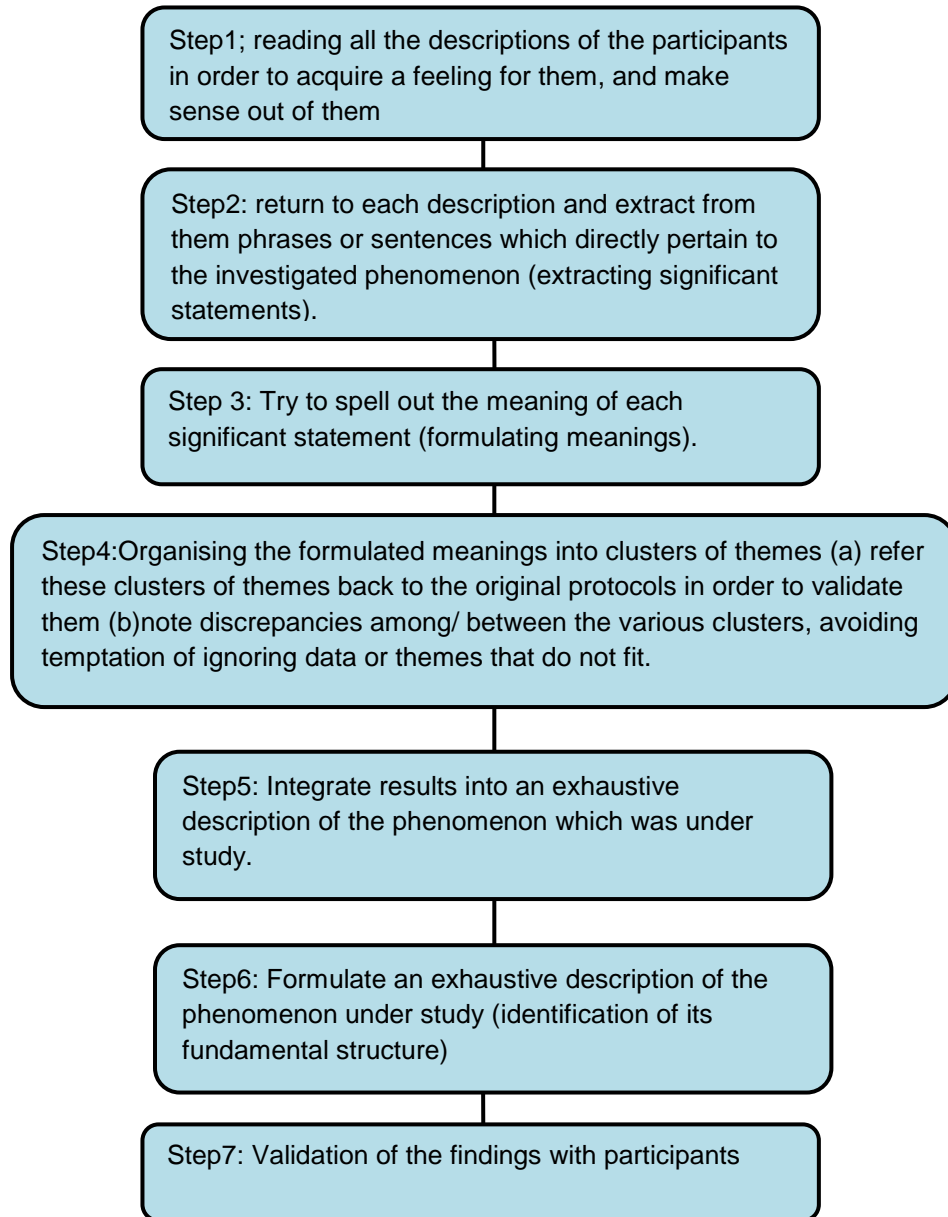Step7: Validation of the findings with participants

Figure (3.2) Data analysis methodology structure – adopted according to Colaizzi (1978)

The researcher was flexible in the use of the stages identified as it allowed for the researcher to attain rich information from the respondents. The data analysis process was iterative, meaning that, "…the researcher moves back and forth from collection to analysis and back again, refining the questions s/he asks from the data", (Holloway and Wheeler, 2010:281). Therefore, the collection and analysis of data was done in an overlapping manner.

3.4 TRUSTWORTHINESS OF THE STUDY

In evaluating the quality of the study, the researcher sought to enhance the trustworthiness of the study. Trustworthiness is defined by Polit and Beck (2012:584) as "the degree of confidence qualitative researchers have in their data, assessed using the criteria of credibility, transferability, dependability, and confirmability." The rigor in qualitative research is therefore demonstrated through the researcher's attention to and confirmation of information discovered. Streubert and Carpenter (1995:25) argue that the goal of rigor in qualitative research is to accurately represent what those who have been studied experienced.

- Credibility

Lincoln & Guba (1985) cited in Streubert and Carpenter (1995:25), state that credibility includes activities which increase the probability that credible findings will be produced. In this study, to confirm credibility of the findings, the researcher had to return to some of the participants to see whether they recognised the findings to be true of their experiences. The purpose of this exercise was to have those who had lived the described phenomenon validate that the reported findings represented them.

- Dependability

To ensure that data was dependable over time and conditions, the researcher verified the collected qualitative data after having set the data and its interpretation aside for a while. This is referred to by Norwood (2009) as intra-rater reliability.

- Transferability

The researcher also considered the aspect of transferability in demonstrating rigor in the study. Transferability refers to the probability that the findings of the study have meaning to others of similar situations. Given that transferability depends on similarity of the aspects of study participants and the characteristics of the study setting, the researcher included participants from different social backgrounds, cultures and environments. However, the expectations for determining whether the findings are transferable or not rest with the potential user of the findings and not with the researcher, as Lincolin and Guba (1985) cited in Streubert and Carpenter (1995:316) state that "…it is not the naturalist's task to provide an index of transferability; it is his or her responsibility to provide the data base that makes transferability judgment possible on the part of potential appliers."

- Confirmability

Qualitative interviews generally take the form of a discussion between the interviewer and the interviewee on the research topic, and the respondents are allowed to talk and cover the area in their own terms and from their own perspective (Jourbet, 2007:319). Polit and Beck (2004:36) state that "…in their most structured form, qualitative interviews consist of a list of topics about which respondents are asked to talk." Therefore, confirmability becomes an important aspect for demonstrating trustworthiness. Confirmability is defined as the degree to which study results are derived from characteristics of participants and the study context, and not from the researcher's biases (Polit and Beck, 2012). The researcher maintained the use of respondents who received services at Restorative Justice Centre, aligning with the inclusion and exclusion criterion. This meant that family members of the respondents who did not participate or receive services from the organization were not interviewed. Furthermore, the researcher had an audit trail of the findings to ensure confirmablity; this included interview transcripts, field notes, and personal notes from the analysis process. Streubert and Carpenter (1995:26) state that "…an audit trail is a recording of activities overtime which can be followed by another individual."

3.5 CONCLUSION

This chapter has described the research design, research populations and samples from the study. The researcher used a qualitative phenomenological survey design. One-on-one, face–to-face interviews were administered by the researcher with 18 participants to gain insight in the experiences and perceptions of the RJC. A grand tour question was used to gather data from the participants. The characteristics of the participants included 9 child victims of sexual abuse and 9 care-givers that were willing to participate. The analysis of the data obtained will be discussed in chapter 4, and the findings of the study will be presented and discussed in chapter 5.

CHAPTER 4:

ANALYSIS, PRESENTATION AND DISCUSSION OF DATA

4.1 INTRODUCTION

This chapter presents the analysis and discussion of the results of the collected data. These are followed by a description of the participants; which includes the sample size and sample profile. The results of the perceptions given by the participants in response to the in-depth interviews of their experiences at Restorative Justice Centre also follow.

4.2 DATA MANAGEMENT AND ANALYSIS

The data management process includes three important steps identified by McNabb (2013:396), namely; organizing the collection process, designing a system of storage for the collected data and the organization of data. The system of storage and analysis was aligned to the Colaizzi (1978) data analysis approach, which saw data collected and analysed concurrently. The researcher pre-planned the data collection process and carefully selected the sample. The data collected was safely kept by the researcher; the hard copy material (the transcripts) was filed and kept in a locked cabinet, and the electronic interviews were saved in the researcher's password secured computer, and prepared for analysis. A backup hard-drive was also used to secure the information.

To produce a meaningful reflection of the phenomenon being studied, the researcher's analysis process included the 7 steps identified by Colaizzi (1978). It involved understanding the phenomenon of the participants as a whole emanating from the descriptions of their experiences. The most salient themes and constructs that emerged from the data were carefully categorised and coded into themes. The exhaustive informative description was costructed using a reflective approach and verified with each participant through an interview. A descriptive summary to present the information gathered was outlined. As it is not enough to simply present the data as they appear, albeit, they have been effectively organised, categorized and structured, the researcher explained what the data meant in relation to the study objectives and design. The data collected from the sample population was analysed using an open coding process.

4.3 SAMPLE DESCRIPTION AND DISCUSSION

4.3.1 Sample Size

The study was undertaken in two samples; one being the child victims and the other being the non offending care-givers of the the sexually abused chidren. As outlined in the previous chapters, the sampling procedure followed was purposive sampling. A total of 18 participants were selected based on saturation of data, resulting in 9 respondents apiece for the child victims and their care-givers respectively.

4.3.2 SAMPLE PROFILE

Child	Age -yrs	offence	Care- giver	Age -yrs	Intervention provided	Relation to offender	Case status
1**Oliven***[1]	10	Rape x2	Mother	51	Victim Impact Report	Stranger	Imprisonment
2 **Berea***	10	Rape	Mother	31	Intermediary Report	Tenant	pending
3 **Themba***	16	Rape x3	Grand- mother	65	Victim Impact Report Family Group Conferencing	Strangers	Imprisonment
4 **S/ville***	16	Rape	Mother	42	Victim Impact Report	Friend	Imprisonment
5 **Wonder***	15	Sexual assault	Mother	37	Intermediary Report	Aunts boyfriend	Pending
6 **Sosha***	11	Rape	Mother	45	Intermediary Report	Neighbour	Pending
7 **Lona***	12	Rape	Mother	32	Intermediary Report	Stranger	Pending
8 **Winter***	14	Rape	Mother	37	Victim Impact Report	Father	Pending
9 **Trishia***	13	Rape + assault	Mother	36	Intermediary Report	neighbour	Pending

Table (4.1) Participants

---

[1]* pseudonyms have been used to protect the identity of the respondents

4.4 OVERVIEW OF RESEARCH FINDINGS

Themes were drawn from the data, to which it was categorized. In analyzing the collected data, the researcher employed the manual process of data analysis, which means no computer software was used in this regard. Data analysis began following each interview, reviewing sources of information in identifying recurring themes and patterns. The themes discussed in this chapter were identified by the researcher and also emerged from the data collected from the respondents. The approach identified by the researcher is influenced by the notion that 'themes come both from data (an inductive approach) and from the investigator's prior theoretical understanding of the phenomenon under study (an *a priori* approach). *A priori* themes come from the characteristics of the phenomenon being studied; from already agreed professional definitions found in literature reviews....' (Ryan and Bernard, 2003:88). The themes were extracted from the descriptions of the participants, from those phrases and statements identified as relevant to the study phenomenon.

4.4.1 Emergent themes from the data collected

Themes	Sub-themes
1. Point of entry	• Discomfort • Lack of clarity of processes • Timing • Awarenes
2. Benefits of receiving services at RJC	• Professionalism • Understanding of the criminal justice system • Confidentiality • Diversity management
3. Flaws in the practices at RJC	• Lack of follow-ups • Insensitivity • Inclusion
4. Opportunities to have their voices heard	
5. Appropriateness of service	
6. Adequacy and acceptability of services	
7. Knowledge of services to victims of crime	• Caregivers' understanding of victim services • Children's understanding of victim services
8. The criminal case vs case outcome	

Table (4.2) Emergent themes and subthemes

4.4.1.1 Point of entry

A point of entry is any gateway through which clients or anybody else accesses the services of an organisation. The available portals at RJC are instances where crime has just occurred, at pre-trial, pre-sentence and/or post sentencing level of the criminal justice process.

4.4.1.1.1 Discomfort

The respondents highlighted that there was uneasiness to commit to some of the restorative justice processes that particularly encouraged an encounter amongst the parties. The discomfort pointed out for particularly participating in a process that encouraged a meeting of the parties varied. Care-givers were mostly worried that a meeting between the victim and the offender would lead to re-traumatisation of the child victim, and as a result preferred services that did not involve the former. Further discomfort was the anger that the victims and their care-givers still harboured towards the accused and their 'wounds' were still fresh. To further exacerbate the situation, respondents indicated that there has not been adequate preparation for them to participate in the processes as RJC services only featured in the pre-trial and mostly in the presentencing levels. This left a gap between the immediate aftermath of the crime and the finalization of the case. Some were of the view that it was done for the purpose of assisting the offender to lessen the sentence, and they echoed being sceptical to participate in these processes.

"I will not be in the same room with that boy, I still harbour feelings of hate towards him and it will be hurting my child." One mother responded to having had denied to meet with the accused.

One child participant commented that;

"I don't want to see them because they take me back to that day I want to forget".

4.4.1.1.2 Lack of Clarity of processes

Findings show that respondents were concerned about the application of restorative justice processes as not being clear of when they were applicable in the stages of the criminal justice process. Some were of the view that it was done for the purpose of assisting the offender to lessen the sentence, and they echoed being sceptical to participate.

"I don't see the reason of meeting up with the offender because the system (criminal justice) will give them a short sentence, and they come back and laugh at us".

4.4.1.1.3 Timing

First time contact with RJC personnel that attended to victims' needs highlighted a point of entry issue that needed attention. Respondents were of the view that services rendered to cater for their needs after the offence had occurred were delayed. Others reported that it was their first time in contact with personnel that attended to their needs after the offence was more than 2 years from the time of occurrence.

"The offense happened almost 2 years before I could get assistance from an organisation like RJC for my child..... imagine the damage".

4.4.1.1.4. Awareness

A question pointed out by one of the participants was;

"Where were you guys (RJC) when we needed you?"

It was highlighted that there is lack of awareness about Restorative Justice Centre and restorative justice as a system by the respondents. That is the reason why most of the respondents were in contact with the centre through the criminal justice system after a long time when the offence had already occurred. Some victims had not received counselling or any feedback regarding the status of the criminal case.

4.4.1.2 Benefits of receiving services at RJC

The theme on benefits highlights the feature of the services that provides clients with something of value to them. The service has to be something that enhances the clients' well-being and with a helpful result.

4.4.1.2.1 Professionalism

Professionalism generally refers to accepted standards or expectations that society has of the conduct and levels of competence for people in the workplace. In general, the comments that emanated from the conversations indicated that the social workers were professional in their approach. The respondents indicated that most of the workers were highly motivated to assist them in the services they rendered to the victims of crime. The social workers and the other staff in the organisation were readily available to assist them in the centre and when they made calls to get some assistance. One respondent stated that;

"The social worker was very helpful and even when I was fighting with the accused's family ... I would phone her and she would give advice..."

There was also a demonstration of competence as the workers were 'good' at what they did. Good communication skills were regarded as vital by the respondents in that it enabled them to build trusting relationships with workers in the organisation. They indicated that the workers respected them by being polite and allowed them to have the power to decide in the services they recommended. The participants pointed to the fact that there was continuous communication between the social worker and the care-givers of the victims.

With regards to the services rendered, it was pointed out that the social workers had good judgements on the services that they recommended for the victims of crime.

"My child was helped by the social workers at the centre from preparation for court and after in ways that empowered her."

4.4.1.2.2 Understanding of the Criminal Justice System

A mother whose 10 year old daughter was raped by a neighbour, stated that she had lost confidence in the justice system and had seen the process of coming into the centre as being futile. She stated that she did not understand how the criminal justice process works before she came to the organisation albeit that she was already attending court proceedings with her child. Therefore, by getting information regarding the case and court processes and the implications of her getting assistance from the organisation managed to allay the doubts and fears she had. In essence, she was able to get information and familiarity with the working of the criminal justice system. This was a sentiment shared by other respondents, regarding the understanding of the criminal justice processes. One mother conceded that;

"The information that I received from the centre is contrary to the information we have in our communities about the working of the courts."

4.4.1.2.3 Confidentiality

Closely related to the working of the court system, the respondents indicated that they feared that the involvement of children in the courts would expose them to the public and result in further traumatisation. However, the process ensured that there was privacy and confidentiality. One care-giver commented;

"My child was able to participate in the whole process from the start to the end without being seen, but heard, through the assistance of the social workers".

4.4.1.2.4 Diversity management

The organisation was commended for having social workers who could speak and understand foreign languages. As an example, a mother of a victim appreciated the liberty to explain her feelings and concerns in her mother tongue, a frustration which she mentioned to have experienced with the police, who did not know her language.

4.4.1.3 Flaws in the practices by RJC

The flaws identify what the respondents viewed as imperfections that marred their experiences of the services in the centre.

4.4.1.3.1 Follow-ups

Although there was continuous communication between social workers and the clients, what became apparent was that the communication was initiated by the care-givers of the victims when they needed certain clarity or assistance on the case as there were no follow-ups in some cases.

One grandmother reported that a follow up by the social workers to check on the well-being of the victims and other participants of a restorative justice process could empower them. *"Sometimes we have challenges with Prudence* when she is re-traumatised and we don't know what to do".* She stated that her grand-daughter had participated in a family group conference and after the process was complete there was no follow-up.

4.4.1.3.2 Insensitivity

Another bone of contention cited by one of the respondents regarding communication was the inadvertent behaviour of one social worker towords the case of rape, which was seen as insensitive. The social worker had decided to discuss the facts of the case with the care-giver over the phone, and this did not settle well with the latter;

"One thing I didn't like...they ask me questions over the phone. Questions over the phone to a case like this one which is sensitive. I prefer a person to come and talk to me face to face".

4.4.1.3.3 Inclusion

Restorative justice practices advocate for active participation for all parties involved in all stages of intervention. Data obtained shows that there were parties that felt that they were left out in some of the processes. One mother pointed out that during the

consultation for the compilation of a report; she was excluded from any involvement as her child was at a 'shelter'. So she had no idea of what processes were involved and that she was only involved when the centre called her to come and collect her child without any explanation of the progress of the case and she could not consult anyone.

There was a similar concern by another care-giver who indicated that her child had been consulted in her absence but in the presence of her aunt. She conceded that she had given a verbal consent to the social worker to do so, as they had failed to meet on a number of appointments. What also came out from the two cases identified on the concerns of communication was that it was the same social worker who handled both cases.

"Being the mother of the child who also went through the trouble of hospitals and courts, I was supposed to be included".

4.4.1.4 Opportunity to have their voices heard

Participants indicated that RJ processes provided them with the opportunity to participate in the legal system and also in the decision making. The victims in particular expressed a feeling of contentment with the roles that they played in the system because it provided an opportunity to be validated when they gave their testimonies directly (through testifying) and indirectly (through reports) in court. One victim who was part of a FGC stated that although she was hesitant about participating in the FGC, she was happy that she had made that decision to be involved because most the questions that she had (about the case) were answered by the accused and her feelings were validated by all the participants in the group, including the accused's family. The victim's care-giver in the FGC under discussion stated that the participation also provided them with the chance of speaking directly with the accused. She said,

"I would recommend restorative justice services to other people who encounter a similar situation because it gives you the chance to show or tell someone that you are angry or you can talk about your anger."

"I felt that I had opened up and unlocked this burden and I felt I could breathe again."

She also added that what was accentuated in the FGC was the spirit of *ubuntu*, where the accused was not being ridiculed but was made aware of his faults and encouraged to take responsibility. She mentioned that when they met with the accused and his family;

"We were able to reprimand him (the accused), but we indicated that punishment should still be there, he still needed to take responsibility for his actions."

The respondents indicated that they had been offered the opportunity to participate in the Family Group Conferences, where they had to encounter their perpetrators. However, most of the respondents stated that they declined the offer because of various reasons. The victims indicated that they were still angry with the perpetrators because they had trusted them. The trust had emanated from the relationships that the victims had with the perpetrators who are or were fathers, friends, neighbours, or tenants. The care-givers stated that they had declined the participation in the FGCs because they still harboured feelings of anger and rage towards the accused persons. They also indicated that they have become so protective and viewed an encounter with the accused as being re-traumatising the victims.

However, the participants acknowledged that they were able to be involved in the decision-making process through other methods, which supported them as victims. The victim impact reports provided them with the opportunity to explain to the courts how the case had impacted them. This was an element that they thought the court was going to consider in their decision-making.

4.4.1.5 Appropriateness of services

The appropriateness of services means that the service was effective, consistent with ethical principles and the preference of the individual or community. The judgement to determine whether a service was appropriate was based on the people's experiences in what they considered as being a quality service.

Almost every respondent had their own opinion as to what appropriateness is. The varied responses are a result of the service that met or did not meet the respondents'

expectations. The respondents stated that the social workers were able to provide them with the services that recognised their cultural beliefs and practices, age, gender, communication and educational level. The victims stated that they were given professional help that recognized their native languages with regards to their communication in the centre throughout the intervention processes. They also mentioned that this had been a recommendation from the social workers to the court that they should be awarded intermediaries that spoke their languages; hence it was granted. Furthermore, the social workers noted in their reports aspects of certain court process that had to be abated if they were not appropriate for the victims. For instance, a mother to a rape-victim who was bi-polar was happy that the social workers had noted the challenges that her child experienced as a result of the untoward event, and recommended that she should not testify, and this was noted by the court.

"The social workers in the centre explained every process and what the implications where, and we had to give consent. But I am happy because everything they did looked at the well-being of my child."

4.4.1.6 Adequacy and acceptability of services

Adequacy means that the service rendered satisfied the requirements or met the needs of the clients. Acceptability on the other hand means the validity of the service being approved by the clients.

There were mixed views regarding the adequacy of the services. One mother stated that, "S*ince we don't know how a human mind works, it is difficult to measure whether their services to be adequate. So I don't know how long my child will get over this*". Their concern was on the outcome of the case.

The care-givers explained that they did not receive any counselling from the centre, it was their children who did, and they did not realise that they needed the service themselves. In addition, there were indications that after the initial contact between the social workers and the clients, there were no follow-ups to check how the victims were coping. It was usually the clients who communicated with the social workers for advice.

There was acknowledgement of the fact that the organisation had extended its services to the community of Hammanskraal by a respondent, who claimed that there were awareness campaigns on sexual abuse and the Charter for victims of Crime at her school by a group of social workers, and one of them was her case manager. It gave her hope that other children could be protected from such attacks and would probably know what to do should they witness such a crime.

4.4.1.7 Knowledge of services entitled to victims of crime

The victims of crime in South Africa are entitled to the following services (1) the right to be treated with fairness and respect to dignity (2) the right to offer information (3) right to receive information (4) right to protection (5) right to receive professional assistance (6) right to compensation (7) right to restitution. (Refer to The Service Charter for victims of Crime.)

4.4.1.7.1 Care-givers' understanding of victim services

The respondents did not have any knowledge regarding the victim services when they went to receive services at Restorative Justice Centre. Most of the care-givers conceded that even after participating in the restorative justice processes and going through the court system, they could not really understand the services that victims should get. They were concerned that they were left out with regards to the notification on the stages of the cases in court processes. This only became known to them when they were consulted by the social workers at RJC, who had received the requests from court. One grandmother stated that;

"You know I have been the one walking up and down with this child to the police stations, hospitals and the courts but I did not know of any privileges that she was supposed to receive from all these places."

4.4.1.7.2 Children's understanding of victim services

Generally, there was an understanding of certain rights that children have; this was a result of their life orientation classes at school, their only source of knowledge. One

child was able to point out the fact that she had seen a victims' charter that had been placed at her school by social workers which showed the rights of victims. Winter* reported that,

"*Social workers from RJC who had assisted me in my case came to our school and did a drama on sexual abuse and the rights of victims of crime........then they left in one of our classroom walls a board with the rights and duties*". The victims' charter was part of the awareness campaign that RJC was conducting in the year 2011.

4.4.1.8 The criminal case process vs. case outcome

Case process identifies the procedures (all stages of the criminal justice system) that the respondents went through and their perceptions about these processes. The case outcome identifies the delivery or result of the case.

There is clearly a link between the experiences that the victims have when they go through the criminal justice system and the verdict that is delivered when forming perception. It was important that the victims felt that the service that they received was adequate but their concern was on the outcome of the case. This means that the services rendered were not viewed in isolation with the outcome of the court case. One responded regarding the adequacy of the services stated;

"*I can't complain, because of the outcome. If it hadn't come out the way it did, I would have got a lawyer.*"

Those cases were still pending, stated that they were happy with the experiences they had in the centre but still needed to hear the outcome of the case to adjudicate on the criminal justice system as they saw RJC as a component of the criminal justice system.

4.5 CONCLUSION

The data collected was gathered from the two samples which consisted of the victims of sexual abuse and their non-offending care-givers who received services from RJC. From their experience and perceptions of the services offered at the centre, the following themes were explored; (a) Point of entry and applicability of Restorative

Justice processes, (b) Benefits of receiving services at RJC (c) Flaws in the practices at RJC (d) Opportunities to have their voices heard (e) Appropriateness of services (f) Adequacy and acceptability of services (g) Knowledge of sevices to victims of crime (h) The criminal case process vs. case outcome.

CHAPTER 5:

CONCLUSIONS, RECOMMENDATIONS, LIMITATIONS AND FINAL CONCLUSION

5.1 INTRODUCTION

In chapter 1, the main objectives of the study were listed; these objectives were addressed during the course of this dissertation and will now be properly concluded through reference to the relevant sections. Firstly, this chapter briefly discusses the research method and design, and then gives a summary and interpretations of the research findings. Emanating from the findings are the suggestions for further work on the topic and for practice, and these are discussed in this chapter. Lastly, the significance of the study is outlined and followed by a closing remark.

5.2 RESEARCH METHOD AND DESIGN

The research methodology adopted in this thesis is qualitative in nature and employs the phenomenological approach to conduct the investigation. The rationale for adopting this approach was that it allowed the researcher to gain insight on the experiences and perceptions of the users of the services of Restorative Justice Centre. The data was collected from 18 participants (that is 9 child victims of sexual abuse and 9 of their non-offending care-givers). A purposive sampling technique was used to select the study sample. From the sample, the researcher used in-depth interviews to gather the data, where a tape recorder and the researcher were the data collecting instruments. The collected data were stored, transcribed and prepared for analysis.

5.3 SUMMARY AND DISCUSSION OF INTERPRETATION OF RESEARCH FINDINGS

5.3.1 Summary

This study has investigated the experiences and perspectives of the users of services of the Restorative Justice Centre. The reason for conducting the study was based on the problem that, although the concept of restorative justice was introduced and has been in use in South Africa, the effectiveness of this system as implemented by Restorative

Justice Centre has not been explored. Restorative justice is defined as a response to crime that focuses on restoring loss suffered by victims, holding offenders accountable for the harm they would have caused, and building piece within communities. The premise that influences the concept of restorative justice is that our lives are inextricably connected and therefore, the offender, the victim and the community need to be involved in the criminal justice proceedings. This research focused on lived experiences of victims of crime at the centre, particularly child victims of sexual abuse and their care-givers. Attention was placed on the fact that the services available to victims vary greatly, as do the service providers, which vary in nature, depending on the state and country of jurisdiction (Shloham, Knepper and Kett, 2010:471), and therefore, localized to the services offered at the centre.

The study categorized the findings identified in the following principal statements. (a) first time contact can be a daunting experience for victims which touches on complex issues like discomfort, fear, cultural barriers and timing, (b) clients are positive about social workers who build up a meaningful relationship based on empathy and respect, (c) clients are concerned about unintentional, but insensitive behaviour by practitioners at the centre, (d) clients coming to the centre have little or no understanding of the criminal justice processes, (e) restorative justice processes are as good as the practitioner, (f) services that recognize a client's culture and language, as well as context are viewed as empowering, (g) the interventions offered at the centre, emphasized on the child victims, neglecting the care-givers, (h) the respondents had difficulty in adjudicating about the adequacy of services rendered, (i) there is need to build effective monitoring and evaluation systems in the organisation and (j) restorative justice processes provide victims of crime with an opportunity to be heard, and validated, and to participate in decision-making

5.3.2 Discussion of the research findings

In the discussion of the findings obtained in the data analysis the researcher draws conclusions about what the results translate to and how the evidence can be used in practice.

- Point of entry

Findings show that first time contact can be a daunting experience for victims which touches on complex issues like discomfort, fear, cultural barriers and timing as some victims have the perception that problems should be resolved secretly, trying in vain to protect and honour their families and communities. This points out the factors that influence people's readiness or reluctance in participating in restorative justice processes, particularly the encounter. Sexual offences seem to be viewed as serious offences that do not warrant an encounter with the offender (Ptacek, 2010) especially if children are involved. However for a well prepared encounter process, it bears fruitful results to its participants. This implies that caution should be borne in untangling the complex issues that clients have prior to their engagement in restorative justice processes. Gautdreault (2005:08) confirms that people decide whether or not to participate depends on several factors.

- Knowledge of services to victims

This study indicates that there is limited understanding of restorative justice and its applicability within the criminal justice system by the general public. The limited understanding of restorative justice as a system culminates in lack of awareness. Thus when the people are invited or encouraged to participate they are hesitant because of discomforts. However, for those who participated in the study, there is value in the application of restorative justice processes in serious offences like rape and other forms of sexual assault (Johnstone at al, 2007). The study has found that victims of crime do not know the services that they are entitled to. It is generally the child victims who have a faint idea of the Charter for services for victims of crime as forming part of the knowledge for the rights of victims of crime. The findings suggest that there is no understanding of the criminal justice system and its processes by the public and hence there are fears and doubts about its work and its effectiveness. RJC seems to bridge the gap between the public and the criminal justice system. So when the clients receive services from RJC which highlights the work of the criminal justice system, it changes their perceptions.

- Flaws in the practices

This study has shown that there are things that victims of crime consider as being of importance when receiving services at Restorative Justice Centre (RJC). The efficiency of social workers at the centre is an aspect that clients consider when forming perceptions about the services rendered. To determine the efficiency of the social workers, the clients considered the skills and abilities in the execution of their work. The use of professionals (particularly social workers) is seen as strength by the respondents because they pointed out that social workers understand human dynamics and have ethical obligations they have to fulfil. Northern Ireland (2012) states that, central to the effectiveness of any social work intervention is the quality of the relationship between the social worker and the person(s) they are working with, and this is supported by the service users' views. The findings reveal that people are positive about social workers who build up a meaningful relationship based on empathy and respect. Furthermore, this study demonstrates that generally RJC upholds the dignity of its clients and it ensures privacy and confidentiality among other positive practices identified. Realizing that most of the disputes or crimes possess some form of human dynamics, is it ideal to use lay persons in interventions? This study shows that there are comparative advantages of using social workers in interventions that involve human issues.

This study shows that having continued support to clients is essential in any intervention in the services offered. Northern Ireland (2012:41) points out that social workers help to promote the independence, safety and well-being of those who need ongoing support with daily living due to their age, infirmity, illness, disability or life circumstances. This brings in the aspect of monitoring and evaluation in the organisation as a section that needs strengthening. Monitoring and evaluation of the participants of the restorative justice processes is not implemented to all participants through follow-ups, and the results of the study show that some of the respondents regarded that practice as being pertinent to a victim's healing process. Therefore, continued support should be employed as an empowerment tool in restorative justice processes.

- Benefits of RJC services

One of the more significant findings to emerge from this study is that services that recognize one's culture and language are viewed as empowering. RJC offers local as well as foreign languages to their clients. There is investment in the social workers that realise the diverse environment, backgrounds and circumstances of the clients in the centre. This is important in that it proves that 'with any conflict or dispute, context plays an essential role in determining the best way to proceed to achieve resolution or justice' (Deflau and Duff, 2011). Deflau and Duff (ibid) contend that in South Africa, the Truth and Reconciliation Commission is a true reflection that context also determines the appropriateness or inappropriateness of interventions in of pursuit justice, since the spirit of *ubuntu* provides a foundation for the nation's restorative justice processes. Therefore, it is imperative for any restorative justice practice to conduct a social mapping of the communities that they render services to.

The most obvious finding to emerge from this study is that the application of restorative justice processes is linked with the African philosophy of *Ubuntu*. This concept is an affirmation of one's humanity through other people. Therefore, all stakeholders who are affected by a crime are considered in the criminal justice processes and decision-making. Victims of crime generally feel validated when they are given the opportunity to express themselves and their feelings. Given that the victims of crime react differently to crime, so are their responses, with regards to participation to restorative justice processes. The study shows that there is limited reception of the encounter conception for many reasons, which are somewhat related to the reaction to crime and the criminal justice system by participants. Although the restorative justice encourages that parties encounter each other, there is generally reluctance in cases that involve children for fear of re-victimisation, among other things. However, the results of this study show that RJC provides the victims of crime with the opportunity to participate in ways that recognise their needs and feelings, upholding their self determination through the services rendered, without focusing only on bringing the affected parties together. Of note, the study also revealed that not all stakeholders to certain cases were included in

the restorative justice processes. Nonetheless, what is apparent is that the spirit of *ubuntu* refers to the 'healing of breaches, the redressing of imbalances, and the restoration of broken relationships' (Roche 2006, cited in Deflau and Duff 2011).

Although the participants communicated a positive view of RJC services, certain gaps and challenges were identified by this study. Firstly, this study has shown that there are certain things that victims of crime consider as being unintentional, but insensitive behaviour by practitioners at the centre. The strength of this study is that it has indicated that the issue of consulting clients over the telephone for cases that are viewed as 'being serious' is seen as insensitive. This reflects that there are things that can be viewed as trivial by practitioners yet they are perceived otherwise by clients. Therefore, there is need for the centre to take note of those things and document them for future practices. This study did not dwell much on the unintentional but insensitive behaviour identified by the respondents, and hence future studies will be needed in this area to improve practices.

Another significant aspect identified in this study is that restorative justice processes are as good as the practitioner. The study does concur with earlier research (Gal, 2006) in that the social workers who render services in restorative justice practices have to be competent. In the RJC there are social workers who are regarded to be very good in their work and some who are not so good. The study findings in this regard imply that the practices of the social workers in the centre are not at par in terms of quality. Therefore, there must be measures or guidelines put in place to ensure that restorative justice practitioners are competent to safeguard clients in the centre, as well as in general practice in other settings. RJC and other restorative justice agents can adopt the following three sorts of values to attend to; values that constrain the process to prevent it from becoming oppressive (like, values of non-domination, empowerment, respectful listening and equal concern for all stakeholders, among others); values that guide the process and that can be used to measure the success of the process (values such as restoration of property, emotional restoration, restoration of dignity, compassion, social support and so forth) and values that describe certain outcomes of

the process that may, but also may not, emerge from a successful restorative process (values such as remorse, apology, censure of the act, forgiveness and mercy) discussed by Braithwaite (2003) cited in Johnstone *et al* (2007:11). Ultimately, this highlights the need for best practices to be developed.

- Appropriateness of services

The services rendered were found by this study to be appropriate to clients because there was participant involvement in the identification and facilitation in the process. Therefore, the users of the services were not just reciprocates but active participants in determining the appropriateness of the services. Restorative justice processes are holistic in approach for the purpose of healing and restoring broken relationships for all affected. This study shows that services at RJC placed much emphasis on the primary victims (the child-victims in this instance) and less attention on the secondary victims (their care-givers). The recognition of the fact that less emphasis is placed on the care-givers reflects that the practice should be holistic because the care-givers also contribute to the healing and reintegration of the child victim and themselves. Therefore, focus in the interventions should be placed on both parties.

The study found that it is difficult for clients to adjudicate with regards to evaluating a service. The care-givers did not have knowledge about the standards for them to be able to evaluate the adequacy and acceptability of services rendered. The respondents found it difficult to adjudicate whether they perceived the service as being adequate and acceptable or not because they did not know the standards.

- Adequacy and acceptability of services

The services were not adequate in some instances because there were no follow-ups. The follow-ups were viewed as continued assistance to the victims in their healing process. The study also shows that when clients do not have knowledge of the standards they do not know what to expect in terms of services they should receive. It is therefore difficult for them to ascertain if the services are appropriate, adequate or acceptable. Therefore, this study shows that a yardstick should be established to help

the organisation and clients to set up measures to evaluate the services to ascertain their adequacy and acceptability. It therefore means that a yardstick should be established in consultation with clients as they are the ones who evaluate the practices of an organisation.

What also emerged from the study is that restorative justice processes' effectiveness is not viewed in isolation to the outcome of a case; case outcome influences clients' perceptions about the effectiveness of restorative justice processes. The findings show that the victims of crime form perceptions about services they receive at RJC, from their experiences in the whole criminal justice process and also the case outcome. Restorative Justice as a system is viewed as part or an extension of the criminal justice system. The outcome of the case has a bearing in the forming of perceptions of the services received at the centre as they consider them to influence the outcome of the case. Consistent with the findings of Maurice (2009) care-givers in this study were more satisfied when the offenders were prosecuted and convicted in their child's case. There are some people who conceded satisfaction with the services they received at the centre prior to the finalisation of their cases. However, there was discontentment with the duration of the criminal justice system.

5.4 CONCLUSIONS

The aim of this dissertation has been to explore the views and perspectives of the child victims (of sexual abuse) and care-givers on the empowering ability of the restorative justice system as implemented by the RJC; and to evaluate the long term impact of the restorative justice processes on children who are victims of crime. Although the time constraints limited the number of interviews that could be conducted, the analyses provided the researcher with valuable information in terms of the experiences and perspectives of the users of the services rendered by the centre, on the lives of those involved during the process. With the use of the objectives of the study, the following conclusions were drawn;

The findings in this study indicate positive perceptions and experiences by the users of the services at Restorative Justice Centre. While acknowledging some unsatisfactory aspects about their experiences of the services they received, the clients reported that the services rendered recognised their cultural backgrounds and languages. They indicated that they were now privy of how the criminal justice system works and that they were offered the opportunity to participate within the criminal justice processes in various ways. The clients also saw themselves as active participants in identifying and selecting a service that was sensitive and ideal to their circumstances, as opposed to being only recipients to services offered. The clients indicated that they have enough information to make decisions regarding their participation processes and programs. Though the services rendered reflected that restorative justice processes are in favour of an encounter as the ideal means, there are some measures adopted to achieve healing and restoring. Therefore, it is consistent with the views by Johnstone *et al* (2007), that restorative justice is an evolving concept and practice but with a goal to heal and restore. In addition, the information that was gathered from the centre is also used to empower communities through referrals to relevant stakeholders and the centre. It is noted that the centre is providing services in the communities, particularly in schools, and therefore having a lasting presence in the community it serves.

There is evidence in this study that it was difficult for clients to adjudicate with regards to the long term impact of the restorative justice system as practised by RJC. There were a number of factors pointed out as influencing that position. Lack of follow-ups was seen as not fully empowering as the progress of the victims' recovery was not monitored. This means that there is stifled communication between the organisation and the clients to get opinions about their satisfaction of the services. In addition, restorative justice services were viewed as part of the criminal case processes and that the case outcome impacted on the clients' experience and perspectives of the services as the RJC is seen as an extension of the criminal justice system. However, it was established by this study that restorative justice processes assist clients in their journey of healing by "removing the burden" they have in the aftermath of the crime (Johnstone *et al* 2007).

Some of the practices in the organisation need strengthening as they impact on the perspectives and experiences of the users of the services. Of note, the monitoring and evaluation processes of individual participants, skills and abilities of its practitioners.

5.5 RECOMMENDATIONS

Based on the findings of this study, it is clear that there are implications for (i) practice and policy, and (ii) further research work.

5.5.1 Recommendations for practice or policy

The findings of this study have a number of implications for future practice.

i. There is a definite need for services that are rendered to primary victims to be extended to secondary victims; the child victims and their care-givers, respectively. It is clear that care-givers also grapple with the aftermath of the crimes committed to their children, and that they are an essential part in the journey to healing to their children. Therefore, the way in which secondary victims are treated needs careful thought and planning by practitioners at every stage of intervention.

ii. The issue of limited follow-ups on the recipients of the RJC services needs to be addressed. A reasonable approach to tackle this issue could be to strengthen the monitoring and evaluation systems. A practical implication would be to have a checklist on the files of clients to monitor follow-ups before a file is closed. It is also important to make clients aware of the existence of victim support and self help organisations in their communities.

iii. There is need to improve the quality of the services that are rendered to clients. To ensure that there is improvement in quality services rendered, it is one's suggestion that emphasis is placed on prevention. This means setting up a system that eliminates the potential for error in the execution of services at RJC.

iv. Unless government departments adopt the Restorative Justice National Policy Framework (RJNPF), the citizens of South Africa will not know and understand the purpose and the applicability of restorative justice. Moreover, more promotion and

sensitization should be done by RJC and the other stakeholders in the Justice Crime Prevention and Security Cluster (JCPSC).

v. Recognising that victims of crime are generally sensitive, it has implications to the way they respond to services offered. There is, therefore, a definite need for the organisation to build research capacities in the areas of best practice. In addition, this information could be used as leverage for people skills by practitioners in the organisation, to address what is regarded as sensitive.

5.5.2 Recommendations for further research

Additional studies could address several issues that emerged from this study. Because findings from this study indicated that there is some correlation between a practitioner and the quality of service rendered, it would be important to determine the elements that one is required to possess to be considered effective.

Secondly, the return of the participants is a small number, which are mainly residents of Pretoria. Given the high incident rates of crime in the country, it would be important to determine public knowledge on victims of crime services available in South Africa.

Finally, it would be important to determine the applicability of restorative justice within the health sector as it has emerged that in practice, hospitals (and the newly established Thuthuzela Care Centres) are the first stop for victims of sexual offences.

5.6 CONTRIBUTIONS OF THE STUDY

Restorative justice as a concept and a practice has been evolving and its practices varying from one geographic area to another, but the main objective being that of healing and restoring relationships after a crime has occurred. In South Africa, restorative justice is important in that it is a concept that is embedded in the social context of *ubuntu* and that the community should not view it as a foreign ideology being imposed on them. There are also initiatives to roll out the concept within the criminal justice system as a framework (of note, the Restorative Justice National Policy Framework). Therefore, evidence based research is fundamental in influencing its

practices. The evidence from this research show that it is a service that is needed for victims of crime (be it direct or secondary victims). The scepticism regarding its application or effectiveness highlights the areas for improvement in its practices which are influenced by people's culture, experiences in the criminal justice processes and outcomes, the timing of interventions, the practitioners and awareness of the concept. The study also demonstrate that NGOs which render services within the criminal justice system are viewed as being part of a whole not as an isolated entity, and therefore they should bear that in mind when evaluating their services. This study also demonstrates that effective monitoring and evaluation processes should be embedded in any programme for its development as the primary goal. A gap exists in the study that point to the fact that culture is a factor when forming perception. This study excluded Afrikaans speaking clients as respondents, therefore; it is not conclusive in showing how that facet of human experience has a bearing in forming perceptions.

5.7 LIMITATIONS OF THE STUDY

Notwithstanding the fact that the objectives of the research were attained, the study presented some limitations. Firstly, the research was conducted within a short period of time and budget; the research was conducted within the stipulated period of the university requirements. Secondly, because of the time limit this research was conducted on a small size of population (sexually abused victims and their care-givers). In addition, the study suffers from the quality of composition of sample; by virtue of the fact that it consists of girls, and women; the sample was not sufficiently heterogenous. Furthermore, the generalizability of the research findings is limited because they were generated in an exploratory qualitative inquiry

5.8 FINAL CONCLUSION

Professionals and others working in the field of restorative justice and the criminal justice system can learn from the results of this study. Restorative justice programs now allow the victim, the offender and affected members of the community to be directly involved in responding to a crime, and thus they become central to the criminal justice

processes. As a result, governmental, legal professionals and social workers serve as facilitators in the system that aims at offender accountability, reparation to the victim and full participation by the victim, offender and the community. They would need to be equipped with the right skills and understanding of what victims of crime warrant as good practices. The researcher concludes this study by highlighting a statement by Maurice (2009), a renowned author on restorative justice, who states that while outcomes do play a big role in defining caregiver perceptions of justice and are not always controllable; procedures play a big role as well. Professionals should be informed of the effects of their practices on the perceptions and experiences of victims of crime.

6. REFERENCES

Babbie, E.R and Mouton, J. 2007. *The Practice of Social Research.* 11th Edition. Cape Town: Oxford University Press

Boezaart, T.(ed). 2009. *Child Law in South Africa*. Cape Town: Juta & Co Ltd

Canadian Resource Centre for Victims of Crime. 2011. *Restorative Justice in Canada: What victims should know*. Prepared by the Canadian Resource Centre for victims of Crime revised in March 2011

Deb, S. and Mukherjee, A. 2009*. Impact of Sexual Abuse on Mental Health of Children*. New Delhi: Concept Publishing Company

Deflau, K. and Duff, N. 2011. *Restorative Justice Contextual and Cultural Considerations*. Knowledge note. Available online http://www.synexe.com/assets/Uploads/201108+Restorative+Justice.pdf (accessed 20/11/2012)

De Vos, A.S, Strydom, H., Fouche`, C.B. & Delport, C.S.C. (eds). 2011. *Research at grass roots: For the social services and human service professions.* 4th Edition. Pretoria: Van Schaik Publishers.

Du Plessis, A. and Louw, A. 2005. *Crime and Crime prevention in South Africa: 10 years After*. Paper presented at the 14th World Conference in Criminology, Pennsylvania (9 August 2005). Institute for Security Studies, South Africa

Elechi, O.O., Morris, S.V.J, and Schauer, E.J. 2010. *Restoring Justice (Ubuntu): An African Perspective.* International Criminal Justice Review 2010, 20: 75 Available online: http://icj.sagepub.com/content/20/1/73 (accessed 12/07/2013)

Gal, T. 2006. *Victims to Partners: Child victims and restorative justice*. A thesis submitted for the degree of Dr. of Philosophy at the Australian National University. 25 May 2006

Gal, T. 2011. *Child Victims and Restorative Justice: A needs- rights model*. New York: Oxford University Press

Gaudreault, A. 2005. *The limits of Restorative Justice.* Article published in the proceedings of the symposium of the Ecole antionale de la magistrature, Paris: Edition Dalloz, 2005

Graziano, A.M. and Raulin, M.L. 2000. *A process of inquiry: Research methods.* 4th Edition. Boston: Allyn & Backon

Holloway, I & Wheeler, S. 2010. *Qualitative research in nursing and healthcare*. 3rd edition. Oxford: Blackwell

Kappeler, VE & Wheeler, Gains, LK. 2011. *Community policing. A contemporary perspective*. 6th Edition. New York: Elsevier

Johnstone, G. and Van Ness, D. (eds). 2007. *Handbook of Restorative Justice*. Portland: Willan Publishing

Joubert, G. and Ehrlich, R. (eds) 2007. *Epidemiology. A research manual for South Africa.* 2nd Edition. Cape Town: Oxford University Press Southern Africa

Lamb, ME, La Rooy, JD, Malloy, LC and Katz, C (eds). 2011. *Children's Testimony: A Handbook of Psychological Research and Forensic Practice.* 2nd Edition. New York: John Wiley and Sons Ltd

Liamputton, P. and Ezzy, D. 2005. *Qualitative research methods.* New York: Oxford press

Loeb Adler, L & Denmark, FL. 2004. *International perspective on violence*. New Port: Praeger Publishers

Lynch, N. 2010. *Restorative Justice through a Children's Rights Lens*. International journal of children's rights (18):161- 183

Madu, S.N. 2001. *Childhood forcible sexual abuse and victim perpetrator relationship among a sample of secondary school students in the Northern Province (South Africa). Department of Psychology.* University of the North, South Africa

Maxwell, J.A. 2005. *Qualitative Research Design: An Interactive Approach. 2nd Edition.* Applied social research methods series, Volume 41. California: Sage Publications Ltd

Maurice, D.M. 2009. *Perceptions of justice in the criminal justice system: The perceptions of non-offending care-givers of sexual abuse victims.* Dissertation. Department of Psychology. Brandeis University

McNabb, D.E. 2013. *Research Methods in Public Administration and Nonprofit Management: Quantitative and Qualitative Approaches.* Third edition. New York: M.E. Sharpe, Inc.

Nhlapo, T. 2005. *The Judicial Function of Traditional Leaders: A contribution to Restorative Justice? A paper presented at the conference of the association of law reform agencies of Eastern and Southern Africa (ALKAESA).* Vineyard, Cape Town. 14 – 17 March 2005

Norwood, S. L. 2009. *Research Essentials: Foundation for evidence based practice.* New York: Pearson

Northern Ireland. 2012. *Improving and safeguarding social wellbeing: A strategy for Social Work in Northern Ireland 2012- 2022.* Department of Health, Social Service

Parahoo, K. 1997. *Nursing Research. Principles, Process and Issues.* New York: Palgrave Macmillan

Parahoo, K. 2006. *Nursing Research. Principles, Process and Issues.* Second edition. New York: Palgrave Macmillan

Ptacek, J. 2010. Restorative justice and violence against women. Oxford: Ofxord University Press

Polit, D.F. & Beck, C.T. 2004. *Nursing Research: Principles and methods.* Seventh Edition: Philadelphia. Lippincott Williams & Wilkins

Polit, D.F. & Beck, C.T. 2008. *Nursing Research: Generating and assessing evidence for nursing practice.* Eighth Edition: Philadelphia. Lippincott Williams & Wilkins

Polit, D.F. and Beck, C.T. 2012. *Nursing Research: Generating and assessing evidence for nursing practice.* Ninth edition Edition. Philadelphia: Lippincott Williams & Wilkins

Ryan, G.W. and Bernard, H.R. 2003. *Techniques to identify themes. Field Methods*, Vol. 15. No. 1, February 2003. 85- 109. Available online; http://www.engin.umich.edu/teaching/crlt/engineering-educationresarch-resources/ryan-and-bernard-techniques-to-identify-themes.pdf. (accessed 20/11/2012)

Republic of South Africa (RSA). 2005. *Children's Act (act 38 of 2005).* Pretoria: Government Printers

Shloham, SG, Knepper, P. and Kett, M. (eds). 2010. *International handbook of victimology.* Florida: Taylor & Francis

Skelton, A. and Batley, M. 2006. *Mapping progress, Charting the future: Restorative Justice in South Africa.* Pretoria: Juta & Company Ltd

South Africa (Republic). 1996. Constitution of the Republic of South Africa, Act 108 of 1996. Pretoria: Government Printers

South Africa (Republic). 2005. Children's Act No.38 of 2005. Pretoria: Government Printers

South Africa (Republic). 1977. Criminal Procedure Act No.51 of 1977. Pretoria: Government Printers

South Africa (Republic). Department of Justice and Constitutional Development (DOJ&CD). 2007. *Service Charter for Victims of Crime: The Consolidation of the present legal framework relating to the rights of and services provided to victims of crime.* Pretoria: Government Printers

South Africa (Republic). Department of Social Development (DSD). 2008. *The minimum standards for service delivery in victim empowerment (Victims of crime and violence*). Pretoria: Government Printers

Streubert Speziale, HJ and Carpenter, DR. 1995. *Qualitative research in nursing: Advancing the humanistic imperative.* Philadelphia: Lippincott Williams & Wilkins

Streubert Speziale, HJ and Carpenter, DR. 2007. *Qualitative research in nursing: Advancing the humanistic imperative.* 4th Edition. New York: Lippincott Williams & Wilkins

Strydom, H. 2005. Sampling and sampling methods. In De Vos, A.S, Strydom, H., Fouche`, C.B. & Delport, C.S.C. 2005. *Research at grass roots: For the social services and human service professions.* 3rd Edition. Pretoria: Van Schaik Publishers.

Van Der Merwe, A. 2008. *Therapeutic Jurisprudence: Judicial officers and the victims' welfare.* Comments on S v M 2007 (2) SACR 60 (W) available online. http://csvr.org.za/index.php?option=com_content&view=article&id=2347:conference (accessed on 20/02/2013)

Van Ness, D.W. and Strong, K.H. 2006. Restoring justice. An introduction to restorative justice. 3rd edition. Cincinnati: Anderson Publishing Co.

Van Wormer, K. 2009. *Restorative Justice as a social justice for victims of gendered violence: A feminist perspective.* Pretoria: National Association of Social Workers

Zehr, H. 2002. *The Little Book of Restorative Justice.* Pennslyvania: Good Books

APPENDICES

ANNEXURE 1

<u>INFORMED CONSENT FORM</u>

 I_____ understand that I am being asked to participate in a research study at Restorative Justice Centre where I will be interviewed. I do understand that the information discussed in this interview is strictly confidential and there will not be any disclosure of names or identity. In addition, the information obtained from this interview is for the purpose of research and it will delve on my experience and perception of restorative justice processes and services received at this centre.

Furthermore, I realize that my participation in this study is entirely voluntary and that I have the right to retract this authorization and withdraw from this interview at any time as I wish.

The investigation has been explained to me and I have read and understood the consent form. Consequently, I hereby agree to participate in the study and grant the researcher/research team permission to contact me for the purpose of collecting data.

PARTICIPANT'S SIGNATURE: _____ DATE:_____

WITNESS'S SIGNATURE   : _____ DATE:_____

INTERVIEWER'S SIGNATURE: _____ DATE:_____

ANNEXURE 3

SURROGATE CONSENT FORM

I, parent/guardian _____ (*full names*), ID NO ---------------------- give consent that my child _____ can be interviewed for a study on services at the Restorative Justice Centre. I do understand that the information discussed in this interview is strictly confidential and there will not be any disclosure of names or identity. In addition, the information obtained from this interview is for the purpose of research and it will delve on my child's experience and perception of restorative justice processes.

Furthermore, I realize that his/her participation in this study is entirely voluntary and that I have the right to retract this authorization and withdraw her from this interview at any time as I wish.

The investigation has been explained to me and I have read and understood the consent form. Consequently, I hereby give permission of my child to participate in the study and grant the researcher/research team permission to contact me for more information.

Signed on _____day) of _____ (month) _____ (year) at _____ (place)

Witness

1. _____   **2.**_____

3. _____

Signed

_____

UNISA
university
of south africa

UNIVERSITY OF SOUTH AFRICA
Health Studies Higher Degrees Committee
College of Human Sciences
ETHICAL CLEARANCE CERTIFICATE

HSHDC/57/2012

Date of meeting: 23 May 2012   Student No: 3405-045-0

Project Title: The experiences and perspectives of users of the services of the Restorative Justice Centre in Pretoria

Researcher: Edwin Dewa

Degree: Masters in Public Health (MPH)   Code: DLMPH95

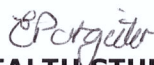Supervisor: Dr Kebogile Mokwena
Qualification: PhD
Joint Supervisor: -

DECISION OF COMMITTEE

Approved   √   **Conditionally Approved**

Prof E Potgieter
CHAIRPERSON: HEALTH STUDIES HIGHER DEGREES COMMITTEE

Dr MM Moleki
ACTING ACADEMIC CHAIRPERSON: DEPARTMENT OF HEALTH STUDIES

PLEASE QUOTE THE PROJECT NUMBER IN ALL ENQUIRES

ANNEXURE 2

PERMISSION LETTER TO CONDUCT RESEARCH

Restorative Justice Centre
P.O. Box 29516
Pretoria

Attention: Ms. Tshidi Mohapeloa (The Programmes Manager)

Dear Madam,

RE: PERMISSION TO CONDUCT RESEARCH

I am the project manager for the Victim Empowerment section at Restorative Justice Centre, Pretoria, and also a registered Masters student at the University of South Africa (UNISA).
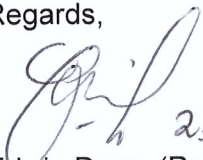
I wish to apply for permission to carry out a study at the centre. The purpose of this qualitative study is to explore the views and perspectives of the users of the Restorative Justice System, as implemented by the Restorative Justice Centre in Pretoria. This is part of the requirements for my Masters degree in public health.

To explore the impact of the Restorative Justice Centre empowerment services on the lives of victims and their caregivers, there is the need to learn about their personal experiences and perceptions as a result of their participation.

It is my hope that the findings from this study have potential to influence policy guidelines for the expansion of the use of restorative justice processes for sexual offences victims. The study will provide evidence based information that could be used to modify the support that the Centre gives to victims of sexual offences.

I shall be very pleased if you can grant me the permission to carry out the study. Should you have any queries, please do not hesitate to contact me or my promoter on the contact details provided below.

Regards,

23/09/2012

Edwin Dewa (Researcher)

Dr. Kebogile Mokwena (Promoter: 012 521 4613)

To: Edwin Dewa

Date: 30/09/2012

From: Mike Batley
Executive Director

SUBJECT: PERMISSION TO CONDUCT RESEARCH AT RESTORATIVE JUSTICE CENTRE: THE EXPERIENCES AND PERSPECTIVES OF USERS OF THE SERVICES OR THE RESTORATIVE JUSTICE CENTRE IN PRETORIA

Following receipt of your request in respect of the above, please be informed that permission has been granted for you to undertake the study in our organisation. Approval is therefore granted under the following conditions;

- That consultation with the clients be done

- That any publication of information pertaining to the Restorative Justice Centre should be done with permission from the organisation

- That service delivery is not compromised

- That the organisation will be furnished with the outcomes of the research.

Thanking you in advance

Regards

Mike Batley

Executive Director