

## CHAPTER 2

### RECIDIVISM AS PHENOMENON

#### 2.1 INTRODUCTION

As stated in Chapter 1 recidivism is an academic metaphor that is widely and sometimes contradictory used (Prinsloo, 1995:8). In this regard Beck (2001:1) refers to recidivism as a fruit salad concept stating that recidivism, can be used within various contexts where "apples, oranges and grapes" are compared with each other. Maltz (2001:1) ascribes the inconsistent use of recidivism further to the tendency of defining recidivism on an *ad hoc* basis without considering the true meaning thereof. This results in recidivism rates that are characterised by its inconsistency.

An example of the inconsistent use of recidivism as concept, and the inaccurate application of recidivism rates can be found in Muntingh's (2001) monograph on prisoners' reintegration into society. Muntingh (2001:6) states that between 85% and 95% of released offenders will re-offend. The statistics that he based this statement on was quoted by Ballington (1998:57) from The Star Newspaper, dated 24 May 1996, stating that "In 1991 Adriaan Vlok gave 85% as the figure for recidivism, while more recently the Nedcor Project on Crime, Violence and Investment suggests that 94% of released prisoners return to

crime". The researcher questions the accuracy of these statistics based on the fact that no scientific validation could be found for either of the statistics mentioned. In contrast with the recidivism rates as mentioned by Muntingh and Ballington, Prinsloo's scientifically validated research, as quoted before in Chapter 1, states that 55.3% of offenders re-offend (Prinsloo, 1995:4). This example underlines the fact that recidivism can currently be viewed in South Africa as a label that is, dissimilarly defined, and is being based on statistics that are inconsistent, inaccurate and in some instances not scientifically validated.

In order to conceptualise recidivism more in-depth in this chapter the discussion will focus on the defining, analysing, and redefining recidivism. A classification system for recidivism within the South African concept will be created. Furthermore recidivism as phenomenon will be explored with an emphasis on the chronic offender or delinquent and the criminal career. Lastly, a general profile of the recidivist will be analysed from the perspective of local and international literature.

## **2.2 CONCEPTUALISING RECIDIVISM**

In order to understand and deal with recidivism as phenomenon it is firstly necessary to conceptualise it, for as Keeney (1983:21) states, " (T)o understand any realm of phenomena, we should begin to notice how it was constructed, that is, what distinction underlies its creation". Strauss and Corbin concur with Keeney adding that the conceptualisation process entails

the "...taking apart (of) an observation, a sentence or a paragraph, and giving each discrete incident, idea or event a name, something that stands for or represent the phenomena" (De Vos & van Zyl, 1998:272). For the purposes of this research study the researcher is of the opinion that the conceptualisation process as described by Strauss and Corbin will assist to clarify the current confusion about recidivism as concept. The process associated with the conceptualisation of recidivism entails the defining and analyses of these definitions. Lastly, the information gathered from the analyses will be utilised to conceptualise recidivism as phenomenon. The first step in this process is to explore existing definitions.

### **2.2.1 Defining recidivism**

Recidivism is derived from the Latin word *recidere* translated as "to fall back" (Maltz, 2001:54). According to Maltz (2001:1), recidivism can furthermore be described as the accumulation of failures. The offender has failed to live up to society's expectations and failed to stay out of trouble. Furthermore the offender failed to escape arrest and conviction as well as failed to make use of rehabilitation programmes during previous incarceration. Lastly, the offender failed by continuing with a criminal career. Synonyms for recidivism and recidivist among others are, *reversal, turning back, backsliding, laps or relapse, wickedness, lawbreakers, regression, double-dealer or two-faced person, worsened, guilty person, offender or criminal* (Bloomsbury Thesaurus, 1993).

The mentioned synonyms further emphasise the labelling effect that the concept recidivist has. Being classified as a recidivist translates into being labelled as a failure. In itself, labelling has a negative impact on a person. This is due to society's perception of and actions towards the labelled person (Cronje, 1982:348). The effect of being labelled as a recidivist is clearly illustrated by MacLeod in the following quote from the 1911 Encyclopaedia Britannica:

" The recidivist is now universally known to exist in all civilized countries... His persistency in ceaseless and inextinguishable by the ordinary methods of combating crime. Penal justice as generally exercised is unavailing and is little better than an automatic machine which draws in a vast number within its wheels and casts them out again practically unchanged in character... This dangerous contingent is forever on the move, into prison and out of it and in again... Nothing will mend it. Neither severity nor kindness, neither the most irksome restrained nor the philanthropic methods of moral and educational persuasion. This failure has encouraged some ardent reformers to recommend the system of indefinite imprisonment or the indeterminate sentence... Habitual offenders, it is argued, should be detained as hostages until they are willing to lay down their arms and consent to make no further attempt to attack or injure society" (MacLeod, 1965:68).

From the mentioned quote the conclusion can be made that the recidivist is a menace to society that is beyond rehabilitation.

The only way to deal with such a person is to lock him/her up and throw away the key. It is frightening to think that a person's condemnation can be based on such a vague and undefined label. On the other hand, as discussed in Chapter 1, the serious impact that re-offending has on all levels of society is recognised worldwide. Therefore recidivism is a phenomenon that needs to be explored and addressed urgently.

If the concept recidivism is analysed or broken down into basic level it can be stated that it refers to the reoccurrence of a negative behaviour pattern. Maltz (2001:54) postulates that a recidivist is a person who is not rehabilitated but who falls back, or relapses into former behaviour patterns by habitually committing more crime. Largan and Levin (2002:1) concur with Maltz, adding that the re-offending leads to the re-arrest, reconviction and the re-sentencing of the recidivist to imprisonment. Therefore it can be stated that the phenomenon of criminal recidivism can be defined as an individual's tendency to persistently and repeatedly engage in criminal conduct or to habitually relapse into crime subsequently leading to rearrest, reconviction and reincarceration (compare Largan & Lev in, 2002:1; Maltz, 2001:1; Luyt, 1999:67; Schmallerger, 1996:146; Prinsloo, 1995:15; Cronje, 1982:546; New Dictionary of Social Work, 1995:56 and Florida Department of Corrections Recidivism Report, 1999).

In itself the definition is vague and leaves room for various questions. These questions stem mainly from the inconsequent

and dissimilar use of recidivism as concept (compare Prinsloo, 1995:15; Conklin, 1995:507; Maltz, 2001:54 and Ariessohn, 1981:59). Champion (1994:87) concurs by pointing out that the inconsistent use of recidivism lies in the alternative meanings associated with recidivism namely:

“...rearrest, parole or probation revocation or unsatisfactory termination, technical parole or probation rule violation, conviction of a new offence while on parole or probation, return to prison, having a prior record and being rearrested for a new offence, having a prior record and being convicted for a new offence, any new commitment to jail or prison for sixty days or more, presence of a new sentence exceeding one year for any offence committed during a five year parole follow up period, return of released offender to custody of state correctional authorities, return to jail, reincarceration, the use of drugs or alcohol by former drug or alcohol abusers, and failure to complete educational or vocational/technical course or courses in or out of prison/jail custody”.

It seems that notwithstanding conceptual confusion regarding recidivism, an operational hiatus can also be identified in the conceptualisation of recidivism.

The operational problem can be associated with the tendency to define recidivism in accordance with the researcher's operational needs for a specific research study (Harm and Phillips, 2001:5; Prinsloo, 1995:15). This tendency, as stated previously, creates a situation where recidivism rates are often

based on different definitions, applied within a different context, is measured differently, and, ultimately a case arises where different concepts are being compared with each other as if they were similar. The result is that the calculation of recidivism rates as well as the perception of what, or who a recidivist is, will differ from person to person and situation to situation. Based on this confusion regarding recidivism, a need exists in South Africa to conceptualise and operationalise recidivism from a universal theoretical context.

Bateson (1979:73), with regards to the importance of the universal understanding of a concept, states that;

"It is necessary to be quite clear about the universal truth that whatever "things" may be in their pleromatic and thingish world, they can only enter the world of communication and meaning by their names, their qualities and their attributes (i.e., by reports of their internal and external relations and interactions)."

In order to obtain context or meaning it is necessary to build upon the fundamental roots of recidivism, being i.e. an offender who repeatedly commits crime and therefore habitually re-offends. This basis must be further analysed to ensure that a uniform context is created whereby a clear understanding of the concepts associated with recidivism and their interaction can prevail. It is through this analysing process that the relationship between the various aspects, which identify a person as a recidivist, can be defined and explored.

### 2.2.2 Analysing recidivism

In his study, Prinsloo (1995:11-15) identified thirty-six themes that conceptualise recidivism. Through the exploration of these themes he concluded that the criteria ranges from simple to complex and highly technical. Several of these themes overlap or have a shared context. From the thirty-six criteria, four main themes emerged which the majority of studies that Prinsloo (1995:15) researched utilised to depict recidivism as concept, namely:

- Unconditional further commitment of crime;
  - Unconditional incarceration due to the committing of a further crime and/or administrative procedure based on previous sentences or parole conditions;
  - The further crime must be legally proven; and
  - Habitual or occupational criminal behaviour
- (Prinsloo, 1995:15).

In addition to the themes that Prinsloo identified the researcher identified two other themes, namely the type and seriousness of the crime as well as the survival period (Lanza-Kaduce, Parker & Thomas, 1999:37; Ariessohn, 1981:60 and Venter, 1952:11). The abovementioned themes as well as these two themes will act as the main themes in the conceptualisation process of recidivism. The six identified main themes will be individually analysed and discussed to obtain a clear and universal understanding of recidivism as concept.



- **Type and seriousness of the crime**

Prinsloo (1995:41) is of the opinion that "a recidivist is a person who is convicted of the repetition of criminal behaviour which, from a social point of view, is of a serious nature". Recidivism can therefore be viewed as an aggravated or more serious form of criminal conduct. Venter (1952:11) elaborates by stating that the recidivist is a greater danger to the society than a "normal" criminal or transgressor of the law due to the fact that previous sentences holds no deterrent value. With this statement Venter (1952:11) touches on three aspects. First, recidivism as more serious criminal conduct, secondly, the danger that repetitive offending holds for the community, and, thirdly, emphasis is placed on the lack of reform as a result of previous sentences.

Regarding the seriousness or aggravated criminal conduct the question can be asked what type of crime can be viewed as serious. This question can be addressed in two ways namely, using a criminological and judicial perspective, or a psychosocial perspective. The criminological perspective focus on the type of crime in order to answer this question. The researcher is of the opinion that looking at criminal conduct from this perspective simplifies a complex phenomenon. This may lead to crime being viewed in isolation instead of it being seen as part of a complex behavioural pattern or process.

From a psychosocial perspective, the seriousness of crime can be viewed holistically as a complex phenomenon. Through this

perspective the concept "crime" consists of intertwined components that are, in their reciprocal interaction, dependent on each other. The dynamic reciprocal involvement and interaction of the various components associated with criminal conduct constitute the totality of the concept within context (Bateson, 1979:24). From a psychosocial perspective and holistic thinking pattern, crime or a criminal deed, is placed in context through its interaction and the reciprocal influence between the various components such as the offender, victim and community. The researcher is of the opinion that exploring crime from a psychosocial perspective gives a more holistic perspective regarding the seriousness of criminal offending.

A further aspect of recidivism that makes it an aggravated or more serious form of criminal conduct is the lack of reform as the result of previous sentences. During a personal interview, professor Prinsloo (May, 2000) describes a recidivist as an offender who cannot learn from previous experiences. He also states that recidivists adapt to prison life and in doing so loses their fear of imprisonment. The result thereof is that punishment mechanisms such as imprisonment have no deterrence value.

Professor Prinsloo (May, 2000) further stated that there is no victimless crime emphasising the impact of recidivism on victims of crime. From the researcher's experience as a social worker in the Department of Correctional services, as well as her voluntary work among victims of crime, she concurs with

Prinsloo. Every criminal deed, to a smaller or larger extent leads to a traumatised victim. From this perspective all criminal behaviours and types of crime can be regarded as serious. Within this context the current focus on restorative justice can be commended.

The danger of recidivism lies therein that the criminal conduct is not isolated to single victims, but due to the repetitive nature of repeat offending the effect thereof ripples out and impacts on the broader society. Senna and Siegal as quoted by Prinsloo (1995:9) postulate that the seriousness and danger of crime does not lie in the crime as such, but in the repetitive nature thereof.

It can be concluded that the seriousness of a recidivist's criminal behaviour does not lie in the crime itself but in the first instance in the repetitive nature thereof. Secondly, it lies in the lack of reform on the part of the recidivist and lastly, in the impact that the recidivist's criminal deeds have on the community. With these factors taken into consideration the point of departure for this research study was that an offender could be classified as a recidivist notwithstanding the type of crime.

- **Unconditional further committing of a crime**

In order to understand the criterion 'unconditional further committing of crime' it is firstly necessary to define crime. Crime can be defined as conduct or the lack thereof, which is

punishable by law (Rabie & Strauss, 1985:6). In this regard Neser (1993:49) states that laws are a reflection of the collective will of the community and thereby an extension of current values and norms within the community. Criminal law therefore serves as a community's boundaries or radius of acceptable behaviour. Conduct that exceeds these boundaries is viewed as being inappropriate or immoral (Maltz, 2001:15). Within South Africa as a socio-political society, criminal behaviour is determined by the governing government and sanctioned by law. Behaviour, which is deemed to be criminal, is therefore based on collective communal values and norms, determined by government and sanctioned by law.

The concept "unconditional" refers to the committing of an unspecified crime. The only criterion is that it should be a criminal act as defined by law (Prinsloo, 1995:11; Cronje, 1982:468).

'Further commitment of crime' implies the presence of a previous criminal record. It depicts a frequency of, and a progression in criminalisation. Unconditional further committing of crime can therefore be regarded as referring to the committing of a further unspecified action that is deemed by law to be a criminal act. The researcher is of the opinion that repeated criminality is an important concept within the context of recidivism.

- **Unconditional incarceration due to the committing of a further crime and/or administrative procedure based on previous sentence or parole conditions**

Incarceration refers to the admitting, imprisonment and detention of the convicted person until his/her sentence expires (Du Toit, 1981:149). The incarceration period as well as the type of crime, and sentence or parole violation is not specified within the criterion 'unconditional incarceration due to the committing of a further crime and/or administrative procedure based on previous sentence or parole conditions'. Ariessohn (1981:60) concurs with this criteria emphasising that the "...recidivist has been incarcerated previously for an offence and is subsequently imprisoned for another offence". The focus is therefore on re-incarceration as criteria for classifying an offender as a recidivist.

The criterion 'unconditional incarceration due to the committing of a further crime and/or administrative procedure based on previous sentence or parole conditions' are limiting in that only a prison sentence is specified. In America an offender can be classified as a recidivist if he/she is committed to the custody of the Department of Corrections. This implicates that the offender should previously have served either a prison or correctional supervision sentence (Florida Department of Corrections Recidivism Report, 1999). As stated before, recidivism refers to dangerous or more serious criminal offences. The question is whether a convicted offender sentenced to a community corrections sentence could be viewed

as a danger to society. The researcher is of opinion that the answer is yes, if repeated offending occurred.

In accordance with the above-mentioned criterion an offender can also be classified as a recidivist if he/she is incarcerated due to administrative procedure or more specifically, violation of sentence or parole conditions. These conditions do not necessary imply that a further crime has been committed. A study within the Florida (USA) Department of Corrections concluded that if administrative procedure forms part of the criteria for being classified as a recidivist it resulted in a false estimate of recidivism (Florida Department of Corrections Recidivism Report, 1999). As stated previously the core definition of recidivism refers to repeated criminal conduct. The violation of parole or sentence conditions, if based on administrative procedure, cannot be viewed as criminal conduct. It is therefore the researcher's opinion that the criterion should be limited to the committing of further criminal offences.

- **Further crime must be legally proven**

The alleged offender has the right to be viewed as innocent until proven guilty. This right is embraced within the Constitution of South Africa (Act 108 of 1996). Therefore an offender cannot be deemed to be a recidivist until the further crime is legally proven.

- **Habitual or occupational criminal behaviour**

Recidivism is synonymous with the concept of occupational and habitual criminal conduct. Recidivist and habitual criminals differ from each other regarding the amount of specified crimes committed by the offender. Longmire (1979:1) refers to these offenders as "chronic offenders" stating that they made themselves guilty of at least five officially recorded crimes. On the other hand an offender can be classified as being a recidivist after committing two or more officially recorded crimes. For the purpose of this research study emphasis is not placed on the amount of convictions but rather on the criminal behavioural pattern that can be associated with recidivism and chronic offending.

Prinsloo (1995:15) postulates that the recidivist is part of a sub-population of specialised persistent core criminals that follows an identifiable criminal career. Barnett, Blumstein and Farrington (1989:374) are of the opinion that there are two distinct subpopulations of offenders namely; "*frequents*" and "*occasional*". The difference lies therein that frequent offenders commit crime at a higher rate than the occasional offender. According to Venter (1952:31) the group cohesion and loyalty that develop between career and habitual criminals "compel" them to continue with their criminal career. Zamble and Quinsey (1997:9) concur with Venter and refer to this aspect of recidivism as an "ongoing psychological process". This aspect of recidivism will be further explored later on in this chapter.

- **Survival period**

This survival period refers to the time elapsed between the completion of a prison or community correction sentence to the committing of a new offence (Prinsloo, 1995:139). An offender who commits a new offence within the survival period and complies with all the other classification criteria can therefore be classified as a recidivist. Through a comprehensive literature study it became apparent to the researcher that no universal survival period could be identified. It seems as if the survival period varies according to the institute or researcher's operational needs and may extend over a period of one to twenty years (Florida Department of Corrections Recidivism Report, 1999, Champion, 1994:87).

As an example it can be mentioned that the Florida Department of Corrections utilises a two-year survival period. The rationale behind the time period is firstly, that it gives enough time for the re-offending rate to become a stable and reliable instrument to measure the effectiveness of correctional programmes. Secondly, it reflects the effects of incarceration on recidivism (Florida Department of Corrections Recidivism Report, 1999). Thus, the aim of the survival period in this case is to measure the influence of imprisonment on recidivism. This information is utilised to improve sentencing policies, programmes and interventions with the aim of reducing recidivism.



The aim of this research study was not to determine the influence or success of correctional intervention, but to identify characteristics associated with recidivism in order to understand and address recidivism as phenomenon. In order to do this the researcher concurs with Zamble and Quinsey's (1997:5) opinion regarding the aim of researching recidivism, namely that "(W)hat is needed is a better understanding of the role of current factors in the causation of new offences. Criminal recidivism can result from unresolved problems within a released offender that could have been addressed during a period of imprisonment, or it could be a consequence of new environmental or offender problems occurring after release". Maltz (2001:26) is of the opinion that one of the most important uses of recidivism analysis is to understand the characteristics of the offender population. Therefore the researcher postulates that the survival period should be of such an extend as to give a clear indication of the offender's adjustment and functioning within various systems in society.

Regarding the recidivism rate it is apparent that the re-offending rate escalates sharply over the first two years where after the increases becomes more moderate (compare Soothill, Francis & Ackerley, 1997:585-586; Prinsloo, 1995:151 and Florida Department of Corrections Recidivism Report, 1999). In both Florida and Oklahoma Departments of Corrections the re-offending rate drops to less than four percent after a four-year survival period. Oklahoma Department of Corrections did a survival analysis for a ten years period. From the analysis it is

apparent that even though the rate decreases gradually, criminal relapse still continuous (Recidivism, 1999). Conklin (1995:507) is of the opinion that the length of the survival period affects the recidivism rates. It was found that a longer survival period could be positively associated with a higher recidivism rate.

In conclusion, no universal trends regarding the survival period could be identified. For the purpose of this research study, it was of importance that the researcher identified a survival period, which enable her to explore recidivism holistically. The researcher is of the opinion that a five-year survival period provides a holistic picture of recidivism as phenomenon as it gives a clear indication of the offender's adjustment and social functioning back into society. Therefore for the purposes of this research study an offender will be viewed as a recidivist if reoffending occurred within a five-year survival period.

In summary, the analyses of the main themes created a uniform context within which a clear understanding of the concept recidivism could be established. This analyses highlighted the fact that the existing definitions of recidivism are unable to holistically define and address the multi-dimensional composition of recidivism as concept. The researcher is of the opinion that in order to address this hiatus it is necessary to redefine, conceptualise and operationalise recidivism as concept. It further became apparent that in order to address the conceptual and operational hiatus in the current definitions

of recidivism it is necessary to, within the context of the discussed main themes, redefine recidivism.

### **2.2.3 Redefining and classifying recidivism as a South African phenomenon**

It was established earlier in this chapter (point 2.1) that a conceptual as well as operational hiatus exist in the defining of recidivism as concept. The conceptualisation of recidivism is currently characterised by its inconsequent and dissimilar use. From an operational perspective it was indicated that recidivism was defined in accordance with a researcher's operational needs for a specific research study. A clear need therefore exists to formulate a scientifically based universal definition of recidivism as concept. This will furthermore ensure that recidivism can be more than a mere academic metaphor but a scientifically based concept that could assist with the management and prevention of crime and re-offending.

Through the assimilation of information gained from the analysis of the themes associated with recidivism the researcher defined recidivism as follow:

*Recidivism is a behaviour process or pattern whereby an offender, who previously served a prison or community corrections sentence, commits a further unspecified offence (within the survival period) and is found guilty of the offence and sentenced to the further care of the Department of Correctional Services.*

This definition provides the scientifically based framework for a classification system whereby an offender can be classified as a recidivist. An offender can be classified as a recidivist if:

- he/she previously served a community corrections or prison sentence;
- he/she re-offends within the specified survival period; and
- he/she was found guilty of the unspecified crime and sentenced to a further term of correctional supervision or imprisonment.

From the definition and classification system it can be derived that recidivism refers to a criminal behaviour pattern and not a once of transgression of the law. Recidivism does not only encompass a crime but also a repetitive process wherein various systems are affected (Harm & Phillips, 2001:8). Viewing recidivism as just a repetitive criminal act without comprehending the underlying dynamics of the behaviour, can be compared with "An unknowable, a Ding an sich, a sound of one hand clapping" (Bateson, 1979:78). It is therefore important to further explore recidivism as well as related concepts that can be associated with recidivism as phenomenon, namely chronic offending and the criminal career. Finally, in the following section, the general profile of the recidivist will be explored from a literature perspective.

## **2.3 ANALYZING RECIDIVISM AS PHENOMENON**

Recidivism is synonymous with the phenomenon of chronic offending insofar that both recidivism and chronic offending can be associated with re-offending behaviour patterns as well as a pro-criminal life style. As stated previously in this chapter "chronic offenders" differ from recidivists based on the operationalisation of the two concepts. According to Longmire (1979:1) an offender can be classified as a chronic offender if such an offender made him/herself guilty of at least five officially recorded crimes. In turn an offender can be classified as a recidivist if a further crime is committed and the offender is sentenced to a further sentence in the care of the Department of Correctional Services (confer point 2.3).

A further concept that can be associated with both recidivism and chronic offending is the criminal career. Recidivism and chronic offending are facilitated within the boundaries of a criminal career. These concepts will next be discussed.

### **2.3.1 The chronic offender**

As stated previously in this chapter, recidivism is synonymous with habitual and chronic criminal behaviour. Chronic offenders are generally associated with a higher proportion of repeat or serious offending. Farrington (in Maguire, Morgan & Reiner 1997:374) is of the opinion that this is due to the fact that chronic offenders commit more offences than the "normal" offender population. The Auditor of the State of Minnesota (Chronic offenders, 2001:4) defines chronic offenders as

individuals who frequently or persistently violate the criminal law. Bartollas and Miller (1998:102) postulate that chronic offenders are known by many labels namely: "... serious delinquent, repeat offender, violent offender, dangerous offender, hard-core delinquent, and career delinquent". Even though there are slight differences it seems as if essentially recidivism and chronic offending refer to the same phenomenon, namely repeated and consistent engaging in criminal conduct. In both cases it is assumed that the percentage of offenders that could be labelled as either a recidivist or chronic offender are responsible for a majority of criminal activities (compare Office of the Legislative Auditor, 2001:1; Conklin, 1995:318, Champion, 1994:87 and Haapanen, 1990:7).

In comparison, it seems as if both recidivism and chronic offending are used as labels to identify repeat offenders. As with the case of recidivism, chronic offending is also not limited to one type of crime but follows a diverse pattern of criminal conduct (Chronic Offenders. 2001:24 and Rowe, Osgood, & Nicewander, 1990:242,243). The researcher is of the opinion that notwithstanding the differences between recidivism and chronic offending, the core of both these phenomena is rooted in the repeated criminal conduct and a pro-criminal lifestyle. Exploring chronic offending is therefore relevant for this study.

Siegel and Senna (2000:60) further divided chronic offending in the following sub-groups, namely chronic delinquent offenders and chronic recidivists. Chronic delinquent offenders are described as youths whose delinquency commences at an early age following a career path of frequent and serious offending. These youths do not age out of crime but continue their criminal career into adulthood.

Tshiwula (1998:3) clarifies that the concept crime is mostly used when referring to adult offenders whereas delinquency mostly describes offences committed by young offenders (juveniles). She further quotes Hoghugh's definition of delinquency namely that it refers to a person who breaks the law habitually or persistently (Tshiwula, 1998:3). Pertaining age it seems as if the age whereby a person is classified as a youth varies in accordance with the legal definition and delinquency laws (Tshiwula, 1998:4; Bartollas, 1997:2). Conklin (1995:7) concurs with Tshiwula adding that the concept juvenile delinquency also includes status offences such as underage drinking, absconding or truancy. This implies that delinquency acts as an umbrella term that refers to a wide range of behaviour from socially unacceptable acts to illegal behaviour. Tshiwula (1998:4) confirms the fact that delinquency is broadly used. However, she emphasised the use of the words 'persistently' and 'habitually' as concepts associated with delinquency. The researcher is of the opinion that this interpretation can be linked with and refers to behaviour patterns associated with recidivism.

In conclusion, with regard to delinquency, it seems as in the case with recidivism, that the concept *delinquency* is applied and defined to suit a researcher's operational needs for a research study. In reference to chronic juvenile delinquency it can be stated that this phenomenon refers to delinquent behaviour associated with the recidivism process. It can therefore be assumed that chronic juvenile delinquency could eventually culminate into a criminal career.

The second sub-group as identified by Siegel and Senna (2001:60) is chronic recidivists. Chronic recidivists can in turn be divided into non-chronic and chronic recidivists. The non-chronic recidivists are offenders that have been convicted more than once but less than five times, whereas the chronic recidivists have been convicted more than five times (Siegel and Senna: 2001:60). The difference between the two categories of recidivists therefore lies in the number of convicted offences. For the purpose of this study the researcher does not make use of criteria whereby the number of criminal deeds indicate recidivism but rather re-offending after a previous prison or community corrections sentence.

In respect of predictions of chronic offending Alfred Blumstein and some of his colleagues (in Siegel & Senna, 2000:60) identified seven factors that distinguish chronic offenders from conventional offenders, namely:

- 1) criminal conviction before the age of thirteen;



- 2) low family income;
- 3) rated as troublesome by teachers and peers between age eight to ten;
- 4) poor scholastic performance by age ten;
- 5) psychomotor clumsiness;
- 6) low verbal IQ; and
- 7) a convicted sibling.

A persistence in crime between the ages of twenty-one and thirty-two was further predicted by low parental involvement in childhood leisure activities, a low degree of commitment to school and low verbal IQ at age eight to ten as well as heavy drinking and unemployment during adolescent years (compare Bartollas, 1997:86 and Maguire *et al.*, 1997:375).

Regarding the prediction of chronic offending, Wolfgang, Figlio and Sellin (in Conklin, 1995:320) maintain that people who have contact with police at a young age are likely to continue this contact by further committing crime as adults. This may be attributed to serious behavioural problems or anti-social behaviour that are conducive to a criminal career. Once the police have identified a youth as troublemaker, the possibility of further contact increases due to the labelling process that took place. Dejong (1997:573) concurs with Conklin stating that the stigma attached to police confinement may result in a person being rearrested despite law-abiding behaviour.

Even though various researchers attempted to identify factors for the prediction of chronic offending, the ability to do so is still controversial and open to debate (Bartollas, 1997:87, Greenberg, 1991:40). Notwithstanding the debate, the following possible predictors for chronic offenders were identified. They are family relations, economic means, age of first contact with the judicial system, repeat offending, educational achievements, IQ, physical and mental attributes and negative labelling. These risk predictors associated with criminal offending are similar to those identified for recidivism (confer point 3.3).

It can be concluded that chronic offending, as in the case with recidivism, refers to a process whereby repeat offending becomes a behavioural pattern subsequently leading to a criminal career. The commencement of these behaviour patterns is usually at a young age and can persist into adulthood.

### **2.3.2 The criminal career**

Farrington as quoted in Maguire *et al.* (1997:361-362) postulates that a criminal career does not appear without warning but is in most cases preceded by childhood anti-social behaviour followed by adult anti-social behaviour and subsequently leading to a criminal career. Anti-social behaviour is an umbrella term referring to behaviour that is viewed as unacceptable within the moral boundaries of conventional society. Haapanen (1990:7) concurs, emphasising the conception

of a criminal career as the commencement of a stable behavioural pattern of criminal offending.

Regarding the chronic offender and subsequently the recidivist's criminal career, Siegel and Senna (2001:60) hypothesize that:

"Chronic offenders begin their delinquent careers at a young age (under 10 years old; referred to as "early onset"), have serious and persistent brushes with the law, build a career in crime, and may be excessively violent and destructive. Moreover, chronic offenders do not age out of crime but continue their law-violating behaviour into adulthood. The important conclusion is that early and repeated delinquent activity is the best predictor of future adult criminality".

This hypothesis touches on three important aspects underlying the criminal career namely the onset of the criminal career, the aging out of the criminal career, and lastly risk predictors associated with a criminal career.

Exploring the onset of a criminal career, various authors concur that in most cases there is an early onset to a criminal career (compare Siegel & Senna, 2001:59, Bartollas & Miller, 1998: 104-105; Brannigan, 1997:409, Conklin, 1995:318 and Florida Department of Corrections Recidivism Report, 1999). Hill (2002:135) emphasises the difference between early and late onset in crime stating that those with an early onset have a lower IQ, more attention and impulsivity problems, they scored

lower on neuropsychological deficits and are more likely to experience adverse family circumstances and peer difficulties. Early onset is also characterised by higher rates of violence. In contrast late on-setters become delinquent predominantly as a result of social influences and interaction with delinquent peer groups. The danger exists that these negative associations and influences may have more long-lasting consequences (Hill, 2002:135).

Bartollas and Miller (1998:103) are of the opinion that chronic offenders become committed to a criminal career through one of two routes namely;

"In the first, noncriminal and situational offenders move from casual involvement with other offenders on the street to being processed with them through the system, to perceive crime as a way of life, and finally to being willing to stand up for this involvement", and

"The second route is quite different. Some youths become absorbed in crime before they have contact with the justice system. These offenders often grow up in ghetto areas and, surrounded by vice and crime, become involved with peers in unlawful acts at an early age".

Both of these attest to a socialisation process whereby delinquency and crime become a lifestyle. This process of pro-criminal socialisation is synonymous with chronic offending and recidivism and will be discussed further in Chapter 3 of this study.

The role of fellow delinquents in sculpting these behaviour patterns is emphasised by Warr as quoted by Farrall (2000:212):

"(T)he transition from criminal to conventional behavior (or vice versa), it seems, is not merely an individual conversion, but rather a social transformation that entails the destruction of old relations or social networks and the creation of new ones. If delinquency is largely a group phenomenon, it should come as no surprise that desistance is also a group process".

The role of these risk predictors as contributing factors to repeat offending and recidivism will be discussed in more detail in Chapter 3.

Pertaining to the aging out of a criminal career the question can be asked if chronic juvenile offenders and juvenile recidivists grow up to become chronic adult offenders and recidivists? This matter is widely debated throughout literature leading to various and often contradicting viewpoints. In this respect Thornberry and Figlio (in Bartollas & Miller, 1998:105) found in their study that there is a substantial drop in delinquent behaviour from juvenile to adulthood. Tracy and Kempf-Leonard concur with these findings stating that about one third of delinquent offenders become adult criminals (Bartollas & Miller, 1998:105). They further found that risk factors associated with early onset, committing of violent crimes and

continued offending through adolescence act as predictors for persistence into an adult criminal career.

The research of Barnett *et al.* (1989:383 - 384) posits a further possibility namely that a small amount of offenders end one criminal career as juveniles only to begin with a further, adult, criminal career. A seven to ten year period can pass between the initial juvenile and adult criminal career. Currently no explanation for these phenomena exists (Barnett *et al.*, 1989:384).

Sampson and Laub, as quoted by Dejong (1997:564), in turn postulate that aging-out of crime can be attributed to the emerging of stable work and adult family bonds, especially marriage bonds. As the investment in the social bond grows, so does the incentive to avoid crime due to the greater loss that is at stake. The interaction between meaningful social bonds and criminality is found in the control theory and will be discussed further in Chapter 3.

From his research Warr (in Farrall, 2000:473) explores the influence of a stable emotional bond on the criminal career and proposes a different reason for the decrease in crime. He is of the opinion that the formation of a stable social bond is likely to reduce the opportunities as well as the motivation to engage in crime. From this point of view, marriage or a stable emotional bond therefore discourages crime by weakening or severing previous criminal associations. This turning point can take place

by means of a gradual or dramatic change. It is further emphasised that these strong bonds commonly occur by chance or luck and conclude that considerable consensus indicate that early onset of delinquency tends to lead to long delinquent careers (compare Farrall, 2000:225-226 and Bartollas, 1997:59).

Contrary to the mentioned viewpoints of Warr, Farrall and Bartollas, Hirschi and Gottfredson are outspoken opponents of the age-crime debate (Farrall, 2000:225-226). They are of the opinion that the effect of age on crime is invariant. They base their statement on historical and cross-culture research maintaining that crime peaks at age sixteen or seventeen and then steadily declines through the remainder of the life cycle. He ascribes this decline to maturation reform stating that ceasing of a criminal career "just happens" (compare Farrall, 2000:253 and Brown, Esbensen & Geis, 1998:151). Aging out of crime can therefore be viewed as part of life course development associated with the development perspective (compare Chapter 3).

Haapanen (1990:36) in turn questions the extent of the arrest-free period that can be seen as an indication of the offender's desistance from a criminal career. In this regard Farrington states that the age of desistance from offending can only be determined with certainty after the offender is deceased (Maguire *et al.*, 1997:373).

It seems as if there are various contradictory views regarding the ageing-out of crime. This contradiction can mostly be ascribed to the interpretation of causative factors contributing to the decline of crime after a certain age. It seems as if no clarity exists as to why offenders age out of crime as some of the researchers attribute this to elements of luck or something that "just happens". The majority of researchers concur that early onset, the severity of the criminal conduct as well as continued criminality are contradictors for aging out of crime and act as indicators or predictors for a continued criminal career (compare Farrall, 2000:253, Brown et al. 1998:151; Dejong, 1997:564 and Greenberg, 1991,18).

Lastly, regarding predictors for a continued criminal career, Siegel and Senna (2001:63), based on recent research, postulate that the best predictor for future behaviour is past behaviour. They further state that "(Y)ouths who have long juvenile records will most likely continue their offending career into adulthood". Farrington mentions two reasons for a continuation between past and future offending. Firstly, past offending reflects a stable underlying construct, namely criminal potential. This is referred to as the heterorganic explanation. Secondly, he is of the opinion that the commission of one crime leads to the possibility of the commission of further crimes. This can be ascribed to reinforcement or stigmatisation and is referred to as the state dependant explanation. Therefore, even though many delinquents do not



persist in offending, it was found that most adult offenders have a history of juvenile offending (Rowe *et al.*, 1990:242).

Eleanor Glueck popularised research on the cycle of delinquent careers as harbinger of a criminal career. She postulates that: "(T)he deeper the roots of childhood maladjustment, the smaller the chance of adult adjustment" (Siegel & Senna, 2001:59). In her research she found that specific personal factors present in early life act as significant predictors of a criminal career. The most important of these are family relations. This includes aspects such as quality of discipline, emotional ties with parents as well as economic means and educational achievements within the family system. She further found that physical and mental factors, among others, low intelligence, mental illness and strong physical built can also act as predictors for a criminal career (Siegel & Senna, 2001:59-60). Farrington (in Siegel & Senna, 2001:63) concurs and concludes that the criminal career reflects one underlying construct of criminal potential, namely, low self-control.

In the case of recidivism, chronic offending and the criminal career, adverse family circumstances as well as physical and mental attributes act as risk indicators for repeat offending (compare Chapter 3).

It can therefore be concluded that criminal behaviour patterns as well as a pro-criminal lifestyle can be associated with both recidivism and chronic offending. It can furthermore be

assumed that a high probability exists for the recidivist and chronic offender's re-offending to culminate in a criminal career.

The personal and behavioural characteristics that can be associated with recidivism and chronic offending will henceforth be discussed.

#### **2.3.4 A general profile of the chronic offender and recidivist**

Bartollas and Miller (1998:103) are of the opinion that the "...predominant characteristic of these youths is their commitment to crime and their involvement in one crime after another, often serious offences against person and property". From this description of the chronic offender in comparison with the definition of the recidivist clear similarities are evident between the two concepts. These similarities, amongst others, lie in their repetitive re-offending as well as pro-criminal life style and behavioural patterns. In this regard Maguire (1995:144) is of the opinion that there is often one core pattern behind hundreds of criminal acts. This pattern can be associated with "...a small set of cognitive habits that define their orientation towards life, and their licence to commit crime" (Maguire, 1995:144). These behavioural patterns and cognitive habits form the roots of the profile of the recidivist and chronic offender's behaviour.

Bartollas (1997:85) concurs stating that chronic offenders and recidivists share a typical attitude that contributes to their involvement in criminal activities. Typical attitudes shared by chronic offenders are:

- If you do not look out for yourself, nobody else will;
- Respect has to be earned through aggression;
- Tomorrow does not matter;
- The weak will be exploited in every possible way;
- The group is needed for protection and emotional support;
- The system is unfair to me; and
- Material things are what life is all about.

These attitudes may vary, but generally can be grouped in several clusters. First, some of the attitudes reflect the fact that the world is a fearful place where only the strongest survive. The second set of attitudes attest of the hedonistic but frustrating struggle of daily existence. Thirdly, these attitudes demonstrate a "macho" approach to life, and lastly a shared belief exists that life is basically unfair (compare Bartollas & Miller, 1998:104-105 and Bartollas, 1997:85-86). Studies identify these recidivists, as coming from a social background that is typically minority, lower or under-class and poverty stricken (Zamble & Quinsey, 1997:34). They grow up on the street with insufficient parental support and have a history of failure in social institutions. Furthermore they demonstrate an inability to function in school, achieve on academic level or form relations with teachers and peers. They are often

perceived as, and feel like, the perennial misfits of society (compare Bartollas & Miller, 1998:104, Bartollas, 1997:84 and Jones & Sims, 1997:336). Cognitive assumptions associated with recidivism, as mentioned above, are feelings of frustration, helplessness, distrust, isolation and stigmatisation.

In relation to attitudes certain thought patterns were identified as being typical of the recidivist. In their research Zamble and Quinsey (1997:48) found that while outside of prison, recidivists' thoughts tend to focus on mundane life events, especially those they experience problems with, such as, family relationships or employment related issues. Their thought patterns further balanced between being overly positive about the future, on the one side and on the other side, by negative cognitions surrounding the inevitability of returning to prison. The positive future perspective and thoughts associated with self-improvement in most instances remained thoughts, and were not practically implemented (Zamble & Quincy, 1997:48). It was found that generally positive thought deteriorated into pessimism in the period before the recidivist re-offended. After the recidivists resumed their criminal activities their thoughts focused on the justification of their criminal activities. It is interesting to note that in most cases recidivists perceived their re-offending as a way of dealing with a particular problem (Zamble & Quincy, 1997:49). Maguire (1995:145) refers to this as the "anti-social logic" that is common to many repeat offenders. This is based on the assumption that offenders think of themselves as the

victim, granting them a license to do as they please. Any interference is perceived by the offender as being unfair and classified as victimisation. Social order is of no consequence to them and crime is perceived as the best option they have. Punitive measures are often perceived as being a further display of the unfairness of society, and deemed to be a license to break the law (compare Bartollas & Miller, 1998:104, Bartollas, 1997:84; Jones & Sims, 1997:336 and Maguire, 1995:145). Maguire (1995:146) states that this behaviour pattern is learned behaviour that is used as a problem-solving tool. It is important to note that the recidivists' thought patterns are based on attitude as discussed in the previous paragraph.

Substance abuse is also a way of life and part of the profile of the recidivist. In their study Zamble and Quinicy (1997:35) found that substance abuse was one of the most frequent behavioural problems the recidivist experienced. The recidivists' inability to solve problems in a socially accepted manner was often associated with their substance abuse. These maladaptive patterns, inclusive of substance abuse, were in the most cases present before the recidivist re-offended (Zamble and Quinicy, 1997:51).

Another facet is the anger that some of these chronic offenders experience due to the emotional deprivation they experience within family relations as well as their general circumstances. Their anger can further be associated with the

process whereby their positive attitudes, after release, make way for more negative cognitions about the future. This anger is frequently expressed through aggressive acts (compare Bartollas & Miller, 1998:104, Bartollas, 1997:84; Zamble & Quincy, 1997:46 and Jones & Sims, 1997:336). Combined with aggression, depression and anxiety were identified as destructive emotions experienced by the majority of recidivists (Zamble & Quincy, 1997:43).

From her experience in working as a social worker within the Department of Correctional Services, the researcher constantly deals with these individuals who often perceive life as having dealt them a raw deal. Their attitudes, learned from an early age, act as a wall around them resulting in streetwise survival orientated emotions of anger, mistrust, isolation and hopelessness. These chronic offenders' lifestyles centre around delinquent activities, where they eventually engage in a criminal career for most if not for all of their lives. The recidivism process will be discussed in more detail in Chapter 4.

## **2.4 CONCLUSION**

Currently, in South Africa, recidivism is an academic metaphor and label that is widely, though contradictorily used. This is due to the lack of formal conceptualisation and operationalisation of the concept recidivism. In this chapter it became apparent that recidivism is a complex phenomenon that has a negative impact on all levels of society and therefore warrants more in-depth exploration. In order to understand the phenomenon, the

researcher defined recidivism within an operationalised context. Based on this operationalised conceptualisation a system was identified whereby an offender can be classified as a recidivist.

It further became apparent that recidivism and chronic offending not only both refer to repeat criminal conduct but also have similar dynamic habitual behavioural processes and patterns. The threat of recidivism and chronic offending lies in these behaviour patterns. These behaviour patterns can be associated with the recidivist's interpersonal social functioning as well as interaction with external factors.

In the next chapter the causative and risk factors associated with recidivism will be further explored.