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**The exploration of the reporting and evaluation of child rape cases by social workers in Usizo  
Centre**

By

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## Declaration

This is to confirm that this dissertation is my own and is not the work of another person(s). I have not forged the work of any person(s) or any research institution.

I have not submitted this dissertation to any other university for any diploma, degree or post-graduate qualification.

The authors whose work has been mentioned and cited in this dissertation have been acknowledged.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Supervisor's signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Dedication

I dedicate this thesis to my grandmother whom I have never met ithole lako Mandlanduna uMrs. Alvina Mbatha (*MaLuthuli*). I stand today because of the prayers you made for me before I was born. I am a strong woman today because my mother learnt to be strong from you and I learnt to be strong from her. I am educated today because you emphasised the importance of education to your children. Although I have never met you, I feel your presence each waking day. I exist because you existed before me and paved the way for me. Ngiyabonga *Mshibe, Madlanduna abad'insikazi belambile. Ngoze ngikwenze owangenza khona!! Nina eningawadl'amasini ningawanikiwe nesab'amas'ehla ngendololwane, nina bakwaMashiza, Ndlwan'enhle, Sigencagenca mbaz'ebukhali, Malal'aqhamuke ngezansi, Zingwazi ezidla inyama abanye bed'inyamazane, Mavel'enkomeni abanye bevel'ebantwini, Luthuli lwezinkomo, Mshibe kaNonopha, Mshibe kaMakhiph'inj'efukwini kuzalele yena, Donda!*

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## Abstract

When South Africa saw the dawn of democracy in 1994, the newly elected government faced the challenge of making the country inclusive for all, including children. The government thus had the task of ensuring the protection of all South African children, irrespective of their race, gender, socio-economic class and geographic location. Two of the ways in which they sought to address this was by reserving section 28 of the Constitution of the Republic of South Africa exclusively for children and by making amendments to the Children's Act 74 of 1983 to align it to the ideals of the democratic state. Some of the amendments made are found in section 110 of the Child Care Act of 2005. The section provides guidelines and procedures of how a child rape case should be attended to by the relevant stakeholders such as social workers. The purpose of this research therefore, was to explore the reporting and evaluation of child rape cases by social workers in light of the procedures stated in section 110 of the Child Care Act of 2005. The research question came about after the increased reports of child rape in the media irrespective of the amendments to the Child Care Act of 2005 and the formulation of the National Register of Sexual Offenders. The study investigated the role of social workers as advocates for children and their participation in child rape cases. The aim of this research was to evaluate if the procedures of reporting are effective in ensuring that children who are victims of rape receive justice. The study focused on the reporting of cases of children aged 0 to 7 years old. The research was conducted in a medico legal centre in Durban, Phoenix which is a one stop centre for victims of sexual and physical abuse. The research design utilised in this study was the evaluation research design. The methodology used was the qualitative research method and the method of analysis was thematic data analysis. From the findings of the study it was established that the working relationship between different stakeholders sometimes had a negative impact on the reporting process. The idleness of certain individuals in the reporting process jeopardises the chances of a successful conviction against the perpetrator. The scarcity of resources and workspace also impacted on the reporting process and also put the victims in jeopardy of experiencing secondary victimisation. Lastly, the skills of certain stakeholders was questionable since the working with children is a specialised field which needs individuals with a high level of skills and competency. In conclusion, it was recommended that the training of stakeholders in their field of work must include how to question and gather evidence in a victim friendly manner. Policies must be in place to test the competency and skills of the stakeholders that work within the centre. The availability of resources

and workspace also needed to be addressed in order to address work efficiency and lower the chances of secondary victimisation.

Key words: *Child Care Act of 2005, Rape, Sexual offences, Secondary victimisation*

## Abbreviations

ANC	: African National Congress
AU	: African Union
COGTA	: Co-operative governance and traditional affairs
CSAAS	: Child Sexual Abuse Accommodation Syndrome
DBE	: Basic Education
DCS	: Correctional Services
DNA	: Deoxyribonucleic acid
DoH	: Department of Health
DoJ&CD	: Justice and Constitutional Development
DSD	: Department of Social Development
NFFD	: National Forensic Database
NGO	: Non-Governmental Organisation
PrEP	: Pre-exposure prophylaxis
SACSSA	: South African Council of Social Service Providers
SAPS	: South African Police Service
TCC	: Thuthuzela Care Centre
UCT	: University of Cape Town
UKZN	: University of KwaZulu-Natal
UN	: United Nations
VEP	: Victim Empowerment Program

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## 1.1. INTRODUCTION

Child rape is a horrendous occurrence that seems to be widespread in South Africa. Weekly newspaper reports suggest that many girls and boys experience rape in South Africa. Additionally, the South African Police Services (SAPS) reports that in the 2016/17 financial year 39 828 cases of child rape were reported across police stations in South Africa (Africa Check, 2017). SAPS statistics are however skewed towards reported cases and many scholars believe that incidences could be much higher as some may go undetected or unreported (Institute for security studies, 2014 cited in Africa Check, 2015). The Optimus (2016) study, which is the most recent study on child rape and the first nationally representative study in South Africa shows that 750 000 children are sexually abused and that soccer city stadium (the biggest stadium in South Africa) could be filled up eight times with young sexual abuse victims (Smillie, 2016). The study also shed light on male children sexual abuse stating that boys were more likely to experience non-contact sexual abuse such as being shown pornography while girls were more likely to experience contact sexual abuse such as forced penetration (Smillie, 2016).

There have been no documented statistics of sexual offences specifically looking at children aged 0 to 7 years age. It cannot be assumed that children between those ages are not prone to being victims of sexual offences. In fact, preschool going children and those younger stand an equal chance of being raped as children of the most vulnerable age to rape, which are children aged six and seven years (Howard, 2002). A study conducted by Howard (2002) at the Childline Family Centre showed that the majority of cases referred to the centre were of preschool children and children aged and six (Howard, 2002; 1)

Very little is documented about rape amongst preschool children and those younger than them, even though in the media there seems to be more cases being reported regularly. Researchers of victimisation studies on sexual abuse of minor children only suggest that the scope of this problem is extensive (Terry & Tallon, 2004; Howard, 2002). There is also a lack of knowledge on how to administer interviews and interventions with these children. Howard (2002) attests to this by stating that many authors have described sexual abuse and interventions with children in literature but that very few authors have described the sexual abuse and interventions with sexually abused pre-school children.

An article by Rajaram (2015) highlights how child rape is more common in the household or in places that the victim is familiar with. Rajaram (2015) further states that 46% of rape victims were sexually abused by family members and that 7.2% of disclosed rape incidences were committed by the fathers and stepfathers of the children. Although these statistics are from India, a similar trend exists in South Africa whereby rape in the household is high. The "Optimus" study (2016) for example revealed that 17.4% of the female participants reported that they experienced rape in the household and 15.6% of the male participants reported that they had experienced rape at home in their life time.

Although the prevalence of child rape of children aged 0 to 7 years has not been well documented or studied we cannot turn a blind eye and assume that the prevalence of child rape of those ages is low. Children between the ages of 0 to 7 are either too young to report that they have been raped because they cannot speak or do not understand what is going on. Thus, they depend on adults who will report on their behalf. It is medical examinations that can confirm that these children have been raped by checking if there has been interference with the child's genitalia and the presence of forensic DNA in and around the genitalia and anus. Children that can speak usually suffer from a syndrome called child sexual abuse accommodation syndrome (CSAAS) and do not disclose that they had been sexually violated (McCord, 1986). This is caused by the fact that the people who usually rape children are people the children know and whom they trust, therefore there is fear on their side that their disclosure will not be believed (Summit, 1983). Fouché

(2006) attests to this by stating that children are unfortunately not believed in most cases after disclosure instead they are blamed for the consequences of the disclosure.

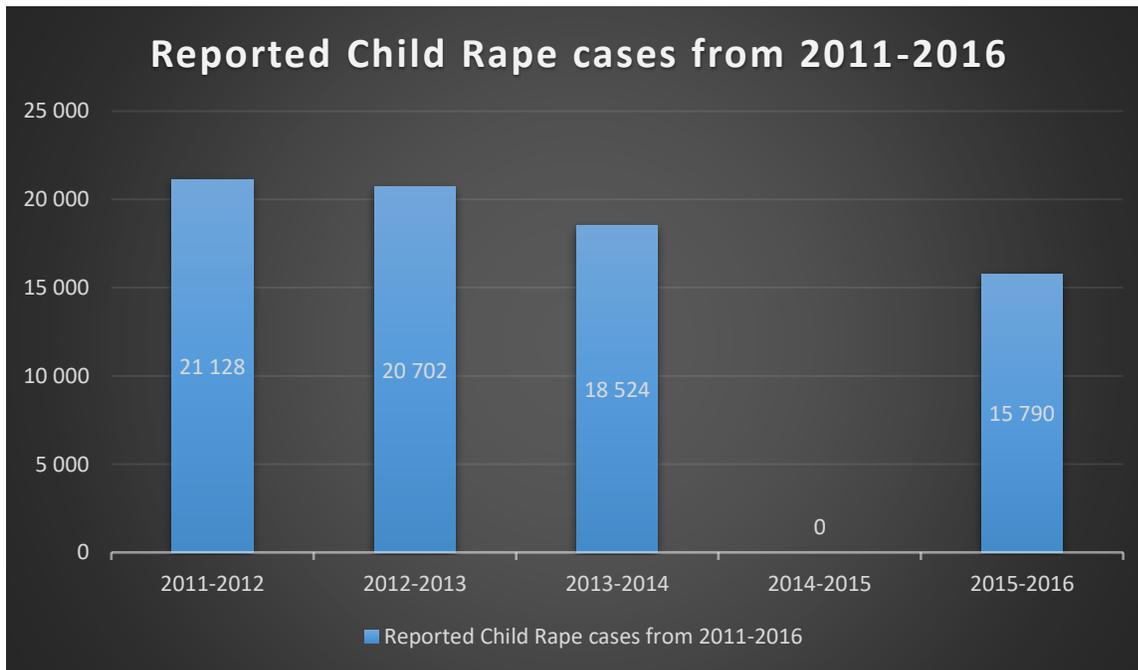
## 1.2. PROBLEM STATEMENT

When South Africa gained its democracy in 1994, one of the goals the new government set out to achieve was that of equality. One of the ways of achieving this was to draw up a new Constitution that would afford all citizens of the country equality and fairness. This is because the laws that governed the country during the apartheid era were racially exclusive to White people and their children. Davis (1981: 172) explains this by stating that “In the USA and other capitalist countries [such as South Africa], rape laws as a rule were framed originally for the protection of men of the upper class, whose daughters and wives might be assaulted”. Hence, to ensure that there is equal protection of children in the democratic dispensation, the new government amended the Child Care Act of 1983 and section 28 within chapter 2 of the Constitution of the Republic of South Africa Act 108 of 1996 was reserved for children. The Sexual Offences Act 23 of 1957 was also amended and the National Register for Sex Offenders was established in 2007 as an Act in Parliament. Although much has been done to ensure that children are protected, there are still alarming statistics of child rape. This is even after the implementation of the 1996 National Crime Prevention Strategy (NCPS) by the Cabinet which was signed in 1995. One of the aims of the NCPS is crime prevention through the national justice process, public values, education and the reduction of crime through environmental designs (South African Police Service, 2005).

The increase of reported rape statistics during post-apartheid could be influenced by the fact that South Africa is now a liberal state. It is also important to note that the increase of reporting of child rape cases could be caused by the fact that families and communities have become more conscience of child rape. Other contributing factors is that anyone who suspects that a child is being sexually violated can report their suspicions to the police. The beginning of the millennium saw a great shift, whereby many cases of child sexual offences cases attracted much attention from the public. Some of these cases include a 4-year-old girl child who died after being raped by her father and a 9-month-old

who was raped by six men aged between the ages of 24 and 66 (McGreal, 2001). McGreal (2001) further reports that police statistics indicated that 21 000 cases of child rape or assault were reported in 2000 and that the majority of rape crime was committed by the male relatives of the children.

The statistics released by the South African Police Service (SAPS) for the 2015/2016 financial year concerning the reported cases of child rape of (children below 18 years) stands at 15 790 (Wilkinson, 2016). When comparing this figure to the statistics reported for 2011/2015 (shown in the graph 1.1 below) there is a significant decrease in the reported rapes of children below 18 years. It can be argued that such findings are an indication that there are fewer cases of child rape that are occurring. On the other hand, however, it can also be argued that the decrease of statistics of reported rapes is an indication that child rape might not be reported when it occurs. Unfortunately, the available rape statistics show how many cases have been reported to the police they do not reveal how many cases of rape have been committed (Wilkinson, 2016).



Graph 1.1 Statistics of reported rapes *Source: Africa Check*

Statistics released by the National Prosecuting Authority (NPA) for the 2014/2015 financial year indicate that there was a 69% prosecution of sexual offences matters with

a 1.9% improvement from the previous year (National Prosecuting Authority, 2014). For the 2016/2017 financial year, the statistics were based on the number of cases that Thuthuzela Care Centre's (TCC) referred to the courts for prosecution and cases referred to the courts directly from the police stations in South Africa. Of the 6920 cases from the TCCs, 1011 cases were convictions of cases of children below the age of 18 years. Furthermore, this category also saw an increase of 3.8% from the previous financial year (National Prosecuting Authority, 2016). The conviction rate of rape cases can also be questioned when considering that cases that go to court are only those with significant evidence. Rademeyer (2013) argues that the NPA usually prosecutes cases that it is most likely to win. Rademeyer (2013) further states that the conviction rate does not reflect the number of successful prosecutions in relation to the incidents reported to the police. This is because the NPA determines its conviction rate by dividing cases with guilty convictions with cases that have received convictions (Rademeyer, 2013). It is also important to bear in mind that TCCs are not found in every hospital and that there are regions in South Africa that do not have TCCs. The statistics by the NPA are flawed in the aspect that they focus only on the convictions of cases from the TCCs and do not include statistics from areas that do not have TCCs. To say that these are national statistics is very questionable.

It is therefore important to question if the procedures stipulated in section 110 of the Child Care Act of 2005 (herein referred to as the Children's Act) on reporting child rape are effective and if they cannot help police find suspects and ensure that cases get prosecuted by the courts. This also means that perpetrators roam freely which puts the victim in danger of being re-victimised and other children being in danger of becoming victims of rape. Secondly having to retell the story of how the rape prevailed can cause secondary victimisation to the victim. Whiteside and Dey (2015) highlight that by retelling the story of what transpired to many different people forces the victim to relive the same traumatic feelings experienced during the rape itself. Procedures of reporting a rape case as stated in section 110 of the Child Care Act of 2005 require that the victim tell their story of how the rape unfolded to at least two different professionals and then have a forensic examination conducted by the relevant medical practitioner (a nurse or a doctor) for evidence.

It is also important to note that once a case has been reported to a social worker, the ethics and principles of the profession dictate that they should report the case to the police whether or not consent has been obtained from the guardian of the child (SACSSP, 1978). This is predisposed by the standards of the Bill of Rights (that the profession has a legislative mandate to uphold), which vividly states that any of the cases; may it be rape, murder, assault and treason are directly in the hands of the state despite the contractual capacity of a subject. This judicial standard directly protects minors and partially includes majors. The cases within this scope, also known as the criminal cases, are subject to professional conveyance.

The statistics mentioned in the above text indicate that there is a problem that exists when reporting child sexual offences cases either with the process of reporting or with authorities working with victimised children. A 69% conviction rate of child rape cases is laudable but there is still room for improvement. Moreover, these statistics are biased in the sense that they only focus on TCC cases and not cases that are reported directly to SAPS or with social workers. It can be assumed that the conviction rate of child rape cases is lower than 69% when cases opened at police stations and with social workers are included in the statistics. The conviction of child rape cases heavily relies on the reporting process thus the need to evaluate if the problem lies in the process itself or with the authorities that enforce it with reference to social workers. As argued with evidence above, the professional team is obligated to convey these cases without the help of the guardian. Thus, it is important to look at why there are cases that get withdrawn because social workers are children's advocates and have a mandate to fulfil which is to ensure that the children are protected at all times. By allowing cases to be withdrawn the child who has been victimised is in risk of being re-victimised and other children are in danger of being victims of child rape.

### [1.2.1 Understanding the nature of the problem](#)

The first seven years (ages 0-7) of a child's life are the most important years and are considered to be the blue print of their life. Traumatic events such a death or rape have negative effects on the child's development and may have grave consequences on the child's future. Research conducted by The National Child Traumatic Stress Network

(2009) shows that children who are victims of early childhood trauma, which is trauma experienced during 0 to 6 years of age are at risk because their rapidly growing brains are vulnerable. The research findings also show that children who have experienced extreme trauma have a reduced brain cortex which is the area in the brain that is responsible for complex functions such as memory, attention, awareness and language and changes to the brain may affect the intelligence quotient (IQ) and the ability to regulate emotions (The National Stress Network, 2009).

As previously alluded to in section 1.1, there has been an increase on media reports reporting child rape in newspaper reports. This shows that child rape is on the rise and child rape of children in preschool and younger which is believed to not occur does occur. Therefore, it is necessary to look at whether existing procedures of reporting rape which social workers are subjected to be efficient in making sure that the perpetrators are successfully convicted. The criminal justice system remains broken when it comes to rape and child abuse (De Wet, 2013). Many authors recognise the increasing statistics of rape however, few of them recognise the increase of preschool children being raped (Howard, 2002). This could very well be the reason as to why these perpetrators roam the streets and possibly re-victimising the child or victimising other children (Africa Check, 2017; Institute for Security Studies, 2016).

The lack of focus of preschool children who have been raped has also led to the under development of techniques that can facilitate disclosure and guidelines that would aid in assessment and therapeutic intervention of preschool children (Howard, 2002). One of the key elements of getting a successful prosecution of case is having enough information to prove guilt with reasonable doubt. Therefore, it is vital to check if the procedures that are already being used can achieve this.

The amendment of the Child Care Act of 2005 allows for any professional working with children to report abuse that physical and sexual and neglect to a designated child protection organisation, the provincial department of social development or a police official (Sloth-Nielsen, 2015). The Social Work Code of Ethics of 1997 also binds social worker legally as advocates for children to report cases of child rape to relevant

authorities. The procedures of reporting a child rape case involves many professions however, social workers are usually the first people who will receive victims of child rape. The responsibility of social workers is to report these cases as they are mandated by the law to report cases. The legal implications of this is that any social worker that does not report the case to the police will be arrested as they are in breach with the law. Furthermore, the social workers registration with the South African Council of Social Services Profession (SACSSP) will be revoked and the social worker will not be allowed to practise within the field of social work.

### 1.3. STUDY AIM

Dreyer (1994: 375) states that “the aims of the study may be referred to as the purpose of the study”. When a research study is conducted it is because its purpose is to acquire new information on a certain phenomenon. The aim of this study is as follows:

The aim or the purpose of the study is to establish whether the procedures of reporting and evaluating child rape cases as stipulated in Section 110 of the Children’s Act, 2005 are effective in ensuring that perpetrators are successfully prosecuted and possible victims protected.

As previously stated there are child rape cases that do not make it to the courts because they are “undetected”. Section 110 of the Children’s Act of 2005 is the primary framework that states how child rape cases should be handled. Legislation is implemented in order to protect the vulnerable and for justice to be served to those who have been wronged. If section 110 of the Children’s Act, 2005 is failing to achieve this as the primary framework that directs the course of how child rape cases should be handled, then there is a need to ask where and how this piece of legislation is failing children. The wellbeing of the child is as much as important as justice being served for them. Section 110 (7) of the Children’s Act, 2005 states that once an investigation has been conducted the provincial head of social development or the designated social worker may take measures to assist the child such as offering counselling. Therefore, there is a need to find out if there is a therapy and assessment framework that social workers use for therapeutic purposes exists and if it works in counselling children.

## 1.4. STUDY OBJECTIVES

Terre Blanche, Durrheim and Painter (2012) define the objectives of a research study as being the specifics of who and what the researcher wants to draw conclusions from. The objectives of the study were as follows:

1.4.1 To establish whether certain child sexual offences cases are not reported to police and the rationale behind such notion.

The Commentary of the Children's Act states that the amendment to have different professions to be obligated to mandatory reporting is a concern because the country has scarce skills and the child protection system is still fragile and developing (Sloth-Nielsen, 2015). The concern is that the child protection system is being overwhelmed with reports with no supporting evidence which use up scarce skills in endless investigations instead of therapeutic service delivery (Dawes, *et al.* 2007) (in Sloth-Nielsen, 2015). If there is a concern on the child protection system being flooded with unsubstantiated reports there is reason to ask if there is a criterion to establish if a case is "worthy" to be reported to the police.

1.4.2 To determine the processes followed by social workers in an endeavour to meet out the best interest of a child in rape cases in Usizo Centre.

Article 4 of the African Charter on the Rights and Welfare of the Child [ACRWC] (1990) states that "in all actions concerning the child undertaken by any person or authority the best interest of the child shall be the primary consideration". Section 9 of the Children's Act, 2005 also highlights the child's best interest as being the primary consideration when actions towards children are taken. There is a need to establish if decisions taken on behalf of children are in their best interest since there has been research done on the withdrawal of child rape cases (SALC, 2001)

1.4.3 To assess if children are liable to participate in their rape cases.

Although the cohort group the study is looking at may have individuals that are too young to talk for themselves, those children who can speak and who have the mental capacity must be involved in their cases (O'Loughlin and O'Loughlin, 2016). Not only is this their right but it also helps with obtaining enough information on the case to prove guilt. The

brain of the child does not function as that of an adult, meaning that the manner in which adults and children articulate themselves differ. Therefore, there is a need to look at how social workers engage with young children and whether they have the necessary skills to do so.

#### 1.4.4 To evaluate the psychological impact of secondary victimisation on child rape victims.

Experiencing rape is a traumatic experience and having to be subject to secondary victimisation can have grave psychological implications. This can have an impact on the manner in which children view the professionals that work with sexually abused children and could further affect their brains. As mentioned earlier the cortex of the brain of a sexually abused child is smaller which can have an effect on the child's IQ and it makes it hard for them to control emotions such as aggression. This can potentially be one of the reasons why there are children classified as "slow learners" who sometimes do not finish school because of their learning disability.

### 1.5. RESEARCH QUESTIONS

Terre Blanche et al (2012; 540) describe research questions as being "the question that the study wants answered". The research questions of this research were as follows:

1. Are certain child rape cases not reported to the police by social workers and if so why?
2. How is the best interest of the child determined?
3. Do children participate in cases that involve them?
4. What are the known effects of secondary victimisation?

As mentioned, the significance of research questions in a research study is to answer the question the study is asking. The researcher believes that the formulated questions do that because they are centred around the main research question and make assumption that the factors mentioned in the research questions have implications on the successful reporting and conviction of child sexual abusers.

## 1.6. STUDY SIGNIFICANCE

### 1.6.1 Macro level

Laws and policies that govern the country are formulated at a national level and have a top-down effect on the public. Although the public is asked their opinions through the use of the *Gazette* they however do not have a say in the formulation of these laws. These laws such as the Child Care Act of 2005 have a huge impact on the public and it is necessary to see how the decisions made in parliament have an impact on the process of reporting rape and whether these cases get prosecuted. The aim of this study was to show the effects of the implementation of the laws on the lives of people. This dissertation also suggests ways in which these laws can be better suited for the people.

### 1.6.2 Mezzo level

Provincial government reserves the right to establish laws and policies that the province will use as stipulated in section 76 (2) of the Bill of Rights of 1996. However, these rights must not be in conflict with the constitution of the country. It is important to establish if provincial legislation facilitates the prosecution of child rape cases. This study has looked at whether the resources that are available at a provincial level are able to meet the legislative and policy requirements made at the national level.

### 1.6.3 Micro level

Although laws and policies may be created at a national and provincial level, there are factors that may come into play in making it hard to ensure that these laws and policies are upheld. Meter and Horn (1975) state that the implementation process can be influenced by several factors which include the economic, social and political conditions that prevail at the time. The researcher identified caseloads, resource availability, working relationships between different professions and competency of professionals as being other factors that hinder the effective implementation of policies and laws. It is important to see how these factors and others may be challenged to ensure that justice and therapeutic intervention is received by the victim. This study has looked at whether all

these services and resources offered at a local level are able to execute the functions that are needed of them and whether these resources and services are supported financially to do the function that is needed of them.

There also arose a need to look into the possibility of having specialised task teams which will be responsible for handling rape cases. Not every police station has a Child Protection Unit which results in cases being handled by inexperienced and unqualified professionals. This task team would be trained on how to write good reports and collect evidence so as to ensure that there is an increase in cases deemed worthy to be brought before the courts. This study focused on establishing whether resources at the local level are sufficient enough to meet the requirements made by national and provincial legislation.

## 1.7. CHAPTERS PROGRESSION

- **Chapter Two: Literature review**

Chapter two focuses on the review of existing literature with reference to this study. This chapter describes child rape and looks at the different forms of rape, the history of rape in South Africa and the different laws formulated to protect children. The chapter further discusses the role of social workers in rape cases, the participation of children in their cases and the effects of secondary victimisation on the children and their immediate communities.

- **Chapter Three: Theoretical framework**

The theoretical framework chapter looks at the three theories that guide this research and explains their applicability to the study. For this study, two pieces of legislation and a policy were used as the theories that underpin the study and are as follows: The Child Care Act of 2005, the Thuthuzela Model and the Service Charter for Victims of Crime in South Africa.

- **Chapter Four: Research design and methodology**

The methodology chapter describes the methods and tools used in the study. It looks at the location of the study and how the research participants were selected to take part in the study. This chapter also looks at the ethical considerations observed in conducting this research. The final section of the chapter outlines the limitations of the study.

- **Chapter Five: Data analysis**

The data analysis chapter puts into perspective the data collected from the research participants with the aim of answering the research questions. The chapter also highlights new data that has emerged from the data collection process.

- **Chapter Six: Summary, conclusion and recommendations**

In this chapter the researcher summarises the contents of the dissertation and makes recommendations to the relevant stakeholders.

## [1.8. SUMMARY](#)

This chapter described the focus of this research by providing a background of the problem, the aim and objectives of the study, the research questions and the value of the study. The following chapter is the literature review chapter.

## 2.1. INTRODUCTION

The following chapter is the literature review chapter. According to Terre Blanch, *et al* (2012:561) the literature review is the “identification and analysis or review of the literature and information related to what is being intended to be, or has been, studied”. By having collected literature and compiling a literature review it enables the researcher to identify gaps within literature which enables them to formulate a research approach which will assist in filling up those gaps of knowledge. Secondly, the literature review gives the researcher insights on what other authors have to say about the topic they are researching. This enables the researcher to identify any relationships or patterns that may exist between literatures, which in turn will provide a background to a researcher’s investigation (Citewrite, 2017). Having a solid background is vital for any research study as this shows that the study is scientific, making it hard to question the validity of the study.

This chapter will focus on the background of sexual offences and how the related legislation was formed; the different forms of sexual offences; the profiling of rape offenders; the role of the social worker; the participation of children in their cases; the determination of the child’s best interest; the use of forensic evidence in children’s cases and the psychological effects of secondary victimisation.

## 2.2. HISTORICAL BACKGROUND ON SEXUAL OFFENCES (RAPE) AND THE FORMULATION OF CHILD LAWS PROTECTING CHILDREN

Historical background refers to the social, historical and other antecedents or case of an event or condition (Collins English Dictionary, 2012). The history of rape dates back to ancient civilisation and was considered to be a horrendous crime back in those times which had severe consequences. Snelling (1969) states that it is evident that rape has long history because it dates back to Roman, Jewish and Anglo-Saxon law and it was

considered to be a misdeed that was disapproved and discouraged. Snelling (1969) further states that the offence was considered to be a felony that resulted in death or castration and the loss of eyes.

In South Africa, rape is documented to date as far back as during the colonisation of the country by the European explorers. Ronald Hyam [The past historian of the British Empire] (in Ray, 2013) wrote in one of his essays that the expansion of Europe was not only about Christianity and commerce, but was also about seizing sexual opportunities with forceful or authoritative force (Ray, 2013). Gqola (in The Guardian, 2015) also supports this statement by stating that rape and the forced impregnation of slave women in the Cape society was the core feature of British colonial rule.

The settling of European explorers in South Africa led to the slavery of the native Khoi San men and women. Moreover, because only certain European women were allowed to accompany their men on voyages to come and settle in South Africa and in other African countries there was a disproportion between the White men and women. This resulted in White men engaging in interracial relationships for sexual gratification (Tiryakian, 1993) (Stoler, 1991). In addition, because these men “owned” these native women they did not need to have consent to engage in sex with them. Slavery did not have an age limit, which means that children also became victims of rape. In the eyes of the white man the Black woman was a lustful, promiscuous Jezebel who always tried to seduce their master (West, 2004). West (2004) further states that although rape was considered to be a crime, there were no legal or social sanctions against the raping of black women as it was believed that Black women could never suffer any violation since they were seen as objects and not human beings.

Many wars prevailed between Nguni tribes and Europeans. Wars also prevailed between the English and the Afrikaners. This was due to the Policy of Federation that the British high commissioner was set to realize in 1879. This policy was set to bring various British colonies, Boer republics and independent African groups under common control (SAHO, 2011). In an effort to fight off colonisation, the wars of resistance commenced from 1879-1896. Although South Africa had received its independence and became a Republic in

1961, Black people remained oppressed, especially Black women and their children. In 1948 the Segregation Act was implemented in South Africa and non-Whites continued to be oppressed. Because black men were also victims of apartheid, rape was used as a means to show dominance and assert their positions as men in communities. Black men were oppressed by the apartheid system that they ended up using violent tactics to make themselves feel masculine. According to Armstrong (1994), men of all racial group used rape as a form of violence to assert their authority and power over women's bodies and minds. It can be argued that the prevalence of rape was not as high as it today when compared to the days of apartheid. However, there are factors that need to be taken into consideration when making this claim.

Armstrong (1994) reports that gender activists recognised that rape statistics were escalating during apartheid but no one commented on this. Going to the police station to report rape meant that Black women were putting their lives in danger because a Black woman being seen at the police station was perceived as an informant against the political activists, which resulted in her being murdered or her house being burnt down (Armstrong, 1994). Secondly, their disclosure of being raped would not do much for them, as instead it would cause further traumatising for them.

Armstrong (1994) further argues that because of the triple oppression of race, class and gender rape for poor Black women is perceived as something that is part of their lives. Black women have and to date continue to suffer abuse at the hands of black and white men. White women were also affected by rape, however, the law was more receptive to them and although White men also raped White women, it was only the Black men who received a sentence of hanging for raping White women (Armstrong, 1994).

Rape did not only happen in the homes of the victims but at the schools too. Jackrolling, which is the abduction and raping of girls was very common in schools during the apartheid era. This act was motivated by the need to intimidate girls in order for them to stop attending school and in a way to assert male authority (Armstrong, 1994). Armstrong (1994: 37) argues that "Education plays a role in allowing an individual to gain access to

and control of assets and resources, and thus pose a potential threat to gender power relations.

In 1994, the country had its first democratic elections and the African National Congress (ANC) was voted into power. The appointment of the ANC led to the formation of the Bill of Rights which was formulated in 1994 and put in place in 1996. According to section 7 of the Constitution of the Republic of South Africa (1996; 5), the Bill of Rights is the cornerstone of South Africa's democracy. The values of the democratic South Africa as enshrined in the Constitution are human dignity, the achievement of equality and the advancement of human rights and freedom. Hence, to ensure that there is equal protection and equality amongst the children of South Africa, all laws that were formulated during the pre-democratic era had to be corrected in order to be inclusive.

This led to the amendment of the Child Care Act of 1983 and the formulation of the Child Justice Act, 2008, the Sexual Offences and Related Matters Act, 2003 and the National Registry of Sexual Offenders, 2007. All these laws were created to protect children and since their introduction, more cases of child rape have been reported as people have become more comfortable to report these cases to police.

Throughout the years, women and children have been left with the scars of rape with little to no consideration being taken on their mental state of being. Rape is a crime that not only harms an individual physically but can cripple victims emotionally for life (Dinisman and Moroz, 2017). Fortunately, the state provides services that ensure that rape survivors get the necessary help that will help them come to terms with what has happened to them. It is the state's responsibility as stipulated in the Bill of Rights to ensure that whatever resources the victim needs to help them deal with the ordeal be provided to them. However, the greatest relief only comes when the survivor feels a sense of security and that can only be achieved when the perpetrator faces the full extent of the law. For such to materialise the case needs to be reported to the police and brought before the courts. Rape Crises Cape Town Trust (2015) has released statistics which indicate that the total number of rape cases could go up to 482 000 from the 53 617 rape cases reported to the SAPS because many rape cases are not reported. By not reporting sexual abuse cases

or by having cases dismissed and not prosecuting them makes children become prone to secondary victimisation.

The dismissal of cases is usually because not enough evidence gets collected in order for the case to be prosecuted. Section 110 of the Child Care Act, 2005 provides the procedures that need to be followed when collecting evidence for child rape cases and services that must be offered to the child to help them deal with the ordeal . Research reports and literature show that many cases get prosecuted and those that do get prosecuted have a low conviction rate. Therefore, we need to question whether or not Section 110 of the Child Care Act, 2005 is fulfilling its mandate which is to ensure that children who are raped are protected and are not vulnerable of being victims of rape again. Moreover, to also establish if it is being implemented properly because that may be the reason why the Section's mandate is not being met.

### 2.3. THE NATURE OF CHILD SEXUAL OFFENCES (RAPE): CONCEPTUAL ANALYSIS

The Sexual Offenders Act, 2007 describes rape as an unlawful and intentional act of sexual penetration committed to any person without their consent. Sections 15 and 16 of the Sexual Offenders Act (2007) further provide that having sex with a child even if they give you consent it is regarded as child rape and the consensual sexual violation of the child. Becket (2007:66) describes child rape as the “forcing or enticing a child or young person to take part in sexual activities, including prostitution, whether or not the child is aware of what is happening. The activities may involve penetrative (i.e. rape, buggery or oral sex) or non-penetrative acts (i.e. touching of the genitals). They may include non-contact activities, such as involving children in looking at, or the production of, sexual online images or watching sexual activities, or encouraging children to behave in sexually inappropriate ways”. There are many forms in which rape may occur, and the settings in which rape occurs in differ. Spies (2006) distinguishes these settings rape that occurs within the family which is known as familial sexual abuse or abuse and rape that occurs outside the family which is known as non-familial sexual abuse. The following table (which is adapted from Fouché's (2007) study) will show different forms of contact and non-contact sexual abuse which have been identified by various authors:

**Table 1: Different forms of contact and non-contact sexual abuse**

Contact sexual abuse	Non-contact sexual abuse
<ul style="list-style-type: none"> <li>• Use of the child's armpit for sexual gratification.</li> <li>• Interfemoral (Placing the perpetrators penis between the legs of the child).</li> <li>• Anilingus (Licking and/ or kissing of the anal opening).</li> <li>• Fellatio (Licking, kissing, sucking and/ or biting of the penis).</li> <li>• Cunnilingus (The licking, kissing, sucking and biting of the vagina and/ or placing the tongue on the vaginal opening).</li> <li>• Touching of the child's intimate parts (e.g. genitals)</li> <li>• Forcing the child to place an instrument in the offender's vagina/ anus and vice versa.</li> <li>• Tongue kissing.</li> <li>• Breast sucking, biting, kissing and licking.</li> <li>• Forcing the child to touch their own intimate parts.</li> <li>• Sexual Penetration (Penetration of the anus, vagina and mouth).</li> <li>• Interfemoral (Placing the offender's penis on the child's legs).</li> <li>• Sexual assault (By a stranger or by someone the child knows).</li> <li>• Satanic ritual abuse (The sexual and spiritual torture of an individual-usually a child. It is organised by a cult that serves the Devil).</li> </ul>	<ul style="list-style-type: none"> <li>• Showing pornographic material to children.</li> <li>• Child pornography</li> <li>• Making sexual comments to children.</li> <li>• Voyeurism (Peeping)</li> <li>• Encouraging children to have sex together.</li> <li>• Forcing children to do sexual acts with animals or any objects.</li> <li>• Forcing children to view sexual anatomy.</li> <li>• Exposing intimate parts to the child, sometimes accompanied by masturbation.</li> </ul>

Sources: Fouché, (2007), Itabor, (2007) and Nkuna (2004)

Children may have a mind of their own but they do not have the mental capacity to understand sexuality, therefore having sex with them whether it is consensual or non-consensual is a violation and an abuse of their vulnerability. Bagley and King (1991) also argue that children cannot give informed consent to sex with adults because they lack information about the full social and biological meanings of sexuality.

For the purpose of this research, the researcher will describe rape as the unlawful use of a child(ren) for the sexual satisfaction of an adult. This act may occur once or through a series of times whereby these acts may occur through contact or non-contact activities.

As alluded earlier in the researcher's definition of rape, rape can involve contact and it can also involve no contact. The aim of the act being to satisfy the perpetrators sexual needs. Carstens (2002) states that the sexual intention makes non-contact rape constitute as sexual abuse.

## 2.5. THE PROFILING OF PERPETRATORS IN CHILD SEXUAL OFFENCES (RAPE)

Ainsworth (2001) describes profiling as the utilisation of all available information about a crime, a crime scene, and a victim in order to create a profile of a perpetrator. According to Lowen (2012), most child victims of rape fall prey to someone they know and trust. In her/his study, Lowen (2012) found that 96% of the child rape victims knew who the perpetrators were; 50% were acquaintances or friends, 20% were fathers, 16% were relatives and 4% were strangers. Furthermore, most rape crimes are committed by males as compared to females. Finkelhor (1984) cited in Everstine and Everstine (1989) provide some reasons as to why rape is mostly committed by men:

- Men are mostly socialised to believe that they have the power to fulfil sexual interests outside the context of an intimate relationship. Hence they believe that they can experience an arousal at any time because even a child has the right genitals to evoke an arousal.
- Some men have the need to want to perceive heterosexual success as important to their gender identity. When they feel as if they have failed in life they are more likely to reconfirm their adequacy by proving their man-hood even if it is with a child.
- Most men are not given the opportunity to practice nurturing and dependency during their childhood. They thus turn to sex to fulfil the need for affection and dependency. There is possibility that they will look for sexual gratification even when it is inappropriate.

- Some men are socialised to see their sexual partners as being persons younger and smaller than themselves and only act on a gradient in which their appetite has already been focused on.

## 2.6. THE ROLE OF SOCIAL WORKER IN CHILD SEXUAL OFFENCES (RAPE) CASES

According to the International Federation of Social Workers [IFSW] (2002), social work is described as the profession that promotes social change, problem-solving, empowerment and the liberation of people. The IFSW (2002) further states that the principles of human rights and social justice are fundamental to social work. Similarly, Nicholas, Rautenbach and Maistry (2010: 6) argue that “human rights and social justice serve as the motivation and justification for social work action”. It is by law that social workers must respect the rights of their clients. According to the South African Council of Social Service Providers [SACSSP] code of ethics (1978), social workers have a legislative mandate to recognise the rights of the citizens of South Africa as stipulated in Chapter 2 of the Constitution of South Africa, 1996.

It is the Bill of Rights that recognises children as citizens of the country that have rights which has resulted in the formulation of the Child Care Act of 2005. The purpose of the act is to stipulate principles for the care and protection of children (Child Care Act, 2005). Section 150 (e) of the Child Care Act (2005) states that a child is considered to be in need of care and protection when they have been exploited or they live in surroundings that make them vulnerable to exploitation. Based on the definition outlined in the Children’s Act of 2005, one of the descriptions of exploitation in relation to children includes sexual exploitation (Child Care Act, 2005). Sections 151 to 160 of the Children’s Act stipulates the relevant procedures for social workers to follow when dealing with children in need of care and protection. High caseloads however, often make it difficult for social workers to follow these procedures correctly. The Guardian (2012) states that there are not enough social workers to deal with new cases of rape in particular child rape that sometimes end up with the assessment teams resulting in a backlog. The Guardian (2012) further points out that cases sometimes get allocated to social workers who have already left the agency responsible for the cases so that no case is seen as unallocated.

A study titled the Child Abuse Tracking Study 2017 that was conducted by the University of Cape Town's (UCT) Children's institute shows that of the 19% of child cases that were reported to social services, only 8% could be cross-referenced with the police (Jamieson, Sambu and Mathews, 2017). Shockingly the study also reported that 10% of the cases reported to the police could not be answered for by social services, even though the resultant dockets included the name of the social worker or a case number (Jamieson et al, 2017). Such findings are of great concern because they are an indication that the interdisciplinary working relationship that exists between departments is not working and is doing a disservice to children who are victims of sexual abuse.

Social work is also a stressful profession because of the helping relationships that social workers build with their clients, resulting in social workers wanting to do more for their clients. Egan (2010:40) suggests that "the helping relationship is the vehicle through which values come alive". Lloyd, King and Chenoweth (2002: 256) also state that "the very core of social work lies in the relationships with the clients". These relationships make it hard for social workers to yield results which can be frustrating and possibly lead to a burnout. Rushton (1987) suggests that because social workers are supposed to be non-judgmental in their relationships with clients, it becomes hard to admit that the personalities and attitudes of clients make effective service response difficult or impossible. This burnout may result to social workers not possessing the necessary abilities to execute their duties as expected.

## 2.7. CHILDREN'S PARTICIPATION PROCEDURES IN SEXUAL OFFENSES CASES

Child participation is a fundamental human right that children have and it gives children the ability the chance to be heard on issues and decisions that affect them (Feinsten and Mehta, n.d.). Child participation in sexual offences cases that affect them is not only a constitutional right but it is a right which is greatly acknowledged and supported by international organisations such as the African Union (AU) and the United Nations (UN). Section 9 of the Children's Act of 2005 states that every child has the right to participate in matters that affect them, however, their age, level of maturity and stage of development should be taken into cognisance. Article 7 of the African Charter (1999) correspondingly,

states that “Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws”.

Viviers (2010) states that for children to participate they need to be prepared to ensure that their participation is meaningful. Furthermore, it is not only the child who needs to be prepared but also the adult that will facilitate their participation that needs to be prepared first. Howard (2002:42) also states that “it is essential that therapists be skilled in assessing the child and validating abuse allegations based on the information the child provide”. Spies (2006:232) also mentions that “the interviewer should be aware of his or her epistemology. Knowledge about the dynamics of child sexual abuse, developmental issues, forensic interviewing techniques, play-related communication techniques, guidelines for evaluation of information and critical thinking during hypotheses testing are imperative”. Because children’s cognitive abilities differ from those of adults, they are sometimes believed to be lying and the manner in which they remember events and their rationalisation differs from adults.

Perry and Wrightsman (1991) confirm this statement by stating that children are considered to have unreliable memories of events and their memories are seen to be distorted by fantasy, magical thinking and a desire to please adults. This is because during the ages of 2-7 years’ children are still in the pre-operational stage of Piaget’s theory which is characterised by egocentric thinking whereby children may not be satisfied with an answer that is given to them and thus invent a story that completes the picture for them. Therefore, it is important for social workers to possess the relevant skills to interact with children in a child friendly manner. “Social workers often find themselves having to deal with allegations of sexual abuse, and are faced with the challenging task of conducting assessment interviews, where the result of such interview will be a determining factor in the final outcome of the legal proceedings” (Joubert, 2007:5). Given that the process of obtaining information from the child on the case is important, there is an ethical manner in which this process must be done. This is best described by the theory of ethics that states that ethics are the moral standards that regulate right and wrong behaviour and further goes on to include normative ethics that are described as

the moral standards that regulate right and wrong behaviour (Fieser, n.d.). Social workers need to be careful when assessing children mostly because the issue of rape is one that is sensitive but also requires objectivity. When interviewing a child, professionals need to understand that they are interviewing a child that is not sexually abused but a child that may be sexually abused (Spies, 2006). Most social workers fail to draw the line between objectivity and interrogation.

A study by Itabor (2007) shows that majority of the participants felt like they were being interrogated and not included in discussion by social worker. Thus, as alluded to earlier, it is necessary for the social worker to be prepared mentally, professionally and emotionally for the process. "An assessment of the professional's emotional state of mind at the time of the referral is necessary" (Spies, 2006:231). For social workers to communicate with children they need to communicate with them at a level of the child. This means that the social worker may need to sit down on the floor and play with the child. The social worker will need to be in touch with their inner child (Spies, 2006). Making contact with their inner child however, may threaten the social worker and is often met with resistance (Howard, 2002). Thus, there is the need to ensure that social workers are in a stable mental state as this may jeopardise the process of collecting evidence. Section 110 (1) of the Children's Act, 2005 also compels social workers to report rape cases to relevant authority irrespective of what the child or the child's legal guardian may say.

A child's right to participation also lies in the power given to them by their parents or adults that they are in contact with. Viviers (2010) argues that childhood is constructed by the adult population which affects the child's ability to claim and execute their right to participation. Viviers (2010) further states that it is the adult who decides how much power will be given the child and the child's status of being younger than the adult influences the level of the child's participation. This power struggle between children and adults may also result in child's right to participation being diminished and also influence the working relationship between the child and the social worker. It is reported that most encounters with social workers and other helping professions are negative (Ndlovu, 2008).

## 2.8. THE DETERMINANT OF THE CHILD'S BEST INTEREST

Article 3 of the UN's Convention on the Rights of a Child states that the child's best interest is the primary concern in making decisions that may affect them and all adults should do what is best for children (UN, 2013). According to Conradie (2003), children are the most vulnerable group in contemporary South Africa. Furthermore, it is the state's duty so ensure that all vulnerable groups of people are protected. This is because according to the vulnerability theory, it is the state's responsibility to reduce, ameliorate and compensate for vulnerabilities (Kohn, 2015). The theory further stipulates that the state must take responsibility for the effects of the operations of social institutions which it legitimises and gives power to (Kohn, 2015). Such institutions include the Department of Social Development (DSD) and Non-Government Organisations (NGOs). These organisations have to comply with the legislation and policies of the country that aim to meet the best interests of the child. Section 9 of the Children's Act of 2005 states that "the best interest of the child is paramount in all matters concerning the care, protection and well-being of a child the standard that the child's best interest is paramount importance, must be applied". The best interest of a child is described as the most advantageous position practically possible and desirable in view of the relevant law with regards to a child and is dependent on a proper evaluation of the facts of every case (Visser, 2007). Section 7 of the Children's Act of 2005 stipulates factors which should be met when determining the best interest of the child.

Section 7(l)(i) of the Children's Act, 2005 further states that "the need to protect the child from any physical or psychological harm that may be caused by- subjecting the child to maltreatment, abuse, neglect, exploitation or degradation or exposing the child to violence or exploitation or other harmful behaviour". Article 4 of the African Charter (1999) also states that "in all actions concerning the child undertaken by any person or authority the best interest of the child shall be the primary consideration". Therefore, it is the responsibility of the social worker as the child's advocate to ensure that the best interest of the child is met and that children are protected from any harm.

The best interest of the child should not only be met by social services workers but should be met by all professions that come into contact with a child after they have reported rape.

In sexual abuse cases, the perpetrator needs to be arrested to ensure that they do not victimise the child again. This can only be achieved by reporting the case to the police and having the perpetrator convicted for the crime in court. However, Conradie (2003) states that when there is a relationship between the sexually offended child and the accused, the case is not investigated irrespective of the child's age and is reviewed as a false charge of rape. Conradie (2003) further reveals that only 50% of the child rape cases that get reported go to court (Kruger, S.; Limpopo Provincial Government Summit; 18-19 October 2002). Mr. Skweyiya (former minister of Social Development from 1999-2009) during an International Conference on Child's Rights revealed that the standards set by the constitution with regards to women and children were not being met (Conradie, 2003). In his speech, he highlighted how women and children were still victims to the plight of poverty and abuse and that different stakeholders needed to work together in securing resources in an effort to realise the legislation, strategies, programmes and projects that aim to reduce domestic violence and drug abuse.

Police officials also lack the skills to deal with children who are victims of rape because they lack the necessary skills to gather information from the children about the crime (SALC, 2002). The police have a limited understanding of a child's cognitive development as a complainant and a witness ) and although there is the SAPS Family Violence, Child Protection and Sexual Offences Unit (FCS) that specifically deals with child rape and abuse, the unit's services are not equally accessible to all. In most cases, FCS Units are not found within the police stations and will have their own offices elsewhere. The location of FCS units limits the accessibility of children who have been sexually abused to acquire assistance from people trained to deal with victims of sexual offences and violence. This result in inadequate or insufficient information being collected at police stations about the crime which makes it hard for the state to prove guilt. Conradie (2003) also states that the collection of evidence by inexperienced police results in a negative impact on the judicial outcome of the case. This results in the child not being afforded the justice that they deserve because of the gaps and inefficiencies in the system.

Once a case has been opened by the victim it needs to be lodged with the courts. Children who have been violated or abused have a special court that has been designed to make

their court trials experiences less traumatic. According to the SALC (2002), the objective of these special courts is to respect the sensitivity of the court processes and to reduce secondary victimisation of the children. This is achieved by having special features within the courts to make the experience of being in court less traumatic for children.

These courts have in-camera proceedings, prohibiting the publishing of a child's identity, the use of intermediaries, close circuit television and one-way mirrors (The SALC, 2002). The introduction of these special courts was in 1993 and by the end of 2005 there were 74 sexual offences courts countrywide (South African Government News Agency, 2014). It is further stated that the Department of Justice and Constitutional Development had planned to establish 106 sexual offences courts in a period of 10 years, however, apparently because of financial constraints, these courts were phased out in 2005 and were only reintroduced in 2013 (South African Government News Agency, 2014). Furthermore, not all courts have these special features and therefore the confrontational method is used in those courts (Conradie, 2003). Meaning that some children still fall victim to secondary victimisation, which is not in the best interest of the child.

According to the [DSD] (2013), "developmental social welfare services in South Africa are based on the collective responsibility of and the collective partnerships between the public sector, private sector, civil society, training institutions and research institutions. The Departments of Health (DoH), Basic Education (DBE), Correctional Services (DCS), Justice and Constitutional Development (DoJ & CD), Labour (DoL), the SAPS, Co-operative Governance and Traditional Affairs (COGTA) share responsibility for the delivery of social welfare services" across the country. Although these departments are different, they have a mandate that they need to achieve and their partnership is crucial in ensuring that the social development services are delivered. The DSD (2013) emphasises that these partnerships need to have a common goal and a mutual respect with a clear description of the roles and responsibilities of each partner. To achieve the best interest of the child with regards to the Children's act 38 of 2005 an interdisciplinary developmental approach such as this one is necessary.

The Service Charter also endorses the partnership of different departments in combatting crime for the Victims of Crime in South Africa of 2004 (herein referred to the Victims Charter). The Victims Charter was developed in line with the 1996 National Crime Prevention Strategy's vision for a victim-centred criminal justice system (Commission for Gender Equality, 2016). The Victims Charter's roots can also be traced back to the National Victim Empowerment Programme, 1998 ([www.justice.gov.za](http://www.justice.gov.za), n.d.). It can be argued that before these frameworks, the law focused more on the perpetrator and did not take the victim of the crime into consideration. Thus, the Victim Empowerment Programme (VEP) was also initiated to address this problem with assistance from the Victims Charter. A Minimum Service Standard for Victims of Crime, 2004 which is in a form of seven rights was established to define the rights of the victim with regards to the services that they are entitled to. "The Service Standards sets out responsibilities that each government department such as South African Police Services, National Prosecuting Authority, Departments of Health, Justice and Constitutional Development, Social Development and Correctional Services, should provide when victims present themselves at public institutions" (DoJ&CD, n.d.). These standards were created in order to eliminate secondary victimisation to the victim and to also empower victims of crime .

In an ideal setting there would be cohesiveness between different Departments to ensure that the victim's interests are paramount and acknowledged. However, this is not always the case because people working in different departments with different professions tend to look down on each other or become competitive with one another. A study that was conducted on the working relationship between social workers, police and social workers and presiding officers shows that there is competition between these professions especially between social workers and presiding officers (Sibanda and Lombard, 2015). Social workers that took part in the study stated that the demands made by some of the presiding officers were unrealistic and that presiding officers tended to look down on their profession (Sibanda and Lombard, 2015).

The issue of working relations between different stakeholders is not the only problem but the delivery of legal services too. According to Campbell (1998), 67% of rape victims who had acquired legal assistance had their cases dismissed and 80% of the time this

happened because of the legal personnel and to the contradiction of the victim's wishes. However, every decision that a service provider has to make should be in the best interest of the child. Dismissing cases is a questionable act because it leaves children open to being victimised again and leaving them with dire psychological effects.

Medical services personnel also need to be investigated with regards to service delivery. A seven-year-old participant in a study conducted by Itabor (2007) stated that the nurses at the clinic refused to help her after she was experiencing an itching sensation when in her private part after she had been raped by a neighbour. The child was interviewed directly through the use of play therapy where the child reiterated their story with the use of toys. Itabor (2007) also states that victims of non-stranger rape found it difficult to acquire needed services from the relevant government facilities. This was likely caused by the fact that the blame often gets pushed on the victim by saying that she asked for it to happen to her since she knew the perpetrator.

## 2.9. THE EFFECTIVE USE OF FORENSIC EVIDENCE ON CHILDREN'S CASES

Forensic evidence refers to the scientific evidence that can be used in court; it can be blood tests, ballistics and DNA (The Law Dictionary, n.d.). For this study, more emphasis will be given to forensic evidence which is in the form of DNA. In 2009 an amendment of the Criminal Procedure Act of 1977 was proposed. It however took four years for the amendment to be accepted in Parliament because of the fear that stored deoxyribonucleic acid (DNA) could be used to contaminate crime scenes. It was in 2013 that the amendment to the Act was finally accepted in line with Section 6 of the Criminal Law (Forensic Procedures) Amendment Act of 2013. According to SAPS (2015), the use of DNA is promoted by the Act and it regulates the use of DNA considering the constitutional principles. In 2015, thousands of detectives were trained on how to handle DNA with SAPS Lieutenant General Kgomotso Phahlane (who was then the acting National Commissioner) announcing to the Johannesburg members of parliament of South Africa that more than 5000 detectives had been trained (Eyewitness News, 2015). Although it seems that great progress has been made with the DNA bill, it has also been widely criticised. Forensic expert Dr. Klatzow (cited in Davis, 2014) states in his book that dishonesty and incompetence still characterise many police investigations. The problem

is however not unique to the South African context. In America Donald Eugene was arrested for 27 years for a murder crime he did not commit because of fabricated evidence the police had placed in the crime scene (The Guardian, 2009). Dr Klatzow (cited in Davis, 2014) further argues that there is a history of innocent people being convicted because of inaccurate or fraudulent forensic evidence given by the police, with only a few people being able to prove their innocence (Davis, 2014). In the 2007 case of S vs Van der Vyver (SS 190/06) [2007] ZAWCHC 69; 2008 (1) SA 556 (C) (29 November 2007) for example, Van der Vyver was wrongly accused for the death of his girlfriend Inge Lotz who was bludgeoned and stabbed in her flat in Stellenbosch. Author Anthony Altbeteker recalls how police officers acted with malice by presenting evidence that could have resulted in the prosecution of an innocent man during the court proceedings (Williams and Sapa, 2013). According to Altbeker If Van der Vyver was not from a wealthy family, he would have been prosecuted and jailed for a crime he did not commit (Williams and Sapa, 2013).

Competent and ethical people are needed to work within police stations to ensure that justice is served, and innocent people are not jailed for crimes they did not commit. Police stations also need to have police women and men who are efficient in their work especially when it comes to crime scene investigations. Crime scene investigations play a crucial part in a rape case because they can link the alleged perpetrator to the scene of the crime if the evidence collected puts them at the scene of the crime (Dintwe, 2009). According to Locard's Exchange Principle whatever is stepped on, touched, left even unconsciously will serve as a silent witness against a perpetrator (McShane: 2010). It is for this reason that crime scenes need to be closed off promptly and for evidence to be collected and processed so as to prove the guilt of the perpetrator. However, as already mentioned, this is not always the case as there have been incidences whereby there have been outcries about the incompetency of police personnel who fail to process crime scenes correctly. Hlatswayo (2007) reports on the family of a girl who was raped and murdered complaining that a complete search and crime scene was not done by the police. The prompt processing and collecting of evidence is vital before evidence at the scene of the crime is lost or contaminated which was however not done in the case of the

5-year-old girl. Furthermore, Dintwe (2009) adds that evidence alone is not enough as it needs to be collected and processed properly, lawfully and in a manner above criticism for it to be used to prove the guilt of the accused beyond reasonable doubt.

In rape cases, the first 72 hours after the incident are crucial because DNA from semen can survive only about 72 hours inside the vagina or anus (Leotta: 2016). As per Locard's theory of evidence, the victim can also be considered a crime scene because evidence of the crime is also found on the victim and needs to be collected and processed accordingly. Dintwe (2009) also mentions that the rape victim must be taken to a district surgeon for examination as that is equally important to the crime scene investigation. Section 2(6) of the Criminal Law (Forensic Procedures) Amendment Act, 2013 also states that victims of rape must be taken to a registered medical practitioner or registered nurse for the medical forensic examination when a buccal sample is being taken. Such procedures also need personnel with competency in the work that they do, and it needs to be done on time. This is why it is vital to report cases as early and promptly as possible. Forensic evidence is cardinal in children's rape cases because it is hard to discredit if found on the child and in the crime scene. Forensic evidence is able to speak for those who cannot speak themselves especially the vulnerable. It cannot be disputed to be false especially when found on the victim. Locard's Exchange Principal also supports this statement by stating that physical evidence cannot be wrong, it cannot perjure itself, and it cannot be wholly absent (McShane; 2010). Another shortfall of the bill is that only certain people that are recorded in the National Forensic Database (NFDD) and not everyone who has committed a crime. According to the new DNA Law people that are convicted offenders who have committed a schedule 8 offence are the only one that are to be indefinitely recorded in the NFDD and those who were recorded because they were suspects and were proven innocent are to be removed (DNA Project, 2015). The Criminal Procedure Act, 2017 classifies crimes under schedule 8 as being the most offensive crimes and include crimes such as treason, any sexual offence in relation to the Sexual Offenders Act, 2007 towards a child or any person, murder, human trafficking, arson, theft and escaping the law. To be prosecuted for a crime that is deemed less treacherous by the courts does not mean that you will not commit a more treacherous crime. The Ministry

of Justice in the United Kingdom reported that cases such as murder, rape, child sex abuse, wounding and serious assaults were committed by reoffenders who had stayed a few months in prison (Whitehead, 2011). The DNA Act was passed because it aimed to protect the vulnerable through the use of forensic evidence. If the Act cannot fully protect the vulnerable it can be safe to deem it as “useless”.

## 2.10. THE PSYCHOLOGICAL EFFECTS OF SECONDARY VICTIMISATION ON CHILD SEXUAL OFFENCES (RAPE) VICTIMS

Campbell and Raja (1999: 2) describe secondary victimization as “the behaviors and attitudes of social service providers that are “victim-blaming” and insensitive, and which traumatize victims of violence who are being served by these agencies”. Campbell and Raja (1999) further state that secondary victimisation or “second rape” occurs when rape victims are denied assistance from relevant agencies. Such assistance can be provided by legal bodies, mental and medical help systems. The human vulnerability theory states that vulnerability is a social and state responsibility which is the state's obligation to ensure equality under the equal protection model (Fineman, 2008). Therefore, it is the relevant agencies’ obligation to ensure that victims get the necessary help that they need, however, at times this is not always the case. A study on mental health professionals revealed that victims of rape get “re-raped” when engaging with social system personnel (Campbell and Raja, 1999). The findings of the study revealed that victims could not access the medical services because of the availability of resources, their cases were not prosecuted which brought about secondary trauma to them (Campbell and Raja, 1999).

A study shows that children described their experiences as being negative with regards to having been in contact with police, social workers or other helping professions (Ndlovu, 2008). The children experienced secondary victimisation by having to relive their rape incident by telling their story several times to different professionals. The behaviour by these professionals towards the victims also contributed to secondary victimisation. Such behaviour includes blaming the rape victim of the crime, implying that the victim wanted to be raped and discouraging rape victims to take the case further (The advocates for human rights, 2013). It is the harmful behaviour of community professionals that are detrimental to the rape survivor’s psychological well-being (Campbell and Raja, 1999).

A study by Nkuna (2001) reveals that when working with children who are victims of sexual offences, social workers failed to administer behaviour modification, crisis intervention and cognitive restructuring and when they were offered, it was only on a few occasions. This effectively means that short-term help was not offered to individuals who had experienced rape. These interventions are important and are offered to ensure that the victim does not suffer any other form of secondary victimisation from the procedures that follow disclosure to social workers. They also give the social workers the chance to identify any maladaptive thoughts and correct them from the onset (Nkuna, 2001).

How a victim is treated by the relevant authority in charge of their case also has an effect on whether the victim will report the case or not. Fox and Cook (2011:2) state that the “perceptions and treatment of victims are crucial as they affect both the reporting practices of crime victims as well as actions taken by official responsible for processing crime”. The maltreatment of victims by the authorities contributes drastically to the low reporting associated with rape cases. It is believed that rape statistics are higher than the actual reported statistics that are currently known (Africa Check, 2016). A more recent study called the Optimus study revealed that 784 967 children both young girls and boys are believed to be victims of rape and that 351 214 of these incidences are believed to have occurred in 2015 (Pillay, 2016). There is a notable difference between the SAPS released statistics and the findings of the Optimus research and this could be caused by the relationship the victim shares with the culprit. The closeness between the victim and the perpetrator (i.e. kinship) and the severity of the assault can reduce the likelihood of immediate disclosure (Hanson, Resnick, Saunders, Kilpatrick and Best, 1999). Hanson, *et al.* (1999) further state that children not disclosing their assaults results in cases not being reported and subsequently the necessary actions towards the perpetrators such as legal sanctions not being taken. Itador (2007) also states that according to the South African Human Rights Commission (SAHRC) women and child sexual abuse occurs because the Criminal Justice System (CJS) is hostile towards women and children and further traumatises them. This may also be one of the reasons why parents may be reluctant to report cases of rape to the police or social workers.

Furthermore, secondary victimisation is not only about what community service providers do but also what they do not do (Campbell and Raja, 1999). As already mentioned in chapter 1, the NPA prosecutes those cases that they believe can be won. This behaviour is also found to be practiced by community workers, medical staff and advocates as well. Campbell and Raja (1999) report that many cases get acquitted by lawyers even though the victim may want to pursue it; health professionals who are not empathetic to the victim may also refuse to provide services to the victim. For example, Itabor's (2007) study shows how a nurse refused to help 7-year-old girl who contracted a Sexually Transmitted Infection (STI) from being raped by her neighbour.

Research also shows that secondary victimisation is racially biased and mostly affects Black people from low financial incomes (Campbell and Raja, 1999). Research by Campbell (1998) shows that Black rape victims received less help from public services and that their contact with public services was harmful. The findings show that Black women were treated in a more hostile manner when accessing public services when compared to White women (Campbell, 1998). Furthermore, White women were believed to be telling the truth about being sexually abused whilst Black women were interrogated which gave a sense that they were not being truthful (Campbell, 1998). The treatment towards Black women was hostile in such a manner that they would have preferred to have not reported their cases (Campbell, 1998). This information is significant to the study because children need assistance from their parents or guardians to report cases of sexual offences. The mother of the child or any female relative would be the one accompanying the child when they report the cases.

The ill-treatment of Black women when reporting sexual offences cases can be attributed to the fact that Black women bring rape upon themselves. Davis (1981:) attests to this by citing Stein (who is described as being an excellent writer) in her book titled *women, race and class* who portrays one of her black woman book character possessing "the simple, promiscuous unmorality [sic] of the black people". This has influenced how black women are viewed or perceived by society and has influenced the judgement of people towards them. The perception of black women as promiscuous may very well be the reason why they do not receive proper help from community agencies. As stated in section 2.2 titled

the historical background on sexual offenses and the formulation of child laws protecting children of this text, the socioeconomic status of people affects the perception of people towards them. This also affects the manner in which the child and the person who accompanies them to open a case will be treated by the relevant authorities. Frohmann (1997b) collaborated to this by stating that the credibility of a victim's story lies in her cooperativeness, age, race and socioeconomic standing. This is unfortunate because the poverty and socio-economic label of being poor is racially unfavourable to black South African women. Statistics South Africa (SSA) reported that there was an increase in the numbers of people who lived below the poverty line with more half of the population of South Africa living in poverty although the World Bank had reported otherwise (Nicolson, 2015). The majority of black South African women live under the poverty line (Snodgrass, 2015). And black women are less likely to have a tertiary education and experience far higher unemployment (SSA, 2011). Over the years there has a been an increase of female headed households whereby these women find it hard to maintain these households because they earn less than men (Rogan, 2014).

Many black people still live in townships and in informal settlements and the majority of the children that live in these settlements are children in the cohort group of ages 0 to 4 (Housing Development Agency, 2012). Child rape is strife in townships because of the belief that sleeping with a virgin cures HIV/AIDS and this is expected since South Africa has the highest population of people living with HIV/AIDS and a high level of illiterate people (King, 2014). Rape prevalence is high in townships and impoverished communities because it is seen as an activity even dogs are in danger of being raped (King, 2014). Race and socioeconomic status is unfavourable to black women however, their families stand the most chance of being victims of rape. These factors also determine whether or not they will have access to these resources for their children when they have been sexually offended. Kehler (2001) attests to this by stating that the realities of most South African women is still determined by race, class and gender which are responsible for the prevailing political, social and economic inequalities.

### 2.10.1 THE EFFECTS OF SECONDARY VICTIMISATION ON CHILD SEXUAL OFFENCES (RAPE) VICTIMS: SOCIETAL EFFECTS

The effects of secondary victimisation include victims feeling reluctant to pursue their cases (Campbell and Raja, 1999). This results in the perpetrator getting away with the crime they have committed. Secondary victimisation also hinders the psychological healing of the victim (Fox and Cook, 2011). Webster and Hall (2004) state that the psychological effects of victimisation vary from child to child but in most cases sexually abused children show signs of depression, post-traumatic stress disorder, sexualized acting, aggression towards other people and one's self. The success of the treatment of these psychological effects may vary and is directly affected by the manner in which the victim is perceived by other people and the environment in which they will go to after their rape incident.

Non-disclosure of rape by children not only puts them in the risk of secondary victimisation but it may also turn them into perpetrators of rape during their adolescent years. A study conducted by Howard (2002), shows that 20% of child rape cases were committed by adolescent teenagers. Unfortunately, there are no recent statistics on offences committed by adolescents in South Africa. This could be because these offenders are considered children by the law and must be protected as aforementioned in section 2.8. These adolescents that are child rape perpetrators are mostly victims of child rape themselves but they did not receive the necessary psychological help to help them deal with their rape. Sgroi (1982) mentions to this statement by stating that they (i.e. the adolescents) may have a history of sexual abuse but may be reluctant to share these experiences resulting in unexpressed anger and hostility as well as punishing the child for what they may not like about themselves. Therefore, it is important for professionals working with children who have been raped to be sensitive and empathetic towards them and try to make a traumatic experience less traumatic however this is not always the case. Professionals working with children should also create an environment that is warm and welcoming in order for children to voluntarily disclose that they have raped. Children also need to feel a sense of trust towards these professionals. The HSRC (S.A) (in Itabor,

2007) reveals that it was difficult for children to disclose to their teachers and parents and that these adults need to be trustworthy in order for children to feel more at ease.

Campbell and Raja (1999) also report that people who have had negative experiences with community systems may be hesitant to participate in research studies. This makes it hard to gain more information on what can be done to better protect other children from not being victims of rape especially since most rape incidences happen in the victim's home and in places they are familiar with. People who have been raped usually end up participating in dangerous activities. Research proves that there is a direct link between prostitution and experiencing rape at an early stage (Armstrong, 1994). Prostitution puts women in a very vulnerable position where they can be raped, forced to have sex without the use of a condom and at times get killed.

## 2.11. SUMMARY

With the aim of understanding the effectiveness of reporting child rape cases as stipulated in section 110 of the Child Care Act, 2005 this literature review looked at many factors that come into play when a child rape case is reported. Child rape was defined within the text and examples of the different forms of rape were mentioned. However, to understand the context of what is being reviewed or what is being studied it is important to understand its history and where it stems from. This literature review has looked at the history or origin of rape in the country whereby women and children especially black females were oppressed by the laws of the country. With the country gaining its freedom in 1994 the laws were amended in order to ensure equal protection of all people living in South Africa which made it possible for women to break the silence and report cases of rape that they and their children were victims of. A description of the perpetrators of rape was included highlighting the reasons as to why men rape.

This literature focused on four concepts the first concept is the role of the social worker which highlights the work of the social worker as a children's advocate and the importance of establishing a working relationship with the child. The second concept is the participation of children in their cases which is important in the gathering of evidence of cases and which is a fundamental right that children have. This literature review also

viewed how child participation may be obscured because children are considered too young to know anything thus assumptions are made on the child's behalf. To prevent this social workers and people that work with children who are victims of rape need to know how question in a child friendly manner in order to get children to participate in their cases which also helps build up the case making it easier to prove guilt. Determining the child's best interest is the third concept and looks at what criteria is used to determine what is best for children. Many child rape cases do not get prosecuted therefore it is necessary to ask if such actions are in the child's best actions. The actions of professionals also need to be looked at as to whether they are in the best interest of the child. The perception of grandeur because one's profession is better than the next person's profession has implications on many cases. The psychological effects of secondary victimisation and the effects it has on society is the last concept. Secondary victimisation or the second rape has many contributing factors that allow for it to occur and that it is racially and socioeconomically biased to black women and their families. The following chapter is the research methodology chapter which explains the profile of the research area and the research design of the study. The chapter speaks to the research methodology of the study, the data collection tools and the data analysis of the data. The limitations that the researcher came upon during data collection are also included in the chapter and the ethical issues of research are included.

## CHAPTER THREE: THEORETICAL FRAMEWORK

### 3.1 Introduction

According to Zitha (2014), a theoretical framework is one of the key aspects of academic research. It demonstrates that the author does not operate in isolation but is able to link their research study to an existing body of knowledge and provides a context in which the study is to be understood. Labaree (2013) states that the theoretical framework supports a theory of a research study and also introduces and describes the theory that explains why the research problem exists.

Labaree (2013) also highlights that the theoretical framework limits the scope of the relevant data by focusing on specific variables and defining the framework that will be used for the analysis and interpretation of the gathered data by the researcher. This means that the theoretical framework helps in facilitating the attainment of the aims and objectives of a study

The theoretical frameworks of this study consist of a model or a framework, which is the Thuthuzela model and two legislative approaches namely the Child Care Act of 2005, and the Victim's Charter that the centre uses to deal with cases of child sexual offences. The following chapter will expand on these theories and will justify the use of these legal frameworks for the study.

### 3.2 Child Care Act, 2005

The main legislation underpinning this study is the Child Care Act, 2005, particularly Section 110 of the Act. This is because section 110 provides a framework on how different professionals who deal with children should deal with cases of child sexual offences. The Section states that professionals such as social workers, doctors, nurses and any other professionals who comes into contact with a child are obligated to report cases of child sexual offences to the police. Furthermore this Section details the relevant steps to be taken for the child to receive medico-legal and psychosocial help. Mandatory reporting

means that there needs to be disclosure or an investigation done before a case is opened in order to limit wasteful usage of state resources. The investigation is either a medical examination that is done by a district surgeon who is appointed to do examinations of sexual abuse. During this process, the forensic evidence is collected from the victim and is used to link the perpetrator to the crime. In instances whereby the case is reported after 72 hours, a statement is taken from the child or the person who is accompanying the child if the child is too young to speak for themselves. The statement is then investigated to see if there are any discrepancies in order to determine its truthfulness. Section 110 (7) of the Child Care Act, 2005 (p65) states that measures need to be done in order to assist the child this include “*counselling, mediation, prevention, and early intervention services, family reconstruction and rehabilitation, behaviour modification, problem solving and referral to another suitable qualified person or organisation*”. The medical services which include the administration of pre-exposure prophylaxis (PrEP) to the victim falls under this section of the Act. In order to qualify for PrEP, the victim needs to report the case within 72 hours and must be tested for the presence of HIV in their blood. If the virus is not detected, then the victim can be given the PrEP. Should the presence of the virus be detected, then the victim does not qualify for PrEP. The mentioned services are meant to assist the child with coming to terms with what has transpired and in gathering evidence for the child’s case, which could help in getting a successful conviction against the perpetrator.

Section 110 of the Child Care Act of 2005 also provides protection for children by stipulating factors that should be considered to ensure the safety of the child and the procedures that need to be followed to ensure the safety of the child. These procedures are in line with section 28 of the Constitution (Hendricks, 2014). Section 110(4)(a) and sections 110(7)(b) and (c) stipulate that if the child’s safety or well-being is compromised, measures must be taken to remove the child and place them in a place of safety. The removal of a child and placing them in a place of safety needs to have an application done to the courts requesting for their removal. However, in instances where it is an emergency, the removal is done promptly with the social worker or police official stating reasons for removing the child the next day to the magistrate.

As stated in section 2.8 of this text a developmental approach is needed in order to meet the best interest of the child satisfactorily. The Child Care Act, 2005 reinforces this statement by having different professionals work together for the best interest of the child. A working relationship between different professions is known as the developmental or multidisciplinary approach in the social work profession. The formulation of the developmental approach started in 1994 when the apartheid era ended. During the apartheid era, the residual model of social work was used, which was founded on the “poor white problem” ideology whereby social work functioned within the structures and policies of apartheid (Sewpaul, 2012). This meant that legislation and policies demanded that services be provided separately and unequally between different races (Sewpaul, 2012). Social welfare services were rendered structurally and geographically which resulted in large parts of the population not being able to access social welfare services (Rankin, 1997 cited in Rautenbach and Chiba, 2010). The biggest problem that the residual model had was that it was reactive or gap-filling (Andrews, 2018). This means that the presenting problems of people are attended to and not other issues underlying the problem. The process also treats clients as passive recipients of services as they do not get involved in the helping process, which creates dependency.

When South Africa became a democratic country, the residual model to social welfare was castoff and the developmental approach was designed and implemented. South Africa’s developmental approach to social work evolved from the country’s unique history of inequality human rights violations due to colonisation and apartheid (Social Development, 2013). The creation of the development approach to social welfare was informed by the White Paper for Social Welfare of 1997 and the Constitution of South Africa of 1996 ([www.dsd.gov.za](http://www.dsd.gov.za), 2013). Some of the objectives of the developmental approach are to operate from a human rights based approach; to encourage collaborative partnerships; to facilitate participation and democracy; to bridge the micro-macro divide and to describe collaborative partnerships as being essential to service delivery (Social Development, 2013).

The Child Care Act, 2005 with special reference to section 110 is the framework used in reporting child sexual offences cases. The overall aim of the research was to find out if

the process of reporting child sexual offences cases is effective in ensuring that child victims receive justice. Hence the applicability of the framework as an analysis tool in the study. The Child Care Act, 2005 promotes the interdisciplinary or developmental approach by having different professions work together. An interdisciplinary approach is one that is promoted in most organisations in order for the client to get exceptional assistance from the services provided and the centre in which the study was conducted uses such an approach. The use of the Child Care Act of 2005 as an analysis framework will display if the services that the child is legally entitled to are in fact received by the child. These services are stipulated as being mandatory in the Child Care Act of 2005. The use of the framework as an analysis framework will establish if an interdisciplinary approach has a positive impact in the reporting process of child sexual offences cases.

### 3.3 Victims' Charter

The Service Charter for Victims of Crime in South Africa, which is formally known as the Victims' Charter, was formed in an effort to achieve restorative justice for victims of crime. The Victims' Charter was developed in line with the 1996 National Crime Prevention Strategy's vision for a victim-centred criminal justice (Commission for Gender Equality, 2016). The Victims' Charter was also developed with the aim of ensuring that victims of crime receive justice from the justice system in South Africa and to lower the chances of victims experiencing secondary victimisation from the justice system. The Victims' Charter is considered to be an important instrument for promoting justice for victims of crime in South Africa (DoJ&CD, 2004). The Victims Charter is in line with the objectives of the Victim's Empowerment Program (VEP). This was done in order to define the services that victims are entitled to in terms of seven rights listed in the Victims Charter. A Minimum Service Standard for Victims of Crime of 2004 was also developed (DoJ&CD, 2004). The Service Standard sets out the responsibilities of each government departments belonging to the justice, Crime Prevention and Security Cluster (JCPSC); i.e. South African Police Services, National Prosecuting Authority, Departments of

Health, Justice and Constitutional Development, Social Development and Correctional Services ([www.justice.gov.za](http://www.justice.gov.za), n.d.). The seven rights of the Service Standard are as follows:

1. The right to be treated with fairness and with respect for dignity and privacy
2. The right to offer information
3. The right to receive information
4. The right to protection
5. The right to assistance
6. The right to compensation
7. The right to restitution

The Victim's Charter is also in line with the Declaration of basic principles of justice for victims of crime and abuse of power (Herein referred to as the Declaration). As part of the UN convention on justice and support for victims of crime and abuse of power, member states were required to take necessary steps in giving effect to the provisions of the Declaration (UN, 2006). In recognition of the importance of promoting the full use and application of the Declaration, member states agreed on the following; commitment to reduce victimisation; access to justice and fair treatment; protection of victims, witnesses and experts; information; assistance; restorative justice and compensation (UN, 2006). In agreeing to the Declaration member states were required to fulfil the mandate provided for by the Declaration. In addition, member states were required to legislate basic principles of justice and proven prevention of victimisation at all levels of government (UN, 1985). In essence, the Victim's Charter covers all the articles provided for in the Declaration especially in promoting the rights of the rights of the justice which in often times is usually neglected especially by those who are meant to enforce these rights.

When working with victims of sexual offences the Victims Charter is probably the most important framework that is referred to when rendering services to victims. The Victims Charter and Minimum Standards provide an important framework for the consolidation of

all laws and policies in relation to the rights of and services provided to victims of crime and violence (Commission for Gender Equality, 2016). This piece of legislation is applicable to the study because it is in line with the research objectives. The Victims Charter outlines the fundamental rights of the victim and it overlaps with the services that the victimised child is obligated to receive as stated in the Child Care Act of 2005.

### 3. 4 Thuthuzela Care Centre Model

The Thuthuzela model is an integrated approach in the fight against and the prevention of sexual abuse towards women and children. The NPA's Sexual Offences and Community Affairs Unit (SOCA) is responsible for leading the Thuthuzela project, in partnership with various departments and donors as a response to the urgent need for an integrated strategy for prevention, response and support for rape victims (www.npa.gov.za, 2009). In October of 1999, the SOCA Unit was established in an effort to reduce gender-based violence against women and children through the development of practices and policies (Naidoo, 2017). The work of SOCA includes improving the prosecution services in areas of sexual offences, child justice, domestic violence, maintenance and human trafficking (Naidoo, 2017).

The development of the Thuthuzela project is dated back to the year of 2000 due to the large amounts of sexual abuse cases that were reported. As previously mentioned in section 1.2 the beginning brought about a change where many sexual offences cases were reported in police stations. The Cabinet initiated the process with the ministers of Safety and Security (S&S) and the minister of Health leading the process. In 2002 the Department of Justice and Constitutional Development (DoJ&CD) took over which led to the formation of an Inter-Departmental Management Team (IDMI) between the National Prosecuting Authority (NPA), S&S, Department of Health (DoH), Department of Community Safety (DCS), Department of Education (DoE), Department of Social Development (DSocDev) and Treasury (Naidoo, 2017).

The word Thuthuzela is derived from isiXhosa and it means to comfort. One of the objectives of the Thuthuzela project is to provide a safe and comforting environment for victims of gender-based violence and sexual abuse. The Director of the Thuthuzela

project is quoted to have that the project plays a critical part in South Africa's anti-rape strategy, with the aim reducing secondary trauma for the victim, improving perpetrator conviction rates and reducing the lead time for finalising cases (UNICEF, n.d). As part of the Thuthuzela project child friendly assessment rooms and courts have been designed for the benefit of child sexual offences victims and are also used for victims of gender-based violence. The new model of Sexual Offences Courts is systematically aligned with the prescripts of the Minimum Standards of the Victims Charter in terms of facilities and the personnel required to render services to victims of sexual offences (www.justice.gov.za, 2013).

The Thuthuzela model was designed for the victims of gender-based violence and sexual abuse. The Thuthuzela model is a combination of all the attributes of the laws that promote victim empowerment and ensuring that the victim receives the best services from the state. The Thuthuzela model in contrast to the two pieces of legislation mentioned in this chapter the model also looks at the time it takes to finalise cases. The amount of time it takes to finalise cases also has an impact on the secondary victimisation that the victim can endure. This study looked at whether there is any secondary victimisation endured by victims of sexual offences and the Thuthuzela model aims to reduce the likelihood of this happening. This model will assist the researcher in the analysis of the study in order to see if the centre is able to provide the necessary services to children who are victims of sexual offences. One of the criticisms or shortfalls of the Thuthuzela model is the lack of dedicated expertise and stakeholder cooperation, accountability and commitment in the project (Naidoo, 2017). Lack of resources and case flow management are also challenges that the project encounters (Naidoo, 2017). These aforementioned factors affect the provision of services as stipulated by the model negatively. It is of cardinal importance to establish if the centre is also affected by these factors since the model is utilised at the centre.

### 3.5 Chapter Summary

The theoretical framework provides the context in which the study was done. It also provides the context in which the study is to be understood in. This chapter highlighted the three frameworks, which were used in the study viz the Child Care Act, 2005, the Victim's Charter and the Thuthuzela model. Each theory is applicable to the study because it takes the reporting process and the different notions or aspects involved in the reporting of child sexual offences cases into cognisance.

The Child Care Act of 2005 with reference to section 110 provides the framework or the procedures that need to be followed when reporting a child sexual offence case. This section of the Act also stipulates the types of professionals who have the mandate to report child sexual offenses cases to the relevant authorities. The Act also stipulates the relevant services that the child is obligated receive during and after the reporting of their cases. This theory was the driving force of the research.

The Victims Charter plays an important role in attaining restorative justice for victims of crime, which is an important aspect of attaining justice for victims. This piece of legislation is fundamental in the operations of the centre and it informs the daily operations of the centre in which the study was conducted. This framework was applicable to the study because of its objective to reduce secondary victimisation from occurring and also providing a framework of the rights the victim is entitled to. The Victims Charter informs the Thuthuzela Care Centre Model as part of the services that victims of sexual offences are entitled to. The model includes a number of professions that work alongside each other in order to give the victim the best services possible in dealing with trauma and also ensuring that the chances of the perpetrator getting jailed are increased.

The following chapter is the methodology chapter. In this chapter, the methodology and the methods used in the study are explained and their use is motivated in this chapter. The procedures that were used in data collection and the identification of the research participants are also explained in the chapter. The method of data analysis is also explained in this chapter and how anonymity of the participants was maintained.

## CHAPTER FOUR: RESEARCH DESIGN AND METHODOLOGY

### 4.1. INTRODUCTION

The methodology chapter is the most pivotal chapter in research because it highlights how the research study was administered in terms of the location of the research study, data collection, sampling, data analysis and what appropriate data collection tools that were used in the study. Mkhize (2012) attests to this by stating that in order for desired information to be collected a plan for collecting and utilising data is needed. The study used purposive sampling as its sampling tool and used interviews and an implementation meeting. For data analysis the researcher used thematic data analysis and used the themes that emerged from the analysis.

Brown (2006) states that the methodology of a study is described as being the philosophical framework in which research is conducted. Three main paradigms exist in research viz the positivist, interpretive and constructionist paradigms. For this study the researcher saw it best to use the interpretive paradigm. The interpretive approach is suitable to researchers who find an interest in the meanings attached by people to facts (Terre Blanche, et al. 2012). The high levels of rape specifically child rape which have a low conviction rate could be attributed to other factors and not only the process of reporting. It was for this reason then that the researcher saw it best to use this paradigm so as to allow the research participants to convey their views freely.

As previously stated in chapter one the aim of this research study is to establish if the procedures of reporting child rape with regards to section 110 of the Child Care Act are effective in ensuring that perpetrators are successfully prosecuted. This chapter (four) will illustrate how the aim of this research was achieved by expanding on the research design, data collection, sampling method and sampling size was used in the study and justifying the use of these methods and tools. This chapter (four) will also highlight the profile and location of Usizo Centre, the ethical considerations of the study and the limitations of the study.

## 4.2. PROFILE AND LOCATION OF USIZO CENTRE

Usizo Centre's are found all over South Africa and these centres are one-stop facilities that have been created to be part of the South Africa's anti-rape strategy. The aim of these centres are to reduce secondary victimisation, improve conviction rates and reduce the time it takes to finalise a case. Usizo Centre's are not only for children who are victims of rape but it is also for women and men who have experienced abuse whether it be sexual, emotional or physical. Usizo Centre's works in an inter-departmental management team which are aided by a team of various professionals who may or may not come into contact with a child when a case of abuse is opened. This includes personnel from the DoH, DoJ&CD, SAPS, DSD, DCD, Treasury and NGO's.

Usizo Centre's are located within communities in public medical settings to be more precise and they operate at their optimal best there. This is because most rape incidences occur within communities and these centres become easily accessible for the public. Having Usizo Centre's within communities makes it easy for victims to access other departments and personnel such as the SAPS because they are linked to the centre and are in close proximity with the centre. The Usizo Centre that this study was conducted in is in Phoenix, a township which is located in the northwest part of Durban. Phoenix is under the eThekweni Municipality and has a population of 176 989 as stated by a CENSUS count done in 2011 and is the third most populated area eThekweni municipality (Ethekewini Municipality, 2011)

Phoenix is an area which predominantly has Indian people and African people. As a way of making a living the people of Phoenix sell vegetables and fruit at their fruit and vegetable stalls. Some of them have their own private practices in which they practise their professions whilst others work in Government offices. The taxi business is also one which both African and Indian people make a living out of.

Usizo Centre offers it services to the SAPS cluster offices which comprises of the outer north cluster which Phoenix and Verulam. There is also the inner north cluster which is KwaMashu cluster which is made up KwaMashu, Inanda, Ntuzuma, Greenwood Park and New Lands. King Shaka international airport and Ndwedwe are also areas that the centre

offers its services too. This is because King Shaka airport is used in human trafficking and although iNdwedwe is under the iLembe district they use Phoenix SAPS cluster office since the Phoenix court is closer to them than the Stanger court.

The researcher chose to focus the study on child rape because there has been an increase on the publication of child rape cases in media especially in the newspapers and the news. Thus the need to find out if children who are rape victims are protected and children in the larger society. The reason as to why the researcher selected the Usizo Centre in Phoenix was because it was the only centre that was willing to allow the researcher to conduct the study. Other Usizo Centres and NGOs were not willing to accommodate the researcher because of the sensitivity of the topic that was being researched.

#### 4.3. RESEARCH DESIGN

Terre Blanche et al (2006:34) describe the research design as being “a strategic framework for action that serves as a bridge between research questions and the execution or implementation of the research”. All research studies have aims set by the researcher and relevant questions need to be formulated in order to yield the desired outcome. This is why all studies need a research design which is the strategic plan of how the study will be executed in order to achieve the desired aims. The evaluation research design was used in this study as the research design. When described evaluation research tracks the efficiency of social programmes not financially but in human and social terms (Terre Blanche et al, 2011). Moreover, evaluation applies systematic inquiry to help improve programmes and personnel as well as the human actions associated with it (American Evaluation Association, n.d). The overall aim of this study was to evaluate the reporting process of child sexual offences. Utilising evaluation as a research design was applicable because it assisted in achieving the overall aim of the research. Furthermore, it assisted the researcher in being able to identify the applicable methodology and data collection tools for the study.

#### 4.4 RESEARCH APPROACH

For this study, the qualitative evaluation research method was the method used in order to obtain data that was valid, authentic and reliable from the study. When described in qualitative literature, evaluation refers to the appraisal of human activities in a formal systematic way by using qualitative research methods (Stonjanov, n. d). "Evaluation research is undertaken in order to solve some identified problem" (Kelly, 2004: 475). In this study, the identified problem was the rising of reported child sexual offenses cases in newspaper. The research was conducted to see whether the reporting framework used by social workers to report these cases had any impact on the identified problem.

As stated above evaluation research uses qualitative research methods to evaluate human activities. The purpose of qualitative research is to study a phenomenon as it unfolds in real-world situations without any manipulation and allows the researcher to study selected issues in depth, openness and detail (Terre Blanche, *et al.* 2006). Pilot and Hungler (1994) (in Zitha, 2014:55) state that "knowledge about humans is not possible without describing human experience as it is lived and is not defined by the actors themselves". As alluded earlier in chapter 1 the aim of this study was to study if the reporting of child rape cases as stated in section 110 of the Child Care Act is effective in obtaining justice for the child and finding out whether the procedure of reporting a child rape case caused secondary trauma to the child. In order to achieve this aim, the researcher needed to interview people that are involved in the reporting of cases and the qualitative method allowed for this to happen. This gave the research participants the opportunity to narrate their own reality and how things transpire on a daily basis and for the researcher not to make assumptions of the realities of the research participants.

#### 4.5. SAMPLING METHOD AND PROCEDURES

Venter and Strydom (2003) describe sampling as being the selection of units in a population of interest so that by studying the sample the results obtained in the study may be used as a generalisation of the population. The sampling method that was used in the study was purposive sampling. "Purposive samples, which means that sampling depends not only on availability and willingness to participate, but that cases that are typical of the population are selected" (Terre Blanche, *et al.*, 2006). Purposive sampling was ideal to

use in this study because it helped answer the research questions of this study because it targeted a certain population of professionals. This was very important to achieve because the information collected in the study needed to correlate with the aims and objectives of the study. This statement is supported by Kumar (1999:162) who states the “the primary consideration in purposive sampling is the judgment of the researcher as to who can provide the best information to achieve the objective of the study”.

#### 4.5.1 Criterion for the selection of study participants

As stated in section 4.5 the sampling method that was used in this study was purposive sampling. The study participants were approached by the researcher about partaking in the study. The researcher explained the aim of the study, the participants were then asked to sign a consent form as proof that they consented to take part in the study. The consent forms also serve as proof that interviews did actually take place and that the data provided was in fact stated by the research participants. In selecting the relevant research participants, the following criteria was used:

- Work or are affiliated to the centre.

The duties you perform include:

- Having a role in the reporting of cases and collection of evidence.
- Responsible for customer care.
- Counselling, post counselling and the after care of the children.

In the proposal of the study, the proposed research participants were social workers, psychologists and an advocate. Three other people were later on added into the sample because they were the representatives of the National Prosecuting Authority (NPA) and of the DoH at the centre.

Secondly the services they provided were to ensure that the victims received all the services that were needed in the collection of forensic evidence on the child and at the crime scene, the administration of prophylaxis if the child qualified to receive it and they were a link between the victims with the police and the courts.

The observation period that the researcher had at the centre worked in favour of the researcher. This allowed for the researcher to create a relationship with staff which was advantageous because it made it easier to approach people to be part of the study. Secondly they were able to provide relevant information and refer the researcher to relevant literature for the study.

#### 4.6. DATA COLLECTION METHODS

Data collection of this study utilised both primary and secondary data collection. As previously mentioned in section 4.5.2 a criterion was used in sampling the research participants of the study as the primary source of data for the study. With the secondary data the researcher focused mostly on previous studies that were done on child sexual offenses. The majority of the sources were dissertations submitted at various institutions of higher learning within South Africa. Newspaper articles were also cited because they report on the stories of child sexual offences. Legislation as a secondary source was also used in this study as an analysis measure between what is happening and what is expected to happen in terms of legislation.

In order to attain relevant information the researcher relevant questions needed to be formulated and administered to the participants. It was then important for the researcher to first observe the setting of the centre and to understand the process of reporting the cases. From there the researcher was able to formulate questions that were relevant for the study and this also allowed for the researcher to understand and identify factors that come into play with regards to reporting child rape cases. The observation period also allowed for the researcher to identify other crucial stakeholders that have an important role in the reporting of child rape cases. The researcher was able to identify what their roles were in the reporting of the rape cases and their jurisdiction in terms of their work post. The researcher was also then able to formulate relevant questions which would be applicable for every personnel working with children. However, because the questions were semi-structured other questions were created and asked during the course of the interview making some of the questions differ according to the profession one held. This aided in yielding information that was relevant and helped shed light on the problematic encounters that these professions had when dealing with child rape cases and how the

actions of other professions affected negatively and positively on the progress of the cases.

Upon completion of the observation period the researcher then formulated questionnaires for the research participants. The questionnaire comprised of semi-structured questions. Semi-structured interviews are described as a guided structured conversation between the researcher and the participant but it provides the researcher the ability to probe the participant for additional details (Statistics Solutions, 2018). The choice of using semi-structured questions for the research was because of their benefits. Semi structured interviews allow the researcher to prompt or encourage the interviewee if they are looking for more information or find what they are saying interesting giving the researcher the freedom to probe the interviewee to elaborate or to follow a new line of inquiry introduced by what the interviewee is saying (University of Leister, 2005). The structure of the questions allowed for the researcher to use probing as a research technique to gain more insights on new information that emerged from the study. The probing technique is used to uncover important information relevant to the subject or to facilitate the subject thereof (Nugent, 2013). The new information allowed the researcher to understand better the behaviour and other influences that correlate with the reporting of cases. Semi structured interviews also allow for researchers to not focus on a singular issue it also allows for the researcher to deviate a bit and probe about other issues or topics that may arise. Semi-structured interviews work best when the interviewed has a number of areas he/she wants to be sure to be addressing (University of Leister, 2005). In total eight individual interviews were conducted within the premises of Usizo Centre. However, two interviews were conducted at the Phoenix Police Station whereby the captain of FCS and the forensic social worker were interviewed. The interviews were 45 minutes to an hour long.

#### 4.7. DATA ANALYSIS AND PRESENTATION

For this study, the researcher used the thematic data analysis for analysing data. Braun and Clarke (2006:79) describe thematic data analysis as “identifying, analysing and reporting patterns within data. It minimally organises and describes your data set in detail. However, frequently it goes further than this, and interprets various aspects of the research topic”. For thematic data analysis to be successful the researcher needs to

familiarise and immerse themselves with the data. This assists the researcher establish patterns which became the category for analysis. This was done by firstly transcribing the data that was collected. Once transcribed the data is induced by reading and re-reading the data to avoid summarising the content too much as to lose focus of the study.

The data was then encoded in a manner in which the researcher then came up with themes whereby a description of the phenomenon was coded in a non-abstract praxis manner. After coding the researcher elaborated on the coded data and gave their own perspective of what they thought the data represents.

#### 4.8. ETHICAL ISSUES

Before the commencement of the study, the researcher needed to obtain ethical clearance from the Higher Degrees office of the University of KwaZulu-Natal (UKZN). This was done by submitting an application with a proposal which was approved by the internal and external examiners. The researcher also needed to present and defend their study at a consortium which was attended by lecturers and peers of UKZN. Once ethical clearance was obtained, the researcher had to apply for gatekeeper's permission from the DoH to conduct the study at Usizo Centre. To obtain the gatekeeper's letter the researcher had to receive a permission letter from the assigned individual of the DoH working within the health services of Usizo Centre.

Although this study focused on child rape it however did not involve children that were victims of rape. Instead, the study involved relevant personnel which child rape victims come into contact when reporting a rape case. This was done because the university does not encourage the usage of children in research studies especially if they are victims of a traumatic event. Therefore, the researcher saw it best to use people that play a huge role in the cases of children who have been victimised taking into consideration that their work ethic and dedication has the potential to make or break the child's case. The researcher used the following five points of achieving ethical considerations as illustrated by Babbie and Mouton's (2001):

#### 4.8.1 Voluntary participation

“A major tenet of medical research ethics is that experimental participation must be voluntary. The same applies to social research. No one must be forced to participate (Babbie and Mouton, 2001). For this research study the researcher received informed consent from the research participants to take part in the study.

One of the components of informed consent is voluntariness in participating and freedom to decline or withdraw from the study once it has commenced (Terre Blanche, 2012). The researcher acquired voluntary participation by having participants sign an informed consent form which informed the participants about the aims of the study. By signing the informed consent forms it was a means to show that none of the participants were being forced to take part in the study.

#### 4.8.2 Do no harm to participants

Babbie and Mouton (2001) state that research must not harm the people being studied with the clearest rule being that information that could embarrass and endanger the homes, lives, friendships and jobs of the research participants must not be divulged. With reference to this study the researcher respected the participant’s wishes not to include data that was said off record as this could jeopardise their jobs and the working relationship that they have with departments they work in and other departments that they work with.

#### 4.8.3 Deceiving subjects

The researcher recognised the importance of stating what the research study aimed to achieve. This was done so as to not deceive the research participants because the researcher had to have the best interest of the participants at heart taking into consideration that the participants could potentially harm the relationship that they have with their department and other departments that they work with. As Babbie and Mouton (2001) mention that it’s sometimes useful and even necessary to identify yourself as a researcher to your participants.

#### 4.8.4 Anonymity and confidentiality

“The clearest concern in the protection of the subjects’ interests and the wellbeing is the protection of their identity” (Babbie and Mouton, 2001; 523). To ensure that the highest

form of anonymity and confidentiality was maintained the researcher did not mention the names or another other particulars of the subjects that took part in the study. The researcher also went to the extent of giving the centre where the study was being conducted a pseudo name. This was done to protect the research participants and to also protect the reputation of the centre.

#### 4.8.5 Analysis and reporting

Thematic data analysis was used for analysing the data that was collected during the study. One of the obstacles researchers face when analysing data is the fact the true meaning of data can be lost in the process of translation and in transcription. At times researchers feel a need to change data because their findings do not correlate to their analysis. Fabrication of data or of observations is regarded as a serious transgression of the scientific code of ethics (Babbie and Mouton, 2001). To avoid this from transpiring the researcher ensured all data will be reported in the context that it was said in and to also include data that may be negative to their analysis.

### 4.9. TRUSTWORTHINESS

One of the most important aspects of conducting qualitative research is to establish the trustworthiness of the study. Unlike quantitative research which has measurable instruments, findings of qualitative research have the potential to be influenced by motives that the researcher may have. For this reason trustworthiness needs to be established by the use of four things which are credibility, transferability, conformability and dependability ([www.stasticssolutions.com](http://www.stasticssolutions.com), 2018). The following section will describe how the researcher ensured trustworthiness of the study with the use of the four concepts of trustworthiness.

#### 4.9.1 Credibility

Credibility is defined as the confidence that can be placed in the truth of the research findings (Anney, 2014). Essentially credibility asks the researcher to clearly link the research study's findings with reality in order to demonstrate the truth of the research study's findings ([www.statisticssolutions.com](http://www.statisticssolutions.com), 2018). According to Anney (2014)

prolonged and varied field experience, time sampling, reflexivity, triangulation, member checking, peer examination, interview technique, establishing authority of researcher and structural coherence are some of the strategies used to confirm credibility. For this research the researcher used theoretical triangulation to confirm credibility.

Theoretical triangulation is described as the use of multiple theoretical perspectives to analyse the data ([www.staticssolutions.com](http://www.staticssolutions.com), 2018). For this study three theories were used to analyse the data that was collected. These theories include the Child Care Act, 2005, the Victim's Charter and the Thuthuzela Centre Care Model. The functions of Usizo Centre are based on these three frameworks which stipulate how the centre is meant to operate. Using these frameworks to analyse the functioning of the centre assisted the researcher to establish if the requirements of reporting were met. Moreover, it assisted in establishing hindrances that were faced during the reporting of child sexual offences cases.

#### 4.9.2 Transferability

Transferability refers to the degree in which the findings of qualitative research can be transferred to other contexts with other respondents (Anney, 2014). It is providing readers with evidence that the findings of the study are applicable to other contexts, situations, times and populations ([www.staticssolutions.com](http://www.staticssolutions.com), 2018). Usizo Centre's are found all over the country and are governed by the same laws and policies. The departmental relationships that exist between government departments and other stakeholders are found in all centres. Aptly it can be assumed that the findings of the study are transferable to other Usizo Centre.

#### 4.9.3 Conformability

Conformability is described as the manner of ensuring that the findings are based on the participant's responses and not any potential bias or personal motivation of the researcher ([www.staticssolutions.com](http://www.staticssolutions.com), 2018). To establish conformability the researcher used thematic data analysis tool in order to analyse the data. Thematic data analysis involves the use of data or the narratives of the research participants. This ensured that

there was no biasness from the researcher because it was the narratives of the participants and not their own.

#### 4.9.4 Dependability

Dependability refers to the manner in which the points in one's data collection approach is reimbursed ([www.statisticssolutions.com](http://www.statisticssolutions.com), 2018). In order to obtain dependability the researcher needed to use multiple data collection methods or data triangulation. The researcher used two data collection methods for the study which are observations and questionnaires. During the observation period the researcher observed the setting in which the study was conducted. From there they were able to identify the different roles each of the staff members had at the centre. This also assisted the researcher in formulating questionnaires which were applicable to each participant.

#### 4.10. STUDY LIMITATIONS

One of the evident limitations of the study was that some of the participants were not forthcoming with sharing information. The reason being that they feared losing their jobs and implicating themselves to anything that was suspicious. However, the researcher was able to reassure them that their jobs would not be put at risk and that whatever they do not want included in the study would not be included. There was also the limitation of finding eight social workers as proposed in the research proposal. Instead of having eight social workers the researcher was able to find three social workers two of which were based in the Usizo Centre and the other being a forensic social worker. Another limitation of the study was the availability of the research participants. At times some of the scheduled interviews would not take place because the research participants were busy with cases sometimes even conducting work within the community. Transport was also a limitation to the study because it did not allow the researcher to spend as much time as they wanted to at the centre. Transport to Phoenix was usually scarce so was transport returning back to the place where the researcher lived.

With nature of the study being an evaluation study it was hard for the researcher to compare the case study that they were studying with other case studies. As stated in section 4.2 there were no other centres that were willing to participate in the study. The

only form of evaluation or comparison was with legislation and policies that govern the centre. Moreover, the use of observations that helped identified factors that played a role in the centre executing its duties and this in itself was part of the evaluation process of the study.

#### 4.11. Conclusion

This chapter comprised of the methodology and methods used by the researcher in the collection of data. This chapter explained the qualitative evaluation method with more attention given to the qualitative method because the tools used to collect data were qualitative in nature. The purposive sampling method that was used in this study was also explained and the criterion to select the research participants. The following chapter is the data analysis chapter which consists of the data collected from the research study and is presented in themes so that it is comprehensible.

## CHAPTER FIVE: DATA ANALYSIS AND PRESENTATIONS

### 5.1. INTRODUCTION

The following chapter (chapter five) is based on the analysis of the data collected from the research participants of the research study. The purpose of this chapter is to analyse and present the empirical data which was collected through interviews on the subject of assessing whether procedures of reporting child rape are effective in ensuring that the child receives justice. The study paid more attention to the reporting done by social workers, however due to the availability of research participants the study also included other stakeholders who participate in the reporting process. This includes the medical doctor, the site co-ordinator, the victim assistant officer and the police captain. A table is provided below with the pseudo names of the respondents and their job titles:

[Table 2: Description of participants](#)

<b>Name</b>	<b>Job title</b>
Zinhle	Social Worker
Mbali	Site co-ordinator
Paul	Medical Doctor
Teddy	Volunteer
Zimbini	Victim Assistant Officer
Bernard	Police Officer
Precious	Social Worker
Zelda	Psychologist
Sindy	Forensic Social Worker

The thematic data analysis method was used to analyse the findings. The data is presented in a qualitative format and it must be noted that italics and inverted commas were used to distinguish direct quotes from the transcripts.

## 5.2. REVISITING THE STUDY AIM

The aim of the study was to establish whether the procedures of reporting and evaluating child rape cases as stipulated in Section 110 of the Children's Act of 2005 are effective in ensuring that perpetrators are successfully prosecuted and that victims are protected. The data will be presented as follows:

- The reporting process of child sexual offences (rape) cases.
- Determining the child's best interest in child sexual offences (rape) cases.
- Determining the participation of children in their cases.
- The psychological effects of secondary victimisation on children.

## 5.3. REVISITING THE STUDY OBJECTIVES

### 5.3.1 The reporting processes of child sexual offences (rape) cases

Based on the data that was collected and analysed it emerged that the process of reporting a child rape case differs from case to case, depending on the status of the case at the time it reaches the Centre. Some of the participants indicated that some of the cases that come to the Centre are cases that have already been reported to the police. Other cases that come in the Centre are referrals from other Departments such as DSD and DoH which usually have a query for sexual abuse and may have or not been reported to the police. Other cases are walk in cases whereby the case has not been reported and will be reported to the Constable on site. In instances, whereby the child gives history of the rape, an inquiry number is opened right away by the Constable at the centre. However, if there is no history given by the child the case needs to be evaluated by the social worker or site co-ordinator to determine whether the case can be taken up by the Centre or a different Department. One of the informants spoke about the importance of opening a case of child rape with the police. This is what the participant had to say in verbatim:

*“So once a case has been evaluated and it is concluded that there is a case it is handed over to the constable who opens an inquiry number. If the case has not been confirmed as a case of abuse and the child is not talking but there is something suspicious an inquiry*

*or an OB number is opened. The inquiry number is very important because the doctor has no right to examine the child without an inquiry number or a case number”.*

(Zinhle)

Given the above response, it is quite clear that opening a case whether in the form of an OB (Occurrence book) , inquiry or case number is the first step that needs to be taken before a victim is examined. It can be argued, however, that this can result to secondary victimisation as the process might take longer than it should. Constant exposure to the case and having to retell your story as a victim can cause further trauma. One of the objectives of this study was to establish if all child rape cases that come to the Centre are reported to the police on site. From the findings, it was established that every case of sexual abuse is reported to the Constable on site. Each case is important and needs to be attended to if it affects the wellbeing of the child. The findings also revealed that the Centre does come across children who are victims of other forms of abuse. One participant had this to share about the cases with different forms of abuse and their reporting:

*“Yes, all the cases get reported whether it’s physical, sexual or emotional abuse. There after they are evaluated and sent to the relevant departments [such as DoH and DSD]”*

(Zinhle)

From the findings of the study, it can be concluded that all child rape cases that make it to the Centre are reported to the police by the social worker or any other professional working at the Centre who happens to attend to the child first. This phenomenon can be attributed to the fact that there is a SAPS officer on site at the Centre, which makes it easier to report cases. Having a SAPS Constable is clearly beneficial to the reporting of child rape cases that come to the Centre; unlike in instances whereby social workers need to report the case to the SAPS station and visa versa. The findings of the Child Abuse Tracking Study as stated in section 2.6 support this statement by the number of reported cases that are missing with cases that cannot be cross-referenced with one another with one another. The working relationship within the organisation is in compliance with the Victims Charter which was created with the needs of the victim in mind.

### 5.3.2 Gathering and presentation of evidence

The findings of the study highlighted that the centre may be a rape centre however, other cases with different forms of abuse sometimes end up at the centre because of the manner in which the child displays them on presentation. As previously alluded to in chapter two, vulnerability is described as a human condition that should take centre stage in social and state responsibility. The Centre being an organ of the state is doing an applaudable job by referring other cases of abuse to relevant Government and Private Departments. It is important to note that just because a child displays some of the symptoms which are consistent with rape it does not automatically mean that they were raped. Other forms of abuse and/or neglect may have been experienced by the child which may be prematurely interpreted as rape.

It is not only the behavioural aspect of the child that gets investigated but the medical aspect too, which is equally important (Spies, 2006). It is vital for the presiding medical doctor who is based at the centre to determine through the instructions provided by the J88 form (shown in appendix 1) if the child was raped. By law, all medical practitioners who are assigned to assess children for sexual abuse and sexual assault cases must utilise the J88 form. It is required then for the doctor to fill in the J88 form, which will be presented in court as forensic evidence for the case. Because of legalities of the court system, it is vital for the doctor to present evidence and not be biased. However, before the doctor fills in the form it is vital that they establish whether or not interference has occurred because of the manner in which children present. Because of medical and hormonal differences, children's cases tend to differ when compared to adults. One informant had this to say:

*“The issue with children is that their injuries from sexual abuse tend to heal fast because of the blood supply in their genitalia. Rape may occur a few hours before they come here and on presentation there could be no tearing or swelling. But with an older person there is usually tearing and bleeding.”*

(Mbali)

Another respondent has this to say:

*“When examining children, you have to look at what is normal and what is abnormal. For instance, some children may discharge blood when urinating which is consistent with rape. However, this can also be caused by a medical problem called haematuria which is normal in children.”*

(Paul)

It is important to establish if a child has or has not been raped. This is one of the requirements for them to qualify for PrEP. It makes it extremely difficult for doctors to establish whether or not a child is a victim of rape because of the way in which they present, especially with regards to the medical aspect. It was mentioned that the statement of the child is equally important. If the child is too traumatised to talk, the statement for the legal guardian or the person who brought the child to Centre is considered.

For this reason, it is required that the children be attended to by a highly skilled person who will be able to probe and establish if and when the rape occurred and to get them to open up (Howard, 2002). Disclosure is very important in a child rape case and all the participants attested to this. There are many factors that influence disclosure and one participant had this to share:

*A child may report to the police officer that nothing happened and then disclose to me that something really did happen. Children are scared because they been threatened by the perpetrator and often times they take back their disclosure. Fear is the biggest problem in child rape cases and you sometimes find that children will disclose that they were raped during their 2<sup>nd</sup> session with the child line social worker.*

(Zimbini)

As mentioned above a highly skilled person is needed when attending a child rape case (Howard, 2002; Spies, 2006). There are certain ways and mechanisms that are used when interacting with a child and play therapy is one of them (Spies, 2006). It is just as vital that the medical practitioner be highly skilled because they deal with the forensics of the case (Dintwe, 2009). This is because the victim is also considered to be a crime scene

as per Locard's theory of evidence as stated in section 2.9. This was also highlighted by a participant who had this to say:

*"To do this job you need at least 10 years' experience. I did a course on medical forensics at the University of KwaZulu-Natal however it's no longer offered. The only university that still offers this course is UCT. I also have a Masters qualification in Law which has also helped me. There is no direct course that has been created with specifications of how to do the work that we do here".*

(Paul)

However, some of the evidence from the research shows that it is not everyone who has these skills. When one participant was asked about the mechanisms they used to encourage disclosure, this was their response.

*"When a child is raped we beg them repeatedly to tell us what happened that is what we basically do".*

(Teddy)

Given the complexities of interviewing children who are victims of rape this statement was very worrying and abstract taking, into consideration that there are many dynamics that need to be taken into consideration when dealing with children. With the respondent having had received training a response such as this is very worrying. There was no level of understanding of the utilisation of skills and mechanisms of interacting with a child shown by this respondent. As mentioned in chapter 2 the reliability of a child's memory is often time questionable as stated by Perry and Wrightsman (1991). To merely beg a child to tell you what had happened does not show accountability to the respondents training. In Section 3.4 Naidoo points out that one of the criticisms of the Thuthuzela Model is the lack of dedicated expertise and stakeholder cooperation, accountability and commitment to the project. It could however be that the respondent had not been given sufficient training for their line of work. It could have been the assumption by the organisation that hired them that the respondent had sufficient skills since they are from a NPO offering

services to the Centre. It is vital for the Centre to establish the level of skills and competency that volunteers have before allowing them to volunteer at their centre.

Another important aspect of gathering evidence and is most probably the most pivotal is the collection of DNA evidence. The presence of DNA is often times undisputable and can link the perpetrator to the crime without there being any doubt if found within on and within the victim. Although the gathering of DNA on the victim may be timeous, it is the processing of DNA that is lengthy which also negatively impacts the case:

*“DNA can take up to 3 months for a preliminary analysis to be done. After being transported to Pretoria from Amanzimtoti. It can take up to a year for the results to come back of which now the mandate of having to finalise cases in 3 months is thrown out of the window”*

(Zimbini)

DNA collection is not only about swapping off DNA on the victim but it also involves collecting DNA from the crime scene. Crime scene investigations are very important and play a very crucial role as an alternative method of collecting evidence. But seemingly, this method of collecting evidence has its own obstacles:

*“When a case is on late presentation meaning that it’s after 72 hours, crime scene investigations become very important in this case when DNA is little or cannot be found. However, the police don’t do crime scene investigations....I cannot speak on their behalf it’s their competency but my belief is that 1. They are drained. 2. At times it is not safe...there are areas that harbour criminals. They fear for their lives and have families they need to take care of. People within the are still loyal and will not speak to police. 3. Some of them are lazy”*

(Mbali)

Another participant had this to say:

*“Crime scenes are very important if we were to acknowledge its importance. In crime scenes we find the hairs that were left on the bed sheet. The sweat of the child that*

*remained on the sheet. Crime scenes are very important even though they are not properly managed by investigating officers.*

(Zimbini)

However, different sentiments were shared by the police:

*"We do. We do crime scene investigations if the scene is still fresh whether it's for a child's case or an adults case. But if a person comes here 2 years later there is nothing left there. Even if 72 hours or a week passes especially in summer and it has rained things get move. We have something called crime scene reconstruction but it doesn't have much weight at the crime scene where the crime took place"*

(Bernard)

The time factor may also play a crucial part in crime scene investigations. It was however highlighted that it does not have as much of an impact as expected and that instead it can lead to the prosecution of the perpetrator in some instances. This is what one participant said:

*"There was a child who came here and she presented late. However, this child was smart enough to remember the exact location of where the rape happened and she remembered that there was a hole in the roof because the sun was irritating her eyes. I begged the police to quickly go do a crime scene investigation and that case was successfully prosecuted"*

(Mbali)

The collection of forensic evidence should not be limited to the collection of DNA on the victim but should also include collecting other forms of evidence at the crime scene. In the absence of DNA evidence, these other forms of crime scene evidence can be used to implicate the perpetrator to the crime. As mentioned in section 2.9 Locard's exchange principle explains that whatever is stepped on, touched, left, even unconsciously will serve as a silent witness against the perpetrator. There are natural factors that need to be considered as stated in Bernard's verbatim, however Mbali's verbatim shows a

different story. In instances whereby there are higher chances that the evidence may still be obtainable from the crime scene, then an investigation must be done promptly.

### 5.3.3 Staff influence in the process of reporting

Before a case is reported, there needs to be a conducive environment for people to come report. An ideal environment would include having a medico legal, psycho-social, coordination and assistance services rendered as per the Thuthuzela Model (Thuthuzela, 2009). During the observation period, the researcher was able to attend an all-inclusive stakeholder session organised by the Centre. Generally, there was an outcry on the bad treatment of victims and their guardians at the police stations, which stakeholders argued that such treatment discourages victims from reporting child rape cases.

This what one participant had to say during the interview:

*“The treatment of police offices especially women police officers towards victims is a big problem. Male police officers treat victims better and I sometimes think it’s best that they work with victims but the policy doesn’t allow for it. Female victims get attended by female police officers and not male officers.... this is why we even tell them during educational talks to come here and report their cases”.*

(Mbali)

It was not only the mistreatment of victims at police stations was also highlighted during the interviews however one participant also highlighted how the police do not sometimes take an active role in children’s cases. The participant had this to share:

*They do not understand that we are advocates for victims. When the docket leaves the centre there, is a 70-80% chance that it will be prosecuted but we depend on other role players. We need other role players unfortunately if they drag their feet it becomes our baby”*

(Mbali)

During the stakeholder implementation meeting other stakeholders had this to share:

- Investigating officers do not come to court cases and cases end up not being prosecuted.
- Victims do not receive information about bail for alleged perpetrators.
- Victims are not informed about their rights such as having the right to know the perpetrator's HIV/AIDS status.

(Stake holders)

When interviewing the captain of the Family Violence and Child Protection about the treatment of victims he had this to say:

*“When dealing with a person who has been raped we have to sympathetic towards them even the manner in which we deal with the case must be different. Even the manner in which you speak to the victim and the family is different. Charge officers for this unit are in a separate location and not with other charge officers. We go for training for how victims should be treated at Victoria Street in town which social workers from the Department of Social Development provide. Then again if a detective who does general cases starts working in our unit they go to Hammanskraal for a monthly course where they deal specifically with cases of rape”*

(Bernard)

The findings of the study show inconclusiveness about the mistreatment of victims and their families. On the one hand, there is the social worker, the site co-ordinator and the victim assistant officer who deal with the victims' reports about their mistreatment at the hands of charge officers and their unwillingness to do their part as stakeholders of the centre. On the other hand, it is reported that training is provided for police by other state entities. There seems to be a lack in the motivation with officers to do their work accordingly. By being provided with training, it would be assumed that it would assist the police in understanding the rights of the victim and how to better work or handle a victim of rape. As also mentioned in section 2.10 in chapter 2 by Fox and Cook (2011;2) the perceptions and treatment of victims are crucial as they affect both the report practices of crime victims as well as actions taken by official[s] responsible for processing time”. The mistreatment of victims at the hands of these officials negatively influences victims to not

to report cases and to follow through with their cases. This leaves the victim susceptible to being victimised again and places other children at the risk of being raped. As also mentioned in chapter 2 the perception of officials about clients is often determined by their socioeconomic status. The Centre being in Phoenix caters for communities that are predominantly African, Indian and Coloured and the Centre works with police stations of these communities. The majority of women were marginalised during apartheid and this is the same misfortune that they must face because of their socioeconomic which is also influenced by the colour of their skin. Women, especially women of African descent still find it hard to access resources due to hostility towards them by those in power. The hostility towards these women can put them off in pursuing cases of child rape against their children. With the majority of black people being poor and living below the poverty line in townships where rape is rife, it makes one wonder how many cases have not been reported, or how many have been left abandoned because of the fear of being ill-treated. The ill-treatment and the non-disclosure of information to victims by police officers is in direct contravention of the Victims Charter. The Victims Charter states that victims must be treated with fairness and respect. Victims must also receive assistance, protection and have the right to receive information as stated in section 2.8.

#### 5.3.4 The rate of reporting cases at the centre

Usizo Centre is a rape crisis centre that caters for the Phoenix community and the surrounding areas. It is a one stop centre, meaning that it comprises of a number of stakeholders (NPO's, NGO's, DSD, DoH, DoE, Treasury and the NPA) who work in collaboration to renders medico legal and psycho-social services to victims of rape and other form of gender based violence . The process of reporting cases at the Centre is not straightforward, taking into consideration that victims and other stakeholders may have reported their case at their local police station. Although some cases may come to the centre having been already reported to the police or are referrals from other Departments, numerous cases still get reported as walk ins to the Centre. The informants of the study stated that some of the cases reported at the centre are brought forth by the community and teachers of the allegedly raped children. Two of the informants believed that the educational and awareness programmes that the Centre have held in the community

have had a positive influence in the fight against rape. In these talks, communities are taught about what they need to do when faced with a case of rape and the importance of reporting a case promptly. This is what the informants had to say about the influence of educational on levels of reporting:

*“We do community outreach events with other stakeholders where we educate the community about rape and the reporting process which has led to a significant increase of cases being reported. Community members are sometimes very useful when it comes to the reporting of child rape because some of them don’t work and see everything that happens within the community. Sometimes they come here with the child to open the case or they tell their suspicions to the parents of the child who then come here to open a case”.*

(Zimbini)

*“Every year in Verulam we educate volunteers on what is expected when they come across a rape case. The teachers from Verulam also get their own day where they workshopped. These workshops have helped a great deal because the volunteers and the teachers gain knowledge on how to handle these cases”*

(Bernard)

The respondents felt that the educational talks empowered people with the necessary information on how to go about reporting rape cases. Due to the sensitivity of the case the researcher was not able to access the case files of the children. However, statistics were provided by the VAO for the months of March and April. In March 491, cases of rape against children were reported and April 659 cases were reported. Although the community educational talks seem to have helped boost the number of cases reported at the Centre, some of the informants also indicated that they still believed that some people were still not coming forth to report cases. They suspected that it was due to the fear of being harmed by the perpetrator or their families. One of the respondents had this to say about the issue:

*"We always encourage people in the community especially the teachers and the parents to come report even if they have the slightest suspicion. You hear the teachers say that they had suspicions that something is wrong but they were afraid to report. So, we always emphasize in our talks that there are ways that they can protected if they are in danger".*

(Zinhle)

Another respondent has this to say

*"Others are scared of being threatened. They say I will go report and then something bad happens especially if in that case the father is the perpetrator. However, by law they are supposed to report and the law stipulates that they must get arrested if they don't report".*

(Bernard)

As alluded to in chapter 2, by law every professional person in the country who comes into contact with a child and suspects that the child is being abused is obligated to report the case and state why they have these suspicions. When suspicions or the rape has occurred but is not reported, the chances of having a successful conviction of the rape charge are decreased. As also previously mentioned in section 2.9 when a case is reported within 72 hours, there are higher chances that enough DNA can still be collected from the child. DNA is very significant in children's cases since their cases rely heavily on forensic evidence and it links the perpetrator to the crime.

South Africans have a responsibility to ensure that their rights as individuals and the rights of other people, especially those who are considered to be vulnerable are protected. The vulnerability theory states that vulnerability is a social and state responsibility, with the state providing resources to ensure that the vulnerable are taken care of. The educational talks done in communities have aided in making community members more cognisant about rape. However, the unwillingness of some professionals especially educators to report cases is an indicator that more still needs to be done. Educators need to understand that *loco parentis* is applied to them as soon as the children enter the school gates and that they have a legal obligation to be guardians of the children in the absence

of parents. However, there is also the fact that there will always be people who say they do not want to be involved in other people's business.

## 5.4 CHILD PARTICIPATION

### 5.4.1 The history of events

There was a consensus from all the participants that took part in the study that disclosure is very important to build a strong case. Disclosure often takes time but this differs from child to child. A knowledgeable professional is needed to assist in the disclosure process. This is what Paul had to say:

*'What is important to underscore is that this a specialised area of work. Someone who hasn't been trained or received medical legal work related to the abuse of children and women would do more harm than good'.*

(Paul)

Another participant had this to say:

*A child can disclose straight away. Sometimes they disclose after the 2<sup>nd</sup> or 4<sup>th</sup> session with me. Sometimes they disclose on the last session. My job is to build a relationship with them so that they can trust me and to ensure that they know that whatever we talk about will not be mentioned to their parents. One way of doing this is by first seeing the parents or guardian before the session starts and then seeing the child after.*

(Precious)

It is very important that children give an account on the history of events as this is also included in the case file. The statement of the child serves as a roadmap on how the child's case it to be attended:

*We look out for the history which is what is the child telling us. Was he or she raped or did someone touch her? Did somebody penetrate her or was it an accident or was it an accident? Did she hurt herself? History is an important guide to us*

(Paul)

As vital as the statement of the child may be to their case, it becomes hard to accept it when there is no forensic evidence backing up the child's accusations:

*"A child's statement is taken into consideration during a court case. However, their cases don't do well in court because they need sufficient evidence to back up their allegations.....In the absence of DNA, we need to rely heavily on the testimony of the child. If the credibility of the child's statement is questioned it becomes hard to prosecute the case".*

(Zinhle)

The participants did however indicate that the absence of forensic evidence does not always mean that the child was not raped:

*But often times I would say 95% of the cases we don't find anything...the expected indication that a child was raped there would certainly be injuries. If there are no injuries, then the conclusion would be the child is lying. But that is a myth. Often times there are no injuries but the child is telling the truth.*

(Paul)

Child participation is an element of reporting which needs considerable attention and competency with regards to its application in children's cases. As stated in section 5.3.2, competency is needed when attending children's cases because it is important to probe and establish if the rape occurred and if so, when. When dealing with children there is also the prospect of CSAAS which also needs a skilled and competent person to manoeuvre. The child's statement on the history of events needs to be undoubtable, especially when there is no DNA to link the perpetrator to the crime. The first step of attaining this would be to affirm and probe the history given by the child in a highly skilled manner. It can be argued that the courts may seem biased towards child rape cases however in the end; the alleged perpetrator can sue the court if they are wrongfully arrested. At the end of the day, the court needs to protect itself from possible law suits. The only way of overcoming this obstacle is to help children give statements which are not contradictory. As stated above such a task needs someone highly skilled and

competent in their work. Participation in the reporting of their cases also forms part of the VEP and is one of the rights of the Victim's charter. Participation is therapeutic to the victim when administered in the right manner. It gives the victim an opportunity to tell their side of the story and to express their feelings, which helps with the healing process.

## 5.5 DETERMINING THE BEST INTEREST OF THE CHILD

### 5.5.1 The safety of the child

The safety of the child takes priority once the relevant stakeholders have been alerted about the possible sexual assault. One of the ways of achieving this includes the immediate removal of the child from home if there are chances of them getting into contact with the perpetrator. To minimise further trauma to the child, the Children's Act of 2005 states that the perpetrator should be removed and not the child in order to minimise self-blame for the rape. Although this is an applaudable measure it also comes with its own limitations:

*In documents it is so in practicality it's not because we've observed that there are many cases that end up being withdrawn when we send back the child to the community and remove the perpetrator. When you leave this child you notice that there has been influence...if there is intimidation within the family the child will come back and say they were confused their uncle or their father did nothing to them*

(Zimbini)

The removal of a child by law is done by social workers, however removals are not only restricted to social workers. If the case is reported after hours which is outside the working hours of 8am to 4pm, the police are mandated to carry out this task as per the Children's Act of 2005. However, the law is not always followed through by the police.

*"Sometimes we end up doing the work that police are meant are do. After hours' police are supposed to book children in places of safety but they don't do that and it ends up being our baby".*

(Zinhle)

The safety of the child is not only dependent on social workers but on the guardians of the child. Although total protection of children can never be guaranteed guardians do need to take extra precaution with regards to the places their children are exposed to. Safety begins at home and at times the ignorance of guardians and at times that put the child in danger of being sexually victimised:

*This girl is not working. Women in the community that work leave their children with her and the boyfriend has access to these children. He started by victimising the children of the girlfriend then he later on victimised his sister-in-law child. There were three children that lived in this home and he started out by victimising them. He then later on victimised the other children who were left in the care of this lady.....the people taking care of the children were supposed to be screened but it was a temporal thing because she doesn't work and it was a cheaper service because they would pay her R50's each because she doesn't work.*

(Zimbini)

The safety of the child is one of the aspects of the child's best interest as per the Children's Act of 2005. It is the guardian's responsibility to ensure that their children are safe even when they are not in their sight. Parents need to be extra cautious when leaving their child in the care of another person. One way of doing this is leaving your child with someone who has been screened and vetted to be a child minder. Guardians need to actively participate in the safety of their children and not be passive towards it.

### 5.5.2 Resources

One of the ways of ensuring that employees give the best service to children is to provide them with the necessary resources. Resources are not only physical assets but also include personnel or human resources. From the findings of the study, it emerged that the unavailability of certain resources at the Centre made it hard for staff members to carry out their allocated tasks: mandate that the centre is supposed to fulfil in line with their work mandate:

*Usizo centre is a 3 tier service level agreement. There is a national level service agreement, provincial level agreement and a cite level agreement. Everything is*

*supposed to be done at the centre however this is not the case as per the national level service agreement... Some the services that are supposed to offered here get outsourced from service providers in the community. The worrying part is that many of these agencies have many caseloads and the child ends up not getting the services we would like them to get*

(Mbali)

Another participant had this to say:

*We don't have an officer 24 hours on site.... After hours as well. We don't have a social worker on weekends.... Social workers don't work after hours because they don't get paid for over-time. Remuneration is a big thing.*

(Paul)

The availability of physical resources was also a hindrance in fulfilling the daily tasks of the employees at the Centre:

*More space. We have a big team and there isn't enough office space. You find that the officer here has to share with Child Line or Life Line. The NPA here has a site coordinator and a victim assistant officer have to share. My own colleague she doesn't have an office. Often time role players have to wait for an office. They don't have any dedicated cabinets or office equipment like a computer, laptop, telephone, filing cabinet and so forth to make working smooth, pleasant and efficient for them.*

(Paul)

From the above responses it is quite clear that the availability of resources is a hindrance in the operations of the Centre. Furthermore, during the observation period the researcher noticed that clients would wait for a long time (minimum of 30 minutes) before being attended to, especially on Mondays. This can be attributed to the fact that some stakeholders do not work on weekends. The Thuthuzela Model encourages having services that are efficient in order to retain the dignity of the abused person (Thuthuzela, 2009). The waiting in this instance is detrimental to the child's dignity. Secondly, it can

further traumatise the child being in one with other victims of rape. This is due to the fact that children and adults present in different ways when they come to the centre. Some children and adults come there beaten up badly with scars and bruising all over their bodies. Being in the presence of people in that nature can add to secondary traumatising to the child.

The policy formation of the centre was done at a national and provincial level but it is questionable if it was established whether or not the policy could be well implemented at a site level. A study by Jonas (2016) which applied Maslow's theory on the hierarchy of needs reports that a pleasant working condition and enough pay to cover personal expenses was one of the basics of the physiological level of the needs pyramid. A pleasant working condition would include having enough resources. Income was the highest scoring factor, with 80% of the participants stating that it was a motivator for them to do their job. Not being paid for the extra hours could thus be the reason for social workers to leave cases hanging and to procrastinate attending to clients. Such findings can substantiate the findings of the Child Abuse Tracking Study (2017) of the cases that go missing and cannot be linked between the police and social workers.

### 5.5.3 Employee wellness

In order to give the best service to children employees need to be mentally fit and healthy. In order to ensure this, employees need supportive services to be offered to them because their work is emotionally challenging. As stated in section 2.7 of this report, professionals need to be clear about their state of mind when a referral is made (Spies, 2006). The services that are provided to the victims can be beneficial for them but as equally aching to the staff because of the emotional burden their work can have on them:

*You can come work here because you think it's a lovely setting to work in but it's not easy. The things we see and hear hurt us psychologically.*

(Zimbini)

Based on the data collected from the study, the Centre did provide supportive services to its employees as stipulated in the Labour Relations Act of 2004. The participants were

well informed about the supportive services available at their disposal but they did not utilise them. Often times would confide with each other about problems they faced:

*I know that there are EAP's here that we can go to when we have problems whether work related or not. But often times I speak with my manager she has an open door policy so I can go to her whenever I need advice on work or if I'm battling with a case*

(Precious)

Although supportive services are being offered at the Centre it was not everyone who utilised the services:

*We used to have debriefing sessions once a month but they stopped because only two or three people would show up. So we stopped these meetings and now use the services offered by the hospital. There are employee program's called EAP. They can have a one on one session with the EAP workers.*

(Paul)

As mentioned in section 3.2 Section 110 (7) of The Child Care Act of 2005 states that counselling is one of the services children are entitled to assist children. Working in settings such as Usizo Centre can traumatise people just as stated in Zimbini's verbatim. The actions of the Centre employees are contradictory to the knowledge that they have because they do not utilise the supportive services being offered. This can potentially affect the work, personal lives and also demotivate them when coming to doing their work to the best of their ability. However, the findings of the study do show that there are also different mechanisms that employees use to cope with their work. Speaking to someone who understands the scope of your work and the pressures faced on a daily basis can offer good support as they understand the dynamics of the work and the predicaments that come with the work.

#### 5.5.4 Gestures of staff motivation

From the findings of the study, it emerged that factors influencing the level of staff motivation involved even the slightest gestures were unfortunately not given much attention. Staff motivation is key to the efficient delivery of services by staff:

*We do try have regular unit meetings when the entire team comes together at least once a month. There are operational meetings but they also boost and lift moral spirit as well. We also have an end of the year party where we encourage everybody to participate*

(Paul)

Another participant had this to say:

*We try to motivate staff with the slightest things like having meetings. We have meetings every day to discuss cases and caseloads. We then have cluster meetings every Wednesday. One of our own was able to solve a rape case and have it prosecuted. What was hard about this case was that the victim was a male and this was the first case ever where a male was a rape victim to be prosecuted in KZN. So we try and this person received an award for this from the provincial head.*

(Bernard)

From the above statement it is evident that motivation propels employees to push themselves and attain goals which were thought to not be attainable. Motivation pushes people to reach the self-actualisation level which is believed to be the level where employees operate optimally. A study by Jonas (2016) shows that 50% of the participants believed that achievement and advancement were attributes of a self-actualised person. By motivating the personnel working at the Centre it would encourage them to excel in their work and overcome obstacles that may hinder them in delivering well executed work. Such motivation is needed in such a setting especially since the services provided are for victims of rape.

## 5.6 EFFECTS OF SECONDARY VICTIMISATION

The researcher interviewed the psychologist that works with the Centre to better understand the concept of secondary victimisation and what effects it may have on the child victim of rape. When asked to define secondary victimisation the psychologist defined secondary victimisation as being the following:

*Okay my understanding of secondary victimisation, there is first primary traumatisation which is when you go through the trauma first hand. Secondary traumatisation or*

*secondary victimisation is when you have to relive the experience all over again. You have to retell your story to different people and when you don't get the right services that you require that does lead to secondary victimisation because you are not getting the therapy that you're supposed to be getting to get over the flashbacks like re-experiencing.... Secondary victimisation can be through telling your story to people who are inexperienced enough to be able to deal with that in terms of privacy as it should and also getting the proper service that you require.*

(Zelda)

With the Centre having so many professionals in one setting, it became important to unravel whether having to explain the incident to the various professionals involved could contribute to the secondary victimisation of the child. There was inconclusiveness between the participants with the issue of child victims having to retell their stories:

*Children don't have to reiterate how the incident happened over and over again to different people. The 308 form is written by the officer on site and it is that form that is used to get information on the incident*

(Mbali)

Other participants had this to say:

*When the court wants a report from me I cannot depend on what has been previously written by someone else. I need to hear from the child first-hand how things transpired*

(Precious)

*Secondary victimisation is unpreventable because the child may not give their statement right away so they will have to come back and give their statement so that there can be a case of rape opened. Also at the court, the child needs to give testimony. The child may be getting counselling and psychological help for 2 years and they get better. Going back to court and giving testimony about their case can also cause secondary trauma. The aim of this centre is to get cases prosecuted within three months but that is not always the*

*case because there are backlogs in the courts of cases since 2015 which still need to be prosecuted so prosecuting a case that is recent in three months is hard*

(Zimbini)

*My job is establish if the child's statement is true or not and to gather more evidence for the case when the prosecution feels that there is not enough evidence for the case or when something is not adding up.*

(Sindy)

From the above text it can be argued that there is not a clear indication of whether or not the children do need to retell their story to several people. The 308 form (shown in appendix 2) is the form used to obtain a statement from the child or the parent. It can be assumed that retelling of the history depends on whether or not the child has disclosed or not as stated in section 5.4.1. The child may have to see the social worker again from Child Line if the prosecutor feels that their statement is not concise or when the child has not given the statement themselves. In such instances, play therapy is often used to get the child to open up about the event of the rape. The forensic social worker needs to establish whether or not an act of sexual offence really occurred and to gather more evidence for the case. This can cause secondary victimisation or trauma because it involves taking the child back to their traumatic experience.

As much as it may sometimes cause secondary traumatising, it is also necessary, as it is needed to gather enough data in order to formulate a strong case. In some instances, it may be beneficial for the victim:

*Retelling your story is also therapeutic it's just a manner of approach and how qualifies the people or persons working with the child or victim*

(Zelda)

As stated by Spies (2006) in section 2.7 the interviewer needs to be aware of his or her epistemology and knowledge about the dynamics of child sexual abuse, developmental issues, forensic interviewing techniques, play-related communication techniques and

critical thinking during hypothesis testing which are very imperative. The analysis detailed in section 5.3.2 also shows the importance of having a competent person deal with a child who has been a victim of rape. In an attempt to help the child deal with and adjust to the fact that they have been victimised, a child may suffer secondary victimisation because of a person who lacks knowledge in the field of child rape. It can be argued that secondary victimisation is sometimes not what a person has done but it is also about what a person has failed to do.

When questioned about the symptoms of secondary victimisation and how it can affect other children, the psychologist had this to share:

*I have not had someone who has been raped but I have had children who go through social influences of doing this. For instance, being exposed to sex at an early age seeing mommy and daddy having sex. At the age of 12 and 13 this child is becoming a teenager and will want to kiss because they are exposed to sex at an early age whether it be at home or on the TV. Now because this child is 12 years and maybe has sex with a 10-year-old they can be charged with rape because that is the age of criminal capacity. That child is the same as someone who has been victimised to receiving information that they should not be given.*

Symptoms of secondary victimisation include:

- Sexualised behaviour which includes fiddling and touching of private parts inappropriately in a public space and in front of other children.
- Inappropriate sexual language for the child's age.
- Aggressiveness which can be associated with bullying and fighting.
- Withdrawal from participation in class and playing with friends.

The effects of secondary victimisation are not only detrimental to the victim but to other children they may come into contact with. The sexualised behaviour and aggressiveness towards other children can badly impact the other children's mental state (Spies, 2006). Exposure to sensitive information at an early age can lead to erotic behaviour as stated in Zelda's verbatim. Exposure to such information does not necessarily have to come from adults but from their fellow peers who could potentially be victims of rape or victims

of exposure to inappropriate information. Furthermore, bullying has emotional implications which may last into adulthood. A person who has been bullied usually becomes aggressive themselves or withdraws from societal interaction. In the case where the child is a victim of rape, corrective measures need to be applied in order for the child to understand that their behaviour is not appropriate especially when it involves touch and fiddling of their private parts. Thus, it is very important from the onset to handle a child rape case with caution and not to cause further damage to a situation that is already critical.

## 5.7 CHAPTER SUMMARY

This chapter focused on the data analysis of the study. The method of data analysis that was used in the study was thematic data analysis. From the data that was collected, it was gathered that all cases of rape that come to the Centre get reported to the SAPS constable on site and that other cases that come to the Centre but are not cases are referred to the relevant Departments.

Ideally, the Centre should operate on a 24/7 basis and have after care or post counselling done at the Centre. Unfortunately, however, this is not the case because of the lack of sufficient personnel placed at the Centre. The lack of resources affected the work done by the personnel working at the Centre negatively and outsourcing services from other agencies outside the Centre could result in the child not getting the appropriate attention and care that they would normally get at the Centre. The findings also highlight how important it is to have a competent and skilful person work with children who have been victims of rape. This is pivotal in the gathering of information or history of events as that makes up the statement of the child.

The findings of the study also highlighted the unfair treatment victims of rape often receive when opening a case with the police. Although the police receive training on how to treat victims, there were still complaints against their conduct. The unfair treatment of police towards victims is contradictory to the Victims Charter.

The work of the investigating officer includes having crime scene investigations done. However, crime scene investigations were not encouraged, even though some of the participants indicated how important these are. Locard's theory of exchange explains how a crime scene, including the victim of crime can link a perpetrator to a crime because of the exchange of evidence that occurs between the perpetrator and the victim. In instances where there is not significant or enough forensic evidence on the victim, the crime scene can be the link that is needed to prosecute the perpetrator.

The findings also indicated that motivation is the biggest factor in the work place in terms of pushing people to do their work to their best of their ability. One of the biggest motivations which affected the motivation levels of the staff at the Centre negatively in this instance. This is because during weekends, the Centre lacked in the number of personnel that are available to work. Overtime was not paid which resulted in people not working the extra hours that were needed to ensure that all victims received the same services on weekends as those who presented to the Centre during the week. The unavailability of resources also negatively impacted the service delivery at the Centre. The staff shifted around offices in order to attend to the children to give them the privacy that they need. However, despite the Centre being under resourced, the staff still worked to their best ability to offer services to victims. The motivation to do this may be attributed to the monthly meetings that the staff had to address the problems that they were facing. The staff also found motivation from each other by sharing their struggles with one another about the work stress that they experienced.

This study also looked at secondary victimisation and the effects it may have on the child and others. From the findings gathered, it was highlighted that children are sometimes victims of being exposed to inappropriate information at a young age. This makes them engage in behaviour that is not acceptable and could put them in jeopardy if they get detained to a juvenile jail. The effects of secondary victimisation not only affect the child victim but may also affect other children. The aggressiveness of the victim towards other

children can lead to physical hurt or at times emotional scars which may take years to heal.

## CHAPTER SIX: CONCLUSION AND RECOMMENDATIONS

### 6. INTRODUCTION

This chapter presents the conclusion of the study and also makes recommendations based on the findings of the study and the recommendations made by the research participants. The research participants comprised mostly of social workers and other personnel working in the centre and stakeholders of the centre. All the participants were involved in the process of reporting child rape.

#### 6.1 GENERAL CONCLUSION

South Africa's constitution is globally acclaimed for its inclusiveness and promotion of human rights. South Africa's constitution is also globally acclaimed for the promotion and protection of children's rights with section 28 of the Constitution being dedicated to children. Other means of include the amendment of the Children's Act of 2005. Although children's rights are promoted in South Africa children still find themselves being victims of sexual offences at the hands of merciless perpetrators. Media reports report week in and week out of a child who has been the victim of a horrendous rape which often times leads to the death of the child. This research study looked at whether section 110 of the Child Care Act of 2005 which is the guideline of the reporting of child rape cases was efficient enough to successfully convict perpetrators and protect children. To answer this research question, the research looked at three objectives namely

- the establishment of whether certain cases were not reported to the police and if so why,
- the participation of children in their cases and the determination of the child's best interest.
- The forth objective of the study looked at the effects of secondary victimisation on the child.

The research took place in a medico legal setting otherwise known as a one stop centre for victims of rape and gender abuse. From the findings of the study, it was realised that all cases that come to the centre get reported and those cases that were presented as sexual offences cases but are not sexual offences cases get referred to the relevant department or stakeholders. The biggest issue that the centre faced was their working relationship with the police. Issues that were mentioned were namely the treatment of victims by the police, the securing of space for children in places of safety after hours, sharing of information with victims and the inactive participation to crime scene investigations. From the study it was also realised that children do participate in their cases by giving a history of event or statement. The gathering of evidence requires individuals that are well knowledge about how to obtain such information. Unfortunately, the findings show that it is not everyone who has the required knowledge and skills to do so. Although the testimony of the child gives the case much weight however, without forensic evidence it becomes hard to prosecute the case not unless the child maintains credibility. One of the hurdles of collecting forensic evidence lies in the late presentation of the child at the centre. This means that the child's case arrives at the centre post 72 hours with 72 hours being the required time to report because forensic evidence can still be collected on the child. The safety of the child was reported to be paramount by the research participants as safety was in the child's best interest. The safety of the child sometimes meant that the child had to be removed from home and placed in a place of safety. Another aspect that the research looked at was the motivation of workers to do their work. Factors that were identified in the study to affect the motivation of the personnel include remuneration, employee wellness and resources.

The study also looked at secondary victimisation and the different factors that influence secondary victimisation to occur. The effects of secondary victimisation were also established and these effects may affect other children. Secondary victimisation may occur when the child has to retell their story when evidence is being collected or during their case hearing. However, retelling their story can also be therapeutic for the victim if a competent professional precedes the process of having children retell their stories. It was also established in the evidence collected that children are sometimes victims to

indecent behaviour which they then display. This exposes other children to indecent behaviour which can potentially lead to incarceration in juvenile in the child is within the age of being prosecuted. Other effects of secondary victimisation on other children include being bullied by the victim, witnessing aggressive episodes from the victim and being exposed to indecent behaviour and actions done by the victim.

## 6.2 RECOMMENDATIONS

The following recommendations were made by the research participants and the researcher. All these recommendations stem from the findings of the research and must be given much consideration.

The three tier policy of the centre seemingly does have problems that were not identified during the formation of the policy. The biggest problems lie at the site level where there is a lack of resources with reference to staff, infrastructure and tools of trade. The policy needs to be revised and have certain requirements made mandatory for the functioning of the centres.

The centre in Phoenix did not have a DSD social worker however, the policy states at every centre there should be a representative from DSD. It was not feasible for DSD to let their social workers work at the centre. The same situation applied for the police who are expected to be at the centre for 24 hours but were only there during the day. Provisions need to be done to be made for more personnel to be present at the centre and for them to be paid accordingly the amount of hours that they work at the centre. This can be achievable through creating more employment opportunities and having dedicated staff that will work at the centre even on weekends at night.

The infrastructure also needs to be modified by having more space for the stakeholders to carry out their daily tasks. By minimising the waiting at the waiting room it will also minimise the chances of the child having to suffer from secondary traumatisation because every child and adult that has been victimised sits there and waits to be tended to. The centre also needs to have the latest technology and equipment that allows the personnel to apply new techniques that have been developed to minimise secondary victimisation. Such technology includes having two-way mirror interview rooms where all the

stakeholders are able to hear the child give the history of the event. In that, way everyone can make their own notes and not depend on the notes written by one person in the manner in which they understood the child giving their statement.

Modifications done to one centre must be done to all centre irrespective of whether the centre is in a busy setting or not. Children must be able to benefit fully from the latest technology and techniques that have been developed for their wellbeing.

The training of police should not only focus on the physical aspect of training it should also include training on how to treat victims of crime and what procedures are in place for the reporting of rape. Crime scene investigations may be done by the forensic department but the police must have knowledge on how to close off a crime scene once a crime has been reported. Crime scene investigations need to be encouraged in the police force and be done irrespective of the time frame of 72 hours if the environment is conducive enough to store the forensic evidence and finger prints at the crime scene.

More police should be trained to be detectives and specialise in sexual abuse and physical abuse cases in an effort to have detectives that will give all their attention to these cases especially if they involve children. Former detectives can also be brought on board to do detective work to help the detectives at police stations with cases that are not being attended to because of caseloads.

The centre needs to have a policy in place to test the competency and skills of the stakeholders working at the centre irrespective of which organisation or agency that they come from. Child rape cases are highly complex especially with the age group that the research study focused on. The competency and the skills of the stakeholders to assist the child in giving the history of events play a crucial role in the case of the child.

In instances that there is no forensic evidence the statement of the child is very crucial. The statement needs to be sound and must not contradict itself. This can assist in getting a successful conviction of the perpetrator and minimise the chances of the victim being revictimised by the perpetrator and other children becoming victims of child rape.

More community educational talks can be hosted by the centre in communities to raise awareness on sexual offences and to also promote the centre itself. By doing so it will lower the chances of mistreatment and secondary victimisation at police stations.

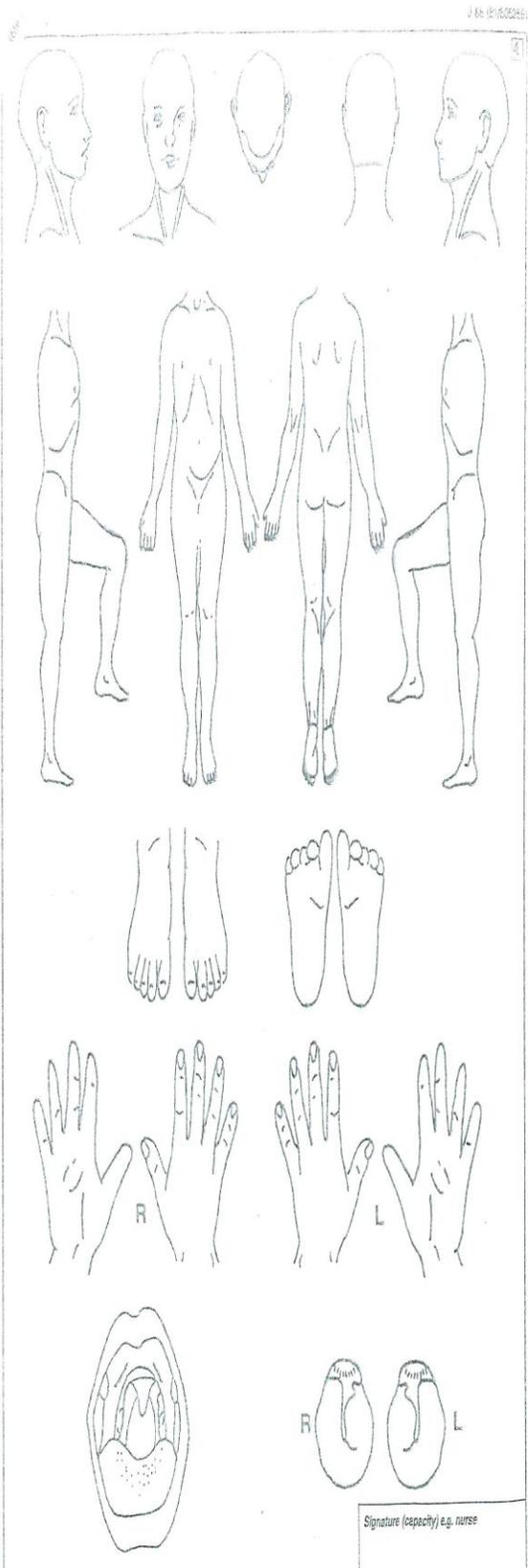
Provinces in the country must have all have laboratories whereby the testing of DNA can be done. Having one national testing laboratory in Pretoria slows down the process of closing cases which acts against the mandate of closing child rape cases in 3 months. The preliminary lab that exists at Amanzimtoti and any other preliminary laboratories that exist in other provinces can be turned into provincial laboratories and all DNA analysis for that province may be done at that laboratory. If there are provinces that do not have preliminary laboratories they can continue to use the national laboratory in Pretoria so as to not waste resources that are already available.

### 6.3 PROPOSED FUTURE RESEARCH

The one stop setting of the Usizo Centre is applaudable even though there is room for improvement with regards to the availability of resources at site level. The proposed future study would be to do a comparative between the centre and police stations or DSD offices that do not have the access to one stop centres. The researcher would like to explore the dynamics that exist in attending child rape cases since the services offered to the child are not all in one setting but in different departments or agencies. Most importantly the researcher would like to explore the working relationship of these departments and communication between them.







Signature (capacity) e.g. nurse

REPORT BY AUTHORISED MEDICAL PRACTITIONER ON THE  
COMPLETION OF A MEDICO-LEGAL EXAMINATION  
*To be completed in legible handwriting and signed on every page*

**A. DEMOGRAPHIC INFORMATION**

1. Police station:      2. CAS No.:      3. Investigating officer: Name and number:      4. Time:      Day:      Month:      Year:

5. Name (capacity) e.g. nurse, doctor etc.:      10. Physical practice address or clinic:

6. Registered qualifications:

7. Phone number:

8. Fax number:

9. Place of examination:

11. Full names of person examined:      12. Gender: M  F       13. Date of birth (apparent age):

**B. GENERAL HISTORY**

1. Relevant medical history and medication:

**C. GENERAL EXAMINATION**

1. Condition of clothing:

2. Height (cm):      3. Mass:      4. General body build:

5. Clinical findings: In every case the nature, position and extent of the abrasion, wound or other injury must be described and noted together with its probable date and manner of causation. The position of all injuries and wounds must also be noted on the sketches.

6. Mental health and emotional status:

7. Clinical evidence of drugs or alcohol:

**8. CONCLUSIONS**

Signature (capacity) e.g. nurse

# APPENDIX 2- 308 Form

S. 002-05:50

SAPD  
SAPS 308

Suid-Afrikaanse Polisie



South African Police Service

**AANSOEK AAN GENEESHEER VIR ONDERSOEK IN GEVAL VAN BEWEERDE AANRANDING OF ANDER MISDAAD**  
**REQUEST TO DOCTOR FOR EXAMINATION IN A CASE OF ALLEGED ASSAULT OR OTHER CRIME**

**DEEL/PART I**

MOET ALTYD VOLTOOI WORD/MUST BE COMPLETED IN EVERY CASE

**VERSOEK AAN MEDIESE BEAMPTTE/PRAKTISYN \* REQUEST TO MEDICAL OFFICER/PRACTITIONER**

No.	Rang	Naam	Stasie
No.	Rank	Name	Station
lid van die Suid-Afrikaanse Polisie versoek hiermee die mediese beampte van die distrik			
member of the South African Police Service, hereby request the medical officer of the district			
die klaer/klaagster (volle naam)			te ondersoek in 'n saak van
examine the complainant (full name) to examine			in a case of
<b>HANDTEKENING VAN POLISIEBEAMPTTE</b>			
<b>SIGNATURE OF POLICE OFFICIAL</b>			

**sonderhede van saak/Particulars of case:**

tyd	Tyd	Plek	MR/MAS No.
Time	Time	Place	CR/CAS No.
ie		Kort beskrywing	
on		Short description	

**DEEL II/PART II**  
**TOESTEMMING/CONSENT**

(volle name)  
 (full names) .....

er/Voog van (in geval van minderjarige) Ouderdom  
 ent/Guardian of (in case of minor) Age .....

en hiermee toestemming dat hy/sy/ek volledig deur die mediese beampte van  
 by consent to his/my/her being subjected to examination by the medical officer of .....

rsoek word en dat die bevindinge vir strafregtelike verrigtinge genotuleer mag word.  
 to the recording of findings for criminal proceedings.

erleen ook toestemming vir die neem van alle monsters. soos benodig, vir laboratoriumtoetse asook vir die neem van die nodige foto's van beserings  
 o consent to the collection of all necessary specimens for laboratory tests and for the taking of necessary specimens for laboratory tests and for the

verband hou met die rede vir hierdie ondersoek.  
 ing of necessary photographs of injuries related to the reason for this examination.

**HANDTEKENING VAN KLAER**  
**SIGNATURE OF COMPLAINANT**

**HANDTEKENING/SIGNATURE**  
**GETUIE I/WITNESS I**

**HANDTEKENING/SIGNATURE**  
**GETUIE II/WITNESS II**

oval van minderjarige waar voog nie beskikbaar is nie moet Deel III van die vorm ook voltooi word.  
 use of minor where guardian is not available, Part III of form must be completed as well.

**DEEL III/PART III**  
**MOET SLEGS VOLTOOI WORD I.G.V. AANSOEK INGEVOLGE ART 335B VAN DIE STRAFPROSESWET, NO. 51 VAN 1977**  
**MUST ONLY BE COMPLETED I.T.O. APPLICATION IN TERMS OF SECTION 335B OF THE CRIMINAL PROCEDURE**  
**ACT, NO. 51 OF 1977**

Ek, No. Rang Naam versoek die landdros te  
 I, No. Rank Name request the magistrate at  
 (distrik) om toestemming te verleen tot die mediese ondersoek van  
 (district) to grant consent for the medical examination of  
 die minderjarige slagoffer om die volgende redes:  
 a victim; who is a minor, for the following reasons:

**Merk toepaslike blokkie met X**

Mark applicable block with X

Die ouer/voog van sodanige minderjarige—  
 The parent/guardian of such minor—

- kan nie binne 'n redelike tyd opgespoor word nie; of  
 cannot be traced within a reasonable time; or
- kan nie betyds toestemming verleen nie;  
 cannot grant consent in time;
- is 'n verdagte ten opsigte van die misdryf waarvan die mediese ondersoek uitgevoer moet word;  
 is a suspect in respect of the offence for which the medical examination must be conducted;
- weier onredelik om toe te stem dat die ondersoek uitgevoer word;  
 unreasonably refuses to consent that the examination be conducted;
- weens geestesongesteldheid onbevoeg is om toe te stem dat die ondersoek uitgevoer word; of  
 is incompetent on account of mental disorder to consent that the examination be conducted; or
- oorlede is.  
 is deceased.

Motivering vir noodsaaklikheid van ondersoek (moet in alle gevalle voltooi word)  
 Reason for necessity of examination (must be completed in all cases)

Plek

Place

Datum

Date

Tyd

Time

.....  
**HANDEKENING VAN POLISIEBEAMPTTE**  
**SIGNATURE OF POLICE OFFICIAL**

**TOESTEMMING VAN LANDDROS/CONSENT OF MAGISTRATE**

Ek, landdros van die distrik  
 I, magistrate of the district  
 verleen hiermee toestemming tot die mediese ondersoek van  
 hereby grant consent for the medical examination of  
 Ek verleen ook toestemming vir die neem van alle monsters, soos benodig, vir laboratoriumtoets, asook vir die neem van die nodige foto's van  
 I also consent to the collection of all necessary specimens for laboratory tests and to the taking of the necessary photographs of injuries related to  
 beserings wat verband hou met die redes vir hierdie ondersoek.  
 the reasons for this examination.

Plek

Place

Datum

Date

Tyd

Time

.....  
**HANDEKENING VAN LANDDROS**  
**SIGNATURE OF MAGISTRATE**

**TOESTEMMING VAN POLISIE-OFFISIER/STASIEKOMMISSARIS \* CONSENT OF POLICE OFFICER/STATION**  
**COMMISSIONER**  
**ARTIKEL 335B VAN DIE STRAFPROSESWET, NO. 51 VAN 1977 \* SECTION 335B OF THE CRIMINAL PROCEDURE**  
**ACT, NO. 51 OF 1977**

Ek, No. Rang Naam  
 I, No. Rank Name  
 verleen hiermee, op grond van beëdigde verklarings deur 'n polisiebeampte en 'n geneesheer aan my voorgelê,  
 hereby, on the grounds of written affidavits by a police official and a medical practitioner given to me,  
 toestemming tot die mediese ondersoek van  
 consent to the medical examination of  
 Ek verleen ook toestemming vir die neem van alle monsters, soos benodig, vir laboratoriumtoets, asook vir die neem van die nodige foto's van  
 I also consent to the collection of all necessary specimens for laboratory tests and to the taking of the necessary photographs of injuries related to  
 beserings wat verband hou met die redes vir hierdie ondersoek.  
 the reasons for this examination.

Plek

Place

Datum

Date

.....  
**HANDEKENING/SIGNATURE**

## Appendix 3- Interview Schedule

1. Please state what your job title is and what you do on a day to day basis here at the centre
2. What is the procedure for the reporting of child rape cases between the ages of 0-7 years and what is your role in the reporting procedure?
3. Are there instances whereby a case of child rape is not reported to the police? And if there are instances how do you come to that conclusion of not reporting
4. Do you have a scale whereby you determine that this type of child rape is not as offensive and the solution would be removing the child and placing them in a place of safety or alternative care? For example, exposing a child to pornographic material is considered rape but it's not as offensive as contact rape where there is penetration involved
5. How do you determine that the child has been sexually offended?
6. Are children allowed to participate in their cases?
7. How important is the statement of the child in their cases?
8. What usually happens to children whose cases don't get prosecuted because of lack of evidence? Especially since children's cases below the age of 5 weigh heavily on forensic evidence
9. What happens to cases whereby the guardian or the parent(s) refuse to open a case with the police but would like their child to get medical assistance?
10. Is the assumption that children below the age of 3 are not so much in grave danger of being rape victims true with reference to the cases that you work with or would you say that media is just creating hype over infants and toddlers being raped?
11. Do you believe that this one-stop setting that the centre has is beneficial for victims? And if how is it beneficial?
12. Inter-departmental working relationships have had a bad reputation of professions thinking they're superior to other professions. Is this sometimes a problem here at the centre or is your working relationship solely based on respect?
13. The last time we spoke you touched base on how you go the extra mile in securing space at a place of safety after hours even though it's not in your jurisdiction. Does

this sometimes cause friction with the personnel who are supposed to do that job because everyone has their job title and their job specification.

14. What challenges do you face when carrying out your daily tasks as a staff member of this centre?
15. Do you feel that this job can be emotionally taxing for you as a staff member for this centre?
16. Are there any initiatives done or programmes in the center to cater for the emotional stress of this job?
17. How is the staff motivated to do their work with the highest standard?

Psychologist:

1. Please state what your job title is and what you do on a day to day basis here at the centre
2. What is your understanding of secondary victimisation and how does it occur?
3. Does retelling ones story contribute to secondary victimisation?
4. Are children or minors who have been sexually abused more likely to become sexual offenders in the future?
5. What are the symptoms of secondary victimisation and how do they affect people especially children who interact with the child?
6. Do you believe that the one stop setting at the centre decrease the likelihood of secondary victimisation from occurring?



## Appendix 4- Informed Consent Form

### Informed consent form

I..... (not the real name) give consent to be a research participant of the study titled:

***The reporting and evaluation of child sexual abuse cases by social workers in Usizo Centre***

The study aims to evaluate the reporting of child sexual abuse cases to social workers and the reporting of such cases to the police. The objective of the study is to see if the process of reporting cases is effective in ensuring that the perpetrator feels the full extent of the law and that children who are victims of sexual abuse are safe in order to minimise the chances of secondary victimisation of occurring.

If you agree to take part in the study you will not only be providing your expertise but you will also be providing knowledge that could possibly lead to the enhancement of the reporting process of child rape cases. This will ensure that more children will be protected and minimise the chances of experiencing secondary victimisation.

The researcher of this study is Londiwe Caluza and she holds a B. Social Work degree from UKZN and is registered with UKZN for a Masters degree in Criminology and Forensic Sciences. I have been advised that I can contact the researcher's supervisor if I want more information on the study.

Jean Steyn: 031 260 7345 email: [steynj@gmail.com](mailto:steynj@gmail.com)

The researchers contact details are as follows:

Londiwe Caluza: 078 683 5002 email: [caluza.londiwe5@gmail.com](mailto:caluza.londiwe5@gmail.com)

- I have been informed that my identity will remain anonymous so will the identity of the institution I work for.
- I give consent to have our interviews recorded and to have what I have said transcribed.
- I am not forced to answer any questions that I may not want to answer. I as the participant have the freedom to stop answering questions and no longer take part in the study. I was not compelled to participate in this study but it was my own choice to take part.  
The study has been explained and I agree to all the terms as stipulated above.

Date:..... Time:.....

Signature:.....

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