

**THE PERCEPTION OF THE ROLE OF OFFICERS IN SUPPORTING
CHLD VICTIMS IN FOUR SEXUAL OFFENCES COURTS IN
KWAZULU-NATAL.**

BY

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DECLARATION

This research has not been previously accepted for any degree and is not being currently considered for any other degree at any other university.

I declare that this dissertation contains my own work except where specifically acknowledged.

Mydoo Ntombikavise Shange (215079456)

Signed. 

Date. 19.11.2022

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Psalm 8:4 'what is man, that thou art mindful of him? and the son of man, that thou vatest him.'

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DEDICATION

This study is dedicated to my husband and to my children.

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TABLE OF ACRONYMS AND ABBREVIATIONS

AAC	Augmentative and Alternative Communication
ACRWC	African Charter on the Rights and Welfare of the Child
CRC	Convention on the Rights of the Child
CPO	Court Preparation Officer
CWP	Court Witness Project
LGBTI	Lesbian gay bisexual transgender and intersex
LNFS	Little or no functional speech
MATTSO	The Ministerial Advisory Task Team on Adjudication of Sexual Offences
NPA	National Prosecuting Authority
RAPCAN	Resources Aimed at the Prevention of Child Abuse and Neglect
SOC	Sexual Offences Court
SOC Regulations	The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32/2007: Regulations relating to Sexual Offences Courts
UNCRPD	United Nations' Convention on the Rights of Persons with Disabilities
VIS	Victim Impact Statement

CHAPTER 1

INTRODUCTION

I INTRODUCTION

Court preparation and support projects have been established in courts internationally and have cushioned the harmful effects of an accusatorial system on child witnesses (Nagia-Luddy & Waterhouse, 2009:36). This study looks into the perceptions of court preparation officers (CPOs) regarding their role in supporting child victims in one province of South Africa.

The need for court preparation for child victims of sexual offences as it stands, it seems as only children who were victims of sexual offences are in need of court preparation. That will exclude children who were victims of physical abuse or neglect, for instance is illustrated by the high incidence of sexual offences in the country and the disproportionate effect of sexual violence on children with disabilities specifically. South Africa experiences a high rate of sexual violence against women and children (Mail and Guardian (2020)). Minister of Police, Bheki Cele in the quarterly report of crime statistics for the period of July 2020 to 30 September 2020 reported that women and children are vulnerable as they are forced to live in conditions of unacceptable violence in South Africa. City Press (2018) reported that more than 50 000 sexual offences are listed in South Africa for the year of 2017 and 2018. Another concerning statistic is that 1.5% to 2.5% of children with disabilities are at risk of sexual violence (White et al. 2020:1 cited Artz et al 2016).

Children with disabilities are increasingly exposed to high risks such as abuse, maltreatment, and neglect (Carter and Boezaart, 2016:249). Furthermore, they are at times in need of legal assistance for protection through for example, the Children's Court with the aim to have access to justice including where they may need removal from harmful home situations (Carter & Boezaart, 2016:249). Unfortunately, scholars note that court officials in the justice system (meaning the legal practitioners, social workers, advocates, interpreters, intermediaries and presiding officers) are not well equipped to render services to them because of language barriers including how to communicate with children with low to no functional speech (LNFS) (White, Bornman & Johnson, 2015:2).

Muller and van der Merwe (2004: 136) explain that because of an increase in sexual offence cases being reported and more challenges faced in prosecuting cases of this nature, the specialised Sexual Offences Courts were introduced in South Africa. Therefore, the structure and aim of Sexual Offences Courts was to reduce the trauma to victims of sexual abuse, specifically to vulnerable children and women. The secondary aim was to increase the number of sexual abuse victims who report the offence so that they can be provided with a special service as victims and to increase the conviction rate and sentencing of the culprits without delay.

Although there were court support workers who were the first initial contact with child victims of sexual crimes, their duties were to provide court support work, and to restore trust in the justice system by explaining to the child witness who the court officials inside the courtroom are with an aim to decrease trauma experienced by the child (Nomdo et al, 2014: 9). These court support workers were employed by Non-Profit Organisations (NPOs) and provided these services free of charge at court on the day of the hearing.

Specialised courts were created in response to the need for specialised skills and to process cases more speedily and efficiently (The Department of Justice and Constitutional Development, 2012:5). The Ministerial Advisory Task Team on Adjudication of Sexual Offences (MATTSO) (2013:15) defined two different kinds of courts: first, a Sexual Offences Court as a regional court that deals exclusively with cases of sexual offences; second, Hybrid Sexual Offences Court may be established in court buildings where space is a serious challenge will be to prioritise sexual offences cases and are permitted to deal with other matters. Nomdo et al. (2014:9) mention that the MATTSO report recommended the special protections for children concerned giving evidence in sexual offences courts must have:

- “•An intermediary system.
- Separate waiting rooms for children.
- Anatomically detailed dolls to help with testimony.
- Specialised and sufficient court personnel.
- Victim support officers.
- A feeding scheme for child witnesses.”

Legislation was passed to service the identified need to introduce measures and procedures that will accommodate vulnerable victims or witnesses, for example, measures such as appointing an intermediary (Owen, 2016: 12). Accordingly, the Criminal Law Amendment Act, inserted section 170A into the Criminal Procedure Act (Muller and Tait, 1999: 242). Section 170A provides for the appointment of an intermediary to assist the child witnesses during trial to minimise their experience of secondary victimisation.

The requirement of the blueprint court was to ensure that court officials who were qualified and competent to work in Sexual Offence Courts, included an intermediary, subject to certain requirements relating to qualifications, experience and registration with professional bodies which incorporates psychologists, paediatricians, psychiatrists, family counsellors, child-care workers, lay counsellors, educators (including retired educators) and social workers (Reyneke and Kruger, 2006: 82).

But another important person was identified as indispensable: the court preparation officer (CPO). As early as 2006 the NPA undertook to provide court preparation services through a court preparation officer (CPO), to facilitate court preparation to child witnesses using their designated skill programme (MATTSO, 2013:34). Ramaite (2015:14) explains that the role of CPOs was seen as a very important for the National Prosecuting Authority (NPA) nationally as it carries substantial weight in conducting prosecutions under the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007. The NPA also developed minimum standards for court preparation services based on the RAPCAN minimum standards and input from civil society and NPA stakeholders.

SA SOC Regulations in Regulation 15(b)(c) and Regulation 15 (10)(b) identify the specific roles of the intermediary and the CPO, as well as a limited number of accommodations for persons with disabilities. This study considers the role of the CPO and how their role meets the need to mitigate secondary victimisation experienced by the child and provides procedural and reasonable accommodations required by child witnesses and victims with disabilities in the Sexual Offences Court.

II KEY CONCEPTS

A Court Preparation Officer is understood as a professional who provides court preparation services in specified courts. Regulation 15(3) of the SA SOC Regulations, in provides for the role of the Court Preparation Officer (CPO) who is to provide court support to witnesses, including complainants, in sexual offences cases.

The Ministerial Advisory Task Team on the Adjudication of Sexual Offences (2013:15) described two different kind of courts: “**Sexual Offences Court** is defined as a regional court that deals exclusively with cases of sexual offences, while a Hybrid Sexual Offences Court may be established in court buildings where space is a serious challenge.” **Hybrid courts** prioritise sexual offences cases and are permitted to deal with other matters.

Regulation 1 of the SA SOC of Regulations states that in terms of a victim assistance officer performs a similar function to that of CPOs but at designated places – Thuthuzela Care Centres and they are also regulated by the National Prosecuting Authority (NPA). This will be compared to court supporters, who are employed by non-governmental organisations (NGOs) and perform a voluntary role which usually excludes court preparation as offered by CPOs and victim assistance officers which is stated in regulation 1 of the SA SOC Regulations.

An intermediary is a professional who acts as a conduit between the child witness and the court and does this for the purpose of assisting the child to provide evidence in the court process.

In terms of section 8(1) of Criminal and Related Matters Amendment Act, 2021:

“(1) Whenever criminal proceedings are pending before any court and it appears to such court that it would expose any child witness- (a) the child under the biological or mental age of eighteen years; (b) the child who suffers from a physical, psychological, mental or emotional condition; or (c) who is an older person as defined in section 1 of the Older Persons Act, 2006 (Act No. 13 of 2006), to undue psychological, mental, or emotional stress, trauma or suffering if he or she testifies at such proceedings, the court may, subject to subsection (4), appoint a competent person as an intermediary in order to enable such child witness to give his or her evidence through that intermediary.”

In terms of section 170A (1) of the Criminal Procedure Act, 1977:

“Whenever criminal proceedings are pending before any court and it appears to such court that it would expose any child witness mental, under the age of eighteen years to undue mental stress or suffering if he or she testifies at such proceedings, the court may, subject to subsection (4), appoint a competent person as an intermediary in order to enable such witness to give his or her evidence through that intermediary.”

According to the UN Convention on the Right of the Child “a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.” The South African Children’s Act 38 of 2005 and the Constitution of the Republic of South Africa, 1996 applies the same age threshold. In terms of the Children’s Act 28 of 2005 the term “**child**” means any person under the age of 18 years. A child witness could give evidence in criminal court, the term “child”, refers to any child witness under the biological or mental age of eighteen years, who has to give evidence in any criminal judicial proceedings/in trial (Fambasayi, 2016).

A Victim Impact Statement is defined as a written voluntary statement by a victim, and or their family members or someone that has been authorised by the victim regarding the emotional, physical, and financial effect a crime has had on the victim’s life (NPA’s Annual Report (2016:42)).

A “children’s court” means the court established under section 42 of the Children’s Act 38 of 2005.

III BACKGROUND OF THE STUDY

The background discussion first identifies the secondary traumatisation experienced by child witnesses before the introduction of law reform, including specialised courts and role players such as intermediaries and CPOs. Second, the contribution of the first Sexual Offences Court in Wynberg towards formulating an appropriate response to minimise secondary traumatisation is identified.

(a) *Inappropriate criminal court environment for child witnesses and early introduction of mitigating measures*

Songca (2010:405) explains that in the past in sexual offence cases the procedures of the trials were shortly after the arrest of a perpetrator, where the child witness would be expected to appear in the criminal court on the day of trial to face all the cross examinations , to re-live the events in evidence in chief without any idea about the proceedings. The trial would proceed, and child witness would face court proceedings cross-examinations without being offered support and protection measures to mitigate trauma in supporting the child concerned as it is necessary during court proceedings. Furthermore, court officials were not concerned about the child’s feelings, the child’s mental stress suffered, rather the court proceeding would proceed without consideration of use of child friendly language. The child witness would be in same court room with the alleged perpetrator (amongst other prejudicial factors).

The criminal court environment was not conducive for the child witness (Bekink, 2000: 1). Muller and Tait (1999: 241) articulate that child witnesses find themselves surrounded by strangers wearing a dress code that is unfamiliar to their eyes while experiencing discomfort. Furthermore, the cross-examination could be harsh and aggressive with the aim to confuse the child witness and the child would feel and experience disgrace, intimidation, and low self-esteem (Muller and Tait 1999: 241).

In 1989 the South African Law Commission decided to establish an investigation concerning experience’s felt and adverse effect on the child witnesses in court proceedings and cross-examinations, the findings was the child witnesses are experiencing severely psychologically anxiety and fear (Muller and Tait, 1999: 242). Therefore, the South African

Law Commission agreed that a child witness would in future testify under different conditions (Muller and Tait, 1999: 242). This would include a separate room where the psychologist and psychiatrist would act as a conduit in cross-examination and allowing questions to be conveyed to assist the witness, this room was to have a one-way that has a one-way glass or window, so that the magistrate or judge can see the child, but the child cannot see the perpetrator (Muller and Tait, 1999: 242).

Section 170A of Criminal Procedure Act, (51: 1977) introduced a helpful system for the criminal court to appoint an intermediary to assist vulnerable witnesses while giving an evidence in court proceedings, as follows:

“whenever criminal proceedings are pending before any court and it appears to such court that it would expose any witness under the biological or mental age of eighteen years to undue mental stress or suffering if he or she testifies at such proceedings, the court may, subject to subsection (4) (a) the Minister may by notice in the Gazette determine the persons or the category or class of persons who are competent to be appointed as intermediaries, appoint a competent person as an intermediary in order to enable such witness to give his or her evidence through an intermediary.”

The UNCRC’s article 13 requires states parties to provide measures such as intermediaries and court preparation officers to meet the diverse needs of parties before the courts with disabilities, including children. Bekink (2020:99) explains that the “Right to Access Justice states parties should ensure that persons with disabilities have access to justice on an equal basis without prejudice, including through the provision of appropriate (age and gender) and procedural accommodations.”

In 1993 South Africa introduced an intermediary in terms of Section 170A of Criminal Procedures Act (51:1977), towards the end of 2007 amendments were made for the court to make to an appointment of an intermediary acknowledging the vulnerability of children less than 18 years of age, which was exclusively for children and remains so until the 2021 amendments referred to earlier come into effect.

Furthermore, gives guideline to the court on appointing an intermediary. In terms of Section 170A (3) states that:

“If a court appoints an intermediary under subsection (1), the court may direct that the relevant witness shall give his or her evidence at any place- (a) which is informally arranged to set that witness at ease; (b) which is so situated that any person whose presence may upset that witness, is outside the sight and hearing of that witness; and (c) which enables the court and any person whose presence is necessary at the relevant proceedings to see and hear, either directly or through the medium of any electronic or other devices, that intermediary as well as that witness during his or her testimony.”

The Constitution of Republic of South Africa, 1996 gives guidance pertaining the child as, in section 28(2) states: “a child’s best interests are of paramount importance in every matter concerning the child.”

Section 158 (5) of Criminal Procedure Act (51:1977) states as follows:

“The court shall provide reasons for refusing any application by the public prosecutor for the giving of evidence by a child complainant below the age of 14 years by means of closed-circuit television or similar electronic media, immediately upon refusal and such reasons shall be entered into the record of the proceedings gave another helpful measure, the ability to testify using the CCTV or screen from a separate room.”

b) The First Sexual Offences Court in Wynberg

A first pilot court was the Cape Town Sexual Offence Court, in 1993 Cape Town Sexual Offence Court – Court G based at Wynberg was established and its aim was to give attention on sexual offence cases and to deal with adult and children and victims of sexual offences (Sadan, Dikweni & Cassiem, 2001: 14).

Townsend, Waterhouse & Nomdo (2014: 78) the Department of Justice and Constitutional Development (DoJCD) took a decision in rolling out Sexual Offences Court throughout in South Africa by 2003, however due to delay in implementation and to the national strategy to roll out these courts only agreed on in 2003. Therefore, throughout the country it was only Cape Town Sexual Offence Court between 1993 and 1999.

Muller and van der Merwe (2004: 136) explain that an increase sexual offence cases being reported, and more challenges faced in prosecuting cases of this kind, the specialised sexual offences courts were to be introduced in South Africa. Furthermore, women’s organisations were complaining and terrified about the treatment received both by child witnesses and female victims of sexual abuse in the justice system Pretorius, 2018: 1). This study is focused on court preparation officer to child witnesses, not adult female witnesses.

The Wynberg Court project was assessed in 1997 by Rape Crisis Cape Town and the African Gender Institute at University of Cape Town and was found to be successful in establishing incorporation and teamwork among different organisations that dealt with sexual offences, in mitigating victim trauma and in improving reporting the incidents of sexual abuse in safe environment without fear and with an aim to increase the number of conviction rates (MATTSO, 2013: 19).

Sadan et al. (2001:15) in a study Pilot Assessment in Sexual Offence Court (SOC) in Wynberg and Cape Town and Related Services found that the court, faced challenges that include shortage of staff, high caseloads, while the court officials were not fully trained, and high levels of postponement of matters causing delays in finalisation (Sadan et al. 2001).

Furthermore, that court consisted of two, one prosecutor one consult with a child witness on the day of the hearing while another prosecutor would attend the court hearing.

Sadan et al. (2001:14) also found that, the court had one social worker who facilitates court preparation; pre- and post-counselling to the child witness that were to testify in the Sexual Offence Court; made referrals for long term counselling, and coordinates and renders training to the intermediaries.

c) *The future direction of Sexual Offences Courts: introducing the court preparation officer.*

Since early in 1997, some studies in South Africa expressed the concern about the essential nature of court preparation for witnesses in the criminal court. Most court preparation programmes in South Africa were originally, and continue to be, delivered by a range of NGOs such as the Teddy Bear Clinic for Abused Children, Childline South Africa, Rape Crisis Cape Town, the Institute for Child Witness Research and Training, and Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN) (Nagia-Luddy and Waterhouse, 2009: 36). RAPCAN, a non-governmental organisation (NGO), provided court preparation and support services through court support workers to child victims of sexual offences in the Child Witness Project (CWP) to six regional magistrate's courts in the Western Cape between the year 2002 and 2013 (Townsend et al., 2014:79).

Ramaite (2015:14) explains that the role of CPOs was seen as a very important in National Prosecuting Authority as it plays a role of facilitating court preparation of victims of sexual abuse to give evidence in court proceeding so that it can be able in conducting prosecutions under the Criminal Law (Sexual Offences And Related Matters) Amendment Act, 2007 (Act No. 32 Of 2007), Draft Victims Empowerment Support Services Bill, 2014 and the draft regulations.

The necessity to prepare child witnesses for sexual criminal court in applying Batho Pele principles meaning putting the "People First", has been taken up as a priority by the NPA in order to give the victims of sexual offences justice in prosecuting the perpetrators (the Court Preparation Component Document, 2015). Accordingly, to The Court Preparation Component Document (2015) court preparation programme is the requirement for child victims of sexual abuse, who is going to appear in criminal sexual offence courts. According to The Court Preparation Component Document (2015) to the court preparation programme "Ke Bona

Lesedi” or “is the resources to facilitate preparation for testimony through the assistance of a CPO’s.

The National Prosecuting Authority’s (NPA) policies for court preparation services included: the Victims Charter (also known as the Service Charter for Victims of Crime, 2004) and the National Victim Empowerment Policy Guidelines, 2009 (Ramaite, 2015:15).

According to Geldenhuys (2018:21) central to these preparation services are the following duties:

- “Informing witnesses about court processes and role-players, such as the presiding officer (magistrate), the court orderly, the prosecutor, the legal counsel representing the accused, an interpreter, the accused and members of the public.
- reducing secondary victimization.
- strengthening victims’ coping strategies; and
- providing psycho-social support and referral to counselling services.”

The aim, objectives, and requirements of the Sexual Offence Courts is for the specialised court to act as a vehicle where the witness will obtain all the necessary support to ensure participation free from secondary victimisation (Pretorius, 2018:2).

Nagia-Ludy and Waterhouse (2009: 37) explain that the preparation process includes support along with all information that is needed by the child victim; the CPO who will guide the witness through the process of court and provide court preparation before the hearing; provision of counselling including pre-trial emotional containment services; ensuring economic support such as the payment of a witness fee if they are travelling by transport, provision of a food allowance; and referral if there is a need for the witness, after the day of hearing the witness is to be provided with a post-trial emotional containment service if there is a need for counselling (Nagia-Ludy and Waterhouse, 2009:38).

In 2020, new SOC Regulations were promulgated. They provide for the role of the Court Preparation Officer (CPO) who is to provide court support to witnesses, including complainants, in sexual offences cases. This statutory provision for their services and the regulation of their role is an important support measure for child witnesses. Their role must also be understood in comparison with other professionals that render assistance to children, including court supporters, victim assistance officers and intermediaries.

IV RESEARCH PROBLEM

The aim of the introduction of the Sexual Offences Courts was to provide specialised measures to eliminate the trauma to victims of sexual abuse, specifically to vulnerable children and

women. Furthermore, for victims of sexual abuse to report cases in a conducive environment, and to increase the conviction rate and sentencing without delays (Sadan et al, 2001:5).

Heath et al (2018:8) The court personnel were not competency in facilitating court preparation to child witnesses, the court was admonished instead of being in certain circumstance, cases often do not proceed because the prosecutor does not believe they will be able to establish the competency of the child to give an evidence in court. Therefore, CPO could contribute substantially. The study's aim is to explore and describe perceptions of CPOs regarding their role in supporting child victims in SOCs. Another aspect of concern was identified by Heath et al. (2018:11) in their study which looked at the preparation programme offered by RAPCAN Child Witness project, the authors found that prosecutors expressed their concern in not having enough time to render an in-depth victim consult as in most cases the Sexual Offence Courts are facing challenges and shortage of supportive services available for LGBTI persons and victims with disabilities as well as poor psychosocial support services due to their heavy caseloads. Furthermore, many of the court personnel were not previously trained on consulting with or preparing persons with intellectual disabilities. The aim of this study then is to determine the quality and quantity of the CPO's preparation with a child witness and how they deal with disability in their daily functioning.

The study's aim is to understand from the perspective of the CPO, their role in preparing child witnesses for court in the Sexual Offences Courts.

V RESEARCH RATIONALE

In my work as a social worker, I have often come across children, parents and caregivers who fear reporting sexual offences due to the apprehension of experiencing further trauma in the reporting and court hearing process. The role of the professionals involved in these courts, particularly that of the CPOs is not known or understood.

Since there are limited studies currently conducted on the perception and role of CPOs in preparing the child witness for criminal court, this is the first study seeks to understand what their challenges are might be and how they overcome these.

VI RESEARCH OBJECTIVES

- To understand CPO participants' perceptions on whether they are adequately preparing child witnesses for testimony in the Sexual Offences Court
- To whether they have adequate training and resources at their disposal to do so.

- To describe the ways in which CPOs provide initial support to child witnesses when informing them of their rights and the procedures to follow.
- to understand whether the child specific needs of the child witness were identified by the Court Preparation Officer, including for children with disabilities, and whether the prosecutor was made aware of these needs and whether these were addressed.
- Determine in which ways the child specific needs of the child witness were identified and addressed by the CPO.
- Describe the manner in which CPOs prepare participants for their court appearance.
- Determine the challenges that CPOs face to adequately prepare child witnesses for testimony in SOCs.
- Determine the ways in which CPOs provide victim support to child witnesses.
- Describe the ways in which CPOs support child witnesses to complete the victim impact statement.
- Describe the support offered by CPOs to the child witness in post-trial containment.
- Determine the training and resource needs of CPOs.

VII RESEARCH QUESTIONS

The main research question is What are the perceptions of the court preparations officers regarding support of the child victims in Sexual Offences Courts in the court preparation offered by them? Sub questions flowing from the main question are:

1. What are the perceptions of the Court Preparation Officer in relation to the initial support provided to child witnesses when informing them of their rights and the procedures to follow?
2. What are the perceptions of the Court Preparation Officer in relation to support provided to the child witnesses in completion of the victim impact statement?
3. What are the perceptions of the Court Preparation Officer in relation to support offered to the child witness in post-trial containment?
4. To what extent are the child specific needs of the child witness identified by the Court Preparation Officer, including for children with disabilities, and whether the prosecutor was made aware of these needs and whether these needs were addressed?
5. Do the Court Preparation Officer perceive their role as neutral in court preparation.

VIII THEORETICAL APPROACH

This study is framed by the Ecological theory. Bronfenbrenner's (1979: 126) ecological system theory gives a conceptual foundation for examining the different layers of context that might influence human development as well as interaction between the layers, and the theory is organised in terms of four levels that mediate person-environment interaction which are microsystem, mesosystem, exosystemic and macrosystem, are involving the interaction of the person with the immediate social physical environment.

(a) Microsystem

According to Bronfenbrenner (1979: 22) the microsystem is a pattern of activities, roles and interpersonal relations experienced by the developing person in a given setting with physical and material characteristics. In this study, the interaction between CPO and the child witness in the microsystem phase is considered.

(b) Mesosystem

Bronfenbrenner (1979:126) further explains that the mesosystem comprises the interrelations among two or more settings in which the developing person actively participates and can constitute the network of interpersonal relationships that overlaps across different settings. The mesosystem in this study refers to the interactions between the child witness and the broader courts system (Sexual Offence Court personnel).

(c) Exosystem

The exosystem refers to one or more settings that do not include the developing person as an active participant, but in which events occur affect or are affected by what happens in the setting containing the developing person (Bronfenbrenner,1979:25). In this study, the exosystem refers to the system of regulations and laws decided by parliament, implemented by the executive (as well as the policies drafted by the executive), and the laws and conduct as interpreted by the courts that impact on the role of the CPO and the functioning of the Sexual Offences Courts.

d) Macrosystem

Bronfenbrenner (1979:126) explains that the macrosystem comprises the larger societal institutions such as government, economy, media which lay social and historical context for development. The macrosystem in this study, refers to the budgeting processes for the functioning of the Sexual Offences Courts and measures for training and capacitation of CPOs adopted by government that affect CPOs and their role.

The ecological theory provides a theoretical lens to understand how the relationship between the CPOs and the child witness is shaped and determined by different factors from these systems.

IX. RESEARCH METHODOLOGY

This study was conducted with participants who are CPOs by profession. These professionals work in the Sexual Offences Courts. The study utilised the qualitative method which identifies their perceptions, and to share their experience in an unrestricted manner about their role as a CPO. Thyer (2001:257) states that, “a qualitative research aims at describing, making sense of, interpreting or reconstructing in terms of the meanings that the participants express.”

For the purpose of this research project descriptive design was used to get the picture that is experienced by the CPOs in the literature and their perceptions about their profession. For the researcher to fully understand the nature of their working conditions, extent, and experiences of working with a child victim of sexual abuse which is sensitive, the descriptive research design was employed. Burns and Grove (2003:201) state that descriptive research is designed to provide a picture of a situation as it naturally happens as it can be used in justifying current practice and make some judgements and to develop theories.

Non-probability purposive sampling was utilised, and four CPOs were identified from each of the four courts through the information obtained from the gatekeeper, the NPA. Informed consent was obtained from the participants and ethical principles adhered to in the research process. The research methodology is explained in greater detail in chapter 3, including the ethical considerations.

X STRUCTURE OF THE DISSERTATION

The study proceeds with four chapters, the outline of which is described below.

Chapter one: introduction

Chapter one introduced the background to the study, brief overview of theoretical framework in relation to the role of Court Preparation Officer, the basic research design, the objectives of the research, methodology, research questions and purpose.

Chapter two: is a literature review including the in relation to the role of Court Preparation Officer in determining the procedural and reasonable accommodation needs of the child complainant and witness with disabilities in Sexual Offence Courts, and relevant legislation and policy in South Africa.

Chapter three: focuses on the research methods.

Chapter four: the chapter focuses on the thematic analysis of the data derived from the empirical study. The data is then compared to existing literature.

Chapter five: will provide a summary of the findings from the chapters, the conclusion and recommendations for future research.

CHAPTER 2

LITERATURE REVIEW

I. INTRODUCTION

Children and their parents or caregivers fear reporting sexual abuse, especially child victims, for fear of not being trusted by their families, friends, and the justice system. Ramaite (2015:14) explains that the role of CPOs is crucial in National Prosecuting Authority, in facilitating court preparation to victims of sexual abuse to give evidence in court proceedings, therefore NPA can be able in conducting prosecutions under the Criminal Law (Sexual Offences And Related Matters) Amendment Act, 2007 (Act No. 32 Of 2007), Draft Victims Empowerment Support Services Bill, 2014 and the draft regulations. (Sadan, 2001:05). Yet, many community members in South Africa are unaware of the specialised courts that deal with sexual abuse. The establishment of Sexual Offence Courts was discussed in chapter 1. This chapter is a literature review about the establishment of Court Preparation Officers.

Geldenhuis (2015) mentions that community members lack the knowledge about the justice system on how it works. Furthermore, CPOs are very equipped in familiarising the child witnesses and explaining in a child's friendly language, on what is expected to them and who will present in the day of court hearing. The CPOs can use drawing in communicating, talk about each official in the court room, for example presiding officer, the prosecutor, legal practitioner, and the structure of the court (Geldenhuis, 2015).

Nagia-Luddy & Waterhouse (2019:35) explain that, when child witnesses of sexual abuse are normally experiencing vulnerability, fear, become depressive and emotionally when are going to give an evidence in Sexual Offence Courts. According to Holley (2002:14) child witnesses encounter difficulties and challenges in the criminal justice system because of experiences of intimidation from the perpetrator. Hollely (2002:14) explains that the child victim goes through traumatic experiences alone without anyone giving support in the court process. A clear identification of the key role players and a delineation of their various roles in supporting the child witness is needed. The perceptions of CPOs as to whether they are up to the task of supporting these witnesses through having received adequate training, for example, is needed.

Reasonable accommodation means: "An appropriate modifications and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment on an equal basis with others, of all human rights"

(White et al., 2020: 2). This is in line with the definition of reasonable accommodation in article 2 of the UNCRPD.

Procedural accommodation “is the recognition of different communication methods of persons with communication disabilities to be able to participate in court. Age-appropriate accommodations may consist of providing information about available mechanisms to bring complaints forward and using age-appropriate and simple language” (White, Bornman, Johnson, Towson & Van Niekerk, 2020: 2).

Due to the unfamiliarity of the court climate and the formality of the court process a child witness (including those with disability in communication) may be placed in an extremely anxious and fearful position regarding the prospect of giving evidence in the court. In these situations, there is a dire need for court officers to minimise children’s feelings of fear and unease (Churr (2010)). Carter and Boezaart (2016: 249) children witness with disability are also in need of legal assistance when are of going to give evidence in Sexual Offence Courts or Children’s Court. The caregiver’s perception of being unable to take the child witness with disability to give evidence in court on their own, is due to fear of stereotypes and rumours, confrontation from their peers (Bryen & Wickman, 2011:2 citing Borthwick & Crossley, 1988; Bryen, 2009).

White et al (2015: 1) point out that a communication gap contributes to the secondary victimisation, intimidation, and low participation rates of children with low to no functional speech (LNFS) within the criminal justice system. This is in part since legal practitioners, social workers, advocates and presiding officers (meaning all those officials who are part of justice system) do not have enough knowledge in terms of language barriers and how to assist and communicate with persons with LNFS (White et al, 2015).

The incidents of victimisation against persons with disabilities are normally misunderstood, are being minimised and hardly noticed (White et al, 2015:1). The child witness with disability can experience secondary victimisation in the justice system if he or she is not provided with reasonable accommodation where needed to accommodate his or her special needs. For instance, by accommodating in the court preparation process. Furthermore, victimisation can be experienced when the criminal justice system does not have competency CPO’s of official to meet the needs of witness (White et al, 2015:1).

There is a gap in the literature on how the CPO's facilitating the court preparation to children witnesses with disability, on how to mitigate secondary victimisation in the process of court preparation process. White et al, (2015 :2 cited Combrinck & Meer, 2013; Pillay, 2012; Seedat et al, 2009) found that in the justice system most of legal officials (including prosecutors, legal practitioners, judges, magistrate it has been discovered that are not competency to meet child witnesses with disability needs.

II. THE ROLE OF COURT SUPPORTERS

This part considers the literature on the role of the court supporter in assisting the child witness and those with disabilities in the Sexual Offences Courts. Geldenhuys (2018:23) mentions that previously prosecutors rendered victim support services, referrals for counselling, for court preparation or supporters, and managed their caseloads. White and Msipa (2018:107) explain that court preparation was previously rendered by prosecutors before the court inquiry date in criminal courts. It is not, however, ideal for the prosecutors to fulfil so many duties and this is why more specialized role delineation is needed.

Aside from the statutory role of the intermediary and the CPO, it is important to distinguish the vital role of court supporters. A Sexual Offences Court supporter means “a person employed by a non-profit organisation, registered in terms of the Non-profit Organisations Act, 1997 (Act No. 71 of 1997), accountable to the Provincial and Local Departments of Social Development and rendering a voluntary service to complainants and witnesses in sexual offence cases as contemplated in regulation 19 (The new Sexual Offences Courts in The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32/2007: Regulations relating to Sexual Offences Courts (SOC Regulations) were promulgated on 7 February 2020).” The services of court supporter have been rendered by NPOs in supporting the child witnesses and giving support in the day of court hearing in Sexual Offence Court (Geldenhuys, 2018).

The court support workers refer child witnesses to counselling services and assist in tracking the progress of cases by liaising with the relevant stakeholders in the criminal justice system (Nomdo et al.,2014:06). Furthermore, the court support workers were the first people to meet child witnesses in the court building, with the aim to create rapport with the child witness (Nomdo et al., 2014: 9).

The Court Witness Project (CWP) sought to assist to empower child victims in developing techniques to deal with their stress of testifying; and offer other basic support such

as meals to child witnesses on every occasion they come to court (Nomdo et al., (2014: 6)). Further, the project offered children's caregivers support and seeks to empower them to understand how to manage the children's signs and symptoms of trauma (Nomdo et al., (2014: 6)). The aim of rendering support, in assisting the child witnesses, in mitigating trauma is to create conducive environment in courtroom (Hollely, 2002 citing Spencer and Flin 1993:116) furthermore, child friendly approach responds to the stressful situation caused by the courtroom and the hearing process (Hollely, 2002 citing Spencer and Flin 1993:116). The court support is to reduce the stress or anxiety of the child witness during the day of the hearing, by familiarising the child witness by visiting the real court, showing him or her the setting of the courtroom, to remind the child witness about the statement that was given to the police officer which was recorded (White & Msipa, 2018).

Child witnesses, in re-telling an incident, may experience secondary victimisation. Therefore, court support staff can find themselves in a difficult position when responding to the trauma experienced by the child witnesses (Nomdo et al., 2014). Matthias (2011) explains that numerous countries have introduced technology-based protective proceedings to mitigate the anxiety that is experienced by the child witnesses, which involve pre-recorded evidence, separate-venue testimony with a video link, and intermediaries.

In South Africa social workers in the criminal justice system have the knowledge and understanding of the legal framework. Therefore, they can render pre-court assessments, to provide recommendations to court on the child's welfare. Furthermore, they are available to be called upon to provide expert evidence on the decision-making of the child witness if there is a need for separate room or an intermediary.

The question is of course whether these social workers are adequately trained or prepared to do so for children with specific disabilities that influence their communication or understanding.

Hollely (2002:14) explains that "The reaction to and support for these young traumatic victims has a long-term effect on both their recovery and on their perception of the criminal justice system."

The regulations do not anticipate that court supporters provide court preparation assistance as a matter of course. Rather general support in and outside of court is provided. Generally, the roles of persons conducting court *preparation* as such is separated from those providing court preparation.

III. THE ROLE OF INTERMEDIARIES

This section considers the literature on the role of the intermediary for the child in the Sexual Offences Courts and draws on examples from Australia. Bekink (2020: 96) explains the role of the intermediary as follows: “An intermediary is a person specifically qualified to facilitate communication between the court and a child in a manner that is not only age-appropriate but also understandable to a child.” Owen (2016) explains that legislation was passed to service the identified need to introduce measures and procedures that will accommodate vulnerable victims or witnesses, for example measures such as appointing an intermediary. Muller and Tait (1999) explain that this suggestion resulted in the Criminal Law Amendment Act, with the insertion of section 170A into the Criminal Procedure Act.

Section 170A provides for the appointment of an intermediary to be the third person to accommodate the child witness in trial in order not to experience secondary victimisation in cross-examination. Bekink (2019:13) mentions

“an intermediary is a person specifically qualified to facilitate communication between the court and a child in a manner that is not only age-appropriate but also understandable to a child, takes the ‘child’s cognitive and developmental abilities into account when conveying the meaning and contents of the court’s questions to the child and acts as a ‘barrier or shield’ between the formal justice system and the child, thus ensuring that the ‘child’s rights are respected.”

Matthias (2011) explains that the appointment of an intermediary was aimed at providing the child witness with the opportunity to give evidence in an informally structured room and to be provided with an electronic or other devices as stated (section 170A (3)).

Individuals who can serve as intermediaries include medical practitioners with a specialisation in paediatrics or psychiatry, family counsellors, childcare workers with a two-year course in child and youth care worker, registered social workers with at least two years’ experience, teachers with four years’ experience, and clinical, educational, or counselling psychologists (GG 15024 of July 1993 as amended by GG 17882 of 28 February 1997, and amended by GG 22435 of 2 July 2001).

Bekink (2020) identifies that communication is another essential skill of a speech or language therapist. Such professionals should therefore be included in the list of professionals who may qualify to provide intermediary services. The list excludes professionals with specialisation in relevant disabilities, such as speech and audiology therapists and occupational therapists. Furthermore, this is a limitation on the ability of children with communication, neuro-developmental and intellectual disabilities to benefit from specialised intermediary services Bekink (2020).

The question arises whether paediatricians and other professionals that act as intermediaries are sufficiently trained in the needs of children with disabilities to identify what needs they may have in providing testimony in the sexual offence's courts. The same question goes for CPOs – are they provided the right training and do the regulations support this duty resting on them?

In New South Wales, Australia, intermediaries are guided by legislation which describes an intermediary as 'children's champion (witness intermediary) in Section 88 of the Criminal Procedure Amendment (Child Sexual Offence Evidence Pilot) Act 2015 sets out the guidelines:

- (1) "A person appointed as a children's champion (who may also be called a witness intermediary) for a witness is to communicate and explain:
 - (a) to the witness, questions put to the witness, and
 - (b) to any person asking such a question, the answers given by the witness in replying to them, and to explain such questions or answers so far as necessary to enable them to be understood by the witness or person in question (Cooper, 2016:191)."

However, in New South Wales and England the witnesses' intermediaries (children's champions) act as the first step to conduct assessment of the witnesses' communication needs and capabilities of the witnesses. They provide advice to the police and to lawyers by suggesting on how to communicate with the child witness, thereafter, to assist them to plan and prepare their questions in the hearing. Furthermore, the police officers and advocates will continue to remain in charge in questioning and witness intermediary will only intervene if there should occur a failure in communication. In other words, the intermediaries are facilitators in a two-way communication (Cooper, 2016:191).

Furthermore, New South Wales Victims Services, uses databases to find and locate professionals with the expertise for witness intermediary/ child champion services, particularly those who have the skill to communicate with the child victim, for example where the client has apraxia (Cooper, 2016:192). Similar qualifications and skills in relation to children with disabilities is not found in the South African system of intermediary regulation and practice.

a. An intermediary in south African courts

Bekink (2020:99 citing GN R1040 /GG 41133 an amended notice by GN R1040 in GG 41133 of 22 September 2017), mentions seven categories of competent intermediaries have been identified as follows:

- (i) Medical practitioners who are registered in terms of section 17 of the Health Professions Act, 1974 (Act 56 of 1974), and against whose names the special-y of -
 - (aa) pediatrics; or
 - (bb) psychiatry, are registered.

- (ii) Clinical, counselling, or educational psychologists who are registered in terms of section 17 of the Health Professions Act, 1974 (Act 56 of 1974).
- (iii) Family counsellors who are appointed under section 3(1) of the Mediation in Certain Divorce Matters Act, 1987 (Act 24 of 1987), and who are or–were - (aa) clinical, counselling, or educational psychologists as determined in item (ii); (bb) social workers as determined in item (iv); (cc) educators as determined in item (v); or (dd) child and youth care workers as determined in item (vi).
- (iv) Social workers who are registered in terms of section 17 of the Social Service Professions Act, 1978 (Act 110 of 1978), and who have at least two years experience in social work.
- (v) Educators as defined in section (1) of the South African Schools Act, 1996 (Act 84 of 1996)– who - (aa) have obtained a minimum post-matriculation teacher’s education qualification of three years recognized in tertiary educational institution; (bb) have at least three years experience in teaching; and (cc) are registered in terms of section 21 of the South African Council for Educators Act, 2000 (Act 31 of 2000), and include former or retired educators, who comply with paragraphs (aa) and (bb), and whose names have not been removed from the register in terms of section 23(1) of the South African Council for Educators Act, 2000.
- (vi) Child and youth care workers who have (aa) obtained a minimum post-matriculation education qualification of three years recognized in tertiary educational institution in child and youth care; (bb) at least three years experience in child or youth care; and (cc) are registered in terms of section 18A of the Social Service Professions Act, 1978 (Act 110 of 1978), G 15024 of July 1993 as amended by GG 17882 of 28 February 1997, and amended by GG 22435 of 2 July 2001.

VI THE ROLE OF COURT PREPARATION OFFICERS

This part considers the literature on the role of court preparation officers in supporting child witnesses, complainants, and children with disabilities. The SOC Regulations in regulation 1 gives the meaning of court preparation officer as follows:

The incumbent of the post of
 (a) of court preparation officer; and
 (b) where applicable, court preparation manager, as created on the establishment of the National Prosecuting Authority.”

Nagia-Luddy and Waterhouse (2009:36) identified the essential need for court preparation before trial in South Africa with Non-Profit Organisations since 1997 rendering this services to child victims of sexual abuse.

Nomdo et al., (2014:08) articulate that NGOs recruit lay counsellors which are supervised by qualified social workers in monitoring and ensuring an approach underscored by victim empowerment, including stress relief and reduction, and building resilience against secondary trauma. Also, the lay counsellors are specifically recruited and trained to render psychosocial counselling and support to witnesses and to facilitate preparation in the courts. Schoeman (2006: 181) noted that there are services of court preparation which is rendered by different organisation and that there is no guidelines or standardisation of the services in South Africa. Nagia-Luddy & Waterhouse (2009: 37) state that the research into the treatment of child complainants in courts revealed and confirmed the demand for court preparation in the Western Cape province. However, this service was initially only available in Gauteng province.

An argument was raised that CPOs would act only as an instructor, and it was subsequently suggested that CPOs should become child support persons who would be the supporter of the child concerned through the hearing process (Schoeman 2006:184 cited, Plotnikoff and Woolfson, 1998: 3). In 2006, the NPA introduced court preparation services after discovering the need to prioritise its services to child victims of crime (Nagia-Luddy & Waterhouse 2009:40). The new Sexual Offences Courts in The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32/2007: Regulations relating to Sexual Offences Courts (SOC Regulations) were promulgated on 7 February 2020), then changed this situation to more careful regulation 1(a) (b) providing for the role of the Court Preparation Officer (CPO), who is to provide court preparation to witnesses, including complainants, in sexual offences cases. The distinction between court *support* and court *preparation* needed to be clarified. It may also be difficult for caregivers and children to understand the (sometimes) overlapping mandates of the various role-players.

In terms of regulation 15(8) of cases The new Sexual Offences Courts in The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32/2007: Regulations relating to Sexual Offences Courts (SOC Regulations) were promulgated on 7 February 2020), the CPO's role is to identify the 'needs' of a complainant (witnesses), and is instructed to inform either the prosecutor, intermediary or court manager of these needs, so that they can be met as an emergency.

Regulation 15(12) stipulates that the prosecutor or senior prosecutor is to refer complainants or witnesses before they testify, to the CPOs or victim assistance officer, for ‘assistance for the complainant in his or her language of choice’ and ‘reasonable accommodation of the needs of complainants with disabilities when they arrive at court (The new Sexual Offences Courts in The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32/2007: Regulations relating to Sexual Offences Courts (SOC Regulations) were promulgated on 7 February 2020).

Ramaite (2015:14) the role of CPOs is very crucial for the NPA nationally, when court preparation has been rendered to the child witnesses, giving evidence in the court proceedings there will be no delays. Therefore, prosecuting and conviction will be a successful under the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007.

Copen (2000:79) explains that in many jurisdictions the need for considering a victim impact statement in pre-sentence investigative reports is identified, therefore offering a chance for a child victim to express to the judge the impact that the crime had on him or her. Furthermore, this impact can include the feelings of the child about how the crime affected the victim, counselling, medical, or restitution issues, and what might a victim expect as a sentence. There is a gap in the literature about the perceptions of CPOs in whether their support to the child witness or complainant in completing the victim impact statement was effective and whether the feelings of the child victim in relation to the impact on them were effectively communicated in the victim impact.

VII. VICTIM IMPACT STATEMENT

Heath et. al., (2018:11) in their study about CPOs reported that they received social context or sensitisation training, but that 20% stated they had yet not received such training. Furthermore, officials that had undergone the training struggled to practically apply this knowledge to cases and 80% of officials mentioned that they wanted more training on vulnerable witnesses and the preparation needed to proceed with such cases. According to the Annual Report National Director of Public Prosecutions (2015/16:42) the CPOs received specialised training which was provided in partnership with University of Pretoria and Cape Mental Health. It may be necessary to develop a tool to measure and monitor and evaluate the impact of this training on the actual delivery of disability responsive services to child witnesses and complainants with disabilities.

In terms of Regulation 1 of The new Sexual Offences Courts in The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32/2007: Regulations relating to Sexual Offences Courts (SOC Regulations) were promulgated on 7 February 2020, a victim impact statement,

“means a voluntary written statement, facilitated by the court preparation officer or the victim assistance officer, by

(a) a complainant.

(b) a person who is by law authorised to make a statement on behalf of a complainant.

(c) a relative of the complainant authorised by the complainant; or

(d) any other person authorised by the complainant, regarding the emotional, physical, psychological, economical or any other effect of the sexual offence on him or her.”

In terms of section 70(1) of the Child Justice Act 75 of 2008 a victim impact statement it is a sworn statement that is completed by a victim informing the magistrate about the impact of crime incident in his or her life in terms of psychological, physical, social, financial challenges, and the related living conditions caused by an offence on her or him. Victim impact statements is compiled by the victims to express the painful has been experienced with the assistance of CPOs, will be presented prior to sentencing decision, sentencing presiding officer (Garkawe, 2007:90).

In addition, using victim impact statement started in 1970s and has been seen increasing especially in common law jurisdictions. The aim of a victim impact statements is to inform the kinds of harm caused by criminal incident against the victims, in terms of physical injury or mental injury, emotional suffering, economic loss and substantial impairment of fundamental rights (van der Merwe and Mitchell (2020). Makiwane (2010) asserts that, the influential of victim impact statement is not on verdict but is to assist victims to reach an emotional closure, in bringing a humanity, of the victim into the courtroom, in educating the court, accused and observers about a crime’s personal toll.

Makiwane (2010: 612) it gives the courts will all information that might assists in determining the suitable sentence, provided is relevant and appropriate sentence.

Furthermore, victim impact statements can be completed and submitted in different ways, victims (or an individual on their behalf) may complete and hand it to court prosecutor or may present it himself or herself in court, secondly other qualified in behavioural science expert, social worker or psychologist may present an impact evidence (van der Merwe and Mitchell, 2020:5). According to the Annual Report of the National Director of Public Prosecutions (2015/16:42), after the Victim Impact Statement register was implemented, additional training on report writing skills were provided to CPOs to equip them whenever there is a need for compilation of affidavits which may be requested by courts.

VIII THE PREVENTION OF SECONDARY VICTIMISATION IN THE FACILITATION OF COURT PREPARATION AND IN THE COURT PROCESS.

Van Niekerk & Coetzee (2020:20 citing South African Services Charter for Victims of crime 2006: 3) explains that secondary victimisation is described by the United Nations Centre for Crime Prevention as victimisation that occurs not as a direct or primary result of the criminal incidents but rather through person's and institutions' responses to the victim. It is further mentioned that institutionalised secondary victimisation regularly happens within the Criminal Justices System where victims' individual's rights may, at times, be violated especially when those individuals are part of a specific ethnic, racial or gender background.

Matthias (2011:196) considered the protection of child witnesses and warns that these measures are subject to "available or obtainable" facilities and this is done to "prevent an opportunity that prejudice, or harm might result to witness if he or she testifies or is present at such hearing." According to Nagia-Luddy and Waterhouse (2009:36) some studies argued that secondary victimisation that could be prevented or alleviated at an early stage of identification and addressing the child's concerns, and the child's abilities and needs.

Van Niekerk and Coetzee (2020) obtained the perceptions of those working with the child victims. The Social Workers views in assisting child victims were obtained in relation to their experience of secondary victimisation in the court process. The perspectives highlighted the negative experiences in the reporting phase and from treatment from prosecutors in the court process. However, that study did not obtain views on the role of the court preparation officer, perhaps because CPOs may not have been involved in those cases.

The SOC Regulations gives guidelines and tools for the CPOs and other court officials to prevent secondary victimisation. These tools include the availability of designated spaces such as a consultation and court preparation rooms (regulation 10) that must meet basic requirements to promote victim friendliness, privacy and accommodations for disability. These are:

"The court preparation room referred to in regulation 4(c) and the consultation room referred in regulation 4(d) must –

- (a) be designed in such a manner to promote privacy.
- (b) not be accessible to the public, the accused and any person associated with the accused.
- (c) be spacious enough to accommodate the complainant or a witness and the personal assistant of a complainant or a witness with a disability or an older person.
- (d) be furnished in such a manner to accommodate complainants and witnesses; and (e) be furnished in a manner that will not distract a complainant or a witness during a consultation with the court preparation officer, victim assistance officer or the prosecutor.

10 (2) the court preparation room referred to in regulation 4(c) must have lockable storage facilities to store the court preparation devices and equipment.”

Furthermore, generally other spaces are required for these designated courts (regulation 4):

- “(a) A waiting area for complainants as provided for in regulation 8;
- (b) a testifying room as provided for in regulation 9;
- (c) a court preparation room as provided for in regulation 10; and
- (d) a consultation room, for the prosecutor to consult with a complainant, as provided for in regulation 10.”

Regulation 8(1) of the SOC Regulations also sets requirements for the furnishing and basic amenities such as water in the facilities to not just be accessible to adults, but also to children and persons with disabilities:

- “(a) The facilities must be furnished in a manner ensuring that it is accessible to adults, people with disabilities and children.
- (b) be furnished in a manner that is conducive to making complainants feel as comfortable as possible;
- (c) have proper and effective ventilation; and
- (d) have water available for the complainants and the persons supporting them.”

The flexibility of the facilities to accommodate different persons is identified in regulation 8(2), including age accommodations, supportive persons (such as family members or a court supporter needing to utilise the waiting area) and the need to ensure the space is friendly as waiting periods may be long. The waiting room of child witnesses must adhere to special requirements of different persons utilising it such as:

- “(a) The different ages of complainants who may use the facilities.
- (b) persons supporting complainants may also use a waiting area; and
- (c) complainants may have to spend lengthy periods of time in a waiting area.”

Since court users spend a long time in waiting areas, the SOC Regulations seek to promote accessible information about court procedures, support services and other child friendly items and tools. In terms of regulation 8 (3) the management of the Sexual Offences Courts must ensure that:

- “In the waiting area referred to in regulation 4(a)-
- (a) information, accessible to persons with disabilities, children, and older persons, about –
- (i) court procedures, the role of a complainant and a witness, witness fees payable to complainants and witnesses and any other relevant court service; and
- (ii) the manner of accessing support services by complainants; and
- (b) toys and, where possible, age-appropriate educational items for children, are available.”

The provision of these facilities in designated courts and access to information will go a long way in addressing some of the attendant harms for victims and witnesses, especially those who are children in the criminal justice system. However, surprisingly the term “secondary victimisation” or “traumatisation” is not mentioned in the SOC Regulations. Rather, the

Regulations identify that the aim of the court preparation programme is to familiarise “complainants and witnesses with the court environment with a view to preparing them to testify in court and providing assistance and support to them, in line with the court preparation officers guided by the regulation as what is expected in terms of their duties meaning standard operating procedures for court preparation officers” (Regulation 15). Familiarisation with the court environment is vital to child witness and it mitigate anxiety. Paulsen’s (2013) empirical study into the experiences of caregivers found that immense frustration was felt because of, in part, the poor communication from not only prosecutors but other professionals in the justice system too, as well as uncertainties about the court process itself. Van Niekerk and Coetzee (2020:20) found in their study that the participants

“attribute this victimisation to various criminal justice professionals who deal with child victims without the sufficient training and knowledge needed. Moreover, the research participants indicated that the effect of secondary victimisation on child victims is substantial and that it often resulted in withdrawal, delinquent behaviours, as well as suicidal tendencies”

IX SOC_s GENERAL REGULATIONS AND REGULATIONS PERTAINING TO DISABLED WITNESSES.

In terms of SA SOC Regulations, contains a provision for court officials on what is expected during the court hearing, while are interacting with a child witnesses with disability. Legal practitioners are required to create a more child and victim-friendly approach, that is set out in regulation 25 as follows-

- (a) “use simple vocabulary and avoid technical terms.
- (b) inform or explain to a complainant or a witness any concept or question in a manner appropriate to his or her form of vulnerability, age, maturity, and stage of development if the complainant or witness is a child, or a person’s intellectual disability.
- (c) give enough detail so that a complainant or witness understands the information conveyed to him or her.
- (d) allow sufficient time so that a complainant or a witness can absorb the information conveyed to him or her.
- (e) elicit responses from a complainant or a witness by asking questions to ensure that he or she understands the information conveyed to him or her.
- (f) ensure that the atmosphere is conducive to participation by a complainants or witnesses; and
- (g) be sensitive to the needs of a complainant or a witness and the fact that he or she may be confused and may be experiencing anxiety and may feel intimidated.”

These techniques are appropriate for children and traumatised complainants or witnesses, but the question is whether these are sufficiently appropriate to meet the needs of witnesses with diverse disabilities, including with communication disabilities (Holness, 2021). Regulations 25(a); (b); (c); (d); and (e); are particularly valuable for persons with intellectual disabilities or communication disabilities when they testify. Unfortunately, specification of only one disability (intellectual), may exclude persons with neurodevelopmental (e.g., autism) and

psychosocial disabilities, and even those with communication disabilities, from explicitly benefiting from these provisions (Holness, 2021).

The regulations do not refer to documents in Easy-to-Read formats which would benefit many persons, including those with intellectual disabilities. It does also not refer to Augmentative and Alternative Communication (AAC), which would also benefit many persons, including those with communication impairments as well as autistic persons (Holness, 2021).

X INTERNATIONAL LAW AND ITS DOMESTICATION

In terms of communication with child witness that has disability, United Nations' Convention on the Rights of Persons with Disabilities (CRPD) specifies in Article 2:

“Communication includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology; ‘Language’ includes spoken and signed languages and other forms of non-spoken languages.”

Article 13(1) and (2) of the (United Nations' Convention on the Rights of Persons with Disabilities CRPD) requires, respectively, that states parties:

“ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at the investigative and other preliminary stages”.

and

“promote appropriate training for those working in the field of the administration of justice (police and prison staff, lawyers, magistrates, judges, sign-language interpreters and the police and penitentiary system, on the rights of persons with disabilities). The Convention thus considers the justice system as an integral part of governance which requires the contributions and participation of society to function effectively.”

Some state parties have taken some of the international law obligations to heart and have started to create disability-responsive criminal justice systems. Specialised professionals who support complainants and witnesses in communicating their testimony, where the complainant or witnesses is a person with a communication, psychosocial, physical, or intellectual disability have been utilised *inter alia* in United Kingdom, Northern Ireland, and Australia. Special measures to facilitate communication are not merely agreed upon by stakeholders but must be applied for by the parties (United Kingdom's Criminal Procedure Rules of 2015, Part 18).

Another good example is the Government of Australia's programme *Supporting vulnerable* witnesses in the giving of evidence: Guidelines for securing best evidence. The Government of Australia made guidelines to assist persons with disability to provide evidence

in court (The Attorney-General's Department Disability Justice Plan 2014–2017(2018:1)). The Guideline Principles are as follows:

- “All human being has the right to access justice and pursue any grievance this is also applies to a person with disabilities.
- Each person with disability can provide credible and reliable evidence and should be allowed by justice officials within the criminal justice system as reliable witnesses.
- Each person with disability must have his or her privacy and dignity respected.
- The guidelines principles should be initiated by criminal justice agencies in conjunction with thorough trainings.
- Whereby there is an investigative interviewers must be trained to be able to take a holistic account from a person with disability.
- To request vulnerable witness to retell their incidence multiple times is harmful, therefore should be done in a strict minimum.
- Each person with disability must always get support they need throughout the criminal system with the aim to ensure his or her capacity to be able to exercise choice and control is maximized in such a way that is appropriate to his or her condition and needs.
- By maximising support for everyone with disability does not lessen an accused person's right to a fair trial. However, there should be fairness to all. As this requires the court to consider a triangulation of interests meaning the position of the perpetrator, the victim and his or her family also the public.
- An organizational culture that is responsive to the complex issues and requires of each person with disability and is committed both in guiding principle and reality to person centre practice all criminal justice system agencies must have it.
- Innovation, quality, continuous improvement, contemporary best practice, and effectiveness in the measures of supports to everyone with disability are to be promoted.
- Criminal justice agencies must have a strong form of accountability through implementation, reporting and monitoring of these guidelines and access to justice for each person with disability.”

These principles put the persons with the disability at the centre of the court service.

XI. CONCLUSION

This literature review identifies that while the role of a number of professionals has been recognised over the years through introduction by policies, and most recently by regulations, there is still a gap in relation to whether or not the existing measures employed by these professionals meet the aim of mitigating secondary victimisation of the child witnesses, complainants and those with disabilities. The role of the professionals (intermediaries, court supporters and CPOs) may sometimes overlap in practice. The regulation of the role of the CPO is a step in the right direction, but the question remains whether they, and the criminal justice system they operate in contains all the tools and training to be child friendly and disability responsive. Testing the operation of the SOC Regulations in practice, particularly those provisions that are aimed at addressing secondary victimisation and provision of reasonable accommodation and accessible justice to children with disabilities is needed.

The literature shows that South Africa has international law obligations under the CRPD to provide access to justice for children with disabilities who are complainants and witnesses. Examples from other countries of professionals such as children's champions and

implementation of government guidelines to assist stakeholders in the criminal justice system to provide disability inclusive services were highlighted.

The next chapter explains the research methodology employed in this study.

CHAPTER 3

RESEARCH METHODOLOGY

I INTRODUCTION

This chapter consists of the research methodology and how it was applied in chapter four (4) and in chapter five (5) where an empirical qualitative research methodology was employed. This chapter sets out the ethical considerations, method of data analysis, the techniques of collection of data, the techniques of sampling and the identification of the study population.

II THE EMPIRICAL QUALITATIVE METHODOLOGY

This empirical study was facilitated in four municipalities in KwaZulu-Natal (South Africa). Primary data was utilised, whereby the database of Court Preparation Officers was obtained from the gatekeeper (National Prosecuting Authority).

This study is about the perception of the role of CPOs in supporting child witnesses in four Sexual Offence Courts in KwaZulu-Natal in South Africa. The Sexual Offence Courts were selected by the gatekeeper .

The researcher collected primary data from each court preparation officer as each court has one court preparation officer. The court preparation officer's duties or role is to support and facilitate court preparation to child victims/witnesses and children with disabilities in Sexual Offences Courts.

(a) Location of the research

The Sexual Offences Courts and at the Hybrid court which are the situated in four cities in the province of KwaZulu-Natal in South Africa. These four courts therefore serve rural and semi-urban areas, as well as a city and outlying areas.

(b) Research design

Du Plooy-Cilliers, Davis & Bezuidenhout (2013:93) state that research design is where the researcher identifies the complete plan of his/her of the entire research project, outlines what will be done in terms of formulating questions or the hypothesis in collecting the information and completing the final analysis.

(c) Population

According to do Plooy- Cilliers et al, (citing Wild and Diggines, 2013:186) point out, that population is been describe as the total of group of people or entities like social artefacts from whom information is required. South Africa has sixty Sexual Offences Courts and thsses courts is the population of this study.

(d) Sampling

According to Shokane, Makhubele and Blitz (2018:35) sampling is applied in selecting a sample of the participants from the population. The sample of this study is four Sexual Offences Courts in KwaZulu-Natal selected as the participants from the population. The sample is a desired type of people for the study, that will be recruited by the researcher with the aim to take part in the study through interviews or through focus group discussions.

This study applied a purposive sample. Purposive sampling is suitable, since it helps to seek participants who are knowledgeable, and can describe their experiences and perceptions about the subject that concerns them (Walman et al 2005: 69). The participants were identified and accessed through their gatekeeper in the NPA in those selected Sexual Offence Courts. Terre Blanche, Durreheim & Painter (2006:49) state that sampling is the selection of research participants from the entire population, and involves decisions about which people, setting, events, behaviours, and social process to be observed.

Non-probability sampling was used, as this refers to any kind of sampling where the selection of elements is not determined by statistical principle of randomness (Terre Blanche et al. 2006:139). The sample will be a CPO participant from four sexual offences courts are included. This study is based on the qualitative method, the chosen number of participants are adequately represented, and they were able to share enough useful information.

The following definition assisted in determining who would meet the criteria for selection: A CPO who prepares and supports child witnesses for Sexual Offences Court hearing. Individuals needed to have personal experiences or have observed the topic being researched, be able to provide rich descriptions of their experiences, be able to articulate their experiences and be willing participants (Wilson and Hutchison, cited in Netshishive, 2006). A total of four participants were included in the sample.

(e) Preparation for Data Collection

The researcher contacted the gatekeeper at the regional (Pietermaritzburg) National Prosecuting Authority for appointments with the participants since they are responsible for arranging appointments. The participants are CPOs working at Sexual Offences Courts. The researcher

visited the CPOs in the comfort of their own offices, on a scheduled day and time. The researcher engaged participants to remind them about the scheduled appointment date and time.

On arrival, the researcher started by establishing a relationship with the chosen participants and explored the main aim of the study to obtain their consent to participate in the study out of their own free will. The study information sheet and informed consent forms are annexed as **Appendix A** and **B**, respectively. The researcher asked some questions and managed to answer their questions. The duration of the interview took fifty minutes per participant.

(f) Data collection Techniques

The study employed interviews to collect data from the participants. According to De Vos, Strydom, Fouche & Delport (2011:342) the interview is a social relationship designed to exchange information between the participant and the researcher. Data was collected by means of semi-structured interviews that were conducted at the offices of the CPOs. While demographic detail was collected, the focus of the interview was on the views of or the experience of CPO participants obtained through using open ended questions. A schedule of the interview questions is annexed as **Appendix C**.

The interviews captured the multitude of participants' views of the subject under study so that the researcher comes to see the respondent's complex social world (Denzin and Lincoln, 2000). Smit et al, (1995: 17 citing De Vos et al, 2011:359) the "tape recorder allows a much fuller record than notes taken during the interview, it also means that the researcher can contribute on how the interview is proceeding and where to go next". The individual interviews were audio recorded with the permission of the participants and brief notes were taken where participants' non-verbal and emotional expressions were be captured. The interviews were conducted face to face in isiZulu as this is the language of participants. Interview questions in the schedule were translated into English.

(g) Methods of Data Analysis

Data analysis is the process of bringing order, structure and meaning to the mass of collected data (De Vos et al. 2011:372). All the data gathered was analysed qualitatively using thematic analysis. Data was be transcribed, read, and re-read, and then coding the information into the research question. Recurring themes were identified. Significant participants' statements were used to formulate meanings and clarity under the identified themes. The final product of the analysis was a report where the findings is presented in chapter 4 after a process of identified

themes. The identified themes and organised the narratives of the research participants underneath the different themes.

III ETHICAL CONSIDERATIONS.

Durreheim & Wassenaar (2002: 66) state that research must be guided by ethical principles namely, autonomy, non-maleficence, and beneficence. Lincoln and Guba cited in Babbie and Mouton (2001) further state that, trustworthiness of the study is established through adopting four constructs, which are credibility, dependability, transferability, and conformability. These factors are discussed in turn below.

First, however, it is necessary to explain the ethics clearance process. The gatekeeper was contacted to obtain permission to interview its staff. A copy of the initial letter sent to the NPA is annexed here marked **Appendix D**. Due to the COVID-19 pandemic inordinate delays resulted in obtaining this permission. Permission was eventually granted in a letter, annexed hereto marked **Appendix E**. The Human and Social Sciences Research Committee at the University of KwaZulu-Natal granted permission to conduct this study with Protocol number HSSREC/00002469/2021. A copy of the letter is annexed hereto marked **Appendix F**.

(a) Credibility

Lincoln and Guba (2000 cited De Vos et al. 2011:420) explain that credibility is the extent to which the findings in the interviews or focus groups are said to be accurate, sufficiently rich, grounded in, supported by narrative data, and show a logical relationship to each other.

In this study, all interviews were tape recorded, transcribed, and translated to English from the isiZulu spoken at the interviews. To ensure that the meanings contained in the interviews is not lost during translation, the researcher used a translator who is fluent in both isiZulu and English. The researcher took notes during the interviews. The main purpose was to ensure that both verbal and non-verbal expressions that might be missed by the tape recordings are recorded.

Terre Blanche et al. (2006) states that, credibility is further ensured by reflecting and reciting the original voices of the participants' during the reporting of the research findings and conclusions. The researcher strengthened the discussions in her analysis and conclusion chapters through direct quotations from the interview transcripts.

(b) Dependability

According to De Vos et al. (2011:420) the research process is logical, well documented, and audited. The overall research questions in this study were clear and logically connected to the research design and objectives. The use of face-to-face interviews was consistent with qualitative research processes. The discussions took place in the language of the participants which is IsiZulu and English. The participants were able to express their feelings, in voicing out their views and are treated as active agents who are experts in matters concerning their own lives. The use of the participant's language was not limiting any misinterpretations between the researcher and the researched. No assumed meaning took place.

(c) Conformability

Lincoln and Guba (1999 cited De Vos et al., 2011:421) stress the need to ask whether the findings of the study could be confirmed by another. In this study, the role of the translator was to be achieved through translating the documentation and reviewing of field notes, process notes, and reviewing of expectations of the study.

(d) Transferability

According to De Vos et al. (2011:420) transferability refers to whether the findings of this research are transferrable to other contexts. The study is a context specific study that is not aimed at transferring the findings to another context. Qualitative research aims at producing conceptual findings that are representative of specific groups or populations within a given context. The findings of this research were accurately representing the current situation of CPOs who are working at Sexual Offences Courts in KwaZulu-Natal, and whose role is court preparation officer. However, the process of researching CPOs' issues can be and is transferrable to another context. This study broadens our understanding of the role of CPOs in supporting child witnesses and its proceedings with a child witness/complainant or person with disability. The informed consent forms were provided to participants and their participation was voluntary as described above. Participants' identifying personal details were anonymised but because their job discipline is known, they will not be completely anonymous.

A safe environment was created to allow participants to participate freely in the study without any hesitation. The researcher ensured that the protection of the participants remained as a priority.

The next chapter considers the data obtained from the interviews and analyses these thematically.

CHAPTER 4

RESEARCH DATA AND ANALYSIS

I. INTRODUCTION

Different role players have fulfilled duties and positions in the past few years to prepare the child witnesses/complainants and those with disabilities before hearings in criminal and Sexual Offences Courts such as the prosecutor, court support workers, and more recently, CPOs. CPOs are now seen as essential in assisting and facilitating the court preparation prior the court hearing.

The aim of this chapter is to understand the context of the knowledge which was collected through semi-structured interviews and in administering thematic analysis of the rich data obtained. The interviewer collected data from four (4) participants who are facilitating court preparing to child witnesses/complainants in the Sexual Offence Courts in four different municipalities in KwaZulu-Natal. The courts were the Sexual Offence Courts.

The six phases of data analysis as mentioned by Braun and Clarke (2006: 16) were employed, namely: the researcher must be familiar with his or her data; generating initial codes from data, searching for themes; naming and defying of the themes; identifying of ideas and generating the document report.

II DEMOGRAPHIC DETAILS OF COURT PREPARATION OFFICERS

The participants were three females and one male. All of them are the CPOs in different Sexual Offence Courts. The CPOs normally received referrals from the court prosecutor who is working with child witnesses/complainants in Sexual Offences Courts. At times they are getting referrals from Thuthuzela Care Centres are set up as one- stop facilities are situated at public hospitals, provide housing police, health and psycho-social support services to assist victims at the point of entry into the system, although very few Thuthuzela Care Centre provide psycho-social services. In terms of qualifications, some have a diploma in childcare work or a social work degree. All of them are working in Sexual Offences Courts and facilitate their services to children who are four years up to eighteen years old, secondly to adults too. The study will consist only CPOs participants who are facilitating court preparation in each court.

Demographic details of Court Preparation Officers are shown in Table A below. The three of participants are females and one male are speaking IsiZulu as their first language and speaking English as their second language. The CPOs are facilitating court preparation up to a maximum of eighty child witnesses per month. At times they are consulting five to eight child witnesses including their guardians per day.

TABLE A: Court Preparation Officers’ Demographic details.

CPOs’ Gender	CPOs’ Race	Highest qualification	Working experience on assisting the child witnesses in sexual offence courts
Female	African	Diploma in childcare	14 years
Female	African	Social work degree	5 years
Female	African	Diploma in childcare	13 years
Male	African	Diploma in childcare	14 years

III DATA ANALYSIS AND FINDINGS

Most of all four of the CPOs reported that they had not yet facilitated court preparation to child witnesses with disabilities. However, they advised that if there is such a circumstance, they would inform their prosecutor. Therefore, the CPOs advised that they would assist the child with the disability by requesting the help of an interpreter or therapist to provide guidance in best communication with the child witnesses.

According to White and Msipa (2018:101) persons with communication disabilities may have experienced challenges in participating effectively in the criminal justice system and may fail to access justice especially if there is no adequately skilled person who is going to provide support to them.

IV THEMATIC ANALYSIS

Twelve themes emerged from the data obtained from the interviews with the participants, which are the following:

- (a) Availability of resources
- (b) Training of CPOs for court preparation: CPOs are adequately trained to provide court preparation to children with disabilities but lacking practical experience.
- (c) CPOs understand what is meant by secondary victimisation particularly in witnesses' interaction with law enforcement as the role of the CPOs is to mitigating secondary victimization is not clearly articulated.
- (d) CPOs offer court preparation in line with the SOC Regulations' aim of familiarising the person with the court environment and engage in rights awareness
- (e) CPOs focus on identifying the basic needs of witnesses/complainants such as food, rest, transport costs and emotional readiness to testify.
- (f) Court preparation requires time, which is not always available to CPOs.
- (g) CPOs understand the reasonable accommodation needs of children with physical disabilities and chronic illnesses in the justice system but not necessarily other disabilities.
- (h) Intermediaries are hastily introduced by the CPOs on the day of trial, which is inappropriate and inadequate and disallows proper rapport building with the child on the part of the intermediary.
- (i) CPOs understand the importance and utility of Victim Impact Statements for the victim but perceive its quality to be affected by an external factor. The CPOs are having targets to meet at the end of each month and on each trial day.
- (j) Other professionals such as court support workers and social workers may overlap in court reparation mandates, but generally CPOs know little about their different roles.

(a) Availability of resources

On the availability of resources, participants were positive for the most part. This is in slight contradiction to the presentation made to the Parliamentary Committee in 2020, where the following was noted in relation to implementation of the SOC Regulations and Sexual Offences Courts:

The limitations being experienced were insufficient human resources – for example, intermediaries and court preparation officers. Currently, the Department had a capacity of 136 intermediaries and 36 *ad hoc* intermediaries. A resource audit was being conducted to determine the exact resource gaps. Infrastructural limitations experienced were related to some courthouses not having enough space to accommodate the SOC model, as set out in the regulations. Renovations for upgrading were often impossible in certain monumental court buildings (Parliamentary Monitoring Group, 2020).

The responses from the CPOs are below:

Yes, on the basis that if you don't know and we taught to be creative and to lookout of the box, we don't sit not to do job because of not having some resources. Then in end of monthly we put request on what we do not have.(Participant BB).

I will say, tools we have. (Participant CC).

I do not have a conducive environment as you can see. This is a small office and is not easy for child with disability, I do everything here admin work sometimes the telephone is not working, photocopy machine is not working. The court preparation is done here, no waiting area for parents. (Participant SS.)

National Prosecuting Authority is making sure that we have enough resources. (Participant MM).

(b) Training for court preparation of CPOs adequately trained to provide court preparation to children with disabilities but lacking practical experience.

The second theme that emerged is that CPOs identified that they received adequate training to do the job. The following are relevant responses from CPOs regarding training provided.

I have received training of Court Preparation Officer which is “Ke bona Lesedi, I see the light.” on how to conduct court preparation, step by step, we got training on how to deal with disabled witnesses, understanding of sexual abused witnesses. We always offered training every year as Court Preparation Officers. You choose on which training you need. The manager also asks where you are lacking (Participant BB).

xxx

I have received training in court preparation for five days which is “Ke bona Lesedi, I see the light.” on how to conduct court preparation, step by step, we got training on how to deal with disabled witnesses, understanding of sexual abused witnesses; induction; trafficking; how to use the tools, how to communicate with witness with disabilities, on how to facilitate the VIS. We always offered training every year as Court Preparation Officers. (Participant CC.)

xxx

I had so many training from National Prosecuting Authority on how to facilitate court preparation and how to facilitate Victim Impact Statement. (Participant SS).

xxx

We have attended many trainings, on how to facilitate court preparation to witnesses with disability which took five days, administration, how to use our tools skill presentation, human trafficking, we have attended lot of trainings. (Participant MM).

As the literature review shows, the NPA has reported that it provides training to CPOs through its dedicated CPO programme nationally, including on victim impact statements and specialised training in partnership with the University of Pretoria and Cape Mental Health (Nagia-Luddy and Waterhouse, 2009: 36; The Annual Report National Director of Public Prosecutions (2015/16:42). The participants did not reflect on any gaps they may have in their current training. Furthermore, since in the instance of children with disabilities they have not had the opportunity to prepare children with disabilities – as is discussed below in more detail, it is not feasible for them to reflect on whether that training was adequate in terms of practical implementation.

(c) Adequately trained to provide court preparation to children with disabilities but lacking practical experience.

The second theme that emerged is that Court Preparation Officers were asked about their skills and knowledge of communicating and rendering court preparation to children with disabilities. In general, most officials who are working with children with disabilities do not have enough skills or no idea on how to communicate to people with disabilities. The family members of children with communication or complex disabilities are often the only ones who can communicate with them (Carter, 2015). The following responses from participants indicate their general lack of experience on this issue.

Not that much. Participant BB

xxx

I can say the experience also is very important I remember the training of how you handle the child with disability. I think, the only challenge is using sign language, but I feel that there is a need for CPOs to have knowledge of sign languages in order to deal with them. But in physical [disability] I can handle that as there are training that I did attend in handling the physical challenged. (Participant CC).

xxx

I am not going to say yes, we did not been trained on the sign language, mental disturbance. We had to refer to social worker or psychologist. (Participant SS).

xxx

I will say that yes in basic training as the CPO for five days we know what to do by using the PEACE MODEL tool. (Participant MM).

Officials in justice system including prosecutors, defence attorneys, judges and magistrates are not usually competent in communicating with child with communication disabilities. Therefore, there is a need of disability awareness training (White et al. 2015 :2 cited Combrinck & Meer, 2013; Pillay, 2012; Seedat et al, 2009). It is clear from the reflection on accommodating or assisting children with physical disabilities, that those are perceived to be easier to manage than those with intellectual or psycho-social disabilities.

(d) The need for trauma debriefing for CPOs.

The fourth theme that emerged is the perception of an acute need for trauma debriefing to be offered to CPOs.

Yes, can be improved because of work trauma, psychological debriefing that can be [offered]. Participant BB

xxx

For me here I need stationery not to depend to other organisation for the resources. Also, the debriefing to us maybe one each month. Participant SS:

xxx

We still need trauma debriefing training. Participant MM

xxx

This is an interesting finding because there is a lack of literature focusing on the experience of trauma by CPOs, though the same experience and need for psychological counselling on the part of prosecutors and magistrates in the Sexual Offences Courts has been reported in the media (Badat, 2004). Similarly, in other countries the trauma occasioned by the nature of the work in the criminal justice system has been recognised, including for legal representatives and police officers (Tinsley & Tyler, 2021; Dotson et al, 2020).

In South Africa, there is often emphasis on trauma debriefing for victims or witnesses of crime and limited literature on the experience of trauma and the need for counselling services in the occupational sphere for those stakeholders who service the needs of clients, including in the law enforcement and court systems (van Wyk & Edwards, 2005:137). However, there is an online report on trauma debriefing services being offered to social workers involved in the criminal justice system in 2015/16 (NIDCAM, undated). That organisation reports that it was appointed by the Department of Social Development through the use of funding from the Criminal Asset Recovery Fund (CARA) to offer debriefing to 50 social workers in each of the nine provinces to address their experience of secondary traumatisation and “vicarious traumatisation” as well as “compassion fatigue”. These concepts have been defined as follows:

Compassion fatigue: The profound emotional and physical exhaustion that helping professionals and caregivers can develop over the course of their career as helpers. This is a gradual erosion of the things that keep them connected to others in their caregiver role.

Vicarious trauma: The profound shift that helpers experience in their world view when working with clients who experience trauma. Fundamental beliefs about the world are altered and possibly damaged due to repeated exposure to traumatic material. (Mathias (2011)).

Unfortunately, the empirical evidence of the efficacy of debriefing is inconclusive (Collins, 2019; Patterson, 2001). It is therefore difficult to recommend the mandatory uptake of such services. However, good practices such as psychological education and first aid on what symptoms to expect post trauma and where to seek help (as opposed to debriefing which entails talking about the incident) has been suggested in other countries (Collins, 2019). Clearly further research is needed in the South African context to measure the efficacy of any debriefing offered to social workers including to CPOs to ensure best practice is followed. This research is urgently needed to promote optimal mental health in the occupational sector.

It is helpful that the SOC Regulations identify that trauma debriefing must be “available” to professionals engaged in the Sexual Offences Courts and includes CPOs in the list (Regulation 16(1)). Also of assistance is the fact that the SOC Regulations specify that the

debriefing must be offered when required by the professional (on demand effectively) and should be “relevant in order to ensure that it is effective” (Regulation 16(2) of the SOC Regulations).

(e) the role of CPOs in mitigating secondary victimisation of child witnesses.

Child witnesses and complainants are exposed to secondary victimisation from the start – on the day of opening the case at the South African Police Services and when appearing in courts at the hands of professionals Sadan (2001:5). Sadan (2001) explains that the NPA found that in many cases the alleged perpetrators are not found guilty, due to a lack of evidence from child witnesses. The NPA discovered there is a need for victims of sexual abuse to be assisted and to create friendly environment.

The responses from the participants identify that there is some understanding of the meaning of secondary victimisation but that the role of the CPO in mitigating secondary victimisation is not clearly articulated. Rather, the contribution of the experience of witnesses when interacting with law enforcement is stressed and the need to avoid secondary trauma, but not on how to go about doing so. The responses are as follows:

... [The children] already suffered trauma when opening the case at the police station. So, to me it would be when I do not provide a safe space for that person coming to me, so for me is to impose another trauma. Participant BB

xxx

They must feel respected and protected while they are in court and the witness has been abused and we do not want to expose them to another trauma. Participant CC.

xxx

Secondary [victimisation] is when you find out that the child witness has not been treated so well at the South African Police Services by the Police Officer. Even the child witness and his or her family come here in the court are not treated in a manner of respect. A child witness was sexually abused in the court building because of negligence of the Investigation Officer. Participant SS

xxx

The following responses from the CPOs on how to avoid secondary victimisation, in the court preparation and in the court, process show a better understanding of the tools and methods available to them that they may employ to mitigate secondary trauma, including the court’s discretionary use of other professionals such as intermediaries when witness testify and in relation to access to information and support. The latter (access to information and support) falls squarely into the understanding of the role of the CPO as articulated by the SOC Regulations.

In the court process the children are protected by testifying via intermediary they do not have to see the accuser while are testifying in another room; with the children we do not go full force in. I do little bit by

bit because of the attention spent listening they are getting tired. They want to lose focus and it does not end with one session it is continuously. Participant BB

xxx

We will never compromise for the child to give evidence without an intermediary. To make a conducive environment, to avoid the child not to be exposed to alleged accuser. If it happens the witness saw the accused get inside of court, then we let the child to enter after.

xxx

In the court process the child must be in an environment that is conducive. In first engagements the prosecutor creates a conducive environment and interview the child and allow the child to share his painful experience. I must ensure that the child is safe is not seen by alleged accused. The children under the age of sixteen it is the constitutional [right] fact that they must testify through the CCT camera with assistance of the intermediary so far, I do not allow the children to give evidence without their mediation under camera. Every time when there is a need. Participant SS

xxx

I think it goes back on what I have said. I think National Prosecuting Authority made a right decision and choice, by thinking for the witnesses prior. By hiring people like CPO's. What I have experience while I am working here is just that when people enter in the environment of court sometimes you find out that person opened a case and because of not understanding on what is happening in court. The guardian and child witness will inform that while I was arriving in court no one informed me about which route I need to follow. Let alone the support from the staff and guideline. Then they will not continue with their cases because of the negligence. Participant MM

The literature is in line with the findings, indicating a need for information and support to child witnesses and victims and the role of the CPO in providing such a service (Hollely (2002:14; MATTSO (2013:34). Nagia-Ludy and Waterhouse (2009:35) identified feelings of anxiety and fear experienced by child witnesses before the hearing, fear of the alleged perpetrator, public questioning and the public limelight, the perception of the court environment as unsafe, the fear of the witness losing control, embarrassment from peers, and isolation by peers. The CPO's role in dispelling misapprehensions and providing information and support to them can ameliorate some of these fears.

The participants, however, did not reflect on what they need to do in order not to occasion further trauma on the witness/victim to whom they render their services. In other words, what CPOs need to do in order to prevent secondary victimisation in the way they assist the witness/victim.

(f) The role of CPOs in court preparation is information sharing, orientation of procedures and rights awareness.

The families and child witnesses are not familiar with the law. Going to court can be daunting for them. Some of the families are scared due to not knowing the legal language used in courts, or do not have support to continue with the case. The CPO's role is essential and helpful to the witnesses as they do provide guidelines, and what is expected at court. The CPO's responses identify the role of information sharing and support that is offered by the CPO about the

procedures the witnesses/complainants can expect and various role-players as well as awareness-raising of their rights. Only one participant reflected on the fact that the CPOs preparation does not focus on the ‘merits’ of the case – in other words, that the child is not to discuss their statement with the CPO. Whether this is in practice a clear distinction that children understand is not clear, nor how this is communicated to them.

I greet them. I start engaging with them to give them their rights as the victims, or witnesses. then explain to them what is expected from them. However, I don't give them empty promises. Participant SS.

xxx

With the children we do not go full force. I do little bit by bit because of the attention spent listening they are getting tired. They want to lose focus and it does not end with one session it is continuously. I am not going to use the big word like for example, some kids do not know the magistrate, so you need to make some reference like in school who is in charge. “We got the principal who take in charge for the whole school something happened the teachers report him or her. In court something happened to you as well there is somebody who is in charge. This person going to listen to you if you tell the story. There are things they do not want to share but read a booklet about the journey to court where a child sitting in the airplane and will say ahh... my god the child P is like that the child,” Maybe I need to answer their concerns as we got the pictures, they are able to talk. They able to talk as well although we do not talk about merit of case. Participant BB

xxx

I do tell them their rights, so that they will know that there is a right of information, rights to be a child and get explanation, and when you want to cry it is okay. If the witnesses are empowered give the guideline on what is expected in the court. About their rights they do not care as much but I do make sure that I inform them, especially in incest or rape cases by telling them that there is a place of safety where she will feel safe. You have a right to not be in the place that is not safe. Participant MM

xxx

We use pictures and it depend to the age of child witness. I start by explaining according to their positions in court the magistrate his role step by step and inform the child witness about his role, the prosecutor what is her or his role and they are always on their side, and I will inform them about their gown that they wear. Therefore, I do orientation of court and its structures . I tell them about the oath. So, you relate about their daily life. If you lie there are consequences for lying. For example, when you lie at home how your mother feels, and is the same here - do not tell lies always tell the truth. Participant CC.

(g) Identifying basic needs of the child witnesses especially food, rest and transport and child-readiness

The CPOs role includes identifying the needs of the child witnesses according to the SOC Regulations. The participants reflected on what needs are identified and these are primarily basic needs such as food, rest, transport costs although age appropriateness is also mentioned. Only one response identified the disability related needs and the counselling needs of some children.

The following responses were provided by the participants:

[I] follow up by checking on attending what are the client's special needs, the age groups knowing their age group is important too, in order to check which specific programme they are falling [under] specific programme. I identify the circumstances of witness' needs and the tools that I am going to use it is to help the court to understand witnesses. Others will tell that they can't during the day as they are going to school then we arrange after school to accommodate them. Sometimes I go fetch them and to go back we arrange witnesses fee to accommodate them. Participant BB

xxx

If the witnesses are empowered, they are likely to do well in the court without lacking confidence, and have the knowledge of what is happening by empowering [ment] the witnesses. They arrive too early in the morning tired and hungry. I do offer them to sleep here in my office although is a very small office. There is a project called pillows and blanket which donate blankets and pillows, I used those blankets to give them to rest little bit or to sleep. When they wake up, I provide the tea and some sandwiches to eat whilst waiting for court to start. Our court do not offer lunch packs. In those cases, I go, and request fees as is gazetted. I do go buy a tea, sugar, milk and keep it in my office for our witness. Sometimes I arranged the day before if they do have the transport fare. If they do not have transport fare, I do an arrangement for them to be fetched. Participant SS

xxx

We are guided by PEACE MODEL tool and where you plan prior. So, I always have something in the office even before the trial. So, I do buy food for witnesses from my own pocket. For example, I always have cereal, jam, milk, peanut butter because is not something that happens every day. The child witness cannot be in the trial while is hungry. If the child is sick, we do not compromise for the health of the child, in giving evidence. I normally give them the court number and my personal cell phone if there is any changes to contact us. Participant CC

xxx

To check the witness circumstances if there is any disability, not transport fare, any threats, the witness is safe, give the guideline on what is expected in the court. If I the child witness is not ready, I do inform the prosecutor that the child is not ready, or the child witness needs to be referred. Participant MM.

Making provision for hungry child witnesses/complainants from their own personal funds or through obtaining witness fees are problematic practices that had already been identified by professionals participating in research in 2015 (Centre for Child Law, 2015). For example, that study that surveyed courts across the country identified that: “At times witness fees are paid out early in day with the idea that this practice alleviates the obligation to provide refreshments and food, even though witness fees are not provided for purposes of securing refreshments while at court. Pockets of good practice often depend on the resources of individuals and NGOs” (Centre for Child Law, 2015: 70). The reference to “pillows and blankets”, as a charitable gesture from presumably a donor shows again that other stakeholders step up to meet the needs of child witnesses and complainants where the state fails to do so.

Regulation 15(8) of the SOC Regulations states that, the court preparation officer role is to identify the ‘needs’ of a complainant (not a witness), and is instructed to inform either the prosecutor, intermediary or court manager of these needs, so that they can be met ‘to the extent possible. The fact that witnesses’ needs is not included is problematic. Furthermore, the responses from the CPOS show that training for the CPOs on what ‘needs’ refers to, including reasonable accommodation for children with disabilities, should be provided.

(h) Court preparation does not always have adequate time allocated

Participants explained that the preparation took time and sometimes more than one session, particularly in relation to building rapport with the witness/complainant. The responses included the following:

I use PEACE tool 'P=Plan and Prepare, E= explain and engage with learners, A= accounts to the prosecutors, C=closure, E = evaluation. I do consultation of 80 to 100 witnesses per month (witnesses including the care givers of the child witnesses). I get twelve (12) in other days but not every day. I do interview those children that are referred by the Thuthuzela Care Centre, on their first day to court. Others are coming from the prosecutor's interviewees and assessment of readiness for court trial, and it takes twenty (20) to thirty (30) minutes. There are times we must travel and see the witnesses in their homes. Participant BB.

xxx

On other days I am facilitating court preparation on the same day of the trial, this is caused by the financial constraints of the witnesses and the investigation officer, therefore court preparation is one hour. The court start at nine (9) in the morning the witnesses are taught to be in the court by eight (8) in the morning. While the other witness is at court, I do the second one sometimes. Participant CC

xxx

Like we do prior arrangement with the Investigating Officer, social workers, home cycle to bring witness in time before trial. It helps to facilitate court preparation; we need time as it must be a step by step because of high level of trauma of our witnesses. This is not done in a once off preparation. We do court preparation according to the guidance of the prosecutor so that when they get to the merit of trial, they do not experience breakdown. Participant SS.

xxx

I do need some time. I need to build rapport it can takes an hour. Since I will not rush, like to bring the witness now and expect me in few minutes to be finished. Participant MM

Nagia-Luddy and Waterhouse (2009:39) explain that provision of psychosocial support and related services to children concerned suffers greatly because of the shortage of qualified professionals in South Africa. Furthermore, the authors explain that this means that systems cannot accommodate the high volumes of child abuse cases, as the risks that this poses to both future victimisation and offending have been receiving growing attention.

(i) Counselling is sometimes necessary

CPOs are not supposed to provide counselling to the child witnesses and instead needs to refer the child witnesses to social workers or psychologists for counselling. Almost of the CPOs mentioned that if the child witness experiences an emotional breakdown, they must attend the child witness; explore the causes of the breakdown; inform the prosecutor about this circumstance; and to request an adjournment. The participants indicated that they utilize specially devised tools such as stories or charts to assist the children to deal with their complex emotions in the court process. However, they also indicated that at times they may need to provide counselling, though this is not in line with their regulatory duty.

If the child's experience breakdown I am always apply skills and knowledge to make sure that the child witness is assisted to compose herself or himself and will find at ease and carry on. We got our tools Bumble B. the elephant story, and can of life where we discuss our feelings, and they love these and we see the difference when they are telling their stories at court. Participant SS:

xxx

We also have some tool that is very vital to use especially where you find out that the child witness has a fear/ scared you can use a tool that is correct to help the child witness. Thereafter use the feeling charts on the wall, to ask the witness on how she or he is feeling. Some children cannot tell us how they are feeling unless you show them the feeling chart. Participant MM

xxx

They do breakdown at the court although they were prepared by CPO that doesn't mean they do not have emotion they do cry, then the court will invite me, or the intermediary will come with the child to me. I will explore some issues with the child witness as there are so many things that might cause that like, threats, hunger, when he or she is supposed to talk about the initial story in court. Now I must engage with her and do emotional counselling although it is not our duties, but it is important to have a little knowledge in counselling even after the court you need to know how to deal with emotions, because I cannot say to the child witness "drink the water and go because you are crying" need to engage let's talk about it if it needs counselling I need to refer the child witness and I will remind the child witness about, "I can story, Bumble B the elephant." Participant CC.

xxx

With witnesses I always tell them that is okay to cry and if giving evidence, or if something is bothering you, cry and if giving evidence as a CPO's I am there for support, to calm them down child, sometimes I do it myself, sometimes, or I involve by ask the parent for mum to hug and say you are doing well. Children we keep reminding them about a story. We also have a little can, about "I can elephant" and Mr Bumble B when they feel scared. The can is always represented when they feel scared, they hold his can and said aunty I am scared. With children it is a little tool to use to calm the child down. Once they go back to the intermediary room but if they feel is too much, I tell the court that is enough for the day. In these days when the child witness has a breakdown the court will tell me that the child was not prepared enough. Recently the court wanted the child witness to be prepared before the trial. Participant BB:

The emotional aspect of testifying for child witnesses is well known due to the way legal system is structured, child witnesses most of the time are experiencing a lot of anxiety and stress in the hearing process (Dward, Weiss, and Berg, 1982: 513). Emotional containment, however, may not be within the training and role of the CPO. One author indicated that CPOs are only instructors and suggested that court preparation should rather become a child support person who will be assisting the child concerned through the hearing process (Schoeman 2006:184 citing Plotnikoff and Woolfson, 1998: 3).

(j) Reasonable accommodation of a child witnesses with physical disabilities and chronic illnesses understood but not for other disabilities.

The participants clearly understood the need for physical accessibility for persons with mobility impairments and the accommodations needed for chronic illnesses such as diabetes. However, it appears that only one court was thought to be physically accessible. The CPOs did not indicate an appreciation for any other accommodations such as for children with sensory, communication, psych-social, developmental or intellectual disabilities.

If I am aware of them the prosecutor has informed me. I do go to the gate and informed the securities to please call me in the arrival of the witness. Especially those who travel by taxi, cabs or bus and in use of wheelchair. My office is not conducive for the child witness with disability. I struggle to come with the child with disability. Our court still have a challenge on making plan to sort the court structure. Even in the entrance gate it difficult for the child who is using the wheelchair ... it is very hard for those who is using a wheelchair and my office is too small for the wheelchair. The court preparation is done here, there is no waiting area for parents. Participant SS

xxx

Our court is mostly a child friendly court we do have wheelchairs and our magistrates are flexible. We take that into consideration - the building structure is very accessible that is why in our law sheet we ask if you are on any medication. Wellbeing is very important. For example, if the client take insulin because of diabetes and if she /he want to go to the toilet every now and then our toilet is nearby. We also have aircon

in our court to cater those people who suffer from high blood pressure. We always make sure that the court temperature is moderate. Even if the witness is walking by clutches to that witness because the court is the ground floor and is flat. We do not have steps. It is very accessible to the witness. Participant CC.

Xxx

If I knew in advance, I will go to the entrance to take them to the main gate as our entrance has a step. This will help the child witness to access the court. Participant MM

As discussed earlier, the international law obligation under Article 13 of the CRPD requires the provision of procedural and age-appropriate accommodations, to facilitate the effective role of witnesses, including child witnesses, in legal proceedings. The SOC Regulations identify that it is the role of the CPO to ascertain the reasonable accommodation needs of the child with a disability who is a complainant (regulation 15(12)). Alternatively, the victim assistance officer is to do so. It is therefore vital that CPOs understand the import of this duty and the permutations that accommodations for diverse disabilities and individualisation for the specific needs of children may take. Since the literature identify that other role-players such as prosecutors, defence attorneys, judges and magistrates (White et al. 2015; Combrinck & Meer, 2013; Pillay, 2012; Seedat et al, 2009) are not well versed in communicating with children with communication disabilities, it is even more important for the CPO to take on this advocacy role.

(k) Hasty and inadequate rapport and preparation by the intermediary

An intermediary is a mediator between child witness, the alleged perpetrator and prosecutor in the criminal court. The CPO on the day of the hearing has to introduce the child witness and her or his guardian to the intermediary. The child has become familiar with the CPO and then is handed over to the intermediary. The question is whether this handover is appropriately done in order not to occasion secondary victimisation. The CPOs build rapport with the child witness and facilitate court preparation before this introduction, but intermediaries are only utilised on the day of the trial.

The participants identified that the hasty introduction to the intermediary on the day of the trial is not, in their view, appropriate and adequate as they are unable to build rapport with the child. Furthermore, maybe at short notice the case will be postponed.

xxx

I do tell the witness about the intermediary because sometimes the intermediary does not have time to meet them before so by informing them it helps if the intermediary did not have time for introduction because of being busy. The aunt will be the mediator between you and the court so do not be scared to tell the aunt even if you want to go to the toilet. So, the intermediary will inform the witness on how to behave at the court like telling the story and to stand up. They are always present but if they are not available the trial +630 will be postponed, maybe is the short notice the case will be postponed. Participant CC.

xxx

What is happening here the intermediaries sometimes query this themselves, because they need time to build rapport with the child witness, so you find out the session took long more than forty-five minutes to an hour, because they did not get enough time. So, on the day of the trial everything is a rush the intermediary will ask question of the CPO about the child witness. For me and the child it is not fair. I would then have to do an introduction in a rush when the trial can start at any moment. This sometimes makes me feel bad. To fill all their paperwork in that form at the same of hearing it is not fair. The child is ready but will wait for an intermediary process. They do not prepare the child sometimes when they get to the merits of the case, on how you were related to an alleged perpetrator. It changes the mind of the child because you have told the child that we are not here to talk the merit of the case you only going to speak with the prosecutor only and you tell the court what you know. The intermediary is going to be a mediator between you and the court. They do not introduce themselves properly and the process sometimes. This results in the intermediary asking the CPO's lots of questions about the child and the family background, referral guardians. I wish if the intermediary introduced themselves before to the children and build the rapport in time, not on the day of the trial. Participant SS

xxx

If, it was according to me the intermediaries were going to spend some time with the child in before the day of the trial. The court also I felt that does not have a choice. Where the intermediaries will be able to know the character of the child witness. Because they are going to spend lot of hours in the court together. Participant MM.

xxx

On the day of trial, I take the witness to the intermediary so that they can know each other before the trial to start. Build rapport with the child. Then I do the introduction then I ask the child, can I leave you? To get acquainted with the child is the intermediary's job to see the child, and to make rapport as is not fair for the child to be with someone who did not introduce to her. This happens before the court start. For example, there is no trial without an intermediary lady. This is the special court if the intermediary is sick or busy with other court the case will be remanded until the availability of intermediary by checking the diary and schedule. Participant BB.

The literature review identified that the role of the intermediary is to facilitate a conducive environment for the child in cross-examination and the aim is to accommodate the child witness, an intermediary is a person specifically qualified to facilitate communication between the court and a child in a manner that is not only age-appropriate but also understandable to a child (Fambasayi & Koraan, 2018:19). As stated earlier, Bekink (2019:13) explained how the intermediary's role is as a conduit, ensuring the child's rights are respected. However, the literature does not reflect, as the CPOs perspectives highlighted above, that the time available to the intermediary to build rapport with the child is limited.

(I) Victim Impact Statement's utility as closure for the victim but quality affected by an external factor

Victim Impact Statements (VIS) were not used and the family were not aware of the importance. In recent years it was seen as assisting in conviction and as the tool of informing

the impact of the crime, especially to victims. The participants responses show that they understand its importance and primarily see its utility as a means of closure for the victim, but at times quality of the VIS is affected by the need to meet targets. The responses were as follows:

I feel that they are helping the witness, the community in court to participate in sentencing stage. On VIS the witnesses are speaking to an accused as to make them to realize on the impact they did to the victims because the children might not be able to sleep because of the flash back. the five years old child might express by drawing. So, you write what the child informs who is in the drawing and how she feels about that person. Participant BB

xxx

I use it as closure for them to deal with their feelings and emotions. I normally tell them to write down any feeling they are experiencing with any language and the witness felt relieved after doing the VIS they believe that they told the court about their impact of being the victim. I refer the witness to the social worker for counselling to deal with all emotions and feelings. Participant CC

xxx

At the end of the trial for the day we call it closure phase- it is very important. For example, when the case has adjourned. The issue is that because of the VIS target for each day after the trial we are not preparing quality VIS. To do the VIS while the case is not even in the judgment [conviction] stage does not make it a quality VIS. Participant SS.

xxx

That is where from the child witness views., VIS for me is the tool is a healing tool. I prefer to write it in the morning if the case is going to be adjourned. It is the chance you can use it and so to speak with the family. Participant MM.

Cooper (2000:79) explains that in many jurisdictions the need for considering a VIS in presentence investigative reports is identified, therefore offering a chance for a child victim to express to the judge the impact that the crime had on him or her. Furthermore, this impact can include the feelings of the child about how the crime affected the victim, counselling, medical, or restitution issues, and what might a victim expect as a sentence. Makiwane (2012:607 citing Schuster) asserted that, the influence of the victim impact statement is not felt in the verdict but is mainly useful to assist victims to reach emotional closure, in bringing a sense of humanity, to the victim into the courtroom, in educating the court, accused and observers about a crime's personal toll. VIS are still not properly utilised or understood by judges who may confuse VIS with the probation report (which is offender specific but may have a short portion dedicated to victim impact); or the victim impact report drafted by social workers (separate from the victim's own VIS) (Phillips & Abdullah, 2021).

(m) Some interaction occurs with other professionals but little understanding of their different roles is evident though some overlapping mandates are identified.

There are a number of professionals that can work with child complainants and witnesses, including *court supporters, social workers, victim assistance officers and intermediaries* as

explained in chapters 1 and 2. The participants appreciated that these individuals, especially court support workers and social workers have an important role to play, that there may be some overlap, but generally they know little about their different roles.

Court supporters I am not sure what they do are from Non-Profit Organisation. I think they are aware about the case, when they go to Thuthuzela Care Centre Social Workers, but I do not want to know the merit of the case. Participant BB.

xxx

Stakeholders it helps a lot according to me there is a time where I did identify the client needs therapy and as a social worker, I cannot do the counselling, but I need to refer to stakeholders. Participant CC.

xxx

I was happy last year when the Department of Social Development hired social workers on gender based violence and femicide. I was working well with those social workers, but their contract ends. Participant SS.

xxx

I will say the social worker are assisting with victims and their reports but is not enough. Others they are supporting the child witnesses but others I do not have more information about them. Participant MM

Nagia-Ludy (2009:36) mentions the continued contribution of NGO workers:

“Court preparation in South Africa was originally, and continues to be, delivered by a range of NGOs. These are either 'standalone' services situated directly at the court, or they form part of a broader range of psychosocial services provided by the NGOs that operate independently from the courts, usually off site.”

IV. CONCLUSION

In general, the establishment of Sexual Offence Courts as one of the pillars of the state’s victim centred approach, especially for child victims of sexual abuse should be celebrated. The establishment of the role of and the regulation of the role of the Court Preparation Officer has been seen as a sign of hope for many victims.

Creating a conducive environment for building rapport with a vulnerable child witnesses requires a professional skill and lot of time in the space of the child witnesses. Participants identified that dealing with different emotions and being notified by the court or intermediary that a child witness is experiencing breakdown, yet they did their job to the best of their ability is difficult.

The Court Preparation Officers are going beyond what they are expected to do. CPOs identify if the child witness is hungry and use their own money to buy food for the child witnesses. This enable the clients to be able to continue with the trial on the day. When the child witnesses with disabilities encounter the challenges in accessing the court environment, they are making sure to find ways to assist the witnesses with disabilities.

This chapter has shown that some of the findings from this study are consistent and some are not consistent with existing literature on the topic. The gaps in the literature may be due to the fact that the CPO is a newly regulated position in South African Courts.

The twelve themes that arose from this study generally point to a positive understanding of the need for court preparation for child victims and witnesses and the age appropriate and child-friendly nature of such preparation. Less clearly, was the participants' understanding of what is needed for children with disabilities to be accommodated in the court process, perhaps partly due to a lack of exposure or experience in working with children with disabilities as victims or witnesses.

The responses from the participants identify that there is some understanding of the meaning of secondary victimisation but that the role of the CPO in mitigating secondary victimisation is not clearly articulated. Rather, the contribution of the experience of witnesses when interacting with law enforcement is stressed and the need to avoid secondary trauma, but not on how to go about doing so.

The SOC Regulations provide a list of duties of the CPO (some which is similar or identical to the victim assistance officer). One of these duties is for the CPO to identify the 'needs' of the complainant (but not the witness). It was argued that the fact that witnesses' needs is not included in the regulations is problematic. Furthermore, the participants clearly understood the need for physical accessibility for persons with mobility impairments (physical disabilities) and the accommodations needed for chronic illnesses such as diabetes. However, there was less focus on the needs of persons with other disabilities. It was argued that specific training on the reasonable accommodation needs of children with disabilities other than physical should be incorporated for CPOs (including developmental (autism), communication, sensory, intellectual and psycho-social disabilities). Van Niekerk and Coetzee (2020) argue that research is needed on the impact of the experience of secondary victimisation on children with autism and other disabilities in order to be able to know how to appropriately assist them in the court process. Since the literature identify that other role-players such as prosecutors, defence attorneys, judges and magistrates (White et al. 2015 :2; Combrinck & Meer, 2013; Pillay, 2012; Seedat et al, 2009) are not well versed in communicating with children with communication disabilities, it is even more important for the CPO to take on this advocacy role.

Most of the CPOs mentioned that if the child witness experiences an emotional breakdown, they must attend the child witness; explore the causes of the breakdown; inform the prosecutor about this circumstance; and to request an adjournment. The participants

indicated that they utilise specially devised tools such as stories or charts to assist the children to deal with their complex emotions in the court process. The CPOs therefore offer basic counselling to the children at time, which is actually not part of their job description and they do not necessarily have the requisite training in this respect.

The child has become familiar with the CPO and then is handed over to the intermediary. The question is whether this handover is appropriately done in order not to occasion secondary victimisation. The CPOs build rapport with the child witness and facilitate court preparation before this introduction, but intermediaries are only utilised on the day of the trial. The participants identified that the hasty introduction to the intermediary on the day of the trial is not, in their view, appropriate and adequate, – for example, intermediaries and court preparation officers.

Infrastructural limitations experienced were related to some courthouses not having enough space to accommodate the SOC model, as set out in the regulations.

The participants did not reflect on any gaps they may have in their current training. Furthermore, since in the instance of children with disabilities they have not had the opportunity to prepare children with disabilities, it is not possible for them to reflect on whether that training was adequate in terms of practical implementation.

CONCLUSION AND RECOMMENDATIONS

I CHAPTER SUMMARIES

This chapter contains answers and gives conclusions to the research questions which are listed in chapter one including a summary of previous chapters and the main findings. This chapter concludes with recommendations that emerged from the findings.

Chapter 1 provided the main introduction of the study and identified the background and the statement of the problem, the research objectives and questions of the study, the research methodology and theoretical framework, also the structure of the thesis. The concepts of court preparation officer, intermediaries, victim assistance officer, and victim impact statements were defined.

Chapter 3 identified the research methods that was employed including the ecosystem approach. The chapter explained the qualitative approach and design employed to explore the perceptions of the role of four court preparation officers (CPOs) in supporting child witnesses and complainants in four sexual offences courts in the KwaZulu-Natal province. Data was collected from four each CPOs that works to each Sexual Offences Courts applying semi-structured interviews, open-ended questions, and observations. Ethical considerations with the aim to protect the participants were outlined.

In chapter 2, the literature review revealed that there is little current literature on the perceptions of CPOs about their role in supporting child witnesses. A lot of literature focused on the establishment and main aim of sexual offences courts, expectation of the structure of sexual offences courts and the required staff to work at sexual offences court, the role of court preparation officers during vulnerability of child witnesses, the establishment and main aim of court preparation officers, the tools used to facilitate court preparations, the importance of creating a conducive environment with the aim of building rapport with the child witnesses, the secondary victimisation in court preparation process and in cross-examination at sexual offences courts and how it can be avoided, challenges of child witnesses with disabilities to access criminal justice system in South Africa, lack skills of justice officials in communicating with child witnesses with disabilities, court preparation officers in introducing the child witnesses to intermediary, the child witness in giving evidence in camera with an assistance of

intermediary, facilitating on completing Victim Impact Statement, the training provided to court preparation officers to fulfil their duties, the regulations that guided the court preparation officers.

In chapter 4, themes originating from the data were provided and verbatim quotes as obtained from the narratives of the research participants were provided underneath. In terms of this study, the CPOs identified that they have a number of tools and resources at their disposal to prepare child witnesses. They indicated that they have empathy for the needs of the children they assist, including in providing food from their own personal funds and providing counselling where needed although that is not within their job description or necessarily in their training.

The study found also that the CPOs concerned did not have a clear understanding of their own role in avoiding secondary victimisation. However, they did indicate that they themselves suffer from vicarious trauma or compassion fatigue and may require trauma debriefing to address these. This study found that while accessibility needs for children with physical disabilities was understood the accessibility requirements and reasonable accommodation needs of children with different disabilities was not articulated or necessarily understood. The study also found that the participants did not have relevant experience of assisting child witnesses and complainants with disabilities in court preparation.

The study found that while the participants could list relatively comprehensive types of training, there were key training gaps. These were: training on the developmental stages of children; training on the reasonable accommodation needs of children with disabilities and possibly basic counselling skills. The study also revealed that the handover of the child witness or complainant from the CPO to the intermediary is not without challenges. This includes perceptions of hasty questioning and inadequate rapport building with the intermediary. Furthermore, there was not a clear understanding of the job descriptions of other professionals and some overlapping mandates was alluded to. If CPOs are not clear about the roles of other professionals such as court supporters and victim assistance officers, they may transfer this confusion to the persons they assist in court preparation – children.

II RECOMMENDATIONS

(a) The possible need for counselling training of CPOs

It is recommended that the NPA, in consultation with CPOs, clearly determine the role delineation of CPOs and identify whether appropriate counselling training is necessary for

CPOs. Chapter 4 is an exposition of findings that the distinction between different professionals in terms of role delineation can be artificial as there is often some overlap. Particularly for child witnesses and complainants, it is difficult to understand with whom and when a child may safely show their emotions and would then be entitled to immediate counselling (and require referral to further counselling outside of the court process).

(b) The need for regular and appropriate trauma debriefing

It is recommended that the NPA, in consultation with CPOs, and following best practice, determine guidelines for whether trauma debriefing is relevant and effective and what form this should take and how regularly it should be provided. The analysis in chapter 4 identified that the participants themselves thought that trauma debriefing is necessary for them due to the trauma they experience in the occupational sphere and that it should be offered regularly.

(c) The need for training in human developmental stages

It is recommended that CPOs receive basic training in developmental stages of children that will provide them with the knowledge of how to communicate with child witnesses effectively and age-appropriately. Furthermore, will be helpful in identifying whether the child witnesses have reached milestones appropriate to their ages. This determination is necessary because not all children with disabilities are diagnosed at an early age in South Africa due to diagnostic delays and because of non-disclosure from caregivers/parents. This understanding and knowledge would assist them in assisting children with disabilities who are not ‘diagnosed’ as such and may not only require referrals to other relevant professionals but may need dedicated measures of reasonable accommodations in the court processes. This is one of the key duties of CPOs identified in the SOC Regulations.

(d) The need for training on accessibility and reasonable accommodation for children with diverse disabilities

From the analysis in chapter 4, the CPOs who participated in this study did not have experience in assisting children with disabilities with court preparation. Furthermore, their understanding of accessibility needs for those with physical disability was adequate but not for other disabilities.

It is recommended that CPOs receive appropriate training on the accessibility requirements and reasonable accommodation needs of children with diverse disabilities. Furthermore, referral networks need to be put in place to ensure that where there may be a communication gap with a child with a communication disability, that can be remedied. As it

is the role of the CPO to assist in identifying the reasonable accommodation needs of the children, they prepare to other stakeholders such as the prosecutor and intermediary, they may also need to play an advocacy role in terms of checking that appropriate measures are put in place.

(e) Provision of appropriate basic needs resources for economically depressed children

The data analysed identified that basic needs such as food and transport costs for child witnesses can be incurred. Unfortunately, this process is not well managed resulting in CPOs paying for these from their own pocket at times. It is recommended that the NPA identifies an appropriate process to ensure uninterrupted access to the relevant basic resources for child witnesses and complainants.

(f) Conducting an audit and the improvement of Court Preparation Officers' office

The data analysed identified that some participants did not have office space conducive for accessibility of children with disabilities or as conducive for court preparation. It is recommended that an audit is conducted of CPOs office spaces to determine what changes are required to meet accessibility standards and to make these conducive for court preparation of children.

(g) The timing and role of the intermediary and the role of other professionals

The data analysed indicated that CPOs perceived that intermediaries' introduction to the child witnesses comes too late on the day of the trial and as a result the questioning and rapport building is rushed, possibly occasioning secondary victimisation. This should be avoided since the introduction of the role of the intermediary is to avoid secondary victimisation in the court process for child witnesses and complainants.

It is recommended that the NPA, in consultation with intermediaries and CPOs, and following best practice, determine when it is appropriate to introduce the intermediary to the child and to do a proper handover from the CPO of the child's needs. The availability of intermediaries also needs to be investigated as postponements of cases due to this issue is problematic.

It is further recommended that CPOs are properly trained on the different roles of professionals such as victim assistance officers, court supporters and social workers. Confusion in relation to role delineation may spill over into their preparation of the children they assist in court preparation.

(h) Future research

Future research is needed on the ways in which CPOs can minimise secondary victimisation in their own dealings with children and those with disabilities. Furthermore, future research should also consider the need for the inclusion of “secondary victimisation” as a definition in the SOC Regulations to better guide stakeholders on the need to fully understand this concept and mitigate its occurrence in the court process.

III LIMITATIONS

This study was undertaken during the COVID-19 period and as a result many unavoidable delays were occasioned. One of those was the obtaining of gatekeeper permission as the court system was closed for part of the period and significant delays were occasioned in the justice system. The availability of participants was also affected, and the different levels of disaster regulations also meant that the methodology had to be changed a few times to accommodate such changes.

IV CONCLUSION

The main research question in this study was to determine the perceptions of Court Preparation Officers of their role in supporting and preparing child witnesses and complainants for testimony in the Sexual Offences Court to mitigate secondary victimisation; for child witnesses with disabilities, to provide accessible services, ensuring their needs are addressed; and whether they have adequate training and resources at their disposal to fulfil their role. This study identified further challenges facing CPOs in the findings and recommendations were made towards addressing some of these. This study also showed that the CPOs concerned show immense dedication and empathy for the children they assist and that the regulation of the CPOs in terms of the SOC Regulations was overdue. However, in consultation with CPOs, existing regulations can be improved to better reflect the lived reality of the child witnesses and complainants and the services that are provided by the CPOs and other role players.

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ANNEXURE A

Study Information Sheet

**UNIVERSITY OF KWAZULU-NATAL
SCHOOL OF LAW
Masters in Child Care and Protection – Research study**

Dear Participant,

I am Mydoo Ntombikayise Shange, a social worker by profession and registered as a Masters student at the School of Law of the University of KwaZulu-Natal. You are invited to participate in a research project titled: “The perceptions of the role of court preparation officers in supporting child victims in four sexual offences courts in KwaZulu-Natal.”

The aim of the study is to understand the Court Preparation Officer’s perceptions of their role and challenges facing their role in supporting and preparing child witnesses for testimony in the Sexual Offences Courts. This research will provide the various role players, with a current perspective of the implementation of the new model for designated Sexual Offence Courts.

Your participation in this project is voluntary. You may refuse to participate or withdraw from the project at any time with no negative consequence. There will be no monetary gain from participating in this interview. Confidentiality and anonymity of records identifying you as a participant will be maintained by the researcher and the School of Law, University of KwaZulu-Natal. The **telephonic interviews** should take you about 30 minutes to complete. Anonymity can be guaranteed partially by using generic job titles and general terms to identify your organisation, if you so choose; and by not identifying you by name. I hope you will take the time to consider to participate in this study.

This study has been approved by the University of KwaZulu-Natal’s Human and Social Sciences Research Ethics Committee. The Protocol number is (insert).....The Ethics Committee is committed to ensure no one is harmed as part of the research.

If you have questions about your rights as a research participant or any complaints, you can contact: University Research Office – Research Ethics Offices, Tel. No. 031 260 4557, Email: HSSREC@ukzn.ac.za

If you have any questions or concerns about participating in this study, you may contact me or my supervisor at the numbers listed below. You will be given a copy of the informed consent form to keep.

Sincerely,

Ms. Mydoo Shange

Researcher’s signature: MN SHANGE Date: 08/03/2022

CONTACT DETAILS:

Researcher: Ms Mydoo Shange, and Email Address: shangemydoo@gmail.com

Supervisor: Ms Willene Holness 031 260 1406; Email: holnessw@ukzn.ac.za; School of Law, Suite H, Howard College Building, Mazisi Kunene Avenue, Durban.

School of Law Research Office: Mr Pradeep Ramsewak 031 260 3046; Email: ramsewakp@ukzn.ac.za; Centre for Post-Graduate Legal Studies, Ground Floor, Howard College Building, Mazisi Kunene Avenue, Durban.

This page is to be retained by participant.

ANNEXURE B

CONSENT TO PARTICIPATE IN THIS STUDY

I, _____ (participant name), confirm that the person asking my consent to take part in this research has told me about the nature, procedure, potential benefits and anticipated inconvenience of participation.

I have read (or had explained to me) and understood the study as explained in the information sheet.

I have had enough opportunity to ask questions and am prepared to participate in the study.

I understand that my participation is voluntary and that I am free to withdraw at any time without penalty (if applicable).

I am aware that the findings of this study will be processed into a research report, journal publications and or conference proceedings, but that my participation will be kept confidential unless otherwise specified.

I agree to the recording of the semi-structured interview and participant observation.

I have received a signed copy of the informed consent agreement.

Participant Name & Surname.....(Please print)

Participant Signature..... Date.....

Researcher's Name & Surname.....(please print)

Researcher's signature.....Date.....

UKUSEBENZA KUNYE NOKWENZA KANYE KULO KULOLU CWANINGO

Mina, _____ (igama lomhlanganyeli), ngiyaqinisekisa ukuthi umcwaningi ucele imvume yami ukuba ngihlanganyele kulolu cwaningo ungazisile ngemvelo, ngenqubo, izinzuzo ezingenzeka kanye nokukhathazeka okungalindeleka ngokubamba iqhaza.

Ngiyifundile (noma ngiye ngachazeleka) futhi ngiyaqonda ngaleli cwaningo njengoba kuchaziwe kushidi lwazi.

Ngibe nethuba elanele lokubuza imibuzo futhi ngikulungele ukuhlanganyela kulolu cwaningo.

Ngiyaqonda ukuthi ukubamba iqhaza kwami kungukuzithandela nokuthi ngikhululekile ukuhoxa nganoma yisiphi isikhathi ngaphandle kwesijejiso (uma kusebenza).

Ngiyaqaphela ukuthi okutholakele kwalolu cwaningo kuzosetshenziselwa umbiko wokucwaninga, izincwadi zezincwadi kanye / noma izinqubo zenkomfa, kodwa ukuthi ukubamba iqhaza kwami kuzogcinwa kuyimfihlo ngaphandle uma kuchaziwe ngenye indlela.

Ngiyavuma ukurekhodwa ngokwengxoxo ehleliwe kanye nokubonwa njengo mhlanganyeli.

Ngithole ikhophi esayiniwe yesivumelwano semvume esaziwayo.

Igama nesibongo somhlanganyeli (sicela ushicilele)

Isiginesha esihlanganyeleUsuku

Igama nesibongo somcwaningi.....(sicela ushicilele)

Isiginesha yomcwaningiUsuku

INTERVIEW SCHEDULE (Court Preparation Officer Participants):

Understanding the court preparation process

1. How long have you been a Court Preparation Officer in the Sexual Offences Court?
2. What is your understanding of secondary victimisation of child witnesses?
3. How do you think secondary victimisation of child witnesses can be avoided in the court process and in the court preparation process?
4. What are your perceptions about your role as the Court Preparation Officer who prepare child witnesses of sexual offences or complainants who have been sexually abused for the court?
5. Describe the initial contact with the child witness/complainant when informing them of their rights and the procedure to follow.
6. How do you make sure that the child understands the legal information you are explaining?
7. How do you deal with the emotions of a child witness/complainant?
8. As the Court Preparation Officer what are your perceptions in terms of the quality and amount of time spent on your preparation to prepare the child witness/complainant?
9. How do you know if the child witness/complainant is ready for the hearing?
10. What is your view on the child witness/complainant meeting the intermediary for the first time on the day of the hearing?(e.g. does this adequately prepare the child).
11. How often are intermediaries made available to child witnesses/complainants?
12. Have there been times when, in your opinion, an intermediary should have been offered to a child witness/complainant to facilitate their testimony but this was not done? Explain.
13. How do you manage the absenteeism of the child witness/complainant in a session for the day that has been scheduled?
14. What is your view in relation to the support provided to the child witness/complainant in completion of the victim impact statement?
15. What are your perceptions in relation to the adequacy of support offered to the child witness in post-trial containment?
16. South Africa has eleven official languages. How do you fulfil your role when there is a language barrier with a child witness or complainant, including when an interpreter is appointed to interpret.

17. Your role as Court Preparation Officer requires identifying the needs of the child complainant/witness to the court manager. What are the types of different needs that these children have? When you have identified these needs, do you think that the needs are being met in the court process?
18. How do you prepare a child witness/complainant with a disability?
19. What is your understanding of accessible court support for child witnesses with disabilities?
20. What is your understanding of the meaning of “reasonable accommodation” of a child witness/complainant with a disability in the court preparation process?
21. Have you provided court preparation to child accused? If so, have you provided court preparation to accused children with disabilities?
22. Have you had cases where sign language interpreters were provided to cases dealing with a Deaf or hearing-impaired child witness or complainant?
23. Have you had cases where a speech therapist or other professional was identified as necessary to assist a child with Alternative and Augmentative Communication?
24. How do you determine whether a child witness or complainant has a communication impairment (for example, speech or intellectual disability or autism) or another impairment such as mental illness (psycho-social disability) and what do you do in such circumstances?
25. Do you think you are adequately trained to provide court preparation to children with disabilities?

Perceptions of the role of the Court Preparation Officer

1. What is the purpose of the current system of preparing the child witness/complainant for testifying in court? Do you think the purpose is being fulfilled?
2. What training have you received as Court Preparation Officer. In your view, describe the adequacy of your training and the adequacy of the resources at your disposal to do your job?
3. Do you think that you have sufficient resources to do your job effectively?
4. Do you view your role of preparing the child witness/complainants efficient and effective? Explain.
5. What are the roles of court supporters, social workers, victim assistance officers and intermediaries and how do they differ from your job description? Do you think there is overlap?
6. In your opinion what, if anything, can be improved in relation to the role of a Court Preparation Officer? (for example, better resources, training, psychological or trauma debriefing and counselling).

7. Are you familiar with the new Regulations relating to the Sexual Offences Courts of 7 February 2020? Explain your understanding of your role under the regulations and gaps, if any, in the regulations.

ANNEXURE D

Adv. Karen van Rensburg
The Acting Head of Administration National Prosecuting Authority
National Prosecuting Authority (NPA), South Africa
Email address: cgriffiths@npa.gov.za

9 November 2020

Dear Adv. Karen van Rensburg

RE: PERMISSION TO CONDUCT STUDY: THE PERCEPTION OF THE ROLE OF COURT PREPARATION OFFICERS IN SUPPORTING CHILD WITNESSES IN FOUR SEXUAL OFFENCES COURTS IN KWAZULU-NATAL.

This letter serves as a request for permission to conduct a research project at your department, the National Prosecuting Authority, for the proposed study of titled “The perceptions of the role of Court Preparation Officers in supporting child witnesses in four sexual offences courts in KwaZulu-Natal.”

I am a social worker by profession and registered for a Masters in Child Care and Protection at the School of Law of the University of KwaZulu-Natal, Howard College, Durban with student number 215079456. This study is in fulfillment of the dissertation requirement for the degree. I am supervised by Ms Willene Holness, a senior lecturer in the School of Law.

On 4 March 2020, I sent an email request to Adv O Naidoo and Ms I Kisten requesting permission to conduct this research study. Originally, I proposed to conduct the study at the workplace of the court preparation officers.

I followed up with Adv Naidoo and Ms Kisten on the 8th of April and I was informed to contact the Head Department in Pretoria. On the 14th April 2020 a request to conduct the study was sent to the Head of Administration (SOCA), Mr Maphuthuma. I followed up with Mr Maphuthuma who indicated that there would be a delay in processing my request to your institution due to the COVID-19. I am deeply aware of the many challenges facing the nation from the outset of this pandemic, and anticipate your institution is facing many challenges too.

I was advised that a particular research policy and application process is required by Mr C Griffiths on 26 October 2020.

Due to the COVID-19 lockdown regulations and the necessary health protocols that should be in place to maintain physical distancing, amongst others, I decided to change my proposal study to telephonic interviews, and not in person (contact) interviews with the court preparation officers. Please note that in using telephonic interviews with the court preparation officers, there will not be any health risk to the participants as I would not visit any court or other premises such as a Thuthuzela Care Centre.

In order for the University’s Humanities and Social Sciences Ethics Research Committee (the ethics committee) to consider the application for ethical clearance to conduct the proposed study with the participants from the institution (employer) of the participants – the NPA.

I therefore humbly request you urgently consider my request for permission to conduct the study with the court preparation officers as proposed (using telephonic interviews only). Only once the University ethics committee has considered my application after rigorous investigation of the relevant ethical principles in the study will that committee grant ethical clearance. I am therefore not able to provide you with the ethical clearance certificate from the university as the gatekeeper’s letter (from the NPA granting permission) is required for that committee to make its decision. I will only once the committee grants ethical clearance be able to provide the certificate to the NPA. Only thereafter will I be permitted to conduct the study arranging telephonic interviews with the relevant court preparation officer participants at a time that is convenient to them, subjected to their informed consent to participate.

Should there be any further delay on the part of the NPA in considering whether or not to grant me permission to conduct the study with the participants, a delay obtaining ethical clearance from university will result and it may likely mean that I will not be able to conduct this study at all due to the time constraints involved in academic

study. I believe that the findings from this study will be valuable to the NPA in relation to operation of Sexual Offence Courts and the duties of the court preparation officers.

The purpose of the study is to explore and describe perceptions of the role of Court Preparation Officers in supporting and preparing child witnesses for testimony in the Sexual Offences Courts. The research project is proposed to be conducted at Sexual Offences Courts in KwaZulu Natal.

The study will use a qualitative research approach. Semi-structured interviews will be used in exploring and describing the perceptions about the role of Court Preparation Officers who are supporting and preparing the child witnesses for court. The interviews will take about forty five minutes to complete. I humbly request permission to interview each Court Preparation Officer who is supporting and preparing the child witnesses for Sexual Offences Courts in the specified courts within your department.

I will ensure confidentiality, respect and dignity of the Court Preparation Officers by conducting individual interviews and using pseudonyms throughout the study. The data will be kept confidentially and secure at the University of KwaZulu-Natal, so the participants (Court Preparation Officers) will be given the assurance that their identity will be kept anonymous since they will be named as Court Preparation Officer A or Court Preparation Officer B.

Attached to this letter find the relevant documents, duly amended, reflecting the request to conduct telephonic interviews with the relevant court preparation officers.

Documents attached:

1. Original letter requesting permission to conduct the study with court preparation officers sent to Adv. Naidoo and Ms Kisten dated 13 February 2020.
2. Original letter requesting permission to conduct the study with court preparation officers sent to Mr Maphuthu dated 14 April 2020.
3. The study information sheet – setting out information about the study
4. Informed Consent Form.
5. The interview schedule – setting out the questions that will be asked
6. Letter of support from my supervisor indicating the change to the telephonic interviews due to COVID – 19 regulations dated 23 July 2020.
7. Completed Application Form for Research Request in the NPA – Annexure B to the *Policy Standard on Request to Conduct Research in the National Prosecuting Authority*.
8. FORM A: Request for Access to Records of Public Body.
9. My Research Proposal.
10. Interview Guide (schedule).
11. A certified copy of my Identification Document (ID).
12. My comprehensive Curriculum Vitae (CV).

As noted above, the ethical clearance certificate can only be provided to the NPA once the university has received the NPA's permission letter (gatekeeper's letter) and approved this study.

Thanking you in advance for considering my request.

Yours truly,

Ms Mydoo Shange
Email address: shangemydoo@gmail.com.

Advocate Naidoo Omashani
Special Director of Public Prosecutions
Head: Sexual Offence and Community Affairs Unit (SOCA)
National Prosecuting Authority (NPA), KwaZulu Natal
Email address: onaidoo@npa.gov.za

12 November 2019

Dear Advocate Naidoo Omashini

RE: PERMISSION TO CONDUCT STUDY

Title of Study : “ The perceptions of the role of Court Preparation Officers in supporting child witnesses in four sexual offences courts in KwaZulu- Natal.”

This letter serves as a request for permission to conduct a research project at your department in the above-named title.

I am currently registered for a Masters at the School of Law of the University of KwaZulu-Natal Howard College, Durban. This study is a requirement of the Master’s Degree in Child Care and Protection. The purpose of the study is to explore and describe perceptions of the role of Court Preparation Officers in supporting and preparing child witnesses for sexual criminal court . The research project will be conducted at Sexual Offence Court in KwaZulu Natal.

The study will use a qualitative research approach. Semi structured interviews will be used in exploring and describing the perceptions about the role of Court Preparation Officer who are supporting and preparing the child witnesses for sexual criminal court. The interviews will take about forty five minutes to complete. I would like to request each Court Preparation Officer who is supporting and preparing the child witnesses for sexual criminal court from your department.

I will also ensure confidentiality , respect and dignity of the Court Preparation Officers by conducting individual interviews and using pseudonyms throughout the study. The data will be kept confidential at the University of KwaZulu -Natal , so the participants (Court Preparation Officers) will be given the assurance that their identity will be kept anonymous since they will be named as Court Preparation Officer A or Court Preparation Officer B.

Research data will kept and stored in a locked cabinet and kept in a computer with a login username and password, it will be destroyed after five years. The Court Preparation Officer will also sign the informed consent before participating in the study. I will provide counselling services if participants are affected psychologically by the interviews and also link the Court Preparation Officers to other professionally expects.

I will be applying for approval and ethical clearance to the University of Kwa-Zulu Natal Ethics Committee at the University of KwaZulu Natal. My Supervisor at University of KwaZulu Natal is Mrs. W. Holness. Email address: holnessw@ukzn.ac.za. I would like to request the response in writing.

Thanking you in advance for considering my request.

Regards

Mydoo Shange (Social Worker)

Email address: shangemydoo@gmail.com

ANNEXURE E

Administration



Tel: +27 12 845 6000

Victoria & Griffiths
Mxenge Building
123 Westlake Avenue
Weavind Park
Pretoria

P/Bag X752
Pretoria
0001

Enquiry: Mr. Chris Griffiths

Email: cgriffiths@npa.gov.za

Phone: 0128456897

Date: 02/07/2021

Mrs. Mydoo Shange
28 Sonto Alberto Avenue
Kingsburgh
Amanzimtoti
4126

RE: Approval of request to conduct research in the National Prosecuting Authority – Division: KwaZulu-Natal

Dear Mrs. Shange

Corporate Service Centres:

- Finance & Procurement
- Human Resources
- Development & Management
- Information Management
- Research & Policy Information
- Risk & Security

Thank you for showing interest in conducting research in the National Prosecuting Authority (NPA). The purpose of this letter is to inform you that your request to conduct research within the NPA – Division: KwaZulu-Natal has been approved.

The NPA appreciates that your research topic has been provisionally approved by the University of KwaZulu-Natal Human and Social Sciences Research Ethics Committee. Please consider and/or adhere to the following provisions in support of your research:

1. The research request focuses on **“The perceptions of the role of Court Preparation Officers in supporting child witnesses in four sexual offences courts in KwaZulu-Natal”**.
2. The permission to conduct research is only limited to conducting interviews with four Court Preparation Officers, one each from the

is subject to their availability and personal willingness to contribute to your research.

3. Permission is specifically subject to the research questions as stated in your research proposal.
4. Interviews with NPA officials should adhere to COVID-19 related Regulations.
5. It is requested that a copy of the report be sent to the NPA for perusal upon completion of the research project.
6. The author writing or publishing an article or paper/research which contains NPA information, views, opinions, findings, and conclusions or recommendations, will strictly be expressions of the author(s). Their expressions do not necessarily reflect the views of the NPA.
7. NPA will not accept any liability if your report is used for an alternative purpose from which it is stated in the request, nor to any third party in respect of this report.
8. This approval letter is valid for 2 years from the date of approval by the Acting Head of Administration. In case your research exceeds the above-mentioned timeframe, you will be required to re-apply.

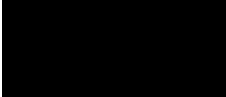
In your case, there will be no need to complete FORM A, which is the request for access to records of a Public Body, in terms of section 18(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), since your research study only involves interviews with Court Preparation Officers.

Kindly keep the NPA informed about further developments on this research and please direct your correspondence to Ms. Kefentse Mojaki-Moremogolo on the following details:

Telephone number: 012 845 6506 / 073 079 8444
E-mail address: KMojaki-Moremogolo@npa.gov.za



Adv. Karen van Rensburg
Acting Head of Administration

Date: 

Re: Approval of request to conduct research in the NPA: Mrs. Shange

Page 2 of 2

ANNEXURE F



08 October 2021

Mydoo Ntombikayise Shange (215079456)
School Of Law
Howard College

Dear NS Shange,

Protocol reference number: HSSREC/00002469/2021

Project title: THE PERCEPTION AND THE ROLE OF COURT PREPARATION OFFICERS IN SUPPORTING CHILD VICTIMS IN FOUR SEXUAL OFFENCES COURTS IN KWAZULU-NATAL.

Degree: Masters

Approval Notification – Expedited Application

This letter serves to notify you that your application received on 11 January 2021 in connection with the above, was reviewed by the Humanities and Social Sciences Research Ethics Committee (HSSREC) and the protocol has been granted **FULL APPROVAL**.

Any alteration/s to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through the amendment/modification prior to its implementation. In case you have further queries, please quote the above reference number. PLEASE NOTE: Research data should be securely stored in the discipline/department for a period of 5 years.

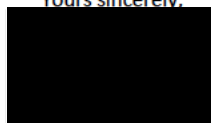
This approval is valid until 08 October 2022.

To ensure uninterrupted approval of this study beyond the approval expiry date, a progress report must be submitted to the Research Office on the appropriate form 2 - 3 months before the expiry date. A close-out report to be submitted when study is finished.

All research conducted during the COVID-19 period must adhere to the national and UKZN guidelines.

HSSREC is registered with the South African National Research Ethics Council (REC-040414-040).

Yours sincerely,



Professor Dipane Hlalele (Chair)

/dd

Humanities and Social Sciences Research Ethics Committee

Postal Address: Private Bag X54001, Durban, 4000, South Africa

Telephone: +27 (0)31 260 8350/4557/3587 **Email:** hssrec@ukzn.ac.za **Website:** <http://research.ukzn.ac.za/Research-Ethics>

Founding Campuses: ■ Edgewood ■ Howard College ■ Medical School ■ Pietermaritzburg ■ Westville

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