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The sexual offences prosecutor: a new specialisation?

Summary

The South African Law Commission recognised the fact that victims of sexual violence require treatment different to that of other crime victims, and that sexual offences are more difficult to prosecute than other crimes due to the nature of the crime itself. Sexual offences courts were created and require prosecutors who have become specialised in this field. This article analyses the role of the sexual offences prosecutor in relation to child witnesses and further discusses and comments on a study conducted with sexual offences prosecutors in order to investigate the nature of this new specialisation.

Die seksuele misdaad-aanklaer: 'n nuwe spesialisasie?

Die Suid-Afrikaanse Regskommissie het bevind dat die slagoffers van seksuele geweld hantering noodsaak wat verskil van slagoffers van ander misdade, asook dat seksuele misdade moeiliker is om te vervolg as gevolg van die aard van die misdaad. Seksuele misdaad hoewe het ontstaan en spesialis aanklaers in hierdie veld is noodsaaklik. Hierdie artikel analiseer die rol van die seksuele misdaad-aanklaer. Laastens met betrekking tot kindergetuies word 'n studie met seksuele misdaad-aanklaers bespreek ten einde die aard van hierdie nuwe spesialisasie rigting te ondersoek.

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1. Introduction

Due to an increase in the number of sexual offence cases reported and the complexities involved in prosecuting cases of this nature, specialised sexual offences courts were introduced in South Africa. The key features of these specialised courts include the need to recognise that victims of sexual violence require treatment different to that of other crime victims, and that sexual offences are more difficult to prosecute than other crimes due to the nature of the crime itself.¹

The first specialised sexual offence court in South Africa was opened at the Wynberg Regional Magistrate's Court in Cape Town in 1993. The purpose of establishing a specialised court of this nature was threefold: to reduce or eliminate insensitive treatment of sexual offence complainants, to develop a co-ordinated and integrated approach to the management of these cases by criminal justice agencies, and to improve the reporting, prosecution and conviction rate for sexual offences.² According to the Department of Justice³ the purpose of the specialised sexual offences court was "to effect more sympathetic and specialised treatment of plaintiffs and prosecutions".

In 1998 the Department of Justice established a National Sexual Offence Court Task Team with the specific mandate of confirming the Wynberg Sexual Offences Court as a model court and extending the project to every other regional court on a national basis.⁴ A further objective was to train justice personnel and other stakeholders to handle sexual offence matters.⁵ The Task Team was subsequently dissolved and overtaken by the establishment of the Sexual Offences and Community Affairs Unit (SOCA) within the National Directorate of Public Prosecutions in September 1999. The SOCA Unit was given the responsibility of establishing specialised sexual offences courts and introducing specialist sexual offence prosecutors. They embarked upon the process of rolling-out sexual offences courts at the beginning of 2000, and by December 2001 twenty-three sexual offences courts were in existence throughout the country.⁶

At present the SOCA Unit has two permanent prosecutors in their employ and they also make use of prosecutors in the sexual offences courts who, although technically fall under the National Prosecuting Authority, have been

1 SA Law Commission 2001:70-71.

2 Stanton, Lochrenberg and Mukasa 1997:1.

3 Department of Justice 1992/3:97.

4 SA Law Commission 2001:73.

5 SA Law Commission 2001:73.

6 At present, according to information supplied by the SOCA Unit, there are thirty-nine sexual offences courts in South Africa. These are categorised as blueprint courts, of which there are twenty, and dedicated courts, of which there are nineteen. The distinction is based on the availability of services and requisite training. For instance, blueprint courts are those which have experienced prosecutors who have been trained and work closely with the police. They are case managers. There are two prosecutors per court and a victims assistance officer available as well as intermediary facilities and separate waiting rooms for child victims. Dedicated courts, on the other hand, lack one or more of these features.

allocated to these courts. In addition, there are a few prosecutors who have been appointed on a contract basis. According to the deputy-director of SOCA, the ideal is to have twenty specialist prosecutors permanently employed by the SOCA Unit, in addition to the contract prosecutors.

2. The role of the sexual offence prosecutor

2.1 General functions

The prosecution function vests in the National Prosecution Authority (NPA) by virtue of powers vested in it by the *National Prosecuting Authority Act 32 of 1998*. The primary role of a prosecutor is to present the State's case at a trial, although there are a number of other functions that are performed at the pre-trial phase. The prosecutor is described in the NPA Policy Directives, issued on 1 October 1999, as "the people's attorney" who represents the administration of justice in the prosecution of criminal offences. The role of the prosecutor is to assist the court to arrive at a just verdict by guiding the police through the investigation process, making the decision to prosecute, addressing the court on bail, presenting evidence in court, arguing cases and helping the court to arrive at a just decision where there has been a conviction.⁷ Pence and Wilson⁸ include the following pre-trial functions:

- an active participation in developing the overall investigative strategy of the case;
- assessing the available evidence and determining its potential use in court;
- participation in the interview of the accused when appropriate;
- giving guidance on legal issues;
- determining appropriate charges;
- negotiating bail, and
- preparation of witnesses for court.

In *S v T* 2002(2) SACR 658 (CkH) Ebrahim J explained at 662 F-H that it was a prosecutor's responsibility to ensure that a case had been properly and thoroughly investigated before the trial commenced. It was also incumbent upon the prosecutor to present the evidence of witnesses in a cogent and logical manner that is aimed at eliciting the essential issues, and to cross-examine the accused in an incisive manner with an eye to clarifying the issues.

2.2 Specialised functions

In prosecuting sexual abuse cases, the prosecutor is bound by applicable legislation with guidance derived from the National Policy Guidelines and

7 Human Rights Commission 2002:26.

8 Pence and Wilson 1994:37.

the NPA Policy Directives. The Multi-Disciplinary Protocol does not set any standards for prosecutors while the NPA Policy Directives only set general minimum standards for prosecutors in carrying out their duties. The National Policy Guidelines do, however, set specific guidelines for the management of sexual offences.⁹

Where the prosecutor is considered to be specialised and operating in a specialised courtroom, certain additional functions have been included. As the Wynberg Sexual Offences Court has been seen as a model or guideline court for specialised courts of this nature, it is useful to examine the role of the prosecutor in this model. Two prosecutors are assigned to each court, the purpose of which is to enable the prosecutors to divide their time between prosecuting cases in court and consulting with complainants.¹⁰ These are prosecutors who have expressed a specific interest in working with sexual offence cases.¹¹ They are responsible for monitoring a sexual offence case from the time the docket is received by the court until the case has been completed.¹² The sexual offences prosecutors are responsible for deciding whether or not to prosecute a case, what the actual charge should be, whether the case should be directed to the High Court, whether any further police investigation is required and whether bail should be opposed.¹³ In addition, these prosecutors are expected to consult with all sexual offence complainants. In fact, according to the Human Rights Commission,¹⁴ where the complainant is a child, the prosecutor is responsible for all court preparation as he or she is the person who will present the victim's case in court.

2.3 Cases involving children

The International Association of Prosecutors have issued model guidelines for the effective prosecution of crimes against children, which seek to implement international human rights, norms and standards that address the issues of children as victims and witnesses, and to ensure the practical application of these standards by prosecutors.¹⁵ In terms of these guidelines, prosecutors must recognize the particular vulnerability of children and should do everything possible to ensure that children are treated in a caring and sensitive manner throughout the prosecution process and that they are effectively protected.¹⁶

The Model Guidelines require that, in assigning prosecutors to sexual offences courts, emphasis must be placed on the individual prosecutor's experience with children and on any specialised training undergone.¹⁷ It is further suggested that everything possible should be done to ensure continuity

9 Human Rights Commission 2002:26.

10 SA Law Commission 2001:72.

11 SA Law Commission 2001:71.

12 SA Law Commission 2001:72

13 SA Law Commission 2001:72.

14 2002:27.

15 Justice College and NDPP (Undated) C1-4.

16 Justice College and NDPP (Undated) C1-5.

17 Justice College and NDPP (Undated) C1-5.

in cases involving crimes against children as this enables the child to establish rapport with the prosecutor and will, in turn, enhance the child's effectiveness as a witness. It is, therefore, important for prosecutors to be involved in cases up until their conclusion.¹⁸

Prosecutors, who handle cases involving children, need to have special training with particular emphasis on the following topics:

- applicable human rights instruments;
- trauma in children
- measures available to assist children in court.
- cross-cultural and gender-sensitivity issues;
- interviewing techniques that minimise trauma and maximise quality of evidence;
- how to lead evidence, and
- appropriate communication skills.¹⁹

As far as the role of the prosecutor is concerned, the Model Guidelines set out the following duties that should be performed by sexual offence prosecutors. It is incumbent upon prosecutors to make an early assessment of the child's ability to testify as well as of the child's developmental level.²⁰ The prosecutors should facilitate the protection of the child through the process by doing their utmost to ensure that contact between the child victim and the offender is prevented throughout the process.²¹ Prosecutors should also ensure that cases involving children be given priority in trial scheduling and that unnecessary delays are avoided. Prosecutors are also required, with the assistance of other roleplayers involved, to ensure that children are prepared for court by familiarising them with the court procedure and their role therein. In addition, it is the responsibility of the prosecutor to see that the children and their caregivers are informed about the timing and progress of proceedings.²²

The Model Guidelines also urge prosecutors to facilitate the development, availability and use of procedures to assist the child in giving evidence. Prosecutors should inform themselves of available procedures and consult with the child to make an informed decision as to what will be best for the child in the given situation. Necessary applications will then have to be made to court to ensure the use of such procedures.²³ Prosecutors are also required to play an active role in the sentencing process by advising the court of any aggravating circumstances, making use of expert-evidence where possible, and ensuring that the court takes into account the severity of the physical

18 Justice College and NDPP (Undated) C1-5.

19 Justice College and NDPP (Updated) C1 - 5/6.

20 Justice College and NDPP (Undated) C1-6.

21 Justice College and NDPP (Undated). C1-7.

22 Justice College and NDPP (Undated) C1-7.

23 Justice College and NDPP (Undated) C1-7.

and psychological harm experienced by the child. Finally, prosecutors are expected to familiarise themselves with services available to children to ensure the adoption of a multi-disciplinary approach.²⁴

2.5 Guidelines for prosecutors

The Department of Justice introduced National Guidelines for Prosecutors in sexual offence cases in May 1998. These guidelines make specific provision for sexual offence cases to be dealt with by specialist prosecutors.²⁵ These guidelines prescribe, amongst others, how consultations with victims should be conducted, and urge prosecutors to minimise the trauma experienced by victims. The general approach regarding bail is advised and prosecutors are encouraged to object to inappropriate cross-examination and to play an active role in sentencing.²⁶

The office of the NDPP officially released policy directives in October 1999, which address the manner in which sexual offence matters should be dealt with.²⁷ The directives stipulate that prosecutors must be specifically selected on the basis of their personal make-up and ability to relate to such victims. The directives require that a prosecutor deal with a particular case until its conclusion, that unnecessary delays are avoided, that thorough preparation occurs beforehand, that proper consultations take place with the victim, that the victim is familiarised with the court environment and procedures, and that facilities which are available for children in court are fully utilised. Directives relating to the prosecutor's role in bail applications and sentencing are also included.²⁸

The roll-out of sexual offences courts, and the accompanying directives aimed at addressing the manner in which sexual offences be dealt with, clearly indicate the need for specialisation in this regard. The specialisation of courts has led to the specialisation of prosecutors and the creation of the Sexual Offences Prosecutor who is specially selected, trained and required to perform specialised duties.

3. Present study

In December 2001 thirty-two sexual offences prosecutors attended a training course on child witnesses in Johannesburg.²⁹ The prosecutors came together from all over the country and included permanent prosecutors from the

24 Justice College and NDPP (Undated). C1-8.

25 SA Law Commission 2001: 66.

26 SA Law Commission 2001: 66-7.

27 SA Law Commission 2001: 67.

28 SA Law Commission 2001: 67-8.

29 Although the majority of these prosecutors were already working specifically in the sexual offences courts, others were required to operate in these courts on occasion. For this reason, the term 'sexual offence' prosecutor seems to be used rather loosely by the Department of Justice.

SOCA Unit, prosecutors from the NPA as well as prosecutors under contract to the NDPP. Since the concept of a sexual offence prosecutor is a new entity in South Africa, the purpose of this study is to investigate the nature of this specialisation. Were these prosecutors specially selected? Did they receive specialised training? What was the nature of their duties? These were some of the questions that gave rise to the present study.

3.1 Methodology

The prosecutors attended the above-mentioned training for a period of six days in the course of which personal interviews were conducted with them by the authors. The interviews were based on a standardised questionnaire which was divided into two sections. The first section focussed on their role as sexual offences prosecutors, their qualifications, training and skills. The second part of the questionnaire focussed on the perceptions which the prosecutors have about child witnesses and has not been included for the purposes of this article.

The contents of the interviews were analysed on a qualitative basis and the findings have been recorded here together with a few explanatory comments. The findings have been presented under the heading of each of the questions posed. The basis of all the questions, as mentioned above, was an attempt to investigate what was encompassed by the newly introduced title of 'Sexual Offences Prosecutors'.

3.2 Findings

The thirty-two prosecutors included both males and females and were representative of all race groups in South Africa. The majority of the participants held a post-graduate LLB degree while some had a B.Luris or a B.Proc degree. Three of the prosecutors were in the process of completing their LLB degrees. A few of the participants were admitted attorneys and practising advocates. The latter category reflected those prosecutors who were employed by the NDPP on a contractual basis.

3.2.1 Specialised training

The prosecutors were asked whether they had received any specialised training with regard to sexual offences committed against children. Half of the participants had received no previous specialised training before attending the present training course. One prosecutor commented that when she had originally been assigned to the Sexual Offences Court, she had not had any specialised training and had felt "powerless, unarmed and had to fight against magistrates". The rest of the participants had attended ad hoc training sessions which varied in length from one day to a week. They were not standardised training sessions and were not necessarily specific to child witnesses. One prosecutor, for instance, received training in communication skills when she was a pre-school teacher, before studying law and becoming

a prosecutor. Another prosecutor had attended one session, which dealt with the topic of rape in general and yet another had received one day's training on medical experts. The other training mentioned included the following: a three-day training course presented by US Child Advocacy on the development of a multi-disciplinary approach amongst role-players; a three-day programme presented by Justice College on child law in general; a week training session for prosecutors presented by Justice College; a week long course on trauma in children; five days training on child pornography; trial advocacy training for a week; and some Saturday morning sessions were offered on the Child Law Manual developed by Justice College and the NDPP.

A few prosecutors pointed out that they had gained experience from the time spent in court. For instance, those prosecutors who had previously practised as attorneys or advocates believed that they had acquired experience of defence strategies with respect to child witnesses. Another was of the opinion that her thirteen years experience as a prosecutor assisted her in dealing with cases of this nature.

3.2.2 Selection of prosecutors for Sexual Offences Courts

Some of the prosecutors had requested to be in the Sexual Offences Courts, while others had simply been assigned to these courts by their superiors and had had no choice in the matter. Of those who had specifically applied to be in these courts, some attributed their choice to guilt, job security, career path and a need to contribute to the lives of children. The following are a few of the comments received and are particularly enlightening:

I am not here by choice; I don't even like working with children.

I am an advocate having defended a few paedophiles — I applied for a one-year contract position and aim at the bench.

I am an attorney and clients can't pay anymore! Want job security.

I am here by choice and want to contribute to the lives of children. I can make or break a case.

I was transferred to the Sexual Offences Court because of my experience.

I am here mainly out of guilt. As an attorney I obtained the acquittal of my client where an 18 month old baby was badly beaten.

3.2.3 How do you define an effective sexual offences prosecutor?

As the entity of the sexual offences prosecutor is new in South Africa, it has become necessary to define the essence of this role-player. As the participants in these interviews were identified as sexual offences prosecutors, it was important to investigate what their perceptions were regarding their own role.

The sexual offences prosecutor was seen to be a specialist with the skills of a lawyer, a social worker and a psychologist. Specialisation was to be achieved through training and in-depth knowledge of the relevant law

and cases. These prosecutors would require experience in court to obtain the necessary trial advocacy skills to perform their legal functions within the courtroom.

As far as personality traits were concerned, the overwhelming requirement was considered to be compassion. It was considered essential for sexual offences prosecutors to have compassion and empathy for the child victims and to be sensitive to both the child and the situation. It was important for these prosecutors to be patient and have the ability to listen with care.

In addition, it was necessary for these prosecutors to have well-developed skills to deal with children as they would be required to develop rapport and trust with the children, many of whom would be the complainants of sexual violence. These skills would include a knowledge of child development and the ability to communicate with children. In fact, some participants felt that it was essential for sexual offences prosecutors to have children of their own as this would give them a greater understanding of children.

Other attributes that were regarded as necessary for sexual offences prosecutors included the following: dedication and passion for their work; flexibility, as each case was unique; objectivity; realism; resourcefulness; must be strong and able to persevere against all odds; must be able to work under pressure; and be polite and able to develop good relationships with other role-players.

Two further points bear mentioning here. Firstly, there appears to be a perception that women make better sexual offences prosecutors than men. Secondly, it was considered an essential prerequisite that only prosecutors, who were willing and interested, be allowed to practise as sexual offences prosecutors.

3.2.4 What specific skills do you have to work with children?

The prosecutors attending the training were asked to highlight those skills they possessed which assisted them in working with children. The following skills were listed by the participants as being of assistance in their dealings with children:

- the ability to get the child to talk;
- good communication skills;
- good listening skills;
- knowledge of developmental stages of children;
- knowledge of the relevant law;
- ability to speak a number of languages which makes it possible to communicate with the child in his or her home language;
- a good understanding of children;

- still enjoy playing;
- the ability to put a child at ease;
- being a mother, and thus able to understand the complainant better;
- the ability to work slowly and thoroughly;
- approachability;
- life experience which has resulted in mellowness and objectivity, and
- admission as an advocate and attorney!

3.2.5 What personal qualities contribute to your being an effective sexual offences prosecutor?

The purpose of this question was to discover what personal qualities were perceived by sexual offences prosecutors as being relevant to making them more effective at what they were doing. The replies were directed either at the ability to understand children or dedication to their jobs. The following personal qualities were considered to assist participants in performing their duties effectively:

- warmth;
- compassion;
- sense of humour;
- patience;
- flexibility, easy-going nature;
- enjoy children;
- understand people;
- trustworthiness;
- ability to relate to a victim (as a result of personal experience of abuse as a child);
- non-judgmental;
- tolerant;
- kind;
- understanding of trauma;
- sensitivity;
- find job rewarding;
- am prepared to go the extra mile;
- believe in what I do;
- hardworking and dedicated, and

- aggression in court (prepared to take any case at any time).

3.2.6 What do you do well as a sexual offences prosecutor?

The purpose of this question was again to highlight the skills that are necessary to be an effective sexual offences prosecutor. For instance, quite a few prosecutors believed that their skill lay in cross-examination, especially of the accused, and one explained that she was very nice to the accused and used her femininity to get to him.

Comments received were as follows:

- the ability to lead the child's evidence and get the child to talk;
- thorough consultation;
- establish rapport with the child during the interview;
- listen to the child;
- treat the victim as my own child;
- present case well (identify case points to prove and how to prove them);
- do the extra (call a social worker to help the mother);
- have perseverance;
- prepare case properly;
- do court preparation with children (show them the court and explain what will happen);
- addressing the court on the merits of the case;
- work as a professional (even over weekends, e.g. summarising dockets), and
- finalisation — never drag a case on for longer than two weeks.

3.2.7 What do you do poorly as a sexual offence prosecutor?

This question was particularly important in order to identify what training and assistance were required by prosecutors operating in these courts. Many of the responses related to difficulties experienced in dealing with emotional reactions to certain features of their role. For instance, a number of prosecutors mentioned that they were drained and emotionally traumatised after cases. One participant explained that this was especially so after an acquittal ("If I lose a case of this nature, I cannot sleep."). The following were some of the other responses received:

- get too involved and lose objectivity;
- don't feel comfortable with sexual language;
- become anxious or impatient during cross-examination;

- feel as though I've been thrown in the deep end — have only been in the Regional Court for two weeks and have no training;
- no sympathy with accused, too aggressive with accused;
- have to fight with ineffective investigating officers;
- what to do when the child doesn't want to talk;
- procedural mistakes — don't have the skills to deal with some magistrates;
- treat child sometimes as just a source of information and forget how the child must feel;
- no understanding of developmental stages of child, and
- my own inadequacies make the child uncertain.

3.2.8 What would you like to improve on?

Prosecutors were asked to elaborate on those areas in which they believed they needed improvement. Again, this question was important to determine future training needs of prosecutors assigned to these courts. Most of the responses related to a need to understand children better and thus equated to a need for more knowledge about this field. In addition, there were requests for assistance with regard to the actual prosecution of these cases. The following areas were highlighted by participants:

- leading children's evidence more effectively, especially where the child does not want to talk ("I didn't realise what I didn't know until I got here.");
- establishing rapport with children;
- understanding the behaviour of the child witness;
- interviewing children;
- knowledge of how children deal with fact and fantasy;
- how to use age-appropriate language;
- how to achieve a balance between compassion and objectivity;
- how to be "tough": i.e. how to remain calm and objective when the accused is arrogant;
- knowledge of and access to case law for address;
- the use of expert witnesses in court;
- the training received by medical experts, and
- techniques for cross-examination and re-examination.

3.2.9 What obstacles prevent you from achieving specialisation?

Prosecutors were asked to identify those obstacles which prevented them from achieving specialisation as a sexual offences prosecutor. Lack of facilities, resources and training were offered as the chief obstacles. Responses were as follows:

- Poor facilities. Prosecutors complained that in many instances they did not have their own offices and were forced to share with others. This afforded no privacy for interviews with victims, and was further exacerbated by the fact that there were no interview rooms available for consultations. Some courts still do not have access to separate rooms for the implementation of section 170A of the *Criminal Procedure Act* 51 of 1977. Prosecutors do not have telephones available and are required to make use of telephones in other offices or, in some instances, their own cellphones. Many prosecutors also do not have access to photocopy machines.
- Unfriendly environment. The environment in which prosecutors are forced to work does not advance their status as specialists, nor does it contribute positively to the victim's experience. Buildings are unpainted and sanitary facilities are either not available or of a very bad standard.
- Lack of time. Prosecutors complained that, as they were in court for five days a week, they had very little time for consultations and even less for research. This was exacerbated by the over-emphasis on statistics of cases finalised and court hours. In certain sexual offences courts two prosecutors are appointed per court, the purpose of which is to enable one of the prosecutors to conduct consultations and do research while the other is in court. Prosecutors argued that, although this was an ideal situation, it did not always work in practice. This was ascribed to the fact that control prosecutors did not regard the "out-of-court" functions as important and used these prosecutors to fill-in for other prosecutors in the general courts.
- Little or no experience. It was felt that prosecutors with very little or even no experience were assigned to these courts, thus undermining the concept of specialisation. The whole concept of specialisation was further undermined by the process of rotation implemented in courts. Prosecutors were concerned that they had no control over their positions. For instance, they were assigned to the sexual offences courts and undertook to become specialised. However, when they did achieve some form of specialisation, they were then arbitrarily transferred to another court.
- Lack of training. One of the major obstacles to specialisation was considered to be the lack of training. As mentioned, more than half of the prosecutors in the sexual offences courts had not received any training specific to sexual offences, and many were simply assigned to these courts without any prior training or knowledge regarding these offences.
- Lack of access to material. Many prosecutors complained that they did not have access to relevant books, journals and case law. Even where

law reports are available, prosecutors are not allowed to remove the reports from the library and cannot photocopy relevant cases. There is also no access to the internet to find relevant information and research. This lack of access to relevant material makes it virtually impossible for prosecutors to prepare and approach their cases in a specialised manner.

- Emotional support. Participants felt that there was no available emotional support for them personally. Sexual offences cases were traumatic in nature and sexual offence prosecutors often found themselves drained and depressed by their experiences in these courts (“the images of the injuries stay in your mind”). No emotional or psychological support is provided by the Department of Justice for these prosecutors, and a need was voiced for some form of debriefing to be held on a regular basis.

3.2.10 What would you need to overcome these obstacles?

The participants made a number of suggestions with regard to the assistance they required in order to overcome these obstacles. The suggestions have been categorised into the following topics:

- Management. Effective management and planning for sexual offence prosecutors was required. It was necessary for those responsible for management to recognise that the sexual offences courts were *sui generis* and needed to be managed differently from other courts. For instance, the emphasis on statistics made it very difficult for prosecutors in the sexual offences courts to perform their duties effectively. It was essential to spend some time with the child in consultation to develop rapport to ensure a more effective witness later in court. However, with the emphasis on court-hours and statistics, magistrates tended to hurry prosecutors along with the result that very little time was available to consult with and prepare the child witness.

A further difficulty was the fact that prosecutors in these courts still fell under the jurisdiction of the National Prosecuting Authority and were responsible to local management. The latter were not versed in the intricacies of the specialised courts and made decisions that often prevented prosecutors from achieving specialisation. Prosecutors were regularly rotated between the various courts, and sexual offences prosecutors found that they were moved to other courts as soon as they had achieved some form of specialisation.

It was, therefore, suggested that the sexual offences prosecutors be managed more effectively and, perhaps, that this be done directly by a specialised unit so that prosecutors be given the opportunity to offer specialised services.

- Training. Specialised, ongoing training was necessary to assist prosecutors to perform their duties more effectively. Training needed to take the form of practical, on-the-job training as well as specialised training courses.

- Emotional support. Some form of emotional support would be of great assistance to prosecutors in the sexual offences courts. This could take the form of debriefing sessions where prosecutors from these courts are afforded an opportunity to meet regularly so that they can discuss common issues.
- Multi-disciplinary involvement. Many problems emanated from other role-players who were not aware of the legal implications attached to certain issues. For instance, medical practitioners often did not complete documentation in sufficient detail for the trial. These problems could be addressed if regular meetings were held between the various disciplines. Problems encountered with investigating officers, for example, could be dealt with at meetings of this nature.

3.2.11 What would motivate you to become a more effective sexual offences prosecutor?

A better salary was the motivation forwarded by the majority, and this was closely followed by a plea for more time to perform their duties. Further motivations included the need for training to be conducted on a regular basis and that training be extended to include magistrates and judges. Prosecutors believed that they were unable to implement much of their training if their magistrates were not trained.

Access to better facilities would serve as a major motivation for sexual offences prosecutors. This included the provision of offices, interview rooms, closed-circuit television as well as access to resources. The latter included access to law reports, computers and research. An important motivating factor related to the manner in which sexual offence prosecutors were perceived. They wanted to be treated with respect and seen to be professionals and specialists.

Commitment by other role-players was also considered to be a motivating factor for sexual offence prosecutors. Better investigative techniques by police would assist in the preparation and presentation of cases in court. The employment of full-time intermediaries and the presence of well-trained medical experts would contribute to the creation of a specialised unit that would serve as a motivation for these prosecutors. The development of interdisciplinary teamwork would provide the necessary support required by role-players in this field. Finally, participants believed that the existence of a preparation programme for child witnesses would improve the effectiveness of the child's testimony, and would thus assist the prosecutor in carrying out his/her duties more effectively.

4. Conclusion

The specialisation of the office of sexual offences prosecutor would appear to be a necessary reality. The creation of sexual offences courts as well as the complex nature of these cases will require officers who have become

specialised in this field. However, the reality of the situation would seem to be a little more complicated. There is, in fact, no specialised office of sexual offences prosecutor. Prosecutors fall under the authority of the National Prosecuting Authority and operate in the courts on a rotational basis. Although prosecutors are permanently assigned to sexual offences courts,³⁰ this has the implication that specialisation, if any, can only take place on a temporary basis.³¹ There is no screening mechanism for prosecutors assigned to sexual offences courts, nor are there any special requirements necessary to prosecute in these courts.

It would appear that the only factor that sets the 'sexual offences prosecutor' apart from other prosecutors is the fact that specialised training is now being made available for them by the SOCA Unit. However, this does not mean that prosecutors will remain in these courts, as they fall under the NPA and can be transferred or promoted by those in control. In order to facilitate the creation of a true specialist, it would be necessary for these prosecutors to form part of a permanent, specialist unit and to be provided with the necessary infrastructure and resources, which would enable them to fulfil the mandate of a specialist sexual offences prosecutor.

30 In practice the permanence is not necessarily long-term. Prosecutors become control prosecutors, senior prosecutors and even move to the High Court at quite a rapid rate.

31 As soon as a prosecutor has acquired the necessary training, experience and skills in the sexual offences courts he or she becomes a control prosecutor or senior prosecutor.

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