



**AN EXPLORATION OF ATTRITION OF SEXUAL
CRIME CASES OF CHILD VICTIMS FROM THE
PERSPECTIVES OF THE POLICE OFFICERS,
PROSECUTORS AND ADVOCATES IN KOUGA
DISTRICT, EASTERN CAPE (SA)**

K. CALITZ

2021

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PERSPECTIVES OF THE POLICE OFFICERS,
PROSECUTORS AND ADVOCATES IN KOUGA
DISTRICT, EASTERN CAPE (SA)**

By

Karen Calitz

Submitted in fulfilment of the case of thesis and fulfillment in the case of a Master's degree by thesis of the requirements for the degree of MSW Social Development Professional in the Faculty of Health Sciences to be awarded at the Nelson Mandela University

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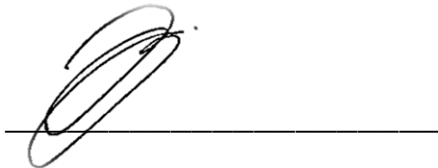
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In accordance with Rule G5.6.3

I, ***Karen Calitz***, with student number: **217843913**, hereby declare that the ***thesis*** for the degree of MSW Social Development Professional in the Faculty of Health Sciences to be awarded, is my own work and that it has not previously been submitted for assessment or completion of any postgraduate qualification to another university or for another qualification.

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30.03.2021

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Lastly, my Creator, who placed this on my path as part of the Grand Design.

I dedicate this work to every child whose voice was raped away – *I hear your cry!*

Abstract

The successful prosecution of a sex crime case is dependent on the testimony of the victim. Due to the concealed nature of a sexual crime, it is notoriously difficult to prosecute effectively. With child victims, a number of additional obstacles present themselves when it comes to children giving evidence. Attrition is the rate at which cases do not proceed to court. Statistics in South Africa has revealed that rape has one of the lowest conviction rates of all serious crimes. This study is aimed at analysing the factors that cause attrition during the investigation stage in cases where children were victims of any form of sexual crime. In order to obtain the unscripted view of the investigation process, the qualitative study comprises of interviews with investigating officers who investigate these cases and the prosecutors who present these cases to court. The multi-disciplinary team-approach during investigation and its varying limits and challenges, were the main focus. A purposive non-probability sampling technique was utilised, focusing on the Kouga district municipality of the Eastern Cape. Through this study, the factors causing attrition were analysed and presented in such a manner so that change can be conceptualised in order to strive for the rights of children to receive justice for crimes committed against them. Key findings of the study yielded three significant factors which plague the progress of these cases. A significant finding illuminated the lack of required capacity professionals have in working and understanding children throughout the criminal justice process. A further vital finding is the complexities of inter-departmental functioning on implementation level, indicating challenges in collaboration. An integral finding is the measure of time taken to investigate cases of child victims, which the criminal process flow is delayed to its own detriment in aiming for convictions. In general it was found that services to child victims are neglected. Collaborative approaches which are already in place are to be strengthened through capacity building and collaborative knowledge integration in all sectors of professionals. Victim services legislation must include specialized services for the child victim.

Key Concepts: Attrition, Child sex crimes, Cross-functional team, Sexual abuse

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ABBREVIATIONS

CAS	-	Crime Administration System
DoH	-	Department of Health
DoJ	-	Department of Justice
DoJ & CD	-	Department of Justice and Constitutional Development
DPP	-	Director of Public Prosecution
DSD	-	Department of Social Development
FCS	-	Family Violence, Child Protection and Sexual Offences Unit
NPA	-	National Prosecuting Authority
SAPS	-	South African Police Services
VEP	-	Victim Empowerment Programme

CHAPTER 1

INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 INTRODUCTION

The gradual reduction of cases in the criminal justice system, from the point at which they are reported to the police up until they are disposed of by the courts, is known as attrition. Attrition is a global occurrence and is an accepted aspect in any criminal justice system. Attrition is also not specific to any particular type of crime (Jehle, 2012). The rate of attrition is however an indicator of success of the criminal justice system of any country. Attrition rate is determined by weighing up the number of cases reported to the policing structure and comparing it to the number of cases that have been finalised in a court.

Several international collaborations have made attrition a focus of study (World Population Review, 2020; Jehle 2012; NationMaster, 2020). In relation to crimes of a sexual nature, many of these studies show varying results of attrition rate per country or continent. These studies also show an increase in the last few years (Jehle, 2012). It should be noted that when comparing the international trends, cross-national comparisons should be conducted with caution because of the differences that exist between the legal definitions of offences in countries, or the different methods of offence-counting and recording (Daly & Bouhours, 2010). South Africa is internationally infamous for the number of rapes committed in the country and has been rated the rape capital of the world (King, 2014). It is difficult to argue otherwise as it is assumed that 90% of all rape cases are not even reported to the police, yet more than 66,000 rapes are reported annually. Only 50% of the reported cases result in an arrest of the alleged perpetrator, only 15% of those go to trial and 5% get convicted. When these cases are convicted, only 9% get the maximum sentence (Oneinnine, 2012).

A publication on the tracking of attrition in South Africa, (Machisa, Jina, Labuschagne, Vetten, Loots, Swemmer, Meyersfeld & Jewkes, 2017) states that an understanding of the reasons for attrition, based on South African cases, is required to better comprehend the complete dynamics involved in dealing effectively with these cases. This in turn would lower the rate of attrition. The authors allude to a need for a qualitative, contextual understanding of the phenomenon.

The investigation process is a key stage as it ensures the quality of a case that is to be presented to court, and therefore plays a vital role in the overall attrition rate. If the investigation is poorly conducted, the case may never go to court, or the court will rule in favour of the accused (Oneinnine, 2012).

Watt (2011) explains in his research that criminal investigation is a process of identification of people and physical objects from the time a crime is committed, until the guilt of the alleged perpetrator is either proven or disproven in court. The investigator of the crime employs methods such as searching, interrogation, observation and surveillance. These methods are not necessarily expert by nature and their success is directly contingent upon the knowledge, perseverance, attentiveness and ability of the investigator. The South African criminal justice system is faced with many issues that

would account for low conviction rates. These include under-trained investigators, high caseloads, inadequate support staff and insufficient services and resources at their disposal to maximise efficiency during investigation (Sigsworth et al., 2009).

The investigators of sexual crimes against children are part of a specialised section of the South African Police Service (SAPS) referred to as The Family Violence, Child Protection and Sexual Offences unit (FCS). These dedicated officials specialise in sexual crime cases and receive training in how to investigate and deal with these cases. The investigation is managed by the investigating officer from FCS, and includes obtaining evidence from other professionals. Forensic evidence can be generated by a medical examination and by social work services. These are mandated to be obtained in sexual crime cases, especially where children are victims. Despite the specialised services, the rate of attrition in sexual related cases remains high (South African Police Service, 2014a).

Whilst investigating the case, the trauma endured by the victim gives rise to dynamics, which poses several challenges in dealing with the victim in his or her setting. This leads to a complex challenge for the investigative procedure and in most cases, may result in the case not going to court (Basdeo, 2018).

This study aims to explore and analyse the factors within the dynamics of the team of professionals and the challenges posed by traumatized children, which ultimately promotes attrition in criminal cases where a child is a victim of a sexual crime.

1.2 LITERATURE REVIEW

The reporting of a sexual crime on a child victim at SAPS activates a series of processes in accordance with the Criminal Procedure Act, the SAPS National Instruction, and governmental policies as prescribed by the Victim's Charter and National Sexual Assault Policy (Criminal Procedure Act 51 of 1977, 2010; South African Police Service (SAPS), 2008). A study by Keehn, Stemple, Sanger & Peacock, (2013) explains that the key components in the process of ultimately bringing the case to court is the victim, the SAPS investigating officer, the aspects of the crime and the legislative construct that guides the process. The aspects of the crime is sourced from varying components of a case. These components include evidence as found by the investigating officer or generated by medical examination or social work assessment (SAPS, 2008). These components interrelate during the investigation process and based on the success thereof, the case can be brought before court.

Keehn et al. (2013) further explains that each of the components have a significant function to perform during the investigation of the crime. The acts and policies govern the procedural aspects of the investigation and the state's readiness for the case to proceed to court; the different departments clarify their roles in providing evidence, ensuring the safety of the child victim and the family. Each of the components function specifically, which either promote or obstruct their function.

The legislative construct from which a case is investigated stems from the basis of the Constitution (Department of Justice and Constitutional Development, 2020) and Basic Human Rights of South Africa. A consortium of acts, policies and operating procedures, primarily the Criminal Procedure Act (Criminal Procedure Act 51 of 1977, 2010) and its multiple amendments, set out a legal framework in which the investigations of crimes are to be conducted (Criminal Procedure Second Amendment Act 75 of 1995, 1995). These acts are conceptually effective and considers all possible aspects relevant to an investigation. The prescribed process happens only when all the resources which render the legislative framework fully functional, are available. In a developing country this is not always possible.

The South African Law Commission is essential in its own right as it is the precursor to law reform and indicates the rationale of law reform and the aspects to be considered. The commission which focused on sexual offences, was the precursor for the development of the Criminal Law (Sexual Offences And Related Matters) Amendment Act 32 of 2007 (South African Law Reform Commission, 1999; Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, 2008). In their research, the commission stated that some difficulties are experienced by investigating officers to fulfil their functions. These include the lack of resources such as vehicles and private space to hold interviews. Other challenges include insufficient evidence being found, the changing of residence without notifying the investigating officer, forensic evidence being lost and the police being unable to find and arrest the perpetrator. Investigators' ignorance of the child's development stages and the psychological impact of the sexual crime on the child is not always remedied through female officers conducting interviews with female victims, according to the commission. Specialised sections such as the Child Protection Unit (CPU) are few, staff are often untrained and not available at every station. It was found that at some stations, officers had refused to open cases, or labelled children as sexually active and determined the sexual interaction to be consensual. This is often seen in the case of adolescent victims. These factors affect the child's ability to give quality statements and severely affects the victims' confidence in the system to protect them. In some instances, it was revealed that the cases were simply poorly investigated (South African Law Reform Commission, 1999).

An order made by the National Commissioner of Police to establish and maintain uniform standards of policing in section 25 of the South African Police Service act (South African Police Service Act 68 of 1995, 2014), instructed that a forensic medical examination must be conducted in reported sexual crimes. Said examination will serve as medical evidence in the event of a sexual crime allegation. Until very recently, a district surgeon or a doctor in private practice performed forensic examinations. Challenges with medical evidence are that police often do not accompany victims when getting medical evidence, no feedback from the doctor is received, some doctors are reluctant to testify, and some lack the specialised skills for the examination of sexually violated children (SAPS, 2008).

The Criminal Procedure Second Amendment Act 75 of 1995, section 56 (1995) of South Africa sets bail based on the capacity of the accused to reasonably be able to post bail.

This results in a lack of trust in the criminal justice system as bail amounts are often very low. Should the accused be granted bail, the victim is most often intimidated indirectly, and this affects their co-operation with the criminal case.

The collaborative study of Machisa, Jina, Labuschagne, Vetten, Loots, Swemmer, Meyerswfeld and Jewkes (2017) states there are indications that for several reasons, the attrition process might be higher in sexual related crimes than elsewhere. The effect of the sexual nature of the crime, the trauma experienced, judgmental attitude of investigators towards victims and the lack of support structures are some of the difficulties experienced by the victim. These factors contribute to a lack of co-operation from the victim in the investigation process.

The Human Rights Commission Report on Sexual Offences Against Children (South African Human Rights Commission, 2002), which provided the foundation of reform on sexual offences, stated that cases in which children are the sole witnesses have further disadvantages. Children have historically been a point of concern in criminal procedure since they are still considered by courts to be imaginative and suggestible. The report mentioned that a child's memories are seen as unreliable and that they have difficulty distinguishing fact from fantasy, have little regard for duty to tell the truth and can easily make false allegations, especially concerning sexual crimes. The report recommended that efforts should be considered to deal with these issues and misconceptions of child witnesses (South African Human Rights Commission, 2002).

The child victim should also not be seen out of context of their environment as poor and vulnerable parents may be coerced to accept bribes from perpetrators, thereafter influencing a child not to participate in the investigation (Bruce, 2013). Bruce (2013) further indicates that children in general are sometimes very difficult to deal with as asking a sexually violated child to reveal intimate details about the violation to a police officer is unreasonable.

The low conviction rate of sexual crimes in South Africa led to the re-establishment of the specialised sexual offences courts in 2013 in an attempt to make the court process easier on the victim, especially on child victims. Four sexual offences courts were established in the Eastern Cape by 2017 (Department of Justice and Constitutional Development, 2013). This indicates acknowledgement of the fact that children require specialised services. Specialised courts only come into play at the final stage of the investigation and do not address the needs of the child during the investigation process.

1.3 PROBLEM FORMULATION AND MOTIVATION FOR THE STUDY

Sexual offences are very serious. The act itself is humiliating and degrading, a brutal invasion of the victim's privacy, dignity and sense of self. Due to its complexity, there is no quick answer to develop a strategy to eliminate sexual offences. It remains important that the perpetrators be brought to justice and to protect the rights, dignity and freedom of victims (Lawrence & Janse Van Rensburg, 2013). South Africa does have the legislative framework to do this and the purpose of the SAPS National Instruction is to

provide context that will ensure the provision of adequate, effective and professional service to victims; in respect of the investigation of sexual offences, and to assist victims in this regard (SAPS, 2008).

The South African Police Service releases annual crime statistics, which include figures for reported rape. The National Prosecuting Authority (NPA) or the Department of Justice and Constitutional Developments' (DoJ & CD) annual reports to Parliament produce data on the overall conviction rate. However, reported data fails to provide a comprehensive picture of the performance of individual government departments or the criminal justice system as a whole in relation to the processing of rape cases (National Director of Public Prosecutions, 2015; The South African Police Service, 2016).

The incidence of attrition is not easily calculated as many challenges arise when attempts are made to do so. Sources of information coming from unofficial institutions of statistics are often questionable or incomplete. Where these statistics are available, sexual crimes in general are recorded with no differentiation between adult or child victims. What is measurable is the amount of sexual offences that are reported and the eventual conviction of cases on a national level for all sex-related crimes.

The factors contributing to the causes of attrition in these cases are conceptualised in the National Instruction (SAPS, 2008), but are not specifically known during practical implementation. Therefore, efforts to address the attrition may not deal with all the factors experienced during the investigation of the case.

This study seeks to establish the occurrence of attrition of cases involving child sexual crimes and to study the factors contributing to the attrition as it is presented during the investigation period in a study conducted within the Kouga district, Eastern Cape. The choice of the geographical area is intentional, as it is reflective of both rural and urban areas while being close to a metropolitan area, thereby encapsulating a true reflection of operations in all areas of South Africa.

1.4. THEORETICAL FRAMEWORKS

This study utilises two major theories with specific applications thereof to standing structures. The over-arching theory is based on the General Systems Theory as an accepted conceptual framework to view the organisation and develop an understanding of how different units work as different parts of the system to bring cases of child sexual crimes to completion (Spector, 2012). The second theory is a Trauma Model that will focus on the experiences of children who are victims of sexual crime and how the justice system responds to their trauma.

The General Systems Theory as it pertains to organizations focuses on the interactions, specifically in relation to a basis part which is its smallest component. It implies that the base parts has behaviour and that that behaviour is influenced when it interacts with other parts. These parts are components of a system or systems, which in principle can be either closed, open or isolated and is in relation to the organisational structure. The meaning of a type of system relates to the manner of exchange it allows. These

exchanges can be with the external environment in the form of energy, matter, people and information (Mele, Pels & Polese, 2010).

Mele et al., (2010) indicate that healthy organisations are seen as open systems that adapt concepts in a fundamental manner. An open system also looks at the exchange between the organisation and the environment. It will utilise the exchange to adapt the organization in terms of the need the environment creates to maintain a favourable outcome of the product.

Application of the systems theory on the concept of an organisation is a wide field of research with different conceptualisations as an organisation itself has different subsystems that are full systems on their own and can be analysed as such (Salas, Shuffler, Thayer, Bedwell and Lazzara, 2015). This could furthermore be delineated into different sub-systems of organisations so as to best describe or study an element or interaction. De Oliveira, Pimenta, Hilletoft & Eriksson, (2016) cites that this implies that organisational efficiency must be concerned with the following three levels of analysis:

- (1) The level of the environment (Work teams as established by legislation);
- (2) The level of the organisation structure (Bureaucratic structure of government departments) and
- (3) The level of the subsystems within the organisation (Traumatized child victim/ professional human participants).

For the purpose of this study the focus will be on these three levels.

The level of environment relates to the integrated work team. Kotlarsky, Van Den Hooff & Houtman (2015), regard the work team as a featured aspect in the organizational system as it defines the work team as two or more people (parts) who interact and share some inter-related tasks and goals. He further highlights that there are three distinctive qualities; the exchange of the individuals are interdependent, coordinated and prescribed, each member has a defined role in the system and the team works as a single system to accomplish common tasks, goals and objectives.

According to Dougherty (1992), Holland et al (2000), Edmondson & Nembhard (2009) and Daspit, Boyd & Mckee (2013) as cited by De Oliveira et al., 2016. P.406), a Cross Functional Team (CFT) is a type of work group where the individuals (parts) have different specialised skills from different disciplines or occupations. This work group then fulfils the need of the team to perform a certain specialised task. Each member's function (exchange) is irreplaceable and a certain level of exchange amongst the team is required. The investigation of child sexual crimes is prescribed to have such a team of skilled professionals (SAPS, 2008).

The level of organisational structure is bureaucratic. The bureaucratic model reflects an organisation with a stringent hierarchy, and a specific administrative structure, which is based on legal or policy-orientated authority (Serpa & Ferreira, 2019). This model suits a large organisation such as a government department and its subdivisions and assigns them into organisational entities containing departments and teams.

A Cross Functional Team (CFT) is the focus of this study. From an organisational point of view, there exists the concept of a Cross Functional Team amongst certain government departments when a case of sexual crimes is committed. According to the National Guidelines, these departments include the South African Police Service, the Department of Justice, the Department of Health and the Department of Social Development. Multiple national guidelines speak to the inter-collaborative tasks (exchange) that must be performed by various specialists (parts). They will independently and collectively compile evidence, which is collated and presented to court. It is the effectiveness of the individuals, the team, as well as the environmental circumstances, which ensures the effectiveness of the investigation. (Department of Health, 2005). The level of subsystems relates to the human factor of the study. In this study, the human parts of the system include both the professional work team as well as the traumatized child and their family or the environment.

The nature of the events requires a focus on the influence of trauma. A Trauma Model is therefore included as a theoretical perspective as the subject matter under study cannot be removed from this dynamic. Trauma has a direct influence on all persons involved. Trauma is highly complex and its aftermath influences cognitive, affective, behavioural and psychological responses (Carlson & Dalenberg, 2000). The responses to sexual crimes can be anticipated to an extent, but it requires specialised attention when dealing with child victims.

These theoretical lenses are especially appropriate as the investigation of a sexual crime of a traumatised child victim is prescribed in a manner that requires specific role-players from four different bureaucratic government departments to work together as a team to bring the criminal matter before court. The four government departments are identified as South African Police Service, the Department of Health, the Department of Social Development and the National Prosecuting Authority (within the Department of Justice).

1.5 DEFINITION OF KEY CONCEPTS

Attrition: Cases that do not proceed through the criminal justice system from the time of reporting to police up until conviction (Jehle, 2012).

Attrition Rate: A measure, quantity or frequency by which attrition occurs (Oxford Dictionary of English, 2010).

Child: 'This refers to a person under the age of 18 years' (Children's Act 38 of 2005, 2006).

National Instruction: An order made by the National Commissioner of Police to establish and maintain uniform standards of policing (SAPS, 1995).

Rape: 'Any person who unlawfully and intentionally commits an act of sexual penetration with a complainant without consent is guilty of the offence of rape.' (Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007).

Sexual crimes: For the purposes of this study, the researcher will refer to rape and sexual assault against children under the name, sexual crimes. This will be done to not exclude either crime as defined in the Sexual Offences Amendment Act (Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007).

Sexual assault: '(1) A person ('A') who unlawfully and intentionally sexually violates a complainant ('B'), without the consent of B, is guilty of the offence of sexual assault. (2) A person ('A') who unlawfully and intentionally inspires the belief in a complainant ('B') that B will be sexually violated, is guilty of the offence of sexual assault.' (Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007).

1.6 RESEARCH QUESTION

This study seeks to answer the following primary research question: What are the reasons for attrition of child sexual crimes cases during investigation in the Kouga district, Eastern Cape?

1.7 RESEARCH GOAL AND OBJECTIVES

The goal of this study is to explore the phenomenon of attrition of cases involving child sexual crimes and to analyse the factors contributing to the attrition during the investigation stage in a sample study conducted within the Kouga district, Eastern Cape.

The research aims to achieve the following objectives:

- To explore the phenomenon of attrition in cases of child sexual crimes during investigation in the Kouga district, Eastern Cape;
- To explore and analyse the efficacy of collaboration amongst relevant stakeholders and their contribution during the investigation of cases of child victims of sexual crimes;
- To explore and describe the investigating officers' opinions on factors that contribute to attrition of cases of child victims of sexual crimes.

1.8 ETHICAL CONSIDERATIONS

The empirical study touches on various issues that may have some ethical considerations.

In the process of providing for ethical considerations, the researcher has read the University's Policy and Procedures on Research Ethics and its Policy and Procedures on Managing and Preventing Acts of Plagiarism. The researcher further consulted the Belmont Report (The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, 1979) and understands the content. The researcher is registered with the South African Council of Social Service Professions, which stipulates adherence to their code of ethics.

The principles in accordance with the Belmont Report regarding ethics were utilised throughout the study and is set out in accordance with the principles of Respect for persons and Justice.

1.8.1 *Respect for persons*

Respect for persons was upheld as individuals were treated with autonomy in that participants were recruited through informed consent (The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, 1979). Participants were provided with a comprehensive background, information and the aim of the study prior to taking part. The research and all its facets and processes were explained to the participant, including the requirement of audio recordings. Voluntary participation was obtained in written format in order for the participants to take part in the study and they were informed of rescinding permission at any time during the interview. Relevant permissions from gatekeepers were obtained to request access to participants.

1.8.2 *Justice*

Ethical factors that require safeguards relate to anonymity and confidentiality, the recording and safekeeping of data (The National Commission for the Protection of Human Subjects of Biomedical and Behavioural Research, 1979).

Anonymity was not possible in relation to participants that were interviewed, but confidentiality was maintained during the course of the study and a coding system was used in order to exclude names from the data. Only the researcher has access to the document correlating codes and participant names. Introductions during interviews was not recorded and participants were asked to refrain from using their names whilst recording their input. Data collected is kept in a locked cabinet with no access except by the researcher, as per agreement with supervisor. The data will be kept in threefold for validation and review purposes for at least a period of 5 years after the culmination of the study.

The researcher holds a bachelor's degree in social work and has 10 years' experience in the field and in the keeping of confidential records in a governmental institution.

1.8.3 *Risks and Benefits*

Ethical obligation in terms of the Belmont report lastly includes the manner in which risk is weighed against the benefit in relation to the study (The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, 1979). The research posed no health, safety or environmental risks. The cases which form part of the study are sensitive in nature as it involves child victims of sexual crimes. The study however requires no contact with the victim or any persons involved in the case, only the investigating officers who are involved in these types of cases.

Risk potential was assessed by considering any impact the study may have. This included the possibility of the emotional reactions of participants. The researcher is a qualified therapist, able to assess the above-mentioned emotions, debrief a participant in a confidential manner, and refer a participant to the relevant employee wellness program. However, no such emotional reactions were observed during interviews.

No direct rewards are anticipated, but the findings can be an overall benefit to further research.

It is further intended that the results gathered from the proposed study will provide an inter-collaborative platform amongst governmental and organizational structures in the betterment of dealing with cases and investigation.

1.8.4. Reflexivity

Reflexivity is a process where the researcher incorporates personal reflections or subjective input across the research project, essentially increasing risk of biased study findings. Reflexivity increases where the researcher is involved in the field of study (Palaganas, Sanchez, Molintas & Caricativo, 2017). The researcher of this study performs forensic social work services and she can hold pre-conceived ideas which could impact on the process of the study. The study however focusses on police investigation as a prescribed activity. Legislative constructs prescribe these processes, which guide the study to explore each aspect of the process in the aim of exploring attrition.

1.9. FOCUS AREA OF STUDY

The area identified for the study is the SAPS offices in the Kouga district. This district comprises of urban and rural areas and is situated adjacent to a metropolitan district. This area is similar to a variety of areas within South Africa with respect to availability of resources, social-economic structure, and population ratio to SAPS coverage (Sarah Baartman District Municipality, 2016a; Sarah Baartman District Municipality, 2016b). Very significantly this area is situated in the magisterial district of Sarah Baartman. This means that all cases in this district report to the same jurisdiction area of courts as set out by legislation. It is vital to note that the Kouga district has only three regional court whilst higher courts are situated outside of the Kouga district and serves the entire Sarah Baartman district (DoJ & CD, 2020).

1.10. LIMITATIONS OF THE STUDY

In the aim of exploring attrition of sexual crimes against child victims two limitations are set. Firstly, this study focusses only on the investigation stage of the criminal process. The initial and trial processes are not included. The initial processes of attrition includes the internal motivation for a person to report a crime, which is not the aim of this study.

The trial procedure is also not included as studies of attrition indicates that most attrition occurs during investigation stage, which is the aim of the study.

A second limitation is the purposeful sampling excluding certain role-players. The study will highlight the role-players such as Department of Health medical personnel and social workers from the Department of Social Development or NGOs. As these role-players have vital input in the process, these inputs are limited and does not provide perspective on the investigative process as a whole.

The study considered that the evidence gathered by these departments, although valid, is reflected by the participants who actively utilise the evidence and can give clarity on its validity and admissibility in court.

CHAPTER 2

LITERATURE REVIEW

2.1. INTRODUCTION

This chapter is dedicated to literature review where a methodical discovery of information regarding the research topic is explored (Noori, 2018). The chapter introduces the research problem of attrition in sexual crime cases of child victims on a global scale. The occurrence of attrition itself in South Africa is explored, and includes the legislative constructs and procedures put in place in an attempt to curb attrition. It further identifies the official role-players mandated to provide statutory services for these cases. The procedures at the sexual offences courts are reviewed in relation to the research problem. The review identifies the multidisciplinary team, or rather, the Cross Functional Team (CFT) role-players, their obligation and mandated activities which are defined as per legislation and policy. It includes the exploration of literature-based challenges that promote attrition as per role-player. Firstly identified is the South African Police Service (SAPS) as the central point during the investigative phase of sexual crimes against children. It identifies the Family Violence, Child Protection and Sexual Offences Unit (FCS) members as the main SAPS role-players. The statutory backbone of criminal justice, the Department of Justice, more specifically, the National Prosecuting Authority (NPA), is identified as a regulatory role-player that stipulates readiness and prosecutability of a case to proceed to court.

In exploring the role of the NPA, the perception of the abolished cautionary rule is brought to the fore as a measure by which children are evaluated in terms of their credibility as witnesses. The medical profession is an identified third role-player. Officially, the Department of Health is mandated to take on this role. The function of the medical profession is explored in terms of their contribution to the criminal process. Social services is the final role-player identified, forming an integral part of the CFT and may fulfil two separate functions, child protective services and forensic services. The literature will show how Child Protective Services (CPS) and victim services are mandated, while forensic services are possible services. The CFT is then brought together in an effort to explore a collaborative approach including the Thuthuzela Centres where these collaborative efforts are in practice.

As this study focuses specifically on the child victim, the dynamics of the traumatized child and its environment in the CFT system is explored. The child as an entity is first considered as a developing person, particularly regarding cognitive and emotional development, and includes the child's immediate environment of influence. The impact of sexual crimes is explored to underpin the dynamics of a child victim and the influence this may have on attrition. This brings the literature review to the most central focus of the study which is the child victim of sexual crimes and the analysis of the factors of attrition.

2.2. ATTRITION AS A GLOBAL OCCURRENCE

Attrition is a natural occurrence in all criminal justice processes internationally. It is the process where criminal cases reported to policing authorities are discontinued before a conviction is achieved in a court (United Nations Office on Drugs and Crime [UNODC], 2014). This is a concern for all countries as sexual offences have a notoriously low conviction rate. Several international collaborations have made attrition a focus of quantitative study. In relation to crimes of a sexual nature, many of these studies show varying results of attrition rates per country. These studies also show an increased rate over the last few years (World Population Review, 2020; Jehle 2012; NationMaster, 2020).

Comparisons amongst countries regarding attrition rates should be treated with careful consideration of a variety of factors (Brå, 2020). These factors mostly pertain to each country's definitions and scope of sexual crimes as it is pendant on legislative definitions. The manner of calculating these statistics is also pendant on the administrative platform or the different methods of offence-counting and recording of any specific country.

Most prominently, international statistics and research which study sex crimes only reflect adult victims, or make no discernment of victim age. Research published by reputable research organisations do not provide statistics on the attrition of child victims of sex crimes and as a result the problem is not highlighted. It is however noted that in international reports, sex crimes perpetrated against child victims are reported to be more difficult to convict due to a global consideration of caution concerning the views of a child in relation to provision of evidence (Krahenbuhl & Dent, 2017).

On an international level, the child has been well recognised as a neglected entity in legislation which prompted reform on a massive scale, starting from the United Nations and filtering to all countries who either ratified or promised support of these global human rights efforts (UNODC, 2014). The United Nations convention on the rights of the child in 1989 had specifically noted the right of the child's views to be considered as follows:

'Article 3, paragraph 1, establishes a framework with three different types of obligations for States parties:

(a) The obligation to ensure that the child's best interests are appropriately integrated and consistently applied in every action taken by a public institution, especially in all implementation measures, administrative and judicial proceedings which directly or indirectly impact on children;

(b) The obligation to ensure that all judicial and administrative decisions as well as policies and legislation concerning children demonstrate that the child's best interests have been a primary consideration. This includes describing how the best interests have been examined and assessed, and what weight has been ascribed to them in the decision (UNODC, 2014, p. 5).'

Globally, the process of criminal proceedings are fairly similar. If a sexual crime is committed, a report thereof is made to a policing authority. Thereafter a form of investigation is performed, after which a trial is conducted by an official statutory judicial instatement.

The studies that have focused on the occurrence of attrition have mostly weighed the number of reported cases against conviction rates (Sigsworth, Vetten, Jewkes & Christofides, 2009; Machisa et.al. 2017; Jehle, 2012). These studies made recommendations on development or trial procedure, court infrastructure and financial implications and accessibility in developing countries. Very little emphasis is placed on the predominant phase of case attrition, which is during the investigation stage. Although investigative practices are well-structured and procedural, only the challenges experienced during court proceedings have been addressed very well in policies and legislature in many countries. The challenges in case attrition however, cannot only be addressed in the final phase of the process.

While unreported cases should not be held up against the efforts of criminal procedure, the investigation phase is the initial interaction between the victim and statutory procedure. It is more extensive, intensive and foundation-forming and could be discouraging for the victim to cooperate effectively if less effort of reform is spent on this stage.

The African Charter on the Rights of the Child (African Member States of the Organization of the African Unity, 1990) has also noted the importance of the protection of the child during investigative procedures, but little has been done for the improvement of investigations to cater for the betterment of the child's participation. It states *in Article 16*:

'1. State Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.

2. Protective measures under this Article shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting referral investigation, treatment, and follow-up of instances of child abuse and neglect.'

From the international arena, it has been clear that the concern for children and their best interests must be regarded as paramount on a global scale. Since the need arose for international children's rights, the focus was placed on the rights and wellbeing of the child in all aspects concerning the child (Morgenstern, 1985). This outlook has filtered through various countries and been a catalyst of legislative reform across the globe (United Nations, 1989; African Charter on the Rights and Welfare of the Child (ACERWC), 1999). It should be noted that reform and development takes time and much has been done to improve and protect the status of the child. However, the importance

of assisting a child from the onset of criminal proceedings has yet to be targeted as a priority in most countries, including South Africa.

2.3. OCCURRENCE OF ATTRITION IN SOUTH AFRICA

South Africa has ratified both UN Convention on the Rights of the Child (United Nations, 1989) on 16 June 1995, (marking this date as South African Youth Day a public holiday), and the African Charter on the rights of the Child (African Charter on the Rights and Welfare of the Child, 1999) on 7 January 2000. These important documents have required significant commitments to legislative reform such as the Children's Act 38 of 2005, as well as the re-establishment of the sexual offences courts, the Family Violence, Child Protection and Sexual Offences (FCS) section of the South African Police Service (SAPS), the Prevention and Combatting of Trafficking in Persons Act 7 of 2013 and many more to keep to the obligations of the conventions. In terms of the investigation of cases, the police National Instruction (SAPS, 2008) incorporates child participation in their provided guidelines on how to proceed with an investigation involving children.

The exact extent of reported sexual violence against children is not known since no central, official database in this regard is in place. However, some conclusions can be drawn from the available statistics. In 2014, a report from Interpol declared South Africa the rape capital of the world (King, 2014). This was met with much shock to the South African nation. In 2018, the Minister of Police, Bheki Cele gave an interview to The South African newspaper where he commented on the statistics of child rape:

'The numbers become even more frightening when you realise that the number of child rapes has continually increased over the years. While the overall rape crisis in South Africa has long been well-documented, it seems that South Africans had no idea that the problem was so severe amongst children.' (Andersen, 2018)

Most comprehensive statistics regarding conviction of rape cases do not include victims under 18 years. A study in 2017 yielded a comprehensive quantitative analysis on rape cases of 2012 on a national scale. This study concluded that at that time, the conviction rate was reported to be 18.5% for all rape victims (Machisa et al., 2017). The same report made the distinction between adults, children 12-18 years of age and children below 12 years of age. The quantitative data of this study indicated that while more perpetrators of child victims were known, and consent is deemed irrelevant, most attrition occurred during investigation and prosecutorial consideration (Machisa et al., 2017). This is highly significant as it indicates that all factors are available for successful prosecution, yet significant attrition occurs. It could then only indicate that the evidence or witness is not able to stand trial.

2.3.1 South African legislative construct

It is required at this stage to explore the legislative construct upon which criminal processes are based. Legislation in itself is a complex system, and in slow, yet constant

development and growth. South African law is derived from the Constitution and all manner of legislative works have to reflect the principles of the Constitution. The Constitution also includes the opportunity for South Africa to take part in international treaties and agreements which is deemed fit and in agreement with the Constitution. International agreements become law when it is enacted by national legislation (Department of Justice and Constitutional Development, 2020).

Legislative reform for child victims is guided by two international agreements that deal with children. These are:

2.3.1.1 International Agreements

- The UN Convention on The Rights of Children 1989
- The African Charter on the Rights of the Child 1999

The full spectrum of statutory documents guiding processes, services, etc. is a constantly expanding and developing arena within the developing country. For the purposes of this study, the main legislative documents referred to include:

2.3.1.2 Acts

- The Constitution of the Republic of South Africa;
- The Criminal Law Sexual Offences and Related Matters Amendment Act (Act No. 32, 2007);
- The Children's Act 35 of 2005 and Amendments;
- Offences in terms of the Criminal Law Sexual Offences and Related Matters Amendment Act No. 32, 2007.

2.3.1.3. Policies and other Documents

- National Instructions on Sexual Offences 3/2008;
- South African Crime Prevention Strategy 1996;
- National Policy Framework on the Management of Sexual Offences;
- National Directives and Instruction on Conducting a Forensic Examination on Survivors of Sexual Crimes.

South Africa follows an accusatorial system which requires three parties; a prosecutor, the defendant and a fair court in charge of judging, and is aimed at ensuring fairness. This configuration however relies on a level of discretion by all parties (Armenta-deu, 2016).

The criminalisation of sexual acts against children operates within a consortium of international agreements, parliamentary acts and governmental policies. The Criminal Procedure Act forms the foundation of the processes that are required to bring the crime to justice.

The suspicion or reporting of a sexual crime involving a child victim activates a series of activities in accordance with the Children's Act 38 of 2005, the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 and the Criminal Procedure Act 51 of 1977.

It is vital to understand the implications of these acts in relation to a sexual crime against a child.

The duty to report such a crime is clearly stated in section 110(1) of the Children's Act:

'Any correctional official, dentist, homeopath, immigration official, labour inspector, legal practitioner, medical practitioner, midwife, minister of religion, nurse, occupational therapist, physiotherapist, psychologist, religious leader, social service professional, social worker, speech therapist, teacher, traditional health practitioner, traditional leader or member of staff or volunteer worker at a partial care facility, drop-in centre or child and youth care centre who on reasonable grounds concludes that a child has been abused in a manner causing physical injury, sexually abused or deliberately neglected, must report that conclusion in the prescribed form to a designated child protection organisation, the provincial department of social development or a police official.' (Children's Act 38 of 2005, 2006).

It is further supported by section 54 (1) (a) and (b) of the Sexual Offences and Related Matters Act:

'Obligation to report commission of sexual offences against children

54. (1) (a) A person who has knowledge that a sexual offence has been committed against a child must report such knowledge immediately to a police official.

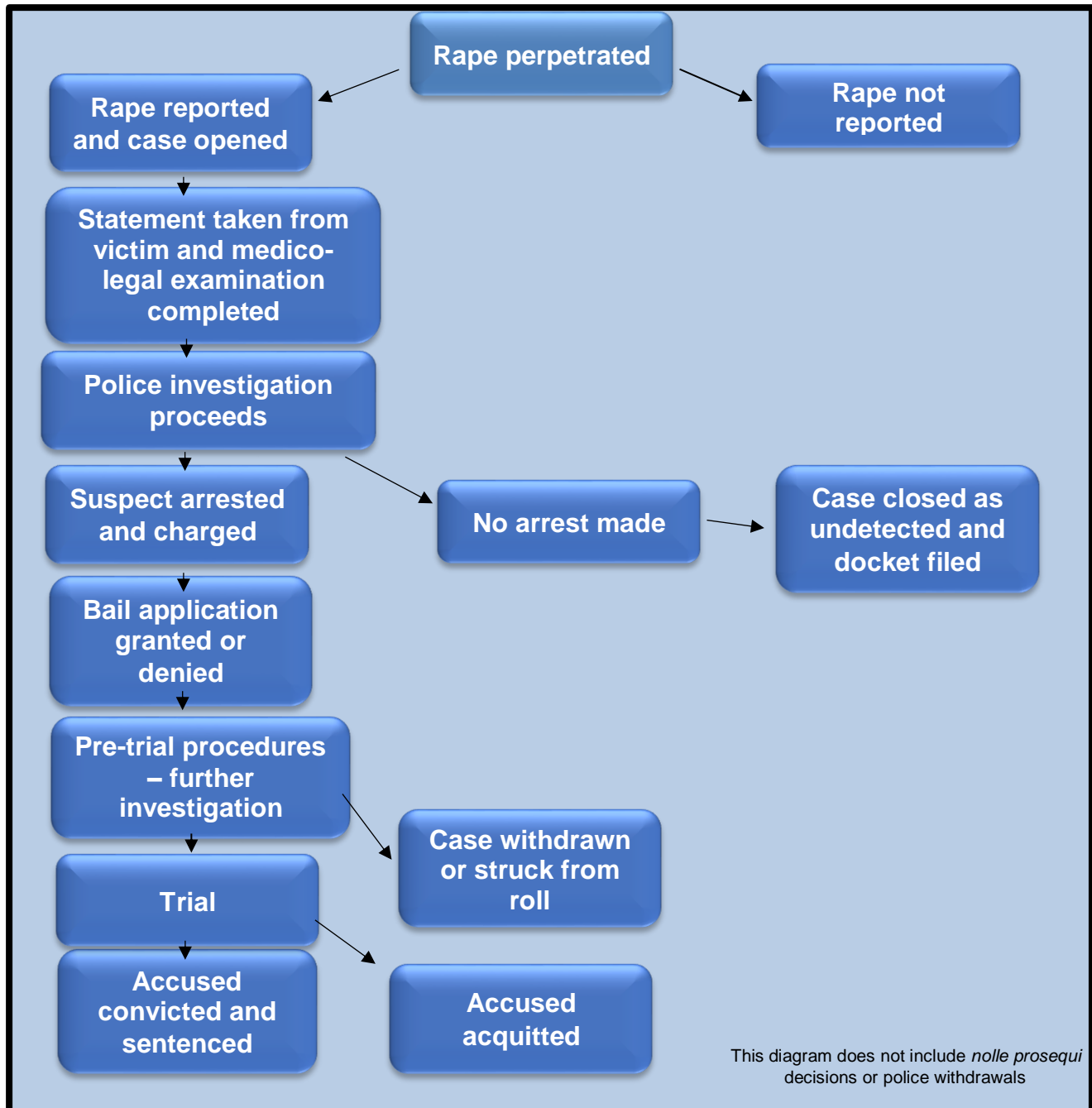
(b) A person who fails to report such knowledge as contemplated in paragraph (a), is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.' (Children's Act 38 of 2005, 2006).'

These acts operate in concert and it clearly instructs that these offences are to be reported without delay and thus initiate the criminal justice process.

2.4. CRIMINAL JUSTICE PROCEDURE

The Criminal Justice Process from where a case is reported to the police up until conviction has multiple stages. These stages are illustrated in figure 1 below.

Figure 1. Stages of the Investigation and Prosecution in Criminal Justice Process.
(Vetten et al., 2008, p.15)



This process is stipulated by the National Instruction (SAPS, 2008) and mandated to be followed when a sexual crime is reported.

2.4.1 Reporting and case opening

The first step when a crime has been committed is to report it to the police. SAPS is mandated to receive reports of crime and to deal with each report in a prescribed manner.

A complaint of sexual abuse may be lodged at any police station. When a report is made, only a skeleton statement is required. It is accepted that the person reporting may not be in an emotional state to provide an in-depth statement which could take several hours. Since police have no discretion whether to accept or decline a complaint, a docket must be opened, recorded in the Crime Administration System (CAS) and a case number allocated. In the case where the victim is a child, SAPS has to immediately consider the safety of the child and report the matter to child protection services if required. This discretion is however not well formulated in operating procedures and the concept of legal discernment of child safety can at times be misinterpreted.

2.4.2. Statement and medico-legal examination

The statement of the victim is a crucial piece of evidence. Not only does it form part of the docket and thereafter court records, it contains all the elements and information the investigating officer needs to proceed with the investigation. The importance of accuracy cannot be overstated. It is critical that the statement contains accurate details of the incident as well as correct contact information as it forms the basis of the claim and should be completed by a well trained and experienced officer, especially when dealing with a sensitive crime (Sigsworth et al., 2009).

When prosecutors examine the docket forwarded by the South African Police Service (SAPS), they do so from the strength of the evidence against a named accused in relation to the statement made by the victim. If gaps in the evidence are found to exist, they may ask investigators for further investigation or evidence-gathering before they begin preparing a matter for trial. The prosecutor or state advocate has the responsibility of presenting the state's case in court, in the form of oral evidence from witnesses who have something relevant to say about the matter being tried (Johns, 2012).

It is important to note that from the moment of reporting a sex crime case where the victim is a child, the National Instructions stipulate the involvement of the Department of Health (DoH) and the consideration of child protective services. These role-players will serve a vital role in the investigation and the compiling of evidence of such a case. Medical evidence is known to be time-sensitive and therefore requires priority. A case of rape can also be reported at any primary health care facility from where SAPS will be notified and an investigator sent out to deal with the matter, or the victim may be referred to SAPS after medical examination.

2.4.3. Police investigation

After a docket is opened, an investigating officer is allocated to the case. An investigating officer according to the National Instruction (SAPS, 2008) is *'A member of the Police Service designated to investigate the complaint of a sexual offence. If no member has yet been designated as such, the member or detective on standby. If the victim of the offence is a child, only a member trained by the FCS unit may be designated as investigating officer.'*

The investigating officer's duties include taking charge of the investigation. Firstly, the officer is to provide information and the manner of assistance that is to be provided, if the victim is a child. Again, the safety of the child is considered. Information of the incident is obtained from the victim and will be utilised during the investigation. The officer will obtain any further evidence from the victim as well as the suspect as soon as an identification parade has been held and the suspect has been positively identified. Medical examination findings on both the victim and suspect, the scene of the incident and other statements from possible witnesses will be gathered by the investigating officer. The police investigation may yield a variety of findings which may alter the direction of the investigation and which may actively affect attrition.

The Standing order General 325 (SAPS, 1993) is a national instruction that prescribes the activities of SAPS specifically regarding the criteria and manner in which cases are to be closed. This prescribed format states; *'Station Commanders are held responsible for ensuring that the case was properly investigated and that all possible sources of information have been explored. Neglect with the reckless disregard of the consequences, may possibly be regarded as defeating the ends of justice.'*

The Standing Order further states that the Station Commander shall close cases that cannot proceed to court, following a certain protocol in terms of the heading under which it is closed. Three headings denote the reason for closure as illustrated in table 1 below.

Table 1: Categories of criminal case closure

Undetected	When a case has been able to prove the incident, but has not identified the perpetrator, the case will be closed as 'Undetected'.
Unfounded	A case is only closed under this heading if the investigation found that the crime did not happen, if the suspect had passed away or is already serving a sentence, or is a minor. It should be mentioned that should the accused be a minor, the Child Justice Act, which prescribes dealings with children in conflict with the law, will be invoked.
Withdrawn	A case may withdrawn under two circumstances. Firstly, a case may only be closed by the public prosecutor if prosecution is 'undesirable'. Secondly, a complainant may withdraw their case if the case is not a serious offence. The complainant shall then sign and provide a reason for the withdrawal.

2.4.4 Suspect arrested and charged

It is the duty of the officer to find and arrest the suspect and deal with bail opposition if required. The officer will liaise with the prosecutor regarding the direction of the investigation and present the docket with all the necessary evidence to the prosecutor and both will prepare the child for court (SAPS, 2008). Investigation is a critical stage in the criminal process. The manner in which an investigation is conducted determines whether a prosecution will ensue and if it does, the standard of evidence presented and accepted in court.

2.4.5 Bail application

A bail application can be submitted after arrest of the suspect. It is the duty of the investigating officer to provide the prosecutor with motivation to oppose bail if so indicated by circumstance. If the court finds that bail should be denied, the suspect will be incarcerated while awaiting trial. If the suspect is released on bail, it is the investigating officer's duty to inform the complainant and to inform them of bail conditions in relation to possible incidents of contact. In terms of section 60(1) of the Criminal Procedure Act, a suspect that is in custody in respect of an offence shall be entitled to be released on bail pending disposal of the case. The Criminal Procedure Second Amendment Act 75 of 1995, section 56 (1995) of South Africa, sets bail based on the capacity of the accused to reasonably be able to post bail. This results in a lack of trust in the criminal justice system as bail amounts are often very low. Should the accused be granted bail, the victim is most often intimidated indirectly and this affects their cooperation with the criminal case (Sigsworth et al., 2009:50).

2.4.6 Pre-Trial procedures

The second phase in criminal procedure is headed up by the National Prosecuting Authority. Crimes reported to the police go to court after the investigation has been completed. Schönreich (2014) regards prosecutors as having an essential role in the criminal justice system. They serve as 'gatekeepers' who, based on the evidence available to them, need to decide who to charge and what the crime(s) are. Their decisions affect people's lives and play a significant role in the safety and security of society.

In accordance with the Criminal Procedure Act, pre-trial activities during summary trial appears in the presence of the presiding officer. There the case is brought before court to determine final validity of the charge. Changes to the charge can be made and further investigation can be ordered, or a case can be struck from the roll due to lack of evidence should the need arise (Criminal Procedure Act 51 of 1977, 2010).

2.4.7. The Trial: Conviction and Acquittal

A trial officially begins when the accused pleads his or her guilt or innocence. Should the accused plead 'guilty', the matter moves directly to sentencing. Should the accused plead 'not guilty', the trial will commence. A finding of guilty denotes a case where an accused has been tried and convicted (Criminal Procedure Act 51 of 1977, 2010).

An acquittal of an accused after a trial in court is recorded as a finding of not guilty. The accused can also be acquitted where the state stops prosecution for want of evidence after the trial has started (Criminal Procedure Act 51 of 1977, 2010). The criminal justice process following a sexual crime is structured and prescriptive. During the investigative stage, it prescribes the utilisation of other professionals or role-players. This is an effort to secure maximum corroborating evidence from all possible sources. It is vital that all these sources or parts work with a common goal in mind and ensure optimal functioning through knowledge integration.

The prosecution phase relies on the findings and evidence yielded by the investigation. The investigation proves the crime, while prosecution proves so to the state. Prosecution will lack the ability to obtain a conviction on questionable evidence, placing great responsibility on the investigation. It is therefore possible that cases will fall out of the process for various reasons. Undetected, Unfounded and Withdrawn cases form the categories of closure, result in attrition as these closed cases will not proceed to court.

2.5 SEXUAL OFFENCES COURT

In 1993, the Attorney General introduced the first South African Sexual Offences Court in Wynberg, Western Cape. It was a pilot project set up to deal with the increasing number of sexual offences and acknowledges the impact of the judiciary process on victims in the form of secondary victimisation. It aims to achieve an increase in convictions and to minimise the time frame from reporting a crime, to the finalisation of a case (DoJ & CD, 2013). The Wynberg courts have achieved success in this specialisation, especially when working in conjunction with a Thuthuzela Care Centre. In essence, these courts were provided with Closed Circuit Television, a room to testify in that has a one-way mirror, and two separate waiting rooms to avoid contact between the victim and the accused, in the event of the accused being out on bail. Dedicated prosecutors, support staff and presiding officers were appointed on a regional court level to deal with these cases. After evaluating the impact of these courts in 2005 however, a moratorium was imposed on the further roll out of Sexual Offences Courts, as it did not follow case flow management protocols, and as such would require these protocols to be amended. A further identified issue was the accessibility of these courts for victims living far away (DoJ & CD, 2013).

The low conviction and consequently high attrition rate of sexual crimes in South Africa has promoted the re-establishment of the specialised sexual offences courts in 2013. This was done in an attempt to make the court process faster and in consideration of the emotional difficulties for victims, especially child victims, to testify (DoJ & CD, 2013).

On 30 July 2014, then Justice and Correctional Services Minister Michael Masutha made a public announcement that 22 Sexual Offences Courts have been established and the number would be increased to 57 by the end of 2016 (Masutha, 2014). Information on the availability of sexual offences courts by May 2018, reflects on the Departmental resource list as having 75 either dedicated or hybrid sexual offences courts (Department of Justice, 2018). This indicates the successful implementation of these courts over a period, making it more accessible on a national scale. This is an acknowledgement of the fact that a victim of sexual offences requires specialised services. However, specialised courts only come into play at the final stage of the criminal procedure process and does not address the needs of the child during the investigation process conducted by SAPS. It is therefore important that the Team Mental Model guides these specialised facilities and promotes capacity building of all role-players. A process of knowledge integration will ensure effective work and goal achievement, which is to prevent attrition in sexual crime cases.

2.6. SOUTH AFRICAN POLICE SERVICE

The South African Police Service is the main stakeholder as far as the prevention of crime is concerned. It is however, not the only responsible party and needs the co-operation of other state Institutions and society as a whole. The investigation of crime is a very important policing function and plays an essential role in the criminal justice system. The South African Police Service is bound to do everything humanly possible, within the parameters of the law, to prevent and solve crime (The South African Police Service, 2014).

The reporting of a sexual crime starts at a charge office. A victim of a sexual crime reports the crime to the police, by either going to the police charge office, telephonically contacting the police or via a health care facility should it be that the victim required urgent medical attention. There are a few challenges in the reporting of cases. A study conducted by Smythe (2015), noted that on Fridays and Saturdays, certain police stations have long lines of reports of sexual violence against women and children, then equally long lines on Mondays of the same persons wanting to withdraw their complaints. This creates a sense of the 'abuse' of the system for nefarious purposes. At some stations, officers refused to open cases, or labelled children as sexually active and determining the sex to be consensual. This has a detrimental effect on attrition and the cooperation of public towards the police.

2.6.1 Family Violence, Child Protection and Sexual Offences Unit

In accordance with the National Instructions (SAPS, 2008), if a person reports a sexual crime to a police official, the official receiving the report may under no circumstances, turn such a person away. If the victim is a child, a member trained by the Family Violence, Child Protection and Sexual Offences Unit or a specialised individual must be contacted

and will become the investigating officer in the case. Although cases of sexual crimes fall under the auspices of FCS, it is not always the case.

The Family Violence, Child Protection and Sexual Offences (FCS) was re-established in 2010 (2Talk, 2010). Formerly separate from the Child Protection Unit (CPU), the FCS Detective unit will now focus on the effective prevention and investigation of FCS-related crimes; and to ensure excellence in service delivery to victims of family violence, crimes against children and sexual offences. FCS-related crimes are divided in four main groups; sexual crimes; person-directed crimes, illegal removal of a person (kidnapping, abduction, missing children less than twelve years of age) and electronic media facilitated crime (2Talk, 2010).

All officers in SAPS are provided with basic training before becoming a member. As with most basic training programmes, there has been a number of successes, challenges and changes over the past years. Investigating a case requires an officer to have passed the detective examination. When an officer becomes part of the FCS, further training is advised to deal with the specific nature of these crimes. It has to be noted that this training is recommended, but not required. It is therefore possible that an experienced officer may very well be handed his first case of a sexual crime and not be adequately prepared for the specialised dynamics of such a case. The training programme is not a nationally standardised programme and relies on outsourcing departments, nationally and internationally, and training institutions from varying disciplines (Commission for Gender Equality, 2016).

2.6.2 The Role of the Investigating Officer

Regarding sexual offences, a National Instruction for police on sexual offences is a systematic guide on how to manage and investigate such a crime. It was however noted that these instructions were neither distributed widely nor effectively implemented (SAPS, 2008). With specialised training not being compulsory, no standardised training programme and a lack of effective implementation of the National Instruction, SAPS officers may not have a secure foundation to ensure that they are appropriately trained when dealing with child sexual abuse cases.

2.6.2.1 Statement taking

The National Instruction (SAPS, 2008) states that after the opening of a case, the docket must be populated by a victim's statement. This statement made by the victim, has to include certain particulars including the date, time and place of the alleged incident, the nature and manner of the offence, any details of the alleged perpetrator and possible witnesses, and to whom the victim first reported the abuse.

In light of the possible emotional or physical trauma a victim has sustained, the National Instruction of SAPS requires only that a skeleton statement is given when reporting a sexual crime for the first time (SAPS, 2008).

It is further advised that, if possible and depending on the state of the victim, an in-depth statement is obtained ideally within 24 to 36 hours afterwards (Johns, 2012). The statement includes contact details of the victim as it is vital in order to clarify or validate certain information, identify the suspect and to stay informed of progress. It is further required that the statement has to denote that it was written of free will and in the presence of an officer of law. To this end, both signatures are required on the statement (SAPS, 2008). A full description of statement taking is available in Annexure N.

In a study on sexual crimes, challenges in the process of taking statements were revealed. Information such as a date of birth, or full names of the victim had been omitted, and some statements had not been signed or dated. These omissions have an impact on the admissibility and reliability of the statement (Machisa et al., 2017). The study further found that in child victim cases, there may be no statement in the docket. Reasons for this may be due to the child not being able to make a verbal statement, the parent reported the incident, or a teenager may decline as the sex was consensual. Should the child not be able to make a statement, the parent can give a statement on behalf of the child. This is however problematic as sexual crimes against children most often occur when the child is alone with the perpetrator and therefore the child is the only one who can attest to what happened (Machisa et al., 2017). Information regarding the perpetrator is equally essential as at times the perpetrator had been arrested and had been granted bail. If personal details were not completed correctly, he or she becomes untraceable (Smythe, 2015).

2.6.2.2. Further tasks of the investigating officer

Apart from taking statements as evidence, the investigating officer is charged with further activities such as;

- Evidence collection at the scene of the crime. A detailed description of this evidence collection, marking, storing and submission to a forensic laboratory is prescribed by the national Instruction and Criminal Procedure laws (SAPS, 2008), (Criminal Procedure Act 51 of 1977, 2010).
- It is the duty of the officer to take the victim for medical examination and obtain the medico-legal evidence.
- To ensure victim safety and to refer to relevant stakeholders for services. For a child, it includes the consideration of involving child protective services.
- Identifying, charging and arresting suspects in relation to the statement given by the victim if such a person can be identified.
- To provide information to the prosecutor to consider during bail proceedings, primarily this would include factors that would oppose bail.
- Keeping the victim updated with progress of the case and to mobilise the victim for consultations and court appearances.

It is clear that the investigating officer is the manager of the investigation and plays a central role. Failure in any of the above tasks can negatively impact the investigation.

2.6.3. Challenging Aspects

A variety of factors emerge from literature that speaks to the challenges officers may experience in general during investigation.

2.6.3.1. High Case Load

The investigating officer, whether he is part of the recognised FCS unit or not, is an officer of SAPS. It is important to note the individuality of the officer. As SAPS is a government department following a bureaucratic organisational design, the officer is bound to adhere to policies, procedures, strategic and operational planning. The officer is also bound to a performance system on an individual level as well as dealing with challenges within the department as a whole, the specific cluster they work in, and with the level of training he or she has received. The officer can only perform well with good training, motivation, proficiency in administrative tasks, ability to maintain effective relationships with victims and witnesses, intrapersonal strength to work with high levels of trauma and to be incorruptible.

It is an accepted fact that South Africa has a high incidence of crime and specifically sexual crimes (NationMaster, 2020). With the police, a high caseload limits the amount of time available for officers to work on a particular case. In a study of attrition, officers indicated that huge caseloads hampered the process (Mphande, 2005, as cited in Watt 2011, p. 2). Police officials are so overloaded by the high volume of cases assigned to each person, that crucial rape investigations do not get the attention they deserve. Consequences of the high caseloads among detectives include ineffective investigative strategies in rape investigations, unlawful arrests and cases being struck from the court roll due to lack of sufficient evidence (Watt, 2011).

2.6.3.2. Performance Management

As in all government departments, the SAPS officials are subject to a performance management system. This process is to evaluate individual performance in a bureaucratic organization. Within the SAPS, this is referred to as the Performance Enhancement Process. Although performance management is an essential requirement for all government officials to ensure duties are being performed, Bruce (2011, as cited in Mafanya, 2015, p. 20) argues that, 'most performance indicators focuses on outputs rather than outcomes.' This results in a quantitative reflection of performance within very restricted concepts of what is considered 'performance'. The focus of the official is then placed on meeting quantitative standards and norms, rather than qualitative concepts of service. Such an example was given by Smythe (2015) when she commented on the arrest rate as a performance indicator. Although this is required for accurate statistics, it motivates certain cases not to be opened.

2.6.3.3. Corruption

The study done by Smythe (2015) noted that corruption is difficult to prove, yet in some cases investigating officers falsely created withdrawal statements to prevent further investigation of an alleged perpetrator. In some instances, victims were threatened when laying a complaint. Their contact details were given to the perpetrator, the perpetrator would be a member of SAPS or an acquaintance of a member or even that an officer would be romantically inclined towards the victim. Victims are then intimidated, harassed or their cases would simply not proceed or be closed.

2.6.4. Stigmatized Views on the Reporting of a Crime

The in-depth study of the investigation stage of rape cases in the Western Cape and KwaZulu-Natal by Smythe (2015) identifies multiple challenges during the investigation stage. Some cases are poorly investigated, some officers are reported to make no attempt to locate and arrest the perpetrator even if their whereabouts are known. In some cases the parents are requested to look for the perpetrator and then inform the police, who then fail to respond when called. What stood out in this study by Smythe (2015) is that police are refusing that the victim lay a charge by virtue of the 'credibility' of the victim or the circumstances surrounding the incident. What seemingly constitutes the 'credibility' of a victim is what is seen as 'real rape' circumstances. This includes the use of physical force, having proof of penetration, the victim's promptness of reporting, the extent to which the suspect can be identified, the relationship between victim and suspect prior to the incident, the use of weapons, and the manner in which the victim had attempted to protect themselves. The 'credibility' of the victim pertains to their level of sexual experience, their respectability (including sobriety, education and socio-economic level), lack of consensual contact prior to the incident and injuries sustained during the attack. It is noted that adult stereotypes of adolescents' behaviour may lead them to perceive the adolescents' account as less credible than that of adults, particularly when the adolescent victim was involved in illegal or experimental adolescent behaviour such as drinking alcohol or using drugs (Greeson, Campbell & Fehler-Cabral, 2016).

2.6.5 Working with Children

The fact that more tried cases of adult rape resulted in acquittal rather than conviction, possibly reflects the inherent difficulties in obtaining a conviction in sexual offences cases. This is particularly so when the complainant in a rape case is a single witness. A comparison with the results for child rape shows that more reported cases of child rape resulted in conviction (18.5%) than reported adult rapes (15%) (Machisa et al., 2017). In contrast with adult rape cases, child rape cases that went to trial were almost twice as likely to result in conviction.

Findings from the Machisa study suggests that police officers are failing to grasp their role in child protection and in particular, their responsibility to prevent children's repeat

victimisation and intimidation. The study suggested that police officers need to be trained to ensure that when children are sexually assaulted, their primary caregiver is established and documented (Machisa et al., 2017). The Department of Social Development and child protection agencies designated by the Children's Act (Children's Act 38 of 2005, 2006) must be involved in assessing children who have been raped. The investigation of such a case is not only the responsibility of SAPS, but is a team effort of multiple professional services (SAPS, 2008). The police should therefore never close cases of child sexual abuse without having received an assessment report from such child protection services first.

2.7 NATIONAL PROSECUTING AUTHORITY

The South African Constitution provides for a single prosecuting authority that is tasked to prosecute criminal activities on behalf of the State. For the purpose of this study, the role of the NPA is noted only in relation to functions relating to prosecuting sexual crimes.

This section explores the role and function of the NPA, the competency factors that are mandated in witness testimony and the legislated forms of assistance provided to child victims when testifying.

2.7.1 The Role and Function of the NPA

The NPA is the key role-player in bringing a crime before the court so as to prosecute the perpetrator for a crime committed. The manner in which such a case is presented to court is stipulated in the Criminal Procedure Act 51 of 1977. This stipulates that evidence of the commission of such an act must be brought before court to prove that indeed such an act was committed and that the accused is in fact guilty of that crime. Within the NPA is the Director of Public Prosecution (DPP). The function of the DPP is to delegate criminal cases to various courts and make preliminary assessment of readiness for court (Criminal Procedure Act 51 of 1977, 2010). For the purpose of this study, the NPA will be referred to regarding these functions, as it is from the same government department and interchangeable in this regard.

When presenting any case to court, the principle is to argue facts and law in evidence. Confrontation, cross-examination and the adherence to strict rules of evidence is the basis of the South African accusatorial system. Prodigious focus is placed on admissibility of evidence, with strict rules leading to the exclusion of certain types of evidence. This includes evidence given *viva voce*, meaning by voice of the witness. It is understandable that all evidence given by witnesses are to be found credible to be considered as evidence as the conviction and sentencing of a person is a serious matter. The child however, seems to be less regarded as a competent witness from the offset as not only is their testimony challenged by the endurance of the 'cautionary rule', but also the lack of understanding of their cognitive and emotional development. It is also apparent that a child be found competent to be a witness even before testimony is given (Bekink, 2016).

2.7.1.1 Cautionary Rule

The cautionary rule is a general guide to judicial officers to consider evidence given by a single witness in any criminal case. Where no other evidence or substantive evidence can be found, a court may convict on single witness testimony and such testimony should therefore validly be put under scrutiny. The practice of this rule has been frequently utilised in sexual offences cases where it was most likely that the victim was the sole witness in the case. In the past, the cautionary rule cautioned that women were likely to claim rape after a consensual sexual encounter to protect their honour, or as a manner in which to punish the accused if no further relationship existed. Children were under even more scrutiny as their testimony had the added suspicion of being mostly fantasy and an inaccurate memory or understanding of the nature of criminal procedure or the alleged incident (Naylor, 2011).

In multiple conviction and sentencing appeals cases, it was noted that the cautionary rule is to be revisited as it leads to discrimination against children, was unnecessary and unfairly increased the burden of proof resting on the State in cases involving sexual offences (Naylor, 2011). While the Supreme Court of Appeal effectively abolished the blanket application of this particular cautionary rule in 1998, it still left judiciary officers with the discretion to apply a 'cautionary approach' to particular cases (Naylor, 2011).

This cautionary approach, as well as it intends to caution against convicting on the evidence of a single witness, still has challenges with regards to children. The presiding officer considers the admissibility and capability of the witness to give testimony. It is however, not within the scope of the presiding officer to comprehend the intricate link of child development and the effect of trauma, thereby basing credibility of the child's testimony on that of an adult, with consideration for a lack of appropriate vocabulary.

2.7.2 Competency to testify

Any witness is subjected to being considered a competent witness in being able to tell the truth and to reasonably appreciate the concept of testifying in court in accordance with Section 192 (Criminal Procedure Act 51 of 1977, 2010). This section is automatically considered when a child is to testify, especially a child under 14 years of age.

The court requires two components for consideration of competency. Firstly, the court needs to hear from the child that they understand the difference between the truth and a lie and the consequences thereof. This is related to their understanding of taking the 'oath' as well as to the child's developmental stage, more particularly their cognitive development and language ability. The court needs to be ensured that the child is willing to give evidence which speaks to the motivation of the child to tell the truth (Bekink, 2018). Bekink (2018) further noted that a child may only testify if a court finds the child to be competent. To establish the competency of a child is however more complex than merely questioning a child about their understanding in a highly threatening and stressful environment. It requires an understanding that the motivation for a child to speak the truth or lie is not similar to that of an adult, especially when looking at the dynamics following

the reporting of child sexual crimes. These aspects leave the court open to misinterpretation of a child and leads to continued distrust in children's ability to speak the truth. This may be more apparent with adolescents from 14 years of age as they are expected to testify similar to an adult.

Any person or child whose intellect is diminished to the point where they are incapable of giving a rational or coherent account of events, is unable to distinguish the difference between fact and fancy, or cannot realise the necessity of telling the truth, must be regarded as an incompetent witness. The court may ask for an assessment of the child's competency from a trained professional, which will assist the court. This assessment will cover the child's mental capacity to observe an event, to remember the event, to communicate about the event and, if the child has the capacity to understand the seriousness, to speak the truth. The ability of the child may vary, which would not necessarily declare the child incompetent, but can also guide in terms of possible alternatives that the child may require, such as intermediary services (Criminal Procedure Second Amendment Act 75 of 1995, 1995).

2.7.3 Assistance to child victims in court

The court system has acknowledged the special needs of victims of sex crimes and child witnesses and has made efforts in ameliorating the effects of testifying. The use of court preparation, intermediaries or a support person has proven to be effective (Fambasayi & Koraan, 2018). Most courts are open to different suggestions such as using therapy dogs, as long as criminal procedure is upheld (Charles, 2017).

2.7.3.1. Court Preparation

Court preparation for a child witness is a short intervention process aimed at making the child used to the court processes, thereby lessening the fear of the unknown from the child's perspective. This is done as it is believed that a child who is used to court, may experience reduced stress and deliver a more comprehensive testimony.

The child's perspective of court is to be considered when preparation is done. Tewson, (2015) indicate that the child's perspective generally includes three factors; firstly, that the court is for guilty persons to go to jail, therefore if they are to go to court they must have done something wrong and they are to be sent to prison. This directly relates to a child's developmental stage. Secondly, a child believes that adults are omniscient and become confused when asked the same question twice. A child inadvertently believes they answered a question wrong if it is repeated and will then attempt to answer differently, which makes the child seem unreliable. Lastly, a child's behaviour or non-verbal communication when under stress is likened to being dishonest and may be misinterpreted by professionals who are not trained in children's behaviour (Tewson, 2015).

Preparing a child to testify enhances recall, communication and resistance to leading questioning. It is a proactive measure to ensure optimum cooperation of a child, especially where culture and societal factors may inhibit a child to participate.

2.7.3.2 Intermediaries

'170A. (1) Whenever criminal proceedings are pending before any court and it appears to such court that it would expose any witness 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 evidence through that intermediary.' (Criminal Procedure Amendment Act 17 of 2001, 2001). In an effort to prevent secondary trauma and undue mental stress for a child witness in criminal court proceedings, South Africa made international legal (and human rights) history with the promulgation of Section 170A of Criminal Procedures Act 51 of 1977, which was introduced through the Criminal Law Amendment Act 17 of 2001. This allows for the appointment of an intermediary for children in cases of sexual abuse (Criminal Procedure Amendment Act 17 of 2001, 2001).

An intermediary is a person qualified in child development appointed by the court to be a link between the child and the court in a separate room next to the court (Bekink, 2018). The structural division ensures the child does not have to face the accused and be subjected to intimidation, fear or confusion whether it is intended or perceived. The court uses CCTV as it is required by law to be able to see the actions and responses of the witness. However, this is a one way process and the witness does not see what is happening in court. The intermediary is tasked to be the link between the court and the child and reformulates and/or interprets the questions asked by court in a child-friendly manner. This assists as the child is addressed in a manner they understand and acts as a protective barrier from hostile cross-examination. (Bekink, 2018). The requirement for a person to act as an intermediary had only been amended as a person with qualifications in childhood development. It was in 2017 that Regulations were amended and published in the Government Gazette regarding a baseline of qualifications and experience that would be considered suitable for a person to act as intermediary (Determination of Persons Category or Class of Persons Who Are Competent to be Appointed as Intermediaries , 2017).

The use of intermediary services has undoubtedly been successful in court for the purpose of separation between child witness and the accused (Fambasayi & Koraan, 2018). It is however, not yet full practice of the court to consider the qualification of the intermediary and their personal requirements. This leaves the court and child witness open to intermediaries who are not able to successfully implement services as required.

2.8 DEPARTMENT OF HEALTH

The Department of Health's National Sexual Assault Policy states that medico-legal evidence appears to be critical as South African courts rely heavily on said evidence to

support the victim's account. It includes the affirmation that coercion was used and helps to place the perpetrator at the scene of the assault. The evaluation of the extent of harm suffered may influence the sentence. Medico-legal evidence is not strictly necessary to achieve a conviction, but in practice, cases rarely go to court without it (Department of Health, 2005). The Department of Health's National Sexual Assault Policy further states that sexual assault care in the health sector has to give precedence to the health needs of the patient. This includes immediate and long term psychological support, pregnancy intervention, STI prevention, treatment, and HIV counselling and prevention. They also include access to proficient medico-legal examination to gather evidence for prosecution. National Sexual Assault Policy includes the provision of comprehensive sexual assault care with the delivery of the service by trained staff (Department of Health, 2005).

In exploring the services rendered by the Department of Health, two factors are essential in providing the services as set out by the policy. These are the medical practitioner and the relevant documentation, known as the J88 report, which are required for the investigation.

2.8.1 Medical Practitioner

In the past, District Surgeons who were employed by the State had the task of compiling sexual assault medical examinations. District surgeons at that time were general practitioners who were given a short course in forensic examinations. However, problems arose with this method in the form of too few district surgeons, as well as their aversion to testifying in court for lengthy periods, whilst patients are waiting at hospitals. This subsequently has been phased out since 1996. Forensic examinations can now be performed by any medical practitioner, with or without the necessary training. This has its own issues as examinations and documentations are done poorly and the interpretation of findings are weak, especially if no forensic examination training was received (Department of Health, 2005).

2.8.2 Medical Evidence

Medical practitioners inform the court with regard to clinical forensic examinations using the medico-legal report, form J88. The legal document notes the factual findings of the medical assessment and the opinion of the health worker as to the significance of the facts. An example of the form J88 can be found in Annexure M. The courts rely heavily on medico-legal documentation. Currently, medical information taken from the J88 and presented in the courts, may be of inferior value because of misinterpretation by health workers, lawyers, police officials and social workers (Kotze, Brits and Botes, 2014).

Although the J88 is a legal form, it contains medical information, and as such, must be interpreted by a health worker and completed in accordance with good medical practice and sound scientific principles. If the scientific and medical nature of the information contained in the J88 is not understood and honoured by the courts, unrealistic expectations could be raised.

Informed consent is required and must be obtained to; conduct a medico-legal examination, compile medico-legal documentation, collect evidence, investigate the evidence, take photographs, and most importantly, release information about the person. Medical, as well as medico-legal consent must be obtained from persons from the age of 12, and they must have sufficient maturity and understanding to give informed consent. Consent for the medical treatment of children aged 11 years and younger, or with insufficient maturity and understanding, must not be confused with consent for the medical examination of minors towards, or in connection with, certain offences that have been committed. Consent for this group is governed by the Criminal Procedure Act Section 335B, inserted by Section 7 of Act 4 of 1992 (Kotze, Brits and Botes, 2014).

Medico-legal consent must also be obtained from a parent or legal guardian. If a parent or legal guardian cannot be reached within a reasonable time, is a suspect in the crime in respect of which the medical examination is to be conducted, unreasonably refuses consent, is incompetent on account of a mental disorder, or deceased; the normal procedures for obtaining consent must be followed. Documentation of this procedure appears on the SAPS 308 form.

The information requested in a J88 form is for judicial purposes. The medical practitioner is responsible for supplying the relevant information, omitting irrelevant information and preventing traumatising of the patient. All the information must be true, and any omission may not have an influence on the factual content. There are multiple factors that are to be considered in effectively completing the J88, which can be found in Annexure M.

The study of rape justice by Machisa et al. (2017) yielded some of the challenges experienced with the collection of evidence that relates directly to the quality of medico-legal findings. The primary focus of data collection on J88s is to determine the types of injuries that are found in cases of rape reported to the police, as well as the state of the victim when examined. It was found that in many cases, the forms were incomplete due to areas that were not filled out, personal details did not correspond with that of the docket and the concluding statements were completed in such a manner that rendered the report useless for court purposes, for example, incorrect wording.

2.9 SOCIAL SERVICES

Social services to child victims can be seen as twofold in concept. As prescribed by the Children's Act 38 of 2005, all child victimization has to be reported to social services. Where deemed necessary, interventions, (including therapeutic services) are the first priority and must be in the best interest of the child (Children's Act 38 of 2005, 2006). This involves social services in every case of a sexual crime against children, making a social worker an inclusive part of the CFT from the onset of a reported crime. A second, yet not prescribed, function of social services, is the specialised field of forensic services (Joubert & Van Wyk, 2014). In essence these services are invited by the court to perform a specific function as an expert witness for the court. After investigation, the forensic

social work report becomes evidence in court and as such identifies the forensic social worker as part of the CFT.

2.9.1. Child Protection Services

'Child care and protection' is the process of measures and structures to prevent and respond to children who are deprived of care, are at risk of such deprivation, or who require protection from violence, abuse, harm, neglect or exploitation (Department of Social Development, 2018). The mandate of child protective services falls onto designated child protection organisations.

2.9.1.1. Role of Child Protection Organizations

A designated child protection organisation is an organisation accredited under the criteria as set out by Section 31 of Children's Act 32 of 2005 Regulations. Essentially such an organisation has the required skills and capacity to deliver statutory services in terms of the Children's Act (Children's Act 38 of 2005, 2006), and by default includes the Department of Social Development who assists and accredits organizations in terms of the act.

The Children's Act 2005 section 110 (5) prescribes a clearly set out procedure which must be followed in the event of a child needing care and protection (Children's Act 38 of 2005, 2006). It states that if a report such as sexual abuse has been made to a designated child protection organization, the safety and well-being of the child is to be ensured. If the child is at risk after initial assessment finds substantiative evidence thereof, particulars should be reported to the Director-General for inclusion in Part A of the National Child Protection Register. Thereafter the designated child protection organisation takes measures to assist the child, including counselling, mediation, prevention and early intervention services, family reconstruction and rehabilitation, behaviour modification, problem solving and referral to another suitably qualified person or organisation. The matter is also to be reported to a SAPS official.

The scope of child protection focuses mainly on statutory intervention with regards to the concept of a child 'in need of care and protection'. While there is great expansion of the concept of the 'care' of the vulnerable child, there appears to be a lack in guiding the concept of 'protection' of a victimised child. This is seen in a vast array of policies and guidelines stating merely that services to a victimised child are to be coordinated and uniform in its approach by national, provincial and local spheres of government (Children's Act 38 of 2005, 2006; Department of Social Development, 2011; The South African Police Service, 2008).

Service delivery to children are however clearly outlined in the Children's Act (Children's Act 38 of 2005, 2006), stating that incidents of sexual crimes are to be reported to the Department of Social Development and vice versa.

2.9.1.2 The Victim Empowerment Programme

The Integrated Crime Prevention Strategy (Department of Social Development, 2011), explains that victim empowerment entails the facilitation of access to a range of services for people who have individually or collectively suffered harm or trauma through violence and/or crime.

The Victim Empowerment Programme (VEP) is a mission of the Department of Social Development to provide services to adult victims of crime and violence. The vision of the programme is to provide support, care and empowerment services to victims, their families and communities (Gender Health and Justice Research Unit, 2014). These services are to be delivered by social services from within government departments and NGOs. The programme has four levels of intervention and includes prevention services aimed at creating awareness of crimes and the relevant resources in communities. Early interventions focus on individual services, provides comfort and information and refers individuals for specialised services. Statutory intervention ensures that victims receive effective developmental assessments and support services to enable optimum functioning during court proceedings. Lastly there are services aimed at a continuum of care (Department of Social Development, 2008a).

The statutory level intervention strategies, according to the Limpopo service package for victim empowerment (Department of Social Development, 2014, p 2), are to render counselling services to victims of crime and violence, give support to victims who are witnesses during the trial, prepare victims for court, give support to victims at court, care and provide supervision of child witnesses at court and to provide intermediary services and counselling.

The VEP was initiated in 1997 and has made progress in establishing domestic violence shelters and in the provision of specialised services to adult victims. An evaluation of the VEP in the Western Cape (Gender Health and Justice Research Unit, 2014) yielded challenges in the implementation of the programme. Collaboration amongst programmes that provide services to victims are not effectively structured, rendering it limited and informal. Successes are mainly due to committed staff. Interaction between provincial and regional offices is also limited, which hampers planning, implementation and feedback.

In an effort to ensure inter-collaboration between government departments and stakeholders, forums were initiated on a national, provincial and regional level. Attendance of these forums are however, not mandatory or part of strategic planning within all relevant departments. This has led to a lack of attendance and ultimately a collapse of inter-sectoral strategic collaboration. Individual departments and agencies within the victim empowerment sector tend to work autonomously and there is consequently little integrated, coordinated services in respect of victims of crime (Gender Health and Justice Research Unit, 2014). There continues to be little awareness of VEP services in communities, resulting in victims not accessing these services. Resources, both in staff and implementation are provided, yet remain limited and impacts negatively on services.

The processes of networking and referral lack operating procedures to guide victims to appropriate victim services. In rural areas, access to services are difficult because of the vast areas that need to be covered. These services are often neglected in terms of resources and support. Existing legislation is not comprehensive to address the needs of victim services, but such legislation is underway (Gender Health and Justice Research Unit, 2014). The VEP is a developing programme that, in essence, paves the way for inter-collaborative efforts to provide specialised services for victims on various levels. However, the programme is still experiencing many key challenges that hamper effective services. It is to be noted that victim services lack key legislation that speaks specifically to specialised victim services for children outside of the courtroom.

The Children's Act is very clear in its structures and intervention processes when a child has been a victim of crime so as to ensure the safety of the child (Children's Act 38 of 2005, 2006). Services in terms of intervention with such children fall under the scope of both victim services and child protection. There is a vast discrepancy in the development of these two programmes within the Department of Social Development and in the inter-collaboration with stakeholders. This results in the neglect of services specifically rendered to children.

2.9.2 Forensic Social Work Services

Forensic social work services is an emerging field of specialisation in social services. Regulations regarding this field of specialisation was gazetted in July 2017. This regulation states that forensic social work focuses on working between the legal system and the secondary client, primarily providing expert testimony in court or conducting an investigation. This investigation is described as the utilisation of specific knowledge, techniques and tools to compile reports with accurate information so as to establish facts or evidence that can be used in court (Regulations Relating to the Registration of a Specialization in Forensic Social Work, 2017).

Forensic social work services primarily provide two separate functions where a court would benefit from the input of an expert witness, so as to be in a position make a more informed decision regarding a case. These mostly involve cases where the victim of a sexual crime is a child. The first function is to provide a pre-prosecution report which includes the child's ability to testify and his or her mental and emotional competency to do so. These reports include certain measures to assist the child in court, such as the motivation for an intermediary. A secondary function would be to determine the impact of the crime on the child, the family and community. This provides a form of pre-sentence report on aggravating and mitigating factors for the magistrate's consideration of sentencing (Joubert and Wyk, 2014).

There is a clear distinction made between the role and function of generic and forensic social work services. Most prominently for a forensic social worker, the client is the court, the services are non-therapeutic, information is gathered in a validated scientific method, and social intervention requirements are referred to a different service provider (Jonkers,

2012). This delineation is often confusing for the public and professionals alike. It is to be noted that forensic services do not fulfil the duties of child protective services, yet has the obligation to invoke such services if deemed necessary in the conclusion of such an investigation.

2.10 AN INTEGRATED APPROACH TO SEXUAL OFFENCES

The Criminal Procedure Act 51 of 1977 and SAPS National Instruction, prescribes a specific set of activities after the reporting of a sexual crime where the victim is a child. These activities are required to be performed by a specific set of role-players. As prescribed, the case will be investigated by SAPS, while medical and social work assessments may assist in evidence-generation and the prosecutor guides the case to completion. The victim plays an additional and pivotal role in bringing the case to court. These parts interrelate during the investigation process and based on the success thereof, the case can be brought before court. Multiple acts and policies refer to the multi-disciplinary efforts in order to bring cases of child victims of sexual offences to court. (Criminal Procedure Act 51 of 1977, 2010; SAPS, 2008).

2.10.1 Thuthuzela Care Centres

With the afore-mentioned issues in mind, the Department of Justice initiated a project called the Thuthuzela Care Centres. The first Thuthuzela Care Centre (TCC) was established in 2000 at GF Jooste Hospital in the Western Cape and linked to the Wynberg sexual offences court.

The TCC model was designed to fulfil three aims: the reduction of secondary victimisation; an increase in conviction rates and a reduction in the length of time taken to finalise cases. (Vetten, 2015). The model was intended to be a centre where the three major role-players would converge on the same premises and provide specialised services to victims of sexual crimes, thereby streamlining collaboration and minimising secondary victimisation. Services offered at the TCCs include history-taking and a medico-legal examination; prophylaxis and treatment for pregnancy and sexually-transmitted infections including HIV; and immediate and longer term emotional support. The three major role-players are the Department of Health (DoH), National Prosecuting Authority (NPA) and the Department of Social Development (DSD).

The study undertaken by Vetten in 2015, however noted that a range of agencies within one space does not automatically result in those agencies working together. In fact, such arrangements may generate a new challenge. TCCs emerged as contested spaces where power struggles, funding issues and micro-politics played out amongst NPA and DoH, DSD and NGOs, with these conflicts resulting in hierarchy, rather than team concepts (Vetten, 2015). Although it seemed to assist in the gathering of medico-legal evidence for court purposes, further services may be described as 'one stop' only at the moment of reporting. Follow-up care continues to be fragmented and disjointed. Emotional support services in the TCCs are treated as after-thoughts in many facilities.

This is reflected in the inadequate funding for the service, the amount of space given to the service, as well as its physical location being unattainable for victims living far away, and where in the TCC process the counsellor is located (Vetten, 2015).

It should be noted that, since the onset of this venture, 52 TCCs have been established in South Africa, 9 of which are located in the Eastern Cape (Vetten, 2015). The effectiveness of these centres' availability in certain areas has not been established. There are however, 50 hospitals in the Eastern Cape that are tasked with providing primary health care services which include forensic examinations (Regulations Relating to Categories of Hospitals, 2012).

2.10.2 Vicarious trauma

Although not a factor regarding the child, it has to be noted on a Cross Functional Team (CFT) level, that working with these horrific cases is a challenging prospect for role-players. Vicarious trauma is the build-up of trauma from continuous indirect exposure to traumatic incidences. It is acknowledged in the DSM 5 as a form of trauma experienced mostly by professionals working with victims of trauma (GoodTherapy, 2016).

The impact of exposure of police and other officials to traumatic scenes and survivors of crime and violence is not often considered. It is the activities associated with the nature of the work that make officials prone to vicarious trauma. The diagnosis of vicarious trauma is a serious matter, with psychotherapy as a requirement. However, with stigmatisation and ignorance of the importance of effective treatment, officials are at risk of maladaptive to dysfunctional coping mechanisms to deal with the emotional distress. These coping mechanisms are detrimental to the effectiveness of working with victims and investigations as avoidance of detailed information is common (Jirek, 2015). Vicarious trauma is therefore a serious issue of consideration where attrition is concerned. In essence, it means that if the role-players are affected, it can be expected that mistakes or poor work may contribute to attrition in multiple ways.

2.11 THE CHILD VICTIM OF SEXUAL CRIMES

In order to grasp the child concept of a child victim, the child has to be explored as a developing person.

This section is dedicated to explore the developing child in terms of cognitive and emotional development, and includes the environmental influences of the developing child. It further explains the most prevalent literature on the impact of sexual crimes on children, which is the Rape Trauma Syndrome and the Child Sexual Abuse Accommodation syndrome. This provides the dynamics of the traumatised child in context with the investigation processes and explains what is to be considered when working with a child victim.

2.11.1 Child Development

Extensive theories are available on child development, each with a different outlook on what is being studied around development of various aspects of the child person. For this study, the works of Jean Piaget will guide the foundation of child development as it specifically includes how a child develops with a change in circumstance after a new type of experience has to be processed.

There are three basic concepts that are to be understood to conceptualize child development in accordance with Piaget (Heo, Han, Kock, & Aidin, 2011). These are captured below.

Schema:	A cognitive structure by which the person organizes and adapts to their environment Wadsworth (1996).
Adaptation:	Change in schema in two ways, Assimilation (growth in schema) and Accommodation (change in schema) Boeree (2006).
Intellectual organization:	Disequilibrium due to schema not being able to account for circumstance (Small, 1990).

(Heo *et al.*, 2011, p. 733-734).

As the concept child development describes, children are in a slow progression from infant to adulthood. These progressions are mostly categorized in accordance with age. Despite the multitude of different aspects of development, there exists a general consensus on the ages by which children progress from one stage to the next. This is seen as generalized ages and may differ in individuals (Sameroff, 2010). The age categories are defined as from birth to 2 years, 2 to 7 years, 7 to 11 years and from 11 years up to 18 years of age. The first stage from infant to 2 years old will not be included in this study as it is not seen in any way possible that any court would convict on the verbal testimony of such a young child and thus has no relevance to this study.

Cognitive and emotional development is presented in the table below as per age category. The impact of trauma and its effect perceived during consultation with a victim is further presented. It is indicated in all stages that the schema of the child is undergoing intellectual organization because of the incidence of a sexual trauma. Tables 2, 3 and 4 are collective developmental factors compiled by the researcher. It intends to give structure to development and how it presents itself to the observer.

Table 2: Preoperational stage development, trauma and impact on consultation

PREOPERATIONAL STAGE
Normal Development
<ul style="list-style-type: none"> • Can differentiate between past and future • No concept of relativity such as long or short period • Makes symbols of what is not present such as doll to represent self • Centration: can only see their own point of view or perspective • Egocentrism, although cognitive, it has bearing on emotion as their concept of blame is only to the self (Hardman, 2016). • Form own gender identity, thus knowing there is difference between genders • Begins to understand ambiguity • In beginning of stage is imagination, later it is ingenuity • Understanding of race, gender, family, peers and community and being separate from them • Begins empathy and understanding of privilege and poverty • Failure has extreme negative impact on self-esteem • Develops self-awareness from environment • Self-concept is made up by environment (Corey and Schneider-Corey, 2010).
Impact of Sexual Trauma
<ul style="list-style-type: none"> • Child is prone to anxiety especially if the child had been removed or if the perpetrator is the breadwinner • Insecurity occurs when questioning is done incorrectly, clarification of the incident makes the child feel misunderstood and that they are telling it wrong • Lack of self-esteem and confidence as there is no understanding of what happened • Feeling isolated as being different and being the focus of adverse experience (Wild, 2016).
Behaviour in consultation
<ul style="list-style-type: none"> • Disclosure difficulties such as not including details of sexual encounter • Recanting by stating nothing happened despite evidence • Providing a different or multiple perpetrators to protect the real perpetrator due to threat • Multiple sexual encounters will be remembered as one or details cannot be separated as per incident • Not trusting or experiencing fear for the interviewer • Preoccupation with the betrayal of the perpetrator rather than the sexual nature of the incident (Burgess, 2014)

The preoperational stage indicates therefore that the schema of the child is in disequilibrium due to trauma. The child is in a process of assimilation or accommodation which is not instantaneous. Whilst the child is adapting, inconsistencies are experienced in the manner in which the child will perceive the incident (Weiss & Alexander, 2013), therefore accounting for the distorted views and explanation of the incident.

During this stage, it is vital to incorporate tactile resources to assist in extraction of information as the child's ability to recreate visual scenario is developed well, despite the lack of verbal skills to explain in abstract. The child also does not have the perspective to adapt the visual to the perceived assimilation or accommodation, only to recreate the actual scenario.

Table 3: Concrete operational stage development, trauma and impact on consultation

CONCRETE OPERATIONAL	
Normal Development	
<ul style="list-style-type: none"> • Classification of subjects – to a limited extent, things go in categories, but can be misled • New communication skills including reading and writing • Some concept of reversibility. • No abstract thinking, only what they saw (Hardman, 2016). • Attention control is better. • Language vocabulary improves to 40000 words. • Tries to solve problems from own schema (Wild, 2016) • Imagination is part of the child's self-concept. • Self-concept linked to self-worth, value, place in society and self-acceptance. • Self-concept highly susceptible to influence from others (Corey and Schneider-Corey, 2010). 	
Impact of Sexual Trauma	
<ul style="list-style-type: none"> • When they get into trouble, they feel guilty as they know it was dangerous. • Tries to prevent change, and • Imagination may confuse facts. • Displacement of emotion onto something or someone else. • Reaction formation whereby the opposite emotion is expressed than what is actually felt. • Projection of fears on others. • Rationalisation by essentially making excuses for own and other's behaviours. • Being overly mature and sharing information with friends. • Preoccupation with inappropriate sexual content. 	
Behaviour in Consultation	
<ul style="list-style-type: none"> • May avoid revealing identity of the perpetrator. • May use words that fit in the category, but is skewed in context. • Repression: blocking out incident. • Denial: not acknowledging that anything happened. • Compensation: masking perceived weakness of self by redirecting focus. • Regression: seemingly immature behaviour for their age, when that development had already been achieved. • Fantasy: making up stories to deal with reality (Corey and Schneider-Corey, 2010). 	

The child of this developmental stage has enough vocabulary to express themselves and relate the incident well. However, problems occur which may seem to put the incident into a different perspective. The child may, for example, say they consented to the sexual encounter but won't include that they felt fear of saying otherwise; or does not differentiate between sex and rape (Spies, 2013). The inexperienced interviewer may hear details that implicate one person, but the child may deny such a person is the perpetrator out of fear of the possible consequences.

Table 4: Adolescent stage development, trauma and impact on consultation

ADOLESCENCE	
Normal Development	
<p>Pubescent child (11-14years).</p> <ul style="list-style-type: none"> • Develops critical thinking skills. • Understands causal mechanisms. • Feels frightened and lonely, masked by rebellion and exaggerated independence (Hardman, 2016). • Testing limits and adventure seeking • Needs to declare their independence and identity. • Starts realizing fear of violence. • Planning and decision-making not yet mature. • Understands abstract thinking (Corey and Schneider-Corey, 2010). 	<p>Adolescent child (15 to 18 years)</p> <ul style="list-style-type: none"> • Gender identity formation. • Success gives self-confidence, failure gives role confusion. • Feelings of judgement, punishment and being misunderstood. • Peers are important while authority figures are not. • A heightened need to be accepted and liked is more important than personal values. • The need to take control of one's life. • A need to experiment new things, including risky behaviour • Revision of belief systems and perspectives. • Emotional reactions are more intensely experienced. • Avoidance of perceived punishment (Corey and Schneider-Corey, 2010).
Impact of Sexual Trauma	
<ul style="list-style-type: none"> • Identity formation as a victim. • Traumatic sexualization, developing inappropriate schema regarding sexual relationships. • Promiscuity. • Self-harming behaviour. • Mental health issues such as suicide. • Body image issues causing eating disorders. 	
Behaviour in Consultation	
<ul style="list-style-type: none"> • Child will not disclose facts that they believe will harm their reputation, e.g. child will not disclose that they had been drinking before the incident. • Will slouch and show behaviour of indifference which is perceived as negative attitude. • Inappropriate responses such as giggling (Burgess, 2014) 	

The adolescent child is preoccupied with their standing in society. Although quite able to give accurate information on the incident, certain aspects may become skewed, especially regarding their own behaviour before or after such an incident (Corey and Schneider-Corey, 2010). Information that would place the incident in context of a plausible scenario may become altered to put themselves in favour. For instance, a child that was involved in risky behaviour such as experimental drinking may choose to deny such activities. When these acts are indicated by evidence, the child's credibility is in dire question. Unfortunately the child's propensity to engage in risky behaviour has fuelled the concept that an adolescent may have consented and is now ashamed of their own actions and therefore may claim to be a victim. Again, the skilled interviewer will be able to negotiate around these factors to find truth (Corey and Schneider-Corey, 2010).

Although seemingly impossible to extract accurate information from the child during these processes of adaptation, the challenges can be overcome when skilled interviewers are

involved. The skills required include the expert understanding of the child's development and adaptation of schema to traumatic incidents (Jonkers, 2012).

The adaptation of the schema process is environmentally sensitive, and makes the child highly susceptible to suggestibility and corruption of the incident.

2.11.2 The child's environment

The Social Learning Theory of Bandura (1977, cited by Nabavi, 2012), is based on the idea that we learn from our interactions with others in a social context. It is an expansion of the systems theory from person to person, into their community and society. By observing the behaviours of others, children develop similar behaviours. After observing the behaviour of others, children assimilate and imitate that behaviour.

The manner in which a child will adapt schema positively after a stressful incident is called resilience. The traumatized child will adapt to a level of resilience as affected by their own personal strengths which include intelligence, temperament and inherent resilience schemas from the past. It could therefore be claimed that the younger the child, the more susceptible they are to turn to their environment to acquire resilience, whilst the older child will rely more on intrapersonal schema (Luthar, 2013). In an article by Masten and Barnes (2018), it was found that common factors in the child's environment affect resilience. In short, these factors include the most socially functional environments. A family which focuses on close relationship bonds and emotional belonging, will nurture trust and safety. Parenting styles promoting mastery, problem-solving, collaboration and flexibility will nurture effective coping. Effective life routines and role-modelling of self-efficacy will provide stability, self-awareness and a measure of emotional intelligence. Being surrounded by well-functioning institutions such as schools and the community at large will assist in positive, optimistic and hopeful environments which can be adapted to. South Africa however, is a country with environments which promote social functioning and effective coping, whilst other parts of the country have communities spawning environments which are burdened with a variety of social ills. These circumstances perpetuate cycles of violence, crime, substance abuse and includes poor family structures, low educational commitments and deep levels of poverty. These communities are of vital importance as incidents of crime is high and support structures for victims are limited (Kheswa & Tikimana, 2015).

2.11.3 The trauma of sexual crimes

The question whether or not a sexual crime is traumatic can be substantiated in the psychological definition of trauma and validated by the impact of the sex crime on a victim as newly redefined by the Diagnostic and Statistical Manual of Mental Disorders 5th edition (Jones and Cureton, 2014). In the effort to understand sexual crimes against children, two most prominent models stand out. First is Rape Trauma Syndrome, which is associated with a single incident of sexual violation, and second, Child Sexual Abuse

Accommodation Syndrome which is associated with long-term sexual abuse, including grooming.

2.11.3.1 Rape Trauma Syndrome

These are the common categories of reactions, including emotional and behavioural, as experienced by victims after an acute incident. These reactions can occur in three progressive phases namely the acute or immediate phase; an underground or latent phase and a long-term or reorganisation phase. These phases are changeable in its occurrence and no timeframe can be indicated. It is however most common that these stages move along a normative flow likened to trauma processes. This indicates that the acute and underground stages is often seen as lasting the first few weeks after the incident (Burgess, 2014; Patton, McNally, County & Fremouw, 2015). The following table, compiled by the researcher, provides an outlay of the phases with its respective emotional turmoil and behavioural indicators in accordance with (Burgess, 2014).

Table 5: Stages of Rape Trauma Syndrome

ACUTE STAGE	
Initial reactions after a sexual crime incident	
Emotional	Behavioural
<ul style="list-style-type: none"> • Shock and disbelief. • Primary feeling of fear of physical injury. • Humiliation, degradation, guilt, shame, embarrassment, self-blame, anger and revenge (Gihwala, 2016). • Wide mood swings. • Restlessness, visibly tense, crying or sobbing • When describing specific details of the assault, in the controlled style, the feelings of the victim may exhibit a calm, composed, or subdued effect associated with dissociation. • Psychosomatic symptoms (Patton et.al., 2015). 	<ul style="list-style-type: none"> • Fear and confusion. • Difficulty in problem solving and in mobilizing the strength to accomplish daily tasks. • Eating pattern disturbances. • Disturbance in sleep patterns. • Nightmares or restless sleep. • Impaired ability to absorb new information (Burgess, 2014). • People may also make a quick change in living arrangements or may stay in various places, or change phone numbers. • Victims are extremely vulnerable emotionally and to the immediate response of those around them (Patton et.al. 2015).
UNDERGROUND STAGE	
A period during which victims attempt to return to their lives as if nothing had happened	
<ul style="list-style-type: none"> • Victim may seem to have healed emotionally over years (Burgess, 2014) • Unresolved emotional issues 	<ul style="list-style-type: none"> • Attempt to block thoughts of the assault from their minds through avoidance • Avoid talking about incident (Burgess, 2014).

- Deliberate avoidance is the common theme of this stage (Patton et.al., 2015).

- They just want to forget about it.
- This period may be characterized by difficulty in concentrating and some depression.
- Can develop phobias and other fear-related behaviour (Patton et.al, 2015).

REORGANIZATION STAGE

Reliving the incident to a certain extent by experiencing reminders.

- Emotional turmoil often signifies a process of reorganization (Burgess, 2014).
- The event is triggered possibly by seeing the assailant again, the arrival of a subpoena, a dream or nightmare, or a certain smell.
- Trying to make sense of the incident.
- Adverse childhood experiences can be triggered by these events.
- It can be extremely frightening to feel these emotions again (Patton et.al, 2015).

- Fear and phobias may develop.
- Eating and sleeping disturbances can re-emerge,
- Dreams and nightmares can re-emerge (Burgess, 2014).
- Violent fantasies of revenge may also arise.
- Destructive coping mechanisms such as substance abuse (Patton et.al, 2015).

These stages are vital to recognise in the individual, to be cognisant in which dynamic the person finds himself or herself when any form of interaction occurs. One should however remain mindful that these stages are applicable to children as it is to adults. Children will behave and experience emotions in relation to their cognitive and emotional development. It is recognised in legislation, where the National Instruction stipulates the manner in which statements are taken, that some time is to be given to obtain statements as shock occurs after trauma (SAPS, 2008). However, these stages indicate that multiple other factors come into play after such an incident. To deal effectively with these dynamic factors, it is imperative that adequately trained professionals work together with the common goal of bringing these cases to court.

2.11.3.2 Child Sexual Abuse Accommodation Syndrome

The second model called Child Sexual Abuse Accommodation Syndrome, speaks of children who are specifically targeted for sexual violation over a period of time (Summit, 1992). Roland Summit published his first article on what he called Child Sexual Abuse Accommodation Syndrome, which was widely accepted and is still used today as a basis for understanding the behaviour of children who are or have been exposed to continuous sexual violation (Weiss & Alexander, 2013).

The syndrome includes five categories, two of which are requirements to the occurrence of sexual abuse. The remaining three categories are sequential contingencies, which take

on increasing variability and complexity. The five categories of the syndrome are secrecy, helplessness, entrapment and accommodation, delayed, conflicted and unconvincing disclosure and retraction. Secrecy and helplessness are seen as precursors of abuse, whilst the remaining three categories speak to the aftermath of sexual abuse. It is essential to contemplate these stages of long-term abuse as it relates to developmental adaptation of schema and indicates how the child may present information to an interviewer. The categories are explored in sequence, yet care should be taken as there is no definitive boundary of progression from one category to another, rather a build towards all categories forming accommodation of the child's schema. The researcher set it out in a table below in accordance with Spies (2013).

Table 6: Child sexual abuse accommodation syndrome

SECRECY
<p>Secrecy is a key component and most incidents occur when the child is alone with the perpetrator. The perpetrator actively promotes secrecy by convincing the child that telling would result in the loss of the so-called 'special' relationship. The perpetrator promotes this relationship as positive and exclusive, which falls in line with the child's developmental need to feel privileged. Grooming occurs during this time as a precursor to the sexual acts. Grooming entails borderline appropriate touching and play which progresses into inappropriate intimate touching. In essence, this desensitises the child to touches of any kind. A vulnerable child who craves a close bond with parents, is not used to such adult attention and devotion and initially the child naturally enjoys the relationship.</p>
HELPLESSNESS
<p>A child's developmental stages are primarily focused on survival, and until adolescence, a child is instinctively aware that he or she requires an adult for survival. This instinct creates the basis for a child to subjugate to adult authority, which gives rise to the uncomplaining child and confusion of other adults as to why the child did not disclose.</p> <p>The fact that the adult is often in a trusted and apparently loving position, only increases the imbalance of power and emphasizes the helplessness of the child. The child in turn, may have been targeted as he or she was already in a vulnerable or neglected position where disclosure would be futile or met with blame. Intimidation is used to threaten and isolate the child. Lastly, stigmatisation and isolation creates a sense of helplessness and self-blame. These emotions encourage secrecy and renders the child dependent on the perpetrator to manage the relationship, despite unwanted or painful sexual experiences.</p>
ENTRAPMENT AND ACCOMMODATION

The process of establishing a sexual relationship with a child can take time and therefore sexual encounters happen on multiple or frequent occasions. The child accommodates the increasing sexual behaviour of the perpetrator as it is rationalised that the increase is little and indistinguishable from previous acts, thereby accommodating the acts in the schema. The child is entrapped by the idea that the sexual behaviour had not been reported before, therefore cannot be reported now. The child then feels there is no way to get out of the situation. The inherent vulnerability or neglect of the child will be appeased by the accommodation of the sexual acts.

DELAYED, CONFLICTED, AND UNCONVINCING DISCLOSURE

Disclosure, if any, for a child is ultimately a process. The initial disclosure is normally from family conflict, incidental discovery or sensitive outreach and community education by child protective agencies or schools. The child is then immediately confronted with the reality of the consequences. The child will learn that the threats of the perpetrator were real, families may be broken apart and the child's livelihood may be at stake and the child may be removed by Child Protective Services. From the child's perspective, this may lead to disclosure in a manner in which they believe they can salvage their livelihood. It is for this reason that a child would disclose abuse, in a manner which is unconvincing or conflicted.

RETRACTION

Retraction is when a child recants their disclosure, mostly due to the complex, confusing aftermath of disclosure. The child's egocentric nature claims responsibility for the aftermath and he or she is not able to manage the feelings of guilt, shame and self-loathing. As the child cannot understand the concept of their victimisation, they feel they should retract to keep the status quo, since they were able to accommodate the sexual nature of the relationship, but not the aftermath of disclosure.

The effect of sexual trauma on a child victim has a severe and detrimental individualistic impact on their physical, emotional, psychological and social state and development. Some children can appear asymptomatic, while others may appear heavily affected in the acute aftermath of disclosure or in the long term (Sinanan, 2015).

It is from within this holistic system of impact, and not a place of functional equilibrium that the child is brought forward as the sole witness in bringing this criminal activity to justice. These aspects are considered in dealing with child victims from the onset of investigating a crime. The inefficacy of these considerations may prove to fall short of what is required to bring a case to fruition and therefore plays a vital role in considering attrition of sexual crimes on child victims.

2.12 CONCLUSION

In concluding the literature review, the global phenomenon of attrition is validated by literature (United Nations, 1989; ACERWC, 1999; Jehle, 2012). It is explained as a natural occurrence in which the rate is indicative of success in prosecution of these cases and is a global concern. Multiple studies and global intervention strategies have elevated this concern and attempted to provide foundation to implement these strategies in legislative reform (United Nations, 1989; ACERWC, 1999; Jehle, 2012).

South Africa has indicated its agreement in response to these global endeavours and as such has undergone stringent legislative reform with respect to providing as much attention as possible to curb attrition and the overall experiences of victimization incurred as a result of sexual crimes (South African Law Reform Commission, 1999; Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007; Vetten, 2015). Reform was aimed at the final stage of the criminal justice process and as a result, most reformed specialised sexual offences trial and court experiences were seemingly found favourable. However, it was found that minimal or ambiguous reform occurred with regard to the investigation of such cases where it is indicated that most attrition occurs. The legislation specifically identifies the inter-sectoral collaborative as the mechanism to drive the investigation.

These vital role-players were reviewed in isolation and as a collaborative unit. SAPS was identified as the most critical as the instigator of criminal procedure and managing the investigation until fruition for prosecution. The review found SAPS unit, FCS, to be vital in the investigation. Issues or challenges hampering effective investigative processes was primarily found with the taking of statements, especially if the victim is a child. Personal beliefs about sexual offences, high case loads along with lack of effective performance indicators and possible corruption were found to be factors that may increase attrition..

The NPA was identified as the next vital role player as the custodians of prosecution for the State. The role and function of the prosecution as a guiding force in investigation was explored in line with the stringent constraints placed on the child victim by the abolished, yet maintained cautionary rule. This rule was found to be unconstitutional and not truly abolished, as it seems to be relative yet clearly in need of reform. Further exploration of the child witness determined that existing child-centred approaches were only applicable to the final stage of the criminal procedure.

Literature regarding the procuring and provision of medico-legal evidence was explored. It identified the DoH and medical professionals as major role players with set obligations. The result thereof is directly linked to attrition.

With regard to victims and children, the vital role played by social services is well established yet not validated.

They also play a part in providing services to victims to assist in the healing process. This was found to be lacking in interpretation amongst social service providers such as DSD.

Child protection services are extensive and well-mandated to address risk and to intervene where necessary. Services to adults are found to be less descriptive and is awaiting reform. A gap exists in the mandated services of DSD. Forensic social worker services are specialised. It is not included in generic social services, and is a way in which most issues pertaining to the child witness can be resolved. These services lack recognition from legislation as well as the necessary guidelines.

The collaborative efforts of the NPA has resulted in the establishment of Thuthuzela Care Centres where a team of professionals are located in one place in order to facilitate the collaborative effort. In essence, they form a team that facilitates the investigation of sexual crimes and can provide the required interventions that a child may need.

The literature would not be complete if the most vital part of the investigation, the traumatized child victim, was not reviewed. The child as a developing person, was explored in relation to their specific stages of development which could influence the investigation. The components of capacity of each stage was considered in relation to the impact of trauma and the manner in which the child will deal with such intense experiences. This provided a general insight as to how the child victim would integrate developmental coping and adjustment, and most importantly, how this would be perceived in behaviour. The most prevalent models on sexual crimes and its impact on children is explored. Rape Trauma Syndrome and the Child Sexual Abuse Accommodation Syndrome validates in their specific dynamics, the development and adjustment children experience as a result of these crimes, and highlights possible pitfalls of interpretation where attrition is the result.

CHAPTER 3

THEORETICAL FRAMEWORK

3.1 INTRODUCTION

The theoretical framework of the study provides a foundation of solid scientific knowledge upon which the study finds validation within the profession (De Vos & Strydom, 2011). This chapter will bring the widely accepted Systems theory to the Organisation as a dynamic system. Organisational sciences or Industrial Psychology, applies the system theory to the organisation to provide an intellectual framework that grasps the complexities of organisational dynamics (Corlett, 2003). Two concepts are explored within the Organisational theory, the first is the concept of Cross Functional Teams (CFT) and the type of organisational structure they operate within, namely, a Bureaucratic structure. This structure is essential to identify due to its legislative process as prescribed for the CFT.

An essential element of the impact of trauma is to be noted in this regard, as the victim/family plays an integral, yet different role in the team and their dynamics cannot be ignored as a major part of case attrition.

3.2. SYSTEMS THEORY

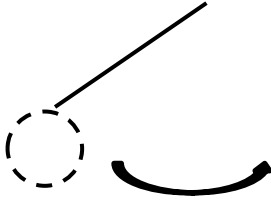
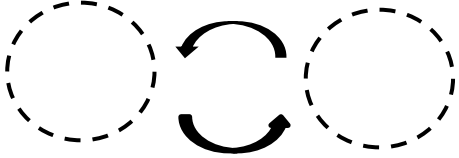
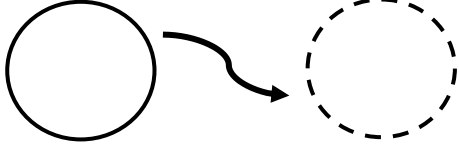
A system is described as parts that is whole in itself and has a perceived boundary. The boundary allows for the input and output into and from the parts of the environment it is in. Parts are therefore more than what exists inside of its boundary. Attention is placed on the interactions and the relationships between parts and their environment in order to understand an entity's structure, functioning and outcomes (Mele et al., 2010).

The System Theory sets out to understand interaction, influence and changeability. Simply put, the theory looks at understanding how parts behave as being part of a greater system and how they relate to another; all of which exists in an influential environment. It analyses the whole and not just itself (Mele et al., 2010). There are key concepts in the systems theory that helps to understand not only the concepts, but also defines the terminology used to understand the theory in its entirety. The key concepts according to Sutphin, Mcdonough and Schrenkel (2013) are illustrated below:

Table 7: Key Concepts of the Systems Theory

Concept	Definition	Depiction
System	Interacting and interdependent entities that function individually to form a complex whole	

Subsystem	System in a larger system that has its own boundaries and norms	
Supra-system/ environment	Environment of relationships in which a system is embedded	
Boundaries	Defines what is inside or outside of a system	
Rigid boundaries	System boundaries in a state of not allowing interaction or change	
Open boundaries	System boundaries that allow exchange in the form of input and output	
Indeterminate boundaries	A system can be too open when it does not discern or filter interaction or change	
Relationship	A norm-based pattern of interaction	
Hierarchical	Any system that ranks some persons or groups above others	
Homeostasis	Exists when there is effective functioning levels - depicted as a pendulum in balance	

Disequilibrium	Exists when there is input in functioning levels - depicted as a pendulum out of balance	
Feedback Loop	A communication and information processing path that regulates behaviour among systems	
Goal	A system's desired outcome that motivates behaviour. Depicted as a rigid boundaries developing to open boundaries	

Systems are seen as a whole with interactive parts. Each part plays a role in the system and establishes its goal and functioning. The most basic component in societal systems is the person who operates within a system made of other parts. This foundational understanding of systems theory is important for the application of organisational theory as applied in this study.

3.3. ORGANISATIONAL THEORY

Spector (2012) explains that Organisational Psychology was developed from the human relations movement in organisations. Organisational psychology is concerned with work organisations as systems involving individual employees and work-group behaviour, as well as the structure and dynamics of organisations.

A service-providing organisation, where the organisation's goal is to provide a specific service, is seen as a system which comprises of input and output where the input activates the system. Input in this case refers to an outside system, or client, that requests a service which activates the organisation to form a goal and to work with input and output to achieve that goal, such as when a victim reports a crime. This is seen as a socio-technical system with the two main components being socio (the people/ victim and professional role-players) and technical (the instruments/ procedural mandates) (Mele et al., 2010).

A Work Group is defined as two or more people who interact and share some interrelated tasks and goals. Amongst Work Groups, there is a differentiation between a Work Group and a Work Team. The Work Team is a featured model in this theory as it defines the Work Team as having three distinctive qualities; the actions of the individuals are

interdependent and coordinated, each member has a specified role and the team has a common task, goals and objectives.

This model described by Mele et al. (2010) has six basic concepts:

- *Roles and responsibilities of individual members*
A work team consists of individuals who perform different aspects in concert to reach the goal or to provide a service. These are formal roles that can be highly specialised and one member's function may or may not be fulfilled by another member, based on the nature of the team. The team of professionals required to perform specific and formal functions after a sexual crime has been committed against a child, is highly specific and specialised. These professionals include a trained detective of the FCS unit of SAPS, a forensic nurse or qualified medical doctor, a social worker from a child protection organisation, a specialised forensic social worker and a qualified prosecutor. These are professional roles that are definitive in their boundaries and functions as prescribed in legislation.
- *Norms of written or unwritten behaviours that are required to perform tasks*
Team norms are mostly unwritten, operational understanding of behaviour. It creates cohesion and influence over members in relation to their roles. In general, the norms of the team addressing sexual crimes are also prescribed in principles as laid out in policies (Department of Social Development, 2008b; Department of Social Development, 2020; SAPS, 2014b; National Prosecuting Authority, n.d.).
- *Cohesiveness is the force that keeps the team working towards their goal.*
Cohesiveness relates to shared group norms and conformity to such norms determines the level of cohesiveness. The cohesiveness relates to success in reaching the goal. It further relates to the impact if a member falls short in norm-keeping and how it affects the group as a whole.
- *Process Loss* is the time or effort not spent on team goals, but on increasing team effectiveness. This relates to the time spent by the group to tend to the group and not the goal. Maintaining the group or team functionality and cohesion-forming, allows for knowledge integration and is essential to understanding the integration of the different principles or professional diversity in its own rights.
- *Commitment of the individual involvement in the team.* Commitment is an individual trait of each member towards the group and its goals. It is intrinsic in nature and where a team member's commitment is high, it is found that performance and satisfaction is correspondingly high and turnover of staff is low.
- *The Team Mental Model*
The purposeful action of coming together to complete a common goal forms a mental model of understanding. The team mental model is the understanding of the

goal which is to be achieved with the added concept of knowledge integration (Spector, 2012). Knowledge integration is in essence how the team understands the role and functioning of the other in striving for the goal. This allows for the development of cohesiveness and support for one another and brings about increased commitment and adherence to norms. In this study the mental model of the CFT is focused on criminal procedure. More specifically, the investigation of sexual offences to the fullest extent of the law (Majchrzak, More & Faraj, 2014).

3.3.1. Cross Functional Teams (CFT)

Within the scope of the Industrial/Organizational theories, the concept of the work team is seen in a variety of forms depending on their function and goal such as cross functional teams, cross agency teams, multidisciplinary teams etc. These are terms given to describe the use of a team of differently skilled persons working together to achieve a certain goal.

Gupta (2016) further explains the CFT is different to a work group as it is expected that the differently skilled persons that make up the team would formally report to different hierarchical structures which are in line with their relative profession, rather than one position up in the hierarchy of one organisation. The cross agency team concept can be seen as an extension of the CFT as it includes the concept of different organisations working together with the same principles as the Cross Functional Team and with the same goal in mind. Ultimately, the concept of the CFT is the creation of a service by integrating several disciplines' components and functions. The team then becomes a system of its own with a specific goal (Gupta, 2016).

For the purpose of this study, the CFT is, the Investigating officer, the medical professional, the social worker and the prosecutor, each within their respective roles and bureaucratic structures. The team also includes the victim who is a role-player and whose case becomes the goal of the entire team.

3.3.2. Bureaucratic organisations

Bureaucracy is an identifiable form of an organisation type, mostly synonymous with large organisations and almost absolutely in every form of government administration. Max Weber had given theory to the concept of bureaucracy in 1922. He explained that large or public service institutions base their functioning on a set of key principles.

These are:

3.3.2.1 Defined Services and Competencies.

The services are defined by law. Functions, personnel capacity and decision-making are clearly defined by regulation and policy. The functions of the prescribed team of professionals dealing with sexual crimes states that each professional has a specific task. The investigating officer is tasked to investigate the case in terms of the Criminal

Procedure Act and the National Instructions (Criminal Procedure Act 51 of 1977, 2010; SAPS 2008). The medical professional is tasked to perform an examination of the victim in accordance with the forensic medical procedure (Department of Health, 2005). The social worker is tasked to perform child protection and victim services as prescribed by the Children's Act and Victim Service Charter (Children's Act 38 of 2005, 2006; Department of Welfare, 1998). The prosecutor is tasked to prosecute the criminal case in accordance with the Criminal Procedure Act (Criminal Procedure Act 51 of 1977, 2010).

3.3.2.2 The Protection of Employees

In performing their functions, employees are protected by statute. Each defined service provided by professionals as mentioned above, is protected by the respective acts to intervene and implement the prescribed procedures without hindrance. Purposeful hindrance becomes a matter of obstruction of law.

3.3.2.3 The Hierarchy of Functions

The organisation is very structured and a hierarchy exists which establishes management and subordinate positions within the organisation. This runs almost parallel with the structure of power and authority within the organisation. As mentioned in the first principle, each departmental official has a specified function which is overseen by hierarchical management structures to which the employee reports to. Despite functioning in a work team, this reporting structure is designed for professional monitoring of that specific function and therefore each professional reports back to their respective professional superior.

3.3.2.4 Recruitment

Employees are appointed based on capacity and qualification and includes a contractual commitment. The inclusion of a professional in the team is based on respective qualifications in what is referred to as performance agreements in the South African government. A performance agreement is in essence a contract to perform certain duties. The design and implementation of performance are specific to each department and profession.

3.3.2.5 Wages

Employees have a fixed salary and retirement benefits. Salaries are categorised in accordance with the organisation hierarchy.

3.3.2.6 Disciplinary Action

The authority has the right to control the work of the subordinate, and ineffective work is met with defined disciplinary measures. How an organisation goes about this is usually captured in organisational guidelines that must align with the country's labour laws.

3.3.2.7 Performance

The promotion of an employee is done on the basis of objective criteria alone. The criteria is drawn up in a performance agreement that is usually attached to the job description for the specific position.

3.3.2.8 No ownership

The employee cannot own the position or the resources of the organisation. It is essential to have an understanding of the nature of the bureaucratic working environment so as to consider the power and limitations the employee has to perform the duties effectively.

The organisation of bureaucracy in different state departments is complex and varies in form in accordance with the need or specified service of that department. The function and operational activities from an administrative department such as Home Affairs, would differ greatly from a department such as the Department of Health (Von Holdt, 2010).

The differentiated department employees' function within their department and structures alone, but the laws and statutes that prescribe services in certain instances require two or more departments to work together. These interdepartmental functions may be in the form of succession, for example, obtaining medical assessment from Health to apply for a disability grant from South African Social Security Agency (SASSA). In other instances, it is required for employees to form multi-disciplinary teams to perform a certain function (Intergovernmental Relations Framework Act 13 of 2005, 2005).

South Africa is divided into national, regional (provincial) and local spheres (levels) of government. These spheres are described as distinctive, interdependent and interrelated. It is instructed from within the Constitution, the Intergovernmental Relations Framework Act and within a variety of other acts – specifically those dealing with services requiring multi-disciplinary services, that specified departments interact in a scheduled or non-specified manner to complete the task or service (DoJ & CD, 2020; Intergovernmental Relations Framework Act 13 of 2005, 2005).

It is this concept which is brought to the dynamics of the organisational systems theory as the theoretical framework of this study.

3.4 TRAUMA MODEL

Trauma is a highly studied field that has, to date, not been captured in a single accepted theory (Carlson & Dalenberg, 2000). Most theories or models that speak to the accepted

wisdom of trauma, fails to specifically encapsulate the complexity on a biopsychosocial level. Models have been developed, with great success, that either speak to trauma in general, or a specific type of trauma. Coping after trauma has been researched and theorists focus on measuring the extent thereof (Bonanno & Pat-Horenczyk, 2011). It is with this in mind that a general trauma model as captured by Carlson and Dalenberg (2000), is discussed as part of the theoretical framework and trauma specific theories are explained as part of the literature review. The basic parts of the theory identifies three defining features of traumatic events, its negative meaning, lack of controllability, and suddenness.

Negative meaning simply implies the negative connotation, perception or stigma that the individual places on the meaning of the traumatic event. Simply put, it is our beliefs about how bad the incident is and its perceived consequences for the individual, the family and society (Carlson and Dalenberg, 2000). This implies the negative impact the incident will have on a person's input-output with the environment.

Lack of controllability is arguably the most essential aspect as it refers to how much control the person had during the traumatic incident. The less control one has to instinctively preserve one's life, the more traumatic the experience becomes (Carlson and Dalenberg, 2000).

Suddenness is a basic element of trauma as it speaks to the person's inability to have seen the traumatic experience coming. The ever-learning mind struggles to deal with primary survival learning if the experiential learning does not have logical foresight, therefore not allowing the mind to form precautionary measures, bringing about psychological distress (Carlson and Dalenberg, 2000).

The Trauma Model furthermore builds a conceptual framework for the effects of trauma and how people respond to traumatic events. In acknowledgement of individuation, trauma has two basic categories of responses, re-experiencing and avoidance on a biopsychosocial-behavioral level. This matrix is depicted in the table below.

Table 8: Trauma Model Matrix

Mode	Re-experiencing	Avoidance
Cognitive	Intrusive thoughts and images	Amnesia for trauma, derealization/depersonalization
Affective	Anxiety, anger	Emotional numbing, isolation effect
Behavioural	Increased activity, aggression	Avoidance of trauma-related situations
Physiological	Physiological reactivity to trauma reminders	Sensory numbing
Multiple modes	Flashbacks, nightmares	Simultaneous avoidance in multiple modes

(Carlson and Dalenberg, 2000)

The model further identifies five predispositions which affect the individual's experience of traumatic symptoms. These include the individual's genetic predisposition of resilience or vulnerability, their biological predisposition, and biological functional changes from previous trauma. Furthermore, the experience of trauma is influenced by the level and nature of the person's development (Carlson and Dalenberg, 2000). The lack of emotional and cognitive development of children is therefore both adversely affected due to their lack of emotional control and cognitive understanding. It may also be differently affected as they are unable to understand the negative aspect of the incident or have less concern with uncontrollability (Centre for Substance Abuse Treatment, 2014).

Children experience trauma in relation to their developmental stages. Children in preoperational stage may display fear-related symptoms, along with hyper-arousal, confusion and psychosomatic symptoms such as headaches or stomach aches. In the concrete operational stage, children may experience regression, aggressive behaviour, traumatic play and concentration issues. Adolescent children may experience depression, engage in risky behaviour, rebellion, promiscuity and social withdrawal (Centre for Substance Abuse Treatment, 2014). In relation to the systems theory, trauma is an input from the external environment which impacts on an individual. The nature of trauma is such that it overwhelms any form of system boundary and the characteristics of that system.

3.5. APPLICATION TO STUDY

The reporting of a sexual related crime involving a child victim activates a statutory process that incorporates the use of a Cross Functional Team (a defined system). This team comprises of at least four basic disciplines/departments/employees including SAPS, Health, Social services and Justice (NPA), all of which are the identified sub-systems (Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007).

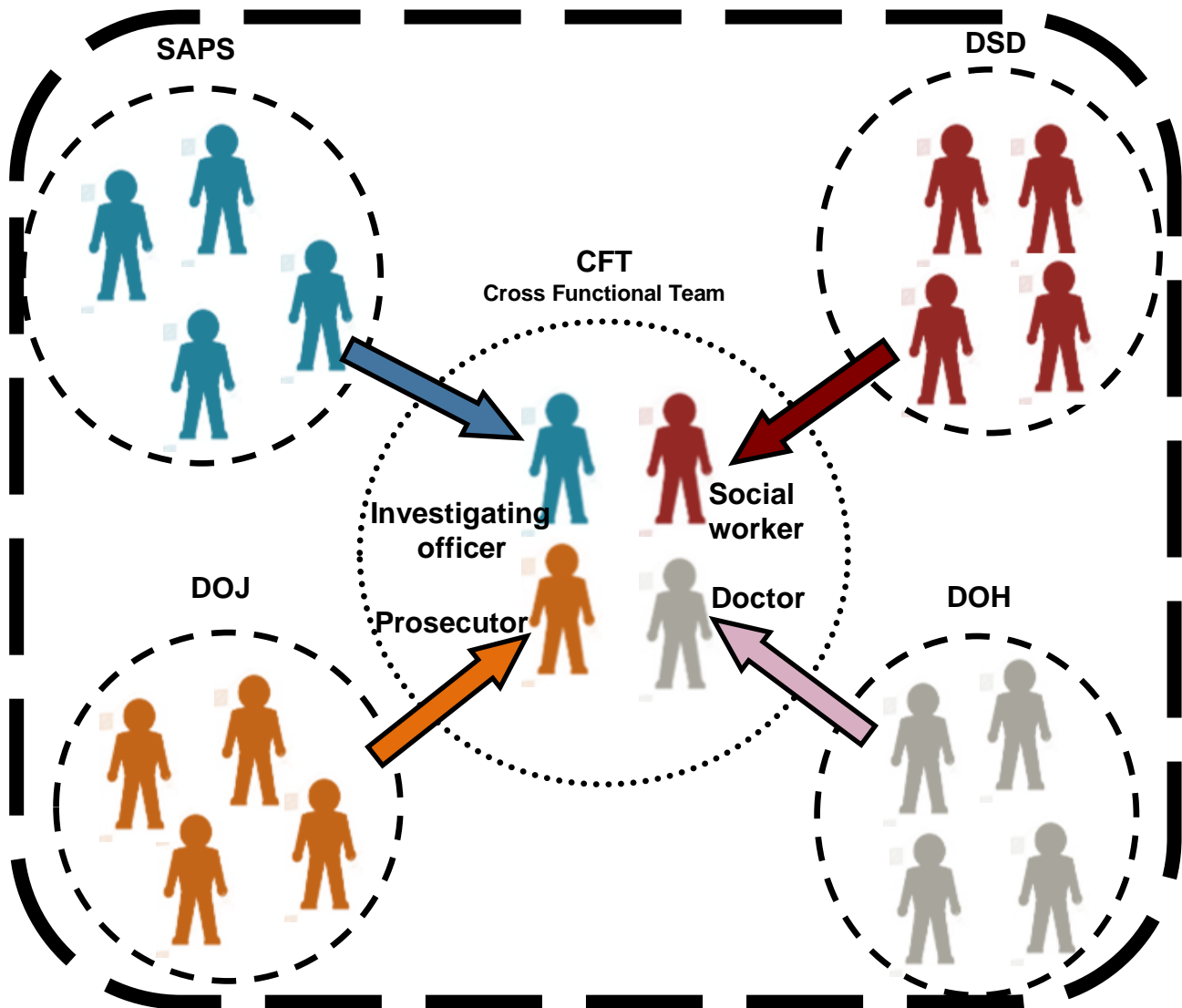


Figure 2: Cross Functional Team Composition from Bureaucratic Organisation

This is an illustration of how the Organisational Systems theory creates a Cross Functional Team with boundaries and interactive patterns and goals.

The team is influenced by their organizational structures and processes, but can be influenced by the environment and other factors. Most prominent of these factors is the nature and dynamics of the minor victim and family/caregivers. The victim is an integral and influential part of the team, and is part of a dynamic system of their own.

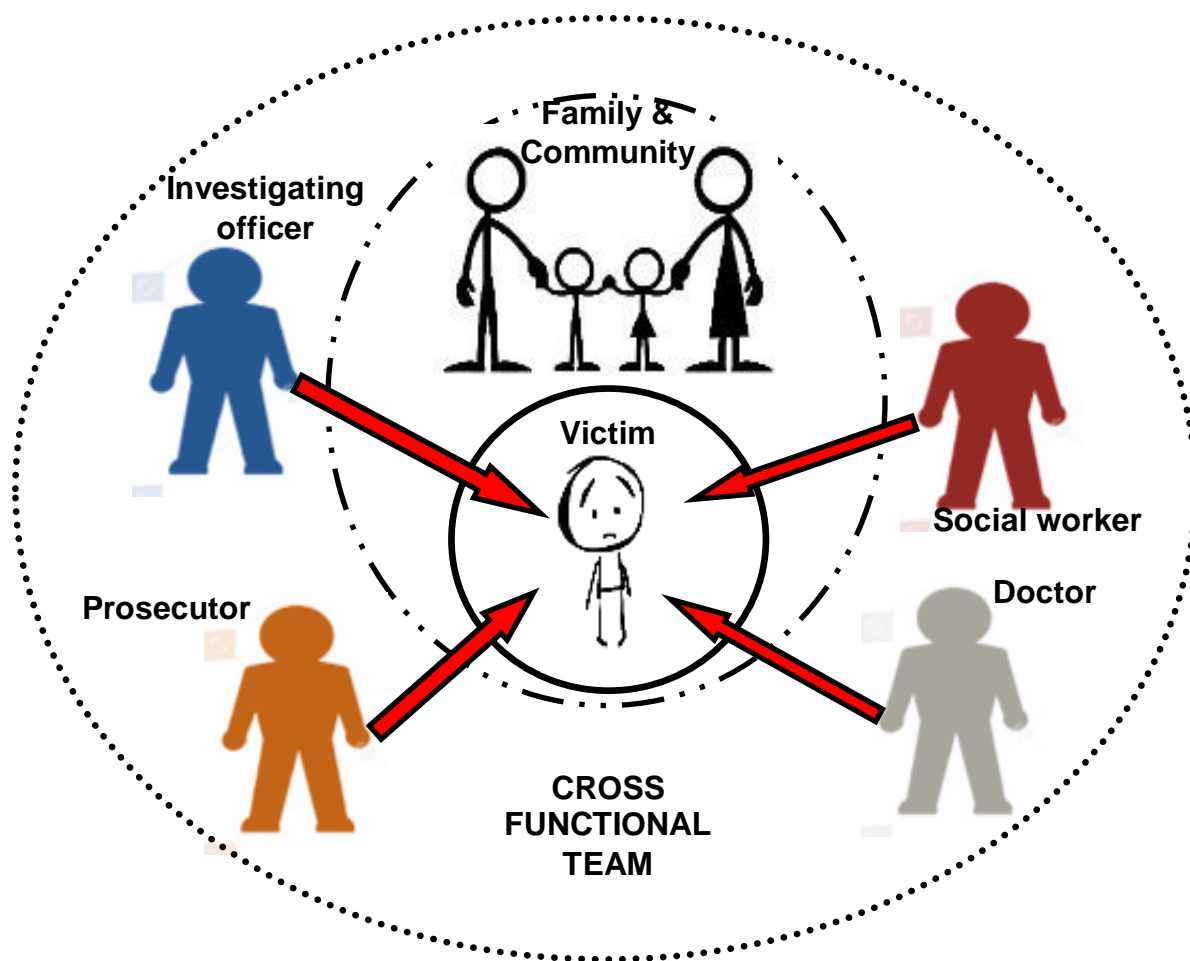


Figure 3: Systems Model of Child Victim within CFT

This illustration is the same CFT, incorporating the child victim, who has dysfunctional boundaries and attributes as a result of trauma. A CFT may encounter difficulties in achieving its goal due to operational inter-dependence, poorly defined or misunderstood functional strategies, misaligned objectives and/or the dynamics of the victim. If the dynamics of the team do not support collaborative interactions and an understanding of the impact of trauma on the system, the goal of the team may not be reached successfully (Mele et al., 2010). In this case it means that the case will not be prosecuted in court and becomes a statistic of attrition.

3.6. CONCLUSION

The achievement of goals in any form of team effort requires a certain amount of dynamics and inter-functional human resources. Failure to achieve such goals requires investigation to determine how the team should operate to ensure the highest probability of success. In this instance, the success would be to prosecute the perpetrator of a sexual crime against a minor child.

This chapter has applied the bureaucratic style of the South African government to the Organisational System Theory concept of Cross Functional Teams. It sets out the legislative frame and structure from which the subsystems/department/employees are to operate when called upon.

The subsystem/victim/child also forms part of the team and as such should also be considered as a sub-system, affected by trauma, with the dynamics of its own development.

CHAPTER 4

METHODOLOGY

4.1 INTRODUCTION

The chapter reveals the research methodology and rationale of using a qualitative research approach to achieve the study aims and objectives. It explains the use of this methodology by how the methodology was utilised in the research design, population and sampling strategies and implementation. It also reveals the participant's prior contact with the participants as part of the employment of the researcher within the Department of Social Development. The method of data collection is provided along with processes and challenges experienced during the study. The data collection was presented along with the methods incorporated to ensure trustworthiness, representativeness and credibility.

4.2 RESEARCH METHODOLOGY

This research followed a qualitative approach as explained by Schurink, Fouchè & De Vos (2011). It seeks to answer questions about a phenomenon to better describe and understand it. The approach can be regarded as holistic with themes emerging as the process unfolds. The approach is appropriate to determine the extent of the problem and ultimately to understand the magnitude of the situation and is most effectively used when the variables are not known (Creswell, 2014). The aim of this research is to understand the attrition of sex crime cases involving child victims during the investigation process, and therefore a qualitative research approach is used as it allows for the in-depth exploration of the phenomenon of attrition. These are not measurable variables as it is personal experiences and interpretations obtained from the investigating officers and prosecutors working with these cases.

4.3 RESEARCH DESIGN

Delpont, Fouchè & Schurink (2011) states that a research design provides directives for the research to ensure that the findings are valid. The study employs phenomenology, a qualitative research approach concerned with understanding certain group behaviours from that group's point of view (Glossary of Key Terms, 2009). It is an exploratory, descriptive and contextual design. Exploratory questioning was followed to gain insight and data from the investigating officers and prosecutors working within the Kouga area of the Eastern Cape. The exploratory design refers to the researcher obtaining a general picture of the experiences (Fouchè & De Vos, 2013). It can be concluded that an interpretivist approach was followed in the study as data was collected then interpreted within the diversity of each participant's own unique professional life (Fouchè & De Vos, 2013).

4.4 POPULATION AND SAMPLING PROCEDURE

Sampling refers to a part that is considered a full representative unit of the entire population. The sampling procedure provides credible boundaries of the study to ensure validity and reliability for the results it yields (Strydom & Delpont, 2011).

4.4.1 Population

The population of a study is all persons of a specific group under study (Longbottom et al., 2009). For this study, the relevant groups identified in dealing primarily with sexual crimes are the South African Police Service who investigates the crime, and the National Prosecuting Authority who utilises the investigation findings to prosecute the guilty party.

A geographical area was identified, as the vastness of the specified SAPS and state prosecutors sample would have been on a national level and too vast for a singular study. The Kouga district was targeted as it has a normal rate of high and low areas of reported cases of child sexual crimes (Gould, Burger & Newham, 2012). The cases that are reported cover a spectrum of the general population including factors such as culture, ethnic groups, socio-economic status, religion, urban, rural etcetera. In addition to the SAPS members, it was deemed vital to include the prosecutors of these cases during the study. This was considered as one specific SAPS unit may have limitations in their experiences, which may inadvertently result in collective biased views. Another rationale for including prosecutors as participants is to obtain the objective professional view of the guidance given to officers and the results of the investigation. This ensures holistic and reliable qualitative data.

4.4.2 Sampling Procedures

A sample comprises of elements of a subset of the population considered for actual inclusion in the study (Strydom & Delpont, 2011). A purposive sample procedure is the selection of individuals who meet the set of requirements as set out in the design of the study. These individuals have specific knowledge or experience related to the topic of study (Longbottom et al., 2009). For the purpose of this study the purposive sample was used within the specific vast spheres of the government departments that deal specifically with this category of cases; namely the FCS and the State prosecutors who *de-facto* specialise in sexual crimes. This sets up an inclusion and exclusion criteria to secure relevant experiences in the specific area of study.

The sample type utilised was a purposive non-probability sample. This is used as it allows the researcher to compose the sample of elements that contains most of the characteristics that serve the purpose of the study. In this case, the inclusion of investigating officers working currently with sexual related crimes, as well as prosecutors working on these cases. The sample targeted for the study was the current Family Violence, Child protection and Sexual Offences Unit (FCS) members working in the

Kouga area. State prosecutors targeted were those who are assigned to the area of the courts of the Kouga court jurisdiction.

4.4.3 Entry into research sites

The access to participants in their respective professions required governmental permissions. These permissions were set out as per individual department. The National Prosecuting Authority was contacted and as per the policy (National Prosecuting Authority of South Africa, 2017), an application and required documentation to conduct research was submitted (Annexure B). On 9 April 2019, a favourable permission was received from the Director of Research Management, (see Annexure L). This permission was required to follow normal channels of communication within the departmental bureaucracy. Contact was made with the local directorate who gave permission to contact any available identified prosecutors who work with sexual crimes. Although certain prosecutors were identified, the permission was circulated to these persons stating the voluntary nature of participation, yet motivating staff regarding the importance of such research to better services. It allowed the researcher to contact the various courts to request additional or alternative participants. Interviews were set via emails and participants were provided, in advance, with a copy of the NPA approval (Annexure L), a letter to explain the study and the voluntary participation letter (Annexure C). Participants were also provided with the interview guide (Annexure G), ethical approval from the University (Annexure H) and a letter to explain ethical issues such as the confidentiality and anonymity (Annexure D), audio recordings and the safekeeping of data collected. Interviews commenced in May 2019 (Annexure E).

The SAPS National Instruction 1 of 2006 was obtained by the Component Head Research of the SAPS National office, which prescribes the applications of research in SAPS. The required documentation and applications were completed and submitted, (Annexure A) and favourable permission was granted on 15 May 2019 by the Acting Provincial Head: OD & Strategic Management EC (Annexure K). This permission was required to follow normal channels of communication within the departmental bureaucracy. Significant delays were experienced in this process and access to participants were only made available eight months later in January 2020. As the Kouga FCS unit has limited members, arrangements were made via the captain in charge of the unit. This was also done via email and again included a letter to each participant explaining the study (Annexure C), voluntary participation and ethical issues (Annexure D), ethical clearance from the University (Annexure I), the SAPS permission letter (Annexure K), interview guide (Annexure F) and audio recording (Annexure E). The captain explained these to his officers in the presence of the researcher and he motivated for their participation in the hopes that such research may affect future change. All officers were eager but not necessarily available for the two days as set out by the captain.

4.5 PRIOR CONTACT WITH PARTICIPANTS

I have been a social worker doing forensic social work services as an employee of the Department of Social Development since 2011. This has brought me in contact with various FCS members and state prosecutors. It can however be noted that these services were only expanded to the Kouga district in 2016, and no more than 3 limited contacts with two of the FCS participants had been made prior to this study. I have regular contact with only two participants from the National Prosecuting Authority regarding cases with children testifying in court. All contacts with participants prior to the study were professional in kind, and as a social worker, I had no position of authority or influence in their experiences. The feedback regarding social work services during investigation as part of the study, was met with unbiased observation from a researcher's perspective. This can be seen in the feedback, both positive and negative, in relation to the researcher's position of employment.

4.6 METHOD OF DATA COLLECTION

Data for this study was collected in the form of interviews with participants. A semi-structured interview format was utilised, with an interview guide (Annexure F & G), to explore their opinions on factors that contribute to attrition (Greeff, 2011). The Semi-Structured Interview is a method of data collection that provides for an interview tool/guide asking standardised questions, but allows the interviewer to stray from the guide in order to explore the information the participant provides (Noori, 2018), thereby improving qualitative data gathering.

The interview guide in relation to the research objectives and literature review was prepared beforehand. The guide provided the interviewer with prepared open-ended questions to guide the interview and facilitate exploration in data gathering. Along with the interviewer's skills, the guide is seen as a useful instrument of exploration such as listening, probing, questioning, paraphrasing, reflection, clarification and reflective summary (Greeff, 2011).

4.6.1 Pilot study

The researcher initiated the process of data collection by first having one interview as a pilot study as per planned procedure. This was done to test the interview guide in terms of its efficacy and thoroughness in achieving the collection of the required data for the study (Noori, 2018). A common problem was experienced in the form of 'stage fright' (Greeff, 2011, p. 346). The participant had prepared a few short notes prior to the interview, these were however lost or forgotten whilst working through the interview guide as the use of audio recording unsettled her. The device was placed in the middle to ensure good sound quality. The missing information was collected at the final question which asks for any further thoughts. The data captured was still on point and a valuable contribution to the study. The recording and transcription was sent to the university research supervisor who agreed that both were credible and valid in terms of the aims of

the study. It also proved that the interviewer was capable of sourcing accurate data (Strydom & Delport, 2011). The supervisor did note that more exploration was encouraged for future interviews.

The interview guide and data collection and thus the pilot, proved to be successful. The pilot was therefore incorporated into the study. The interviewer had then opted to put the recording device to the side, rather than in plain view for the rest of the interviews. This worked well in terms of sound quality and non-verbal communication skills were used to shift the focus of the participants to the researcher and interview guide. The interview guide served as a visual aid for the questions posed and was provided to the participant to complete and sign. The researcher ensured thorough exploration during the ensuing interviews.

4.7 DATA ANALYSES

Data analysis is a dynamic process, weaving together a recognition of emerging themes, the identification of key ideas or units of meaning and material acquired from the literature (Akinyode & Khan, 2018). An intensive data analysis only starts when all data has been collected and prepared. Sometimes the process begins before all the data is collected. Each transcript is read thoroughly in its entirety. The aim at this stage is to use the data to initiate thought processes, and to see whether any interesting patterns can be identified (Percy, Kostere & Kostere, 2015).

4.7.1 Data Familiarity

This is the process through which the raw data from the interview was recorded in a transcription (Akinyode & Khan, 2018). It allows for capturing the said word in writing, and allows the researcher to gain an overall sense and impression of the data by reading and re-reading (Maguire & Delahunt, 2017). Transcription not only captures the written word, but the process also incorporates the manner, attitude and interpretation of the milieu and the characteristics of the participant who provided the data. The data from all participants was personally collected and transcribed. Field notes were written after each interview to record observed behaviour and the environment from which the participant operates (Greeff, 2011). The interviews were conducted in the participants' offices which allowed for a natural sense of the person-in-practice. This was found to be essential as it provided a visual perspective of certain mentioned challenges which could only be observed in a collective form rather than on individual level. The transcriptions and field notes bring together an anecdotal reflection of the interviews, ensuring data is collected for the qualitative study (Akinyode & Khan, 2018).

4.7.2 Initial Coding

Initial coding is in essence, the organising of data and ensuring all information is where it should be and in line with the interview guide. This is essential as data may be

spontaneously provided or come from exploring a different part during interviews. As a result, a meaningful and systemic manner is created in which to view the data collected (Maguire & Delahunt, 2017). During this process regularities are noted and categories of elements are observed in what is meant by the participant (Schurink, Fouche and De Vos, 2011). These categories of elements become the initial coding and present the emerging themes.

The data was organised and regularities were identified. The immersion in the data revealed both expected and unexpected regularities as well as singular mentioned elements with great qualitative value.

4.7.3 Developing Themes

Developing themes is the process of coding based on the data that is then collected under self-named themes (Schurink et. al., 2011). This links the meaning of responses of participants and reviewing the data in relation to the literature review findings. Holistic perceptions are developed in the findings of the data that is also worked into themes and connected with the aims and objectives. Themes are to be reviewed, defined and named (Maguire & Delahunt, 2017).

The data of this study underwent a process of developing themes from two viewpoints; the researcher's and an independent coder. Both identified similar regularities and created similar categories. Themes were also similarly developed and a combination of theme-naming corresponding with the aims and objectives of the study, was accepted by the researcher. The findings were then ready to be compiled in a written report.

4.7.4 The Research Report

The research report is not only a written account of the findings of the study, but incorporates the whole study procedure as it was conducted, including what went right, what went wrong, highlighting the strengths and limitations, as well as what could have been done differently or improved on (Maguire & Delahunt, 2017).

This report brings together the literature as the accepted wisdom of the topic as it is understood by all and sundry. The report compares the literature to an empirical study as was done by the researcher in an aim to verify and expand on this accepted wisdom. This is then laid out in a prescribed format so as to ensure validity, credibility and trustworthiness.

4.8 ENSURING TRUSTWORTHINESS

Qualitative research is proposed to be assessed within different criteria to establish its trustworthiness as it focuses on experiences rather than on real elements. Lincoln and Guba (1999 as reflected in Schurink et al., 2011, p.419-420) suggests the following elements which was considered during the study:

4.8.1 Representativeness

Representativeness is measured by establishing whether the information examined is actually looking at what it is supposed to, in relation to the literature and the objectives of the study. To ensure meaning, the researcher based the data collection procedure on literature, a theoretical basis as well as the researcher's anecdotal knowledge of the phenomenon.

4.8.2 Credibility

The credibility of the data collection process is to establish if it will provide similar results if the process is repeated elsewhere. Credibility was achieved by standardising the conditions under which the data collection procedure was used, moderating the degree of difficulty, minimising the effects of external events, standardising instructions, maintaining a persistent evaluation procedure and the use of a pilot study. These aspects were considered when designing the data collection procedure and its implementation.

Interviews become a trustworthy source of data should the following four parts be considered:

Firstly, **Authenticity**. The selected participants were within the boundaries as set out in the sampling procedure and theoretical framework. In this case it was the current investigating officers of the FCS unit from the Kouga District and state prosecutors from the NPA, specialising in sexual crimes.

Secondly, **Transferability**. The data collected from the interview should be similar if it were to be replicated in another setting. This is complex in a qualitative study, but the targeted geographical area in the study is representative of a blend of a variety of the general population spectrum including factors such as culture, ethnic groups, socio-economic status, religion, urban, rural etc. The data collected took into account the national standardised operating procedures of South Africa, as well as the accepted international effects of sexual crimes on children. Referring back to the theory will enhance transferability should the study be replicated with the South African context.

Thirdly, **Dependability**. The data collected from the interview should be similar if it were to be duplicated in the same setting. As a qualitative study is conducted in a changing environment, dependability is problematic. The research process follows the prescribed steps in data collection and dependability is increased by the level of saturation achieved within the process of data collection.

Lastly, **Conformability**. This concerns the objectivity in which the researcher collected and analysed the data and whether it would be analysed differently by another researcher. Evidence of the findings is to corroborate the results by means of auditing (Schurink, Fouche & De Vos, 2011a). The utilization of a semi-structured interview with an interview guide lends conformity to objectivity. An independent coder was requested to code the data in conjunction with the researcher. This concluded a highly similar result in coding

themes. Both the researcher and the independent coder's coding was used to identify emerging themes in line with the objectives of the study.

4.9 CONCLUSION

This chapter unveiled the methodology in which this qualitative study was conducted. The process thereof was presented in such a manner as to display the study's focus on its aims and objectives. The study was conducted in line with processes required by data collection procedures as per qualitative methods and design by departmental gatekeepers, all the while ensuring trustworthiness of the study. This chapter validates the procedure in which data collection corroborates the findings as set out in the next chapter.

CHAPTER 5

DISCUSSION OF FINDINGS

5.1 INTRODUCTION

The aim of this study was to explore the phenomenon of attrition of cases involving child sexual crimes and to analyse the factors contributing to the attrition during the investigation stage in a sample study conducted within the Kouga district, Eastern Cape.

As research is lacking in certain aspects of attrition, it was considered that focus be placed on the investigation stage of the criminal justice procedure. This classifies the research question as: *To explore the phenomenon of attrition of cases involving child sexual crimes and to analyse the factors contributing to the attrition during the investigation stage in a sample study conducted within the Kouga district.*

In attempting to answer this question, a qualitative research approach, as described in the methodology chapter, was utilised. This method incorporated a semi-structured interview format which collected data from participants who work directly with these child victims during the investigation. The data contained valuable information which was coded in a manner that speaks to the aims. and objectives of the study which are:

- To explore the phenomenon of attrition in cases of child sexual crimes during investigation in the Kouga district, Eastern Cape;
- To explore and analyse the efficacy of collaboration and contribution amongst relevant stakeholders' during the investigation of cases of child victims of sexual crimes;
- To explore and describe the investigating officers and prosecutors' opinions on factors that contribute to attrition of cases of child victims of sexual crimes.

The theoretical approach to any study is essential and in this study, the perspective of the General System Theory as imposed on Organisational psychology was utilised as a basis for the concept in Cross Functional Teams. This speaks to the role-players who essentially function as a team in bringing a case to justice or not. It is reasonable to believe that the team and its effectivity holds sway over the investigative process and has great influence on the success in bringing a case to court. The focus of the study is specifically on children and therefore their development. The impact of trauma is seen as vital in understanding the dynamics the team has to deal with during investigation of these cases.

5.2 BIOGRAPHICAL DATA OF PARTICIPANTS

Interviews were conducted with 12 participants; 5 state prosecutors and 7 FCS officers. For both groups of professionals, a saturation point was reached where data collection revealed repetition of elements rather than expansion of concepts, thus satisfying the qualitative aim of the study (Noori, 2018).

Table 9: Demographic Details of Participants

	#	Jurisdiction	Position/ Rank	Gender	Race	Age	Lang	Years experience	Number of Yrs working sex crimes
NPA	J1	Nelson Mandela Metropole	Snr State advocate	F	Asian	45	Afr	18	9
	J2	Nelson Mandela Metropole	State advocate	F	Asian	38	Afr	15	11
	J3	Humansdorp	Reg court prosecutor	M	White	50	Afr	25	20
	J4	Humansdorp	Reg court prosecutor	F	Coloured	38	Afr	14	10
	J5	Nelson Mandela Metropole	Snr public prosecutor	F	Black	41	Xhosa	19	10
SAPS	S1	Humansdorp cluster	Constable	M	White	31	Afr	8	6
	S2	Humansdorp cluster	Constable	M	Coloured	32	Afr	7	5
	S3	Humansdorp cluster	Warrant Officer	M	White	49	Afr	27	20
	S4	Humansdorp cluster	Captain	M	White	51	Afr	29	11
	S5	Humansdorp cluster	Warrant Officer	F	White	49	Afr	26	26
	S6	Humansdorp cluster	Sergeant	M	Black	43	Xhosa	15	10
	S7	Humansdorp cluster	Constable	F	Black	38	Xhosa	7	5

This table depicts the participants who are involved in criminal cases where the victim is a child within the demarcated jurisdictional area of Kouga. Two different types of participants are indicated and given a participant number code. Participants from the Department of Justice – NPA are prosecutors of various levels. These participants are indicated as **J**, with a number to indicate to which participant of that category made the statement. South African Police officials from FCS are indicated with **S**, also with a corresponding number.

In relation to prosecutors, the table indicates the differentiation between state advocates and court prosecutors. Although all participants from NPA are state prosecutors in criminal courts, advocate level prosecutors are allocated to High Courts, while state prosecutors are allocated to Magistrate or Regional courts. A case allocation to a specific court is pending on the convictability and seriousness of the crime. In both instances the same criminal procedure is prescribed by law which satisfies the aim of the study.

SAPS officials are designated different ranks, pending on certain levels of experience and positions they hold. All SAPS participants are part of the FCS unit in the Kouga area. Despite varying ranks, all officials investigate sexual crimes, including all cases where children are involved. The variation in rank has no impact on cases as all investigations are prescribed in criminal procedure which also satisfies the aim of the study.

For all participants years' experience indicates that no participant is new in the field as the least experience is indicated as 7 years' experience and 5 years' experience being the least in working with these crimes. Similarly both groups of participants have participants with over 20 years' experience working in this field. This indicates a certain level of experience for the least experienced, but also provides a seasoned opinion of those who have long years of service.

The variables in the sample participants provide a broad spectrum within the fields of the investigating officers and prosecutors. This provides a valid and valued level of input, especially where different departments have similar inputs.

5.3 FINDINGS OF ANALYSIS OF ATTRITION OF SEXUAL CRIMES CASES OF CHILD VICTIMS

The findings are presented in a breakdown of themes, subthemes and categories and listed in the table below.

Table 10: Data Analysis Findings

5.3.1. THEME 1: Kouga specific factors that may cause attrition in sexual crimes cases	
Sub-Theme	Category
5.3.1.1. Case flow between family violence, child Protection and sexual offences unit and national prosecuting authority is stalled	5.3.1.1.1 Channelling process between FCS and DPP
	5.3.1.1.2 The implications of NPA Instructions
5.3.1.2 Kouga FCS covers a vast geographical area	5.3.1.2.1 Geographical Jurisdiction of FCS is too vast for effective service delivery
	5.3.1.2.2 Limited services available in the jurisdiction for clients
5.3.2 THEME 2: Challenges experienced with specific role-players when investigating sexual crimes of child victims	
Sub-theme	Category
	5.3.2.1.1 The weight of medico-legal evidence

5.3.2.1 Inadequate support and services from department of health	5.3.2.1.2 Medical practitioners' capacity to perform examination
	5.3.2.1.3 Thuthuzela Care Centres
5.3.2.2 Department of Justice fails to address the unique needs of the child	5.3.2.2.1 The public has little faith in the effectiveness of the criminal justice process
	5.3.2.2.2 The implications of the cautionary rule
5.3.2.3. Department of Social Development's failure to render services to child victims	5.3.2.3.1 Forensic services are poor
	5.3.2.3.2 DSD fails to provide psychosocial services to child victims
5.3.2.4 Inadequate management of investigation process by saps	5.3.2.4.1 SAPS Officer's lack of capacity to take statements from children
	5.3.2.4.2 FCS lack of resources cause critical time delays
	5.3.2.4.3 Officer's personal motivating factors to excel
5.3.2.5 The challenges of inter-sectoral collaboration between bureaucratic governmental departments	5.3.2.5.1 Lack of understanding of processes to streamline services
	5.3.2.5.2 Poor communication among role-players
	5.3.2.5.3 Specialized service required to work with children
	5.3.2.5.4 Adequate human resources to address the need
	5.3.2.5.5 Emotional impact of dealing with sexual crime cases of child victims
5.3.3 THEME 3: The effect of timeous intervention during investigation of sexual crime cases of child victims	
Sub-theme	Category
5.3.3.1 The effect of time on evidence	5.3.3.1.1 Medico-legal evidence
	5.3.3.1.2 SAPS statements and the impact of time on memories
	5.3.3.1.3 Forensic assessment
	5.3.3.1.4 Forensic lab services to fast track DNA reports
	5.3.3.1.5 Extended time effect on testimony
5.3.3.2 The therapeutic intervention debate	

5.3.4 THEME 4: The child victim of sexual offences	
Sub-theme	Category
5.3.4.1 Understanding the child's level	
5.3.4.2. Effect of trauma on the child victim	5.3.4.2.1 The impact of trauma on child's cooperation during investigation
	5.3.4.2.2 Secondary victimization
	5.3.4.2.3 Influence of the child's environment after a sexual crime
5.3.5 THEME 5: Recommendation on preventing attrition of sexual crimes of child victims	
5.3.5.1. Community perception of sexual crimes against children	5.3.5.1.1 The effect of alcohol and poverty on sexual crimes against children
	5.3.5.1.2 The effect of the child protection register
	5.3.5.1.3 The impact of early release from prison
5.3.5.2. Other factors that may fast track cases	5.3.5.2.1 Improving on sexual offences courts
	5.3.5.2.2 Recording of interviews

5.3.1 THEME 1: KOUGA SPECIFIC FACTORS THAT MAY CAUSE ATTRITION IN SEXUAL CRIMES CASES

The first theme emerging from the data refers to aspects that are specific to Kouga that may cause attrition in sexual crime cases. The most pertinent factors relate to the geographical areas which are included in their jurisdiction. Where this area is situated in relation to the magisterial jurisdictions affects their functioning and the interaction between role-players, specifically the NPA. It should be noted here that the jurisdiction of the courts differ from that of the operational areas of other government departments. Two sub-themes emerged with two categories each. The first subtheme focuses on the case flow of the docket, how it is stalled in the channelling process during the investigation. In sub-theme two, how the instructions or guidelines from the NPA is a matter of frustration for investigating officers. Both cause unnecessary time delays and subsequently play a role in attrition.

5.3.1.1 Case flow between FCS and NPA is stalled

A criminal case is captured within a docket as described by (Watt, 2011). This entails all paper-recorded evidence. It is opened by SAPS when a case is reported. The investigating officer assigned to the case is the custodian of the docket until it is handed over to court for prosecution. During the investigation stage, the docket moves between

the investigating officer and prosecutor/Director of Public Prosecution (DPP) until all criminal procedural requirements are fulfilled and evidence is collected. In practice, this requires a relay of the physical file (the docket) between SAPS and NPA.

Only when the docket is complete does it become possible for it to be presented and considered for court. As soon as it is ready for court, the prosecutor conducts consultations with various witnesses in preparation for testimony. These consultations are facilitated by SAPS who have to ensure that the victim and every public witness required by the prosecutor, is taken to the consultation appointment (Moonsamy, 2018).

5.3.1.1.1 Channelling of dockets between FCS and DPP

The channelling of dockets has a practical implication and the efforts involved are specific to each and every police and DPP office wherein the jurisdiction of the case falls. In the Kouga area, cases are channelled to the magistrate's courts, one of which is in close proximity to the FCS offices. Other magistrate courts are situated in Joubertina, Storms River, Hankey and Patensie. The Regional, Sexual Offences and High courts are situated in Port Elizabeth and Grahamstown (DoJ & CD, 2020). Child victims under 14 years of age are referred to either Grahamstown or Port Elizabeth. The decision of which centre the case is referred to is made by the NPA. This brings about a complicated structure of channelling and mobilization of persons. With this complicated structure comes time delays. The following quotes from participants attest to this; *'The regional court is just too full. When the docket is transferred to the DPA, the DPP office can take months to return it back for further investigation.'* (Participant S2).

Participant S4 indicated that docket movement delays are due to poor collaboration; *'For the cases that have to go to High court; we really struggle with those DPP offices because we don't have a good link with them'*.

As there is no specific literature, the researcher incorporated observations from the field notes of the participants. All notes commented on the physical environment of the offices of participants. All of the field notes noted that FCS investigating officers' offices were noticeably empty or devoid of an extensive number of dockets. Paperwork on desks were indicated as waiting to be filed in the docket which was still at DPP. As explained by participant S3 whilst he indicated to paperwork on his desk during the interview;

'The senior state prosecutor to whom you have sent everything, you never get that docket back. Now, I still have to work effectively, but now I look like incompetent because my 69's is not filled in and in the meantime I received two more statements. I can't file it anywhere. I cannot put it in the docket, if the docket is away for months.'

In contradiction to this, the NPA/DPP offices were observed to be noticeably bursting with dockets still to be dealt with or waiting to be channelled back to their various police offices. This clearly shows an imbalance which causes delays and attrition in the case, as further explored in theme three.

5.3.1.1.2 *The implications of NPA instructions*

A particular frustration brought forward by the data was the effect of NPA's instructions on planning and mobilization of clients for the purpose of consultation. Six participants indicated that this can cause severe time delays. Participant S1 explains; *'Children's rape cases get referred to the DPP. You will then get so many instructions from the prosecutor, many of which seem nonsensical as it won't affect or prove your case. It's just nonsense, but a checklist that is being completed.'*

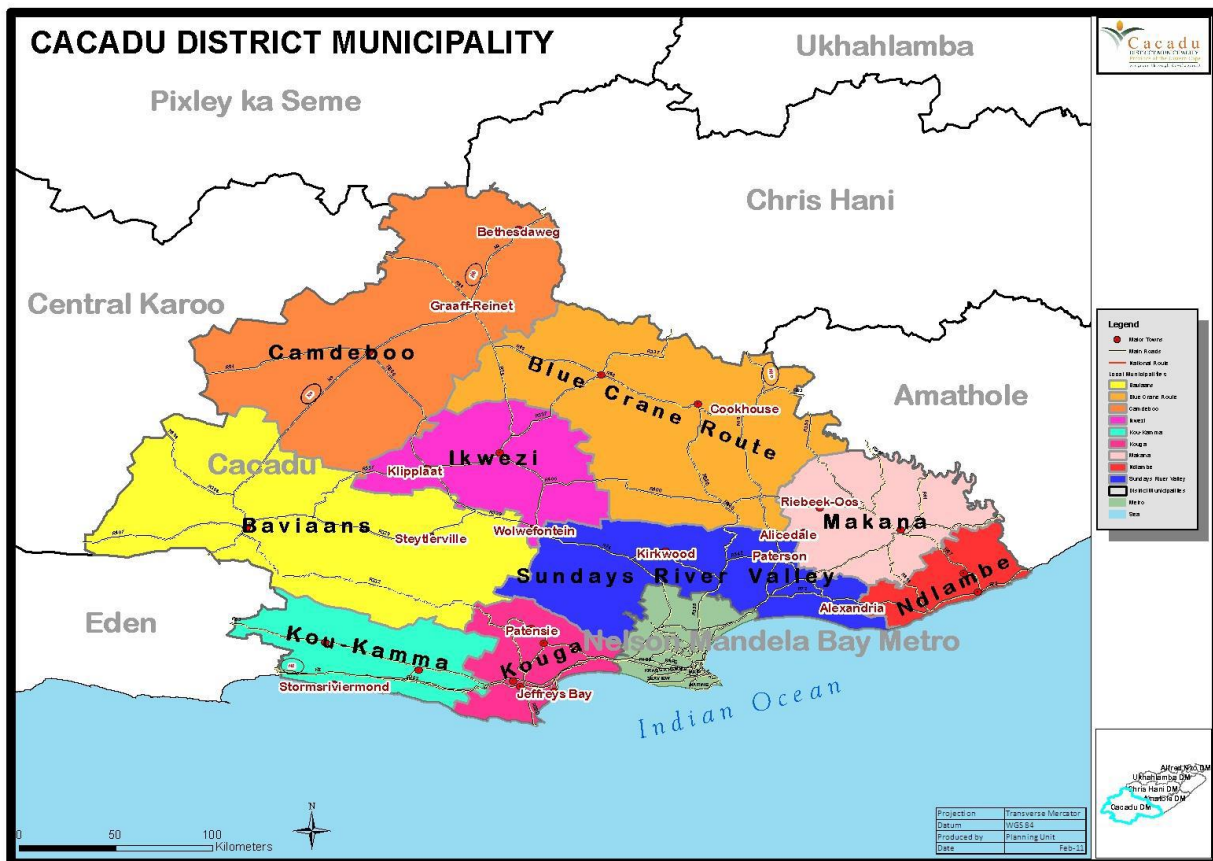
Participant S4 gives example of instructions received from NPA: *'An advocate is asking if he can consult, for example, 'This Tuesday, in the case of the two boys'. Two boys? He does not give a case number or anything. Are the boys victims? Are they suspects? Which case is he talking about? I ask him to send a CAS number, just a case number so I can respond. It is my responsibility to gather the people to consult. The sooner the consultation can take place, the sooner the case can go on the roll. He doesn't come back to me and now I still don't know which case it is. On that Tuesday, there will be no consultation. So the consultation has to be rescheduled. The advocate then goes to high court for another case, postponing consultation for two weeks and then three weeks, before you know it another year has gone by before the case is finalised.'*

The NPA is given powers through the Constitution to present criminal proceedings on behalf of the state and to facilitate the functions thereof, including what is required in a case for it to be presented to court (Moonsamy, 2018). Participant J1 explains; *'I and another advocate are specifically dealing with sexual offences cases. We give guidance. We indicate to SAPS what is needed. That is basically our role, to ensure that it is done properly. Reports that are required, forensic social services, if required, psychological reports and so forth, assessment of the children's ability to testify'*.

Arrangements made without consideration of the impact of such arrangements on both the investigating officer and the child, is a local matter of frustration and is aggravated by the geographical area of operation which is discussed in the following sub-theme. It is also a factor in inter-sectoral collaboration which is discussed further on in theme 5.3.2.5.

5.3.1.2. Kouga FCS covers a vast geographical area

The Kouga jurisdiction or area covered by FCS is in fact inclusive of the municipal area of Kou Kamma. The map below provides a view of the area.



(Cacadu District Municipality, 2015)

Kouga Local Municipality stretches over approximately 2 133 square kilometres and is home to a small population of about 70 000 people. The area is amongst the fastest growing in the country (Sarah Baartman District Municipality, 2016a). Kou-Kamma is approximately 3 575 square kilometers and neighbors the Kouga Local Municipality to the East. Kou-Kamma has a population of about 40 000 people. It is a relatively poor community which reports high unemployment and low levels of literacy. Settlements are scattered and situated far from each other, which pose challenges to the development of infrastructure and basic services (Sarah Baartman District Municipality, 2016b).

The vastness of the area (calculated at 5 708 square kilometres) is a further disadvantage and challenge, especially since the court jurisdictions and the respective DPP offices are situated in Grahamstown (212 km away) and Port Elizabeth (89 km away). The aforementioned geographical factor affects effective criminal procedure within the area and results in the sparsity of services to victims and may be a direct cause of attrition.

5.3.1.2.1 Geographical jurisdiction of FCS is too vast for effective service delivery

Seven officers commented on the impact of the vastness of the area and how it affects the FCS unit (which is based in Humansdorp), and their service delivery in the area.

Participant S2 (5) explained how the long distances affect children;

'Our challenges are that we drive a lot with the children. When we have a child as a victim. You have to take the victim to different places, especially with our Social Development being in Port Elizabeth and Uitenhage. We have to drive a child from Joubertina to Uitenhage and you have to get up early. The child also has to get up early and when you get to the Social Development itself the child is tired and the child doesn't want to talk. Then we see that you can't actually continue with your job because, a tired child doesn't talk and that's a challenge that we face.'

Participant S5 strengthened this sentiment;

'One challenge is for example, a child that is from Joubertina. We have to go get them. Which is a hundred-and-twenty kilos from us and from there they have to go to Grahamstown or Port Elizabeth for the day. So it is traumatic for the child as he is out of his community. I feel the DPP can rather consult with them here at our office because we have the facilities especially for them to come and consult.'

Participant S4 indicates the remote regions of their jurisdiction;

'We cover the Humansdorp region which is Jeffrey's, St Francis and Humansdorp's cases served in the regional court. We also serve Patensie, Hankey and all the outside courts, Joubertina, Stormsriver is all served by our regional court prosecutor.'

Participant S6 explains that it is no easy task to mobilize;

'We need authorities to drive, we need permissions. Some of those permissions my captain cannot authorize as the cluster commander must give them. The cluster commander is not only dealing with us, but with all the stations. Sometimes you take a request there and it's not signed on the same day.'

It is markedly noticeable that the mobilization of the child victims affects their emotional wellbeing. The geographical area has an impact on time and availability of resources to mobilize victims in a time-effective manner. This clearly has an impact on cooperation and little consideration is given to the needs of the child. These issues occur in many areas and seemingly the discrepancy between resources and under-resourced areas are substantial (De Wet, 2013).

5.3.1.2.2. Limited services available in the jurisdiction for clients

It is a well-known fact that services in specifically rural areas are limited, much more so would-be services to a specific subset of persons which include victims of crime (Alpaslan & Schenk, 2012). The following statements describe service availability in the Kouga area

as per medical and social services. Ten participants commented that these kind of resources are very limited.

Participant S2 explained,

'We work in an area where there's a lack of doctors. There's none. When rapes occur on a weekend, there's almost just one doctor for the whole Sarah Baartman area.'

Humansdorp is the only place in the Kouga area with a small district hospital with limited capacity, implying that only a few practitioners are available outside of office hours (Regulations Relating to Categories of Hospitals, 2012). Although a medico-legal examination may be done by any general practitioner, fees are applicable and general practitioners are reluctant to testify in court.

Social services to victims in the Kouga area are also very limited. The Department of Social Development has three offices situated in Humansdorp, Joubertina and Hankey respectively. There are four NGOs that may provide suitable services in the area and are all situated in Humansdorp or Jeffrey's Bay (Department of Social Development, 2016). There is however, no indication whether services are indeed provided to victims as it rather indicates child protection services.

Participant S5 explained:

'The trauma counsellor is in Jeffrey's Bay. Joubertina, Stormsriver, Kareedouw, Patensie and Hankey have no such facilities.'

Participant S5 further explains;

'You get the impression (from social workers) of 'do not make your problem mine.'

The trauma counselling services mentioned by the participants is a single person volunteering in the area. This creates a problem should this person leave or stop services altogether as there is no organization that will replace such a service. Services in the Kouga area for child victims of sexual crimes are limited to non-existent, which may link directly to attrition. The Kouga and Kou-Kamma areas are a combination of rural and urban settlements and is fast growing in populace. It is an area stricken with poverty and social ills and has sparse resources.

Theme one denotes the Kouga-specific factors that may lead to attrition. It was found that communication amongst role-players suffer severely under the stressors placed by the geographical vastness of the area. These include the channelling of dockets, the mobilization requests of victims from various areas and the location of court jurisdictions, all of which adds to time delays in the progress of cases. A further vital factor is the lack of resources within the specific area denoting a rather bleak picture of the reach of social services to victims. It can be perceived that the Kouga area struggles to bring the team of role-players effectively to the forefront of dealing with sexual crimes where children are involved.

5.3.2 THEME 2: CHALLENGES EXPERIENCED WITH SPECIFIC ROLE-PLAYERS WHEN INVESTIGATING SEXUAL CRIMES OF CHILD VICTIMS

Theme two brings together the challenges experienced with role-players during investigations of sexual crime cases. These role players are what is referred to in the theoretical framework as the components of the Cross Functional Team (CFT). Each component is primarily seated in a bureaucratic structure of standard operations.

The components are mainly state departments that have a mandatory role to play in the investigation stage of a sexual crime against a child victim. These state departments include Department of Justice - National Prosecuting Authority, The South African Police Service, Department of Health and the Department of Social Development. These departments have a functional role to play in the exploration of attrition, particularly where services, or lack thereof, are concerned.

Sub-themes

The sub-themes are identified per role-player working with sexual crimes committed against children. The four role players are identified as having the most impact on the investigation as they play a direct role during the investigation of such crimes. Each role-player impacts on attrition and factors identified by participants that could be facilitating attrition are explored. A final subtheme emerged where categories of challenges or issues arose that is experienced by all of the role-players. This subtheme focuses on the interaction-structure and its dynamics as a Cross Functional Team with the goal of bringing justice to these child victims.

5.3.2.1 Inadequate support services from Department of Health

All medical practitioners, including the Department of Health practitioners, have a responsibility and duty to supply relevant medico-legal evidence to court as part of the criminal justice procedure (Kotze, Brits and Botes, 2014). Medico-legal evidence involves the evidentiary details of medical aspects and information of a case in documented format as mandated by the courts. This includes a J88 form, any medical notes and observations made by the medical practitioner, as well as his declaration statement of the examination (Kotze, Brits and Botes, 2014). During the interviews, participants from both the NPA and SAPS were asked to share their experiences regarding the process and evidence provided by medical professionals. It was noted in various responses that, despite the legal requirement of undergoing a medical examination after a sexual assault (Department of Health, 2005), there seems to be little evidence that the medical field complements the criminal procedure law as a major role-player in the Cross Functional Team (CFT). Three main categories of opinions were identified in relation to evidence produced by the Department of Health; the weight of their evidence, medical staff's capacity to perform the examinations and pockets of excellence such as TCCs which serve as success stories.

5.3.2.1.1 *The weight of medico-legal evidence*

The J88 is an official form of the Department of Justice and when completed, is *prima facie* evidence, which means that it is basically accepted truth, unless disproved in court. It provides a clinical assessment of a specific medical examination conducted by a medical professional for the specific purposes of generating evidence in a criminal case (Mogale, Kushner & Richter, 2015).

Participants from the NPA and SAPS who actively utilise the J88, had not only provided qualitative input on the medico-legal evidence, but clearly indicated unanimous collective experiences. Their experiences were that medico-legal evidence carry a heavy weight in the consideration of facts as indicated by this participant (but that all parties involved do not always realize the importance thereof).

Participant J2 shared her thoughts,

'I think with the Department of Health don't always understand the importance of their work, or the part that they deal with when it comes to investigating these sexual offences or sexual crimes when it comes to children.'

Participant J1 explained the impact of medico-legal evidence in upholding a verdict after appeal.

'I had a case where the perpetrator was found guilty but when we (he) went on appeal, the judge ruled on a section 2124 affidavit that was not correctly filled in. Which meant that evidence was not properly produced and unfortunately it was reversed, to a 'not guilty', and he ended up walking.'

In scrutinizing the vast amount of literature to support these claims within a South African context, it was found that studies skirt around the weight of a J88 in a South African court. The Sexual Offences and Related Matters Act and consecutive guides consider the J88 a mandatory piece of evidence that corroborates a witness statement (Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007; Department of Health, 2005). Jewkes et al. (2009) however, found in their study that the presence of a J88 as evidence had little effect on court outcomes. The difference between the weight that legal documents in the South African context put on the presentation of the J88 and research finding, raises the question whether the quality of a J88 is considered as being definitive or helpful as evidence. The aforementioned brings to notice the lack of common purpose which is to drive all role-players in assisting in the gathering of evidence. The task complexity requires a specific trained medical professional to fulfil this role in the CFT.

5.3.2.1.2 Medical practitioner's capacity to perform examination

As a mandated piece of evidence, the J88 is key evidence in significant crimes, especially sexual crimes where children are involved. It is crucial that the person who completes the examination and completes the form is capable of doing so. Capability in the context of the J88 form includes not only capacity to perform the examination diligently and come to a most exact conclusion, but also to be willing and able to testify as an expert witness. In practice this is seen as highly desirable, yet difficult to obtain.

The majority of participants were of the view that there is a lack of capacity with most medical staff who complete the J88 as the quotation below suggests:

Participant S5

'I will say it is the young doctors in their community service year that do the examination and they don't always fill out the form correctly. In my opinion they are not always trained in completing the form. So many times you have to go back and ask what was meant here, or to request a written a conclusion.'

In a study on the readiness of community-service doctors to complete medico-legal documentation, Fouché et al. (2018) highlights that clinical forensic medicine is a prerequisite of the Subcommittee for Undergraduate Education and Training of the Medical and Dental Professions Board in South Africa. They further argue that the focus on clinical forensic medicine in the undergraduate syllabus has slowly decreased, resulting in a vast number of doctors simply not understanding the process and requirements of providing such evidence.

The collection of evidence is a specialised task that requires training in order to bridge the gap between the medical and legal disciplines, and for the two disciplines to speak the same professional language. It can be reasoned that ineptitude of a medical professional to conduct a clinical forensic examination gives rise to the concept of a 'silent J88' (Mogale et.al., 2015). This refers to a J88 that is not completed as per legal requirement or has no evidentiary value rendering the evidence silent in the courts. These are described during interviews as a common occurrence;

Participant S1

'Doctors are just non-committal, they are not willing to say; "Yes, definitely this child or this person was raped or definitely sexually assaulted". They're also not prepared to say, even though there's no injuries at all, that no evidence of sexual assault was found. They just want to sit on the fence and not commit to anything.'

Participant S4 also alluded to this;

'It looks like they just want the things off their table. So they don't seem interested to do the assessment.'

The perceived resistance to interact with the criminal justice system is also supported by Kotze, Brits and Botes (2014), with their study suggesting that inexperienced health workers or mediocre evidence invites intimidation in the court environment. The completion of the J88 was explained in a medical journal under the motivating article entitled 'Junior Doctor'. The article was written in a supportive manner that can only be conveyed in a direct quote: 'Even though we (medical personnel) loathe the J88 form, it plays a crucial role in the criminal justice system, as it is an important piece of evidence in the investigation of a crime. Therefore as doctors, it is in our, the patient's and the public's best interest to appreciate the importance of such documents and complete them appropriately' (Wilson, 2014, p. 3).

It is therefore clear that willingness to participate as an expert witness in the criminal justice procedure is an arduous feat, as explained by participant J5:

'To get that doctor to come testify in court is also a challenge, in most instances because they don't want to testify.'

A further practical challenge is the community service rotation of doctors. A period of one year mandatory community service is imposed on medical practitioners right after they graduate, in accordance with the Health Professions Act (Fouché *et al.*, 2018). This one year period does not suit the requirements of the criminal justice procedure and when the case lacks an expert witness testimony, the vague evidence becomes silent and discarded.

Participant S5

'This means that when I need to subpoena the doctor to testify, I have to search for him. On many occasions he is out of the country. This means great damage to my case, especially when they (court) wants medical testimony.'

Community service doctors are essential and are required to perform all tasks as per the patient's needs. The price of having less experienced doctors in the public sector can be risky because of the lack of continuity and a stabilized service. A study that evaluated the community service programme after 15 years of its inception, stated that the turnover does complicate long term interventions, but that it may be remedied by proper orientation and increased clinical supervision (Reid, Peacocke, Kornik & Wolvaart, 2018).

5.3.2.1.3 Thuthuzela Care Centres

Thuthuzela Care Centres (TCC) is an endeavour spearheaded by the NPA. It was set up to address the issues of ill-treatment of rape victims as it had happened in the past. It aims to prevent secondary victimization, increase conviction rates and shorten the length of time it takes to finalise a case. The purpose is to bring together a multi-disciplinary or Cross Functional Team of the relevant role-players to one location, be it a hospital or similar site where the required resources are readily available (Vetten, 2015).

Participant S1

'In PE, the Thuthuzela centres have doctors that only do examinations and the completion of the forms. It shows when people have been to court before, they know what the prosecutors are looking for and what is needed.'

Participant S3

'In the beginning we took all the children to Kosmos centre in Uitenhage. When the child is there, the examination is fast - they only take two or three hours to finish.'

It seems that staff in the specialised centres have a clearer idea of the legal expectations involved in sexual abuse cases. When officers take a victim to a general hospital, they seem to have a different experience.

Participant S4

'Because we get to the hospital. Say you arrive there at two o'clock on a Sunday afternoon, that child will be lucky if she and her mother will be out by 8 o'clock the Monday morning and be finished.'

Although the concept of TCC's has been met with much enthusiasm and centres are increasing throughout the country, there has been mixed results in maintaining the functioning of these centres. In an evaluative study conducted by Vetten (2015) on the working of TCCs, it was found that not all TCC's operate as desired. It was found that joining different departments under one facility may not create cohesion, but instead results in power struggles. The bureaucratic nature of government departments find it difficult to share hierarchy on a collaborative level. Cooperation is then compromised and is reflected in a lack of quality service to victims. The impact of the lack of cooperative teamwork is expanded under subtheme 5.3.2.5.

The data gathered from participants reveals the medico-legal evidence as essential to the success of a prosecution. Research done by Mogale et.al. (2015) seem to suggest otherwise and this may seem contradictory. However as soon as the concept of quality of the evidence is considered, as it is done in court, it becomes a rational conclusion that

the 'silent J88' may be an unseen epidemic in the criminal justice process and a truly unfitting representation of the capacity of South African medical professionals.

5.3.2.2. Department of Justice fails to address the unique needs of the child victim

The Department of Justice by constitutional law, holds the National Prosecuting Authority in charge of implementing the criminal justice process in terms of prosecution. As a role-player in the CFT, it holds function and affects the investigation stage of cases of child victims of sexual crimes. The NPA has a defining role to play during and towards the end of the criminal procedure. There are two matters that relate to the public and most specifically the child, which are indicated from the data collected and may have significant impact on attrition of these cases. First to be discussed is the general lack of public trust in the prosecutors as a result of the granting of bail and the lack of a relationship with the prosecutor. Secondly the controversial concept of the cautionary rule and the pressure it places on children to provide evidence.

5.3.2.2.1 The public has little faith in the effectiveness of the criminal justice process

The NPA serves the public interest in the justice system. The criminal procedure is complicated with multifaceted tactics to ensure that justice is done fittingly and in line with constitutional rights.

Two issues were brought to light by participants as having a negative effect on public faith. Firstly on the issue of bail for serious offences, five participants indicated that bail for the perpetrator caused victims to become despondent with their case or uncooperative. SAPS was blamed for not protecting their right to security. The five participants raised issues such as:

Participant S1

'He was living right next door to the child which he sexually assaulted again. There's nothing you can do about it, as he was on bail. We arrested him for breaching his bail conditions, but now that he served his sentence he can go and live anywhere he likes.'

Bail is in essence a trial on its own. Held at magistrate's court level, it is a small trial for the specific purpose of addressing whether it is possible for the accused to be on bail to await trial.

In the event of serious offences, and if it is in the public interest that the accused remain in custody, Section 60 (2A) of the criminal procedure act states; 'The court must, before reaching a decision on the bail application, take into consideration any pre-trial services report regarding the desirability of releasing an accused on bail, if such a report is available (Criminal Procedure Act 51 of 1977, 2010)'.

This can be likened to the feedback loop in the system, where in theory there is interaction and feedback on the goal of the investigation. To the victim, the feedback from the justice system after granting bail, is representative of the court in terms of the validation of the case. Bail is seen as negative in the eyes of the victim and poses further challenges.

It has occurred for the following participant that, despite the FCS's motivation for the accused to remain in custody, these motivations were not brought forward by the prosecutor at the bail hearings. When no information is received or no opposition is given against the granting of bail, there are no grounds for the accused to be remanded in custody and bail is granted.

Participant S1

'I give the prosecutor the information, then it is up to him to place that information before the magistrate so that the magistrate can make an informed decision. If he doesn't do it then the liability is on the prosecutor as to why he didn't do it.'

This is an indication of a lack of communication amongst the team members in preventing bail and a lack of regard for the victim's trust in the system.

A second issue that was mentioned is the relationship between the prosecutor and victim. As much as it is known that criminal offences are brought before court by state prosecutors, the victim feels that it is her or his case and as such, necessitates a significant relationship between the victim and prosecutor. Seven participants related that victims, or in the case of the child, the parent feels under-appreciated by the prosecutors who are handling their cases.

Participant S2 commented that;

'Prosecutors normally see the child when the docket is trial ready. This means the child is going for trial and then consultations will start at a later stage. I feel the child should be interviewed by the prosecutor on a regular basis and the cases shouldn't be so prolonged. The child should not come after years and explain what happened years back. I think the justice is failing because, we have cases that's four years old. A child can't recall so far back. It should be finalised within less than a year'

The prosecution policy states that care should be taken in the public interest of the victim and broader community and includes decisions and processes involved in the criminal justice procedure. It highlights the necessity of maintaining public trust, of which the onus is placed on the individual prosecutor (Africa Criminal Justice Reform, 2019a). It is very clear from the data collected that the victim is merely seen once, and no significant relationship is fostered so as to engender confidence in the victim. The lack of a significant relationship is the collateral damage of a lack of trust, thus stifling or affecting cooperation from the victim and/or the parents which may very well affect attrition.

5.3.2.2.2 *The implications of the Cautionary Rule*

A long-standing global concept is that of the Cautionary rule. This requires any court to consider the testimony of a child irrefutable and well-substantiated by evidence for the child's testimony to be seen as admissible (Zeffert & Paizes, 2010, as cited in Khumalo 2018, p. 318). With growth and development, this cautionary rule has been abolished by most governments on an international scale, yet the remnants of it still remain in South African courts today. While the cautionary rule is followed by presiding officers, the investigation and preparation for court has to adhere to these guides so as to ensure the child's testimony holds up in court. Six participants gave input on the cautionary rule and its effect on children.

Participant J2

'A child or single witness have these cautionary rules which is applicable when we, for example, deal with the evidence of a child witness. It then becomes more complicated because there's all these cautionary rules which are applicable when you evaluate their evidence. Which means we need to go into much more detail than what you would expect. We won't expect a child to would have paid attention to so much detail when the offence had taken place, but it is expected. When a child is called to come and testify, that child would have to have paid all that attention to be able to give you that detail in order to comply with the cautionary rules.'

The investigation therefore becomes more taxing and the processes harder for the child to bear as indicated by this participant S1;

'They get so fed up and some cry. I don't know how some of the prosecutors are preparing them for court but, they leave them crying and so fed up that they don't even want to participate. The child looks worse after the consultation than they did when you took them to hospital'

The cautionary rule is not without merit in considering children's levels of suggestibility, memory failings after significant time, and their inability to vocalize a detailed description of incidents (Khumalo, 2018). Furthermore it is important to ensure the rights of the accused to defend the claim of such a serious crime.

It is noted that most of the concerns of the cautionary rule is based on two facts, firstly the child's exposure to suggestibility which happens over time (as discussed in theme 5.3.4.2), and secondly, the lack of understanding of a child's developmental level regarding the what and how of the questioning process so that their responses may be interpreted appropriately (further discussed in theme 5.3.4.1).

These factors rely heavily on the involvement of social workers in cases of sexual crimes against children and may be directly linked to attrition of cases of sexual crimes against children.

5.3.2.3 Department of Social Development's failure to render services to child victims.

The national guidelines on sexual offences published when the governmental social services was named Department of Welfare, guides the role and involvement of social worker intervention on sexual crimes against children by involving a social worker to assist with the emotional trauma, and in the event where child protection services are required.

These interventions may be from the Department of Social Development or any NGO providing social work and/or child protection services. The data analysed highlighted two vital areas of service delivery which social services are failing in, namely forensic services and psycho-social services to victims. It should be noted that forensic and generic services with regard to a child victim differ in their goal and purpose. Forensic services are aimed at the court process and in essence it regards the court as the client as the request for services is generated by the DPP. Social work services on a generic level provides psycho-social or child protective services, and are essentially only required if the child is in need of alternate arrangements regarding care as would be the case if a child is being victimized by a caregiver. Generic services is only concerned with the safety and healing of the child after a sexual crime incident. Forensic services should be standard for any child victim that has to testify in court, regardless of their relation to the perpetrator.

5.3.2.3.1 Forensic services are poor

Forensic social work seems to be a known, unknown aspect of the social work profession. It is a relatively new field of specialisation in South Africa and not a part of the current curriculum of social work. Victim Impact Assessments as requested by court is excluded from forensic services according to the Council of Social Service Professions regulations on forensic service as a specialised field (Regulations Relating to the Requirements and Conditions for Registration of a Speciality in Occupational Social Work, 2020). Forensic services assessments entail a certain knowledge-base in line with legal processes. It requires certain skills in line with guidelines and ethical standards (Jonkers, 2012). As such, the generic social worker is unable to provide a valid report for the purposes of a child victim testifying in court.

This marks a huge discrepancy in the court's understanding of social work involvement and the social work professions to undertake this role. This can be gleaned from the views of ten participants, some of which are reflected below.

Participant S2

'The social workers in our area, the reports that we receive from them is not suitable for our High Court. Sometimes the social worker doesn't know the court process and they are afraid to actually give you enough information to assist your case in that manner.'

Also

Participant J2

'You find that some social workers would say that they do not draft such reports, or if they are willing to drafting a report they will indicate that they do not know how to draft the reports, which becomes a problem.'

The inclusion of forensic social work reports in the matter of sexual crimes of children are not unwarranted. The value thereof is to bridge the gap between the formal criminal procedure and the level of understanding of and interpretation by the child. In some cases it provides the 'voice' of the child in court. It gives perspective of the child's understanding of what happened and how they will testify about the incident. It also provides grounds on sentencing. (Joubert and Wyk, 2014). It is therefore essential that forensic social work becomes a standard practice for children testifying, especially when they are the sole witness to a crime. The Department of Social Development remains obtuse in recognition of the need for these specialized services and presumably will remain so until reform is brought about by legislation and/or policy guidelines. This leaves the question on how attrition will be affected if these services were readily available.

5.3.2.3.2 DSD fails to provide psychosocial services to child victims

The trauma induced by sexual crimes is a given and the response thereto should be a requirement of psycho-social services (Gender Health and Justice Research Unit, 2014). These services should be mandated and readily available. However, serious gaps prevail despite South Africa's vehement response to gender-based violence in the country.

Participants exclaimed unanimously about the serious lack of services to victims and especially child victims of sexual violence.

Participant S6 explains how he had told the family that there are no psycho-social services to which they can be referred:

'It's up to the family to see how they try deal with the trauma. That's why I say I cannot point it to Social Development or our social workers, but it's something that lacks. We only focus on the criminal side of it and proving the case.'

In a note of desperation during the interview, Participant J1 exclaimed;

'Social Workers from Social Development must come aboard. They must, they have to.'

In response to sexual offences, the official role of the social worker with regard to the provision of services is outlined by the National Guidelines (Department of Welfare, 1998). It specifically instructs social services to be involved in the process, most importantly to provide emotional support and to ensure the safety of a child victim.

In response to this, the Department of Social Development has undertaken to address gender-based violence in earnest under the Victim Empowerment Programme. These services are however, aimed at adult victims and maintain that services to children fall under the programmes of Child Protection intervention strategies. A gap is created as Child Protection services only come into play if a child is in need of care and protection from their caregiver. A child who was sexually abused in any form by a non-caregiver falls through the cracks of services specified by the department. Although NGOs in various areas provide some support to victims, there is no standardised set of services provided to these children within the vast reaches of the department. There is no guide, training or operating procedure for these cases as part of any official policy for children. Any policy that speaks to victim services for children under the Children's Act, remains in the form of programmes optionally provided by Child and Youth Care centres (Children's Act 38 of 2005, 2006).

Thuthuzela Care Centres as discussed in section 5.3.2.1.3, have the mandate to address the trauma of any victim, but these centres are not readily available in all areas. Services in these centres are mainly provided by lay counsellors from NGOs with little to no training in trauma or how to deal with a child victim (Vetten, 2015). A further drawback of the Thuthuzela Centres is that very little attention is given to the role of social services, whilst the role of other professionals are extensively detailed. This creates difficulty as lack of standardisation and protocol opens supportive services to practices that may contaminate evidence, especially when provided by lay counselling services. This is further explored in 5.3.4.2.3.

The impact of trauma on a child victim is further explored in theme 5.3.4.2.1. and outlines how this gap harms the effectiveness of victims to deal with the criminal procedure and how this may affect attrition. It is clear that the services provided by social workers are unknown to the CFT. This causes confusion and is an example where knowledge integration is essential for the CFT.

5.3.2.4 Inadequate management of investigation process by SAPS

SAPS holds the core function of any criminal investigation. In essence, they are the centralized point in the team. When a crime is committed, it is reported to SAPS, a case docket is opened, the charges are made by SAPS and the case docket is in the care of an investigating officer for the duration of the investigation. The initial functions as prescribed are performed by the investigating officer, and evidence is gathered and collated by the investigating officer. During the investigation stage, it is the responsibility of SAPS to manage the investigation, although direct guidance is given by DPP/NPA in

terms of the completion of the investigation (SAPS, 2008). There are specific challenges for SAPS when dealing with sexual offences against children which can lead to attrition. These include the taking of statements, the lack of critical resources to act swiftly and the motivational impact of these cases which may result in SAPS not being able to successfully address these cases.

5.3.2.4.1 SAPS officer's lack of capacity to take statements from children

The taking of a statement starts the investigation of a crime. This is normally done at a police station when a crime is reported by a victim. The police official at the charge office is mandated to take a skeleton statement. This poses problems as nine participants explained the effect of misunderstandings on court cases.

Participant S6 gave a clear example of such an issue:

'People report their cases at the charge office. When you get there you are told it's a rape case, but when you get the statement there's nothing that says it's a rape in that statement.'

Also from Participant S6:

'If you take an additional statement, it's a disadvantage in court. It is seen that if it was so important, it should have been mentioned in the first statement. That's how the defence discredits your witness'

Participant J1 gave input on police work:

'We have brilliant investigating officers, but I think that there can be a lot of improvement on how they take statements and more so when we're dealing with children.'

Language differences seems to be a particular challenge as it seems merits of a case gets lost in translation.

Participant J4

'It happens sometimes that someone else takes a statement at the police station, then the language barrier is a bit difficult. Its big issue in court because now you have a Xhosa speaking victim who spoke with a Xhosa speaking police officer and that Xhosa speaking police officer translated what this victim was saying into English. During consultation, you read the statement or you do your consultation with the victim and you will find that there is something in the statement that's not adding up.'

The National instruction regarding statements is very clear and succinct on the processes and information to be gathered in statements, see Appendix K (SAPS, 2008). The issue with taking poor statements from a child is that a child lacks the capacity to verify and amend these statements. It requires specialized training as will be discussed in theme 5.3.2.5.3. The statement is admitted to court as merits of the incident and severe scrutiny is placed on the credibility of the charges if the statement is questioned. The data thus suggest that a poor statement has a linear effect on the case and thus on attrition in these cases.

5.3.2.4.2 FCS lack resources cause critical time delays

Lack of resources is an endless concern in any developing country. The simple lack of essential resources to do the work is a dead halt in certain areas (Krahenbuhl & Dent, 2017). The serious time delays in work and in sexual crimes and can be detrimental to the gathering and collation of evidence. Nine participants brought forth a lack of resources as a precursor to attrition. Below is an example thereof.

Participant S1 shared some comments on resources that are expected to be readily available;

'We don't get resources, such as ink to take fingerprints, DNA swabs run out and then we don't have stock for months and putting tyres on a vehicle. You need seven quotes to put a tyre on a vehicle. It's things like that. The fact that we were at one point twelve investigating officers and we're now down to seven officers. Gender-based violence is supposedly a priority.'

The bureaucratic procedures of supply chain is complex and time-consuming. Volumes of policies guiding each step of procurement causes frustration and unnecessary delays in service delivery. Although these procedures are essential, certain areas cry out for reform. Minimal reference data is available indicating the exact figure of resources within departments, but an uproar was made in 2019 after a staggering number of police offices (75%) had no rape kits available for an extended period of time.

It was reported that more rape-kits were available in certain offices than in others, showing a misinformed administrative feedback system (Mokone, 2019). The lack of resources has a detrimental effect on the SAP's ability to collect evidence and to follow criminal procedures, ultimately causing attrition in the affected cases.

5.3.2.4.3 Officer's personal motivating factors to excel

It is a given that working in the police services is stressful (Minnaar & Mistry, 2006, as cited in Gumani et al. p. 2). It is accepted in this career to encounter unsafe situations

and trauma on a daily basis. However, as with all employees in the work arena, a certain level of motivational factors come into play when doing one's work. It is safe to say that the unmotivated employee struggles to perform the task at hand with vigour and determination. In this study the data revealed that investigating officers regard their motivational factors to be the successful prosecution of a case. Participants answered in this regard and six participants passionately answered the following:

Participant S1

'I don't think they're getting anything motivating. The only thing that motivates them is statistics, having an arrest.'

Participant S7 emulated this sentiment;

'I will tell you, I get so much satisfaction when justice is served.'

Based on the factor of low conviction rates, other multiple stress factors, such as a lack of resources, difficulty in managing CFT efforts and high levels of trauma, it seems a lack of motivation is unavoidable. Participants made the following comments:

Participant S4 explained.

'The officers get demotivated. There are no incentives for a detective to do this work. You do not get more money, you do not get recognition. Do you understand this is a very emotional job?'

Participant S3 commented that;

'We have decided to not even apply for overtime money. They are anyway only going to give you ten percent of what you had to do.' Participant S3 exclaimed further *'The police officer in his uniform gets more money than the investigating officer. There's no motivation for a person to become an investigating officer, even less for our section (FCS). We work harder than the ordinary investigating officer, but we get less money because they get overtime money. We do not have a budget for overtime. All the FCS units have no budget for overtime work.'*

These responses show operational work-acceptance in that the ultimate goal is to convict and this seems to motivate officers very well. Subsequently a low conviction rate may very well be demotivating for investigating the next case (Gumani, Fourie & Terre-Blance, 2006).

In a bureaucratic environment, personal employee motivators may be lacking as employees are merely appointed on levels of remuneration (BusinessTech, 2019). The

findings from this study suggest that remuneration seems to be a demotivating factor. A remuneration comparison with peers in a government environment is supposedly easy, as bureaucratic structures use levels of remuneration of employees. However, programme units function slightly differently and are assigned different budgets within government from which to operate. Although no clear assignment of funds are available in literature, the anecdotal evidence of 'no overtime when working overtime' speaks clearly to demotivating factors. Demotivating factors cause staff turnover, high caseloads and ultimately attrition (Von Holdt, 2010).

5.3.2.5 The challenges of inter-sectoral collaboration between bureaucratic governmental departments

Inter-sectoral collaboration reflects on the working relations between different departments. This correlates directly to the theory of Cross Functional Teams (CFT) and considers coordination as a requirement of effectiveness. Majchrzak et. al., (2014) explains in their study on CFT collaboration that these are diverse members of a team with specialised expertise. It explores how the different knowledge bases and perspectives create potential communication barriers and possible conflict. It criticises the lack of support and the understanding of different perspectives being the cause of failure to appropriately provide the results required of the team, (Daspit et al., 2013).

When translated into this study, the team members are identified as the four leading departments as discussed before. In a reflection study on victim's experiences of sexual crimes and how their cases were managed, a clear statement was made that the absence of effective coordination between the Department of Social Development (DSD), South African Police Service (SAPS), Department of Health (DoH) and Department of Justice (DoJ) increases ineffective service delivery and the consequent frustration experienced by the victim and could be a direct result of attrition (Watson, 2015).

5.3.2.5.1 Lack of understanding of processes to streamline services

During the process of data collection, the lack of cohesion between different role-players and the expectations of each other came to the fore. Comments made by participants indicated that there was an expectation of what the other role-player should or should not do in certain instances. This indicates that role-players are not aware of each other's operating procedures, limitations and methods of intervention. Four participant responses indicated as much.

Participant J1 said;

'I think a lot of times that the different departments are not fully aware or understand the different legal aspects of your laws.'

Participant S4 for instance has a particular view of the role of the social worker;

'We have, for example, a forensic social worker who writes a report, so my investigating officer takes the child to them. Surely they have to have an account of the child's circumstances at home, but they never visit the home, they just speak to the child.'

Although these responses are made in line with what would possibly be thought was the idea of operations, when brought in line with actual operation, it is not what the professional role entails. For example, a prosecutor is seeking criminal elements which are obtained in a prescriptive manner, or a forensic interview which is solely focused on the child in court and not the social circumstances of generic social functioning. It was commented in a different study by Majchrzak et. al., (2014) that challenges increase with a lack of knowledge integration. These challenges may exist as a result of limited collaboration and communication and lack of learning from each other's experiences.

5.3.2.5.2 Poor communication amongst role-players

Communication is key to any collaborative team effort. It is the message that defines the interaction amongst role-players. A team's efficacy is dependent on the effectiveness of communication to address forthcoming challenges, additional information and to clarify certain perspectives within the team (Ali, 2016).

Five participants gave input on the lack of communication with different role-players that have an effect on bringing cases to court successfully. In commenting on communication with prosecutors.

Participant S4 said,

'The principle of the matter is, that it's almost like a marriage. If you and your husband do not communicate, it will lead to chaos.'

A comment from Participant S4 on social worker's forensic services further supports this.

'It is for me almost as if things are not right at Humansdorp Social Development. It can be a communication gap, but all the efforts to communicate is unsuccessful.'

Participant J3

'If we (role-players) don't work together nothing will get done.'

In a report from the medical field to address sexual crimes in South Africa by Doctors without Borders, it was recommended that strong referral networks between services should be established through inter-departmental cooperation (Medicins Sans Frontiers, 2017). In this report it was also found that interdepartmental or rather CFT communication was a leading factor in the specialised service arena and thus has great influence on attrition.

5.3.2.5.3 Specialized service required to work with children

Working with sexual offences is seen as a specialised service in most professions outside of the criminal aspects thereof. Various role-players have in lieu of the sexual offences courts, created specialized units that focuses on these cases. SAPS has created the Family Violence, Child Protection and Sexual Offences Unit (FCS) (2Talk, 2010) and the NPA has included the Thuthuzela Centres (Vetten, 2015), all designed to assist in addressing the need for this specialised service. The participants of this study unanimously agreed that to work with sexual offences with children is specialised, but that not all role-players have that capacity. The following are inputs on all role-players within the CFT regarding lack of capacity;

Participant S2

'I (investigating officer) don't feel I'm equipped to do that because we are trained to deal with cases investigation, we are not trained to deal with the emotions of children.'

Participant S2 also doubted the specialisation of social worker;

'Social workers around our area do not seem like they are equipped to work with these children of sexual offences cases.'

Participant J2

'We (prosecutors) do not have any training in dealing with children specifically. I have never received any training and there's no programmes offered to us as prosecutors on how to deal with traumatized children.'

This view is also supported by *Participant J1* who states;

'We rely a lot on medical evidence but, we have to look at medical forms to ensure that they are completed properly. Doctors must be educated.'

Participant J5

'I regard it as a specialised unit. Unfortunately it's not all over the country it's only in certain towns and cities.'

With the re-introduction of the specialised sexual offences courts, the acknowledgement was made that certain aspects of these cases are not generic and require specialised knowledge and interventions to successfully reach justice. These courts would then operate slightly differently in its approach to understanding the dynamics of sexual offences. It is therefore required that the evidence brought before the court is accumulated in a manner that complements the ways of the court. This is an indication

to all role-players that a specialised intervention is required and a generic intervention would not suffice.

5.3.2.5.4 Adequate human resources to address the need

Calculating the number of human resources required to work with sexual crimes is complex. In some departments there appears to be specialised units with sufficient staff to address this, but in some not. Where no specialised unit exists, the number of human resources is counted as generic and is translated into caseloads of a generic nature which can be much higher than in a specialised unit. High caseloads can be devastating on the few human resources available that have to also focus on the specialised intricacies of these cases.

Nine participants explained that high caseloads and performance pressures diminish the expertise level that should be implemented in these cases.

Participant J2

'Challenges with those working at Department of Justice is the high case load and the fact that there is a lot putting pressure on prosecutors.'

Whilst Participant S2 claims;

'We find that social workers probably have a lot of work with dealing with such cases. They don't get to all the households' on the other hand, 'Department of Health, they probably have their own issues regarding staff and all that stuff, but it does seem that they do not make this a priority.' (Participant S4). This participant goes further indicating; *'We have too few people at this stage to cover the area. FCS officers work standby every second week, the officers are not just physically tired, but emotionally tired as well.'*

Literature from a South African perspective is limited in this regard and there are no specific indications of the human resources required to fulfil the needs regarding sexual offences against children. It is understandable that each role-player would require a unique allocation of service providers. It was clear from the researcher's observations that all the role-players involved in the Kouga area perceive their environments as understaffed to deal with the high incidence of sexual crimes. It was noted that offices are strewn with paperwork, or officials are running around to attend to all incoming cases while fervently trying to ensure quality work, whilst dealing with resource challenges and aftercare arrangements.

5.3.2.5.5 Emotional impact of dealing with sexual crime cases of child victims

It is well known that professionals dealing with trauma cases of any kind experience emotional difficulty in the long term (GoodTherapy, 2016). A single case or multiple cases of child sexual crimes seem to have an even bigger effect on most. This is an unexplored factor in the attrition of child sexual crimes.

All of the participants agreed that working with a child victim of sexual crimes is emotionally taxing and coping mechanisms are required. Even with functional coping, vicarious trauma is still a looming mental health issue for all professionals in this task team as highlighted by participants.

Participant J1

'I was speaking to a child, which was my first exposure to a sexual offences case, afterwards I literally broke down and cried when she walked out of my office.'

These memories seem to last as explained by participant J3

'It's a, it's a very personal thing and it affects you, every case affects you. I still remember children's cases I've done years ago. Even their names, the incidence and what happened there. It's very taxing.'

Participant S7 also supported this stating

'It is really heart-breaking. I mean I am a mother too, it is very difficult.'

Vicarious trauma is the cumulative effect of working with victims' trauma. All of the role-players working in sexual crimes are susceptible to vicarious trauma and according to literature, it is not so much a question of if it would occur, but rather than when (Quitangon, 2019). In a study to explore the notion of vicarious trauma, it highlighted how witnessing the cruelty of human beings on others has a deep impact on how these professionals start to see the world. As a professional there is a concept of effective professional boundaries that is kept towards the victim as well as other professionals with the aim of suppressing true emotions. This can cause major long term issues as the professional boundaries cannot prevent the emotional impact of the traumas. The professional can then become despondent and uncaring towards the victim. (Jirek, 2015). Vicarious trauma seemingly affects the worker in a highly negative way. It changes the attitudes and beliefs of the worker and affects the manner in which the case and victim is seen, and subsequently on the value of the work that has to be done. There is no link to suggest that vicarious trauma affects attrition, but it does allude to the fact that the professional may not be capable of doing the work effectively, leading to poor performance or impacting on the worker - victim relationship. As the systems theory bases interaction amongst members of the CFT, the impact of vicarious trauma has a

ripple effect on the functionality of the interaction. This may cause a mental health imbalance within the worker and may affect all other interactions, including the case and attrition.

Theme two is especially important as it refers to the dynamics experienced within individual role-players during the investigation stage. It gives perspective on each role-player's response, capacity, reach and input on the whole of the investigation. It highlights breaks in the supposed services to be rendered, the misinterpretations of what is to be done by each professional capacity and how SAPS plays an important role as the centralized point of a case during investigation. Lastly, the theme explored how a collaborative effort is the only way in which such cases can be brought before a court. In the collaboration effort, the team has definitive obstacles in their attempt to ensure the minimization of attrition which closely relates to how efficiently the investigation is done.

The concept of time emerges as a next theme.

THEME 3: THE EFFECT OF TIMEOUS INTERVENTION DURING INVESTIGATION OF SEXUAL CRIME CASES OF CHILD VICTIMS

The data revealed that time is a significant component of attrition. The specific time or timing of each activity during the investigation was to be found essential in determining the success of gathering the relevant and vital evidence needed to prove a sexual crime in court. Most importantly, the data revealed imperatively that time is a definitive factor for the child witness' ability to produce satisfactory and submissible evidence before court.

Sub-themes

The subthemes emerging from the data is presented as the influence of time on the methods of each of the role-player in presenting evidence. This evidence is discussed under the medico-legal evidence collected by the DoH, statements taken by SAPS and forensic assessments conducted by DSD. The DNA processing laboratory is explored as these results take the longest and is required to corroborate the child's testimony. It is further explored in the final stage where there seems to be a considerable waiting period before the child testifies. The latter is further described as a matter of victim rights to services pendent on conclusion of such a case and the impact that it has on a child victim and attrition.

5.3.3.1 The effect of time on evidence

The concept of time plays an underlying and crucial role in the preservation of evidence. This came out unanimously in all interviews indicating that the crucial evidence in a case includes three aspects that are extremely time sensitive and forms the basis of the evidence on which the case rests. These three aspects have different time stressors

which should be adhered to at all costs. The aspects include medico-legal evidence, the taking of detailed statements and the social work forensic assessment. These ultimately play a vital role in the length of time for a case to go on trial. These aspects formed part of the data collected and findings are explored as a matter of linear aspects of attrition.

5.3.3.1.1 Medico-legal evidence

The gathering of medico-legal evidence is an immediate prescribed activity in the initial stage of any and all sexual crimes in South Africa (Department of Health, 2005).

Participants explaining the procedure of obtaining medico-legal evidence gave feedback on their experiences. It is seen to be a laborious procedure for both the investigating officer and the child.

Participant S2

'On a weekend there's almost just one doctor for the whole Sarah Baartman area. We have to drive a child from Joubertina to Humansdorp, then to find out there's only one doctor and the child has to wait for hours.'

Participant S5

'It has happened in the past that we sit and wait for longer than eight hours. The child has no food or drink. You (officer) have to care for them and later that child gets despondent of the process.'

Participant S1 shared an incident which was becoming altogether too common:

'I took people to hospital, there was only one doctor for the whole region over the weekend and she was busy with a car accident. We just took the child back home and I had to take her to hospital again the next day.'

In relation to the last comment made by Participant S1, it is to be stated that such a child would be warned not to wash until the examination is concluded. Secondary victimization is then experienced as described in theme 5.3.4.2.2.

Medical evidence is disputed in the use for child sexual abuse cases when disclosure of the abuse is delayed for some time. This is due to the understanding that DNA evidence is only viable for 72 hours. However, evidence in medical examination may also yield past injuries or indications of a history of abuse which remain as vital evidence. A child who has been a victim of a rape will most likely disclose after the fact, or indicators such as injuries may lead to early disclosure. In the aforementioned matter, urgent medical evidence may still be obtained and is vital for the criminal case and post-rape care of a child (Christian, 2011).

Christian (2011) further states that it is scientifically valid and clear that medico-legal evidence collection is extremely time-sensitive and is by no means a negligible aspect in sexual crime cases. The evidence corroborates the statement of the victim.

5.3.3.1.2 SAPS statements and the impact of time on memories

The taking of statements is a crucial function of SAPS following the reporting of a crime. The Sexual Offences and Related Matters Act and its subsequent policies, describe the process to be of immediate effect when a report of such an offence is made (Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007), (SAPS, 2008). It is highly recommended that a skeleton statement is obtained first, while a detailed statement be obtained within a few days as the impact of trauma on coherency and emotions of the victim are considered.

Participants state that time affects statements, and a general rule of urgency is upheld in the taking of statements as soon as possible. This is most vital if the victim is a child.

Participant S1 states

'The first week is the most important because of the DNA. You have to go and collect the DNA. The victim's memory is going to be influenced by more people are asking and making suggestions. The more the story is gonna change you need to get the right story out as soon as possible.'

It is accepted that a child is unable to seamlessly describe a sexual incident as they lack the necessary understanding and vocabulary of sexual encounters in order to describe and make sense of such a foreign event that puts the child in a state of disequilibrium (Department of Justice, 2015). The concept of suggestibility is vital in understanding that the child will make sense of what happened by gaining information from the environment. This will most likely happen in haphazard manner due to the formation of indeterminate boundaries in the feedback loop. This is referred to as suggestibility. The adverse effect of trauma on a developing mind poses many challenges as to how a child makes sense of the incident. Symptoms such as nightmares and intrusive thoughts may skew perceived memories from actual facts. These include false or incorrect perceptions from their environment and most likely on what people's comments are. It is based on this premise that interviewing for the purpose of gathering information for statements is done in a non-leading manner. An interview should be done as soon as possible as a study on suggestibility indicates that a mere single interview done incorrectly (such as using leading questioning), can taint the perceptions of memory of the incident (Hritz, Royer, Helm, Burd, Ojeda & Ceci, 2015). For all practical purposes it is therefore imperative that the detailed statement of the child is obtained with urgency. It is instructed that the detailed statement, wherever possible, should be conducted within 36 hours after the incident (SAPS, 2008).

It is vital to note that no role-player can prevent this from happening eventually. This poses a real dilemma for a child eventually testifying in court after years of influence and why the cautionary rule is still applied in relation to a child's testimony in court. In an effort to examine the child's aptitude for testifying, a forensic assessment can be requested.

5.3.3.1.3 Forensic assessment

The time aspect associated with forensic social work reports is complex. As discussed in the section above, it is imperative that the child's memory of the incident is not tainted when any form of information exploration is done. Two distinct factors come into play in consideration of time. Firstly, a formal request for such a report is mandated by SAPS or the NPA via the DPP office and as such is done only when a case has been screened and a decision to prosecute has been made. This is essential as the client in this intervention is the court, and not the child (Jonkers, 2012). Second is the purpose of such reports in sexual crime cases. The purpose relates to the child's ability to testify, which most likely will not be possible if it is a very recent traumatic incident and will not remain valid until the case is on the court roll and testifying is imminent. A further purpose of forensic assessment is the impact the crime has had on the child, and for possible aggravating factors (Joubert and Wyk, 2014). Naturally if the impact is to be assessed, whether short or long term, including whether permanent damage has occurred, a period of time will have had to pass to make such an assessment. It is therefore an aspect of investigation that does not warrant immediate intervention. The researcher however noted that the views of participants are not relating to the long waiting time after the case has been opened, rather after a forensic assessment request had been made by the DPP. Considering that the DPP also takes time to assess and evaluate the case, it would be safe to assume that in some cases, forensic assessments can be started as soon as the request is given. Participants' views on these reports were that it takes too long for them to be completed.

Participant S4

'We officially request a forensic social work report. Some of those reports take three, four months and still not submitted'

Participant S4 further explained;

'We have to wait for maybe a month or a month and a half for the report. In most cases even in our courts they strike the docket off the roll because of that lacking report.'

In keeping with theme 5.3.2.3.1, it is safe to say that there are simply too few social workers who are trained to do forensic assessments for victims of crime (Joubert and Wyk, 2014,).

5.3.3.1.4 Forensic lab services to fast track DNA reports

South Africa has a dedicated laboratory which deals with forensic testing and services for the criminal justice system. The laboratory is situated in Pretoria and all specimens collected are transported to the laboratory for testing. Other laboratories are contracted to provide DNA testing, such as a laboratory in Cape Town that tests the DNA kits from the Eastern Cape. Selective data is made public regarding the practical functioning of the institutions. Legislation guides processes and procedures regarding testing procedures (Luke, 2017) and (Criminal Law (Forensic Procedures) Amendment Act 37 of 2013). Further literature and articles reveal the issue of backlogs or extended waiting periods for results, which are however denied by SAPS (Ngqakamba, 2018). Four participants however had commented on the delay in DNA results.

Participant J5

'You will find that DNA evidence will not be finalised that quick, because it also takes time for the DNA to be analysed.'

Participant S4

'The DNA process must be sped up. We wait extensively for the DNA report. They are still on backlog because they did not have chemicals to process the DNA. We have been waiting since twenty seventeen for DNA reports that are outstanding.'

DNA reports are not specifically required should enough evidence be available to prosecute a case. It may, however, be invaluable to connect a specific individual to a case. The long wait for forensic testing results has dire influence on attrition.

5.3.3.1.5 Extended Time Effect on Testimony

The duration of an investigation relies on a multitude of factors and it is almost impossible to determine a definitive time period for any single case. After an extended period, a child may have limited untainted or lost memories of intricate details which does not comply with the cautionary rule as discussed under 5.3.2.2.2. The child does not easily forget the incident, nor who the perpetrator was. The intricate details normally asked to establish credibility is most likely lost over time, leading to an interpreted lack of competency on the part of the child. It can be argued therefore that the cautionary rule is not in line with the right to justice for the child victim. Significant time delay for the child will affect memory details. The longer a child has to wait to testify, Criminal Procedure is at risk of operating against the rights of the child to a fair and just trial. This is not in the best interest of the child. Six participants shared this view.

Participant S2

'The cases shouldn't be so prolonged that the child does not have to come and explain what happened years back.'

Participant S4 further explained

'If you were raped in twenty-seventeen and it is now twenty-twenty, it's three years later. If you were eight at the time, you are now eleven years old. Are you going to want to remember the detail?'

Participant J4 also shared this concern;

'I really feel strongly about the fact that the sexual offences where children are concerned should be tried and finalised as soon as it happened. I think it is very difficult for children. Sometimes people don't want to remember after a year, they don't want to talk about it. They went on with their lives and then here comes the police with a subpoena.'

Whilst the length of trials were considered in the re-establishment of the sexual offences courts, it blindsides the severe lack of attention regarding a lengthy investigation process (DoJ & CD, 2013). A study done in New Zealand indicated that investigations there took, on average, 6 weeks (Hanna, Davies, Henderson, Crothers & Rotherham, 2010). It is significant if the components of such an investigation takes a short time, and it may be an indication that the process flow or interaction between these parts is a significant time thief. The Thuthuzela Care Centres are designed to deal with the need to shorten the criminal procedure. These centres are still too few to address the need and as discussed above, they have difficulties of their own. From the observations made in theme 5.3.1.1.1, it may also be that certain areas of flow experience a bottle neck where many cases converge to a central point from where delays to the process and rate of progress occurs. The critical path of the criminal procedure should not hamper the victim's process of healing.

5.3.3.2 The therapeutic intervention debate

There is a debate regarding the concept of provision of therapeutic interventions with a child victim (Fouché & Fouché, 2017). On one hand, there is the notion that any child victim of a sexual crime will most likely have some level of trauma. A victim's right to services would then include therapy to address such trauma and will most likely stabilize a child emotionally to deal with not only the trauma, but the criminal process as well. On the other hand, the types of therapy that would assist the child would inadvertently change the child's perspectives of the incidents. Since children younger than 10 years struggle with systemic thinking, this may negatively impact a criminal case (Siegler, 2016). In most

cases, the criminal justice process takes precedence and children and their parents are not provided with sufficient therapy to deal with the trauma, this may result in the development of behavioural and emotional issues and further long term harm.

Participant J5

'I would have preferred having worked with them for some time. That a child first gets counselling before being asked about the incident.'

Participant J1

'Whatever occurs prior to them coming to you for consultation are factors that play a great part and affects you in how you deal with that child.'

Participant S1 explained the effect of therapy

'The children must receive trauma therapy. Some of them can't testify about anything because they don't want to go back to this traumatic event. This person has to teach them how to move on or go on with their lives, but there goes your case.'

Available literature is at opposite ends with this concept. Some trauma experts urge the importance of early intervention following a traumatic incident to prevent long-term harm (Jamieson, Sambu & Mathews, 2017). The work of Branaman and Gottlieb (2013) however, warns against this for the sake of the child's credibility in court. They argue that a child may change perspective on the details of the incident and cause a case to be dropped.

It is a global conundrum where there seems to be no answer as to what is the best course of action. Some therapists believe that mere coping skills would suffice to keep the child from developing long term emotional problems, while others believe not providing therapy will be neglecting the best interest of the child. If it is advised that a child's perspectives are to remain intact, the expectation should not be to have cases come to completion two or three years after the incident? The impact of trauma would have then reached a point where intervention may be too late, as will be discussed in theme 5.3.4.2.2. The United Kingdom appears to have devised a viable solution within their concept of a Cross-Functional-Team organization called the Child and Youth Advocacy Centres. In these centres a multi-disciplinary team works in one location where a program is devised for pre-trial therapy. From the multi-disciplinary understanding, knowledge integration is constant throughout the individual case and strict guidelines are given as to what may or may not be discussed with the child in relation to the case. Meticulous records are kept should any aspect present as suggested in court (Crown Prosecution Services, nd).

Theme three looked at the cumulative effect of all role-players in the investigation of a sexual crime against a child in relation to time as a factor. Time was explored as a

definitive factor in securing good evidence for consideration by the team of role-players. It is essential in bringing a case successfully through the criminal justice procedure. It is furthermore required for these cases to be treated as urgent to prevent further damage to the wellbeing of the child by providing the services the child requires to address the trauma and its aftermath as soon as possible.

THEME 4 THE CHILD VICTIM OF SEXUAL OFFENCES

Theme four devotes the findings of the data with specific regard to the child as a victim. The findings are presented in two subthemes which relate not only to children as developing beings, but the effect of trauma associated with sexual crimes on them. This is a vital part of the study as it highlights the specific aspects that are to be considered when working with a child. In keeping with 'the best interest of the child' principle (Children's Act 38 of 2005, 2006), it is important to denote what that would entail during investigation where a child is a witness, and possibly the only witness, in criminal procedure.

Sub-themes

This theme includes two subthemes regarding the child victim. Firstly, the complicated concept of the 'child's level' is explored in relation to how adult role-players interact with children. The second subtheme explores the impact of trauma and its effects on the child. This sub-theme focuses on the perspective of the child as a vital part of the CFT in the criminal justice procedures and explains how the dynamics of the child victim forms a unique interactive process.

5.3.4.1. Understanding the child's level

In an effort to understand the child's level, most scholars look to the development of a child in relation to various aspects of development such as the physical, cognitive, emotional, and socio-cultural amongst many (Siegler, 2016; Wild, 2016; Sameroff, 2010; Nabavi, 2012; Macguire & Delahunt, 2017, Luthar, 2013; Hritz et.al., 2015). Despite a vast academic trove of knowledge on child development, the development of a child remains elusive to the general adult possibly because of its complexity and the lack of interpretation of how this development presents itself in the adult-child interaction. The findings from the data collection indicate that all role-players find it difficult to understand how to get to a child's 'level'. All the participants revealed that they utilise experiences with their own or other children to engage with the child victim.

Participant J2 indicated

'I think with children you need to come down to the level of the child to be able to consult with that child. This at times is a bit difficult for us as professionals, as

prosecutors especially because we have pressures, and with all these legal rules and principles we need to adhere to. Then it becomes a bit difficult, so it's quite difficult to work with a child. It's not an easy process.'

The interviewing of a child witness is not as simple as being able to relate to any child and is regarded as forensic in nature, thus necessitating a certain subset of skills above an understanding of child development (Toth, 2011). This subset of skills and understanding of a child's development and how it presents itself in adult-child interaction, is a vital capacity to all those who form part of the CFT. At present, it seems that only forensic social workers are utilising specialised interviewing processes, whilst it is proposed to all role-players. From the discussion under 2.5.3 it is clear that no capacity is being built in this regard and while it is vital for all members, it should be an absolute requirement for FCS investigating officers to obtain correct statements and for prosecutors who lead witness testimony in court. The miscommunication incurred as a result of not knowing how to interview a child may be a leading factor of confusion throughout criminal procedure, and fosters misconceptions of the child's ability to provide evidence, ultimately resulting in attrition.

The utilisation of forensic interviewing skills with children differs from that used with adults. It is specific in how to illicit information from a child witness and is adaptable to the varying needs of the interviewer. In neglecting this requirement, any interviews conducted otherwise does not consider the particular developmental needs of a child, thereby neglecting the 'best interest of the child' principle especially with regard to their right to justice. In essence such a requirement of skillset, when working with children, may be seen as constitutional rather than optional in the criminal justice system.

5.3.4.2 Effect of trauma on the child victim

For the purpose of this study, the trauma explored is specific to sexual trauma as this particular type of trauma yields a specific symptomology of impact. This sub-theme explores the impact of sexual trauma on the developing child during the investigating process. This is explored in three categories. Firstly, the impact on the child's cooperation in the criminal justice process, secondly the consideration of secondary trauma on the traumatised child, and lastly the impact of the child's world or ecosystem in the aftermath of a sexual incident.

5.3.4.2.1 The impact of trauma on child's cooperation during investigation

In exploring the impact of trauma on a child's cooperation, it seemingly comes down to the difficulties of disclosure as the investigation process deals mostly with 'what happened' and 'who did it' (Spies, 2013). There are a variety of reasons why a child would struggle to disclose which is to be considered when the child forms part of the criminal justice process. The qualitative data collected gives rise to a particular challenge which

is basically for the child to disclose to a role-player who is an adult and a stranger to the child. All of the participants indicated that disclosure is an ongoing issue. A few comments include;

Participant S5

'There is difficulty in children opening up when you interview them. Children normally take time to trust you as an investigating officer so you cannot rush into it but, you don't always have the time to connect with the child.'

Participant J5

'In most instances, children are blocking out. At times it's the blocking issue as it was so traumatic. There's a difference between forgetting and blocking. Blocking works good for them to cope on a daily basis, however we don't know what's going to happen at a later stage.'

Participant S5

'I feel that a trauma councillor must first see the child. It is my own opinion that a trauma councillor can help the child overcome the fear of opening up.'

It is clear from the participants that a significant struggle occurs when the child is having difficulty with disclosure. Most research suggests that children are not unwilling to disclose, but from their understanding there are challenges to literally tell what happened or who the perpetrator is (Spies, 2013). In accordance with their development stage, children do not understand processes and consequences in the same way as an adult. This is a particular difficulty for the adult to address, especially without certain levels of capacity. It poses a serious problem as the South African criminal process struggles greatly to convict without a victim statement. In essence if a child does not disclose in a statement, or cannot testify, chances are that the case will not go to court leading to a major cause of attrition (Van Der Merwe, 2010).

There are a variety of factors to be considered above and beyond the child's age, which relates to the extent of trauma and the child's environment. Children fear the consequences of disclosure, especially if threats have been made to prevent the child from telling. McElvaney (2019) suggests that children should be questioned in a forensic manner to assist the child in disclosure and to ensure such a disclosure is free from contamination. Children who are reluctant to disclose should not be discounted or seen as fabricators of incidents. Furthermore studies have recommended that contradictions or perceived false statements should be interpreted by social services who have a deeper understanding of child development and communication strategies affected by trauma.

Studies further warn that difficulties in disclosure should not provide a definitive answer about the child's capacity to partake in criminal procedure.

5.3.4.2.2 Secondary victimization

Secondary victimization is caused by the insensitive manner in which evidence is collected by role-players, thus causing further trauma. The prescribed manner includes sensitivity and principles related to the rights of the victim to be treated with fairness and respect and dignity (DoJ & CD, 2013, p. 6). A specific factor is brought forward in the accumulative effect of all role-players questioning a child. Although this is unavoidable, it seems this is a definitive aspect that causes unease for the child. Three participants gave examples on how secondary victimization occurs in various scenarios of evidence collection.

Participant J2 explains

'A child is interviewed by so many people, he's interviewed by the Department of Health because it's expected of the child to give a history when he gets examined by the doctor of the sexual offence. Then the child gets examined or gets interviewed by a social worker, then the police officer is taking the statement and finally the prosecutor and then the intermediary. But each one has got their own way of asking questions to this child you know, and now it makes things difficult because now the child must also every time change their reasoning, the way of thinking, the way of answering questions.'

Participant J4 supports this view

'I understand that for any victim it is not nice for them to have to remember what they went through. And to tell so many strangers, you have to tell the doctor, the police, now it's the prosecutor, then it's the social worker.'

Secondary victimization may occur when time delays cause a child to be examined very much later, as discussed above in Theme 3.1.1. The child is then warned to not wash in an effort to preserve evidence. This means the child has to keep the evidence including semen, saliva etc. on her or his body. Knowing the essence of the perpetrator remains for an extended period causes great distress and emotional trauma and this is eventually weighed up against preservation of evidence. The medical examination is no simple experience for a child as it is extremely invasive and may seem even more abusive than the sexual incident (Christian, 2011).

This is corroborated by *Participant S2*

'They (medical professional) just start doing their job, which is understandable. They have a lot of work. But with our sensitive cases, I feel that the child needs to be counselled first and then explained the process of examination and to calm the child. Then continue with your process, and it doesn't happen like that. Things that get reported on the J88 when the child is still traumatized. Sometimes the information on the J88 can differ to what a child is saying afterwards when the child is calm.'

The processes of an adversarial criminal process system includes confrontation and cross-examination (Songca, 2019). The consultations held pre-trial with a child includes the child being exposed to what it would be like to be questioned in court. This also includes that the prosecutor will, in a way, test the child's responses in an effort to anticipate challenges in court.

Participant *S1* explained the after effect of such consultations:

'They get so fed up, and some cry. I don't know how some of the prosecutors are preparing them for court, but they leave them crying and so fed up that they don't even want to participate. It is like it gets worse, they look worse after the consultation than when you take them to hospital.'

The criminal justice process, in its adversarial processes, places an enormous burden on the child and role-players to prepare evidence and witnesses for court (Bekink, 2018). This can however elicit many traumatic experiences causing secondary victimization and trauma as intense scrutiny is placed on the child's testimony. It is for this reason that specialized training is necessary in working with these cases as discussed in theme 5.3.2.5.3. Secondary trauma may very well be a factor of attrition as it results in an unstable victim who is not willing to cooperate in the criminal justice process and opting not to proceed with a case.

5.3.4.2.3. Influence of the child's environment after a sexual crime

The child's environment, according to the systems theory, is described as the family and community the child lives in (Mele et.al, 2010). This environment is concentrated around the child, and for the most part, it includes the child's immediate caregivers, friends, extended family and school environment. The child's environment has influence as discussed above, which can contaminate the child's perspective pending on the belief systems of the family and community. This is not the only form of influence that is projected onto a child after disclosing a sexual incident. From the data collected, multiple aspects were uncovered that influence children's statements and cooperation during investigation.

Ten participants described scenarios of influences they have observed.

Participant J3

'We had a case here where the father raped the child. He came to court and his story was this is my child, I can do with her whatever I want to'

This adverse belief system does not bode well for the child who now has to deal with the emotional impact of testifying against a biological parent or in other cases, a breadwinner, caregiver or extended family member, causing great conflict in families. In some instances children will be coerced not to testify due to financial implications, or cases will be withdrawn where it is suspected that money changed hands in order for the case to be dropped. In accordance with the child's developmental stage, these consequences will incur feelings of guilt as the child will feel responsible for the consequences (Center for Substance Abuse Treatment, 2014).

The views from Participant S7 support this;

'In the community, you know the child listens too much. You know this incident has happened and the child may be a witness in this. People will start talking and the child will listen to everything. When the child goes to court you will find that this is not the child's testimony, or you know that this isn't a child's way of saying this.'

Participant S5 explains how families may influence a child victim

'I as the investigating officer realize that the family or the mother influences the child. Especially if the breadwinner is incarcerated. They feel to rather let him come out, let him work, because we don't have money.'

These findings suggest that if the perpetrator is the breadwinner, a mother may influence a child not to testify. If the perpetrator is a family member, the extended family is split in their support for the child. This type of trauma is also seen as newsworthy in looking for sympathy and is regularly discussed amongst adults whilst the child observes responses. The environment may further exacerbate trauma as very little privacy is granted to the child resulting in stigmatisation from friends and peers, along with blaming and teasing.

In an unsympathetic environment, devoid of support and understanding of child trauma, the child's fears and anxieties are increased and disclosure and cooperation is severely damaged leading to attrition as the child feels ultimately he or she has done wrong in disclosing in the first place (McElvaney, 2019). The level of the child is found to be a complexly defined aspect used in relation to its purpose at any given time. It relates to the individual child's development stage, family composition, socio-cultural background,

observation of reactions, identity, attachment and history (Fallowfield, 2013). The adult understanding of children is mostly an exercise of previous experience. The impact of trauma on a child may be vastly misunderstood by the adult's perceptions of what it should feel like for an adult but expressed in a child's way. The child is motivated by a variety of other factors, primarily by the reaction of his or her environment. During investigation, the role-players' interactions become part of their environment and secondary victimization for the child is a response from the environment indicating that disclosure is bad. This influences not only disclosure but all forms of input into the criminal procedure over a period of time. The experience of trauma and the child's experience from the moment of disclosure can be a determining factor of attrition.

THEME 5: RECOMMENDATION ON PREVENTING ATTRITION OF SEXUAL CRIMES OF CHILD VICTIMS

The final theme emerging from the data pertains to recommendations from participants. The data reflect the views of participants in their field of expertise as they observed challenges in communities where the view is that prevention would be better than cure. Further recommendations coincide with the inputs from the data regarding what can be done to do investigations in line with the capacity of a child.

Sub-themes

Two sub-themes were identified of which general social ills were deemed to create an environment that promotes sexual crimes. The ineffectual impact of the child protection register and early release of the perpetrator from prison was identified as sending a message that the criminal justice has little punitive value. The final sub-theme reveals recommendations from participants on what could be implemented to assist in the criminal procedure to facilitate a child-friendly process, for example, the expansion of the sexual offences courts and the use of recordings as a method of evidence collection.

5.3.5.1 Community perception of sexual crimes against children

South Africa has a history of inequality, unemployment, illiteracy, widespread substance abuse and general socio-economic insecurity. These social issues have become generational and have been found to be drivers of violence and crime, especially against women and children. Essentially it is seen that these aspects result in the social problems of "broken homes" (Sibanda-Moyo, Khonje & Brobbey, 2017).

5.3.5.1.1 The effect of alcohol and poverty on sexual crimes against children

Broken homes are characterized by fatherless homes, child-headed households, violence in homes, lack of adequate supervision of children and a general lack of moral values with regard to the education of children, prevention of exposure to what is

perceived to be adult-content activities such as substance abuse, sexual activities and crime in general (Holborn & Eddy, 2011).

Six participants shared that alcohol abuse and poverty are the main reasons for sexual crimes on children and commented on this.

Participant S2

'Alcohol, alcohol abuse amongst parents is also one of our challenges. The victim would be left alone at home and no parents will be there as they are off drinking.'

Participant S4 also shared insights on this

'I did say earlier that these incidents don't choose a side. Rich people do it, poor people do it, but it happens more in impoverished areas. There is less discipline and there is just more incidents. So it's more and more children that are exposed to this kind of crime in these socio-economic circumstances. Alcohol abuse is a big issue in all crimes, but also in these crimes.'

Participant J3 noted the real origin of the problem saying

'The children are usually children from broken homes with alcohol abuse and social chaos. They are the victims in this picture of rape.'

Societal factors such as unemployment and poverty in communities make for desperate and angry individuals. This perpetuates into dysfunctional coping mechanisms of which substance abuse is most prevalent. Criminal thinking and a general lack of moral consideration provides a milieu where the opportunist will act without discerning right from wrong (Kheswa & Tikimana, 2015). The dysfunctional family home is open to influence when a child is a victim of sexual crime. Misinformation and a history of mistrust towards criminal justice in general, facilitates a lack of cooperation and negative influence on the criminal procedure. This lack of cooperation affects the systemic processes of the case and encourages attrition.

5.3.5.1.2 The effect of the child protection register

The Child Protection Register as described by the Children's Act (Children's Act 38 of 2005, 2006), is a register which holds the names and details of persons who have been found guilty of abuse against children. It states that the purpose of such a register is to prohibit persons with a criminal record of abusing children from being employed to work with, or in close proximity to children. The data revealed that the register should be made public as children are also in danger in communities and the public has the right to know when such a perpetrator is living in the community. Three participants indicated that this

could be a safety concern within communities and would further become deterrent for the would-be perpetrator to go through with a sexual crime.

Participant S1 suggests

'It will be good to have register. In some other countries a perpetrator can't stay in a certain radius of the school or crèche or church, and so people know you are there.'

The Children's Act clearly states who may have access to the data on the child protection register, however NGOs, activists and the public feel that the whereabouts of known perpetrators should be made public. A news article from Times Live, sheds light on a petition raised on social media to appeal to the legislature to change legislation. It was mentioned in the article that the President of South Africa urged parliament to consider this change (Mabuza, 2019), meaning that amendment to the Children's Act should be explored and considered. For the purpose of this study, the findings only indicate a community need in favour of making this register public. In reality it would not be an immediate decision, and would warrant further in-depth analysis and amendment through legislative processes to consider consequences of such publication and the effect it would have on the community and, if at all, the impact on attrition.

5.3.5.1.3 The impact of early release from prison

Sentencing of a perpetrator is not the final step in criminal matters. The final step of criminal justice is the domain of correctional services. Correctional services deals with the perpetrator in matters of serving their court-imposed sentencing, not for the purposes of punishment alone, but for retribution, deterrence and rehabilitation (Mujuzi, 2011). The public opinion on this is however not the same. There is a sense that an imposed sentence that plays out in full is regarded as justice, while parole after minimum time has been served is seen as lessening of the sentence and a lack of justice for the victim as well as public interest. This results in a loss of faith in the criminal justice system, where so much effort is placed on conviction, with a resulting short term sentence. Three participants brought this up as a key aspect of how a perceived early parole quashes the concept of deterrence and aids in compounding social ills within already struggling communities.

Participant J3 shares his view

'You get serial rapists and I believe that once a guy rapes a woman, he will rape again. He gets a conviction and sentence for ten years, then he gets released very prematurely by Correctional Services and he comes back and rapes again.'

The correctional services act provides the Department of Corrections (DOC) with executive interest in serving of sentences. This means that although a court imposes specific sentencing, the manner in which the sentence is served, falls under the management of the DOC. A court may impose certain restrictions such as a minimum period or imprisonment before parole can be considered, but the consideration for parole and its execution is the mandate of the DOC (Correctional Services Act, 1998). Section 73 of the Correctional Services Act intricately prescribes minimum serving periods for perpetrators which indicates that half of an imposed sentence is to be served before parole is considered. Parole has predetermined considerations of various aspects such as rehabilitation, the personal circumstances of the perpetrator and the consideration of the victim and crime, but the overcrowded prisons motivate for parole.

In this sub-theme, the data reflected that addressing social ills and efforts of prevention of sexual crimes against children appear to be ineffective, thus playing a role in the attrition of cases.

5.3.5.2 Other factors that may fast track cases

The data collection process indicated further aspects that may affect attrition. These factors relate to improving on the establishment of sexual offences courts or bringing in an internationally used method of interviewing aimed at retaining the integrity of the child's statement.

5.3.5.2.1. Improving on sexual offences courts

The Sexual Offences Courts are dedicated regional level courts where only sexual crime matters are heard. The intentions of these courts are to adopt a victim-centered approach wherein the courts are to consider the needs of the victim within the criminal justice process. It further intends to shorten the time taken for a case to get to court and to have specialized trained personnel to ensure accurate outcomes (DoJ & CD, 2013). Five participants commented on expanding the sexual offences courts;

Participant S1

'I think that would be better with specialised courts. It would be good if there are special sexual offences courts where these cases are heard. Whether by a judge or magistrate who is more focused on, and knows how these cases work. They would also know how to deal with children to interpret their answers. It would also include prosecutors that are trained in how to get information from the child.'

A specialised court can only be seen as being in favour of justice (Songca, 2019). The sexual offences courts have gained mass interest and favour from the public and seems to have been fulfilling their specific purpose. The inception of the initiative has grown over

the past years and this growth seems constant in that it has reached rural areas throughout the country. As of August 2020 there are 106 sexual offences courts, albeit that some of are hybrid courts. This entails functioning as both a specialised sexual offences and a regional court as per the need of the area (Department of Justice, 2018). The Department of Justice has seen exceptional growth and reach. It appears that this area of concern is actively being addressed. Court, being the last phase of the criminal justice process, is acknowledging the need for such approaches and change. The investigation phase seem to lack input in dealing with the most common challenges. During 2018 to 2020 the South African legislature tabled regulations for consideration for the sexual offences courts that outlines the operations of the sexual offence courts. This draft bill included a section dedicated to extending services at court (DoJ & CD, 2017). These included the utilisation of social work services based at court for a variety of services which include - forensic and psycho-social services to victims. This new type of service delivery focus, based at courts, is a further indication for the need of a CFT in dealing successfully with sexual crimes, especially where children are involved. Parliament, in 2020, accepted the Bill after some changes were made. These changes reflected that only structural changes would be mandated while all forms of forensic services to the child victim were removed (DoJ & CD, 2020).

5.3.5.2.2 Recording of interviews

The video recording of statements is a method some countries have adopted to ameliorate the challenges experienced with children's testimony. The child's statement is taken whilst video recording the interviews. The video then acts as a proxy witness where memory is preserved from tainting factors (Motzkau & Sciences, 2010).

Participant *J2* mentioned this as a suggestion to fight attrition

'Would it not be better, if they do a recorded interview with a child? So that there can be live footage of the child where the child explains in detail and in their mother tongue.'

Whilst this would be a valuable and effective measure to address poor statement interpretation and language issues, the use of video recording may not be easily executed in South Africa. The physical setup of such interviews would require certain technological infrastructure to be widely available at police stations. Interviewers would have to show prowess and aptitude in interviews and admissibility would ultimately be argued in court. The use of video recording may however, be a valid measure to address some challenges presented by the child witness and warrants further study in its application in South African courts.

The recommendations of participants form an integral part of qualitative data collection and is seen as vital to the study. It provides a ground level perspective of what could be implemented to improve the investigation stage. Addressing the sociological state of mind

of any community which is born of, and into social ills, is an undertaking which requires both governmental and socio-cultural intervention. The criminal justice processes after sentencing is vital in bringing about the perspective of consequences and seems to have little impact on the current sociological state of mind within communities. The uniqueness of the South African communities may necessitate a unique approach. Although this unique approach is presently elusive, it nevertheless requires serious consideration and further study. For the criminal process itself, an international approach of recording interviews during investigation is worthy of consideration as it may relieve much challenges in working with a child victim and prevention of attrition.

5.4 CONCLUSION

This chapter focuses on reflecting qualitative data analysis of the findings as set out in themes. Five themes were identified and analysed in this chapter, each with subthemes that categorises certain factors as explained or indicated by participants.

The results reflected that certain areas operation, such as Kouga district, may be struggling with mobilisation issues specifically relating to the channelling of dockets and the mobilisation of witnesses over a vast geographical area. The main role-players or CFT members were discussed in isolation first to ascertain their individual dynamics in relation to attributions to attrition. These included the various government departments.

An analysis of the Department of Health found that there were issues with the provision of definitive medical evidence on which cases rely, possibly too heavily. The capacity and availability of adequate resources and structures were seen as a disadvantage in prosecuting these cases.

The Department of Justice, or rather the NPA, was seen as having to defend against a defunct cautionary rule, thus overruling the 'best interest of the child' principle.

It was found that significant confusion reigns with regard to the role of the Department of Social Development. Whilst public understanding perceive social workers are to generally provide forensic services, these services are specialised and not prescribed in any form of legislature. Prescribed services seem to be severely lacking in general in under-sourced communities.

The FCS investigating officers were found to lack effective capacity to take statements form children which severely impacted the future of a case, further lacking resources and at times motivation to perform duties with vigour and the required patience.

The crux of the CFT was analysed as inter-sectoral collaboration challenges. These challenges are directly connected to attrition of cases. For the most part, the role-players are in a power struggle or find it difficult to build and maintain good communication strategies to create a collaborative environment.

The capacity of all role-players are seemingly wanting and would require special focus to establish a reasonable and interactive support system for of the investigation as a whole, and not as a disjointed responsibility of criminal procedure.

The third theme reflected the inputs of the different role-players, but with the homogenous concept of time. Time is deemed as an indisputable essential aspect in direct relation to attrition. It relates to the preservation of good evidence, thereby contributing to the case's evidentiary value and possibility of attrition related to time.

The fourth theme finally acknowledges the dynamics involved in dealing with a child victim. It describes that the development of children is mistakenly dealt with as a matter of simplification of vocabulary and placating emotions. The theme explored how the participants deal with children while literature is elusive in explaining what is truly required, resulting in a measure of miscommunication and a lack of understanding.

The impact of trauma and its effects on the child, not only from the incident, but from the child's environment and the role-players of the criminal justice procedure was explored. It was found to be highly influential, and detrimentally so in cases where children come from unsupportive and unsympathetic environments.

The final theme explored recommendations. These recommendations included prevention by firstly addressing these unsupportive and socially unhealthy communities, whilst making the punitive values of criminal justice more prominent so it can serve as the deterrent it aims to be. Lastly it was explored how the sexual offences courts seem to be taking off well in South Africa and that they may imminently be very accessible even in rural areas. The one significant recommendation that was mentioned, was international in origin and is as simple yet complicated as recording of child interviews in an effort to preserve evidence. This can be explored in further studies to consider for a South African context. The following chapter will conclude the results and recommendations of this study.

CHAPTER 6

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

6.1. INTRODUCTION

The final chapter is a summary of the findings of this study and recommendations for practice as well as for future research. The chapter is presented by a summary of each chapter and a discussion of findings in relation to the study objectives.

The research question was formulated as: 'What are the reasons for attrition of child sexual crimes cases during investigation in the Kouga district, Eastern Cape?'

The goal of the study is to explore the phenomenon of attrition of cases involving child sexual crimes and to analyse the factors contributing to the attrition during the investigation stage in a sample study conducted within the Kouga district, Eastern Cape.

Three objectives were derived from the goal as being;

- To explore the phenomenon of attrition in cases of child sexual crimes during investigation in the Kouga district, Eastern Cape.
- To explore and analyse the efficacy of collaboration between relevant stakeholders' contribution during the investigation of cases of child victims of sexual crimes.
- To explore and describe the investigating officers' opinions on factors that contribute to attrition of cases of child victims of sexual crimes.

6.2. SUMMARY OF FINDINGS AS PER THEME LINKED TO AIMS AND OBJECTIVES

The findings of each theme is presented in line with the objectives of the study.

Theme one is related to the first objective as it focusses on the findings within the geographical area of study, namely the Kouga area of operation and jurisdiction of the Family Violence, Child Protection and Sexual Offences (FCS) unit of South African Police Service (SAPS). This area is inclusive of the municipal areas of Kouga and Koukamma. The findings reflect the factors that specifically pertain to this area that contribute to attrition of sexual crime cases on child victims.

Theme two relates to objective two as it looks at challenges experienced by various role-players in their collaborative relationships during the investigation of sexual crimes of child victims.

Theme three and four reflect findings that speak to the third objective. Theme three looks at the effect of timeous intervention during the investigation phase while theme four focuses on the child victim.

Theme five provides recommendations relating to the reduction of attrition of cases of sexual crimes against children. These recommendations give perspective on the

phenomenon of attrition and how the integrated team would be able to address to phenomenon in practice.

6.2.1 Objective 1: To explore the phenomenon of attrition in cases of child sexual crimes during investigation in the Kouga District, Eastern Cape

The first objective set by the study was to explore the phenomenon of attrition of child sexual crimes during investigation in the Kouga district of the Eastern Cape. From the data collected, the objective was met in accordance with theme one. Reviewing the specific factors in the Kouga area that may cause attrition in sexual crime cases, two sub-themes emerged that gave rise to these specific challenges. The sub-themes were identified from the findings as the case flow between FCS and National Prosecuting Authority (NPA) being stalled and the second concerned the covering of a vast geographical area that defined Kouga. These findings are discussed below.

Subtheme 6.2.1.1 Case flow between FCS and NPA is stalled

This subtheme focused on the interaction between FCS and NPA in terms of dockets and mobilisation of witnesses, which was indicated to be problematic. The findings revealed challenges in the channelling of dockets within a reasonable time frame and the implications of NPA instructions on FCS regarding the complex and demanding efforts in the mobilization of witnesses.

6.2.1.1.1 Channelling process between FCS and DPP

The channelling of case dockets proves to be greatly delayed. From the findings it was clear that a bottleneck occurs with cases streaming in to the National Prosecuting Authority for Director of Public Prosecutions' (DPP) consideration. It takes a long time for these dockets to be processed and returned to FCS with further instructions. These delays are often for months, which causes a snowball effect in terms of case progression. This issue was found to be further complicated by long distances these dockets have to travel. Although docket channelling is prescribed by legislation (Africa Criminal Justice Reform, 2019b), the intricate channelling and jurisdictions are set out on a provincial and local level and may indicate the need for some restructuring. The DPP offices have full mandate on which cases to prosecute, but no time frame is given as to when to prosecute. Where time is a considerable factor in any case, such as where a child is a witness, it necessitates the need for minimum time frames. The findings alluded to the fact that DPP offices are strewn with cases waiting to be considered and that in the Kouga area there is an unreasonable delay in case progression due to challenges in channelling of cases. This impacts on progression within reasonable timeframes which is proven to add to attrition.

6.2.1.1.2 The implications of NPA instructions

Collaboration between NPA and FCS is complicated, as discovered in the findings. This relates mostly to mobilisation of witnesses and the performing of seemingly unneeded duties. During the investigation, the NPA guides and consults with witnesses in order to prepare the case for trial (Africa Criminal Justice Reform, 2019a). It is the duty of the officer to mobilise the witnesses, however the lack of collaboration and consideration for difficulties in mobilisation causes disorganisation. It requires much effort to mobilise persons over a far-reaching area, where people are not easily accessible. From the findings it can be concluded that FCS struggles to meet the demands of the NPA in terms of mobilisation which causes significant time delays. Proper prior planning in a collaborative manner as a Cross Functional Team (CFT) requires, would resolve this challenge.

6.2.1.2 Kouga FCS covers a vast geographical area

The vastness of the area covered by FCS causes challenges. The area covers 5708 square kilometres and serves a population of about 110 000 people (Sarah Baartman District Municipality, 2016a; Sarah Baartman District Municipality, 2016b). The findings indicated two specific challenges relating to the vastness of the area in relation to service delivery, and the limited services within the jurisdiction to address the needs of the victims.

6.2.1.2.1 Geographical jurisdiction of FCS is too vast for effective service delivery

Kouga is uniquely situated in the far reaches of the court jurisdiction. This requires a farther scope of travelling and mobilisation of witnesses. Findings indicate that a whole day could be utilised for the purpose of one hour of active work. This has an effect on the child's capacity to cooperate effectively and impacts service delivery on a grand scale as additional travel time has to be calculated for every aspect of the case.

6.2.1.2.2 Limited services available in the jurisdiction for clients

The accessibility of services for victims should be such that no victim is bereft thereof. The findings indicate that critical services are limited in areas where they are available. In other areas, there simply are no services available and long distances have to be travelled to access mandated resources. This was found especially in terms of medical services needed to conduct the required medical examination. Other services also seem to be lacking, particularly regarding social services to assist the victim in dealing with the trauma. The findings indicated that these services were located in just one area, whilst other areas remain without. The combination of limited services and long distances have an impact on the time and subsequently attrition of these cases.

In essence the Kouga district is specifically challenged by its location in relation to courts and NPA offices and by its lack of services to victims of sexual crimes.

6.2.2 Objective 2: To explore and analyse the efficacy of collaboration between relevant stakeholders' contribution during the investigation of cases of child victims of sexual crimes.

Objective two sought to explore and analyse collaboration amongst the relevant stakeholders or role-players that contribute during the investigation of cases where a child is the victim of a sexual crime. Theme two represents the findings in relation to this objective and reflects the challenges experienced with specific role-players when investigating sexual crimes of child victims. The sub-themes were identified as; inadequate support and services from the Department of Health, the Department of Justice fails to address the unique needs of the child, the Department of Social Development fails services to victims, inadequate management of the investigation process by SAPS, and lastly the challenges of inter-sectoral collaboration amongst bureaucratic governmental departments.

6.2.2.1 Inadequate support and services from department of health

As a member of the CFT, the medical profession under the auspices of the Department of Health, has a vital role to play in the gathering of evidence of sexual crimes. The use of medico-legal evidence seemingly has mixed levels of success in proving cases, despite being regarded as leading evidence in sex crimes. The findings indicate that there are significant challenges in attaining this evidence successfully. For the most part, the findings indicate that successful evidence requires it to be admissible in accordance with law or definitive in terms of medical findings.

6.2.2.1.1 The weight of medico-legal evidence

Medico-legal evidence is in most instances, the only scientifically derived evidence of a crime committed against a child. As such, it carries tremendous weight in court, should it be found useful (Mogale, Kushner & Richter, 2015). The medical practitioner has a singular duty to retrieve such evidence and to advise the court as to the validity of the claim of sexual activities. Findings however suggest a culture of 'erring on the side of caution' from medical practitioners. Aside from ambiguous conclusions on the J88 forms, there is a certain level of negligence in the completion of such forms for court, rendering the evidence inadmissible. With this in mind, it seems to indicate that the medical field is reluctant to form part of the CFT in collaboration during the investigation of sexual crimes.

6.2.2.1.2. Medical practitioners' capacity to perform exam

Capacity speaks clearly to efficacy and in consideration of efficacy, of a role-player's contribution as explored in objective 2, the capacity of the medical professional collecting evidence is equal in relation to his or her ability to testify thereon. Although not universal, views shared in this study indicate that for many reasons, many medical professionals are simply not available to testify at the time of the trial. Medical personnel doing community service are more often 'on call' to perform the medical examination. After a year said medical practitioner relocates and there is no obligation to follow through as mandated by legislation. Questions were also raised by participants in this study that the current curriculum of medicine is less mindful of legal obligation. Capacity remains a point of concern as some specialised capacity-building is recommended to complete a medico-legal examination. Some findings allude to a general aversion to complete documentation in full or correctly, resulting in the investigating officer having to guide the medical professional (Fouché et al., 2018). Again, the CFT seems to be a position medical personnel avoid altogether. This is to the detriment of the valuable contributions they could make to sexual offence cases and may be a vital component of attrition of these cases, especially where children are the sole witness.

6.2.2.1.3 Thuthuzela Care Centres

The Thuthuzela Care Centres are an example where the CFT is in operation. The centres comprise of officials from the relevant departments including SAPS, Departments of Health, Social Development and the National Prosecuting Authority, with the exception of forensic social workers. The realisation of the need for multiple role-players/departments to be located in a central space is an indication of its requirement in sexual crime cases (Vetten, 2015). The findings clearly state that these centres' services are highly sought after by the investigating officers and has proven to successfully address most issues pertaining to attrition. The most pertinent issue being time and the multi-disciplinary resources at hand, thus verifying the validity of the CFT. These centres are promoted in their successes and are currently growing in South Africa and may soon be available in more areas. However, these centres are fraught with inter-sectoral issues relating closely to bureaucratic hierarchical power struggles and a lack of cooperation from within (Vetten, 2015). These challenges result in a non-standardised service experience and an imbalance is brought on by a bureaucratic structure that does not always support special programmes that function out of the norm of standard operations. Collaboration between departments therefore can become strained without a clear service level agreement and a national standard of operations.

The medical profession in its representation by Department of Health, seems reluctant to participate in the CFT. This causes a clear gap in the effective investigation of the criminal justice process. The CFT disciplines are not interchangeable and requires the full and motivated participation of all role-players. The findings clearly indicate the success of certain endeavours where medical personnel form part of the CFT, whilst areas such as Kouga does not have that privilege and possibly suffers increased attrition.

6.2.2.2 Department of Justice fails to address the unique needs of the child

The NPA is a function of the Department of Justice which forms part of the CFT. The NPA takes on the responsibility of prosecuting a case after investigation is complete. The prosecutor has a guiding role during the investigation to ensure all facets of the case are dealt with and to ensure readiness for trial. Although limited in their involvement during the investigation, there are factors from the findings that has an effect on attrition of cases which was categorized as the public having little faith in the criminal justice process and the implications of the cautionary rule.

6.2.2.2.1 The public has little faith in the effectiveness of the criminal justice system

The public's faith in justice was found to be a motivating factor to cooperation and trust from the public and the victim towards the criminal processes (Africa Criminal Justice Reform, 2019a). The findings revealed that two factors affect cooperation and faith in the processes during the investigation stage. Leniency in consideration of bail is found to have a negative impact on the victim's faith that justice will be served. This is an aspect that in theory, forms part of the feedback loop in the system. When this feedback loop negatively impacts on the victim it causes a milieu of resentment and lack of cooperation from the victim and his/her parents. This feedback system includes the relationship the victim has with the prosecutor. The findings revealed that there is little to no relationship between the victim and the prosecutor where contacts are limited to one or two consultations just before the trial. This leaves the victim and parents feeling neglected and unprepared for trial and results in little faith in the criminal justice process, leaving room for attrition.

6.2.2.2.2 The implications of the Cautionary Rule

The impact of the discarded cautionary rule remains set in the mind of the court, as the findings indicated. The testimony of children remain under scrutiny, and extensive consideration is placed on their ability to testify on the merits of a case (Naylor, 2011). This places a considerable burden on the child victim while in fact working against the 'best interest of the child' principle. In practice this means that it is more difficult for a child's testimony to be seen as reliable, than it would be for an adult's. It remains true that children require special interventions to address the concerns of suggestibility and cognitive developmental aspects. This burden is now however on the child to prove his or her ability, rather than the CFT where measures can be put in place to address these concerns. This places the focus on the interaction between the CFT and the child who forms part of the team as a focal point. The findings indicate that the onus of a case rests on the child without consideration of whether they need to be seen as reliable. The cautionary rule is therefore a contributing factor to attrition and is not addressed through collaboration in the CFT.

6.2.2.3 Department of Social Development fail services to child victims

Social services form part of the CFT and has specific and assumed functions as the findings suggest. The services to victims of sexual crimes are set out in national guidelines and policies, suggesting trauma counselling, and vague descriptions of psycho-social services or in the case of children, requiring child protective services. Findings yielded great challenges in both services to victims in general and an assumption of provision of forensic services.

6.2.2.3.1 Forensic services are poor

The provision of forensic services is a social work function. From the findings it is clear that these services are expected from generic social workers (Jonkers, 2012), mainly from the Department of Social Development. The findings further revealed that if such services are requested, the quality of reports for court are either very poor or inadmissible as it is irrelevant to the case. Pockets of excellence are found in some areas, but no standard exists. When looking at national guidelines and policies, there is no mandate for these services and is therefore not a function of generic social work. The fairly new scope of forensic services is not a specific function supported or mandated by legislation and this results in a profound gap in services to victims and may play a role in attrition of sexual crime cases where a victim is a child. From a CFT perspective, the findings translate to a restricted member, that member being DSD. The bureaucratic environment of government departments function under rule of law and policy. With these services not forming part of such statutory obligation, it is not seen as an expected function. This results in gaps in services and specifically in the CFT when working with children.

6.2.2.3.2 Department of Social Development (DSD) fails to provide psycho-social services to victims

As explained above, policy and legislation reflects services to victims in the form of trauma and support psycho-social services to be provided to victims by DSD (Department of Welfare, 1998). The findings however, shed light on the incredible lack of these services, not only from DSD, but NGOs in the area as well. It brought to light that some areas in the Kouga area simply have no professional services for victims to deal with the impact they experience after a sexual trauma. This may also be true for other areas in South Africa, especially rural areas. As this is a legislated service, the DSD member of the CFT fails to address this need. In practice, most victims will be seen by non-professionals or volunteers, whilst victim services should be seen as a specialized service field, especially for the child victim. This causes the child and family to be left in a state of trauma and disequilibrium whilst having to take part in the CFT in bringing the case to court. This further indicates a lack of effective collaboration and is a possible factor of attrition.

6.2.2.4 Inadequate management of investigation process by South African Police Services (SAPS)

SAPS being the entry point and FCS being the CFT leader during investigation, has a central role in the management of the case. For the most part, the findings indicate the success of the FCS programme as a specialised programme within SAPS. However, the findings also indicated that challenges remain within SAPS that lead to attrition. Three categories were identified. These are the challenges in obtaining proper statements from children, the lack of critical resources and the personal motivating factors were found to be further factors that influence attrition.

6.2.2.4.1 SAPS officer's lack of capacity to take statements from children

The taking of statements seems to be a highly critical factor that forms the basis of the case and is the first thing to be questioned and criticised when a case proceeds to court (SAPS, 2008). This relates to task complexities that are rationalised by the need for the specialized FCS unit. The findings of this study suggest that the need for accuracy of facts and details in the statement is essential. Findings indicate that the quality of statements taken at the charge office poses significant concerns in that it fails in revealing merits or criminal elements accurately. The translation of language from a child's mother tongue to English also seems to be poorly performed in general. Although not a CFT collaborative issue, the taking of statements is the starting point of a criminal case upon which the investigation is based, and quality thereof affects the investigation. Guidelines for the taking of statements are clearly outlined, but very little attention is placed on how to obtain a child's statement. A child lacks the capacity to validate such a statement as a full portrayal of the incident. The onus of accuracy falls to the official taking the statement. The findings show a distressing lack of competency which causes great errors in the investigation processes if incorrect information is followed and ultimately determines whether a case can proceed to court.

6.2.2.4.2 FCS lack of resources cause critical time delays

The lack of specific resources within SAPS is cause for concern in addressing attrition of rape cases. The findings suggest that resources are at times a real struggle and prevents them from doing their work or gathering evidence while it is still viable (Krahenbuhl & Dent, 2017). Basic resources such as ink for fingerprinting, rape kits etc. are amongst the resources that are mandated for the gathering of these time-sensitive pieces of evidence. If no resources are available, there simply is no way in which evidence can be obtained. In a linear fashion, if no evidence can be obtained to corroborate the claim of the victim, there is lower chance of a case proceeding to court. Another issue from the findings reflected on the laborious task of procurement within government departments. Although these processes are extensively set out in policy, there are times when challenges occur and these processes cause extensive delays with detrimental consequence without the possibility of redress. As a leader of the CFT during investigation and primary evidence

gatherer, FCS simply cannot activate the CFT or set the goal of the investigation when a case is reported if these crucial resources are not available, This has a direct effect on attrition.

6.2.2.4.3 Officer's personal motivating factors to excel

As the leader and first responder of the CFT, the investigating officer has the responsibility of driving cases to the point where it is ready for court. Many challenges are experienced when working with victims and dealing with the emotional burdens that accompany the work (Gumani, Fourie & Terre-Blance, 2006). In reflection of the findings the motivation of officers are closely aligned to convictions which is in theory related to occupational work acceptance. It should be noted here that attrition has a detrimental effect on officers to continue performing with passion for the current investigation if a previous investigation fails to proceed. The findings further indicated that many officers are not awarded the same monetary benefits as non-FCS colleagues in relation to overtime. In a bureaucratic environment, wages are in accordance with organisational hierarchy, whilst fringe benefits are in accordance with budget allocations. The findings concluded that the emotional impact of these cases make the work a heavy burden, and by receiving less remuneration than your peers, results in a negative motivational impact. In essence, acknowledgement of hard work is overlooked.

6.2.2.5 The challenges of inter-sectoral collaboration between bureaucratic governmental departments

The inter-sectoral collaboration within government departments is promoted on various levels, but there are however, many challenges on the ground in dealing with sexual crimes (Majchrzak et. al., 2014). The team of diverse professionals serving in government departments, each with their own operational procedures, field specific protocols and aims within the criminal justice processes, must be well coordinated when working together on a common goal. In this case the goal being the successful investigation of a sexual crime against a child. The four primary departments dealing actively with such a case is identified as SAPS, DSD, DoH and DoJ (NPA). Amongst these departments it was found that there appears to be a lack of understanding of each other's work and processes that may hamper the streamlining of services. Poor communication structures exist which leads to conflict and misunderstandings that affect case outcomes. Findings concluded that the CFT requires specialists to ensure success in achieving the goal of successful investigations. Lack of human resources is a shared challenge when the need is greater than can be successfully handled. Lastly, the findings indicate that the CFT is open to emotional trauma in working with these cases. All of the findings speak to challenges in collaboration of the CFT.

6.2.2.5.1 Lack of understanding of processes to streamline services

In theory, the concept of knowledge integration occurs when role-players are aware of each other's deeper knowledge (Majchrzak et. al., 2014). Different role-players who participated in the study commented on what they would expect the other to do. While it is logical to expect that for specialised service the specialist would perform their duty in a prescribed manner or with a specific goal in mind in accordance with their respective field of knowledge and operation, participants did not always experience this in the field. Without knowledge integration, gaps in the communication and interaction of the CFT occurs and may lead to constraints amongst members and cause misalignment of the teams. The findings suggest a need for knowledge integration to strengthen the inter-sectoral collaboration. The findings also suggest that there is a gap of understanding and integration of knowledge that gives rise to misinformation and affects the goal of the team, thus enhancing attrition.

6.2.2.5.2 Poor communication between role-players

Communication is the feedback loop amongst role-players that form the basis of interaction and establishes the extent and value of collaboration (Ali, 2016). The findings established that there is a great need for effective communication and interaction amongst team members. As much as there is good communication at times, the findings suggest that this is sometimes sporadic and limited to certain areas or certain team members and not in its entirety throughout the team. The findings suggested that where there is poor communication '*nothing will get done.*' Clearly this is an indication that attrition is affected by team cohesion and interaction.

6.2.2.5.3 Specialised service required to work with children

Working with children can be a daunting task for professionals in all spheres as it requires a different subset of skills. The added issue of sexual crime cases and the trauma that these children express can prove difficult for the untrained professional (Joubert and Wyk, 2014), with many errors made in dealing with children being irrectifiable and detrimental to a criminal case. Working with children then becomes a factor of task complexity which is not currently taken into consideration. The findings concluded that very little capacity building is done for this challenge and although it can be overcome through capacity building programmes, the need for this is disregarded. The recognition of need for specialised sexual offences courts is a reflection of the need for such capacity. This may be too late as the court is the final step in the criminal justice process for the child, whilst the investigation stage has very few considerations in dealing with children in a specialised manner. This capacity is on a collaborative level as all role-players should comprehend the dynamics of working with children so as to consider this during operations and interactions of the CFT with the child. Without this type of capacity, knowledge integration and collaboration in CFT may be compromised. The idea that more

damage can be done when working with children incorrectly, may affect the working of another role-player to the detriment of the case.

6.2.2.5.4 Adequate human resources to address the need

The need for capacitated human resources is a factor of every sphere. In a developing country such resources are in great demand, whilst attempting to attend to the demand, generic workers are often put in place to perform tasks and functions above their expertise with mixed to poor results. Where generic workers simply cannot perform the task, the caseloads of specialists become daunting. The findings indicated that in all departments of the CFT, workers are strained with high caseloads or simply cannot perform the tasks effectively as they are not equipped to do so. In essence, collaboration of the CFT is strained as little time can be spent on CFT cohesion, communication and knowledge integration. The lack of human resources causes a lack of time to address cases with the special skill it requires. A linear fashion of working causes poor work quality, where quality is sacrificed for the sake of quantity. The lack of diligence is an obvious cause of attrition as it directly enhances the possibility of errors and depletes the opportunity for dealing with challenges.

6.2.2.5.5 Emotional impact of dealing with sexual crime cases of child victims

Sexual crime cases where children are victims are a unique type of challenge as it entails an emotional burden of trauma. Although all professionals of the CFT are well aware of the emotional toll, effective boundaries are not impervious to this emotional trauma (GoodTherapy, 2016). The findings showed that there is no structure in place to deal with this. Stress in the workplace is an expected norm, however these types of trauma on children poses a unique emotional toll. The impact of cumulative traumatic experiences of those who assist victims are well documented and researched as vicarious trauma. The CFT will experience a variety of indirect traumatic experiences which may result in vicarious trauma which is as emotionally destructive as first hand trauma. This leaves the professional in a position where a person is no longer fit to perform their work. The CFT has an added function that should include debriefing and dealing with the cumulative traumatic experiences in order for these emotions to be excised and coping mechanisms to be established. The collaboration of a team may also have the added advantage of not feeling alone in doing this work.

Conclusively, the findings of theme two revealed the extent of collaboration between relevant stakeholders or role-players during the investigation of cases of child victims of sexual crimes. It revealed a multitude of challenges experienced by all role-players. These challenges play an immense role in the attrition of sexual crimes against children.

6.2.3 Objective 3. To explore and describe the investigating officers and prosecutors' opinions on factors that contribute to attrition of cases of child victims of sexual crimes.

Objective three set out to explore opinions of investigating officers and prosecutors on factors that cause attrition. The findings within the data revealed three themes that hold sway over attrition. Theme three categorised the findings relating to the effect of timeous intervention during investigation of sexual crime cases of child victims. Theme four categorises factors in relation to the child victim of sexual offences and the final theme makes recommendations on prevention of attrition of sexual crimes of child victims.

THEME 3: The Effect of Timeous Intervention during Investigation of Sexual Crime Cases of Child Victims

Theme three has its focus on time, having identified two sub-themes, the first being the effect of time on evidence and the second, the therapeutic intervention debate.

6.2.3.1. The Effect of Time on Evidence

An undisputed aspect of time was revealed from the findings as playing a vital part in all sexual crime cases. From the findings, it was clear that time has an effect on evidence and its viability. Evidence is time-sensitive and every sexual crime relies on these pieces of evidence to be obtained in a speedy fashion so as to ensure its viability and admissibility in court. Sub-theme one has five categories of evidence that is affected by time these being medico-legal evidence, SAPS statements and the effect of time on memories, forensic assessments and the forensic lab services to fast track DNA reports.

6.2.3.1.1 Medico-legal evidence

Medico-legal evidence is the first piece of evidence that is most time-sensitive. This is the physical evidence left behind by the perpetrator in the form of bodily fluids, or the physical harm on the body of the victim due to the incident. This evidence has a maximum of 72 hours viability after the incident and is essential to corroborate the merits of the incident (Mogale et.al, 2015). From the findings it was clear that this gathering of evidence is at times a difficult task, primarily due to the amount of time spent on collating such evidence. Since it is so time-sensitive, a person is taken to a hospital directly after reporting a sexual crime. This is a mandated activity in accordance with law. Medical services is however difficult to come by in some areas and the waiting period easily exceeds 8 hours. The medico-legal examination is to be conducted by any medical practitioner with suitable capacity thus forming part of the CFT. Access to such services is limited in the Kouga area. There is but one hospital for the vast area and it is not uncommon that FCS officers have to drive three hours to get to the nearest hospital. Considering that the hospital could take over eight hours before attending to the victim, time can quickly run out and every moment can cause loss of evidence. In the interest of preserving evidence, it is

essential that the child does not eat, drink, wash, urinate or defecate until all evidence is collected. This places stress on the child and is at times impossible to do for an extended period of time. Incidents have led to circumstances where children are sent home to come to hospital the next day, leaving the child to preserve evidence on their bodies for even longer. This is considered secondary victimisation and can be seen as a direct cause of attrition. In areas where Thuthuzela Care Centres or places that operate as such are present, the process is found to be much easier and more efficient as the CFT are in place at these centres. These centres are not available in all areas and the lack thereof has a clear impact on both the evidence and the victim's experience of being assisted.

6.2.3.1.2 SAPS statements and the impact of time on memories

The taking of statements is another critical issue apart from language and accuracy. In this theme, the issue of timing of statement-taking was identified. Time affects memories in general, and children are especially susceptible to suggestibility and tainting of true memories, mostly due to the biopsychosocial effects of trauma. Suggestibility and tainting of memories are unavoidable and a natural occurrence after a traumatic incident for a child. This is described as a consequence of a person in disequilibrium or shock after a traumatic incident (Hritz, et.al, 2015). The child would then fluctuate in a feedback loop that is intended to make sense of the incident and thus has indeterminate boundaries for information gathering. The taking of a skeleton statement and the subsequent detailed statement is in consideration of the trauma and its effect while a person may still be in shock. These statements are however time sensitive and it is recommended that they be completed within 36 hours. This makes the first three days after an incident the most important time to gather evidence for any sex crime committed.

6.2.3.1.3 Forensic assessment

Forensic assessments as done by social workers are to determine whether a child can testify in court or which measures are to be put in place for the child to testify (Joubert and Wyk, 2014). This is done in preparation for testifying and to ensure the child is given every opportunity and measure to ensure prevention of secondary victimisation. Another function of forensic services is to determine the impact the incident has had on the victim which can be used as grounds for aggravating factors in sentencing. The findings indicated that where requests were made by the DPP for such reports, it took a long time for those reports to be finalised and provided to the docket. These reports are seen as evidence and as such, makes forensic social work services part of the CFT. These services are limited as there are simply too few social workers capacitated in forensic assessment. The standard curriculum of a social work degree does not include forensic work and it can be deduced that few cases are referred and high caseloads can be expected, causing excessive delays.

6.2.3.1.4 Forensic lab services to fast track DNA reports

Forensic lab testing is part of SAPS services and forms part of the CFT. These services are seen as vital as it scientifically corroborates statements and can be seen as definitive in its findings. It needs to be mentioned that results may not be able to confirm an actual crime has been committed or in the case of DNA findings who the DNA belongs to if there is no reference DNA (Watt, 2011). The findings revealed that DNA results take an extraordinary amount of time to be processed. At times delays are caused by lack of chemicals and products to conduct the testing which results in backlogs. In terms of time, this is a major concern as some cases can wait up to five years, rendering the child witness almost unable to recall the event in detail. This leaves the question of whether these delays are constitutional and in the best interest of the child.

6.2.3.1.5 Extended time effect on testimony

The duration of investigation is dependent on multiple factors. Some are in the control of the CFT while some factors are not, such as whether the perpetrator can be identified or found. The risk of a lengthy investigation lies mostly in the validity of the testimony a child can provide after a long period (DoJ & CD, 2013). In consideration of a child's cognitive developmental progression and risk of suggestibility and tainted memories as discussed above, it seems that the child has a lesser chance of providing the court with what it needs to seek justice for a sexual crime. In acknowledging the need for speedy criminal procedure, much effort and success has been reached in terms of speeding up trials with the implementation of the sexual offences courts. The focus on speeding up the investigation stage has been left with the development of the Thuthuzela Centres. Yet delays remain in most areas as such services are not available.

6.2.3.2. The therapeutic intervention debate

The findings alluded to an existing debate amongst scholars from the professions of service. Both sides of the debate have valid arguments and it seems to remain a conundrum as to which way is best for all. On one hand there exists much research on the healing of trauma that support early onset intervention after a trauma, especially for the developing mind of a child. The rebuttal to this is that therapeutic intervention alters the perspective of the child as children are in a process of developing regressive thinking and perspective differences (Carlson & Dalenberg, 2000). Their testimonies then do not corroborate their statements, thus incurring attrition. The child has a right to services as well as to justice, society has interest in a well-functioning child as well as protection from perpetrators. The child advocacy centres in Canada seems to be a best practise example where strict guidelines and protocol is given so as to provide best possible required pre-trial therapy, without tainting the child's views (Department of Justice, n.d.). These centres signify the highest ideal of CFT knowledge integration and complementary working relations in bringing a case to court in the most effective manner for both the child and criminal justice.

THEME 4: The child victim of sexual offences

The findings of theme four speaks to the third objective in exploring investigating officer's and prosecutor's opinions on factors that contribute to attrition of sexual crime cases where the victim is a child. The findings yielded two subthemes. Firstly, the understanding of the child's level and secondly the effect of trauma on the child victim.

6.2.4.1 Understanding the child's level

A child's level of understanding can be attributed to their developmental processes in all spheres (Fallowfield, 2013). Childhood development is well-documented and researched, but very few professionals in general are aware of these developmental stages and how it affects interaction with a child. The findings indicated that most professionals draw on their own experiences as parents in order to relate and interact with children. Interviewing a victim is done in a forensic manner, which is required of all CFT members in gathering evidence. This requires specific interviewing processes and skills. A child victim brings about a need to have a clear understanding of how developmental components presents themselves. At present Participants allude to the fact that no capacity building is done for key role-players to understand the developmental processes of the child. When people who are engaging with young children during traumatic experiences do not have this key competency, it stands to reason that miscommunication takes place and corroboration of facts as explained by the child can be misconstrued as tainted, suggested or fantasy. This runs the possibility of incurring attrition as the child's view of the incident is not explained in a manner understood by the interviewer. The findings clearly indicated that most professionals did not receive any training on the development of children. The task complexity of interviewing children require capacity building if criminal justice processes is to consider the needs of the child victim.

6.2.4.2. Effect of trauma on the child victim

The effect of trauma on the child victim is an essential aspect of consideration for the CFT. The child is, in a way, part of the team, yet has the specific role of a witness, while the CFT focuses the criminal case on the incident regarding the child. When a child is a victim of a sexual crime, it can safely be assumed that a level of trauma has been experienced (Hughes, 2015). The child therefore may present with symptomology of a sexual trauma. This can alter the child's functionality, especially regarding cooperation in the investigation. This trauma does not only affect the child, but also the family and community. Three categories were identified under this subtheme. Firstly, the impact of trauma on the child's cooperation during investigation, secondly the occurrence of secondary victimization and lastly, the influence of the child's environment after a sexual crime.

6.2.4.2.1 The impact of trauma on child's cooperation during investigation

The impact of trauma can cause a child to struggle to cooperate during investigation (McElvaney, 2019). How these struggles present themselves is at times a conundrum. The findings suggest that for most cases the incidence and manner of disclosure or not disclosing a sexual incident is often confusing for the criminal justice system as it is expected to happen immediately. The investigating officer who is tasked with getting the child to disclose for the purpose of taking a statement, has to be able to interview in such a manner that the child cooperates despite the trauma and insecurities of the child. Where this remains a challenge, the CFT structure should allow for other intervention such as forensic social services to assist in dealing with these interferences and insecurities of the child and prevent the idea of fabrication of merits of the case.

6.2.4.2.2 Secondary victimization

The investigation processes of a sexual crime often runs the risk of incurring secondary victimisation. The examinations and interviews in the aftermath of a sexual crime is invasive and care should be taken by each role-player in each step of the investigation to not cause secondary victimisation through lack of sensitivity or callous behaviour (Christian, 2011). For the most part, the findings show that care is given to prevent secondary victimization, but that the process in itself causes harm. The findings indicate that too many interviewers are involved in a case and the continuous disclosure causes emotional distress which can make children relive the incident or start to feel despondent of the process. The medical examination after a sexual incident is particularly invasive and runs the risk of incurring secondary victimization if not handled with care and empathy. This includes the effect it has if the child is to wait extensively for the examination without the option of cleansing the body after a sexual incident. This is to be considered by the medical component of the CFT in efforts to fast track the examination. The adversarial nature of the criminal justice process places the burden on the child to prove the guilt of a crime and identify the perpetrator. The prosecution therefore has to place pressure in consultation to ensure the matter can be proven in court. This pressure can cause secondary victimization and may prevent cooperation and this aids in attrition.

6.2.4.2.3 Influence of the child's environment after a sexual crime

The environment of a child is the family and community which holds influence over the child. The disclosure of sexual crimes has a ripple effect to the environment of the child as a feedback loop as the sexual incident is discussed amongst family, friends and leaders within a community (Mele et.al, 2010). This feedback loop is most often positive and negative in nature, as children are subjected to circumstances where they have to testify against a parent, breadwinner or extended family member. The consequences of disclosure and the criminal process is often the emotional burden of the child and will deter the child from proceeding and may cause recanting of the disclosure. The environment, as explained above, is also in part responsible for tainting the child's

memories and feelings regarding the incident. The CFT has little influence over the community and actions of family, however procedural intervention in this regard is available and can be enforced should such pressures on the child be observed within the CFT.

THEME 5: Recommendation on preventing attrition of sexual crimes of child victims

Theme 5 is the final theme reflecting on the third objective and brings together various perspectives in recommendations to address attrition of sexual crime cases against children. The first subtheme brings together recommendations for the prevention of future crimes, while the final subtheme addresses consideration to processes that can affect change in the prevention of attrition.

6.2.5.1 Community perception of sexual crimes against children

The state of the community in South Africa is recognised to have an array of factors that promote crime and violence, especially amongst vulnerable groups such as women and children (Holborn & Eddy, 2011). Community functioning and perception on how sexual crimes are being dealt with by criminal justice is vital in promoting or deterring this crime. This subtheme addressed categories of the effect of alcohol and poverty on sexual crimes, while exploring the impact of the Child Protection Register and early release from prison on communities.

6.2.5.1.1 The effect of alcohol and poverty on sexual crimes against children

It is an expected fact that sexual crimes against children know no boundaries of social structure in its occurrence. It is widely found that certain communities have a higher occurrence of sexual crimes (Holborn & Eddy, 2011). These communities concurrently have a high occurrence of poverty and substance abuse issues. The findings suggest that where poverty and substance abuse is rife, there is a lack of consideration of supervision of children, making them increasingly vulnerable to opportunistic perpetrators. It was also found that communities in the midst of turmoil from poverty and substance abuse give rise to criminal thinking and violent behaviour. The findings suggest prevention of poverty and substance abuse would therefore serve to address the environment of the child and the prevention of the foundation of sexual crimes against children.

6.2.5.1.2 The effect of the child protection register

The Child Protection register is the list of those who have been convicted of a sexual crime against a child (Children's Act 38 of 2005, 2006). At present, this register is not available to the public. In United States and South Korea this register is available along

with interactive displays of the whereabouts of such persons (Vess, Day, Powell, & Graffam, 2011). The findings indicate that there is a need in South Africa for this information to be made public in an effort to deter future perpetrators through prevention and social pressure. There is little research to anticipate the impact of making the register open to the public, however public pressure remains and this is under the consideration of parliament (Condon, 2018).

6.2.5.1.3. The impact of early release from prison

The early release from prison is pendant on the interventions of the Department of Correctional Services. Correctional services forms the final part of the criminal justice process. Following their own legislative procedures and specific instructions, courts impose sentencing, but correctional services bears the management of the sentence (Mujuzi, 2011). Legislation provides for early release in the form of parole if the minimum sentence has been served. From the public point of view however, it seems that a perpetrator of sexual crimes does not serve a full sentence when placed on parole. The findings indicate that this has a negative effect on the public view of the criminal justice process and in general a disregard of the crime committed. This creates a lack of trust and inadvertently a lack of cooperation when a future crime is committed. This also brings about a lack of fear in committing these crimes, therefore serving no purpose in deterrence.

6.2.5.2 Other factors that may fast track cases

The findings brought forth two specific categories of recommendations, namely. the success of the specialized sexual offences courts and the possibility of recording interviews of children to address cautionary rule concerns. These recommendations are not only applicable in efforts to curb attrition, but indicates clearly that a need for a collaborative effort amongst government departments is required.

6.2.5.2.1. Improving on sexual offences courts

The dedicated sexual offences courts appear to be successful in addressing many of the challenges facing the prosecution of sexual crimes in general. Since its inception, it has grown and is being expanded in metro, urban and rural areas. These courts are capacitated with infrastructure and trained personnel who are sensitive to the dynamics of sexual crimes and the trauma a victim experiences. From the findings it was recommended that these courts should expand to all areas of South Africa. The success of these courts indicate the need for a CFT approach in these cases, but this is only applicable to the trials and does not speak to the investigation stage of criminal proceedings. The trajectory of the development of these courts country-wide indicate that it should be readily available in due course (Masutha, 2014). From the findings it was

clear that the need for these courts is vital in areas such as Kouga where it is not yet available.

6.2.5.2.2 Recording of interviews

The video recording of interviews when statements are obtained is a recommendation from the findings that is a new practice in a number of other countries such as Canada (Bala, 2015), Scandinavian countries (Johansson, Stefansen, Bakketeig & Kaldal, 2017) United Kingdom (Citizens Information, 2019). The idea of recording the statement interview is to have a detailed description of an incident while it is untainted by the impact of trauma and suggestibility. If implemented, it will not only address language challenges in translation, but the behaviour and emotional state of the child will be recorded. These recordings will also bring to light the manner of questioning and the child's verbatim responses. Should it be implemented, the CFT may be able to analyse footage, rather than risking secondary victimization of multiple interviews. The question is then posed whether there is infrastructure readiness for such video recordings in all police stations.

Objective three was explored from the findings of three themes. These themes speak to the timeous intervention in gathering evidence and the impact on the case if delays occur, the emotional impact of trauma and its effect on the child and environment of the child during the investigation and finally the consideration of recommendations to prevent these crimes or deal more effectively with attrition of sexual crimes where the victim is a child.

6.3 OVERALL SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

This study analysed and explored multiple factors that lead to attrition in sexual crimes of child victims. Attrition is the concept where criminal cases fall out of the criminal process and thus, although a crime is reported, it does not proceed to the point of trial. Attrition is a natural occurrence in all criminal cases and is global. The rate of attrition can almost be seen as a measure of effectivity of criminal justice processes. The attrition of sexual crimes has continuously been under review on a global scale with a multitude of quantitative studies reflecting rates of attrition internationally and within South Africa. South Africa has been labelled in the past as the Rape Capital of the world (King, 2014). This sparked reform on a mammoth scale to address the state's response to sexual crimes. Legislation saw the introduction of National Guidelines, the amendment to the Sexual Offences Act, the re-establishment of the sexual offences courts and further policies and procedural guides to answer to the need of reconsidering the criminal justice process in dealing with sexual crimes. Although addressing a multitude of factors of sexual crimes, a staggering lack of focus was placed on differentiating between adult or child victims. Reform occurred mostly with regard to court infrastructure and processes. The concept of inter-sectoral cooperation was established and sparked the Thuthuzela Care Centres, where all required services would be under one roof for the convenience

of the victim and the promotion of the collaboration of services. The varying successes of these centres proved that where their integrated functioning was high, the response from the community they served was found to be very positive. Still these centres remain few and far between to serve the communities in this need. In areas where these services are not available, struggles to bring cases to court remain. Again the child victim has been overlooked. As much as all institutions are mandated to reflect as child-friendly and emphasis placed on a supportive and empathetic environment, the real need of the child victim has been neglected. For the most part, a child-friendly space was declared as such if it was made colourful and boasted cartoon character displays. Although this is inviting to a child, the true need of the child victim has been neglected. This study proves the need of the child victim as a dynamic mix of aspects pertaining specifically to the child, including the developmental, environmental and trauma-induced aspects of consideration when bearing in mind the best interest of the child within the criminal process. The child remains unfairly treated by the criminal justice processes when still being measured against the concepts of the abolished cautionary rule, while measures to minimise challenges regarding the child witness remain unexplored and unattended to. The findings yielded the following;

- Effective channelling of dockets and mobilization of witnesses is required to streamline services,
- A collaborative team approach is to be established to work with a victim,
- Timeous intervention is required to preserve all forms of evidence,
- Role-players are to have specialised capacity building in order to ensure knowledge integration in working with traumatised children.

It is these factors which have been identified to affect attrition;

The findings of this study will contribute to the literature on qualitative factors that affect attrition of sexual crimes in South Africa, especially pertaining to the child victim. It will also bring to light the needs of the child victim from the perspective of the best interest of the child. Promoting the need for a specialised, collaborative approach in dealing with sex crimes for all victims.

6.4. LIMITATIONS OF THE STUDY

The study aimed to be as inclusive as possible, however some limitations were incurred. These are identified as follows;

- The study did not include all participants as identified by the study as role-players. Department of Health medical personnel were omitted as well as social workers from the Department of Social Development or NGOs. The study considered that the evidence gathered by these departments, although valid, is reflected by the participants who actively utilise the evidence and can give clarity on its validity and admissibility in court.

- This study did not take into consideration the age of the perpetrator. The child perpetrator and implications of the Child Justice Act have little impact on the investigation of the crime.
- No consideration is made for a person who is mentally disabled. Legislation by default categorised the mentally disabled as a vulnerable group and *de facto* categorises services to children with those with the developmental age of a child. Therefore the findings of the study could in all aspects be implemented for those with mental disability. Bearing in mind that special considerations should be explored for this particularly vulnerable population.
- A considerable delay of one year affected the length of the study. This was due to gatekeeper consent from national office not proceeding through the channels of communication and filtering down provincial office and then to the relevant regional office where the participants are located.
- The area of Kouga was identified so as to follow one jurisdiction of cases through their respective processes. Although care was taken to identify a diverse population that is representative of South Africa, slight deviation in results will be obtained in other areas of the country.

6.5 RECOMMENDATIONS FROM THE STUDY

From the study conducted, recommendations came to light with regards to policy and legislation, operational procedures and capacity building. These are detailed below.

6.5.1. Recommendations on policy and legislation

- **Department of Justice and Department of Social Development:** A comprehensive and holistic revolution is to be considered regarding the child witness. The abolishment of the cautionary rule should not go without specific measures that will truly speak to the needs and best interest of the child witness. It should reflect cognisance of the cognitive and emotional developmental level of the child whilst acknowledging the effect of trauma. These measures or new rules should address both the needs of the child witness as well as satisfy the court's considerations of rights for both the victim and the accused and in the interest of a fair and just trial.
- **Department of Justice:** In an effort to address administrative jurisdictions, it can be considered that all government departments follow similar areas of operation as the differentiated demarcations cause confusion.
- **Department of Health:** The design of legislation of the obtaining of medico-legal examination and evidence should be guided, not only pertaining to redesign of the J88, but to include accountability of the medical professional that completes it. It should be legislated that a professional who procures evidence must be able to testify or another medical expert should be tasked to interpret evidence.
- **National Prosecuting Authority:** Provision is to be made to expand on the Thuthuzela Care Centres or institutions with similar goals to the concept of multi-

disciplinary teams. Not only should these services be more widely available, but it should be linked to the sexual offences courts.

- Services to victims aimed at providing therapy should not only be made standard practice, but a standard referral network between SAPS or NPA and DSD should be implemented to ensure all victims have access to services.
- **Department of Social Development:** policy in respect of rendering services to victims should be developed specifically for the child victim. Such services should be as far reaching as current child protection services.
- **Department Social Development:** Legislation should consider making the Child Protection Register public and to what extent the personal information of a perpetrator will be made available.
- **Department of Corrections:** It is recommended that correctional services reconsider the parole requirements of sex perpetrators, specifically those who wronged a child. Parole consideration policy should incorporate the impact of the crime on the child and the level of damage incurred.
- A critical evaluation is required to determine the caseloads of all working professionals so as to establish reachable goals and to procure relevant human resources to address the need. This is in relation to the multi-disciplinary team who operates differently to the norm.

6.5.2. Recommendations on operational procedure

- **Department of Justice:** Restructuring of channelling processes of dockets may be required to prevent unnecessary blockages. It is further recommended that prosecutors consider making consultations at police stations to curb unnecessary mobilisation of victims over far distances.
- **National Prosecuting Authority:** The DPP may consider special fast-tracking of child victim cases as they are more time sensitive.
- **National Prosecuting Authority:** Although not possible for all cases, there should be a time limit in the cases where there is a child victim. This will promote finalisation of these cases whilst the child is still able to do so effectively.
- **South African Police Service:** FCS operational areas to be reconsidered where areas are too vast in relation to court jurisdictions.
- **Department Social Development:** Pre-trial therapeutic services to all child victims, should be conducted under strict guidelines and measures of accountability. DSD within the TCC and similar centres where the CFT is gathered should develop these guidelines in the form of a specific programme.

6.5.3 Recommendation on capacity building

- **Department of Health:** Investment in the training of forensic medical practitioners should continue if not scaled up to a point where all clinics have access to a forensic nurse.

- **South African Council for Social Services Professions:** Forensic assessment services for criminal court should firstly be acknowledged as a service vastly utilised and required for children. A full needs assessment in this regard is required along with reform in a manner that meets the need of the public.
- **The Department of Social Development:** To reconsider the services implementation to victims in all areas. This will entail the restructuring of operations into rural areas and capacity building for social workers in accordance with continuous professional development.
- All persons working with children are to be capacitated and serious consideration is to be placed on the use of unprofessional staff such as lay counsellors at such centres. Capacity screening should form the basis of entry into the institution and continuous knowledge integration is essential.

6.6 FUTURE RESEARCH

The findings of the study illuminated the possibility or need for further study in the following arenas:

- The development of procedural guidelines of pre-trial therapy to child victims.
- The impact of well-functioning Thuthuzela Care Centres on attrition.
- The inclusion of video recording of interviews with children as a method to preserve and interpret the statement of a child.

6.7. DISSEMINATION OF RESULTS

The dissemination of results is based on prescribed protocol as defined by the Nelson Mandela University. This includes the provision of a hard copy as well as a soft/ electronic copy of the final research report.

As per agreed policy of access to participants, a summary will be provided to the national offices of both gatekeepers, the National Prosecuting Authority and the South African Police Service at a national level, and to the sections of research who provided permissions to conduct the study. Further copies will be made available for Department Social Development as well as the South African Council for Social Service Professionals

An article on the findings will be submitted to an academic journal with the aim of publication for role-players and students who may benefit from the study.

6.8 CONCLUSION OF THE STUDY

This study performed an exploration and analysis of attrition of sexual crimes committed against children during investigation. The study created the opportunity to uncover the factors that influence attrition of these cases from the individuals who deal directly with them. It also gave rise to what could be put into place to address attrition. The findings of the study yielded three most vital aspects of investigation that relate directly to attrition. The first being that of time. The time required for evidence to be collected while still viable.

Evidence in relation to medical evidence is highly time sensitive, the taking of a detailed statement is time sensitive, the completion of the whole investigation is time sensitive as the child needs to testify soon after any incident. Time is found to be a vital factor in attrition. Another factor that affects attrition is the manner in which the role-players work in concert to achieve the goal of finalising the investigation. The forming of a conceptual specialised and capacitated team to assist in a variety of factors is essential, none of these components can function without knowledge integration, established referral networks and a common goal which to strive for. The last aspect is the consideration of a child in trauma and how the cautionary rule should be reconstructed to truly contemplate the holistic approach the criminal justice process can incorporate to reflect the best interest of the child witness. Other factors found to affect attrition refers to services to stabilise and support the traumatised child victim and family throughout the process and possibly afterwards. Lastly, emphasis on awareness and community uplifting to prevent sexual crimes on children.

In conclusion, this study contributed to the knowledge base on the prevention of attrition of sexual crime cases and the development of recommendations that would make it possible to develop a new outlook on the child witness that will ensure the protection of the rights of the child in the criminal justice process.

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ANNEXURE A: LETTER TO GATEKEEPER (SAPS)



PO Box 77000 • Nelson Mandela Metropolitan University Port Elizabeth • 6031 • South Africa • www.nmmu.ac.za

DATE

TO: AREA COMMISSIONER EASTERN CAPE PROVINCE

LT Gen. L. E. NTSHINGA

(040) 608 8413

(040) 608 8416

NtshingaL@saps.gov.za

Private Bag X7471

KING WILLIAMSTOWN

5600

RE: REQUEST FOR ACCESS TO INTERVIEW INVESTIGATING OFFICERS

This letter serves as a written request in accordance with the Protection of Personal Information Act No. 4 of 2013 sections 29, 32 and 37.

I am a Social Worker currently employed at the Department of Social Development. I am stationed at the KwaNobuhle Outreach Centre where services rendered includes provision of safety, protection and statutory forensic assessment to victims of domestic violence, rape and trafficking in persons.

I am studying towards a Master's Degree in Social Work at the Nelson Mandela University. The focus of my research is the phenomenon of attrition in sexual crime cases of children. Should this request carry your approval, I would request permission to interview investigating officers who are currently dealing with sexual crimes as the information would assist in analysing the factors of attrition during investigation.

The study would require a minimum of six officers for interviewing. The officers I aim to interview will only be those who have actively managed sexual crime related cases, but need not specifically be FCS officers. I will only focus on the Kouga district, which include five SAPS stations in, Jeffrey's Bay, Humansdorp, Patensie, St. Francis Bay and Hankey.

Should this request meet your approval, access can be arranged with the various offices and will be done so by myself with your written letter of approval.

My research supervisor is Dr Annaline Keet. She can be contacted regarding any queries related you may have towards the legitimacy of this study.

Should you require any further information for the consideration of this request, please contact me or my supervisor at NMU

Thank you for your consideration

Yours sincerely

Ms K. Calitz

Social Work Masters Student

krn.calitz@gmail.com

Contact number: 083 452 5835

Dr A. Keet

Research Supervisor

annaline.keet@nmmu.ac.za

Contact number: 041-504219

ANNEXURE B: LETTER TO GATEKEEPER (NPA)



PO Box 77000 • Nelson Mandela Metropolitan University Port Elizabeth • 6031 • South Africa • www.nmmu.ac.za

NATIONAL PROSECUTING AUTHORITY

Mr. M. BESTER

MariusMJ@npa.gov.za

VGM Building

123 Westlake Ave

Weavind Park

Pretoria

0184

RE: REQUEST FOR ACCESS TO INTERVIEW PROSECUTORS

This letter serves as a written request to include respondents from the National Prosecuting Authority prosecutors and/or advocates.

I am a Social Worker currently employed at the Department of Social Development. I am stationed at the KwaNobuhle Outreach Centre where services rendered includes provision of safety, protection and statutory forensic assessment to victims of domestic violence, rape and trafficking in persons.

I am studying towards a Master's Degree in Social Work at the Nelson Mandela University. The focus of my research is the phenomenon of attrition in sexual crime cases of children. Should this request carry your approval, I would request permission to interview prosecutors and/or advocates who are currently or usually dealing with sexual crimes as the information would assist in analysing the factors of attrition during investigation.

The study would require five respondents for interviewing. I will only focus on the Kouga district cases, but magisterial district includes the Nelson Mandela Metro as there is only one magisterial court in Humansdorp, Kouga.

Should this request meet your approval, access can be arranged with the various court managers and will be done so by myself with your written letter of approval.

My research supervisor is Dr Annaline Keet. She can be contacted regarding any queries related you may have towards the legitimacy of this study.

Should you require any further information for the consideration of this request, please contact me or my supervisor at NMU

Thank you for your consideration

Yours sincerely

Ms K. Calitz

Social Work Masters Student

krn.calitz@gmail.com

Contact number: 083 452 5835

Dr A. Keet

Research Supervisor

annaline.keet@nmmu.ac.za

Contact number: 041-504219

ANNEXURE C: LETTER TO PARTICIPANT



PO Box 77000 • Nelson Mandela Metropolitan University Port Elizabeth • 6031 • South Africa • www.nmmu.ac.za

Dear Participant

I am a qualified social worker employed by the Department of Social Development.

I am stationed at the KwaNobuhle Outreach Centre where one of the primary services we render is the forensic assessment of victims of mostly rape and child sexual abuse. The purpose of the assessments is to establish ability to testify as well as victim impact for aggravating factors in sentencing. This work has exposed me to the practical challenges and experiences in investigating these cases.

I am currently a student at the Nelson Mandela University working towards achieving a Master's degree by virtue of a research study. The focus of my study will be to "Analysis of Attrition of Sexual Crime Cases of Child Victims". The study requires the input of the investigating officers as they are driving and managing the investigation process. To obtain the input, I would require interviews with willing participants of approximately one hour. Taking into account all participant's busy schedules and time constraints, the interview will be scheduled according to your availability. It is required to audio record the interview for accuracy and authenticity in accordance with University policy. The recordings as well as the notes or data collected will be kept confidential. All information will be kept safe and secure in a locked facility with access only to myself and my supervisor. All participant will have to sign a confidentiality agreement as well as the outsourced transcriber and independent coder. This is to ensure unbiased input from the participant.

Please note that it is also my intention to consider these interviews as a basis for further studies and therefore may require the extended use of data gathered, should this meet your approval.

The study is under the supervision of Dr. Annaline Keet at the Nelson Mandela University at the faculty of health sciences.

Thank you for your consideration of my request to partake in this study.

Yours sincerely

Ms K. Calitz

Social Work Masters Student

krn.calitz@gmail.com

Contact number: 083 452 5835

Dr A. Keet

Research Supervisor

annaline.keet@nmmu.ac.za

Contact number:

ANNEXURE D: CONSENT FORM



PO Box 77000 • Nelson Mandela Metropolitan University Port Elizabeth • 6031 • South Africa • www.nmmu.ac.za

CONSENT FORM

By signing this form, I, _____ declare that the following had been explained to me by the researcher and that I fully understand and accept the condition of participation in this study:

1. Participating in this study is voluntary.
2. I understand that the focus of the study is to “Analyze the attrition of sexual crimes cases of child victims”.
3. One semi- structured interview will be conducted, should clarity of information given be required, a follow-up session can be scheduled or the participant may be contacted telephonically.
4. I have the right to ask questions during and after the research pertaining to the research and to abstain in response to a question should I experience any distress in disclosing the information.
5. In the process where I experience stress or discomfort, the researcher will provide details of emotional support services available.
6. No identifying details will be requested in relation to the information given to ensure anonymity and will remain so throughout and after the research.
7. The research results will be made available to me should I request it in writing to the researcher.
8. Please indicate if you would also consent to for this interview to be made available should the researcher require for further studies.

YES

NO

I, _____, hereby agree to participate in this research.

Signature Participant: _____ (name)		Date:	
Signature Researcher: K. Calitz		Date:	
Signature Research Supervisor: A. Keet		Date:	

ANNEXURE E: PERMISSION AND RELEASE RECORDINGS AND TRANSCRIPTIONS

Participant's Name:	
Contact details:	
Address:	
Telephone No:	
Name of researcher:	
Level of research:	
Brief title of research project:	
Supervisor:	

Declaration

(Please sign in the blocks next to the statements that apply)

1. The nature of the research and the nature of my participation have been explained to me verbally and in writing.	Signature:
2. I agree to participate in an interview and to allow audio-recordings of these to be made.	Signature:
3. The audio-recordings will be transcribed only by the researcher.	Signature:
4. Once the data have been transcribed the recordings will be destroyed.	Signature:
Date:	
Witnessed by researcher:	

ANNEXURE F: INTERVIEW GUIDE (SAPS)

INTERVIEW GUIDE (SAPS)

Participant's number: _____

Date: ____/____/20__

		✓	x
Introduced self and clarified role.			
Provide proof of registration at NMU			
Provide copy of authority letter from SAPS to conduct research to participant			
Consent form explained and signed.			
Audio recording Permission and release form explained and signed.			
BIOGRAPHICAL INFORMATION			
JURISDICTION			
SAPS Office	Jeffreys Bay	Patensie	Humansdorp Hankey St. Francis Bay
RANK:	UNIT		
GENDER:	M	F	RACE: B C W A AGE:
LANGUAGE:	Eng	Xhosa	Afr Other FCS TRAINING RECIEVED Y N In Progress
YEARS EXPERIENCE IN WORKING AT SAPS:			
YEARS EXPERIENCE IN WORKING WITH SEXUAL CRIMES			
INTERVIEWING QUESTIONS			
1. What is your overall experience in working with sexual crimes with children?			
2. Do you feel the capacity building programme for FCS in dealing with a traumatised child victim is sufficient? Explain why you feel so.			
3. What challenges have you encountered in executing the investigation relating to other stakeholders such as? - Department of Health			
- Department of Justice			
- Department of Social Development			
- SAPS			
- Other			
4. What challenges affect the investigation if the victim is a child?			
5. What are your thoughts on investigators' capacity, motivation or other challenges to successfully investigate a case?			
6. What in your opinion, are other factors affecting cases not to proceed to court?			
7. What would you suggest could be put in place to address attrition of sexual crime cases of child victims?			
8. Do you feel services to child victims are sufficient in capacitating them through the court process?			
Interviewing skills used: listening, probing, questioning, paraphrasing, reflection, clarification and reflective summary.			
Thanked participant for participation			
Closure of interview			
Participant signature:		Researcher signature:	

ANNEXURE G: INTERVIEW GUIDE (NPA)

INTERVIEW GUIDE (NPA)

Participant's number: _____

Date: ____ / ____ / 20

		✓	x
Introduced self and clarified role.			
Provide proof of registration at NMU			
Provide copy of authority letter from NPA to conduct research to participant			
Consent form explained and signed.			
Audio recording Permission and release form explained and signed.			
BIOGRAPHICAL INFORMATION			
JURISDICTION			
RANK:			
GENDER:		M	F
RACE:		B	C
		W	A
AGE:			
LANGUAGE:		Eng	Xhosa
		Afr	Other
YEARS EXPERIENCE IN WORKING AT NPA:			
YEARS EXPERIENCE IN WORKING WITH SEXUAL CRIMES			
INTERVIEWING QUESTIONS			
1. What is your overall experience in working with sexual crimes with children?			
2. Do you feel prosecutors have adequate capacity building programmes to work with traumatised children?			
3. What challenges have you encountered in executing the investigation relating to other stakeholders such as? - Department of Health - Department of Justice - Department of Social Development - SAPS - Other			
4. What challenges affect the success of the evidence found if the victim is a child? And if so, how?			
5. What are your thoughts on investigators' capacity, motivation, corruption or other challenges to successfully investigate a case?			
6. What in your opinion, are other factors affecting cases not to proceed to court?			
7. What would you suggest could be put in place to address attrition of sexual crime cases of child victims?			
8. Do you feel services to child victims are sufficient in capacitating them through the court process?			
Interviewing skills used: listening, probing, questioning, paraphrasing, reflection, clarification and reflective summary.			
Thanked participant for participation			
Closure of interview			
Participant signature:		Researcher signature:	

ANNEXURE H: ETHICAL APPROVAL 2018



PO Box 77000, Nelson Mandela University, Port Elizabeth, 6001, South Africa | mandela.ac.za

Chairperson: Research Ethics Committee (Human)

Tel: +27 (0)41 504 2235

charmain.cilliers@mandela.ac.za

Ref: [H18-HEA-SDP-001] / Approval]

17 September 2018

Dr A Keet
Faculty: Health Sciences

Dear Dr Keet

AN ANALYSIS OF ATTRITION OF SEXUAL CRIME CASES OF CHILD VICTIMS

PRP: Dr A Keet
PI: Ms K Calitz

Your above-entitled application served at the Research Ethics Committee (Human) for approval.

The ethics clearance reference number is H18-HEA-SDP-001 and is valid for one year. Please inform the REC-H, via your faculty representative, if any changes (particularly in the methodology) occur during this time.

An annual affirmation to the effect that the protocols in use are still those for which approval was granted, will be required from you.

We wish you well with the project.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'C Cilliers'.

Prof C Cilliers
Chairperson: Research Ethics Committee (Human)

Cc: Department of Research Capacity Development
Faculty Officer: Health Sciences

ANNEXURE I: ETHICAL APPROVAL 2019



PO Box 77000, Nelson Mandela University, Port Elizabeth, 6001, South Africa | mandela.ac.za

Chairperson: Research Ethics Committee (Human)

Tel: +27 (0)41 504 2347

Sharlene.Govender@mandela.ac.za

Ref: [H18-HEA-SDP-001] / Approval]

24 April 2020

Dr ACS Keet
Faculty: Health Sciences

Dear Dr Keet

AN ANALYSIS OF ATTRITION OF SEXUAL CRIME CASES OF CHILD VICTIMS

PRP: Dr ACS Keet
PI: Ms K Galitz

Your above-entitled annual progress report (APR) was reviewed by REC-H EXCO for approval. The committee thanks you for your submission. We take pleasure in informing you that the Research Ethics Committee (Human) approved your report and the extension of data collection for protocol [H18-HEA-SDP-001] until 31 March 2021; approval is subject to the following conditions:

1. The immediate completion and return of the attached acknowledgement to lmtiaz.Khan@mandela.ac.za, the date of receipt of such returned acknowledgement determining the final date of approval for the study where after data collection may commence.
2. The submission of an annual progress report by the PRP on the data collection activities of the study (form RECH-004 available on Research Ethics Committee (Human) portal) by 15 November this year for studies approved/extended in the period October of the previous year up to and including September of this year, or 15 November next year for studies approved/extended after September this year.
3. In the event of a requirement to extend the period of data collection (i.e. for a period in excess of 1 calendar year from date of original approval of study), completion of an extension request is required (form RECH-005 available on Research Ethics Committee (Human) portal)
4. In the event of any changes made to the study (excluding extension of the study), completion of an amendments form is required (form RECH-006).
5. Immediate submission (and possible discontinuation of the study in the case of serious events) of the relevant report to RECH (form RECH-007) in the event of any unanticipated problems, serious incidents or adverse events observed during the course of the study.
6. Immediate submission of a Study Termination Report to RECH (form RECH-008) upon expected or unexpected closure/termination of study.
7. Immediate submission of a Study Exception Report of RECH (form RECH-009) in the event of any study deviations, violations and/or exceptions.
8. Acknowledgement that the study could be subjected to passive and/or active monitoring without prior notice at the discretion of Research Ethics Committee (Human).

ANNEXURE J: LANGUAGE EDITOR

ReadWrite Proofreading

PO Box 71115

Die Wilgers

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Telephone: 083 380 3840

Email: readwrite@telkomsa.net

08 January 2021

Ms Karin Calitz

Department of Social Development Professions

Faculty of Health Sciences

Nelson Mandela Metropolitan University

Port Elizabeth 6013

Dear Ms Karin Calitz,

Thank you for choosing the services of Readwrite Proofreading for your thesis, ***An Analysis of Attrition of Sexual Crime Cases of Child Victims.***

I trust you will find the proofreading service professional and to your satisfaction. I may be contacted as and when you have need to discuss any further matters related to the aforementioned thesis.

Sincerely,

Bernice Hendricks (Mrs)

ANNEXURE K: LETTER OF APPROVAL FOR STUDY (SAPS)

<i>South African Police Service</i>		<i>South-Afrikaanse Polisdiens</i>	
Private Bag X34	Pretoria 0001	Faks No. Fax No.	(012) 334 3518
Your reference/My verwysing:		THE HEAD: RESEARCH SOUTH AFRICAN POLICE SERVICE PRETORIA 0001	
My reference/My verwysing:	3/34/2		
Emunies/Munies:	Lt Col Joubert AJC Thenga (012) 393 3118 JoubertG@saps.gov.za		
Tel:			
Email:			

Ms K Calitz
NELSON MANDELA UNIVERSITY

RE: PERMISSION TO CONDUCT RESEARCH IN SAPS: AN ANALYSIS OF ATTRITION OF SEXUAL CRIME CASES OF CHILD VICTIMS: NELSON MANDELA UNIVERSITY: MASTERS DEGREE: RESEARCHER: K CALITZ

The above subject matter refers.

You are hereby granted approval for your research study on the above mentioned topic in terms of National Instruction 1 of 2008.


Further arrangements regarding the research study may be made with the following office:

The Provincial Commissioner: Eastern Cape:

- **Contact Person:** Colonel SN Ginya
- **Contact Details:** 040 308 7215
- **Email Address:** GinyaS@saps.gov.za

The Office of the Provincial Commissioner: Eastern Cape has stressed that research findings must be shared with the SAPS Management at Provincial Level before publication.

Kindly adhere to paragraph 6 of our attached letter signed on the 2019-05-06 with the same above reference number.

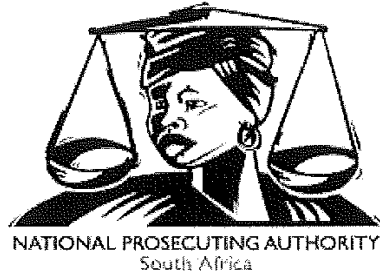

MAJOR GENERAL
THE HEAD: RESEARCH
DR PR VUMA

DATE: 2019-06-26

f

ANNEXURE L: LETTER OF APPROVAL FOR STUDY (NPA)

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: 27/03/2019

Ms. Karen Calitz
6 Magdalena Street
Kamma Park
Port Elizabeth
6070

**RE: APPROVAL OF REQUEST TO CONDUCT RESEARCH IN THE
NATIONAL PROSECUTING AUTHORITY (DIRECTOR OF PUBLIC
PROSECUTIONS: GRAHAMSTOWN, PORT ELIZABETH AND BHISHO)**

Corporate Service Centres:

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

Dear Ms. Calitz

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 (DPP: Grahamstown, Port Elizabeth and Bhisho) has been approved.

The NPA appreciates that your research has been approved by the Nelson Mandela University Faculty of the Health Sciences Research Ethics Committee (Human). Please consider and/or adhere to (whichever is applicable) the below-mentioned in support of your research:

1. The request is supported by the Director of Public Prosecutions (DPP): Grahamstown, Port Elizabeth and Bhisho and permission is granted by the Sexual Offences and Community Affairs (SOCA) Unit of the NPA and it should be noted and understood that information about the work can only be utilised with the NPA's explicit written approval and permission.

2. The research request focuses on “**An Analysis of Attrition of Sexual Crime Cases of Child Victims**”, and therefore should be in line with all relevant policies and acts that govern SOCA.
3. Permission to conduct research is only limited to interviewing selected Prosecutors who are currently or usually dealing with sexual crimes in the DPP: Grahamstown, Port Elizabeth and Bhisho as per indication in your approved research proposal.
4. This research intends to address the research problems of:
 - 4.1. Exploring the phenomenon of attrition in cases of child sexual crimes during investigation in the Kouga District, Eastern Cape.
 - 4.2. Exploring and analysing the efficacy of collaboration between relevant stakeholders’ contribution during the investigation of cases of child victims of sexual crimes.
 - 4.3. Exploring and describing the Prosecutors’ opinions on factors that contribute to attrition of cases of child victims of sexual crimes.
5. Upon completion of the research project, it is suggested that a copy of the report be sent to the NPA for perusal and approval. This is specifically to prevent the inappropriate interpretation and publication of the latter mentioned information.
6. It is also suggested that in the event of the author publishing an article on research which contains NPA information, it be approved by the NPA.
7. Please inform the Acting DPP: Grahamstown, Port Elizabeth and Bhisho of your intent to conduct interviews with the Prosecutors before approaching them.
8. This research approval letter is valid for 2 years from the date of approval by the Deputy National Director of Public Prosecutions: Administration and Office for Witness Protection. You will need to re-apply for approval in case your research exceeds the above-mentioned timeframe.

In your case, there will be no need to complete FORM A, which is the request for access to records of a Public Body, Section 18(1) of the Promotion of Access to Information Act, 2000, since you indicated that your research study only involves interviews with participants.

**RE: APPROVAL OF REQUEST TO CONDUCT RESEARCH STUDY: MS. K. CALITZ
27/03/2019**

Kindly keep the NPA informed about further developments on this research and please send your response to the NPA Director: Research Management on the following details:

Name: Ms. Marthi Alberts
Telephone number: 012 845 6275
E-mail address: MAberts@npa.gov.za



Dr. Silas Ramaite SC

**Deputy National Director of Public Prosecutions: Administration and
Office for Witness Protection**

Date: 27/03/2019

**RE: APPROVAL OF REQUEST TO CONDUCT RESEARCH STUDY: MS. K. CALITZ
27/03/2019**

ANNEXURE M: J88 MEDICAL FORM¹

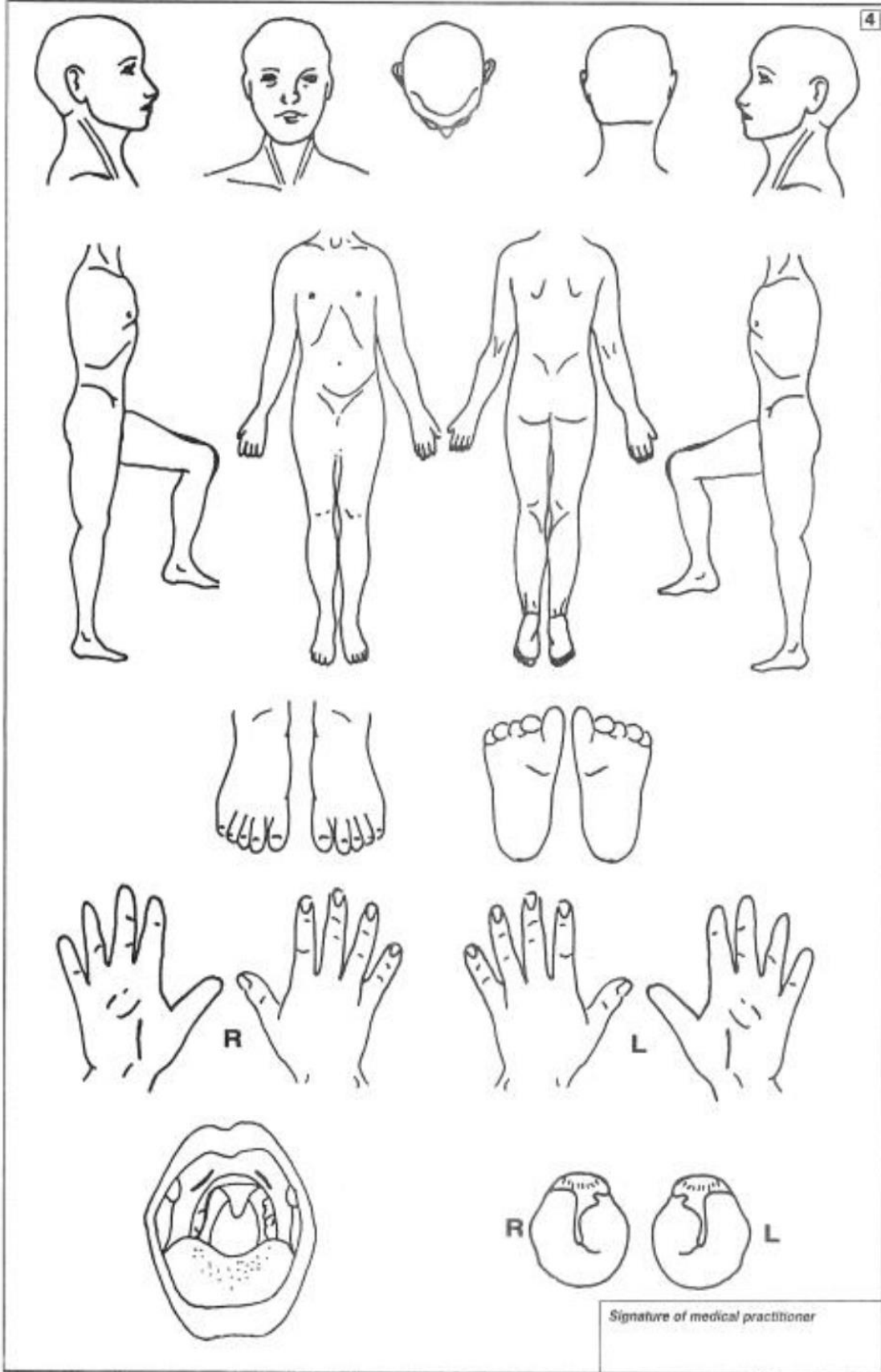
- Medical, as well as medico-legal consent must be obtained from persons from their 12th birthday, and they must have sufficient maturity and understanding to give informed consent.
- Consent for the medical treatment of children aged 12 years and younger, or with insufficient maturity and understanding, must not be confused with consent for the medical examination of minors towards, or in connection.
- Medico-legal consent must be obtained from a parent or legal guardian. If a parent or legal guardian cannot be reached within a reasonable time, is a suspect in the crime in respect of which the medical examination is to be conducted, unreasonably refuses consent, is incompetent on account of a mental disorder, or deceased; the normal procedures for obtaining consent must be followed.
- Documentation of this procedure appears on the other side of the SAPS 308 form.
- Only one person's handwriting may appear on a J88 form, with the exception of the transfer details.
- The J88 form may only be handed over to a police official. The J88 form is regarded as evidence, and the chain of evidence must be maintained by excluding the possibility of tampering. This can be achieved by documenting every transfer of the completed form.
- Under no circumstances may a person sign the documentation if the examination was not carried out by him or her.
- The official court languages are English. The J88 form must be completed in an official court language.
- Loose pages may be added if there is not sufficient space for documentation. Every loose page must be identified with the patient name and case number. A reference to the addition of the loose pages must appear in the J88 form.

¹ Kotze, J., Brits, H. and Botes, J., 2014. Part 1: Medico-legal documentation South African Police Services forms, Department of Justice forms and patient information. *South African Family Practice*, [Online] 56(5), pp. 16–22. Available at: http://reference.sabinet.co.za/webx/access/electronic_journals/mp_saftp/mp_saftp_v56_n5_a4.pdf%5Cnhttp://ovidsp.ovid.com/ovidweb.cgi?T=JS&PAGE=reference&D=emed12&NEWS=N&AN=201462852 [Accessed 9 March 2018].

- The documentation must be signed on every page, including the loose pages.
- The documentation must be legible. Illegible documentation will need to be deciphered in court, and leads to the necessity of having to appear in court.
- The documentation must be capable of being understood. Medical terms, which may not be understood by a layperson, must be avoided or clarified. Unrecognised abbreviations are unacceptable.
- All alterations must be countersigned and dated. The original must be legible.
- No area may be left blank. A line may not be drawn through a section without explaining why it was not completed. The male examination of a female patient may be indicated as “not relevant” or “female patient”, and the sexual offence examination in a physical assault as “not done” or “not indicated”. Similarly, when an internal genital examination was not performed, the vagina and cervix was “not visualised because of the patient’s age”, “not internally examined because of discomfort to patient”, “consent not provided for internal examination”, “not indicated”, or “not done”.
- The document must be completed with a black unalterable pen. If the practitioner prefers to use contrasting colours for diagrams, the colour value must be high enough to photocopy well in black and white.
- Entering information obtained from a clinical report documented by a colleague is not allowed. It would be regarded as hearsay in a court of law.
- When completing a J88 form, the current clinical picture must be documented.
- Other records may be photocopied and attached to the J88 form. The addendum and the origin of the information must be referred to in the body of the J88 form. Although this will be considered to be hearsay, it places the prosecutor in the position of being able to access admissible information, if indicated, for the purposes of the hearing.
- Reports must be completed in duplicate or photocopied, and the original given to the investigating officer. The duplicate is kept by the examining health worker or in the patient file. Records may be needed by the court long after the normal acceptable period at which inactive files are destroyed in a hospital or clinic. It is important to keep this fact in mind before destroying old files. The documents must be kept until the case is completed, which includes the appeal processes.
- Keeping records is compulsory. *Access to the J88 form* If the J88 form cannot be transferred immediately, it must be kept under lock and key, in the same way as other

evidence, until transfer takes place. Unauthorised access must be impossible. The original J88 form may only be transferred to a police investigator or the court and with written consent on the SAPS 308 form. The J88 form shall not be released to the patient, since this would compromise the chain of evidence and may render the evidence inadmissible. Social workers, whether acting to keep the child safe or to conduct forensic assessments on children, should not have access to the medical records. Medical examinations may be wrongfully interpreted when making social work decisions, including the removal of the children to a place of safety or the placing back of children. Medical information interpreted by a layperson may be detrimental to the victim, as well as to the case.

4



Signature of medical practitioner

ANNEXURE N: BEST PRACTICE STATEMENT TAKING WITH CHILDREN²

1. The interview should take place in a room which is private, quiet, free of interruption, and which promotes a feeling of safety in the child.

- a) It should be a place which is away from the child's home and away from the crime scene.
- b) Physical cues which aid the retrieval of information can be present. These include photographs of the crime scene and prop items from the scene, and paper and pencils for the child to draw with should the interviewer want to ask the child to draw and tell during the interview.
- c) The interviewer and the child should be alone in the room with three possible exceptions:
- d) If the interviewer is a male who is interviewing a female, a female should also be present
- e) If a particular child is too young or too apprehensive to be separated from the mother or care-giver, that carer may also be present, with instructions to be seated behind the child – the child may be seated on the carer's lap - and to remain silent.

2. Regarding timing issues

- a) The interview should be held as soon as possible and within 36 hours of the police receiving and confirming the report of the sexual abuse.
- b) The interview should be held at a time of day which fits the usual eating, sleeping, and schooling routines of the child.
- c) The interview can be expected to last between thirty minutes and one hour

3. Building rapport with the child and training the child in what is expected and wanted in the forensic interview can be time intensive and should not be rushed.

4. Eliciting the information

- a) All the information must be disclosed, even if it brings the victim in negative light
- b) If it was an adolescent that consumed alcohol or drugs, it must be noted the amount consumed
- c) Information must be taken into minute detail, including a description of events prior to the rape, the sexual nature of the assault, the level of control the perpetrator had over the victim, the clothing that was worn, time of day and week, and all information they can give about the alleged perpetrator.

²Johns, A., 2012. *A Descriptive Analysis of Statements Taken by Police Officers From Child Complainants in Sexual Offence Cases that Examines the Degree to which the Form and Content of the Statements Accord with Best Practice Across a Range of variables*. Masters. Grahamstown: Rhodes University.

5. Managing language barriers

- a) The child should speak during the interview in their home language.
- b) When the child and the interviewer do not share the same home language, a qualified interpreter should be used.
- c) When the statement is recorded in writing, the interpreter should read the statement back to the child before the child attests to its accuracy; initial every page and every alteration; sign the statement at the end along with words which explain the role completed in the interview process, and qualifications held.
- d) Where the child and the police officer do share the same home language, the interview should be recorded in that language.

6. Meeting the formalities and the legalities

- a) The interviewer should record the place, day, date and time of the recording of the statement.
- b) It is necessary that the child be accurately identified by first name and family name of the child, along with the date of birth, and the names of the child's legal guardian/s.
- c) The names and functions for each person present should also be recorded.
- d) The child needs to be qualified legally as someone who can understand the difference between the truth and a lie, and who can agree to tell the truth in the statement. This needs to be done before the statement is recorded.

7. Formalities and the written statement

- a) The purpose of formalities in structuring the written page of the statement in a certain way is to preclude any addition to the contents in the future without the knowledge of the deponent. To this end:
- b) Paragraphs should be numbered, the final word on one page should be part way through a sentence which continues onto the next, and the child's signature or mark should be immediately after the last word of the statement.
- c) The child should initial every alteration, and the bottom, at least, of every page. The police interviewer should also similarly initial alterations and pages, along with the interpreter who also signs separate words at the end of the statement about the function that has been performed.
- d) If the guardian or care-giver was present she or he should sign words which say the statement was taken in their presence.
- e) At the bottom of the written statement the police officer must also sign last of all, and enter the place, time, day and date.