

**Evaluating the Special Sexual Offences Courts in Cape  
Town and Wynberg Through Professional Perspectives.**

**By**



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WESTERN CAPE

**EVALUATING THE SPECIAL SEXUAL OFFENCES COURTS IN CAPE TOWN AND  
WYNBERG THROUGH PROFESSIONAL PERSPECTIVES.**

BY

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A Research Study in Partial Completion of the Requirements for the Masters Degree in

Social Work.

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## DECLARATION

"I declare that Evaluating the Special Sexual Offences Courts in Cape Town and Wynberg through Professional Perspectives, is my own work and that all the sources I have used or quoted have been indicated and acknowledged by means of complete references".



Date: 3-04-98

Signed:

A handwritten signature in black ink, appearing to read "M. P. van der Merwe".

## ACKNOWLEDGEMENTS

I wish to acknowledge the direct and indirect assistance and contributions of many people but I wish to particularly single out the following persons for their support on both professional and personal levels:

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## ABSTRACT

This is an evaluative research study which was undertaken to establish whether the legal reforms, through the establishment of the Special Sexual Offences Courts, have been effective in reducing secondary traumatisation. In attempting to examine this crucial area, I focused specifically on the perceptions of professionals who are involved in child sexual abuse matters in the Special Sexual Offences Courts at Wynberg (Court G) and Cape Town (Court 32).

The study employed qualitative research methodology, in the form of individual and group interviews, structured questionnaires and participant observation, to collect data. The respondents included magistrates, prosecutors, both victims support services co-ordinators within the court system, social workers who work with child abuse matters, Child Protection Unit investigating officers who investigate matters of this nature and attorneys who have defended offenders of child sexual abuse.

The results indicate a marked disparity in physical appearance, location and an overall sense of child-friendliness between the two Special Sexual Offences Courts; a need for joint training of inter-disciplinary professionals, and a need for a more effective multi-disciplinary team approach to the problem of child sexual abuse. The findings also indicate a need for regular contact between the professionals involved at the two Special Courts to ensure uniformity in terms of service provision, and a need for the restructuring of the job description of the co-ordinator.

The findings reported and discussed, suggest that the legal reforms promulgated are but one aspect to the entire area of child protection. The overall success of these legal reforms depends upon the involvement, commitment and development of a common philosophy in child protection by, the medical, social, legal and police service systems.

It is hoped that this report will act as a catalyst to urgently address the shortcomings which have been identified by the respondents, and that the recommendations reported will contribute to measures which will result in the development and implementation of effective child protective policies and practices.

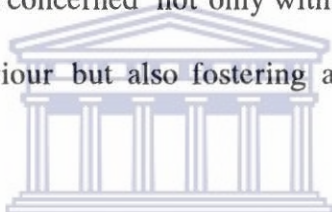




## CHAPTER ONE

### INTRODUCTION

Child sexual abuse is a global phenomenon which has emerged as a problem affecting every level of society's functioning. It is recognised as a particular challenge facing professionals who deal with this problem on a daily basis. Addressing child sexual abuse is closely linked to the idea of child protection which has emerged as recently as the late 1980's in South Africa as a new-found practice, and has become an area of greater focus following South Africa's ratification of the Convention on the Rights of the Children during 1995. Child protection is concerned not only with the protection of children from the effects of the abusive behaviour but also fostering and ensuring the continued protection of children.



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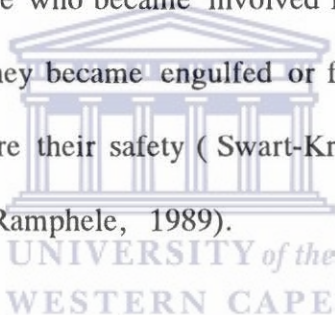
#### 1.1 Background

During the apartheid era, children's rights were not a major concern in our country, as Apartheid laws and policies did not accord the majority of children the right to be nurtured and cared for in an appropriate way (Juvenile Justice for South Africa, 1994 ).

These racially defined policies and legislation denied adults the knowledge with which to facilitate the development of effective and responsible adults, in that they focused upon punishment and did not provide them with the opportunity for self determination or participation in the decision-making process ( Criminal Procedure Act, No.51 of 1977; Childrens Act of 1960; Land Act of 1913; Group Areas Act of 1950 ).



The Land Act of 1913 and the Group Areas Act of 1950 for example, prevented many children from growing up within their nuclear or extended families and created splits and divisions in families and communities. The forced removals of many families from areas which had adequate facilities to areas deprived of proper and humane infrastructures resulted in poor housing conditions, overcrowding and emotional deprivation and consequently health risks for children. The lack of sufficient transport facilities compounded the problem since parents often had to leave home in the early hours of the morning to get to work on time. Many children were left without proper care during the day, some engaged in delinquent behaviour while others simply ran away. Children who ran away from home were often apprehended and placed in childrens homes, some became street children and those who became involved in petty crimes, were posted off to reformatory schools where they became engulfed or forgotten in the system because no strategy was in place to ensure their safety ( Swart-Kruger, 1996; Juvenile Justice for South Africa, 1994; Wilson & Ramphele, 1989).



## **1.2 Department of Social Welfare - 1937 and Tricameral " Own Affairs"**

The establishment of a Department of Social Welfare in 1937 was an attempt by the State to relieve the poor white problem. Thus began the institutionalised system of discrimination, inequality and institutionalised racism which became further entrenched through the coming to power of the National Party which further developed laws to promote separate development (McKendrick,1987). The "own affairs" Departments ( the Tricameral Parliament ) were established to provide services to the respective racial groups, and perpetuated the unequal distribution of financial resources to the various racial groups. For example, the subsidies paid by the state to the " own affairs" Departments differed greatly. The "own affairs" Departments provided the white section

of the population with better access to better benefits from the welfare system. These apartheid policies undermined human dignity, and thus contributed to the inculcation and perpetuation of a culture in which the sexual abuse of children was ignored or effectively condoned. This also resulted in the removal of children who had been sexually abused from their homes, children not being believed, the dearth of adequate intervention facilities and an unsympathetic and insensitive legal system. The absence of a human rights culture prior to 1994 precluded children's freedom of expression and often problems concerning child sexual abuse were not discussed or disclosed, but suppressed.

Child protection legislation and policies failed to effectively address the problem.

Although all children were affected, some children, particularly those belonging to disadvantaged groups, were more prejudiced than others. Children from disadvantaged groups were treated differently, the resources available were inadequate or non-existent and often they had no direct access to financial or legal resources.

Fear of discrimination from social services and the criminal justice system reduced the likelihood of 'black'<sup>1</sup> and 'coloured'<sup>2</sup> children and women from disadvantaged groups from disclosing the abuse to official agencies.

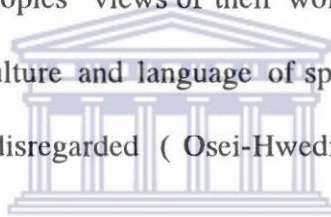
These deliberate policies created welfare services that were inappropriate and inadequate within the South African context. The training that many 'coloured' professionals received was primarily regulated by the State - a white undemocratically elected

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1. Racially discriminatory terms have been used in this report because in our society marked differences exist among people who have been classified as belonging to different race groups. The terms black and coloured are used in this report to refer to those people who were not classified as white in terms of the now defunct Population Registration Act 30 of 1950.

2. See above footnote.

government which enforced its rules and racial policies designed to control and regulate behaviour and attitudes. The training received was based upon first world models of service delivery and not culturally diversified. It was not indigenised and did not take into account the needs of the people. For example, the University of the Western Cape was established to accommodate 'coloured' students who were trained for employment by the State and after the completion of the degree, went to work for the 'Department of Coloured Affairs'. To gain entrance into a 'white' university, a permit was required. The training received was not appropriate for the South African situation. The regulated training resulted in limited job opportunities because we were not trained to render services to people from different cultural, racial and ethnic backgrounds. There was no understanding of the various peoples' views of their world within the cultural milieu of our society. So, in effect, the culture and language of specific groups were negated and their rights to societal respect disregarded ( Osei-Hwedie, 1996; McKendrick, 1987).



Having lived in a racially segregated society, I am of the opinion that racism has become normalised. It has become an inherent and personalised part of our very being.

Racism is learned behaviour, a social construct that was introduced and became intensified through legislation and policy initiatives. The Constitution (1996) as well as South Africa's ratification on the Rights of the Child, have paved the way towards major attitudinal changes in terms of the development of a human rights culture.

Despite the apparent paradigm shift in terms of human rights, a great degree of hesitancy regarding disclosure of child sexual abuse continues to exist. Many people refrain from disclosing the abuse because they lack knowledge about the long-term effects of the abuse and the nature thereof, or do not know what services are available. This could

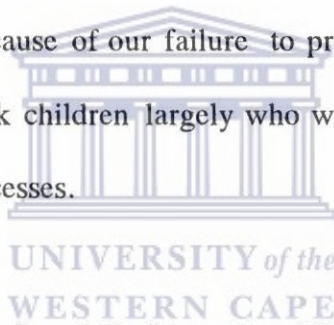


be due to certain cultural norms or taboos, or because of social constructs enforced by the ideology of apartheid.

Milner and Blyth (1989:25) cite Robinson and Falconer (1982) as commenting:

When a society allows adults in a caretaking role or in a position of trust to misuse children sexually, that society is saying implicitly to its children, you are of no value and no one cares to protect you.

It is my opinion that our failure to pursue effective action after an abusive event often indicates that we consciously accept the action or behaviour perpetrated against our children. It might be that we are unaware of the procedures required to ensure protection. The likelihood that children will not be believed, and our attitude towards children generally, is often the cause of our failure to protect them. Within our society, this failure was directed at black children largely who were often ignored in the service delivery and the treatment processes.



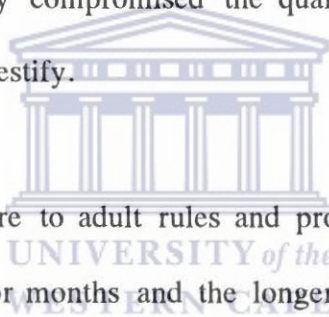
### **1.3 The Child Witness: The Legal Position Pre-1993**

Until quite recently our legal system displayed little or no sensitivity towards children, or any knowledge regarding child development and the dynamics of child sexual abuse.

Central to these flaws was the court process which often inflicted as much harm on the child as the sexual abuse itself.

Perpetrators who were family members, or who formed part of the family's social circle, frequently were released on bail or on warning after their arrest, enabling the perpetrators to continue with the abuse, or to interfere with the investigation. In court, the child witness was exposed to aggressive cross - examination which frequently

resulted in the child being subjected to severe secondary abuse. Proceedings held "in camera" did little to afford the child witness adequate protection due to the fact that the child witness still had to testify in the presence of the perpetrator ( although sometimes behind a screen) in a courtroom of adversarial professionals. Trials "in camera" are proceedings where no members of the public are allowed except the accused, his legal representative, the court personnel and the parents or guardian of the child witness. Trials of this nature did not protect the child witness adequately since the accused and his legal representative would be present (Combrinck, 1993). This would often result in the child witness being reluctant to testify due to the hostile environment or for fear of being victimised by the perpetrator, or of not being believed. The absence of a child-friendly atmosphere undoubtedly compromised the quality of evidence delivered by the child witness when he\she did testify.

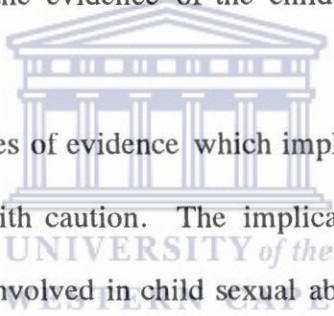


In addition to this cruel exposure to adult rules and procedures, the proceedings themselves often dragged on for months and the longer the legal proceedings continued the greater the pressure for the child (Furniss, 1991). If the perpetrator was a relative or a family friend, there was often a constant and insidious pressure for the child witness to recant his\her original testimony or to refuse to testify (cf Berg, 1995; Gillman, 1992; Olivier, 1993; Conti and Shore, 1982).

An additional feature of this system was the fact that the accused had the right and continues to have this right, to legal representation. The accused could exercise his/her right to legal representation up to a very late stage. This right often culminated in remands to allow the accused to seek legal aid (Combrinck, 1993). The remands often led to the child witness being reluctant to testify at the remanded date and the pressure

for the child witness becomes even greater. In some cases protective measures have not been taken by child protective agencies which often led to the child witness being abused a second time.

A further feature of this system was the role played by the prosecutor in preparing the child witness for trial. When a legal representative appears on behalf of the accused, (s)he prepares him/herself well and the accused is consulted with extensively. The prosecutor, on the other hand, did not consult with the child witness or prepare the witness for the court proceedings. This deficiency in the system often resulted in an unprepared child witness which often created an impression of insecurity and incredibility resulting in the court doubting the evidence of the child witness (Combrinck,1993).



Allied to the above were the rules of evidence which implied that the evidence of certain complainants be approached with caution. The implication of this rule is that certain witnesses particularly children involved in child sexual abuse matters could not be safely depended upon without collaboration. Berg (1995) explained that the purpose of the rules of evidence is to assist the magistrate/judge in determining whether or not guilt has been proven beyond a reasonable doubt. She contended that in matters relating to child sexual abuse, the court only has the child witness to persuade the court into a conviction. She explained that the courts could not readily depend upon such evidence primarily because the child witness may err regarding identity or detail.

#### **1.4 The Current Position: Legal Reform - A New Beginning**

The first attempt made in addressing the secondary traumatisation of child witnesses and



ensuring their protection within the legal system emerged during 1988 when the then Minister of Justice, following increased pressure from concerned professionals and civil society, requested the South African Law Commission to undertake an investigation into the protection of child witnesses involved in court proceedings. The result of this investigation led to the amendment of the Criminal Procedure Act by the enactment of Sections 1, 2 and 3 of the Criminal Law Amendment Act, No. 135 of 1991, which came into operation on 30 July 1993. The Special Sexual Offences Court situated within the Wynberg Magistrates Court came into operation in March 1993 before the legislation was amended and was the first to implement these reform laws and procedures. The Special Sexual Offences Court situated at the Regional Court, Cape Town became fully operational soon thereafter.

There are three sections of the Criminal Procedure Act which are of particular relevance to the evidence of the child witness.



These are:

- (a) SECTION 161 : This section enables demonstrations, gestures or any other form of non-verbal expressions to be "deemed to be viva voce evidence" (Combrinck,1993). This, however, only applies to the evidence of a witness under the age of 18 years. The importance of this section is that demonstrations by the child witness with anatomically correct dolls can now also be regarded as evidence which could facilitate better evidence from the child witness.
- The use of these dolls by a child witness to re-create the abuse situation may also be easier for some children who have limited vocabulary or who have difficulty in describing the abuse or speaking directly of the abuse.

- (b) SECTION 165: This section enables an intermediary to administer the oath to the child witness about to testify.

The intermediary can also assist the court in ascertaining whether the child witness is competent to testify by using age-appropriate language before administering the oath.

- (c) SECTION 170 A: This section allows evidence to be led through intermediaries for the first time. Where there is an indication that a child witness under the age of 18 years would be exposed to undue mental stress or trauma if he\she were to testify in an open court, the court may appoint a competent person as an intermediary in order that the child witness give evidence through that intermediary.

The appointment of an intermediary is not mandatory and in practice the state has to apply for an intermediary to be appointed. The onus rests upon the court to appoint an intermediary if it deems it necessary.

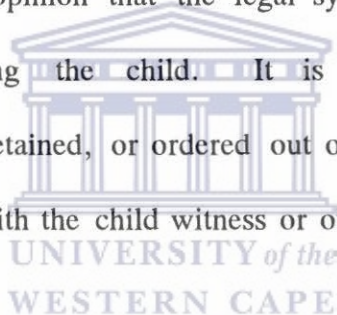
Section 170 A further stipulates that when an intermediary is appointed, the court may direct that the child witness testify in a room which is more informal and child-friendly than a traditional courtroom. This special room is linked to the courtroom via closed-circuit television, and permits the court to see and hear the child witness and the intermediary. The child witness cannot see the perpetrator or hear the questions posed in court; the child witness' only contact with the proceedings is via the intermediary.



This particular section enables the intermediary to convey the general purport of the questions in a way that is non-aggressive and non-threatening and in the language which is familiar to the child witness ( Blankenberg, 1995; Combrinck, 1993; Olivier, 1993 ).

Allowing the child witness to describe anatomy and the sexual acts in his\her own words can facilitate a discussion about the abuse.

The Criminal Law system has come a long way in addressing the problem of child protection within the court system. Although it is but one link in the entire process of child protection, I am of the opinion that the legal system must be regarded as the primary vehicle for protecting the child. It is within this system that an aggressor\perpetrator can be detained, or ordered out of the home, and to ensure that the aggressor has no contact with the child witness or other family members.



The criminal law system continues to have the potential to cause great harm to the child witness in spite of the reform initiatives. I am mindful that not many intervention programmes are executed in the way originally intended. In view of the recent reform initiatives, more cases are brought to court. It often happens that personnel, equipment and funding are simply not available. Sometimes people who are engaged in the programme are hampered or prevented from executing certain tasks in respect of the programme. This could be due to the fact that there exist a difference in philosophical and ideological approaches in terms of what exactly is required to reduce secondary traumatisation or due to an inability to work together as a team. Often, individuals who

are part of this particular programme do not have the motivation or the know-how to pursue certain pertinent tasks that will allow for programme efficiency and efficacy (Conti and Shore,1982).

Ronel Berg ( 1995:32 ), writing specifically about the protection of child witnesses within the legal system, makes the following comment:

The changes that have thus far been made represent a major development and progression in relation to our past, but in relation to our future path in this field, they amount to a single step in a journey of a thousand miles.

Although these reform initiatives and innovative approaches are evident in the establishment of the two Special Courts situated in the Wynberg Magistrates' Court and the Regional Court, Cape Town respectively, 73 additional courts have been equipped with the necessary facilities (Barnes, Cape Times,16 April, 1997) but they are not specialist courts as those in Wynberg and Cape Town.



These legislative reforms within the legal system certainly reflect changes in attitudes towards children and their rights, and the establishment of the two Special Courts in Wynberg and Cape Town currently in operation bears testimony to this. Despite these changes in the criminal law, many loopholes regarding its effectiveness in terms of protecting the child witness remain.

### **1.5 Rationale for the Research Area**

Child sexual abuse is an emotive and complex problem presenting a special challenge for front-line child protective workers. Because it affects society as a whole, it is our responsibility to challenge the effects of sexism, family dysfunctioning, the exploitation of

power, sexual ignorance and racism. I selected this area of research because I felt that I needed to improve my skills and knowledge about the specific area of child abuse. The uncertainty in the field, and my perception that we generally lack insight into how we should deal with the problem of child sexual abuse, prompted my initial idea to pursue research in this area.

Although I was fully aware that many professionals involved in such matters have managed, over the years, to secure major changes in legislation concerning structural changes and procedures, it was not until I commenced work, as the victims support services co-ordinator, at the Special Sexual Offences Court in Cape Town during October 1993, that I realised the enormous need for all professionals working with child sexual abuse to acquire additional knowledge and skill about child sexual abuse. I realised that those directly involved needed to be aware that child sexual abuse cases cannot be investigated in the same way that other cases are; that any change in a child's testimony should be viewed as additional information and should be pursued; that our first priority should be to ensure that the sexual abuse has ceased and that the child is protected from its immediate recurrence; that secondary traumatisation does not only concern changes in legislation or adopting a more child-friendly attitude only but also modifying structural changes, for example, by developing structures that are appropriate for children who pass through these courts.

I also felt that the sexual abuse itself is often not viewed broadly. Statistics available (Blankenberg, 1995; Schurink, 1995), suggest that the perpetrator is often known to the child, and has easy access to the child. Since the child is part of a family unit, it is essential to establish the nature of the sexual abuse. In the light of determining the



nature of the relationship between the perpetrator and the child victim, we need to exercise extreme caution when remands are made or when bail applications are granted.

Whether the abuse took place inside the home or outside thereof, we have to ensure that the child witness is protected within that sphere when disclosures are made. If the sexual abuse was of an incestuous nature, it becomes crucial to separate the abuser from the child. O'Hagan (1989) stated that in many cases the abuser is angry with the child for the disclosure and might take revenge. In my experience the recurrence of the abuse occurs because we neglect to ensure the child's continued protection once we have intervened (Mrazak and Kempe, 1990).

A further motivation for pursuing this study was the lack of insight displayed into the area of incestuous abuse. My experience is that not many professionals directly involved in the court proceedings fully comprehend that incest is a very powerful form of sexual abuse simply because it takes place within the family (O'Hagan, 1989). There is a process regarding this form of abuse. The person is usually someone the child trusts. The child is nurtured and conditioned to participate in this form of abuse. During the time I spent at the Special Sexual Offences Court, I was often asked why certain children do not disclose the abuse immediately after it has occurred since often defence attorneys would exploit the immediacy of the child witness in disclosing the abuse, as an indication that the child witness is lying. This lack of knowledge is reflected in the often lengthy remands between court appearances, the delays in bringing matters to trial, and bail applications which are often acceded to without taking into account the immense influence the perpetrator can yield over the child victim (Faller, 1990; Campbell, 1989).

A further impetus was the fact that the reform initiatives have been in operation for

three and a half years and have not yet been comprehensively and jointly evaluated to determine their effectiveness and efficacy. The evaluative studies undertaken by Stanton and Lochrenberg (1994) and Stanton, Lochrenberg and Mukasa (1997) focused on the effectiveness and efficiency of the reform initiative in Wynberg in terms of adult women's experiences within this court and not those of child witnesses<sup>3</sup>. The research study conducted by September (1997) was undertaken during the initial stages of the establishment of the Special Sexual Offences Courts.

I undertook this study because I believe that it is important for professionals directly involved to foster a child-centred approach to child protection and to ensure the continued protection of children involved in such matters. I wished to explore whether or not the findings could enable professionals to cope more effectively when facing the major challenges in child sexual abuse work.

This research study aims to contribute to the efforts of those engaged in the task of responding to and preventing child sexual abuse, and to widening the focus of research to include the family, the environment and the effect of the intervention process.

Most importantly, this study could be used to influence the formulation and implementation of child protective policies.

## **1.6 Research Questions**

My major research question was related to specific issues about the establishment of the Special Sexual Offences Courts. This was ascertained through examining the opinions of professionals involved in these courts. The data needed for the research study was

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3. See Stanton and Lochrenberg, (1994) for further details.

used as a base for the design of the questions to be asked in order to elicit the desired opinions and responses. The questions were kept short and were related to the research problem. The questions posed were open-ended to allow for probing which was conversational and which created a more natural style of eliciting greater responses. The design and type of questions were based largely upon my personal experience within the Special Court in Cape Town, reviewing literature on child sexual abuse and through a previous study I had conducted during 1992.

### 1.7 Ethical Statement

South Africa is in the throes of developing a human rights culture and for the first time in our history, all children are accorded rights to protection from any harmful activity that might affect or hinder their general wellbeing ( Constitution,1996<sup>4</sup>; Sloth-Nielsen, 1996; Discussion Document, Towards a new Social Welfare Policy and Strategy for South Africa,1994). It is our moral, social and professional responsibility to facilitate and foster a culture of child protection through the pursuit of knowledge, and the promotion of multi-disciplinary co-operation, by continually acquiring knowledge and expertise and by diagnosing child sexual abuse and providing the necessary adequate services. Not to provide such services raises very serious ethical questions.

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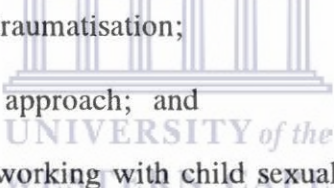
4. See Section 28 (1) of the Constitution (1996).

## CHAPTER TWO

### REVIEW OF RELATED LITERATURE

Child sexual abuse is a serious, pervasive and disturbing crime perpetrated against children. Although it has been around for a long time, it has only been in the last decade that the problem has been identified and addressed as a major social problem, placing new and heavy demands on child protective service provision.

In this chapter, I will first look at child sexual abuse broadly. I will then look at the following components which my study addresses:

- 
- (a) the meaning of secondary traumatisation;
  - (b) the multi-disciplinary team approach; and
  - (c) training skills required for working with child sexual abuse.

Numerous research studies on child sexual abuse have been conducted and legal, medical and social work literature in this field has burgeoned. The volume of child abuse literature now available suggests that there is no shortage of authority and expertise in this field. However, child sexual abuse has become more visible as an area of professional concern, although there appears to be a general consensus that the management of this problem continues to prove complex and problematic (Schurink, 1996; Zabow, 1996; Zaal, 1996; Mouzakitis and Varghese, 1995; Glaser and Frosh, 1993; Wakefield and Underwager, 1988).



The literature I reviewed, both local and international, reveals that considerable efforts have been focused upon developing ways to manage the problem and to understand the dynamics of child sexual abuse. To date much has been documented about child sexual abuse, the engagement of an inter-disciplinary team approach to the problem, the dynamics of secondary traumatisation and ways to managing this problem in a manner that can reduce the secondary trauma and thus ensure the victim's protection (Cotgrove and Kolvin, 1997; September, 1996; Forward and Buck, 1988; La Fontaine, 1991; Schmitt, 1978). However, despite the substantial literature available, very limited research has been done on the area of child sexual abuse I am concerned with.

Much of the literature I reviewed was of overseas origin. The local studies surveyed reflected a commonality with the dynamics of child sexual abuse globally. Since the inception of the two Special Courts, I am aware of only two evaluative studies that have been undertaken (Stanton & Lochrenberg, 1994; September, 1997) and a follow-up study conducted by Stanton, Lochrenberg and Mukasa (1997). These studies differed in methodological approaches. The studies undertaken by Stanton & Lochrenberg, (1994) and Stanton, Lochrenberg and Musaka (1997), on adult women survivors, did not include both courts and only focused on the Special Court in Wynberg while the study undertaken by September, (1997), was undertaken in the early stages of the Special Courts. The period in which the latter study was conducted, would not reflect the efficiency or the efficacy of the projects.

Child sexual abuse is a violent crime perpetrated against children. It therefore becomes irrelevant whether physical or emotional violence was inflicted; the point is, any transgression of this nature violates the child at least emotionally and goes against the



rights of the child. In my experience, the absence of physical violence and resultant medical evidence often resulted in the perpetrator not being convicted. Wakefield and Underwager (1988: 11) rightly assert that the absence of physical evidence does not mean that the child has not been abused. They maintain, however, that it does make it more difficult to prove that the abuse did occur.

Child sexual abuse certainly provokes strong emotions primarily because it raises basic issues about how children are treated, about sexuality and about power which are strongly linked to general attitudes and practices towards children ( Glaser and Frosh, 1993 ). However, despite past aberrations of respect for human life, South Africa is going through a fundamental period of transformation. One of the most critical processes towards this transition was South Africa's ratification of the United Nations Convention on the rights of the child. The ratification means that everyone is equal before the law and has the right to protection by the law. Inherent to the acceptance of the United Nations Convention, is a respect for human rights which is strongly linked to the way we treat our children. The ratification, therefore establishes the right of the child to be protected from all forms of exploitation. It reaffirms that the child's rights must be protected and entrenches the importance of the child's best interests (Constitution, 1996; Berg, 1995; Malan, 1995; Foighel, 1995; Human Rights in International Law, 1994; Raoul Wallenberg Institute, 1994).

In a research paper presented at the 4th International Family Violence Conference in the U.S.A., a South African Advocate, Ronel Berg (1995:20) stated:

The United Nations Convention ... has been seen as a significant development in the recognition of the rights of the child and provides protection for children...South Africa's ratification of the document, as well as the creation of constitutional rights for children, is an indication of this

country's commitment of prioritising child protection.

The emergence of a children's rights culture in South Africa indicates a shift in ideological thinking. As Finkelhor (1979) rightfully asserted, a belief in child protection is a value stance. This means that to believe that children require protection is to recognise the democratic values inherent in the rights of the child. The value placed on protection is clearly demonstrated in a document entitled: "A Protocol for Multi-disciplinary Management of Child Abuse and Neglect" (September, 1996). This document, which was accepted as an official policy document, clearly outlines how child abuse matters should be managed and the process to be followed to ensure a child's continued protection and is dealt with more fully below.

The major statutory reforms introduced were primarily fuelled by many professionals and individuals who wished to create greater awareness, and visibility, of child sexual abuse. It is obvious that the procedural reforms which have been developed, highlight positive attempts by the various systems concerned in recognising the rights of our children. It is also clear that significant efforts were focused on introducing new, and rectifying existing court procedures to make them more user-friendly and child-friendly than those which were available in the past. The reform of courtroom procedures and amendments enacted to the Criminal Procedure Act reflect obvious changes in attitudes towards children.

## **2.1 The Adversarial System**

In South Africa, the court procedure is organised on the lines of the adversarial system which means that the presiding officer (the judge or magistrate), plays a passive role. The presiding officer is expected to be impartial and ensure that the rules of evidence

and procedures are adhered to. At the end of a trial, he/she has to make a finding concerning the facts presented, apply the law to that which are presented and provide a judgement.

The implication of this stance is that the presiding officer is unable to interfere with the cross examination which is often aggressive and which consists of leading questions and suggestions. Should the presiding officer exert his/her power to intervene, the proceedings itself may be regarded as being out of order.

Olivier (1993) asserted that the aggressive and harsh nature of the cross examination and the neutral role played by the presiding officer was one of the most serious complaints received from professionals and concerned workers in the field of child sexual abuse. This assertion is endorsed by Combrinck, 1993.

## 2.2 Defining the term 'Child'

The Constitution of the Republic of South Africa, 1996, Section 28 (3) states that a child shall mean a person who is under the age of 18 years.

## 2.3 Child Sexual Abuse

A review of the burgeoning literature on child sexual abuse studies indicates that the term "child sexual abuse" encompasses a broad array of sexual behaviour, sexual activities and non-contact sexual activities involving developmentally immature children, and adults (Cotgrove and Kolvin, 1997; Furniss, 1991; Faller, 1988; Haugaard and Reppucci, 1988; Conti and Shore, 1982).

In an early study undertaken by Sgori (1982: 9), child sexual abuse is defined as: "...a sexual act imposed on a child who lacks emotional, maturational and cognitive



development ".

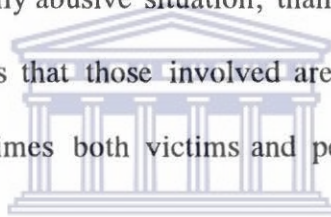
Mouzakitis and Varghese (1985: 9) provide a broader definition. They write:

child sexual abuse encompasses a wide range of behaviours, including physical and genital fondling, molestation, exhibitionism, forcible or statutory rape, sexual assault, commercial exploitation of children in pornography, paedophilia and incest.

In a recent study on child sexual abuse, Glaser and Frosh (1993: 4), cite Baker and Duncan's (1985) definition as: "...when another person who is sexually mature, involves the child in any activity which the other person expects to lead to their sexual arousal".

This definition assumes a didactic relationship. In my experience, there are usually more people involved in a sexually abusive situation, than just the victim and perpetrator.

The literature reviewed suggests that those involved are children and adults but experience indicates that sometimes both victims and perpetrators are children.



#### 2.4 Secondary Traumatization

Secondary traumatization is the manner in which professionals intervene in child sexual abuse matters. It is often depersonalised, punitive and collusive, leaving the child witness to feel victimised further. It is my opinion that when a child witness is drawn into unsympathetic structural institutions, for example, the legal system, where court proceedings and physical structures are not geared towards meeting the needs of a child, secondary traumatization is likely to occur.

Schurink (1996), Furniss (1991) and Horton, et al, (1990), explain that the disclosure of child sexual abuse usually leads to the involvement of many different professionals and agencies, each one carrying with them their own set of policies, guidelines, rules and

procedures in terms of how to respond to the problem of child sexual abuse. As a result, the differences in approach could easily lead to the poor management of child sexual abuse matters. The depersonalised, sometimes punitive and collusive intervention by professionals are endorsed by Blankenberg (1995), Glaser and Frosh (1993) and Horton, et al (1990).

The literature reviewed further suggests that much concern has been focused upon the possible negative impact of legal procedures and child protective services, which have been seen as increasing the degree of emotional trauma experienced by the child victims and their families (Furniss, 1991; Forward and Buck, 1988; Conti and Shore, 1982). 1988).

As far back as 1984, Mrazek and Kemp argued that for the child victim to "relive" the abusive incident in front of a courtroom of strangers and retelling the story to the authorities in each system, is tantamount to secondary traumatisation. The assertion that secondary traumatisation can occur in a courtroom situation is endorsed by Horton, et al (1990) and supported by a later study undertaken by Ronel Berg (1995).

Although considerable effort has been focused on modifying legal procedures to make them less stressful for the child than in the past, I have found that many children do not testify in a room other than a courtroom and children's evidence is often led by a prosecutor other than the one that the child has consulted with and it is my opinion that this constitutes secondary traumatisation.

The literature suggests that the primary aim of intervention is to protect the child which, in broad terms means that the aim of professional intervention is to bring about

an end to the abuse in the least harmful manner (Zaal,1996; Glaser and Frosh, 1993; Furniss, 1991; Faller, 1988). Many exponents of child sexual abuse (La Fontaine, 1990; Faller,1988; Search,1988; Conti and Shore,1982) provide evidence that secondary traumatisation occurs because the various protective systems have not adapted fully to recognising the human rights of the child, and have not developed a culture of operating as a team.

For many years the protective services were designed along racial lines. Services were unco-ordinated and hopelessly fragmented (Discussion Document, Towards a New Social Welfare Policy, 1995; Patel, 1992; McKendrick, 1987). As a result, certain basic human rights were effectively only accorded to the privileged few, and duplication of services often resulted in fiscal constraints. Much of the country's financial resources were used to sustain and develop the segregated infrastructures, and not distributed to those who needed it most. The respective professional components involved in child care operated in isolation and were basically unaware of policies, procedures and rules followed by other professionals belonging even to the same profession. Because of the "own affairs policy", social workers were often operating from diverse ideological positions, and were often ill-equipped to work with people from different backgrounds. The nature of services rendered to target groups differed enormously.

We need to acknowledge the part played by the State. All government policies which compel children to grow up in poverty, should be seen as a form of child abuse (Mckendrick, 1987; Dawes and Donald, 1994; Sloth-Nielsen, 1996; Van Zilla, 1997).

Although major restructuring is being pursued with an emphasis on child-centred learning together with basic ideological shifts with regard to children's rights, these changes are



taking place against the background of serious financial cutbacks. Added to this are the public service cuts, and the current dearth of adequate resources and staff within various organisations. Many social work and legal professionals in state employ are leaving the profession and this invariably increases the pressure on those who remain behind. These changes further contribute to high caseloads, abbreviation of work and burn out. Amidst all these issues, secondary traumatisation is likely to occur (Schurink, 1996;).

### **2.5 Multi-disciplinary Team Approach**

A multi-disciplinary team is a group of professionals belonging to different professions who have come together with a common philosophy to co-ordinate efforts of the various child protective systems involved in child sexual abuse matters. I believe that this process lessens the competition and misunderstanding regarding rules and regulations of the respective agencies towards the handling of child abuse matters. Faller (1988:52) noted that the development of such a team diminishes the trauma of the legal process on child witnesses, improves performance in the court process and likely achieves successful prosecutions.

As far back as 1978, Schmitt asserted that working with child sexual abuse is a complex problem and not the sole responsibility of only one system in the entire process of child protection or any single agency, but the responsibility of all those involved in child protection. This combined intervention by various professionals from the different fields of expertise is endorsed by Conti and Shore (1982) who proffered the opinion that child sexual abuse is a multi-faceted problem involving a number of professionals and agencies.

The importance of developing a multi-disciplinary team approach to the problem is supported by later studies undertaken by Schurink (1996), Blankenberg (1995), Glaser

and Frosh (1993), Patel (1992) Rencken (1989), and Search (1987). They reported that the nature of the problem is complex and that working with child sexual abuse victims and their families is a joint effort by individuals from the legal field, social services and mental health agencies. Professor Zabow (1996), a renowned South African psychiatrist, believes this approach to be essential in the task of attempting to prevent, and hence protect children from further abuse.

The literature surveyed demonstrates that inter-disciplinary co-operation and co-ordination have emerged as a fundamental tenet of child protection. A document, called "A Protocol for Multi-Disciplinary Management of Child Abuse and Neglect", was launched during December 1996. This document bears testimony to the whole issue of inter-disciplinary teamwork, since the planning, design and contents thereof were co-ordinated by a group of concerned inter-disciplinary professionals from the legal, welfare, medical and police components of the child care protective system. The launch of this document represented a highlight on child care protective services and clearly indicates that working as a team can render a basis for ensuring protection to children.

## **2.6 Victims Support Services Co-ordinator**

A Victims Support Services Co-ordinator is a social worker employed by the state and who is seconded to the Special Sexual Offences Court to co-ordinate services by a range of professionals to whom referral of child sexual abuse matters are made. The social worker plays a supportive role within these courts. The main task is to ensure that child witnesses are protected within these courts. The tasks are extended to acting as an expert witness in child sexual abuse matters and sometimes as an intermediary.



The term, co-ordinator refers to the Victims Support Services Co-ordinator and will be used as such throughout the study.

## 2.7 Training Skills Required for Child Sexual Abuse

In a paper presented by Avanthé Schurink for the Focus Forum (1996:1), she concludes:

South Africa is in the process of developing a human rights culture. Protecting the rights of the child is the foundation upon which a democratic constitutional society should be built. It is vital for the future of our children that their rights to survival, protection, development and participation be enshrined in the New Constitution.

The Constitution of the Republic of South Africa entrenches human rights, and reaffirms the rights of the child. The essence of this document and the appropriate articles in the United Nations Convention, establishes the rights of every child in South Africa. The Constitution also stipulates that we have to increase the level of child protection and promote their rights (Constitution, 1996; Malan, 1995; Justice Department, Circular 7 of 1994). In South Africa, there has hitherto been an absence of focus on the rights of the children. With the development of a human rights culture and a change in ideological thinking, child sexual abuse is presenting professionals with many new challenges.

It is for this reason that skills be developed to ensure and promote the wellbeing of the child.

In an early study undertaken by Mouzakitis and Varghese (1985:298), it was reported that working with child sexual abuse involves a number of specific skills, knowledge and attitudinal changes which are crucial if the worker wishes to ensure continued protection. Glaser and Frosh (1993:3) expressed the view that in recent years there has been a welcome improvement in awareness and understanding of child sexual abuse. In South Africa, child sexual abuse has emerged as a national concern for front-line workers and

society at large. It is apparent that professionals involved in child sexual abuse are at the rudimentary stages of developing a culture of working as a team. Amidst this transformation process, is the fact that professionals now have to learn to adapt to diverse cultural values and norms in an attempt to maximise potential strengths through joint effort and to minimise and hence to redress inherent weaknesses in past institutions.

Although the general awareness of child sexual abuse has been heightened by media coverage which has encouraged victims of abuse to disclose the abuse, I have found that there remains a need for additional knowledge particularly by legal professionals and the broader public about the dynamics of child sexual abuse and skills needed to respond to victims of child sexual abuse. The reason for non-disclosure appears to have presented a major problem for professionals. The dynamics inherent in this process are as complex as the abuse itself. Although there is no shortage of literature, training and expertise, current skills of involved professionals and our past racial heritage, necessitates that we consciously examine the weaknesses in order to develop new methods and procedures which are appropriate to our situation.

## **2.8 Child-friendly**

This term is used to describe attitudes, behaviour and structural situations that are appropriate for children. Haugaard and Ruppucci (1988:356) explain that a child-friendly environment can be created by demystifying the courtroom through modifying the physical environment which can be done by providing the structural environment with the appropriate toys, equipment and by responding in an age-appropriate manner towards the child. They maintain that a child-friendly environment is enhanced by creating an awareness of court procedures and processes within the child so that the child can safe

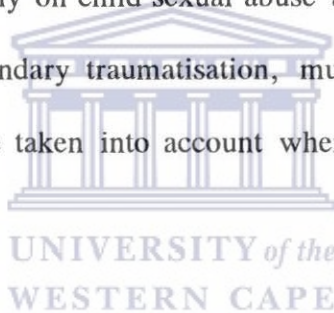
and secure and comfortable from the time she/he arrives at the court until after the court proceedings.

## 2.9 Conclusion

Child sexual abuse is coercive and criminal behaviour and a violation of basic human rights. It is for this very reason that steps need to be taken on an intersectoral level to address the problems of child sexual abuse.

The reform initiatives which the two courts represent, paved the way for unprecedented opportunities for multi-disciplinary teamwork in relation to child sexual abuse in South Africa.

This chapter has focused generally on child sexual abuse and then on the major themes, i.e., the adversarial system, secondary traumatisation, multi-disciplinary team approach and training skills that should be taken into account when professionals deal with child sexual abuse cases.



From the literature reviewed, it is apparent that a major reappraisal is taking place in child protection. Despite this appraisal, there is a great need for more local literature, training and research. It is important that all interventions concerning children promote, as a primary consideration, "the best interests of the child<sup>5</sup>" (Constitution, 1996; Raoul Wallenberg Institute, 1994).

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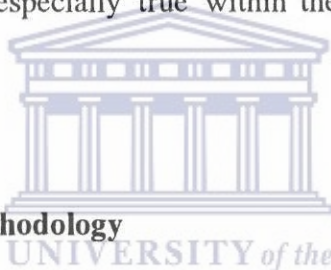
5. "the best interest of the child" concerns specifically mechanisms and measures created that will ensure and promote a child's continued safety and wellbeing.



## CHAPTER THREE

### RESEARCH METHODOLOGY AND PROCEDURE

This study was motivated by a concern for the importance of a child-centred and holistic approach for dealing with child sexual abuse and ensuring the protection of children within the Special Sexual Offences Courts and was conducted during August 1997. It is my belief that all professionals working with child sexual abuse must be mindful of what is in the best interest of the child, and must pursue those interests, in order to ensure the protection of children. This is especially true within the context of the Special Sexual Offences Courts.

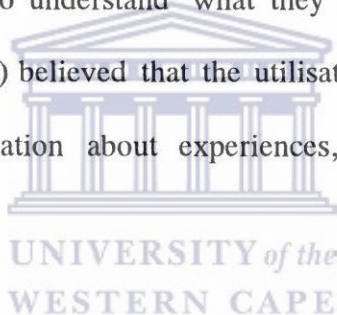


#### **Rationale for the Research Methodology**

My direct involvement as the Victim's Support Services Co-ordinator at the Special Sexual Offences Court in Cape Town during 1993 prompted my selection of an anti-positivistic approach to my research study. Anti-positivistic research is an alternative approach to the dominant paradigm research method. It is associated with subjectivity and attempts to demystify social science research as being neutral, detached and value-free. The employment of the qualitative evaluative methodology was motivated by certain concerns which I have already discussed in chapter 1. Because of my direct involvement, the sensitivity of the research area and the concerns expressed, I opted for an evaluative approach which is subjective and value-laden and which focuses on how people feel, what they think and how they perceive certain situations. I chose this



approach because I do not believe that one can obtain meaningful information or understand how people perceive their situation without being subjective. Everitt and Hardiker (1996) maintain that evaluation is a process of getting to know about a particular project or programme. They state that evaluation questions are related to the project and to what those directly involved in the programme think about it. This is what I aimed at. I wanted to determine whether the reform initiatives were worth implementing and whether they had met their objectives. This I pursued through accessing the perceptions of those professionals directly involved through a variety of data collection methods. Two of the primary data collection methods used was participant observation and indepth interviews which enabled me to engage in constant dialogue with the respondents to understand what they had to say in their own words. Patton (1987) and Thorpe (1994) believed that the utilisation of this methodology, allows one to access first-hand information about experiences, perceptions and thoughts. I experienced this to be true.



This is a qualitative evaluative research study which was conducted to determine whether the reform interventions which have been introduced thus far have been effective. This was established through accessing perceptions of professionals on the following:

- (a) secondary traumatisation;
- (b) working within a multi-disciplinary team; and
- (c) the training provided to professionals directly involved in the court system.

These perceptions were established by the employment of the qualitative methodology by engaging in in-depth interviews with individuals, focus groups, participant observation

and through administering of questionnaires to a range of professionals who have been directly and indirectly involved in providing services to victims of child sexual abuse. I used a triangulation of methods because it is an important means of gaining better understanding of how people feel about a particular project. I believe that the use of triangulation strengthened my study primarily because I was able to obtain a variety of perceptions about the reform initiatives. The participant observation technique was used prior to the commencement of my study as well as during the interviewing process because I wanted to establish an awareness of what goes on within these courts, and to be part of the process of problem solving and to include any ideas the respondents might have in improving the reform initiatives in the research study. The employment of this method provided an holistic and naturalistic view of the reform initiative and allowed me to get close to the research problem which enabled me to understand the problem area in greater detail.

I agree with Patton (1987) who contend that the use of qualitative data enables one to obtain detailed descriptions of situations, people, interactions and observed behaviour which one can only obtain through close contact as opposed to quantitative methods which maintain distance from respondents and which yield more superficial information.

I will now describe in more detail the qualitative methods used for gathering data.

### **3.1. In-depth Interviews**

The methodology applied was to capture what people had to say in their own words, and to understand their experiences and perceptions within their natural setting. Taylor and Bogdan (1984: 77) write that in-depth interviews involve  
 ...repeated face-to-face encounters between the researcher and the

informants directed towards understanding informants' perspectives in their lives, experiences or situations as expressed in their own words.

Patton (1987:169) maintained that the utilisation of this technique is an important source of data collection because it facilitates the understanding of another person's world and how that particular person perceives his\her world, and how they experience and understand the programme. During the interviewing process, I found this to be an accurate reflection of what was happening. Implicit in this is the assumption that the experiences, feelings and perceptions of those directly involved are worth knowing.

### 3.2 Focus Groups

Folch-Lyon and Frost (1981:444) defines focus groups as:

...a discussion in which a small number of respondents, under the guidance of a moderator, talk about topics that are believed to be of special importance to the investigation...Participants are chosen from some specific target group whose opinions and ideas are particularly germane to the investigation.

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The decision to have focus groups was unplanned. The first focus group, consisting of magistrates, was a spontaneous response to the interviewing process. The second focus group was decided upon the day of the scheduled interviews with the investigating officers.


The number of members in each group, including myself, were six members in the first group and three members in the second group. I experienced both groups to be very informal which allowed for open conversations and responses. The members of each group belonged to the same profession. Since the members were of the same profession,



I found the interaction between myself and the individual members to be more spontaneous. The time and location of these groups were determined by the respondents. The respondents from the police service decided upon a group session in my office while the respondents at the Special Court in Wynberg chose the tea-room which was found to be very comfortable. The questions were directed by me and the discussion recorded by means of a tape recorder (see appendices III and VI). All the questions were asked by me.

The members appeared relaxed and interacted spontaneously. This spontaneity was enhanced by virtue of the members of the respective focus groups belonging to the same profession and who had a common purpose.

### **3.3 Participant Observation**



Using my experience as a Victims Support Services Co-ordinator is relevant to the study and deepened my knowledge of the field. In the period that I conducted the research, I aimed to establish relationships with and engage in meaningful interaction with the respondents so that they could participate in discussions more appropriately. The use of participant observation enabled me to observe behaviour and interactions in this setting. By interviewing respondents in their own environment, I was able to take field notes on what I observed during the interviewing process. Patton (1987:175) asserts that participant observation allows one to understand a particular programme that is not entirely possible if one were to use only the perceptions of others through interviews. I found this to be pertinent to this study as participant observation enabled me to observe and experience certain aspects of the programme which I would not have experienced through interviews alone.



Patton (1987:177) also indicates that participant observation permits the researcher to observe situations that are not likely to be seen by the respondents and other staff members. I was in the fortunate position to have been involved with the Special Sexual Offences Court in Cape Town some years ago. In this way I had been a participant observer in the setting for some time prior to the research process itself. My previous involvement made access to the professionals concerned, easier. My association with this court provided a global picture of the functioning of this court which facilitated more constructive interactions.

### **3.4 Questionnaires**

Because of time constraints placed upon me, it became impossible for me to conduct in-depth interviews with all the respondents. A questionnaire (see appendix iii) was designed to allow the respondents to respond in their own words their own personal perceptions and feelings. The questions were similar in focus to those questions posed to respondents from other professions.

### **3.5 Aims**

The major aim of this study was to evaluate the reform initiatives through establishing what the perceptions of inter-disciplinary professionals was with regard to the relevance of the current legislative reforms, especially with regard to reducing secondary traumatisation. In my investigation, I wished to ascertain both positive and negative aspects which have emerged from the implementation of the reform initiative.

### 3.6 Operational Concepts Used

For the purpose of this study, the following operational concepts will be defined:

1. Special Sexual Offences Court: This concept encompasses the major restructuring and implementation of administrative and policy reforms concerning prosecutorial procedures and practices. These statutory reforms reflect the paramount concern for reducing the impact and trauma of the court processes upon the child and the family, by way of allowing a child witness to testify in a room other than the traditional court-room. The child witness testifies via an intermediary, who is usually a Social Worker, through a closed - circuit television. The child witness has no direct contact with the perpetrator and is not exposed to the aggressive manner in which questions are directed at him\her by the accused's legal representative.

2. Intermediary: Intermediaries are categories of persons who are deemed competent to testify on behalf of the child witness and in so doing protect the child witness against aggressive or harsh cross-examination. This particular person has the responsibility of conveying the general purport of questions directed at the child witness via close-circuit television in a non-threatening way and in age-appropriate language.

3. Child Sexual Abuse: Glaser and Frosh (1993:27) define child sexual abuse as:

...involvement of dependent, developmentally immature children and adolescents in sexual activities they do not fully understand, are unable to give informed consent to, and that violates the social taboos of family roles.

4. Secondary Traumatization: This concept encompasses the overt and covert

maltreatment of child sexual abuse victims. It is the collusive, retaliatory and depersonalised manner in which the problem is handled either by professionals, society, the family or the child concerned. I am looking specifically at the child rather than the adult victim.

5. Evaluation: Patton ( 1987: 145 ) defines evaluation as:

...the systematic collection, analysis and interpretation of information about the activities and outcomes of actual programmes in order for interested persons to make judgements about specific aspects of what the program is doing and improve the program.

### 3.7 Scope of the Research

The research was limited to a selected group of people who are directly and indirectly involved in matters related to child sexual abuse and which pass through the Special Sexual Offences Courts. To access the relevant information from the respondents, the questions were open-ended so that I could explore, probe and ask questions that would permit an understanding of their feelings and perceptions about the legal reforms. I used a variety of research methods to obtain the relevant information needed for my research study.

### 3.8 Selection of Respondents

I chose as the main group of respondents seven magistrates, three prosecutors and two co-ordinators who are social workers at the Special Courts. The information obtained from this group provided insight into the internal dynamics of the two Special Courts.

Although magistrates are seconded to these Special Courts on a rotating basis, all the magistrates concerned have had extensive experience<sup>6</sup> presiding over child sexual abuse matters within these courts. In order to ascertain a different perspective on these dynamics, I felt that external perceptions were needed. This information was drawn from two investigating officers, three attorneys in private practice, who frequently defend accused persons in child sexual abuse matters, and four Social Workers who have worked with child sexual abuse matters. The respondents were chosen on the basis of their experience and direct and indirect involvement in the Special Sexual Offences Courts.

I chose not to include child witnesses and their families because I felt that I would be violating their privacy and might also add to the trauma with which they are so often inflicted. I do realise, however, that to ascertain their opinions would provide invaluable information on evaluating whether secondary trauma has been lessened and still feel that this should be attempted. In addition to the aforementioned, the time allocated to pursue this project, limited my scope to exclude district surgeons and investigating officers stationed at satellite police stations. Direct face-to-face interviews are time-consuming and often court personnel do not have much time at their disposal to engage in lengthy interviews. However, there exists no doubt that further studies will reveal a broader picture of this particular problem area.

Because of the constraints placed upon me, I could not pursue contact with all interested role-players. I found there to be no shortage of professional persons willing to share their experience and give of their time to be interviewed by me. Those who were unable to

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6. 'extensive experience' refers to the experience in presiding over child sexual abuse matters.



assist were bound by work commitments. Of the sixteen external professionals approached, nine expressed a willingness to assist.

I also spoke with many social workers engaged in a different field of child care as well as attorneys in employ of the state and in private practice. I found the information gleaned from them to be informative for the research process.

I found that many professionals spoke to me freely which indicate a degree of trust in me due to my previous involvement in the field.

### **3.9 Data Collection Methods**

The data contained in this report was obtained through a variety of research methods as well as my own experiences within this court. Additional data was obtained through literature reviews, press clippings and progress reports ( Blankenberg,1995) on the Special Sexual Offences Court in Cape Town.

The use of triangulation enabled me to obtain a clearer understanding of perceptions expressed during the research process which added greatly to the data collected.

The following methods and research tools were used in my study.

#### Face-to-face interviews:

##### 1. CHILD PROTECTION UNIT:

Two investigating officers of the South African Police Service were interviewed.

## 2. SPECIAL COURT - CAPE TOWN:

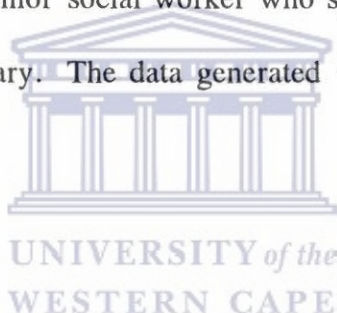
The respondents included the prosecutors directly involved, the victims support co-ordinator and two magistrates.

## 3. SPECIAL COURT - WYNBERG:

The respondents included five magistrates, one senior prosecutor and the victims support services co-ordinator. The interviews with the magistrates were conducted in a group, and a direct face-to-face interview was conducted with the prosecutor.

## 4. RED CROSS CHILDREN'S HOSPITAL:

The respondent included one senior social worker who specialises in this field and who occasionally acts as an intermediary. The data generated was through direct face-to-face interviewing.



## 5. ATTORNEYS:

Face-to-face interviewing was conducted with only one respondent.

## 6. SOCIAL WORKERS:

Two of the social workers who were interviewed work in private practice and deal regularly with child sexual abuse matters, and one is employed by the state.

### Questionnaires:

These were administered to three of the four attorneys and appear in appendix IV.

### Participant Observation:

Through participant observation, I was able to amass a richness of information through my direct observation. The use of this methodological approach allowed me to have direct experience of the difference between the respective Special Courts. This approach allowed me to take field notes for future analysis.

### Tape Recordings:

I used a tape recorder to record verbatim the responses of the respondents.

I found the use of a tape recorder to be an essential tool in the interviewing process because I was able to be more attentive during the interviewing process.

I also realised that I was able to probe in a relaxed way, and there was a sense that the one-to-one attention, resulted in a more relaxed atmosphere.



### Written Notes:

Data was further obtained through informal contacts with social workers and attorneys who have worked with child sexual abuse matters and who have acted as intermediaries.

The information was diarised (See appendix VII).

### Focus Groups:

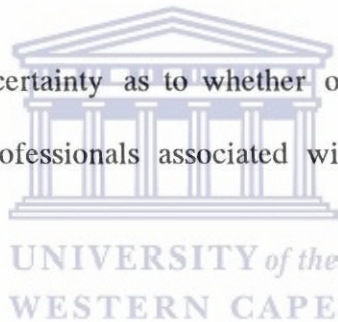
The selection of this research tool was unplanned but allowed me to facilitate meaningful dialogue with the respondents. The members of these groups belonged to the same profession with a shared interest in the research question.

### 3.10 Constraints

The constraints encountered were as follows:

3.10.1 The design of the open-ended questions, and obtaining permission to interview professionals directly involved, were executed before the acceptance, but subsequent to the submission, of my proposal. The delay precipitated much uncertainty on my part because I had no idea whether my proposal would be accepted. Had my proposal not been accepted, I would have had to cancel my request and start anew, perhaps even designing a completely different proposal. The time allocated did not permit these major changes.

3.10.2 Allied to this was the uncertainty as to whether or not I would be afforded the opportunity to interview legal professionals associated with the Special Sexual Offences Courts.



3.10.3 A further constraint was the utilisation of the in-depth interviewing technique which was found to be extremely time-consuming. A considerable time elapsed before I was able to establish contact with the next respondent. Due to the time-constraints involved in this process, I had to place limitations on myself in terms of time allocated to individual respondents.

3.10.4 Constant interruptions during the interviewing process often caused a break in focus. The interruptions included the ringing of the telephones, other persons wishing to speak with the respondent concerned and respondents being called away for a few



minutes.

3.10.5 Transcribing the individual tapes proved to be extremely difficult and time-consuming. Many attempts were made to secure a transcriber, but my attempts were unsuccessful. I transcribed the interviews personally.

3.10.6 The current dynamics within my work environment added to my problems. We are currently severely shortstaffed and I consequently had problems taking time off from work to pursue additions to this project. Basically, I had to execute much of the work late at night in an attempt to finalise aspects of the project. So, in essence, time was my primary constraint.

3.10.7 Family dynamics added to the constraints placed upon me. My children, aged 9 and 7 years respectively, are still quite young and at a stage where they require my constant attention. I often had to forego any plans I might have had to execute constructive work at home.

#### **4.1.3 Code of Ethics**

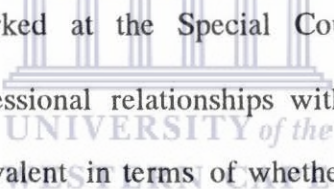
Letters requesting permission to interview respondents were sent to various child protective systems. Certain respondents expressed a wish to remain anonymous for fear of being prejudiced against.

## CHAPTER FOUR

### PROFESSIONAL PERCEPTIONS OF THE SPECIAL COURTS

#### 4.1 INTRODUCTION - CONTEXUALISING THE STUDY

I have always been mindful of the fact that, despite gaining approval to engage particular state employees in the interviewing process, I had no guarantee that those selected would co-operate. It is my experience that in order to gain entry, one needs to establish trust and rapport.



Although I had previously worked at the Special Court in Cape Town, and had established meaningful inter-professional relationships with the court personnel who were then stationed there, I felt ambivalent in terms of whether I would be accepted by the new incumbents stationed there, since I had left the Special Court a long time ago, and the staff complement had altered considerably.

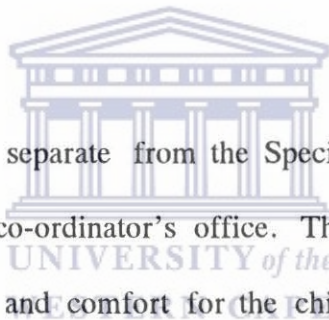
Reflecting upon the post interviewing process proved to be a very thought-provoking and interesting activity. The very first picture that emerges is the vast difference between the two Special Courts.

##### 4.1.1 Special Sexual Offences Court - Cape Town ( Court 32)

The Special Sexual Offences Court in Cape Town is located on the second floor of the

Regional Court building, a building which is shared with the office of the Master of the Cape High Court, and the Civil Court. This Special Court only deals with complainants who are children.

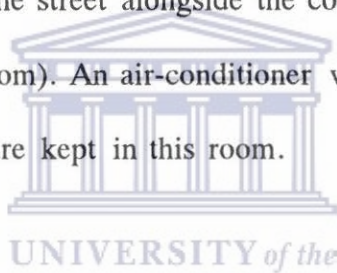
On entering the building, there are no clearly-defined indications as to where exactly the Special Court is situated. Directions provided by the security personnel are vague and confusing, particularly so to those who have never before seen the inside of a court. The corridors and passage-ways are dark and dingy and depressed-looking. Nobody one passes on the way appears interested or concerned. Child witnesses often have to pass stoic-looking, detached, scary-looking and disinterested attorneys and offenders along the corridors.



The waiting room is completely separate from the Special Court but in close proximity to the victims support services co-ordinator's office. The location of the waiting room provides the necessary security and comfort for the child witnesses and their families. This room is both child and people-friendly and has been improved greatly to create a positive atmosphere. The walls are colourful and contain appropriate hanging pictures and posters. It is well ventilated and contains sufficient adult and child-friendly furniture. The Co-ordinator's office is small but comfortable. It contains suitable furniture and office equipment needed to execute her duties in a positive manner. The Co-ordinator has succeeded in creating a child-friendly environment, for example, child-like posters adorn her walls and she has toys which she uses to occupy a child witness during a consultation, for the children and the families concerned.

The Special Court itself is in close proximity to the other criminal courts, and the activities and noise emanating from the people who use the various courts are a constant hindrance. The outcome of a proposal submitted by the Control Prosecutor during 1995, to move the Special Court away from the other criminal courts is still awaited.

The special room utilized by the child witness when testifying is attached to the Special Court ensuring easy access. This particular room is small and adequately equipped with the necessary child-friendly toys and furniture. Child-friendly posters adorn the walls and are colourful. This special room was not sufficiently ventilated, and on very hot days, spending time in this room could become very uncomfortable (the window cannot be opened because the noise from the street alongside the court creates a disturbance to the electronic devices used in this room). An air-conditioner was installed during April 1997. The anatomically correct dolls are kept in this room.



The prosecutors assigned to this court share an office. Although this office is well ventilated, it appears to be cramped and there is no feeling or indication of child-friendliness. The office lacks the facilities required for consultation with children. A special consultation room has been established but is not operational yet.

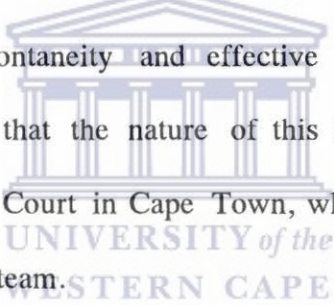
The respective offices occupied by the magistrates interviewed, were found to be rather comfortable. It needs to be mentioned that these offices are not utilised by these magistrates when they preside over child sexual abuse matters. The office they then occupy, has an unfriendly and spartan appearance. However, despite its appearance, the office is located close to the offices of the prosecutors and the Co-ordinator, which



allows for easy access and communication between the professionals involved.

What became apparent was the sad fact that, structurally, this particular court has not yet provided adequately for the children who pass through this court; it remains a court for adults. This court has not provided the infra-structures for children who pass through this court. The structures used for the child victims are too closely linked to structures used by hardened criminals.

Although my feelings concerning the court personnel were strongly embedded, due to conditioning and exposure to racial separatism, the reception I received during the interviewing process was positive. I encountered no resistance or hostility. What was particularly striking was the spontaneity and effective interaction between the staff concerned. I need to mention that the nature of this interaction has always been a dominant feature of the Special Court in Cape Town, where the inter-disciplinary professionals merged to form a team.



During the pre-interviewing phase, I encountered no conflict or personality clashes in their interactions. It became very easy for me to identify strongly with the respondents because it is this very dynamic involved that sets this court apart from the other courts.

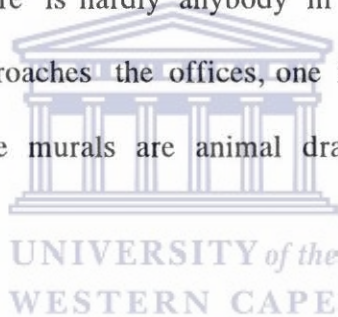
Because of my previous association with this court and the sense of integration and intimacy I felt, despite staffing changes at the court, I became concerned that I would not be able to remain fair in terms of information presented, and I felt that by virtue of my association with this court, I would become biased in terms of data generated.

However, concerted focusing upon the issue at hand made me constantly aware of my approach to the subject.

#### 4.1.2 Special Sexual Offences Court - Wynberg (G Court)

The Special Court situated in the Wynberg Magistrate's Court presented an entirely different picture, and deals with complainants of all ages, both women and children.

Like most courts, the Wynberg Magistrate's Court is a hive of activity. But this hive of activity ends when one approaches the Special Offences Court which is located on a different floor. The main corridor contains a lot of natural light and along the walls are clearly-marked directives. There is hardly anybody in sight but those I came across appeared friendly. As one approaches the offices, one immediately notices the murals that adorn the side-walls. The murals are animal drawings and were painted free-handedly.



The waiting room is very small. It is fitted with seating, a bookshelf and scattered magazines. Child-friendly soft toys are displayed.

The creation of a child-friendly environment is of particular importance. Haugaard and Reppucci (1988:356) noted that a child-friendly environment can be created through demystifying the courtroom by modifying the physical environment, for example, by providing a small chair for the child and having the judge sit on a level with the child. They add that child-friendliness is further enhanced by careful preparation of the child witness before testifying by introducing the child to the judge or magistrate, and

informing the child on the roles of the professionals involved.

The victims support services co-ordinator's office is small but well equipped with child-friendly posters, pictures, toys, office equipment and relevant and informative books on child sexual abuse. It is also well-ventilated.

The offices occupied by the prosecutors appeared pleasant and accommodating.

The prosecutors who were occupying the offices at the time of the interviewing process had not been part of the staff component of the Special Court for long so I did not get to speak with them.

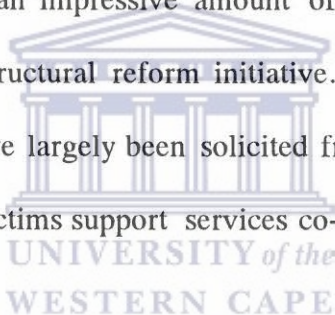
I was shown the new waiting room which is on the same floor and completely separate from the offices. This room contained all the appropriate child-friendly furniture, toys, pictures and a TV. I was informed that the equipment and the toys were donated to the court. I was also informed that this particular waiting room was not yet being utilised by the child witnesses.

The special room where the child testifies is situated apart from the Special Court. This room is a comfortable size and suitably arranged with the electronic equipment, animal murals and child-like furniture and toys. This room is also well ventilated. This room is very secure and has a pleasant atmosphere.

It was apparent that the structural setting of this court was the ideal and I could understand why so much media attention is focused on, and donations given to, this

court. Despite the much publicised attention given, the impression I had at the time was that this court is under-utilised. There was very little activity and interaction between the various professionals concerned, and the family who shared the waiting room with me were becoming agitated because they had been waiting quite some time for somebody to communicate with them.

Viewed very broadly, this Special Court epitomises what a Special Sexual Offences Court should offer a child witness and his\her family in terms of appearances. Structurally, it is ideal, offering a sense of child-friendly atmosphere, and it provides no indication of traditional court room appearances. There is no doubt in my mind that the Special Court in Wynberg has invested an impressive amount of time, effort and money into improving and humanising the structural reform initiative. Cognisance needs to be taken of the fact that the resources have largely been solicited from private donors through the efforts of prosecutors and the victims support services co-ordinator initially appointed to the court.

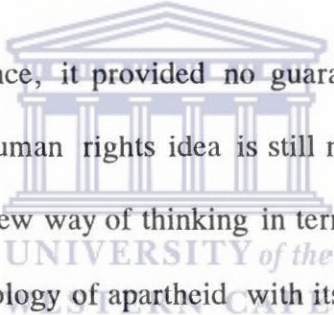


During this interviewing process, there appeared to be very limited interaction between the court personnel and the victims support services co-ordinator. Movement was slow or so it appeared on that particular day. I did not feel a sense of integration between the disciplines. There was certainly recognition in terms of who was who, but no active interaction in terms of a Specialised Court. This lack of interaction and integration between court personnel made the court appear impersonal.

My interviews with the magistrates were pursued on a different day and time arranged



by a senior Regional Court Magistrate. Although I had met one of the magistrates many years ago and had re-acquainted myself with him during a telephonic conversation while arranging the interview, I felt anxious. I could recall quite vividly past racist, social and political values which pervaded the justice bureaucracy and which were often reflected in attitudes and behaviour. Although my experience within the Special Court in Cape Town was positive, it was really the Control Prosecutor at the time who made my stay at this particular court amenable; who involved me in every matter concerning the Special Court and who made others accept me, who listened, guided, and who responded in a very professional and humane way. I never felt that he was being paternalistic towards me.



So, despite this positive experience, it provided no guarantee that other court officials would respond similarly. The human rights idea is still new in our country and I could certainly not depend upon this new way of thinking in terms of having people accept me for who and what I am. The ideology of apartheid with its racist laws and legislation has pervaded our way of thinking, behaving and acting for many years and it would have been rather naive of me to believe that I would be accepted just because of the current trends and the development of a human rights culture.

However, I arrived at the designated place a half an hour before the actual interview. When the time arrived for me to meet with the magistrates, I went to look for the offices occupied by the magistrates to inform them of my arrival. It was while I was searching for the offices that I bumped into the magistrate I had met many years ago. His recognition of me had me respond in a similar fashion and I have to believe that it was

this very simple recognition, a feeling of connectedness which allowed me to feel at ease with the other magistrates.

The interviews took place in the tea room where I was cordially offered a cup of coffee, and invited to take a seat which to me was an indication of their preparedness to interact and assist. I experienced an openness and honesty which made me relax and respond appropriately. There was no holding back; the prevailing atmosphere was conducive to facilitating frank responses. The interviewing process took the form of a group discussion, so tape-recording the interviewing process seemed to be the most expedient form of data collection.

I was able to concentrate on the responses and observe individual attitudes and non-verbal responses. The interaction was insightful and informative. I believe that their initial response to me, their recognition of past working relationships and the fact that they were willing to share with me some of their thoughts and experiences laid down the ground rules for their acceptance of me.

I am fully aware that I entered this process mindful of some of the differences between the two Special Courts. It was for me a most challenging and intellectually insightful experience, especially in the light of what was said to me by the victims support services co-ordinator attached to this court after the interviewing process - that I was lucky to have been granted an opportunity to discuss certain issues with the magistrates because this particular person had never been permitted to meet with them to discuss any matter regarding the Special Court. However, I personally do not believe that I was lucky. I

believe that my research area was of interest to both the respondents and myself and their willingness to participate indicated a desire to want to make a difference.

The statement expressed, illustrates the difference between the courts that I mentioned earlier. During my experience at the Special Court in Cape Town, there was constant dialogue between myself and the court personnel.

#### 4.1.3 Overview of Interviewing Process

Throughout the interviewing process, I encountered no hostility, no reluctance but rather acceptance, co-operation and a willingness to share. Outside the Special Court arena, the Social Worker in private practice gave up her entire evening to be interviewed by me and was only too willing to share her experiences, thoughts and feelings with me.

All the respondents were co-operative and interacted well. The selection of this qualitative approach made it possible for me to engage in constant reflection and introspection whereby I was able to activate my impressions and feelings about the statutory reform so that I could understand the programme and the people who manage the programme.

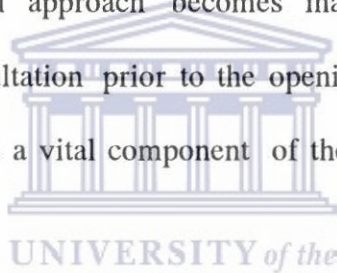
Although the fieldwork was mentally exhausting, I thoroughly enjoyed the task of listening to what people had to say. I believe that my acceptance was partly due to the fact that

- I had worked within the Special Court;
- my years of working placed me in a position which allowed me to be exposed to various fields of social work;

- those working outside the legal field have had regular contact with me over the years;
- and
- the need to raise the level of protection of children and to promote their rights, could easily have served as an impetus towards my acceptance..

#### **4.2 PROFESSIONAL PERCEPTIONS ON THE TWO SPECIAL SEXUAL OFFENCES COURTS**

It is common knowledge that courts generally were designed by adults, for adults as the court procedures are designed along the lines of the adversarial system (Combrinck, 1993; Olivier, 1993). This adversarial approach becomes inappropriate when children are drawn into it. The lack of consultation prior to the opening of the Special Sexual Court in Wynberg is now perceived as a vital component of the legislative reforms.



According to the Raoul Wallenberg Institute (1994), any country which adopts the Convention on the Rights of the Child, is obligated to review and to rectify national law to ensure that it is in line with the provisions of the Convention.

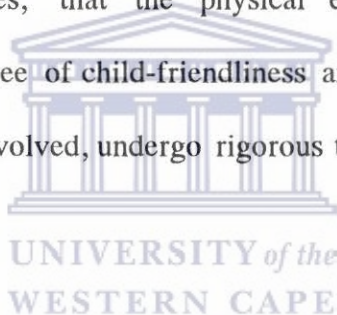
The stated purpose behind the motivation for, and the establishment of, the two Special Sexual Offences Courts was to address the secondary and systemic trauma which many child witnesses suffer as they undergo court proceedings.

Stanton and Lochrenberg (1994), cite Attorney General as having expressed the view that had he consulted with and sought the approval of NGO's to implement these Special



Courts, he would have been hampered from doing so. This act at implementation, of excluding consultation with the role-players concerned, indicates a serious failure in recognising the importance of consulting with other role - players and illustrates the power relations between the Criminal Justice System and the other child protective systems.

When addressing child sexual abuse matters, policy initiatives need to establish factors that may contribute to, or lead towards, reducing secondary traumatisation and hence additional child sexual abuse. Factors such as making it mandatory that no child witness testify in an open court, that all child witnesses be thoroughly informed and briefed regarding courtroom procedures, that the physical environment be appropriately modified, to provide a high degree of child-friendliness and that all court personnel and external professionals directly involved, undergo rigorous training before embarking upon such matters.



South Africa's ratification of the Convention on the Rights of the Child is of the utmost significance for these courts because it goes hand in hand with the promotion of the rights of the child.

My findings highlight fundamental aspects about child protection within the framework of the legal system, the most prominent being the procedural reforms that have been enacted and which are evident in the establishment of the two Special Sexual Offences Courts. A major problem which my study highlights is the extreme disparity between the two Special Sexual Offences Courts located within the Wynberg and Cape Town

Regional Courts respectively.

Although the Attorney General is cited in a study undertaken by Stanton and Lochrenberg (1994), as having initiated the Special Courts to address secondary traumatisation, the Special Court in Cape Town, for example, is unsuitably located within the building and has a high potential for causing confusion, uncertainty and insecurity within the child victim. The marked difference in appearances and structural locations indicate short-sightedness in terms of what exactly constitutes secondary traumatisation, and an absence of cohesive implementation and/or planning.

### Statistics

The statistics below reflect the reported number of sexual offences cases against children under the age of 18 years. The numbers indicate only the number of cases handled by the Child Protection Unit and specialised individuals stationed at the satellite police stations.

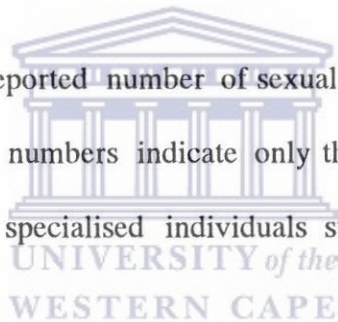


Table 1. The statistics presented indicate the number of cases reported between January 1993 to January 1997.

1993	1994	1995	1996	1997
Jan-Dec	Jan-Dec	Jan-Dec	Jan-Dec	Jan
9786	13204	16083	20333	1800

The statistics indicate a rapid increase in the number of cases reported. It is unknown

how many cases were brought before court.

The data obtained from the respondents is as follows:

#### 4.2.1 MAGISTRATES AND PROSECUTORS

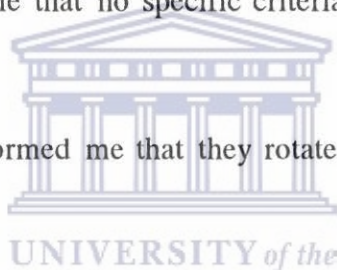
In my study, 7 magistrates and 3 prosecutors were interviewed. They were selected on the basis of their involvement in the Special Courts.

The following components were explored:

##### 4.2.1.1 Criteria Used for Assignment To The Special Courts

All the respondents informed me that no specific criteria are used to assign magistrates to the Special Courts.

One senior male magistrate informed me that they rotate according to a programme. He added:



...unfortunately you have to take your turn in that court, whether you like working in that court, whether you feel uncomfortable or not - everybody feels uncomfortable in a sense that it is difficult dealing with a young child giving evidence and sometimes the trauma is quite apparent - so there is no criteria which is used to assign magistrates to that specific court - they are all regional magistrates - they all get a turn to sit in that court.

A male prosecutor remarked that he had been assigned to the Special Court because he had used the electronic equipment before his involvement in the Special Court.

He reported that:

...the workload was crazy - there were too many matters coming through and we were three at the time - and they assigned me to the court and told me to give it a shot and see if I can cope - so if I don't cope they will re-assign me.

A female prosecutor informed me that: "...if you don't like working in this court there is no way out. I am a woman and was told I have children and therefore "geskik".

Comments:

The remarks articulated reflect a failure on the part of the Criminal Justice System to view child sexual abuse in a serious light. It does appear from the information presented that the rotation does not afford the magistrates the opportunity to engage in meaningful and constructive training because there is a limitation placed on the time they spend in the Special Courts. It is fundamental that those who display a concern for children and who recognise that child sexual abuse cases cannot be prosecuted the same way as other criminal matters be selected on merit. Also, the choice should lie with the professional concerned whether to get involved or not. A lack of interest or knowledge into child sexual abuse will hinder the successful prosecution of such matters.

It should be noted that to qualify as a regional magistrate, there use to be quite a rigorous selection process, including official training courses and exams, which was the case until fairly recently. There is no comparable system operating as far as regional court prosecutors are concerned, although there is an unwritten understanding that they are generally the more experienced and competent prosecutors. However, the laws of supply and demand may often dictate that a prosecutor with relatively limited experience 'ends up' in a Special Sexual Offences Court.

**4.2.1.2 Educational Training:**

The majority of the respondents believed that the educational training they received was sufficient to work with child sexual abuse matters. A senior male magistrate expressed the following:



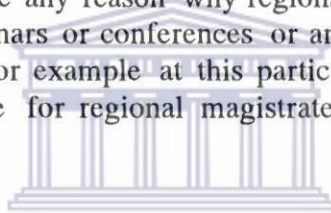
...we are dealing with a criminal case, certain rules, especially rules of evidence apply and to that extent it really does not differ from any other criminal case. Our approach is a legal one to establish whether the state has proved its case beyond reasonable doubt - but I don't think you need anything more than that to determine whether the man is guilty or not. The approach will always be the same.

Another senior male magistrate remarked:

There is no other basis to judge a case than to be legally trained and equipped to assess the evidence. That is the only yardstick....so I don't off the top of my head think you require specific or special training in order to sit in this court as a regional magistrate.

This particular magistrate added:

I don't think there can be any reason why regional magistrates could not, for example, attend seminars or conferences or anything else where sexual abuse is discussed and for example at this particular point in time, there is no training programme for regional magistrates. There's no refresher programme,...



A female prosecutor stated:

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Training has taught us to think in a specific way. Some people do not know how to deal with these people and therefore training comes in.

A male prosecutor remarked:

...you would approach it differently because dealing with adults is different...here one consults and there is a degree of something personal about these matters. So there is a difference - so the approach is a different one.

A senior male magistrate maintained:

...training is absolutely necessary - one does not understand the dynamics of an abused complainant, which is necessary. I would say that specialised training is necessary...we are not trained ...we know about the law, the cold facts being applied to the law - so the complainant does not even

feature as far as that is concerned - it is only the spoken word - only the evidence to be considered - it is quite obvious that we are dealing here with much more than the spoken word.

A senior female magistrate indicated that specialised training was needed because of the dynamics involved in child sexual abuse matters. She was supported by two senior male magistrates.

Comments:

Although the majority of the respondents believed that their educational training was adequate, there was an overall indication that additional training was needed. Although the majority of the respondents indicated that training was essential, there remains a concern regarding the approach needed to preside over such matters.

I don't believe that one's formal training fully prepares one for practice. Child sexual abuse raises certain issues about sexuality, about power and about societal attitudes towards the problem. Not to supplement one's training with additional knowledge, is a serious failing in our attempt to reduce trauma and the incidence of child sexual abuse. It should be noted that the insensitive and harsh way of prosecuting such matters are inappropriate, and to maintain these approaches is not in the child's best interest.

It is, however, heartening to note that there is some recognition regarding the need for a change in approach. A report published in the Southern Mail (March 5, 1997) cited a prosecutor as commenting that prosecutors involved in such matters have a different approach to matters of child sexual abuse.

#### 4.2.1.3 Reform Initiatives:

There was consensus regarding the positive contributions made by the reform initiatives.

A senior magistrate reported that:

...I would say the mere fact that we have the facility is a success story to me. The mere fact that we can now deal with children which was very difficult before to have a young child stand in a huge room and looking at the magistrate with a gown on - frightening - the child is not use to that kind of atmosphere whereas now the child can sit in a room with an intermediary in a calm atmosphere - that to me is a success story.

This senior male magistrate informed me that it does however happen that prosecutors are inclined to "...sometimes sort of push the younger child through the system...many of these children are not always competent witnesses".

#### Comments:

Although the general perception about the legal reforms is a positive one, from the latter quotation it is apparent that we cannot ignore the fact that secondary traumatisation continues to take place. The legal reforms which have been established, primarily legislate for changes in attitudes and behaviour in respect to child sexual abuse matters. It would appear from the quotation that more than just one child was 'pushed through the system'. Prosecuting such matters is a daunting task. It is the responsibility of all the professionals directly involved to ensure that very young children are sufficiently protected. I would think that to determine competency would be a joint task between the various role-players concerned.

#### 4.2.1.4 Multi-disciplinary Team Approach:

There was consensus amongst the prosecutors regarding the importance of working



within a multi-disciplinary team. All the senior magistrates indicated that they are not part of, or involved in, a multi-disciplinary team. One senior male magistrate remarked:

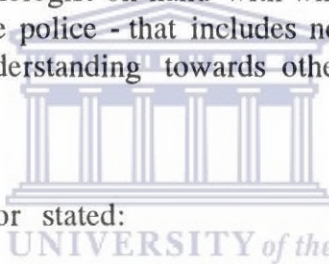
...certainly I think it is important that a team effort should exist in terms of preparing everything that is presented to the magistrate, but the magistrate is not part of that team.

Another senior male magistrate remarked:

...we are not really involved - we are not supposed to be involved - I don't know whether you agree - we are not part of the team - we are supposed to be impartial..

A senior female prosecutor stated:

I don't think we would have a chance of success if we did not do it - I really don't. We need a social worker who works with us and helps around - we need to have a psychologist on hand with whom we can consult with - we need to work with the police - that includes not only working together, but also having some understanding towards others' problems.



Another senior female prosecutor stated:

Of utmost importance - people are needed from disclosure to prosecution, medical practitioner is important. It is so important because many evidential materials might go missing. You really need to act as a team.

#### Comments:

Magistrates do play an integral part in the resolution of cases of child sexual abuse, and must be sensitised to the relevant issues. I fail to reconcile the fact that their involvement in a multi-disciplinary team can compromise their impartiality. Although I am mindful of the impartial role they have to play, belonging to a multi-disciplinary team requires a common purpose and a belief in child protection. The responses to the importance of a multi-disciplinary team by the prosecutors indicate a positive approach by the prosecutors to multi-disciplinary teams in the entire process of child protection.



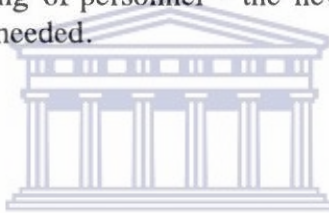
It is vital that magistrates not work in isolation. Although the idea of working within a multi-disciplinary team was perceived as important by the magistrates, their adherence to established legal rules and regulations must be recognised as outdated since it entrenches the power relations between the magistrates and the professionals directly involved.

#### **4.2.1.5 Training of Investigating Officers and Defence Attorneys:**

There was general agreement that external professionals require ongoing training.

A female prosecutor explained:

Some of them are (reference made to all external professionals who are directly and indirectly in child sexual abuse matters) - you get, like everywhere else fluctuating of personnel - the new people have a problem - ongoing programme is needed.



A male prosecutor remarked:

...it is normally the problem with the young doctor or newly qualified professionals - ongoing training is important but it depends on the training as well.

A senior male magistrate informed me that:

They are not objective - that is a problem - they are too close to their clients - the accused. No objectivity... (the attorneys).

He continued:

Ja. Look, at the end of the day - justice has to prevail - by the attorney cross-examining the complainant - done in a high-mannered way - so they quite obviously need to be educated.

#### Comments:

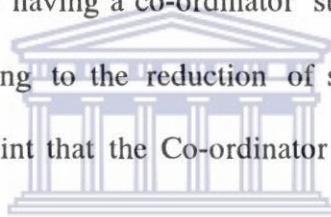
It is my opinion that where any one part of a group of professionals is untrained or

requires ongoing training, the impact which the lack of adequate training can have on the rest of the team, can lead to serious implications for child protection. I am of the opinion that any person utilised in this particular field, should attend an induction course geared towards understanding the dynamics of child sexual abuse and working within a multi-disciplinary team.

Without the necessary experience, the involvement in such matters could have devastating effects on the child concerned and the professional involved.

#### **4.2.1.6 Victims Support Services Co-ordinator:**

All the respondents agreed that having a co-ordinator stationed at the Special Courts is fundamental towards contributing to the reduction of secondary traumatisation. They also expressed the same viewpoint that the Co-ordinator should be available at all times.



A senior male prosecutor remarked:

...without the co-ordinator, we would have had many more problems than what we have at the moment because we deal with these matters on a daily basis, you need a co-ordinator here permanently - you need her around to explain the set-up, to assist the families regarding procedures and to prepare the complainants.

A senior female prosecutor stated:

...I think it is important to have somebody stationed here all the time and available.

This particular prosecutor added that:

I think it (the job description) is too broad. I think that it should rather be a hands-on involvement - right here at the court. Fine, they want

somebody from the Department to go and attend all these meetings and do all these things. I think it is important. I think they should have somebody like that. Any absence does not go into a crisis, but her absence does. So by all means say to whoever is going to take over her job, 'this is your job, you have to go and attend all these meetings, you have to go and sit on all these forums, speak to these people, address these meetings, whatever it is, but we want somebody here at Wynberg, who is available from 8:00 until 16h00.

There was also an awareness expressed that the respective co-ordinators use the same job description, but that they execute their respective tasks differently. The following reflects a senior female prosecutor's response:

But they don't work in the same way...I know the co-ordinator at Cape Town is at court a hell of a lot more than ours is here and I think that is beneficial to their court.

Comments:

The importance of a co-ordinator stationed at the respective Special Courts is undoubtedly an important factor within the entire process of child protection. The difference in the execution of tasks by the respective co-ordinators is indicative of the lack of contact between the two co-ordinators and, ironically, a lack of co-ordination. The lack of visibility and accessibility should be perceived as contributing towards secondary traumatising. A complainant who is not supported within a court set-up by a professional who has been trained to do so, can cause serious implications for the complainant, his/her family and the court personnel concerned. It is of fundamental importance that both co-ordinators liaise on a regular basis to ensure continuity of service provision.

#### 4.2.1.7 Public Awareness:

There was general agreement that the general public was not fully aware of the Special Courts. One senior female prosecutor informed me that prosecutors stationed at the Special Court in Wynberg are often invited to present talks at venues, women's societies etc. She added:

I don't know. A lot of people phone us and ask us about it - Certain sectors of the community do seem to be aware of the court, but a lot of people seem to be surprised at what we offer, so it is pretty much restricted to certain sections of the public.

One senior magistrate reported:

...I can think for example that the PRO role will promote Court 32 or the proceedings in Court 32. ...a small percentage of sexual offence cases come to court because of the fear on the part of the complainant...because they didn't understand that there are special measures that apply in this type of court. So I think that is a positive development.

He continued:

But I think it should be an on-going thing, there should be reports on a regular basis or some way of filtering information to the public, about the existence of Court 32 and what benefits it holds for complainants.

#### Comments:

The only way in which the public can become fully aware of this initiative is through ongoing public awareness campaigns. These campaigns could be viewed as a public relations exercise and should be an inherent part of the total service provision of the Special Courts. People have the right to know what services are available and how to access these services. It is important to note that public awareness campaigns may have the effect of raising expectations of improved services. It is fundamental that any information on improved services publicised are not realised, public awareness campaigns



would serve no meaningful purpose.

#### **4.2.1.8 Contact Between the Court Personnel at Respective Courts:**

The professionals involved at the respective Special Courts indicated that there is no contact between the professionals stationed at the respective courts.

A senior female prosecutor from the Special Court in Wynberg stated:

...the only contact we have is when a representative from the court attends every single meeting...

A senior male magistrate from the Special Court in Cape Town responded:

In Wynberg? No we don't have contact.

One senior magistrate indicated that he has no contact with the special court in Wynberg but expressed the opinion that contact between the court personnel at the respective courts is vital.

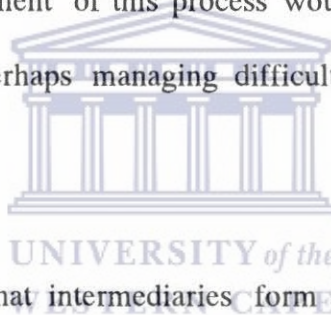
A senior magistrate stated that there is no real contact between the respective magistrates. He explained that the magistrates do get together at least once a year but not specifically to identify or discuss problems relating to the respective courts.

#### **Comments:**

It would appear as though contact between the court personnel stationed at the respective Special Courts does exist but is confined to sporadic meetings. Because these reform initiatives are fairly new, it is important that those professionals directly involved

meet on a more regular basis to discuss any problems they might experience and to exchange views and opinions. Since child sexual abuse is very emotive, professionals directly involved need emotional support from their colleagues to help confront issues they are unable to.

It is my opinion that the lack of contact demonstrates the entrenchment of fragmentation of services and a reluctance to work within a team. The court personnel needs to be aware that the reform initiative is an evolving process where services move from one level to a more co-ordinated level which can only be accomplished through ongoing contact. It is my personal view that regular contact would create a commonality of perspective and greater uniformity and hence lend credibility to the Special Sexual Offences Courts. The achievement of this process would enhance communication and improve the effectiveness of perhaps managing difficult matters jointly.



#### **4.2.1.9 Intermediaries:**

There was general consensus that intermediaries form a vital part of the entire process of child protection.

One senior male magistrate had the following to say:

...if the purpose of Court 32 is to minimise trauma for witnesses, then I think part of that process is the existence of the intermediary who acts as a buffer between what is happening in court and that particular witness.

A senior female prosecutor explained:

...it makes all the difference - the witness is just so much better - the quality of evidence is just so much better - it makes all the difference in the world although the intermediary who is not interested or does not know how to work with the child on the other hand just cause some damage.

There was agreement that intermediaries require training and experience.

Comments:

There appears to exist no doubt among these respondents that intermediaries play an essential role in reducing secondary traumatisation. It is important that intermediaries be included as part of an essential component of our attempts to reduce the impact and trauma of the legal processes on the child witness.

Concerted efforts need to be established to allow for a more co-ordinated intermediary system.

**4.2.1.10 Measurement of Success:**

All the respondents expressed differing views regarding how success, in terms of these courts, can be measured. Some respondents explained success as a statistically measured phenomenon while others expressed the view that success should be measured by the manner in which the child witness was treated. One senior male prosecutor explained:

I don't think the fact that you get 80% convictions mean that the court is a success - success should be to see how many of those victims at the end of the day have benefitted by virtue of coming forward and saying - " I have spoken about it and I feel better and can carry on with my life".

One senior male magistrate remarked:

...the mere fact that we have the facility is a success story to me. The fact that we can now deal with younger children which was very difficult before...it depends on one's perspective.

A senior female prosecutor explained:

These courts must first be successful as a court and secondly as a project.



When you look at the success rate of the court, the hours they are sitting, the amount of cases they complete/they finalise, and personally I look at the conviction rate as well. When you look at the project, you look at the people when they walk out of here, how they feel about what it has been like. Unfortunately, I don't get a lot of feedback on that because you call the complainant, when she finishes, she walks out and I don't ever see her again. It is very unsatisfactory. Because what happens is you get a complainant, a little girl for arguments sake and you spend a lot of time talking to her. She tells you the story - there is a special kind of relationship that develop. I find that they become dependent on you - not only the children but the adults too. Then you go to court and with great care you present their evidence and that's it. There is no closure - there is no come and see me next week to see how it was - lets see how you've experienced the court procedure - I find that very, very unsatisfactory - we just don't have the time. When we finish with the one case, we head along into the following one. I think that's a shortcoming...

Comments:

There are various factors that need to be taken into account when determining the success or failure of any particular intervention programme of this nature. The impression was gained that all the respondents felt the Special Courts to be a success but I would argue that these courts are too young to provide an informed indication of their success, especially since the courts are not evaluated on an on-going basis. Although these courts now make it possible for very young children to testify, it would mean absolutely nothing if the children cannot be protected since not all child witnesses are afforded the right to be protected.

The comment made by the last respondent provides a very realistic view of the factors that should be considered when measuring the success of these reform initiatives.

What is evident is that there are numerous factors that one need to take into account when determining the rate of success. Success does not depend upon one common factor but a variety of inter-related factors.

However, mechanisms for measuring progress at the courts should be developed as a



matter of urgency. Such mechanisms should also find non-invasive ways of incorporating the views and experiences of child witnesses.

#### **4.2.1.11 Improvements Envisaged by the Respondents:**

- \* the establishment of additional courts;
- \* more structured training for legal personnel;
- \* two cameras be used to display clear demeanour of child;
- \* complainants older than 18 years be allowed to use the facility;
- \* look at the emotional well-being of prosecutors;
- \* strive for more effective multi-disciplinary teamwork;
- \* change in structural position of court 32;
- \* that magistrates undergo training;
- \* regular liaison between court personnel at respective courts;
- \* intermediaries be available before 9:00; court proceedings usually start at 9:00.
- \* more experienced personnel; inexperienced personnel could compound existing problems or cause additional problems.

#### **Comments:**

The improvements articulated are indicative that problems do exist. The improvements mentioned are pertinent and should be addressed expeditiously.

It is apparent that the improvements and problems expressed would lead to a delay in meaningful growth in terms of these courts. It is my opinion that if these improvements and problems are not attended to urgently, the expansion of additional Special Sexual Offences Courts would not be an improvement on the reform initiative but would

perpetuate the problems currently encountered. I am of the opinion that the development of additional courts would not be sustained or render the service for which it was intended without first resolving the issues mentioned.

#### 4.2.2 VICTIMS SUPPORT SERVICES CO-ORDINATORS

Information was obtained from both Co-ordinators stationed at the respective Special Courts.

The following components were explored:

##### 4.2.2.1 Protection of Children within the Special Courts:

There was consensus that these courts do not provide total protection for the child due to the following factors: many children continuing to testify in open court, unnecessarily lengthy remands; aggressive cross-examination; the child witness still not having his\her own attorney.

One respondent reported:

All systems should be responsible - all the people that work with the child.

She added:

...they don't have their own lawyer - many children still testify in the open court - the cross-examination is still allowed in a way that is damaging - there is still a long wait at court.

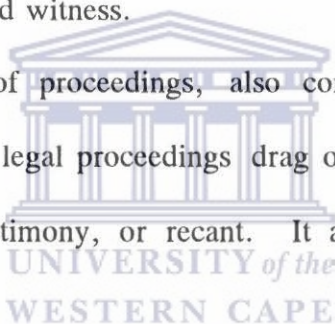
The other respondent remarked:

We have had cases where we started in (open) court and where the child had to talk about the incident - they clam up and then it is just a matter for the prosecutor then bringing the application for section 170 A of the Act ...

Comments:

It is essential that all those directly involved in child sexual abuse prosecutions take cognisance of the enormous impact that lack of skill and knowledge about child sexual abuse can have on the child. The research conducted on child sexual abuse ( La Fontaine, 1990; Search, 1988) suggests that the court process can inflict as much trauma on the child as the sexual abuse itself. Children who testify in the open court could easily refuse to testify if confronted with the perpetrator. It becomes important that whoever makes the decision to have the child testify in the open court, that he\she be mindful of the enormous influence the perpetrator can yield over a child especially if the perpetrator is known to the child witness.

Remands i.e. postponements of proceedings, also constitute a form of secondary traumatisation. The longer the legal proceedings drag on, the greater the pressure for the child to change his\her testimony, or recant. It also results in difficulties with remembering finer details.

**4.2.2.2 Responsibility for Protection:**

Both co-ordinators expressed the opinion that the responsibility for the protection of children rests with the child protective systems.

Comments:

Child sexual abuse is too complex a problem for any one particular system to have sole responsibility. All the systems have a responsibility to ensure the protection and the continued protection of that child.

#### **4.2.2.3 Training of Legal Personnel:**

The victims support services co-ordinators were in agreement that certain court personnel were not sufficiently trained because of the rotating roster does not allow them with the time needed to pursue additional training. Certain magistrates and prosecutors were singled out as having immense knowledge about child sexual abuse matters. There was agreement that the training be structured and ongoing.

#### Comments:

Despite the immense knowledge and skill certain court personnel have, the attainment of knowledge should be an ongoing activity.

#### **4.2.2.4 Co-operation from Legal Professionals:**

The victims support services co-ordinator stationed at the Special Court in Wynberg informed me that she initially encountered problems establishing relationships but had managed to establish sound relationships. The victims support services co-ordinator at the Special Court in Cape Town indicated having good relationships with the court personnel but informed me that she would like to have other legal personnel who are indirectly involved liaise with her more regularly.

#### **4.2.2.5 Multi-disciplinary Team Approach:**

Both indicated that working within a multi-disciplinary team is an essential part of child protection. Both expressed the opinion that certain professionals working directly and indirectly with child sexual abuse matters are not sufficiently trained and that ongoing training should be encouraged and pursued.



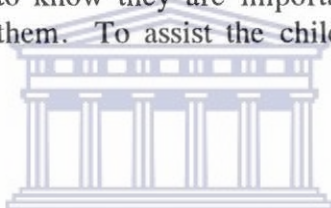
#### 4.2.2.6 Primary Role of the Co-ordinator:

The victims support services co-ordinator stationed at the Special Court in Wynberg referred me to her duty sheet and informed me:

...to ensure the minimising of secondary abuse by all the role-players through training, sensitising and awareness training; to try and attempt to co-ordinate services of all role-players involved...when I am not in court, I could give people support. I also made the services of the court known to other organisations so that they know what to expect. I also act as a liaison person and made known the weaknesses of the court.

The victims support services co-ordinator stationed at the Special Court in Cape Town remarked:

I am here. I'm at the court. Much time is spent with the witnesses, with their parents -they need to know they are important in a trial - I have to spend a lot of time with them. To assist the child through the trauma.



#### Comments:

Although the co-ordinators use the exact same duty sheet, it would appear from the comments presented, that they perceive their primary roles differently. There is a distinct difference between the co-ordinators regarding service provision. Although the co-ordinator at Wynberg's G - Court indicated that she provides support, there is a sense that her job entails more public relations work. It is important that consensus be reached regarding the duties executed by the respective co-ordinators.

#### 4.2.2.7 Ongoing Training:

Both victims support services co-ordinators informed me that ongoing training is important. The victims support services co-ordinator stationed at the Special Court in Wynberg stated that one should keep abreast of new legislation because it is one way of

getting information about statistics on child sexual abuse. The victims support services co-ordinator stationed at the Special Court in Cape Town remarked that she continuously reads articles and relevant books on child sexual abuse.

#### 4.2.2.8 Effectiveness of Special Courts:

The victims support services co-ordinator stationed at the court in Wynberg felt that the numerous remands and the fact that not all children go through this system rendered the legal reform ineffective. She indicated that there are too many remands and that not every child goes through the Special Court.

The victims support services co-ordinator stationed at the Special Court in Cape Town remarked:

The court is a success but we need to work together.



#### Comments:

The reform initiatives signal a major highlight in child protection within the court system. The perceptions of the victims support services co-ordinators indicate a difference in focus areas. One needs to realise that the legal reforms are still 'young' and various professionals are trying to adapt to the legal reforms. The legal reforms enacted consist of a number of components that are bound together by virtue of their interests in child protection. If any part of the whole were to be ineffective, it would have an effect on the other systems/components. Problem areas encountered, however, do not necessarily mean that the entire legal reform is ineffective.

#### 4.2.2.9 Frequency of intervention in Matters:

The victims support services co-ordinator stationed at the court in Wynberg informed me that she does not intervene in every matter because there are too many cases and often child witnesses are channelled to a conventional courtroom on the 4th floor because of insufficient time available to pursue the trial in the Special Sexual Offences Court. She added that at times she is not available or she is in court acting as an intermediary. The opposite applied at the court in Cape Town in that the co-ordinator attends to every child that has to appear in the Special Court. In a follow-up interview with the co-ordinator stationed at the court in Cape Town, I was informed that the latter has to intermediate herself. She was informed by her senior not to request assistance from social workers working for the state to act as intermediaries because of the staff shortages currently experienced.



#### Comments:

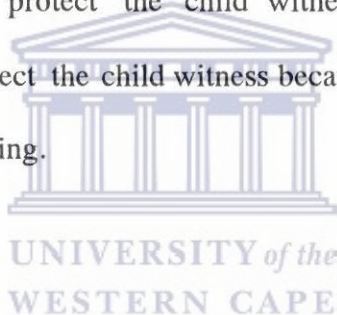
The victims support services co-ordinator has a specific role to perform at these courts and one of these is to protect the child witness and to inform the families concerned. It is my opinion that the victims support services co-ordinators should not act as intermediaries, simply because their services are required elsewhere. They should arrange for intermediaries timeously so that they don't have to pursue this task.

A victims support services co-ordinator's primary task is to protect the child witness within the court situation. A child witness needs the support of a victims support services co-ordinator. Should this service not be available, the child witness is likely to recant his/her testimony, refuse to testify for fear of not knowing what to expect or become further traumatised because of the unfamiliarity of the court appearance. A victims

support services co-ordinator needs to neutralise the fear inherent in children who testify in a court designed by adults and for adults. We cannot expect child witnesses to adhere to court standards and procedures which have been established for adult witnesses. It is incumbent on the victims support services co-ordinator to ensure that the child witness feels secure and relaxed.

#### **4.2.2.10 Intermediaries:**

The importance of an intermediary system was noted by both victims support services co-ordinators. There was agreement that there is a general shortage of interested people willing to act as intermediaries. One senior social worker remarked that as an intermediary, she was able to protect the child witness but explained that certain intermediaries are unable to protect the child witness because they lacked confidence and did not have the necessary training.



#### Comments:

Concerted efforts need to be undertaken to enlist interested people to act as intermediaries. Should a list become available, the respective co-ordinators should utilise the same list. Planning to recruit suitable people should be ongoing.

Training for intermediaries should include areas such as ways in which child witnesses can be protected when intermediaries testify on behalf of children, what is permissible in terms of conveying the general purport of the questions, when to request an adjournment and perhaps when to inform the magistrate as to the child witness' disposition. The intermediary should be informed that when a child witness cries, for example, the former should request an adjournment.



#### **4.2.2.11 Measurement of Success:**

Both victims support services co-ordinators reported that the success of the Special Courts can only be measured through obtaining information from victims regarding their experiences within the Special Courts.

#### **Comments:**

I concur with the respondents in this respect but need to mention that to determine success, particularly within these courts is multi-dimensional. Obtaining information from the victims will not provide an holistic picture. This is due to the fact that obtaining information from victims is but one part of determining success. I am of the opinion that maybe there could be bias in the information obtained in such a manner, since they would not be able to compare the 'old' with the 'new'. I don't believe that one can only determine the success of these courts through information obtained from complainants alone. All the components which form part of the entire spectrum of child protection, should be evaluated and the evaluation process should include both methodological approaches.

#### **4.2.2.12 Public Awareness:**

Both expressed the opinion that the public is not fully aware of the reform initiatives. The victims support services co-ordinator stationed at the Special Court in Cape Town informed me that the Special Court in Wynberg received extensive media coverage. She stated that often court 32 is not mentioned as rendering the same service and the impression is often gained that G court is the only court of its kind.

Comments:

Here is a further indication that the respective courts operate in isolation. Not affording both courts equal attention does very little for the morale of the professionals directly involved or for the special services provided.

It is important that whomever arranges for publication of the court, that person recognises who the recipients of these services are. The rural and urban communities need to be informed appropriately and effectively and that any information about the Special Courts include the personnel involved as well. I feel the exposition of both courts would enhance the management of these matters more effectively and perhaps create or enhance a greater commitment to the course of child protection.

#### 4.2.2.13 Improvements Envisaged by the Co-ordinators:

- \* additional courts to be established;
- \* separate courts for women and children in Wynberg;
- \* training for magistrates and prosecutors;
- \* appointment of interested personnel to these courts;
- \* that the Attorney General acknowledge the Special Court in Cape Town. I was informed that the only person who displays any real interest is the Deputy Attorney-General.

#### 4.2.3 CHILD PROTECTION UNIT

Two experienced and informed investigating officers were interviewed. They were selected because of their involvement in the Special Sexual Offences Courts.

The following components were explored:

#### 4.2.3.1 Reform Initiatives:

Both senior male investigating officers informed me that during the initial stages of the functioning of the Special Courts, the courts functioned very well. They stated that court 32 was initially very successful, that they worked well but that major problems have developed rendering both courts less effective. The problems included new and fairly young prosecutors without the needed knowledge in child sexual abuse matters, magistrates who display a non empathetic attitude towards child victims, and that often consultations with child victims do not take place. Both respondents indicated that despite the problems, both courts can be viewed positively as opposed to those that have developed since, for example, in the Mitchell's and Parow magisterial districts.

One senior investigating officer made the following comment:

The Special Courts for itself, if it runs perfectly, is a success. But it must run day to day, on a regular basis perfectly and not just for the opening of it - Cape Town court was a success when it started off - tussenin het daar probleme ontwikkel (in the meantime problems developed). Kaapstad hof en Wynberg hof kan ons by mekaar sit...(We can put Cape Town Court and Wynberg Court together)

The investigating officers stated that high caseloads and lack of adequate facilities have contributed to frustrations and inter-disciplinary problems. They explained that there are no complaint mechanism to deal with such problems.

#### Comments:

Various reasons such as the dearth of adequate resources, training, court personnel leaving the state department, untrained professionals entering the Special Courts etc can be cited as the main reason for the courts not functioning as well as it did in the past. The respondents are in a prime position to remark on the functioning of these courts simply because they have been involved with these initiatives since their inception.

#### 4.2.3.2 Training of Legal Personnel:

One senior investigating officer reported that generally legal personnel were not adequately trained. He stated that many legal professionals should become more insightful and understanding.

This particular investigating officer stated that:

Still today I get problems from magistrates and prosecutors who are not sympathetic. As an example, the court has to ascertain whether the child knows the difference between right and wrong - now we as adults can't even answer that question...we expect the magistrate to make it more simple to the child's level...

The other senior investigating officer remarked:

My experience is that if such a question comes up the intermediary tries to simplify it then there will probably be objection from the Defence side. It is because the question that has been asked by the court must not be rearranged by the intermediary, although it is absurd because the intermediary won't simplify the answer by coaching the child just to make it easier for her to understand the question. That's why I say magistrates need to have sympathy with a child victim - it is still happening out there. I know about three magistrates who were really good dealing with child abuse victims.

#### Comments:

It would appear as though magistrates differ in terms of individual training. The two investigating officers have had extensive experience of working with different magistrates and they are in a prime position to provide information at grass roots level.

Both investigating officers informed me that despite the problems which have emerged, both courts can be viewed positively as opposed to those that have mushroomed since.

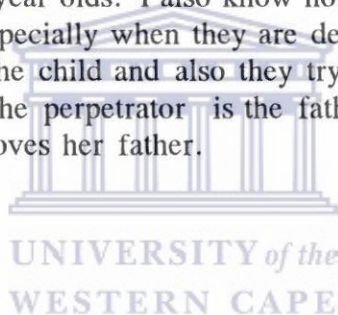


#### 4.2.3.3 Training of Other Professionals Involved:

Both reported that attorneys, in particular, do not display a degree of understanding and that they continue to badger the child witness. One respondent informed me that often the impression is gained that the attorneys forget that they are dealing with children. The other respondent stated that attorneys are not trained to deal with children. He expressed the view that attorneys should specialise in child care.

One of the senior investigating officers indicated:

From my experience it does not seem so. Although they have their training, when it comes to dealing with this child - sometimes it seems as if they do not have children because is it necessary for the defence to object when it comes to the fact that they are battering the witness. I have been trained through the different stages of a child and we don't only get 5 year olds into the witness box - all ages to 16 - witnesses in court. I know how to deal with 5 year olds. I also know how to deal with a 14 year old but in court itself - especially when they are dealing with a 6 year old - now they try to confuse the child and also they try to work on the child's soft spot - for example, the perpetrator is the father, they would ask the child whether the child loves her father.



#### Comments:

I am of the opinion that it is not only when a child witness testifies in the open court that the impact of the attorneys is felt. The attorney can also impact on the proceedings by vehemently opposing the state's application for the intermediary system to be used; they can also, for example, object when they feel that an intermediary is rephrasing their questions inappropriately. Even so, when a child does testify in an open court, the responsibility lies with the magistrate and the prosecutor to prevent attorneys from badgering the child witness. The responsibility for protection also lies with the intermediary. One of her primary tasks is to relay the general purport of the question being asked in a manner that is age-appropriate.

In my experience, I have come across excellent attorneys who displayed immense knowledge about child development and who were very receptive during cross-examination. I have also encountered sensitive magistrates who displayed great care but I need to express the opinion that despite this sensitivity, certain professionals concerned do not comprehend what the impact of a structural situation, like a court situation, could have upon that particular child witness. Familiarity with the basic characteristics of structural situations, for example, what the term 'child-friendly' encompasses, are important factors. It is also important professionals concerned be aware the impact identification can have on the child witness even when the child is accompanied by an intermediary. The child witness has to physically enter the court to identify the accused and often attorneys exploit this situation.

#### **4.2.3.4 Presence and Training of Victims Support Services Co-ordinators:**

Both respondents extended the view that the victims support services co-ordinators should be stationed at the Special Courts. The second respondent at the time of this study stated that presently the role of the victims support services co-ordinator is executed by the prosecutor, and reported that this has been the standard procedure at G court. The first respondent reported a totally different approach at court 32. He remarked:

...we took the child directly to the co-ordinator who would engage with that child, calming her down, making her feel at ease and then after she had spent some time with the co-ordinator, the prosecutor would consult with the child and immediately the child sees the prosecutor as a "friendly and nice person.

The second respondent reported that this role which is assumed by the prosecutor worked effectively because the child is often taken directly to her. He added that when

the victims support services co-ordinator is available, the latter would act as an intermediary. He stated that he often had to explain court procedures to the child and the families.

He reported that:

It is very important. Right now we have the role being played by the prosecutor that is going to be in court that day - sometimes the prosecutor that will be dealing with that case that day would arrange a consultation on the day she is not in court, bringing the child to the court for the first time - making friends, who I am - the prosecutor shows the child around at Wynberg...It has been happening like that all the time - she gets involved. (here he was referring to the prosecutor).

The first respondent indicated that having a victims support services co-ordinator stationed at the court makes all the difference to the child and his/her family. He stated that her presence at court also reduces his workload.

The second respondent added:

I speak of personal experiences in many cases. Walking down the aisle with the family, taking the child to the prosecutor, taking the parents around the court, showing them the facilities.

He continued:

...we normally took the child to the prosecutor - it was seldom that we spoke to the co-ordinator - maybe just hello and goodbye.

#### Comments:

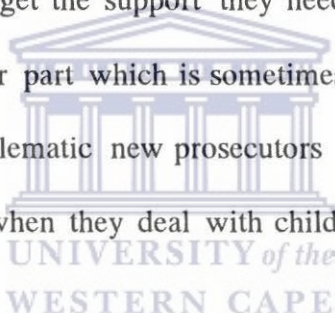
Although the second respondent expressed that he had no problems with regard to the role of the victims support services co-ordinator played by the prosecutor at the Special Court in Wynberg, it needs to be mentioned that it is not the responsibility of a prosecutor to engage in certain tasks meant to be performed by the resident co-ordinator. It is my opinion that the information presented here once again directs one's attention



to the difference in approach between the respective courts. Each professional has a specific role to perform, and to confuse roles is not suitable or appropriate within these courts. There is no doubt that the presence of a victims support services co-ordinator contributes towards the reduction of secondary traumatisation.

#### **4.2.3.5 Multi-disciplinary Team:**

There was agreement regarding the importance of working within a multi-disciplinary team. Although they felt this approach to be vital, they reported that they experience major problems with certain court personnel directly involved. They felt that the main reason for this is the staff shortage and the fact that those who have been at the Special Courts for a long period, do not get the support they need and that this lack of support often leads to frustration on their part which is sometimes transferred onto them. The respondents further cited as problematic new prosecutors who display no insight into the dynamics of child sexual abuse when they deal with child sexual abuse matters.



#### Comments:

The problems mentioned are serious problems that hamper the full potential of a teamwork approach to the problem of child sexual abuse.

#### **4.2.3.6 Child Protection Unit Training:**

Both respondents explained that they received extensive training as police officers. However, they informed me that the training they received was militaristic and did not prepare them for dealing with children. They stated that they do receive training which allows them to keep ahead of things and also makes them better able to deal with



changes in their work environment. They reported that the training currently received focuses upon the dynamics involved in child sexual abuse.

The second respondent reported:

I have had cases where the mother could pull out her hair and say she has had such an open relationship with her child - I can't understand why the child never told me - why she never disclosed to me...I believe - and it is noticeable - and only if you know what you are looking for - although the child won't say verbally that she has been abused, there is a way in the child's behaviour that you can pick up - there are short-term effects and there are long term effects...

#### Comments:

It is clear that these respondents undergo intensive training in matters pertaining to child sexual abuse. Their willingness to pursue ongoing training is commendable.



#### **4.2.3.7 Public Awareness:**

Both respondents informed me that the communities are not fully aware of the Special Courts or who the role players are. Both respondents indicated that developing public awareness programmes should be a joint effort between the various role-players.

The first respondent remarked:

Definitely. Kom ons se^ byvoorbeeld social welfare mense, ACVV - die splinter groepe - almal het hulle eie workshops en bewusmaking programme. Elke een op sy eie doen iets omtrent child abuse - nou as die ding gerapporteer word en nou is dit die polisieman wat die saak ondersoek - waar is die rolspelers? Child abuse beteken nie net rapporteer die saak nie - what about the victim - where are the district surgeons? We don't have district surgeon facilities - daar is nie 'n na-uurse maatskaplike werker nie - die kind moet verwyder word - daar is nie 'n plek om die kind te plaas nie. Dis mooi om 'Child Abuse te cry', but what happens when the matter is being reported - or brought under the attention of the authorities...(Definitely. Let's say for example social welfare people, ACVV - the respective groups each with their own workshops and awareness programmes. Each one doing their own about child abuse - now when a matter gets reported then it is the policeman

that investigates the matter - where are the other role-players? Child abuse does not only mean report the matter - what about the victim - where are the district surgeons? There is no after hours social worker - the child must be removed - there is no place to send the child to. It is nice to cry 'Child Abuse'...)

Comments:

It is vital that the various role-players engage in joint approaches towards improving the efficiency of these courts. It is also essential that these role-players identify disadvantaged communities and engage in vigorous awareness programmes.

The child protective service system consists of various systems and it is important that they engage in joint measures towards the co-ordination and improvement of the reform initiatives.

Ongoing media attention should be arranged jointly, community meetings and workshops should be seen as a joint effort by all concerned.



**4.2.3.8 Improvements envisaged by the Respondents:**

- \* structural position of court 32 be relocated to a different building;
- \* training for legal professionals especially new personnel;
- \* moral and emotional support to professionals by their seniors;
- \* development of a complaints mechanism.
- \* recruitment of additional staff;
- \* improvement in working conditions. See aforementioned quotation.

**4.2.4 SOCIAL WORKERS**

Four skilled female Social Workers were selected on the basis of their experience and

involvement in child sexual abuse matters.

The components to questions explored included the following major themes:

#### 4.2.4.1 Measurement of Success:

Of the four female respondents interviewed, three reported that the reform initiatives are a success while only one explained that only if the reform initiatives were to address its aim (reducing secondary traumatisation) can one claim the Special Courts to be a success.

This social worker remarked:

if you are going to prevent secondary traumatisation, you need to make sure that your criteria is clear and that no kids are excluded.

Another senior social worker remarked:

I think the reform initiative is a good idea - but I think it needs to be more child-friendly and there also needs to be much more sensitivity about professionals otherwise there definitely would be secondary traumatisation. Due to the diversity of professionals and their respective approaches, because of their own training, secondary traumatisation would occur.

One respondent indicated:

It has certainly gone a long way to reduce secondary traumatisation. It succeeded...but in terms of the court itself, yes, it does protect the child, it is effective.

Another commented:

...I think the difficulties I have had is personal interpretation, and also the personal kind of decision-making in terms of how a particular matter should be handled - and here I think of a recent case where a perpetrator



is clearly a predator, clearly a predator but the evidence in court was specific to one victim and whether... in one instance I'm thinking about, I had information about other victims who refused to talk and the prosecutor and the magistrate are then bent on this man does not appear to be dangerous and the evidence that they had in front of them is the only evidence that they can go by, but I suppose that goes back to the multi-disciplinary influence but people think OK I have what I need to do my job so I'm not going to need or I am not going to bother to look what other people have. That I find frightening - personal interpretation and personal application of evidence is dangerous. So if you go to a magistrate, and say to the magistrate - this man on a scale of 10, he would rate 7 in terms of risk factors and you can't back that up with very clear-cut evidence that is appropriate and acceptable to the court, they are not going to see him as a dangerous predator. I would have a problem with that. I think that is the one issue and the other issue is the management of a young child witness. These kids have been subjected to very lengthy interrogation...again the kind of grooming that the defence attorney has about the question examining the evidence of the witness - except that the witness is under 6 years old - you don't put a kid of that age for 5 hours of interrogation, you don't keep postponing a case...

#### Comments:

I believe that secondary traumatisation is not just about whether children are excluded from using the equipment or not excluded. It goes beyond that because even if all children were to be included, secondary traumatisation may still occur. This could happen by the way we treat the child, the way we intervene, the way we protect the child. It could easily happen while the child is testifying in the special room. The intermediary might be inexperienced and relay questions inappropriately or not have the confidence to question the nature of a particular question being posed. However, the very idea of children being given a chance to be protected is a great advancement. The latter quotation indicates clearly how vital it is for magistrates and prosecutors involved in a particular matter to liaise with external professionals involved in the same matter. This lack of liaison could easily lead to the perpetuation of abusive situations. It is furthermore important to recognise that to allow a child to testify in an open court would



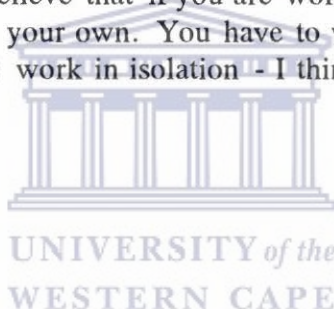
not be in his/her best interests. Even if a child is deemed able to testify in an open court, the child is often unwilling or hesitant to do so. Remands must also clearly be perceived as contributing to secondary traumatisation. The child might fear retaliation by the perpetrator, he/she might fear being blamed or even not believed.

#### 4.2.4.2 Multi-disciplinary Team:

All the respondents reported that a multi-disciplinary team approach is an essential process in attempting to protect children who enter the court process.

A very senior social worker indicated:

I don't think and I don't believe that if you are working with child abuse activities everyday you can work on your own. You have to work with key role-players and stakeholders. You cannot work in isolation - I think evidence gets lost, material gets missing...



Another remarked:

I think it is absolutely essential.

Another respondent stated:

Most definitely. A multi-disciplinary team is of paramount importance...

Another senior social worker commented:

These teams form the foundation on which effective service provision is based. In our country, we have not developed a culture of working within a team. Those that have developed are not really focusing on problems that do exist. Look, multi-disciplinary teams have been around for a long time and we are still faced with the same problems. For many years we have been so far removed from one another, we have totally different ways of dealing with specific issues - issues which need to be discussed,

spoken about...the difference lies in our way of doing things, in our diverse philosophies.

Comments:

It does appear as if we have not developed a culture of working within a team. Working within a team is no easy task which becomes more complicated when one considers the changes that are currently underway in our society. For many years we lived in a divided society; each racial group with its own world views, its own ideologies. As social workers, we were ideologically divided and even as professionals. So we have to learn to work together as a team and this means that we have to develop a common philosophy if we wish to respond appropriately to the idea of child protection.

"A Protocol for Multi-Disciplinary Management of Child Abuse and Neglect"

is a success story in terms of working inter-sectorally and as a team. The outcome of this teamwork approach took commitment, consistency, mutual respect towards one another's profession and a common philosophy in child protection. Schmitt (1978) wrote that to participate in a team required more than competency in one's own profession. He stressed that teamwork required people who are helpful and who believe in what they are doing. The idea of a common philosophy towards effective teamwork is endorsed by Berg (1995).

**4.2.4.3 Training of Legal Professionals:**

The respondents reported that there are a few exceptional magistrates and prosecutors who have demonstrated outstanding insight and sensitivity to the problem of child sexual abuse. Despite this perception, all the respondents expressed the view that legal personnel require ongoing training.

#### 4.2.4.4 Intermediaries:

The utilisation of intermediaries was seen as an important contributing factor towards the reduction of secondary traumatisation. All the respondents indicated that intermediaries require more structured training and that the training should be ongoing.

One respondent explained that focus should be on:

... demeanour in court, a clear understanding of court procedures, understanding the various phases of child development and understanding the dynamics of child sexual abuse..training should include various methods of interviewing... intermediaries should develop skills concerning various methods of interviewing children at different developmental stages.

One respondent remarked:

Oh yes they are vital. But I do believe that there is an almost disregard for what they are doing - and this attitude comes from the legal professionals. I feel as if they are being phased out which is a pity because their role is so fundamental to this whole idea of child protection. Intermediaries need to equip themselves better. I think, they have to improve and enhance their training. If they do not pursue training, they will not be able to lend credibility to their status.

#### Comments:

Intermediaries do play a vital role in the entire process of child protection. It would appear that the absence of a structured and defined management system within these courts, as well as a lack of a support system have contributed largely to the current perceptions held.

#### 4.2.4.5 Victims Support Services Co-ordinators:

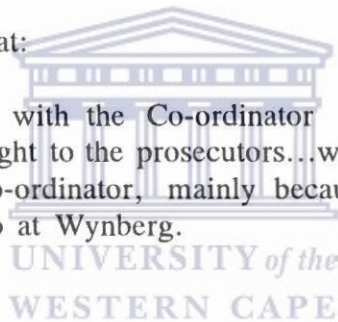
All the respondents interviewed expressed the view that the presence of a victims support services co-ordinator within the Special Courts is vital and does contribute towards reducing secondary traumatisation.

One very senior respondent remarked that the primary role of a victims support services co-ordinator would be:

...to access community information..preparing complainants and their families, making sure that expectations are met...supportive role, being available, preparing kids for court and having high visibility. One cannot do that if one has limited person power.

Another respondent explained that:

...I have very little to do with the Co-ordinator in terms of my cases because I normally go straight to the prosecutors...with regards to court 32, I normally go via the Co-ordinator, mainly because I don't know the prosecutors as well as I do at Wynberg.



#### Comments:

Victims support services co-ordinators have a vital and specific role to play within these Special Courts, although one can recognise the good rapport that exists between this particular respondent and the prosecutors in Wynberg. However, each system has a specific role to play within these courts. One reason advanced for this respondent's contact with the prosecutor in Wynberg could be that the victims support services co-ordinator is very seldom available.



#### 4.2.4.6 Public Awareness:

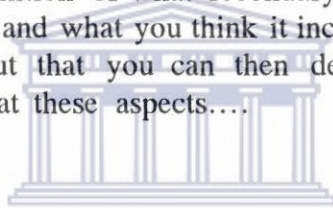
All the respondents agreed that there is an awareness of these Special Courts but that there exists a high degree of ignorance in terms of how it operates. One respondent remarked that the public is more aware of the Special Court in Wynberg and that this awareness is due to the extensive media coverage the Special Court in Wynberg has received over the years.

#### 4.2.4.7 Secondary Traumatization:

One respondent perceived the concept "secondary traumatization" as being fairly broad.

She remarked:

...it depends on your definition of what secondary traumatization is and whether you understand it and what you think it includes and excludes and once you have figured out that you can then decide, OK, having this reform initiative targeted at these aspects....



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Another indicated:

...secondary traumatization is a very broad concept and does not only include the way we manage cases, but also how we intervene, it's about having the infra-structures available to facilitate the reduction of secondary traumatization, it is the entire process which includes attitudes towards that particular complainant and her family.

Another respondent stated:

Professionals sometimes know intellectually what the term means but I think when they conduct themselves - because of the sensitivity of the area - they will immediately detach themselves and want to deal with the issues very rationally even to the point of missing the sensitivity or traumatization.

Comments:

Secondary traumatisation is a very broad concept and it is for this very reason that we need to change our attitudes towards child protection so that we can become more receptive and respond appropriately towards protecting children within the legal system. It is important that professionals concerned take cognisance of the fact that the mere development of infrastructures is not sufficient to reduce secondary traumatisation. Both Furniss (1991) and Conti and Shore (1982) contend that secondary traumatisation can take place on various levels and that the trauma experienced by the child witness can be considerably increased through the lack of adequate resources, knowledge and the manner in which intervention takes place. Cook and Bowles (1980) believe that a sensitive and supportive attitude on the part of the legal system is an important factor in terms of reducing secondary traumatisation.

**4.2.4.8 Training for Professionals:**

All the respondents expressed the need for ongoing training. One respondent commented:

...the fact that we are entering a new era in our society means that we have to prepare and equip ourselves to deal effectively with the new challenges that present itself. Because of our unique situation, no social worker, no magistrate, no prosecutor can claim that they do not require ongoing training.

Comments:

In order for any child protective professional to deal effectively with matters concerning child sexual abuse, he/she must move beyond that for which he/she has been trained for. We live in a multi-cultural society with a poor history of dealing effectively with children. It is vital that we include training in cross-cultural perspectives on child protection.

#### 4.2.4.9 Combined Services to Children and Adults:

There was general consensus that providing services to both children and adults is not advisable. One respondent remarked:

...I think people have different needs. I fail to see how one co-ordinator can split herself...it is not fair to the co-ordinator or to the victim.

Another stated that:

Working with children require specialised skills and working with adults require different skills as well. There should be two separate courts.

#### Comments:

I have to agree that one victims support services co-ordinator cannot provide services to both adult and child victims of sexual abuse. The establishment of two separate courts in Wynberg is an immediate necessity. Children and adults have different needs and respond differently to abusive situations. I am of the opinion that it is more difficult to provide emotional support to a child than it is for an adult. When a child is abused by an adult whom he/she has been taught to respect, and against whom he/she now has to testify against, explaining the dynamics of such a situation to a child is emotionally draining. I believe that it takes longer to provide services to a child than to provide services to an adult.

#### 4.2.4.10 Improvements Envisaged by the Respondents:

- \* structural change to court 32;
- \* ongoing training of all professionals and training should incorporate inter-agency co-operation, joint investigations, looking at legislation;
- \* more public awareness programmes;

- \* the development of a standard procedure for service provision in respect to both courts;
- \* more structured intermediary system;
- \* intermediary system to become a fixed component of the Special Courts;
- \* duty sheet of victims support services co-ordinators be structured in a more hands-on manner i.e. that the duties be confined to the Special Courts;
- \* on-going monitoring and evaluation of the Special Courts.

Comments:

There appears to be consensus regarding improvements needed. Pertinent issues have been highlighted and should receive urgent attention. All professionals involved should develop a more pro-active attitude towards these courts and should get involved in the policy making process. It is my opinion that ongoing monitoring and evaluation of these courts be perceived as priority because I believe that it is only through evaluating this intervention programme that one would be in a comfortable position to formulate policies that would reflect standard procedures, methods, regulations, codes of conduct etc. that can only improve and promote the Special Sexual Offences Courts.

#### 4.2.5 ATTORNEYS

Three experienced attorneys were selected on the basis of their involvement in child sexual abuse matters.

The following components were explored:



#### **4.2.5.1 Experience in Child Sexual Abuse matters:**

All three senior male attorneys reported having sufficient experience in child sexual abuse matters and although they are able to conduct the defence of offenders, there remained a need for further training.

##### Comments:

Although attorneys have a defined role as representatives of the accused, there appears to be a need for a more sensitive approach towards child sexual abuse matters which one can only acquire through developing insight into the dynamics of child sexual abuse. In addition to this, their training should include cross-cultural perspectives on child sexual abuse.

#### **4.2.5.2 Expertise in Defence:**

All three respondents indicated that they are in a position to conduct the defence of their clients.



##### Comments:

Although the respondents indicated that they are in a position to conduct the defence of the accused, My experience within this court and the information obtained from the other respondents would indicate that their training be advanced to include more insight into child development and the dynamics of child sexual abuse.

#### **4.2.5.3 Reform Initiative:**

There was consensus that the reform initiative serves to protect the child witness. One

respondent explained that:

The reform initiative is a solution insofar as it affords the minor complainants the opportunity to feel a measure of security and protection to testify without feeling intimidated and afraid.

Another responded:

It may serve as a deterrent but not a solution.

Another indicated:

If properly employed, yes, since the idea of protecting children from e.g. often vigorous cross examination can only be supported, particularly if the effect of cross examination will discourage children from exposing offenders.

One senior respondent explained:

...represents a co-ordinated system in so far as it is the only system that provides a measure of protection to children.



### Comments:

The above quotations are positive indications that the reform initiatives are positive attempts towards protecting children within the court system. It should be reiterated that the reform initiatives are but one part of the entire system of child protection. It cannot function on its own and without the support of the other systems, it is likely to become mere reform on paper.

The idea emanating from the latter quotation is that the reform initiatives have the potential of developing into a co-ordinating system of child protection.

#### **4.2.5.4 Intermediaries:**

There was general consensus that intermediaries play an important role in protecting the child witness. There was also consensus that not all intermediaries are equipped to perform this task.

#### **4.2.5.5 Victims Support Services Co-ordinator:**

The presence of a victims support services co-ordinator within the Special Courts was perceived as important.

One respondent remarked that they "...strive to make the system uniform and ensure consistency..."

Another maintained that the victims support services co-ordinator must ensure that the child witness is protected by ensuring that she is always available to the child.

#### **4.2.5.6 Knowledge of Court Personnel:**

There was agreement that there are some excellent magistrates and prosecutors but they felt that the young magistrates and prosecutors display limited knowledge about the problem of child sexual abuse.

One respondent informed me that he had witnessed a magistrate displaying much frustration because a child witness refused to testify.

#### Comments:

There is no doubt that there are some highly knowledgeable court personnel involved in these special courts. Schurink (1996:7) maintained "...inexperienced professionals, if not adequately trained and supervised, can add to the trauma of the child as well as the

family". This could easily apply to magistrates as well.

#### **4.2.5.7 Measurement of Success:**

There was consensus that the success of the reform initiatives should be measured in terms of successful prosecution rates and the experiences of the child witnesses.

#### **4.2.5.8 Public Awareness:**

There was agreement that the general public is not fully aware of the Special Courts.

#### **4.2.5.9 Improvements Envisaged by the Respondents:**

- \* standardise manner and conduct of intermediaries;
- \* relocate the Special Court situated in Cape Town;
- \* training of all court personnel.



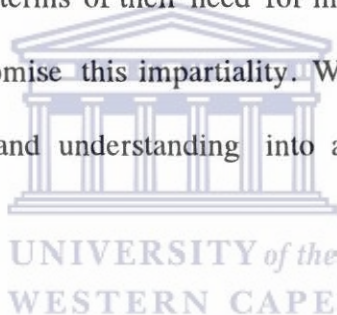
### **4.3 CONCLUSION**

The findings reported and discussed in this chapter highlight fundamental differences between the two Special Sexual Offences Courts with regard to the physical appearances, and work methods and procedures, particularly with regard to the duties performed by the respective co-ordinators. It must be mentioned that the victims support services co-ordinator stationed at the Special Court in Wynberg, at the time this study was undertaken, has subsequently left and the position has now been filled by a new co-ordinator. It also appears as if the work procedures followed by the new victims support services co-ordinator are more in line with those followed by the victims support services



co-ordinator stationed at the Special Court in Cape Town. Despite this change, the co-ordinator at the Wynberg court continues to render services to both child and adult victims.

Although many respondents believed some of the magistrates and prosecutors to be sensitive and highly knowledgeable, there was definite consensus that the court personnel, and particularly the magistrates, require training in the field of the dynamics of child sexual abuse. Although magistrates, in particular, are guided by their particular code of ethics which compels them to maintain a high degree of impartiality, and despite there not being any planned training programme available for them, they displayed a willingness to pursue training. In terms of their need for impartiality, I don't believe that additional knowledge can compromise this impartiality. What I believe it will achieve, is to convert their own sensitivity and understanding into a response that will assist the child.



There was general agreement regarding the need for structural change to the Special Court in Cape Town, the need for ongoing training for all inter-disciplinary professionals directly involved, the need for public awareness programmes, for a more co-ordinated multi-disciplinary team approach towards the management of child sexual abuse matters and a need for emotional support to those professionals directly involved.

In the next chapter I will focus upon a discussion about the major themes that have emerged.

## CHAPTER FIVE

### DISCUSSION

Although the Special Sexual Offences Court in Wynberg was implemented before the development of new legislative procedures, its implementation as well as the implementation of the Special Sexual Offences Court in Cape Town which followed three months after the legislated reforms, can be perceived as one of the most advanced indicators of the efforts made by the Criminal Justice System to address secondary traumatisation.

#### 5.1 Secondary Traumatisation

Despite these changes that have been brought about, with their emphasis on improving and promoting the rights of children, my study reveals a shortsightedness on the part of the Criminal Justice System in terms of what exactly constitutes secondary traumatisation. Although the Special Court in Cape Town has the prescribed facilities, for example, a waiting room and a special room which allows for comfort and security, the building itself has not been structurally modified to protect the child victim.

The findings reported indicate clearly that the existing building in which Court 32 is situated, is unsuitable for child victims. The child victims' exposure to this particular building, constitutes secondary traumatisation. The majority of the respondents stationed at the Special Court in Cape Town, and those indirectly involved, expressed the opinion

that the structural position of this court is unsuitable for children. I am of the opinion that the modification of legal procedures should be accompanied by the modification of the court environment. If the aim of the reform initiatives is to reduce secondary traumatisation, then provision must be made to adapt traditional structures, for example the building itself, to contribute effectively towards the reduction of secondary traumatisation.

South Africa's acceptance of the Convention on the Rights of the Child explicitly stipulates that the state must work very hard to ensure that these rights are protected which implies that adequate resources be allocated to ensure the child's protection. Given the constraints and difficulties encountered the state has the responsibility to provide the necessary resources to provide children with the necessary protection. Berg (1995) argued that unless the statutory reforms are sustained by associated structures and resources, the implementation of the legislative reforms would have no meaning without the facilities and resources needed to promote child protection.

Boushel (1994:181) writes:

A child's well-being and protection are dependent not only on the ability of each part of the system to respond appropriately to an abusive act, but on its willingness to identify and undertake the ongoing responsibilities it has towards the care of all of its children.

Secondary traumatisation does not only concern changes in the legal processes or developing appropriate infrastructures. It goes beyond that which is visible to all; it includes identifying and changing institutional responses and attitudes which have resulted in the continued victimisation of children (Furniss, 1991).

We cannot ignore our past if we wish to effect any major changes in terms of our perception of secondary traumatisation. We cannot ignore the enormous impact the State has had on children, through the unequal access to financial, legal, and social resources, and the inability of child protection legislation and policies to address this problem. Furthermore, we cannot ignore the effect age, gender, race and class issues have had on perpetuating this type of abuse (Sloth-Nielson, 1996; Boushel, 1994). It is important that we recognise the need for and develop more sensitive approaches that include cross-national perspectives which will assist with a re-appraisal of local approaches in child protection ( Boushel, 1994 ).

## 5.2 Multi-disciplinary Team Approach

Although many locally based multi-disciplinary groups have emerged over the past few years, my findings indicate that we are still at the rudimentary stage of developing an effective multi-disciplinary team approach towards the effective management of child sexual abuse matters. My findings indicate that there is a lack of commonality of perspective on the management of child sexual abuse matters between the Special Sexual Offences Courts. The results further indicate that a cohesive and co-ordinated multi-disciplinary team is not in place. What is of significance is the fact that the majority of the respondents recognise the need for a co-ordinated multi-disciplinary team network.

Although South Africa has a poor history of a multi-disciplinary teamwork system, one cannot dismiss the important role played by many individuals and organisations in attempting to develop a co-ordinated system to address the problem of child sexual abuse. Despite these attempts, and despite the fact that working within a multi-



disciplinary team is a normal process, we cannot ignore the differences in philosophy, practices and power relations which exist within the various child protective systems.

Changes in personnel have emerged as a significant hallmark affecting the efficiency of multi-disciplinary teams that do exist. These changes in personnel appear to result in much unhappiness as it affects the entire process of the management of child sexual abuse cases. Often problems of this nature create resistance which directs the focus of attention away from the problem. Problems which prohibit the smooth operation of a multi-disciplinary team approach should be recognised and articulated. It is important to strengthen existing bonds with those who can provide support and guidance in dealing with child sexual abuse matters. The aim is to create an environment where effective and competent multi-disciplinary teamwork approach is recognised. One way of creating this environment is by allowing all team members to unlearn past attitudes and values. I believe this to be an easy task in the light of my findings. There has always been an absence of a culture of multi-disciplinary teamwork approach and it would be naive of us to believe that we have developed this approach to child protection.

Any attempts made to develop a multi-disciplinary team should incorporate certain characteristics of the type of person who can work within a team. I am of the opinion that experienced, broadly trained, flexible, trustful, reliable, and supportive professionals be recruited as team members. I believe that those who have been direct service providers, who have a sound knowledge of various fields of service, who is flexible in his/her thinking and who is willing to share ideas and opinions, someone who has the ability to trust other professionals, someone who is reliable and who attends regular

meetings to name but a few, would serve as an impetus towards affecting positive changes towards the development of a multi-disciplinary team.

### 5.3 Training

Child sexual abuse is a complex and emotive problem and although our knowledge has improved, my findings indicate that a need for additional training in matters pertaining to child sexual abuse, remains. What my findings do highlight, is the need to engage in joint training. Joint training in terms of the dynamics of multi-disciplinary teams, family situations, the various stages of child development and the dynamics of child sexual abuse, is perceived as a particularly essential factor that could enhance and promote inter-agency co-operation and for the development of a common philosophy in child protection.

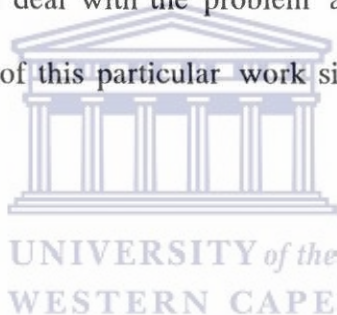


The training should include cultural perspectives on child sexual abuse, skills in interviewing very young children, the power relations in incest and the dynamics involved, the dynamics of secondary traumatisation and basic skills in human relations. Training is needed to encourage constructive approaches, structures, policies and practices which seek to foster the appropriateness and effectiveness of a child protective system. Training should entail the impact remands have upon the child witness as well as bail applications.

Professor T. Zabow (1996:21) stated:

The need for a general education process in a society undergoing radical changes whilst developing within a multi-cultural context is essential.

It would seem as if joint training is essential in developing and fostering inter- agency co- operation. The joint training is important in facilitating a common perspective primarily because we work with professionals with diverse mental and educational levels and ideological backgrounds. I am of the opinion that, given our past history, all those directly involved should pursue ongoing training. The joint training should be managed by the respective heads of Departments concerned in consultation with specific institutions, for example, Justice College and the Institute of Family and Child Care at the University of the Western Cape. The training should commence before a particular person enters a specific capacity within the various child protective systems. The initial training should be followed by workshops to allow for the articulation of any problems that may have developed, how to deal with the problem and perhaps how to assist one another cope with the pressures of this particular work situation.



#### 5.4 Remands

Schurink (1996:7) writes:

child protection services are struggling to deliver an effective service with limited resources, e.g. overloaded prosecutors, an overstretched court system, and no funds to implement appropriate programmes to prevent ....

This problem needs to be addressed jointly, by all the systems involved. Statistics indicate that the perpetrator is often someone known to the child (Schurink, 1996). When remands occur, they may cause serious harm to the children and the families concerned. If the perpetrator is the mothers' boyfriend or a family member, there is often tremendous pressure placed upon the child to recant or change his/her original testimony or the child could even refuse to testify at later proceedings.



Remands and bail applications should be viewed very carefully. It is important that the affected child's protection be ensured before remands or bail applications are acceded to. The court system should adopt speedy trial rules and regulations so that cases involving child witnesses can be expedited. Faller (1988) explained that the legal system often takes its' time in resolving matters where children are concerned. He argued that the consequences of delays increase a child's anxiety and often leaves the child susceptible to further abuse.

### **5.5 Respective Roles/Tasks of the Professionals Concerned**

The magistrates, the prosecutors, the victims support services co-ordinators and the investigating officers have a specific role to play within these courts. To move outside of their respective boundaries will only cause frustration and confusion. Dealing with child sexual abuse matters is a highly emotional and stressful job and could become overwhelming when roles are crossed.

It is the primary duty of the magistrate to ensure that the child witness is protected and at the same time ensure that justice is done. The prosecutor has a legal duty to ensure that the child witness is protected during the court proceedings. The prosecutor has to consult with the child witness to prepare both him/herself for the court process. He/she should be assisted by the victims support services co-ordinator. It is the victims support services co-ordinators task to ensure that the child witness feels safe and comfortable within the court environment through establishing a relationship with the child witness, introducing the witness to the magistrate and prosecutor and to establish whether external safety measures are available to ensure the child witness' continued protection. The investigating officers has the mammoth task of thoroughly investigating the matter



before it comes to court. He/she should provide the child witness with information regarding what to expect during the consultation, whom the child will meet and provide the necessary support.

The roles and duties articulated are but a few of the roles expected of the respective professionals concerned but which are perceived as quite important.

## **5.6 Intermediary Services**

There is a clear indication that intermediary services are an important tenet in the area of child protection. It does appear as though this particular service is not being fully utilised or perceived as vital. Not to recognise this service as crucial is a fundamental flaw in the entire process of child protection within the legal system. Concerted efforts need to be made to develop a structured and an all inclusive programme for prospective intermediaries. It is my opinion that the victims support services co-ordinators should not engage in this service primarily because their services are needed elsewhere within this system. It is essential that this service not be abandoned because of lack of staff or interested persons.

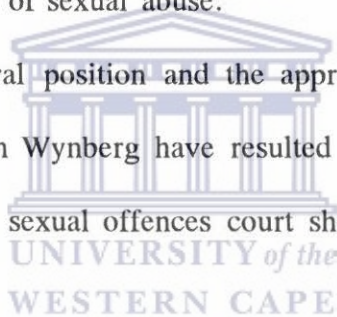
My findings indicate that an intermediary service be established because the system has a defined and vital role within the entire area of child protection. My findings further demonstrate that victims support services co-ordinators confine themselves to being available and accessible to the child witness. When developing areas for training for intermediaries, it is important that consideration be given to the effect that the gender of an intermediary has on the child witness. The nature and the dynamics of the sexual abuse will serve as a guideline when considering the gender of the intermediary.

### 5.7 Public Awareness

My findings indicate that despite the fact that the courts have been in operation for a few years, there continues to exist ignorance in communities regarding its existence and the changes that have developed. There is much evidence that the Special Court in Wynberg has received much publicity both in the local newspapers and magazines. The implication is that the Special Court in Wynberg is the only one of its kind.

Although the Special Court in Cape Town has also been publicised, the publicity it has received suggests that this court is not perceived as important as the one in Wynberg. It is important that equal attention be awarded to both courts since they provide exactly the same service to child victims of sexual abuse.

It appears as though the structural position and the appropriate demystification of the Special Sexual Offences Court in Wynberg have resulted in that court being viewed as being in line with what a special sexual offences court should represent.



### 5.8 Services to Child and Adult Victims

A further difference noted is that the victims support services co-ordinator stationed at the Special Court in Wynberg provides services to both child and adult victims. Providing services to victims of sexual abuse per se is an emotionally draining task. Adult and child victims of sexual abuse require different services. It simply cannot be an accepted norm to expect the victims support services co-ordinator to render services to both victims. She already has a mammoth task of ensuring the protection of children in their entirety.

I am fully aware of the constraints placed upon the professionals in the welfare field but

to engage in this type of service rendering is not cost-effective and it certainly does not make economic sense. Should burn-out happen, and it could happen at a more rapid pace, recovery could be uncertain. It is therefore essential that two victims support services co-ordinators be stationed at the Special Court in Wynberg to provide services to child and adult victims of sexual abuse respectively. The problem of burn-out should not be neglected. It is real and could happen very easily under the prevailing circumstances.

### **5.9 Validity of Study**

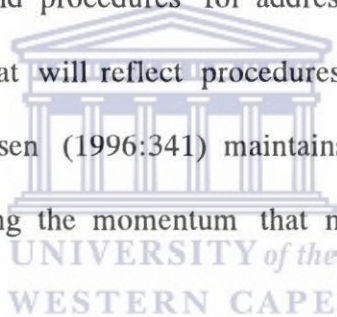
The response to my research study was positive. The respondents selected were found to be very representative of the sample needed to elicit the required information. Although victims of child sexual abuse were not included in this study, plans for future research need to include child victims of sexual abuse. Although I did not focus on this in my study, it is important to obtain their responses, perceptions and their current status quo in terms of their continued protection in order to obtain a global perspective on the effectiveness of the legislative reforms. I focused on the professionals involved so that I could understand their perceptions and opinions.

I believe my findings to be fairly valid. Several factors affected the validity of the data. In 1992 I undertook a study on child sexual abuse, and I was therefore acquainted with the literature on this problem. My involvement in the Special Court in Cape Town gave me the advantage of being well informed about the subject before conducting this study. My previous involvement and relationships made it possible for me to elicit honest perceptions and opinions from the respondents; there was a sense that the respondents

were willing to co-operate and were honest in their response to the questions posed. The respondents included multi-professionals with different educational and ideological backgrounds. I used a list of questions that were to be explored so that I could be sure that I received the same information from the various professionals by covering the same material.

It is important that this study be seen as part of a broader study. This study highlights pertinent issues which should be addressed more seriously and more rigorously, and which are mentioned in the recommendations of the next chapter.

It is fundamental that policies and procedures for addressing the issues mentioned be developed as well as policies that will reflect procedures for addressing training and programme planning. Sloth-Nielsen (1996:341) maintains that "We need to develop factors that will assist in sustaining the momentum that marked the implementation of the children's rights...".



Julia Sloth-Nielsen (1996: 323 ) cites Malfrid Grude Flekoy as having remarked:

Laws, national and international, are after all, words on paper. They may codify attitudes, but the real results depend on how they are implemented, what is done to follow up and to reach the ideas.



## CHAPTER SIX

### CONCLUSION

My findings reveal that the reform initiative is a positive step towards reducing the impact and trauma of the legal processes upon the child and family, thus reflecting an awareness and concern for the protection and promotion of the rights of the child. Despite this positive scenario, we have not yet developed a child protective service system large enough and effective enough to meet the needs of children caught up in the legal system.



Although my research study focused upon the legal reforms that have been developed, my findings reveal that the court is but one part of the child protective system to be considered in working with child sexual abuse. It is understandable that if one part of the system of child protection is weak or inadequate, it affects the whole system. The responsibility for child protection within the legal system lies with all the child protective systems.

It is hoped that the information presented and the findings revealed in this report will contribute towards a greater awareness and a greater sensitivity into the complexities of the dynamics of child sexual abuse and secondary traumatisation. It is further anticipated that the shortcomings identified will be acted upon and result in improved measures that will lead to the development of an approach that will facilitate greater protection for

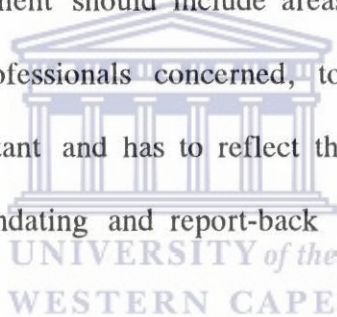
children within the legal system.

## **6.1 Recommendations**

From the information obtained and the themes that have emerged from the findings, the following recommendations are suggested:

### **6.1.1 Policies and Procedures**

It is fundamental that guidelines be developed to provide a framework for appropriate rules and regulations pertaining to the management of child sexual abuse matters. This policy document should set out procedures to be followed when child witnesses pass through the courts. Such a document should include areas such as prevention, training and supportive measures for professionals concerned, to name but a few. A policy document of this nature is important and has to reflect the importance of working in a team which involves rigorous mandating and report-back procedures.



### **6.1.2 Structural Position of the Special Court - (Court 32)**

It is suggested that Court 32 be relocated. The present position of Court 32 is unsuitable and inappropriate to prosecute cases involving children. Although there are visible attempts to create a more child-friendly and people-friendly atmosphere, this particular court continues to have a cold and formal ambience. It is fundamental that the position of this court be relocated to a more suitable part of the building, away from the criminal courts. Although a proposal outlining the structural relocation of the court was submitted during 1995, no response to the proposal has yet been received.

### 6.1.3 Training

Working with child sexual abuse involves a number of specific skills, knowledge and attitudinal changes. Although all the respondents were highly qualified and competent, a need for additional and ongoing training remains. The additional training can be gained by the involvement in continuing educational classes, specialised workshops, seminars or direct reading, and should include courses in child development, the dynamics of child sexual abuse, characteristics of multi-disciplinary teams, cross-cultural perspectives on child protection and the importance of ensuring that training programmes are appropriate to our society.

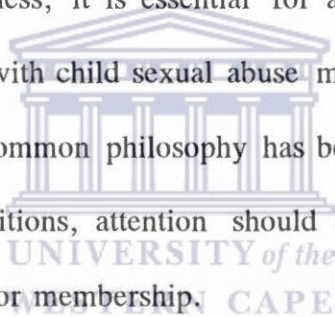
Given the need for additional training, it is crucial that the content in courses include an awareness about the incidence of child sexual abuse within the family so that children may find more receptive responses when reporting. It is also important that all professionals concerned develop a good basic knowledge of the medical, legal, social and family dynamic aspects of child sexual abuse, so that each professional can properly utilise the other professional. It is further suggested that professionals who enter this field of work with lack of knowledge in this area, receive a comprehensive orientation to broaden their experience base. The responsibility for the training should lie with the respective child protective systems and planned together. The Heads of the respective child protective agencies/departments should join forces in developing a programme for professionals concerned which should be followed-up by quarterly workshops.

#### 6.1.4 Multi-disciplinary Teams

No one particular child protective service organisation has the pre-eminent responsibility for dealing with child sexual abuse cases. Working with child sexual abuse matters requires the services and commitment of a multi-disciplinary team. If any one member displays a destructive attitude towards any other member or organisation that forms part of a team, it would impede team functioning.

Under the prevailing financial constraints, staff shortages and dearth of adequate resources, it becomes critical to foster teamwork and team rapport in order to facilitate and improve the efficiency and effectiveness of the intervention programme. In order to maximise teamwork effectiveness, it is essential for all team members to share a common philosophy of working with child sexual abuse matters.

I am of the opinion that once a common philosophy has been established, which creates a breakdown of hierarchical positions, attention should be directed at looking at the various characteristics required for membership.



#### 6.1.5 Role of the Victims Support Services Co-ordinator

The existing job description currently used by the victims support services co-ordinators is far too broad to provide effective intervention. The primary role of a victims support services co-ordinator is to be visible and accessible to victims of child sexual abuse and their families. The victims support services co-ordinator is required to inform complainants and their families of court procedures and processes; she\he needs to have them understand what will follow before and after the court process. The victims support services co-ordinator should also promote and provide training for intermediaries who



form a vital part of child protection within the court process. It is further suggested that the victims support services co-ordinator consult with every child witness that passes through the courts so that the child can cope with the court appearances and hence feel and be protected from the court proceedings, the strange and stressful surroundings and the unfamiliar people she/he may encounter within the court. The skills needed by a victims support services co-ordinator should extend to responding to demands made upon her by individuals on other levels, and by colleagues and the public. It should be perceived as an integral part of her task to keep statistical records to monitor, and evaluate programme efficiency and effectiveness. For example, the age and number of child witnesses who pass through the court, the nature of the sexual abuse, the relationship between the child witness and the offender, whether the child witness has been abused before, reasons for a particular matter being remanded, how often the matter has been remanded, whether a social worker is involved in terms of protective measures, the number of child witnesses who testified in the open court and the reason for testifying in the open court and perhaps the monitoring of problem areas within the court situation itself. It is also suggested that both victims support services co-ordinators liaise with each other on a regular basis to provide emotional support and to ensure a commonality of work methods, procedures and the management of child sexual abuse cases.

#### 6.1.6 Intermediary Services

Intermediary services are a crucial part of child protection. The nature of this service should be perceived as important and should not be dismissed. A structured programme detailing the course outline should encompass information about legal procedures, child

development, the dynamics of child sexual abuse as well as cross - cultural perspectives on child sexual abuse. Because social workers are the primary providers of this service, it is essential that they not be perceived as 'the experts'. Every professional involved in child sexual abuse matters has the social and moral responsibility to ensure that the acquisition of knowledge is in line with current reform trends.

Intermediaries are an important resource and the development and promotion of this resource should be recognised and upgraded.

#### 6.1.7 Public Awareness

There should be more community awareness about the incidence of child sexual abuse. In particular the reality of child sexual abuse within the family. Awareness programmes and campaigns should be designed and be an ongoing venture. Information about facilities should be widely available in a clear and straightforward manner. A further suggestion made is the importance of joint public awareness in respect of both Special Sexual Offences Courts so that the general public becomes aware that there are two such courts rendering the same service in child sexual abuse matters.

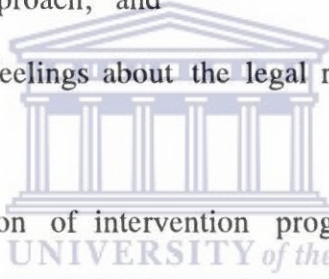
## 6.2 **Future Research**

It is fundamental that the direction of future research be dictated by factors which will contribute towards and ensure the continued protection of children. Based upon my research area investigated, the following should be considered for future research purposes:

1. the effects of the reform initiative on children who pass through the Special

Courts;

2. the dynamics of the male perpetrator as major research done is based on the treatment of the victim rather than the offender;
3. the dynamics of an effective multi-disciplinary teamwork approach towards child sexual abuse;
4. cross-national perspectives on child sexual abuse with a view to developing appropriate child protective legislation and policies;
5. the effect that a male or female intermediary has on a child victim of child sexual abuse, bearing in mind the child's age and gender;
6. into the development of appropriate intersectoral staff development programmes to ensure consensus of approach; and
7. community attitudes and feelings about the legal reforms developed.



It is suggested that the evaluation of intervention programmes and research be an integral component of all programme planning and development and that research be conducted in close collaboration with staff and the communities served.

Failure to pursue ongoing research would not lead to the development of policies which reflect the reforms that are being undertaken.

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**APPENDIX I**

This letter was sent to the

- (a) Attorney General;
- (b) The Chief Magistrate;
- (c) The Unit Commander - Child Protection Unit;
- (d) The Chief Social Worker - Red Cross Children's Hospital
- (e) The Attorneys were approached personally.

Madam

An Evaluative Research Study : Special Sexual Offences Courts.

I am a Social Work Masters student at the University of the Western Cape and require your assistance to undertake a research project, in partial completion thereof.

Since the pioneering Special Sexual Offences Courts in Wynberg and Cape Town are an exciting reform initiative, and have been welcomed by many concerned role-players, I would like to undertake an evaluative study thereof.

I aim to:

- [a] determine the effectiveness of current intervention programmes, i.e. in terms of reducing secondary traumatisation;
- [b] to examine inter-disciplinary attitudes towards, and their support of the Special Courts; and
- [c] identify both positive and negative elements related to the practical implementation of the initiative, recognising the former, while making positive recommendations in the event of the latter.

In order to complete my research, I require access to the staff who have had direct contact with the special courts.

I<sup>1</sup> am aware that the social workers concerned are pressed for time, having served as Victim Support Services Co-ordinator at the Cape Town Regional Court from the inception of the special court there in 1993, until February 1995.

Consequently, I assure you that their performance of their duties is not disrupted by my research.

Should you wish to discuss this request with me, I can be contacted at 4802490.

I would appreciate receiving your response by 06 September 1996.

Yours faithfully

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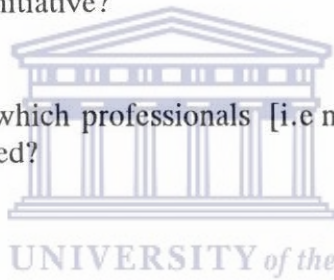
1. Letter to the Attorney General - I am aware that the prosecutors...  
Letter to the Unit Commander - I am aware that your officers...  
Letter to the Chief Magistrate - I am aware that the magistrates...



## APPENDIX II

### SOCIAL WORKERS

1. These courts have been operational for 3 years; their primary aim: to reduce/prevent secondary traumatisation and hence the protection of the child victim.  
Is this reform initiative effective in meeting its aims?
2. Secondary traumatisation is a recently recognised phenomenon. Has it changed your perspective in dealing with victims of child sexual abuse and their families in terms of the special courts?  
Please elaborate.
3. How important is working in a multi-disciplinary team approach to meeting the primary aims of the reform initiative?
4. Do you think the manner in which professionals [i.e magistrates, prosecutors, police officers and others] has changed?  
Please elaborate.
5. Have you experienced any problems in your association with professionals directly involved with this court?  
Please elaborate.
6. Do you require and/or receive the necessary co-operation from the legal profession in your dealings with child sexual abuse matters?  
Please elaborate.
7. Are magistrates and prosecutors directly involved in such matters sufficiently trained and skilled enough to work with such matters?  
Do they require additional and/or ongoing training?  
Please elaborate.
8. Does the presence of a resident co-ordinator at the special court contribute towards the prevention of secondary traumatisation and the protection of the child victims?  
Please elaborate.



## APPENDIX III

## MAGISTRATES AND PROSECUTORS

- 1 What criteria are used to assign magistrates and prosecutors to the special courts?
- 2 Your educational training has taught you to think in a particular way. Is this approach appropriate to the courts? Does your approach to cases heard in the special court differ?  
Please elaborate.
- 3 Are you sufficiently trained to preside over child sexual abuse matters? Do you receive specialised training? Is specialised training necessary? Is additional training required for the reduction/prevention of secondary traumatisation? Should training be ongoing?  
Please elaborate.
- 4 Is this reform initiative effective in reducing/preventing secondary traumatisation and hence protecting the child victim or is it merely a smokescreen for pacifying the public?  
Please elaborate.
- 5 How important is multi-disciplinary team approach in contributing to the effectiveness of this reform initiative?  
Please elaborate.
- 6 Do you require and /or receive co-operation from external professionals directly involved in this initiative?  
Please elaborate.
- 7 Are external professionals directly involved in child abuse matters sufficiently trained and skilled enough, or so they require additional and/or ongoing training?  
Please elaborate.
- 8 Does a resident co-ordinator contribute towards the prevention of secondary traumatisation and the protection of children?  
Please elaborate.
- 9 Is the presence of a co-ordinator important factor in determining the success of this reform initiative?  
Please elaborate.

**APPENDIX 1V**

**ATTORNEYS**

**QUESTION 1**

What experience do you have relating to child development and child sexual abuse?

**QUESTION 2**

Are you sufficiently equipped to conduct the defence of a client accused of child sexual abuse?

Please elaborate.



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**QUESTION 3**

In your opinion, what is the purpose of this reform initiative?

**QUESTION 4**

Does the reform initiative affect the rights afforded an accused in a trial, or during the prosecution?  
Please elaborate.

**QUESTION 5**

Has any conviction been reversed on appeal or review due to the reform initiative and / or its application?  
Please elaborate.



**QUESTION 6**

Are magistrates and prosecutors sufficiently knowledgeable about child development and child sexual abuse? Please elaborate.

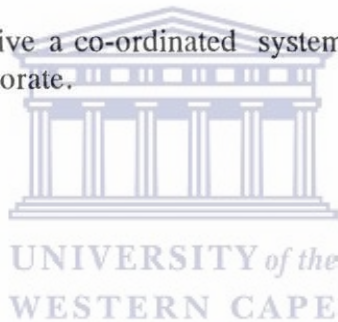


**QUESTION 7**

Is the reform initiative a solution to child sexual abuse?  
Please explain if yes or no.

**QUESTION 8**

Is the reform initiative a co-ordinated system for dealing with child sexual abuse? Please elaborate.



**QUESTION 9**

Intermediaries play a pivotal role in this initiative.

- (a) What role do they play?
- (b) In your opinion, what role should they play?

**QUESTION 10**

Are intermediaries sufficiently equipped to fulfil their role in this reform initiative?

Please elaborate.

**QUESTION 11**

A residential Co-ordinator is present at each of the courts involved in this initiative.

- (a) What is the Co-ordinator's role?
- (b) Is the Co-ordinator's presence necessary?
- (c) In your opinion, what should the Co-ordinator's role be within this

initiative?



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**QUESTION 12**

How do you view the reform initiative?

**QUESTION 13**

Can the reform initiative be improved?  
Please elaborate.

**QUESTION 14**

Are child witnesses adequately protected from traumatisation at and/or in court?



**QUESTION 15**

What is your understanding of the term "secondary traumatisation"?

**QUESTION 16**

How should the success or failure of this reform initiative be determined?

**QUESTION 17**

Is the public aware of this reform initiative?  
If not, what should be done to create greater awareness.

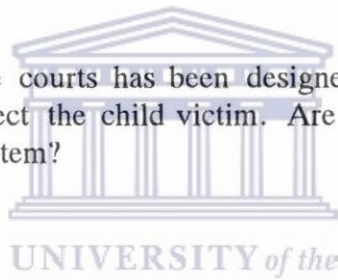




## APPENDIX V

## CO-ORDINATOR

1. What is your primary role at this court? Does your presence contribute to meeting the aims of this court?  
Please elaborate.
2. Are you adequately trained for your duties related to the special court? Do you require additional and /or ongoing training?  
Please elaborate.
3. Do you see every child/adult victim that passes through this court?  
Please elaborate.
4. The establishment of these courts has been designed to prevent secondary traumatisation and to protect the child victim. Are child victims afforded sufficient protection by our legal system?  
Please elaborate.
5. Who is responsible for the protection of these victims?
6. Are the in-house professionals [i.e both magistrates and prosecutors] sufficiently trained to ensure the prevention of secondary traumatisation?  
Is additional and/or ongoing training necessary?
7. Legal professionals have been trained to think in a certain way; is this approach appropriate in meeting the demands of the special courts?  
Do they manage to engage in a manner so as to ensure the prevention of secondary traumatisation?
8. Do you require and/or receive co-operation from the legal professionals?  
Have you experienced any overt changes in the way they manage cases of child sexual abuse?  
Please elaborate.



## APPENDIX VI

## CHILD PROTECTION UNIT

- 1 Has the establishment of the reform initiative effected a change in terms of the way children and their families are handled and managed?  
Why?
- 2 Are all CPU officers specifically trained to manage cases involving child sexual abuse? Are they sufficiently trained to manage such cases? Are adequate resources available for the effective management of such cases?  
Please elaborate.
- 3 The primary aim of the special court is to reduce/prevent secondary traumatisation. Has this aim been met?  
Why?
- 4 Do you receive the necessary co-ordinator from professionals directly involved in child abuse matters? Are they adequately trained to prevent secondary traumatisation from taking place?
- 5 Is working in a multi-disciplinary team approach important strategy to meeting the primary aim of these special courts?
- 6 Does the presence of a co-ordinator at the respective courts contribute towards meeting the aim of this initiative?  
Why?
- 7 What changes, if any, would you like to see brought about within these courts?
- 8 Is the public well - informed regarding this reform initiative? If not, what mechanisms should be utilised to inform the public.
- 9 Is legal reform alone, such as these courts, effective in securing a child's protection? Does public education and attitude have a role to play?