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**THE COURT FOR SEXUAL OFFENCES: PERCEPTIONS  
OF THE PARTIES INVOLVED.**

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Thesis submitted in accordance with the requirements for the degree of  
PHILOSOPHIAE DOCTOR

in the Faculty of Humanities,  
Department of Psychology

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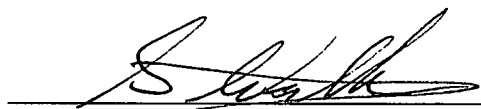
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A handwritten signature in black ink, appearing to read 'S. Walker', is written over a horizontal line.

SP WALKER

November 2002

**Dedicated to my wife Lieschen for her love and encouragement.**

I would like to express my appreciation to the following individuals who helped make this task achievable:

- Prof. Dap Louw, my promoter, for his encouragement, patience and mentorship
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## READER'S ORIENTATION

In accordance with the regulations of the University of the Free State, this thesis is presented in article format. Consequently, each article should be viewed as an independent yet related entity. A list of contents, tables and figures precedes each article. The questionnaire used to sample the participants' perceptions, the informed consent form used and the information sheet mailed to the professionals involved are presented in appendices at the end of the thesis.

By virtue of the fact that different perceptions of the same judicial system were sought, the measuring instrument and methodology employed with the various groups were very similar. This may translate into a perception of overlap and repetition between articles. A lack of prior research in the area, and the resulting lack of relevant local or international literature results in further similarities. However, this situation is not unusual in the research community, where several articles based on a single study are published independently. Consequently, it is suggested that the reader view each article independently although they deal with interconnected psycho-legal facets of the same judicial process.

## ARTICLE I

### The Court for Sexual Offences: Background and rationale

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# ARTICLE I

## **The Court for Sexual Offences: Background and rationale**

### **Abstract**

This review article explores the various factors resulting in the establishment of specialty courts for sexual offences in South Africa. The concept of judicial specialization as a reaction to the specific needs of communities is investigated. Attention is given to general arguments for and against judicial specialization. The incidence of sex crimes in South African society is also reported. A closer look is taken at the system of specialized courts for sexual offenders as a possible solution to South Africa's unique sex crime problems. The everyday functioning of one such court is reported. Finally an appraisal of this court and its support services and bodies is presented. Potential areas of future research are also identified.

### **Introduction**

When South African crime statistics are compared to those of the 113 Interpol member countries, it seems that South Africa has probably the highest incidence of sexual assault in the world (Van Rensburg, 1999). It is therefore understandable that the South African Government views sex crimes as a major threat to both the physical and psychological integrity of South African citizens. Consequently, the Department of Justice and Constitutional Development is doing everything within its power to combat this trend.

One of the primary strategies employed has been the implementation of courts specifically aimed at the prosecution of sexual offenders. The first such court was established in Wynberg, Cape in 1993 (Viviers, 1994); Bloemfontein followed suit in February 1999. The Minister of Justice has expressed the government's intention to establish a system of specialized courts (De Rebus, 1998). This would seem to be a clear indication that specialty courts, such as the new Court for Sexual Offences and existing courts such as the family and tax courts, are to become a permanent part of the South

African legal landscape. Following visits by its representatives to the Bloemfontein Court for Sexual Offences in October 1999 and in January 2000, the Canadian Government announced that it was to make a substantial financial donation for the expansion of this system to a further 20 jurisdictions.

The concept of a specialty court for sexual offences was initially well received by professionals working in the field. However, with the subsequent implementation of this concept, certain questions concerning the practical functioning of this type of specialized sex court arose (Barnes-September, 1998). As a court for sexual offences appears to be a uniquely South African concept, a shortage of empirical research on the court, as well as a lack of adequate literature surrounding the various aspects of the court's functioning, soon became apparent.

The aim of this review article is threefold. Firstly, to provide the rationale underlying the international trend toward specialization within legal systems. Secondly, to highlight the current crisis with regard to sex crimes within the South African context. Finally, to investigate the development of specialized sex courts as a reactionary attempt to address the spiralling rate of sex crimes in South African society.

A lack of adequate literature on specialized sex courts poses specific challenges to the evaluation of these courts. Consequently, much of the literature and research consulted was based on the concept of specialized courts as a whole. The wide variety of courts found under this umbrella made it very difficult to come up with a body of data linked specifically to sex courts. Furthermore, the divergent focus of the various specialty courts found internationally e.g. rehabilitation in the mental health and drug courts, mediation in the family and community courts, and punishment in the various specialized criminal courts, made it very difficult to establish a generic approach to the philosophy underlying the development and functioning of specialty courts. A discussion of local

judicial specialization would thus have to begin with an overview of the international phenomenon.

### **Specialization within the judicial system: A more international perspective**

During the previous decade specialty courts have proliferated, with various countries streamlining and restructuring their judicial systems (Petrila, in press). A general definition of a specialty court is a court that focuses on a similar class of offender or on a narrow class of offenses (Powers, 1997). These specialized courts are said to reflect the general trend towards specialization found in almost all walks of life. This trend has been brought about, in part, by the increasing complexity of the law and the legal system as a whole. The type of specialization that occurs in a specific judicial system, appears to reflect the problems inherent in that society or, more regularly, the standards and morality the society wishes to uphold or pursue. The forerunner with respect to judicial specialization, specifically with regard to specialty courts, appears to be the United States of America. Specialization in the American criminal court system developed as a response to the problem of ever increasing caseloads and the resulting congestion within the judicial system (Casey & Rottman, 2000).

The primary rationale for these specialty courts seems to be that a degree of specialization is necessary in order to effectively address cases, which are legally and/or factually complex. With this in mind, the following benefits of judicial specialization, as listed by the Florida Senate Criminal Justice Committee (1999), may be considered:

- The development of judicial and legal expertise that is required by or develops in such a system, leads to greater efficiency and a higher quality of service.
- The system draws special attention to a class of offence that would otherwise not receive the same attention in the more generalist courts.
- Judicial specialization also helps to transfer problematic classes of cases – either because of the expertise needed to effectively try these cases, the complex nature of the cases or the sheer volume of cases – that would otherwise bog down the existing general courts.

- Judicial specialization allows for judicial intervention and supervision of offenders diverted from the traditional criminal justice system.
- A system of specialization fosters innovation, experimentation and further specialization.
- The narrower focus also creates better coordination of social and support services by bringing together all the parties involved, by means of a multi-disciplinary approach.

Powers (1997) justifies the implementation of specialty courts in a judicial system. Firstly, the judges tend to develop a higher level of expertise in substantive and procedural issues. Consequently, decision-making is improved. According to Powers, judges presiding over specialty courts develop two types of expertise. One is that they become more familiar with the procedures and statutes involved with that specific area of jurisprudence. The other type of expertise that these judges develop, is a degree of extra-legal knowledge in the field concerned. Here the exposure to various expert witnesses or multi-disciplinary teams tend to help the judge build up wider knowledge of the issues and challenges facing the litigant population of the specific court. Secondly, the specialized case loads, when combined with the increased expertise of the court's legal personal, often leads to increased efficiency and increased economy of judicial resources. The third contribution of specialty courts to the legal system is a greater degree of coherence and consistency.

However, the advent of judicial specialization has also been accompanied by a degree of skepticism. A major reservation expressed with respect to specialty courts is that the pursuit of fairness and justice will be lost in the trend towards ever increasing judicial efficiency. Powers (1997) warns that the generalists view, which he considers vital to good decision making, will be lost unless great care is taken in the selection of judges to preside over these specialty courts. He suggests that, over time, judges in specialty courts will tend to lose contact with the judicial system as a whole and become somewhat myopic in their judgments and sentencing. A further criticism is that the proliferation of specialty courts will lead to excessive variation and thus undermine the uniformity and,

more importantly, the consistency of the legal system as a whole (Florida Senate Criminal Justice Committee, 1999).

Closely related to the decentralization of the courts are an inevitable decrease in administrative efficiency and an increase in administration costs. Furthermore, due to logistical considerations, the specialty courts are invariably located in the more centralized and urbanized areas. This may result in a lack of access for rural communities and create a certain degree of inequality in the legal system. A lesser criticism of a system of specialty courts is that of diminished prestige. Powers is of the opinion that the effectiveness of a court is largely determined by its prestige and the resulting respect for its decisions. His reservation is that courts that have a very narrow focus may be seen, by certain quarters of the legal profession, to have lesser authority than the more generalized courts. This may result in the specialty courts having to earn respect for their opinions and decisions through a proven record of high quality work.

Finally there tends to be a perception that the narrow focus of specialty courts may lead to a bias against certain classes of litigants. A specialty court is susceptible to bias in two ways (Powers, 1997). The first is that the appointment of specialized personnel may lead to the undesirable narrowness of approach mentioned earlier. The second risk is that the specialty court's expertise may result in its unconscious tendency to become too involved in the tasks and administration of related agencies and services in the field, thus losing sight of its primary function, namely that of judicial process.

It seems clear that judicial specialization is fast becoming a worldwide trend (Petrla, in press). This appears to be a reaction to either overloaded court rolls or the complexity of various fields within the legal system, or a combination of the two. There is strong evidence to suggest that specialty courts have much to offer the judicial system by way of streamlining processes, meeting the demands of communities and administering justice in complex fields of law. However, there has also been wide criticism of existing systems of specialty courts including the possible narrowness of their focus, alienation of rural communities, increased administration costs and bias in the administration of justice.

This overview of specialty courts, highlighting the way in which their focus is largely determined by the needs of the communities they serve, sets the stage for the investigation of the most important areas of potential judicial specialization within the South African context. As this article specifically focuses on the specialty court as a reaction to the prevalence of sex crimes in South Africa, it is necessary to provide an impression of the magnitude of the problem in this country.

### **Sex crimes in South Africa**

South Africa is considered to be one of the most violent societies in the world (Meintjies-Van der Walt, 1998; Pillay & Sargent, 2000). Consequently, violence has become a part of many people's everyday lives. People living in informal settlements are amongst the worst affected by the spiralling incidence of violent crimes in South Africa (Nomoyi & Pretorius, 1999). Pelser and De Kock (2000) are of the opinion that the causes of violence, as well as the general culture of violence that prevails in South Africa, are deeply rooted in the history of the country. The use of violence as both a tool for social transformation, and simultaneously as a means of attempting to maintain the political status quo, has served to entrench a culture of violence in South African society. Unfortunately, a high proportion of the individuals affected by this violence are woman and children. They almost exclusively comprise the population of individuals who fall victim to sex crimes (Stanton, Lochrenberg & Mukasa, 1997).







South African Police Services indicate a 28.3% increase in the national incidence of rape and attempted rape between 1994 and 2001. This serves as definite evidence of the worsening situation with regard to sex crimes in South Africa during the last few years of the 20<sup>th</sup> century.

The South African Police Service has suggested various hypotheses to explain the high prevalence of reported rape and attempted rape over the past few years (Crime Information Analysis Center, 2001):

- Greater awareness and thus increased reporting of rapes and attempted rapes as a result of the Police Services having become friendlier to the public and more approachable.
- Urbanization has created tension between traditional and modern values and norms. This may occasionally lead to traditional beliefs and attitudes about sex conflicting with urban norms, upon which laws tend to be based. However, a counter argument is that the moral freedoms of a more modern society may be more conducive to sexual offences. This may be particularly true with regard to the sexual abuse of children.
- Increased alcohol and drug use in the country as a whole may also have an effect. A significant number of sex crimes are committed while the offender and or the victim are under the influence of a substance.
- A final hypothesis relates to certain traditional beliefs regarding sexually transmitted diseases, and HIV/AIDS in particular. Perceptions and myths exist among certain sectors of the population that an individual can be cured of certain sexually transmitted diseases, specifically HIV/AIDS, by raping a virgin, or an old woman who has survived a specific venereal disease.

All these factors could explain the high incidence of rape and attempted rape in South Africa to a greater or lesser extent. Whatever the reasons for the current situation, it is one that is generally regarded as unacceptable at all levels of South African society. The need to take steps to curb the incidence of sex crimes, as well as to cater to the needs of victims should be obvious. To this end, it may be prudent to investigate the occurrence

of sex crimes at a provincial level in order to obtain an idea of where interventions would be most useful. Due to differences in population density in the country, relying purely on the number of reported cases per province can be misleading. Investigating the ratio of sex crimes per population unit may yield a more accurate picture.

**Table 3: Ratios of rape and attempted rape per 100 000 of the population  
January to September (1994-2001)**

Province	1994	1995	1996	1997	1998	1999	2000	2001
Eastern Cape	64.9	67.9	71.7	81.6	71.9	71.2	72.6	68.7
Free State	97.1	106.3	105.2	104.1	92.1	87.7	85.5	90.2
Gauteng	106.6	117.9	128.5	124.5	112.5	111.8	111.0	109.8
KwaZulu-Natal	61.0	69.0	74.3	74.7	69.4	70.0	74.7	69.2
Mpumalanga	64.7	74.9	81.3	79.9	71.8	78.1	80.5	81.2
North West Province	79.4	91.4	95.5	99.3	89.2	89.7	89.7	90.0
Northern Cape	110.6	129.3	126.6	128.3	118.6	116.6	115.4	108.3
Northern Province	38.7	45.3	48.3	52.0	53.4	51.7	54.1	59.2
Western Cape	98.9	101.3	112.0	121.2	104.9	109.0	111.6	106.5
<b>RSA</b>	<b>76.1</b>	<b>83.9</b>	<b>89.6</b>	<b>91.9</b>	<b>83.3</b>	<b>83.5</b>	<b>85.1</b>	<b>83.5</b>

Source: Crime Information Analysis Center, 2001.

Table 3 highlights definite hot spots within the country as regards rape and attempted rape. On average, the worst hit provinces appear to be the Northern Cape, Gauteng, Western Cape, Free State and, more recently, North West Province. It is also worth noting that, with the exception of the North West Province, these were also the initial areas into which specific sex courts were introduced to deal with sexual offences. It is, however, interesting that the ratios of sexual assaults in these provinces seem to stay within a fairly stable range from 1998 onwards. This may be an indication of the degree

to which the provincial governments realized the need to address the sex crime problems they experienced.

The statistical trends reported thus far have dealt with sex crimes involving the total population. It is, however, vital that the incidence of sexual assault involving children specifically be investigated if a more accurate perception of the problem is to be gained. This is especially important as anecdotal evidence suggests that sex crimes involving minors as victims, have probably been the strongest motivation for the modification of judicial systems with respect to sex crimes, both locally and abroad (Stanton, Lochrenberg & Mukasa, 1997). The statistics presented, regarding sexual offences against children, are dated. However, they are the most up to date statistics currently available, as the more recent national statistics tend to present an overall view of the problem, and do not differentiate sex crimes against adults from those against children.

**Table 4: Sex crimes against children under 18 years  
January 1994 – March 1998**

<b>Sex crimes against children under 18 years of age</b>	<b>1994 Jan- Dec</b>	<b>1995 Jan- Dec</b>	<b>1996 Jan- Dec</b>	<b>1997 Jan- Dec</b>	<b>1998 Jan- March</b>
<b>Rape</b>	7559	10037	13859	15336	3857
<b>Sodomy</b>	491	660	893	853	183
<b>Incest</b>	156	221	253	222	51
<b>Indecent assault</b>	3904	4044	4168	4068	905

Source: Crime Information Analysis Center, 1999.

Table 4 indicates that, as with most crimes, sexual offences against minors showed a sharp rise after 1994. Rape appears to be the most common sexual crime involving minors as victims. Indecent assault, which includes molestation, is the next most prevalent sex crime against children.

The decline in reported cases of sexual offences found amongst the general population during 1998 is also reflected among child victims. However, this is only with regard to non-penetrative sexual assaults. The incidents of reported rapes amongst children more than doubled during this period. This may be an indication that the underreporting of sex crimes, that is suspected to have taken place amongst adults, is largely absent amongst minors. A possible reason for this may be the fact that society regards the sexual abuse of children in a more serious light than that of adults. Consequently, members of the public are more inclined to report sex crimes against children than sexual offences involving adult victims. Another explanation may be that minors have little say in how their guardians deal with these situations and, as such, are not able to avoid reporting to the same extent that adults are. Whatever the reasons for the difference in reporting may be, it is obvious from the preceding data, that sex crimes against all classes of South Africans are rife and present a serious problem on social, psychological, economic, health and judicial levels.

It should be evident that sexual offences are a widespread and all too common phenomenon in South Africa. Thus, by implication, a wide sector of South African society, specifically women and children, are victims or are at risk of becoming victims of sexual assault. When one reviews the data on sex crimes in South Africa over the past decade, the necessity to specifically target sexual offences as an area of judicial specialization becomes painfully obvious.

### **The development of the Court for Sexual Offences**

At the opening of the Natal Law Society in 1998, the then Minister of Justice, Dullah Omar, outlined his plan to promote the expansion of the system of specialty courts and specialization for judicial officers (De Rebus, 1998). The Minister highlighted the need for development of both specialty criminal and civil justice courts. He was of the opinion that specialist judicial officers functioning in specialty courts, would be able to dispose of cases more efficiently, expediently and with more confidence than less specialized judicial officers. This would obviously have very positive implications for an over

burdened judicial system that is often perceived by the public as falling short of their expectations.

The various advantages of specialty courts were mentioned earlier in this article. Working from the premise that the degree and focus of judicial specialization in a society reflects both the moral values of that society as well as the challenges it faces, it seems obvious that a specialty court focusing on sex crimes would eventually come into being in South Africa.

The first court for sexual offences was established in Wynberg in the Western Cape Province during April 1993 (Viviers, 1994). A strong interdisciplinary approach to dealing with cases of rape and child molestation was emphasized by the court. This specialized court for sexual offences was widely welcomed and appeared to make an immediate impact in terms of improved efficiency, alleviating the case loads of the other Magistrate's courts in Wynberg and improving conviction rates in sexual assault cases (Rasool, 2000). According to Viviers, the improved conviction rates were a fortunate byproduct of the court, as its main focus was the reduction of secondary victimization, experienced by most victims involved in criminal litigation relating to sex crimes. This secondary victimization is also often viewed as being chiefly responsible for the underreporting of offences, as well as the general disillusionment with the judicial system experienced by the majority of South Africans (Stanton, Lochrenberg & Mukasa, 1997).

It would therefore appear that a shift from a prosecution driven judicial system to a more victim-centered approach was made with the establishment of the first court for sexual offences. There does appear to be a much stronger commitment on the part of the Government to adhere to this strongly victim-centered approach. In her speech at the opening of the Court for Sexual Offences in Kimberley on the 25<sup>th</sup> of August 2000, the Deputy Minister of Justice and Constitutional Development, Ms Cheryl Gillwald (2000), outlined the objectives of the system of courts for sexual offences as follows:

- To improve the conviction rates for sexual offences;
- To ensure that cases are dealt with in an efficient manner;

- To eliminate all secondary victimization of victims of sexual assault;
- To minimize the trauma experienced by the victim during the investigation and prosecution process.

It is thus clear that a strong leaning towards what Casey and Rottman (2000) refer to as “therapeutic jurisprudence” (p.1) exists in this specialty court approach to prosecuting sexual offence cases. The concept of therapeutic jurisprudence rests on the premise that, not only the outcomes of the judicial process, but also the process as a whole, can have a therapeutic effect on one or more parties involved in litigation. Incorporating therapeutic principles into a court system involves three steps. The first is to recognize the role of the particular court system in producing these therapeutic outcomes. In other words, what therapeutic effect, if any, does the litigation process have on the victims or perpetrators of sex crimes? One would expect these therapeutic outcomes to be realized in terms of the over all experience of the trial, as well as, the verdict and sentencing. The second step involves the implementation of therapeutic jurisprudence principles. This step implies that the court in question makes a concerted effort to consider the therapeutic implications of its actions at each stage of the judicial process. The final step is the evaluation of the implementation of these principles. Once a court or judicial system has seen itself as an active agent in the therapeutic experiences of victims and offenders, as well as the family members of these two groups, it regularly needs to evaluate the type and quality of therapeutic outcomes produced in the course of applying justice. With regard to the court for sexual offences the therapeutic goal appears primarily to be the reduction of secondary victimization. The improved efficiency of proceedings and higher conviction rates may also assist the victims’ recovery by providing some type of closure or retribution with respect to the trauma they have been exposed to (Nomoyi & Pretorious, 1999). The specific manner in which courts for sexual offences have been able to practically implement these principles is worth investigating.

The most accurate perception of the practical implication of specific principles in the court for sexual offences will most probably be gained by an examination of the everyday functioning of this court. The workings of the original Court for Sexual Offences in

Wynberg will be reported here. This is, however, solely due to the fact that this was the first court to be established and consequently the most widely studied court. The workings of the other sexual offences courts around the country are based on the same principals and are, to an extent, modelled on the Wynberg court. This discussion of the court's functioning will focus on the personnel employed, the modifications that have been made to standard court procedures, and the process through which the victim and offender are taken.

An attempt is made to maintain a degree of continuity with respect to the personnel specifically appointed to the court. This results in a greater degree of specialization of the personnel and makes for a more reassuring experience for members of the public involved with the court. Furthermore, this specialization will, in all probability, result in increased conviction rates as the individuals working in these courts on a full time basis, will develop a level of proficiency and experience that their colleagues who are only occasionally involved with the courts (e.g. defense councils) will not be able to easily match. The permanent personnel of the court for sexual offences include two or more prosecutors, a social worker and the presiding officer (Opperman, personal communication, 2000). An attempt is also made to utilize a reasonably stable core of auxiliary personnel such as interpreters, intermediaries and social workers. However, the latter is largely subject to various logistical constraints. The intention remains to provide victims with a degree of security based on the fact that their entire case is handled by the same person from beginning to end. It also allows the prosecutor to be thoroughly familiar with the case and thus, by implication, to mount the best prosecution possible. The idea of having a permanent presiding officer for the court also leads to greater specialization and improved effectiveness with respect to judgments, sentencing and recommendations (Rasool, 2000). This is an improvement on the traditional court system with generalists as presiding officers and prosecutors appointed on a random basis. However, as mentioned earlier, a specialty system such as this one opens itself to criticism with regard to issues of bias and credibility within the wider judicial and legal system.

The court for sexual offences, as stated previously, views the victim's welfare as its primary concern. Consequently a concerted effort is made to create a more relaxed and less imposing atmosphere. This is particularly true of the modifications made for child victims and witnesses. Here painted cartoon murals appear on the walls of interview and testimony rooms. The furniture used and the availability of toys go a long way to make the environment less foreboding to children. Victim's statements and preparation for the cases take place in a less formal manner than in other courts. Intermediaries are used extensively at every stage of the process in an attempt to reduce any misunderstandings and tension that language problems, differences in levels of development or cultural differences may present.

Children's evidence is often gathered using a variety of informal, child orientated, techniques such as play and drawing. Children also have the advantage of giving evidence from outside the courtroom. The child usually sits in a room with an intermediary while testifying. Both the child and intermediary are visible to the court by way of a closed-circuit television system. The intermediary wears earphones enabling her/him listen to the court proceedings. Questions are asked via the intermediary, who is able to rephrase the questions to facilitate better comprehension on the part of the child and the child's responses are then relayed in the same manner to parties in the courtroom. This protects the child from intimidation during cross-examination and helps to make the whole experiences of giving evidence less stressful. The child is only required to enter the actual court in order to identify the perpetrator in a line up. During this stage in the proceedings all possible precautions are taken to protect the child from any form of intimidation or traumatization. Precautions like these may go a long way towards reducing secondary victimization during the litigation process. Attempts are also made to protect the victims, both adults and minors, from intimidation and victimization between court session by the use of interdicts and imprisonment of suspects in extreme cases. The court thus seems to be meeting its objective to put the interests of the victim first.



However, enthusiasm for this victim-centered approach does not appear to be shared by all within the legal system, nor are the auxiliary services associated with these cases on par with the courts as regards victim-friendly innovations and modifications.

According to Viviers (1994), the court's victim-orientated focus, as well as some of its modified approaches to jurisprudence, have drawn strong criticism from legal practitioners who have defended individuals in these courts. The use of the closed-circuit television system has been criticized for being impersonal and unfairly hamstringing defense attorneys and their clients, while favoring prosecutors and victims. Some attorneys have perceived the lack of personal contact during cross-examination as having a detrimental effect on the quality of their cross-examinations. They claim that one loses the intuitive "feel" of a line of evidence under these conditions. The role of the intermediaries has also come under fire. Their impartiality has been brought into dispute by attorneys claiming that the intermediaries appear to have a great deal of insight into the facts of specific cases. The fact that many of these intermediaries have offices in the court and are involved in the initial interviews with the victims has drawn criticism of their ability to perform an impartial function in the court proceedings. There have also been claims that the intermediaries' prerogative to rephrase questions in their own words for the child enables them to influence the course of proceedings. However, in spite of their criticism of the court, most legal practitioners are in favour of the concepts underlying its development and functioning. The attempt to clear busy court roles of complex sexual abuse cases, attempts to modify the court so as to suit its particular function and increased conviction rates were all positively received by the legal profession as a whole.

The current system of courts for sexual offences also relies on a variety of support services. These include the offices of the State Physician, Social Welfare as well as various therapeutic agencies such as Family Welfare and State Psychiatric/Psychological institutions. The medical officers are responsible for the forensic medical examination of alleged victims of sexual abuse. This is especially vital when minors are involved since determining the presence and extent of sexual interaction between victim and offender, as

well as the victim's identification of the offender are often all that a case hinges on. However, the long waiting periods, and a lack of sensitivity on the part of physicians during these examinations, are thought to account for a large proportion of the secondary victimization associated with sex crimes. It is also alleged that inadequate training and experience, in this area of medicine, often leads to incomplete examinations or examinations that are not admissible as evidence for various reasons. It appears that while the courts are attempting to provide a better experience for victims, their medical colleagues are still lagging behind (Barnes-September, 1998).

One of the original ideas envisioned in the specialty interdisciplinary approach to prosecuting sexual offences, was that the victims would have adequate access to social and therapeutic services, both during the trial and following its conclusion. This would have been the domain of social services or social workers in the employ of the courts themselves (Viviers, 1994). However, in the majority of cases these services do not appear to have been forthcoming (Barnes-September, 1998). A lack of personnel and finances has seen victims fall through the cracks following the completion of litigation, and the court failed to carry its victim-centered approach through to a satisfactory conclusion. The result is that many victims are left with residual emotional trauma, caused by feeling that once they have helped the state or court achieve its objective, namely conviction of the offender, they, the victims, lose their usefulness and the court's interest in them quickly diminishes (Stanton, Lochrenberg & Mukasa, 1997).

## **Conclusion**

It appears that specialized courts for sexual offences have managed to make great strides towards modifying traditional structures and processes so as to be more accessible to the general public. However, the manner in which the litigation is conducted in these courts has lead to criticism. The impartiality of the court set up, as well as the credibility of its decisions within the broader legal context, have been brought into question. The increased conviction rate and a reduction in secondary victimization during court proceeding have been positively received by the legal profession and general public alike.

However, the ability of the system to follow the victim-centered approach through to a satisfactory conclusion appears to be uncertain at best. There appears to be a specific weakness with regard to the supplementary disciplines involved in the system, as well as the court's ability, as the major role player, to adequately co-ordinate and manage the process as a whole.

A mixed impression is created by this review of the limited literature available on South African courts for sexual offences. On one hand, is a judicial system attempting to improve the lot of the victims of sexual offences and claiming to generally be succeeding in achieving its goal. On the other hand are the critics of the system, who while acknowledging the improvements made to the system, are still of the opinion that the current system falls short of its intended objectives. A more comprehensive evaluation of the experiences of all individuals involved with the sexual offences court system appears to be strongly indicated.

## References

Barnes-September, R.L. (1998). *The development of a protocol for the management of child abuse and neglect*. Unpublished doctoral thesis, University of the Western Cape.

Casey, P. & Rottman, D. (2000). *Therapeutic Jurisprudence in the Courts*.

[Http://www.ncsc.dni.us/ICM/distance/therapeutic/2000-08/html](http://www.ncsc.dni.us/ICM/distance/therapeutic/2000-08/html).

Crime Information Analysis Center. (1999). *The incidence of serious crime: January to December 1998*. Pretoria: South African Police Service Crime Analysis Center.

Crime Information Analysis Center. (2001). *The reported serious crime situation in South Africa for the period January – September 2001*. Pretoria: South African Police Service Crime Analysis Center.

De Rebus. (1998). *Justice Ministry calls for specialization of the courts and the judiciary*.

- Florida Senate Criminal Justice Committee. (1999). *An overview of Florida's Criminal Justice Specialized Courts*. [Http://www.fcc.state.fl.us/fcc/reports/courts/ctrec/html#spec](http://www.fcc.state.fl.us/fcc/reports/courts/ctrec/html#spec).
- Gillwald, C. (2000). *Opening of the Sexual Offences Court in Kimberley*. [Http://www.doj.gov.za/docs/sp/2000/25aug20000.html](http://www.doj.gov.za/docs/sp/2000/25aug20000.html).
- Meintjies-Van der Walt, L. (1998). Towards victims' empowerment strategies in the criminal justice process. *South African Journal of Criminal Justice*, 11, (2) 157-172.
- Nomoyi, N.C. & Pretorius, R. (1999). Inaccessible support services: Experiences of victims of violent crime. *Acta Criminologica*, 11, (2) 95-101.
- Opperman, L. (September 2000). Personal communication.
- Pelser, A. & De Kock, C. (2000). Violence in South Africa: A note on some trends in the 1990's. *Acta Criminologica*, 13, (1) 80-94.
- Petrila, J.D. (in press). An introduction to specialty courts. *International Journal of Psychiatry and Law*.
- Pillay, A.L. & Sargent, C. (2000). Psycho-legal issues affecting rape survivors with mental retardation. *South African Journal of Psychology*, 30, 9-13.
- Powers, J. (1997). *A new specialty court for Texas?* [Http://www.adminlaw.org/aotm2.htm](http://www.adminlaw.org/aotm2.htm).
- Rasool, S. (2000). Sexual offences courts: Do more courts mean better justice? *Nedbank ISS Crime Index*, 2, 11-14.
- Stanton, S., Lochrenberg, M. & Mukasa, M. (1997). *Improved justice for survivors of Sexual violence? Adult survivors' experiences of the Wynberg Sexual Offences Court and associated services*. Cape Town: African Gender Institute.
- Van Rensburg, H.C.J. (1999). *Crime in South Africa – current state and trends*. Paper presented at the University of Bahrain (21 November 1999).

Viviers, S. (1994). Wynberg Sexual Offences Court: Impressions after a year in operation. *De Rebus*, Aug, 569-570.

## ARTICLE II

### The Court for Sexual Offences: Perceptions of the victims of sexual offences

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## ARTICLE II

### **The Court for Sexual Offences: Perceptions of the victims of sexual offences**

#### **Abstract**

This article explores the perceptions of sexual offence victims following their interaction with the Court for Sexual Offences in Bloemfontein. The study primarily investigated these individuals' satisfaction with the degree to which the Court succeeds in providing more effective justice for victims and reduces secondary victimization during judicial proceedings. The respondents were generally positive with regard to their experiences with the Court. However, cases were still found to be slow in coming to trial. The treatment of the victims after their participation in the trials was found to not be of the same standard as that received before they testified. These findings point to potential changes to the current system to further enhance the Court's functioning and legitimacy amongst the people it serves.

#### **Introduction**

When compared to other countries with stable democratic governments not currently involved in major military conflicts, South Africa has the highest incidence of violent crimes in the world (Meinjties-Van der Walt, 1998; Pillay & Sargent, 2000). Rapes, attempted rapes and child molestations constitute a significant and ever-increasing proportion of the violent crime reported in this country every year (Crime Information Analysis Center, 2001). The Government initiated a system of specialized sex courts to help the already overburdened judicial system to deal more effectively and efficiently with the prosecution of the large volume of sex crimes reported to the police on an almost daily basis.

The specialized courts for sexual offences are said to aim to improve the conviction rate in sexual assault cases. More significantly, however, these courts claim to strive to reduce secondary victimization and improve the general treatment of victims throughout the judicial proceedings. These objectives are claimed to be achieved to varying degrees.

However, the test of any democratic state organ, is the degree to which citizens that interact with it, perceive it to be fulfilling specific functions. Consequently, as part of a more encompassing study of the specialist sex court system, this article will attempt to establish the perceptions and experiences of sexual offence victims regarding the degree to which the courts are making good on their commitments. The findings reported in this article will be with specific relevance to the Court for Sexual Offences in Bloemfontein, the capital of the Free State Province. Hopefully the findings will also usefully contribute to the evaluation of the system on a national level.

### **Literature review**

The concept of judicial specialization is by no means a new development. Numerous countries have employed one or more systems of specialized courts to deal more effectively with problematic criminal trends in their societies (Powers, 1997). Such specialization is most often employed to deal with heavy caseloads and congestion in the legal system. However, as far as could be ascertained, South Africa is the only country that has to date, identified sex crimes as an area of judicial specialization. The obvious consequence is that very little international and local research has been conducted on specialized sex court systems. This results in minimal literature on the subject being available. Consequently, the ensuing discussion has been based on issues related to sex crimes in general, the little information there is available on sexual offences courts in South Africa and on studies of general public perceptions of the judicial systems in other countries.

Previous reference has been made to the fact that rape and the sexual abuse of both adults and minors are all too familiar features of South African life. The incidence of these crimes also appears to consistently be on the increase. According to statistics published by the South African Police Service, the national incidence of reported rape and attempted rape increased from 29 399 in 1994 to 37 711 in 2001 (Crime Information Analysis Center, 2001). The reported cases of sex crimes for the Free State Province increased from 2 446 in 1994 to a peak of 2 781 in 1997. Thereafter the incidence of



these crimes appears to stabilize at around two and a half thousand a year, with 2 608 being reported between January and September 2001. The stabilization of these figures after 1997 is thought to be in part due to better policing in the Free State and increased sociopolitical stability in the country as a whole (Pelser & De Kock, 2000). The implementation of a specialized sex court in the province during the late nineties has no doubt contributed to stabilization of reported sex crimes in the province, while the national average continues to rise annually. These improvements include more effective handling of the sexual offence caseload and improved conviction rates. Policing has also become more specialized through its interaction with the sex court system. However, these improvements should not detract from the severity of the sexual assault problem in the province. This is further emphasized by the realization that these statistics only reflect the cases actually reported to the police. The South African Police Service as well as various individuals and institutions tasked with dealing with rape, its perpetrators and its victims are of the opinion that a significant proportion of rape and other sexual assaults committed in the country are never reported to the authorities (Crime Information Analysis Center, 2001).

Women and minors of both genders, perhaps predictably, almost exclusively comprise the section of South African society that falls victim to sex crimes (Stanton, Lochrenberg & Mukasa, 1997). Furthermore, the majority of the rape and sexual assault cases heard by South African courts are brought before them by the poor and marginalized of the society (Nomoyi & Pretorius, 1999). This is not to say that sex crimes exclusively affect the poor. However, they appear more inclined to rely exclusively on state organs for justice and treatment than more affluent sectors of society do (Opperman, personal communication, 2000). Traditionally, in any society, the vast majority of sexual assault victims are women. In South Africa this translated into a situation where those most profoundly affected by sex crimes, at psychological, social and logistical level, are women living below the poverty line in areas with inadequate access to social and police services. Consequently, any attempt to effectively deal with the current sex crime situation in a holistic manner, would thus have to be sensitive to the needs and experiences of this sector of the population.

Courts for sexual offences have the welfare of the victim throughout the judicial process and the application of justice as their points of departure (Viviers, 1994; De Rebus, 1998). Where possible the rights and welfare of the victim take precedence in situations where the victim may be seriously disadvantaged by pursuing a conviction (Campbell & Raja, 1999; Opperman, personal communication, 2000). This victim-oriented approach is further implemented by procedures to demystify the judicial process and make it less traumatic for the individual (Moult, 2002). These include prior meetings with the prosecutor where the victim is briefed on court procedures and the course the trial will most probably take. The court environment has also been adapted from the impersonal and imposing atmosphere usually associated with the judicial system. Steps are taken to ensure victims' privacy and freedom from intimidation by the establishment of special waiting rooms. Minors and other susceptible victims are able to give their testimony via a closed circuit television system and the court is inclined to go to greater lengths to protect the victims from further trauma when setting bail conditions and restricting contact between the offender and victim before and during the trial (Viviers, 1994). Courts for sexual offences like the one in Bloemfontein, claim thus not only to have streamlined the judicial process with regard to sex crimes and to have improved the conviction rate in these cases (Opperman, personal communication, 2000; Rasool, 2000), but also to have significantly reduced the trauma sexual offence victims experienced through their involvement with the courts in the past. Nomoyi and Pretorius (1999) are of the opinion that the preceding factors all help the victims of sex crimes to experience a greater measure of retribution and serve to more effectively facilitate psychological recovery.

The preceding discussion would suggest that sexual offence courts would assume to provide some measure of what Casey and Rottman (2000), as well as Christean (2002) refer to as therapeutic jurisprudence. Therapeutic jurisprudence is often a major objective in the establishment of specialist court systems. However, this does not necessarily disqualify existing courts having a therapeutic or restorative effect upon individuals making use of its services. The practical execution of therapeutic jurisprudence most often takes the role of either court ordered rehabilitation, and or the

facilitation of conflict resolution between parties, and or providing the victim with a degree of closure and healing not only by the way he or she is treated by the judicial system (not exasperating the trauma already suffered), but also by providing the victim with adequate retribution for the wrongs committed against them. One of the major objectives of this article is to explore the extent to which the Court for Sexual Offences in Bloemfontein succeeds, in the eyes of the victims of sexual offences, at reducing secondary victimization and serves as a form of therapeutic jurisprudence. Barnes-September (1998) states that while most of the legal professionals in the Western Cape are positive with the functioning of the local sexual offences court in Wynberg, many victims of sexual assaults feel that the Court and its auxiliary services fall short of providing any service beyond the conviction of the offender.

It should be clear by now that the evaluation of any court system, if it is in any way to be legitimate, has to take the perceptions and experiences of the public it serves, into account. This is the cardinal point of departure for this article and consequently, necessitates the investigation of differing perceptions of legal institutions within society. Benesh and Howell highlight the applicability of this approach when they state that "court users are in the unique position of observing firsthand the workings of the system and from that experience make judgments to their legitimacy and fairness" (p.201, 2001). General trends in foreign research have suggested that the public have become increasingly critical of criminal justice systems in particular (Kaukinen & Colavecchia, 1999). However, various personal and socioeconomic experiences or attitudes jade perceptions of the judicial system among certain sectors of the population. It would be irresponsible to embark upon an evaluation of the specialized sex court system without first considering the idiosyncratic opinions and attitudes certain individuals may have towards the criminal justice system in general.

The body of research available on public opinions relating to judicial systems reveals that individuals' attitudes are most notably influenced by employment, gender, race and exposure to or fear of crime (Kaukinen & Colavecchia, 1999; Benesh & Howell, 2001; Brooks & Jeon-Slaughter, 2001; Tyler, 2001). In Canada and the United States of

America the wealthy are generally perceived as being supportive of the judicial system. They are in a position to influence decision-making to a degree, and are also often more familiar with the working of the legal system than the less affluent sectors of these societies (Kaukinen & Colavecchia, 1999). The more wealthy individuals seem to criticize the judicial system mainly with regard to excessive rights for "criminals" and lenient sentencing (Sprott & Doob, 1997). This is, in all probability, a reflection of their perceptions of themselves as people with much to lose to theft and other crimes against property. The rich and empowered generally tend to be more supportive of a judicial system that protects them and their property irrespective of how just they perceive it to be (Myers, 1996).

In societies where independence and power is associated with race or gender, those members of the advantaged groups tend to have the same attitudes towards the judicial system as the wealthy do (Myers, 1996). In this regard, it would be naïve to assume that racial and gender inequalities do not still find expression even in a post-apartheid South African judicial system. Employment influences perceptions in that employed individuals have a more positive view of a society or government, and consequently of the organs of that state, than do those individuals who are not employed (Brooks & Jeon-Slaughter, 2001).

The poor, marginalized and disenfranchised in a society often have very differing perceptions of the legal system to their more empowered and wealthy counterparts. Previously or currently disadvantaged race groups tend to remain suspicious of the legitimacy and motives of most organs of the state (Brooks, 2000). The lower socio-economic sector of a society also stands a better chance of having had negative interactions with the courts. They are more inclined to have been convicted of petty crimes or have a relative who has served, or is serving a prison sentence. This perceived victimization by the judicial system would obviously influence individuals' perceptions thereof. One would also expect individuals from the more disadvantaged sectors of society who are more frequently exposed to violence to support a judicial system that is tough on crime. However, this does not appear to be the case. Sprott and Doob (1997)

found that the victims of violence and sexual assaults, tended to be less supportive of an extremely punitive criminal justice system, than individuals who have not been victims of such crimes.

Although individuals' perceptions of judicial systems appears to be a complex issue, the general impression gained from the foreign research reviewed is that the more marginalized and disenfranchised an individual is, the less inclined that individual is to identify with the judicial system. This may, in turn, result in a distrust of the legal system or dissatisfaction with its perceived workings. Unfortunately these opinions cannot readily be generalized to South African society due to a lack of local research pertaining to public perceptions of the functioning of the criminal justice system. Nonetheless, the role of sociopolitical and socio-economic baggage amongst the victims of sexual offences cannot be ignored when considering their evaluation of their experiences with the criminal justice system.

As mentioned, this study aims to evaluate the functioning of the Court for Sexual Offences in Bloemfontein from a psycho-legal perspective. The victims' experiences concerning the stated objectives of specialist sex courts could be regarded as benchmarks for this evaluation. These objectives principally consist of reduced secondary victimization, decreased congestion of court roles and operationalization of some measure of therapeutic jurisprudence (Moult, 2002).

## **Method**

The initial research methodology for this project was devised in consultation with senior staff of the Court for Sexual Offences in Bloemfontein. The first step was to come up with a tool to sample the opinions of the individuals participating in the study. Due to the lack of an appropriate instrument amongst the measures already in existence, it was necessary to compile a questionnaire. The basic structure of the questionnaire was partially based on the research conducted by Stanton, Lochrenberg and Mukasa (1997) and Barnes-September (1998), as well as various consultations with John Petrila, Chair

and Professor in the Department of Mental Health, Law and Policy at the University of South Florida, regarding existing approaches to the evaluation of Drug Courts and Mental Health Courts in the United States of America. The current questionnaire samples the respondents' opinion with regard to interaction with the South African Police Services, the State physician, the prosecutor and other court personnel, as well as the outcome of the trial, the sentence handed down by the court and the after-care the victims received. Questions were presented in two item forced-choice format, five point Likert Scales and open-ended questions aimed at eliciting more detailed responses (see Appendix A).

The Court is said to hear close on 700 cases a year (Opperman, personal communication, 2000). These cases are said to involve approximately 700 adult victims of sexual offences and 300 minors. Consequently, it was decided to draw an initial sample of 70 adult victims and 30 minor victims from cases heard by the Court between January 2000 and December 2001. Only individuals who had undergone the entire process, up to and including receiving judgment were included in the sample. Initial intentions to include cases where charges were withdrawn, had to be abandoned on the recommendation of the South Africa Police Service due to issues of personal privacy and confidentiality. Permission to obtain the remaining individuals' personal details from police records was granted by the Commander of the local Child Protection and Sex Crimes Unit.

The final sample obtained fell short of the intended one. High geographic mobility amongst the target population, and the extended passage of time that elapsed between the police obtaining victims' details and judgment eventually being handed down, made it very difficult to locate the participants. Furthermore, the general layout of informal settlements (squatter camps) in South Africa tends to be such that locating specific individuals from formal address lists is near impossible. The sample of potential participants was consequently expanded from 100 individuals (70 adults and 30 minors) to 130 individuals of varying ages. An eventual sample of 49 victims of sexual offences was obtained. The low response rate was due to various factors, including an inability to locate the individuals, their unwillingness to share their experiences with the researchers and an unwillingness to sign the informed consent documentation.

The 49 individuals' written consent to participate in the study was obtained (see Appendix B) and the questionnaire was administered. However, due to the low level of education and high rate of illiteracy amongst the respondents, the questionnaires had to be administered in the form of structured interviews. Research assistants with post-graduate level qualifications in psychology and fluent in the first languages of the participants, were trained to administer the English questionnaire in the relevant languages.

Five of the victims' responses to the questionnaire were excluded from the study because they were incomplete to the extent that they could no longer be considered to be meaningful sources of information. However, due to the size of the sample questionnaires that were incomplete but that provided data on four or more of the six sections of the questionnaire were retained. The remaining 44 questionnaires were statistically analyzed and frequencies for each response item calculated in an attempt to determine trends in respondents' perceptions.

## **Results**

The sample had a mean age of 23.12 years ( $SD=14.73$ ), with the youngest participant being five years old and the oldest 51. Respondents between the ages of 11 and 16 years of age constituted 39% of the sample, while people aged from 17 to 21 years and 37 to 56 years each accounted for 22%. The 39 women interviewed constituted 95.1% of the sample. The remaining 4.9 % were male. Regarding the distribution of race, 85.4% of the individuals participating in the study were Black, while the remaining 14.6% of the victims were so-called Coloureds.

The vast majority of victims (64%) reported to be scholars, while 2% were enrolled at tertiary institutions. Of the remainder, 10% were unskilled, semi skilled or temporary laborers, and 24 % were unemployed. Eight respondents (19.3%) reported having undergone no formal schooling, while 36.8% had attended primary school. Only 31.7%

of the respondents had successfully completed primary school or progressed further. One respondent was found to be in possession of a matriculation certificate. The mean with regard to formal education in the sample was 6.22 years with a standard deviation of 4.11 years.

The nature of the sexual offence committed against the individual was also investigated. The majority (65.84%) of the sample fell victim to rape. Molestation accounted for 12.2% of the individuals surveyed, while 7.32% were assaulted in rape attempts for which there were insufficient grounds to build an attempted rape or molestation case. The remaining 14.64% fell victim to attempted sexual offences.

Most victims (51.2%) cite their primary reason for reporting the sexual assault to the police as being emotionally disturbed by the event. This included feelings of depression, anxiety, fear, anger and shock. Family members whom the victim informed about the sexual assault reported 17.1% of the cases. The police responded to the majority of these reports by taking the victim to the hospital in order for a medical examination to be performed (56.1%). In 26.8% of the cases the victim perceived the police's first response to be to arrest the accused, while in 12.2% the victim stated that the police responded by initiating an investigation into the incident. Only 4.9% of respondents experienced the police's response as negative. These individuals accuse the police of being slow to respond to the charges or seeming unwilling to arrest the accused.

The majority of the victims (78%) stated that they felt safe while waiting at the police station or giving their statements. The two most popular perceptions in this regard were that the police would protect the victim from further harm, and that steps had been taken by the police to ensure privacy and confidentiality during these interviews. Of the 9% who were not content with the situation while giving their statements, most felt that the police did not take their accusations seriously and that steps taken to ensure their safety were inadequate. In 82.5% of the cases the police officer taking the victim's statement was male. Despite being almost exclusively female, 29 of the 41 respondents (70.73%) described their attitude towards this situation as either more than satisfied or very happy.

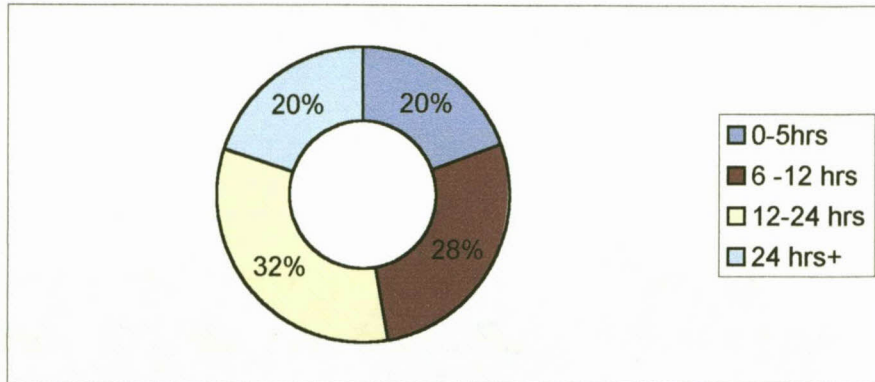


Victims surveyed in this study generally seem to have experienced their contact with the South African Police Services in a positive light. Victims perceived the police as being prepared to provide information with regard to how the case could generally be expected to proceed 82.5% of the time. In 75.6% of the cases the police were perceived as approachable and as being prepared to assist the victim. Almost half of the victims (42.9%) felt that the police officers they encountered had emotionally supported them during the initial stages following the offence. Moreover, 23.8% of the victims claimed that rapid action by the police force in apprehending the accused was of great comfort to them.

However, opinion with regard to the investigating officer's availability and transparency during the ensuing investigation was divided, with 31.7% of the sample being less than satisfied with the degree to which they were kept informed of progress and developments during the investigation. Suggestions to improve the quality of police service included a greater degree of empathy with the victim (19%), the appointment of more female police officers to deal with victims of sexual offences (14.3%), faster response times (14.3%) and more effective community policing to help reduce the incidence of sexual offences (14.3%).

Sexual offence victims sampled in this study, generally felt positive about the manner in which they were referred for forensic medical examination. The police were judged to have dealt competently and sensitively with these referrals by 76.9% of the respondents. Furthermore, they provided transport to the hospital or clinic in 89.7% of cases, while the individuals making up the remaining 10.3% of the sample reported having consulted a physician before reporting the sexual offence to the police.

**Figure 1: Time lapsed between sexual assault and forensic examination by a physician**



n=44

Medical assistance in all the cases was forensic in nature, but also addressed any medical complications arising from the sexual assault. Figure 1 illustrates that 20% of the victims were attended to within five hours of the incident, while 48% received medical attention within 12 hours of the sexual offence. The vast majority of the sample (80%) was attended to within 24 hours of the incident. However, a fifth of the sample reported having to wait in excess of 24 hours before receiving medical attention. It is not clear whether these delays were due to the inaccessibility of medical services or due to the victims' tardiness in reporting the sexual offence and seeking assistance.

Female physicians conducted the medical examination in 92.3% of the reported incidents. The victims generally viewed this in a positive light. Language does not seem to have been an obstacle to the effectiveness of the medical examination with 97.8% of the victims being satisfied that they were able to make themselves understood, as well as understand the questions asked by the medical staff. The majority (94.9%) of the victims who underwent a medical examination, expressed satisfaction with the thoroughness of said examination. However, more than half the sample (59%) claims to have never received any feedback from the attending physician regarding the results of the physical examination. Furthermore, only 56.4% of the participants recall the physician recommending some form of counselling to help them deal with the trauma, or any other further treatment. In addition to the lack of feedback regarding the results of the physical

examination, victims complained that the nurses attending to them were either rude to them or did not seem to appreciate the victim's situation. On the positive side, 34.5% of the victims experienced the medical staff as emotionally supportive. Furthermore, the majority of respondents (72.5%) offered positive comments regarding their experiences with the medical services. As could be expected from the preceding data, the most frequently suggested improvement was that the victims be given full and unrestricted access to the finding of these medical examinations as soon as they become available.

**Table 1: Periods of time sexual assault cases took to come to trial**

Time case took to come to trial	Percentage of cases
One to three months	9.8%
Four to six months	14.6%
Six to nine months	26.8%
Nine months	48.8%

n=41

Table 1 graphically represents the time that the respondents' cases took to come to trial. It is evident that the vast majority of cases (75.6%) took in excess of six months to come to trial. Moreover, almost half (48.8%) the victims interviewed reported that their cases came to trial more than nine months after the sexual offence had been committed. Most of the 41 respondents (63.4%) labelled their feelings with regard to these waiting periods as either very unhappy (19.5%) or less than satisfied (43.9%).

Attitudes regarding the notice victims were given before their court appearances were more positive. Of the individuals interviewed, 90.2% expressed satisfaction with the length of the notice period they were given. One court appearance was required 22% (9 respondents) of the time, 39% (16 respondents) appeared in court twice, while 19.5% (8 respondents) had to appear thrice and the remaining 8 respondents (19.5%) made more

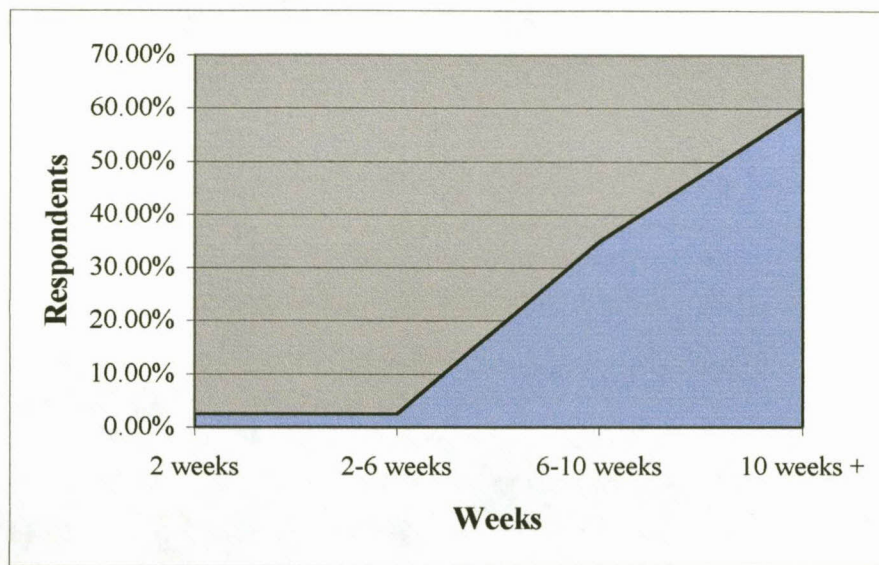
than three court appearances. The number of court appearances did not seem to influence the victims' perceptions, with 65.9% stating that they were satisfied with the situation.

The victims were generally not able to formulate an advanced opinion with regard to the function of the Court for Sexual Offences, as 61.5% of them had never been to court before. They also reported not having had any access to information regarding the Court for Sexual Offences. However, 12.8% of the victims interviewed were of the opinion that the Court for Sexual Offences only hears sexual offence cases. The perception of 10.3% of the respondents was that only individuals involved in the cases and the immediate family of the victims were allowed to be present when the court was in session. The latter perceptions were based chiefly upon respondents' personal observations and information provided by social workers associated with the Court.

Intimidation, harassment and bribery of the victims and their families by the accused or the accused's family were reported by 43.9% of the individuals sampled. It was the opinion of 78% of these individuals that the Court for Sexual offences took no steps to guard against interference of this nature. It should be noted, however, that 81.5% of these victims admit to not having approached the police to report the aforementioned incidents of harassment and intimidation.

A general lack of exposure to legal proceedings and legal professionals had an influence on the respondents' expectations prior to meeting with the legal professionals who would prosecute their cases. Victims admitted to being nervous or anxious with regard to their first interaction with the judicial system 55.6% of the time. Other individuals, 11.1% of the sample, were not confident of their ability to perform the tasks required of them e.g. testify or identify the accused in court. The same percentage of respondents claimed to fear intimidation by the accused during the ensuing legal proceedings.

**Figure 2: Waiting periods before consultation with prosecutors**



n=41

Periods of time lapsing between the sexual offence being committed and the victim's first meeting with the prosecutor were also investigated and are graphically represented in Figure 2. The majority of victims (60%) report that their first contact with the prosecutor in their cases occurred more than 10 weeks after the offence had been committed. Approximately one third of the respondents (35%), were in contact with the prosecutor six to ten weeks after the incident. Only 5% of the individuals interviewed were attended to within six weeks of the offence having been committed. Once the victims were in contact with the prosecutors, however, the process appears to have been fairly efficient, with 57.5% of the victims being required to make only one visit to the prosecutor prior to the trial. A fifth of the sample (20%) had to return for a second consultation, while only 2.5% were required to attend more than three consultations. In 82.5% of the cases a third party was present during the interview with the prosecutor. These individuals varied from an interpreter or intermediary to a family member. The presence of the aforementioned third party was experienced as positive or reassuring by 97.5% of victims.

The manner in which the prosecutor conducted the preparatory interviews met with 94.9% of victims' approval. The most frequently cited reason (41.7%) for the victims' contentment with the interviews was the fact that the prosecutor had gone to some lengths to ensure that the interview was conducted in the language that the victim was most comfortable with. Moreover, 89.7% of the victims felt that language was not an obstacle during their contact with the prosecutors. In almost all the instances where an interpreter or intermediary was used (96.9%), victims were of the opinion that better communication was facilitated. Discrimination along the lines of race or gender was reported to be a moderate concern in only 5% of the cases. In 11% of the cases the victim stated that the prosecutor had succeeded in making him/her feel at ease and dispelled their anxiety regarding the legal process. The victims also appreciated the extent to which the prosecutor ensured that the victim adequately understood the process and displayed empathy with the victim. All the victims interviewed felt that they were able to communicate effectively and accurately with the prosecutors during their consultations. In addition, 94.6% felt that the prosecutor had succeeded in answering the questions and addressing the fears the victims had with regard to the anticipated judicial proceedings.

The level of confidence the victims displayed in their preparation for the trial was high. Only 12.5% of those surveyed expressed dissatisfaction at the degree to which the prosecutor had prepared them for their court appearance. Victims were generally very positive about their interaction with the prosecutors. The most frequently encountered reasons for their satisfaction included the emotional support received and the victim's belief that the prosecutor was truly advocating his/her cause. Negative comments and suggestions for improvement with regard to the prosecutor's role in the judicial process were not forthcoming.

The vast majority of victims' perceptions that they were well prepared for the trial by the prosecutor were borne out during the trial. This is evident in that 43.9 % of the victims perceived the court and proceeding to be totally similar to the prosecutor's description. A further 39% felt that the proceedings were more similar than not to the information they had received. The most significant difference between the actual trial and the victim's

expectations was that the victim was not able to testify via the closed circuit television system and had to testify in open court. However, it should be noted that this was reported by a relatively small percentage (10%) of the sample.

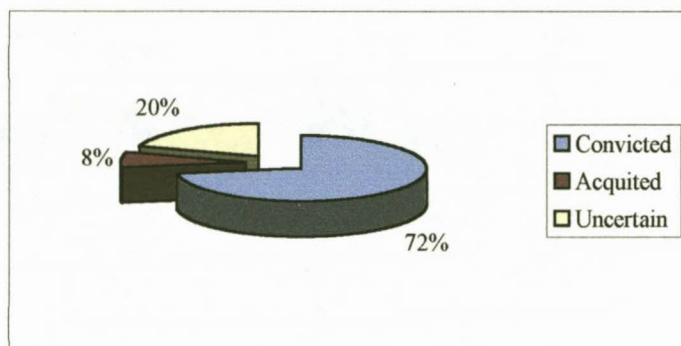
The victims generally experienced their participation in the trial itself as positive. The length of time spent waiting to testify ranged from a few minutes to six hours. Victims report having to wait for an hour or less before being called upon to testify in 43.9% of the cases. A further 51.2% waited for between two and four hours, while the remaining 4.9% report periods of between five and six hours. Steps were taken to ensure that the victim had minimal contact with the accused or members of the public while waiting to testify. A specifically designated waiting room for victims was used 87.8% of the time. Victims generally appear to have felt fairly safe (17.1%) to totally safe (75.6%) while waiting to testify. This perception of safety and privacy extends into their experiences while testifying in court. Members of the public were barred from the court during the victims' testimony in 84.2% of the cases reported.

Of the victims who testified, 70.5% had their rights and duties as a witness explained to them by the magistrate or prosecutor in court. All but 6.3% of the respondents were satisfied with the aforementioned explanations. Satisfaction was expressed with the way in which the prosecutor led their evidence in 96% of the reported cases. The ability of the interpreter or intermediary to accurately convey the victim's testimony to the court was perceived as satisfactory or better 91.1% of the time.

Regarding the more adversarial aspect of the trial, 20% of victims felt that the defense attorney intimidated them during cross-examination. However, 85% of the respondents were of the opinion that sufficient steps were taken to guard against intimidation, while 15% were intimidated by the accused during their time in court. The two most common suggestions offered by the victims to help reduce intimidation by the accused in court, were to keep the victim in a separate room for as much of the proceedings as possible and to allow all victims to testify via the closed circuit television system. Approximately one third of the victims surveyed (31.7%) felt that their personal dignity was insulted during

the course of the trial. The majority of complaints in this regard related to the manner in which the victim was cross-examined. In 25% of the cases the victim was upset by the defense attorney's implication that the victim was partially responsible for being sexually assaulted. Victims also made reference to the need for magistrates to demonstrate more respect for the dignity of people appearing in their courts.

**Figure 3: Outcome of the trials as reported by victims of sexual offences**



n=41

The outcome of the trials heard by the Court for Sexual Offences can be broken down as illustrated in Figure 3. It illustrates that 72% of the cases resulted in convictions, while an 8% acquittal rate was observed. In addition, 20% of the victims of sexual offences were not aware of the outcome of the trial. Of the 80% of the sample who were aware of the outcome of their cases, 18 (58.1%) received the news from the attorney who prosecuted the case, a social worker informed 3.2% of the victims about the outcome of the trial, while the police conveyed the news to 9.7% of the individuals involved, and 29% received the news from other, unspecified sources. The Court's verdict was met with approval by 62.5% of the participants, with the remaining 37.5% expressing disappointment.

The victims were interviewed with respect to the sentences the accused in their cases received. It was disturbing to note that 31.6% of the victims, had no idea of the nature of the sentence the person who sexually assaulted them, received. Those who were aware of



the sentences handed down reported that 10,5% of the individuals found guilty were sentenced to 8 years imprisonment. Twelve-year prison sentences were imposed upon a further 10.5% of the accused. The lightest sentence imposed was a six-month prison sentence suspended for 3 months, while 18 years imprisonment was the harshest sentence reported. Of the victims surveyed, 51.9% were dissatisfied with the sentences the offenders received. Furthermore, even those victims who described themselves as satisfied, recommended heavier sentences when given the opportunity to do so. Half the victims sampled (47.1%) were of the opinion that the accused in their cases should have received a life-sentence. However, 17.6% seemed to be satisfied with the sentences handed down. It is worth noting that, with the exclusion of 17.6% of the cases, the victims suggested significantly harsher sentences than those eventually imposed.

The large majority of victims of sexual offences who had their cases heard in the Court for Sexual Offences claim to have received no form of therapy or follow up services. When asked whether anyone from Social Welfare contacted them to see how they were progressing, 78.4% of respondents answered no. The perceived need for such services amongst the respondents was reported to be 85%. Of the 85% who felt that follow up services were essential, 68,4% felt that the victims needed to be helped to deal with the trauma they had been exposed to, and a further 7.9% were of the opinion that regular follow-ups would help to prevent harassment of the victim by the family of the accused. In the perceived absence of organized after care, 51.3% of the victims interviewed, relied primarily on the support of their families and communities to deal with the effects of being sexually assaulted. The court was seen to have played a role in only 12.8% of respondents' emotional recovery by incarcerating the perpetrator/s of the sexual assault.

**Table 2: Victims' perceptions of the Court for Sexual Offences**

Victim's rating of experience	Percentage of cases reported
Totally satisfied	22%
More than Satisfied	32%
Satisfied	36%
Dissatisfied	10%

n=41

It is evident from Table 2, that the majority of individuals surveyed, experienced their interaction with the Court of Sexual Offences as satisfying or better. A tenth of those interviewed claimed to be dissatisfied with their judicial experiences. The tendencies depicted in Table 2 may be further illuminated by closer investigation of victims' experiences of various facets of the Court's functioning. When asked whether the Court for Sexual Offences succeeds in providing improved justice for the victims of sex crimes, 10% of the respondents answered not at all, 2.5% felt that it did somewhat, 22.5% were of the opinion that it succeeded to an extent, while 37.5% felt that it was largely successful and 27.5 % viewed the Court as totally successful. Victims were of the opinion that a specialized court for sexual offences did reduce the trauma that the victims of sex crime were exposed to during the judicial process. The Court was viewed as successful in reducing trauma to a large extent by 46.3% of the participants, while 9.8% were of the opinion that it succeeded totally. Conversely, 26.8% expressed either reservations about or dissatisfaction with the Court's ability to reduce the trauma the victim experiences during legal proceedings. However, only 4.9% of the victims participating in the study stated that they would not recommend that someone in a situation similar to theirs, make use of the services of the Court for Sexual Offences.

Most victims reported that their experience with the Court for Sexual Offences did not differ radically from their expectations. In fact, 51.5% of the respondents were of the opinion that their experience had been less traumatic than they had expected it to be. An

additional 30.3% felt that the process did not differ from their expectations at all. Some suggestions were made, however, with regard to improving the service the Court offers to the public. A quarter of those interviewed (23.1%) suggested that the sentences for sex crime should be harsher. A further 30.8% felt that the entire judicial process was too drawn out and would benefit from streamlining. A third suggestion also focused on the issue of time. Here 30.8% of the participants found that having to focus on the incident after an extended period of time retraumatized them and was experienced as being detrimental to their recovery.

## **Discussion**

The biographical results of the questionnaire provide a profile of the "average" victim of sexual assault participating in the study. This person is Black, female, approximately 23 years of age with six years of formal education and has been the solitary rape victim of a single assailant. This underlines the assumption that the majority of individuals serviced by courts like the Court for Sexual Offences in Bloemfontein and associated auxiliary bodies are disenfranchised individuals from more disadvantaged socio-economic and socio-political sectors of society (cf. Stanton, Lochrenberg & Mukasa, 1997; Nomoyi & Pretorius, 1999).

The individuals participating in the study appear to generally have been satisfied regarding their interaction with the South African Police Service. The police, in most cases, were considered to be concerned with the victim's welfare and committed to placing the suspect into custody. They were, however, criticized for not keeping the victims updated as to how the investigation was progressing. The respondents suggested the appointment of more female police officers to deal with sex crimes and, more specifically, the victims of these crimes. The victims were also of the opinion that response times needed to be improved, that more training was required with respect to dealing with the victims of sexual offences, and that community policing needed to be more actively employed as a preventative method of combating sex crimes.

The victims are, in all probability, more comfortable dealing with the police as this is one of the state organs that tends to be more accessible to informal settlement dwellers. This may have resulted in a more informed and comparable evaluation of the police than of the other institutions. Healthy interpersonal relationships with police officers, who themselves often live in these communities, no doubt makes it easier for victims to relate to the police and for the police to display the appropriate empathy with victims. The perceived shortcomings in the service provided to the victims by the police appear to be mainly the result of poor administrative organization and manpower shortages. The suggested solutions, while ideal, are mostly beyond the current economic and organizational capabilities of the police services. However, the deployment of more female police officers to deal with sex crimes, greater transparency regarding investigations, and interpersonal skills and sensitivity training for officials most likely to come into contact with sex crime victims, are viable service improvement strategies.

The interaction victims had with the State physicians and medical staff was also classified as positive. The treating physician's gender, competence and empathy appear to have underscored this positive evaluation. It was, however, suggested that the victims have greater and more immediate access to the findings of the medical examinations. Furthermore, numerous respondents identified rudeness and low empathy on the part of nursing staff as negative experiences. Relatively few of victims appear to be advised by the physician conducting the examination to seek some type of counselling or therapeutic assistance to deal with the emotional effects of these incidents. This is especially disturbing when seen against the number of victims who prioritize post incident counselling very highly amongst their needs. It also casts doubt on the comprehensiveness of these medical examinations, which appear to overemphasize the investigation of physical phenomena and largely ignore the psychological aspects of the victims' reactions to being assaulted. The question therefore needs to be asked as to whether comprehensive multi-disciplinary victim care is being sacrificed in the pursuit of forensic evidence aimed exclusively at securing convictions? The need for more comprehensive specialist victim assessment and psychological treatment is obviously indicated. The Court would thus further reduce secondary victimization, and even the

primary traumatic effects, by initiating closer co-operation with mental health agencies in this regard.

Despite sex courts listing increased efficiency as one of their main priorities (Viviers, 1994; De Rebus, 1998), 75.6% of the respondents in the current study report having to wait in excess of six months for their cases to come to trial. The majority were of the opinion that this was an unacceptable state of affairs, which caused them further trauma by having to recount and relive the sexual assault so long after it had been perpetrated. The need to speed up the current rate at which cases are dealt with is apparent. The most obvious way for the Court to continue making progress in this area is through expansion of the current system. However, an apparent lack of commitment, on the part of the Government to translate its stricter policies for dealing with sexual offences into measurable action on the ground, currently frustrates any such expansion efforts.

The majority of respondents appear to have been anxious about their participation in judicial proceedings. However, their interactions with the prosecutors before going to court greatly diminished this anxiety. Most victims felt that the prosecutor in their case had adequately prepared them for their court appearance and that they fully understood their role as witness and complainant. The prosecutors were generally viewed as having the victim's interests at heart and being prepared to advocate, not only the victim's cause, but also their rights in court. Although most respondents made their court appearance with little associated trauma, certain parties did feel that their personal dignity was injured during the proceedings. Most of these individuals identified defense attorneys and offenders as the source of such slights upon their character, while others feel that the magistrates themselves have a tendency not to display sufficient respect to complainants in sexual offence cases.

The preceding review would suggest that the Court for Sexual Offences in Bloemfontein does largely succeed in reducing the secondary trauma that sex crime victims are often exposed to during legal proceedings. However, the Court's current standard could be further raised by addressing issues of intimidation and respect for personal dignity. The

area where most improvement can be made appears to be with regard to victims' perceptions of intimidation. Sufficient steps appear to be taken to reduce the intimidation that attorneys and offenders are allowed to engage in. Consequently, it may prove prudent to spend more time educating and counselling the victim with regard to how best to deal with these unavoidable situations. Magistrates presiding over specialist sex court, it would seem could benefit from developing a greater understanding of the emotional experiences of the victims appearing in their courtrooms.

The most disturbing findings of the current study relate to the way in which the specialized sex court system appears to deal with the victims once they have testified in court. Of the victims surveyed, 20% reported not having been notified with regard to the outcome of their cases, while a further 29% report having received news of the trial's outcome from sources other than the police or court personnel. Thus the Court for Sexual Offences in Bloemfontein only succeeded in informing the victim of the outcome of their trial in half of the cases sampled. An equally discomfoting number of individuals had no idea of the sentence the perpetrator had received. This sheds serious doubt on the therapeutic value of the system, as therapeutic jurisprudence is based on the tenant that the victim's emotional recovery is benefited by seeing the offender found guilty and sentenced for the crime (cf. Casey & Rottman 2000; Christean, 2002). Furthermore, in excess of three quarters of those interviewed deny ever being referred for counselling, or being encouraged to seek professional help in overcoming the rape trauma. The same number of respondents also report that to date no follow up visits have been made by employees of the Social Welfare Department. This is in stark contrast to the need for therapeutic, counselling and informative services expressed by 85% of the participants.

The feeling noted by the respondents that they were only important to the Court with regard to obtaining a conviction, and were then largely left to their own devices, corresponds with finding published on the Sexual Offences Court in Wynberg, Western Cape (Barnes-September, 1998; Moulton, 2002). This suggests that the specialized sex court system needs to re-evaluate its responsibilities toward the victims. The first step in remedying the situation would be to ensure that as many victims as possible attend

judgment and sentencing sessions relating to their cases or at least that a concerted effort is made to inform these people of the outcome of their trials. Furthermore the victims would definitely benefit from psychotherapy, health education and counselling following both the initial incident and participation in the trial. Mental health agencies could be approached concerning the possibility of establishing "rape clinics" to assist with the identification of individuals at high risk of developing pathological reaction to rape related trauma, forensic psychological evidence gathering, monitoring the victim's progress and rendering therapeutic services. This would seem to be a natural progression for a specialized judicial system that takes its responsibility to reduce rape related trauma and improve the quality of service it delivers to victims seriously.

Notwithstanding the preceding criticisms, all but a tenth of the individuals participating in the study labelled their interaction with the Court for Sexual Offences as satisfying or better. In fact 51.5% of those surveyed said that the experience had been far less traumatizing than they had expected it to be, while 30.3% were of the opinion that their experiences with the Court had not differed significantly from their expectations. The respondents did, however, suggest much harsher sentences than those handed down in most cases.

### **Shortcomings of the study and future research directions**

Having explored the shortcomings of the Court for Sexual Offences, it is appropriate to also take a closer look at some of the weaknesses inherent in this research project. The eventual sample size of 44 individuals, while justifiable under the circumstances, is not large enough to obtain a truly representative sample of the victim's perceptions with regard to the Court's functioning. Consequently, these findings cannot be generalized to the population served by the Court for Sexual Offences in Bloemfontein with any confidence, let alone to the specialized sex court system at a national level. It is thus evident that future research projects in this area would benefit from drawing much larger samples. The possibility of a multi-center national evaluation of the specialized sex court

system should be considered. The value of an ongoing assessment of the sex court system should not be ignored.

The composition of the current sample results in certain empirical weaknesses. The individuals involved in the study, with minimal exceptions, were involved in cases where the offender was found guilty. This created a group of "satisfied customers" who may have been more inclined to be satisfied with the system, than individuals who had received less pleasing results from their involvement with the Court. With no access to collateral information sources, such as court records, the current research design made no provision for verifying or validating certain facts such as sentences handed down etc. Consequently, no assurance exists as to the respondents' accounts of events or the appropriateness of perceptions based thereupon. A need does seem to exist for future research to adopt an approach whereby the perceptions of all the parties involved in specific cases can be compared to and controlled against each other.

The study was in many respects both an explorative and pioneering study. This necessitated the development of a measuring instrument. Consequently, many irrelevant opinions and perceptions were sampled and more important ones largely ignored or only superficially investigated. The fact that the Court for Sexual Offences is a new and uniquely South African development makes it very difficult to place the current findings into some form of international or even local perspective. However, this study could hopefully serve as a comparative basis for other studies in the area. Consequent studies could further develop and define the tools for sampling victims' perceptions of the judiciary. Studies with more in depth and narrower focuses on specific aspects of the relevant judicial system may yield fruitful results.

The small sample used made a more sophisticated analysis of the influence of such variables as age, gender, cultural background and victimization history impossible. Restricted access to court and police records, as well as difficulties in locating subjects precluded a case-by-case analysis of the Court's perceived functioning. Closer examination of the age distribution within the eventual sample indicates that minors were



underrepresented. Consequently, any findings pertaining to minors' experiences of this particular judicial system need to be interpreted with great caution. More sophisticated methods of participant identification and location would enhance the reliability and applicability of future research in this area. Studies tailored more specifically to the experiences of minors within the sex court system are definitely indicated.

There has over the past few years, been an increasing tendency in South Africa to implement judicial, social and economic systems to alleviate the suffering of the poor and disenfranchised. However, once implemented, these systems are left to run without any apparent need to determine their efficacy or indeed their applicability within the communities they are said to serve. This study will hopefully help to draw attention to the need to critically evaluate the practical application of judicial and social policies. Thus fostering similar evaluative approaches to community development in South Africa.

## References

- Barnes-September, R.L. (1998). *The development of a protocol for the management of child abuse and neglect*. Unpublished doctoral thesis, University of the Western Cape
- Benesh, S.C. & Howell, S.E. (2001). Confidence in the Courts: A comparison of users and non-users. *Behavioral Science and Law*, 19, 199-214.
- Bomela, N. (1999). *Female Headed Households in South Africa*. Paper presented at the European Population Conference. Helsinki. (6-10 December 1999).
- Brooks, R.R. (2000). Fear and fairness in the city: Criminal enforcement and community perceptions of fairness. *Southern California Law Review*.
- Brooks, R.R. & Jeon-Slaughter, H. (2001). Race, income and perceptions of the U.S. court system. *Behavioral Science and Law*, 19, 249-264.
- Campbell, R. & Raja, S. (1999). *Secondary victimization of rape victims: Insights from Mental Health Professionals who treat survivors of violence*.  
[Http://www.vawprevention.org/research/victimrape.shtml](http://www.vawprevention.org/research/victimrape.shtml).

- Casey, P. & Rottman, D. (2000). *Therapeutic Jurisprudence in the Courts*.  
[Http://www.ncsc.dni.us/ICM/distance/therapeutic/2000-08/html](http://www.ncsc.dni.us/ICM/distance/therapeutic/2000-08/html).
- Christean, A.G. (2002). *Therapeutic Jurisprudence: Embracing a tainted ideal*.  
[Http://www.sutherlandinstitute.org/Publications/FocusonUtah/TherJuris/TherJuris.htm](http://www.sutherlandinstitute.org/Publications/FocusonUtah/TherJuris/TherJuris.htm)
- Crime Information Analysis Center. (2001). *The reported serious crime situation in South Africa for the period January – September 2001*. Pretoria: South African Police Service Crime Analysis Center.
- Cwik, M.S. (1996). The many effects of rape: The victim, her family, and suggestions for family therapy. *Family Therapy*, 23 (2), 95-116.
- De Rebus. (1998). *Justice Ministry calls for specialization of the courts and the judiciary*.
- Kaukinen, C. & Colvavecchia, S. (1999). Public perceptions of the courts: An examination of attitudes towards the treatment of victims and accused. *Canadian Journal of Criminology*, July, 365-384.
- Meintjies-Van der Walt, L. (1998). Towards victims' empowerment strategies in the criminal justice process. *South African Journal of Criminal Justice*, 11, (2) 157-172.
- Moult, K. (2002). *The court doors may be open, but what lies behind those doors? An observation of the workings of the Wynberg Sexual Offences Court*.  
[Http://www.uct.ac.za/depts/sjrp/publicat/kelleyt.htm](http://www.uct.ac.za/depts/sjrp/publicat/kelleyt.htm).
- Myers, L. (1996). *Bringing the offender to heel: Views of the criminal courts*. In T.J. Flanagan and D.R. Longmire (Eds.), *Americans View Crime and Justice: A national opinion Survey*. California: Sage.
- Nomoyi, N.C. & Pretorius, R. (1999). Inaccessible support services: Experiences of victims of violent crime. *Acta Criminologica*, 11 (2), 95-101.
- Opperman, L. (September 2000). Personal communication.
- Pelser, A. & De Kock, C. (2000). Violence in South Africa: A note on some trends in the 1990's. *Acta Criminologica*, 13 (1), 80-94.
- Pillay, A.L. & Sargent, C. (2000). Psycho-legal issues affecting rape survivors with mental retardation. *South African Journal of Psychology*, 30, 9-13.

- Powers, J. (1997). *A new specialty court for Texas?* [Http://www.adminlaw.org/aotm2.htm](http://www.adminlaw.org/aotm2.htm).
- Rasool, S. (2000). Sexual offences courts: Do more courts mean better justice? *Nedbank ISS Crime Index*, 2, 11-14.
- Stanton, S., Lochrenberg, M. & Mukasa, M. (1997). *Improved justice for survivors of Sexual violence? Adult survivors' experiences of the Wynberg Sexual Offences Court and associated services*. Cape Town: African Gender Institute.
- Sprott, J. & Doob, A.N. (1997). Fear, victimization and attitudes to sentencing, the courts, and the police. *Canadian Journal of Criminology*, 39 (3), 275-291.
- Tyler, T.R. (2001). Public trust and confidence in legal authorities: What do majority and minority group members want from the law and legal institutions? *Behavioral Sciences and the Law*, 19, 215-235
- Van Rensburg, H.C.J. (1999). *Crime in South Africa – current state and trends*. Paper presented at the University of Bahrain (21 November 1999).
- Viviers, S. (1994). Wynberg Sexual Offences Court: Impressions after a year in operation. *De Rebus*, Aug, 569-570.

## ARTICLE III

# The Court for Sexual Offences: Perceptions of the families of the victims of sexual offences

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## ARTICLE III

### **The Court for Sexual Offences: Perceptions of the families of the victims of sexual offences**

#### **Abstract**

This article aims to evaluate the degree to which the Court for Sexual Offences in Bloemfontein and associated auxiliary institutions meet the needs of the families of the victims of sex crimes. The perceptions of 24 family members of victims in this regard were obtained. These individuals generally perceived the functioning of the Court and its auxiliary institutions in a positive light. However, perceptions of the time that cases took to come to trial and the standard of post-trial interaction between the Court and the families were not as positive. A need for more effective victim care at both social and psychological levels was identified. Future psycho-legal research possibilities in this largely neglected field are also highlighted.

#### **Introduction**

The sex crime problem in South Africa has been widely publicized. Much has been written in the popular media with regard to the effects of rape and other forms of sexual assault on the victims of these crimes. However, very little attention seems to have been paid to the family members of the victims of sexual assaults. They are, at best, viewed as convenient support networks and sources of additional information with regard to the experiences of the victim. The lack of attention afforded to the victims' families is even more apparent in academic literature. A search of numerous psychological literature databases yielded scant return with regard to research pertaining to the families of the victims of sexual offences. Even when the search was extended to include the families of crime victims in general, the results were disappointing. Most sources sighted research focusing on family members as struggling to assist in the victim's recovery or appeared to view them as pawns in the justification or advocacy of varying positions on capital punishment.

The results of the aforementioned literature searches serve to underline the extent to which the experiences of families of crime victims have been overlooked in psycho-legal research. This is unfortunate when one considers that, as the victim's primary support network, these family members must experience the trauma of crimes against their relatives at near the same intensity as the victims themselves. This is frequently compounded by the family members' feelings of guilt and inadequacy relating to the crime, especially in the case of sexual offences. Moreover, family members of sexual offence victims are most frequently saddled with the task of helping their relatives deal with the effects of the assault, when state institutions are inaccessible or fail to fully cater to the victim's needs. Consequently, these family members, as primary support structures and secondary victims, have a vested interest in the functioning of any institution or body that undertakes to defend the rights of sexual offence victims. This qualifies the perceptions that the family members of sexual assault victims may have, regarding experiences with the Court for Sexual Offences in Bloemfontein as a research avenue worthy of exploration.

### **Literature review**

When the lack of relevant research addressing the interaction of sex crime victims and specialized sex courts is taken into account, it is justified to assume that research on more peripheral figures such as the victim's relatives would be all but nonexistent. Embarking upon a search for relevant literature soon justifies this assumption. Data on the experiences of the relatives of the victims of crime in general was equally disappointing. Consequently, the ensuing theoretical orientation has to rely extensively upon the premise of commonality. Thus two points of departure are proposed for this literature review. The first is that the current rape crisis in South Africa (Barnes-September, 1998) has a unique but comparably significant impact on the family members of the victims of these crimes. Secondly, given that these individuals come from similar socio-economic and sociopolitical backgrounds to the victims, they are assumed to share similar views regarding the functioning of the judiciary and other state organs.

The extent of the rape and sex crime problem in the Free State was detailed in Article I as well as Article II. Every year numerous women and children find themselves having to deal with the trauma of having been raped. Those who choose to report these offences to the authorities have the added ordeal of having to assist in investigations, submit to intrusive physical investigations and recount their traumatic experiences in court, often at a point where they feel they have just begun to heal. For many of these individuals the entire process is made bearable by the support of their families (see Article II). Furthermore the long term effect that sexual assaults have upon the victims' mental health (Cwik, 1996; Laxton, 2002) is left for the family to deal with, in a system that appears to be falling drastically short of providing effective therapeutic care for these individuals (Moult, 2002). The role of victims' relatives becomes even more vital when the sexual assault is perpetrated against a minor. In these instances the relative, often a grandparent or older sibling, is forced to become far more involved in the entire judicial process. These individuals often have to deal with a distraught child reporting that they have been sexually assaulted. The relative then has to take responsibility for reporting the incident to the police, accompanying the victim to the forensic medical examination where they often have to act as chief information source, and finally accompany and support the victim through the trial preparation and the court hearing itself. Consequently, these individuals are also in a position to evaluate the fairness and legitimacy of the Court's functioning (Benesh & Howell, 2001). The very real and traumatic effect that sex crimes have on the victims' families sadly appear to have been ignored.

The victims in cases heard by the Court for Sexual Offences in Bloemfontein are almost exclusively women and minors of both genders, from the less socio-economically privileged sectors of the community (Opperman, personal communication, 2000). Most of these individuals will form part of a multigenerational female-headed household, where often only the older women have access to a stable source of income either via employment or a state pension (Bomela, 1999). This often places employed, elderly or physically disabled members of the family in a position of responsibility, if not always one of authority. The aforementioned responsibility would naturally be expected to

extend to the supportive role family members are reported to play after a sexual assault has occurred (see Article II). One is thus left with the general impression that the matriarch of the family or another female relative, designated for the task by this person, supports the sex crime victim through the judicial process. These individuals usually come from sectors of society that have few financial resources and little access to any form of professional help aside from that supplied by organs of the state. It stands to reason that these shared cultural and demographic variables will result in a high degree of commonality amongst the victims of sexual offences and members of their families. Not least influenced by these common life experiences will be their attitudes towards the institutions of power in their specific society. The judiciary is one such institution.

In the context of the preceding discussion, the factors influencing the family members' experiences of and attitudes towards the legal system will be the factors affecting the attitudes of the disenfranchised, marginalized and poor of South African society. People living in the more marginalized informal settlements in South Africa, as most of the families involved with the Court for Sexual Offences in Bloemfontein do, could generally be expected to have had a fairly high exposure to crime. The way these individuals perceive the criminal courts to be dealing with crime could thus affect their view of the judicial system in general. Benesh and Howell (2001) make the point that people often tend to have little faith in the judicial system's ability to protect the rights of citizens and punish criminals, when these courts are perceived as being too lenient with regard to sentencing and setting bail conditions. Consequently, these individuals who tend to be dependent upon the State to defend their rights would often be personally affected by less than decisive action by the courts. This may result in a situation where the prevailing crime rate is largely attributed to the judiciary.

The efficiency with which the courts are perceived to dispense justice also has an influence on the public's attitude towards them. Individuals tend to be negatively disposed towards a judiciary that is perceived to be slow at either bringing cases to trial or tardy at seeing them through to a suitable conclusion (Bennack, 1999). Howell (1998) makes the observation that in some cases individuals may even decide not to make use of



the judiciary due to the frustration they perceive to be associated with slow turning wheels of justice. This could be said to apply to the perceptions of any South African in the context of the over loaded and inefficient local judicial system.

People's perceptions of any legal system is also largely influenced by the stake they have in it as well as the degree of control they perceive to have during their interaction with the court (Benesh & Howell, 2001). The families of the victims of sex crime could be considered to have a substantial stake in the judicial system on two levels. Firstly, they have a substantial stake in the outcome of their relative's case. The outcome of this specific trial will, to an extent, determine the nature of the recovery process that the victim and therefore the family will undergo. The second level of interest these individuals have in the outcome of criminal cases is that of being potential victims. As mentioned earlier, the majority of victims' families tend to live in areas where the crime rate is highest. This translates into a situation where the individual's chances of being targeted as a victim of crime are increased with every offender that falls through the cracks in the criminal justice system. The disenfranchised could not be justified in feeling that they have any real control over the judicial process. The mainly female relatives of victims from disadvantaged background constitute, with the possible exception of children, the most powerless sector of South African society. Consequently, they are totally at the mercy of a judiciary that they have no influence over and, in most cases, understanding of. The result is a group of people whose perceptions of criminal courts in general is skewed in terms of the fact that they have the most to lose through interaction with the courts and the least influence over the nature and outcome of this interaction. A general distrust of, or resentment toward the judiciary would appear to be the most plausible reaction to being in this predicament.

Specialized sex courts appear to predominantly deal with victims and families that are not very sophisticated with regard to their interaction with state organs (Moult, 2002; Barnes-September, 1998; Opperman, personal communication, 2000). This suggests that while they are very well acquainted with the day-to-day effects of the criminal justice system, they have very little direct exposure to the judiciary. Their perceptions of the legal

system may thus frequently be dependent upon a single interaction. Benesh and Howell (2001) are of the opinion that individuals who are naïve to the court system have their perceptions significantly influenced by their interaction with court and associated staff. Courtesy on the part of court staff was found to be a strong predictor of satisfaction with the judicial system. The outcome of the trial understandably also influences peoples' perceptions of the legal system. There appears to be a tendency for people to judge the fairness of judicial proceedings based upon the outcome of the case (Benesh & Howell, 2001). Thus perceptions of a particular court may often be no more than a reflection of whether or not the particular individual was treated respectfully and received a favorable judgment.

The families of the victims of sexual offences have a vested interest in the workings and judgments of the Court for Sexual Offences in Bloemfontein. Their involvement with the Court and numerous auxiliary services places them in a position to observe and comment on the specialized sex court system. Moreover, the slightly less emotional nature of their interaction with the system, may result in a slightly more objective evaluation of the process than most victims are capable of. The Court for Sexual Offences' undertaking to reduce secondary victimization and improve justice for the victim are of just as much concern to family members as to the victims themselves.

## **Method**

The methodology employed in studying the perceptions of the families of victims was similar to that employed with the victims. Predictably, so were the problems encountered. The questionnaire was also compiled in consultation with the staff of the Court for Sexual Offences in Bloemfontein. The final product was an adaptation of the victim questionnaire that was partially based on the research of Stanton, Lochrenberg and Mukasa (1997) as well as Barnes-September (1998). The questionnaire samples the family member's perceptions regarding their interaction with the South African Police Services, the State physician, the prosecutor and other court personnel, as well as the outcome of the trial, the sentence imposed by the Court, and the after care that the victim

and family received. As with the victims, questions were presented in two item forced-choice format, five point Likert Scales and open-ended questions aimed at eliciting more detailed responses (see Appendix A).

The original sample was based on the approximately 700 cases the Court hears annually (Opperman, personal communication, 2000). This sample consisted of one relative per case for the 100 victims, (70 adults and 30 minors) sampled. Only the relatives of victims who had undergone the entire process, up to and including, receiving judgment were included in the sample. A specific relative would be identified during interviews with the victims and then interviewed at their first convenience. Cases heard by the Court between January 2000 and December 2001 were included in the sample. The commander of the Child Protection and Sex Crimes Unit in Bloemfontein granted permission to access police records in order to obtain the personal details of potential participants. Research assistants trained in psychology to a post-graduate level were employed to locate the individuals included in the sample and administer the questionnaires. This was necessary as the English questionnaire had to be administered as a structured interview to mostly illiterate and semiliterate individuals in a variety of languages. The research assistants were proficient in the home languages of the respondents.

The final sample obtained fell short of the intended one. High geographic mobility amongst the target population, and the extended passage of time that elapsed between the police obtaining the victim's (and therefore the families') details and judgment eventually being handed down, made it very difficult to locate the participants. Consequently, the sample of potential participants was expanded from the families of 100 victims (70 adults and 30 minors) to the families of 130 individuals of varying ages. The questionnaire was finally administered to 30 relatives of sexual offence victims, subsequent to having obtained their written informed consent to participate in the study. The low response rate was due to various factors, including an inability to locate individuals, people's unwillingness to share their experiences with the researchers and various refusals to sign the informed consent form (see Appendix B). Only 24 of the 30 questionnaires were

responded to completely enough to yield meaningful information. The remaining 24 questionnaires were statistically analyzed and frequencies for each response item calculated in an attempt to determine trends in the perceptions of family members.

## **Results**

The largest proportion (32%) of the family members included in the sample were aged between 31 and 40 years. Individuals between 16 and 30 years of age – mostly siblings of victims and parents of minor victims of sexual assaults – accounted for 34% of the participants. A further 21% of the individuals surveyed were between the ages of 41 and 50 years. Relatives older than 51 years of age amounted to 13% of the sample. The youngest family member interviewed was 16 years of age and the oldest 70. The average age of participants was 36.04 years with a Standard Deviation of 13.12 years. Only 12.5% of the family members included in the study were male. The 21 female participants accounted for the remaining 87.5%. With regards to the distribution of race within the sample, 91.7% were Black and 8.3% were so-called Coloured individuals.

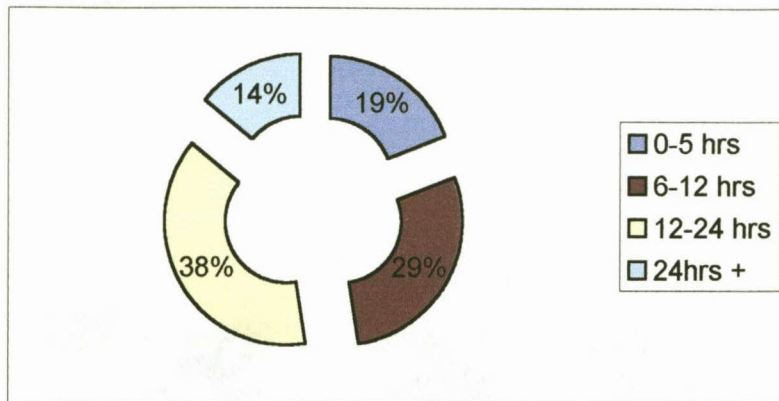
The majority of family members (62%) claimed to be unemployed. Scholars constituted 13% of the sample. The gainfully employed participants consisted of artisans or trades people (4%); unskilled, semiskilled or part-time laborers (17%) and security guards (4%). A fifth of the individuals sampled (20.8%) had no formal schooling, while 6 family members (25%) claimed to have completed 10 years of schooling. Primary school graduates comprised 12.5% of the respondents, while a further 12.5% had progressed to the penultimate years of secondary school. The educational Mean for the sample was 6.22 years of formal schooling with a Standard Deviation of 4.11 years.

Most participants (75%) reported that emotional turmoil at hearing about what had happened to their relative motivated them to report the offence to the police. In cases where the victim was a minor, the family member was primarily responsible for reporting the crime. However, the abovementioned percentage also includes individuals who motivated the victim to report the incident or supported them during the reporting

process. More than a third of the victims' relatives (37.5%) were of the opinion that the police responded primarily by initiating an investigation into the incident. In 33.3% of the cases the police responded by placing the accused under arrest. A quarter (25%) of the respondents reported that the police took them and the victim to a hospital or clinic, in order for a medical examination to be performed. Police Officers attempted to discourage the victim from pressing charges 16.7% of the time. In these instances the police officials concerned were experienced as unmotivated, incompetent and irresponsible. Notwithstanding these complaints, 87.5% of the individuals surveyed, felt that the police were approachable and helpful. All the participants expressed satisfaction with the way in which the police took their statements as well as the victims' statements. In 66.7% of the cases the police informed the victims' family members how the investigation and prosecution were likely to proceed. However, 20.8% of those interviewed were less than satisfied with the regularity of feedback concerning the investigation's progress.

Although they were generally positive about their interaction with the police force, the families of the victims did make certain recommendations concerning possible improvements in the service they received. It was suggested that more female police officers should be utilized in sexual offence cases. The police's response time when dealing with sex crimes was also singled out as an area of potential improvement.

**Figure 1: Time lapsed between sexual assault and forensic examination by a physician**



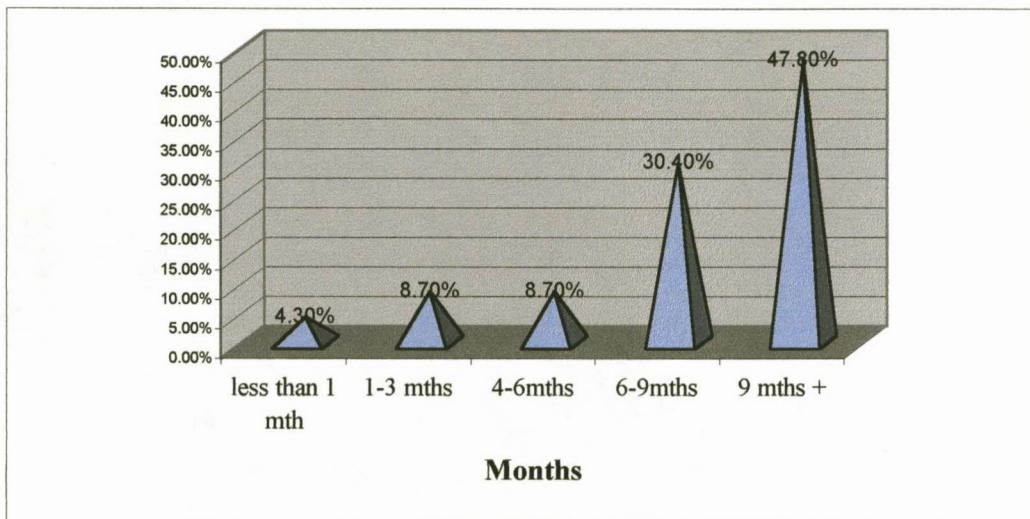
n=21

The relatives of the victims were positive regarding the manner in which the victims were referred for forensic medical examination in 81.8% of the cases reported. Figure 1 illustrates the time that lapsed between the sexual offence and the victims first contact with a physician. According to the graph, 19% of the participants reported that the victim was attended to within five hours of the incident, while a response time of between six and 12 hours was reported in 29% of the cases. More than half (52%) of the victims were attended to in excess of 12 hours after the incident. An explanation for the delay was offered in less than 43.8% of the instances. However, in the 56.2% of cases where an explanation was forthcoming, the respondents claimed to be satisfied with said explanation. The families of the victims were informed of the results of the medical examination in 63.6% of the cases. The attending physician recommended counselling and/or further treatment to 52.4% of the participants, but failed to make any recommendations in this regard to 47.6% of the sample.

The majority of the family members perceived the physicians as competent, with only 14.3% expressing dissatisfaction with the thoroughness of the medical examination. Positive comments with regard to the treatment of the victims included references to the empathy displayed towards the victim, as well as the competence of the medical personnel. Negative comments were largely limited to the lack of sensitivity and respect

displayed by certain nurses. The participants suggested that the medical personnel could improve their service by routinely testing for sexually transmitted diseases when dealing with the victims of sexual offences. It was also recommended that feedback regarding the victim's medical condition should be more forthcoming.

**Figure 2: Periods of time for sexual assault cases to come to trial**



n=22

Figure 2 graphically depicts the time that the respondents' relatives' cases took to come to trial. The majority of cases (77.4%) took in excess of six months to come to trial. Moreover, 48.8% of the cases took more than nine months to come to trial. A small proportion of the cases (4.3%) were heard less than a month after the offence was committed. The remaining 17.4% of the sample saw their relatives' cases come to trial between one and six months after the commission of the crime. Attitudes regarding the length of time cases took to come to trial were generally negative. Half of the victims' relatives interviewed, expressed dissatisfaction with the time that elapsed between the commission of the crime and the court date. A rating of more than satisfactory or better was obtained from 18.1% of the participants.

The individuals sampled were more positive with regard to the logistical arrangements surrounding the trial. The notice that the family members were given before being

required to appear in court was rated as more than satisfactory 52.2% of the time, while 26.1% stated that they were very happy with the situation. Individuals reported being informed that they were allowed to attend the trial and offer moral support to their relatives 90.9% of the time. In 30.4% of the reported cases family members made one court appearance, 26.1% were required to go to court upon two occasions, and three visits were reported in 17.4% of the instances. Finally, a further 26.1% of those surveyed made four or more visits. In 82.6% of the cases reported, the respondents were satisfied with their experiences in this regard.

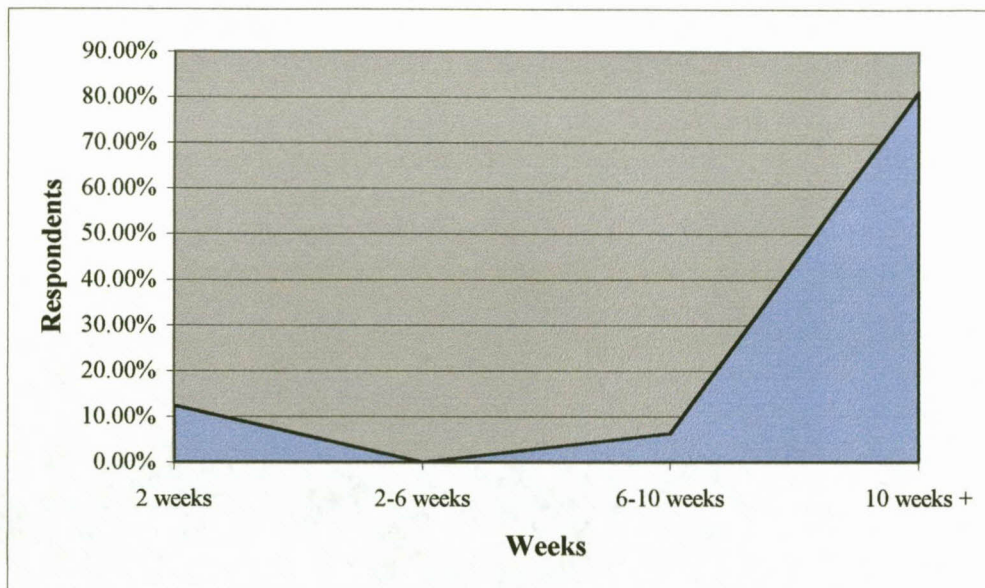
Three quarters (75%) of the family members did not know how the Court for Sexual Offences differs from other courts. These responses were based primarily on the fact that this was these individuals' first interaction with the judicial system. With regard to the remaining, judicially more sophisticated, respondents, 15% did not notice any differences between the special sex court and other courts, while 5% stated that the court only sat in judgment over sexual offence cases. The remaining 5% identified increased confidentiality or privacy for the victim as the Court's distinguishing feature. The majority of these definitions were based on the respondents' own observations as 88.9% claimed to have had no access to information regarding the Court for Sexual Offences leading up to the trial.

Intimidation, harassment and bribery of the victims' families by the accused or individuals personally affiliated to the accused were reported 77.3% of the time. The majority of the family members (59.1%) were of the opinion that no steps were taken by the justice system to prevent this scenario. However, 40.9% did feel that sufficient precautions were taken to ensure that they were not harassed.

The lack of exposure to legal proceedings and legal professionals did not seem to be as much of a problem for the families of the victims. The majority (50%) were anxious and not sure of what was expected of them, but 22.7% stated that they had no apprehensions about the trial or their possible involvement therein, while 13.6% feared that the victim would be embarrassed or insulted during the course of proceedings.



**Figure 3: Waiting periods before consulting with prosecutors**



n=16

The period of time that elapsed between the sexual offence being committed and a family member coming into contact with the prosecutor for the first time is depicted in Figure 3. The vast majority of respondents, 81.3% of them in fact, reported having to wait in excess of ten weeks for this initial contact. The second highest frequency (12.5%) was to be found at two weeks or less. Once contact was made, however, the relatives were positive about the quality of their interaction with the prosecutors. The manner in which the prosecutor conducted interviews with victims and their families was reported to be satisfactory 93.3% of the time. The remaining 6.7% did, however, label their experiences as very negative. It is important to note that most of the dissatisfied individuals were informed that there was insufficient evidence for their case to proceed to trial. Language was an obstacle in only 6.7% of the preparatory interviews. The prosecutor was perceived as going to great lengths to ensure that the interview was conducted in the language the victim or family member was most comfortable with in 42.9% of the reported cases. All instances where an interpreter or intermediary was used to help facilitate the interview were positively received.

The relatives of the victims of sexual offences were generally very positive regarding their interaction with the prosecutors. The most frequently stated reason (40%) for this satisfaction was the effort that the prosecutor made to demystify the judicial process. Questions were answered and the proceedings were explained in a manner that was easy to understand. Twenty percent of the sample experienced the prosecutor as supportive, while a further 20% felt that the prosecutor acted in the victim's best interests at all times. Criticism of the prosecutors' role during the pre-trial period was very limited.

In excess of three quarters (80%) of the respondents felt that the prosecutor had more than adequately prepared them for the role they were to play in the legal proceedings. A further 13.3% felt adequately prepared, while 6.7% were of the opinion that their preparation was inadequate. In the majority of instances, the confidence they had in their level of preparation was not misguided, with 73.3% of the respondents reporting that their experiences with the Court for Sexual Offences were similar to the impression they had formed during information sessions with the prosecutors. However, 20% stated that the court was not at all as they were lead to believe during consultation with the prosecutors. Not being able to testify via the closed circuit television system as promised during the pre-trial preparation lead to dissatisfaction 8.3% of the time.

The time that participants spent waiting to testify ranged from an hour or less (40%) to in excess of six hours (15%). Individuals waiting between two and four hours accounted for 25% of the sample, while 20% reported waiting periods of between five and six hours. The majority of the individuals surveyed (60%) felt totally safe while waiting to give evidence. The victim's waiting room was experienced as a safe place to wait to testify by a further 20% of the sample. The remaining 20% were not totally at ease while waiting to make their contribution to the legal proceedings.

The prosecutor was seen to competently lead the respondents' testimony in 75% of the reported cases. Another 15% experienced the process as more than satisfactory, while the remaining 10% were either satisfied (5%) or less than satisfied (5%). All the instances in which an interpreter or intermediary was required to relate testimony to the

court were positively evaluated. In fact, 77.8% were totally satisfied with the role the interpreter or intermediary played, and 16.7% rated their performance as more than satisfactory.

The respondents were divided regarding their experiences of the more adversarial aspects of the trial. Defense attorneys were experienced as intimidating in 41.2% of the cases, while 58.8% of the respondents felt that the Court did not permit them to be intimidated. Intimidation by the accused during the court proceedings was almost nonexistent, with 95% reporting no intimidation. The individuals who felt intimidated most frequently suggested the offender's removal from the courtroom while the victim or his/her relatives were giving evidence as a possible solution to the problem. A quarter (25%) of those interviewed admitted to feeling that their personal dignity had been insulted during the course of the trial. Most of the discomfort was related to being cross-examined by either the defense council or the magistrate. The defense attorneys were the main culprits, however, with respondents feeling that they attempted to imply that the victim's relatives were in some way partially responsible for the sexual offence. This was particularly prevalent in cases where the victim was a minor.

**Figure 4: Outcome of the trials**

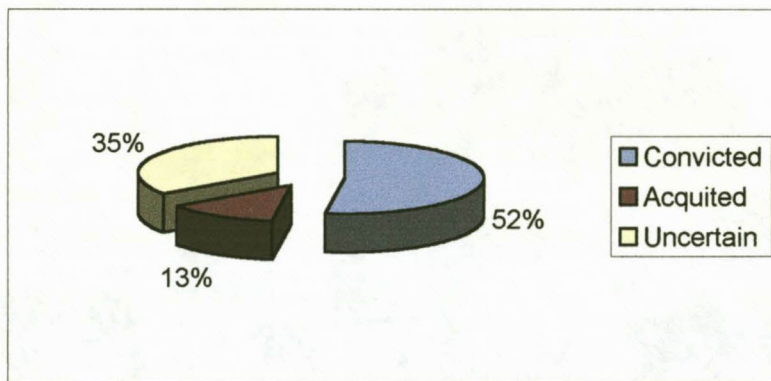


Figure 4 illustrates the outcome of trials heard by the Court for Sexual Offences as reported by the families of the victims. The diagram indicates that convictions were

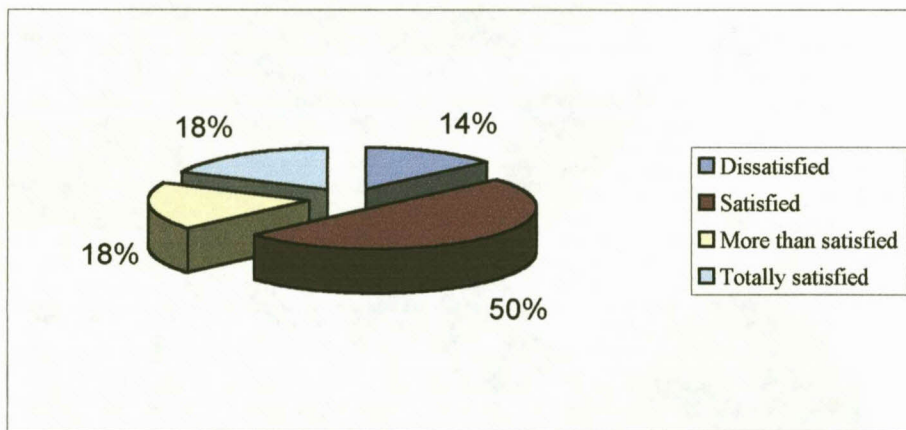
obtained in 52% of the cases and that 13% yielded verdicts of not guilty. In addition, 35% of the individuals interviewed were not aware of the nature of the verdict handed down in their relative's case. Of the individuals who were aware of the outcome of the specific trial, 46.7% were satisfied with the verdict, while 53.3% expressed disappointment with the outcome of the trial. The manner in which people got to hear about the outcome of the trial varied, with 33.3% being informed by the attorney who prosecuted the case, the police informed 26.7% and the remainder (40%) received the news from other, unspecified sources. The majority of those sampled (80%) were satisfied with the manner in which they learned about the Court's verdict.

An alarming 45% of the respondents were not aware of the sentence that was imposed upon the offender. A tenth of the individuals convicted were sentenced to 15 years imprisonment, 10% to ten years in prison and another 10% were sentenced to five years in prison. In the remaining cases 5% each were sentenced to three years suspended, five years suspended, seven years imprisonment, eight years imprisonment and ten years imprisonment respectively. The harshest sentence reported was 15 years imprisonment, while a three year suspended sentence was the lightest sentence handed down by the Court.

The sentences handed down by the Court for Sexual Offences tended to be in stark contrast to the sentences suggested by the sample of victims' families. A disapproval rate of 75% was reported. Respondents who were not aware of the trial's outcome, respondents in cases where the accused had been acquitted, as well as those who were aware of the sentences imposed by the Court, took the opportunity to suggest sentences they perceived to be appropriate in their specific cases. The most frequently recommended sentences were 15 years imprisonment (22.2%), life in prison (16.7%) and 25 years imprisonment (16.7%). Sentences ranging between 15 and 20 years were suggested in 11.1% of the cases. The sentences imposed by the Court for Sexual Offences were viewed as appropriate in 5.6% of the cases reported. The heaviest sentences suggested were life imprisonment, with the most lenient recommendation being two years in prison.

The large majority of victims' relatives approached stated that the victims received no therapeutic assistance or counselling following the offence or trial. Follow ups were arranged by Social Welfare in 23.8% of the cases. The victims' families reported that 76.2% of the victims never received any form of assistance or monitoring. Some form of follow up was deemed to be important by 95.5% of the individuals interviewed. A specific need for individual and family therapy was expressed by 63.6% of the respondents. Altered victim behaviour was cited as motivation for some form of post-incident care by 9.1% of the individuals interviewed. The Court's verdict as well as the sentence the accused received, was seen to have helped the victim deal more effectively with the trauma in 45% of the cases. The main sources of support for the victim and relatives were, however, still considered to be the family (18.2%) and the local community (13.6%).

**Figure 5: Families' perceptions of the Court for Sexual Offences**



n=22

Figure 5 illustrates the degree to which the relatives of the victims of sexual offences are satisfied with the manner in which their relatives' cases were dealt with. It is evident from the diagram that the majority of respondents experienced their interaction with the Court for Sexual Offences as satisfying or better. Dissatisfied individuals amounted to 15% of the sample. More in-depth investigation of the respondents' perceptions depicted in Figure 5 elicited specific attitudes with regard to the Court's efficacy. Of the

individuals surveyed, 18.2% were of the opinion that the Court for Sexual Offences failed totally in its attempt to provide improved justice for the victims of sexual offences. The Court is said to have succeeded to an extent 9.1% of the time, with 63% of the sample viewing the Court as largely successful, while 9.1% were of the opinion that the Court succeeded totally. A quarter (22.7%) of those interviewed stated that they felt the Court failed to make the whole judicial process less traumatic for the victim. The Court was seen to make the process less traumatic to a large extent by 50% of those interviewed, while 18.2% felt that it succeeded to an extent. However, despite the divided attitudes regarding the Court's efficacy at reducing secondary victimization, 100% of the participants indicated that they would recommend the Court to other victims of sexual offences, should the need arise.

Most of the relatives of victims who were interviewed reported that their experiences with the Court for Sexual Offences did not differ radically from their expectations. In fact, 35.7% claimed that their experiences had been better than expected. An additional 28.6% felt that the process did not differ from their expectations at all. Certain individuals (14.3%) were disappointed, as they had not received the justice they had expected from the Court. However, the general satisfaction with the Court did not prevent suggestions as to what improvements could be made. It was generally felt by 37.5% of the respondents that the entire judicial process could be made more victim orientated. It was suggested that magistrates need to develop a greater degree of sensitivity for the type of cases they preside over. Heavier sentences were recommended for sexual offenders, especially those that target children. The Court was encouraged to take steps to significantly speed up judicial proceedings and thus reduce victim and family trauma. Finally, the Court was encouraged to play a more active role in reducing the current level of victim intimidation and harassment.

## **Discussion**

Relatives most frequently supporting victims through the judicial process were Black females of approximately 36 years of age, unemployed with an average of 6 years of

formal education. It is interesting to note that this profile, with the exception of an average age difference of approximately 10 years, is almost identical to that of the victims of sexual offences (see Article II). This further classifies the Court for Sexual Offences in Bloemfontein and its auxiliary bodies as institutions, predominantly serving marginalized individuals from socio-economically and socio-politically disadvantaged sectors of society. Consequently, these institutions need to acquaint themselves with the inherent perceptions of this sector of society towards state organs if they wish to enjoy any measure of legitimacy.

The families of the victims expressed satisfaction with regard to their interaction with the South African Police Services. This may be in large part due to the relatively frequent interaction communities tend to have with those individuals policing them. Consequently, they are more approachable and familiar to the families of the victims than other individuals involved in the criminal justice system are. However, this did not prevent the respondents from levelling criticisms against the police. The victims' families most frequently felt that:

- The police were slow to respond to reports of sexual abuse
- They were guilty of not keeping the families effectively informed about the progress of investigations.
- It would be more appropriate for female police officers to deal with the victims of sex crimes.

The aforementioned criticisms tend to reflect on the shortage of manpower currently frustrating the police and other Government agencies in South Africa. The obvious solution of employing more police officers may not be economically viable at this stage. However, efforts to assign more female police officers to deal with sexual offence cases (even if this only provides the victim with the opportunity to report the incident and give her statement to a woman) and train police officers more effectively in dealing with individuals involved in sexual assaults would, no doubt, greatly improve the quality of service provided to the public.

The victims' families reported that in 52% of the cases, their relatives had to wait in excess of 12 hours before being consulted by a physician. This is not only a distressing trend, but also casts doubt on the quality of the forensic evidence gathered during these examinations. Once again, increasing public access to physicians adequately trained to perform these investigations does not appear to be a viable solution in the current economic and administrative climate. However, considering that the problem is, in all probability, also largely a result of tardy reporting by the victims themselves, those sectors of the population most frequently targeted by sexual offenders need to be educated with regard to their responsibilities in assisting the authorities in bringing the offender to justice. A large part of this responsibility is to enable quality physical evidence to be collected.

The families expressed the need for the physicians to be more transparent with regard to their findings. An additional need for referrals to mental health or counselling agencies or at the very least, adequate information with regard to the most common manifestations of post-traumatic reactions appears to be evident. This may necessitate the medical authorities involved re-evaluating the efficacy of their current approach to the screening and treatment of sexual offence victims. Nonetheless, there does appear to be a strong argument for the establishment of procedures for specialized psychological screening and assessment of the victims in addition to the current medical examination.

The responses of family members tend to indicate that despite the improvements that the establishment of specialized sex courts have made to the efficiency of the judicial system in dealing with sex crimes, the process is still slow and drawn out. This is supported by the fact that 78.2% of the family members report having to wait more than six months for the victim's first court date (47.8% waited more than nine months) and that 81.3% of the family members involved in pre-trial consultations had to wait in excess of 10 months for their first contact with the prosecutor. Long delays such as these often result in retraumatization of victims and families (cf. Moulton, 2002). These long waiting periods also tend to contribute to perceptions of helplessness, characteristic of many people's dealings with the legal system. It is thus apparent that further improvement in this area,



most effectively by extending the capacity of the current system, is vital. Otherwise the danger exists that it may become more trouble than it's worth to bring one's case before the Court (cf. Benesh & Howell, 2001). However, once contact was made, respondents were exceeding positive about their interaction with the prosecutors and felt that every effort was made to make both their and the victim's experience with the Court less traumatic.

The majority of the family members were of the opinion that intimidation, particularly by the offenders and their families, was a serious problem before and during the trial. They go on to express the opinion that the steps the Court takes to protect victims and their families from intimidation are inadequate. The most obvious solution to this problem would seem to be for the Court to implement stricter bail conditions and to issue more interdicts prohibiting contact between the parties. However, the ability of the overextended police force to implement interdicts in reality is limited. This problem is further complicated in situations where the victim, family member and offender are related or occupy the same dwelling. A more plausible solution may be to provide some type of access to education and counselling that would help individuals deal with this intimidation in a more assertive and informed manner.

The families surveyed were generally very positive with regard to the Court for Sexual Offences' ability to help reduce the degree of secondary victimization both they and their relatives experienced. However, their opinions with regard to how the Court provides improved justice for the victims and their families were difficult to determine, as 33% of them were not aware of the outcome of the trial. More distressing perhaps, is the fact that just less than half of the individuals who were aware of the outcome of the trial, gained this information from sources unrelated to the Court for Sexual Offences. This casts doubt on the extent to which the families gain therapeutic value from their interaction with the Court. Perceptions may thus be created that the Court is primarily interested in convictions and that its interest in the victims and their families only extends to the degree to which they are instrumental in achieving this goal. Once the convictions are obtained, the support the victims and families have enjoyed disappears (cf. Barnes-

September, 1998, Moulton, 2002). Efforts need to be made to have the victims and their families present when the Court delivers its verdict and when sentences are handed down. Improving this aspect of the Court's functioning will go a long way towards further legitimizing the institution amongst a sector of the population that has traditionally had little faith in the efficacy of the criminal legal system.

The Court failed to make any order or provision for effective therapeutic after-care. In 76.2% of the cases surveyed the family members reported that no follow-up visit was made by Social Welfare or anyone else to monitor the victim's or the family's recovery. This trend is even more disturbing when one considers that 95.5% of the respondents felt that some form of follow-up monitoring was necessary, especially as having to relive the incident, on average more than nine months after it occurred, had a traumatizing effect on the victim and family. The majority of the victims' relatives went further and stated that some type of therapy was necessary in 63.6% of the cases based on the fact that the victims exhibited post-traumatic reactions long after the conclusion of the trial. The need for adequate psychological screening, treatment and education with regard to the natural progression of trauma reactions is obvious. This is an avenue that the Court itself, or in conjunction with mental health agencies, needs to explore if it is serious about reducing the trauma experienced by the victims of sex crimes. It seems not only a contradiction, but also a great pity, that a system conceived largely in order to reduce secondary victimization inadvertently appears to retraumatize many of those it proposes to help.

### **Shortcomings of the study and future research directions**

The primary shortcomings of this study occur on a methodological level. The eventual sample of 24 family members makes it impossible to generalize any findings to a larger population of specialized sex court users. However, the data obtained does serve as a point of departure for further research that may be able to access larger samples. The size of the current sample also precluded the possibility of performing any form of variance analysis in order to determine the influence of possible inter-group variables such as race, culture, nature of the offence or the nature of the relative's relationship to the victim.

A shortage of available participants resulted in a situation where the perceptions of victims and family members were not obtained in relation to the same case. This prevented any comparisons on this level, as well as any attempt to validate individual responses against collateral information sources. It also excluded the possibility of conducting case-by-case analyses that would, in all probability, have been more productive. Extensive access to case file or a Court for Sexual Offences database may also have been useful in this regard. The need does seem to exist for the formation of a database, perhaps at national level, of the individuals involved with specialist sex courts.

The fact that this was an exploratory and largely pioneering study made it impossible to access existing methods of measuring people's perceptions of specialized sex courts. Consequently, a questionnaire had to be designed in the absence of comparable research. This resulted in certain irrelevant or inappropriate questions being asked and probably in important views and sources of information being ignored. Future studies in this area may do well to focus more intensively on specific aspects of families' interaction with the Court or to refine the current questionnaire in order to improve its investigative value. Another drawback to this study is that almost no literature or existing research was available for use in a comparative analysis of the current findings. Questions with regard to the verification of the current findings beyond a very homogenous population consequently remain unanswered.

Despite these shortcomings the study does shed some on the functioning of the Court for Sexual Offences in Bloemfontein. It also highlights the successes of the current system and identifies, amongst others, the need for further research with regard to the psychological aftermath of involvement with such a system.

## **References**

- Barnes-September, R.L. (1998). *The development of a protocol for the management of child abuse and neglect*. Unpublished doctoral thesis, University of the Western Cape

- Benesh, S.C. & Howell, S.E. (2001). Confidence in the Courts: A comparison of users and non-users. *Behavioral Sciences and Law*, 19, 199-214.
- Bennack, F. (1999). *A report on the national survey*. Presented at the National Conference on Public Trust and Confidence in the Justice System. Washington, DC.
- Bomela, N. (1999). *Female Headed Households in South Africa*. Paper presented at the European Population Conference. Helsinki. (6-10 December 1999).
- Cwik, M.S. (1996). The many effects of rape: The victim, her family, and suggestions for family therapy. *Family Therapy*, 23 (2), 95-116.
- Howell, S. (1998). *Citizen Evaluation of the Louisiana Courts*. New Orleans: The Survey Research Center, University of New Orleans.
- Laxton, T. (2002). *Sexual offending by men against children: Empirical findings and conceptual models*.  
[Http://psych.boisestate.edu/mclump/psyche/archieves/vol11/laxton.html](http://psych.boisestate.edu/mclump/psyche/archieves/vol11/laxton.html).
- Moult, K. (2002). *The court doors may be open, but what lies behind those doors? An observation of the workings of the Wynberg Sexual Offences Court*.  
[Http://www.uct.ac.za/depts/sjrp/publicat/kelleyt.html](http://www.uct.ac.za/depts/sjrp/publicat/kelleyt.html).
- Opperman, L. (September 2000). Personal communication.
- Stanton, S., Lochrenberg, M. & Mukasa, M. (1997). *Improved justice for survivors of Sexual violence? Adult survivors' experiences of the Wynberg Sexual Offences Court and associated services*. Cape Town: African Gender Institute.

## ARTICLE IV

### The Court for Sexual Offences: Perceptions of the offenders

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## ARTICLE IV

### **The Court for Sexual Offences: Perceptions of the offenders**

#### **Abstract**

This article explores the hereunto-ignored perceptions of offenders within the specialist sex court system in South Africa. Various factors potentially affecting such perceptions within this population are identified by way theoretical orientation. Respondents were inclined to view specialist sex courts as biased in process and excessively punitive with regard to sentencing. The judicial system was also perceived to be inefficient and slow. Female prosecutors were judged to be overly involved in cases to the extent that their objectivity was impaired. The need for additional research in various related areas is also explored.

#### **Introduction**

The Court for Sexual Offences in Bloemfontein, along with the other courts in the national system of specialist sex courts, has been identified as an institution dedicated to championing the rights of the victims of sex crimes (Barnes-September, 1998; Opperman, personal communication, 2000; Moulton, 2002; Petrila, in press). This is reflected in the Court's undertaking to reduce the trauma victims experience during trials, and to improve conviction rates for sexual offences, thereby improving justice for the victim. This attitude is no doubt a reflection of the sentiment that exists in South African society in general. The public appears to feel that more aggressive judicial approaches to the management of crime are indicated. This is particularly true of sex crimes. A perception appears to exist that the State is not doing enough to protect society from sexual predators (see Article II & III).

Public pressure, the portrayal of sexual offenders in the media and the establishment of specialist sex courts would appear to have created a socio-legal environment in which the perpetrators of sex crimes are viewed as monsters who should be locked away for life, as the current correctional dispensation no longer allows for more lethal methods of

retribution. However, the perceptions of those individuals accused of sexual offences are an important and, seemingly previously ignored source of information in this regard. Consequently, this article aims to shed light on the experiences of the perpetrators of sex crimes involved with the Court for Sexual Offences in Bloemfontein.

### **Literature review**

The lack of relevant literature on the attitudes of offenders or convicted prisoners towards the criminal justice system appears to reflect a total dismissal of this sector of society as credible evaluators of the judicial process. The relatively original character of specialist sex courts makes the quest for existing research in this area a totally fruitless exercise. The vast majority of research done on sexual offenders appears to focus primarily on categorization, profiling (MacDonald, 1995), risk management (Browne & Lynch, 1998; Hanson, 1998; Gidycz et al., 2001) and rehabilitation (Gordon & Porporino, 1990; Simon, 1998, Carich & Stone, 2001) [the author advocates the use of the term “development”, as “rehabilitation” infers a return to the individual’s previous level of functioning i.e. functioning that facilitated the commission of the sex crime]. It is somewhat disconcerting, though perhaps understandable, that the perceptions of sexual offenders do not seem to be deemed worthy of research. However, in a democratic judicial system, one would expect the views of the offender to be valued as regards the prevention of bias and maintenance of objectivity within the criminal justice system. Surely as court users, sexual offenders are in a similar position to that of the victims of sexual offences and their families regarding the evaluation of this process (Benesh & Howell, 2001).

Perpetrators of sexual offences could be expected to evaluate the judicial system they find themselves involved with subject to various situational and demographic influences. Not least among these would be the very real and immediate interest that these individuals have in the outcome of their trials. Satisfaction or dissatisfaction with the judiciary on the part of those accused of criminal activities has been shown to be a direct consequence of the perceived favorability of the specific court’s verdict (Benesh &

Howell, 2001). Consequently, it would appear that in the majority of cases concerns regarding procedural fairness are secondary to those related to self-preservation. These findings would impact upon the interpretation of the perceptions of incarcerated individuals who, by virtue of their imprisonment, can be assumed not to be inclined to evaluate their experiences with the court in a very objective manner. An investigation of a predominantly female-staffed court, like the Court for Sexual Offences in Bloemfontein, complicates the interpretation of these predominantly male offenders' evaluations further. The level of perceived or possibly existing staff bias is increased by the fact that staff members are permanently assigned to the Court. This lack of rotation between the sex courts and more generalist criminal courts, while increasing specialization among staff, may impact negatively upon their ability to remain objective (cf. Powers, 1997). One thus has to question to what extent can perceived persecution or bias on the part of the Court be dismissed as the skewed perceptions of disgruntled offenders and to what extent does some degree of inadvertent bias exist within the system?

The large stake that individuals, accused of sex crimes, have in the workings and findings of the Court for Sexual Offences cannot be denied. Ironically, however, those individuals with heavily vested interests in judicial proceedings most often have the least control over the outcome of these proceedings (Benesh & Howell, 2001). These individuals are placed in a position of helplessness or dependence that often results in resentment towards or suspicion of the institutions that are perceived as having excessive control over their lives. People thus often negatively perceive the courts merely by having interacted with them in a dependent or powerless capacity. The impact of a negative outcome, such as conviction and sentencing, would serve to further influence offenders' perceptions of the Court's impartiality and legitimacy.

It would appear impossible to escape the role of inherent bias in convicted offenders' evaluation of the judicial institutions responsible for this conviction. However, individuals' perceptions of the quality of treatment they receive from the courts should not be ignored. This is of particular importance when one considers that the majority of



sexual offenders come from the same communities as their victims (Opperman, personal communication, 2000). Consequently, they also tend to be members of the less socio-economically and socio-politically advantaged sectors of the community. Perceived differences in the way the legal system treats the disenfranchised as opposed to the more mainstream sectors of society that affected the victims' and their family members' evaluations of the judicial system, would also be relevant to the offenders. These individuals often have very limited exposure to the legal system and consequently value the quality of their interpersonal interactions with court staff. Courtesy is highly valued in these interactions (Tyler, 2001). The degree to which the court officials respect the personal dignity of the offenders and are able to communicate cordially with them throughout the legal proceeding could mediate the extent to which offenders negatively evaluate the Court.

The judiciary is said to serve the public (Kaukinen & Colavecchia, 1999; Benesh & Howell, 2001). The offender, despite the limitation of certain rights at sentencing, remains a member of society. Thus, even though the Court for Sexual Offences mainly advocates the rights of the victim and the protection of society, it has a responsibility to in some way contribute to the betterment of the offender. The traditional approach of sentencing an offender to prison and assuming that agencies within the Department of Correctional Services will see to the offender's developmental needs, has proved ineffective. Offenders progress through the overburdened correctional system (Berg, 2001) and emerge having developed no insight into their criminal behaviour, with fewer job prospects thanks to their criminal record and embitterment towards the judiciary as well as towards their accusers. Therefore, a court claiming to have any restorative or therapeutic effect on the people who appear before it, cannot seriously consider prison time on its own to have a significant developmental impact on the offender. The need for definite recommendations regarding the management, treatment and development of offenders, and the monitoring or evaluation of such activities is apparent. If the Court for Sexual Offences aims to curb the current epidemic of sex crimes (Crime Information Analysis Center, 2001) and protect the rights of victims, it needs to re-evaluate its involvement in offender management.

It would appear to be naïve to assume that those convicted of sexual offences would be objective in their evaluation of the Court for Sexual Offences. However, it may be immature to reject their evaluations out of hand. Specifically sampling procedural aspects of their experiences instead of focusing on the outcome, while interpreting findings with the offender's inherent biases in mind, may still yield valuable information on the Court's functioning.

## **Method**

No literature with regard to sampling offenders' perceptions of the criminal justice system or similar measuring instruments could be acquired. Consequently, a questionnaire had to be designed. This effected by adapting the questionnaires administered to the victims of sexual offences and their families (see Article II & Article III). The items included in this questionnaire sampled respondents' perceptions regarding their interaction with the South African Police Service, their defense council, the prosecutor and other court personnel, as well as their perceptions related to the outcome of the trial and their sentences. Questions were presented in two item forced-choice format, five point Likert Scales and open-ended questions aimed at eliciting more detailed responses (see Appendix A).

An initial sample of 100 individuals accused of sexual offences was obtained from police records with the permission of the commander of the Child Protection and Sex Crimes Unit in Bloemfontein. Access to individuals involved in cases where the charges had been withdrawn was denied due to confidentiality and personal privacy concerns. Similar complications lead to the total omission of the section of the questionnaire aimed at the offenders' families from the current study. The remaining individuals had to have progressed through the sex court system to a stage where a verdict had been handed down. These individuals had been defendants in cases before the Court from January 2000 to December 2001.

Due to logistic and safety considerations, only those potential participants who were either serving sentences imposed by the Court, or in detention awaiting trial, were approached with regard to their perceptions of the Court. Many of the potential respondents were juvenile offenders and had consequently been transferred to facilities outside of the Bloemfontein area soon after being sentenced, as no juvenile detention center currently operates in this area. As with the victims and their families the sample of offenders was enlarged to 130 individuals. Of these, 79 were found to be housed in prisons in the Bloemfontein area. Consent to participate in the study was obtained from 61 of the offenders (see Appendix B). They were interviewed in the language of their preference rather than being required to complete the questionnaire due to language difficulties and the high rate of illiteracy prevalent amongst the sample. Only 54 of the 61 questionnaires were eventually deemed to contain enough reliable data to undergo statistical analysis. Of the 54 respondents, 51 were serving prison sentences following conviction by the Court, while three were still involved in judicial proceedings. These 54 questionnaires were analyzed and frequencies for each response item calculated in order to identify trends in respondents' perceptions of the Court.

## **Results**

The majority of respondents were aged between 19 and 35 years. The sample had a mean of 32.33 years and a standard deviation of 7.82 years. Within this group, 20% were found to be between 19 and 25 years old, 24% were aged 26-30 years, and a further 27% ranged in age from 31-35 years. The 36 to 40 year age category accounted for 11% of the respondents. The remaining 18% were evenly distributed between the age categories 41 to 45 and 46 to 49 years. The youngest was 19 years old, while the oldest was 49 years of age. The entire sample of 54 individuals was male. Regarding race, the sample consisted of 46 Black individuals (85.2%), four so-called Coloureds (7.4%) and four Caucasians (7.4%).

With regard to occupational category, administrative or clerical personnel constituted six percent of the sample, hawkers and those involved in sales accounted for 9%, artisans and

tradesmen made up 21% of the sample, while 33% of the respondents were either semi-skilled, unskilled or part-time laborers. Security guards and soldiers were implicated in eight percent of the cases. A further 8% of the sample reported that they attended high school before being arrested. Students at tertiary level accounted for two percent of those interviewed, while 13% were unemployed prior to being taken into custody. Enquiries regarding the educational level of the respondents revealed that 9.3% had received no formal schooling, while 33.3 % had attended primary school but failed to successfully complete this phase of their education, and those who completed primary school but failed to obtain any further schooling accounted for 9.3% of the sample. Only 7.5% of the respondents were in possession of a matriculation certificate, while one respondent (1.9%) claimed to have received some form of formal tertiary education. The mean level of education calculated for the sample was 7 years of formal education with a standard deviation of 3.75 years.

**Table 1: Distribution of victims and offenders per case reported**

Victims		Offenders	
Number	Cases	Number	Cases
1	48 (88.9%)	1	41 (75.9%)
2	5 (9.3%)	2	8 (14.8%)
3	0 (0%)	3	1 (1.8%)
4	0 (0%)	4	4 (7.4%)
5	1 (1.8%)	5	0 (0%)

n=54

The distribution of victims and offenders for the cases included in the sample is contained in Table 1. In 88.9% of the cases the offence was perpetrated against one victim, with 75.9% involving a single perpetrator. Two individuals fell victim to sexual assaults in 9.3% of the cases. Two offenders were involved in 14.8% of reported incidents. Three offenders were involved in 1.8% of the cases and four offenders perpetrated 7.4% of the sex crimes. One of the cases included in the sample involved five victims. Offenders in

a total of 54 cases were interviewed. Of the 54 offenders interviewed, 47 were accused of or convicted of rape, five molestation cases were recorded and two individuals were involved in assaults.

The offenders surveyed reported targeting predominantly (93.6%) female victims. Only 3.7% of the victims were male. The majority of female victims were 17 years of age or older. Consequently, 74% of the reported cases involved no consent on the victim's part as statutory rape is excluded from this proportion of the victims on the basis of age. The largest number (41%) of the individuals falling prey to the respondents were 26 years of age and older. An additional 33% were aged between 17 and 25 years. With regard to the child victims, 9% were between 13 and 16 years of age, while 15% were six to 12 years old. Finally, victims aged five years or less were targeted in 2% of the reported cases.

An item with regard to the offenders' criminal histories was also included in the questionnaire. The current offence was reported to be 64.8% of the respondents' first contravention of the law to be their first criminal conviction, while 14.8% had one previous conviction, and 7.4% had been convicted of two crimes. A history of three or more criminal convictions was reported by 13% of the individuals interviewed.

The offenders were generally positive regarding their interaction with the South African Police Services. In 90.7% of the cases offenders stated that they were informed of the reason for their apprehension at the time of their arrest. In addition 61.1% of those interviewed, did not feel that the police treated them any differently from individuals who were arrested on suspicion of non-sex related crimes. The most frequent (56.9%) motivation offered for this perception was that the police treated the offender fairly or respectfully. Moreover, the police were said to have assisted the offenders following their arrests by informing them of their rights pertaining to legal representation in 79.6% of the reported cases. Respondents in 62% of the cases felt that the police adequately addressed their concerns regarding the way in which the judicial process was likely to proceed. However, certain individuals did feel that the arresting officers were biased

toward suspected sexual offenders. Accusations of physical assault and verbal abuse were most frequently cited in this regard. It was felt that the police attempted to put pressure on the accused to confess to the sexual offence in 22.2% of the cases. Other negative opinions regarding the police included accusations of incompetent evidence gathering and investigations (7.4%), and false police testimony in 7.4% of the trials surveyed.

**Table 2: Time from arrest to offender's first court appearance**

Time period	Number of offenders
Less than 24 hours	24 (44.4%)
Less than a week	25 (46.3%)
Less than 14 days	1 (1.9%)
Less than a month	1 (1.9%)
More than a month	3 (5.6%)

n=54

It is evident from Table 2 that the majority of respondents appeared before a magistrate within less than seven days of being arrested. More specifically, 44.4% of the sample was in court within 24 hours of being arrested. A further 46.3% made their first appearance within a week of being arrested, while 1.9% had to wait less than 14 days, and the same proportion waited less than a month. The remaining 5.6% of the sample claim to have waited for more than a month before they appeared in court. Attitudes with regard to these waiting periods were mixed, with 48.2% being less than satisfied and satisfaction being expressed by 37% of the respondents. The remaining 14.8% were more than satisfied with the situation.

Individuals accused of sexual offences stated that they were required to make in excess of three court appearances before their case eventually came to trial in 78% of the cases sampled. The remainder were fairly equally divided between one, two and three appearances. The aforementioned court appearances were largely to do with bail

applications, entering pleas and setting trial dates. The majority of offenders (59%) were extremely unhappy with the number of court appearances they were required to make, while 16.7% were less than satisfied with the situation, and 24.3% expressed satisfaction with the number of court appearances they made.

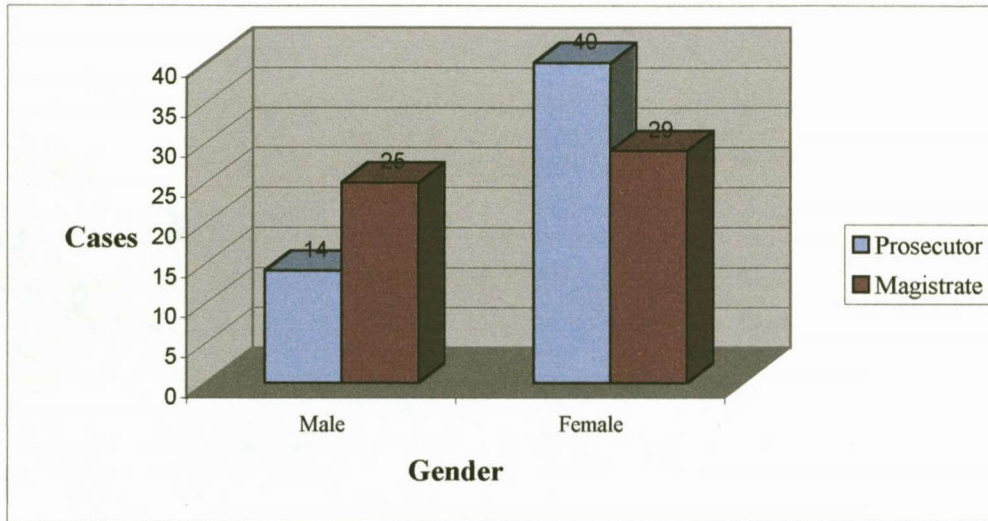
Legal representation was retained by 77.8% of the respondents. The remaining 22.2% claimed to have had no legal assistance during their court appearances. Of the 12 participants not represented by a lawyer 16.7% claimed that the State failed to provide them with legal representation, while 41.7% decided to represent themselves based on the perceived weakness of the cases against them. In 16.7% of instances the State appointed attorney was not present at the court proceedings. A further 16.7% claim that the State appointed attorney withdrew from the case at some point during the proceedings.

Bail was granted in 63% of the 54 cases surveyed. Half of those granted bail were able to pay it, while the rest remained in prison awaiting their trial date. Of the 37% who were not granted bail, 20% felt that they were not granted bail in order to protect the victim from bribery and intimidation, while 15% felt that they were perceived as a flight risk, and a further 20% were not able to formulate an opinion as to why they had not been granted bail. The severity of the crime was perceived to be the reason for bail being denied in a further 20% of the cases.

The offenders interviewed were asked how the Court For Sexual Offences differed from other courts. There was perceived to be no difference in 35.2% of the cases reported. The Court was identified as a specialist sex court by 27.8% of the offenders. A further 9.3% of the respondents stated that they were not able to identify any differences due to their lack of previous exposure to legal proceedings, while 7.4% remarked that the attitudes of the staff in the Court for Sexual Offences differed from the attitudes of individuals working in other courts, but offered no motivation for these comments. However, the majority of respondents were positive about having their cases heard by the Court for Sexual Offences. Of these, 50% were satisfied, 5.6% stated that they were more than satisfied and 3.7% described their attitude as very happy. The less satisfied

respondents constituted 30.8% of the total sample. Most (24.1%) were very unhappy about having to appear in the Court for Sexual Offences, while 16.7% were less than satisfied.

**Figure 1: Gender distribution of prosecutors and magistrates**



n=54

Figure 1 is representative of the gender distribution of prosecutors and magistrates involved in the cases of the offenders sampled. The respondents reported that males prosecuted 25.9% of their cases, while female prosecutors were involved in 74.1% of the cases reported. Most (59.2%) of the offenders interviewed, were less than satisfied with the high percentage of females prosecuting cases in the Court for Sexual Offences. Satisfaction was expressed by 33.3% of the respondents. The offenders generally expressed a high level of satisfaction with cases where the prosecutors were male. In addition, 64.8% of the offenders report feeling intimidated by the prosecutors during the trial. The basis for these perceptions vary from the manner in which they were cross-examined, to subtle and more direct statements regarding the prosecutor's stated intention to see to it that the offender was imprisoned for life. Regarding the genders of the magistrates, females presided over 53.7% of the cases, while a male heard 46.3% of the cases. The offenders were less critical of the gender distribution amongst magistrates than they were with respect to the prosecutors. Satisfaction with the magistrate's gender



was expressed by 68.8% of the offenders interviewed. The remaining third (31.2%) expressed dissatisfaction with the gender of the magistrates in their cases.

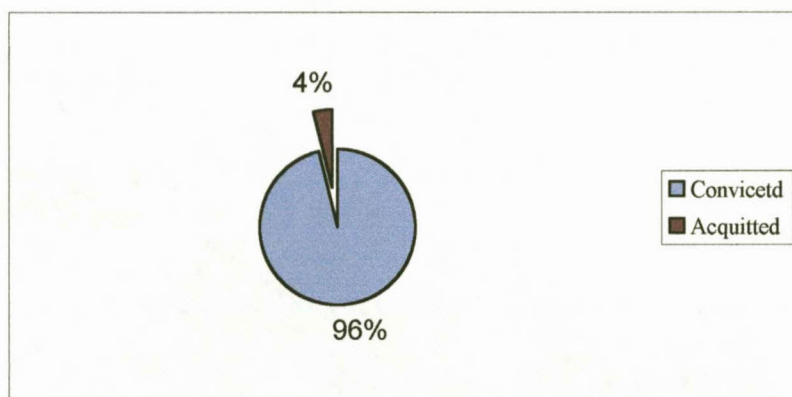
Communication did not seem to pose many problems during the trials of offenders. In 87% of the interviews conducted, the offender expressed satisfaction with the degree to which he was able to understand the questions he was asked during the trial. The remaining 13% indicated that they were able to understand the questions to some extent. With regard to effectively expressing themselves in court, 89% of the respondents were of the opinion that they were able to make themselves understood to a satisfactory degree, while 9.3% felt that the Court was able to understand their statements to an extent, and 1.9% claim to not have been understood at all.

The respondents, who were represented by council, were divided when it came to evaluating the quality of the legal representation they received. A quarter (25%) of those interviewed were satisfied with the manner in which the defense attorney had led their evidence, while 22.7% were less than satisfied with their attorney's performance, and 27.3% were very unhappy. Furthermore, 53.5% of the offenders were less than satisfied with the manner in which their legal representative cross-examined the victim and/or other witnesses. Satisfaction was expressed by 30.3% of the respondents, while 16.3% were very happy with the cross-examinations conducted by their legal representatives.

Victims of the sexual offences concerned were allowed to testify from outside the courtroom, via a closed circuit television system, in 32.7% of the cases. The offenders seem to generally have been satisfied with the proportion of victims who ended up testifying in court. Some 39.2% of the respondents claimed to be satisfied that their accusers had to testify in open court. They were appreciative of the opportunity to hear what they were being accused of. The offenders also felt that cross-examination was more effective when conducted with the victim in court. A further 19.6% were pleased that the victim was given the opportunity to put her or his case to the Court. A small proportion (3.9%), felt uneasy at being confronted by their victim in court.

The offenders were also asked to express their attitudes with regard to the use of intermediaries during legal proceedings. An intermediary helped to facilitate the victim's testimony in 26% of the cases sampled. In these cases 51.7% were satisfied with the role the intermediary played, as well as the practice of using intermediaries to facilitate victims' testimony. Moreover, 8.3% of all those involved in cases with intermediaries felt that the intermediary was necessary as the victim, a minor in most instances, needed to be emotionally supported while giving evidence. Another 8.3% were of the opinion that intermediaries helped to simplify the questions and proceedings to a level that younger victims could more easily grasp. Those offenders who disapproved of the use of intermediaries during their trials constituted 42.8% of the sample. Of these, 50% were concerned about the possibility of the witness's testimony being influenced by the intermediary, while 8.3% directly accused the intermediaries of prompting the witness while they testified and of distorting the questions that were put to witnesses.

**Figure 2: Outcome of the trials**

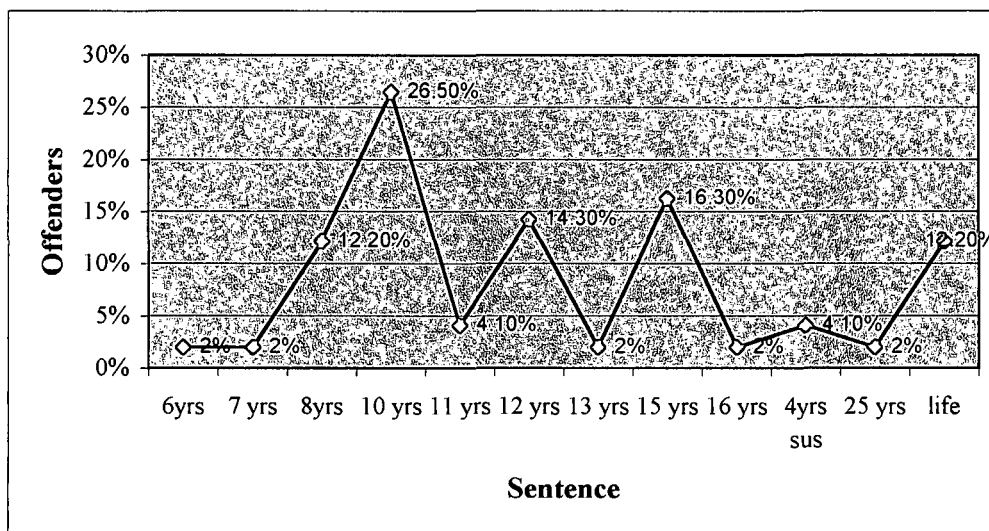


n=53

Figure 2 suggests convictions were obtained in the vast majority of cases (96%). This ratio is obviously not representative of the Court's average caseload as the sample used in the study was skewed by the high number of incase rated respondents. Those individuals who were found not guilty were satisfied with the outcome of the trial. However, amongst the convicted offenders, 86.8% were not satisfied with the verdict, while 13.2% felt that the Court had reached the correct decision. Perceptions as to why specific

verdicts had been handed down were also investigated. Bias on the part of the Court for Sexual Offences was the primary reason offered (17%) by the offenders as to why they had been found guilty. It was felt by 13.2% of the respondents that the Court only took the testimony of the victim and prosecution witnesses into account, while largely ignoring what the defense had to say. A further 7.5% felt that the Court, in its overly zealous pursuit of convictions, had found the offender guilty despite the apparent lack of evidence against him. However, 9.4% of those interviewed did concede that they were found guilty on the basis of overwhelming evidence against them.

**Figure 3: Sentences imposed upon sexual offenders**



n=51

Figure 3 depicts the distribution of sentences handed down following convictions in the Court for Sexual Offences as reported by the offenders in the sample. The lightest sentence imposed was a four year suspended sentence and the harshest sentences were life imprisonment. The most frequently imposed sentence within the sample was 10 years in prison (26.5%), with fifteen-year prison terms (16.3%) being second. However, it should be noted that the Court for Sexual Offences is not legally empowered to impose sentences in excess of 15 years. The sentences in Figure 3 that exceed 15 years were imposed by the High Court after convictions had been obtained in the Court for sexual offences.

The majority (77.1%) of the offenders interviewed indicated that they were very unhappy with the sentence they had received. Of the remainder, 12.5% were less than satisfied, 8.3% were satisfied and 2.1% were totally satisfied with their sentences. The offenders felt that they were, on average sentenced too harshly by the courts. Alternate sentences suggested by the offenders ranged from no sentences, due to the offender's insistence that he is innocent of the crime he has been convicted of, to a maximum sentence of 15 years. The majority (30.6) of the respondents were of the opinion that they were wrongly convicted and did not deserve any form of punishment. A five-year prison term was the second most frequently suggested sentence at 20.4%, with suspended sentences being recommended in 10.2% of the instances. An equal proportion of the offenders surveyed (10.2%) agreed that the sentence they had received was appropriate to the offence they had been convicted of.

When asked to what extent the Court for Sexual Offences succeeds in administering justice, 37.7% of the respondents said that it failed totally. A further 37.7% felt that the Court succeeded to some extent, while 13.2% were of the opinion that it succeeded to a great extent. The individuals who perceived the Court as totally successful at administering justice comprised 11.3% of the sample.

Criticism of the Court for Sexual Offences was widespread amongst the offenders interviewed. It was the opinion of 23.3% of the respondents that the predominantly female court staff were unduly biased against men accused of sexual offences. The prevailing perception was that as women, and therefore potential victims of sexual assault, these individuals find it difficult to remain professionally detached during the proceedings. An additional 18.6% alleged that the Court is very selective as regards the facts it allows into evidence. These individuals held the opinion that more weight was given to the victims' testimony and that the offenders' testimony was largely ignored. In 7% of the reported cases the main complaint appears to have been that the sentences the offender eventually received was exceedingly harsh for the crime he had been convicted of.

Not many positive comments were forthcoming with regard to the functioning of the Court for Sexual Offences. The fact that the victims were generally protected from intimidation, during the court proceedings, was viewed as positive by some of the offenders. It was also felt that the magistrates generally were concerned with the facts of each case and were professional in their approach to the cases. Finally some of the offenders were pleased that the victim had her/his day in court. In isolated cases the quality of legal representation that the offenders had access to, was appreciated.

Finally, the majority (74.1%) of the offenders were of the opinion that a person accused of a sexual offence would not be able to receive a fair trial in the Court for Sexual Offences. The bias of female staff against mainly male perpetrators was highlighted as the primary motivation for this attitude. The Court was also seen to be overly zealous in its pursuit of convictions. Some felt at the cost of justice. A more administrative criticism was the length of time that cases took to come to trial, as well as the number of postponements that occurred during the trials. A small portion of individuals did, however, express the perception that the Court was fair in its rulings.

## **Discussion**

Analysis of the biographical data gathered enables one to form an impression of the offenders most often involved in cases before the Court. These individuals tend to be 32-year-old Black men, who reported having no previous criminal convictions. They tend to have completed seven years of formal education and usually find themselves employed as casual, semi-skilled or unskilled laborers. The vast majority are accused of independently raping a single female victim over the age of 26 years of age. This data indicates that the majority of the offenders in this study came from similar communities to the victims and their family members (see Article II & Article III). Consequently, it could be assumed that they would generally tend to evaluate their interaction with criminal courts against a similar experiential background to these two groups. The Court for Sexual Offences does thus seem to be chiefly in the service of the more marginalized and disenfranchised sectors of South African society. This makes it apparent that the

Court should seriously take the perceptions and experiential world of the less socio-economically advantaged sector of the community into account if it wishes to enjoy a significant degree of public legitimacy and support.

Similar to the victims and their families (see Article II & Article III), the offenders were generally very positive regarding their interaction with the South African Police Service. Their contentment appears to be strongly motivated by the manner in which the arresting officers treated them. Consequently, Tyler's (2001) contention that offenders tend to prize courtesy highly in their interactions with state organs would also seem to be applicable to the South African context. The generally positive attitude may also be underscored by the shared geographical, social and cultural backgrounds of offenders and the individuals charged with arresting them. Complaints against the police tended to be with regard to physical and verbal, assault as well as attempts to coerce confessions. Notwithstanding the emotionally charged nature of this area of law enforcement, allegations of this nature should be viewed in a very serious light.

The efficiency of the Court for Sexual Offences was called into question by the offenders, as the majority reported having to make in excess of three court appearances before their cases came to trial. Moreover, significant proportions of the individuals sampled were either not granted bail or were not able to afford the bail they were granted. This state of affairs has far reaching implications with regard to citizens' perceived rights to justice, as many individuals appear to be spending extended periods of time in prison awaiting trial. Cases in which such individuals are eventually acquitted could be potentially damaging to peoples' perceptions of the Court's ability to provide justice for individuals other than victims and their families. The need for an extension and streamlining of specialized sex court systems is apparent. Here budgetary constraints should be weighed not only against the Government's commitment to combating the sex crime problem in South Africa, but also against the State's commitment to uphold the rights of citizens accused of sexual offences.

Bias in the Court for Sexual Offences was perceived to exist by a considerable number of offenders (74.1% of the respondents were of the opinion that an individual accused of a sex crime could not receive a fair trial in the Sexual Offences Court). The majority of these perceptions appear to be based on the relatively high proportion of female prosecutors and magistrates staffing the courts. The prosecutors were, however, the most frequently identified area of concern. Offenders were of the opinion that female prosecutors tended to be personally involved in the cases to the extent that their ability to contribute to a just legal process was impaired. This is a difficult situation to address as the predominantly female staff were positively received by the victims and their families (see Article II & Article III). However, the rotation of staff between specialized courts and general criminal courts as suggested by Powers (1997) may be indicated in order to preserve the legitimacy of the Court amongst those it finds guilty.

The overwhelming majority (96%) of the respondents had been found guilty by the Court and received prison sentences. This should not be viewed as an indication of the Court's conviction rate, as methodological complications this sample was skewed towards the inclusion of convicted individuals. However, it is interesting, and perhaps predictable (cf. Benesh & Howell, 2001) to note that the majority of the convicted offenders either claimed some irregularity in the events leading to their conviction, or expressed displeasure with, what they perceived to be excessively punitive sentences. This identifies sentences handed down in sexual offence cases as a contentious issue. The offenders tend to feel that they are too harsh, while victims (see Article II), their relatives (see Article III) and the public in general appear to be of the opinion that the judicial system is too lenient in these situations. Consequently, the courts have a difficult balancing act to perform. However, the apparent absence of specific recommendations or provisions regarding the development and treatment of incarcerated offenders may create the perception that the courts are interested only in the rights of victims and the public to protection and retribution. This situation needs to be addressed if the judiciary is serious about a long-term reduction in sex crimes. The value of an increased advisory role for various disciplines such as forensic psychology and criminology in this regard should not be underestimated.

The offenders included in this sample appear to be generally negative with regard to the efficacy, legitimacy and impartiality of the Court for Sexual Offences in Bloemfontein. However, these individuals did comment upon the Court's ability to reduce secondary victimization and provide improved justice for victims, even if the latter was perceived to be at the cost of justice for the offender.

### **Shortcomings of the study and future research directions**

The primary criticism against the current findings, as with Article II and Article III, can be levelled at methodology. The sample of 54 individuals is not of a sufficient size for the results to be meaningfully generalized to offenders interacting with sex courts at local or national level. The size of the eventual sample also negated the possibility of determining the effect of variables such as age, educational level and criminal history on the individuals' perceptions of the Court. The need for studies based on more substantial samples cannot be overemphasized.

Logistic complications lead to a situation where the participants were almost exclusively individuals serving sentences for sexual offences. This obviously skewed perceptions of the Court in a negative direction. Studies more accurately reflecting the population of defendants the Court deals with would reflect possibly different, but certainly more valid perceptions of the Court's functioning.

Lack of access to court records, police records and other sources of collateral information made it very difficult to validate respondents' claims and to control for the effect the negative outcome of their trial has had on their perceptions of specialist sex courts (cf. Benesh & Howell, 2001). The perception that participation in the study would be of benefit to the offender with regard to parole and the like, in all probability also negatively influenced the reliability of their reported perceptions. Studies on more representative samples at different stages in the judicial process would go a long way toward improving reliability in this regard.



The previously mentioned explorative nature of the current study (Articles II & III) lead to the development of an unrefined and perhaps not always relevant measuring instrument. Projects aimed at refining and developing methods of eliciting perceptions from defendants in similar circumstances would be of great value, not only to the evaluation of sex courts, but to the evaluation of experiences with the judiciary in general. The related lack of relevant research made comparative analysis of the findings impossible. Thus closing an important avenue of methodological and theoretical verification.

Notwithstanding the shortcomings mentioned, this research does serve as a point of departure in the evaluation of the Court for Sexual Offences via the perceptions of those individuals most influenced by its decisions. It also serves to provide some measure of comparative data for future investigations and hopefully points of departure for critical thinking and hypothesis testing.

## References

- Barnes-September, R.L. (1998). *The development of a protocol for the management of child abuse and neglect*. Unpublished doctoral thesis, University of the Western Cape
- Benesh, S.C. & Howell, S.E. (2001). Confidence in the Courts: A comparison of users and non-users. *Behavioral Sciences and Law*, 19, 199-214.
- Berg, J. (2001). Private prisons: The international debate and its relation to South Africa. *Acta Criminologica*, 14 (3), 2-12.
- Browne, K.D. & Lynch, M.A. (1998). Protecting children from sex offenders. *Child Abuse Review*, 7, 369-378.
- Carich, M.S. & Stone, M.H. (2001). Aftercare for medium and hardcore sexual offenders. *Journal of Individual Psychology*, 57(1), 60-66.
- Crime Information Analysis Center. (2001). *The reported serious crime situation in South Africa for the period January – September 2001*. Pretoria: South African Police Service Crime Analysis Center.

- Gidycz, C.A., Lynn, S.J., Rich, C.L., Marioni, N.L., Loh, C., Blackwell, L.M., Stafford, J., Fite, R. & Pashdag, J. (2001). The evaluation of a sexual assault risk reduction program: A multisite investigation. *Journal of Consulting and Clinical Psychology, 69* (6), 1073-1078.
- Gordon, A. & Porporino, F.J. (1990). *Managing the treatment of sex offenders: A Canadian perspective*. [Http://www.csc.scc.gc.ca/text/rsrch/briefs/b5/b05e.shtml](http://www.csc.scc.gc.ca/text/rsrch/briefs/b5/b05e.shtml).
- Hanson, R.K. (1998). What do we know about sex offender risk management? *Psychology, Public Policy and Law, 4*(1/2), 50-72.
- Kaukinen, C. & Colvavecchia, S. (1999). Public perceptions of the courts: An examination of attitudes towards the treatment of victims and accused. *Canadian Journal of Criminology, July*, 365-384.
- MacDonald, J.M. (1995). *Rape: Controversial issues, criminal profiles, date rape, false reports and false memories*. Springfield, Illinois: Charles. C. Thomas Publisher.
- Moult, K. (2002). *The court doors may be open, but what lies behind those doors? An observation of the workings of the Wynberg Sexual Offences Court*. [Http://www.uct.ac.za/depts/sjrp/publicat/kelleyt.html](http://www.uct.ac.za/depts/sjrp/publicat/kelleyt.html).
- Opperman, L. (September 2000). Personal communication.
- Petrila, J. (in press). An introduction to Special Judicial Courts. *International Journal of Psychiatry and Law*.
- Powers, J. (1997). *A new specialty court for Texas?* [Http://www.adminlaw.org/aotm2.htm](http://www.adminlaw.org/aotm2.htm).
- Simon, J. (1998). Managing the monstrous: Sex offenders and the new penology. *Psychology, Public Policy and Law, 4*(1/2), 452-467.
- Tyler, T.R. (2001). Public trust and confidence in legal authorities: What do majority and minority group members want from the law and legal institutions? *Behavioral Sciences and the Law, 19*, 215-235.

## ARTICLE V

# The Court for Sexual Offences: Perceptions of the professionals involved

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## ARTICLE V

### **The Court for Sexual Offences: Perceptions of the professionals involved**

#### **Abstract**

This article evaluates the functioning of the Court for Sexual Offences in Bloemfontein at the hand of the perceptions of those professionals most frequently involved with it. The findings suggest that professionals involved with specialized court systems tend to be positive in their appraisals of these systems. However, the ability of sex courts to remain objective and to reduce secondary victimization were called into question. Misperceptions with regard to the Court's current ability to contribute to the rehabilitation of offenders and emotional recovery of the victims were exposed. Operational difficulties facing sex court personnel are discussed and directions for future research identified.

#### **Introduction**

Most, if not all, professions in South Africa have some point of contact with the judicial system. These points of contact may vary from registration regulations required to gain admission to a particular profession, to compliance with local and national ordinances in the everyday execution of professional duties, to actual involvement in litigation as advisors to the court. Those involved in medical, humanitarian and fiscal fields may most often find themselves called upon to deliver inputs with regard to criminal or civil proceedings. This is particularly true of specialist court systems practicing therapeutic jurisprudence, where the judiciary often needs to consult other professionals in the course of providing more people-oriented justice (Petrila, in press).

Various professions have reacted to their increased involvement in litigation by developing forensic or legal areas of specialization. A plethora of publications have also been produced in order to help the non-legal professional to successfully navigate and survive interactions with the legal system. However, scant attention appears to have been

given to the experiences of professionals involved as experts in litigation. Furthermore, no literature was yielded by a search pertaining to the perceptions or evaluations of professionals with regard to the legal systems they function in. It would thus seem high time that legal systems recognize professionals working within them as potentially enlightening sources of evaluation and development.

The fact that professionals functioning within a specialized sex court system or its auxiliary organizations are a valuable evaluative source for the system appears apparent. This collection of professionals is usually comprised of social workers (often functioning as intermediaries), medical officers who have examined the victims, legal professionals representing the accused and legal practitioners prosecuting the case (see Article I for a more detailed discussion on the duties of the professionals involved with the Court for Sexual Offences in Bloemfontein). However, just as the perceptions of court-users are influenced by their cultural, experiential and political baggage (see Article II, Article III & Article IV), so too are those of professionals. This may often lead to conflicting evaluations of the legal system, especially in situations where those serving the court and those served by the court occupy opposite poles of the socio-economic and socio-political continuums.

Tyler (2001) contends that the quality of treatment individuals receive from the criminal justice system greatly influences socially, politically and economically disenfranchised individual's perceptions of this system. These premises appear to be supported by the perceptions of the victims, families and offenders involved with the Court for Sexual Offences in Bloemfontein (see Article II; Article III & Article IV). The more wealthy individuals in a society tend to be more supportive of a criminal justice system that they perceive to be one of the primary buffers between their property and criminal elements within a particular society (Kaukinen & Colavecchia, 1999; Brooks & Jeon-Slaughter, 2001). Furthermore, Tyler is of the opinion that more privileged sectors of society are often prepared to accept inequalities or irregularities in the justice system if they perceive them necessary to reduce crime or maintain social order. It could thus be argued that professionals, as more well off and respected members of the community occupy more

privileged levels within their societies. This could, in turn, be expected to influence their evaluation of the criminal justice system accordingly.

The tendency of the more affluent and powerful sectors of the community, and therefore conceivably that of professionals, to ignore inequality in a judicial system is perhaps further enhanced by the nature of the contact these individuals have with the criminal justice system. Professionals working within the legal system could generally, via constant exposure to this system, be expected to identify with the workings of the judiciary and thus be more inclined to understand certain injustices as functions of context or necessity. This situation may be further enhanced by a background of prescriptive and authoritarian politics in which organs of the state, such as the judiciary, had absolute power and were never questioned, let alone evaluated or appraised with regard to potential improvements to their functioning.

Benesh and Howell (2001) perceive individuals' perceptions of the courts to largely be influenced by the manner in which court staff treat these people. It stands to reason that highly qualified expert witnesses and jurists tend to be treated courteously by the courts. This would serve to positively enhance these individuals' general perceptions of the courts in question. Professionals involved with the courts in advisory or litigative capacities tend to have a fair measure of control of the judicial proceedings, while not being significantly influenced by their outcome. They consequently tend to be more positive in their judicial evaluations than victims and offenders who have little control over the legal process, but are profoundly affected by its outcome.

The high degree to which non-judicial professionals are utilized in specialized court systems (Petrla, in press; Viviers, 1994) qualifies these individuals as evaluators of those systems. Moreover, their non-legal background further delineates them as valuable assessors of legal systems operating in the realms of judicial jurisprudence. The possible lack of judicial perspective exhibited in the evaluations of the aforementioned professionals can be balanced against the evaluative perceptions of the legal professionals functioning within the specialized court system.

## Method

The initial intention in this study of the professional's perceptions of the Court was to randomly draw a sample from among those professionals involved in cases already included in the victim, families of victims and offender samples. However, difficulties with regard to accessing acceptably large samples amongst the aforementioned groups and a lack of access to the relevant police and court records made this approach impossible. Consequently, smaller, less representative samples of professionals had to be obtained by alternate means. The prosecutors appear to be the only sample group not affected by these methodological complications, as the entire permanent prosecution staff were included in the study.

The Court for Sexual Offences in Bloemfontein was approached to assist with the identification of specific professionals frequently involved in sexual offence cases. It was reasoned that individuals with a wider experience to base their perceptions of the Court upon could thus be identified. This consultation yielded a list of 41 defense attorneys most often representing offenders in the Court. The two State Physicians most frequently charged with the forensic examination of victims and the provision expert testimony in the Court were similarly identified. A group of ten intermediaries and social workers were also identified as potential respondents.

Questionnaires and accompanying information pages (see Appendix C) pertaining to the nature and relevance of the study, as well as information regarding the guaranteed anonymity and confidentiality of respondents were mailed to the various individuals identified by way of the aforementioned process. The questionnaires contained sections pertaining to the respondent's biographical data as well as their perceptions of the Court for Sexual Offences in Bloemfontein and various auxiliary agencies. Due to a lack of relevant literature or measuring instruments, these questionnaires were based on the questionnaires used to sample the perceptions of the victims, offenders and relatives of the victims (see Article II, Article III & Article IV). Items were presented in forced choice, Likert scale and open-ended question format (see Appendix A). The respondents

were required to complete the questionnaire in reference to their most recent interaction with the Court. These questionnaires would then be returned to the researcher by means of the self-addressed envelopes provided. However, the physicians contacted the researcher and, following consultation, it was decided that their inputs would be of more value if they were to complete the questionnaire with reference to their broader experience with victims and the Court.

The eventual rate of return for the various professional groupings varied considerably. All four prosecuting attorneys and both medical officers approached to participate in the study returned completed questionnaires. The intermediaries were less enthusiastic with only four of the potential 10 participants completing questionnaires, and only six of the 41 defense attorneys approached decided to participate in the study. A section of the questionnaire had been developed to sample the perceptions of psychologists involved in cases before the Court. However, no psychologist was found to have been involved in any of the cases included in the sample. All the completed questionnaires received were judged to be appropriate for inclusion in the study. Subsequently, the questionnaires were subjected to statistical analysis in order to determine frequencies and trends in the response patterns of each individual professional grouping.

## **Results**

### *Prosecutors*

All prosecuting attorneys permanently assigned to the Court for Sexual Offences (four in total) were sampled regarding their perceptions of the Court. They were all of a similar age, 75% were 30 years old, while one individual (25%) was 31 years old. One male (25%) and three women (75%) completed questionnaires. All the respondents were Caucasian. The level of education was equally distributed in the sample, with half the respondents having undergone 15 years of education and the other half reporting to have 19 years of formal education behind them.



Analysis of the questionnaires revealed that 75% of the prosecutors sampled were satisfied, or even more positive in their evaluations of the police's work. These positive evaluations were primarily based on the fact that the necessary evidence had been collected and that all the relevant witnesses had been located prior to going to trial. The investigating officer's experience and competence was stated as the reason for the prosecutor's satisfaction in 25% of the instances. However, 25% of the prosecutors expressed dissatisfaction with the evidence gathered by the police. This dissatisfaction was due to the evidence being either contaminated or misplaced. Notwithstanding these criticisms, the prosecutors were all satisfied with the testimony of the police officers who were called to give evidence in sexual offence cases. In these instances the investigating officials were perceived to be experienced at giving evidence and well prepared to testify in the relevant trials.

The prosecutors expressed 100% satisfaction with the quality of the evidence gathered by the physicians during forensic medical examinations following sexual offences. The competence, expertise and experience of the physicians concerned were the main motivations for these positive evaluations. In instances where the physicians were required to testify, the respondents were also positive in their evaluations of the testimony. Perceptions of the medical officers as experts in their specific field of medicine, as well as impressions of preparedness and experience at delivering expert testimony underlined these judgments.

In all of the cases surveyed, the prosecutors had their first contact with the victim in excess of six weeks after the sexual offence had been committed. This situation was described as satisfactory in 75% of the cases and as ideal in 25%. Various motivations for the prosecutors' level of satisfaction were volunteered. One prosecutor felt that the time that elapsed before her contact with the victim was largely due to the time the victim took to report the offence to the authorities. Backlogs in the judicial system were also seen as having an influence on the time it took victims and prosecutors to make contact with each other. One prosecutor was of the opinion that having contact with the victim

so long after the incident was sufficient, as the preparatory consultations should take place as near to the trial date as possible.

The prosecutors interviewed were either satisfied (50%) or very happy (50%) regarding their experiences during their interviews with the victims of sexual offences. The victims were generally perceived as being able to accurately and truthfully recount facts pertaining to their sexual assaults. However, the time lapse between the event and the interview occasionally contributed to the victim's re-experience of the trauma complicating the interview.

In situations where the services of an interpreter or intermediary were required during a preparatory interview, the prosecutors rated their experiences as satisfactory 66.7% of the time, and were extremely content with these services in 33.3% of the cases. The interpreter/intermediary's skill, experience and ability to display victim empathy were all viewed as positive facilitating factors during contact with the victims.

None of the prosecutors interviewed reported having any doubts as to the authenticity of the victim's account of the sexual offence. They supported these statements by claiming that the victim offered a logical and plausible account of the events in 25% of the cases. Detailed recollection of the sexual assault was seen as proof of honesty 50% of the time, while in 25% of the instances the prosecutor felt that the minor victims' advanced sexual knowledge was evidence that they had been subjected to the alleged sexual abuse.

The prosecutors were generally of the opinion that intimidation of the victims or attempts at bribery did not play a significant role in the cases sampled. Only 25% indicated that intimidation by the offender's family was a factor during the pre-trial phase. All the prosecutors were of the opinion that the Court took adequate steps to prevent intimidation in the instances where such activities were brought to its attention. The Court's preferred tactic in this regard appeared to be to strongly caution the offenders against having further contact with the victim or victim's family.

The prosecutors surveyed were of the opinion that they were able to try their cases according to their desired strategy 100% of the time. They were thus generally satisfied with their role in the legal proceedings. Prosecutors felt that the defense attorneys involved in 25% of the cases were guilty of attempting to portray the victim as a liar. Another 25% accused their colleagues of arguing for overly lenient sentences. However, 25% of the prosecutors interviewed, did feel that the defense attorneys displayed appreciation for the severity of the crimes their clients were accused of.

Having to try a case via an intermediary with the witness or victim in another room was seen to detract, to some extent, from the way the prosecutor wished to try the case in 50% of the instances reported. These attorneys felt that the loss of close contact with the victim/witness in the court made it difficult to judge testimony accurately and decide on questioning strategies. These complications were, however, viewed as secondary to the victim's welfare, with 25% of the respondents being of the opinion that the victim's emotional well being was best served by not having her testify in open court.

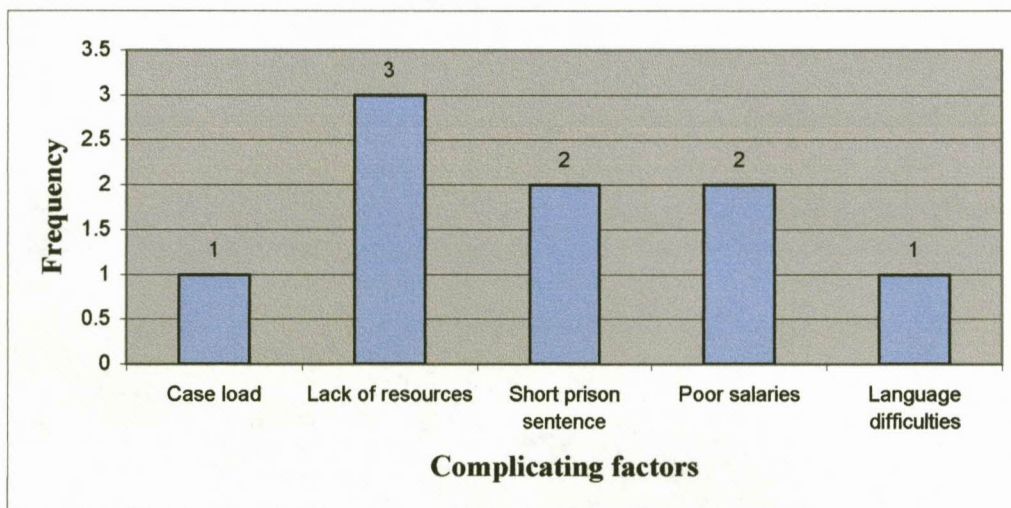
Guilty verdicts were obtained in 100% of all the cases surveyed. The prosecutors responding to the questionnaire were of the opinion that the Court only made provision for the offender's rehabilitation in half of the cases surveyed. However, it should be noted that this statement was based on the perception that a prison term is a suitable and effective form of rehabilitation. The Court thus ordered no specific rehabilitation of the offender in any of the cases surveyed. The majority (50%) of the respondents expressed dissatisfaction with the lack of provision that was made by the Court for rehabilitation at sentencing.

Provision is said to have been made for the treatment of the victim in 75% of the cases. Responsibility for this treatment or counselling is thought to have been the responsibility of the Social Welfare Department. The prosecutors were of the opinion that the judicial process helped to facilitate the victim's emotional recovery in 75% of the cases. Involvement in the judicial process was thought to facilitate the victim's family's emotional recovery in 25% of the cases. It was said to have had little to no effect 50% of

the time and 25% of the respondents felt unable to formulate an opinion with regard to the families' experiences.

The prosecutors who responded to the questionnaire generally felt that the court system could improve its functioning by imposing heavier sentences on individuals convicted of sexual offences. More specific prescriptions with regard to the rehabilitation and treatment of sexual offenders would also be welcomed. However, the respondents were of the opinion that the establishment of a specialized court to deal with sexual offences had gone a long way towards streamlining the judicial process, as well as reducing the secondary victimization the victims of sexual offences experience during litigation.

**Figure 1: Factors complicating prosecutors' professional functioning**



n=4

Figure 1 graphically represents the factors perceived by the prosecutors as complicating their professional functioning. Of the prosecutors surveyed, 33.3% felt that a lack of resources limited their functioning most. This included lack of adequate access to support staff such as interpreters and a general lack of an effective supportive infrastructure e.g. offices, equipment, lack of access to interview rooms, transport to and from court for witnesses, and overloaded court roles. Poor financial compensation was a concern for 22.2% of the respondents. Short prison sentences for sex offenders were seen

as complicating the prosecutors' job in a further 22.2% of cases. Heavy caseloads (11.1%) and difficulty communicating with witnesses due to language differences (11.1%) were also identified as problems.

### Defense attorneys

As stated previously, only six defense attorneys returned completed questionnaires. Of these, 17% were 29 years of age, 32% were aged 30, 17% were 31 years old, 33 year olds accounted for a further 17% of the sample and the remaining 17% was constituted by a 55 year old individual. The group responding to the questionnaire consisted of 83.3% male and 16.7% female. With regard to race, one respondent (16.7%) was black and 83.3% were Caucasian. The respondents' level of education ranged from 16 years to 19 years. Half of the sample reported to have 16 years of formal education behind them, 6.7% of the respondents reported 17 years of education, with identical proportions listing education levels of 18 and 19 years respectively. All the attorneys surveyed represented solo perpetrators of rape against single victims.

Half of the defense attorneys first came into contact with their clients between two and four weeks after the alleged sexual offence had occurred. The remainder first met with their clients in excess of six weeks after the event. The respondents were appointed to their clients by the courts via the Legal Aid Board 66.7% of the time, while 33.3% were retained by the families of the accused. All of the lawyers sampled were satisfied with the manner in which they came to represent their clients.

When questioned with regard to their experiences of interviews with their clients, 16.1% expressed dissatisfaction with the interview, while a further 16.1% were less than satisfied. Satisfaction was expressed by 33.3% of those surveyed, with a further 33.4% of the attorneys' feeling equally divided between attitudes described as more than satisfied and those labelled as very happy. The individuals who tended to be more positive in their evaluations, cited a consistency between the accused's statements and the available evidence as the reason for their satisfaction. The more skeptical respondents

seem to have experienced language difficulties, a shortage of interpreters and a negative attitude on the part of the accused towards his own defense as disheartening.

Language appears to have been a problem in 66.6% of the cases reported. The services of an interpreter could only be obtained 25% of the time. In these instances the interpreters were relatives of the accused and the attorney concerned described their proficiency as less than satisfactory. Finally, 50% of the respondents reported having doubts with regard to the authenticity of their client's account of events surrounding the alleged sexual assault prior to going to trial.

The quality of the police's evidence gathering met with the approval of 66.7% of the attorneys responding to the questionnaire. These individuals were generally satisfied that the evidence had been competently gathered. However, 33.3% were less than satisfied with this aspect of the investigating officer's work. Criticisms included claims that important documentation could not be produced in court, the perception that the police had been negligent in their collection of evidence, accusations that the victim failed to point out the accused in an identity parade and claims that the investigating officer had given little credence to the accused's statements.

A police official was not required to testify in 50% of the cases surveyed. In the remaining cases, 25% of the respondents were satisfied with this testimony, while 75% remember feeling less than satisfied. The two primary motivations for this dissatisfaction were a perception that the police officers were biased in their testimony against the accused and claims that the official concerned found it difficult to accurately recall the facts of the case.

The defense attorneys were generally satisfied (83.3%) with the quality of evidence gathered by the physicians involved in the cases. Here the physician was seen as a competent professional and experienced in the field of forensic medicine. However, 16.7% expressed dissatisfaction with the medical officer's performance. In this instance, it was felt that the physician was not prepared to concede that a lack of sufficient medical

evidence against the accused made it impossible to unequivocally deduce that he had in fact committed the sexual offence in question. The majority perceived the medical practitioner in their specific case to be a competent and experienced expert witness.

When asked whether or not they were able to try the case according to their intended strategy, 83.3% of the respondents answered in the affirmative. The primary reasons for this seem to have been that all the required evidence was available and that the necessary defense witnesses could be located. Upon investigation of the defense attorneys' attitudes towards the prosecutors during the trial, it emerged that the majority were satisfied with their colleagues' performances. The prosecutors were viewed as objective, competent, professional or as able cross-examiners 83.4% of the time. Those defense councils who were critical of the prosecuting attorney, perceived the individual concerned to be too personally involved in the case and to be guilty of overstating the strength of their case against the accused.

The presiding officers in the cases surveyed were generally perceived to be impartial and objective. It was also felt by 16.7% of the respondents that the magistrate was competent in his/her handling of the proceedings. The defense attorneys, in 16.7% of the cases, voiced concern regarding the high rate of guilty verdicts handed down by a particular magistrate in the Court for Sexual Offences. A further 16.7% claim that the magistrates tended, upon occasion, to reach conclusions that were not necessarily entirely consistent with the facts presented in the case.

The defense attorneys were required to express their views with regard to the use of intermediaries in facilitating the testimony of certain witnesses and the concept of testimony via closed circuit television in general. The majority (66.6%) were not positive with regard to either concept. The reasons underlying their critique included:

- The perceived danger that the intermediary could influence the witness's testimony.

- It was claimed that, in the course of clarifying or simplifying questions asked by council for the witness, the intermediaries distort the meaning of these questions.
- Testimony via closed circuit television was perceived as unnecessarily complicating cross-examination.
- The perception existed that the Court excessively protects the victims, by not allowing the defense attorneys to exert the same amount of pressure during cross-examination as the prosecutors are allowed to exert while questioning the accused. Consequently, making it more difficult for the defense attorney to expose dishonest or bogus charges.

A 50% conviction rate was reported in the cases surveyed. Only 66.6% of the respondents were satisfied with the verdicts that were handed down. They were of the opinion that the Court had reached the only possible conclusion under the circumstances. The remaining 33.4% were equally divided between opinions labelled as less than satisfied and very unhappy respectively. These respondents felt that there had been insufficient evidence against their clients for a guilty verdict to be reached. Sentences following the guilty verdicts fell into two categories. An eight-year sentence was imposed in one instance (33.3%), while the two remaining cases (66.6%) were referred to the High Court for Sentencing.

The attorneys sampled, were all of the opinion that the establishment of a specialist court to deal with sexual offences was a positive and worthwhile development. Certain respondents (20%) felt that the Court performed its function competently. It was also generally perceived to reduce secondary victimization during judicial proceedings. However, various concerns were expressed with regard to the functioning of the Court, with 20% of the respondents voicing concern with regard to the nature of the interviews the prosecutors conduct with the victims prior to the trial. It was felt that these meetings should occur no earlier than one week before the trial and that the number of relatives and prosecution witnesses that deliver inputs at these meetings should be reduced. A further 20% of the defense attorneys felt strongly that the magistrates and prosecutors working in



the Court for Sexual offences should be regularly rotated in order to maintain high degrees of objectivity and impartiality. It was the opinion of 16.7% that a specialized sex court staffed exclusively by women could never claim to be impartial. The time that cases took to come to trial was also identified as a problem. Certain respondents felt that victims are unnecessarily traumatized by having to recount the sexual offences long after they transpired. Others still, were of the opinion that the Court needed to reduce the number of, what they perceived to be unnecessary, postponements. The defense attorneys also felt strongly that the periods of time that those accused of sexual offences spend in prison awaiting trial needed to be reduced. A final suggestion made by 16.7% of the respondents was that minors should be allowed to testify as soon after the sexual offence as possible in order to ensure that the Court hears an accurate account of the events.

#### Intermediaries and Social Workers

Four social workers, some permanently appointed and others freelance, functioning as intermediaries within the Court for Sexual Offences completed questionnaires. Half of the respondents were 32 years of age. A quarter of the social workers were 30 years old and the remaining individual reported to be aged 40. Women accounted for 75% of the sample, with the remainder being male. Regarding the distribution of race amongst the responding social workers, 75% were Caucasian and 25% so-called Coloured individuals. All the respondents reported to have completed 16 years of formal education and were registered social workers. The offences were perpetrated by a solo assailant in 75% of the cases and by two individuals 25% of the time. Three of the cases (75%) involved lone victims, with three victims allegedly being raped in the remaining cases (25%).

Half of the intermediaries sampled had their first contact with the victim in excess of four weeks after the alleged sexual offence had taken place, while 25% had contact within two and four weeks of the incident and a further 25% within 48 hours. Attitudes with regard to the social workers' satisfaction with this situation were divided. Only 50% were satisfied with the length of time it took for the victim to come into contact with them.

This proportion of the respondents felt that they were better able to identify signs of pathological responses to the trauma the individuals had been exposed to, and thus were in a better position to provide the necessary counselling. The dissatisfied respondents felt that long waiting periods made it difficult for the victims to recall important fact about the incident.

When asked to what extent they felt that their training prepared them to adequately assist in forensic investigations, 50% of the intermediaries felt they were adequately prepared. 25% felt more than adequately prepared, with 25% stating that they perceived themselves as less than adequately prepared for the task. All of the intermediaries surveyed were satisfied with their role as interpreter and/or intermediary within the Court for Sexual Offences. Experience at performing the job was the motivation behind the high level of satisfaction in 25% of the cases.

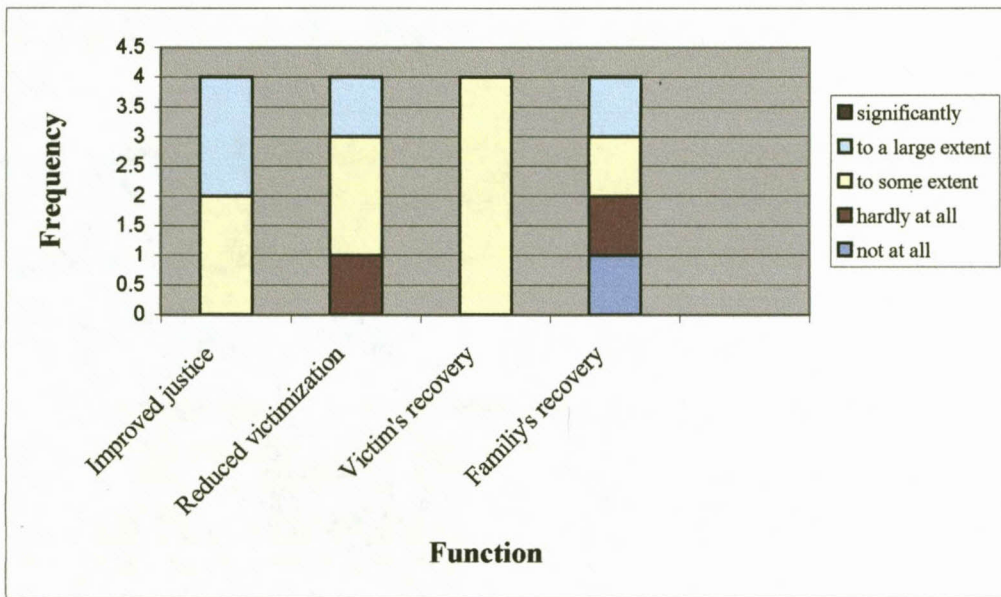
Language barriers were encountered in all of the cases reported, with 75% of respondents feeling that language was a problem to some extent and 25% being of the opinion that it was a problem to some extent.

The majority (75%) of the social workers surveyed were of the opinion that the prosecution to some extent adequately utilized their contribution to their specific case, while 25% described being satisfied, to a large extent, with the degree to which they were allowed to contribute to the judicial proceedings.

The intermediaries responding to the questionnaire were divided with regard to their opinions on the efficacy of the Court when it came to taking precautions against bribery and intimidation of victims and witnesses. Half of those surveyed felt that the Court took adequate steps deal with the situation, while the remaining 50% were not satisfied that enough was being done. It was conceded, however, that in many of the cases the alleged offender was closely related to the victim making it difficult to control the interaction between the two parties.

The respondents were of the opinion that the verdict handed down was appropriate in 100% of the cases. A 75% approval rate was expressed with regard to the suitability of the sentences imposed by the Court for Sexual Offences. Dissatisfaction with the Court's sentencing was expressed by 25% of the sample.

**Figure 2: Intermediaries' evaluations of the function of involvement with the Court**



n=4

Figure 2 indicates that the Court was perceived by the intermediaries to provide improved justice for the victims of sexual offences to some extent 50% of the time and to a large extent in the other 50% of the cases reported. Reduction of secondary victimization during the court process was perceived to have been achieved to a significant level in 25% of the cases, to some extent 50% of the time and to a large extent in 25% of the instances. All the social workers (100%) felt that interaction with the Court, as well as, its verdict and sentencing assisted the victim's emotional recovery to some extent. Regarding the effect of interaction with the Court on the emotional recovery of the victim's family, 25% of the respondents felt that it was not facilitated at all, with 25% perceiving it as hardly having an effect, while a further 25% felt that it did help to some

extent, and the remaining 25% perceived the Court's rulings as facilitating the victim's family's emotional recovery to a large extent.

The social workers surveyed, claim that provision was made at sentencing for the rehabilitation of the offender in 75% of the cases. They were generally satisfied with this situation. However, dissatisfaction was expressed with regard to the 25% of the cases in which no provision was made for rehabilitation. The respondents report that the Court made provision for therapeutic or psychological treatment of the victim in 75% of the cases surveyed.

The social workers functioning as intermediaries in the Court for Sexual Offences, perceived the caseload of the Court to hamper their functioning, to at least some extent, in 75% of the cases surveyed. In 25% of the responses the caseload was not a consideration in determining the efficacy of the intermediaries' functioning. A lack of resources (shortage of equipment/facilities, access to professional guidance and interpreters) was perceived to be a complicating factor in 75% of the instances surveyed. All of the intermediaries responding to the questionnaire felt that, what they considered to be, short prison sentences did nothing to deter people from committing sexual offences. This was seen to indirectly add to the workload of the entire court personnel by increasing the frequency with which re-offenders were involved in the system.

#### Medical practitioners

Two female medical practitioners aged 41 and 48 years respectively, with 18 years of formal education perform the majority of the forensic medical examinations required by the Court for Sexual Offences in Bloemfontein. They report having performed examinations on between 1000 and 1500 victims of sexual offences each. The time taken for sexual assault victims to be examined by these physicians ranged from less than 6 hours to in excess of 24 hours. They were generally not content with the length of time that it took for the victims to undergo examination and treatment. The delays were mainly perceived to be as a result of equipment, facility and personnel shortages. A

shortage of nurses to act as interpreters and witnesses to the evidence gathering were of particular concern to the responding physicians.

Both medical officers were of the opinion that their training had less than adequately prepared them for the task of performing forensic examinations of the nature required in sexual assault cases. Language differences between the physicians and victims were seen to be a further complication in the effective collection of medical evidence and treatment of sex crime victims. However, close co-operation with the prosecutors in the Court for Sexual Offences did make matters easier. The physicians were aware of the type of evidence the Court places emphasis on and frequently met with prosecutors before giving evidence in a specific trial. This interaction appears to have had a positive effect on the physicians' development of specific competencies required for effective evidence gathering and delivery of expert testimony in sexual assault cases. They are also given adequate notice with regard to court appearances and feel that they are not made to wait unduly before being allowed to testify.

The physicians responding to the questionnaire perceived themselves to generally be well prepared to testify in sexual offence cases before the Court. The prosecutors were seen to adequately utilize the expert testimony of the physicians involved in 100% of the cases. However, the physicians generally tended to be in the dark with regard to the outcome of cases they testified in. This made it difficult for them to express to what extent they were satisfied with these outcomes. However, it must be noted that both respondents were not dissatisfied with this situation.

The medical practitioners sampled were of the opinion that the Court for Sexual Offences succeeded to a large extent in providing improved justice for the victims of sexual offences. They did, however, appear less convinced about the Court's ability to reduce secondary victimization during judicial proceedings. The Court was perceived to succeed only to some extent in this aspect of its functioning. The physicians were positive with regard to the degree of specialization amongst the staff in the Court for Sexual Offences and felt that this contributed positively to the service victims received from the Court.

They were also of the opinion that an individual accused of a sexual offence can receive a fair trial within this particular specialized sex court system.

Very few opinions were expressed regarding the medical officers' interaction with other professionals within the judicial system. This would seem to suggest a general contentment regarding their interaction with these individuals. However, they did seem to be affected by the more adversarial aspects of the legal process. The defense attorneys were generally perceived to be less specialized and competent than the prosecutors and were criticized for excessively drawn out cross-examinations and a lack of understanding of the medical evidence presented by expert witnesses.

The physicians were of the opinion that their professional functioning was complicated by a lack of physical resources, equipment, personnel and training. Inter-agency communication was also perceived to be inadequate.

## **Discussion**

The professionals surveyed had all undergone in excess of 15 years of formal education. This is vastly superior to the average educational level of the victims, families and offenders participating in the study (see Article II, Article III & Article IV). It is thus reasonable to expect the professionals to have a differing perspective on state institutions from those held by the majority of the remaining respondents. These expectations were borne out in more positive evaluations of the police, medical services and the functioning of the Court for Sexual Offences generally.

The prosecutors were positive in their evaluations of the police as both competent investigators and witnesses. Defense attorneys tended to be less impressed by the quality of work produced by the police. These dissatisfactions were mostly focused around accusations of incompetent investigating and poor administration. They also often viewed the police to be active advocates of offender guilt rather than impartial witnesses in sexual offence cases. A possible reason for these differing opinions is the qualitative

difference between the relationships these jurists have with the police. Prosecutors, by the nature of their duties, tend to work more closely with the police and possibly use these better relationships more effectively in acquiring evidence. Were this to be the case, doubt is cast on the ability of the defense attorney to provide comparable representation to his/her client, thus disadvantaging those accused of sexual offences.

The physicians acting as expert witnesses in sexual offence cases were positively perceived in both litigative camps. The prosecutors were totally satisfied with the physicians' competence as clinicians and as expert witnesses. Defense attorneys, while generally respectful of the physicians' competencies, questioned their level of personal involvement and victim advocacy. These observations cast certain doubts on the objectivity of expert witnesses who work extensively and closely with prosecutors in specialized courts. There appears to be a danger that close co-operation can easily be misconstrued as a loss of objectivity on the part of the expert witness. This is complicated further when one takes into account that, both physicians sampled were of the opinion that their training poorly prepared them for their current function, and that their interaction with the Court and prosecutors had helped them to develop this aspect of their functioning. It would thus seem worthwhile to include more extensive forensic medical training at under- or post-graduate level, in order to ensure that all physicians working in this field have a professional orientation less open to misinterpretation.

The attorneys, both defense and prosecution, were generally satisfied with the length of time it took their clients to come into contact with them. The intermediaries and physicians were less satisfied with the time it took for them to come into contact with victim. They felt that long delays resulted in weaker evidence being collected and more complications in attempts to screen for and reduce trauma in victims. These differing perceptions are perhaps best explained from the point of varying professional philosophies. They serve to underline that what is acceptable from a legal point of view, is not necessarily always acceptable from a clinical or therapeutic perspective. The need for courts operating on a victim-centered basis to become more sensitized to their therapeutic or trauma reduction function thus becomes apparent. At this stage, the most

effective way of dealing with the problem appears to require greater involvement of other professionals (medical, psychological, social and criminological) in advisory and evaluative capacities.

Intermediaries, physicians and defense attorneys were far more critical of the Court's ability to reduce secondary victimization than the prosecutors were. This was largely due to the time it took cases to come to trial. Prosecutors tended to view the Court for Sexual Offences to be fairly efficient, while the other parties were of the opinion that overloaded case rolls and unnecessary postponements lead to retraumatization of victims, loss of accuracy in victim testimony and unnecessarily long imprisonment of accused awaiting trial. These views echo the attitudes of the victims (Article II), their families (Article III) and the offenders (Article IV). Once again the onus appears to be on those in power to stand by their commitment to actively combat sex crimes and reduce victim trauma by further expansion of the specialized sex court system.

Both prosecutors and defense attorneys experienced the use of intermediaries to facilitate victim testimony via a closed circuit television system as an inconvenience. The prosecutors felt that the distance and lack of personal contact prevented effective interaction between parties in the court and the witness. The defense attorneys viewed the use of such a system as placing their client at a disadvantage, by limiting the intensity of their cross-examination of the victim to well below the level afforded the prosecutor when questioning the offender. They also indicated the dangers of such a system with regard to the possibility of intermediaries influencing evidence and testimony. However, both parties were of the opinion that steps to reduce victim trauma were positive. The defense attorneys also expressed concern at the ability of permanently appointed female staff to remain objective in a sex court. The suggestion was made that staff members regularly be rotated to more general criminal courts in order to help them maintain perspective. These appear to be difficult issues worthy of further investigation. However, the current question seems to be to what extent can victim's rights be championed before the accused's right to justice is encroached upon?



Almost all the respondents felt that one way the Court could improve its functioning was by imposing heavier sentences. The provision of more specific rehabilitation prescriptions on behalf of the Court was also identified as an area of potential improvement by most of the professionals. Certain individuals were of the opinion that prison sentences in themselves were adequate and effective rehabilitation. This point of view not only reflects ignorance of the stark reality of South African prisons, but also underlines the need for a more active role to be played by social scientists and rehabilitationists in the sentencing and monitoring of sexual offenders. A disadvantage of more people orientated jurisprudence appears to be the responsibility to include non-legal professions in the legal process in order to ensure that more humane outcomes are affected by this system.

Most of the professionals, with the notable exception of certain defense attorneys, felt that the Court provided some form of cathartic justice for the victim and generally ensured that provision was made for the therapeutic care of victims. This point of view is in severe contrast to the perceptions of the victims themselves (Article II). It would thus seem that the Court and its auxiliary bodies have a misperception of the extent of victim trauma and the need for remedial intervention, or perhaps more plausibly, that the Court's orders with regard to victim after-care are not being effectively executed by the relevant agencies. In either event the need for a more comprehensive assessment of the victim's emotional state and effective management of a therapeutic process is indicated if the Court is serious about its intentions to prioritize the victim's emotional welfare. The most effective way to deal with the current lack of victim care would be to establish, within the Court, "rape clinics" charged with the evaluation and therapeutic management of victims.

The professionals were also asked to comment on the factors they perceived to most limit their functional efficacy. The prosecutors, physicians and intermediaries cited a lack of physical resources as their main problem. This included a shortage of staff, heavy workloads, equipment shortages and communication difficulties. Here again the challenge to Government is to fiscally back up their commitment to addressing the

current sex crime problem. The expansion and refinement of the current specialist sex court system would go a long way towards further improving the lot of sex crime victims in South Africa.

### **Shortcomings of the study and future research directions**

The apparent lack of local empirical literature or research relating to the perceptions of professionals regarding the legal systems they are involved in made it impossible to perform any form of comparative analysis with regard to the findings of this particular study. This resulted in a situation where the current findings cannot be verified to an acceptably vigorous degree. Future research in this area will help to provide sufficient data to make such comparisons possible.

The final samples utilized in the study, with the exception of the prosecutors and physicians, were not representative enough to allow for any generalizations to be made on the face of the current findings. However, it should also be borne in mind that the prosecutors and physicians, while representative of their professions in the Bloemfontein Court for Sexual Offences milieu cannot automatically be accepted as representative of their colleagues working in other specialized sex court systems. Consequently, while the finding of this study may serve as a limited basis of comparison for similar future studies or provide a point of departure for more refined research projects, they cannot be meaningfully or reliably generalized to the sex court system at provincial or national level.

The fact that the respondents, with the exception of the physicians, were required to respond to the questionnaires based on their most recent interaction with the Court may have skewed the response patterns. The data gained thus pertains to one particular case that may or may not be representative of the individual's general experiences and perceptions of the Court. Similar studies of professional perceptions and the judiciary would increase the reliability and validity of their findings by sampling a wider span of professional involvement with the courts.

The relatively small samples for each group of professionals negatively affect the validity of any reported findings. Studies based on substantially more representative samples, perhaps of a national or multi-cite nature, should yield more readily verifiable and relevant findings. Larger respondent populations would also make it possible to investigate the effect of variables such as age, gender, level of experience and personal exposure to crime on the perceptions of respondents.

Despite the valid criticisms levelled against the current study, it does appear to have value as an explorative investigation of a largely ignored area of psycho-legal interest. Hopefully these findings can serve, not only as a basis for identification of research areas within the sex court system, but also as a point of departure for the critical examination and possible amendment of judicial policy in this area.

## References

- Benesh, S.C. & Howell, S.E. (2001). Confidence in the Courts: A comparison of users and non-users. *Behavioral Sciences and Law*, 19, 199-214.
- Brooks, R.R. & Jeon-Slaughter, H. (2001). Race, income and perceptions of the U.S. court system. *Behavioral Sciences and Law*, 19, 249-264.
- Kaukinen, C. & Colavecchia, S. (1999). Public perceptions of the courts: An examination of attitudes towards the treatment of victims and accused. *Canadian Journal of Criminology*, July, 365-384.
- Petrila, J.D. (in press). An introduction to specialty courts. *International Journal of Psychiatry and Law*.
- Viviers, S. (1994). Wynberg Sexual Offences Court: Impressions after a year in operation. *De Rebus*, Aug, 569-570.
- Tyler, T.R. (2001). Public trust and confidence in legal authorities: What do majority and minority group members want from law and legal institutions? . *Behavioral Sciences and Law*, 19, 215-235.

## SUMMARY

This thesis evaluates the Court for Sexual Offences in Bloemfontein at the hand of the perceptions of the victims, their families, offenders and professionals involved with this court. The first article is a theoretical orientation to the relatively unique area of sex courts. The remaining four empirical articles discuss the perceptions of the parties involved with the Court.

The findings indicate that the victims of sexual offences, their families and the professionals working in the Court and associated auxiliary services, are generally of the opinion that the establishment of specialist sex courts has gone a long way towards ensuring improved justice for victims and decreasing the incidents of secondary victimization during judicial proceedings. However, the Court still exhibits shortcomings in several areas. Furthermore, doubts are expressed with regard to the impartiality of such specialist courts, sentences for sexual offenders are perceived to be ineffectual and the after-care afforded to the victims and their families appears to be very poor.

The perpetrators of sexual offences also perceive the Court for Sexual Offences to be slow and inefficient. They were of the opinion that this particular system of courts is inherently biased. The victim's rights are perceived to be overemphasized and the majority of the offenders questioned felt that it was not possible for an individual accused of a sex crime to receive a fair trial in a specialist sex court.

## OPSOMMING

Die doel van hierdie proefskrif is om die Hof vir Seksuele Misdrywe in Bloemfontein te evalueer en wel aan die hand van die persepsies van die slagoffers, hul families, oortreders en professionele persone wat by die Hof betrokke is. Die eerste artikel is 'n teoretiese oriëntering ten opsigte van die relatief unieke terrein van howe vir seksuele misdrywe. Die oorblywende vier artikels is empiries van aard en fokus spesifiek op die genoemde persepsies.

Die bevindings dui daarop dat die slagoffers van seksuele misdrywe, hul families en die professionele persone betrokke oor die algemeen van mening is dat die daarstelling van gespesialiseerde howe vir seksuele misdrywe baie bygedra het om geregtigheid vir slagoffers te verseker en die voorkoms van sekondêre viktimisering tydens die juridiese verrigtinge te verminder. Aan die anderkant gaan die Hof steeds mank aan sekere leemtes. Verder bestaan daar twyfel ten opsigte van die onpartydigheid van sodanige spesialishowe, terwyl strawwe vir seksuele oortreders as oneffektief beskou word en die nasorg van slagoffers en hul families veel te wense oorlaat.

Die seksuele oortreders beskou ook die Hof vir Seksuele Misdrywe as stadig en ontoereikend. Hulle was van mening dat hierdie spesialishof inherent bevooroordeeld is. Hul persepsie is dat die slagoffers se regte oorbeklemtoon word en dat dit nie moontlik is vir 'n individu wat van 'n seksuele oortreding aangekla word, om 'n regverdige verhoor in 'n spesialishof vir seksuele misdrywe te kry nie.

## KEY TERMS

Court for Sexual Offences

Specialist sex courts

Psycho-legal evaluation

Victim's perceptions

Offender's perceptions

Perceptions of the families of sex crime victims

Perceptions of the professionals

Secondary victimization

Improved justice for victims of sexual offences

## **APPENDICES**

## APPENDIX A

### The Court for Sexual Offences: Evaluation Questionnaire

This questionnaire has been devised to help ascertain how you have experienced your interaction with the Court for Sexual Offences and certain auxiliary services. You are not required to identify yourself at any stage and should thus feel free to be totally honest and open in your responses to the questions.

#### Instructions

This questionnaire will consist of two types of questions:

- (1) The first type of question will require you to rate your experience or evaluation on a five-point scale. These scales will look similar to the one below.

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
<b>Poor</b>	<b>Below Average</b>	<b>Average</b>	<b>Above Average</b>	<b>Excellent</b>

- (2) The second type of question will require you to give an account of your specific experience or to make recommendations or suggestions you may feel necessary. Please only state your two most important points or reasons, in order of importance or relevance, in each of these sections.

All respondents are required to complete section 1 of the questionnaire; thereafter you only complete the section/s that apply specifically to you e.g. victim, offender, medical officer etc.



**SECTION 1**

**BIOGRAPHICAL DATA**

For office use

<b>1.1</b>	<b>Group:</b>	

		1-2
--	--	-----

<b>1.2</b>	<b>Respondent ID:</b>	

			3-5
--	--	--	-----

<b>1.3</b>	<b>Age:</b>	

		6-7
--	--	-----

<b>1.4</b>	<b>Gender:</b>	
	1	2
	Male	Female

	8
--	---

<b>1.5</b>	<b>Race:</b>	(For statistical purposes only):			
	1	2	3	4	5
	Asian	Black	Coloured	Oriental	White

	9
--	---

<b>1.6</b>	<b>Years of education:</b>	

		10-11
--	--	-------

<b>1.7</b>	<b>Occupation:</b>	

		12-13
--	--	-------

<b>1.8</b>	<b>Nature of the offence:</b>			
	1	2	3	4
	Rape	Molestation	Assault	Attempted rape /molestation

				14-17
--	--	--	--	-------

1.9 Number of victims:  
[Redacted]

[ ] [ ] 18-19

1.10 Number of assailants:  
[Redacted]

[ ] [ ] 20-21

SECTION 2  
VICTIMS OF SEXUAL OFFENCES

<b>2.1</b>	<b><u>REPORTING THE INCIDENT TO THE SOUTH AFRICAN POLICE SERVICES</u></b>
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<b>2.1.1</b> What primarily motivated you to report what happened to the police?

		22-23
		24-25

<b>2.1.2</b> What was the police response?

		26-27
		28-29

<b>2.1.3</b> Were you discouraged from filing a charge?
---

1	2
Yes	No

	30
--	----

**2.1.4 Did you feel safe while waiting to give your statement?**

1 Yes	2 No
----------	---------

31

**Please motivate your answer:**



32-33

34-35

**2.1.5 What was the gender of the officer who took your statement?**

1 Male	2 Female
-----------	-------------

36

**2.1.6 To what extent were you satisfied with the language in which the statement was taken and how well you were understood or could understand the officers:**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
-------------------	--------------------------	----------------	--------------------------	-----------------

37

**2.1.7 Was your statement read back to you:**

1 Yes	2 No
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38

**2.1.8 To what extent were you satisfied with the accuracy of your statement:**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

39

**2.1.9 Were you given the opportunity to make changes to the statement?**

1 Yes	2 No
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40

**2.1.10 Were you informed by the police as to how the case would proceed:**

1 Yes	2 No
----------	---------

41

**2.1.11 Did you experience the police as approachable:**

1 Yes	2 No
----------	---------

42

**2.1.12 How satisfied were you with the extent to which the police kept you updated about the progress of the case:**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

43

**2.1.13 Was there anything the police said or did that you experienced as negative?**



44-45  
46-47

**2.1.14 Was there anything the police said or did that you experienced as positive?**



48-49  
50-51

**2.1.15 Do you have any suggestions to help the police deal more effectively with cases like yours?**



52-53  
54-55

<b>2.2</b>	<b>EXAMINATION BY THE PHYSICIAN</b>
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<b>2.2.1</b> Were you satisfied with the manner in which you were referred to the physician or doctor?
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1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

56

<b>2.2.2</b> Were you offered transport to and from the doctor?
---

1 Yes	2 No
----------	---------

57

<b>2.2.3</b> How long after the incident/offence were you examined by the doctor?
---

1 Less than 6 hours	2 6 to 12 hours	3 12 to 24 hours	4 More than 24 hours
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58

<b>2.2.4</b> If you had to wait to be examined was an explanation given as to why you had to wait?
--

1 Yes	2 No
----------	---------

59

<b>2.2.5</b> If you answered yes to question 2.2.4. to what extent were you satisfied with the explanation given:
---

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

60

2.2.6 What was the gender of the doctor performing the examination?

1	2
Male	Female

61

2.2.7 To what extent were you satisfied with the language in which the examination was conducted:

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

62

2.2.8 Were you informed about the findings of the examination?

1	2
Yes	No

63

2.2.9 Did the doctor suggest that you receive rape counselling or any further treatment?

1	2
No	Yes

64

2.2.10 To what extent were you satisfied with the thoroughness of the examination:

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

65



**2.2.11 Was there anything the doctor/s or nurse/s said that you experienced as negative?**



66-67

68-69

**2.2.12 Was there anything the doctor/s or nurse/s said that you experienced as positive?**



70-71

72-73

**2.2.13 Do you have any suggestions to help the doctors and nurses deal more effectively with cases like yours**



74-75

76-77

<b>2.3</b>	<b>COURT-GENERAL</b>				
<b>2.3.1 How long after the incident did your case come to trial?</b>					
1 Less than a month	2 One to three months	3 Four to six months	4 Six to nine months	5 More than nine months	

 78

<b>2.3.2 How satisfied were you with the length of time the case took to come to trial?</b>					
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy	

 79

<b>2.3.3 To what extent were you satisfied with the notice you were given before you had to be in court?</b>					
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy	

 80

<b>2.3.4 How many times did you have to go to court?</b>				
1 Once	2 Twice	3 Thrice	4 More than thrice	

 81

<b>2.3.5 How satisfied were you with the number of times you had to go to court?</b>					
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy	

 82

**2.3.6 How does the Court for Sexual Offences differ from other courts?**



83-84

85-86

**2.3.7 Where did you gain this information?**



87-88

89-90

**2.3.8 Were you ever threatened by the accused or his family/friends?**

1 Yes	2 No
----------	---------

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91

**2.3.9 How did this make you feel?**



92-93

94-95

**2.3.10 Did you approach the court/police to protect you?**

1 Yes	2 No
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96

**2.3.11 Were any precautions taken to protect you from intimidation?**

1 Yes	2 No
----------	---------

97

**2.3.12 What were your fears and concerns about going to court and/or meeting with the prosecutors?**



98-99

100-101

**2.4 PROSECUTORS**

**2.4.1 How long after the incident did you meet the prosecutor?**

1 Two weeks	2 Two to six weeks	3 Six to ten weeks	4 More than ten weeks
----------------	-----------------------	-----------------------	--------------------------

102

**2.4.2 How many times did you meet with the prosecutor?**

1 Once	2 Twice	3 Thrice	4 More than thrice
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103

**2.4.3 Was anyone else present at these interviews?**

1 Yes	2 No
----------	---------

104

2.4.4 How did you feel about this?				
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

	105
--	-----

2.4.5 Were you satisfied with the way in which the interview/s were conducted?				
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

	106
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<b>Motivate:</b>

		107-108
		109-110

2.4.6 Did you understand the questions you were asked?	
--	--

1 Yes	2 No
----------	---------

	111
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2.4.7 To what extent were your questions answered and your fears addressed by the prosecutor?				
1 Not at all	2 Poorly	3 Satisfactorily	4 More than satisfactorily	5 Totally

	112
--	-----

**2.4.8 To what extent did the charge the prosecutor gathered evidence for correspond to the charge you laid against the accused?**

1 Not at all	2 Poorly	3 Satisfactorily	4 More than satisfactorily	5 Totally
-----------------	-------------	---------------------	-------------------------------	--------------

113

**2.4.9 How well did the prosecutor prepare you for the court case?**

1 Poorly	2 Less than satisfactorily	3 Satisfactorily	4 More than satisfactorily	5 Very well
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114

**2.4.10 To what extent was language a problem?**

1 To a large extent	2 To a moderate extent	3 Only occasionally	4 Almost not at all	5 Not at all
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115

**2.4.11 If an interpreter or intermediary was used, to what degree do you think did this person succeeded in accurately conveying your answers to the prosecutor?**

1 Not at all	2 Poorly	3 Satisfactorily	4 More than satisfactorily	5 Totally
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116

**2.4.12 To what extent was discrimination a problem?**

1 To a large extent	2 To a moderate extent	3 Only occasionally	4 Almost not at all	5 Not at all
------------------------	---------------------------	------------------------	------------------------	-----------------

117

**2.4.13 Was there anything the prosecutor said or did that upset you?**



118-119

120-121

**2.4.14 Was there anything the prosecutor said or did that made you feel better?**



122-123

124-125

**2.4.15 Do you have any suggestions to help prosecutors deal more effectively with cases such as yours?**



126-127

128-129

<b>2.5</b>	<b><u>THE TRIAL</u></b>			
<b>2.5.1 To what extent was your experience of the court similar to what the prosecutor had said it would be?</b>				
1 Not at all	2 Partially similar	3 More similar than not	4 Totally similar	

	130
--	-----

<b>2.5.2 What was different?</b>

		131-132
		133-134

<b>2.5.3 To what extent had the court setup and roles of all the parties involved been explained to you?</b>				
1 Not at all	2 Poorly	3 Satisfactorily	4 More than satisfactory	5 Totally

	135
--	-----

<b>2.5.4 Where did you wait to be called to give evidence?</b>

		136-137
		138-139



**2.5.5 How long did you wait to give evidence?**

1 One hour	2 Two to four hours	3 Five to six hours	4 More than six hours
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 140
**2.5.6 Did you feel safe while waiting to give evidence?**

1 Not at all	2 Somewhat safe	3 Quite safe	4 Fairly safe	5 Totally safe
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 141
**2.5.7 Did anyone explain your role and rights in the court to you?**

1 Yes	2 No
----------	---------

 142
**2.5.8 To what extent were you satisfied with these explanations?**

1 Not at all	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Totally satisfied
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 143
**2.5.9 To what extent were you satisfied with the way the prosecutor let you tell your version of the rape/molestation?**

1 Not at all	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Totally satisfied
-----------------	-----------------------------	----------------	--------------------------------	---------------------------

 144
**2.5.10 Was the interpreter or intermediary able to accurately convey your testimony to court?**

1 Not at all	2 Poorly	3 Satisfac- torily	4 More than satisfac- torily	5 Totally
--------------------	-------------	--------------------------	--	--------------

 145

**2.5.11 Did you feel that the defense attorney was allowed to intimidate you?**

1 Yes	2 No
----------	---------

146

**2.5.12 Were you intimidated by the accused during your appearance in court?**

1 Yes	2 No
----------	---------

147

**2.5.13 What measures could have been taken to better this situation?**



148-149

150-151

**2.5.14 Did you at any point feel that your personal dignity was insulted?**

1 Yes	2 No
----------	---------

152

<b>Please motivate your answer:</b>


153-154

155-156

<b>2.5.15 To what extent did you understand the court procedures?</b>				
1 Not at all	2 Somewhat	3 Fairly well	4 To a great extent	5 Totally

	157
--	-----

<b>2.5.16 Were there members of the public present while you gave evidence?</b>
---

1 Yes	2 No
----------	---------

	158
--	-----

<b>2.5.17 How did you feel about this?</b>				
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

	159
--	-----

<b>2.5.18 Did the magistrate say or do anything to upset you?</b>

		160-161
		162-163

**2.5.19 Did the magistrate say or do anything that you experienced as positive?**


		164-165
		166-167

**2.5.20 Do you have any suggestions to help the magistrate deal more effectively with cases such as yours?**


		168-169
		170-171

**2.6 OUTCOME OF THE TRIAL**

**2.6.1 Was the accused convicted or acquitted?**

1 Convicted	2 Aqited	3 Uncertain
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	172
--	-----

**2.6.2 Were you satisfied with the verdict?**

1 Yes	2 No
----------	---------

	173
--	-----

**2.6.3 Why do you think this verdict was given?**


		174-175
		176-177

**2.6.4 How did you get to hear about the outcome of the trial?**

1 Prosecutor	2 Social worker	3 Police	4 Other
-----------------	--------------------	-------------	------------

	178
--	-----

**2.6.5 How satisfied were you to receive the news in this way?**

1 Not at all	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Totally satisfied
-----------------	--------------------------	----------------	--------------------------	------------------------

	179
--	-----

**2.6.6 If convicted, what sentence did the accused receive?**


		180-181
		182-183

**2.6.7 Were you satisfied with this sentence?**

1	2
Yes	No

	184
--	-----

**2.6.8 If you could have handed down the sentence what would it have been?**


		185-186
		187-188

**2.6.9 Did anyone from the court or Social Welfare contact you after the court case to see how you were doing?**

1	2
Yes	No

	189
--	-----

**2.6.10 Do feel that follow-up services are important?**

1	2
Yes	No

--	--

190

**Motivate:**



191-192  
193-194

**2.6.11 Did the court's verdict and the sentence the offender received help you to get over the trauma of being raped?**

1	2
Yes	No

--	--

195

**2.6.12 What helped/impeded your emotional recovery?**



196-197  
198-199

**2.6.13 Please rate your overall experience of the Court for Sexual offences:**

1 Dissatisfied	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Totally satisfied
-------------------	--------------------------	----------------	--------------------------	------------------------

 200

**2.6.14 To what extent does the Court for Sexual offences succeed in providing improved justice for the victims of sex crimes?**

1 Not at all	2 Somewhat	3 To an extent	4 To a large extent	5 Totally
-----------------	---------------	-------------------	------------------------	--------------

 201

**2.6.15 To what extent does this court help to make the whole process less traumatic/uncomfortable?**

1 Not at all	2 Somewhat	3 To an extent	4 To a large extent	5 Totally
-----------------	---------------	-------------------	------------------------	--------------

 202

**2.6.16 If a friend or family member were raped, would you encourage her to have her case heard in this court?**

1 Yes	2 No
----------	---------

 203



**2.6.17 How did your overall experience with the court differ from your expectations?**


		204-205
		206-207

**2.6.18 Please feel free to make any additional comments or suggestions that you may feel beneficial in the evaluation of the Court for Sexual Offences:**


		208-209
		210-211

**SECTION 3**

**SUSPECTED SEXUAL OFFENDERS**

<b>3.1</b>	<b>GENERAL</b>			
<b>3.1.1 What was the nature of the offence you were accused of?</b>				
1	2	3	4	
Rape	Molestation	Assault	Attempted rape/ molestation	

22

<b>3.1.2 How old was the person you were accused of raping/molesting/assaulting?</b>				
1	2	3	4	5
0-5 years	6-12 years	13-16 years	16-25 years	26 years and older

23

<b>3.1.3 What was the gender of this person?</b>	
1	2
Male	Female

24

<b>3.1.4 Were there any co-accused?</b>		
1	2	
Yes	No	

25

<b>If yes, how many?</b>

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

26-27

28-29

3.1.5 How many other crimes have you been found guilty of?

1 None	2 One	3 Two	4 Three	5 More than three

30

**3.2 CONTACT WITH THE SOUTH AFRICAN POLICE SERVICES**

**3.2.1 Were you informed of the charge you were being arrested on?**

1	2
Yes	No

<input type="checkbox"/>	31
--------------------------	----

**3.2.2 Were you informed of your rights?**

1	2
Yes	No

<input type="checkbox"/>	32
--------------------------	----

**3.2.3 Do you feel that you were treated differently from people arrested for non-sex related crimes?**

1	2
Yes	No

<input type="checkbox"/>	33
--------------------------	----

**Motivate:**


<input type="checkbox"/>	34-35
<input type="checkbox"/>	36-37

**3.2.4 Were you advised of your options pertaining to legal representation?**

1	2
Yes	No

<input type="checkbox"/>	38
--------------------------	----

**3.2.5 Do you feel that pressure was put on you to admit to committing the crime in question?**

1 Yes	2 No
----------	---------

39

**3.2.6 What was the gender of the officer who took your statement?**

1 Male	2 Female
-----------	-------------

40

**3.2.7 To what extent were you satisfied with the language in which the statement was taken and how well you were understood or could understand the officers:**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
-------------------	--------------------------	----------------	--------------------------	-----------------

41

**3.2.8 Was your statement read back to you:**

1 Yes	2 No
----------	---------

42

**3.2.9 To what extent were you satisfied with the accuracy of your statement:**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
-------------------	--------------------------	----------------	--------------------------	-----------------

43

3.2.10 Were you given the opportunity to make changes to the statement?

1	2
Yes	No

44

3.2.11 Were you informed by the police as to how the case would proceed:

1	2
Yes	No

45

3.2.12 Did the police do or say anything to upset you?



46-47

48-49

3.2.13 Did the police say or do anything you experienced as positive:



50-51

52-53

**3.3 PRE-TRIAL PERIOD**

**3.3.1 How long after you were arrested did you go to court for the first time?**

1 Less than 48 hours	2 Less than a week	3 Less than 14 days	4 Less than a month	5 More than a month
-------------------------------	-----------------------------	------------------------------	------------------------------	------------------------------

54

**3.3.2 To what extent were you satisfied with this waiting period?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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55

**3.3.3 How many times did you go to court before the trial?**

1 Once	2 Twice	3 Thrice	4 More than thrice
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56

**3.3.4 How did you feel about this?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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57

**3.3.5 Were you represented by a lawyer when you appeared in court?**

1 Yes	2 No
----------	---------

58

**3.3.6 If you answered no to 3.3.5, what was the reason for this?**



59-60

61-62

**3.3.7 Did you choose to represent yourself?**

	1 Yes	2 No	
--	----------	---------	--

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63

**If yes, why?**



64-65

66-67



**3.3.8 Were you granted bail?**

1	2
Yes	No

68

**If no, why do you think you were not granted bail?**



69-70

71-72

**If yes, were you able to afford to pay it?**



73-74

75-76

**3.3.9 How does the Court for Sexual Offences differ from other courts?**



77-78

79-80

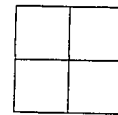
**3.3.10 How did you feel about having your case heard in this court?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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**Motivate:**




81



82-83

84-85

3.4

**THE TRIAL****3.4.1 What was the gender of the prosecutor?**

1 Male	2 Female
-----------	-------------

86

**3.4.2 How did you feel about this?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

87

**3.4.3 What was the gender of the magistrate?**

1 Male	2 Female
-----------	-------------

88

**3.4.4 How did you feel about this?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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89

3.4 **THE TRIAL**

3.4.1 What was the gender of the prosecutor?

1 Male	2 Female
-----------	-------------

86

3.4.2 How did you feel about this?

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

87

3.4.3 What was the gender of the magistrate?

1 Male	2 Female
-----------	-------------

88

3.4.4 How did you feel about this?

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

89

**3.4.5 To what extent did you understand the questions you were asked?**

1 Not at all	2 To some extent	3 To a large extent	4 Mostly	5 Totally
-----------------	---------------------	------------------------	-------------	--------------

90

**3.4.6 To what extent were you able to make yourself understood?**

1 Not at all	2 To some extent	3 To a large extent	4 Mostly	5 Totally
-----------------	---------------------	------------------------	-------------	--------------

91

**3.4.7 Were you satisfied with the way your attorney let you tell your version of what happened?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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92

**3.4.8 Were you satisfied with the way in which he/she questioned other witnesses?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
-------------------	--------------------------	----------------	--------------------------	-----------------

93

3.4.9 Did you experience the prosecutor as intimidating at any stage during the trial?

1 Yes	2 No
----------	---------

 94

3.4.10 Was your alleged victim able to testify from outside the courtroom?

1 Yes	2 No
----------	---------

 95

3.4.11 How did you feel about this?

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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Motivate:


 96

<input type="checkbox"/>	<input type="checkbox"/>	97-98
<input type="checkbox"/>	<input type="checkbox"/>	99-100

3.4.12 Was an intermediary used?

1 Yes	2 No
----------	---------

 101

**3.4.13 How did you feel about this?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

**Motivate:**


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102


103-104  
105-106

**3.5 OUTCOME OF THE TRIAL**

**3.5.1 Were you convicted or acquitted?**

1 Convicted	2 Acquitted
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107

**3.5.2 Were you satisfied with the verdict?**

1 Yes	2 No
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108

**3.5.3 Why do you think this verdict was handed down?**



109-110  
111-112

**3.5.4 What sentence were you given?**



113-114

115-116

**3.5.5 To what extent were you satisfied with the sentence?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

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117

**3.5.6 What sentence would you have suggested?**



118-119

120-121

**3.5.7 What is your opinion of the defense your lawyer presented?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

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122



**3.5.8 What were your negative experiences of the Court for Sexual Offences**



123-124  
125-126

**3.5.9 What were your positive experiences of the Court for Sexual Offences?**



127-128  
129-130

**3.5.10 To what extent do you think this court succeeds in administering justice?**

1 Fails totally	2 Succeeds to some extent	3 Succeeds	4 Succeeds to a great extent	5 Succeeds totally
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131

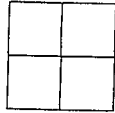
**3.5.11 Do you feel that a person accused of a sex crime is able to receive a fair trial in the Court for Sexual Offences?**

	1 Yes	2 No	
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**Motivate:**




132



133-134

135-136

**SECTION 4**

**FAMILIES OF VICTIMS OF SEXUAL OFFENCES**

**4.1 REPORTING THE INCIDENT TO THE SOUTH AFRICAN POLICE SERVICES**

**4.1.1 What motivated you or the victim to report what happened to the police?**



22-23

24-25

**4.1.2 What was the police response?**



26-27

28-29

**4.1.3 Were you discouraged from filing a charge?**

1 Yes	2 No
----------	---------

--

30

**4.1.4 To what extent were you satisfied with the language in which the statement was taken and how well you were understood or could understand the officers:**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
-------------------	--------------------------	----------------	--------------------------	-----------------

	31
--	----

**4.1.5 Were you informed by the police as to how the case would proceed:**

1 Yes	2 No
----------	---------

	32
--	----

**4.1.6 Did you experience the police as approachable:**

1 Yes	2 No
----------	---------

	33
--	----

**4.1.7 How satisfied were you with the extent to which the police kept you and or the victim updated about the progress of the case:**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
-------------------	--------------------------	----------------	--------------------------	-----------------

	34
--	----

**4.1.8 Was there anything the police said or did that you experienced as negative?**


		35-36
		37-38

**4.1.9 Was there anything the police said or did that you experienced as positive?**


		39-40
		41-42

**4.1.10 Do you have any suggestions to help the police deal more effectively with cases like this?**


		43-44
		45-46

4.2	<b>EXAMINATION BY THE PHYSICIAN</b>
-----	-------------------------------------

<b>4.2.1 Were you satisfied with the manner in which the victim was referred to the physician or doctor?</b>				
--	--	--	--	--

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

<b>Motivate:</b>

47

<b>4.2.2 How long after the incident was the victim examined by the doctor?</b>			
---	--	--	--

1 Less than 6 hours	2 6 to 12 hours	3 12 to 24 hours	4 More than 24 hours
---------------------------	-----------------------	------------------------	----------------------------

52

<b>4.2.3 If you had to wait for the examination, was an explanation given as to why you had to wait?</b>	
--	--

1 Yes	2 No
----------	---------

53

<b>4.2.4 If you answered yes to question 4.2.3, to what extent were you satisfied with the explanation given:</b>				
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1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

54


48-49

50-51

**4.2.5 Were you informed of the findings of the examination?**

1 Yes	2 No
----------	---------

55

**4.2.6 Did the doctor suggest that the victim receive rape counselling or further treatment?**

1 Yes	2 No
----------	---------

56

**4.2.7 To what extent were you satisfied with the thoroughness of the examination:**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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57

**4.2.8 Was there anything the doctor/s or nurse/s said that you experienced as negative?**



58-59

60-61

**4.2.9 Was there anything the doctor/s or nurse/s said that you experienced as positive?**



62-63

64-65

**4.2.10 Do you have any suggestions to help the doctors and nurses deal more effectively with cases such as this?**



66-67  
68-69

**4.3 COURT - GENERAL**

**4.3.1 How long after the incident did the case come to trial?**

1 Less than a month	2 One to three months	3 Four to six months	4 Six to nine months	5 More than nine months
------------------------	--------------------------	-------------------------	-------------------------	----------------------------

--

70

**4.3.2 How satisfied were you with the length of time the case took to come to trial?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
-------------------	--------------------------	----------------	--------------------------	-----------------

--

71

**4.3.3 Were you informed that you were allowed to attend the proceedings with the victim?**

1 Yes	2 No
----------	---------

--

72



**4.3.4 To what extent are you satisfied with the notice you were given before you had to be in court?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
-------------------	--------------------------	----------------	--------------------------	-----------------

73

**4.3.5 How many times did you have to go to court?**

1 Once	2 Twice	3 Thrice	4 More than thrice
-----------	------------	-------------	-----------------------

74

**4.3.6 How satisfied were you with the number of times you had to go to court?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
-------------------	--------------------------	----------------	--------------------------	-----------------

75

**4.3.7 How does the Court for Sexual Offences differ from other courts?**


<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

76-77

78-79

<b>4.3.8 If yes, where did you gain this information?</b>

		80-81
		82-83

<b>4.3.9 Were you ever threatened by the accused or his family/friends?</b>
---

1 Yes	2 No
----------	---------

	84
--	----

<b>4.3.10 How did this make you feel?</b>

		85-86
		87-88

<b>4.3.11 Were any precautions taken to protect you and the victim from intimidation?</b>
---

1 Yes	2 No
----------	---------

	89
--	----

<b>4.3.12 What were your fears and concerns about going to court and/or meeting with the prosecutors?</b>



90-91

92-93

4.4	<b>PROSECUTORS</b>
-----	--------------------

**4.4.1 How long after the incident did you meet the prosecutor?**

1	2	3	4
Two weeks	Two to six weeks	Six to ten weeks	More than ten weeks

	94
--	----

**4.4.2 How many times did you meet with the prosecutor?**

1	2	3	4
Once	Twice	Thrice	More than thrice

	95
--	----

**4.4.3 Was anyone else present at these interviews?**

1	2
Yes	No

	96
--	----

**4.4.4 How did you feel about this?**

1	2	3	4	5
Very unhappy	Less than satisfied	Satisfied	More than satisfied	Very happy

	97
--	----

**4.4.5 Were you satisfied with the way in which the interview/s were conducted?**

1	2	3	4	5
Very unhappy	Less than satisfied	Satisfied	More than satisfied	Very happy

	98
--	----

**Motivate:**


		99-100
		101-102

**4.4.6 Did you understand the questions you were asked?**

1 Yes	2 No
----------	---------

103

**4.4.7 To what extent were your questions answered and your fears alleviated by the prosecutor?**

1 Not at all	2 Poorly	3 Satisfactorily	4 More than satisfactorily	5 Totally
-----------------	-------------	---------------------	-------------------------------	--------------

104

**4.4.8 How well did the prosecutor prepare you for the court case?**

1 Poorly	2 Less than satisfactorily	3 Satisfactorily	4 More than satisfactorily	5 Very well
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105

**4.4.9 To what extent was language a problem?**

1 To a large extent	2 To a moderate extent	3 Only occasionally	4 Almost not at all	5 Not at all
------------------------	---------------------------	------------------------	------------------------	-----------------

106

**4.4.10 If an interpreter or intermediary was used, to what degree do you think this person succeeded in accurately conveying your answers to the prosecutor?**

1 Not at all	2 Poorly	3 Satisfactorily	4 More than Satisfactorily	5 Totally
-----------------	-------------	---------------------	-------------------------------	--------------

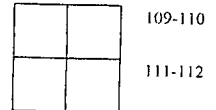
107

**4.4.11 To what extent was discrimination a problem?**

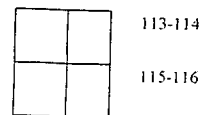
1 To a large extent	2 To a moderate extent	3 Only occasionally	4 Almost not at all	5 Not at all
------------------------------	---------------------------------	---------------------------	---------------------------	--------------------



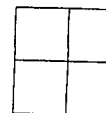
**4.4.12 Was there anything the prosecutor said or did that upset you?**

**4.4.13 Was there anything the prosecutor said or did that made you feel better?**

**4.4.14 Do you have any suggestions to help prosecutors deal more effectively with cases such as this?**

117-118

119-120

<b>4.5</b>	<b>THE TRIAL</b>				
<b>4.5.1 To what extent was your experience of the court similar to what the prosecutor had said it would be?</b>					
1 Not at all	2 Poorly	3 Satisfactorily	4 More than satisfactorily	5 Totally	

	121
--	-----

<b>4.5.2 What was different?</b>

	122-123
	124-125

<b>4.5.3 Where did you wait to be called to give evidence?</b>

	126-127
	128-129

<b>4.5.4 How long did you wait to give evidence?</b>			
1 One hour	2 Two to four hours	3 Five to six hours	4 More than six hours

	130
--	-----



**4.5.5 Did you feel safe while waiting to give evidence?**

1 Not at all	2 Somewhat safe	3 Quite safe	4 Fairly safe	5 Totally safe
-----------------	--------------------	-----------------	------------------	-------------------

131

**4.5.6 To what extent were you satisfied with the way the prosecutor let you tell your version of the events?**

1 Not at all	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Totally satisfied
-----------------	--------------------------	----------------	--------------------------	------------------------

132

**4.5.7 Was the interpreter or intermediary able to accurately convey your testimony to the court?**

1 Not at all	2 Poorly	3 Satisfactorily	4 More than satisfactorily	5 Totally
-----------------	-------------	---------------------	-------------------------------	--------------

133

**4.5.8 Did you feel that the defense attorney was allowed to intimidate you?**

1 Yes	2 No
----------	---------

134

**4.5.9 Were you intimidated by the accused during your appearance in court?**

1 Yes	2 No
----------	---------

135

**4.5.10 What measures could have been taken to better this situation?**



136-137  
138-139

**4.5.11 Did you at any point feel that your personal dignity was insulted?**

	1 Yes	2 No	
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140

**Motivate:**



141-142  
143-144

**4.5.12 To what extent did you understand the court procedures?**

1 Not at all	2 Somewhat	3 Satisfactorily	4 Fairly well	5 Totally
-----------------	---------------	---------------------	------------------	--------------

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145

**4.5.13 Were there members of the public present while you or the victim gave evidence?**

1 Yes	2 No
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	146
--	-----

**4.5.14 How did you feel about this?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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	147
--	-----

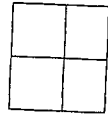
**4.5.15 Did the magistrate say or do anything to upset you?**


		148-149
		150-151

**4.5.16 Did the magistrate say or do anything that you experienced as positive?**


		152-153
		154-155

**4.5.17 Do you have any suggestions to help the magistrate deal more effectively with cases such as this?**

156-157

158-159

<b>4.6</b>	<b>OUTCOME OF THE TRIAL</b>		
	<b>4.6.1 Was the accused convicted or acquitted?</b>		
	1 Convicted	2 Acquitted	3 Uncertain

160

<b>4.6.2 Were you satisfied with the verdict?</b>	
1 Yes	2 No

161

<b>4.6.3 Why do you think this verdict was given?</b>

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

162-163

164-165

<b>4.6.4 How did you get to hear about the outcome of the trial?</b>			
1 Prosecutor	2 Social worker	3 Police	4 Other

166

<b>4.6.5 How satisfied were you to receive the news in this way?</b>				
1 Not at all	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Totally satisfied

167

**4.6.6 If convicted, what sentence did the accused receive?**



168-169

170-171

**4.6.7 Were you satisfied with this sentence?**

1 Yes	2 No
----------	---------

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172

**4.6.8 If you could have handed down the sentence what would it have been?**



173-174

175-176

**4.6.9 Did anyone from the court or Social Welfare contact you after the court case to see how the victim was doing?**

1 Yes	2 No
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177

**4.6.10 Do you feel that follow-up services are important?**

	1 Yes	2 No	
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178

**Motivate:**



179-180

181-182

**4.6.11 Did the court's verdict and the sentence the offender received help your family get over the trauma caused by the rape?**

1 Yes	2 No
----------	---------

183

**4.6.12 What helped/impeded your family's emotional recovery**



184-185

186-187

**4.6.13 Please rate your overall experience of the Court for Sexual offences:**

1 Dis- satisfied	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Totally satisfied
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188

**4.6.14 To what extent does the Court for Sexual Offences succeed in providing improved justice for the victims of sex crimes?**

1 Not at all	2 Somewhat	3 To an extent	4 To a large extent	5 Totally
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189

**4.6.15 To what extent does this court help to make the whole process less traumatic/uncomfortable?**

1 Not at all	2 Somewhat	3 To an extent	4 To a large extent	5 Totally
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190

**4.6.16 If a friend or family member were raped, would you encourage her to have her case heard in this court?**

1 Yes	2 No
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191



**4.6.17 How did your overall experience with the court differ from your expectations?**



192-193

194-195

**4.6.18 Please feel free to make any additional comments or suggestions that you may feel beneficial in the evaluation of the Court for Sexual offences:**



196-197

198-199

**SECTION 5**

**FAMILY OF SUSPECTED SEXUAL OFFENDERS**

**5.1 GENERAL**

**5.1.1 What was the nature of the offence your relative was accused of?**

1 Rape	2 Molestation	3 Assault	4 Attempted rape/molestation
-----------	------------------	--------------	------------------------------------

22

**5.1.2 Was the victim mentioned in 5.1.1 known to your family or the accused?**

1 Yes	2 No
----------	---------

23

**5.1.3 Were there any co-accused?**

1 Yes	2 No
----------	---------

24

**If yes, how many?**


25-26  
 27-28

**5.1.4 How many crimes had the accused been found guilty of prior to this incident?**

1 None	2 One	3 Two	4 Three	5 More than three
-----------	----------	----------	------------	----------------------------

29

**5.2 CONTACT WITH THE SOUTH AFRICAN POLICE SERVICES**

**5.2.1 Were you informed of the charge your relative was being arrested on?**

1 Yes	2 No
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	30
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**5.2.2 Do you feel that your relative was treated differently from people arrested for non-sex related crimes?**

1 Yes	2 No
----------	---------

	31
--	----

**Motivate:**


	32-33
	34-35

**5.2.3 Were you or your relative advised as to your options pertaining to legal representation?**

1 Yes	2 No
----------	---------

	36
--	----

**5.2.4 Do you feel that pressure was put on your relative to admit to committing the crime in question?**

1 Yes	2 No
----------	---------

	37
--	----

**5.2.5 Were you informed by the police as to how the case would proceed:**

1 Yes	2 No
----------	---------

38

**5.2.6 Did the police do or say anything to upset you?**



39-40

41-42

**5.2.6 Did the police say or do anything you experienced as positive?**



43-44

45-46

<b>5.3</b>	<b><u>PRE-TRIAL PERIOD</u></b>					
<b>5.3.1 How long after your relative was arrested did he go to court for the first time?</b>						
1 Less than 48 hours	2 Less than a week	3 Less than 14 days	4 Less than a month	5 More than a month	<input type="checkbox"/>	47

<b>5.3.2 To what extent were you satisfied with this waiting period?</b>						
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy	<input type="checkbox"/>	48

<b>5.3.3 How many times did he go to court before the trial?</b>					
1 Once	2 Twice	3 Thrice	4 More than thrice	<input type="checkbox"/>	49

<b>5.3.4 How did you feel about this?</b>						
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5	<input type="checkbox"/>	50

<b>5.3.5 Was he represented by a lawyer when he appeared in court?</b>					
1 Yes	2 No	<input type="checkbox"/>	51		

**5.3.6 If you answered no to 5.3.5, what was the reason for this?**


		52-53
		54-55

**5.3.7 Was he granted bail?**

	1 Yes	2 No	
--	----------	---------	--

**If no, why do you think he was not granted bail?**


		56-57
		58-59

**5.3.8 If yes, were you or he able to afford to pay it?**

	1 Yes	2 No	
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	60
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**5.3.9 Were you informed as to how the Court for Sexual Offences differs from other courts?**

	1 Yes	2 No	
--	----------	---------	--

	61
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**5.3.10 How did you feel about having your relative's case heard in this court?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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**Motivate:**


62


63-64

65-66

<b>5.4</b>	<b>THE TRIAL</b>				
<b>5.4.1 How did the lay out and procedures in this court differ from your expectations?</b>					
1	2	3	4	5	
Marked-ly	Not quite as you expected	As you expected	Did not know what to expect	Had no expectations	

 67

<b>5.4.2 What was the gender of the prosecutor?</b>	
1	2
Male	Female

 68

<b>5.4.3 How did you feel about this?</b>				
1	2	3	4	5
Very unhappy	Less than satisfied	Satisfied	More than satisfied	Very happy

 69

<b>5.4.4 What was the gender of the magistrate?</b>	
1	2
Male	Female

 70

<b>5.4.5 How did you feel about this?</b>				
1	2	3	4	5
Very unhappy	Less than satisfied	Satisfied	More than satisfied	Very happy

 71

<b>5.4.6 To what extent did you understand the questions you were asked?</b>				
1	2	3	4	5
Not at all	To some extent	To a large extent	Mostly	Totally

 72



**5.4.7 To what extent were you able to make yourself understood?**

1 Not at all	2 To some extent	3 To a large extent	4 Mostly	5 Totally
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73

**5.4.8 Were you satisfied with the way your relative's attorney let you tell your version of events?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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74

**5.4.9 Were you satisfied with the way in which he/she questioned other witnesses?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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75

**5.4.10 Did you experience the prosecutor as intimidating at any stage during the trial?**

1 Yes	2 No
----------	---------

76

**5.4.11 Was the alleged victim able to testify from outside the courtroom?**

1 Yes	2 No
----------	---------

77

5.4.12 How did you feel about this?				
1 Very Unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
<b>Motivate:</b>				

78

79-80  
 81-82

5.4.13 Was an intermediary used?	
1 Yes	2 No

83

5.4.14 How did you feel about this?				
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
<b>Motivate:</b>				

84

85-86  
 87-88

**5.5 OUTCOME OF THE TRIAL**

**5.5.1 Was your relative convicted or acquitted?**

1 Convicted	2 Acquitted	3 Uncertain
----------------	----------------	----------------

89

**5.5.2 Were you satisfied with the verdict?**

1 Yes	2 No
----------	---------

90

**5.5.3 Why do you think this verdict was handed down?**



91-92

93-94

**5.5.4 What sentence was your relative given?**



95-96

97-98

**5.5.5 To what extent were you satisfied with the sentence?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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99

**5.5.6 What sentence would you have suggested?**



100-101

102-103

**5.5.7 What is your opinion of the defense your relative's lawyer presented?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

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104

**5.5.8 What were your negative experiences of the Court for Sexual Offences?**



105-106

107-108

**5.5.9 What were your positive experiences of the Court for Sexual Offences?**



109-110

111-112

**5.5.10 To what extent do you think this court succeeds in administering justice?**

1	2	3	4	5
Fails totally	Succeeds to some extent	Succeeds to a great extent	Succeeds	Succeeds totally

113

**5.5.11 Do you feel that a person accused of a sex crime is able to receive a fair trial in the Court for Sexual Offences?**

	1 Yes	2 No	
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114

**Motivate:**



115-116

117-118

**SECTION 6**

**MEDICAL OFFICER**

6.1	<b>How long after the alleged rape/molestation/assault did you examine the victim?</b>			
	1 Less than 6 hours	2 6 to 12 hours	3 12 to 24 hours	4 More than 24 hours

22

6.2	<b>Was this situation satisfactory?</b>		
-----	---	--	--

1 Yes	2 No	
----------	---------	--

23

**Motivate: (maximum 2 reasons/comments – in order of importance/relevance)**



24-25

26-27

6.3	<b>To what extent do you feel that your training prepared you to do an adequate forensic investigation (i.e. one that meets the judicial system's needs)?</b>				
	1 Not at all	2 Less than adequately	3 Adequately	4 More than adequately	5 Totally

28

6.4	<b>To what extent did communication and language difficulties complicate or influence your task?</b>				
	1 Significantly	2 To a large extent	3 To some extent	4 Hardly at all	5 Not at all

29

**6.5** Were you aware of what the court places emphasis on with respect to the evidence gathered during an examination of this nature?

1 Yes	2 No
----------	---------

30

**6.6** If you answered no to 6.5, to what extent have you attempted to clarify these expectations/requirements?

1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly
-----------------	--------------------	---------------------	------------------------	--------------------

31

**6.7** Did the prosecutor's office communicate with you regarding the case?

1 Yes	2 No
----------	---------

32

**6.8** Did you meet with the prosecutor before appearing as a witness?

1 Yes	2 No
----------	---------

33

**6.9** How did you feel about this?

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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34

<b>6.10</b>	<b>How much notice were you given with respect to when you were to appear in court?</b>

		35-36
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<b>6.11</b>	<b>How do you feel about this?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

	37
--	----

<b>6.12</b>	<b>How long did you have to wait at the court?</b>			
	1 Less than a hour	2 Less than two hours	3 Less than three hours	4 In excess of three hours

	38
--	----

<b>6.13</b>	<b>How do you feel about this?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

	39
--	----

<b>6.14</b>	<b>Did you feel adequately prepared for your court appearance?</b>	
	1 Yes	2 No

	40
--	----



<b>6.15</b>	<b>To what extent do you feel that the prosecutor adequately utilized your testimony?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large	5 Significantly

41

<b>6.16</b>	<b>How did you come to hear about the court's verdict and the sentence that was handed down?</b>				
	1 Prosecutor	2 Social worker	3 Police	4 Other	5 None

42

<b>6.17</b>	<b>How do you feel about this?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

43

<b>6.18</b>	<b>If you are aware of the sentence handed down, do you feel it was appropriate?</b>	
	1 Yes	2 No

44

<b>6.19</b>	<b>To what extent does the Court for Sexual Offences succeed in providing improved justice to the victims of sex crimes?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

45

<b>6.20</b>	<b>To what extent does the Court for Sexual Offences succeed in reducing secondary victimization during these proceedings?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

46

<b>6.21</b>	<b>Were you aware of how the Court for Sexual Offences differed from other courts before you appeared in court?</b>	
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1 Yes	2 No
----------	---------

47

<b>6.22</b>	<b>To what extent did your experience of the court differ from you expectations?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

48

<b>6.23</b>	<b>Define the function of the Court for Sexual Offences:</b>

49-50  
 51-52

**6.24** In your opinion, is it possible for an individual accused of a sex crime to receive a fair trial in this court?

1 Yes	2 No
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53

**6.25** What did the prosecutor do or say that you experienced as negative? (maximum 2 comments – in order of importance/relevance)



54-55

56-57

**6.26** What did the prosecutor do or say that you experienced as positive? (maximum 2 comments – in order of importance/relevance)



58-59

60-61

6.27	What did the defense attorney do or say that you experienced as negative? (maximum 2 comments – in order of importance/relevance)


62-63

64-65

6.28	What did the defense attorney do or say that you experienced as positive? (maximum 2 comments – in order of importance/relevance)


66-67

68-69

<b>6.29</b>	<b>What did the magistrate do or say that you experienced as negative? (maximum 2 comments – in order of importance/relevance)</b>

		70-71
		72-73

<b>6.30</b>	<b>What did the magistrate do or say that you experienced as positive?</b>

		74-75
		76-77

<b>6.31</b>	<b>Please feel free to make any suggestions that may assist the Court for Sexual Offences and auxiliary services (e.g. State Physician, Social Welfare etc) to more effectively fulfill their roles:</b>

		78-79
		80-81
		82-83

**SECTION 7**

**PSYCHOLOGIST**

<b>7.1</b>	<b>In what capacity were you involved in the proceedings?</b>		
	1 Appointed by the defense	2 Appointed by the prosecution	3 Appointed by the court

	22
--	----

<b>7.2</b>	<b>How long after the alleged rape/molestation/assault did you examine the victim/accused?</b>			
	1 Less than 48 hours	2 Less than one week	3 Between two and four weeks	4 More than four weeks

	23
--	----

<b>7.3</b>	<b>Was this situation satisfactory?</b>		
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	1 Yes	2 No	
--	----------	---------	--

	24
--	----

<b>Motivate:</b>	

	25-26
	27-28

<b>7.4</b>	<b>To what extent do you feel that your training prepared you to perform an adequate forensic investigation (i.e. one that meets the judicial system's needs)?</b>				
	1 Not at all	2 Less than adequately	3 Adequa- tely	4 More than adequa- tely	5 Totally

	29
--	----

7.5	<b>To what extent did communication and language difficulties complicate or influence your task?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

30

7.6	<b>Were you aware of what the court places emphasis on with respect to the evidence gathered during an examination of this nature?</b>	
	1 Yes	2 No

31

7.7	<b>If you answered no to 7.6, to what extent have you attempted to clarify these expectations/requirements?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

32

7.8	<b>Did the prosecutor's office/defense attorney communicate with you regarding the case?</b>	
	1 Yes	2 No

33

7.9	<b>Did you meet with the prosecutor/defense attorney before appearing as a witness?</b>	
	1 Yes	2 No

34

7.10	<b>How did you feel about this?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

35

7.11	<b>How much notice were you given with respect to when you were to appear in court?</b>

		36-37
		38-39

7.12	<b>How do you feel about this?</b>				
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy	

	40
--	----

7.13	<b>How long did you have to wait at the court?</b>

		41-42
		43-44

7.14	<b>How do you feel about this?</b>				
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy	

	45
--	----



7.15 Did you feel adequately prepared for your court appearance?

1 Yes	2 No
----------	---------

46

7.16 To what extent do you feel that the prosecutor/defense attorney adequately utilized your testimony?

1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly
-----------------	--------------------	---------------------	------------------------	--------------------

47

7.17 How did you come to hear about the court's verdict and the sentence that was handed down?

1 Prosecutor	2 Social worker	3 Police	4 Other	5 None
-----------------	--------------------	-------------	------------	-----------

48

7.18 How do you feel about this?

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
-------------------	--------------------------	----------------	--------------------------	-----------------

49

7.19 If you were aware of the sentence handed down, do you feel it was appropriate?

1 Yes	2 No
----------	---------

50

<b>7.20</b>	<b>To what extent does the Court for Sexual Offences succeed in providing improved justice to the victims of sex crimes?</b>			
1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

51

<b>7.21</b>	<b>To what extent does the Court for Sexual Offences succeed in reducing secondary victimization during these proceedings?</b>			
1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

52

<b>7.22</b>	<b>Were you aware of how the Court for Sexual Offences differed from other courts before you appeared in court?</b>	
	1 Yes	No

53

<b>7.23</b>	<b>To what extent did your experience of the court differ from your expectations?</b>			
1 Not at all	2 Hardly at all	3 Tome some extent	4 To a large extent	5 Significantly

54

7.24	<b>Define the function of the Court for Sexual Offences:</b>


55-56

57-58

7.25	<b>In your opinion, is it possible for an individual accused of a sex crime to receive a fair trial in this court?</b>
------	--

1 Yes	2 No
----------	---------

--

59

7.26	<b>Was provision made during sentencing for the rehabilitation of the offender/s?</b>	
1 Yes	2 No	3 Uncertain

--

60

7.27	<b>How do you feel about this?</b>			
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

--

61

7.28	<b>Was provision made at any time for the treatment of the victim?</b>	
1 Yes	2 No	3 Uncertain

--

62

<b>7.29</b>	<b>To what extent do you feel the judicial process helped to facilitate the victim's recovery?</b>				
1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Signifi- cantly	6 Not certain

63

<b>7.30</b>	<b>To what extent do you feel the judicial process helped to facilitate the victim's family's recovery?</b>				
1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Signifi- cantly	6 Not certain

64

<b>7.31</b>	<b>To what extent do you feel the judicial process helped to facilitate the offender's rehabilitation?</b>				
1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Signifi- cantly	6 Not certain

65

<b>7.32</b>	<b>What did the prosecutor do or say that you experienced as negative?</b>

66-67  
 68-69

**7.33** What did the prosecutor do or say that you experienced as positive?



70-71

72-73

**7.34** What did the defense attorney do or say that you experienced as negative?



74-75

76-77

**7.35** What did the defense attorney do or say that you experienced as positive?



78-79

80-81

7.36	<b>What did the magistrate do or say that you experienced as negative?</b>


82-83

84-85

7.37	<b>What did the magistrate do or say that you experienced as positive?</b>


86-87

88-89

7.38	<b>Please feel free to make any suggestions that may assist the Court for Sexual Offences and auxiliary services (e.g. State Physician, Social Welfare etc) to more effectively fulfill their roles:</b>


90-91

92-93

**SECTION 8**

**PROSECUTOR**

<b>8.1</b>	<b>How long after the incident was your first contact with the victim?</b>				
1 Less than 48 hours	2 Less than a week	3 Two to four weeks	4 Four to six weeks	5 More than six weeks	<input type="checkbox"/>

22

<b>8.2</b>	<b>To what extent were you satisfied with this situation?</b>				
1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy	<input type="checkbox"/>

23

**Motivate:**


<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

24-25

26-27

**8.3** To what extent were you satisfied with the evidence collected by the South African Police Services?

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

**Motivate:**


28

29-30  
 31-32

**8.4** To what extent were you satisfied with the police officers' testimony?

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

**Motivate:**


33

34-35  
 36-37



**8.5 To what extent were you satisfied with the evidence collected by the Medical Officer?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

**Motivate:**


38


39-40

41-42

**8.6 To what extent were you satisfied with the Medical Officer's testimony?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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**Motivate:**


43


44-45

46-47

**8.7 What was your experience of the interview with the victim?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

**Motivate:**


48

49-50  
 51-52

**8.8 To what extent was language a problem during the interview?**

1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Signifi- cantly
--------------------	-----------------------	------------------------	------------------------------	-------------------------

53

**8.9 To what extent were you satisfied with the interpreter/intermediary during the interview?**

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
----------------------	--------------------------------	----------------	--------------------------------	--------------------

**Motivate:**


54-55  
 56-57

8.10 Did you have any doubts/concerns as to the authenticity of the victim's account of the events?

1 Yes 2 No

Motivate: [grid]

[ ] 58

8.11 Were you able to try the case according to your planned strategy?

1 Yes 2 No

Motivate: [grid]

[ ] 59-60 61-62

[ ] 63

8.12 Was the offender convicted or acquitted?

1 Convicted 2 Acquitted

[ ] 64-65 66-67

[ ] 68

<b>8.13</b>	<b>How did you feel about this?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
	<b>Motivate:</b>				

69


70-71

72-73

<b>8.14</b>	<b>What sentence was handed down?</b>


74-75

76-77

<b>8.15</b>	<b>To what extent were you satisfied with the sentence?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

78

**8.16** What do you think would have been a more appropriate sentence?



79-80  
81-82

**8.17** What did the magistrate do or say that you experienced as negative?



83-84  
85-86

**8.18** What did the magistrate do or say that you experienced as positive?



87-88  
89-90

**8.19** What did the defense attorney/accused do or say that you experienced as negative?



91-92

93-94

**8.20** What did the defense attorney/accused do or say that you experienced as positive?



95-96

97-98

**8.21** What did the expert witness/s do or say that you experienced as negative?



99-100

101-102

8.22	What did the expert witness/s do or say that you experienced as positive?


103-104

105-106

8.23	To what extent do you feel that intimidation/bribery of the victim or his/her family was a problem?				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

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107

8.24	Do you feel that the court took adequate precautions to guard against intimidation/bribery?
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	1 Yes	2 No	
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108

<b>Motivate:</b>	


109-110

111-112

**8.25** To what extent did having to try the case with the use of an intermediary and with the witness in another room detract from the effectiveness of the case you intended to present?

1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly
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**Motivate:**


113


114-115

116-117

**8.26** In your opinion, it is possible for an individual accused of a sex crime to receive a fair trial in the Court for Sexual Offences?

1 Yes	2 No
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118

**8.27** Was provision made during sentencing for the rehabilitation of the offender/s?

1 Yes	2 No	3 Uncertain
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119

**8.28** How do you feel about this?

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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120



<b>8.29</b>	<b>Was provision made at any time for the treatment of the victim?</b>		
	1 Yes	2 No	3 Uncertain

121

<b>8.30</b>	<b>To what extent do you feel the judicial process helped to facilitate the victim's recovery?</b>					
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly	6 Not certain

122

<b>8.31</b>	<b>To what extent do you feel the judicial process helped to facilitate the victim's family's recovery?</b>					
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly	6 Not certain

123

<b>8.32</b>	<b>To what extent do you feel the judicial process helped to facilitate the offender's rehabilitation?</b>					
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly	6 Not certain

124

<b>8.33</b>	<b>Do you experience the caseload in the Court as problematic?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

125

<b>8.34</b>	<b>Do you experience a lack of resources to be a problem?</b>				
	1 Not at all	2 Hardly at	3 To some extent	4 To a large extent	5 Significantly

126

<b>8.35</b>	<b>To what extent do short prison sentences and repeat offending complicate your job?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

127

<b>8.36</b>	<b>What other factors complicate your job or demoralize you?</b>				

128-129  
 130-131

<b>8.37</b>	<b>Please feel free to make any suggestions that may assist the Court for Sexual Offences and auxiliary services (e.g. State Physician, Social Welfare etc) to more effectively fulfill their roles:</b>				

132-133  
 134-135

SECTION 9DEFENSE ATTORNEY

<b>9.1</b>	<b>How long after the incident was your first contact with your client/s?</b>				
	1 Less than 48 hours	2 Less than a week	3 Two to four weeks	4 Four to six weeks	5 More than six weeks

22

<b>9.2</b>	<b>How were you appointed to the case?</b>		
	1 Appointed by the defendant	2 Appointed by the defendant's family	3 Appointed by the court

23

<b>9.3</b>	<b>To what extent were you satisfied with this situation?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

24

<b>9.4</b>	<b>How satisfied were you with the amount of time you had to prepare the case?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

25

**9.5** To what extent were you satisfied with the evidence collected by the South African Police Services?

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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**Motivate: (maximum 2 reasons/comments – in order of importance/relevance)**


26


27-28

29-30

**9.6** To what extent were you satisfied with the police officers' testimony?

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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**Motivate: (maximum 2 reasons/comments – in order of importance/relevance)**


31


32-33

34-35

9.7	<b>To what extent were you satisfied with the evidence collected by the Medical Officer?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
	<b>Motivate: (maximum 2 reasons/comments – in order of importance/relevance)</b>				

36


37-38

39-40

9.9	<b>To what extent were you satisfied with the Medical Officer's testimony?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
	<b>Motivate: (maximum 2 reasons/comments – in order of importance/relevance)</b>				

41


42-43

44-45

**9.10** What was your experience of the interview with the offender?

1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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46

**Motivate: (maximum 2 reasons/comments – in order of importance/relevance)**



47-48

49-50

**9.11** To what extent was language a problem during the interview?

1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly
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51

**9.12** To what extent were you satisfied with the interpreter/intermediary during the interview?

1 Very happy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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52

**Motivate: (maximum 2 reasons/comments – in order of importance/relevance)**



53-54

55-56

**9.13** Did you have any doubts/concerns as to the authenticity of the offender's account of the events?

1 Yes	2 No
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57

Motivate: (maximum 2 reasons/comments – in order of importance/relevance)



58-59

60-61

**9.14** Were you able to try the case according to your planned strategy?

1 Yes	2 No
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62

Motivate: (maximum 2 reasons/comments – in order of importance/relevance)



63-64

65-66

**9.15** Was the offender convicted or acquitted?

1 Convicted	2 Acquitted
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67

<b>9.16</b>	<b>How did you feel about this?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
	<b>Motivate: (maximum 2 reasons/comments – in order of importance/relevance)</b>				

68


69-70

71-72

<b>9.17</b>	<b>What sentence was handed down?</b>

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73-74

<b>9.18</b>	<b>To what extent were you satisfied with the sentence?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

75



<b>9.19</b>	<b>What do you think would have been a more appropriate sentence?</b>

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76-77

<b>9.20</b>	<b>What did the magistrate do or say that you experienced as negative? (maximum 2 comments – in order of importance/relevance)</b>


78-79

80-81

<b>9.21</b>	<b>What did the magistrate do or say that you experienced as positive? (maximum 2 comments – in order of importance/relevance)</b>


82-83

84-85

<b>9.22</b>	<b>What did the prosecutor do or say that you experienced as negative? (maximum 2 comments – in order of importance/relevance)</b>


86-87

88-89

<b>9.23</b>	<b>What did the prosecutor do or say that you experienced as positive? (maximum 2 comments – in order of importance/relevance)</b>


90-91

92-93

<b>9.24</b>	<b>What did the expert witness/s do or say that you experienced as negative? (maximum 2 comments – in order of importance/relevance)</b>


94-95

96-97

<b>9.25</b>	<b>What did the expert witness/s do or say that you experienced as positive? (maximum 2 comments – in order of importance/relevance)</b>


98-99

100-101

<b>9.26</b>	<b>To what extent did having to try the case with the use of an intermediary and with the witness in another room detract from the effectiveness of the case you intended to present?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly
	<b>Motivate: (maximum 2 comments – in order of importance/relevance)</b>				

102.


103-104

105-106

<b>9.27</b>	<b>In your opinion, is it possible for an individual accused of a sex crime to receive a fair trial in the Court for Sexual Offences?</b>
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1 Yes	2 No
----------	---------

107

<b>9.28</b>	<b>Was provision made during sentencing for the rehabilitation of the offender/s?</b>		
	1 Yes	2 No	3 Uncertain

108

<b>9.29</b>	<b>How do you feel about this?</b>				
	1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy

109

<b>9.30</b>	<b>Was provision made at any time for the treatment of the victim?</b>		
	1 Yes	2 No	3 Uncertain

110

<b>9.31</b>	<b>To what extent do you feel the judicial process helped to facilitate the victim's recovery?</b>					
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Signifi- cantly	6 Not certain

111

<b>9.32</b>	<b>To what extent do you feel the judicial process helped to facilitate the victim's family's recovery?</b>					
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Signifi- cantly	6 Not certain

112

<b>9.33</b>	<b>To what extent do you feel the judicial process helped to facilitate the offender's rehabilitation?</b>					
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Signifi- cantly	6 To a large extent

113

9.34	Please feel free to make any suggestions that may assist the Court for Sexual Offences and auxiliary services (e.g. State Physician, Social Welfare etc) to more effectively fulfill its role:


114-115

116-117

118-119

**SECTION 10**

**SOCIAL WORKERS/INTERMEDIARIES**

<b>10.1</b>	<b>How long after the alleged rape/molestation/assault did you consult with the victim/accused?</b>			
	1 Less than 48 hours	2 Less than one week	3 Between two and four weeks	4 More than four weeks

22

<b>10.2</b>	<b>Was this situation satisfactory</b>		
	1 Yes	2 No	

23

**Motivate: (maximum 2 comments – in order of importance/relevance)**


24-25  
 26-27

<b>10.3</b>	<b>To what extent do you feel that your training prepared you to assist adequately in a forensic investigation (i.e. one that meets the judicial system's needs)?</b>				
	1 Not at all	2 Less than adequa- tely	3 Adequa- tely	4 More than adequately	5 Totally

28

**10.4 To what extent did communication and language difficulties complicate or influence your task?**

1 Significantly	2 To a large extent	3 To some extent	4 Hardly at all	5 Not at all
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29

**10.5 Were you satisfied with your role as an interpreter/intermediary?**

1 Yes	2 No
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30

**Motivate: (maximum 2 reasons/comments – in order of importance/relevance)**



31-32

33-34

**10.6 Did the defense attorney communicate with you regarding the case?**

1 Yes	2 No
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35

**10.7 To what extent do you feel that the prosecutor/defense attorney adequately utilized your testimony/contribution to the case?**

1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly
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36

**10.8** Do you feel that the sentence handed down was appropriate?

1 Yes	2 No
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37

**10.9** To what extent does the Court for Sexual Offences succeed in providing improved justice to the victims of sex crimes?

1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly
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38

**10.10** To what extent does the Court for Sexual Offences succeed in reducing secondary victimization during these proceedings?

1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly
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39

**10.11** Define the function of the Court for Sexual Offences:



40-41

42-43



10.12	<b>In your opinion, is it possible for an individual accused of a sex crime to receive a fair trial in this court?</b>
-------	--

1 Yes	2 No
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44

10.13	<b>Was provision made during sentencing for the rehabilitation of the offender/s?</b>
-------	---

1 Yes	2 No	3 Uncertain
----------	---------	----------------

45

10.14	<b>How do you feel about this?</b>
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1 Very unhappy	2 Less than satisfied	3 Satisfied	4 More than satisfied	5 Very happy
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46

10.15	<b>Was provision made at any time for the treatment of the victim?</b>
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1 Yes	2 No	3 Uncertain
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47

10.16	<b>To what extent do you feel the judicial process helped to facilitate the victim's recovery?</b>
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1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Signifi- cantly	6 Not certain
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48

10.17	<b>To what extent do you feel the judicial process helped to facilitate the victim's family's recovery?</b>
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1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Signifi- cantly	6 Not certain
--------------------	-----------------------	---------------------------	------------------------------	-------------------------	---------------------

49

10.18	<b>To what extent do you feel the judicial process helped to facilitate the offender's rehabilitation?</b>					
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly	6 Not certain

50

10.19	<b>To what extent do you feel that intimidation/bribery of the victim or his/her family was a problem?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

51

10.20	<b>Do you feel that the court took adequate precautions to guard against intimidation/bribery?</b>		
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1 Yes	2 No
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52

**Motivate: (maximum 2 reasons/comments – in order of importance/relevance)**



53-54

55-56

10.21	<b>Do you experience the caseload in the Court as problematic?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

57

<b>10.22</b>	<b>Do you experience a lack of resources to be a problem?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

58

<b>10.23</b>	<b>To what extent do short prison sentences and repeat offending complicate your job?</b>				
	1 Not at all	2 Hardly at all	3 To some extent	4 To a large extent	5 Significantly

59

<b>10.24</b>	<b>What other factors complicate your job or demoralize you? (maximum 2 reasons/comments – in order of importance/relevance)</b>				

60-61  
 62-63

<b>10.25</b>	<b>What did the prosecutor do or say that you experienced as negative? (maximum 2 comments – in order of importance/relevance)</b>				

64-65  
 66-67

<b>10.26</b>	<b>What did the prosecutor do or say that you experienced as positive? (maximum 2 comments – in order of importance/relevance)</b>


68-69

70-71

<b>10.27</b>	<b>What did the defense attorney do or say that you experienced as negative? (maximum 2 comments – in order of importance/relevance)</b>


72-73

74-75

<b>10.28</b>	<b>What did the defense attorney do or say that you experienced as positive? (maximum 2 comments – in order of importance/relevance)</b>


76-77

78-79

<b>10.29</b>	<b>What did the magistrate do or say that you experienced as negative? (maximum 2 comments – in order of importance/relevance)</b>


80-81

82-83

<b>10.30</b>	<b>What did the magistrate do or say that you experienced as positive? (maximum 2 comments – in order of importance/relevance)</b>


84-85

86-87

<b>10.31</b>	<b>Please feel free to make any suggestions that may assist the Court for Sexual Offences and auxiliary services (e.g. State Physician, Social Welfare etc) to more effectively fulfill its role:</b>


88-89

90-91

92-93

## APPENDIX B

### INFORMED CONSENT FORM

Dear Respondent

We are evaluating the services offered to the public by the Court for Sexual Offences in Bloemfontein. However, in order to do so, we need to contact individuals who have had their cases heard by this court. Our aims are to determine how you perceive your experience with the court, to what extent you are satisfied with this experience and to give you the opportunity to make any suggestions that you feel may improve the court's functioning.

Participation in this project is totally on a voluntary basis. You do thus have the right to refuse to participate. However, your participation in this project would be greatly appreciated and would be of immense value with regard to improving the services provided by the Court. Should you choose to participate, you are assured of total anonymity and confidentiality. The entire process should not take longer than an hour.

Thank you for your participation.

\_\_\_\_\_  
Prof DA Louw  
Project Leader

\_\_\_\_\_  
Mr. SP Walker  
Researcher

I the undersigned have read this form (or had it clearly explained to me) and understand the contents thereof. Consequently, I agree/do not agree to participate in this study.

Signed: \_\_\_\_\_

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

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## APPENDIX C

### Psycho-legal evaluation of the Bloemfontein Court for Sexual Offences

Dear Prof/Dr/Ms/Mr.

We are conducting a psycho-legal evaluation of the Court for Sexual Offence in Bloemfontein in order to identify problem areas and recommend possible improvements to the system.

It would be greatly appreciated if you could take a few minutes to complete both the biographical and professional questionnaire. Your responses should relate to your experiences in this specific case, however, you are free to add any general impressions of your experiences the court or to make any suggestions at the end of the professional questionnaire. Your responses will be treated in anonymity and the strictest confidence.

Unfortunately the questionnaires have only been printed in English and we would like to apologize for any inconvenience this may cause the respondent. It would be appreciated if all completed questionnaires could be returned in the enclosed envelopes at your earliest convenience.

Thank you for your co-operation.

Yours sincerely

Prof. DA Louw  
Project Leader

Mr. SP Walker  
Researcher