

**Caregivers' experiences of the South African judicial system after the
reporting of child sexual abuse**

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DECLARATION

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I declare that CAREGIVERS' EXPERIENCES OF THE SOUTH AFRICAN JUDICIAL SYSTEM AFTER THE REPORTING OF CHILD SEXUAL ABUSE is my own work and that all sources I have used or quoted have been indicated and acknowledged according to standard requirements.

.....

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I, the supervisor, hereby declare that the input and effort of Ms N Paulsen in writing this manuscript reflects research done by her on this topic. I hereby grant permission that she may submit this dissertation for examination in fulfilment of the requirements for the degree Master in Social Work.



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titled

*Caregivers' experiences of the South African judicial system
after child sexual abuse has been reported*



H P Allen (Mrs)

ABSTRACT

Child sexual abuse (CSA) is found to occur in alarming proportions worldwide. In South Africa, children represent almost half of the victims of known sexual abuse, and this is becoming a great concern, even being described as a silent epidemic. This alarming fact as well as the researcher's experiences as a social worker in this field, resulted in her reviewing literature, in order to gain further insight into the current situation in South Africa. It was discovered that the number of successful CSA court cases reported to the Childline Western Cape centres, was significantly low, and that numerous complaints were being received by her colleagues at Childline from caregivers, regarding their dissatisfaction with the judicial system after reporting CSA. This dissertation therefore serves as a qualitative exploration of caregivers' experiences of the South African judicial system after CSA has been reported. For the purpose of this study, the researcher used a descriptive qualitative research design so as to thoroughly describe the caregivers' experiences.

Semi-structured interviews were conducted with eight participants to gain rich descriptions of their experiences in this area. Three main themes that emerged through the content analysis were: the experiences with officials from the SAPS as part of the judicial system; the experiences with regard to social service delivery; and the experiences with the court and personnel as part of the judicial system.

Several conclusions were drawn. The first was that there were both positive and negative experiences with officials from SAPS. A further conclusion was that the lack of knowledge about procedures needing to be followed in cases of CSA, as well as the uncertainty shown by some SAPS officials with regard to how to go about dealing with child victims of sexual abuse, gave some participants the impression that SAPS officials lack adequate training in this regard. The researcher concluded from the empirical findings and the literature that there is a general sense that CSA investigations are poorly conducted.

Another conclusion was that literature on statutory social service delivery in South Africa and the evaluation thereof seemed sparse. However, from the empirical findings regarding

the participants' descriptions, their experiences, particularly with statutory social workers, were negative. Finally, the researcher concluded that though literature indicated that several changes had been made in the judicial system so as to better deal with child victims of sexual abuse, the experiences of the participants indicated that challenges are still being experienced. The empirical findings indicated that caregivers of child victims of sexual abuse and their children had experienced great frustration when dealing with the judicial system after CSA had been reported. These frustrations were due to the investigation of CSA cases, the court process, and the lack of communication from prosecutors and other professionals in the judicial system.

KEYTERMS: Caregivers, experience, Child Sexual Abuse (CSA), South Africa Judicial system, child sexual abuse victim

OPSOMMING

Daar is bevind dat die seksuele mishandeling van kinders in kommerwekkende proporsies wêreldwyd plaasvind. In Suid-Afrika verteenwoordig kinders amper die helfte van die slagoffers van seksuele mishandeling wat bekend is. Dit is besig om 'n groot bekommernis te word en word as 'n geluidlose epidemie beskryf. Hierdie sorgwekkende feit asook die navorser se ervaring as 'n maatskaplike werker in die veld van seksuele kindermishandeling, het gelei tot die studie van literatuur om sodoende insig te verkry in die huidige situasie in Suid-Afrika. Daar is bevind dat die hoeveelheid suksesvolle sake van seksuele kindermishandeling wat by Wes-Kaapse sentrums van *Childline* gerapporteer is, beduidend min is en dat talryke klagtes deur die navorser se kollegas by *Childline* van versorgers met betrekking tot ontevredenheid oor die regstelsel ontvang is nadat seksuele kindermishandeling aangemeld is. Hierdie tesis dien dus as 'n kwalitatiewe ondersoek van versorgers se ervaring van Suid-Afrika se regstelsel nadat sake van seksuele kindermishandeling aangemeld is. Vir die doel van hierdie studie het die navorser gebruik gemaak van 'n beskrywende kwalitatiewe navorsingsontwerp om die ervaring van die versorgers so deeglik as moontlik te beskryf.

Semi-gestruktureerde onderhoude is met agt deelnemers gevoer om te verseker dat genoeg data ingewin word met betrekking tot die beskrywing van hulle ervarings. Die drie hoof onderwerpe wat deur die analisering van inhoud geïdentifiseer is, kan as volg gelys word: die ervaring met amptenare van die SAPD wat deel uitmaak van die regstelsel; die ervaring ten opsigte van maatskaplike diens gelewer; en die ervaring met howe en personeel wat ook met die regstelsel verband hou.

Verskeie gevolgtrekkings is deur die navorser gemaak. Die eerste is dat daar beide positiewe en negatiewe ervarings met SAPD-amptenare was. 'n Verdere gevolgtrekking was dat die gebrek aan kennis oor die prosedures wat tydens gevalle van seksuele kindermishandeling gevolg moes word asook die onsekerheid wat deur sommige SAPD-amptenare getoon is met betrekking tot die hantering van kinderslagoffers van seksuele mishandeling, by sommige deelnemers die indruk geskep het dat SAPD-amptenare nie oor

die nodige opleiding beskik om hierdie sake te hanteer nie. Die navorser het met behulp van die empiriese bevindings en literatuur tot die gevolgtrekking gekom dat daar 'n algemene gevoel is dat seksuele kindermishandelingsake glad nie na wense hanteer word nie.

Nog 'n gevolgtrekking was dat literatuur oor verpligte maatskaplike dienslewering in Suid-Afrika en die evaluasie daarvan baie beperk voorkom. Vanuit die empiriese bevindings was dit duidelik dat die deelnemers se beskrywings en ervarings ten opsigte van wetlike maatskaplike werkers baie negatief was. Die navorser het ten slotte die gevolgtrekking gemaak dat alhoewel literatuur aandui dat verskeie veranderings aan die regstelsel aangebring is ten opsigte van die hantering van kinderslagoffers van seksuele mishandeling, die ervaring van deelnemers aangedui het dat daar steeds 'n groot hoeveelheid uitdagings beleef word. Die empiriese bevindings het aangedui dat die versorgers van kinderslagoffers van seksuele mishandeling baie frustrasie ervaar wanneer hulle met die houe te doen het ná die rapportering van seksuele kindermishandeling. Die frustrasies is te wyte aan die manier waarop hierdie sake ondersoek word, die hofproses en die gebrek aan kommunikasie vanaf staatsaanklaers en ander professionele persone in die regstelsel.

SLEUTELWOORDE: Versorgers, ervaring, seksuele kindermishandeling, Suid-Afrikaanse regsstelsel, kinderslagoffers van seksuele mishandeling

Dedication to:

My darling mother, my biggest fan, my hero, Lorraine Paulsen, who taught me that hard work and perseverance are the key to success. You inspire me every day to be better, do better, and continue touching the lives of others. Without your unconditional love, support and encouragement I would not have accomplished half as much as I already have in my life.

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EXPLANATION OF TERMINOLOGY USED

In the context of this study:

(i) The term child sexual abuse is referred to as CSA

(ii) The term South African Police Services is referred to as SAPS

(iii) For confidentiality purposes only the initial of the participants name is provided. For tracking purposes the verbatim transcriptions of each caregiver's interview was given a number. This number refers to the number of the research interview. When reference is made to the participant, their initial and interview number will be seen. Furthermore when participants make reference to their children or various professionals that were involved in their child's case, the researcher referred to these people by using only the initial of their first names.

(iv) Childline Western Cape is rightfully known as Lifeline/Childline Western Cape as it is a hybrid organisation. In order to avoid confusion in this dissertation the researcher only refers to Childline Western Cape.

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CHAPTER 1

INTRODUCTION TO THE STUDY

1.1 INTRODUCTION

The researcher's interest in the research topic was initially triggered when she discovered that the number of successful child sexual abuse court cases reported to the Childline Western Cape centres, were significantly low. This discovery, as well as newspaper headlines in the year 2012 about child sexual abuse, indicated that the issue of child sexual abuse was a cause for great concern not only in South Africa but worldwide. The researcher then began reviewing literature to gain some insight into the current situation in South Africa with regard to child sexual abuse (CSA).

According to the Mail and Guardian Online (2002) Langer observed that between 2007 and 2008, 45% of all rapes in South Africa involved children. The Mail and Guardian Online (2009) also highlighted that, Kriel added that in 2009 in South Africa 530 child rapes occurred every day. That means that 193 450 children were raped that year. Further to this, the Crime Report 2010/2011 of the South African Police Service indicated that between the financial years 2006/2007 and 2010/2011, sexual offences against children aged 18 years and younger had increased by 2.6%.

Informal verbal conversations with Childline Western Cape social workers (Mzamo, Smallbones & Stripp, 2011) to obtain their findings with regard to CSA court cases, indicated that from March 2010 to August 2011 at the Wynberg, Khayelitsha and Bishop Lavis Childline centres, about 95 child clients and their caregivers were involved with the South African judicial system after reporting sexual abuse. Later in this chapter these 95 cases will be divided into an outline which will show the outcomes of the number of successful, pending, and withdrawn cases, to give a deeper insight into the problem/subject matter.

Social workers from the Wynberg and Khayelitsha Childline Centres confirmed that a number of their child clients' caregivers lacked a clear understanding of the South African judicial system protocols after reporting CSA (Morilly, Mzamo & Smallbones, 2011). These findings further increased the researcher's interest in finding out more about caregivers' experiences with the South African judicial system following a report of CSA.

1.2 PROBLEM STATEMENT AND RATIONALE FOR THE STUDY

It is no secret that crime, particularly the sexual abuse of children, occurs in alarming proportions worldwide in both wealthy and poor societies (Ah Hing, 2010:10; Fourie, 2007:1). Tlali and Moldan (2005) describe CSA as being a social problem which, according to the international Save the Children alliance (2005:9) needs to be taken "seriously by the world community."

In South Africa, Waterhouse (2008:1) identifies that, children represent almost half of the victims of known sexual abuse. The sexual abuse of children is becoming a great concern, and is now being described as "a silent epidemic". Yahaya, Soeres, De Leon and Macassa (2012:2) contend that sexual abuse of children is a major health issue, with negative long-term effects which vary from child to child. These authors emphasise that sexual abuse of children not only presents as a problem in South Africa, but is a problem of considerable proportion in the whole of Africa.

The Wynberg, Khayelitsha and Parow Sexual Offences Courts deal with the sexual abuse cases of Childline Western Cape. All cases referred to Childline Western Cape were dealt with at the above-mentioned courts. In the period of March 2010 to August 2011, approximately 17 of the 95 cases at Childline (as mentioned earlier) were temporarily withdrawn from court, 16 were thrown out of court, 5 were successful in court, and 37 are still awaiting trial (Mzamo, Smallbones & Stripp, 2011). Conradie (2009:2) found that South Africa had a 7% conviction rate, which meant that 93% of those accused in a court of law, walked out free. This is particularly significant as only a small number of successful court cases were reported to these Childline centres.

The numerous complaints received by the social workers from the child clients' caregivers regarding their dissatisfaction with the judicial system after reporting CSA, have reached high levels. Pelser and Rauch (2001) indicate that the main role players in the South African judicial system are the South African Police Service (officers and investigating officers), prosecutors (Fox & Nkosi, 2003:22), judges, lay assessors, and the Department of Justice (Department of Public Service and Administration, 2009:8). In an American study, Plummer and Eastin (2009:4) found that caregivers also felt dismayed at the treatment, services and attitudes they encountered from police officials who dealt with their children's cases. The caregivers who complained to the Childline social workers were also particularly concerned with the fact that the prosecutors dealing with their children's cases always seemed to be changing. Adding to this, the South African Human Rights Commission (2002:48) found that the prosecutor profession had a high turnover rate resulting in experienced prosecutors being lost. According to the National Policy guidelines for specialist prosecutors, the prosecutor who initially handles a case should follow it through to the trial stage and to its conclusion (Sadan, Dikweni & Cassiem, 2001:11). The high turnover in the prosecuting profession thus impacts negatively on the standard of prosecution in courts. This also means that there is a lack of experience in the prosecution of CSA cases, which may negatively affect the child and can lead to an increase in the child's trauma during the case (Conradie, 2009:9; The Parliamentary Task Group on Sexual Abuse of Children, 2002:15).

The social workers from the Childline Wynberg and Khayelitsha Childline Centres (Morilly, Mzamo & Smallbones, 2011) discovered that a number of their child clients' caregivers lacked a clear understanding of the justice system protocols, after a report of sexual abuse. These social workers also found that caregivers were not informed about the processes that were to follow reporting the crime. The caregivers began to question policing practice, as they felt that it was the police officials' responsibility to educate those reporting a crime. According to these social workers, such poor policing practices resulted in caregivers expressing feelings of extreme frustration, confusion and anger.

The South African Human Rights Commission (2002:22) emphasises that the standard practice, after a case of sexual abuse has been reported, is that the investigating officer needs to ensure that the complainant and his/her caregiver are informed of the bail conditions of the perpetrator and the progress of the case. Childline social workers have indicated that many of their child clients and their caregivers say that they are unsure whether the perpetrator was released on bail or not. With regard to this, the Women's Legal Centre in Cape Town has stressed that complainants have the right to attend bail hearings (Park, Kenny, Sanger & Abrahams-Fakar, 2009:16) and therefore need to be informed about them.

The Parliamentary Task Group on Sexual Abuse of Children (2002:15) highlighted in their report that the problem with the judicial system was that even though communities were provided with opportunities to give input at parole hearings, most often family members were not notified of the dates and times of these hearings, therefore their input was never given. The Parliamentary Task Group on Sexual Abuse of Children continued to emphasise that the lengthy time it took to obtain and see justice done was traumatic for victims of crime as well as for their family members.

From a preliminary literature review it became apparent that no research has been done in South Africa with regard to caregivers' experiences with the judicial system after CSA is reported. Plummer and Eastin did a study in 2009 which focussed on how mothers experienced the interventions of the professionals assigned to intervene in cases of CSA, specifically looking at how mothers perceived professionals' attitudes and actions towards them. Though the focus of this study is in some aspects similar to that of the researchers, Plummer and Eastin's study was done in America. The research study is therefore unique as it was undertaken in the South African context.

With all the problems and concerns highlighted above, it seemed to the researcher that caregivers of CSA victims have had a number of experiences with the judicial system after CSA has been reported, and therefore this study focuses on caregivers' experiences of the South African judicial system after CSA has been reported.

1.3 AIM OF THE STUDY AND RESEARCH QUESTION

“The aim of a study” simply means that a researcher looks at how the research problem will be researched, and this is usually done through formulating a plan of how the researcher will go about answering the research question (Walliman, 2011:40). The next section will describe the aim of this study, as well as the research question that was formulated to achieve this aim.

1.3.1 Aim of study

The aim of this study was to explore and describe caregivers of CSA victims’ experiences of the South African judicial system after CSA had been reported. To achieve this primary study aim, the following objectives were formulated:

- To explore and describe the experiences of caregivers of CSA victims with the South African judicial system after CSA has been reported;
- To provide recommendations to all role players working in the CSA field, in order to raise their awareness of the experiences of the caregivers of CSA victims.

1.3.2 Research question

The research question that was formulated to achieve the aim of the study was: *What are caregivers of CSA victims’ experiences of the South African judicial system after CSA has been reported?*

1.4 OVERVIEW OF THE RESEARCH DESIGN AND METHODOLOGY

The research methodology that was applicable to this study will be discussed briefly in the next section. A thorough discussion will follow in Chapter 3.

1.4.1 Literature review

A literature review is usually done to serve as a guide for the research study and also to illustrate that the researcher is knowledgeable about existing and related research. Literature reviews also show the underlying assumptions behind the general research questions (Delpont, Fouché & Schurink, 2011:302). For the purpose of this study, various books and journal articles were used to gather literature on caregivers who had reported CSA and had experiences with the South African judicial system after CSA had been reported. Databases such as EBSCO host, Google scholar, SAGE and the internet were consulted to gain relevant articles on the aforementioned topics. The following themes were used in the search to obtain information: CSA, the South African judicial system and CSA, CSA and its impact on caregivers, and follow-up of CSA cases in the sexual offences court.

1.4.2 Research approach and -design

Fouché and Delpont (2011:63) state that the two main research approaches that are currently used are a qualitative and a quantitative approach. The qualitative research approach, according to Babbie (2010:92-94), has to do with exploring and describing a topic so as to gain a better understanding of it. The aim of this study was to explore and describe the experiences that caregivers of CSA victims had with the South African judicial system after child sexual abuse had been reported, and therefore this research adopted a qualitative approach. In addition to this, qualitative research also aims to explore in depth the attitudes and experiences of people (Carey, 2009:36). For the purpose of this study, the researcher used a descriptive qualitative research design. This design, as described by Sandelowski (2010:78), provides descriptive qualitative findings that are closer to the pure awareness provided by the participants, and that rely less on the researcher's interpretation of the data.

1.4.3 Population and sample

Purposive sampling was used as a type of non-probability sampling (Struwig & Stead, 2001:122; Walliman, 2011:188) which allowed the researcher to select participants with specific knowledge or expertise to represent the population (Berg, 2009:50-51). This sampling was done with a specific purpose in mind (Jansen, 2007:10). Brink *et al.* (2012:139) state that with this type of sampling method, the researcher needs to decide on the correct choice of participants who have the best insight on the phenomenon or problem. Therefore the researcher decided to select a particular sample (Leacock, Warrican & Rose, 2009:91) according to the specific characteristics which were needed for the study (Nieuwenhuis, 2007:79).

The purposive sampling was taken from the population (Strydom & Delpont, 2011:392) which for the purpose of this research, referred to all Childline Western Cape's child clients' caregivers in the Childline service areas. The following inclusion criteria, that participants needed to adhere to, were as follows:

- Caregivers whose children have been sexually abused and as a result of it received services from Childline Western Cape (Wynberg, Khayelitsha and Bishop Lavis Centre).
- Participants could represent any gender, cultural or religious group.
- Participants had to be either Afrikaans- or English-speaking.
- In the last three years, participants had to have had experiences with the judicial system after CSA had been reported.

1.4.4 Data collection

The basic material that researchers work with can be considered as quantitative or qualitative data. In order to draw valid conclusions from a study, it is essential that the researcher has sound data to analyse and interpret (Durrheim, 2006:51). Leedy and Ormrod (2010:145) observe that in qualitative research, different methods of data

collection, such as interviewing, observation, reflection and field notes, can be used in order to answer the research question. In this section, the data collection methods used in this study will be briefly discussed; in-depth discussion will be given in Chapter 3.

1.4.4.1 Semi-structured interviews

In qualitative research, interviewing is often the main form of collecting information. As an interviewing method for information gathering, the researcher utilised the method of semi-structured interviews (Denscombe, 2007:177; Greeff, 2011:351-353; Nieuwenhuis, 2007:87). An interview schedule (Greeff, 2011:352) was used to guide the interviews. A pilot study (Walliman, 2011:191) was used as a pre-test, which was given to two participants. The interview schedule was amended, and the researcher proceeded with the semi-structured interviews. With the written permission of all the participants, the semi-structured interviews were recorded, using dictaphone tape recordings (Greeff, 2011:359). The recorded interviews were transcribed (Schurink, Fouché & De Vos, 2011:408). The researcher conducted semi-structured interviews until data saturation was reached (Greeff, 2011:350).

1.4.4.2 Field notes

Field notes were used during the research to help the researcher to remember and explore the process of the interview (Greeff, 2011:359). Before the interview, the researcher made field notes of details participants shared of their children's cases, and she also made field notes of participants' facial, body and overall behavioural expressions while answering research questions, so as to fully capture all that they expressed during the interview. Greeff (2011:359) states that field notes serve as a valuable tool to researchers as they assist researchers to capture the entire interview process, for which they cannot fully rely on their memories.

1.4.5 Data analysis

The purpose of data analysis, according to Leacock, Warrican and Rose (2009:134), is to find answers to research questions. Qualitative data analysis is thus understood as the process of bringing order, structure and meaning to the mass of data collected (Schurink, Fouché & De Vos, 2011:397). For the purpose of this study, the data analysis method used was that of content analysis (Babbie & Mouton, 2001:492).

Through the process of category formation and coding, the researcher was able to identify recurring ideas, words and phrases which created patterns identified in the data. These processes assisted the researcher in reducing and organising the large amount of data collected during the semi-structured interviews (Schurink, Fouché & De Vos, 2011:410-412). By examining the repetition of certain words and phrases in the transcripts, the researcher was able to make conclusions (Babbie & Mouton, 2001:491) about caregivers' experiences of the South African judicial system after CSA had been reported.

1.4.6 Trustworthiness

When conducting research it is of utmost importance that the researcher ensures that the data gathered is reliable and suitable for the research (Walliman, 2011:179). The trustworthiness of this study was established in terms of four criteria, namely credibility, transferability, dependability and confirmability (Babbie & Mouton, 2001; Schurink, Fouché & De Vos, 2011). The four criteria and how they were applied in this study, will be discussed in depth in Chapter 3.

1.4.7 Ethical considerations

Though ethical considerations will be further discussed in Chapter 3, it will be briefly highlighted in this section. Ethical issues, particularly in social research, should be considered when research involves any human subjects (Rubin & Babbie, 2011:75) or

when human beings are objects of a study (Strydom, 2011:113). The researcher, as a social worker, adhered to the ethical code of the South Africa Council for Social Service Professions when working with participants. The researcher was also responsible for obtaining permission from the reviewing panel of the Centre for Child, Youth and Family Studies, North-West University (NWU) to proceed with the research. Ethical permission was obtained from the NWU Ethic committee with reference number NWU-0060-12-A1, and in addition written permission was obtained from Childline Western Cape to conduct the research.

Throughout the study, the researcher remained accountable for the ethical quality of the enquiry (Henning, 2004:74) by taking into consideration and adhering to the four main categories of ethical conduct. The four categories, namely protection from harm, informed consent, right to privacy, and honesty with professional colleagues (Leedy & Ormrod, 2010:101) are briefly described below:

1.4.7.1 Protection from harm

According to Babbie (2010:65), whenever research is conducted it should not in any way injure those who participate, regardless of whether they volunteered for the study. Given the sensitive nature of this research topic, the researcher had to consider the possibility of the participants becoming emotionally aroused or upset, resulting in them needing a debriefing after the interview (Leedy & Ormrod, 2010:101). The researcher therefore arranged for Childline social work staff to provide such services.

1.4.7.2 Informed consent

Leedy and Ormrod (2010:101) emphasise that any form of participation in a study needs to be strictly voluntary. They add that researchers should ensure that participants are fully aware of the nature of the study and should also be allowed to decide whether or not they want to be part of it. Before conducting the semi-structured interviews for this

study the researcher thoroughly explained the aims and purposes of the research to the participants, and then allowed them to decide whether or not they wanted to partake in the research. Once participants agreed to participate, the researcher thoroughly explained the informed consent form, after which the form was signed by each participant.

1.4.7.3 Right to privacy and confidentiality

Strydom (2011:119) maintains that every individual has a right to privacy, and that it should be the choice of those participating in a research whether or not to have their private information shared. Steps need to be taken by researchers in this regard, so that confidentiality is not breached (Strydom, 2011:119). The researcher ensured that confidentiality was maintained throughout the research study by keeping the participants' identifying details to herself as well as by keeping the tape recordings and filed notes of the interviews in her private safe.

1.4.7.4 Honesty with professional colleagues

Strydom (2011:123) points out that the use of others' work without acknowledging them is known as plagiarism, which is not allowed in research, nor is the manipulating or creating of false data. Therefore the researcher ensured that when using or referring to work, information, comments or knowledge of others, she acknowledged this. Thus the researcher ensured that the work presented in the study was her own and not plagiarised.

1.4.7.5 Participation and withdrawal from study

Leedy and Ormrod (2010:101) observe that though participants may agree to voluntarily participate in a research study, they still have the right to withdraw from the research at any time. The researcher informed the participants of this and assured them that

whatever they decided at any point in the research, their decision would be respected. In this research none of the participants opted out of the research.

1.4.7.6 Action and competency of the researcher

According to Strydom (2011:123) whenever researchers conduct sensitive investigations for research purposes, the researcher must ensure that he/she is competent, honest and adequately skilled to undertake the proposed investigation. For the purposes of this research study, and so as to ensure that the researcher adheres to the abovementioned criteria, the researcher conducted her study under the supervision of a study leader. Furthermore, since the researcher is a qualified social worker, she is bound by social work ethics as presented by the South African Council for Social Service Professions, and adhered to those ethics while conducting this research.

1.4.7.7 Release or publication of findings

According to Strydom (2011:126), research will have very little value and will not be viewed as research if it is not produced in the written form to the reading public. The researcher has thus informed the participants that this research study is being submitted as part of a dissertation to the North-West University as part of an MA Social Work degree. Upon approval of her dissertation, she would make her research available to her local library, Childline Western Cape and various role players working in the field of CSA and the criminal justice system. The researcher is also considering publishing this research in a journal.

1.4.7.8 Store of data

According to Walliman (2011:257), the data collected from semi-structured interviews contains sensitive and confidential content. It is essential therefore that this kind of data be placed in a safe storage place where he/she is the only one who can gain access to it. The data collected for this study has been stored in a locked safe which is kept on the

researcher's home premises. It will also be kept for five years at the Centre for Child, Youth and Family Studies (CCYFS), NWU.

1.5 CLARIFICATION OF KEY CONCEPTS

For clarification purposes, key concepts used in this research study will be discussed below. The concepts will be only broadly defined, and will be discussed in depth in Chapter 2.

1.5.1 Caregivers

Mahery, Jamieson and Scott (2011:8) describe caregivers as any person who cares for a child, including: grandparents, foster parents, the head of a child-and-youth-care centre, the head of a shelter where children receive services, a child-and-youth-care worker, a child who is 16 years or older heading a child-headed household, and any relatives who care for a child/children with the permission of the parents or guardian of the child/children.

1.5.2 South African judicial system

According to academic material presented by the Department of Higher Education and Training (2011:2), the South African judicial system comprises a number of role players who operate on a daily basis within a specific structure and by means of a specific process. These role players are referred to as "criminal justice officials in Law, Police Practice, Criminology and Governance", who have knowledge of the country's various laws and ways of applying them so as to fight crime and give a ruling regarding crimes. Specifically speaking, criminal justice officials include but are not limited to, the South African Police Services, Statutory Intelligence, and the Department of Corrections (The Department of Higher Education and Training, 2011:3).

1.5.3 Child sexual abuse (CSA)

Sexual abuse of a child, according to Fox and Nkosi (2003:3), is the “assertion of power, through sexual acts, against children before the age of consent”, which in South Africa means under 16 years old.

1.5.4 Sexual offences court

In South Africa, sexual offences are considered to be a crime, therefore in court sexual offences are described as criminal cases. Criminal cases such as rape and sexual abuse are cases that are heard in the Regional Magistrates Courts (The Department of Public Service and Administration, 2009:35-36). From the researcher’s own experience of accompanying a child victim of sexual abuse to testify in court, in the Regional Magistrates Courts there are special courts known as the “sexual offences court”. In 1993 the first sexual offences court was opened at the Wynberg Magistrates Court in Cape Town, dealing with both adult and child victims of sexual offences (Sadan, Dikweni & Cassiem, 2001:5&14).

1.6 OUTLINE OF THE CHAPTERS THAT FOLLOW

Chapter 1: INTRODUCTION AND RESEARCH METHODOLOGY

Chapter 1 provided an introduction to the research study. Presented in this chapter are the problem and rationale for the study, the research approach and design, the research methodology, trustworthiness of the study, ethical aspects, definitions and main concepts, the chapter outline, and finally the conclusion of the chapter.

Chapter 2: LITERATURE REVIEW OF CHILD SEXUAL ABUSE AND THE SOUTH AFRICAN JUDICIAL SYSTEM

Chapter 2 outlines the theoretical framework for the study. This includes literature on defining CSA, defining trauma, the process of CSA, the South African criminal justice system and current practice in the South African criminal justice system. There will also

be a focus on defining CSA, highlighting and discussing the effects of CSA and the South African criminal justice system.

Chapter 3: RESEARCH DESIGN AND -METHODOLOGY

Chapter 3 presents an outline of the research approach and design, research methodology, and the research process that was employed in this study. It also outlines and substantiates the proposed method of data collection, data analysis and interpretation, trustworthiness and ethics applied in this study.

Chapter 4: EMPIRICAL FINDINGS AND LITERATURE CONTROL

Chapter 4 provides the presentation and discussion of the empirical data acquired during this study. The data will be supported by a literature control.

Chapter 5: CONCLUSIONS AND RECOMMENDATIONS

The concluding chapter will include the contributions and challenges of this study, as well as recommendations for further research.

1.7 CONCLUSION

Chapter 1 served as an introduction to the study. It provided an overview of the rationale and purpose of the study as well as its aim and the research question for this specific study. The research design and methodology were briefly introduced as well as the ethical considerations applied to this study. Trustworthiness was briefly discussed and the conceptual parameters were clarified. A literature review of the concepts related to this study will be discussed in Chapter 2. To facilitate the conceptual framework upon which this study relied, existing literature on CSA and the South African judicial system was explored, as well as literature on the effects of CSA.

CHAPTER TWO

LITERATURE REVIEW: CHILD SEXUAL ABUSE AND THE SOUTH AFRICAN JUDICIAL SYSTEM

2.1 INTRODUCTION

A literature review was done not only to serve as a guide for the research study, but also to illustrate that the researcher is knowledgeable about existing related literature and research. This chapter will provide an overview on the definition of CSA in general and then more specifically within the South African context. There will also be a focus on the different laws pertaining to CSA namely, the South African Criminal Law (Sexual Offences and Related Matters) Amendment Act (32 of 2007) and Children's Act 38 of 2005. This chapter will also focus on the process of CSA, identifying symptoms of CSA, understanding the trauma of CSA, defining trauma, the effects of CSA on the child, and the effects of CSA on the parent/family. Lastly this chapter will focus on the South African judicial system, specifically on the workings of the criminal justice system, the procedure for reporting CSA in South Africa, the role of prosecutors in CSA cases, the court process, current practices in the South African judicial justice system, and the challenges with the South African judicial system.

2.2 DEFINING CHILD SEXUAL ABUSE (CSA)

In order to understand CSA and the impact it has on children and their families, it is important in this next section to first define CSA in general terms and then in terms of the South African context.

2.2.1 General definitions of child sexual abuse

As there are many different definitions for CSA in the literature, the researcher will highlight the following definitions as they encapsulate the meaning of CSA. Meadow (2007:1-2) states that CSA takes place when there is an "involvement of dependent, developmentally immature children and adolescents in sexual activities that they do not

fully comprehend and to which they are unable to give informed consent. Wade (2000:19) defines CSA as “an act involving genital contact between an adult and a child, or between a child and more powerful child”. Similarly Munro (2000) argues that CSA is any form of sexual activity which an adult performs with a child, or which another child performs with a child where there is no consent; or which is performed by a child who has power over another child.

Van Niekerk (2003:12) adds to the definition of CSA by distinguishing two types of CSA which include rape and attempted rape. Above and beyond this, Townsend and Dawes (2004:58) indicate that further distinctions of CSA exist. These include either non-contact or contact sexual abuse. Fox and Nkosi (2003:3) state that non-contact sexual abuse includes exhibitionism, sexually suggestive behaviours or comments, exposure to sexual activity, pornographic materials, or producing visual depictions of such conduct, whereas contact sexual abuse includes genital/anal fondling, masturbation, oral sex, object/finger penetration of the anus and/or vagina and/or encouraging the child to perform such acts on the perpetrator. From this it can be seen that these two types of abuse include a variety of sexual acts, and identifying them helps to distinguish between non-contact and contact sexual abuse.

2.2.2 Defining child sexual abuse in the South African context

As this research is based in a South African context and the participants in this study were caregivers of children, under the age of 18 years old who were sexually abused, it is important to firstly consider the definition of a child in South Africa. Thereafter it is also important to explore the definition of CSA in the South African context.

In terms of the Children’s Act (38 of 2005) a child is defined as “a person under the age of 18”. In considering this definition a child, in the South African context Mahery, Jamieson and Scott (2011:13) state that child abuse occurs when anything harmful is purposefully imposed upon a child or when a child is deliberately mistreated. These authors add that sexual abuse in relation to a child therefore means “sexually molesting, assaulting or allowing a child to be sexually molested or assaulted; encouraging,

inducing or forcing a child to be used for sexual gratification of another person; using a child or deliberately exposing a child to sexual activities or pornography; or procuring or allowing a child to be procured for commercial sexual exploitation or in any way participating or assisting in the commercial sexual exploitation of a child.”

CSA, in South Africa, is further classified as a form of child abuse and as a sexual offence according to and regulated by the South African Sexual Offences Act 32 of 2007 (as amended by the Sexual Offences and Related Matters Amendment Act 32 of 2007). The Children's Act 38 of 2005 (as amended by Act 41 of 2007) classifies CSA in South Africa as a form of child abuse. It is important to further explore the above-mentioned Acts.

2.2.2.1 The South African Criminal Law (Sexual Offences and Related Matters) Amendment Act (32 of 2007)

It has become evident that the defining of CSA is by no means an easy task (Petty, 2005:76. When defining CSA, particularly in the South African context, understanding the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 assists in comprehending exactly what is deemed a sexual offence against a child in South Africa.

Reflecting on the laws and their implementation, as well as the legal aspects pertaining to sexual offences in South Africa, it has been noted that for many years these laws were reviewed and amended, and eventually on 16 December 2007, new developments in the Act came into effect. The above developments, according to Artz (2010), are the reason for the existence of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007. Artz (2010:1-2) explains that prior to 2007 the sexual offences law did not define rape sufficiently, and excluded a range of sexual acts, such as anal and oral penetration, and penetration by objects other than a penis and male rape. This led to the advocating by feminist legal reformers and human rights activists, of including the definition of rape as well as to secure more specific legal rights for rape

victims (Artz, 2010:1-2). It is important to note that this is not the only reason why the law changed.

Artz (2010:3) adds that the purpose of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, was firstly to effectively provide the best protection for victims of sexual offences in a way that is less traumatising. Secondly it was to take account of the range of sexual offences that were previously excluded, and place them into one law which, as of 2007, defines these offences in a gender-neutral way. Before the Act was implemented, quite a number of laws were repealed and replaced. For the purposes of this study, not all the repealed laws will be dealt with, only those specifically pertaining to sexual offences against children.

According to the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007,) the common law offence of:

- “Rape” was repealed and replaced with the new and expanded statutory offence of rape, applicable to all forms of penetration without consent, irrespective of gender.
- “Indecent assault” was repealed and replaced with the new statutory offence of sexual assault, applicable to all forms of sexual violation without consent.

The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 has classified a unique range of sexual offences related particularly to women, children and people with disabilities. Artz (2010:4&7) summarises the new statutory offences to include:

- Sexual intercourse with a child under the age of twelve.
- Sexual offences against children (sexual exploitation or grooming, exposure to or display of pornography and the creation of child pornography).
- Compelled rape and compelled sexual assault.
- A duty to report sexual offences with or against children or persons who are mentally disabled.

The inclusion of a range of sexual offences now found in the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, may assist in the prosecution or conviction of CSA. Artz (2010:4) continues that the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 also established a national register for sex offenders which includes any person who has been convicted of a sexual offence against a child or a person with a mental disability. Therefore, for the duration of a sex offender's employment he or she may not work with, supervise or have access to a child or a person with a mental disability.

2.2.2.2 Child sexual abuse as defined in South Africa by the Criminal Law (Sexual Offences and Related Matters) Amendment Act (38 of 2007) and the Children's Act 38 of 2005

In South Africa a person can be charged with CSA in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 38 of 2007 and the Children's Act 38 of 2005. According to the Criminal Law (Sexual Offences and Related Matters) Amendment Act (38 of 2007) when a person commits an act of sexual penetration with a child, despite the consent from the child to such an act, the person is guilty of the offence of having committed an act of consensual sexual penetration with a child. Therefore in the Criminal Law (Sexual Offences and Related Matters) Amendment Act (38 of 2007) an act of sexual penetration with a child is specifically referred to as "statutory rape". Furthermore, according to the Criminal Law (Sexual Offences and Related Matters) Amendment Act (38 of 2007) when a person commits an act of sexual violation with a child, despite the consent of the child to such an act, the person is guilty of the offence of having committed an act of sexual violation with a child. Therefore in the Criminal Law (Sexual Offences and Related Matters) Amendment Act (38 of 2007) the act of sexual violation with a child is specifically referred to as "statutory sexual assault".

In terms of CSA, the Criminal Law (Sexual Offences and Related Matters) Amendment Act (38 of 2007) states that even if a child gives consent, statutory rape and sexual assault occur if the child is 12 years of age or older but under the age of 16. In sum, the

South African Criminal Law (Sexual Offences and Related Matters) Amendment Act (32 of 2007) thus defines CSA as any acts involving:

- a) consensual sexual penetration or consensual sexual violation with children;
- b) the sexual exploitation or sexual grooming of children;
- c) the exposure or display of child pornography or using a child for the purposes of pornography or exposing a child to pornography;
- d) someone causing a child to witness sexual offences, sexual acts or self-masturbation; or
- e) displaying genital organs, the anus, or female breasts to children.

Similarly the South African Children's Act 38 of 2005 defines child sexual abuse as any acts involving:

- a) the sexual molestation or sexual assault of a child;
- b) a person allowing a child to be sexually molested or sexually assaulted;
- c) deliberately exposing a child to sexual activities or pornography;
- d) deliberately using a child in sexual activities or forcing a child to be used for sexual gratification by another person; or
- e) the participation or assistance in the commercial sexual exploitation of children.

Considering the definitions of CSA in the South African Sexual Offences Amendment Act 38 of 2007, the South African Children's Act 38 of 2005 and various other literature, the researcher, for the purpose of this study, prefers the following definition: "Child sexual abuse occurs when any male or female person uses their power over a male or female child particularly to involve them in any act of a sexual nature, including sexual activity" (Department of Human Services Victoria, 2009:2).

Before concluding this section, it is important to note that currently in South Africa, the sexual offences law does not include 29 penalties for sexual offences, particularly when it comes to children (Omar, 2012:Eye witness news). Adding to this, Preller

(2012:MyPE Community News from Port Elizabeth) states that in May 2012 the Cape High Court held that some sections of the Sexual Offences Act did not have in place any disciplinary procedures nor any section including predetermined punishment. As a result of this, a major concern at the moment is the fact that alleged perpetrators cannot be charged because of government's failure to provide penalties for the 29 sexual offences (Omar, 2012:Eye witness news). Preller (2012: MyPE Community News from Port Elizabeth) has particularly stressed that the Sexual Offences Act "does not have penalties for sexual assault, child pornography, incest, sexual exploitation of children, and grooming of children for sexual exploitation". It is important to note that, at the time of this newspaper article, the above mentioned information was only true for the Western Cape area and only for a short period of time. With the insertion of 56A of Act 32 of 2007 (Criminal Law (Sexual Offences and related matters) amendment Act, 2012) this situation changed and penalties for the above mentioned sexual offences are provided for.

The next section will focus on the process of CSA, understanding the trauma of child sexual abuse and its effects on the child victim, and lastly the effects of CSA on the family/caregiver.

2.3 THE PROCESS OF CHILD SEXUAL ABUSE

The process of CSA in which the perpetrator makes use of unique ways to obtain the child's co-operation (Spies, 2006:46) is an important concept in CSA. This process, according to Spies (2006:46), will assist to fully comprehend CSA and its effects. The process is therefore identified and briefly explained in the next section:

- The "engagement" phase is the initial phase in which the perpetrator plays on the child's affection and need for human contact. The perpetrator also engages the child and makes the child feel as though their relationship and interactions are okay (Spies, 2006:46).

- The second phase is the “sexual interaction” phase. In this phase, the relationship of the child and the perpetrator has progressed to one in which they engage in sexual contact. The sexual contact progresses from fondling to more advanced sexual activities. In this phase perpetrators satisfy the child’s basic needs, so as to set up the next opportunity to abuse the child (Spies, 2006:47).
- In the third phase, the “secrecy” phase, the perpetrator focuses on ensuring that he or she has continuous access to the child so that continuous sexual contact can take place. In this phase the perpetrator begins to use “power to dominate, threats and blackmail” so that the child does not disclose in this phase the child begins to feel afraid, so much so that he or she is automatically forced into silence (Spies, 2006:47).
- In the fourth phase, the “disclosure” phase, disclosure occurs either accidentally through others becoming suspicious or because of certain signs indicating that sexual abuse has taken place. On the other hand, a child may realize at a later stage that the behaviour of the perpetrator is not appropriate, and therefore they may choose to disclose. Usually in this phase, depending on the kind of support the child receives, the child may feel embarrassed about the abuse, or even feel responsible for the abuse, and therefore retract the disclosure (Spies, 2006:47-48).
- The last phase is the “suppression” phase. In this phase people close to the child may encourage the child to forget about the abuse for various reasons. Children are reminded of the disempowerment they felt during the time they were abused, resulting in their feeling disempowered again. The child may then do and say things so as to impress or live up to what others want or suggest (Spies, 2006:49).

In conclusion Spies (2006:45) states that in the beginning, interaction between the adult and child is harmless, with limited bodily contact, but when the relationship progresses to that of a sexual nature, it becomes difficult for the child to comprehend that he or she

was or is actually being sexually abused. From the process described above, the researcher gained a clear sense of how easily children can be manipulated into a situation that they themselves initially cannot comprehend. This process, as described by Spies, did in fact also provide a better understanding of why children after being abused experience negative effects.

2.4 THE TRAUMA OF CHILD SEXUAL ABUSE AND ITS EFFECTS

When a child is sexually abused, he or she becomes negatively affected by this traumatic experience.

Childhood sexual trauma affects a child in a number of negative ways, which may persist into adulthood if not addressed (Coetzee, 2005:13). Sexual abuse is identified as a traumatic experience (Safehorizon After Sexual Assault: a recovery guide for survivors, s.a:1). It is necessary to first define “trauma” before the effect of the trauma is discussed.

2.4.1 Defining trauma

The most commonly cited definition of trauma is that of Herman (1992:33) who calls it “an extraordinary event”, as it is an experience that “overwhelms the ordinary human adaptations to life.” In support of this, Bassuk, Konnath and Volk (2006:2-3) explain that traumatic experiences can be life-changing, particularly for children, and can be experienced as devastating to them. Margolies (2010) describes trauma as an overwhelming and shocking event which cannot be comprehended by the body or mind, and later constructs within a person a loss of confidence such that there is no safety or meaning in the world.

Literature (Bassuk, Konnath & Volk, 2006:2; Corsini & Monahan in Coetzee, 2005:13; Margolies, 2010; Petty, 2005:4) gives various definitions of trauma, but there seems to be a general consensus that traumatic experiences are sudden, overwhelming, unexpected and painful. The outcome of these experiences is said to result in victims feeling powerless, hopeless, fearing for their safety, and feeling that they have a lack of control. As stated in the Vermont Cups Handbook (2004:170), when trauma is

experienced by children, it is defined as a physical or psychological threat or as an assault to a child's physical integrity, sense of self, or safety. The Vermont Cups Handbook (2004:170) further states that children may experience trauma caused by a number of situations or conditions, one of these being sexual abuse. For the purposes of this research, only sexual abuse will be selected as a form of trauma, but the researcher acknowledges that there are several forms of it.

To further understand the trauma of CSA, its effects on the child need to be explored, and therefore the next section will focus on this as well as on the family.

2.4.2 The effects of sexual abuse on the child

When a child is sexually abused he or she is more often than not affected in a negative way. According to the South Eastern centre against sexual assault (SECASA) (2012), child victims of sexual abuse are often unable to verbally express their experiences or feelings, thus this gets reflected through their behaviour. SECASA (2012) observes that children can present with behavioural signs of trauma following sexual abuse including bed wetting/soiling, clinginess, aggression and sexualised behaviour.

Spies (2006:55) comments that anger is often a natural response for children to have to sexual abuse, and because they are rarely able to express their anger towards those who abused them, it becomes displaced. In such situations, children either take their anger out on themselves by becoming self-destructive, or inappropriately take their anger out on others (Spies, 2006:55). Adding to this, Lowenstein (2011:295-296) identifies that other common effects of child sexual abuse, particularly experienced by young children, are anxiety and nightmares.

Mercer (2010) reflects on the work of Susan Clancy when stating that childhood experiences of sexual abuse may lead to problems such as change in mood, anxiety and personality disorders, relationships and sexual problems, as well as eating disorders and self-mutilation, to name a few. SECASA (2012) also points out, that as a result of child sexual abuse, developmental regression often happens because of children's feelings of helplessness, fear, loss of control and sense of security. Spies

(2006:54) considers that low self-esteem is often experienced by children after they have been abused, as they experience constant feelings of worthlessness, inadequacy and self-doubt. These kinds of feelings often stem from what was directly or indirectly communicated to them by their abuser.

Lowenstein (2011:295-296) suggests that as adolescents, they may also experience some of the above-mentioned behaviours/symptoms, or suffer from depression. They may engage in self-harming behaviour, and suicidal thoughts/attempts may occur. With reference to child and teenage victims of sexual abuse who blame themselves or their families for what they endured, the Science Daily (2010) comments that these children and teenagers frequently engage in avoidance coping. This kind of coping includes avoiding thoughts of the abuse, sleeping more, and often with teenagers in particular, starting to abuse alcohol and drugs.

Rowan (2006:43) is of the opinion that post-traumatic stress disorder (PTSD) best describes the worst effect of CSA. This author emphasises that the emotional and cognitive functioning of a child who has endured sexual abuse may become impaired. This means that children may experience a number of feelings which they may wish to avoid, as mentioned earlier. This may mean that a child may become mentally disturbed by experiencing negative thoughts or ways of thinking. For clarity of the above, Rowan (2006:29) explains that when children become affected in such a way they may experience flashbacks or disturbing dreams owing to the abuse continuously replaying in their minds, resulting in them re-experiencing it. They may avoid or numb their feelings or thoughts, so as to block out the experience and everything related to it, to try to cope better. The children may also become withdrawn from others and disinterested in activities previously enjoyed, and finally they may become irritable and angry, have difficulty concentrating, and be hypervigilant.

Wade (2000:26) explains that, when it comes to the sexual abuse of boys, a negative effect thereof is the fact that they tend to question their sexual orientation. The author adds that often this may result in their continuously trying to prove their masculinity, either by becoming involved in heterosexual encounters or by acting more aggressively.

The severity of the impact that sexual abuse has on children is dependent on several factors. These factors include; the age of the child, the relationship of the perpetrator to the child and the number of perpetrators involved with the child (Petty, 2005:87-88); the length and frequency of the abuse or whether there was penetration (Spies, 2006:49) and whether the child was coerced and aggression was used (Lowenstein, 2011:295; Wade, 2000:24).

2.4.3 The effects of child sexual abuse on the family/caregiver

Dessena (2010:14&48) points out that, there is nothing that can prepare a parent for hearing that their child has been abused. While parents attempt to maintain composure, this proves difficult owing to the range of emotions they experience. Not only is dealing with the sexual abuse of a child traumatic for a parent, but for the entire family as well. It is a time of pain and stress, says Calizar (2011). It is furthermore a time where the family becomes very concerned about the survivor, more especially because families may sometimes be unsure how to respond to the survivor in a helpful way (Lewis, 1994:31).

For parents, the most common experiences after the disclosure of the sexual abuse of their child are feelings of anger (Fontes, 2005:142). Dessena (2010:50) indicates that both mothers and fathers experience feelings of anger, however she explains that mothers turn their feelings inwards whereas fathers “tend to want to strike out, hit or kick things”. Fontes (2005:142) adds that parents and the family in general often feel ashamed of themselves. Insight into a possible reason for this is given by Taylor and Steward in Lewis (1994:31), who state that families often feel that they have not provided sufficient protection to the survivor. As a result, family members begin to doubt their role as parents, caregivers or older siblings, as they often feel that the sexual abuse of the child survivor has proved their inadequacy to protect him or her (Fontes, 2005:142). On the other hand, there are families and caregivers who have the ability or choose to keep calm even though they may feel all of the above. These families and caregivers choose to connect with their spirituality and pray for strength and guidance to look at the situation so as to deal more effectively with it (Fontes, 2005:142-143).

It is particularly devastating for a family when it is discovered that abuse has occurred within the family (intra-familial). Intra-familial sexual abuse causes the family relationship much difficulty and places the family in a state of turmoil. Some family members may feel pressurised to take sides over who is telling the truth. Furthermore there may be differing opinions amongst family members with regard to what is right and fair, and some family members may feel that they need to choose sides regarding where their loyalty lies. This can cause a great deal of tension and create division between family members (Calizar, 2011; The National Child Traumatic Stress Network, 2009).

This is also a time of shock and uncertainty for family members, and with such negative effects family members experience extreme feelings of anger and also self-blame (Jordan Institute for Families, 2000; The National Child Traumatic Stress Network, 2009). The researcher has also found, based on her experience of working in the field of CSA, that while the disclosure of extra-familial sexual abuse negatively affects a family, the disclosure of intra-familial sexual abuse does the same, particularly because the abuser is a known family member. Calizar (2011) stresses that very often families become separated and eventually break up because of constant fighting and intense feelings of anger and embarrassment.

In the researcher's experience of working with child victims of sexual abuse and their families she has come to realise that CSA is by no means easy for any individual or family to deal with. The researcher only briefly explored child sexual abuse and its effect on the child and family, as this is not the main focus of this research. She acknowledges that much more can be said regarding child sexual abuse and its effects.

With the focus of this study being caregivers' experiences of the South African judicial system after child sexual abuse has been reported, the next section will focus on the South African judicial system, the procedure following the reporting of child sexual abuse, the role of prosecutors, the court process, and challenges regarding the criminal justice system.

2.5 THE SOUTH AFRICAN JUDICIAL SYSTEM

In order to understand the workings of the judicial system it is important to first have knowledge of who or what constitutes this system. Pelser and Rauch (2001) as well as The National Prosecuting Authority of South Africa (2008:5) explain that there are six main divisions to the South African judicial system. These divisions are identified as the South African Police Service (SAPS), the National Prosecution Authority (NPA), the Judiciary, the Department of Justice, Constitutional Development (DJCD), the Prison system, and the Department of Social Development (DSD).

The functions of these six divisions in the criminal justice system will be explained briefly (The National Prosecution Authority, 2008):

- The South African Police Service (SAPS)

The SAPS has the role of investigating crimes and catching suspected criminals. In addition to this, Sadan, Dikweni and Cassiem (2001:10) explain that when it comes to CSA, the SAPS has special units dealing specifically with these cases. According to Waterhouse (2008:22), in 1986 these special units were called the Child Protection Units (CPU) but since 1995 they have been known as the Family Violence, Child Protection and Sexual Offences Units (FCS). The FCS units investigate offences of family violence, sexual offences, and various other crimes against women and children (Waterhouse, 2008:22).

- The National Prosecution Authority

The National Prosecution Authority has the role of deciding whether or not to prosecute a crime. Two of the main responsibilities that prosecutors have is to prove beyond a reasonable doubt that the accused is guilty, and to assist the court to make correct and appropriate verdicts so as to impose fair sentencing (The National Prosecuting Authority, 2008:10).

- The Judiciary

The Judiciary is the term for those in the court who are responsible for deciding whether the accused is guilty or not. They also decide on the sentence of the accused (Fox &

Nkosi, 2003:22). Therefore the judiciary refers to magistrates and judges (Pelser & Rauch, 201).

- The Department of Justice and Constitutional Development

The Department of Justice and Constitutional Development has the role of providing accessible and quality justice for all. In addition to this, Sadan, Dikweni and Cassiem (2001:11) explain that in the Sexual Offences Court, the Department of Justice also has the responsibility of providing prosecutors, magistrates, translators, intermediaries and other supportive services.

- The Prison system

According to the National Prosecuting Authority (2008:5), the prison system is responsible for ensuring that sentences are carried out. The prison system has the role of ensuring that criminals serve their sentence in accordance with the decision made by the court. Furthermore the prison system also distinguishes between correctional centres for sentenced inmates and remand detention facilities for inmates awaiting trial (The Department of Public Service and Administration, 2009:57).

- The Department of Social Development (DSD)

The Department of Social Development (DSD) has the role of providing social services to poor and vulnerable people. In addition to this Sadan, Dikweni and Cassiem (2001:11) explain that when it comes to CSA, social workers working for the DSD have the responsibility of rendering victim support services to the child victim.

In concluding this section, Sklar (2007:2) points out that when CSA is disclosed and reported, children become involuntarily involved in the criminal justice system, and are forced to confront an unfamiliar, frightening and overwhelming process. The next section will therefore focus on the procedure involved in the reporting of CSA, who the role players are in these procedures, and what their responsibilities are within the judicial system.

2.5.1 The procedure for reporting child sexual abuse cases in South Africa

In South African law, according to the South African Children's Act 38 of 2005 (as amended by the Children's Amendment Act 41 of 2007), it is mandatory to report child sexual abuse. "Mandatory reporting" means that it is necessary for any person with the knowledge that a sexual offence against a child has been committed, to immediately report this knowledge to a police official. Failure to report may be considered as an offence. If found guilty of this, the guilty person may then be liable for conviction of a fine and/or imprisonment (Criminal Law (Sexual Offences and Related Matters) Amendment Act (38 of 2007)).

Conradie (2009:3) and Coetzee (2005:22) point out that the South African Police Service (SAPS) is the first port of call when CSA needs to be legally reported. The reporting process thus commences with SAPS officials. They are the ones given the authority and responsibility to decide whether or not a case of CSA should proceed and be passed on to the prosecutor (Taylor, Hoylano & Keenan in Powell, Murfett & Thomson, 2010:715). The procedure involved in reporting a crime of CSA is very specific and involves various stages after the crime has been reported to the SAPS.

As previously stated, the procedure commences with the crime of CSA being reported to the SAPS, where a case is registered (Fox & Nkosi, 2003:11; Park *et al.*, 2009:11; The National Prosecuting Authority of South Africa, 2008:6). Once a case is registered, an investigating officer is assigned to the case. The investigating officer is then responsible for the investigation of the crime (Fox & Nkosi, 2003:12). Part of this investigation is that a detailed statement is taken from the child victim and the first witness involved. Evidence is then collected from the forensic medical examination, which every child victim must undergo after a crime of CSA has been reported (Lewis, 1994:55-57&97). The perpetrator then needs to be traced, arrested and charged (Park *et al.*, 2009:11).

The investigating officers have to gather evidence and other relevant information in order to bring the case to court (Fox & Nkosi, 2003:12). It is furthermore the

investigating officer's responsibility to keep the child victim and their family informed with information regarding the case and the progress of the investigation. The docket/file with all the documents is then sent to the court and received by the sexual offences prosecutor (The National Prosecuting Authority of South Africa, 2008:6).

The end of the process involves a notice for trial being issued, the occurring of the trial, and lastly sentencing, where the judge/magistrate gives their verdict (Fox & Nkosi, 2003:12). As the prosecutors become the representatives for children in court, the role of the prosecutors will be explored in the next section.

2.5.2 The role of the prosecutor in child sexual abuse cases

In terms of prosecution and the court process, Conradie (2009:4) discusses the National Prosecuting Act 32 of 1998 which states that the function of the National Prosecution Authority is to ensure justice where the law has been transgressed. The prosecutor, as mentioned earlier, represents the child victim and therefore it is their role to present evidence in court. This evidence may be in the form of statements and written, medical and oral evidence. This evidence is used to prove the guilt of the accused beyond any reasonable doubt (Dessena, 2010:61; Lewis, 1994:70-71).

The prosecutor also has to adequately prepare the CSA victim for the court hearing, which entails going over the statement, clearing any inconsistencies, and explaining the court procedure, as well as assisting the child to become familiarised with the courtroom environment. Importantly, not only is it also the prosecutor's role to ensure the child victim is ready, but also to ensure that the intermediary is prepared, and that all documentation pertaining to the case is in order and present at the court hearing (Conradie, 2009:4).

The next section will focus on the court process as well as the challenges experienced with the court process and current practice in the South African judicial system.

2.5.3 The court process

According to the National Prosecuting Authority of South Africa (2008:15-17), the court process involves several processes which include the following.

The trial will begin as soon as the court is ready to proceed with the case of sexual abuse. The first stage of the process involves the SAPS providing a subpoena to the witness. This entails that the witness/es must be prepared to be in court to provide testimony on the date stated in the subpoena. On the day of the trial the prosecutor will call the witness to provide evidence in the form of verbal testimony. Once the witnesses have testified, the accused or their lawyer will get an opportunity to direct questions to the witnesses. The lawyer of the accused is then given the opportunity to present evidence which they request from the defence witnesses. The prosecutor then gets an opportunity to direct questions to the defence witnesses. Based on the evidence presented in court, the court then decides whether the accused is guilty or not (The National Prosecuting Authority of South Africa, 2008:16-17).

2.5.4 Amendments in the South African judicial system

In South Africa, over the years, there have been efforts to change the workings within the judicial system, particularly when dealing with sexual offences against children. These changes are identified below:

- (a) As a result of the cases of sexual offences and child victims needing to be dealt with in a specialised way, it was identified that specialised units needed to be established. Therefore in 1986 specialised units known as Child Protection Units (CPU) were established within the SAPS (Waterhouse, 2008:23).
- (b) In the past the complexity of the management of sexual offence cases and the treatment of victims of sexual offences resulted in women's organisations advocating specialised courts. In 1993 the first Sexual offences court (Soc) was established in the Wynberg Magistrates Court in Cape Town. The aim of the Soc was and is not only to minimise trauma of victims of sexual abuse, but to improve the number of reported sexual

offences, by providing specialised services to victims (Sadan *et al.*, 2001:5; Waterhouse, 2008:5). The specialised services provided to victims and witnesses include having trained prosecutors with knowledge about prosecuting sexual offences, closed-circuit television facilities, and intermediaries who assist children to testify (Waterhouse, 2008:25).

- (c) In 1995 the Child Protection Units (CPUs) were given more investigative authority and changed into what is now known as the Family, Violence, Child protection and Sexual offences (FCS) units. Most of these units are not based at police stations, but render a service to police stations. These units are also in more child-friendly offices, and their vital aim was and still is to improve investigation standards (Waterhouse, 2008:23). Where there is not an FCS unit based at a police station, the Department of Public Service and Administration (2009:19) indicates that many police stations do have detectives trained by an FCS unit.
- (d) In South Africa it has become evident that over the years children providing verbal evidence in a system provided for adults, has resulted in a huge problem (Coetzee, Dunn, Kreston & Painter, 2008:11). Child victims and their families were found not to be educated about or empowered enough for criminal justice proceedings. Therefore in 2001, RAPCAN, an organisation in Cape Town, established the Child Witness Project. This project was first established in the Wynberg Sexual Offences court. By 2004 this service was extended to Khayalitsha, Parow, Atlantis and Cape Town courts (Pekeur, 2005).
- (e) The importance of proper preparation of vulnerable young victims and witnesses was recognised in 2008 and resulted in the development of 'Bona Lesedi', the National Prosecuting Authority court preparation programme (Coetzee *et al.*, 2008:5). This programme is described by Coetzee *et al.*, (2008:5) as a uniquely African programme, focusing on the

needs of child witnesses in order to improve service delivery in the criminal justice system.

- (f) In terms of the law, there were new developments in the South African Sexual Offences Act (32 of 2007), which came into effect on 16 December 2007. This Act was established because the law and its implementation, as well as the legal aspects pertaining to sexual offences, needed reviewing and amendment (Criminal Law [Sexual offences and related matters] Amendment Act 32 of 2007). According to Artz (2010:3), the Act was made into one law, so as to include a wider range of sexual offences defined in a gender-neutral way.
- (g) Over the past ten years it was realised that increased supportive services were needed by child victims and vulnerable witnesses. Therefore one-stop centres known in South Africa as “Thuthuzela care centres” were established across the country. Thuthuzela care centres have since their founding assisted in minimising secondary victimisation to complainants of child sexual abuse (Waterhouse, 2008:20).

The above material shows evidence of the transformations made within the criminal justice system regarding dealing with sexual offences against children. However, Artz (2010:43) adds that we will only be able to accurately ascertain how effective these changes are by means of efficient monitoring of every aspect of the judicial system, and by carefully documenting victim’s experiences of it. The next sections will therefore focus on some of the challenges experienced with the South African criminal justice system.

2.5.5 Challenges with the South African judicial system

In light of and in addition to the above material, this section will consider the past and present challenges experienced with the South African judicial system. In terms of investigation in South Africa, Van Niekerk (2003:14) has highlighted several problems experienced by families after reporting sexual crimes against children. For the purposes of this research the following three have been chosen:

- Families were not informed of court dates, resulting in the cases being withdrawn.
- Some children were unable to access medical examinations.
- Protection of bail and bail legislation was not implemented appropriately, thus the child victim was not afforded the knowledge of this or the opportunity to engage with it.

In 2002 most of those who submitted feedback to the South African Human Rights Commission (2002:43) emphasised that CSA was generally poorly investigated. In recent literature (Powell, Murfett & Thomson, 2010:715) one of the reasons offered for the poor investigations of CSA cases is interviewer questioning, which is done by police officials. As a result of this, one of the biggest failures in the South African criminal justice system is the prosecuting and convicting of perpetrators (Rabkin, 2011:BusinessDay).

Reflecting on policing practice in 2002, the South African Law Commission identified that the SAPS officials in fact did not have discretion in accepting a charge of sexual assault. It was furthermore found that the SAPS had insufficient training in the field of CSA, resulting in them presenting as inexperienced when dealing with a child victim of sexual abuse. In addition to this, Vetten *et al.* (cited in Vetten, 2012:6) found that the statement-taking skills of “members of the uniform division based at client service centres” were not adequate. Waterhouse (2008:19) argues that for some time, concerns have been raised about police exercising inappropriate discretion in rape and sexual assault cases. Furthermore Vetten *et al.* (cited in Vetten, 2012:6) highlight that the majority of SAPS members based at client service centres are not trained regarding laws appropriate to sexual offences or the appropriate treatment of victims. Vetten (2012:6) adds that, although the Family Violence, Child Protection and Sexual offences (FCS) units were restored to full functioning in April 2011, the response to sexual offences by the SAPS remains disorganised, particularly since members of the uniform division based at client service centres are still liable for initial reporting processes. The author emphasises this as occurring when these members have not been properly trained to deal with sexual offence cases.

In their report on sexual offences against children, the South African Human Rights Commission (2002:41-44) found several issues relating to police procedure when child sexual abuse was reported. They are given below:

- At some police stations, interrogating techniques were used to interview child victims which caused the child fear and confusion and affected the quality of the child's statement.
- The overall process of reporting was thus highlighted as causing secondary trauma to the child victim.
- Some officers working with child victims of sexual abuse were reported to lack training in the field of child sexual abuse and to display a lack of skills and empathy towards the child victims.
- Some police officials displayed unprofessional behaviour and attitudes when a sexual abuse case was laid, as they were reported to have made inappropriate comments and jokes at the time of the report.
- One major problem highlighted in this report was the poor quality of statements taken by police officials, which were said to jeopardise the child victim's case, as the entire criminal case is based on this statement.

In light of the above, Omar (2012:Eye Witness News) recently identified that not only are cases postponed indefinitely and referred back to the SAPS for further investigation, but dockets are also lost. He adds that this results in secondary victimisation of children. Considering the above and all the changes made in the criminal justice system to reduce the secondary victimisation of children, the researcher has become concerned about there not being enough done for child victims of sexual offences to ensure that they get justice.

Seven years after the South African Human Rights Commission's report on sexual offences against children, similar challenges with police officials were again identified. They are given below:

- Police investigation procedures were found to be insensitive to the way in which the child initially presents, at the time of reporting.
- Police officials' understanding of the child's cognitive development as a complainant and a witness is limited.
- Not only do police officials have limited knowledge of certain protocols regarding Child Sexual Abuse cases but police fail to comply with the National Police Guidelines and Multi-disciplinary Protocol (Conradie, 2009:3).

Even though there are programmes provided to child witnesses to enable them to testify, there are some sexual offences courts in South Africa that do not have separate waiting rooms for the accused and the complainant. This negatively affects the child witness's testimony (Omar, 2012:Eye Witness News).

2.6 CONCLUSION

From the above discussion it is evident that child sexual abuse has been and become an issue of epic proportion not only globally but particularly in South Africa. Not only the statistics of child sexual abuse, but also the fact that the policing of child sexual abuse has been questionable and problematic in South Africa for a while now, have been alarming to the researcher.

Although literature has indicated that several changes have been made in the criminal justice system so as to deal better with child victims of sexual abuse, challenges are still being experienced. For this reason the researcher is of the opinion that there is still room for further improvement. In light of the above and for the purpose of this research, the researcher will attempt to explore caregivers' experiences of the South African judicial system after child sexual abuse has been reported, so as to gain fresh insights into the situation.

CHAPTER 3

RESEARCH DESIGN AND METHODOLOGY

3.1 INTRODUCTION

The preceding chapter provided a contextual overview on child sexual abuse and the South African judicial system. The purpose of this chapter is to elaborate on the research design and methodology as outlined in Chapter 1. The chapter will therefore focus on the aim of the study, the research approach and research design that were chosen, and the data collection methods that were used. The chapter will conclude with the data analysis method, the application of trustworthiness and the ethical considerations during this study.

3.2 PURPOSE AND AIM OF THE STUDY

The purpose of this study was to gain greater knowledge and understanding (Walliman, 2011:246) of caregivers' experiences of the South African judicial system, after CSA had been reported. Fouché and De Vos (2011:94) explain that the purpose or aim of a study refers to something that is done or why something exists. The aim of this study was to explore and describe caregivers' experiences of the South African judicial system after CSA had been reported. In order to achieve this aim, the following objectives were formulated:

- to explore and describe the experiences of caregivers of CSA victims with the South African judicial system after CSA has been reported;
- to provide recommendations to all role players working in the CSA field in order to raise their awareness of the experiences of caregivers of CSA victims.

The research therefore aimed to conduct an explorative study with caregivers in this situation in South Africa, particularly those working in the judicial field. The research

question that was formulated to achieve the aim of the study was: *What are caregivers of CSA victims' experiences of the South African judicial system after CSA has been reported?*

3.3 RESEARCH APPROACH AND DESIGN

A qualitative approach is generally used in research to assist the researcher in conveying reasons for certain occurrences, with the purpose of understanding an occurrence from the point of view of the research participants (Leedy & Ormrod in Fouché & Delport, 2011:64). This research study adopted a qualitative approach as it involved exploring Childline clients' caregivers' experiences. Babbie and Mouton (2001:270) explain that a qualitative approach can be viewed as a "broad methodological approach to the study of social interaction". With qualitative research, the focus is on the process rather than the outcome, and the primary aim is to gain in-depth descriptions and understanding of events (Babbie & Mouton, 2001:270).

For the purposes of this research study, the way in which knowledge was gained was by using a reasoning method, known as "inductive reasoning" (Walliman, 2011:4-5). According to Walliman (2011:5), inductive reasoning begins from particular observations, from which general conclusions are obtained by the researcher. The present researcher also used inductive reasoning to attempt to describe the caregivers' experiences as accurately as they occurred (Babbie & Mouton, 2001:273).

A "research design" refers to the strategy a researcher uses for solving a research problem. This strategy thus provides the researcher with a structure for all procedures that need to be followed, all data that needs to be collected, and all data analysis the researcher will conduct (Leedy & Ormrod, 2010:85). For the purpose of this study, the researcher used a descriptive qualitative research design. This design, as described by Sandelowski (2010:78), provides descriptive qualitative findings that are closer to the pure awareness provided by the participants, and that rely less on the researcher's interpretation of the data.

The nature of this research study was thus exploratory and descriptive (Babbie, 2010; Rubin & Babbie, 2011). The research had an exploratory purpose as it was the intention of the researcher to explore the research topic for better understanding (Babbie, 2010:92) so as to assist in providing fresh insights into the research topic. This study is also descriptive, as mentioned earlier as it describes the experiences of the caregivers in this situation.

3.4 POPULATION AND SAMPLING

According to Leacock, Warrican and Rose (2009:78), conducting research usually involves examining a group of people. Therefore the people in whom the researcher was interested made up what is known as the population. All caregivers of Childline child clients made up the population (Strydom, 2011:223) for this research. Leacock, Warrican and Rose (2009:78) add that from this population the researcher selects a sample. The sample is thus considered as the subgroup of the population that shows the characteristics of that population. For the purposes of this research, the researcher used the purposive sampling method (Struwig & Stead, 2001:122; Walliman, 2011:188). Purposive sampling is described as “the process of deliberately selecting a particular sample because you believe it to be a source of rich information about the phenomenon that you are investigating” (Leacock, Warrican & Rose, 2009:91).

The research participants were selected in accordance to the following:

- Each participant was a caregiver whose child was sexually abused and as a result received services from Childline Western Cape (Wynberg, Khayelitsha, Mitchell’s Plain and Tygerberg Centre).
- Participants were selected if they had had experience with the judicial system after CSA was reported in the previous three years.
- The age, gender, culture and religion of participants varied.

- Participants were also selected on the basis that they were able to communicate in either Afrikaans or English.

Challenges of using purposive sampling is that a purposive sample is less likely to be representative of the wider population (Carey, 2009:41), researcher bias may occur (Babbie, 2010:197) and there is a possibility of generalisation from the resulting data (Rubin & Babbie, 2011:353). As a result of this research study being explorative and descriptive, studying a small sample enabled the researcher to collect sufficient data for the researcher's study purposes (Babbie & Mouton, 2001:166). As stated elsewhere, the purpose of this study is not to generalise the findings but rather to explore and describe caregivers' experiences with the South African judicial system.

Before the process of selection started, permission to conduct the research study at Childline was obtained from the Childline Western Cape deputy director and the Wynberg Centre office manager. The process of selection for this research study was as follows:

The Childline social workers consulted their caseloads dealt with between the periods March 2010 to March 2012 and identified participants according to the criteria for this research. These social workers then made initial contact with the participants to inform them of the research and to ask if they would be interested in participating in the research. Once the participants verbally agreed to participate, the social workers informed them that the researcher would contact them. The researcher contacted all the identified participants via telephone to thank them for their interest in the research, and also to brief them on the aim and purpose of the research. The researcher then scheduled a date and time to conduct the semi-structured interview with the participants. Consent forms were also given to and signed by the participants.

3.5 RESEARCH METHODOLOGY

The next section will provide a detailed description of the research methodology applied in conducting the research. Research methodology is all about how the researcher went about planning for the research; it also pays particular attention to methods of data collection and methods of data analysis (Walliman, 2011:172).

3.5.1 Data collection method

Leedy and Ormrod (2010:88) explain that “data” refers to pieces of information that specific situations present to the person observing a situation. Data collection involves gathering information to obtain answers for one’s research investigation (Leacock, Warrican & Rose, 2009:96). In order to select a data collection method, researchers need to specify the type, source and form of data to be collected (Struwig & Stead, 2001:40). For the purposes of this study, the type of data was verbal (interviews) and the source was primary data as the researcher collected it herself. Because the researcher verbally asked the participants questions while observing them and keeping field notes, the form of data was both overt and non-overt (Struwig & Stead, 2011:40).

In qualitative research, interviewing is often the main form of data collecting. Leacock, Warrican and Rose (2009:97) explain that “interviewing can be considered as a question and answer session”. In order to gather the data, interviewing and semi-structured interviews were used as primary methods (Denscombe, 2007:177; Greeff, 2011:351-353; Nieuwenhuis, 2007:87). The methods used during the data collection process will be discussed below.

3.5.1.1 Semi-structured interviews

Researchers often use semi-structured interviews to gain a detailed understanding of participants’ beliefs, perceptions or accounts of a specific topic (Greeff, 2011:351). Semi-structured interviews can be described as a prepared guide that contains specific questions and relevant issues which the researcher wishes to explore. Semi-structured

interviews give the researcher freedom with regard to the way he or she goes about covering the issues in the prepared guide (Leacock, Warrican & Rose, 2009:100). Greeff (2011:351) observes that in semi-structured interviews participants are regarded as the experts on the subject, as they are able to give a fuller picture to the researcher.

Because the researcher works in the field of child sexual abuse, she is aware that child sexual abuse is a very sensitive topic, particularly for caregivers of children who have been sexually abused. Therefore a one-on-one semi-structured interview was specifically chosen to allow the participants to feel more at ease and to enable the researcher to assist in containing the participants when necessary.

The researcher being a novice researcher, a pilot semi-structured interview was first conducted. A pilot study is defined by Walliman (2011:191) as a pre-tested study which is done on a small number of people. In conducting pilot semi-structured interviews with two participants. The researcher discovered problems of comprehension and other sources of confusion (Walliman, 2011:191). After these discoveries were made the researcher was able to amend the interview schedule and proceed with interviewing the rest of the participants.

The semi-structured interviews were conducted on different days at the Childline Western Cape centres and at the Childline centre closest to the participants' residences, to make it easier in terms of travel purposes, and so that it was less costly and inconvenient for the participants. The interviews were held in a private and quiet room provided at the Childline Western Cape centres. Chairs were arranged for the individual participants opposite the researcher, with a dictaphone placed in the middle, in order to record the experiences of the caregivers. With the permission of all the participants, the interviews were recorded by using a dictaphone tape-recorder (Greeff, 2011:359), after which the recorded interviews were transcribed (Schurink, Fouché & De Vos, 2011:408).

The value of using one-on-one semi-structured interviews is that it enables a researcher to obtain large amounts of data as well as obtaining in-depth data (Greeff, 2011:360). A limitation of this type of interview, however, is that answers can at times be misunderstood or be untruthful. Because the subject matter was considered sensitive, there was a risk of the interview relationship changing into a therapeutic one (Greeff, 2011:360). This did not happen in this research as the participants understood the purpose of the interviews and the role of the researcher.

The researcher conducted semi-structured interviews until data saturation, which occurred when the researcher began to hear repetitive information from the participants. This was an indication to the researcher that nothing new was or could be learnt (Greeff, 2011:350). This happened after the seventh interview, meaning that a total of eight interviews were conducted. Once they were completed and transcribed, data analysis took place.

3.5.1.2 The interview schedule

An interview schedule was used to guide the interviews. This offered the researcher a set of predetermined questions which served as an aid in engaging with the participants, and guided the interviews (Greeff, 2011:352). Carey (2009:113) points out that semi-structured interviews involve structured questionnaires which link directly to the research question, but they also have an unplanned component which allows the researcher to query issues raised by the participants. Though the researcher made use of predetermined questions in the interviews, the interviews were guided rather than dictated by the schedule (Carey, 2009; Greeff, 2011:353) (See Addendum 1 for the semi-structured interview schedule).

In considering the aim and the research question of the study, the interview schedule was initially compiled by the researcher meeting with professionals (Childline social workers) in the field of CSA. Together they brainstormed thoughts of a broad range of

question areas. The researcher then arranged the questions from simple to complex and from broad to more specific (Greeff, 2011:352).

After the interview schedule was reviewed by professionals in the field and finalised by the researcher, it was pilot-tested and then used by the researcher in the semi-structured interviews.

3.5.1.3 Field notes

Field notes are the written notes that researchers make during and after an interview, and contain everything they hear, see, experience and think about during the interview. These kinds of notes are important as they assist the researcher to remember, and to explore the process of the interview (Greeff, 2011:359). In the present study, the researcher made use of field notes, but because these were not adequate in providing thick data, using a dictaphone to record the interviews assisted the process. Capturing answers in written form while participants were speaking would have been distracting and time-consuming, so the dictaphone was useful. The researcher was thus able to concentrate on the procedure of the interview, as well as on its overall flow (Greeff, 2011) (See addendum 4 for the field notes).

3.5.2 Data analysis

The purpose of data analysis, according to Leacock, Warrican and Rose (2009:134), is to discover answers to research questions. Qualitative data analysis is understood as the process of bringing order, structure and meaning to the mass of data collected (Schurink, Fouché & De Vos, 2011:397). Qualitative data in this research, according to Carey (2009:29), thus attempted to, “critically investigate and unearth meaning and understanding by rigorously exploring themes and outcomes that related to the research question and subsequent aims and objectives”.

For the purposes of this research study, the data analysis method used was that of content analysis (Babbie & Mouton, 2001:491&492). In order to reduce data to a more manageable amount, category formation and coding were used. Category formation and coding were also used as patterns of belief and recurring themes were examined (Schurink, Fouché & De Vos, 2011:410). By examining the repetition of certain words and phrases in the transcripts, the researcher was able to make conclusions about caregivers' experiences of the South African judicial system after CSA has been reported.

The process of conceptual analysis, which guided the researcher before she started to reduce, interpret and analyse the data, involves eight steps (Babbie & Mouton, 2001:492). These steps are discussed below:

(a) Deciding on the level of analysis

The first step the researcher embarked on was deciding what the level of analysis would be. She decided that a string of specific words and key phrases would be the level of analysis.

(b) Deciding how many concepts to code for

The researcher then decided to identify several concepts based on the string of specific words and key phrases that were initially highlighted. This assisted the researcher in deciding beforehand what the code set should consist of.

(c) Deciding whether to code for the existence or frequency of a concept

The researcher then decided to code for frequency, as she was interested in coding each part of her data where each code occurred.

(d) Deciding how to distinguish among concepts

As a result of the researcher coding for frequency, she decided to only code data which appeared exactly as her code set.

(e) Developing rules for the coding of texts

The researcher then developed rules for what each segment of text might or might not be coded as.

(f) Deciding what to do with irrelevant information

The researcher decided that whatever data was not coded or irrelevant could be discarded.

Steps 7 and 8 have to do with coding and analysing data, and will be discussed below.

In order to organise, reduce, analyse and interpret the data into manageable pieces (Schurink, Fouché & De Vos, 2011:399) category formation and coding were employed. Category formation assisted the researcher to identify salient themes, recurring ideas and patterns of belief that link people and settings together (Schurink, Fouché & De Vos, 2011:410). Coding, according to Schurink, Fouché & De Vos, (2011:411), refers to the task whereby words and phrases are written down by the researcher to represent the topics and patterns identified from the data. These words and topics are known as the coding categories. Category formation and coding were carried out with the aim of determining what caregivers' experiences with the South African judicial system were after CSA had been reported.

The category formation and coding were conducted in the following way: the researcher read through the transcripts so as to familiarise herself with the content; the researcher then identified and labelled phenomena in the data by means of breaking down and conceptualising the data to develop categories; the categories were then named, and finally the researcher engaged in a process of coding whereby data was reduced into themes. The researcher then attempted to make sense of the data gathered through the process of interpretation (Schurink, Fouché & De Vos, 2011:411-412), and finally the data was presented in a tabular form in Chapter 4.

During data analysis and interpretation the following steps guided the process:

- (i) Prepare and organise the data. Firstly the researcher had to plan in order to record the data (Schurink, Fouché & De Vos, 2011:403). During the semi-structured interviews the researcher thus planned to use a dictaphone in order to record the interviews. Data was then collected and a preliminary analysis made

(Schurink, Fouché & De Vos, 2011:403). This occurred while the researcher conducted the interviews with the participants. While interviewing the participants field notes were made by the researcher. The researcher then managed the data by transcribing the interviews herself (Schurink, Fouché & De Vos, 2011:404). Finally the researcher read through the transcripts and notes were made in the margins of the documents (Schurink, Fouché & De Vos, 2011:404).

- (ii) Reducing the data. This step according to Schurink, Fouché and De Vos (2011:404) begins with the generation of categories and coding the data. This process involves identifying recurring ideas or language and patterns of belief that link people and settings together.

In each transcribed interview the researcher highlighted the repetitive data and labelled phenomena by giving each idea, incident or event a name that represented the labelled phenomenon. The researcher then grouped concepts around the labelled phenomena, resulting in the researcher being able to identify categories. Once categories were discovered the researcher was able to name each category which related to the data/phenomenon it presented. Once the process of open coding (naming of phenomena) was completed, axial coding was implemented, which involved the researcher attempting to make connections between categories and sub-categories of the information obtained in the transcripts (Schurink, Fouché & De Vos, 2011:410 – 413).

- (iii) Visualising, representing and displaying the data. This step involved the researcher presenting the data (Schurink, Fouché & De Vos, 2011:404). Once conclusions were made of each theme/category it was then presented in Chapter 4 of this research as a recommendation in order to raise the awareness for all role players in the field of child sexual abuse, and to demonstrate what the current situation is with regard to the South African judicial system and caregivers' experiences with it. Finally the researcher compiled a qualitative research report in the form of a dissertation of limited scope.

3.6 QUALITY CRITERIA

An important issue to consider when evaluating the rigour of qualitative research is trustworthiness (Rubin & Babbie, 2011:449). A researcher conducting qualitative research should make every effort to ensure that an account of credible procedures is included in the research report. This is the key to convincing readers that the recounted events are true, and can be accepted (Delpont & Fouché, 2011:428).

When conducting research it is therefore of utmost importance that the researcher aims to ensure that the data gathered is reliable and suitable for the research (Walliman, 2011:179). The trustworthiness of this study was established in terms of four criteria, namely credibility, transferability, dependability and confirmability (Babbie & Mouton, 2001; Schurink, Fouché & De Vos, 2011).

3.6.1 Credibility

Credibility means that the enquiry was conducted so as to ensure that participants in the study were accurately identified and described (Schurink, Fouché & De Vos, 2011:420). Credibility was ensured by the researcher accurately identifying the participants through purposive sampling. Credibility is built on prolonged engagement in the field, persistent observation, and triangulation exercises (Babbie & Mouton, 2001:277). Credibility was ensured by means of data triangulation (Nieuwenhuis, 2007:113). According to Babbie and Mouton (2001:277) the process of triangulation involves collecting information from different points of view about different events and relationships. This was done through the use of different methods of data collection, one-on-one semi-structured interviews (Greeff, 2011) and field notes (Rubin & Babbie, 2011).

3.6.2 Transferability

Schurink, Fouché and De Vos (2011:420) describe transferability as the extent to which the findings of the research can be transferred from one particular situation to another. Transferability involves providing “thick” descriptions of data in context, meaning that the researcher reports them with sufficient detail and precision so that judgements by the reader can be made about the transferability (Babbie & Mouton, 2001:277). To ensure transferability thick descriptions of the participants and contexts were provided in this study. This was done by supplying a large quantity of clear, detailed information about the relevant experiences of the participants.

3.6.3 Dependability

Schurink, Fouché and De Vos (2011:420) indicate that regarding dependability, the researcher should ensure that the research process is logical and well documented. Babbie and Mouton (2001:278) explain that dependability has to do with an inquiry providing the reader with evidence, ensuring that if evidence were to be repeated with the same participants, in the same context, the findings would be similar. The researcher has attached to this study several addendums which in the researcher’s opinion serve as documented evidence of what she has done in this research and how she has gone about doing it.

3.6.4 Confirmability

Babbie and Mouton (2001:278) explain that confirmability is “the degree to which the findings are the product of the focus of enquiry and not the biases of the researcher”. Adding to this, Babbie and Mouton (2001:278) refer to Guba and Lincoln’s “confirmability audit trail”, which involves a trail of evidence being left by the researcher so that the auditor can trace the evidence to its source to show that it supports the

enquiry. The researcher ensured confirmability by keeping the documentation of data (dictaphone recordings and transcribed interviews), data reduction and analysis products (field notes, theoretical notes, concepts) and instrument development information (pilots) (Babbie & Mouton, 2001:278). The data will also be securely stored at the Centre for Child, Youth and Family Studies, NWU for 5 years.

3.7 ETHICAL CONSIDERATIONS

Ethical issues, particularly in social research, should be considered when research involves any “human subjects” (Rubin & Babbie, 2011:75) or when human beings are objects of a study (Strydom, 2011:113). Goddard and Melville (2001:108) warn that with any research that is conducted come responsibilities.

Throughout the conducting of this research, it was important for the researcher to remain accountable for the ethical quality of the enquiry, thus taking great care to do so (Henning, 2004:74). In research the majority of ethical issues are gathered into one of four categories namely; “protection from harm, informed consent, right to privacy and honesty with professional colleagues” (Leedy & Ormrod, 2010:101). As a social worker, the researcher adhered to the ethical code of the South Africa Council for Social Service Professions when working with participants. The researcher was also responsible for obtaining permission to proceed with the research from the reviewing panel of the Centre for Child, Youth and Family Studies, NWU. Ethical permission was obtained from NWU Ethic committee with reference number NWU-0060-12-A1, as well as written permission being obtained from the Childline Western Cape to conduct the research (See Addendum 2).

The following aspects were considered by the researcher to ensure ethical practice while executing this research.

3.7.1 Protection from harm

Because this study involved human beings, according to Leedy and Ormrod (2010:101) research participants should not be exposed to unnecessary physical or psychological harm. As the researcher worked in the field of child sexual abuse, she was aware that child sexual abuse was a very sensitive topic, particularly for caregivers of children who had been sexually abused. Before conducting interviews, the researcher thus made the participants aware that they might experience some emotional or psychological discomfort. She ensured that participants had access to debriefing and/or counselling (Leedy & Ormrod, 2010:101) at the relevant Childline centres with the Childline social work staff after their participation if they required it. Fortunately none of the participants indicated that they required debriefing or counselling after the interview.

3.7.2 Informed consent

Walliman (2011:251) asserts that the decision made by participants whether to take part in the study or not, is based upon the quality of information the researcher provides to them. In the present research, the identified participants were not coerced into participating. Informed consent was obtained from each participant for everything that is reported in this study. The researcher considered this to be very important to ensure before conducting the interviews. The research participants were thus firstly thoroughly informed of the aims and purposes of this study, via telephone by the Childline social workers. Thereafter in a face- to-face meeting with the participants, the researcher verbally went through an informed consent form (See Addendum 3) which she presented to the participants.

The informed consent form presented all relevant and necessary information which the researcher thought participants needed to be aware of and it also provided participants with insight into what was to be expected. Participants were also informed of their right

to withdraw from the study at any given time. Therefore deception of participants by withholding information was avoided.

3.7.3 Right to privacy

Privacy, according to Strydom (2011:119) means “to keep to oneself what is not intended for others to observe or analyse”. The researcher ensured that confidentiality was maintained throughout the study. Any identifying information participants gave to the researcher were not mentioned in the study or to anyone enquiring about the participants. The researcher also ensured that during the study the dictaphone recordings, transcripts and other data were safely kept on her home premises in a locked safe to which only she had access.

3.7.4 Honesty with professional colleagues

Anyone conducting research should present their findings as honestly as possible, without intentionally misleading others about the nature of their findings or by fabricating data to support their own conclusion(s) (Leedy & Ormrod, 2010:103). The researcher ensured that when using or referring to the work, information, comments or knowledge of others, she acknowledged this or them. Thus the researcher ensured that the work presented in the study was her own, and not plagiarised. Furthermore the researcher reported the findings of this research study and any other relevant information as accurately as possible.

Another ethical issue that was considered was compensation. According to Strydom (2011:121) it is reasonable to reimburse participants for costs incurred, for example transportation. The incentive of receiving transportation compensation should however not be the only reason why participants take part in a study. Participants in this study were therefore compensated for travel fees when requested and needed. The amount of money spent on travelling to and from the venue using public transport was given to

participants on request. This fee was estimated in terms of the public service rate from area to area. Participants were also encouraged not to partake in the research solely because of the compensation for travelling. This compensation was explained as being provided so as to not upset caregivers' finances when taking part in the research.

3.8 CONCLUSION

From the above information, the researcher is of the opinion that for the purposes of this study the research design and methodology applied were appropriate. This was clearly outlined as she identified what the aim of the study, the research approach and research design were, as well as discussing the data collection method and what data analysis method she used. The researcher also adhered to all ethical considerations while conducting this research. This chapter has thus expanded on all that was mentioned in Chapter 1 in order to give further insight into how the researcher went about conducting her research.

CHAPTER 4

EMPIRICAL FINDINGS AND LITERATURE CONTROL

4.1 INTRODUCTION

The previous chapter focused on the research methodology that was used during this study. This chapter will discuss the results by considering the themes, subthemes and categories that were formed during the data analysis. The categories will be supported with direct quotes of the participants. A literature control will be given with each discussion of the category, to verify the empirical findings.

4.2 PARTICIPANTS IN THE STUDY

The participants of this study were all Childline child clients' caregivers who had experiences with the South African judicial system after CSA had been reported. As already highlighted in Chapter 3, the participants for this study were selected in accordance with the inclusion criteria.

A total of eight participants were identified and semi-structured interviews were conducted with them for the purposes of this research study. The group of participants was specifically composed of five biological parents, one grandmother, one foster mother and one stepmother, all of whom filled the role of caregiver. In this section, for confidentiality purposes, the names of the research participants, their children and various criminal justice/child protection professionals have been excluded and reference to the participants will be indicated by symbols.

The symbols have been allocated according to the participants' initials and their interview number. Symbols were allocated to the professionals mentioned in the interviews. Table 4.1 is a summary of some of the biographical details of the participants which should demonstrate that the inclusion criteria were adhered to.

Table 4.1: Summary of biographical details of participants

Participants	Gender	Home Language	Race	When seen at Lifeline/Childline	Outcome of child's court case
S1	Female	English	Coloured	2010	Temporarily off the roll
N2	Female	English	Coloured	2011	Pending investigation
M3	Female	English	White	2011	Pending investigation
W4	Male	Afrikaans	Coloured	2011	Unknown
R5	Female	English	Coloured	2011	Thrown out of court
SAR6	Female	English	Coloured	2011	Pending investigation
F7	Female	Afrikaans	Coloured	2011	Pending investigation
T8	Female	Xhosa	Black	2011	Successful conviction

4.3 FINDINGS OF THE STUDY: THEMES

The data that was collected through semi-structured interviews was analysed through content analysis as discussed in Chapter 3. From the data analysis three main themes were identified, which were divided into subthemes and categories. The subthemes and categories will be discussed and confirmed with quotations from the transcribed interviews in order to convey the voice of the research participants (Schurink, Fouché & De Vos, 2011:426). Appropriate literature was included in the discussion to compare existing literature with the themes and categories that were identified in the study.

Three themes were identified from the caregivers' experiences with the South African judicial system. These themes, with the subthemes and categories, are illustrated in Table 4.2.

Table 4.2: Summary of the themes, subthemes and categories

THEMES	SUB THEMES	CATEGORIES
Theme 1: The experiences with officials from the SAPS	<u>Subtheme one:</u> Positive experiences with the investigating officer from the SAPS	(i) Investigating officer being accommodating and helpful (ii) Investigating officer being caring and using age-appropriate language with children
	<u>Subtheme two:</u> Negative experiences with the investigating officer	(i) Inconvenienced by unavailability and poor follow-up of cases. (ii) Investigating officer unhelpful and unprofessional
	<u>Subtheme three:</u> Negative experiences with the SAPS	(i) SAPS being unhelpful and unprofessional
Theme 2: The experiences with regard to statutory social service delivery	<u>Subtheme one:</u> Negative experiences of statutory social workers	(i) Statutory social service delivery unsatisfactory (ii) Poor communication from statutory social workers (iii) Statutory social workers being inaccessible
Theme 3: The experiences with the court and personnel as part of the judicial system	<u>Subtheme one:</u> The experiences of the court	(i) Lengthy, never-ending proceedings (ii) Bail given too easily (iii) Disappointing decision-making of the court (iv) Seeing accused
	<u>Subtheme two:</u> The experiences with the prosecutor	(i) Lack of consultation for court preparation and lack of communication in terms of Follow-up of cases

	<u>Subtheme three:</u> The experiences of the judicial system professionals	(i) Ignored child victims' rights (ii) SAPS lack skills
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4.3.1 THEME ONE: THE EXPERIENCES WITH OFFICIALS FROM THE SAPS

Theme one pertains to the experiences the participants had with officials from the SAPS as part of the judicial system. These experiences were identified as being positive, which are identified as subtheme one, as well as negative which will be subtheme two.

4.3.1.1 Theme one (subtheme one): Positive experiences with the investigating officer from the SAPS

The first category that was generated from the positive experiences with the investigating officer from the SAPS was related to the investigating officer being accommodating and helpful towards some of the research participants. This category will be discussed.

Category one: Investigating officer being accommodating and helpful

The participants indicated that they experienced the investigating officer's involvement in their child's case as accommodating and helpful. Two of the participants mentioned the following about the investigation officer:

"She was fantastic. Very caring, very efficient - she still phones me to find out what's happening up till this day." (M3)

"Very helpful. The first time I met her, she was polite, immediately responded and there's no complaints about her. There was no hassle, there. I can't actually complain. The service was excellent." (W4)

The researcher has found that literature in South Africa on positive outcomes of investigating officers' dealings with cases of child sexual abuse is sparse, and the researcher is unable to support the above findings with such literature. It was found in the literature that due to the disclosure of sexual abuse being difficult particularly for children, it is essential for any professional dealing with a child victim of sexual abuse to listen actively, respond supportively and be sensitive as well as to create a safe space for a child to talk (Allnock, 2010:2&10). The responses from the above participants show that the investigating officers in these cases dealt effectively with the participants' children in their initial contact.

Category two: Investigating officer being caring and using age-appropriate language with children

The second category that was identified from the empirical data is that of the investigating officer showing a caring attitude towards the participants' children. The majority of the participants indicated that they experienced the communication of the investigating officers with their children as caring, and the language used was easy enough for their children to understand. As mentioned by two of the participants:

"He (the investigating officer) was always talking to her and say nice things to her. He said she mustn't worry, that nothing bad will happen because he is going to get this guy who hurt her so badly. The first time we came to court he (the investigating officer) was saying to N 'You don't need to be scared because there's a lot of police here to protect you.'" (SAR6)

"She was so sweet and nice and she communicate so till that she can understand, and she was like a parent, she was not like 'I'm a police' when she speak to her, you know, so she cannot be afraid of her." (T8)

In the literature Makhubu (2005:73) indicates that many police officials have great difficulty in communicating with children. The empirical data obtained from this study

found a difference and contradicts Makhubu's statement. Though the researcher's findings above emerged from a small sample, the researcher is of the opinion that with these findings it is possible that some police officials are competent in dealing and communicating with children.

4.3.1.2 Theme one (subtheme two): Negative experiences with the investigating officer of the SAPS

The first category in subtheme two was that of negative experiences the participants had with the investigating officer from the SAPS. This category pertains to the fact that the participants were inconvenienced by the investigating officer's unavailability and poor follow-up of cases. This category will be discussed below.

Category one: Inconvenienced by investigating officers' unavailability and poor follow-up of their cases

Less than half of the participants said that they were inconvenienced by the investigating officer because of their unavailability and poor following up of a case. The following is what two of the participants mentioned:

"There we sat and they then apparently phoned L, but L didn't come out to us. We then were told to go home and no statement was taken, nothing at the police station." (F7)

"I had to run up and down to eventually find out who is the investigating officer. Before S there was another investigating officer involved and this guy then went on leave, and then I don't know what happened." (S1)

According to Park *et al.* (2009:12&13) it is not only the right of a complainant to report a case of sexual abuse or rape but importantly it is the duty of SAPS officials to allow a complainant to report such cases. With regards to the response provided by the above

participants, this clearly indicates that the SAPS official approached at the time did not adhere to their mandatory duty. Furthermore, SAPS officials are also responsible for obtaining an initial statement (Park *et al.*, 2009:13) but in the case of the above respondent this did not happen.

In support of the response from Participant S1, literature highlights that families generally experience the feedback from investigating officers as poor, because many of them do not know who the investigating officers are, or they do not have contact details for them. As a result of this, families are often uncertain about procedures with regard to what will follow next (Coetzee, 2005:61).

Category two: Investigating officer being unhelpful and unprofessional

In the second category that was named negative experiences the participants had, was that the majority of the participants emphasised that the investigating officer was unhelpful and unprofessional. Two of the participants mentioned the following about the investigation officer:

“I still feel disappointed because constable L didn’t treat me well. That morning at the police station he said to me ‘You probably think it’s nice for a child to lay open legs!’ It looks to me as though this (the case) is going nowhere. I feel very unhappy because we were at the police station and we were then sent back home, but what about the child who this thing was done to? How is this (the case) going to go further, and how is it going to end up in the court? How is this going to proceed further?” (F7)

“He came when we already gave a statement, and then he asked N about what happened to her, but then there I found out that he didn’t believe N. He said he didn’t think that she was raped. It’s hard for her, because she was telling me. ‘Why do I have to talk about it every time, and – mm – to everyone?’ Every time it’s like a

different one asking her questions, and I don't think she wants to – to say to everyone. It really make me mad!” (SAR6)

The above statement from the participants is supported by literature such as Muller (in Coetzee, 2005:3) and Makhubu (2005:73) who emphasise that the investigations of child sexual abuse are often poorly conducted. Given the above responses from the research participants, it can be understood that the poor conducting of cases is often what lead to participants feeling disappointed and angry. In reflection on the response from participant SAR6, it is evident that this participant's child engaged in talking to more than one person about her ordeal, which seemed to result in her becoming anxious. In this regard Muller (in Coetzee, 2005:32) emphasises that when a child engages in more than one interview with a stranger this can have negative effects, as multiple interviews can increase the level of stress and aggravate trauma.

4.3.2 THEME TWO: THE EXPERIENCES WITH REGARD TO STATUTORY SOCIAL SERVICE DELIVERY

Theme two pertains to the experiences the participants had with regard to statutory social service delivery. Negative experiences were highlighted and only one subtheme emerged.

4.3.2.1 Theme two (subtheme one): Negative experiences of statutory social workers

Subtheme one refers to the negative experiences the participants had with the statutory social workers. The majority of the participants indicated that their experiences with the statutory social workers were negative because the service was unsatisfactory, there was poor communication from the statutory social worker, and statutory social workers were inaccessible.

Category one: Statutory social service delivery being unsatisfactory

The participants described the services that they received from statutory social workers as unsatisfactory, as stated by the following participants:

“They don’t help you – they always sending you to another place –, ‘Go here, go there!’ To tell you the truth, their services sucks!” (W4)

“It’s like everything has to take a month or two months or even a year to get an answer. When we go there, then you hear they short-staffed, this or that, which is kind of not really your problem, because you coming there to be helped, and yet they do say over the tv or radio or the internet, ‘Go for help! Don’t sit in this abusive situation and just accept it!’ but when you go for help, then it’s like you get treated kind of the same way. They should really have a system of how they working and helping people, because I was really shocked.” (R5)

One other participant stated the following:

“The social worker gets transferred to a other position, and the case is then given over to somebody else. No information is given to you.” (S1)

Category two: Poor communication from statutory social workers

Category two still pertains to the negative experiences participants had with statutory social workers. Two respondents complained that they received poor communication from the statutory social workers who became involved in their case as a result of the participants reporting child sexual abuse. These two participants said the following:

“So many phone calls, so many emails, and nobody could tell me about or even recognise Z’s case!” (S1)

The other participant before sharing her experience, rolled her eyes and then pulled her lips and cheeks upwards (Field note M3-2012), before stating the following:

“Mm – nobody phones you back. You battle to get hold of the specific social worker – mm – They make promises – ‘I’ll phone you later –, I’ll phone you at 11 – I’ll phone you tomorrow’ – Nobody phones you back. Not good.” (M3)

Category three: Statutory social workers being inaccessible

The majority of the participants indicated that their experience was that the statutory social workers were inaccessible. This was described by the following participants:

“I was also placed with another social worker who never got back to me, then another social worker phoned me and he said he was no longer dealing with the case, somebody else is taking over and I need to phone them in order to hear who’s taking over. When I phoned it was, like, people not getting back to you. So what’s the point of phoning?” (R5)

Literature on statutory social service delivery in South Africa and the evaluation thereof seems sparse. This limited the researcher’s ability to use supportive sources to confirm or disagree with the above responses received from the participants in this study. However, in reflecting on the findings of Davis (2009:slide5) who indicates that social workers in the child welfare sector have low status, high caseloads and disempowering working conditions, it might be possible that these reasons could be some of the contributing factors to statutory social workers not attending to their cases efficiently, as pointed out by the participants in this research. Erasmus (in Viljoen, 2009) is of the opinion that the high staff turnover in the social service/welfare sector negatively affects service delivery because communities do not benefit when there is no continuity. Given the response of participant R5, it is evident that high staff turnover or staff being moved from one case to the next is definitely an issue of concern in the social service field.

4.3.3 THEME THREE: THE EXPERIENCES WITH THE COURT AND PERSONNEL AS PART OF THE JUDICIAL SYSTEM

Theme three pertains to the experiences the participants had with the court and personnel as part of the judicial system.

4.3.3.1 Theme three (subtheme one): The experiences of the court

Subtheme one pertains to the experiences the participants had with the court. This includes negative experiences of lengthy, never-ending proceedings, the fact that bail is given too easily to the accused, and participants' disappointment about the decisions made by the court and having to see the accused in the court.

Category one: Lengthy never-ending proceedings

From the participants' feedback about their experiences of the court, it was apparent that the majority of them had had unpleasant experiences in the court. Several participants mentioned the following about the extended proceedings at court.

"The case doesn't happen – it doesn't – we can't really get it done with. The court is just extremely slow. When the case does come up – mm – it'll be like a year and six months after it happened. It just doesn't, you know, finish. It doesn't come to an end.. And all she wants to do is get it over and done with." (M3)

"It started when she was four years. She's turning nine this year. I was very upset. They say they're going to postpone the case again. It makes me to say 'You can withdraw this case because the only one person who is going to solve this is God!'" (T8).

According to Muller (in Parker, 2006:18) a trial period can take from two weeks up to several years. The fact that the court procedure is an over-lengthy process was also seen in the empirical data received from the participants. Dawes and Mhloti (in Waterhouse, 2008:20) stress that lengthy investigations may persuade victims to retract their allegations, which gives further insight into the response from participant T8. Makhubu (2005:74) further emphasises that cases are often postponed, thus leading to delays and resulting in children becoming anxious. This author also indicates that with time delays children are forced to undergo anticipation of trauma again and again.

Category two: bail given too easily to the accused

The participants were also of the opinion that the court granted bail too easily, as stated by one participant:

“I think he gets bail too easily. He has been in jail before for armed robbery, and he got bail then as well. I think they give bail far too easily, and in this case we saw him, and he came running up to her, and he chatted to her!” (M3)

This confirms the opinion of Karth (2008:1&5) who indicates that it is perceived by the public that bail is granted too easily. In support of this, Makhubu (2005:80) emphasises that the bail process is in fact not very well understood by both children and their caregivers. The author adds that as a result of this lack of understanding, misconceptions arise that the granting of bail means allegations against the perpetrator are dismissed, not considered serious, or have been dismissed. This is clearly evident in the following response: *“He’s walking on bail free! I saw him twice. God, I don’t think they must get bail! They walk, like they didn’t do anything, like the world belongs to them!” (SAR6)*

As regards the accused being granted bail, he/she is in actual fact not allowed to make any form of contact with the victim (The National Prosecuting Authority, 2008:14). Considering the responses of participants M3 and SAR6, the accused in this case breached his bail conditions.

Category three: disappointing decisions made by the court and seeing the accused in the court

The participants felt that they were particularly disappointed with the decision-making of the court, as stated by this participant:

“You take off for the whole day and you come to court, and then they tell you ‘The court is not on the register because the prosecutor or officer is ill, or whatever, and that’s just it!’ (S1)

The above response gives credence to the statement highlighted by both Muller (in Parker, 2006:18) and Makhubu (2005:78) which points out that postponement can occur at any stage of the trial for various reasons. Makhubu (2005:78) emphasises that delays can cause a child to become fearful and uncooperative when they are eventually given the opportunity to testify.

Category four: Seeing the accused

Category four pertains to the participants' negative experiences of seeing the accused while at the court. Two participants had the following to say:

"We're sitting in the same area! And that's the thing that make me very, very upset!" (T8)

"You come in, and you see them sitting! That was flipping hard! That was the only difficult, to see them, actually! You never know what goes through their minds, and their families!" (W4)

This response contradicts the emphasise that the South African Human Rights Commission (2002:29) places on the fact that waiting rooms are private and away from the accused. In further support of the above, Waterhouse (2008:17) indicates that children and their caregivers generally express a fear of seeing the perpetrator at court. All the participants in a study done by Parker in 2006 indicated that they saw the accused either while sitting in the waiting rooms or at court entrances (Parker, 2006:38). In considering the findings in Parker's study as well as looking at the above responses from participants in this research study, it is clear that after several years, witnesses are still vulnerable before testifying, as they are still having to see the accused.

4.3.3.4 Theme three (subtheme two): The experiences with the prosecutor

Subtheme two under theme three pertains to participants' experiences with the prosecutor. Empirical findings have shown that participants had mostly negative experiences with the prosecutor.

Category one: lack of consultation for court preparation and lack of communication in terms of following up on cases

The participants felt that the prosecutor's communication and contact making with them was poor, as stated below:

"Honestly to God, I haven't had any communication with the prosecutor – mm – I remember one day I phoned the court and requested to speak to the prosecutor, but then a lady, a guy, whatever, was not available! I left many messages, but I haven't got any communication up until today. Technology is so good today, I think there's no excuse for not communicating with the next person, because there's phone, there's post, you know what I'm saying, and they don't return your calls at all. I dunno – I have a terrible problem with that!" (S1)

"They didn't do court preparation. She wasn't aware what is she gonna talk, and then when she speak with them, she just stop. And then that mama started to be too much frustrated with the child." (T8)

Sadan, Dikweni and Cassiem (2001:12&27) indicate that one of the essential roles prosecutors have is to provide court preparation to victims, because they are presenting the victims in court. Another role is for them to consult with complainants to prepare the case for court. This consultation assists in assessing the merits of the case as well as the complainant's ability to testify. Given the responses of the above participants, it is evident that currently not all prosecutors are adhering to their responsibilities, and neither are they providing the necessary services that they are mandated to provide. In support of all that has been mentioned, Waterhouse (2008:26) states that for improved prosecution of sexual offences it is essential for courts to provide on-site court preparation for complainants and their families. In support of the above participant responses and literature, the findings in a study done by Makhubu (2005:76) indicate that prosecutors have very heavy case loads and very little time at their disposal. In Makhubu's experience she found that there was a majority of cases where prosecutors only met children once, and that was on the date of the trial. She pointed out that this

leaves the prosecutor with no time to establish rapport with the child, neither does it leave time to have proper consultation.

4.3.3.6 Theme three (subtheme three): The experiences of the judicial system professionals

Subtheme three pertains to the participants' negative experiences of the judicial system professionals. Their experiences include the fact that they felt the rights of the child victims were ignored, that the SAPS lacked skills, and the SAPS were unhelpful and unprofessional.

Category one: rights of the child victims were ignored

The majority of the participants said that they felt that their children's rights were ignored by various criminal justice system professionals. Two of the participants said the following:

"When we went to court there was a shooting. The lights went off, there was a power failure. They shot a prisoner and N was in a state when we heard all this gunshots – she was getting sick from it. When we went back again for the second time, then she was sick, and the case was putten back again. And then when we went back again – mm – the speakers that N have to talk over, that machine, was broken. That didn't work, so the case have to put out again. N is in school, then she misses school work every time. We will sit there for hours until they come out and tell us the case is not going to go on, and that really make me mad!" (SAR6)

"As the people, the victims, you have to go through trauma over and over again. Your case goes from one person to another. You relive that thing over and over again. That child lives in her own world – this child is still withdrawn. Her rights were totally violated because the perpetrator is back into her life. I had a shiver through my body, what was put in place for the victim." (S1)

One of the rights highlighted by the UN guidelines for child victims and child witnesses of crime is the right to safety (The Centre for Child Law, 2008:17). Considering the response of participant SAR6 it is evident that both she and her child were vulnerable and at risk of being physically harmed at the court. Furthermore from participant S1's response, it seems that safety measures were not put in place or properly managed by child protection professionals, particularly because the accused still had contact with the participant's child.

A second right highlighted by the UN guidelines for child victims and child witnesses of crime is the right to be treated with dignity and compassion, in terms of limiting any interference in the child's private life (The Centre for Child Law, 2008:18). It is evident from the response of participant SAR6 that her child's educational life was interrupted on more than one occasion owing to various incidents occurring at the court resulting in the child being unable to testify.

Aside from the above-mentioned findings from a study done by Makhubu (2005:80) it was highlighted that the adversarial nature of court proceedings are believed to be detrimental to the child in terms of their effectiveness when testifying as a witness, and detrimental to the child's emotional wellbeing. The findings in this research give the researcher the impression that children's rights are not fully upheld at court and in court proceedings.

Category two: the SAPS lacked skills, and the SAPS were unhelpful and unprofessional.

Category two pertains to most of the participants expressing their feelings that the SAPS lacked skills in CSA cases. Two participants said the following about the SAPS:

"It should start at the police station, laying the case. I feel like someone more equipped should take a statement like that, because you can't just deal with a child like that. I mean, the investigating officer, I dunno if they need some training

or what, they should be more equipped, especially an officer assigned to a case, like a child rape case.” (S1)

“Whoever assists you, they need to be trained in what they are doing, because most of the time who I have dealt with, then it’s, like, you have this job, but you don’t even know how to help me. Like the police, the one called the other one.” (R5)

The above responses support the findings of Vetten *et al.* (cited in Vetten, 2012:6) who indicated that the majority of SAPS members based at client service centres were not trained in laws appropriate to sexual offences or the appropriate treatment of victims, and that the statement-taking skills of “members of the uniform division based at client service centres” were not adequate.

With regard to their negative experiences with SAPS, another participant mentioned the following:

“I went to R police station where I sat almost a whole hour to see different constables coming in the room, crying, and I mean, here I was in such a state and they couldn’t help me. They basically told me that I must go to the M police station because that’s where the incident happened. So that obviously had to be opened there, and when I went to M I was basically sent to Sergeant M, and then she said I had to open it there, and then come to her. So it was a whole up and down. It was terrible! It was terrible! It was terrible! I mean, I was, like, is there anybody that can help me, just to get this thing going? It just felt very traumatising.”(R5)

Overall, the responses from the above participant give credence to the fact raised by Waterhouse (2008:19) which is that for some time, concerns have been raised about police exercising inappropriate discretion in rape and sexual assault cases. In support of this, Vetten (2012:6) also indicates that, although the Family Violence, Child Protection and Sexual offences (FCS) units were restored to full functioning in April 2011, the response to sexual offences by the SAPS remains disorganised.

4.4 CONCLUSION

In this chapter the researcher highlighted the empirical findings in this research. The researcher also made use of literature to support or demonstrate the difference in findings. A brief introduction to the research participants was given then following this the researcher presented the data gathered and discussed each theme identified. Finally the researcher verified each theme, using relevant literature. The research participants' verbal contributions during the interviews provided the researcher with rich descriptions from which the researcher was able to analyse and draw conclusions which will be presented in Chapter 5.

CHAPTER 5

EVALUATION OF THE RESEARCH, CONCLUSIONS AND RECOMMENDATIONS

5.1 INTRODUCTION

In the previous chapter the results of this study were presented and supported with a literature control. Chapter 5 aims to provide a summary of the research process, which will include whether the research question was answered and the goal and objectives of this study reached. Thereafter conclusions on the literature as well as the empirical data and recommendations will be made. Finally the end of the chapter will focus on the contributions and limitations of the study and recommendations for further research.

5.2 EVALUATION OF THE RESEARCH

This research study adopted a qualitative approach, as it aimed at exploring Childline clients' caregivers' experiences of the South African judicial system in order to raise the awareness of those working with CSA cases, particularly those working in the judicial field.

During this explorative study semi-structured interviews were conducted to determine and understand the participants' experiences of the South African judicial system. Field notes were also used throughout each interview, which aided the researcher in capturing the entire process of the research interview. Once all the interviews were concluded and transcribed, content data analysis was done and was presented in themes and categories.

5.2.1 The aim of the study

The aim of this study was to explore and describe caregivers of CSA victims' experiences of the South African judicial system after CSA had been reported.

The explorative nature of this qualitative study enabled the researcher to gather valuable empirical data. Therefore the researcher was able to make certain conclusions and recommendations in order to raise the awareness of those working with CSA cases, particularly those working in the judicial field.

5.2.2 The objectives of the study

The aim was achieved through the following objectives:

Objective one: To explore and describe the experiences of caregivers of CSA victims with the South African judicial system.

Objective one was achieved by firstly presenting a literature review on CSA and the South African judicial system, which can be found in Chapter 2. This literature review provided the researcher with insight and background information to the research. The literature review also provided a conceptual framework for the study. In order to explore this topic, data was collected through conducting semi-structured interviews with caregivers, so as to explore their experiences of the South African judicial system in this situation. Field notes were used by the researcher so as to help her to remember and explore the entire process of the interviews. The semi-structured interviews were transcribed and analysed through content analysis. Themes and subthemes were identified and verified with a literature control. From the data obtained, as mentioned in Chapter 3, the researcher used inductive reasoning to attempt to describe the caregivers' experiences as accurately and exactly as possible.

Objective two: To provide recommendations to all role players working in the CSA field in order to raise their awareness of the experiences of the caregivers of CSA victims.

Objective two was achieved by formulating recommendations to all role players working in the field of CSA. Following from this, the researcher presented the findings of each theme identified during the data analysis.

Conclusions were drawn from these findings and recommendations were made in order to assist all role players in the field of CSA. This was done so as to improve the way all role players in the CSA field work with caregivers who have to deal with the South African judicial system as a result of reporting CSA.

5.3 CONCLUSIONS ON THE LITERATURE REVIEW

This section will focus on the conclusions the researcher made from literature that she reviewed and included literature regarding CSA, family/caregivers of victims of CSA and the South African judicial system.

5.3.1 Literature on CSA

From the literature it became evident that the defining of child sexual abuse was by no means an easy task (Petty, 2005:76). As this research was conducted in a South African context, it was important to define CSA in that context. Considering the definitions of CSA in the South African Sexual Offences Amendment Act 38 of 2007, the South African Children's Act 38 of 2005 and various other literature elements, the researcher, for the purpose of this study, chose the following definition: "Child sexual abuse occurs when any male or female person uses their power over a male or female child particularly to involve them in any act of a sexual nature, including sexual activity" (Department of Human Services: Victoria, 2009:2). CSA in SA is furthermore considered to be a criminal offence, therefore a person can be charged with CSA in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 38 of 2007 and the Children's Act 38 of 2005. South African literature also indicates that even if a child gives consent, statutory rape and sexual assault occur if the child is 12 years of age or older but under the age of 16 (Criminal Law [Sexual Offences and Related Matters] Amendment Act 38 of 2007).

Childhood sexual abuse was identified in literature as a traumatic experience for children (Herman, 1992; Moroz, 2005; Rowan, 2006; Safehorizon After Sexual Assault:

a recovery guide for survivors, s.a:1). Children who experience CSA are negatively affected by the abuse, and more often than not, the negative effects are shown through a child's behaviour (SECASA, 2012). Some behavioral signs of trauma following sexual abuse that were highlighted in literature were withdrawal (Fox & Nkosi, 2003; Hobart & Frankel, 2005; Park, Kenny, Sanger & Abrahams-Fayker, 2009), self-destructive behaviour (Dessena, 2010; Lowenstein, 2011; Petty, 2005;), bed-wetting/soiling and clinginess (Giardino, 2007; Hobart & Frankel, 2005; SECASA, 2012), aggression and sexualised behaviour (Fox & Nkosi, 2003; Petty, 2005; SECASA, 2012;). Further literature also indicated that children, especially teenagers, experience low self-esteem, changes in mood, and increased anxiety (Lowenstein, 2011; Mercer, 2010; SECASA, 2012). The severity of the impact that the sexual abuse has on a child is dependent on several factors which can include the age of the child, the relationship of the perpetrator to the child, and the number of perpetrators involved with the child (Petty, 2005:87-88); the length and frequency of the abuse or whether there was penetration (Spies, 2006:49); and whether the child was coerced and aggression was used (Lowenstein, 2011:295; Wade, 2000:24).

5.3.2 Literature on the family/caregivers of CSA victims

Literature indicated that dealing with the sexual abuse of a child is traumatic not only for a parent/caretaker, but for the entire family as well (Dessena, 2010; Lewis, 1994). Particularly devastating for a family is that a child discloses that the abuser is a family member. It was highlighted in literature that dealing with this kind of abuse is both painful and stressful for families (Calizar, 2011), especially because families may be unsure of how to respond to the survivor in a helpful way (Lewis, 1994:31).

Family members begin to doubt their role as parent, caregiver or older sibling as they often feel that the sexual abuse of the child survivor proves their inadequacy to protect them, although some families and caregivers have the ability or choose to keep calm even though they may feel all of the above. These families often draw strength and guidance from their spirituality (Fontes, 2005:142-143). Intra-familial sexual abuse also causes the family relationship great difficulty, and places the family in a state of turmoil.

This is due to the fact that certain family members may feel pressured to take sides over who is telling the truth (Calizar, 2011; The National Child Traumatic Stress Network, 2009).

5.3.3 Literature on the South African judicial system

In South Africa, over the years, there have been several efforts to change the workings within the judicial system, particularly when dealing with sexual offences against children. Though these attempts were made, some literature (Coetzee, 2005) indicates that there are complaints regarding CSA by families who are uncertain about procedures to follow after CSA is reported. Though literature (Coetzee *et al.*, 2008; Artz, 2010; Waterhouse, 2008; Pekeur, 2005;) indicates that several changes have been made in the criminal justice system so as to better deal with child victims of sexual abuse, challenges are still being experienced.

5.4 FINDINGS OF THE RESEARCH STUDY

The three main themes that were identified from the empirical data were verified and supported by literature. The following section is a summary of the findings of the study.

From the empirical data it was evident that participants had both positive and negative experiences with investigating officers from the SAPS as part of the judicial system. The positive experiences indicated that some investigating officers were accommodating and helpful in their initial meeting with the participants and their children. Such investigating officers promptly responded to the participants and showed a caring attitude towards the participants' children, as well as using age-appropriate language that was easy for the children to understand. The investigating officers furthermore presented themselves in a pleasant manner, thus creating a comfortable atmosphere. Investigating officers' empathic and caring manner in which they approached some participants and their children, as well as their prompt response to their cases, gave the impression that these officers took their cases seriously. Furthermore it gave the impression that these officers were experienced in the field of CSA and knowledgeable about how to go about dealing with such cases.

The negative experiences the participants had with the investigating officers included that participants were inconvenienced by some officers' unavailability and poor following up of their cases. Such investigating officers did not promptly respond to their cases, resulting in the participants having to continuously navigate to and from the police station in order to get in touch with the officers. Investigating officers were unreachable and did not follow up on their cases, causing participants not knowing the way forward. These investigating officers were unhelpful as they did not promptly attend to taking statements from the participants and their children.

The lack of knowledge about procedures needing to be followed in cases of CSA, as well as the uncertainty shown by some SAPS officials with regard to how to go about dealing with child victims of sexual abuse, gave some participants the impression that SAPS officials lack adequate training in this regard.

Participants' experiences with social services, particularly statutory social services, were negative. Participants stated that social workers from statutory social service organisations provided unsatisfactory services. The participants were continuously referred from one point to another within the statutory social service organisation, and it took statutory social workers a long time to make initial contact with the participants. Such social workers were seen as unreliable, communication with the participants was poor, and the social workers were inaccessible.

The empirical findings with regard to the participants' experiences of the court and personnel working in the judicial system, were negative. Case proceedings of CSA were described as "never ending" as cases were postponed several times. In these cases, participants indicated that bail was granted far too easily. Participants were not aware that they had rights to be part of the process to deny bail, and this process was not explained to them. The decision-making of the court was also perceived as unsatisfactory, owing to the postponing of cases. The empirical data also indicated that witnesses were exposed to perpetrators before the court hearings, and participants also

indicated that there was a lack of or no court preparation provided by the prosecutor to the participants or their children.

From some prosecutors, the communication with participants was poor. Prosecutors were unavailable and did not attend to messages left by the participants. There was no follow-up regarding the progress of cases and no feedback or update was given to participants. The rights of the participants' children were also not respected by some criminal justice professionals.

5.5 CONCLUSIONS FROM THE RESEARCH FINDINGS

During this explorative study valuable data was collected with regard to the experiences that caregivers of CSA victims have with the judicial system. Eight participants took part in this study, and from their experiences it became evident that they had both positive and negative experiences. From these experiences it is possible to draw the following conclusions.

5.5.1 Conclusions regarding the investigations of child sexual abuse cases done by SAPS officials

The literature review indicated that existing literature, in the South African context, only focuses on negative occurrences related to the way in which investigating officers deal with cases of CSA. In the present study it was found that negative occurrences do exist, such as investigating officers who do not efficiently attend to complainants and their cases. Other negative experiences included investigating officers being unhelpful and unprofessional as well as caregivers being inconvenienced by investigating officers' unavailability and poor following up of their cases.

Literature also indicates that for some time, concerns have been raised about police exercising inappropriate discretion in rape and sexual assault cases, and that although the Family Violence, Child Protection and Sexual Offences (FCS) units were restored to

full functioning in April 2011, the response to sexual offences by the SAPS remains disorganised. From the empirical findings it is evident that participants generally felt that some SAPS officials lacked skills and knowledge in dealing with cases of CSA. SAPS officials were just as uncertain about the reporting and investigating procedures of CSA as the participants and their family members. In considering the empirical findings as well as what was found in the literature, the conclusion is made that there is a general sense that CSA investigations are poorly conducted, and that families generally experience the feedback and communication from investigating officers as poor. Thus the trend emerging from both the empirical findings and literature was that as a result of poorly conducted investigations and the lack of communication from investigating officers, the participants/families were uncertain about the reporting and investigating procedures.

However, some of the findings of this study, through the empirical data, differ from the findings in existing literature, in that they also showed some positive outcomes about officers demonstrating competency in their jobs. These competencies included investigating officers being accommodating, caring and helpful to the participants and their children, as well as using age-appropriate language when engaging with the participants' children.

The researcher therefore concludes that although existing literature focuses on the negative issues related to the investigating of CSA cases, there are also SAPS officials who efficiently attend to complainants and their cases.

5.5.2 Conclusions regarding statutory social services

The literature review indicated that literature on statutory social service delivery in South Africa and the evaluation thereof is sparse. It also emerged from the existing literature that statutory social workers have disempowering working conditions and high case loads owing to high staff turnover in their organisations. In the empirical findings

regarding the participants' experiences with statutory social services, participants described their experiences as negative. The empirical findings highlighted that statutory social service staff turnover and staff absence from the office, seem to be negatively affecting service delivery.

The empirical findings furthermore indicated that the poor communication from and the inaccessibility of the statutory social workers, resulted in participants being uncertain about social services and the role and responsibilities of statutory social workers. From the empirical findings, the researcher concludes that statutory social services are experienced by some beneficiaries as unsatisfactory and ineffective.

From these findings, as well as the findings in existing literature, the researcher therefore concludes that the workings within some statutory social service organisations are unsatisfactory, and some statutory social service organisations seem not to be functioning as they are intended to. With literature on statutory social service delivery in South Africa seeming sparse, the empirical findings of this research provide some insight into what is currently being experienced by some beneficiaries of statutory social services.

5.5.3 Conclusions regarding child sexual abuse cases dealt with by judicial system professionals at court

Literature with regard to investigations of CSA cases indicates that cases are often postponed for further investigation, and these postponements will probably lead to delays. This was supported by the empirical findings in this study as court procedure was described by the participants as an over-lengthy process with continuous delays which were experienced as frustrating and anxiety-provoking for the participants and their children.

Literature regarding the bail process indicates that there is a perception from the public that bail for alleged CSA perpetrators is granted too easily. It also indicates that there

are misconceptions that bail means that allegations against the alleged perpetrator are often dismissed, or not considered to be serious. The empirical findings supports the literature in this regard, as the empirical data indicated that participants felt that bail was in fact granted far too easily.

One of the rights highlighted in literature for child victims and child witnesses of crime is the right to safety. Another right it indicated for child victims and child witnesses of crime is the right to be treated with dignity and compassion, in terms of limiting any interference in the child's private life. In literature it was also highlighted that the adversarial nature of court proceedings is believed to be detrimental to the child in terms of his/her effectiveness when testifying as a witness, and detrimental to the child's emotional wellbeing. The empirical findings in the present study showed that most child victims/witnesses' private life, especially their schooling, was interfered with or interrupted by court proceedings and various occurrences at the court. This, as well as the participants and their children seeing the accused in the waiting areas or in the passages of the court when they were assured this would not occur, may be some reasons why participants felt that their children's rights were not being upheld.

On the other hand, with regard to the prosecutors, literature indicated that prosecutors have very heavy case loads and very little time at their disposal. This resulted in there being no time for prosecutors to establish rapport with CSA victims/witnesses and insufficient consultation being provided to CSA victims/witnesses as well. From the empirical data the researcher concludes that currently not all prosecutors are adhering to their responsibilities, and neither are they providing the necessary services that they are mandated to provide. The majority of participants indicated that they had had negative experiences with prosecutors owing to some prosecutors' poor communication and contact-making with the participants regarding their child's case.

From literature and the empirical findings the researcher thus concludes that not only are court processes and case postponements or other court delays generally negatively experienced by both participants and their children, but they are also emotionally

affected by these occurrences. From empirical findings the researcher also concludes that there was a general feeling of disappointment with the decision-making of the court, particularly with their granting of bail and postponement of cases because the prosecutor or alleged CSA perpetrator was ill. From the empirical findings it can be concluded that there is a general sense that the rights of child victims of sexual abuse are generally ignored. Overall, the researcher concludes that procedures and protocols that should be followed when dealing with CSA cases, as well as the roles and responsibilities of judicial system professionals, are not always followed as they should be.

5.6 CONTRIBUTION OF THIS STUDY

Primarily this study afforded caregivers the opportunity to voice their thoughts and feelings about experiences with the South African judicial system after reporting CSA. At the end of the semi-structured interviews participants informally indicated to the researcher that talking about their experiences helped them offload what they felt they had been carrying for such a long time. They also expressed appreciation of the opportunity to reflect, and also to provide their own suggestions as to how things could improve in the criminal justice system, thus emphasising the need for more forums where caregivers of CSA can share their experiences.

The data obtained from the participants afforded the researcher the opportunity to come to conclusions and make certain recommendations. As a result of this, the researcher is enabled to raise the awareness of role players working in the field of CSA about caregivers' experiences with the South African judicial system after CSA has been reported.

Finally this study will contribute to South African literature, particularly current literature, seeing that the researcher found only limited published South African literature on the subject matter.

5.5 LIMITATIONS OF THIS STUDY

The limitations of this study are as follows:

The small research sample was a limitation as the researcher is of the opinion that in interviewing more caregivers, further insight into the matter could have been shared. The small sample also limited the possibility of generalising the findings.

A second limitation was the limited published South African literature on this topic. This limited the researcher in terms of drawing a thicker background of the subject matter, and further influenced the utilisation of secondary or dated resources.

5.6 RECOMMENDATIONS

5.6.1 Recommendations to the SAPS/investigation officers as part of the judicial system

It is recommended that in SAPS, particularly with some investigating officers, there should be a unified way of dealing with cases of CSA in order to assure that all cases are dealt with in the same manner.

It is recommended that investigating officers in CSA cases should be the more experienced officers in the field, or otherwise be closely supervised. If this is already happening, it is either not being managed effectively or it is not clear to the public. In this case it should be made clear.

Although SAPS officials from the FCS units are responsible for investigating cases of CSA, the researcher recommends that all SAPS officials should be educated about cases of CSA, in order to know how to deal appropriately with complainants and offer guidance in terms of explaining procedure, especially when an FCS investigating officer is unavailable.

5.6.2 Recommendations to social service delivery

The researcher recommends that members of the public should be better educated about statutory social services, the role of statutory social workers, and statutory procedures. The researcher also recommends that statutory social services consider ways of improving their communication with their clientele, so that their clientele don't wait indefinitely for follow up on cases referred or answers to queries made.

Given that staff turnover and caseloads are high at statutory social service organisations, it would be beneficial for these workers to partner with role players in the CSA field. In this partnership, statutory social workers could provide informative talks and pamphlets for these role players. This could benefit role players not only in terms of expanding their own knowledge, but also in educating communities to whom they already provide services. This could minimise referral for information purposes, and could result in statutory social services being accessed for adequate and appropriate reasons. The researcher also recommends that statutory social services approach university's and request the help from student social workers. The student social workers could be offered an internship where they are requested to provide telephonic or written feedback to people who have made requests or referrals to the statutory organization. From the findings it became evident that statutory social services seem to have a high staff turnover, thus it may be assumed that they lack the capacity to maintain an acceptable level of communication to their clientele. In utilising the services of student social workers, the researcher is of the opinion that statutory social services will be assisting in the students' skill development. Statutory social services can also directly benefit from students assisting with follow up due to the lack of statutory staff or their heavy case loads preventing them from doing quicker follow up themselves. Furthermore it may possibly minimise the complaints people make about statutory social services not returning phone calls or doing follow up. It may also assist in improving the impression people have of statutory social services communication.

5.6.3 Recommendation to judicial system professionals at court dealing with child sexual abuse cases

It is recommended that the criminal justice professionals, particularly policy developers and those in high positions in court, consider looking into limiting the number of times cases can be postponed.

Cases are often postponed because of the accused being ill. It seems unjust for a child to be turned away from court without testifying because the accused is ill, especially after it takes some children several therapy sessions and an immense amount of courage to actually go to court and testify. Given the researcher's experience of working with child victims of sexual abuse, she has found that the biggest issue for children is getting closure and moving on from the abuse. A child testifying thus symbolises to them the conclusion of the entire reporting process, so when cases are postponed, and especially for reasons out of the child's control, it would probably seem unjust to the child. It is understandable that a case cannot proceed if prosecutors are off ill, but it is recommended that the social worker or investigation officer need to confirm the day before the trial if there are any circumstances that might cause that the case not to proceed. If there are reasons why the case cannot proceed, the witnesses must be notified in advance to avoid the child being unnecessary at court and taken out of school.

It is also recommended that the entrance and waiting rooms of some sexual offences courts need to be rearranged, so that the child witness does not have to see the accused at all.

It is recommended that prosecutors need to update and provide court preparation to children and their caretakers. Continuous awareness-raising campaigns and informative talks need to take place in communities regarding the role of professionals working in the judicial system, and the procedure to follow when they have complaints. The researcher thus strongly recommends more partnerships amongst role players

working in the field of CSA so that together, awareness can be raised about the seriousness of the present situation.

5.6.4 Recommendations for future research

Research in this field, particularly in the South African context seems very scarce, so in order to gain credibility and raise significant public awareness, this issue needs to be addressed through further research and/or more publications on the subject matter.

Considering the aim of this research, it is recommended that further surveys and evaluation processes should be implemented in order to gain deeper insight and raise greater awareness with regard to current issues experienced with SAPS, statutory social services, the court, the judicial system, and professionals working with CSA cases after the reporting of CSA. Such research can include clients' experiences of services rendered by statutory social workers. More outcomes on research studies on this matter can raise further awareness on this subject, and can result in more action being taken.

It is recommended that research should be done with judicial system professionals (SAPS, prosecutors, magistrates) to gain insight into their experiences of dealing with CSA cases or CSA victims and their caregivers. Research can also include these professionals' understanding of and recommendations for addressing the gaps/problems in the judicial system.

Considering that this research was about caregivers' experiences, the researcher recommends that future research be done on the support systems available for and accessed by caregivers who deal with the South African judicial system after reporting CSA.

5.6.5 General recommendations

In concluding, the researcher would like to emphasise that there should be continuous monitoring and evaluation of all service delivery from all sectors of the judicial system

and those working with CSA cases. The outcome of such a process should also be made public knowledge so that the public can be made aware that services are monitored.

In a time where some awareness has been raised regarding the problems with the South African judicial system and its personnel working with CSA cases, the need to implement such an approach seems critical. In closing, the researcher hopes that further research will develop from the insights of this study, not only for the betterment of South African literature but for the betterment of the way in which our children and all witnesses are dealt with in the South African judicial system.

5.7 CONCLUDING STATEMENT

This research served as valuable insight into caregivers' current experiences of the South African judicial system after reporting CSA. Though current literature in the South African context was limited, from what was gathered the researcher concludes that though strides have been made to better manage cases of CSA as well as create child friendly spaces for child victims of sexual abuse, there is still room for improvement.

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ADDENDUM 1

SEMI-STRUCTURED INTERVIEW QUESTIONNAIRE (PILOT AND FINAL)

Semi-structured Interview schedule (Pilot)

The researcher will begin by introducing herself and highlighting the reason for the research. The researcher will then briefly talk about confidentiality and all other ethical information necessary for the participants to know. The researcher will then thank all participants for agreeing to be part of the research interview and highlight that the participant's input in the research is highly appreciated and most valuable.

Ice breaker – participants will introduce themselves, state when child's case was reported and what the outcome of the case was?

❖ *Child Protection Professionals*

1. Investigating Officer

- Describe your experience with the investigating officer?
- What was your experience of the interaction between your child and the investigating officer?
- Describe the challenges you experienced throughout the investigation and what are your thoughts and feelings about your child's case?

2. Prosecutor

- Describe your experience and challenges with the prosecutor?

- What was your experience of the interaction between your child and the prosecutor?
- ❖ **Bail conditions and complainants rights**
 - Describe your thoughts and feelings about the perpetrators bail conditions?
 - Describe your thoughts and feelings about your rights as complainants?
- ❖ **General thoughts about the justice system, challenges and recommendations**
 - Based on your experiences, what is your overall impression of the justice system?
 - What was most challenging or difficult for you, after reporting your child's case?
 - Given your experiences after reporting child sexual abuse, what recommendations do you have to improve the justice system?

Semi-structured interview schedule

1. Investigating Officer (Person from the FCS unit who investigates case)

- Tell me about your experience with the investigating officer?
- How did you find the communication between your child and the investigating officer?
- Tell me about the difficulties you had throughout the investigation
- Tell me what are your feelings about your child's case? (how it was dealt with)

2. Prosecutor (Person who presents your child's case in court)

- Tell me about your experiences with the prosecutor?
- What was communication like with the prosecutor before your child had to testify? (How many times did you/your child see the prosecutor, what was the interaction like between the child and prosecutor, you and prosecutor)
- Tell me about the challenges you had while dealing with the prosecutor?

3. Bail conditions (things perpetrator can't do while out of jail) and complainants rights

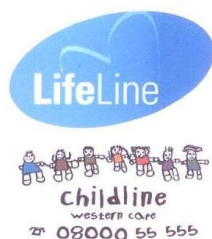
- Tell me what you think about the perpetrators bail conditions? (were you kept informed of the bail process, could you give input with regard to this)
- Tell me what you think about your rights as victims in this case?

4. General thoughts about the justice system, challenges and recommendations

- What was most challenging for you, after reporting your child's case?
- What were you most pleased about, after reporting your child's case?
- Based on your experiences, what is your overall impression of the justice system?
- What recommendations do you have to improve the justice system?

ADDENDUM 2

PERMISSION FROM LIFELINE/CHILDLINE WESTERN CAPE



LifeLine/ Childline Western Cape

MEMBER OF LIFELINE INTERNATIONAL, MEMBER OF LIFELINE SOUTHERN AFRICA,

MEMBER OF CHILDLINE SOUTH AFRICA

56 Roeland Street, Cape Town, 8001

Tel. (021) 461-1113 Fax (021) 461-6400

E-mail: info@lifelinewc.org.za

Website: www.lifelinewc.org.za

Registered as a Non-Profit Organisation

002-837 NPO

Section 18A/PBO REGISTRATION: 18/11/13/1085

Childline Counselling Centre

38 Fleming Rd, Wynberg, 7800

Tel: 021 762 8198 / Fax: 021 762 7467

1 August 2012

Dear Nicole Paulsen

We hereby confirm that you may work with the consenting parents/caregivers of our clients in order to conduct your Masters research study.

We trust that you will be guided by research ethics in terms of ensuring that our clients and their parents are not compromised in any way.

We wish you all the best with your research.

Cheryl Morilly

Manager of Wynberg Childline office

Parow: 111 First Avenue, Glenlily, Parow. Tel: +27 21 930 0859
 Khayelitsha Centre: E505, CWD Centre, Tel: +27 21 361 9197
 Wynberg Centre: 38 Fleming Road, Wynberg, Tel: +27217628198
 Mitchells Plain Centre: 18 Westministers, Portlands, Tel: +27 21 391 2873
 Youth Development Office: 14 Lupin Street, Lentegeur, Mitchell's Plain, Tel: +27 21 3725591



AIDS HELPLINE
 Tel: 0800-012-322
 A LIFELINE PROJECT

ADDENDUM 3

INFORMED CONSENT ~ PARTICIPANT

North West University Potchefstroom Campus

Researcher: Nicole Paulsen

INFORMED CONSENT FORM

Lifeline/Childline client's caregiver's experiences of the South African judicial system after Child sexual abuse has been reported.

Invitation to Participate

You are asked to participate in this research study because you have a child who received counseling at Lifeline/Childline and who has experienced the South African justice system after reporting sexual abuse.

The purpose

The researcher would like to hear about your experiences with the justice system and court process, after you reported your child/children's case(s). From what you share with the researcher she hopes to get a better understanding of what the current situation is with the justice system and court process. With a better understanding, recommendations can be given to those who work with child sexual abuse cases and those who support caregivers of child victims of sexual abuse after a case of CSA has been reported.

Risks:

Some of the questions in the interview may be uncomfortable. However, every effort will be made by the researcher to minimise your discomfort. If at any time you feel you would like to withdraw from the research study, you will be free to do so.

Semi-Structured interviews:

The semi-structured interviews will be voice recorded. These recordings will be kept in a safe place and will only be viewed by the researcher. The information gathered from the voice recordings will be written up in the research article, however the researcher will make sure that all identifying information be kept confidential.

Cost and financial risks:

The financial costs involved for your participation in this research will be that you need to pay for your transport to the research venue. However please note that you will be given the sum of money for which you paid to travel to and from the research venue.

Benefits and Compensation:

There is no guarantee that you will benefit directly from the study but taking the opportunity to voice your experiences will be a valuable contribution to raising awareness of the current situation with the justice system after child sexual abuse has been reported. Light refreshments and transport assistance (in terms of money for transport to and from the Lifeline/Childline Centre) will be provided.

Alternatives:

Participation in this research project is entirely voluntary and you may choose not to participate.

Confidentiality:

All information collected in this study will be kept strictly confidential, except as may be required by court order or by law. If any publication results from this research, you will not be identified by name.

Additional information:

Your participation in this study is entirely voluntary, and you are free to refuse participation. If you discontinue participation in the project you may request that the

researcher do not use the information already given to her. You may ask questions at any time as they occur to you.

Feedback:

You hereby give consent that the feedback after the research can be given at a group meeting with all the participants present.

Disclaimer/Withdrawal:

You agree that your participation in this study is completely voluntary and that you may withdraw at any time.

Subject rights:

If you have any questions about your participation in this research study, you may contact the researcher between 08:30 and 17:00pm. (Nicole Paulsen 021-7628198 or 0824931581) or the study leader Lizane Wilson at the Centre for Child-, Youth and Family Studies, NWU at 021 8643593.

Conclusion:

By signing below, you are indicating that you have read and understood the consent form and that you agree to participate in this research study.

Participant's signature

Date:

ADDENDUM 4

FIELD NOTES

(NOTES DURING INTERVIEW OF VERBAL AND NON-VERBAL COMMUNICATION)

Filed notes

Participant: M3-2012

Interview duration: 1 hour

Section 1: Questions on Investigating Officer

When sharing her experiences the participant seemed very pleased and happy, she also often smiled when talking about the investigating officer's treatment towards her and her daughter. When sharing the difficulties she experienced, she rolled her eyes, while quickly and immediately responding in a firm tone of voice that 'the court is very slow'

Section 2: Questions on Prosecutor

The participant spoke fast and got straight to the point when responding. From her tone of voice, facial and body expression she seemed calm and relaxed, she also generally seemed pleased about her experiences with the prosecutor.

Section 3: Questions on bail conditions

The participant often scratched her head, rolled her eyes and made various quick hand gestures in the air. She raised her eyebrows when she highlighted that bail was given too easily. Her eyes also widened when she mentioned that her daughter could have been in danger as the accused broke his bail conditions. While sharing her experiences she moved her body straight up against the chair she was sitting in, placed her hand on her cheek and quickly shook her head from side to side. She seemed disappointed and upset by her experiences. Before sharing her experience of statutory social services, the participant rolled her eyes and then pulled her lips and cheeks upwards.

Section 4: Questions on thoughts about the justice system, challenges and recommendations

When the participant highlighted that the most challenging experiences for her after reporting the sexual abuse of her foster child, was her dealings with statutory social services. She rolled her eyes again and scratched her head. When she shared her impression of the justice system she held direct eye contact while raising her eye brow and in a firm tone of voice emphasised that the justice system is slow.

At end of tape recorded interview

The participant wished me all the best with the research and stated that she hoped something good would come of it.