Testifying in court as a victim of crime for persons with little or no functional speech: Vocabulary implications

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People with disabilities are at a high risk of becoming victims of crime. Individuals with little or no functional speech (LNFS) face an even higher risk. One way of reducing the risk of remaining a victim of crime is to face the alleged perpetrator in court as a witness – therefore it is important for a person with LNFS who has been a victim of crime to have the required vocabulary to testify in court. The aim of this study was to identify and describe the core and fringe legal vocabulary required by illiterate victims of crime, who have little or no functional speech, to testify in court as witnesses. A mixed-method, exploratory sequential design consisting of two distinct phases was used to address the aim of the research. The first phase was of a qualitative nature and included two different data sources, namely in-depth semi-structured interviews (n=3) and focus group discussions (n=22). The overall aim of this phase was to identify and describe core and fringe legal vocabulary and to develop a measurement instrument based on these results. Results from Phase 1 were used in Phase 2, the quantitative phase, during which the measurement instrument (a custom-designed questionnaire) was socially validated by 31 participants. The results produced six distinct vocabulary categories that represent the legal core vocabulary and 99 words that represent the legal fringe vocabulary. The findings suggested that communication boards should be individualised to the individual and the specific crime, based on both the core and fringe legal vocabulary. It is believed that the vocabulary lists developed in this study act as a valid and reliable springboard from which communication boards can be developed. Recommendations were therefore made to develop an Alternative and Augmentative Communication (AAC) Resource Tool Kit to assist the legal justice system.

Keywords: *augmentative and alternative communication; person with little or no functional speech; victim of crime; testifying in court; vocabulary selection; sexual crimes; illiterate individuals; witness competency*

INTRODUCTION

People with disabilities are at a high risk of being victims of crime (Hughes et al, 2012; Jones et al, 2012). One group within the sphere of people with disabilities who are particularly vulnerable and have an increased risk are those individuals with little or no functional speech (LNFS), in other words, those with significant communication disabilities (Bornman, 2014; Bornman, Bryen, Kershaw & Ledwaba, 2011). This is not only due to the fact that they are unable to shout or call for help, but also because perpetrators often seek vulnerable individuals who they perceive as not being able to verbalise their victimisation to family and the police (Bryen & Wickman, 2011; Collier, McGhie-Richmond, Odette & Pyne, 2006). Research shows that the majority of individuals with LNFS who have been victims of crime know their perpetrators (Western Cape Forum for Intellectual Disability, 2014; Dickman & Roux, 2005). Perpetrators often believe that if their victims are unable to speak, they will be unable to seek help or disclose and report the crime to the police. Hence the saying: a silent victim is the perfect victim.

The risk that an individual with LNFS runs of being a victim of a sexual crime is increased by factors such as a low self-esteem, low self-confident behaviour, a reduced ability to learn from risks, poor decision-making skills, limited knowledge of constitutional and personal rights, and limited knowledge of how to report a crime (Collier et al, 2006). Furthermore, individuals with LNFS typically have little knowledge of sexuality and appropriate sexual behaviour due to the fact that their parents or family believe that they should be "protected" from this information (based on the myth that sexual awareness will lead to promiscuity), or that they should rather rely on non-experts (such as their peers) for sexuality education (Larcher, 2014; Bornman et al, 2011, Ziv 2007; Bryen & Wickman, 2011). On the one hand, people with LNFS are incorrectly viewed as asexual or 'sexual innocents' who should be protected from sexual experiences (Johns, 2010). On the other hand, they are viewed as sexually promiscuous, which could encourage the perpetrator in following through with the crime (Keilty & Connelly, 2001; Collier et al, 2006). All these myths are exacerbated by specific cultural beliefs regarding sexuality and sexual practices in South Africa and have a particularly negative impact on individuals with disability (Lafferty, McConkey & Simpson, 2012; Malimabe-Ramagoshi, Alexander & Molepa, 2007). For

example, the 'virgin cleansing' myth holds that having a sexual relationship with a woman with a disability could cleanse away HIV (Hannass-Hancock, 2009). In some South African communities, sexual intercourse with girls and women with intellectual disability takes place in the name of 'Ukuthwala' (Phasha & Myaka, 2009). According to this myth, perpetrators believe that they will become powerful, feared by others and wealthy if they have sexual intercourse with a 'mermaid' (described as a wealth-giving creature) – a spirit who is believed to live within girls and women with intellectual disability (Phasha & Myaka, 2009). These myths are alluring to perpetrators (McKenzie, 2013) and therefore – coupled with perpetrators' belief that individuals with LNFS will be 'unable to tell anyone', or if they do, that they will not be reliable witnesses (Bryen & Wickman, 2011) – perpetuate the abuse of this already vulnerable group.

Individuals with LNFS who depend on assistance for personal care such as dressing and going to the toilet are at increased risk for sexual crimes due to the intimate relationship they share with the individual assisting with these activities (Bornman, 2014; Collier et al, 2006). Due to the high dependence on a caregiver, particularly if the latter has been assisting with personal care for many years, the assertiveness of the individual with LNFS could be lacking when a sexual crime occurs between them (Bornman, 2014; Collier et al, 2006). Very often, perpetrators exploit this fact, threatening the individual with LNFS that these care-giving tasks would be withheld if they were to disclose the abuse. In his book *Ghost Boy* (2011), Martin Pistorius, a young man who uses AAC explains the nightmare of being abused by a caregiver: "There were times when I wondered if she scared herself with her own violence: after giving me an enema so forcefully I bled, she put me into the bath and I watched the water turn bright red. After getting me out, she dipped a toothbrush into the filthy water before cleaning my teeth with it." (Pistorius, 2011: 162).

Despite appropriate legislation in South Africa that protects people with LNFS, the alarming prevalence of the victimisation of people with LNFS remains mostly unaddressed and therefore the victims remain invisible (Combrinck & Meer, 2013; Bornman et al, 2011; Bryen & Wickman, 2011). One of the reasons for this phenomenon could be the fact that social workers, police, lawyers, advocates and presiding officers, all of whom form part of the legal justice system, often have limited knowledge of how to assist a person with LNFS, and therefore find the whole process too daunting (Bryen & Wickman, 2011). There is also controversy internationally as well as locally about the legal test for competency to testify and whether a person with LNFS has the ability to testify in court (Pillay, 2012). In the South African context, people with LNFS face significant difficulties when they are needed to give their testimony in court (Pillay, 2012). Extensive research has shown that South African prosecutors, defence attorneys, judges and magistrats are in need of disability awareness training (Combrinck & Meer, 2013; Pillay, 2012; Seedat et al, 2009).

Augmentative and Alternative Communication (AAC) must be seen as a valid means of communication for disclosing abuse or other crimes, reporting to the police and testifying in a court. AAC includes all forms of communication (other than oral speech) that are used to express thoughts, needs, wants and ideas (Beukelman & Mirenda, 2013), and thus provides a possible vehicle for these individuals to testify. AAC is commonly divided into two types of systems: firstly, unaided communication that relies on one's body to convey messages, for example natural gestures, body language, facial expressions and sign language (Lloyd, Fuller & Arvidson, 1997), and secondly, aided communication systems that require the use of tools or equipment in addition to one's body. These systems can range from low-technology options such as paper-and-pencil options and communication books or boards, to high-technology options such as speech-generating devices that produce voice output. Both low- and high-technology communication devices allow the user to use either picture symbols or alphabet letters to create messages. The vocabulary included in these systems and devices is typically organised under core and fringe vocabulary. Core vocabulary includes words that are used frequently and are useful in a variety of situations. They are often small, commonly used words (e.g. I, the, have, and, on, want, etc.). Fringe vocabulary is situation specific and changes from context to context and from person to person (e.g. court, prosecutor, school) (Beukelman & Mirenda, 2013; Lloyd et al, 1997).

South African law states that a witness can give testimony using "demonstrations, gestures or any other form of non-verbal expression" (Criminal Law Amendment Act 135 of 1991). The greatest advantage of AAC is its vast selection of manual signs and graphic symbols that people with LNFS can use to communicate messages. Especially for individuals who cannot read or write, the ability to

represent messages and concepts in alternative ways is central to communication (Beukelman & Mirenda 2013). It is important to note that South African courts have allowed deaf individuals to use unaided communication strategies such as South African Sign Language, for example in the case of Baretemane v R (CRI/A/25/07) and R v Ranikolo 1954 (3) SA 255 (0) (Jonker & Swanzen 2007). However, to date there have been no documented South African cases in which an individual testified using an aided communication system. This is of great significance for a large number of people with LNFS, namely those who can hear but who are unable to use spoken language, as well as those individuals who have significant physical and intellectual impairments.

People who use AAC need relevant and accessible vocabulary so that they can testify in court, thereby reducing the risk of victimisation (Bryen, 2008; Bryen, Carey & Frantz, 2003). Research shows that specialised vocabulary sets for specific contexts should be developed for individuals using AAC, for example to testify in court (Bryen, 2008; Dark & Balandin, 2007; Balandin & Iacono, 1998). To assist individuals with LNFS to testify in a court of law, a unique process may be required to obtain specialised legal vocabulary, such as asking professionals in the legal field to assist in identifying the appropriate vocabulary (Bornman & Bryen, 2013; Bryen, 2008).

Social validation should be one of the fundamental considerations when choosing vocabulary for people who use AAC to testify in court (Balandin & Iacono, 1998; Dark & Balandin, 2007; Schlosser, 1999). Social validation is the process of assessing and evaluating the acceptability and social significance of vocabulary within specific contexts and therefore this process was used in the current study (Schlosser, 1999). Subject evaluation approaches, such as conducting interviews with experts in the specific field (in this case, professionals who work in the legal justice system) can provide useful guidelines when identifying legal vocabulary for people who use AAC, thereby strengthening the social validation process (Schlosser, 1999). It is vital for people who use AAC, specifically children and illiterate adults, to have access to vocabulary that is complete, will satisfy their communication needs and be appropriate in the context in which it is used (Dark & Balandin, 2007). Moreover, testifying in court as a witness is a constitutional and human right that must be protected (Bornman et al, 2011; Centre for Disability, Law and Policy & Gender, Health & Justice Research Unit, 2012; Hesselink-Louw, Booyens & Neethling, 2003).

Despite the obvious need for a vocabulary list to enable individuals with LNFS to testify in court when they had fallen victim to a crime, no such lists currently exist in the published research domain. Therefore, the main aim of this study has been to identify, describe and socially validate the core and fringe legal vocabulary required by illiterate victims of crime – who have little or no functional speech – to testify in court.

METHOD

A mixed-method, exploratory sequential design consisting of two different phases was used to address the research (McMillan & Schumacher, 2010). The first phase was of a qualitative nature and used two different data sources: in-depth, semi-structured interviews (Data Source 1) and focus group discussions (Data Source 2). The overall aim of this phase was to identify and describe core and fringe legal vocabulary and to develop the measurement instrument based on the results obtained. Results from Phase 1 were used in Phase 2, the quantitative phase, during which the measurement instrument (a custom-designed questionnaire) was socially validated by professionals from the legal justice system (inter alia social workers and lawyers) (Creswell & Plano Clark, 2011).

PARTICIPANTS

Participants from all three data sources were selected on the basis of their status as recognised experts in the field of sexual abuse of adults and children, as well as their ability to testify in and act as expert witnesses in court. Furthermore, they were selected to provide either information on medical evidence, court preparation for child victims and/or disability-related aspects. The participants included in each of the three data sources are next described in more detail.

Qualitative phase: Data Source 1

Data Source 1 contained data obtained from three semi-structured, in-depth interviews with expert professionals. Purposive sampling was used to ensure that participants would be able to provide thick and rich data (McMillan & Schumacher, 2010). The participants included a medical social worker, a

forensic nurse and a childcare specialist – ages 63 years, 48 years and 43 years – and they were two women and one man respectively. Between them they had an average of 27 years' experience with people with disabilities who had been victims of crime and an average of 22 years' experience with victims of crime testifying in court. Furthermore, they had all before been present in court while a person with a disability testified.

Qualitative phase: Data Source 2

Data Source 2 contained the data gathered from three focus group discussions (n=22) that had been conducted in three different provinces in South Africa, namely Gauteng (n=6), the Western Cape (n=8) and KwaZulu-Natal (n=8). Purposive sampling was used to ensure that participants would be able to provide in-depth information regarding the topic at hand (McMillan & Schumacher, 2010). In the Gauteng focus group, all the participants were females and three of them were social auxiliary workers, one was a social worker, one a forensic nurse and one a clinical manager. Their ages ranged from 32 years to 45 years (with an average age of 38 years) and they had an average of 6 years' experience with people with disabilities who had been victims of crime (ranging from 2 years to 11 years) and 4 years' experience with victims of crime testifying in court (ranging from 0 – 11 years). In the Western Cape focus group, there were eight females of whom six were social workers and two were managers. Their ages ranged between 26 and 50 years (with an average age of 36 years) and they had an average of 7 years' experience with people with disabilities who had been victims of crime (ranging from 4 years to 18 years), as well as 7 years' experience with victims of crime testifying in court (also ranging from 4 to 18 years). In the KwaZulu-Natal focus group, there were seven females and one male. Four were social workers, two were social auxiliary workers, one was a manager and one was a speech language therapist. Their ages ranged from 26 years to 50 years (with an average age of 37 years) and they had an average of 8 years' experience with people with disabilities who had been victims of crime (ranging from 1 to 20 years) and 5 years' experience with victims of crime testifying in court (ranging from 0 to 20 years).

Quantitative phase: Data Source 3

Data Source 3 was made up of the results of a custom-designed questionnaire that had been completed by a group of participants involved in disability and legal matters. The participants were recruited following a workshop on the topic of reporting violence and abuse, which had been presented as a first step in explaining the challenge for people with communication disabilities who wished to report a crime. Of the 50 potential participants who consented, 31 met the selection criteria – i.e. they had a professional qualification, at least six months' working experience and proficiency in written and spoken English. The 31 participants included 30 females and one male. Their occupations varied and 11 were social workers, nine were social auxiliary workers, three were lawyers, two were teachers or educational staff, two were child-and-youth workers, one was a speech-language therapist, one an occupational therapist, one a probation officer and one a disability advocate. Their ages ranged from 24 years to 51 years. The majority (56%) of participants had experience with people with disabilities who had been victims of crime. The 44% who did not have this specific experience were working in the disability field and wanted to increase their specific knowledge related to abuse of this segment of the population. A total of 36% of the participants had had previous experience with victims of crime testifying in court. However, most of the participants (64%) had not been physically in the court room with the victim, but were involved in his/her court preparation. Therefore they were knowledgeable about the court processes and the legal procedures and could assist in confirming the vocabulary required to testify in court.

PROCEDURES

Qualitative phase: Data Source 1

The three experts included in Data Source 1 were asked 11 open-ended questions in the semi-structured, in-depth interviews. The first author carefully followed an interview guide and instructions to increase procedural integrity (Boyce & Neale, 2006). The questions revolved around legal terminology, court cases involving victims of crime with disabilities and the vocabulary needed to testify in court as a victim of crime (White, 2014). All interviews were audio recorded to increase the procedural reliability of the responses, as it enabled verbatim transcription of the data. It also granted the second rater the opportunity to check 100% of the transcriptions.

Qualitative phase: Data Source 2

At the start of each of the three focus group discussions, participants were asked to respond, based on their own experiences in the field, to one open-ended question: *Which words do you think are needed to testify in court when a person has been a victim of crime?* Participants were asked to write their suggestions on Post-It notes, which a scribe then typed and displayed electronically to allow participants to ensure that the words they suggested were captured on the list. The researcher encouraged the participants to participate actively, to share their experiences and knowledge, and also reassured them that no suggested vocabulary items would be regarded as unwise. It was further emphasised that all responses would remain anonymous. To enhance the trustworthiness of the data, the researcher read out all the words at the end of the discussion. She then asked participants whether they agreed or disagreed with the suggested words and if they considered any important words to have been overlooked. Thereafter, participants were asked to rank the words on a 4-point Likert scale (4 = very important, 3 = important, 2 = somewhat important, and 1 = not important), so that the higher score would indicate greater importance. During the process, duplicate entries were removed. As all participants were included in this process, checking the dependability of the data was increased (Bornman et al, 2011). Directly after each of the focus group discussions, debriefing was conducted in the form of an extensive discussion between the researcher and scribe about issues related to the vocabulary collection. This enhanced the reliability of the research and validated their interpretation of the data. Due to logistical reasons, the three focus group discussions were conducted over a two-week period. The qualitative data from both the individual interviews (Data Source 1) and focus group discussions (Data Source 2) constituting Phase 1 was combined, and this formed the basis of the custom-designed questionnaire used in Phase 2 (Data Source 3).

Quantitative phase: Data Source 3

Data Source 3 consisted of a custom-designed questionnaire that was created by using the results from Data Source 1 and Data Source 2. The custom-designed questionnaire included the five core vocabulary categories (with examples), as well as the 147 "miscellaneous words" in alphabetical order, in table format. The words made up the rows of the table, while the columns represented the scale ratings (4 = very important, 3 = important, 2 = somewhat important and 1 = not important). Each alternative row was shaded to allow easy reading. The questionnaire ended with an open question, namely: *Are there any words you would like to suggest that should be included on a "Communication board to testify in court?"* The questionnaire was used to socially validate the results from Data Source 1 and 2. Each questionnaire took about 10 to 15 minutes to complete. Before they started completing the questionnaire, the participants were given a brief background to and explanation of the questionnaire, and they were informed about what the researchers hoped they (participants) could contribute to the research. The researchers were available throughout and able to answer all potential questions.

DATA ANALYSIS

Qualitative phase: Data Source 1

The semi-structured, in-depth interviews from Data Source 1 were digitally recorded and verbatim responses to each question were transcribed by the first author. A second rater checked all of the transcriptions. Discrepancies were noted and revised when necessary. A 98% inter-rater agreement was reached.

Qualitative phase: Data Source 2

The 524 words generated by the three focus groups were entered onto an Excel spreadsheet. Only the 474 words that were rated "very important" and "important" were included in the further analysis. Next, the words were coded using thematic analysis; a method commonly used for identifying, analysing and reporting patterns across data (Braun & Clarke, 2006). Thematic analysis suits the practical model of mixed methods (as was used in the current study), as it acknowledges that research always takes place within a specific context (Creswell, 2009). The flexible nature of thematic analysis has, however, been criticised as being too loose, hence Braun and Clarke (2006) developed a set of guidelines for undertaking a structured thematic analysis. These guidelines were used to structure the analysis of the qualitative data in this study.

Quantitative phase: Data Source 3

In keeping with the selected research design, descriptive statistics were used to form the basis of the quantitative phase (McMillian & Schumacher, 2012). Responses from the measuring instrument, based on the thematic analysis, were entered onto a spreadsheet with descriptive statistics. The statistician used the SAS system's FREQ procedure to analyse frequencies and percentages and the MEANS procedure to analyse means, standard deviations, as well as the minimum and maximum of each core vocabulary category and each fringe vocabulary item. Inferential statistics was also conducted to determine statistical significant differences between word classes.

RESULTS AND DISCUSSION

Qualitative phase: Data Source 1

Five themes emerged from an extrapolation based on Data Source 1, namely factors that influence successful convictions; factors that influence witness competency; barriers in court for people with disabilities; the importance of identifying specific words for people with LNFS; and reasonable accommodations for language and communication (White, 2014). Since a comprehensive discussion of these factors is beyond the scope of this paper, only the latter two will be discussed.

All participants confirmed the importance of identifying specific words for people with LNFS to testify in court. Participants said that it would be "amazing", "brilliant" and "phenomenal" if these individuals could be empowered by providing them with the needed vocabulary to testify in court. However, participants cautioned that all professionals in the legal justice system would first need to be trained in the court systems if this was to be implemented in South African courts. AAC vocabulary selection is crucial to enable people with LNFS to communicate specific events such as a sexual crime in order to testify in court. It is important for stakeholders to assist in this process so that people with LNFS can have equal access to justice.

All participants were in agreement that the use of anatomical dolls, anatomical drawings and pictures could assist with communicating broader concepts such as sexuality. Participant 1.1 repeatedly underscored the importance of a qualified and trained intermediary, whilst Participants 1.2 and 1.3 both explicitly recommended the use of pictures when testifying in court. According to Participant 1.2, "things that are communication without words, so it would be pictures…" could assist people with LNFS. Anatomical dolls are used especially for children, individuals with mental disability (*sic*) and individuals who may not have the terminology necessary to describe the sexual crime, such as people with LNFS (Department of Justice and Constitutional Development, 2013). It was interesting to note that not one of the participants specifically mentioned the use of sign language, given the fact that it is an accepted alternative form of communication in South Africa with proven case law (Schmidt & Rademeyer 2000). When asking participants about specific words that were needed, they mostly referred to categories of words, rather than to specific words. In some cases, they did provide words, but simply to illustrate the broader concepts that they mentioned. The words that the participants suggested as necessary to testify in court are displayed in Table 1, as well as the themes that had been extrapolated and became the legal core vocabulary included in the custom-designed questionnaire for Phase 2. Table 1 also shows the different professional disciplines in which the participants worked.

Table 1: Vocabulary suggested by participants during the semi-structured, in-depth interviews

Participant	Words	Themes extrapolated/ core vocabulary
1.1 Medical social worker	• Relationships (mom, dad, uncle, minister) • Feelings • Action words that describe actions and experiences	• Who • How • Feelings/emotions
1.2 Child care specialist in the legal system	• Time frame (before Christmas, after birthday) • Where is the scene of the crime • Who • What was done • What was used	• When/time frame • Where • Who • What • How
1.3 Forensic nurse	• Truth and lie • What was done • How it happened • The difference between rubbing and penetrating the vagina	• What • How

Qualitative phase: Data Source 2

Each focus group was asked to suggest possible vocabulary that was required to testify in court and then to rank the suggested words in four different categories, namely "very important", "important", "somewhat important "and "not important". A list of 474 distinct words was suggested by the three focus groups. Focus Group 1 contributed 199 words, Focus Group 2 contributed 175 words and Focus Group 3 contributed 100 words. Focus Group 3 contributed noticeably fewer words, which may possibly be attributed to the fact that the participants in this focus group mentioned categories more frequently than specific words. For example, they suggested the words "places", "emotions" and "persons" and did not always elaborate on the specific words that would describe the category. Altogether 28 words were duplicated, so the final number of words considered for the custom-designed questionnaire was 446.

The words were grouped into categories suggested by the participants in Data Source 1, namely "when", "who", "what", "how", "where" and "emotions". Words that had synonyms were grouped together. For a list of the specific words suggested and how the words were grouped into the six categories of distinct core vocabulary, please refer to White (2014). It was evident that the categories suggested by the participants in Data Source 1 were accurate and precise and that they resonated well with the categories and specific words suggested by the participants in Data Source 2. The 146 words that did not fall into any of the categories were labelled as "Miscellaneous words" and they were added to the custom-designed questionnaire (Data Source 3).

Conclusions drawn from the Qualitative Phase were that the semi-structured, in-depth interviews and focus group discussions confirmed the importance of the identified categories for testifying in court, i.e. when, who, what, where, how and emotions/feelings. These categories were found to constitute the core legal vocabulary. The categories (suggesting core legal vocabulary) and "miscellaneous words" (suggesting fringe legal vocabulary) were developed into a custom-designed questionnaire which was used in Phase 2 to socially validate the vocabulary lists.

Qualitative phase: Data Source 3

Participants in Data Source 3 were requested to rate the importance of the core and fringe vocabulary suggested in Phase 1 in an attempt to socially validate these words. The social validation process points to the importance of the specific vocabulary as perceived by the stakeholders. Participants were requested to indicate their answers on a 4-point Likert scale ranging from 4 = very important, 3 = important, 2 = somewhat important and 1 = not important. A higher score would indicate that participants ranked the words as more important and imply an increased likelihood that the words would be used in practice by the target group (i.e. professionals involved in the legal justice system who want to ensure access to justice for the individual with LNFS who uses AAC).

In order to contextualise the categories, four examples were provided of words that could be used in each category of the broad core vocabulary. These examples came from the vocabulary suggested by participants in Data Source 2 and are illustrated in Table 2.

Table 2: Words used as examples in the six categories

Category	Examples of words
When	Birthday, night, days of the week, Easter
Who	Dad, aunt, pastor, teacher
What	Weapon, bed, chips, rope
How	Hit, kiss, kick, forced
Where	Church, bedroom, school, shop
Emotions/feelings	Love, hate, scared, sad

Table 3 shows the descriptive statistics related to the categories and includes the mean, standard deviation, as well as the range. The variables are presented in descending order based on the mean results.

Table 3 shows that the mean for all the items in the categories was between 3 and 4, indicating that, on average, all categories were ranked by participants as important. However, the level of importance varied, with "who" showing the highest mean score (3.96) and emotions (3.58) the lowest. The minimum range regarding how the categories were ranked varied, and ranged from 1 (not important) in the cases of the "what", "how", "where" and "emotions" category. Interestingly, the minimum rank score shown for "who" and "when" was 3, indicating that the scores showed that these categories were "important".

As seen in Table 3, none of the categories had a mean below 3.5. This suggests that, irrespective of the type of crime reported, these categories are important to consider when testifying in court.

Table 3: Descriptive statistics related to the categories

Categories	Mean	Standard deviation	Minimum	Maximum
Who	3.96	0.17	3	4
What	3.87	0.56	1	4
When	3.80	0.40	3	4
How	3.74	0.68	1	4
Where	3.74	0.68	1	4
Emotions/feelings	3.58	0.76	1	4

The high number of "important" and "very important" scores for the categories was expected from the questionnaires, following the outcome of the focus groups and semi-structured, in-depth interviews. These results imply high social validity of the categories. However, it is the responsibility of the practitioner who will select the vocabulary to ensure sufficient and appropriate categories to allow the victim to be able to provide a clear description of the crime in court. Furthermore, the vocabulary needs to be as comprehensive as possible, so as to minimise any 'leading' of the witness or guiding the witness in a specific way. It is suggested that at least four foils should be provided for each target word, if possible. For example, if the forensic evidence suggests that the rape had been committed in the bathroom, the names of at least five indoor places must be provided, e.g. lounge, my room, mommy's room, bathroom, kitchen (Bornman & Tönsing, 2012). All core vocabulary would be treated in this manner, ensuring the customisation of the core legal vocabulary.

Following the qualitative phase of the research, a list of 146 miscellaneous words was generated. It is important to note that the 146 words excluded all the duplicate words that were reported across the three focus groups, as well as all the words that were pre-assigned to the categories. The duplicate words provided by each focus group were removed, followed by a process where duplicate words across the focus groups were eliminated. This resulted in 102 words being removed. To enhance the conciseness of the questionnaire, certain words were grouped together, e.g. "quiet", "keep quiet" and "silent" were grouped together as "Quiet". Similarly, "secret" and "secrets" were grouped together as "Secret/secrets".

In six cases, a short sentence or part of sentence was provided to contextualise the word ("die", "groomed", "number", "of", "on" and "temporarily withdrawn"). This was particularly important in the present study, as the meaning of words could be altered if the word was read in a context-blind manner. For example, "groomed" would typically refer to self-care activities such as combing hair, brushing teeth, etc. However, in the context of this study, groomed refers to the perpetrator luring the victim into a secretive sexual relationship (The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 [SOA]). When considering the mean scores of these six cases, it was evident that the six words were not disproportionately advantaged because they were placed into context. The mean score for these words ranged between 3.2 and 3.7, which is comparable with the rest of the data (which all obtained mean scores in this range).

After this process, 99 words remained in the "miscellaneous" category and represented the fringe legal vocabulary. The results of the "miscellaneous words" presented in the questionnaire are attached as Appendix A. Both an independent rater (speech-language therapist) with experience in communication boards and the first author independently signed the words to the different word classes, namely verb, noun, descriptor, preposition and other. Some words required discussion (e.g. sexual abuse, intimidation, interpretation) and discussion continued until 100% agreement was reached. In cases where agreement could not be reached, a third independent rater with a linguistic background was consulted. Only two words, namely "intimidation" and "bodily fluids" were ranked as "very important" by more than 90% of the participants. Participants furthermore ranked 13 words as "very important" and in the 80-89% category, 22 in the 70-79% category, 22 in the 60-69% category, 19 in the 50-59% category, 14 in the 40-49% category, six in the 30-39% category and only one word in the 20-29% category. Only one word, namely addiction (26.67%), was rated as very important by less than 30% of the participants. On the inverse side, 61 of the words were rated as "not important", but this was done by a smaller number of participants. The word "game/special games" scored the highest on the inverse side of the scale, and that was still a low score, namely 16.67%. The highest mean score was obtained for intimidation (3.96), and that the other means ranged between 3.87 and 3.00. Only 6 words had a mean score lower than 3, ranging from 2.93 to 2.86, which is indicative of words being "somewhat

important". None of the words gained a mean score of 1. The "very important" and "important" categories were subsequently combined and analysed according to word classes, as is shown in Table 4.

Table 4: 'Very important' and 'important' core vocabulary combined

Word class	Number	Number of words ranked 100%	Examples	Mean score	90-100%	80-89%	70-79%	60-69%	50-59%
Verbs	39 words	5	Kill, sex, sexual abuse, bleed/blood, agree	3.50	15	13	3	3	0
Nouns	29 words	2	Intimidation, HIV	3.46	12	7	6	2	0
Descriptors	14 words	1	Sexual	3.39	2	4	4	2	1
Prepositions	9 words	-	-	3.24	4	3	2	0	0
Other	8 words	-	-	3.34	2	4	1	1	0
Total					35	31	16	8	1

A total of eight words scored 100% when the "very important" and "important" categories were combined. The majority of the words, with the exception of one, namely "gentle", scored above 60% as "very important". More than half of the words (66 words) scored over 80% as "very important". Table 4 also shows that the highest mean score was obtained for the word class "verbs" (3.50%) and that the other means ranged between 3.46 and 3.34. No word class scored below 3, indicating that all words classes were ranked "very important" and "important". Verbs were the most counted word class that stayed true to the aim of the research, as testifying in court involves an action or occurrence, and verbs describe the actions involved in concepts such as "crime" (Beukelman & Mirenda, 2013; Bornman et al, 2011). Moreover, nouns also had a high frequency percentage, and this word class is important for the person with LNFS to be able to produce a sentence when cross-examined in court (Kebbell, Hatton, Johnson & O'Kelly, 2001).

A Friedman Two-Way Analysis of Variance Ranks test was performed to determine if there were any differences between any of the pairs of the five word classes. The hypotheses for testing were as follows:

H_0 = The different word classes are rated as equally important by participants.

H_1= There is a difference in how important the word classes are rated by participants.

A p-value of $p \leq 0.05$ on the 5% level of confidence was regarded as statistically significant.

Results for the combined five word classes showed a p-value of 0.028, which indicated statistical significance. In order to determine where the differences lay, different pairs were considered and tested with the Wilcoxon Signed Rank test. There were three word class combinations that were statistically significant, namely verb and descriptor (p=0.000), verb and preposition (p=0.036) and noun and descriptor (p=0.005). It is indicative from these results that, when considering vocabulary for an individual with LNFS to testify in court, it will be important to ensure that all word classes are included and to pay particular attention to the word class "verbs", as verbs differed statistically significantly from both descriptors and prepositions. Furthermore, the descriptors also differed in statistical significance from nouns. When considering the linguistic implications of the word classes, it is important that word classes such as verbs should always be in the active form, for example "Sally kissed the boy", rather than "The boy was kissed by Sally" (BenZeev, Lerner & Klein, 2014). In addition, it would be important to encourage maximal use of the core vocabulary and to use limited acronyms and abbreviations when assisting the person with LNFS to testify in court (BenZeev et al, 2014).

CONCLUSION

This study employed an interesting and novel approach towards addressing an important focus area that had generally been neglected in the past. The research aim therefore has social responsibility appeal, with significant clinical implications. It also cuts across many disciplines, as disability is a multi-disciplinary, multi-faceted phenomenon. A multi-disciplinary approach in which different role players could participate was therefore needed to address this challenge.

Despite attempts to involve as many legal practitioners (e.g. lawyers, prosecutors and presiding officers) as possible, time constraints and work pressures experienced by these individuals proved to be challenging. The study would have been strengthened considerably if more legal practitioners could

have been included, as they would have been able to provide valuable input regarding the court process and add rich data regarding legal issues such as hearsay. The inclusion – as another stakeholder group – of people with disabilities who had been victims of crime and experienced the process of disclosing or reporting a crime would also have strengthened the study, but ethical implications in this regard proved to be a barrier.

A study such as the current one, which relies heavily on the law, is context-specific to some degree. Although some aspects of this study may have universal appeal (e.g. taking the oath and how to select core vocabulary), it is embedded within the South African legal framework. It also relies heavily on a number of South African laws (SOA, 2007; Criminal Law Amendment Act 135 of 1991) and thus cannot be applied directly to other countries. However, as the Convention on the Rights of the Child (CRC) and the Convention of the Rights of Persons with Disabilities (CRDP) are based on certain universal concepts (that can be domesticated for the specific country), the principles underlying this study can also be domesticated in a similar way. An international collaborative effort should be undertaken to assist in ensuring that people with LNFS have full access to justice.

CLINICAL IMPLICATIONS

The most important clinical finding of this study was that people with LNFS are extremely vulnerable to becoming victims of crime and they are not always given fair access to justice due to their restricted communication skills (receptively and expressively). The vocabulary that was identified in this study could assist individuals with LNFS to testify in court and access the equal justice that they so rightly deserve. The core and fringe legal vocabulary could also assist professionals in the legal justice system such as social workers, lawyers, prosecutors and presiding officers to understand and gain knowledge about the alternative communication methods that people who use AAC use to communicate. Results also suggested that, if appropriate vocabulary was identified and used by individuals with LNFS, more cases would result in convictions, simply because the victim with LNFS would be able to testify, thereby adding substance to the evidence given in court. This study yielded evidence that vocabulary would need to be individualised to the individual and the specific crime, which highlights the importance of including and expanding fringe legal vocabulary. On the other hand, the study also clarified the use of certain core legal vocabulary. Despite the fact that this important issue has been attended to since the 1980s, sadly it is still an on-going and unsolved issue in our society and communities.

RECOMMENDATIONS FOR FUTURE RESEARCH

Recommendations for further research based on the results of this study include the design of a communication board with the identified vocabulary to be used in court by a person with LNFS. This board can be based on graphic symbols and should include both a symbol set (e.g. Picture Communication Symbols) and traditional orthography (e.g. Alphabet Board). Furthermore, it is recommended that an AAC Resource Toolkit should be designed and be made available to all individuals during the court process. Parents of individuals with LNFS, social workers, as well as professionals in the legal justice system should use the Toolkit to educate court officials regarding people with communication disabilities and the alternative ways in which these individuals are able to communicate.

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Appendix A

	Word Class	Mean Score	Very important	Important	Somewhat important	Not important	Missing data
intimidation	noun	3.96	96.77	3.23	0	0	0
bodily fluids (semen, milky stuff, white stuff, sperm)	noun	3.80	90.00	3.33	3.33	3.33	1
kill	verb	3.87	87.10	12.90	0	0	0
sex	verb	3.87	87.10	12.90	0	0	0
penetration	noun	3.80	83.87	12.90	3.23	0	0
pornography (60)	noun	3.80	83.33	13.33	3.33	0	1
sexual	descriptor	3.83	83.33	16.67	0	0	1
no/yes	other	3.68	82.76	10.34	6.90	0	2
body	noun	3.77	80.65	16.13	3.23	0	0
oral sex	noun	3.74	80.65	12.90	6.45	0	0
quiet (keep quiet, keep silent)	verb	3.70	80.65	12.90	3.23	3.23	0
senses (hear, see/saw, look, smell, stink)	verb	3.70	80.65	12.90	3.23	3.23	0
sexual abuse	verb	3.80	80.65	19.35	0	0	0
truth/lie	noun	3.76	80.00	16.67	3.33	0	1
violent	verb	3.76	80.00	16.67	3.33	0	1
bleed/blood	verb	3.77	77.78	22.22	0	0	4
die ("he told me I would die if I didn't do it")	verb	3.74	77.42	19.35	3.23	0	0
HIV	noun	3.77	77.42	22.58	0	0	0
openings (back/front position/ body openings	noun	3.70	77.42	16.13	6.45	0	0
report	verb	3.70	76.67	16.67	6.67	0	1
violence	noun	3.73	76.67	20.00	3.33	0	1
allow	verb	3.67	75.00	17.86	7.14	0	3
consent	verb	3.54	74.19	12.90	6.45	6.45	0
language	noun	3.61	74.19	12.90	12.90	0	0
virginity	noun	3.61	74.19	19.35	0	6.45	0
arrested	verb	3.70	73.33	23.33	3.33	0	1
number (how many)	other	3.60	73.33	16.67	6.67	3.33	1
scar/scars/scarred	noun	3.60	73.33	16.67	6.67	3.33	1
secret/secrets	noun	3.66	73.33	20.00	67.67	0	1
why?	noun	3.53	73.33	10.00	13.33	3.33	1
agree	verb	3.71	71.43	28.57	0	0	3
interpretation	noun	3.61	70.97	19.35	9.68	0	0
kidnap	verb	3.64	70.97	22.58	6.45	0	0
open	verb	3.61	70.97	22.58	3.23	3.23	0
stop	verb	3.61	70.97	22.58	3.23	3.23	0
ask	verb	3.63	70.00	23.33	6.67	0	1
testify	verb	3.56	70.00	20.00	6.67	3.33	1
describe/explain	verb	3.53	69.23	15.38	15.38	0	5
don't (20)	verb	3.41	68.97	13.79	6.90	10.34	2
alleged	other	3.50	67.86	17.86	10.71	3.57	3
bodily sensations (burning, tingling)	verb	3.58	67.74	22.58	9.68	0	0
drunk/sober	verb	3.45	67.74	19.35	3.23	9.68	0
groomed ("he groomed me to have sex")	verb	3.45	67.74	16.13	9.68	6.45	0
hard	descriptor	3.61	67.74	25.81	6.45	0	0
position	preposition	3.54	67.74	22.58	6.45	3.23	0
repeat	preposition	3.50	66.67	23.33	3.33	6.67	1
ejaculation	verb	3.48	65.52	20.69	10.34	3.45	2
oath/promise	verb	3.35	64.52	16.13	9.68	9.68	0
respect	noun	3.48	64.52	22.58	9.68	3.23	0
speak/say/tell/ told	verb	3.48	64.52	22.58	9.68	3.23	0
temporarily withdrawn ("the court case was temporarily withdrawn")	other	3.45	64.52	19.35	12.90	3.23	0
wish	verb	3.30	63.33	23.33	6.67	6.67	1
justice	noun	3.45	61.29	25.81	9.68	3.23	0
safety	noun	3.48	61.29	25.81	12.90	0	0
want	verb	3.38	61.29	22.58	9.68	6.45	0
high	descriptor	3.50	60.00	30.00	10.00	0	1
on (on top of)	preposition	3.30	60.00	20.00	10.00	10	1

	Word Class	Mean Score	Very important	Important	Somewhat important	Not important	Missing data
pregnancy	verb	3.50	60.00	30.00	10.00	0	1
underneath	preposition	3.46	60.00	33.33	6.67	0	1
keep	verb	3.37	58.62	20.69	20.69	0	2
masturbation	verb	3.35	58.06	25.81	9.68	6.45	0
of (on top of)	preposition	3.29	58.06	22.58	9.68	9.68	0
not	other	3.39	57.14	25.00	17.86	0	3
relationship	noun	3.43	56.67	33.33	6.67	3.33	1
roles	noun	3.33	56.67	23.33	16.67	3.33	1
wet	descriptor	3.20	56.67	13.33	23.33	6.67	1
noise	noun	3.16	54.84	19.35	12.90	12.90	0
short/tall	descriptor	3.32	54.84	29.03	9.68	6.45	0
sizes	descriptor	3.29	54.84	25.81	12.9	6.45	0
legal terminology	other	3.16	53.33	13.33	30.00	3.33	1
more	descriptor	3.23	53.33	23.33	16.67	6.67	1
top	preposition	3.46	53.33	43.33	0	3.33	1
care	verb	3.38	51.61	35.48	12.90	0	0
nationality	noun	3.16	51.61	22.58	16.13	9.68	0
shapes	descriptor	3.29	51.61	32.26	9.68	6.45	0
unknown	other	3.22	51.61	29.03	9.68	9.68	0
covering	noun	3.10	50.00	23.33	13.33	13.33	0
non-discrimination	other	3.16	50.00	20	26.67	3.33	1
loss	noun	3.22	48.39	29.03	19.35	3.23	0
up	preposition	3.19	48.39	29.03	26.13	6.45	0
visit	verb	3.25	48.39	35.48	9.68	6.45	0
sound/volume	noun	3.16	46.67	29.67	23.33	3.33	1
without	preposition	3.43	46.67	36.67	16.67	0	1
gone	verb	3.03	44.83	24.14	20.69	10.34	2
gag	verb	3.03	43.33	26.67	20.00	10.00	1
game/special games	noun	2.93	43.33	23.33	16.67	16.67	1
fat/thin	descriptor	3.06	41.94	25.81	29.03	3.23	0
gentle	descriptor	2.83	41.94	16.13	25.81	16.13	0
ready	descriptor	3.22	41.94	38.71	19.35	0	0
different	descriptor	3.03	41.38	31.03	17.24	10.34	2
weather	noun	3.00	41.38	24.14	27.59	6.90	2
moustache	noun	3.10	40.00	40.00	10.00	10.00	1
clean	verb	3.12	38.71	38.71	19.35	3.23	0
low	preposition	3.06	38.71	32.26	25.81	3.23	0
dizzy	descriptor	3.06	37.93	34.48	21.14	3.45	2
faint	descriptor	2.90	36.67	30.00	20.00	13.33	1
abortion/terminate	verb	2.86	30.00	33.33	30.00	6.67	1
errand (I went to run an errand)	verb	2.83	30.00	36.67	20.00	13.33	1
addiction	noun	2.93	26.67	43.33	26.67	3.33	1