

**Adolescent girls testifying in a criminal court in cases of sexual
abuse or rape: A narrative analysis**

By

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DECLARATION

I Marilyn C. Saunders hereby declare that the work contained in this dissertation is my own original work, which has not previously been submitted to any other university, partially or fully, to obtain a degree.

Marilyn C. Saunders

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SUMMARY

This research study explores the experiences of adolescent girls testifying in a criminal court in cases of sexual abuse and rape in South Africa. Private and public narratives, such as the participants' experiences in court, the court support system and the court process, were reported using conversations, collages and written letters. These were interpreted from a narrative perspective, within a social constructionist paradigm. Social constructionism posits that all behaviour is understood within a social context and people create their reality and world through social interaction, which in this study is the legal system. Narratives are constructions of the experiences of the participants during the preparation and testifying process. Their stories reflect both positive and ambivalent experiences, such as fear and relief, joy and sadness.

The most noteworthy findings of the research were the following:

- Support from court personnel and NGOs is important for adolescents when they are testifying.
- The friendly environment and activities of the NGO contrasts favourably with the cold and adult environment of the court in which the NGO is based.
- The court preparation programme is essential to help adolescents cope when testifying in a criminal court through addressing fears such as seeing the accused in court, not understanding the proceedings, and having to address adults in court.
- The National Prosecuting Authority seems to be taking child witnesses more seriously through collaboration with outside organisations.

Key Terms

Adolescents, child abuse, rape, sexual assault, court preparation, court support, testifying, criminal court, narrative analysis, social construction, post modernism.

There Will Come a Day

there will come a day
when I won't fear your face
when I can show myself and not feel such disgrace
there will come a day when I won't have to worry about those hands that hurt me so
you will then see what I've come to know
there will come a day that I won't fear you for long
and my proof I write in song
there will come a day when I can look into your eyes
not have to be scared or cry as I remember the bounds and ties
there will come a day when you will pay in the end of the innocence that you shattered
and god will hurt you and you'll be left in tatters
there will come a day when I will surely mend
when I can walk the streets and not fear every bend
there will come a day when you'll regret what you've done
whether it's today or on your judgment day when you're gone
there will come a day when you will know my pain
be beaten and stripped of all it's enough to drive one insane
there will be a day when I will be happy again
won't feel so dirty or disgraceful or like I'm the sin
there will be a day when I can open up and say all the things I keep inside
and then I will be free for once release the crime I hide
there will be a day when justice will commend
a day when you're in jail for what you did condemn

- Nicole

CHAPTER 1

INTRODUCTION

Statistics indicate that one in three women in South Africa will be raped in her lifetime, which means that more than a 1000 women are raped daily in South Africa (Dawood, 1999). Women and children are encouraged to report cases of rape and sexual abuse, but their experience of testifying in court may contribute to their reluctance to open a case (Lewis,1994). In exploring the public and private narratives of adolescent girls testifying in a criminal court, I hope to contribute to an understanding of the limitations and possibilities inherent in the process of testifying in South African courts.

1.1 The researcher's narrative

I am a female psychology student and have worked at the Teddy Bear Clinic for abused children for five years. I have seen how difficult it is for adolescents to testify in court and have always been interested in their experiences of testifying. Through this research I hope to contribute to the knowledge base that is available to the professionals who prepare adolescents for court.

The following case serves as contextual background to the research. A pseudonym is used.

1.2 Geraldine's statement

Geraldine is 17 years old. In her statement, she states that on a Friday at 22H00 she was at a friend's house in her neighbourhood. She told her friend that it was getting late and that she had to leave. Her two friends walked her half of the way home.

While walking the rest of the way home alone, a young man (whom she knows from the neighbourhood) stopped next to her in a car and asked her where she was going. She replied that she was going home. He asked if she needed a lift and she said "no" but he insisted that she could not walk alone so late at night so she agreed and got into the car.

He drove passed her house and when she said, “ Where are you going?”, he said, “Keep quiet” and they stopped at his friend’s house about 30 minutes later. When she arrived inside the house the two friends went to the front porch and chatted and afterward this young man asked her to come to the bedroom to show her something and when she refused he pulled her into the bedroom and raped her. When he had finished he left the room and the other friend came in and raped her. They dropped her off in the same neighbourhood and threatened her that if she told anyone they would do it again. She disclosed this to her friend a few weeks later and a case was opened.

1.3 Talking to Geraldine

When I asked her to tell me her story she spoke more about her feelings and fears which were not included in the statement, such as that she had felt fearful and had considered jumping out of the car, but she did not as she did not know where she was since it was late at night. I also noticed while she was speaking that she had omitted important information from her statement, which she had not given to the police. Firstly, she had not mentioned that she had been forced to shower (removing evidence after the rape), and secondly, a few days after the rape while walking to the shop, the accused forced her to take money (R10) and told her not tell anyone or she would be harmed.

Information like this, if not explained in court, can be used in the accused’s favour. During cross examination a question about the money could be phrased as a close-ended, yes/no question and the defendant’s counsel could produce an argument of doubt. They could suggest that rape had not actually occurred and that consent was possibly given, because she accepted the money after the rape. According to Leippe, Brigham, Cousins and Romanczyk (1989), attorneys seem most capable of influencing the outcome of cases by the way children are questioned in the courtroom. This made me realise that we need to understand more about the testifying process and the preparation of adolescents in court.

1.4 Chapter Preview

CHAPTER 2 is a literature review divided into three parts: (1) the judicial system (2) adolescence and (3) sexual abuse.

In **CHAPTER 3** the research methodology is described. A post-modern, social constructionist paradigm was used. Social constructionism as a research epistemology sees reality as values, knowledge, social institutions and theory that are products of social interaction and not as entities separate from human existence (Gergen, 2001). Data are produced through means of textual and visual presentation as well as conversations.

In **CHAPTER 4** the results of data production and co-construction of the research text are described.

In **CHAPTER 5** the conclusion, limitations and recommendations are given.

CHAPTER 2

LITERATURE REVIEW

The literature can be viewed as “public narratives” as it is part of the fabric of the social world and one arena within which narratives can be elicited and explored (Lawler, 2002). This literature study consists of a discussion of the following legal and social contexts:-

The South African judicial system

- The South African criminal courts and its influence on the complainant
- The court process in a criminal court
- The attitude of the court personnel in South Africa
- An international perspective on the attitude of the court personnel
- Advantages of children testifying in court
- The filtration process of the judicial system
- The rights of the complainant in court
- The rights of the accused in court
- The court preparation programme

Adolescence

- Adolescence as developmental stage
- Suggestibility of the witness
- Adolescent sexuality

Sexual abuse

- Definition of sexual abuse and rape
- The effects of sexual abuse on the complainant’s testimony
- The support of parents/caregivers
- Society’s influence after disclosure
- The victim’s experience in the courtroom

2.1 The South African Judicial System

2.1.1 The South African criminal court and its influence on the complainant's testimony.

The legal system in South African courts is adversarial in nature. According to Myers (1993), the adversarial system is like a stylised battle whereby the prosecution and the defence prepare competing narratives to fight each other, and present witnesses to support their position. It is understood that through this opposing clash the truth will emerge.

What makes it very difficult for prosecutors is that the accused is presumed innocent, and they have to find the necessary evidence to prove “beyond a reasonable doubt” that the accused is guilty of the crime (Myers, 1993). The defence lawyer has a very simple role, which is to present doubt that the offence has been committed by his or her client. An attorney's main responsibility is toward their client and, therefore, they need only to deny the allegations, and implicitly or explicitly suggest to the court a reason as to why the complainant would make a false allegation (Feiner, 1997). The defence's narratives could be powerful, as stereotypes are used in court where the adolescent girl is described as rebellious, trying to get back at the disciplinarian defendant, or trying to seduce innocent men (Feiner, 1997). Lewis (1994) states that people's perception about victims in cases of rape is, often that they have led the offender on. This strategy is used to disprove the girls' narratives and undermine their credibility in court.

2.1.2 The court process in a criminal court

When an adolescent (complainant) is raped she may open a case against the alleged perpetrator (accused). The complainant and the accused are requested to give a statement about the incident to the investigating officer. Once the case has been sent to court both parties need to prepare for the court hearing. At this point, a defendant has an advantage over a complainant in a case of sexual abuse or rape in the preparation of a competing narrative for court. The advantage occurs because the defendant has a lawyer who thoroughly prepares him before testifying, by using the complainant's as well as his statement to discuss the loop-holes and the strategy that they would be using. The person who prepares the complainant for court, however, usually has no access to the complainant's statement to prepare her for

court. This is to her disadvantage as defence lawyers have a copy both of her and the accused's statement and they thoroughly prepares their client before testifying.

Muller (2003, p.32) explains the court process as follows:-“

The trial begins when the prosecutor tells the magistrate what he thinks the accused did. The prosecutor then calls the witness to come and tell his/her story to the magistrate. Before the witness can tell his story, he must promise to tell the truth.

- The prosecutor then asks the witness questions to help him tell his/her story to the magistrate.
- When the prosecutor is finished, the defence lawyer will have a chance to ask the witness questions to test whether he/she is telling the truth.
- The prosecutor then gets a last chance to ask questions to make sure that the witness's story is clear to the magistrate.
- Then the witness is finished telling his/her story and he/she can leave.
- The prosecutor then calls the next witness, and this witness will follow the same procedure as the first.
- When the prosecutor is finished calling the witnesses, the defence lawyer's team has a chance. The defence lawyer calls his witnesses.
- The defence lawyer can call the accused to tell his story to the magistrate.
- When both teams are finished, the magistrate must decide whether the accused broke the law.
- If the magistrate decides that the accused did break the law, then he will be found guilty and he will be punished
- If the magistrate decides that the accused did not break the law, then he will be found not guilty.

2.1.3 Attitude of the court personnel in South Africa

The South African Law Commission (1985) and Lewis (1994) discuss the following issues related to sexual offences:

- Specific officials are not selected to handle sexual offences.
- Prosecutors are overworked, are never available to provide information and do not have time to properly prepare for the proceedings and, therefore, complainants feel that prosecutors are not interested in their cases and are insensitive to the problems they experience in coping with cross-examination.
- Secondary victimisation is not due to the operation of the law and the process of the law, but due to the lack of support for and understanding of the complainant's situation, as well as the unsympathetic reaction of officials (South African Law Commission, 1985).

The attitude of court personnel can be ascribed to myths which include: there is no such thing as rape, women want to be raped and all women fantasise about it sometimes, a woman who has been raped has usually provoked it, women usually and often make false complaints of rape, a woman who is really raped will resist physically, she will scream and will take every opportunity to escape and will consequently show serious physical injuries, a woman who has been raped will usually tell someone else about the incident and will lay a charge with the police as soon as possible, sexual frustration is the cause of rape (The South African Law Commission, 1985; Holmes & Holmes, 2002). Some progress has been made since the publication of the South African Law Commission, because there has been a "roll-out" of sexual offences courts in South Africa, however the court personnel's attitude still seems to have not improved very much due to a lack of training. According to September (2004), justice officials are not properly trained in dealing with child witnesses and this makes it very difficult for court officials to make decisions that accurately reflect the competence of child witnesses. For example, the following aggravating and mitigating circumstances in court have been described by judges: the complainant had sustained no physical and psychological damage and, she had not lost her virginity from the rape which means that she had already been sexually active. To rectify this, the South African Law Commission (2002) notes that specialised training is necessary for presiding officers, judges, prosecutors and police

officers. Attitudes will not necessarily change immediately after the training, but since people create their reality and world through social interaction (Burr, 1995), such training may have a beneficial effect.

2.1.4 An international perspective on the attitude of the court personnel.

According to Gavey (2005), many police officers believe that when a girl is raped it is not a real rape, but a seduction; and if there is evidence of rape then the women were living immorally. Some members of the criminal justice system, including, judges, have the notion that consent may occur through word, action or even inaction. That is, the victim is aware of what is happening, allows it to happen or a combination. This includes hesitancy, reluctance, grudging acquiescence and even tearful acquiescence - as long as the complainant consciously permitted the sexual act. This implies that, "no" does not always mean "no" (Gavey, 2005). Kilpatrick (1992, p.21) speaks about a judge in Wisconsin who made the following statement about a five year - old who was sexually assaulted by a 24 year-old. The judge said, "I am satisfied we have an unusually sexually promiscuous young lady (five years old) and that this man (24 years old) just did not know enough to knock off her advances. No way do I believe he initiated the sexual contact that did take place". Therefore, if a five year-old does not stand a chance of being believed in court, what chances does an adolescent have?

2.1.5 Filtration process of the judicial system

A research study was published by Community, Information, Empowerment, Transparency (CIET) Africa, (2000) on the filtration process of the judicial system and the difficulty of a conviction in cases of rape, in South Africa.

The research was conducted with women who were raped and who opened their cases in the southern part of Johannesburg. According to this research, for every 394 women who are raped, 272 women report the case. Of these 272 women, 17 would become actual cases. One docket will get lost and five are referred to the court by the police. Eventually, one of total of 394 rapes will lead to a conviction. It is reported that there are five convictions for every 100 cases that go through the court system. This is one of the reasons why women are reluctant to lay a charge of rape.

2.1.6 The rights of the complainant in court

According to Muller (2003), a knowledge and understanding of their rights, can improve a child's confidence and make her feel more empowered. In the South African Law Commission (2002) the following rights are listed:- Children should

- be reasonably protected from the defendant
- be informed of all court proceedings including bail hearings
- attend all public court hearings relating to the offence, unless the court determines that attending these hearings may affect the complainant's testimony
- make a statement regarding the possible danger posed by the accused which may have an impact on the bail hearing
- be presented with information by the prosecutor relevant to pre-trial relating to conditions of bail, of the accused, conviction or sentencing to the court
- be kept informed about the bail conditions, conviction, sentencing imprisonment and release of the accused.

Muller (2003) discusses the following rights of a child testifying in court. The child witness has the right to:

- be called by her name
- ask questions if she does not understand something,
- tell the magistrate her story
- be treated fairly and to tell her story in her own home language.
(where necessary an interpreter must be provided)

2.1.7 The rights of the accused

Muller (2003), postulates that when a child witness is able to make sense of why the accused is entitled to do certain things at a trial, it will give her a better understanding of the system. The child learns to understand that everyone in court, including the accused, has rights.

The accused has the right to:

- be innocent until proven guilty
- a fair trial. The magistrate must not know anything about the case before so that he can listen fairly to all the evidence
- call witnesses
- cross-examine any of the witnesses
- testify and tell his story
- an interpreter if he does not speak the language of the court
- legal help, such as a defence lawyer. If he cannot afford one, the state must provide him with one.

2.1.8 Court preparation programme

Muller and Tait (1997) believe that court preparation is very important as a lack of knowledge contributes to the stress experienced by children, which in turn will hamper their ability to be effective witnesses. According to Muller (2003), their preparation programme is educationally based and similar in content for both children and adolescents, and is developmentally age appropriate.

The aim of the court preparation programme is to provide children with skills to become effective witnesses. These skills include, amongst others, to improve the child's ability to answer questions in court in the most accurate, complete and truthful way.

Most of the court preparation programmes used by NGO's include the following:

- The role-players in court
- The environment of the court and the special courtroom
- Procedures and the trial in court
- The court role-play
- The magistrate's decision
- My day in court (explains what children can expect that day when testifying)
- What is an oath?
- Cross-examination
- Children's rights and the importance of telling the truth

- Identifying fears about going to court
- Stress reduction techniques

Research was done by Don-Wauchope (2000) in which she interviewed four children about a similar court preparation programme. The children said that the court preparation programme was of great help to them to prepare and familiarise themselves with court, but that it lacked an emotional content to prepare them for the emotional impact it would have on them.

2.1.9 Advantages of children testifying in court

Although children may find the experience in court traumatic, Perry and Wrightsman (1991) postulate that sharing one's story in court could have a therapeutic effect, especially if the child witnesses feel that they have been taken seriously.

Muller and Hollely (1999), mention the following possible advantages of children testifying:-

- It identifies and confirms that the child has been wronged.
- It gives the child an opportunity to receive legal and psychological assistance.
- It is an opportunity to explain what has happened.
- The child is able to hear expert opinion which places her situation within a context and validates her response to trauma.
- The child is able to see that competent and powerful adults are taking responsibility in dealing with the accused.
- The court appearance provides a ritual where the child can possibly feel less of a victim and a pseudo-adult, and may return once more to being a child.
- It can be seen as an effective and positive way for parents to show their disapproval of the offender's behaviour and their desire to protect their child.

2.2 Adolescence

2.2.1 *Adolescence as a developmental stage*

Smith, Cowie and Blades (2003) and Thom, Louw, Van Ede and Ferns (1998) define adolescence as a period of transition between childhood and adulthood, covering the teenage years and biologically marked by the onset of puberty. They are sexually mature and could potentially become a mother or father of a child. Socially, adolescence is marked by an increasing need for independence from parents, plans to complete their education, leave home and seek employment. Smith, Cowie and Blades (2003), explain that the onset of menstruation provides a definite marker of this stage. According to Thom et al. (1998), adolescence starts at the age of 11 to 13 years and ends at about 17 to 21 years old. They also speak about three phases of adolescence as being

- early adolescence, 11 to 14 years
- middle adolescence, 14 to 18 years
- Late adolescence, 18 to 21 years

Berk (1997) discusses Freud's psychosexual stage of adolescence, called the genital stage, which starts at the age of 12 years. This stage is described as the puberty stage, and is marked by the re-emergence of the sexual impulses of the phallic stage. If development has been successfully managed during earlier stages, then it leads to marriage, mature sexuality, and the birth and rearing of children.

Erikson's psychosocial stage of adolescence is called the stage of identity versus identity diffusion, and also starts at the age of 12 years. This stage is when the adolescent tries to answer questions such as "who am I?", and "what is my place in society?" and includes self-chosen values and vocational goals. The negative outcome of this stage could result in confusion about the future and adult roles (Berk, 1997).

According to the Criminal Procedures Second Amendment Act, no.18501 of 1997 South Africa (1997), a child is legally regarded as one until the age of 16 years, and is not referred to as an adolescent. Doyle (1994) defines a "child" in association with sexual abuse, as extending from birth to adulthood, which is usually considered to be the age of 18 years. Since the adolescent's physical and emotional development,

circumstances and responsibility differ from those of young children, these references to children may have a negative impact on their testimony in court. As a result, an adolescent could be treated like a child in terms of the description of suggestibility. That means that the adolescent is not allowed to use her statement when being prepared for court. This gives the alleged perpetrator an advantage over her when he is prepared and does not give the adolescent an equal opportunity for preparation and presentation in court. The question is then, are adolescents as suggestible as young children in court?

2.2.2 Suggestibility of child witnesses

Ceci and Bruck (1995, pp. 44-5), define suggestibility as “ the degree to which the encoding, storage, retrieval and reporting of events can be influenced by a range of internal and external factors”. The authors mention some of the reasons children might be suggestible: for instance, children encode less information about an incident than adults; or children may attend to information, but because of the limitations of their working memory, their encoding may be incomplete compared to adults. Smith, Cowie and Blades (2003), did research to test recall in adults and children aged 6, 9 and 13 for a staged incident. In the free recall it was found that the youngest children gave little information about the events and there was an age-related increase in the amount of information recalled. Children may also have more difficulty than adults in distinguishing between an actual experience of an event and different information mentioned during a later interview.

Currently, the Justice Department in South Africa does not allow children to be prepared with their statements due to the factor of suggestibility. Since the adolescent is mentally more developed than the child, suggestibility is very different issue. Using an adolescent’s statement implies that suggestibility is limited, as the adolescent’s full story had already been established once the statement was made with the investigating officer. Therefore, the professional will not be creating or suggesting new information, unlike when dealing with disclosures.

In light of this, Lamb (1994) believes that court preparation policies should be reviewed. With regard to suggestibility, the most reliable and accurate information is elicited from children when open-ended questions are used, and designed, in such a

way that the children can give free narrative accounts of events that they experienced. This interviewing technique is likely to be even more appropriate for adolescents as most researchers have found that children are not able to give much information through free narrative recall, even though they know a lot about an event (Smith, Cowie & Blades, 2003). Lamb (1994) could be including adolescents in his statement that open-ended questions are appropriate for children, whilst Ceci and Bruck (1995) supports the idea that children are not able to give much information through free narrative recall, because they encode less information than adults.

2.2.3 Adolescence sexuality

According to Thom et al. (1998), adolescents become very aware of their sexuality during puberty. At this stage it becomes important to satisfy their sexual needs in a socially acceptable way so that sexuality contributes to the development of their identity.

Newman and Newman (1999) state that, for girls, various social contexts such as parents, scholastic achievement, attitudes and behaviours of friends, and religious values, all play an important role in predicting sexual behaviour.

Due to the challenges facing adolescents today, such as AIDS, sexually transmitted diseases or psychological problems that interfere with education such as unwanted pregnancies, it has become a challenge for society to channel these sexual needs in a way that allows for healthy development (Thom et al., 1998). According to a national survey, done by the Reproductive Health Research Unit (2003), 67% of young people between the ages of 15 and 24 years report having had sexual intercourse. These statistics could inform the societal belief that all female adolescents who have been raped could be sexually promiscuous and that they could have initiated the sexual act. This belief could affect adolescents' experience in the criminal court because society's negative view about them may undermine them as credible witnesses. According to social constructionism, "people interact with one another to construct, modify, and maintain what their society holds to be true, real and meaningful" (Freedman & Combs, 1996, p.27).

The introduction of effective contraception on a large scale to prevent HIV and AIDS could have led to the condonement of sexual permissiveness. This means that there

is a greater tolerance for premarital sex than before. There is a clash of values between those who uphold traditional and religious values of restriction on sexual behaviour versus those who promote sexual freedom. Adolescents find it difficult to make choices regarding sexual behaviour, due to the contradictory messages from various sources, which can lead to feelings of guilt (Newman & Newman, 1999).

The following contradictory messages that adolescents are faced with are:

- **the ascetic orientation** advocates celibacy, in other words, sexual self-denial
- **the procreation orientation** regards sexual intercourse for the purpose of having children within a marriage
- **the relationship orientation** regards sexual activity as a natural extension of intimate relationships
- **the situational orientation** believes that sexual decision making should depend on the situation and people involved
- **the hedonistic orientation** emphasises sexual pleasure as a key factor without the restriction of moral rules (Thom et al., 1998).

These contradictory messages can become very confusing for the adolescent. Sexual exploitation may occur when an individual is aware of the conflicting views of society and how it affects his or her partner.

2.3 Sexual Abuse

2.3.1 Definition of sexual abuse

According to Boyle (1998), sexual abuse is defined as the involvement of children or adolescents with an adult in sexual activities which they do not really understand and for which they are unable to give consent, for the sexual gratification of an adult or significantly older person. Boyle (1998) postulates that sexual abuse is an abuse of power and authority and involves inappropriate exposure, fondling and/or penetration. It includes sexually-oriented activities such as obscene telephone calls, pornography, incest, rape, sodomy, penetration with objects, and prostitution.

Sexual abuse is not a legal term used in court, but the following legal definitions will be discussed:

1 Offences under the Sexual Offences Act,

which involve a crime with a girl under the age of 16 years.

2 Crimes against bodily integrity,

which include rape and indecent assault.

1 Offences under the Sexual Offences Act states that an individual who:

(a) “attempts to have unlawful carnal intercourse with a girl under the age of sixteen years; or (b) commits or attempt to commit an immoral or indecent act with such a girl or with a boy under the age of nineteen years or

(c) solicits or entices such a girl or boy to the commission of an immoral or indecent act, commits an offence. Consent by the girl or boy is no defence. If there is intercourse with the girl without her consent, the crime of rape (statutory) is committed” (Snyman, 2002, p.363).

2 Crimes against bodily integrity. Rape and indecent assault falls into this category. (Snyman, 2002, p.436) defines the concepts as follows:

(a) Rape “consists in a male having unlawful and intentional sexual intercourse with a female without her consent”.

(b) Indecent assault “consists in unlawfully and intentionally assaulting, touching or handling another in circumstances in which either the act itself or the intention with which it is committed is indecent”.

2.3.2 The effects of sexual abuse on the complainant’s testimony.

The literature indicates that it is to the adolescent’s disadvantage when she testifies and shows no emotion or flat affect due to a long-term incest relationship. Such a response is called child sexual abuse accommodation syndrome. Another term for the display of flat affect is rape trauma syndrome (Feiner, 1997; Gregory & Lees, 1999). The lawyer or magistrate may be convinced that she is lying because she does not show any signs of traumatising from the incident. Child sexual abuse

accommodation syndrome is described as a pattern of behaviours that describe the phases of a long-term incest relationship based on a clinician's observations of sexually abused children. The accommodation syndrome phases are *secrecy, helplessness, accommodation, disclosure* and *retraction*.

The first three phases are important to discuss for the purpose of this research paper. When the child has been sexually abused she does not understand the reality of the experience and is particularly dependant on the defendant, for example for financial support. When the abuser asks the child to keep the sexual act a *secret*, he implies that she also has done something "wrong", and therefore, is to be blamed and part of the secret. Keeping a secret makes the child feel *helpless* when the alleged perpetrator continues with the sexual act. Since the child feels too helpless to resist she responds by *accommodating* the alleged abuser and she seems to accept her fate in order to survive. She takes responsibility for keeping the alleged abuser happy in order to keep her family intact (Feiner, 1997; Killian & Brakarsh, 2004). According to Killian and Brakarsh (2004), this feeling of helplessness can in turn lead to increased risky behaviour, creating a pathological passivity and leaving the child at risk for further victimisation. Although this was written within the context of incest, it is also acceptable to use this term to explain an extra-familial sexual abuse relationship, which could include a caregiver such as, a stepfather, a mother's boyfriend or a relative. This syndrome occurs especially where the alleged abuser is responsible for taking care of the victim and they are in a caring relationship (Richter & Higson-Smith, 2004). The effect of this syndrome on the child when she testifies could be flattened affection, which includes minimal public crying, an absence of emotional expression and minimal eye contact (Feiner, 1997).

The effects of long-term sexual abuse or rape and its impact on the adolescent's behaviour could also be to the defendant's advantage. Some of the identifying factors of sexual abuse are; psychological disorders, substance abuse, suicidal behaviour, eroticisation, promiscuous behaviour, constantly using sexual innuendos, being flirtatious, dressing seductively and increased sexualised behaviour (Merchant, 1990; Killian & Brakarsh, 2004). These behaviours could be to the victim's disadvantage because the court may believe that they are promiscuous and that they are responsible for the rape or sexual abuse. The defence lawyer can use this behaviour

to undermine the credibility of the adolescent because it resonates so well with social stereotypes.

Other effects of sexual abuse such as a low self-esteem may also affect her testimony in court. The adolescent may have a sense of worthlessness, believe she is “soiled goods”, and may be convinced that she is an object to be used by other people (Doyle, 1994). The adolescent may not be too enthusiastic to testify as she may feel that she is not worth helping or rescuing.

2.3.3 Support of parents/caregivers

The family is the child's primary social environment and support system. Their response to the child's disclosure as well as the court proceedings is vital, as it may influence the child and thus her testimony in court.

Burt, Resnick and Novick (1998) and Thom et al. (1998) refer to the parent-child conflict during the adolescent developmental stage. They postulate that conflict increases when the family experiences any crisis, such as economic instability. If an adolescent is raped during this stage she needs the family's support more than ever, but it can be very difficult for parents to give their emotional support when conflict is rife in the home. An incident of rape could exacerbate difficult home circumstances, such as financial difficulties, as money is required for court preparation and for testifying in court. This could make the adolescent feel less supported and the emotional impact could hamper her court experience.

According to Kilpatrick (1992), child sexual abuse victims are not usually as traumatised by the incident itself as by the parents' behaviour upon their discovery of the incident. According to Doyle (1994), children who have been sexually abused need their parents to respond appropriately. Uninformed parents may also feel that it is in the best interest of the child to ignore the incident of sexual abuse and let her forget it on the basis of “least said, soonest mended” (Kilpatrick, 1992). This increases the child's feelings of guilt, and she may think that the mother blames her for what happened. Some parents deny such incidents, choosing to believe that the child is mistaken or having fantasies (Doyle, 1994). This usually happens when the alleged perpetrator is the caregiver and the mother is dependent on him financially. The child then has to be removed and taken to a place of safety. If this is the case, it becomes very challenging for the child to testify, especially if the alleged perpetrator

is a father or caregiver. If he is found not guilty, she will have to go back home and live in the same house as him. Unsupportive behaviour by caregivers or parents may make her feel as if she is to be blamed, which will affect her self-esteem and her testimony in court.

According to Doane (1995), increased self-esteem and social support are important in improving child witnesses' performance in court. After interviewing four children after testifying in court, Don-Wauchope (2000) found that support was a key element in the performance of the child in court. The support of the mother was very important, but in the case of one of the children whose mother had died, the child mostly wanted support from the father (who was not the alleged perpetrator). One of the children said that it was important that her mother believed her; that she did not have to carry the burden on her own, and that her mother would be able to protect her if anyone tried to harm her in court when she had to testify. According to Don-Wauchope (2000), an important factor to consider is that children who are removed from their home and placed in a place of safety are likely to lose the support of family members. However, she found that support obtained from relatively unfamiliar contexts, such as a caregiver at a place of safety or a court supporter, can also be beneficial to the child.

2.3.4 Society's influence after disclosure

Parents are the primary form of social support, with the community being the secondary form. The community includes friends, school, church, community groups and the institutional context, such as law enforcement, child protection and medical personnel. The community can impact on the child's adjustment through responses of support or rejection to the disclosure of sexual abuse (Heger, Emans & Muram, 2000).

Authors such as Heger, Emans and Moran (2000) and Kilpatrick (1992) discuss institutional and societal responses after disclosure that could be harmful to children and adolescents. Kilpatrick (1992) refers specifically to the following four factors:

(1) *The imposed secrecy during the abuse.* The secrecy imposed upon sexually abused children and adolescents are usually part of the threats of harm if they disclose the secret. This creates fear and anxiety in the victim and severe symptoms

develop as a result of the child's perceptions of what would happen if she revealed the abuse. (2) *Effects after disclosing*. Professionals working with the children are able to identify the fear and anxiety after the abuse has been disclosed. The way reports are handled by the helping professionals, through blaming or making them feel that the disclosure is not validated, can have a negative impact on the adolescent. (3) *The climate of the environmental response*. This also depends on the age of the child. Kilpatrick explains that if the alleged perpetrator (father) and the non-participating adult (mother) are comfortable with the incestuous relationship then harm is decreased. It is postulated that incest is least harmful for the younger child but increasing in risk as the child approaches adolescence. (4) *Emphasis placed on the prosecution of the offender*. This is harmful if the parents are more pre-occupied with prosecuting the perpetrator than with the well-being and treatment for the child. These four factors are all interconnected.

The above-mentioned influences can affect the testimony of adolescents. According to Fergusson and Mullen (1999) and Thom et al. (1998), teenage girls are seen by society to be sexually promiscuous, as having sexual problems, being emotionally unstable and rebellious. This phase is referred to by Thom et al. (1998) and Smith, Cowie & Blades (2003) as the "stormy phase". Thom et al. (1998) discuss the fact that Bandura believes that the storminess of adolescence is often the result of a self-fulfilling prophecy, and if this behaviour is expected by society and repeatedly reinforced by the mass media, this cultural expectation can force adolescents into the role of a rebel. This can make it very difficult for prosecutors to prove that adolescents are credible witnesses when they have opened a case of rape. According to Feiner (1997), teenage girls are susceptible to negative criticism that can affect their credibility in court, and therefore researchers have found that jurors perceived them as being partly responsible for their abuse. This belief correlates with a decrease in adolescents' credibility and could prejudice an adolescent's narrative in court. According to Heger, Emans and Muram (2000), society is the underlying context where value and belief systems are birthed, and these values and belief systems in turn determine how society will respond to sexual abuse.

2.3.5 *A victim's experience in the courtroom*

Extensive courtroom strategies are used that affect witness performance (Muller & Hollely, 1999). According to Leippe et al. (1989), both defence attorneys and prosecutors report that when they do cross-examination in court they focus on special vulnerabilities of children such as, inarticulateness, fear and suggestibility. This reduces the likelihood of obtaining testimony that is as complete and accurate as the child can give. This strategy also heightens the child's stress and may confuse her, affect her short-term memory, decrease her ability to comprehend an attorney's sentences and promote memory retrieval failures that may lead to suggestibility. The attorney can elicit this behaviour and then confront the child with her inconsistency. The adversarial method, like a rigorous cross-examination, is not effective for truth-gathering (Leippe et al., 1989). Other studies that examine courtroom strategies used to affect witnesses' performance include Shapland, Willmore and Duff (1985), and Zajac, Gross and Hayne (2003).

Dawood (1999, p.41) reports the following about a rape survivor's experience in court in South Africa:

No one told me anything about the process in court. I had such a strange feeling that I can't explain the feeling. I felt that I was the victim but still had to fight the accused. Everybody, including the accused's family. was walking up and down all the time.

I was scared and disturbed by the presence of the accused and his family. The worst thing was being in a public court. I knew that it was the right thing to do and I did not want to look like a loser. You know that you do the right thing but you still feel the humiliation at the end of the day. I hardly understood the accuser's lawyer and I still blame him for the way he questioned me – I did not know what he wanted. The only way to deal with it was to question him, but he told me not to question him. During the trial there were three different magistrates (one died). The third one was very irresponsible and careless. He told me all the time to speak up but they did not realise the state I was in".

Doyle (1994), explains that the courtroom experience often disables children to the point where they feel reluctant to continue to give evidence. She referred to a four year-old who was subpoenaed to answer questions about her previous "sexual

history”. She was shouted at, called a liar, and told to look directly at the lawyer and not to someone else when she spoke.

CHAPTER 3

RESEARCH METHODOLOGY

This research is situated within a post-modern, social constructionist paradigm. According to Gergen (2001), social constructionism as a research epistemology sees reality as values, knowledge, social institutions and theory that are products of social interaction and not separate entities from human existence.

This is in contrast with a modernist paradigm, which relies on technologies such as experimentation, simulation, attitude and opinion assessment, participant observation, trait testing and statistical evaluation in supporting or evaluating different theories and hypotheses (Gergen, 2001). Postmodernists' view on methodology loses that platform as the chief finder of truth, as the production and interpretation of data inevitably relies on forms of language which are embedded in cultural relationships, and therefore form meaning through interaction (Gergen, 2001).

Lawler (2002) says that it is not that the facts are not important, nor is it the case where only the facts matter, but rather that the facts (or experience) and the interpretation of those facts (or experience) are envisaged as necessarily entwined. Gergen (2001) says that to 'tell the truth' is not to form an accurate picture of what happened but to participate in social conventions sanctioned within a given 'form of life'. Lawler (2002) sees narratives as social products produced by people within the context of specific social, historical and cultural locations, and believes that they are related to the storied experiences that people have of their lives.

3.1 Research Design

The research design acts as a methodological frame which includes the approach to data production, positions of researcher, participants, data analysis as well as data presentation.

Narrative inquiry as research design expresses the phenomena of finding meaning rather than finding truth. In the work of narrative inquiry, a narrative view of experience is kept in the foreground of participants' and researchers' narratives of

experience. These are situated and lived out on storied landscapes and framed as a theoretical method (Clandinin & Connelly, 2000). The reason for the choice of narrative research is supported by the focus on interpretation rather than analysis – the researcher’s position being more of a facilitator who is doing the interpretation rather than expert analyser. According to Lawler (2002, p.243), this kind of “research which explores the narratives people produce will necessarily be interpretivist in nature: it will work from the basic premise that individuals and groups interpret the social world and their place within it”. Within a postmodernist paradigm, my research will not be about asking questions such as “what happened?” but rather, “what is the significance of this event?” (Lawler, 2002).

3.2 Participants

Permission was granted by the National Prosecuting Authority of South Africa (NPA) to conduct this research at the Pretoria Magistrate Court and they have shown great interest in this research (see Appendix B). The study was undertaken in collaboration with a non-governmental organisation called Bee Courtwise that is also based at the Pretoria Magistrate Court (see AppendixC). As it is their work to prepare the children before they testify in court, Bee Courtwise was in a position to select the participants. The participants are six adolescent girls between the ages of 13 and 18 years old who have been sexually abused or raped. The girls are English- speaking and have already testified in court. The other participant is the researcher.

3.2.1 The relationship of researcher and participant

The relationship between the researcher as narrative inquirer and the participant should be a mutual, collaborative, and caring relationship that is established during storytelling (Marshall & Rossman, 1995). When researchers interact with their participants, the places in which they work or live are also influenced by the stories that are told, and the researchers are also viewed in their field of text as they engage in interest and conversation (Clandinin & Connelly, 2000). This means that the researcher’s story will also be reflected in the final research paper. According to Gergen (2001), all meaning, including the researcher’s own meaning, is rooted in

social processes and is viewed as continuous. The form and content of meaning are likely to change from one relationship to another.

3.3 Data Production

According to Lawler (2002), researchers working from the view of a qualitative social constructionist framework believe that data are produced and not collected; and that the process of production is primarily related to the product. While modernist views are concerned about facts and rules (scientific context), postmodernism postulates that understanding is not a product of objective observation of the world, but of social processes and interaction with people (Burr, 1995; Gergen 2001). The emphasis is thus more on process than structure, and this results in a search for an examination of meaning (Burr, 1995; Freedman & Combs, 1996). The view of social constructionism is that all behaviour is understood within a social context, and that people create their reality and world through social interaction (Burr, 1995; Gergen, 2001). In order to understand how knowledge is co-constructed, social constructionists discuss four main ideas: realities are socially constructed; realities are constituted through language; realities are organised and maintained through narrative; and there are no essential truths (Freedman & Combs, 1996). The postmodernist worldview is that beliefs, laws, social customs, habits or dress and diet, all make up the psychological fabric of reality and this occurs through social interaction over time (Freedman & Combs, 1996). It is through the production of meaning that others can understand the world that we live in. Therefore reality is constituted through language, and language is thus essential in understanding the reality of everyday life. According to Freedman and Combs (1996, p.28) “to postmodernists, the only worlds that people know are the worlds we share in language, and language is an interactive process”. The narratives used in a criminal court will be understood as the reality within the public legal narratives, which will influence the adolescent’s experience in a criminal court.

3.3.1 Narrative inquiry as a data production technique

In narrative inquiry, people's individual stories are the focus. The researcher explores a story written by a participant through a narrative approach (Marshall & Rossman, 1995). Clandinin and Connelly (2000) discuss Dewy's three-dimensional narrative inquiry space, which is a frame for thinking about experience. The inquiry is defined by:

- personal and social (interaction)
- past, present and future (continuity)
- place (situation)

Clandinin and Connelly (2000) also speak about Dewy's notion of interaction, which focuses on four directions in an inquiry. These are:

- *inward* (internal conditions such as feelings, hope, etc)
- *outward* (existential conditions such as the environment)
- *backward* and *forward* (temporality, moving between past, present and future)

This means that to inquire about an experience, is to ask questions connected to each direction.

3.3.2 Texts

Data production in this research occurred through three processes: (1) participants writing letters about their experience, (2) participants creating a visual representation (collage); and (3) conversation, which reflects the experience between researcher and participants.

3.3.2.1. Writing their story

The participants wrote a letter to adolescents about their experience of testifying in a criminal court. My request to them was the following:

- (i) I would like you to write a letter addressed to adolescents, sharing your court experience.

3.3.2.2 Visual representation

The participants created something that would reflect and create meaning of their experience of testifying in court. My request to them was the following:

- (i) I would like you to share your story by means of a collage (after completion of the collage).

3.3.2.3 Conversation

The researcher used a few open-ended questions, which were directly related to the court experience:

- What did the court preparation programme prepare you for, before testifying in court?
- Is there anything that you feel you were not prepared for by the programme?
- What was your most difficult experience in court?
- What was your most difficult question?
- What was significant in your experience that you would like other adolescents to know before they testify?
- What would you like to change about your testimony in court, if you were able to do it over again?
- In hindsight, if you were able to make a choice again, would you choose to testify? Explain your answer.

3.3.3 *Writing their story*

In narrative inquiry, letters as field text may be used with participants to give an account of themselves, make meaning of their experiences, and build on relationships between themselves, our experience and others (Clandinin & Connelly, 2000).

According to Denzin and Lincoln, (2002), writing is described as a search for meaning. People write because they want to find out or learn something that they did not know before they started writing. The participants wrote writing letters about their experience in testifying in a criminal court, with the possibility that they may learn something about themselves that they did not know before. Also, in doing this research, I also hoped to learn something I did not know before I started.

3.3.4 *Visual representation*

I asked the participants to create a collage that would reflect as well as create meaning about their court experiences. Denzin and Lincoln (2002) suggest that for some, drawing and painting metaphors come readily when reflecting on consciousness and lived experiences (Denzin & Lincoln, 2002). Lived experience as it unfolds in consciousness is a constant process of correction. Correction means

adjusting the picture based on the perceived change in the relationships between the performers in the setting. According to Harper (1994), Punch (1998) and Hurworth (2004), visual representation is helpful and can portray the reality of the programme. It can also be regarded as a process of getting to know who we are, and it also allows us to communicate in ways that could not be done in words. According to Hurworth (2004), visual images in research are useful in the following ways:

- They are a form of visual communication.
- They include non-verbal communication and imagery not available in text.
- They improve understanding of context and interactions.
- They help to develop insights.
- They allow the reader or evaluator to understand events, settings and people more easily.
- By connecting ideas with visual interpretation, behaviour can be more easily understood.
- They can be more hard-hitting (they give the exact message through visual representation e.g. showing children dying from AIDS-related conditions or hunger).
- They provoke an emotional response.
- They assist to document culture.

In relation to data collection, the use of the visual medium can serve as an extension of participant observation and can be considered a form of document analysis.

3.3.5 Conversation

According to Mason (2002), qualitative research interviews usually take the form of a “conversation with a goal”. The style is conversational and the goal is achieved through active engagement by the interviewer and interviewee about topics and experiences. The purpose of the conversation is to focus directly on the court experience, should the other forms of data production not be clear enough for the goal of the research. Conversations in this study were recorded by using an audio recorder.

3.4 Data Analysis

3.4.1 Narrative analysis of research text

Narrative analysis lies in the integration of two major principles. The first is that people make sense of experience, construct self, and create and communicate meaning through narrative. The second principle is that personal narratives, no matter how unique, are situated in a social context. This means that when the narrator tells her story to an audience (interviewer, public, friend, etc.), her narration is interactional in nature. This means that the narrator will tell her story and the listener will shape the story by encouraging, empathising, interrupting or resisting (Josselson, Lieblich & McAdams, 2003). According to Josselson, Lieblich and McAdams (2003), in order to do a proper analysis, these narrative principles ground analytical procedures. They also say that the story must be recognisable for it to be meaningful to self and others; and add that the form of the story must at least have a typical beginning, middle, and end point.

3.4.2 Analysis of written narratives

Narrative analysis guides us to the analysis of this research study, where narratives are characterised, and themes and patterns are analysed within an interview. Also, relationships between interviewees' narratives are compared regarding their social resources, constraints, and situated within a framework of culture or ideology (Coyle, 1998). When analysing written stories an enquirer does not search for a problem definition or a solution, but works towards a continual reformulation of an enquiry. This happens through reading and re-reading of the text (Clandinin & Connelly, 2000).

3.4.3 Analysis of visual data

According to Felstead, Jenson and Walkers (2004), the meaning of an image does not become apparent until it is accompanied by and explained in text, since pictures are ambiguous and their interpretation can have multiple and uncertain meanings. However, one needs to take into consideration that the relationship between texts and images may take many different forms. Thus the methodological foundations of visual research need to address the dynamic interrelationships between pictorial

images, interview transcripts and theoretical interpretations by which meaning can be constructed.

According to Emmison and Smith (2000), a denotation inventory needs to be created by identifying elements in the material, by listing the elements systematically and by cataloguing the literal meaning of the material. In order to analyse the higher forms of signification, all the text and visual image elements that are present in the project must be listed, and questions in the denotational inventory must be asked (Du Preez, 2004).

The following concepts for analysing images were used in this study, as suggested by Emmison and Smith (2000):

- *Identification*: this refers to the ways in which people relate to a particular image
- *Narrative*: this involves a storyline which can be achieved through a series of images.
- *Reading*: people may read the same image in divergent ways depending on identity, life experience and subject positions
- *Subject positions*: the identity that is involved in a particular position
- *Binary opposition*: concepts or signifiers which are opposed to each other

The following questions were used to analyse the images:

What images reflect the participant's emotions?

What images is the participant identifying with?

What is the storyline (narrative) of these pictures?

Are there subject positions that are opposed to each other?

3.4.4 Analysis of conversation

At this stage of the research the conversation is transcribed. The researcher familiarises herself with the text by reading and re-reading it, becoming well-acquainted with it, and finding themes relevant to the court experience.

3.4.5 The process of analysis

Clandinin and Connelly (2000) discuss the process of analysis as a narrative inquirer, and explain how issues are brought forward that surface in different ways from field text to research text.

These processes are:

Reading and rereading.

- The focus is on reading and rereading the field text and on beginning to compose a research text moving from the experience of living stories with participants to retelling stories through a research text.
- Many hours are spent by reading and rereading. The researcher sorts out and summarises what is contained in the different sets of field text in order for her to know what she has. This involves coding of conversations, visual data and letters, and noting dates, contexts, characters and topics.

Coding.

- Coding the field texts would include details such as:
 - names of characters
 - place where action and event occurred
 - story line that interweaves and interconnects
 - gaps or silences that became apparent
 - tensions that emerge
 - continuity and discontinuity that appear

The research inquirer looks for patterns, narrative threads, tensions and themes of the individual's experience and social contexts. Although the process has been presented as a series of steps, this is not how a narrative inquirer is 'lived out'. The

researcher returns to the work over and over, highlighting re-storied lives, exploring new research puzzles and researching texts (Clandinin & Connelly, 2000).

3.4.6 Constructing the research text

The way that narrative enquirers think influences what they focus on. For example, they will deliberately tend to some aspects and less to others, which will show and also lead to what is not said and not noticed (Clandinin & Connelly, 2000). Therefore collaboration is very important in this process in seeking other perspectives or opinions, such as those of supervisors and peers.

The interviewee's conversation is co-authored by the researcher and there is a tendency to take the results of social interaction as a given, forgetting the original discourse and the social co-construction of the final outcomes (Kvale, 1996). Continued dialogue with the text may lead to renewed conversation, sharing and developing possible meaning from the conversations. Therefore, the answers of the interviewee open up a horizon of possible meanings to be pursued during the later analysis with the interview text (Kvale, 1996). In this research, stories were told within the context of the public legal narratives and I focussed in particular on the private narratives of adolescents who have been raped or sexually abused and who have testified in court in connection with this abuse.

3.5 Credibility and Trustworthiness of the Research

Narrative analysis within a post-modern social constructionist framework cannot be validated against modernism, with its traditional definitions of reliability and validity. Traditional research has defined internal validity as a researcher's observation and measurements as true of a particular reality, while external validity is the degree to which the descriptions can be compared with other groups ,(Denzin & Lincoln, 1998).

According to Marshall and Rossman (1995), internal validity, external validity, reliability and objectivity are inappropriate for naturalistic or qualitative inquiry. Instead, Marshall and Rossman (1995) propose four different constructs. The first construct is *credibility*, and is defined as the goal to demonstrate that the inquiry was conducted in such a way as to ensure that the subject was accurately identified and described, which means it is credible to the constructor of original multiple realities.

The second construct is *transferability*, which is when the burden rests upon the current investigator to apply one set of findings to another context, instead of the original investigator. The third construct is *dependability*, in which the researcher attempts to change conditions in the phenomenon chosen for study, including changes in the design created by the refined understanding of the setting. This is different from the concept of reliability where positivists assume an unchanging universe in which inquiry could be logically replicated. The final construct is, *confirmability*, which relates to the traditional concept of objectivity as a characteristic of the researcher. By stressing the need to ask whether the findings of the research can be confirmed by another person, this removes the evaluation of objectivity from the researcher.

3.6 Ethical Considerations

Conducting research with adolescents who have been sexually abused or raped involves a number of ethical considerations. I was aware that interviewing the six participants might evoke feelings and emotions that they may have forgotten or are trying to forget. The Department of Student Development and Support from Tshwane University of Technology gave me special permission to offer free counselling to the participants who may need it, as Bee Court wise, where the research took place, is in close proximity to the department. Permission was granted on condition that the counselling was done by myself, as an intern psychologist at the Tshwane University of Technology. Counselling would be done after data production, as I might become biased in the process of collecting the data and analysing the research. Rosnow and Rosenthal (1996), highlight a few basic ethical guidelines, which applied to this research. The researcher provides participants with a consent form to sign. Before agreeing to participate, the participants are told the basic nature of the research, and that they may experience inconvenience whilst participating. The participants are also informed about the planned procedure for maintaining confidentiality and anonymity. They are also informed that their names and other details that could possibly identify them would not be included in the research document. Also, because they are participating voluntarily, they are free to withdraw at any time without prejudice or consequence. The researcher also informs

the participants that they will have access to the publication in which they participated (see Appendix A).

CHAPTER 4

DATA: TEXTS, ANALYSIS AND RESULTS

Bee Courtwise is a non-governmental organisation based in the Pretoria Magistrate Court and was responsible for the selection of the participants for this study. In this chapter, data sets consisting of a conversation, collage and letter, are presented for each participant, followed by an analysis and narrative core for each participant's data set.

4.1 Terminology

A special room is a room in the criminal court where children can testify via video transmission, thereby protecting the child from having to face the accused in an open court.

An intermediary is a trained professional such as a social worker or a child and youth care worker who sits in the special room with the child. The intermediary hears the court's questions through an earphone and relays the questions in a more simplistic way to the child.

A court supporter is an NGO volunteer who accompanies children to court when they testify. The court sometimes allows them to sit with the child in the special room while the child is testifying.

4.2 Participant narratives

Data were gathered from six participants through conversations, collages and letter writing. Two of the participants had previously testified in an open court and four in a special room. No biographical or background details of the cases are included as this could compromise confidentiality.

4.2.1 Participant 1 (P1)

P1 is a 14 year-old girl who testified in a special room. She did not have an intermediary but she had a court supporter sitting with her in the room.

CONVERSATION (verbatim)

What did the court preparation programme prepare you for, before testifying?

I must not be afraid and I must tell... I must tell... what happened... in court.

Is there anything that you feel you were not prepared for by the programme?

No.

What was your most difficult experience in court?

Some of the questions.

What was your most difficult question?

What happened to me in court.

What was significant in your experience that you would like other adolescents to know before they testify?

The one who raped me, the lawyers told that I was not raped.

What would you like to change about your testimony in court, if you were able to do it over again?

Nothing.

In hindsight, if you were able to make a choice again, would you choose to testify?

Explain your answer.

No, no because I was scared.

Analysis

NARRATIVE THREADS	SUPPORTIVE TEXT
Being scared	"I was scared"
Not being believed	"The one who raped me, the lawyers told that I was not rape".

COLLAGE

Participant 1 14 years old



1 We were sitting on the sofa watching tv in the waiting court waiting room



4 We were colouring books after testifying



2 We had lunch with some kids and tea to drink



5 We were drawing at the chalk board there



3 We played with some toys at the waiting room there

6



There were some story books that we read

7



This lady's name is Olga, she was a nice lady she read us stories of the court, talking to us very nicely

8



They gave us some fruit

9



The prosecutor was fine with me

10



This is the picture of the waiting room and the sitting room

11



Magazines were there

12



There is a dvd and we were watching movies

13



Takalanie Sesame and the tv

Tell me your story about these pictures: (verbatim)

We were sitting on the sofa watching TV in the waiting room court. We had lunch with some kids and tea to drink. We played with some toys at the waiting room there.

We were colouring books after testifying. We were drawing at the chalk board there.

There were some story books that we read. This lady's name is Olga, she was a nice lady she read us stories of the court, talking to us very nicely. They gave us some fruit.

The prosecutor was fine with me. This is the picture of the waiting room and the sitting room. Magazines were there. There is a DVD, we were watching movies. Takalanie Sesame and the TV.

Analysis of collage

Questions [Emmison & Smith (2000)]	P1
What images reflect the participants' emotions?	Her pictures do not depict the emotional aspect of the court experience. She focuses on the external resources only.
What images is the participant identifying with?	No images are identified with.
What is the storyline of these pictures?	She expressed the support aspect of her court experience.
Are there subject positions that are opposed to each other?	There are no subject positions that are opposed to each other.

Analysis of collage – story

NARRATIVE THREADS	SUPPORTIVE TEXT
Support from Olga (Bee Courtwise) and court personnel	“This lady’s name is Olga, she was a nice lady, she read us story of the court”. “The prosecutor was fine with me”.
Activity-based memories	“We had lunch with some kids”, “We were colouring in books”, “We played with some toys”, “We were watching movies”, etcetera.
Difficulty in expressing emotional experiences. “Open spaces” in the collage	Activity-based description.

LETTER (verbatim)

I was in a special room.

My experience in court they handled me nice when I went to court I was scared but I meet miss Olga and it was fine and when I went tetifinet (*testifying*) I was scared I was crying but they told me they no need to be scared. but I enjoyed my court. they frist (*first*) day I went to court the is a lady says to me I am a naught gril (*girl*) they did not raped me I said I was raped and she said no they don’t rape me.

Analysis of letter

NARRATIVE THREADS	SUPPORTIVE TEXT
Experienced support from Bee Courtwise and court personnel	“They handled me nice”, “Miss Olga was fine”, “I enjoyed my court”. “ They said no need to be scared”.
Not being believed	“But I enjoyed my court. they frist (<i>first</i>) day I went to court the is a lady says to me I am naught gril (<i>girl</i>) they did not raped me I said I was raped and she said no they don’t rape me”.
Being scared	“I was scared”, “I was crying”.

NARRATIVE CORE

The narrative core of P1 is about contrasting experiences and emotions. She talks and writes about her feelings of being scared, not being believed and being supported.

Her experience in court was initially fearful as she wrote in her letter “ I was scared, and I was crying”. She was also told by a court supporter that she was lying and that she was not raped. While writing this letter, tears were streaming down her face as she still felt hurt by this experience, since the woman was supposed to have been on her side (the participant referred to her as a sister) and she still did not believe her.

Her court experience was expressed through an activity-based collage. The discussion of the collage supported her letter as a more positive emotional experience, expressing words such as, “They handled me nice and I enjoyed the court”.

4.2.2 Participant 2 (P2)

P2 is a 15 year-old girl who testified in a special room without an intermediary or court supporter.

CONVERSATION (verbatim)

What did the court preparation programme prepare you for, before testifying?

They allow me to read my stuff for me.

Is there anything that you feel you were not prepared for by the programme?

Nothing.

What was your most difficult experience in court?

Testifying, remembering the things that happened.

What was your most difficult question?

No difficult question...

What was significant in your experience that you would like other adolescents to know before they testify?

They should not be scared because they will be alone in there. There is no one else in there. They should be free to talk there. The person who sits in with me was not there and I like it like that.

What would you like to change about your testimony in court, if you were able to do it over again?

Change nothing.

In hindsight, if you were able to make a choice again, would you choose to testify? Explain your answer.

No, because I do not want to speak about it again.

Analysis

NARRATIVE THREADS	SUPPORTIVE TEXT
Being scared	"Do not be scared".
Not wanting to remember	<p>"Testifying, remembering the things that happened" was difficult for her.</p> <p>"No, because I do not want to speak about it again".</p>
Positive experiences	Preparation for court and testifying in a special room.
Freedom	"Feel free to talk".

COLLAGE

Participant

2

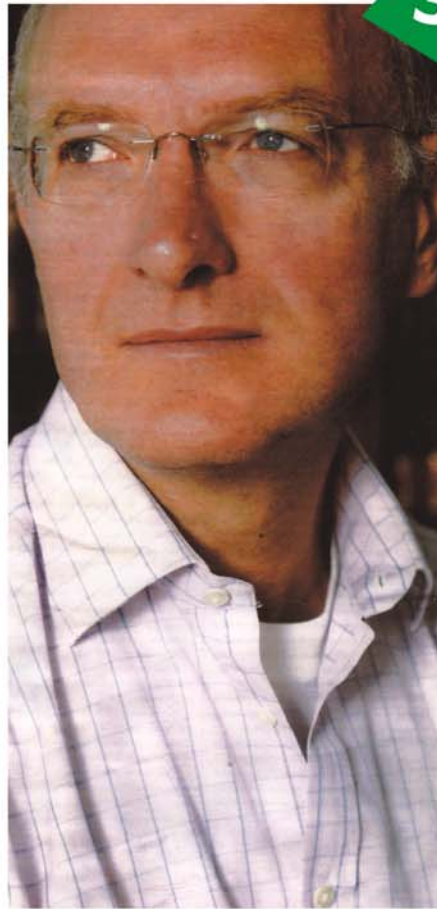
15 years old

1



Okay, this is about me,
I was alone in here
and so I was free

3



This is him scary
the accused in court

2



So this one is the magistrate
she was strict

4



The prosecutor
was nice to me

6



This me after testifying
here / already forgotten about that

5



This is the accused again after testifying

Tell me your story about these pictures: (verbatim)

Okay, this is about me, I was alone in here and so I was free. So this one was the magistrate he was strict. This is him – scary, the accused (in court). The prosecutor was nice to me. This is the accused again (after testifying). This me after testifying, here I already forgotten about that.

Analysis of collage

<p style="text-align: center;">Questions [Emmison & Smith (2000)]</p>	<p style="text-align: center;">P2</p>
<p>What images reflect the participants' emotions?</p>	<ul style="list-style-type: none"> • Image 1 “Freedom” • Image 3 “Fear” • Image 6 “ Courage”
<p>What images is the participant identifying with?</p>	<p>She identified with</p> <ul style="list-style-type: none"> • Image 1 and • Image 6
<p>What is the storyline of these pictures?</p>	<p>She spoke about the people within the legal context and how she experienced them.</p>
<p>Are there subject positions that are opposed to each other?</p>	<p>The subject positions opposed to each other were</p> <ul style="list-style-type: none"> • The nice prosecutor and The strict magistrate. • A picture reflecting herself and the scary accused. • She had to remember, but she wanted to forget. • A picture reflecting the accused and herself after testifying.

Analysis of collage – story

NARRATIVE THREADS	SUPPORTIVE TEXT
Freedom	“I was free”.
Support	“The prosecutor was nice”.
Being scared	“The accused was scary”.
She has put the experience behind her	“This me after testifying here/ already forgotten about that”.

LETTER (verbatim)

My experience in court was how to testify I was alone but I was scared it is very disgusting in there I thought that they are going to see me on TV and am going to see him too but no they saw me I didn't see I only heard the question they were asking but I was ashamed of myself I thought if you testify in court it is going to appear on the newspaper but felt free when I was alone not seeing him because if I had seen him I would be afraid to talk.

Analysis of letter

NARRATIVE THREADS	SUPPORTIVE TEXT
Being scared	“I was scared”, “Because if I had seen him I would be afraid to talk”.
Shame	“I was ashamed”. “I thought if you testify in court it is going to appear on the newspaper”.
Freedom	“I was alone in here and so I was free”
Disgust	“It is very disgusting in there”

NARRATIVE CORE

The second participant's narrative core seems to centre on public shame versus the freedom to talk, which leads to the satisfying conclusion that she already forgot her story. She expressed intense emotions and feelings such as "scared", "disgusting", "ashamed of myself". She was scared in the special room and found it to be disgusting; and the questions that were asked made her feel ashamed of herself. She also spoke about her experience with the court role-players. This is reflected in her collage: "The prosecutor was nice and the magistrate was strict".

She also expressed her emotions of fear toward the accused by depicting pictures that show that he is scary in court, and he appears serious after testifying.

4.2.3 Participant 3 (P3)

P3 is a 17 year-old girl who testified in an open court.

CONVERSATION (verbatim)

What did the court preparation programme prepare you for, before testifying?

They told me that I have to be honest; ask me if I want to be in an open court, or small room I told them I want to be in an open court they said my age is fine for an open court. The reason for the open court was because I wanted to see the person who raped me.

Is there anything that you feel you were not prepared for by the programme?

No.

What was your most difficult experience in court?

My most difficult experience in court was when I looked at the guy who raped me.

What was your most difficult question?

When the lawyer ask if I was a virgin before this guy raped me. Had I sex before this guy, who raped me.

What was significant in your experience that you would like other adolescents to know before they testify?

They must be honest they have to be free as they are safe in court.

What would you like to change about your testimony in court, if you were able to do it over again?

Nothing.

*In hindsight, if you were able to make a choice again, would you choose to testify?
Explain your answer.*

Yes, because I am sure about something I am going to say.

Analysis

NARRATIVE THREADS	SUPPORTIVE TEXT
Advice on honesty, feeling free and safety	“ They must be honest they have to be free as they are safe in court”.
Certainty	“Yes, because I am sure about something I am going to say”.
Giving private information is difficult	“When the lawyer ask if I was a virgin before this guy raped me”.
She wanted to see the accused in court and did not want to testify in a special room	“The reason for the open court was because I wanted to see the person who raped me”.

COLLAGE

Participant

3

17 years old

1



This is the guy who raped me

4



I saw a lady with a phone



5



I saw a tv

2



I saw pictures

6



Policeman standing at the door, this policeman was protecting everyone in the court room

3



The court room

Tell me your story about these pictures (verbatim)

This is the guy who raped me. I saw a TV. I saw lady with a phone. The courtroom
 Policeman standing at the door, this policeman was protecting everyone in the
 courtroom.

Analysis of collage

Questions [Emmison & Smith (2000)]	P3
What images reflect the participants' emotions?	Picture 1: Satisfaction that the accused is captured.
What images is the participant identifying with?	She did not identify with any pictures.
What is the storyline of these pictures?	Moving from rapist - court - policeman.
Are there subject positions that are opposed to each other?	Subject positions opposing to each other: Policeman versus the rapist.

Analysis of collage – story

NARRATIVE THREADS	SUPPORTIVE TEXT
Protection	"Policeman was protecting everyone".
Identifying rapist visually	"This is the guy who raped me".

LETTER (verbatim)

The day I was in court the first day I come every body in this building was so nice to me they always took (talk) to me nicely (*nicely*) even my lawyer to.

And the day I was scared is the day when I have to be in an open court I feel so scared when I look at the man's who raped me but I became more relief I sea (*see*) that I am safe I feel so safe but my lawyer told me that I have to be honest with every thing I said but I was honest in every thing (*everything*) I said.

I like to tell you that if you are scared these nothing to worry about even when you are in an open court Your going to be safe with all the times but is not easy You have to be passionend (*patient*) You have to be brave and u can do it.

Analysis of letter

NARRATIVE THREADS	SUPPORTIVE TEXT
Support	“Everybody in this building was so nice”.
Being scared	“ I was scared....in an open court”.
Honesty	“The lawyer told me to be honest, I was honest in everything I said”.
Advice on feelings of safety	“In an open court your going to be safe”.
Advice on courage	“You have to be brave and u can do it”.

NARRATIVE CORE

The narrative core of P3 is about having the courage to face the rapist, and being able to experience changing from “being scared” to “feeling safe” on an emotional level. It was hard for her to face the perpetrator and she found it difficult to answer questions on her sexual history in court - “if I was a virgin before this guy raped me and had I sex before this guy, who rape me”. Despite this, through her letter and collage she encourages other adolescents to be brave in situations similar to this.

At the time of her testifying, she was allowed to testify in a special room but she said that she preferred to testify in an open court because she wanted to see the accused. This is uniquely different from the other participants who wanted to testify in a special room.

The policeman, who is the biggest person in the collage, reflects the power he has to keep her safer than the other court role-players. She said that she would testify again, because she is very sure of what happened to her. She excluded herself from the collage and focused specifically on the courtroom.

4.2.4 Participant 4 (P4)

P4 is a 15 year-old girl who testified in a special room.

CONVERSATION (verbatim)

What did the court preparation programme prepare you for, before testifying?

They said to me that in court in a special room I am going to be alone and there's going to be a camera then I have to face the camera so that they must see my eyes either I am lying or not. Then I face the camera then they've asked me those questions then I've answered all the questions.

Is there anything that you feel you were not prepared for by the programme?

No, there was nothing, I was really ready, I did want to say what have to be said because I wanted to be done with it.

What was your most difficult experience in court?

When they asked me the questions. By the time they were asking me questions by the time I started facing the camera and answering the questions it was difficult I was, like, scared but I told myself that I am going to be brave, I am not going to cry, but I have to say this. I really wanted to do it but then I have done it.

What was your most difficult question?

At the time they asked me where did he touch you or what have he said to you and what have he done to you it was it was really difficult to say it but I did say it because of it was asked.

What was significant in your experience that you would like other adolescents to know before they testify?

I want to let them know that they have to be honest to the people and actually be honest and answer all the questions correctly. And they must not quote more, more answers and they must not answer a thing that they didn't ask. They have to answer what the questioned.

What would you like to change about your testimony in court, if you were able to do it over again?

No, no I couldn't never change anything because of I answered all the questions the way they wanted them to be.

In hindsight, if you were able to make a choice again, would you choose to testify? Explain your answer.

Yes. I would choose to testify because the thing that has happened, maybe it is like I can say no, anything can happen. Then they say that I have to go to court to testify, I can go to court to testify because of I want the truth to come out; I, and I want to say what has happened because of I don't want to lie to people or I don't want to make them, like, it is just a joke. I want to face the court and tell them the truth and what happened. Because of it really happened to me and it is really painful and I have to say it.

Analysis

NARRATIVE THREADS	SUPPORTIVE TEXT
Being scared	" I was, like, scared".
Courage	" I told myself that I was going to be brave".
Difficult to answer questions and provide details on the nature of sexual abuse	" They asked me where did he touch you and what have he said to you and what have he done to you".
Advice on honesty	"I want to let them know that they have to be honest".
Truth	" I want the truth to come out, I want to face the court and tell them the truth".

COLLAGE

Participant

4

15 years old

1



This is me
after testifying

2



And this was me before testifying
because of I was like nervous
I was like scared I didn't know
what was going to happen
in the special room

3



Then this is my
mother and me
with all the witnesses

4



This is the special room

5



The lawyer

7



And a prosecutor

6



A judge

8



And this is the outside court

Tell me your story about these pictures: (verbatim)

This is me after testifying. And this was me before testifying because of I was, like, nervous.. I was, like, scared... I didn't know what was going to happen in the special room. Then this is my mother and me with all the witnesses. This is the special room. The lawyer. A judge. And a prosecutor. And this is the outside court.

My day in court

Conversation (verbatim)

“The time I went, I entered first into the special room, there was a camera in the special room. Then they told me that they are going to ask me some questions, then they asked me all the questions.

And after asking me all the questions then they said okay they are going to give me a break, and after the break I went to my mother in the room where my mother and brother was sitting. I went... because of they once told me that when they are done with asking me maybe some questions they have given me a break, then I must not say anything to my parents. Because maybe then I can say the person who we have arrested maybe his lawyer can maybe hear us maybe discussing about what happened in the in the special room maybe. Maybe the lawyer can think that maybe we were discussing maybe my parents will tell me that you have to change your statement, you have to make it like this, it was not my best. In that time I didn't say anything, then they called me again; then after I went there they asked me the same questions, they wanted to see that am I going to change my statement, then I did not change my statement. They called me in court so that I must point the person who have done this to me, then that time I went there I just collapsed and, and fell down but I, I did show them the person who did this to me. Then I went to my mother's room and they called me again to ask me some questions. Then that person's lawyer told us, me, that the person that I saw is not him and I told him that it is him because of ... I saw him. And that person's lawyer told me that, that person was sitting on the left hand side then I said okay, for you he was sitting on the left hand side because of when you walk, I can say that when you walk out from the court he is on the left hand side but by the time I went inside he was on the right hand side. And then they said

okay, you really saw him. Then they said I must come out from that room. Then I went outside, then I was relieved. Then I was like ...I am done!"

Analysis of collage

Questions [Emmison & Smith (2000)]	P4
What images reflect the participants' emotions?	Picture 1, felt mentally exhausted; picture 2, felt emotionally safe.
What images is the participant identifying with?	Identified with pictures 1, 2, and 3.
What is the storyline of these pictures?	She had a more comprehensive storyline of her court experience, which included her support system and the role-players in court.
Are there subject positions that are opposed to each other?	Subject positions opposing each other: The lawyer and prosecutor: they are on opposite sides, each defending their client.

Analysis of collage – story

NARRATIVE THREADS	SUPPORTIVE TEXT
Being nervous	"And this was me before testifying because of I was, like, nervous".
Being scared	"I was like scared".
Support of family and witnesses	"Then this is my mother and me with all my witnesses".
Feeling overwhelmed when identifying the accused	"I went there, I just collapsed and, and fell down...I did show them the person who did this to me".

LETTER (verbatim)

Hello all the youth out there!!!

I'm an 15 year's old girl. I've been in court for the first time in my life, for what I've learned and know is that being in court is about being brave. You have to say what happened and just be honest to all the people in court.

The time that I was testifieng (*testifying*) I was not scared because I've answered all the questions that were asked. And what you have to know guys don't answer the questions which are not ask that is the most important thing you have to know.

I've never being like this before, but you know that because im done I feel relieved (*relieved*). And guys the other thing is that you have to believe in god, god is always great know that. For what have happened to me I don't feel guilty for it I know that everything happens for a reason & (*and*) to everything there is a season and a time for it to happen.

Analysis of letter

NARRATIVE THREADS	SUPPORTIVE TEXT
New experience	"You have to say what happened and just be honest".
Courage	"I was not scared, I don't feel guilty, being in court is about being brave".
Knowledge helps	" I was not scared because I've answered all the questions that were asked".
Meaning making	"I know that everything happens for a reason and to everything there is a season".
Believe in God (religion)	"You have to believe in god, god is always great".

NARRATIVE CORE

Participant 4's narrative core is courage, to be honest even though it is difficult to talk about private experiences.

She made sure that she had no open spaces in her story as she wanted other adolescents to know everything about going to court. In terms of her experience in court, she explained that, just before testifying, she felt afraid and collapsed when she had to identify the accused in an open court. Her collage supported these intense emotions and feelings in visual images (pictures 1 and 2).

The resolution of the tension between wanting to talk and being overwhelmed by the task occurs when she succeeds in identifying the accused and is therefore satisfied with her court experience. This leaves her with a sense of relief and a desire to encourage other children to do the same.

4.2.5 Participant 5 (P5)

P5 is a 18 year-old girl who testified in a special room.

CONVERSATION (verbatim copy)

What did the court preparation programme prepare you for, before testifying?

In the court preparation we were in a group and we were all talking about our problems what we have experienced, and I thought, like, my problem was not that much easier cause like there were some other children that was raped and they were about three months old, that hurt me a lot cause I felt that much pain and I was thirteen years old. They told me that I might be told that I am lying about what is happening and that I must cope with situation that you are lying. It was not like that, it was like that. They told me at court that I have to accept then I don't have to cry or just leave the place like that and go outside.

Has there been anything that you felt you were not prepared for by the programme?

Yes, they told me everything that I will expect and that I will be fine.

What was your most difficult experience in court?

It was when my mother showed his parents to me and there were other people which I know but they were all outside and I was so scared maybe that they will say but they did say we are girlfriend and boyfriend but it was not so and I did not know about that.

What was your most difficult question?

How did I run away, I run away through the window the window was open and I just jump outside and I run away. They did not believe me how I survived to get outside.

What was significant in your experience that you would like other adolescents to know before they testify?

You must tell the court, it is not that easy to say whatever you want to say but you have to say what ever you want to say.

What would you like to change about your testimony in court, if you were able to do it over again?

Nothing.

In hindsight, if you were able to make a choice again, would you choose to testify? explain your answer.

No, because he is in jail and then maybe they will say he is free the next time.

Analysis

NARRATIVE THREADS	SUPPORTIVE TEXT
Able to deal with accusations	“...I was so scared maybe that they will say but they did say we are girlfriend and boyfriend but it was not so”.
Lies	“They told me that I might be told that I am lying”.
Being scared	“I was so scared”.
Not being believed	“They did not believe me”.
Very sure of not repeating the experience should she be given a choice again	“No, because he is in jail and then maybe they will say he is free the next time”.

COLLAGE

Participant

5

18 years old

1



This is a baby
I didn't know that one day
could be raped

3



It doesn't mean that
when you are not wearing anything
you are telling
somebody to come over you

2



When i was coming out,
i was naked

4



And here you have to
face your challenges
when you have been raped



And this one here,
you don't have to hide yourself,
you have to face everything that
has happened to you



And when I am older
I know that I won't forget
what has happened
to me but I will still remain old



One day I will have to
tell my children
what happened to me



And this one here I was
a afraid to, face everyone
I couldn't face anyone

9



And this one here | have to be proud
of who | am we have to be proud
of who we are we have to
help one another because
we are the next generation

10



Oprah who was once been raped by her uncle
she is coping and is an inspiration to the
next generation she is proud of who
she is and | know that one day
| will be the same just like Oprah

11



This picture, these two pictures,
it is not as if we were a couple
| did not know him, | have never spoken to him
| know nothing about him but in court he said he was my boyfriend
But we were nothing and he was too old to be my boyfriend
because he was something like, thirty something

Tell me your story about these pictures (verbatim)

This is a baby, I didn't know that one day I could be raped. When I was coming out I was naked. It doesn't mean that when you are not wearing anything you are telling somebody to come over you. And here you have to face your challenges when you have been raped. And this one here, you don't have to hide yourself, you have to face everything what has happened to you. One day I will have to tell my children what happened to me. And when I am older I know that I won't forget what has happened to me but I will still remain old. And this one here, I was afraid to face everyone. I couldn't face anyone. And this one here, I have to be proud of who I am. We have to be proud of who we are, we have to help one another because we are the next generation. And this one is Oprah, Oprah who was once been raped by her uncle. She is now, she is coping and is an inspiration to the next generation. She is proud of who she is and I know that one day I will be the same like Oprah. This picture, this two pictures, it is not as if we were a couple. I did not know him, I have never spoken to him, I know nothing about him, but in court he said he was my boyfriend. But we were nothing and he was too old to be my boyfriend because he was something like, thirty-something.

Analysis of collage

<p style="text-align: center;">Questions [Emmison & Smith (2000)]</p>	<p style="text-align: center;">P5</p>
<p>What images reflect the participants' emotions?</p>	<p>Picture 1, disappointment. Picture 2, emotionally exposed.</p>
<p>What images is the participant identifying with?</p>	<p>Identifies herself in all of the pictures in different contexts, and she identifies with Oprah.</p>
<p>What is the storyline of these pictures?</p>	<p>She does not specifically speak about the court experience but reflects on past, present and future contexts relating to the court experience.</p>
<p>Are there subject positions that are opposed to each other?</p>	<p>No, the pictures were all about herself and her reflections on accusations and courage.</p>

Analysis of collage – story

NARRATIVE THREADS	SUPPORTIVE TEXT
Loss of innocence	Picture 1, “ This is a baby I didn’t know that one day I could be raped”.
Shame	Picture 2, “Then I was coming out, I was naked”. Picture 8, “ And this one here I was afraid to, face everyone”.
Courage	Picture 4, “ And here you have to face your challenges when you have been raped”. Picture 5, “You don’t have to hide yourself, you have to face everything that has happened to you.
Dealing with accusations	Picture 11, “This picture, it is not as if we were a couple, I did not know him I have never spoken to him ... in court he said he was my boyfriend”.

LETTER (verbatim copy)

What I have experience in court is that I have told the magistrate all know, and I was in a special room with someone who was comforting me. I think that I was lucky because I couldnt see the person who raped me, and I didn't even want to see him You don't have to hid anything you have to talk so that it will come out. If you don't speak to anyone it will eat you inside and end up killing your self.

Analysis of letter

NARRATIVE THREADS	SUPPORTIVE TEXT
Support from Bee Courtwise	“I was in a special room with someone who was comforting me”.
Feeling scared	“You don’t have to hid anything you have to talk so that it will come out”.
Feeling safe	“I couldn’t see the person who raped me, and I didn’t even want to see him”.

NARRATIVE CORE

In her narrative core, P5 talks about the tension between the feelings of support in the special room, where the court supporter was comforting her, and being exposed and unsupported in the corridors. Being unsupported holds meanings of not being believed and being talked about. For this participant, these tensions contribute to the ambivalent feelings about the court experience.

She was very happy that she could not see the accused in court. This made a big difference to her experience in court. Her most difficult question was that they did not believe her story, especially how she managed to escape.

This participant would not consider testifying again if given the opportunity as she said that this time, the accused was in jail and possibly the second time he might be found not guilty. Her story reflected not only her court experience, but also her journey to growth and recovery from infancy to late adulthood. This gives other adolescents who have been raped hope of a better future, despite the challenges they are going through.

4.2.6 Participant 6 (P6)

P6 is an 18 year-old girl and she testified in an open court.

CONVERSATION (verbatim copy)

What did the court preparation programme prepare you for, before testifying?

They told me that the lawyer will try to show me that I am guilty and that his client is not guilty. He read things for me and told me... that I must not be scared.

Is there anything that you feel you were not prepared for by the programme?

No, everything was shared with me.

What was your most difficult experience in court?

When the lawyer started asking questions.

What was your most difficult question?

When the lawyer started telling me that I am guilty and I tried to prove to him that I am not guilty and he tried to get me down.

What was significant in your experience that you would like other adolescents to know before they testify?

That they must just believe, judgement is always right and they won't go wrong if they tell the truth.

What would you like to change about your testimony in court, if you were able to do it over again?

Nothing.

*In hindsight, if you were able to make a choice again, would you choose to testify?
Explain your answer.*

No, to stand and tell them everything is very difficult and when they try and find me guilty.


Analysis

NARRATIVE THREADS	SUPPORTIVE TEXT
Feelings of guilt	“Lawyer will try to show me that I am guilty, the lawyer started telling me that I am guilty, when they try and find me guilty”.
Feeling scared	“I must not be scared”.
Giving private information is difficult	“No, to stand and tell them everything is very difficult”.
Advice on telling the truth	“They won’t go wrong if they tell the truth”.
Encouragement	“They must just believe”.

COLLAGE


Participant **6**
18 years old

1




Believe in yourself

2



Believe in judgement

3



Fight back in court

4



Don't let anyone get you down

5



Walk away with a smile

Tell me your story about these pictures: (verbatim)

Believe in yourself. Believe in judgement. Fight back in court. Don't let anyone get you down. Walk away with a smile.

Analysis of collage

Questions Emmison & Smith (2000)	P6
What images reflect the participant's emotions?	Picture 3 and 4, feeling angry.
What images is the participant identifying with?	Picture 1 is actors believing in themselves, picture 3, women who are standing up for their rights, and 5, looking self-confident after testifying in court.
What is the storyline of these pictures?	The storyline is about encouraging other women to be strong and brave in court.
Are there subject positions that are opposed to each other?	The participant and the accused; and the participant and the court.

Analysis of collage – story

NARRATIVE THREADS	SUPPORTIVE TEXT
Courage	"Believe in yourself, fight back, don't let anyone get you down, walk away with a smile".
Believe in justice	"Believe in judgement".

LETTER (verbatim)

They treat you very well (*well*) and help you wherever (*wherever*) they can. You must believe in yourself and do not allow someone to get you down. Fight back for what you believe.

The lawyer will make you feel guilty but don't allow it. Say what you know and believe in the truth. It is all that will help to get you through it. If you will forget about it quickly (*quickly*). Remember believe in yourself.

Analysis of letter

NARRATIVE THREADS	SUPPORTIVE TEXT
Support from court personnel and Bee Courtwise.	"They treat you very well (<i>well</i>)".
Courage	"You must believe in yourself, fight back for what you believe".
Advice about feelings of guilt	"The lawyer will make you feel guilty".
Advice about the truth	" Believe in the truth".
Encouragement	"It is all that will help to get you through it".

NARRATIVE CORE

Participant six's narrative core is the ambivalent feeling about the justice system: that she views the court as a "battlefield" and yet believes in justice if truth is told. "Judgement is always right and they won't go wrong if they tell the truth".

In her letter, conversation and collage she expressed her perception of the lawyer as trying to prove that she is guilty and that the accused is innocent. At the end of the conversation she added that if she had an opportunity to do it all over again she would not, since it is very difficult, especially when the lawyer tries to make her feel guilty. Although the theme of her story focused on courage, "Believe in yourself, don't let anyone get you down and walk away with a smile" - it is not enough for her to express willingness to go through the same process again.

4.3 Co-constructing the Research Text

In this section the narrative threads, patterns and tensions that emerged from the participants' narratives are presented in a conversation together with themes taken from the academic literature on testifying in a criminal court. They include the court experience, court support and court preparation.

4.3.1 The court experience

The court experience of the participants in this study supports the literature finding that adolescents find it very frightening and challenging to testify in a criminal court. The majority of the participants were scared in court and answers such as, "I was crying", "not being believed", "it was disgusting", and feelings of shame, give an indication of what their experiences were like. One participant said that being asked about her sexual history was humiliating, while another said that she was afraid before she testified and collapsed when she had to identify the accused in the open court. Most of the participants found the questions of a sexual nature, such as "Where has he touched you or what has he said or done to you?" very difficult to answer. One participant said that the cross-examination was difficult since the lawyer tried to prove that she was the guilty party and that the accused was innocent. In her collage she described the court experience as a battlefield, encouraging other girls to "fight back in court".

4.3.2 Court support

According to Plotnikoff and Woolfson (1998), physically supporting children through the court process reduces their anxiety level and may also improve their credibility. This research study suggests that court support is an important factor in helping the participants to cope when testifying in court. The majority of the participants found the prosecutor to be very approachable. They reported that the prosecutor was friendly and that she had treated them well. They also referred positively to the treatment of the prosecuting team, which included Bee Courtwise, and said that they felt safe and enjoyed the court. One participant said that there was someone who was "comforting" her in the special room when she testified.

4.3.3 Court preparation

Court preparation is another aspect of the testifying process, which forms part of court support. According to Saywitz and Snyder (1993), the legal system expects that witnesses respond in a prompt, clear and consistent way, that they are able to communicate effectively, and that they demonstrate an understanding between truth and falsehood.

The following narrative themes of court preparation emerged from the six participants.

4.3.3.1 *Addressing emotions/feelings*

Emotions and feelings form part of the court preparation programme. According to Kriel and Hollely (1998), part of court preparation entails listening to the child's feelings about her alleged incident and about testifying.

In this study, emotions commonly reported by the participants were fear of testifying, fear of her story being published in the newspaper, and particularly fear of seeing the accused in court. One participant collapsed when the magistrate asked her to come from the special room to identify the accused. Participant three preferred to testify in an open court because she wanted to see the accused. According to Spencer and Flin (1990), not all children are afraid of testifying in an open court; some feel a sense of satisfaction in facing the accused and showing him that they are able to be instrumental in putting him in jail.

According to a study by Flin, Davies and Stevenson (1989), child witnesses expressed the following fears: not understanding what would happen in court, what to do, being on their own in court, having to address adults in court, seeing the accused, and not understanding or feeling unable to answer questions.

4.3.3.2 *Techniques for the emotional preparation of adolescents in court*

Kriel and Hollely (1998) recommend that adolescents complete a questionnaire on common fears that they might have before testifying, identifying a particular fear and rating it according to the level of anxiety they may experience. In addition, doing a free recall exercise about their feelings about going to court may be useful, as are various stress reduction techniques.

4.3.3.3 Empowerment

Kriel and Holley (1998) believe that empowering children to testify requires a combination of building relationships, providing knowledge and giving them the opportunity of experiencing a court situation through role play.

In this study, through their letters and recommendations to other child witnesses, the participants may empower other children who must testify in court. The following are some expressions of encouragement to other young girls who might testify in court. The participants encouraged other girls by saying that even though the defence did not seem to believe them, they enjoyed the court experience. They emphasised that witnesses should not be afraid, but should be brave and not cry. Some participants advised witnesses to feel free to talk and not hide anything, even though they acknowledged that this is not easy not do. Others encouraged children to face their challenges, believe in themselves and fight back in court. They warned that the lawyer will try and make them feel guilty but they must not allow it.

These words of encouragement give one an indication that despite their experiences in court, these participants show an ability to bounce back.

4.3.3.4 Maximising credibility (telling the truth)

Ross, Dunning, Toglia and Ceci (1989) mention that the credibility of a person rests on two separate components, namely, (a) accurate testimony and (b) honesty. It also rests on an awareness of the difference between a truth and a lie, and understanding the obligation to tell the truth. Plotnikoff and Woolfson (1998) state that some young witnesses may be anxious about telling the whole truth. One of the reasons is that they fear that this may put them in a bad light. They may be worried that they may be asked questions about activities that they are ashamed of, for example, under-age drinking, playing truant, swearing and taking gifts from the accused. Adolescents are also often ashamed of admitting to participating in sexual acts even when they were forced to do so.

Kohlberg (cited in Thom et al., 1998) discusses Kohlberg's levels of moral development and says that truth and honesty is a product of moral development. He says that Kohlberg's *level 11, conventional level*, is when the child obeys rules to be

accepted by society and avoid criticism. Individuals accept rules because they can understand them and acknowledge that they are essential for preserving society.

In this research the participants were asked what they would like to advise other young girls who are due to testify. In their letters and conversations, three of the participants said that telling the truth was important. Participant six in particular encouraged other young girls by saying: “Judgement is always right and they won’t go wrong if they tell the truth”. Some of the participants said that the prosecutor (my lawyer) had encouraged them to tell the truth.

4.3.3.5 The use of a special room

Muller and Tait (1998), of the South African Law Commission, highlighted the traumatising of children through the procedures followed in court, which leave them feeling afraid, uncertain and confused. The commission proposed that child witnesses be allowed to testify in a special courtroom assisted by a trained court intermediary. By doing this, the child is protected from having to face the accused and the intermediary facilitates the process of cross-examination, thus minimising the potentially traumatic court experience. The participants in this study experienced the special room in the following ways: one participant said that she liked being alone in the special room, and felt free as a result. Another participant was initially scared because she was alone in the special room, while another said that she felt supported because she was comforted by an adult companion in the special room. One of the participants did not want to testify in a special room because she wanted to face her rapist in court.

CHAPTER 5

CONCLUSION

5.1 The Researcher's Reflection

I have managed a court preparation project at the Johannesburg Magistrate Court and prepared adolescents for court for five years. Before commencing this study, my view of the court experience was fairly negative. The reason for this was because I mainly focused on the defence attorney's attitude toward the complainant in court, rather than on all the role players in the judicial system, some of whom play an important positive, mediatory role in the children's experience. Some of my negativity may also have been informed by some of the negative accounts of children's court experiences that I have read, such as Don-Wauchope (2000) and Muller and Hollely (1999).

The positive experiences reported by the six participants in this study is likely a result of the preparation programmes run by organisations like Bee Courtwise. Before undertaking the study, I believed that reading the accused's statement was one of the most important tools in preparing adolescents for court, as this would give them an indication of what to expect when they testify. After completing this research, it appears that court preparation, the treatment of complainants by court personnel and support from NGOs compensates for the negative experiences that adolescents experience through cross-examination. The importance of court preparation and support of the complainants when testifying is also emphasised by both Muller and Tait (1997) and Don-Wauchope (2000).

While interviewing the participants, I noticed that Bee Courtwise does not have their name in front of their office in the court building, and a prosecutor's office is also situated in their centre, with the result that the participants did not know the difference between the court staff and the staff of Bee Courtwise. Both were viewed as part of the prosecution team. When they referred to their court experience they never mentioned the name Bee Courtwise but rather mentioned the court and the positive things they did, or reported that the people at the court had treated them "nicely". This arrangement gave these participants a more positive view of the court experience as a whole. What I understood while doing this research was the adolescents' experience that if one person in the court system was nasty or unkind to

them, there were other people who were supportive. The participants' understanding of this minimised their trauma, and it is likely therefore that they experienced less trauma than children testifying in a court without this support.

5.2 Limitations of the Research

The most common limitation within a qualitative study is the sample size. Exploring the court experience of only six participants means that the results cannot be generalised to the wider population of sexually abused or raped adolescents. However, the use of three processes to produce data, namely conversations, collages and letters, produced information of a richer nature than would have been possible using a quantitative research methodology.

The focus of the study, namely the court experience of abused adolescents, is very broad. Other experiences, such as the time frame involved in waiting to testify and court postponements, are also important but were not addressed in this research project, although according to researchers such as Lewis (1994) and Don-Wauchope (2000), these issues may also be traumatic for adolescents. I also did not focus on the role of family support in mediating adolescents' experience of testifying. According to Don-Wauchope (2000), family support is an essential part of minimising the trauma of testifying in court. In arranging the research interviews, which required the families' participation, I found that family support was provided by the families of these participants; however, since my research goal focused specifically on the adolescents' actual experience of court. I was unable to investigate this aspect further.

English was not the participants' first language and, therefore, they may have felt limited in the way that they expressed themselves. It is possible that they may have been able to explain their experiences in a richer and more complex way had they participated in their own mother tongue. Also, it should be remembered that the ability to express emotions is stunted as a result of sexual abuse. Therefore, the use of different means of expression through conversations, collages and letters gives the reader a better idea of the difficulties they encountered in a criminal court.

It was not possible to make appointments with participants shortly after they testified due to court postponements. I could therefore only interview participants who had testified a year or more previously. Due to the time frame, the positive attitude of the participants could not specifically be attributed to the programme alone, but may possibly also be attributed to various societal and family processes.

5.3 Recommendations

Based on the results it is recommended that organisations such as Bee Courtwise be placed in every court in South Africa where children testify in cases of rape and sexual abuse (even in the rural areas). It is suggested that government formalises the provision of such a service, given its potential contribution to alleviating complainants' secondary traumatising as a result of testifying in a criminal court.

The National Prosecution Authority has implemented support structures like Bee Courtwise in a number of courts where no such services exist, and they are in the process of implementing more in courts nationwide. This research confirms the importance of these attempts to provide support for children who have to testify in a criminal court.

Although this research focused on the experience of adolescents testifying in a criminal court, it is recommended that future research focus on assessing court preparation programmes to evaluate their effectiveness and implement possible improvements to ensure that children are optimally prepared for court. The participants' positive experiences do not necessarily mean that they were credible witnesses. When I asked the six participants what the court preparation programme had prepared them for, they did not mention anything specific but gave general answers. My investigation and the children's reports offered no indication of the possible effectiveness of the programme.

I conclude this research report with a letter written by one of the participants in which she describes a sense of hope, which is symbolic not only of the hope for the future of our sexually abused or raped adolescents, but also of our hope for the future of South Africa in improving the plight of our children.

Motivation Letter

Know that whatever happens to you it happens for a reason and know that god loves you all just live life to the fullest.

I don't feel like lost or hated, I'm still living much stronger. For what happened to me at first I felt like god hated me, why did he just chose me, but now I've learned and I know that god is great.

I say to all the people out there, live life and touch one's heart I say. Believe in yourself, get to know your real life purpose cause is the right thing to know your purpose in life, cause people who fail to know their purposes in life end up with an empty direction less.

Be who you are, no matter what happens, or what people say to you believe I know that god is always there for you.

Life is like a barren field frozen with snow, cause life is not too long and is not too short. We are all visitors in this world, to all the people who hurt our feeling lets just live them to god,

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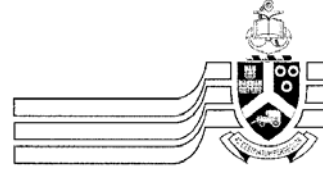
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APPENDIX A



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APPENDIX A: Research Consent Form

Adolescent girls testifying in a criminal court in cases of sexual abuse or rape: A narrative analysis

I, _____ understand that my child, _____ is being asked to participate in the research study focusing on her experience in a criminal court, testifying in a case of sexual abuse or rape. The purpose of the research will give professionals a better understanding when preparing their clients for the court experience and girls who will be testifying, will understand and also benefit from this research. My child is aware that she will be asked to write a letter, do some form of artwork such as (drawing or collage) and an interview.

The study is being conducted by **Marilyn Saunders** who is a student in Masters Counselling Psychology at the University of Pretoria, under the supervision of Dr. E. Du Preez. Marilyn Saunders's contact details are (012) 382 6117, should there be any queries or concerns regarding the study at hand.

I am aware that the results of the project, including personal details regarding my child's sex, age, date of birth, name and any other details that could possibly identify her will be anonymously processed into a final report of a Master's dissertation as undertaken by **Marilyn Saunders** for the MA Psychology degree. I understand the interview will be audio taped and the tapes will be kept confidential in the same way as all other information. I am also aware that the data of the interview will be destroyed at the conclusion of the project.

I am also aware that I/my child will receive no payment or compensation for participating in the study. My child may at any stage, without prejudice, withdraw my consent and participation in the project. I/my child have had sufficient opportunity to ask questions and (of my own free will) declare that she may participate in the project.

I give permission for my child to participate in this study.

Participant's Name: _____ (Please print)

Participant's Signature: _____

Parent/Guardian Name: _____ (Please print)

Parent/Guardian Signature: _____

Witness: _____ Signature: _____

Researcher's Name: _____ Signature: _____

Date: _____

APPENDIX B



The National Prosecuting Authority of South Africa
Igunya Jikelele Labetsbutshisi boMzantsi Afrika
Die Nasionale Vervolgingsgesag van Suid-Afrika

OFFICE OF THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS
SEXUAL OFFENCES AND COMMUNITY AFFAIRS UNIT
(SOCA UNIT)

REF: 7/4/1

ENQ: ADV PIERRE SMITH

4 September 2006

Ms Marilyn Saunders
Tshwane University of Technology
Arcadia Campus
Student development and Support
Building 1 Room G08E
Pretoria
0001

Per fax: 012-382 6376

Re: Research on: Adolescent girls testifying in a criminal court in cases of sexual abuse or rape. A narrative analysis.

This is to certify that Ms Marilyn Saunders has been granted permission by the Sexual Offences and Community Affairs (SOCA) Unit in the National Prosecuting Authority (NPA) to conduct a research for her Masters degree in Counseling Psychology on the identified topic as referred in the heading.

She will be interviewing participants at the Pretoria Magistrate Court for this purpose.

We have also requested a report plus a narrative regarding the outcome of her research which will certainly be of valuable guidance to us.

For any additional information please do not hesitate to contact Adv. Pierre Smith at (012) 845 6133/6.

Kind regards


Adv. Thoko Majokweni
Special Director of Public Prosecutions

POSTAL ADDRESS: PRIVATE BAG 752, PRETORIA 0001
PHYSICAL ADDRESS: 140 WESTLAKE AVENUE, CNR HARTLEY & WESTLAKE AVENUE, WEAVER PARK
SILVERTON
TEL: 012-845 6136 FAX: 012 845 7375

APPENDIX C



Enquiries:
Tel: 011 242 3000
Fax: 011 242 3017

19 June 2006

Dr. E. Du Preez
University of Pretoria
PRETORIA

Dear, Dr. Du Preez

Re: Research on: Adolescent girls testifying in a criminal court in cases of sexual abuse or rape. A narrative analysis.

This is to certify that Marilyn Saunders has been granted permission to conduct a research for her Masters in Counselling Psychology. She will be interviewing participants at the Pretoria Magistrate Court.

Yours Sincerely,

P.P. J. 
Louise Degitlam
Director, Bee Courtwise

APPENDIX D

P1

~~When~~ I was in a special room
My experience in court they handled
me nice when I went to court I was
scared but I made miss Olga and it was
fine and when I went to court I was
scared I was crying but they told me
they no need to be scared but I enjoyed
my court. they first day I went to court
there is a lady says to me I am a
Naughty girl they did ~~not~~ rape me
I said I was raped and she said
no they don't rape me.

P2

My experience in Court was how to testify
I was alone but I was scared it is very
disgusting in there I thought that they
are going to see me on TV and am going to
see him too but NO they saw me I didn't
saw I only ~~the~~ heard the question they
were asking but I was ashamed of my
self I thought if you testify in Court it is
going to appear on the newspaper but felt
free when I was alone not seeing him
Because if had seen him I would be afraid
to talk.

P3

The day I was in court the first day I come every body in this building was so nice to me they always took to me nicely even my lawyer to

AND the day I was scared is the day when I have to be in an open court I feel so scared when I look at the man's who taped me but I become more ~~relief~~ relief I see that I am safe I feel so safe but my lawyer told me that I have to be honest with every thing I said but I was honest in every thing I said

I like to tell you that if you are scared there nothing to worry about even when you are in an open court your going to be safe with all the times but is not easy easy you have to be passia and you have to be brave and u can do it

P4

Hello all the youth out there!!!

I'm an 15 years old girl I've been in court for the first time in my life, for what I've learned and know is that being in court is about being brave. You have to say what happened and just be honest to all the people in court.

The time that I was testifying I was not scared because I've answered all the questions that were asked. And what you have to know guys don't answer the questions which you are not ask, that is the most important thing you have to know.

I've never being like this before, but you know that because I'm done I feel relieved. And guys the other thing is that you have to believe in god, god is always great know that.

For what have happened to me I don't feel guilty for it I know that everything happens for a reason. To everything there is a season and a time for it to happen.

P5

What I have experience in court is that I have told the magistrate all know, and I was putⁱⁿ a special room with someone who was comforting me. I think that I was lucky because I couldn't see the person who raped me, and I didn't even want to see him. You don't have to hide anything you have to talk so that it will come out. If you don't speak to anyone it will eat you inside and end up killing your self.

P6

They treat you very well and help you were ever they can. You must believe in yourself and do not allow someone to get you down. Fight back for what you believe.

The lawyer will make you feel guilty but don't allow it. Say what you know and believe in the truth.

- It is all that will help to get you through it: If you will forget about it quickly. Remember believe in yourself.