

# Disrupting Harm

**Evidence from 13 countries on the context, threats, and children's perspectives of online child sexual exploitation and abuse.**

Detailed Analysis of Interviews with Government Duty Bearers  
South Africa

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This report is a summary of preliminary data collected for this research project. The perspectives contained herein represent the individuals interviewed and surveyed. Support from the Global Partnership to End Violence against Children does not constitute endorsement.

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# Introduction

*Disrupting Harm: evidence to understand online child sexual exploitation and abuse (OCSEA)*, is a unique and collaborative research partnership between ECPAT International, INTERPOL, and UNICEF Office of Research – Innocenti. Leveraging their specific expertise, each partner sheds light on separate but interconnected areas: context, threats and children’s perspectives on online child sexual exploitation.

- Context by ECPAT International through portraying laws & policies in action;
- Threat by INTERPOL through the collection of crime and other data;
- Children’s voices by UNICEF Office of Research - Innocenti through surveys with children and their caregivers.

The countries of focus in Southern and Eastern Africa region are: Ethiopia, Kenya, Mozambique, Namibia, South Africa, Tanzania, and Uganda. The countries of focus in the Southeast Asian region are: Cambodia, Indonesia, Malaysia, Philippines, Thailand, and Vietnam.

Research took place between 2019 and 2021. Up to nine separate research activities were undertaken in each country by the three project partners. Preliminary analysis for each activity was first conducted before the results across all the nine activities were consolidated into each national country report. These can be found [here](#).

This report is the preliminary analysis conducted by ECPAT International of interviews conducted with an identified sample of government duty bearers whose mandates include addressing online child sexual exploitation and abuse at a national level. The aim of interviews was to identify emerging issues and trends, recent progress and upcoming plans and priorities in South Africa’s current legislative and policy environment. In South Africa, 11 interviews with a total of 11 participants were conducted.

ID Number	Ministry/Government Agency	Position
RA1-SA-01-A	Serial and Electronic FCS Investigations, South African Police Service	Colonel
RA1-SA-02-A	South African Law Reform Commission	Principal State Law Advisor
RA1-SA-03-A	Children’s Institute, University of Cape Town	Director of CI
RA1-SA-04-A	National Prosecuting Authority	Senior Prosecutor
RA1-SA-05-A	Teddy Bear Foundation	Director
RA1-SA-06-A	Western Cape Education Department	Social Worker
RA1-SA-07-A	Department of Social Development	Social Worker

RA1-SA-08-A	Department of Basic Education	Directorate: Social Cohesion and Equity in Education
RA1-SA-09-A	Department of Justice	Regional Magistrate
RA1-SA-10-A	AU OCSEA Study	Researcher
RA1-SA-11-A	NPA Limpopo	Senior Public Prosecutor

In South Africa, the interviews were conducted utilising a semi-structured interview schedule that allowed for exploration of emerging issues. Due to the COVID-19 pandemic, interviews were conducted both in-person and virtually. More information on the methodology and data analysis for this research activity can be found [here](#).

## Public awareness of the threat of OCSEA

It was universally agreed that levels of public awareness of online child sexual abuse and exploitation (OCSEA) in South Africa were insufficient and that there needs to be far more evidence-based measurable action to ensure it is having the relevant impact. Key government agencies involved in public awareness raising included the Department of Social Development and the Department of Women and Children (RA1-SA-02-A).

One participant labelled lack of public awareness as *“the single greatest obstacle to protecting children online”* (RA1-SA-10-A, AU OCSEA Study, Researcher).

However, another respondent noted that existing *“national prevention programmes are sporadic and with no focus and momentum. There is nothing compelling in the here and now”* (RA1-SA-05-A, Teddy Bear Foundation, Director).

This respondent also stated: *“There are no established prevention programmes on online exploitation of children per se, but programmes [prevention] do exist, but are not specific to on line sexual exploitation of children”* (RA1-SA-05-A, Teddy Bear Foundation, Director).

Another stated that the prevention sphere is not *“taken seriously in a way that is effective”* (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education).

The lack of awareness was explained as a result of a number of factors. One participant noted the *“generation gap”* (RA1-SA-10-A, AU OCSEA Study, Researcher) that parents (and by inference other adults, such as teachers) were far less comfortable and knowledgeable concerning online activities that children might participate in willingly or be tricked into participating in.

One participant noted that *“catfishing”* (an adult pretending to be younger) was becoming prevalent, as an example of trickery. Other related concepts to OCSEA that were noted as trending included *“sexting”* and *“revenge porn”* among minors, as well as cyberbullying (though without any OCSEA component).

Peer-on-peer exploitation awareness was lacking and under-reported as it is *“often not seen as abuse”* (RA1-SA-06-A, Western Cape Education Department, Social Worker).

Online grooming was also noted by government duty-bearers as being on the rise (RA1-SA-06-A, Western Cape Education Department, Social Worker, and RA1-SA-10-A, AU OCSEA Study, Researcher).

Other reasons offered to explain the lack of public awareness included cultural and religious stigma in terms of discussing OCSEA, and sexuality/sexual abuse generally (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education).

As another participant stated: *“Religious and cultural issues play a role. It’s difficult to talk about sexuality and these issues. We need to find ways of talking to children, adults, parents, and chiefs about these issues”* (RA1-SA-10-A, AU OCSEA Study, Researcher).

OCSEA was also described as a low visibility crime, hence the public does not see it as a real crime, to be taken seriously. *“This is a crime that people can’t really see, there is a distance. People don’t really see this as a real crime”* (RA1-SA-10-A, AU OCSEA Study, Researcher).

Another cultural aspect at play in trying to deal with OCSEA is the “boys will be boys” syndrome, even when reports are made (concerning minor suspects) to the police, a formal investigation does not necessarily result (RA1-SA-05-A, Teddy Bear Foundation, Director).

Concern was noted about the diversion programs and how they may be failing, as evidenced by repeat offenders receiving diversion on multiple occasions (RA1-SA-09-A, Department of Justice, Regional Magistrate).

Unsurprisingly, the lack of public knowledge of reporting mechanisms was also noted, though one respondent mentioned that the *“Films and Publications Board has a reporting website for the public”* (RA1-SA-10-A, AU OCSEA Study, Researcher).<sup>1</sup>

Overcoming this lack of public awareness is being attempted through programmes in the schools. However, these programmes are not being rolled out in a blanket manner, leaving pockets of knowledge in a sea of ignorance. The Department of Basic Education does have a number of programmes on online prevention, but *“the value of these programmes depends on how they are taught and integrated”* into the curriculum (RA1-SA-03-A, Children’s Institute, University of Cape Town, Director of CI).

Two specific programs that were mentioned in terms of raising public awareness of OCSEA were Safer Internet Day<sup>2</sup> and Web Rangers<sup>3</sup> (RA1-SA-10-A, AU OCSEA Study, Researcher).

One participant noted the Films and Publications Board awareness programs for parents and children, but the existence or nature of OCSEA components in this was not certain (RA1-SA-02-A, South African Law Reform Commission, Principal State Law Advisor).

The role of the NGO was also mentioned in attempting to redress this issue. *“NGO’s are a key part of addressing the scourge”* (RA1-SA-02-A, South African Law Reform Commission, Principal State Law Advisor).

However, NGOs have extremely limited resources. National campaigns, such as Child Protection Week, while not OCSEA focused, do have an OCSEA component (e.g. risk factors for OCSEA: RA1-SA-07-A Department of Social Development, Social Worker).

Other national campaigns, such as 16 Days of Activism, may deal tangentially with OCSEA, but OCSEA is not a focus. As one participant summed up the situation: *“The person on the street is clueless. They are not able to deal with this (child sexual abuse materials on the internet)”* (RA1-SA-05-A, Teddy Bear Foundation, Director).

<sup>1</sup> FPB reporting site may be found at [FPB - Film and Publication Board](#)

<sup>2</sup> [About Us - Safer Internet Day 2018](#)

<sup>3</sup> [Home - Webrangers](#)

The Department of Basic Education was active in prevention/awareness raising, but noted many difficulties. For example, provinces differ in their resources, so a national plan to address OCSEA may not work everywhere. Additionally, there are difficulties in getting parents and teachers comfortable in addressing sex and sexuality, in such places as the “Life Skills” curriculum.

*“Life Skills is a struggle that some of us have to endure. The resistance to sexuality education has amazed us. Maybe the country still feels it’s not appropriate”* (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education). The same respondent also noted the issue that religion plays in this resistance.

Without being able to get teachers comfortable discussing these topics the likelihood of properly addressing them with students is slight. As one participant put it: *“We need to look at OCSEA as a barrier to learning”* (RA1-SA-06-A, Western Cape Education Department, Social Worker).

Finally, it was noted that there needs to be national research carried out as a basis for public awareness. Too often South Africa relies on research from other countries or regions, to inform decisions and policies, which may or may not be applicable in South Africa.

As one participant stated: *“we need more research in this area. It’s very limited in South Africa. We rely on information from other countries which is not always applicable”* (RA1-SA-10-A, AU OCSEA Study, Researcher).

To address this, in addition to the Disrupting Harm project, a new piece of African Union research has been finalised on OCSEA.<sup>4</sup> The need to keep track of each prevention/education/awareness raising program should also be noted, to preclude reinventing the wheel, ensure quality control, etc.

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<sup>4</sup> African Union Commission. *Continental Overview of Online Child Sexual Exploitation and Abuse in Africa* (forthcoming release).

## Government Ministries/Agencies

There are multiple government ministries/agencies with a stake in preventing or responding to OCSEA. They include:

- Department of Social Development;
- Department of Justice;
- South African Police Service - specialist units on cybercrime, crimes against children and the Hawks for high-profile cases;
- National Prosecuting Authority;
- Department of Basic Education;
- NGOs (for Tiplines, psycho-social services for victims, prevention initiatives, etc);
- Films and Publications Board;
- Department of Health;
- Department of Communications;
- Department of Women and Children; and,
- Home Affairs for cross border cases.

All are active in working on OCSEA-related issues,<sup>5</sup> but there was confusion regarding the structure of the relationship between the various departments. All noted that OCSEA is not seen as a key, stand-alone concept, but rather integrated into the wider sphere of sexual abuse (ex: RA1-SA-06-A, Western Cape Education Department, Social Worker).

No one department has taken full charge of leading and/or coordinating departments, policy, etc. While the role of the Department of Social Development as the coordinating body for child protection generally was noted, the Department of Justice was seen by one respondent as *“more powerful and perhaps better suited to the task”* as *“the Department of Social Development often does not have the clout to coordinate across departments”* (RA1-SA-03-A, Children’s Institute, University of Cape Town, Director of CI).

Another participant stated that *“departments account to each other”* giving as an example *“the Department of Social Development gives quarterly reports to the Department of Justice. All work well with the Family Violence, Child Protection and Sexual Offenses unit, especially with respect to online child exploitation”* (RA1-SA-07-A, Department of Social Development, Social Worker).

<sup>5</sup> It must be noted that due to the Covid pandemic, representatives from Health and Home Affairs were not available for consultation. The Films and Publications Board was not responsive to our request either, though we did interview a former research manager for their research unit. Finally, only one law enforcement focused interview was conducted for this activity (thus cross-analysis with INTERPOL research components (activities 7 and 8) is important for the full picture..



Roles and responsibilities are not well defined and this results in overlapping/repetition of departments' work. Government agencies were seen by one participant as tending to *"pass the buck"* (RA1-SA-10-A, AU OCSEA Study, Researcher).

The exact role of the Department of Women and Children, which acts as a coordinating body for issues dealing with women, children and disability, was particularly unclear in its mandate and place within the interagency structure in regard to OCSEA (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education).

One participant stated that: *"The new legislation developed by the South African Law Reform Commission will bring role players together"* (RA1-SA-04-A, National Prosecuting Authority, Senior Prosecutor).

This will be needed if OCSEA is to remain as cross-cutting, under many department mandates. However, the ultimate responsibility for OCSEA policy and practice will need to lie with one responsible lead agency, driving action in a coordinated manner across all departments involved.

Government and NGO work also overlaps and NGOs, in many cases, take the lead. Some participants believed the working relationship between government and NGOs needed to improve, while others thought the relationship between government and NGOs was good, with particular NGOs having an excellent relationship with government (RA1-SA-07-A, Department of Social Development, Social Worker).

Another participant noted NGO/government cooperation as *"a work in progress,"* with each party having at least recognised the value of working together (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education).

Finally, NGOs are not represented on networking and coordination bodies, as those are restricted strictly to government offices (RA1-SA-06-A, Western Cape Education Department, Social Worker).

The immense importance of NGOs was noted previously, as *"a key part of addressing the scourge"* (RA1-SA-02-A, South African Law Reform Commission, Principal State Law Advisor), though competition between NGOs was also noted as resulting in a waste of resources (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education).

This disparity of opinions may be due to some participants having had good experiences with a particular NGO while others had bad experiences with another. It may have been the case that certain participants had a good contact or two within an NGO whereas another participant had no such personal "in" and the relationship suffered due to its newness and lack of established trust. Finally, it may have been due to some participants being blind to inter-agency difficulties.

The working relationship between law enforcement and the private sector, such as Internet Service Providers in South Africa, was generally positive, with the request for issuance of subpoenas resulting in good cooperation. With other entities, such as Facebook and Google cooperation was described as being *"a struggle to get information from them. Quicker responses from Google and Facebook would be most helpful"* (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel).

It was also noted that service providers have codes of conduct and are mandated reporters under the Sexual Offences Act<sup>6</sup> (RA1-SA-02-A, South African Law Reform Commission, Principal State Law Advisor)., though the obligation to report the commission of a sexual offences against children is not specific to Internet Service Providers or operating platforms, such as Facebook.

It must be noted that no respondent was aware of any over-arching government policies, such as the National E-Strategy, the E-Government Strategy and Roadmap, or the Cyber Inspectorate. This brings into stark relief the fact that while these policies may look good on paper, there was no evidence of them having practical impact on the fight against OCSEA, at least with respect to the participants interviewed.

### Capacity

South Africa was described as being ahead in terms of law and policy development, though implementation was underscored as *“a [major stumbling] block”* (RA1-SA-03-A, Children’s Institute, University of Cape Town, Director of CI and RA1-SA-07-A, Department of Social Development, Social Worker).

All participants noted that having increased personnel and resources available to be prepared to tackle OCSEA would be an improvement. A picture emerged of many key personnel lacking knowledge and skills specifically on OCSEA, though pockets of excellence were noted.

The need to keep continuously training, to keep abreast of new developments and trends, was remarked upon. As one participant put it: *“training is a moving target”* (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education), reflecting the need for speed in disseminating new/evolving information.

Multiple examples were given by multiple participants of police failing to adequately respond to the reporting of crimes, for example, failing to get cellphone records for a phone used to facilitate OCSEA (RA1-SA-09-A, Department of Justice, Regional Magistrate). This perhaps reflects the simple lack of substantive knowledge regarding exactly what is required in OCSEA investigations.

Other examples of skills shortages included prosecutors not understanding the technical and evidentiary aspects of OCSEA, specifically those involving child sexual abuse materials.

*“Child pornography has always been a problem for the state to prove in court. I have had to acquit because of the way the evidence is presented, the chain of evidence”* (RA1-SA-09-A, Department of Justice, Regional Magistrate).

This concern with *“the chain of evidence, linking the perpetrator with the images”* was echoed by another respondent (RA1-SA-04-A, National Prosecuting Authority, Senior Prosecutor).

<sup>6</sup> Republic of South Africa. (2007). [Criminal Law Amendment \(Sexual Offences and Related Matters\) Act No. 32 of 2007 \(as amended in 2015\), at section 54.](#)

Finally, from a trained personnel perspective, a brain-drain was seen as occurring due to poaching by the private industry of the best and the brightest from the technology field, such as within the South African Police Service.

There was concern regarding the forensic computer personnel from the police perspective: *“they don’t stay”* (RA1-SA-09-A, Department of Justice, Regional Magistrate).

As soon as someone in the cybercrime unit gets enough experience and distinguishes themselves, the private sector swoops in and offers them a better paid position.

*“Online crime is a very specialised issue and police don’t have enough knowledge about this. Their pay is not enough and we lose specialised people to private industry”* (RA1-SA-09-A, Department of Justice, Regional Magistrate).

Social service professionals, whether at the South African Police Service, Department of Social Development or Department of Basic Education, were noted as having a high turnover rate (RA1-SA-07-A, Department of Social Development, Social Worker) and not always being knowledgeable concerning the dynamics of child abuse, exploitation and OCSEA, nor having the skills and training to deal with online abuse (RA1-SA-03-A, Children’s Institute, University of Cape Town, Director of CI).

The turnover rate is due to underwhelming pay and difficult working conditions. A lack of feeling appreciated coupled with a lack of resources to provide essential care and support to children left one participant feeling that most departments saw these services as *“nice to have but not essential”* (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education).

It was noted that there needs to be more trainings on issues specific to OCSEA for the criminal justice community as well as other government personnel, and specific legislation addressing the intricacies surrounding OCSEA would be helpful. Some of these issues may be addressed by the adopting of the South African Law Reform Commission (SALRC) recommendations specifically on issues concerning child sexual abuse materials (referred in the report as ‘child pornography’).<sup>7</sup> Unfortunately, it was noted that as soon as legislation is researched, drafted, reviewed, passed, enacted and then implemented, there’s a new aspect to OCSEA. Therefore, the legislation struggles to keep pace with the ever-evolving nature of these offences.

*“Things are developing so quickly that we will never be able to keep up with it. By the time it is enacted it is already out of date”* (RA1-SA-09-A, Department of Justice, Regional Magistrate).

In South Africa, the time it takes to get legislation enacted is, in fact, prodigious. Strict limits may need to be set on each phase of legislative development (research, drafting, etc), to expedite the timeliness of the creation of new laws. Alternatively, a more pro-active approach to drafting legislation may be called for, rather than always reacting to new ways and means of committing crimes coming to light. For example, what do those “in the know” see coming down the line in the immediate future in terms of dynamics and perpetration of OCSEA? However, within cybercrime generally, and OCSEA in particular, the arc may

<sup>7</sup> South Africa Law Reform Commission. (2019). [Project 107 – Sexual Offences: Pornography and children – Discussion paper 149.](#)

always be that criminals think of new ways to exploit and legislation will always be playing catch up, bogged down in democratic debate and public participation, hallmarks of a functioning and robust democracy.

### Budget

None of the participants had any specific knowledge of budgetary/spending issues. However, some did identify budget and the lack of resources generally as a challenge for OCSEA and child abuse generally (RA1-SA-06-A, Western Cape Education Department, Social Worker, and RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education).

The irony of budgetary restrictions resulting in the lack of internet in all schools, where internet safety can be taught to a key audience (children) cannot go unremarked upon. Generally, it was stated that OCSEA is subsumed within the general child abuse or cybercrime budget allocations. In addition to government agencies, it was also remarked upon that NGOs need more monetary and personnel resources (RA1-SA-03-A, Children's Institute, University of Cape Town, Director of CI).

### Good practices

For Child Protection Week, the Department of Social Development is developing a component on online sexual exploitation, specifically risk factors for OCSEA (RA1-SA-07-A, Department of Social Development, Social Worker).

The training will focus on what to do to address risk factors and is aimed at children and their parents. It is being developed by the Department of Social Development, the Films and Publications Board and Facebook (RA1-SA-07-A, Department of Social Development, Social Worker).

While awareness raising and education are critical as a first step in the fight against OCSEA, it is equally critical that the criminal justice system be prepared to efficiently and effectively deal with cases when they are reported. Increased education will inevitably lead to increased reporting – that is in no small part the aim of education. The police, prosecutors and all other allied criminal justice professionals must then have the ability to deal with these cases both sensitively and successfully, if they are to instil confidence in the people, specifically victims and their families, who turn to them for justice.

## Policies and Laws

### Assessment

The key pieces of legislation addressing OCSEA were the Sexual Offences Act<sup>8</sup> and the Films and Publication Act.<sup>9</sup> Pending legislation in the form of the Cybercrime Bill, which at the time of the interviews was in the Assembly<sup>10</sup> (RA1-SA-02-A, South African Law Reform Commission, Principal State Law Advisor). is also of note, as it will enable take-down and protection orders to be combined with the criminal case (RA1-SA-09-A, Department of Justice, Regional Magistrate). Finally, there is the South African Law Reform Commission's Discussion Paper on Child Pornography [Child sexual abuse materials],<sup>11</sup> which contains proposed amendments to deal with various aspects of sexual offenses, including OCSEA.

While these laws and policy documents were all praised by participants, there is concern about fast-moving, new trends that are emerging and need to be more strongly addressed. While there is legislation addressing some aspects of OCSEA, for example grooming (either online or in person),<sup>12</sup> new issues (such as live-streaming or sexual extortion (revenge porn)) are still waiting to be addressed.

One participant noted that in the research sphere *“the area that received the most focus was legislation on pornography but not other forms of OCSEA”* (RA1-SA-10-A, AU OCSEA Study, Researcher). As with research, child sexual abuse material receives the primary focus of many laws and policy, but other issues are also present and need to be addressed too.

Interestingly, participants from the education sector mentioned that mandatory reporting of child abuse/exploitation is feared by many teachers as there is a fear of retaliation and victimisation by perpetrators against the teacher/reporters. One participant noted a way to address this by having social workers make the report (RA1-SA-06-A, Western Cape Education Department, Social Worker). However, this simply shifts the burden and stress from one profession (teachers) to another (social workers). It may be that social workers are more familiar with the criminal justice system and therefore less hesitant to become involved with it. In terms of medical/psychological service providers, they too are concerned about mandated reporting as they fear it may interfere with their ability to get the truth from their patients and thereby treat them effectively.

<sup>8</sup> Republic of South Africa. (2007). [Criminal Law Amendment \(Sexual Offences and Related Matters\) Act No. 32 of 2007 \(as amended in 2015\)](#).

<sup>9</sup> Republic of South Africa. (2019). [The Film and Publication Act No. 65 of 1996 \(as amended by Amendment Act No. 11 of 2019\)](#).

<sup>10</sup> Republic of South Africa. (2017). [The Cybercrimes Bill of 2017](#)

<sup>11</sup> South Africa Law Reform Commission. (2019). [Project 107 – Sexual Offences: Pornography and children – Discussion paper 149](#). ECPAT prefers the terms ‘child sexual exploitation material’ or ‘child sexual abuse material’, in a legal context ECPAT still uses ‘child pornography’. ECPAT promotes the progressive replacement of this older term in line with the [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse](#).

40. Bangkok: ECPAT International.

<sup>12</sup> Republic of South Africa. (2007). [Criminal Law Amendment \(Sexual Offences and Related Matters\) Act No. 32 of 2007 \(as amended in 2015\)](#), at section 18.

Failing to adequately coordinate all the pieces of legislation and the key actors in the fight against OCSEA results in duplication of tasks and wasting resources (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education).

Implementation of legislation was noted as a key stumbling block (RA1-SA-07-A, Department of Social Development, Social Worker).

*“The law is only a piece of paper if not properly implemented”* (RA1-SA-02-A, South African Law Reform Commission, Principal State Law Advisor).

There is no overarching training or knowledge of all potentially relevant legislation. The example given was that *“social workers were only trained on the Children’s Act”* (RA1-SA-07-A, Department of Social Development, Social Worker). The lack of cross-referencing key pieces of legislation, and the fact that key pieces of legislation are found in multiple Acts, was seen as a significant hurdle to using the existing laws to their best advantage.

One issue that was brought up was the problem of how to address youth self-generated sexual content and the subsequent texting of that content to other minors. The possibility that the person receiving the image may not in fact be a minor, as well as subsequent sharing of the image without the subject’s consent were noted as particularly concerning (RA1-SA-02-A, South African Law Reform Commission, Principal State Law Advisor).

The trend was identified *“where children are tricked into sending pictures to a peer, peer influences. It is the I’ll show you mine if you show me yours – but it is online and it is not a peer”* (RA1-SA-02-A, South African Law Reform Commission, Principal State Law Advisor).

In the interest of not branding minors as criminals, there are options of no criminal prosecution if a photo is taken of the child him/herself or if it is shared with a peer (under 18) with the permission of the subject of the image (RA1-SA-02-A, South African Law Reform Commission, Principal State Law Advisor).

It was also stated that *“child perpetrators are mostly exploring their sexuality and don’t go to court. They are referred to school psychologists or to the Department of Social Development”* (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel).

While some minor offenders may fit into this benign description, others are knowingly and intentionally engaging in OCSEA and doing immense damage to their schoolmates, peers and/or children younger than themselves. If these offenders are not dealt with properly, they will continue to exploit their position as a minor to continue harming others while simultaneously avoid consequences for their criminal actions.

## Challenges and limitations

Legislatively, while the Electronic Communications and Transaction Act<sup>13</sup> does not deal specifically with OCSEA, it was noted that it needs to be amended to deal with admissibility of electronic evidence. This is reflective of a desire to have legislation that addresses not just policy matters but also the detailed knowledge and procedures being spelled out to make implementing both existing legislation as well as

<sup>13</sup> Republic of South Africa. (2002). [Electronic and Communications and Transactions Act No. 25 of 2002](#)



pending legislation user friendly. While evidentiary and other procedural codes may be amended to better reflect the reality of 21<sup>st</sup> century technology, it is still necessary to be trained on these amendments and implement them properly.

In South Africa, the legal framework regarding OCSEA is fragmented. It comprises multiple pieces of legislation, common law definitions of criminal offences and civil law remedies. Moreover, the current legal framework is not comprehensive as far as OCSEA offences are concerned. While some offences, like those related to child sexual abuse material (CSAM) are specifically covered in the various acts, newer forms of OCSEA offences are yet to find direct mention.

The fact that various pieces of legislation address (or overlap in addressing or contradict each other) when it comes to OCSEA was noted in the interviews. For example, the overlap between the Sexual Offences Act<sup>14</sup> and the Films and Publications Act.<sup>15</sup>

The Sexual Offences Act gives a clear and comprehensive definition of child sexual abuse materials.<sup>16</sup> The definition covers images, descriptions and presentations of a child engaged in sexually explicit acts.<sup>17</sup> In addition, the definition covers real as well as simulated persons, thereby providing for virtual child sexual abuse materials and also materials that depict a person appearing to be a minor engaged in sexually explicit conduct.<sup>18</sup> It covers not only visual material, but audio and written material as reflected by the use of the words ‘description’ and ‘presentation’.<sup>19</sup> Therefore, the definition of child sexual abuse materials under the Sexual Offences Act is in line with international standards.

The Film and Publications Act also criminalises certain acts associated with child sexual abuse materials. It is noteworthy that the scope of criminal conduct related to child sexual abuse materials under the Films and Publications Act is much wider than under the Sexual Offences Act. The 2019 amendment to the Films and Publications Act added a new object to the Act which is to “criminalise the possession, production and distribution of child pornography”.<sup>20</sup> The amended Films and Publications Act contains elaborate provisions on child sexual abuse materials. It criminalises any person who unlawfully possesses these materials; creates, produces or assists in the creation or production of child sexual abuse materials; or imports, procures, obtains or accesses such materials or knowingly assists in any of these activities; or knowingly distributes or makes available, exports, broadcasts or in any way assists in these acts, any film,

<sup>14</sup> Republic of South Africa. (2007). [Criminal Law Amendment \(Sexual Offences and Related Matters\) Act No. 32 of 2007 \(as amended in 2015\)](#).

<sup>15</sup> Republic of South Africa. (2019). [The Film and Publication Act No. 65 of 1996 \(as amended by Amendment Act No. 11 of 2019\)](#).

<sup>16</sup> Republic of South Africa. (2007). [Criminal Law Amendment \(Sexual Offences and Related Matters\) Act No. 32 of 2007](#), Section 1(1).

<sup>17</sup> Republic of South Africa. (2007). [Criminal Law Amendment \(Sexual Offences and Related Matters\) Act No. 32 of 2007](#), Section 1(1).

<sup>18</sup> Republic of South Africa. (2007). [Criminal Law Amendment \(Sexual Offences and Related Matters\) Act No. 32 of 2007](#), Section 1(1).

<sup>19</sup> Republic of South Africa. (2007). [Criminal Law Amendment \(Sexual Offences and Related Matters\) Act No. 32 of 2007](#), Section 1(1).

<sup>20</sup> Republic of South Africa. (2019). [The Film and Publication Act No. 65 of 1996 \(as amended by Amendment Act No. 11 of 2019\)](#), Section 2(d).

game or publication containing child sexual abuse materials or which advocates, advertises, encourages or promotes child sexual abuse materials.<sup>21</sup> Unlike the Sexual Offences Act, the Films and Publications Act criminalises mere possession of and knowingly obtaining access to child sexual abuse materials. Furthermore, it expressly criminalises the distribution of child sexual abuse materials.

Additionally, the Children’s Act criminalises “commercial sexual exploitation of children”, including use of children in sexual activities like “pornography” for financial gain or reward.<sup>22</sup> The Act prohibits persons from using, procuring, employing or offering a child to participate in the creation of pornographic material.<sup>23</sup>

Hopefully the adoption and implementation of the South African Law Reform Commission recommendations will result in the Sexual Offences Act being the primary piece of legislation addressing “child pornography”<sup>24</sup> and key elements currently found in the Films and Publications Act will be repealed and introduced into the Sexual Offences Act as amendments, thereby collating all pertinent laws in one place. It should also be noted that the Commission has recommended changing the term ‘child pornography’ to ‘child sexual abuse materials,’<sup>25</sup> in keeping with the evolving standards of using language that accurately reflects the severity of the crime.

When critiques of the legal system were made, however, they tended to address not only the substantive criminal legislation, but also procedural, evidentiary issues, such as chain of evidence concerns, admissibility of evidence and the difficulties of obtaining search warrants to gain access to evidence.

It was stressed repeatedly by participants that OCSEA is just one element of child abuse and should be seen in that context. Without seeing it as simply one facet of a greater problem, responding to it will be harder and less effective. It was also noted that children should be more consulted in developing law and policy (RA1-SA-10-A, AU OCSEA Study, Researcher), as they are perfectly placed to know the vulnerabilities of their peers and also the dynamics of those who have tried to target them for exploitation. In short, children could afford an insiders’ view of the problem and possibly come up with workable suggestions for how exploitation might be avoided. (It’s noted that research with young people as part of the Disrupting Harm project may go some of the way to informing in this area).

<sup>21</sup> Republic of South Africa. (2019). [The Film and Publication Act No. 65 of 1996 \(as amended by Amendment Act No. 11 of 2019\)](#), Section 24B.

<sup>22</sup> Republic of South Africa. (2005). [Children’s Act No. 38 of 2005 \(as amended in 2010\)](#), Section 1(1) read with 141(1)(b).

<sup>23</sup> Republic of South Africa. (2005). [Children’s Act No. 38 of 2005 \(as amended in 2010\)](#), Section 1(1) read with 141(1)(b).

<sup>24</sup> While ECPAT prefers the terms ‘child sexual exploitation material’ or ‘child sexual abuse material’, in a legal context ECPAT still uses ‘child pornography’ in line with the recently widely adopted [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse](#). 40. Bangkok: ECPAT International.

<sup>25</sup> South Africa Law Reform Commission. (2019). [Project 107 – Sexual Offences: Pornography and children – Discussion paper 149](#), at §7.1.



In terms of law enforcement, it was noted that *“people are afraid of getting involved with any form of law enforcement as it is perceived as very punitive,”* both generally and with respect to OCSEA (RA1-SA-05-A, Teddy Bear Foundation, Director).

Law enforcement needs to have training that incorporates *“a more people-centred approach, as it is currently seen as heavy handed”* (RA1-SA-05-A, Teddy Bear Foundation, Director). Additionally, when there is no in-house expertise on the technical side of the investigation (as opposed to the victim/witness interaction component), IT companies have assisted with investigations, but *“their fee are exorbitant”* (RA1-SA-04-A, National Prosecuting Authority, Senior Prosecutor), though some IT professionals were prepared to donate their time and expertise and work for free. Companies may charge for this service as they are not legally obligated to provide it, unlike complying with a subpoena, which is legally mandated.

Training of criminal justice actors (police, prosecutors, magistrates) is a given, but needs to be ongoing and continuous, not one-off, due to the dynamic nature of OCSEA. Training also needs to be given by those with specialised knowledge, such as the US Federal Bureau of Investigation. Learning how to access the dark web for investigative purposes was given as an example (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel).

It was pointed out that training for magistrates and prosecutors was hard to accomplish due to their court schedule being beyond their control. However, the Association of Regional Magistrates of South Africa does offer annual training on a province-by-province basis to address sexual offenses, including OCSEA. This training’s agenda covered the latest issues within OCSEA.

*“We do training all the time for the magistrates. All appointed magistrates at regional and district courts get extensive training on child abuse, grooming, child witnesses and related topics, including electronic evidence. The South African Judicial Training Institute provides the training. It is provided by experienced magistrates and experts from specific fields. We have just redone our training for the year, and there are specific trainings on sexual offences and child sexual abuse material”* (RA1-SA-09-A, Department of Justice, Regional Magistrate).

It should also be noted that most magistrates attend training only for magistrates, to avoid the potential appearance of favouritism if they attended trainings with defence counsel or prosecutors.

Finally, offender treatment plans are available from the Department of Correction Services (RA1-SA-07-A, Department of Social Development, Social Worker) and the South African National Institute for Crime Prevention and the Reintegration of Offenders (RA1-SA-09-A, Department of Justice, Regional Magistrate) and some NGOs, though another respondent noted there were no specific programmes in place for offenders unless offered by private practitioners (RA1-SA-05-A, Teddy Bear Foundation, Director).

Another challenge was that there is no follow up with regard to earlier announced plans for a National Sex Offender register or part B of the child protection register in the Children’s Act<sup>26</sup> (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel).

<sup>26</sup> Republic of South Africa. (2005). [Children’s Act No. 38 of 2005 \(as amended in 2010\)](#).

### Future developments

The South African Law Reform Commission paper on child pornography<sup>27</sup> has a number of helpful recommendations, including creating a new “no-defence” for impossibility (undercover police officer pretending to be an 11-year-old-girl, when in fact the officer is an adult. “No defence of impossibility” would be legislatively in place to prevent perpetrators even raising it)

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<sup>27</sup> South Africa Law Reform Commission. (2019). [Project 107 – Sexual Offences: Pornography and children – Discussion paper 149](#). NOTE: the term “child pornography” was used by the Commission in its Discussion Paper title. While ECPAT prefers the terms ‘child sexual exploitation material’ or ‘child sexual abuse material’, in a legal context ECPAT still uses ‘child pornography’ in line with the recently widely adopted [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse](#). 40. Bangkok: ECPAT International

# Law Enforcement

## Assessment

Participants had generally positive feeling towards the law as it currently exists in relation to OCSEA, though there were serious reservations about how it is interpreted and applied. Concerns regarding issuance of search warrants and chain of evidence (linking the perpetrator with the images) and admissibility of evidence were noted, particularly by law enforcement/Department of Justice representatives in the interviews (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel and RA1-SA-04-A, National Prosecuting Authority, Senior Prosecutor and RA1-SA-09-A, Department of Justice, Regional Magistrate).

Law enforcement has specialised units, both for high-profile cases (which may include OCSEA) and for cybercrime and for crimes against children, but they are overburdened. Lack of general awareness of the unit's existence interferes with collaboration. The Family Violence, Child Protection and Sexual Offences, and Cybercrime unit's jurisdictions will have to be coordinated to ensure there is no duplication of effort and that there is a clear protocol on how OCSEA cases will be assigned

There is good cooperation within law enforcement domestically (RA1-SA-04-A, National Prosecuting Authority, Senior Prosecutor). There were also reports of good interaction with INTERPOL and the US Federal Bureau of Investigation, highlighting that international cooperation is good. Many cases have recently been worked on successfully with the US, UK and EU (RA1-SA-04-A, National Prosecuting Authority, Senior Prosecutor). But it was also pointed out that *"cooperation agreements are only as good as the people who have signed them"* (RA1-SA-03-A, Children's Institute, University of Cape Town, Director of CI).

Lack of training on the most up-to-date IT skills/low IT knowledge generally/lack of technology/equipment was a serious drawback. As one law enforcement participant noted, *"the training provided in-house by SAPS [South African Police Service] is not adequate. The specialist serial and electronic crimes investigation unit did have an FBI training 4 years ago on online exploitation and the dark net"* (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel), and that training received a positive review (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel).

Law enforcement interviewed had never received referrals from the Films and Publications Board toll-free line, but Films and Publications does help law enforcement determine the age of the child (in the child sex abuse material). Reports from the Films and Publications Board were noted as taking a long time but were very good (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel).

Determination of age will also be addressed by the South African Law Reform Commission paper, if it is adopted, to ease the burden on investigation and prosecution and provide guidance and consistency in determining the age of the children in child sexual abuse materials. Law enforcement were found to seldom work with NGOs (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel). Law enforcement did work with the Department of Social Development, but it was noted

that communication between them is not transparent (RA1-SA-03-A, Children's Institute, University of Cape Town, Director of CI).

Sources of reports of OCSEA are most likely to come from family, friends and educators. It is believed that the number of cases reported and investigated is small compared to the true number of offenses committed.

*"We do not have separate stats on specific cases coming to court. Sexual offences are about 65% of the cases dealt with in regional court. The ones involving children are at least half of that. We are seeing more and more, mainly with cellphones and exchange of photos with the OCSEA cases"* (RA1-SA-09-A, Department of Justice, Regional Magistrate).

There is a national image data-base and police are connected to the INTERPOL managed global ICSE database.. It was noted that when OCSEA images are shared many times, the dates on material becomes irrelevant, making tracing the images back to source difficult.

South African nationals also were noted to *"use overseas Internet service providers to cover their tracks"* and *"child pornography is normally stored on an external device"* to further complicate matters of search and seizure (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel). Anonymous reports are also difficult to follow up as law enforcement has an extremely difficult time obtaining a search warrant based on such an allegation (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel and RA1-SA-04-A National Prosecuting Authority, Senior Prosecutor).

### Challenges and limitations

There is a general lack of knowledge about OCSEA specifically. There are concerns about the investigations being led by people who do not have the requisite skills and knowledge to do the best job possible. Forensic tools are limited, as well as general policing requirements, such as vehicles. Some officers must use their own laptops (RA1-SA-10-A, AU OCSEA Study, Researcher), which may lead to serious evidentiary and admissibility concerns.

Cooperation between the technology industry and government was not seen as optimal, though law enforcement did note that local ISPs were cooperative, as opposed to Facebook and Google.

*"With Google and Facebook, we usually struggle to get information from them. For ISPs [Internet Service Providers] in South Africa we generally issue a subpoena and we get cooperation. It would be good to get quicker responses from Google and Facebook. Local internet service providers are legally mandated to report child pornography"* (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel).

Another participant, however, did note that Facebook does respond to investigative enquiries and has an office in South Africa (RA1-SA-11-A, NPA Limpopo, Senior Public Prosecutor).

Again, these different experiences may be simply indicative of personnel dealt with or of different treatment given to different professionals within the criminal justice community (prosecutors vs law

enforcement). Industry was described as a *“business that is profit driven”* whereas the government is approaching the issue from a child protection perspective. There was uncertainty about getting the balance right between legitimate privacy rights and protecting the security of children (and others).

There has been some training for law enforcement, but neither the quality nor the quantity is optimal. There is a need for ongoing training, *“especially in advances in technology”* (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel).

There is always something new happening in OCSEA, so more training is always needed. *“Child pornographers often mix children’s images with legal adult images to conceal child abuse images. It takes an enormous amount of time to sort through these”* (RA1-SA-04-A, National Prosecuting Authority, Senior Prosecutor).

In cases where perpetrators are automatically downloading images, it can also set up the defence of “no intent” to possess child sexual abuse images. Religious and cultural issues also often stymie investigations as many victims and their families are hesitant to get law enforcement involved at all.

A disproportionate amount of work is perceived as being pushed onto NGOs, leading to less-than-optimal relationships between NGOs and law enforcement, on those occasions when they do overlap in their work assignments. NGOs rather than government are seen as taking the lead. The government was perceived by one participant, as noted previously, as *“passing the buck”* (RA1-SA-10-A, AU OCSEA Study, Researcher).

There is a need to improve the working relationships between government and NGOs (RA1-SA-10-A, AU OCSEA Study, Researcher), and more funding for NGOs is required (RA1-SA-03-A, Children’s Institute, University of Cape Town, Director of CI).

NGO/government cooperation *“is a work in progress – both parties have seen the value in working together”* (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education).

There is a need for more clarity on role and responsibilities of government versus NGOs (RA1-SA-02-A, South African Law Reform Commission, Principal State Law Advisor).

Length of time it takes to get through the criminal justice system was noted as a huge challenge. Multiple postponements result in cases (investigation and prosecution) dragging on for years.

*“Cases are postponed and postponed and we often ‘walk with these cases’ for up to two years”* (RA1-SA-06-A, Western Cape Education Department, Social Worker).

Some of this delay may be due to general backlog of the court’s docket, so speeding up the docket would help alleviate backlog. OCSEA cases may also be assigned to Sexual Offenses Courts, if such a court is available in a particular location, putting them on an expedited schedule by taking them out of the general docket. OCSEA/child abuse/sexual offenses can be prioritised on the general docket where a specialist court is not available. Magistrates can be more responsive to moving OCSEA cases by refusing to allow

defence motions to continue/postpone the court date, without a serious and substantial reason, such as hospitalisation or death of a witness.

There are difficulties surrounding debriefings, to assist with any stress officers and detectives who work these cases may have, particularly in child sexual abuse materials cases. Debriefing is offered twice a year by employment health workers (government) and even then, finding time for debriefing is a problem (RA1-SA-01-A, Serial and Electronic FCS Investigations, South African Police Service, Colonel).

Finally, many children fail to see some issues within OCSEA as criminal conduct.

*“Children don’t see sexual grooming as a sexual offence”* (RA1-SA-06-A, Western Cape Education Department, Social Worker).

Grooming is experienced as a positive occurrence by children, in that they get attention, affection and gifts. Sexting has become so common that children no longer see it as inappropriate, let alone criminal. Additionally, peer-on-peer exploitation is underreported as it may not be seen as a crime by adult, and may be looked on as “boys will be boys” or “they’re just experimenting” rather than the crime that it is (RA1-SA-06-A, Western Cape Education Department, Social Worker). This may be one reason that some awareness raising may miss the mark and be ineffective. Adults and minors simply define the issue differently. What minors see as ‘normal’ or ‘exciting’, adults recognise as exploitation. These divergent starting points must be recognised and accommodated in any education/prevention/awareness raising campaign if it is to be successful.



## Successes

A number of success stories were identified, the most high-profile being the South African Law Reform Commission discussion paper on CSAM,<sup>28</sup> which was uniformly praised for the depth, breadth and insight of its findings and recommendations, addressing both substantive issues and also evidentiary and procedural changes needed to respond to these crimes. While the overall scope of the Commission's work was reviewing all sexual offenses legislation, a further Discussion Paper from the project had a narrow focus on the child pornography element of OCSEA, (term of "child pornography" was used by the SALRC.)<sup>29</sup> As the participant consensus was that the findings and recommendations would be accepted and implemented, though not necessarily in the exact form put forward currently by the Commission, an optimistic tone was discerned from participants that amending existing laws would, at least partially, assist in preventing and responding to OCSEA. The need to comprehensively and continuously train all relevant personnel of the new provisions of the paper, when it is adopted, was noted by many participants, in order to achieve real effectiveness. This is a step often forgotten or that goes unfunded (RA1-SA-06-A, Western Cape Education Department, Social Worker). The timeframe of 3-4 years before it is made law was also noted (RA1-SA-02-A, South African Law Reform Commission, Principal State Law Advisor).

The other piece of pending legislation, the Cybercrime Bill, is working its way through the comment and drafting stages of becoming a law at the time of writing. While it has been going through this process for three years now, it must be remembered that in South Africa a bill must be commented on at both the provincial and national level, as well as opened up to the public for their comment. Once a new draft is created, this process may happen all over again, until finally the bill is passed. The Sexual Offenses Bill took many years to become the Sexual Offenses Act, as did the Prevention and Combatting of Trafficking Act. In addition, the COVID-19 pandemic has drastically shifted the focus of much of the government's work to health issues, putting this bill on the backburner for the moment.

Some successful prosecutions of high-profile cases have occurred over the past few years (RA1-SA-02-A, South African Law Reform Commission, Principal State Law Advisor), some with international cooperation (e.g. the US, UK and EU). This may reflect the growing specialisation of police and prosecutors, as well as the growing knowledge of the judiciary. Trainings are incorporating OCSEA into existing child abuse/child sexual abuse agendas. The South African Judicial Education Institute now has a training on online crimes against children, including OCSEA. It may also reflect the growing use of experts being called at trial to explain OCSEA victim behaviour and also cyber/IT experts for the technical aspects. However, calling experts may be expensive, even when an expert does agree to testify.

<sup>28</sup> South Africa Law Reform Commission. (2019). [Project 107 – Sexual Offences: Pornography and children – Discussion paper 149.](#)

<sup>29</sup> ECPAT prefers the terms 'child sexual exploitation material' or 'child sexual abuse material', but in a legal context still uses 'child pornography' in line with the recently widely adopted [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse](#). 40. Bangkok: ECPAT International.

The COVID-19 pandemic has put the spotlight on the digital divide between rich and poor, *“inequalities have been largely exposed”* (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education).and raised the profile of OCSEA now that many students are taking their classes online.

COVID-19 was cited as increasing the risk of OCSEA (Western Cape Education Department, Social Worker, RA1-SA-06-A, South Africa ), as *“children are online more and also seek contact with each other because of isolation”* (RA1-SA-07-A, Department of Social Development, Social Worker).

It was hoped that the increased focus on online activities and potential vulnerabilities children may have to online sexual exploitation will raise awareness of these crimes.

One stated that COVID-19 had *“forced a change of approach. We used to focus on just the professionals, but Covid has pushed us to work more with parents and caregivers”* (RA1-SA-10-A, AU OCSEA Study, Researcher).

The psycho-social support system will need to expand to keep up with *“the wave” of OCSEA anticipated to come in the wake of Covid”* (RA1-SA-09-A, Department of Justice, Regional Magistrate).

*“The Department of Education has sent out a request for every province to develop a plan for psycho-social support. There is a COVID 19 pathway plan”* (RA1-SA-06-A, Western Cape Education Department, Social Worker).

The only ‘upside’ of COVID-19 was noted in the new online options for court cases that are becoming available, including how children can testify. As one person noted: *“getting hardware has been a problem historically, but Covid has enabled this”* (RA1-SA-09-A, Department of Justice, Regional Magistrate).



## Challenges

Perceived challenges to preventing and responding to OCSEA were numerous. Areas of concern included the extremely dynamic nature of the crime. As the variety of OCSEA crimes continues to expand and evolve, this leaves police, prosecutors, social services and legislators struggling to keep up. New crimes like sexual extortion and sexting, and smartphones enabling more OCSEA were given as examples.

As one participant put it, *“predators are 10 times ahead in figuring out how to get to children”* (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education).

Difficulties with staying up to date with the technological side of OCSEA, from an investigation and prosecution perspective, was repeatedly listed among the top concerns. From a policy response perspective, the problem is that things evolve so quickly that as soon as one facet of OCSEA is sorted out, another emerges (RA1-SA-09-A, Department of Justice, Regional Magistrate).

A lack of adequate legislation and the evidentiary intricacies in OCSEA cases were noted as an on-going challenge. The failure to fully implement even those laws currently in place was listed as a hurdle to effectively responding to OCSEA (RA1-SA-07-A, Department of Social Development, Social Worker).

Sufficient personnel resources, both in terms of staff and training, was cited as a challenge by seven participants. The lack of state-of-the-art technology being available to investigators is an example of a shortage of key tools to help investigators.

The need for resources at not just the national level, or even the provincial level, but at the municipal or district level was noted (RA1-SA-06-A, Western Cape Education Department, Social Worker).

Coordination of government response, especially in the rural areas was seen as lacking, as was the absence of prevention/education materials for children and families in local languages (not just in English). *“I want to get to a point to translate these [prevention] messages into indigenous languages. We must have at least one indigenous language for each message”* (RA1-SA-08-A, Department of Basic Education, Directorate: Social Cohesion and Equity in Education).

The lack of training for prosecutors and police on high-tech and evidentiary aspects of these cases will increase the number of OCSEA acquittals. Police cybercrime units, Hawks (the Directorate for Priority Crime Investigation responsible for the combating, investigation and prevention of national priority crimes), and first point of contact police officers, as well as prosecutors, all need continuous training on this specific issue. The relatively low numbers of successful prosecutions of these cases, specifically those involving child sexual exploitation materials, simultaneously lowers morale and reinforces the bias against these cases as too difficult to prove beyond a reasonable doubt with admissible evidence in a court of law. The sheer number of cases of child abuse generally, with OCSEA cases subsumed within those number was daunting.

*“Sexual offences are about 2/3 of the regional court’s docket and half of those involve children as victims”* (RA1-SA-09-A, Department of Justice, Regional Magistrate).

Requests for additional training for all key personnel on both the technical/electronic/digital side of OCSEA cases, as well as training in working with children targeted for OCSEA were consistent themes. The complexities of working with cases where often it is children targeting other children for victimisation was also remarked upon. It was noted that children who target other children were often getting put into diversion programs rather than being held accountable for their actions, and this was seen to lead to reoffending.

Meeting the challenges of working with children targeted for OCSEA and their families was noted. Parental interference may take place in initially bringing cases to the attention of the police or subsequently failing to support continuing with the investigation and prosecution. This is due to the offender often being known to the family, who do not want the police involved in a “family matter.” Reticence about discussing sexual matters, including sexual exploitation, will also discourage children from asking questions about OCSEA-type scenarios, thereby impeding the cause of prevention and education/awareness.

Within the context of professional training, one participant stated *“there needs to be case studies – looking at real cases that were dealt with and what should be dealt with differently. We need to see things through the eyes of the child”* (RA1-SA-06-A, Western Cape Education Department, Social Worker).

That same insight can be applied to working with children themselves. While children may not be comfortable asking questions, prevention initiatives may want to use real-world case studies to start off discussions, and make sure those involved in the initiatives feel confident and at ease with discussing these matters, setting the tone for a more open exchange of questions and answers, and teaching through example.

Another challenge is conducting research that looks at South Africa specifically. Often, research from other countries has to be relied upon for shaping policy, but that research doesn’t reflect the realities in South Africa. In addition to research, focusing on retaining key professionals, such as police and social workers, was a challenge. High turnover rates for these professions, and the resulting void they leave behind, makes these cases harder to work with from both an investigative perspective, as well as a victim-support one.

Finally, while COVID-19 has been noted above as a vehicle for increased resource deployment and public awareness raising of OCSEA, it was also seen as an emerging challenge to prevention efforts and as a cause of higher numbers of children being exploited online, or at least placed at risk of being exploited. The drastic increase in numbers of children going online, especially for schooling as it moves online to respond to the virus, puts more children at risk of OCSEA.