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COURT PROCEEDINGS AND USE OF INTERMEDIARY SERVICES IN COURT

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the doj & cd

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REPUBLIC OF SOUTH AFRICA



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DEFINATION OF AN INTERMEDIARY

An intermediary is a supportive and impartial person who is suitable and experienced to act as an intermediary, and is appointed by the court to reduce secondary victimization of a child witness, under 18 years who has to testify in court and those who are mentally challenge as well as adults with a mental capacity of a child (sect 170A of the criminal Procedure Act of 1977).



The legal duties and functions of the intermediary in the CJS

- ❖ **TESTIMONY IN CAMERA:** According to Section 153 of the criminal procedure Act of 1977, the proceedings may be in camera if it appears that there is a likelihood that harm might result to any person, other than an accused, if he testifies at such proceedings, the court may direct that such person testify behind close doors.
- ❖ **CCTV:** According to Section 158 of the criminal procedure ACT 1977, states that all proceedings are to take place in front of the accused. The court, may subject to section 153, on its own initiative or on application by the public prosecutor order that the witness or accused consents there to, may give evidence by means of closed circuit television or similar electronic media.



The legal duties and functions of the intermediary in the CJS cont...

- ❖ **INTERMEDIARIES:** According to Section 170A of the criminal procedure ACT 51 Of 1977 evidence through intermediaries is permitted. Whenever criminal proceedings are pending before any court and it appears to such court that it would expose any witness under the biological age of eighteen years to undue mental stress or suffering if he or she testifies at such proceedings, the court may, subject to subsection (4), appoint a competent person as an intermediary in order to enable such witness to give evidence through intermediary.



MAIN OBJECTIVES OF AN INTERMEDIARY

- ❖ Provide intermediary services for vulnerable witnesses, where an application is granted in court
- ❖ Provide specialised child language services
- ❖ Maintain intermediary room
- ❖ Ensure good governance in DOJ&CD



Roles and duties of Intermediary

- ❖ Build rapport with a child
- ❖ Convey general purport of the question to the child witness.
- ❖ Convey the content and meaning of the question to level of the child's developmental stage
- ❖ Protect the child witness from the cross examination which may be traumatizing and confusing to him/her
- ❖ To ensure that the child witness understand the question posed to him/her so that he/she can be able to give a relevant answer



Appointed intermediary

- ❖ The intermediary sits with the child in a separate room from the court to protect the child from the community and the accused
- ❖ The room is called the testifying room and it should be child friendly and safe for a child.
- ❖ It has a CCTV,(close circuit television) head phones, micro phones, anatomically detailed dolls, glass of water and tissue papers
- ❖ The intermediary hear the questions from the Magistrate, prosecutor and the defence and convey the questions to level of understanding of the child witness.



Adhoc intermediary

- ❖ An Adhoc intermediary is a person qualified to act as a intermediary, this person only comes in when needed
- ❖ Persons who qualifies to be intermediaries as Gazetted and do not know the merits of the case can be adhoc intermediaries.



Holistically care provided by intermediary

- ❖ **Physical Care:** Intermediary ensure that children have food, look neat and (DOJ)also provide witness fee for children and families
- ❖ **Emotional Care:** during rapport and during court proceedings, an intermediary observe the child witness's behaviour and work to provide support
- ❖ **Spiritual Care:** an Intermediary assist the child witness to understand what it means to take an oath
- ❖ **Cognitive Care:** an intermediary assess the child witness's competence to testify in the court using different basic activities.



Categories of an Intermediary

Categories or type of persons that can be appointed as intermediaries are published in the Government Gazette. This includes:

- ❖ Medical practitioner
- ❖ Family counsellor
- ❖ Child and Youth Care Worker
- ❖ Social Worker
- ❖ Educator
- ❖ Psychologist





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CASE PROCESS

- ❖ SCENE
- ❖ POLICE STATION
- ❖ RAPE UNITY
- ❖ DOCTOR J88
- ❖ PROSECUTOR
- ❖ COURT
- ❖ SOCIAL WORKER
- ❖ COURT PREPARATION OFFICER
- ❖ INTERMEDIARY





CASE PROCESS Cont..

- ❖ **SCENE:** where an incident of the child witness took place, that includes, home, school, neighbor, community etc
- ❖ **POLICE STATION:** when the child has been abused sexually, physically or neglected, the incident is reported at the police station and a case is opened
- ❖ **CHILD PROTECTION UNIT:** child abused cases are referred to CPU who knows about all the procedures that they should follow
- ❖ **DOCTOR J88:** a doctor will examine the child fill the J78 form which comes from the police station and the doctors or forensic nurse report will be use at court



Case process Cont....

- ❖ **PROSECUTOR:** the prosecutor will study the docket and if there is a need to prosecute the case he/she will liaise with the investigation officer and take the case to court
- ❖ **COURT:** the court will follow the procedure and make the decision when it has all the relevant information that is needed from the complainant, witness and the accused
- ❖ **SOCIAL WORKER:** an assessment report will be requested from the Social worker if need arise. When the witness is an adult with a mental capacity of a child, the court will require the social worker's report.



Case process Cont....

- ❖ **COURT PREPARATION OFFICER:** this officer prepares the child witness to be ready to testify using a program called the 'PEACE MODEL', and orientate the child about the court environment and the intermediary services
- ❖ **INTERMEDIARY:** an intermediary does not go into the merits of the case while building rapport with the child witness.



ROLE PLAYERS IN THE COURT

- ❖ Magistrate
- ❖ Prosecutor
- ❖ Stenographer
- ❖ Interpreter
- ❖ Defence Lawyer
- ❖ Court Orderly
- ❖ Accused





EXTERNAL STAKE HOLDERS IN A COURT

- ❖ DEPARTMENT OF EDUCATION
- ❖ DEPARTMENT OF SOCIAL DEVELOPMENT
- ❖ DEPARTMENT OF HEALTH
- ❖ None Government Organisation
- ❖ South African Police Services





OUTREACH PROGRAMS

Intermediaries work is not limited to office and courts

They also visit:

- ❖ Schools
- ❖ Communities
- ❖ Government Department
- ❖ Attend events as per invitations
- ❖ Participate in government projects related to children





OUTREACH PROGRAMS Cont.....





INFORMATION SHARING WITH COMMUNITY





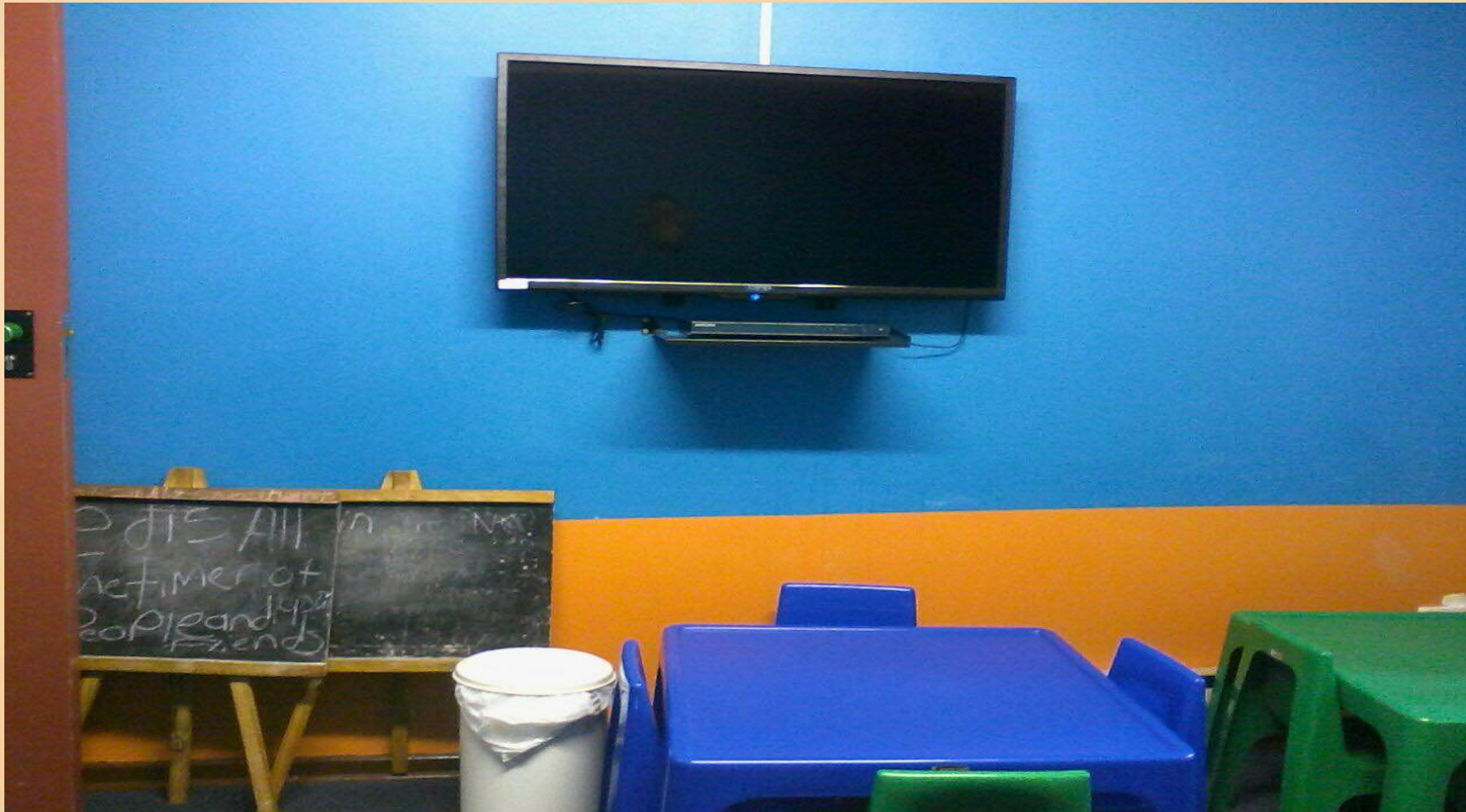
PARENT'S WAITING ROOM

- ❖ Court preparation officer use this puppet to orientate the child about the court Environment





CHILDREN'S WAITING ROOM





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CHILDREN'S PLAY AREA





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TESTIFYING ROOM





Anatomically detailed dolls

An Intermediary use 10 Anatomically detailed dolls to assist the child witness in narrating her/his story to the court ,when they fail to continue with their testimony because of their emotions





Thank you for your time

