TRAINING HANDBOOK ON INVESTIGATION AND PROSECUTION OF ONLINE CHILD SEXUAL EXPLOITATION AND ABUSE IN KENYA

2023

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Online Child Sexual Exploitation and Abuse (OCSEA) is an emerging issue in Kenyan society. It is a crime, therefore, a major concern to the Justice System Institutions. The concern is the existence of a gap in officers' knowledge about this phenomenon and challenges to the practice of law enforcement. This training manual was developed to address the training and practice gap in the justice sector. The manual covers training modules and standardised presentations on OCSEA for the justice actors. Further, the training package provides a child-friendly approach to addressing and engaging children who have been exploited and abused through online platforms.

The Children Act 2022 provides for protection and response to online violations of children. It is envisioned that the rollout and sustaining of training will support the implementation of the Act. The training will be pivotal in ensuring the timely provision of victim-centred, individualised, trauma-informed, culturally competent, and comprehensive services to victims and witnesses of OCSEA. Further, the Handbook will reinforce the aspirations of the National Strategy on Justice for Children in Kenya (2023-2028) and the National Plan of Action on tackling OCSEA (2022-2026).

The training aims to capacity-build trainers and officers in the justice system on the investigation and prosecution of OCSEA cases in the child's best interests. The Handbook has provided a structured, coordinated, and multi-stakeholder approach to training targeting officers mandated to investigate and prosecute cases of OCSEA, primarily the police, prosecutors, Judges/magistrates and lawyers.

The National Council on the Administration of Justice (NCAJ) commits to fully supporting the training and the realisation of the strategic aspirations of efficient child justice administration in Kenya.

Hon. Justice Martha K. Koome, EGH
The Chief Justice, President of the Supreme Court of Kenya &
Chairperson, the National Council on the Administration of Justice

ACKNOWLEDGEMENTS

The development and rolling-out of this Handbook on Investigation and Training of Online Child Sexual Exploitation and Abuse (OCSEA) for justice professionals was through the concerted effort of many players. First, I profoundly appreciate the members of the National Council on the Administration of Justice (NCAJ) led by the Hon. Chief Justice and Chairperson for championing children's best interests.

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Anne A. Amadi, CBS
Chief Registrar of the Judiciary &
Secretary, National Council on the Administration of Justice
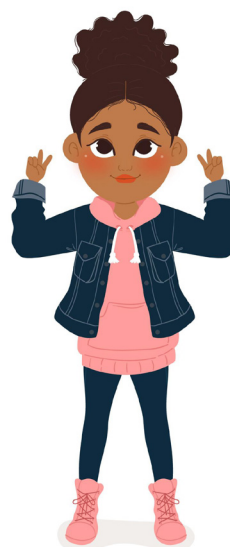
EXECUTIVE SUMMARY

The Handbook aims to support facilitators in delivering the Kenya Justice Sector Training on Online Child Sexual Abuse and Exploitation (OCSEA). The training has eight core modules and four agency-specific modules targeting officers mandated to investigate and prosecute cases of OCSEA, especially the police, magistrates, judges, prosecutors and Lawyers. Therefore, the Handbook is expected to ensure that the investigation and prosecution of OCSEA is seamless and effective and, most importantly, yield the child›s best interests and efficient administration of child justice in Kenya.
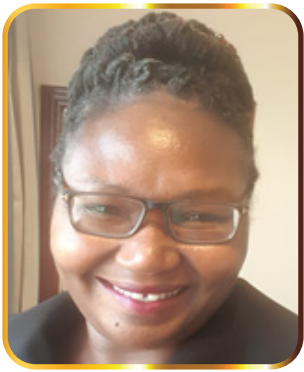
The training package provides four core modules (1- 4) and agency-specific modules (5 – 8) that the officers shall cover. Module 1 is on basics of OCSEA, which is to cover approximately 3 ½ hours, followed by module 2 on putting the child first, a child-centered trauma-informed approach estimated to cover 3 hours. Module 3 is on understanding perpetrators of OCSEA (1 ¼ hours), module 4 focuses on gathering and using evidence (3 hours), while module 5 is on police investigations (3 ½ hours). Next is module 6 on prosecuting OCSEA cases (4 hours) followed by module 7 on adjudicating OCSEA cases (3 hours). The last module covers legal representation in OCSEA cases (4 hours).

The facilitator is expected to train all participants on the four core modules covering the essential elements of a justice sector response to OCSEA. The facilitator will then train the participants using one of the four additional modules, depending on whether participants are police (handling reports, arrests, and investigations), prosecutors, magistrates, judges, or lawyers. Where the officers do not fall into these specific categories, the agencies will advise on the additional modules they prefer to cover. Further, all actors may be trained or exposed to all modules before emphasis on their area. A multi-sectoral approach in training is highly encouraged.

On Quality control, trainers in Appendix H will conduct the training with the agencies applying discretion on the number of officers participating. The timings outlined in the agenda assume a maximum of 25 participants. However, trainers are advised to take note of the number of trainees and adjust the time allocated for plenary discussions and feedback accordingly.

Hon. Lady Justice Teresia M. Matheka
Chairperson,
NCAJ Standing Committee on the Administration of Justice for Children

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ABBREVIATIONS & ACRONYMS

ACE   Adverse childhood experiences

AHTCPU   Anti-Human Trafficking and Child Protection Unit

CSAM   Child Sexual Abuse Materials

DCI   Directorate of Criminal Investigations

ICT   Information and Communication Technology

IWF   Internet Watch Foundation

MLA   Mutual Legal Assistance

OCSEA   Online Child Sexual Abuse and Exploitation

ODPP   Office of the Director of Public Prosecutions

PTSD   Post-Traumatic Stress Disorder

VIS   Victim Impact Statement

Child Sexual Abuse Material (CSAM): Any visual or audio content of a sexual nature involving a person under 18 years old, whether real or not real[1].

Cyber locker: An online service that provides file storing and file-sharing for media files and data. They can also be called online storage or cloud storage.[2]

Dark web: The layer of information and pages that you can only get access to through so-called 'overlay networks' that obscure public access. Users need special software to access the dark web because a lot of it is encrypted, and most dark web pages are hosted anonymously.[3]

Image hosting service: An image hosting service that allows individuals to upload images to an Internet website. The image host will then store the image on its server and show the different individual types of code to allow others to view that image.

Live-streaming of child sexual abuse: Child sexual abuse that is perpetrated and viewed simultaneously in real-time via communication tools, video conferencing tools and/or chat applications. In most cases, the offender requesting the abuse in exchange for payment or other material benefits is physically in a different location from the child(ren) and the facilitators of the abuse.[4]

Online child sexual exploitation and abuse (OCSEA): OCSEA refers to situations that involve digital or communication technologies at some point during the continuum of abuse or exploitation. OCSEA can occur fully online or through a mix of online and in-person interactions between offenders and children.[5]

Online grooming of children for sexual purposes: Engagement with a child via technology with the intent of sexually abusing or exploiting the child. While international legal instruments criminalising grooming indicate that this must take place with the intent to meet the child in person, it has become increasingly common for offenders to sexually abuse children by, for example, manipulating them into self-generating and sharing CSAM through digital technologies, without necessarily having the intention of meeting them and abusing them in person.[6]

Production, possession or sharing of child sexual abuse material (CSAM): Photos, videos, audios or other recordings, or any other representation of real or digitally generated child sexual abuse or sexual parts of a child for primarily sexual purposes.[7]

Sexual extortion of children: Refers to the use of blackmail or threats to extract sexual content or other benefits (e.g., money) from the child, often using the sexual content of the child that has previously been obtained as leverage.[8]

Sexual harassment of a child and unwanted exposure of a child to sexual content are other phenomena that can impact and enable OCSEA in some instances. For example, offenders can deliberately expose children to sexual content as part of grooming to desensitise them to sexual acts. However, for evidence-based policy and program development, it is important to acknowledge that there are differences between voluntary viewing of sexual content by children and viewing that is forced or coerced.[9]

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[1] WeProtect Global Alliance (2021) Global Threat Assessment 2021

[2] Techopedia, https://www.techopedia.com/definition/27694/cyberlocker

[3] WeProtect Global Alliance, 2021, Global Threat Assessment 2021, page 71

[4] End Violence Against Children, 2021, Disrupting Harm in Kenya, page 15

[5] End Violence Against Children, 2021, Disrupting Harm in Kenya, page 6

[6] End Violence Against Children, 2021, Disrupting Harm in Kenya, page 15

[7] End Violence Against Children, 2021, Disrupting Harm in Kenya, page 15

[8] End Violence Against Children, 2021, Disrupting Harm in Kenya, page 16

[9] End Violence Against Children, 2021, Disrupting Harm in Kenya, page 16

Sharing of self-generated sexual content Involving children can lead to or be part of OCSEA, even if this content is initially produced and shared voluntarily between peers, as it can be passed on without permission or obtained through deception or coercion.[10]

Surface web: The portion of the web readily available to the general public and searchable with standard web search engines.[11]

TOR: Short for 'The Onion Router', is an example of free and open-source software for enabling anonymous communication[12]. Other similar software is Riffle, Freenet and I2P. An analysis by the U.S. Federal Bureau of Investigation (FBI) of one TOR-based website found that it hosted *"approximately 1.3 million images depicting children subjected to violent sexual abuse"*.[13]

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[10] End Violence Against Children, 2021, Disrupting Harm in Kenya, page 16

[11] WeProtect Global Alliance, 2021, Global Threat Assessment 2021, page 71

[12] Wikipedia, https://en.wikipedia.org/wiki/Tor_(anonymity_network)

[13] U.S. Department of Justice, 2016, The National Strategy for Child Exploitation Prevention and Interdiction

MODULE 1 – OCSEA: THE BASICS

This module outlines the basics of OCSEA both nationally and internationally, including legislation and guidance to help shape best practices in prevention and response.

Time: 3 ½ hours

Content	Slide No.	Time
Welcome and introductions	1-2	30 min
Overarching aims for training	3	5 min
Learning outcomes for module 1	4	5 min
Group agreement	5	5 min
Session 1: What do we mean by OCSEA	6-8	30 min
Session 2: National legislation and international treaties addressing OCSEA	9-14	15 min
Session 3: National and international trends in OCSEA	15-29	60 min
Session 4: Covid-19 and OCSEA	30-32	20 min
Session 5: Collaborative approaches to preventing and responding to OCSEA	33-36	30 min
Session 6: Summarizing module 1	37,38,39	10 min

What facilitators will need for Module 1:

- PowerPoint slide for Module 1
- Activity 1 (see Appendix A) – Definitions (several printed out and cut, the number needed is based on group size)
- Copies of the WeProtect Model National Response (see Appendix B)
- Copies of the national laws (see Appendix F)
- Envelopes
- Flipchart paper and pens.

Welcome and Introductions (Use Slide 2)

Introductions: Introduce yourself as facilitator(s) and give a short overview of your experience (approximate 1 minute per facilitator).

Facilitate Introductions: (20 minutes)

Ask participants to separate into groups of three and introduce themselves to the group by sharing the following:

- Any experience they have in handling OCSEA cases
- Their role/job title and organisation
- The level of knowledge of OCSEA within their organisation
- What they are hoping to get from the training.

Return to plenary: Ask each participant to introduce themselves (their name and role) and briefly explain what they hope to get from the training. Keep participants' contributions short by suggesting a maximum of 1 minute each.

Explain to participants that some may have very little knowledge of OCSEA currently – this training is intended to help build that knowledge and be able to put it into practice.

Overarching Aims of the Training (Use Slide 3)

Review the overarching aims of the training provided on the slide:

- To broaden participants' understanding of OCSEA and its impact on children and their families
- To enable participants to understand better the challenges the justice sector faces in handling OCSEA cases in Kenya and opportunities for addressing them.
- To support participants in practicing handling OCSEA cases concerning their role(s)
- To equip participants with knowledge, skills, and tools to handle OCSEA cases in ways that prioritise the best interests of the child.

Ask if participants have any questions. Answer any questions that can be immediately answered or explain when this question will be covered in the rest of this and future modules. If you cannot answer the question, explain that you will respond after you have looked for the answer, writing the question down on a flip chart or in your handbook. Make sure to respond to this question at a convenient time – at the start of a morning or after a session, or close of the module.

Learning Outcomes for Module 1 (Use Slide 4)

Review the learning outcomes for Module 1 provided on the slide and below:

- Understand OCSEA – what it is, the national and global trends, and the impact of COVID-19.
- Understand the legislation in place for tackling OCSEA.
- Explore who should be involved in an OCSEA case using the WeProtect Model National Response.

Ask if participants have any questions.

Group Agreement (Use Slide 5)

Review the group agreements provided on the slide and below:

- Be on time. We will also respect your time and finish promptly.
- Mobile phones are on silent. If you need to take an urgent call, please do so outside.
- Participate and let everyone speak. Do not interrupt, even if you disagree. If you have spoken a lot, let quieter participants speak.
- Confidentiality: everything said here is kept confidential UNLESS it needs to be shared for child protection reasons.
- Look after yourself: it can be an upsetting topic so take a break when you need it.
- Speak to us: if you have any concerns, are upset by the content, or have any questions.

Ask participants if there is anything they would like to add. Write it down on flipchart paper.

SESSION 1: What Do We Mean By OCSEA? (Use Slides 6 to 8)

What Do We Mean By OCSEA? (Use Slide 7)

Activity: This is a small group activity to review the terminology related to OCSEA.

Materials:

- Envelopes
- Activity 1 (see Appendix A): Print several copies and cut out each term and the definition separately. Put the pieces of each sheet into separate envelopes – one per group.

I. **Small group activity: (20 minutes)**

- Explain that this activity is to support participants to understand better the terminologies relating to OCSEA.
- Divide participants into groups of five per group.
- Hand out the pre-cut activity sheet with the words and definitions separated into two envelopes.

Instruct participants not to open the envelopes until the activity begins.
- Explain to participants that inside one envelope are pieces of paper with terminologies written on them, and in the other envelope are some pieces with definitions written on them. Ask participants to match each term to the correct definition.
- Say 'ready set go'
- When one group has said they have finished, check their answers. If any are wrong, continue the game. Once a group has each term correctly matched with its definition, ask the winners to check and support the other groups.

II.   **Plenary discussion: (5 minutes)**
- Ask participants to return to plenary. Facilitate a discussion using the following prompts:
    - Were any of the definitions new to you?
    - Did any surprise you?

A Brief Overview of OCSEA (Use Slide 8)

Explain in the diagram on the slide and provided below. The orange boxes show how and where OCSEA occurs; the blue boxes show different OCSEA trends and patterns.
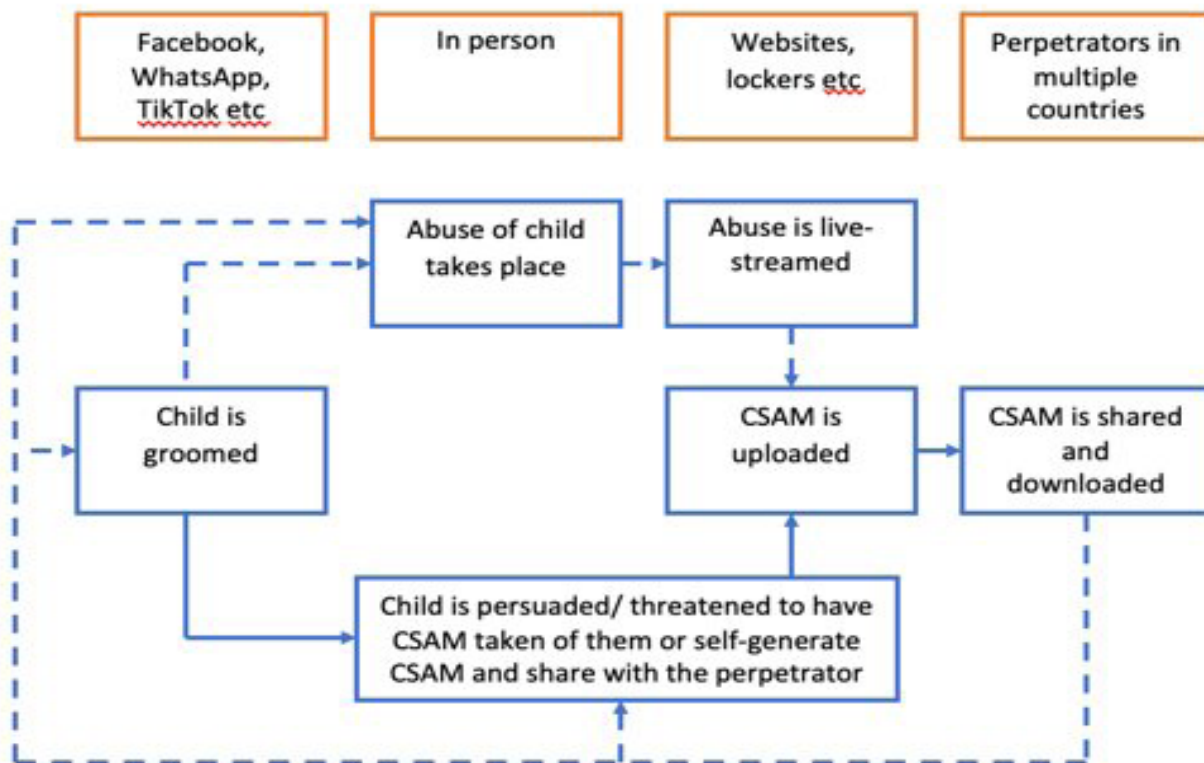
Explain the key points:

- OCSEA can and does take place on the surface web, as well as the dark web *(for definitions, see Glossary, page 2).*
- Most OCSEA portrays in-person child abuse.
- Self-generated materials are often not shared by choice or with the knowledge of what can happen to those materials.
- Perpetrators are in multiple countries, making tracking and prosecution extremely difficult.
- Perpetrators' use of advanced online technologies makes it even harder to track and convict.

International Conventions, Treaties and Rules (Use Slide 10)

Explain: Articles 2(5) and (6) of the Constitution of Kenya provide that the general rules of international law and any treaty or convention ratified by Kenya that form part of the laws of Kenya. These international legal rules and ratified regional and global treaties and conventions influence laws in all cases. They are especially important when there is no domestic or national law provision. This background is especially important in the case of OCSEA, which is a relatively new phenomenon.

Therefore, international and regional human rights treaties Kenya has signed are a part of the legal framework and must be considered when developing public policy from a human rights perspective.

Relevant international and regional conventions that Kenya has ratified include:

- The Optional Protocol to the CRC on the Involvement of Children in Armed Conflict on 28th January 2002.
- The Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography was signed on 8th September 2000 but has not been ratified.
- Lanzarote and Budapest Conventions provide useful measures of national legal frameworks related to OCSEA and are open for accession by states, not members of the Council of Europe.

What Treaties, Conventions and Legislation are There to Address OCSEA? (Use Slide 11)

Group discussion: This group discussion is to identify participants' knowledge of existing legislation that addresses OCSEA in Kenya.

Facilitate a group discussion using the prompts on the slide and below: (20 minutes)

- What international treaties, conventions, and rules are there to tackle OCSEA?
- What regional legal framework exists to tackle OCSEA?
- What Kenyan regulations and policies are there to tackle OCSEA?
- What gaps and challenges in laws and policies are there currently?

Note to facilitators: Encourage participants who have yet to contribute to share their views and ideas without placing undue pressure on anyone.

Regional Law and Policy (Use Slide 12)

Review the regional laws and policies related to OCSEA provided on the slide and below:

- African Charter on Human and Peoples Rights (entered into force 21st October 1986), ratified by Kenya on 23rd January 1992 (also known as the Banjul Charter).
- African Charter on Rights and Welfare of the Child (entered into force 29th November 1999), ratified by Kenya 25th July 2000.
- African Youth Charter adopted June 2006 by the Executive Council of the African Union Commission at its 6th Ordinary Session in Banjul, entry into force 8th August 2009, ratified by Kenya 23rd January 2014.
- Declaration of Principles on Freedom of Expression and Access to Information in Africa, issued by the Special Rapporteur on Freedom of Expression and Access to Information in Africa (30th April 2019).
  African Union Convention on Cyber Security and Personal Data Protection, adopted by the twenty-third Ordinary Session of the Assembly, held in Malabo, Equatorial Guinea, 27th June 2014 (not yet in force. NOTE has not been signed or ratified by Kenya).

Note that more detailed information on national laws is available in Appendix F; you may also choose to print and distribute copies to participants.

Domestic Regulation (Use Slide 13)

Review the content related to domestic regulation provided on the slide and below:

- Section 22(3) of the Children Act No. 29 of 2022 outlines provisions for protecting children from online child abuse, harassment, or exploitation. It further states that this includes cyberbullying, grooming and solicitation, cyber enticement, cyber harassment, and cyberstalking under section 22(4) of the Act.
- Section 16A of the Sexual Offenses Act (2006) - Sexual Communication with a Child (added 2018).
- Gaps in legislation and a lack of access to training on these issues. Section 24 of the Computer Misuse and Cybercrimes Act defines CSAM and explicitly criminalises acts associated with it. At the same time, the Sexual Offences Act sets the age of sexual consent at 18 and criminalizes CSAM and related acts. However, no specific references are made in either law to live-streaming, online grooming for sexual purposes, or sexual extortion in the online environment.

Domestic Policy (Use Slide 14)

Review the domestic policy related to OCSEA provided on the slide and below:

- The National Children Policy 2010 recognizes that access to accurate and appropriate information prepares children for various life experiences and challenges. However, children are susceptible to harmful information through ICT and media. Therefore, the state and key adults in a child's life must protect children against possible harm. The specific measures of protection include, among others:

    - Enactment of legislation and policies to ensure that children do not access information that is detrimental to their development.
    - Creating awareness programs for duty bearers on the dangers of exposure to uncontrolled media and pornographic materials.
- The policy also recognizes that all children are vulnerable to sexual abuse and exploitation. However, girls are more affected, and that protection against these shall be provided through, among others, enforcement of legislation on child sexual abuse and exploitation.
- The National Plan of Action on Online Violence for Children in Kenya (2021 – 2024) is aligned with the Constitution of Kenya 2010. It has been designed to contribute to realizing the goals of Kenya Vision 2030. It has also considered the Sustainable Development Goals (SDGs), which aim to safeguard children's rights to survival, development, protection, and participation. It notes that children should be protected against the negative impact of information and communication technologies and media. In this respect, Information and Communication Technologies (ICTs) have exposed children to new forms of abuse, such as child pornography or exposure to pornographic material, cybercrime, child trafficking, and kidnapping. Even though evidence shows an increase in these forms of child abuse, public awareness of ICT-related child abuse remains low, and legislation has not been effectively used as a deterrent. The law enforcement system is not adequately equipped to prevent and respond to this emerging form of child abuse. Additionally, there is a need for more research to understand the magnitude of child abuse associated with ICT in Kenya.

SESSION 3: National and International Trends in OCSEA (Use Slides 15 to 32)

Activity: This activity reviews a case study followed by a facilitated discussion in plenary.

Read the case study, or ask a volunteer participant to read the case study provided on the slide below:

- M* was three years old when one of our analysts found child sexual abuse material (CSAM) showing her abuse. We assessed her suffering as an 'A' category: that means M* was being defiled or there was a level of sadism (sexual gratification from inflicting pain, suffering, or humiliation on another person) involved in the abuse.

- The CSAM was shared repeatedly by the abuser. He was not content to sexually abuse M – he wanted to share the CSAM with others who shared it. At one point, it was shared on average three times a day, every day, for three months
- Our team assessed the CSAM. M was identified, rescued, and taken to a place of safety. Her abuser has been arrested and charged.
- But the CSAM – that record of M*'s abuse, is still being shared online.

Adapted from a case study from the Internet Watch Foundation:

https://www.iwf.org.uk/about-us/why-we-exist/

Facilitate a discussion in plenary using the prompts below: (20 minutes)

- What are your immediate reactions to the case study? How does the case study make you feel? This can be a challenging topic.
- What legislation is there to handle a case like this?

Note: Allow 20 minutes for the discussion, focusing most of the time on the second question.

Kenyan Children Internet Usage (Use Slide 17)

Review the statistics provided in the infographics on the slide and below:
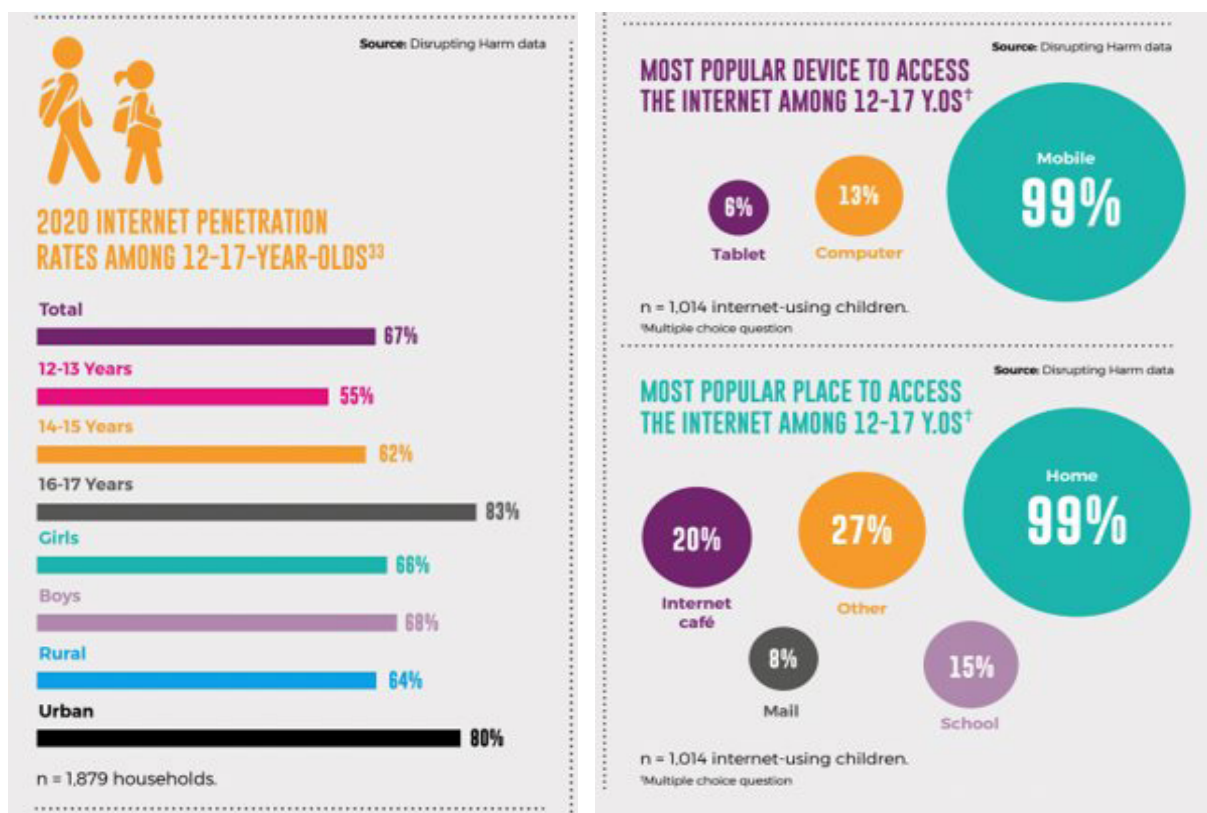
Highlight: The statistics were sourced from the source with the most recent national data available, Disrupting Harm Kenya 2021.

Activities Children Engage with Online At Least Once a Week (Slide 18)

Review the information provided on the slide and below:

Online activities	Total	12-13	14-15	16-17	Boy	Girl
Watching videos	57%	56%	61%	53%	58%	55%
Using social media	51%	33%	52%	63%	55%	47%
Using instant messaging	39%	24%	36%	54%	45%	35%
Playing online games	34%	44%	33%	27%	40%	28%
Watching a live-stream	34%	38%	34%	30%	36%	31%
School work	32%	28%	31%	37%	32%	32%
Searching for new information	25%	16%	26%	31%	30%	21%
Following celebrities and public figures on social media	20%	11%	20%	26%	21%	19%
Searching for news	19%	11%	21%	24%	24%	15%
Talking to family or friends who live further away	17%	13%	16%	21%	18%	16%
Participating in a site where people share their interests	15%	9%	17%	18%	17%	14%
Searching for information about work or study opportunities	13%	8%	11%	20%	13%	14%
Creating their own video or music	11%	12%	11%	10%	10%	11%
Searching for health information	10%	8%	9%	12%	10%	10%

Explain: Children have been using the internet more frequently since COVID-19 for learning and socialising. Children use the internet for various things, using different apps and platforms. Point out that the statistics are the most recent national statistics specific to children in Kenya and are from Disrupting Harm Kenya 2021.

What Are the Main Issues in Kenya? (Use Slide 19)

Review the key issues in Kenya related to OCSEA on the slide and provided below:

- Many adults, including the general public and officers in the justice sector, are not sensitized on how to recognize or respond to OCSEA cases.
- OCSEA is hugely under-reported. There are several reporting platforms, but they are not known by the public, e.g., 116, KE-CIRT, and the DCI hotline.
- OCSEA cases are mostly reported as defilement cases.
- Children feel ashamed and scared to tell an adult about OCSEA.
- Most OCSEA cases are only reported when it involves in-person abuse.
- Police lack the resources needed to handle OCSEA cases.
- Justice actors are not familiar with the provisions of the most recent/relevant legislation on OCSEA - Computer Misuse and Cyber Crimes Act, Children Act No. 29 of 2022.
- The justice sector wants to know more about OCSEA so they can do more to prevent and respond to it.

Explain: These findings are from Maestral's field research, conducted from October to December 2021. It was used alongside *Disrupting Harm in Kenya*[1] to currently draw together an up-to-date picture of OCSEA in Kenya.

Children's Risk-Taking Online (Use Slide 20)

Review the statistics in the infographics provided on the slide and below:

Talking to someone on the internet whom they have not met face-to-face before

44% — % of children who say this is 'very risky' for children their age

I added people who I have never met face-to-face to my friends or contacts list

35% — % of children who have done this in the past year

Base: Internet-using children aged 12-17 in Kenya. n = 1,014.

Going to meet someone face-to-face that they first got to know online

53% — % of children who say this is 'very risky' for children their age

In the past year, have you ever met anyone face-to-face that you first got to know on the internet?

14% — % of children who have done this in the past year

Base: Internet-using children aged 12-17 in Kenya. n = 1,014.

Explain: These statistics are taken from *Disrupting Harm in Kenya (2021)*. While the statistics demonstrate that some children are aware of risks online, a large proportion of children are unaware, and a worrying number are taking serious risks online.

Children's Experiences of OCSEA (Use Slide 21)

Review the data provided in the infographic on the slide and below:

Explain: These statistics are taken from *Disrupting Harm in Kenya (2021)*. Highlight that many unwanted online discussions about sex came from someone known to the child. Moreover, 25% said it did not affect them, which shows that some children have a level of resilience – but not all children.

Parents' Top Concerns About Their Children (Use Slide 22)

Review the data in the graph provided on the slide and below:

Highlight: The largest concern was around watching or coming across pornography (portraying adults)
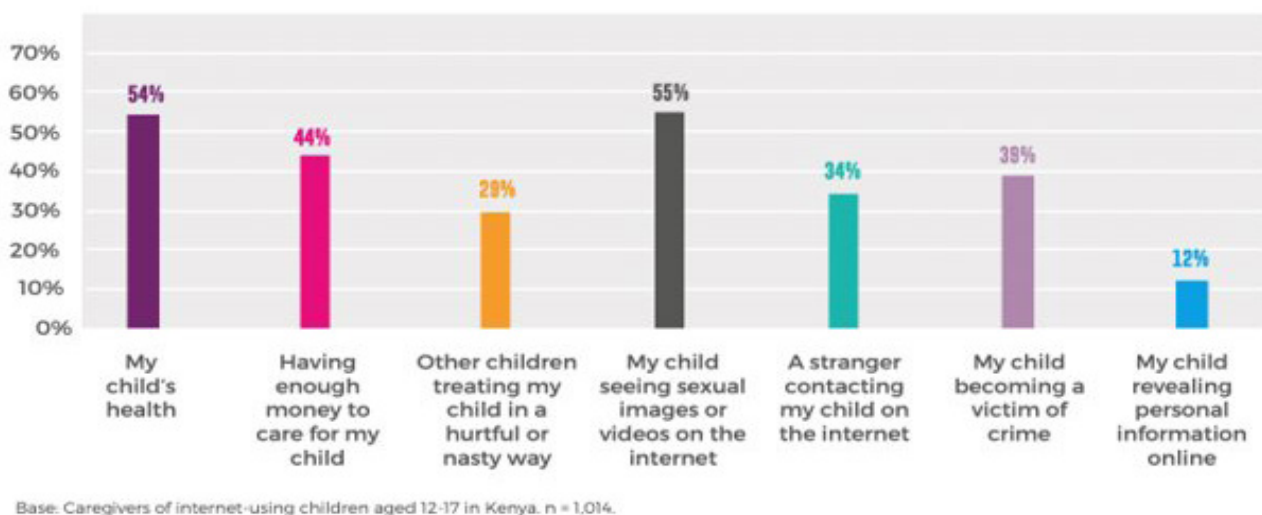
or CSAM. Three of the seven concerns relate to online risks. Explain the statistics from *Disrupting Harm in Kenya.*[14]

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[14] End Violence Against Children (2021), Disrupting Harm in Kenya

The Prevalence of OCSEA Globally (Use Slide 23)

Review the statistics provided in the infographics on the slide and below:

The scale of the challenge

In 2020, **1,038,268** individual media files were exchanged via INHOPE's child sexual abuse material collection and classification platform.[1]

In May 2021, Europol took down a child sexual abuse site on the dark web with more than **400,000** registered users.[2]

More than **3,000,000** accounts are registered across the 10 most harmful child sexual abuse sites on the dark web.[3]

On average, 30 analysts at the US National Center for Missing and Exploited Children (NCMEC) process **60,000** Cyber Tipline reports of child sexual abuse online every day.[4]

16% Increase on reports from the previous year

9,923 Number of reports showing sexual abuse of children aged two and younger

Note the data is from Maestral field research (2020), Internet Watch Foundation, InHOPE and National Centre for Missing and Exploited Children (NMEC) annual reports.

Age of Survivors – International Data (Use Slide 24)

Review the statistics provided in the graph on the slide and below:
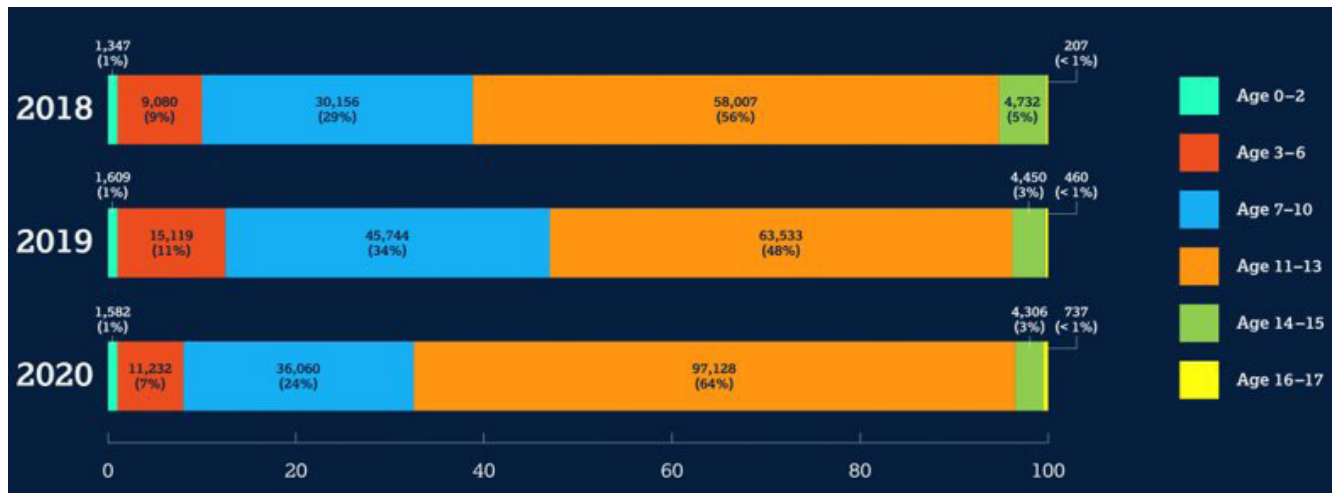
Highlight: Most survivors are 11 to 13 years old, which contradicts the stereotype that OCSEA survivors are mainly older adolescents. Explain the statistics from *Internet Watch Foundation's Annual Report 2021.*[15]

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[15] Internet Watch Foundation (2020), *Annual report 2020*

Sex of Survivors – International Data (Use Slide 25)

Review the statistics in the graph provided on the slide and below:

64,497 (95%)

3 (0%)

1,772 (3%)

1,728 (3%)

number of images where victims were **female**

number of images where victims were **male**

number of images where victims were **both sexes**

number of images where victims were **unidentified**

*Percentages rounded to nearest whole number.
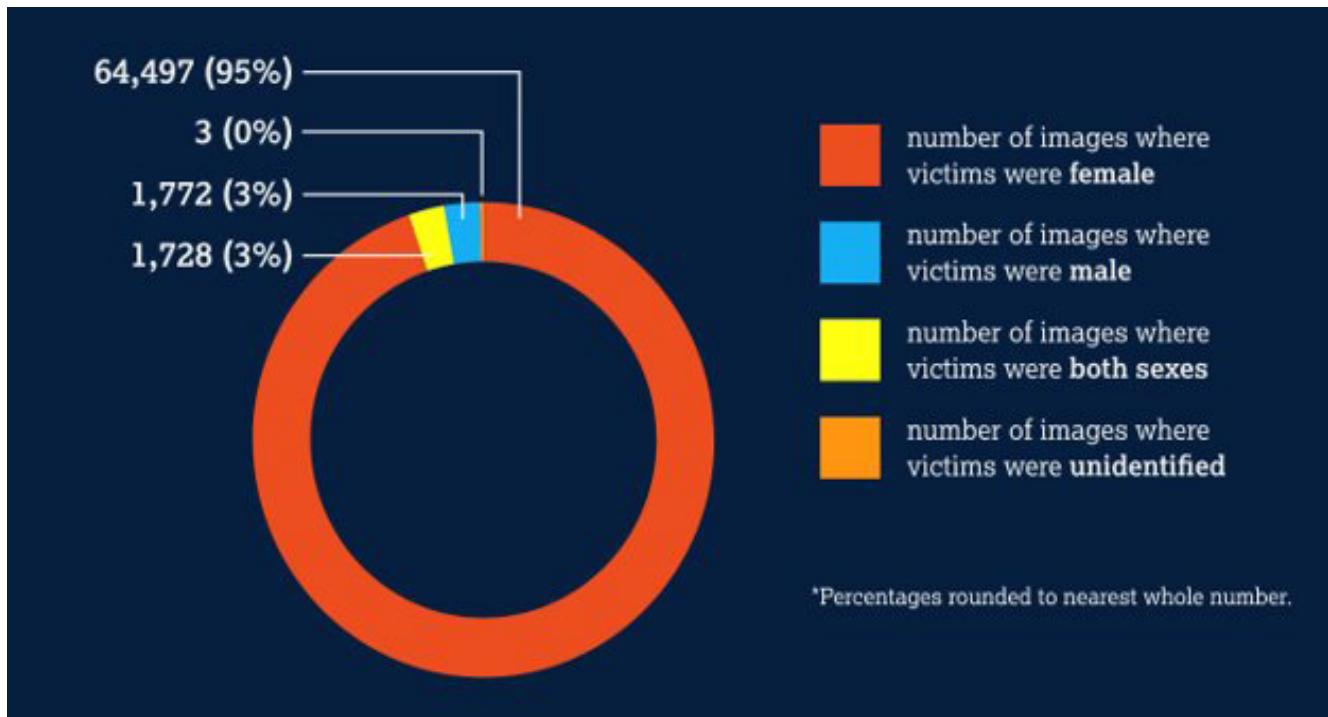
Highlight: While most survivors are girls, some are boys, and OCSEA also affects them. Also, perceptions that gender-based violence is always against women and girls may contribute to this statistic, either because the victim was sometimes incorrectly assumed to be female or because of underreporting of abuse perpetrated against men and boys. Explain the statistics from *Internet Watch Foundation's Annual Report 2021.*[16]

When Speaking to Children (Use Slide 26)

Review the map and statistics provided on the slide and below:

...and although girls are more at risk, **NEARLY HALF OF BOYS** had experienced at least one online sexual harm.

Global
57% 48%

Eastern Europe & Commonwealth of interdependent states
65% 39%

English speaking high-income countries
78% 62%

Asia
51%
48%

Latin America
62% 44%

Middle East & Northern Africa
50% 47%

Percentage of respondents who experienced at least one online sexual harm per region.
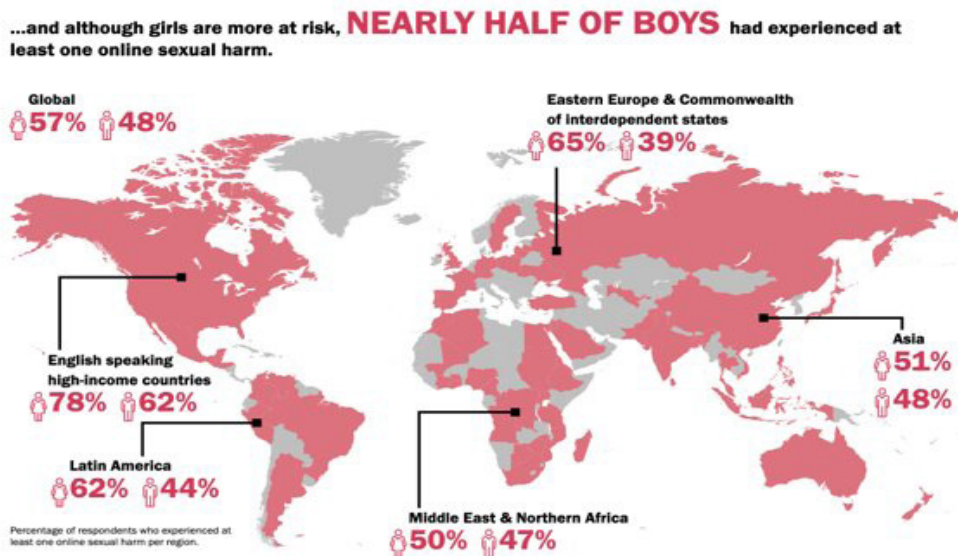
Respondents who identified as transgender/non-binary, LGBQ+ and/or disabled were **MORE LIKELY** to experience online sexual harms during childhood.

Highlight: Females are not the only victims of OCSEA. The data demonstrate that boys also experience

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[16] Internet Watch Foundation (2020) *Annual report 2020.*

OCSEA. Explain that this is from the *Global Threat Assessment 2020* annual report.[17]

Review the graphic image provided on the slide and below that demonstrates the types of sites used to share, upload, and download CSAM.
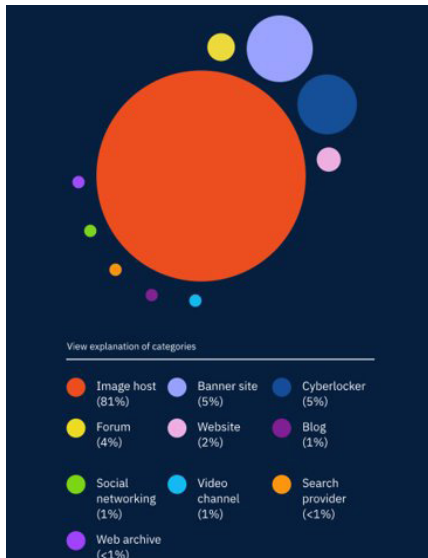
Explain the definitions of each type of site listed below:

- Image hosting service – An image hosting service allows individuals to upload images to an Internet website. The image host will then store the image on its server and show the different individual types of code to allow others to view that image.
- Banner – A web banner or banner ad is a form of advertising delivered by an ad server on the World Wide Web.

Cyberlocker: A cyberlocker is an online service that provides file storing and file-sharing for media files and data. They can also be called online storage or cloud storage.[18]

Geographical URL Hosting (Use Slide 28)

Review the statistics in the graph on the slide and below:
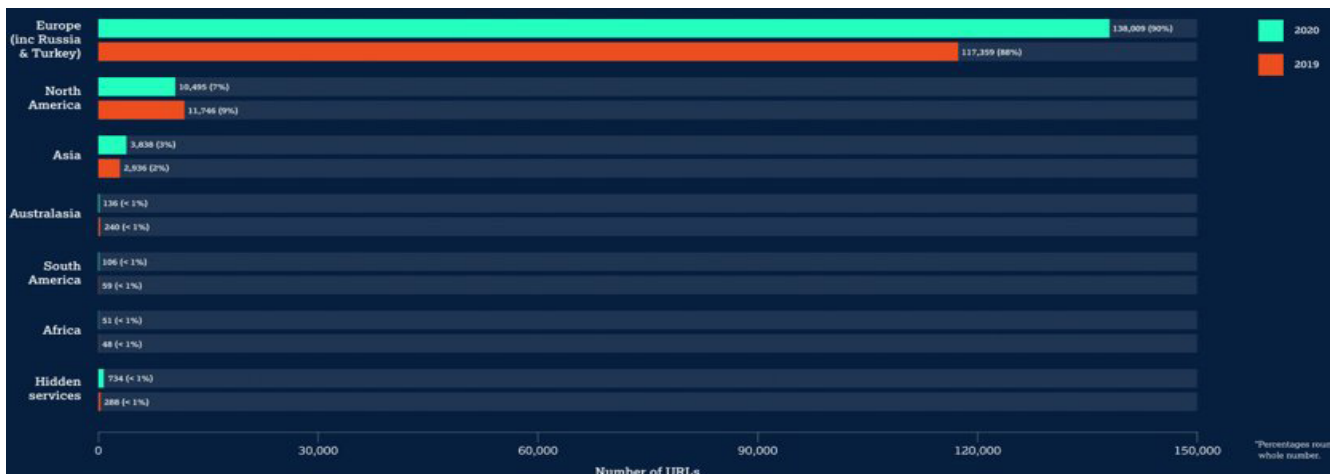
Explain the statistics are from *Internet Watch Foundation's Annual report 2021[19]*.

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17   WeProtect Alliance, (2021), Global Threat Assessment 2021

[18] Techopedia, https://www.techopedia.com/definition/27694/cyberlocker

[19] Internet Watch Foundation (2021) *Annual report 2021.*

Prevalence of CSAM Images and Videos (Use Slide 29)

Review the information provided in the table on the slide and below[20]:

Type	2019 Number of Files	2020 Number of Files
Images	27,788,328	33,690,561
Videos	41,280,816	31,654,163
Other	89,053	120,590
Total	**69,158,197**	**65,465,314**

Highlight: The steep increase emphasises that data from 2021 and 2022 will be even greater because we know that COVID-19 has increased OCSEA from national and other data. Explain that the statistics are from *NCMEC's annual report.*[21]

SESSION 4: COVID-19 and OCSEA (Slides 30 to 32)

Group Work (Use Slide 31)

Small group discussion: This discussion is a short small group discussion with participants forming small groups with the others sitting near them.

i)   Materials Needed:

- Flipchart paper
- Markers

ii)   Small group discussion: (15 minutes)

Ask participants to turn to the person next to them and discuss the following:

- How has COVID-19 impacted your role?
- How has it impacted your organisation?
- How do you think it has impacted how OCSEA cases are reported and handled?

iii)   Plenary discussion: (10 minutes)

Ask participants to provide feedback in plenary based on their small group discussion. Note on the flipchart paper if any common themes emerge from the discussion.

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[20] National Centre for Missing and Exploited Children (2021) – 2019 and 2020 data comparison https://www.missingkids.org/gethelpnow/cybertipline

[21] Internet Watch Foundation (2021) *Annual report 2021.*

COVID and OCSEA (Use Slide 32)

Review the key points provided on the slides and below:

- Children's increase in time spent online and reasons why: learning online, online gaming, chatting to friends, self-generated images.

- A reduction in the availability of specialist OCSEA authorities, including law enforcement.

- Changes in processes and efficiency of handling reports due to technical constraints of working from home.

Note that some people can find the quote quite disturbing, but it highlights the key challenges of tackling OCSEA during COVID.

SESSION 5: Collaborative Approaches to Preventing and Responding to OCSEA (Slides 33 to 36)

Working Together (Use Slide 34)

Review the information outlining the reporting methods there are in Kenya provided on the slide and below:

- IWF:
    - Launch date: January 2021
    - In collaboration with the AHTCPU

- INTERPOL:
    - Launch date: May 2016 – office in Addis Ababa
      In collaboration with the African Union.

Ask participants if they know of any other ways to report OCSEA.

Explain that working together nationally and internationally with organisations such as INTERPOL, is key to tackling OCSEA.

WeProtect Model National Response (Use Slide 35)

Review the model national response[1] (Appendix B). Note that some WeProtect graphics replace 'media and communications' with 'research and insight.'

Mapping Everyone Involved (Use Slide 36)

Activity: This activity is a mapping exercise conducted in small groups followed by a gallery walk – this is where each small group places the flip chart where they have recorded their discussions on the wall. All small groups can walk along the wall reading each group's flip chart.

Materials needed:

- Flipcharts
- Markers
- WeProtect Model National response (Appendix B).

Explain to participants that they will now do a mapping exercise using the WeProtect Model National Response to guide them.

I)   Small group activity: (20 minutes)
- Ask participants to separate into groups of 5 per group.
- Ask each group to map out all the stakeholders involved from the time a child reports OCSEA to the prosecution.
- Writing should be clear and easy to read.
- Participants should indicate where there may be challenges in coordination between stakeholders and why.

II)   Gallery Walk: (5 minutes)
- Ask each group to display their maps.
- Ask participants to review the maps from each group.

Summarise the session by re-looking at the WeProtect Model National Response and ensuring no gaps in participants' maps. Explain that it is vital to include all relevant stakeholders in mapping as collaboration is key to effective prevention of and response to OCSEA.

SESSION 6: Summarise Module 1 (Use Slides 37 to 39)

Key Learning Points (Use Slide 38)

Review the key learning points provided on the slide and below:

- OCSEA is rapidly increasing in Kenya and globally.
- Some children recognize online risks, but a majority of them do not.
- OCSEA impacts children in both the short-term and long-term.
- The Children Act No. 29 of 2022 and the Computer Misuse and Cybercrime Act 2018 are key pieces of legislation for prosecuting OCSEA.
- The Sexual Offences Act 2006 sets the age of sexual consent at 18.
- The Children Act section 22(4) provides that online abuse includes cyberbullying, grooming and solicitation, cyber enticement, cyber harassment, and cyberstalking.
- WeProtect Model National Response is useful for mapping all stakeholders involved in tackling OCSEA.

Ask if participants have any comments or observations.

Any Questions? (Use Slide 39)

Ask participants if they have any questions. If you do not have the answer, write it on a piece of flipchart paper (sometimes called a 'parking lot') and find the answer in time for the following session.

MODULE 2 – PUTTING THE CHILD FIRST: ADOPTING A CHILD-CENTRED, TRAUMA-INFORMED APPROACH

This module examines how to develop a child-centered, trauma-informed approach and how to implement trauma-informed care when handling OCSEA cases.

Time: 3 hours 5 minutes

Content	Slide No.	Time
Introduction to module (title slide)	1	5 min
Learning outcomes for Module 1	2	5 min
Session 1: Understanding trauma for OCSEA survivors	3 – 12	75 min
Session 2: The impacts of trauma	13 – 20	25 min
Session 3: Trauma-informed care	21 – 26	60 min
Session 4: Summarising Module 2	27 – 30	15 min

What the facilitator will need to deliver Module 2:

- PowerPoint slide deck for Module 2
- Flipchart paper and pens
- Printed copies of case study C* (see Appendix C)

Adopting A Child-Centred, Trauma-Informed Approach (Use Slide 1)

Introduce the module and explain that this module will be discussing trauma, the short and long-term impacts, and how to support victims/survivors of OCSEA through the justice system.

Provide a short disclaimer:

- This module may be difficult for participants who have experienced trauma;
- Please be sensitive to how others may be experiencing this module; and
- If, at any point, the content or discussion becomes difficult, please feel free to step out and take a moment.

Provide a list of local resources where participants can access psychosocial support. Examples of possible resources include:

- Childline Kenya-National Children's Helpline 116
- Gender Violence Recovery Center   1195
- DCI   0800 722 203
- NLAS   0800 720 840
- National Police Service GBV Hotline   0800 730 999
- Missing Child Kenya (Non-State Agency)   0800 22 33 44

Learning Outcomes for Module 2 (Use Slide 2)

The learning outcomes for Module 2 are:

- Develop participants' understanding of adverse childhood experiences (ACEs) and childhood trauma.
- Develop participants' understanding of how to utilise a child-centered, trauma-informed approach.
- Explore how to utilize roles to improve child-centered and trauma-informed care in the Kenyan justice system.

SESSION 1: Understanding Trauma for OCSEA Survivors (Use Slides 3 to 12)

Child's Online and Offline Worlds (Use Slide 4)

Read out the quote from End Violence Against Children's 2020 report:

"Children's experiences occur in two worlds – the physical and the digital – but more often than not, those worlds blend into one. The same goes for online violence, as abuse does not begin or end online. Rather, the Internet is often used as a pathway to commit physical, sexual, and emotional violence."[22]

Explain: As discussed in Module 1, some children experience OCSEA online, others offline for online purposes, and others experience OCSEA both online and offline for online purposes.

Self-Generated CSAM (Use Slide 5)

Explain: The following definition of CSAM is taken from the WeProtect Global Alliance Global Threat Assessment 2021:
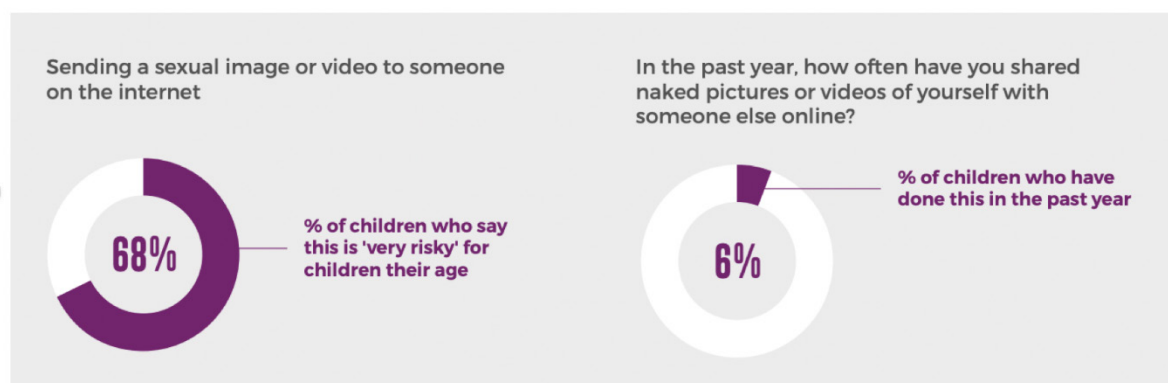
"Any visual or audio content of a sexual nature involving a person under 18 years old, whether real or not real."

Note on alternative terminology: Some organisations distinguish between child sexual abuse material and child sexual exploitation material (e.g., the Interagency Working Group on the Sexual Exploitation of Children defines 'child sexual exploitation material' as a broader category that encompasses both 'material depicting child sexual abuse and other sexualised content depicting children'). 'Child pornography' is also used as an alternative term by some organisations. The WeProtect Global Alliance's stated position is to refrain from using the term 'child pornography'.

'Child sexual abuse material' is felt to more accurately capture the nature of sexual violence against children and protect victims' dignity. Some 'self-generated' sexual material would also constitute child sexual abuse material, depending on the circumstances of its production.[23]

Explain that some CSAM is shared by the child with someone else by choice (often with an intimate partner). However, much of it is coerced. Additionally, much CSAM that is voluntarily shared is then shared with a third party without permission.

Figure 15: Children's risk assessment of sending sexual content online versus children who have engaged in this behavior in the past year

Sending a sexual image or video to someone on the internet

68% % of children who say this is 'very risky' for children their age

In the past year, how often have you shared naked pictures or videos of yourself with someone else online?

6% % of children who have done this in the past year

Base: Internet-using children aged 12-17 in Kenya. n = 1,014.

Sharing Sexual Images Among Children Aged 12 To 17 In Kenya (Use Slide 6)

Explain: The statistics are from Disrupting Harm Kenya 2021.[24] Explain that while 68% of children surveyed say that sending a sexual image or video is 'very risky,' 32% do not– that is one-third of children. Moreover, 6% have sent a sexual image or video online in the past year. This image or video may stay online permanently, being shared, reshared, viewed and downloaded.

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[22] End Violence Against Children (2020), Child Online Safety, page 2

[23] WeProtect Global Alliance (2021), Global Threat Assessment 2021, page 68

[24] End Violence Against Children (2021), Disrupting Harm Kenya, page 32

What Is Trauma? (Use Slide 7)

Activity: This activity is a small and large group discussion. (15 minutes)

i.   Small group discussion (5 minutes)
- Ask participants to discuss the following two questions in small groups of 3-4 participants per group:
  - What do you think of when you hear the word trauma?
  - What do you think of when you hear "traumatic events"?

ii.   Plenary discussion (5 minutes)
- Ask one member of each group to report from each group.
- Facilitate any discussion if participants' responses differ from one another.

iii.   Summarize participants' key reflections (5 minutes)

If participants have not discussed the following key points, share them with participants:

- Trauma is often misunderstood.
- There are many myths and misconceptions about why some people experience the effects of trauma while others do not.
- Often when people experience the effects of a traumatic experience, they may be viewed as "weak," "sensitive," or even, in some instances, "possessed by demons."

Explain: Although there is not time to go into much detail as to why some people are more affected by trauma than others, we will review what trauma is, the short and long-term impacts, and how to support someone who is experiencing the effects of trauma.

Defining Trauma (Use Slide 8)

Explain: Trauma is an emotional response to a terrible event or a series of terrible events.

The Substance Abuse and Mental Health Services Administration (SAMHSA)'s Trauma and Justice Strategic Initiative further explains, *"Trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or threatening and that has lasting adverse effects on the individual's functioning and physical, social, emotional, or spiritual well-being."*[25]

Trauma and OCSEA (Use Slide 9)

Explain: A common misconception is that OCSEA is less traumatizing than offline sexual exploitation and abuse because there may be no physical contact. Although a family member or other known person is often involved in perpetrating OCSEA, which often results in physical abuse, it is important to acknowledge that non-physical abuse can also be traumatizing for the child.

1. Grooming: This is the process of creating a "positive" relationship with the child, providing exposure to sexually explicit and violent material, and eventually shaming the child. By nature, the OCSEA grooming process is abusive and, therefore, often traumatic.

2. Sexualized children: Children are exposed to sexually explicit material before they become adults, thus causing trauma.

3. Shame and fear: Perpetrators use tactics to instill fear and shame in children to share CSAM. OCSEA causes prolonged fear and shame, which is often traumatizing.

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[25] SAMHSA's Trauma and Justice Strategic Initiative (July, 2014). SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach. Page 7.

Post-Traumatic Stress Versus Complex and Compounding Trauma (Use Slide 10)

Explain: Trauma can result from a single experience or a series of events.

Post-traumatic stress disorder (PTSD): is usually associated with experiencing a singular, stand-alone, traumatic event, such as a car crash or natural disaster, or witnessing someone being seriously harmed or murdered (note this list is not exhaustive).

Complex and compounding trauma is how mental health professionals refer to trauma that is caused by a series of events, often that begin in childhood, such as;

i)   persistent stress (domestic violence, homelessness) and/or
ii)   persistent neglect during early childhood (lack of stimulation, nutrition, affection, emotional regulation – note this list is not exhaustive)

These events typically compound upon one another. For example, a child's parents die, which leads to unstable housing, which leads to having to move home and therefore unstable attachments with adult figures, which leads to risky behaviors, which leads to disciplinary action/involvement with the justice sector, etc.

Long-Term Impacts of Adverse Childhood Experiences (ACES) (Use Slide 11)

Explain: A study conducted by the CDC-Kaiser Permanente[26] is one of the largest childhood abuse and neglect investigations.

First conducted from 1995 to 1997, the study provided data on the links between adverse childhood experiences and outcomes for children later in life. Results showed that many people have at least one ACE. It also showed a correlation between high levels of ACEs in childhood and poor outcomes later in life.:

- ACEs can tremendously impact future violence victimization and perpetration, and lifelong health and opportunity.
- ACEs can have lasting, negative effects on health and well-being. These experiences can increase the risks of injury, sexually transmitted infections, maternal and child health problems (including teen pregnancy, pregnancy complications, and foetal death), and a wide range of chronic diseases and leading causes of death, such as cancer, diabetes, heart disease, and suicide.
- ACEs are linked to mental illness and substance use problems in adulthood. ACEs can also negatively impact education, job opportunities, and earning potential.

Case Study: OCSEA And Aces (Use Slide 12 And Case Study C*'S Story, In Appendix C)

Activity: This activity is a case study review with small and large discussions.

i.   Explain that the group is now going to look at a case study on OCSEA and ACEs
ii.   Small group discussion (30 minutes)
- Ask participants to get into small groups of three or four people.
- Ask participants to select a note taker and a designated participant to give feedback in plenary.
- Share case study, C*'s Story, provided in Appendix C.
- Ask each group to identify all the potentially traumatising experiences in the case study.
- Remind participants after 25 minutes to wrap up and prepare for the plenary.

iii.   Plenary discussion (15 minutes)
- In the plenary, ask the designated participant selected by each group to present. Please give them a maximum of five minutes per group.
- Ask for any observations or comments.

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[26] Felitti, Vincent J MD, et. al (1998). Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults the Adverse Childhood Experiences (ACE) Study. DOI: https://doi.org/10.1016/S0749-3797(98)00017-8.

Facilitator note: It is important to stop each presentation after five minutes to ensure the training remains on schedule.

The potentially traumatizing experiences in the case study:

- Survivor-blaming
- Not being believed
- Asked inappropriate questions
- Asked to tell the story many times.
- Telling the story can be re-traumatizing; not being believed by loved ones is often more traumatizing than the incident.

SESSION 2: The Impacts of Trauma (Use Slides 13 To 20)

Impacts of Trauma (Use Slide 14)

Explain: There can be significant effects from a single traumatic event. Traumatic events activate our fear response, flooding our system with chemicals that prepare us to fight, flee or freeze. When the fear response is activated, even our perception of time changes.

Ask participants to reflect on the following prompts:

- Has anyone ever been in a car accident, or witnessed a person falling, and you're just out of reach to stop it?
- Did you feel a sensation of time moving slowly or standing still? This is a shift in the way that our eyes and brain work together to absorb information. We become so alert, taking in every detail, that it feels as though time is standing still. This can then impact how we process and remember the event. It also has impacts on our bodies and behaviours.

Review the physical, psychological, and behavioural impacts of trauma. Explain that prolonged stress and exposure to traumatic events have negative consequences on the body, the brain, and the behaviour:

- **Physical:** nausea, dizziness, altered sleep patterns, changes in appetite, headaches, gastrointestinal problems, hypertension, body aches
- **Psychological:** sadness, anger, denial, fear, shame, nightmares, insomnia
- **Behavioural:** Emotional outbursts, difficulty with relationships, difficulty focusing, social isolation, increased promiscuity, decreased intimacy.

Impacts of Trauma – OCSEA Considerations (Use Slide 15)

Explain: Due to the complexities of OCSEA, multiple factors contribute to the child's potential trauma.

Review the key points related to the impacts of trauma and OCSEA considerations on the slide and below:

- Effects of the grooming process
- Distorted self-image
- Distorted relationship to sex and sexuality
- Loss of control
- Repeated trauma – knowing the images are continuing to be used
- Constant fear and worry of being recognized/noticed

Highlight: Even though the abusive relationship and behaviours may end, the person knows that the images continue to be displayed and accessed on the internet. Moving past the pain caused by the events when the exploitation continues is difficult because new perpetrators are still utilising the images.

Impacts of Trauma – Triggers (Use Slide 16)

Review the concept of "triggers" and how triggers relate to OCSEA provided on the slide and below:

- **Triggers** are the internal or external stimuli that remind a person experiencing PTSD or complex trauma of the traumatic event. These can be sights, sounds, smells, or even thoughts.
- **Triggers and OCSEA:** Someone who has experienced OCSEA can have many triggers because survivors continue to use the internet regularly. For many, it is now an essential part of our lives – how we work, communicate, shop, and spend some of our free time. For survivors of OCSEA, using the internet in itself can be a trigger.

Voices of Survivors (Use Slide 17)

Explain: It is important to listen to the needs of survivors when thinking through trauma responses.

Read (or ask a volunteer participant to read) the quotes from survivors provided on the slide and below:

- "I try to live as invisibly as possible…Try to impress upon myself that the chance of recognition is really very small, since I'm much older now. But the feeling persists."
- "I do not want to socialise; I'm scared to step out the door."
- "I try to cover my face with my hair."
- "I worry about this every day, I'm afraid for my children's safety, try to avoid going out… [I'm] really paranoid when I take my kids to places like the zoo."

The quotes are from survivors who shared their experiences with the National Center for Missing and Exploited Children.[27]

Ask participants to take a moment to reflect on the things that struck them most about the quotes.

The "Good Victim" (Use Slide 18)

Explain: People experiencing the effects of a traumatic event may not behave as expected. People may repress their emotions by using tactics such as withdrawal, acting in larger-than-life ways, using humour, dissociation, and feeling numb or disconnected. This behaviour can come off as eccentric, hostile, or aggressive.

Ask participants:

- Please close your eyes
- What do you think of when you think of a traumatized child?
- What do they look like?
- What do they sound like?

Instruct participants to open their eyes.

Explain: Although there are some common behavioural effects of trauma, trauma does not present the same for everyone – that is, people feel and experience trauma in many different ways. People may say, "But that child does not look traumatized. See, she is laughing!" Often, people hold an image of the "good victim" or an "appropriate victim" in their minds. Someone who is sad, withdrawn, and grateful for being "rescued."

This is not always the case.

Ask participants: Think of the people whom you engage with in the court system and the behaviours that you come up against.

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[27] National Centre for Missing and Exploited Children (2019), Captured on film: Survivors of child sexual abuse imagery are stuck in a unique cycle of trauma, page 3

Explain: People experiencing the effects of a traumatic event do not always behave as you might expect – or want them to. People avoid/repress their emotions using tactics including; withdrawal, not showing emotions, acting in larger-than-life ways, humour, dissociation or feeling numb or disconnected (can come off as "flakiness" or being eccentric), hostility and aggression., etc.

It can be difficult to have sympathy/empathy for people who are acting out aggressively at the people who are trying to help. It is important to remember that these children and adults are still survivors of abuse and need our help. The negative behaviours that make it especially difficult to have compassion for some people are a symptom of the trauma.

Re-Traumatization – System Level (Use Slide 19)

Review the ways in which the justice sector practices and procedures may cause re-traumatization to a child for example;

- A lack of organization, so the child is made to tell their story over and over again
- When there are too many cases, the child becomes the "case number" or the "incident" rather than a person who has had their own individual experience
- When there are procedures that involve taking off clothes for examinations
- When the child begins to be labelled as a victim, "degenerate", drug addict, criminal, etc.
- When the child has no choices or options as to how the case moves forward.

Re-Traumatisation – Relationship Level (Use Slide 20)

Review how actors within the justice system may handle children in a manner that may be traumatizing for them, for example;

- No listening and affirming the child's needs/experience
- Violating the child's trust
- Failing to ensure safety within the system
- Not acting collaboratively with the child but rather doing things for them or to them instead of with them
- Punishing, coercing, or further oppressing the children during the process.

SESSION 3: Trauma-Informed Care (Use Slides 21 To 26)

Mapping The Gaps Activity (Use Slide 22)

Activity: This activity consists of small group discussions and plenary discussions.

   i.   Small group discussion: (20 minutes)
- Ask participants to separate into small groups of 3 to 5 participants
- Instruct each group to select a note-taker and presenter
- Split the small groups into two halves, for example, by drawing an imaginary line down the middle of the room

Explain to participants:

- Half of the groups will discuss the following questions:
    - What practices can you identify within the system that could further traumatize children?
    - Do you have any initial ideas as to how these practices could become more child-friendly/less harmful?
- Half of the groups will discuss the following questions:
    - While respecting privacy and anonymity, have you seen examples of how relationships could have further traumatized children in the system?
    - Have you seen positive examples of relationships with children while going through the system?
    - How could you utilize your position and relationship to mitigate further trauma to the child?

Make sure that each group knows which set of questions they are discussing.

    ii.   Plenary discussion: (20 minutes)
- Ask participants to return to plenary
- Designate a note-taker for the plenary
- The presenter from each group will report on their discussion
- The note taker will begin to categorize the areas where there are gaps in the system, i.e., reporting mechanisms, making statements, child friendly police stations or courtrooms, etc.

Trauma-Informed Care (Use Slide 23)

Explain: Traumatic events do not have to be traumatizing. Although the experience of reporting and going through the court system can be painful, it does not have to be traumatizing.

Long-lasting effects of traumatic events occur when we do not have the proper social support to process the event (make sense of it in our mind) and move past it. As professionals coming into contact with victims/ survivors of OCSEA, you will have a vital role in ensuring that the child's experience, while they are in the justice system, aids their recovery rather than further contributes to the trauma.

Trauma-informed care shifts the focus from "What's wrong with you?" to "What happened to you?". Trauma-informed care:

- Realizes the widespread impact of trauma and understands paths for recovery;
- Recognizes the signs and symptoms of trauma in patients, families, and staff;
- Integrates knowledge about trauma into policies, procedures, and practices; and
- Actively avoids re-traumatization.

Five Principles of Trauma-Informed Care (Use Slide 24)

Introduce the five principles of trauma-informed care provided on the slide and below:

- Safety
- Choice
- Collaboration
- Trustworthiness
- Empowerment.

Note: Further discussion of each of the five principles will take place on the following slide.

Responding To Identified Gaps (Use Slide 25)

    i.   Activity: This activity is a follow-up activity to the 'Mapping the gaps' activity.
    ii.   Materials:
- Flipchart from 'Mapping the gaps' activity

Plenary: (10 minutes)

- During the plenary, review the definitions of the 5 principles of trauma-informed care and the explanation for principles in practice, provided on the infographic on the slide and below:

Safety	Choice	Collaboration	Trustworthiness	Empowerment
Definitions				
Ensuring physical and emotional safety	Individual has choice and control	Making decisions with the individual and sharing power	Task clarity, consistency, and Interpersonal Boundaries	Prioritizing empowerment and skill building
Principles in Practice				
Common areas are welcoming and privacy is respected	Individuals are provided a clear and appropriate message about their rights and responsibilities	Individuals are provided a significant role in planning and evaluating services	Respectful and professional boundaries are maintained	Providing an atmosphere that allows individuals to feel validated and affirmed with each and every contact at the agency

- Review the areas that were identified in the Mapping the Gaps activity (see slide 22) in line with the five principles.

iii.　Small group discussion: (20 minutes)
- Ask participants to return to the same small groups that they were in for the 'Mapping the gap' activity,
- Given the five principles of trauma-informed care, participants brainstorm additional ways the current system could become more trauma-informed/child-centered.
- Return to plenary.

Personal Commitments (Use Slide 26)

In plenary, ask participants to reflect on what personal commitments they can make to apply a child-centered, trauma-informed approach both in their work and to improve the broader system.

SESSION 4: Summarizing Module 2 (Use Slides 27 to 30)

Remember The Internet Can Be Amazing (Use Slide 28)

Review the positive impact the internet can have on children's lives provided on the slide and below:

- Information
    - E.g. physical and mental health information
    - Exposure to new ideas and more diverse sources of information
- Entertainment
- Connect with friends
- Engage with community

Growing internet availability and affordability increase access for all – protecting children means ensuring equitable access to these benefits and protection from online risk.

Key Learning Points (Use Slide 29)

Review the key learning points provided on the slide and below:

- ACEs have short-term and long-term negative outcomes for children.
- OCSEA can cause trauma in child survivors, whether the abuse is online or both online and in-person
- In responding to trauma, we should provide the child to feel safe, make informed choices, feel empowered, and be part of the decision-making process.
- If we sound judgmental, we can further traumatize a child; if we use non-judgmental language, we can help a child to recover.

Any Questions? (Use Slide 30)

Ask participants if they have any questions. If you don't have the answer, write it on a piece of flipchart paper (sometimes called a 'parking lot') and find the answer in time for the following session.

MODULE 3: UNDERSTANDING PERPETRATORS OF OCSEA

This module examines who perpetrates OCSEA, how OCSEA is perpetrated, and potential motivations of offenders of OCSEA.

Time: 1 ¼ hours

Content	Slide No.	Time
Introduction to module (Title slide)	1	2 min
Learning outcomes for Module 3	2	3 min
Session 1: Who perpetrates OCSEA	3-6	15 min
Session 2: How perpetrators of OCSEA offend	7-19	45 min
Session 3: Summarizing Module 3	20 – 22	2 min
Key learning points	19	3 min
Questions	20	5 min

What the facilitator will need for Module 3:

- PowerPoint slide deck for Module 3
- Flipchart paper and pens.

Learning Outcomes for Module 3 (Use Slide 2)

Review the learning outcomes:

- To better understand who perpetrates OCSEA;
- To gain knowledge on how offenders perpetrate OCSEA;
- To practice identifying perpetrator motivations for offending.

Ask if participants have any questions.

SESSION 1: Who Perpetrates OCSEA? (Use Slides 3 To 6)

Group Discussion (Use Slide 4)

Activity – Plenary discussion (10 minutes)

In the plenary, ask participants to respond to the following questions:

- Who perpetrates OCSEA?
- Which children are most likely to be targeted by perpetrators of OCSEA?

Facilitate the discussion and summarize key points.

The Origins of OCSEA (Use Slide 5)

Explain: The map demonstrates by colour the number of NCMEC's CyberTipline reports of OCSEA received in 2020.[28]

Ask participants for any observations or reflections from the map.

If it is not raised by participants, point out that 10 to 20 thousand cases of reported OCSEA are thought to originate in Kenya.

Figure 13: The origins of reports of suspected child sexual exploitation received by NCMEC's Cyber Tipline in 2020. Reproduced with the permission of NCMEC. [181]

Who Perpetrates OCSEA? (Use Slide 6)

Explain: Anyone can perpetrate OCSEA. Therefore, these types of perpetrators can be men, women, children and adolescents, and people in positions of trust, for example, NGO workers, doctors, teachers, and lawyers.

Found in all countries: Although OCSEA can be found anywhere, there is an increase in the use of online platforms in the low-and-middle-income countries in line with the overall internet increase.

Self-gratification/power/control, financial gain, dissemination on online platforms: Perpetrators sexually abuse children online for various reasons including:

- Sexual desire for a child
- Desire for emotional closeness
- To gain status
- Being around people who condone the behaviour
- Wanting feelings of power or control
- They have convinced themselves that their behaviour is justifiable
- They have psychological difficulties
- They have had challenging experiences in their own lives
- Easy access to OCSE and a low likelihood of being caught.[29]

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[28] NCMEC Cyber Tipline in 2020, cited in WeProtect Global Alliance (2021), Global Threat Assessment 2021, page 40
[29] CEOP, date not specified, Why do people sexually abuse children

98% male: A study of arrests relating to OCSEA in the Netherlands showed the majority of perpetrators to be male (98%)

35% under 18 years old: Perpetrators are from a wide age range. More than one third of users (35%) are under 18 years old[30].

However, this data is from one country and may not represent global trends. Another study in the USA found that 9% of males and 3% of females who responded to an online study indicated some likelihood of viewing CSAM on the Internet.

Of female offenders, 64% are under 18 years old: A study in the USA indicated that 64% of female offenders were under 18 years old and 36% were aged 18 to 24. There is currently no similar data on Kenyan offenders.[31]

Explain: In 2020, three Internet Watch Foundation member organizations tracked 8.8 million attempts to retrieve CSAM in just one month.

Reports demonstrate the cross-border nature of OCSEA. Children are abused in Kenya, the material is housed in the Netherlands, and then the content is shared/viewed globally.

SESSION 2: How Perpetrators of OCSEA Offend (Use Slides 7 To 19)

The Breadth of OCSEA Offending (Use Slide 8)

Review: There are multiple ways that offenders use CSAM and perpetrate OCSEA. Examples include:

- Uploading
- Downloading
- Grooming
- Viewing
- Sharing
- Live streaming
- Blackmailing
- In-person abuse for the purposes of sharing online
- Trafficking.

Highlight that some perpetrators offend in multiple ways. For example, they groom, abuse in-person, upload and share, and live stream. Others may, for example, only view OCSEA online.

Name That App (Use Slide 9)

Activity: This activity will be conducted in small groups and plenary (20 minutes)

i. Small group discussion (5 minutes):

- Ask participants to work with the person next to them. In pairs, participants try to identify the apps.

ii. Plenary discussion (15 minutes):

- Ask participants to regroup in plenary
- Facilitate a discussion on:
  - What is the purpose of each of these apps?
  - What are the potential concerns with each app as it relates to OCSEA?

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[30] ECPAT, 2018, Trends in Online Child Sexual Abuse Material
[31] ibid

Reference the list below for the Apps name, purpose, and potential concerns.

1. Tiktok 2. Snapchat 3. YouTube 4. Discord 5. Instagram 6. PlayerUnknown's Battlegrounds (PUBG) (50 million users) 7. Telegram 8. WhatsApp

The below information is taken from Family Education[32].

TikTok

Purpose: TikTok is an app for creating and sharing short videos. Users can create short music videos of 3 to 15 seconds and short looping videos of 3 to 60 seconds. It encourages users to express themselves creatively through video. Special effects can be added to the videos.

Concerns: Thirteen is the minimum age, but there is no real way to validate age so anyone can download the app. Parents express concern that there is much inappropriate language in the videos, which is inappropriate for young children. Lastly, by default, all accounts are set to public so strangers can contact children.

SnapChat

Purpose: Snapchat is an app that allows users to send photos and videos that disappear after receiving them. It is rated for ages 12+. The filters and special effects allow users to alter pictures.

Concerns: Some children use the app to send inappropriate pics because they believe the images cannot be saved and circulated. Nevertheless, it turns out that Snapchat pictures do not completely disappear from a device, and users can take a screenshot before an image vanishes in the app. And while recent studies revealed that "sexting" (sending sexual messages and images, usually via text message) is not as popular as parents had feared, "disappearing photo" apps like Snapchat might embolden children to send more explicit photos and texts than they would have before through traditional texting.

YouTube

Purpose: YouTube is a place to house and share your videos. You can control privacy settings. It is also a great resource for educational videos and entertainment.

Concerns: Inappropriate content has been seen in both all-ages content and children's content. Also, comments on videos can be extremely inappropriate and hurtful. YouTube also has a known paedophile problem which is a major cause for concern.

Instagram

Purpose: Facebook owns this hugely popular photo-sharing site so you may be more familiar with it than other photo-sharing apps. Users can add fun filters or create collages of their photos and share them across Facebook and other social media platforms.

Concerns: The app is rated 13+, but users can still find mature or inappropriate content and comments throughout the app (there is a way to flag inappropriate content for review). «Trolls» —people making vicious, usually anonymous comments — are common. A user can change the settings to block their location or certain followers, but many users are casual about their settings, connecting with people they do not know well or at all.

PUBG

Purpose: PUBG Mobile has an online battle game set-up: 100 players are dropped onto an island in teams of four and have to scavenge resources and eliminate the competition until they are the last ones standing.

Concerns: Most of the time, a child will be playing with strangers in their squad. Teammates can communicate either via voice or text chat resulting in a risk of online grooming.

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[32] Family Education, https://www.familyeducation.com/mobile-apps/a-complete-guide-to-potentially-dangerous-apps-all-parents-should-be-aware-of

Telegram

Purpose: is a messaging app separate from the phone's messaging software. It allows users to send pictures, videos, stickers, texts, and other files free of charge.

Concerns: Anyone on the app with access to a child's username can message the child through the app. Users can see when another user is online. As a result, children can feel peer pressure to check in often. Using the "People Nearby" feature means that strangers know the child's location. "Secret" or "disappearing" messages can encourage children to share photos or talk in ways they would not get off the app. The app allows any member of a group to invite new members to a group chat, and as a result, a group can quickly become populated by people the child does not know.

WhatsApp

Purpose: A free communication app that is used for voice and text communication. Videos, voice notes, and images can be shared as well.

Concerns: Group administrators can invite people your child does not know into group chats. Some WhatsApp groups can contain images and messages which can cause distress to children. Chain messages are often shared through WhatsApp. These pressure children to post them on to their contacts. WhatsApp does not allow users to decide whether to join a group. If a child leaves the group, the administrator can add them back. WhatsApp's default privacy settings are set to public so anybody can see a child's profile photo, and when they were last online, WhatsApp 'dare games' became popular with children. These involve the child making a quiz about themselves to share with others, and this can lead to oversharing of personal information which can be publicly available. Children can add and then remove other children groups as a form of exclusion and bullying.

The Spiral of Sexual Abuse (Use Slide 10)

Explain: The image on the slide below is from research by Joe Sullivan, who has worked extensively with perpetrators in the UK and internationally.

Point to the right-hand side of the diagram: once someone has committed an initial offense, the 'wall' becomes lower, and they are more likely to re-offend or scale up the nature of their offenses. So, while not everyone who views CSAM will go on to offend in person, some do.

How Do Perpetrators Access CSAM? (Use Slide 11)

Review the statistics provided on the slide and below:
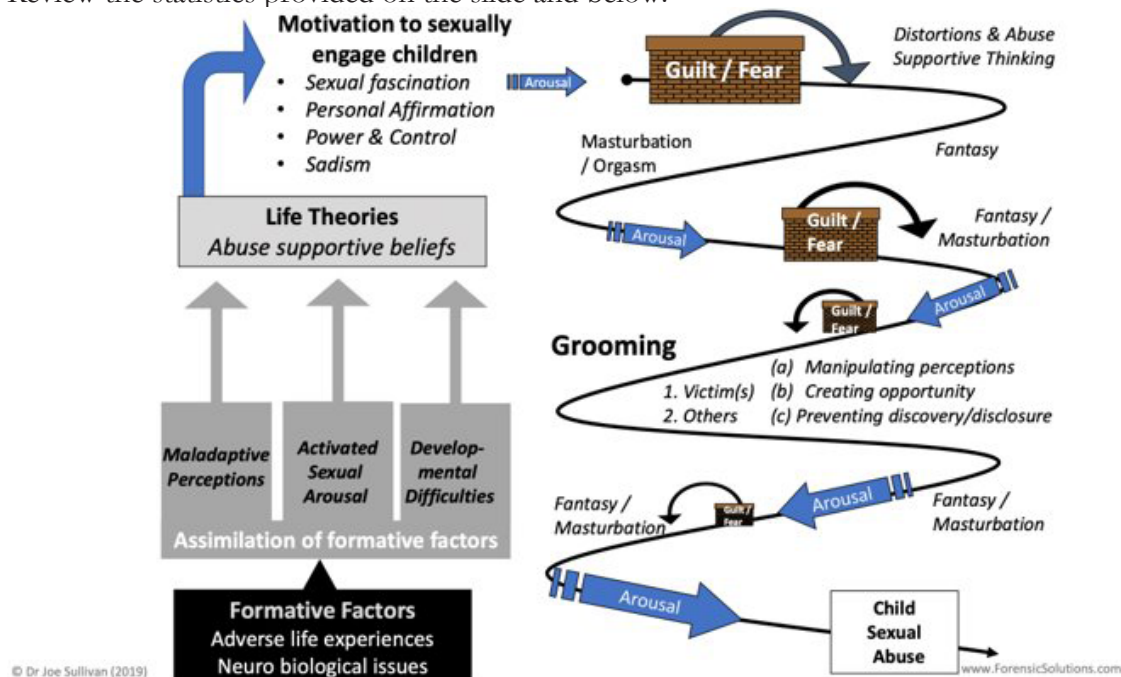
- As of 2019, 2.9 million individuals worldwide accessed the most harmful materials available through the dark web.
- Websites and apps such as Facebook, Google Drive, WhatsApp, TikTok, and Omegle are on the surface web, and there are now more than 9.4bm views of Omegle videos on TikTok alone.
- VPNs (virtual private networks) and disguised websites are on the surface and deep web.

Highlight the following point: Most OCSEA cases occur on the surface web. However, there is also a lot of OCSEA on the dark web, including sharing CSAM and discussing how to commit OCSEA without police detection.

Ask participants if the statistics are surprising to them. Explain that OCSEA has grown rapidly during COVID-19 and will likely continue escalating.

Technology Topics Discussed on Dark Web Offender Forums (Use Slide 12)

Explain: This slide demonstrates the complex technologies discussed and used to evade police identification. Review the technologies and the statistics presented in the chart on the slide and below. Explain that the image is from the WeProtect Global Threat Assessment 2021.[33]

Grooming (Use Slide 13)

Explain: These are quotes from children who participated in the *Disrupting Harm in Kenya 2021* research.
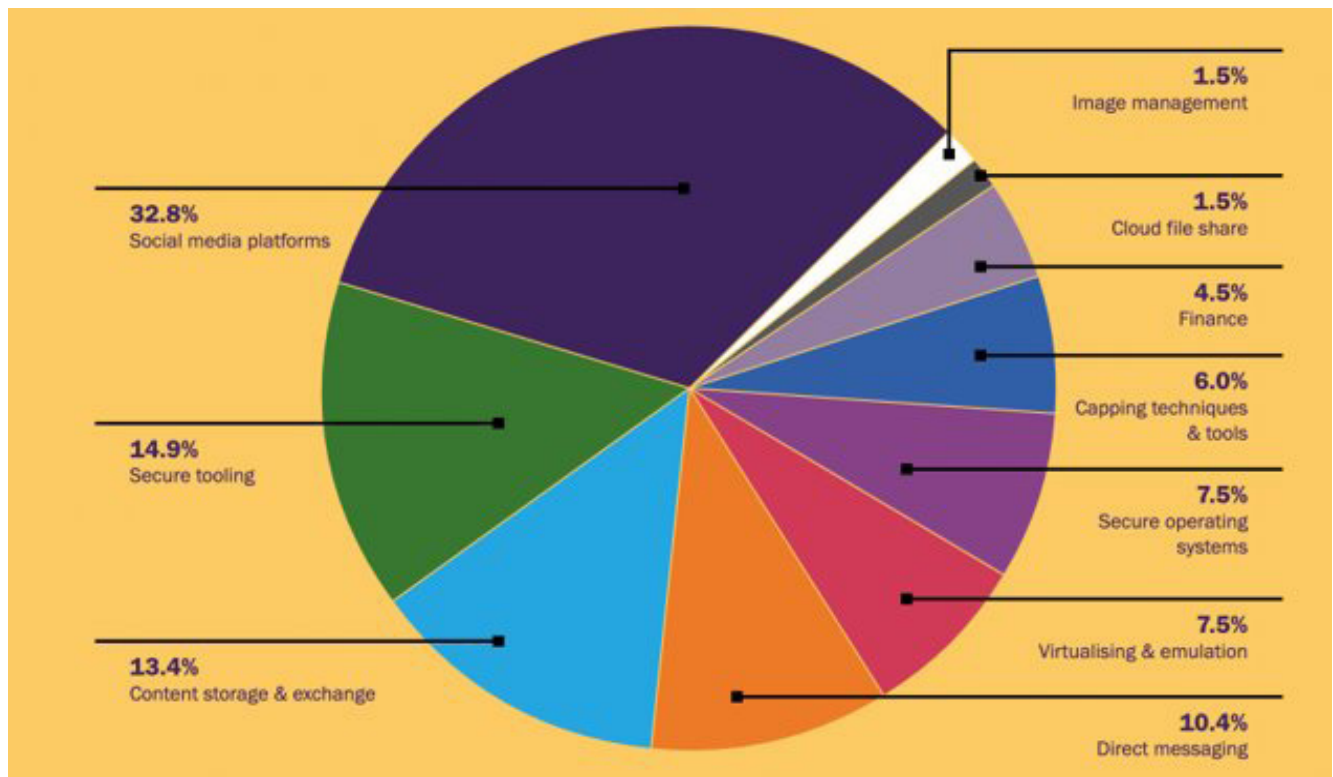
The quotes demonstrate how children are persuaded and/or threatened to watch and/or make CSAM.

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[33] WeProtect Global Alliance, (2021), Global Threat Assessment 2021

Remind participants of the impact grooming can have on children, including their fear of trusting others and their own decision-making.

- "…the kind of things every young person wants to hear, like 'You are very beautiful'".
- "At first I thought we were age mates considering he did not post his pictures but just quotes"
- "Yes, just those flattering words that men use, like 'You are beautiful' and 'I'll buy you a present'. He once sent me money…It was after sending me the money that we met the week later."
- "After a while we started making promises like he'll pay my fees [school fees] and even give me pocket money any time I needed. So, I was lured with money and decided to finally meet him."

Live Streaming of CSAM (Use Slide 14)

Explain: Live streaming is particularly challenging for law enforcement because the website is hosted in one country, the abuse is live streamed in another, viewed in multiple countries using Pay Per View and then the website is removed so the abuser becomes untraceable.

Targeting Survivors Aged 5 and Under (Use Slide 15)

Read the slide content, or ask a participant to read the content of the slide:

'BabyHeart' was a site on the dark web dedicated to the abuse of children aged five and under. It was publicly available for more than two years, during which time its membership grew into the hundreds of thousands. Offenders on the site discussed their preference for children in the stated age range because they were perceived as less likely – or unable – to report the abuse, and were considered to be 'lower risk'. Most of the imagery shared on 'BabyHeart' was undoubtedly produced through familial abuse or in other care provider scenarios. This starkly underscores the importance of prevention and detection mechanisms that do not rely on children coming forward, and which do not assume that families are protective.[194]

Explain: Less than 1% of OCSEA is of children aged 2 and under; however, this still means that thousands of children aged 2 and under are abused for online purposes. Most OCSEA portraying children aged 5 and under are category A – the worst forms of abuse. Often family members perpetrate the abuse for financial or other benefits. Explain that the image is from the WeProtect Global Threat Assessment 2021.[34]

In Their Own Words – Hearing from Perpetrators (Use Slide 16)

Read out the quotes or ask participant volunteers to read out the quotes:

"For those whose intent it is to exploit children, it's far easier today than it was 20 or 30 years ago to cast as wide a net as possible. They can send a thousand requests in a matter of days and receive 999 declines. It takes just one accepted chat or friend request to open the door." Thorn, April 2021

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[34] WeProtect Global Alliance, (2021), Global Threat Assessment 2021
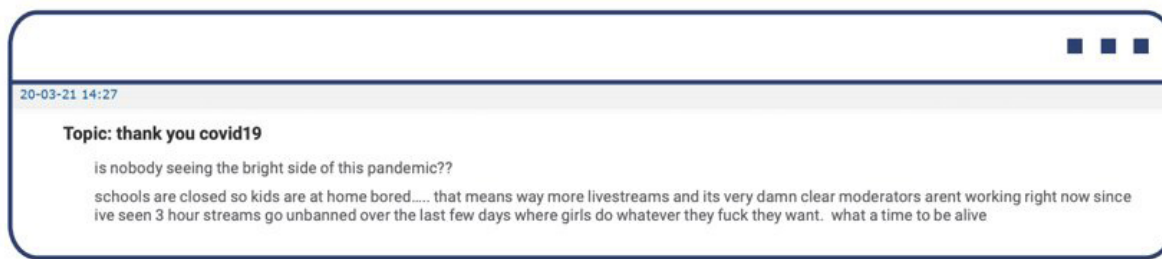
Source: Extracted by Europol, June 2020.

Explain: The quotes demonstrate how perpetrators look for and seize opportunities.

Remind participants how COVID-19 put more children at higher risk of OCSEA and that the trend of using the internet more frequently is unlikely to backtrack, meaning that the increase in OCSEA is likely to continue to rise.

Causing Ongoing Abuse and Trauma (Use Slide 17)

Read out the content of the slide, or ask a participant to volunteer to read out the content of the slide:

"In a tactic that re-victimises survivors of child sexual exploitation and abuse, offenders are creating fake online profiles that misappropriate the identities of known survivors. These fraudulent accounts, which typically adopt survivors' names and feature non-harmful imagery at the account/profile level, appear on the surface web across multiple social media sites. The accounts are used by offender communities to connect with like-minded perpetrators, primarily to exchange contact information. This can lead to trading exploitation tactics, 'tradecraft', and child sexual abuse material in a perceived 'safe space' online."

Explain: Some perpetrators offend in order to control and mentally harm children. The tactics outlined on the slide also show how offending can become more 'normalised' within offender circles, which increases the risk of further offending.

Case Study – V*'S Story (Use Slide 18)

Activity: This activity is a case review and consists of small group and a large group discussion.

Materials:

- V*'s Story (provided on slide 18 and below).

Case study: V* was sexually groomed online by multiple offenders over a period of two years. She was 10 years old when the abuse was discovered. The primary offender groomed her through a children's gaming app before moving communications onto more private apps. He shared V*'s details with other abusers, who began to contact her directly, sending her links to pornographic videos to normalise the sexual behaviour and 'teach' her what to do. They were males in several different countries, communicating via the dark web. V* eventually 'disclosed' the abuse by leaving her mobile device unlocked, with emails from the abusers on display for her father to see. She was receiving hundreds of emails from different men and could not keep the secret any longer: she was scared and wanted the abuse to stop. The abuse had a huge impact on V*'s mental health, and her sense of self.

i. Small group discussion (10 minutes)

- Ask participants to get into groups of four.
- Ask each group to read V*'s story and discuss the following:
  - What might be some of the motivations for offending in this case?
  - In your role, how might you handle this case if there are multiple unidentified perpetrators?

ii. Large group discussion (10 minutes)

- Ask each group to provide a one-minute summary in plenary.
- Note the importance of working with international agencies such as INTERPOL.

Steps Forward (Use Slide 19)

Review the bullets on the slide:

- In recent years there have been significant advances in online safety technologies. For example:
- Grooming detection tools and 'Safety by Design' features reduce offender opportunities and promote safety online.
- Deterrence mechanisms that disrupt pathways to offending
- Hash-matching solutions to detect and remove 'known' child sexual abuse material and classifiers used to detect first-generation material.

Read the content or ask a volunteer participant to read the content in the text box:

Hashing and hash-matching

'Hashing' is a process used to transform data of any size into much shorter fixed-length data. The shorter sequence represents the original data and becomes the file's unique signature, or its 'hash value'.

'Hash-matching' is the process by which hashes of known child sexual abuse material held on databases are compared with the 'hash' of newly discovered material to determine if the content has already been reported to authorities. If this is the case, the process for removing the content is generally streamlined, and often automated.[287]

Ask participants:

- Are there any steps to prevent and respond to OCSEA in Kenya that you are aware of?

SESSION 3: Summarizing Module 3 (Use Slides 20 to 23)

Online and/or In-Person Abuse? (Use Slide 21)

Review: Most CSAM depicts in-person abuse. Whilst not all instances of grooming results in in-person abuse, some do. Grooming can also be to persuade or threaten children to carry out sexual acts on themselves or others whilst being filmed or photographed. This is also for online purposes.

Remind participants that CSAM can never be completely removed once it is online.

Key Learning Points (Use Slide 22)

Review key learning points:

- Any child can be a victim/survivor of OCSEA
- Perpetrators commit OCSEA for multiple reasons: they do not all have a sexual interest in children
- Perpetrators look and sound like any other member of the community – they can have upstanding jobs, families, etc.
- Children can perpetrate OCSEA. When this happens the wellbeing of both children needs considering.
- Online technologies make it challenging for law enforcement to identify, prevent and respond to OCSEA.

- COVID has increased the ease in which offenders can access children.
- There are technological advances to prevent OCSEA.

Ask if participants have any comments or observations.

Any Questions? (Use Slide 23)

Ask participants if they have any questions. If you don't have the answer, write it on a piece of flipchart paper (sometimes referred to as a 'parking lot') and find out the answer in time for the following session.

MODULE 4 : GATHERING AND USING EVIDENCE IN OCSEA CASES

This module examines the basics of evidence collection, how to communicate with child survivors during evidence collection, and collecting and analysing material evidence.

Time: 3 ½ hours

Content	Slide No.	Time
Introduction to Module 4	1	2 min
Learning outcomes for Module 4	2	3 min
Session 1: The basics of evidence	3 – 6	15 min
Session 2: Communicating with child survivors	7 – 17	90 min
Session 3: Evidence collection and analysis	18 – 27	90 min
Summarising module 4	28 – 30	10 min

What the facilitator will need for Module 4:

- PowerPoint slide deck for Module 4
- Flipchart paper and pens.

Learning Outcomes for Module 4 (Use Slide 2)

Review the learning outcomes:

- Be able to describe how to interview child survivors of OCSEA
- Understand whom to interview as part of evidence collection
- Understand the processes required for obtaining and analyzing evidence
- Be able to outline the challenges and solutions to collecting and analyzing evidence.

Ask if participants have any questions.

SESSION 1: The Basics of Evidence (Use Slide 3 To 6)

What Does 'Robust Evidence' Look Like? (Use Slide 4)

Explain: Robust evidence clearly proves criminal activity and clearly identifies who the perpetrator is.

Ask participants: *What do you think this means in practice?*

Components of an Offence (Use Slide 5)

Review the questions on the slide:

- What was done?
- Who did it?
- Against whom?
- Investigations begins at the moment a case is reported

Ask participants: *Why might this be more complicated for an OCSEA case?*

Highlight that OCSEA can include online and offline elements; for some children, it is just online. Note that this will be covered more deeply on the following slide (slide 6).

Constraints To an OCSEA Investigation (Use Slide 6)

Use the bullet points provided on the slide and below to answer the question posed on the previous slide (slide 5).

- Lack of specialized knowledge
- Lack of budget to access advanced technologies and external expertise
- Limited forensics techniques
- Working within the law, including privacy and data protection
- Weak coordination among law enforcement agencies

SESSION 2: Communicating with Child Survivors (Use Slides 7 To 17)

Receiving and Recording Complaints (Use Slide 8)

Explain: Children often do not formally report – it is usually others who have witnessed or suspected OCSEA or whom the child has told. Disrupting Harm Kenya (2021) research showed that many children fear reporting due to being punished, judged, or shamed. It is, therefore, vital that when receiving a complaint, whether from the survivor or someone else, you take it seriously and do not judge.

Review the points provided on the slide and below:

- Take what you are being told seriously
- Do not judge, do not victim blame
- Ensure protocols are met when recording the complaint in the occurrence book
- Attend to any special needs of the victim or complainant. These might be physical and/or mental.

Investigative Interviews Should Be Mindful of The Following Considerations (Use Slide 9)

Review the points provided on the slide and below:

- Dynamics and nature of OCSEA
- Impact of the crime on the child's mental and physical health
- Special measures/techniques to support child interviews
- Child's developmental stage, culture, etc.
- Adult-child communication approaches
- Techniques to minimize re-traumatization/re-victimization
- Record as much as possible of the victims account verbatim.

Ask participants: *What is your experience of interviewing survivors of sexual abuse?*

Interviewing Survivors of OCSEA (Use Slide 10)

Review the points provided on the slide and below:

- Build trust and rapport with the child – this can take time
- Build confidence in the process – be clear and truthful regarding confidentiality and timeframes
- Be attentive and empathetic
- Maintain integrity and professionalism
- Don't promise what you cannot deliver
- Consider use of intermediaries.

Ask participants how they may change their interviewing style given these guidelines for interviewing survivors of OCSEA.

Who to Interview (Use Slide 11)

Explain: Where OCSEA took place online only (for the survivor reporting it), each of the following should be interviewed; child survivor of OCSEA, guardian/caregiver, and any other individuals whom the survivor identifies as knowing about the abuse or who may have witnessed it online.

Explain: Where OCSEA also took place in-person (for the survivor reporting the abuse), the above-mentioned should be interviewed, as well as any witnesses to the in-person abuse, including people close to the location where the abuse occurred, e.g., neighbours.

Before Interviewing a Child (Use Slide 12)

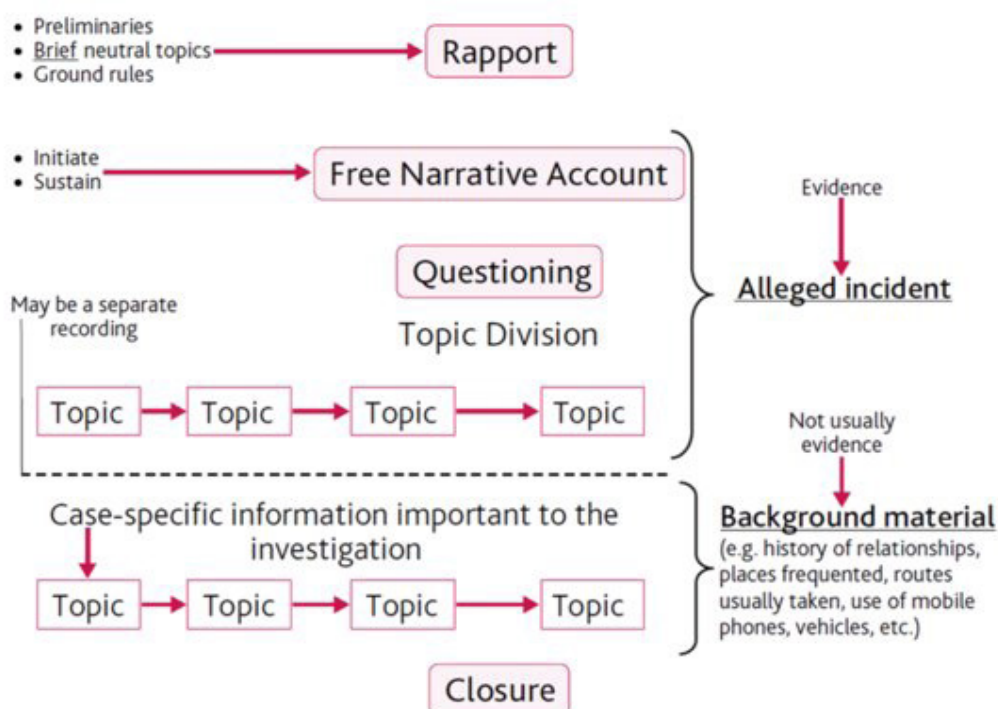Review each point provided on the slide and below:

- Notify the children's officer for support
- Ensure that the child has a protection and care file opened
- Acquire a professional assessment
- Ensure the interview space is child-friendly
- Ensure the person interviewing is experienced at conducting child-friendly interviews
- Decide on the methods used e.g., questions, drawing, play, art
- Adopt a 'do no further harm' approach
- Prioritise the best interests of the child.

Ask participants: *What is your experience of preparing for interviews with child survivors of sexual abuse?*

Achieving Best Evidence: How to Interview a Child (Use Slide 13)

Explain: Creating a strong rapport with the child survivor is important to help them feel at ease. In order to build a strong rapport, ask open questions that prompt a free narrative account. Try not to ask too many questions and just let the child speak. Repeat to the child what you heard them say (in their own words) and ask them if that is right. Once the child has finished, ask questions. More than one interview may be needed to cover all questioning topics; be led by what the child wants and needs.

Review the diagram provided on the slide and below:

Language To Avoid (Use Slide 14)

Review the points provided on the slide and below:

- Legal terms and jargon
- Words with more than one meaning
- Relationship words such as 'your aunt' - use actual names
- Pronouns (he, she, they) – use actual names
- Negative construction of sentences – 'it was not dark, was it?'
- Suggestive/leading questioning – 'Was it X person that emailed you?'
- Specific timeframes, especially with younger children
- Avoid "Do you remember?" questions
- Shifting back and forth in time without signaling to the child
- Asking for estimates of elapsed time, 'How long ago did this take place?'

Note alternatives: simple language, using actual names, asking open questions such as 'who emailed you?' not 'was it person X who emailed you? Remember that particularly with younger children, they might not be able to identify how long ago events occurred.

Supporting Children Who Are Survivors of Violence (Use Slide 15)

Review each step provided on the slide and below:

- Listen – do not judge or shame the child.
- Go to the child's place (whenever possible)
- Inform the child and family of what support is available.
- Refer the child and family to support services that are needed and available.
- Collaborate with support services, including the children officers, witness protection agency, or the victim protection board for witnesses that qualify for protection under the Witness Protection Act.
- Communicate case updates where relevant.

Highlight the importance of not blaming the victim. Remember that the grooming process involves a high level of manipulation, and that the victims are children.

Ask participants to name the support services they know of for child survivors.

Collaborating With Other Agencies (Use Slide 16)

Explain: It is important to keep relevant stakeholders updated with the information they will require where possible. However, some information cannot be shared at certain times as it could jeopardise the investigation and/or prosecution. This may be particularly important for psychosocial support services, as they may be unable to ask questions on particular topics until the investigation is complete.

Ask participants the questions provided on the slide and below:

- What needs to be shared with other agencies so they do not jeopardize the investigation process?
- Can a child have psychosocial support during the investigation process?

Facilitate a brief discussion in plenary regarding the questions above.

Case Study (Use Slide 17)

Activity: This activity is a case review and involves small group and large group discussions.

The AHTCPU has been contacted by INTERPOL to alert them that F* has been identified as living in Kenya. F* is five years old. He is a survivor of sexual abuse for online purposes.

- How will you interview F*?
- Who else might you interview?
- What else will you do to support F*?
- Who else will you collaborate with?

Materials needed: none

i. Small group discussions: (30 minutes)

- Ask participants to get into groups of 5 people
- Ask each group to select a note taker and presenter to report back to plenary
- Ask each group to discuss the questions based on the case study
- Ask each group to plan the interview with F* and related interviews.

ii. Plenary discussion: (20 minutes)

- Ask participants to regroup in plenary
- Ask a representative from each group to report back to the plenary on one of the questions they discussed in their small group
- Ask other participants for comments/reflections/feedback.

SESSION 3: Evidence Collection and Analysis (Use Slides 18 To 27)

Legislation On Evidence (Use Slide 19)

Explain: Evidence is admissible but it must be robust. We will now be looking at evidence in more detail and that Module 5 for the police goes into further detail.

Review: Digital and electronic evidence relating to the protection of children is admissible in Kenya per S.78A of the Evidence Act.

Evidence (Use Slide 20)

Review the steps of evidence collection provided on the slide and below:

- Identification: Identifying criminal activity, survivors and perpetrators
- Collection: collecting evidence, including interviewing
- Acquisition: The digital evidence must be collected by forensic experts using acquisition tools that do not affect the integrity of the evidence
- Preservation: ensuring evidence is not damaged or destroyed.
- Analysis: should only be done by experts. Where possible, as close to the actual evidence (such as CSAM) should be presented instead of summarizing or describing the materials.
- Reporting: including all the procedures and actions taken with dates
- Chain of custody: The individuals responsible for the evidence at each step of the investigation are named, including in reports.

Remind participants:

- The use of ICT creates a digital footprint, and care must be taken to 'contaminate' the evidence.
- Improper handling of digital evidence can easily alter the digital evidence. This is conduct such as failing to maintain a chain of custody, correctly labeling evidence, handling data by a non-expert, or illegally obtaining data.

Facts That Can Be Proven by Digital Evidence (Use Slide 21)

Review the points provided on the slide and below regarding facts that can be proven by digital evidence:

- CSAM materials (video, photos)
- Identity / user attribution
- Knowledge or intent of the user
- What offense was committed
- Location of offense
- When offense occurred
- How offense was committed

Ask: *How might the police obtain these types of evidence?*

Explain: The police use a combination of online and in-person evidence collection.

Where to Find Digital Evidence (Use Slide 22)

Explain: Perpetrators can remotely destroy evidence, so using airplane mode or a Faraday bag (a bag used to block remote wiping or alteration of wireless devices recovered in criminal investigations) is important. Devices held as evidence should be kept charged.

Review what to seize:

- Digital devices
- External devices
- Network components and devices

Review what to search:

- Digital devices
- External storage devices
- Network components and devices
- Surface web
- Dark web.

Ask: how can you prevent remote deletion of content?

Covert Operations to Collect Further Evidence (Use Slide 23)

Explain: There are limitations on what the police can do on the dark web, as they cannot commit illegal acts themselves. For example, joining a group that shares CSAM may require all members to share CSAM as a prerequisite. Police conducting covert operations also face the difficult challenge of knowing that abuse will take place, which they are legally mandated to prevent, but in preventing it, only intent to commit a crime has occurred, resulting in low or no sentencing.

Facilitate a discussion in plenary using the questions on the slide and below:

- Monitoring activity
    - Can activity on the dark web be monitored by the police?
    - What are the risks and challenges?
- Fake profiles
    - What are the risks and challenges?
- Infiltrating groups and rings
    - What are the risks and challenges?

Challenges of Collecting Digital Evidence (Use Slide 24)

Review the points provided on the slide and below:

- The volume of available data
- Its velocity-speed of creation and transfer
- Volatility-can quickly disappear by being overwritten or deleted
- Fragility- can easily be manipulated, altered or damaged
- Encrypted data is also a challenge
- Devices that are incompatible with modern triage technology
- The need to operate within legal boundaries.

Ask: *can you think of any other challenges? How is the cybercrime unit tackling these challenges?*

Explain: Policing OCSEA is one of the biggest challenges globally; police are making headway but need more resource and capacity to do so effectively.

Reporting On Evidence (Use Slide 25)

Review the points provided on the slide and below:

- Create a clear, concise, detailed report containing:
  - Methodology used to retrieve the data and findings
  - Demonstrative material, such as diagrams
  - Supporting documents, such as chain of custody
  - Conclusion
- Findings should be explained, including known errors & uncertainty in results to avoid casting doubt in the evidence.

Challenges of Using Digital Evidence (Use Slide 26)

Review the challenges of using digital evidence provided on the slide and below:

- Poor investigation cases
- Failure to preserve evidence
- Poor handling of crime scene
- Delays attributed to ISPs and lack of cooperation
- Short time span of ISP storage

Ask: *can you think of any other challenges? How is the justice sector working together to overcome these challenges?*

Activity: Challenges of Using Digital Evidence (Use Slide 27)

Activity: This activity consists of small group and plenary discussions.

Materials:

- Quotes provided on slide and below
- Scenarios

i. Read the scenarios aloud or ask for a participant to volunteer to read the scenario aloud.

ii. Small group discussion: (30 minutes)

- Ask participants to get into groups of 4-5 participants.
- Ask each group to discuss the challenges of using digital evidence in each scenario, and how participants might address these challenges.

iii. Plenary discussion: (15 minutes)

- Ask participants to return to plenary.
- Each group should present out their discussion.
- Facilitate any questions and responses to each group's share-out.

Explain the following if it is not raised in the plenary discussion:

- Check other devices belonging to the individual. Check if they are using a certain user name or have any other digital footprint that can be traced to the individual.
- Check browser history and any viewed, shared, uploaded and/or downloaded material – if CSAM is viewed more than once, 'accidental viewing' is not a valid excuse.
- Try to source other evidence, such as online discussions about planning the abuse. Look for CSAM and any other digital footprints. Look at someone having a criminal record and being on a register so the individual is monitored and their work restricted e.g., they cannot work with children.
- OCSEA is illegal and extremely harmful to children, whether online or in person for online purposes.

SESSION 4: Summarizing Module 4 (Use Slides 28 to 30)

Key Learning Points (Use Slide 29)

Review the key learning points:

- Only authentically verifiable evidence should be presented to enable a successful prosecution. This includes a clear record of how the evidence is obtained and processed.
- Evidence must include identification, collection, acquisition, preservation, analysis, reporting and chain of custody.
- Interviews form a key part of evidence. Interviews with children must adopt a 'do no further harm' approach and prioritise the best interests of the child.
- Evidence is easily damaged – only cybercrime experts should collect and analyse evidence.

Ask if participants have any comments or observations.

Any Questions? (Use Slide 30)

Ask participants if they have any questions. If you don't have the answer, write it on a piece of flipchart paper (sometimes referred to as a 'parking lot'), find out the answer and share it with participants (this can be by email or in person).

MODULE 5: POLICE INVESTIGATIONS OF OCSEA

This module examines the role of police officers in the investigation of OCSEA.

Time: 3 ½ hours

Content	Slide No.	Time
Introduction to module (title slide)	1	5 min
Learning outcomes	2	5 min
Session 1: The role of the police in OCSEA cases	3 - 5	20 min
Session 2: Practicing interviewing survivors	6 - 10	80 min
Session 3: Investigating OCSEA cases	11 - 24	60 min
Session 4: Case law and mutual legal assistance	25 - 28	30 min
Session 5: Summarising module 5	29 – 31	10 min

What the facilitator will need for Module 5:

- PowerPoint slide deck for Module 5
- Flip chart paper and pens
- Printed copies of Phases of handling digital evidence handout (see Appendix D).

Learning Outcomes (Use Slide 2)

Review the learning outcomes provided on the slide and below:

- Better understand steps for investigating OCSEA cases
- Better understand approaches to collecting evidence for OCSEA
- Improved child-centered approaches to investigating OCSEA cases

SESSION 1: The Role of The Police in OCSEA Cases (Use Slides 3 To 5)

Discussion: What Is the Role of The Police in OCSEA Cases? (Use Slide 4)

Ask participants how they view the police's role in OCSEA cases (15 minutes).

Emphasise the importance of referrals and coordination with service providers for children who have experienced OCSEA.

- Monitoring of online platforms by suitably trained officers or with the help of computer experts
- Gathering of intelligence regarding OCSEA as part of general duty. This entails monitoring online platforms for CSAM content, in order to intercept and take it down. Through successful law enforcement operations, many of these platforms have now moved to the Darknet and can only be accessed through encrypted applications such as TOR
- Intelligence gathering and sharing about targets both nationally and internationally given the global nature of the internet. This entails:

  - finding out physical locations;

  - IP addresses;

  - who are the suspected perpetrators;

  - whether they are commercially exploiting and abusing children via the internet;

  - who the clients are;

  - Importantly, who the potential victims are;

- the environment those children come from, live in and participate in; and
- the level of risk to those children.

This activity can be a combination of online and offline operational methods.

- Rescuing victims and safeguarding children by coordinating with other service providers such as the Witness Protection Agency and children's office, to support victims through the judicial process and beyond with specially trained counsellors. To implement effective care plans that protect survivors and allow learning outcomes to be assimilated into preventative measures.
- Arrest, charge and recommend charging perpetrators of abuse by mounting proactive operations and using all available investigative tools to secure evidence that can be presented to the criminal court to secure convictions.

Refresher Exercise (Use Slide 5)

Review the key points on the basics of OCSEA provided on the slide and below:

- Remember: almost all CSAM depicts in-person child abuse
- Some children experience OCSEA only online
- Some children experience OCSEA only in-person – for online purposes
- Some children experience OCSEA online and in-person
- All forms of OCSEA are illegal and have a serious impact on children's wellbeing.

SESSION 2: Practicing Interviewing Survivors (Use Slides 6 To 10)

Interviewing Survivors of OCSEA – Recap (Use Slide 7)

Review the key points on interviewing survivors of OCSEA provided on the slide and below (prompt the participants to think back to Module 2):

- Build trust and confidence in the process
- Be clear and truthful regarding confidentiality and timeframes
- Be attentive and empathetic
- Maintain integrity and professionalism
- Don't promise what you cannot deliver
- Always prioritise the best interests of the child
- Adopt a 'do no further harm' approach.

Role Play – Practicing an Interview (Use Slide 8)

Role play activity: This activity consists of role plays in small groups.

Case study: Mother B* reported to your police station that her 9-year-old daughter Y*is a survivor of OCSEA. Y*said that her online friend John asked her to dance naked in front of the camera as a game. After Y* had done this, John said he is actually an adult and now had a video of Y* that he shared online; he threatened to share it with her school teachers, friends and family unless she continued to perform sexual acts online for him. After three months, Y* tried to commit suicide. When she recovered, she told her mother what was happening; B* went to the police.

i. Small group discussion: (5 minutes)

- Ask participants to break into groups of three.
- Ask participants to review the case story provided on the slide and discuss how they may conduct the interview with Y*.

ii. Small group role plays: (25 minutes)

- Ask participants to each take a role of either the police officer, Mother A*, and Y*.
- The participant in the role of the police officer will conduct a mock interview of Y* and Mother A* for five minutes.
- After five minutes, ask participants to switch roles so that each participant has the opportunity to play each role.

iii. Ask participants to return to plenary.

Group Discussion (Use Slide 9)

Facilitate a whole group discussion reflecting on the experience in each role using the prompts provided on the slide and below:

- What did it feel like as Y*?
- What did it feel like as Mother A*?
- What did it feel like to interview Y*?
- What worked well? What worked less well?
- What are some of the key points when interviewing child survivors?

Small Group Discussion (Use Slide 10)

i. Small group discussion (30 minutes)

- Ask participants to form groups of 3 to 4 per group
- Suggest that participants form groups with different participants from the previous small group activity
- Ask participants to discuss the prompts provided on the slide and below:

    - What child-friendly practices are currently in place in police stations?

    - What child-friendly practices are not yet available in police stations?

    - How might the unavailable practices be integrated into the system or obstacles?

    - Are there any interviews that have been conducted involving children that could have been handled differently using child-friendly practices?

Investigating OCSEA Cases (Use Slide 12)

Review the key points for investigation of OCSEA cases provided on the slide and below:

- Liaise with international agencies such as INTERPOL to gather existing intelligence/evidence.
- Develop up to date intelligence about your target. - Interests, hobbies, likes, dislikes etc.
- Utilize Open-Source intelligence such as social media/Web pages etc. - beware of leaving a digital footprint that may compromise law enforcement activity.
- Consistently review and identify gaps in any existing intelligence and evidence.
- Consider deploying different law enforcement tactics simultaneously to obtain intelligence and evidence.

Role of Forensic Expert (Use Slide 13)

Review the role of the forensic expert provided on the slide and below:

- Receive evidence from the investigator for extraction and analysis
- Conduct evidence integrity checks to show that evidence has not been altered from the time it was collected. This helps to authenticate the evidence
- Generate a certificate under section 106 of the Evidence Act

- Obtain digital evidence using best practice
- Draft forensic reports based on their findings
- Return evidence to the investigator as the person that will present the evidence in court
- If required, give evidence in court as an expert witness.

Executing Cyber Search Warrants (Use Slide 14)

Review the key points related to executing cyber search warrants on the slide and below:

- Plan and prepare the operation using all intelligence available - maps, photographs, building plans, potential targets or other inhabitants, etc
- Consider other hazards, such as reinforced entrances, dangerous dogs, possession of weapons
- Ensure the correct level of expertise is available for the entry, securing suspects and the search and securing of cyber evidence
- Ensure precise briefing for on-scene roles. (Who is doing what task in what phase?)
- Ensure your search warrant authorizes any non-police personnel, such as a civilian or contracted cyber investigator, to enter the premises to search and seize evidence with the police
- Ensure your search warrant authorizes any non-police personnel, such as a civilian or contracted cyber investigator, to enter the premises to search and seize evidence with the police
- Ensure your search warrant authorizes the search and seizure of all possible devices, peripherals, and related paperwork.
- The search Team and Cyber Officer are given information regarding devices we already know about
- Brief the Search Team on the method of search, seizure, and securing evidence on the Cyber Officer's advice, numbering, handling, and storing evidential exhibits to ensure integrity and continuity.

Other Tactical Considerations (Use Slide 15)

Review the tactical considerations to increase chances that evidence collected will support prosecution provided on the slide and below:

- Execute search warrant at residence when target is present
  - *(Requires online and or offline Surveillance)*
- Catch the target while he is using the computer or mobile device
- Better possibility of encryption open
- Easier to prove user attribution

On-Scene Forensic Steps (Use Slide 16)

Review the following considerations when collecting on-scene evidence relevant to OCSEA provided on the slide and below:

- Deploy the expertise of a specialist trained Police Officer or vetted Civilian Computer Expert
- Maintain integrity of data
- Get critical information in the shortest amount of time
- Get valuable information quickly (hackers may interrupt attempting to destroy or modify information)
- Leave NO critical data behind
- Document the search scene
- Identify possible encryption
- Image RAM before 'pulling the plug'"
- Perform preliminary key word searches
- Get information to the prosecutor making the decision to charge.

Ask participants what are the potential challenges with on-scene forensics related to OCSEA cases and how might they mitigate or overcome these challenges.

On-Scene Forensic Steps (Continued) (Use Slide 17)

Review further considerations when collecting on-scene evidence relevant to OCSEA provided on the slide and below:

- Photograph entire search area before search begins. Photographs can be invaluable in production of the case
- Label rooms
- Document which rooms each evidence item came from
- Document person who found each device
- Ensure the search is methodical and thorough
- Some devices will be more obvious than others or concealed – remember vast quantities of data can be stored on devices such as micro-SD cards which are no more than the size of a finger nail.

Ask participants what are the potential challenges with on-scene forensics related to OCSEA cases, and how might they mitigate or overcome these challenges.

Mobile Complications (Use Slide 18)

Explain the importance of airplane mode, faraday bags and containers, and keeping devices charged provided on the slide and below:

- Airplane Mode generally turns off radio signal, such as Wi-Fi, Bluetooth, and Cellular.
- Faraday Bags and containers have metallic layers that shield device from radio signals. Airplane mode and faraday bags secure a device from remote wiping.
- Charging, keep device charged to avoid it from shutting down and requiring log on passcodes.

Ask participants to take out their mobile phones. Walk participants through turning on and off the Airplane Mode function. For some devices, an additional step is required to turn off Wi-Fi and Bluetooth. If participants are only familiar with their own device (Android or IOS), have them find a partner with the other model, in order to find the settings on both.

Preservation of Digital Evidence (Use Slide19)

Review the considerations for preserving digital evidence provided on the slide and below:

- All forms of evidence must be considered delicate and capable of compromise, contamination or modification. The same is true with digital evidence that might be lost by clicking a button, by fire, water, etc.
- Investigators must always remember this fact and take all necessary steps to preserve data.
- The law requires that, as much as possible, evidence must be presented in its primary form. This means not using representations or copies of evidence and instead, using the original wherever possible
- Preservation may include backing up or mirroring information, websites, records etc. to avoid any possible loss of data (mirroring is making an exact replica of the information)
- All forensics and evidence preparation must be carried out by a specially trained cyber officer or civilian expert who can document the process and the findings, and provide expert witness evidence in court.

Types of Analysis (Use Slide 20)

Review the purpose and types of analysis. The purpose of these analyses is crime reconstruction, which proves or disproves a working hypothesis in a case. Event reconstruction seeks to determine who was responsible for the event, what happened, where the event occurred, when the event took place, and how the event unfolded through the identification, collation, and linkage of data.

- Time-frame analysis - creates a timeline using time stamps (date and time) that led to an event, or to determine the time and date a user performed some action. This is performed to attribute a crime to a perpetrator

- Ownership and possession analysis - used to determine the person who created, accessed, and/or modified files on a computer system
- Application and file analysis - performed to determine the perpetrator's knowledge of and intent and capabilities to commit cybercrime
- Data hiding analysis - searches for hidden data on a system

Condition For Admissibility of Digital Evidence (Use Slide 21)

Remind participants that the court examines:

- The legal authorization to conduct searches and seizures: search warrant, court order, or court summons.
- Relevance, authenticity, integrity, and reliability of digital evidence – the connection between offender and the child victim, gadget or platform and scene of crime.
- The digital forensics procedures and tools used to extract, preserve, and analyse digital evidence.
- The digital laboratories where analyses are performed.
- The reports of digital forensic analysts.
- The technical and academic qualifications of digital forensics analysts and expert witnesses.

Small Group Activity - Phases in The Handling of Digital Evidence (Use Slide 22)

Materials:

- Copies of *Phases of Handling Digital Evidence* handout (see Appendix D).

i. Small group activity: (20 minutes)

- Ask participants to separate into five groups
- Provide a handout to each group with one of the phases of handling digital evidence outlined
- Ask each group to review the handout and prepare a 5-minute presentation on the phase of handling digital evidence.

ii. Group presentations: (25 minutes)

- Return to plenary
- Ask each group to conduct their five-minute presentations.

Where There Is an Unidentified Child/ Children (Use Slide 23)

Review the key points related to handling a case with unidentified children provided on the slide and below:

- Ensure full forensic analysis of seized devices
- Refer to previous and ongoing OCSEA investigations
- Liaise with international agencies such as INTERPOL
- Proactive monitoring of online platforms.

Explain: Survivor identification experts are highly trained and have special tools, such as INTERPOL's International Child Sexual Exploitation Database, that help investigators identify similarities between images and videos and exchange information with other investigators.

Highlight:

- Survivor identification involves the detailed analysis of images and videos to locate children.
- The evidence at the hands of the investigators helps trace the scene of the crime.
- The images can either be discovered through:
  - Child exploitation investigations
  - Proactive monitoring of online platforms
  - Forensic analysis of seized devices.

Challenges In Investigation of OCSEA Crimes (Use Slide 24)

Review the challenges in investigating OCSEA crimes provided on the slide and below:

- Anonymity of the user and actions
- Attribution - determination of who and/or what is responsible for the cybercrime.
- Lack of harmonized national cybercrime laws, international standardization of evidentiary requirements
- Timely collection, preservation, and sharing of digital evidence between countries
- Limited resources (technical and human)

SESSION 3: Case Law and Mutual Legal Assistance (Use Slides 25 To 28)

Decided Case Law (Use Slide26)

Review the case law provided on the slide and below:

R v. Costi, 2006 – Costi, the perpetrator, was charged with grooming a girl below the age of sixteen years. He was convicted, pursuant to the Sexual Offences Act of 2003 of the United Kingdom, of meeting a minor after grooming her online via internet relay chat (IRC) and performing sexual acts on her. Online grooming is a prerequisite for much OCSEA and a sexual offense against children as the end result is to facilitate either online or offline sexual contact. The Sexual Offences Act of 2006 criminalized sexual communication with a child by an adult to a child. It creates the offence of communicating with a child in a sexual manner.

The Queen vs. Ian Watkins and others, 2013 - Ian Watkins, a singer, was convicted of child sexual abuse. He encouraged a mother to sexually abuse her child via Skype music sessions. He was sentenced to 29 years of imprisonment for multiple sexual offenses, including the sexual assault of young children and babies. His co-accused was the child's mother, who sexually abused her daughter under the influence of the perpetrator. This is a case of live streaming of Child Sexual Abuse Material and is criminalized by both the Sexual Offences Act and the Computer Misuse and Cyber Crimes Act.

Activity: Particulars of The Offences and Elements to Prove (Use Slide 27)

This activity consists of small group discussions on a case study.

Materials needed:

- Particulars of the Offences case study (below).

Case study

C* is 11 years old. She has a younger brother and sister. Her mother and father both work hard, but her father drinks a lot of alcohol after work. This means that C*'s father often becomes violent with C*'s mother late into the evening. This frightens C* and her siblings. Since C* is the oldest, she takes her brother and sister into another room to distract them from the noise.

C* used to like school and had lots of friends there. Recently, she has been getting in trouble because she finds it hard to focus in school and has not been able to keep up her good grades.

She is often tired and worried.

Due to money troubles within the family, C* and her family had to move to another part of town. C* has had to change schools and is finding it difficult to make new friends. After everyone has gone to sleep at night, C* uses her phone to text her old friends from school and make new friends online.

Yesterday, C*'s mother found texts between C* and an older boy who seemed to be C*'s boyfriend. The text messages used sexual language, and there were sexually explicit photos and videos exchanged of C* and other young girls.

C*'s mother was furious and showered C*'s father immediately. He, too, became outraged at C* for being so promiscuous. C*'s father told her that she was a slut and that she would have to report her boyfriend to the police.

i.   Small group discussion: (20 minutes)

- Ask participants to break into groups of three to five per group.
- Ask participants to review the case study.
- Discuss:
  - What may be some challenges to collecting sufficient evidence? How might those challenges be overcome?

ii.   Ask participants to return to plenary.

- Discuss in plenary.

Mutual Legal Assistance in Investigation (Use Slide 28)

Review the availability of the MLA process in Kenya provided on the slide and below:

- The process by which states seek and provide assistance to other states in servicing judicial documents and gathering evidence for use in criminal cases
- The domestic law for mutual legal assistance is the Mutual Legal Assistance Act, Act No. 36 of 2011 of the laws of Kenya
- The office of the attorney general is the central authority for MLA in Kenya
- Its functions are to receive, accede and ensure the execution of MLA requests
- MLA is used by law enforcement: during investigations, prosecutions, judicial proceedings, consultations and service of overseas processes; it also used in conducting investigative interviews in criminal investigations.

Additional background information on MLA, if needed:

Legislative framework for MLA

- Kenya can provide MLA based on the principles of reciprocity and cooperation.
- Kenya is a member of the Commonwealth, Harare Scheme, and London Scheme relating to MLA in criminal matters within the Commonwealth.
- Kenya can provide MLA to any country or territory in the world, whether or not there is such an agreement. However, Kenya would expect reciprocity from countries to which we assist. Where an agreement imposes specific conditions or procedures, Kenya expects these to be adhered to.
- Decisions in these cases should be made as early as possible as to which prosecution will go first (if there are multiple jurisdiction prosecutions) and what can be done to minimise the trauma to the victim from pursuing cases in multiple jurisdictions.
- Done through a formal request from the judicial authority of one state to a judicial authority of another state.
- Request usually done through diplomatic channels collecting evidence and interviewing witnesses on behalf of the requesting judicial authority.
- Kenya does not require requests to come via diplomatic channels. Kenya Central Authority will accept service directly to the address below by post, courier, or email. Requesting states will need to comply with their domestic laws relating to the transmission of requests;

Office of the Attorney General and Department of Justice

Sheria House, Harambee Avenue,

P.o. Box 40112- 00100, Nairobi, Kenya.

Email: ag@ag.go.ke / centralauthority.MLA@ag.go.ke

- Formal MLA treaties work better than request letters, in that they are less time-consuming and more reliable/dependable
- Harmonizing legal frameworks at the national and international levels is crucial. Having similar procedures and legislation in place makes cooperation easier and faster
- Multilateral and regional treaties serve the purpose of making cooperation easier, as there are similar procedures and legislation in place
- As outlined in the Organized Crime Convention, legal assistance may be requested for:

    - Taking evidence or statements

    - Effecting service of judicial documents

    - Executing searches and seizures

    - Examining objects and sites

    - Providing information, evidence, expert evaluations, documents, and records

    - Identifying or tracing proceeds of crime, property or instrumentalities for evidentiary purposes and their seizure for the purpose of confiscation

    - Facilitating the appearance of witnesses

    - Any other type of assistance not barred by domestic law

Steps for MLA

- Prosecutor prepares a letter of request
- It is authenticated by the competent national court in the requesting state
- It is delivered by that State's foreign ministry to the embassy of the requested State
- The embassy sends the request on to the competent judicial authorities of the requested State
- Once the request is completed, the sequence is reversed

A request for MLA shall contain:

- The identity of the authority making the request
- The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding
- a summary of the relevant facts, except concerning requests for service of judicial documents
- a description of the assistance sought and details of any particular procedure that the requesting state party wishes to be followed
- Where possible, the identity, location and nationality of any person concerned
- The purpose for which the evidence, information or action is sought

The Organized Crime Convention

- The Organized Crime Convention governs the relationship between bilateral and multilateral treaties for international mutual legal assistance
- Does not override any existing MLA treaty already in place between states
- Applies to states parties with no existing treaty in place
- Encourages states parties to enter into their own regional or bilateral agreements, with a view to enhancing cooperation regarding transnational organized crime in all its forms and manifestations, this includes OCSEA.

SESSION 4: Summarising Module 5 (Use Slides 29 To 31)

Key Learning Points (Use Slide 30)

Review the key learning points provided on the slide and below:

- The role of the police is to:
  - Uphold the best interests of the child – do no further harm and adopt a child-centered approach.
  - Obtain evidence through identification, collection, acquisition, preservation and analysis that proves criminal activity and identifies who the perpetrator is.
  - Proactively monitor online activities and share information with other agencies.
- Evidencing OCSEA cases is challenging and should only be done by cybercrime experts
- Evidence can be easily damaged or destroyed – taking steps to prevent this is key
- MLA is available to the police.

Any Questions? (Slide 31)

Ask participants if they have any questions. If you don't have the answer, write it on a piece of flipchart paper (sometimes referred to as a 'parking lot'), find out the answer and share it with participants (this can be by email or in person).

MODULE 6 – PROSECUTING CASES OF OCSEA

This module examines the role of prosecutors, legal considerations in OCSEA cases, and how to best support survivors of OCSEA.

Time: 4 hours

Content	Slide No.	Time
Introduction to module (title slide)	1	2 min
Learning outcomes	2	3 min
Session 1: An overview of prosecuting OCSEA cases	3 - 8	40 min
Session 2: Evidence for prosecuting OCSEA cases	9 - 12	35 min
Session 3: Supporting children through the prosecution process	13 - 22	75 min
Session 4: Alternatives to prosecution	23 - 28	40 min
Session 5: Prosecution-guided investigations and Mutual Legal Assistance (MLA)	29 - 37	35 min
Session 6: Summarising module 6	38 – 40	10 min

What facilitators will need for Module 6

- PowerPoint slide deck for Module 6
- Flip chart paper and pens
- Printed copies of case study A* (see Appendix E)
- Printed copies of Particulars of the offenses and elements to prove handout (see Appendix F).

SESSION 1: An Overview of Prosecuting OCSEA Cases (Use Slides 2 To 8)

Learning Outcomes for Module 6 (Use Slide 2)

Review the anticipated learning outcomes provided on the slide and below:

- Better understand the considerations in prosecuting an OCSEA case
- Better understand how to support witnesses and child victims/witnesses who have experienced OCSEA
- Better understand OCSEA jurisprudence case law to assist prosecutions.

Small Group Discussion: My Experience Prosecuting OCSEA Cases (Use Slide 4)

Activity: this activity consists of small group discussions regarding participants' experiences prosecuting OCSEA cases.

    i.   Facilitate small group activity: (20 minutes)

- Ask participants to separate into groups of 4 to 5 participants and discuss the following prompts regarding prosecuting OCSEA cases provided on the slide and below:

    - What process was used?

    - What were the challenges?

    - What was the outcome?

    - What would you do differently next time?

Note: If participants have not had experience prosecuting OCSEA cases, discuss cases that they have heard about from colleagues or media.

ii.   Return to plenary and spend 10 minutes asking participants to share key points of their discussion.

Facts To Be Proven for Prosecution (Use Slide 5)

Introduce the topics of using digital evidence for prosecution, highlighting the points provided on the slide and below:

The prosecution bears the burden of proving that the defendant is guilty beyond reasonable doubt.

- The use of digital devices:
    - must prove that there was the use of digital/electronic devices.
    - where possible to prove ownership/possession.
    - liaise with ISP to get the IP address used in the offence.
- The authentication of digital evidence:
    - is done by a cyber forensic expert
    - must comply with the rules of electronic evidence as per the Evidence Act
    - the evidence itself e.g., images, should be printed and well labelled, videos copied in a playable format.

Decision To Charge in OCSEA Cases (Use Slide 6)

Review the steps that lead to the decision to charge an OCSEA case.

Explain: It is the prosecutors' decision as to whether the evidence is sufficient to warrant prosecution proceedings against an accused person in a court of law. This is elaborately provided for by the Decision to Charge Guidelines, 2019.

- Ensure that the right person is prosecuted for the right OCSEA offence.
- Ensure submission of relevant evidence before court e.g. digital evidence.
- Properly apply the law and ensure that relevant evidence is submitted before the court and that disclosure obligations are complied with.
- When in doubt, seek supervisors' guidance on decision to charge.

Considerations For Reasonable Prospects of Conviction – Tests (Use Slide 7)

Review the two-stage test and the threshold test provided on the slide and below:

- Two-stage test (Evidence test and Public interest test)
    - Evidential test - the test used to ensure sufficient evidence to sustain the charge in law and evidence to provide a realistic prospect of conviction against a suspect.
    - Public interest test - the test applied by prosecutors to decide whether charging a suspect is in the interest of the wider administration of justice.
- Threshold test
    - the test applied by prosecutors to charge a suspect upon reasonable suspicion and where there is a reasonable prospect of additional evidence being available. This test can only be used during the early stages of the case and after consultation with the immediate supervisor.

Note: these tests will be further discussed in the following slide.

Minimum Requirements of a File – Threshold Test (Use Slide 8)

Review the minimum requirements of a file in the threshold test provided on the slide and below:

- Does key evidence or information raise reasonable grounds to believe the suspect has committed the offense?
- Contains a description of outstanding evidence and anticipated timelines?
- Contains a summary of the facts of the case?
- Where applicable, contains:
    - Justification that the suspect is a flight risk?

    - Justification that the suspect poses a threat to national security?

SESSION 2: Evidence for Prosecuting OCSEA Cases (Use Slides 9 To 12)

Considerations of a Reasonable Prospect of Conviction – Evidence (Use Slide 10)

Review the considerations of a reasonable prospect of conviction related to evidence provided on the slide and below:

- Key evidence is needed to establish each element of offense against the accused
- Key evidence should be available at the point of charging
- Address chain of custody before the trial.

Key Evidence (Use Slide 11)

Review key evidence provided on the slide and below:

- Key evidence establishes elements for each offence, person to be charged, who committed the offence? It should be available at point of charge and includes:
    - Witness testimony: in the case that numerous witnesses provide differing evidence relating to the same events, witness statements should be provided for each witness.

    - Police statements

    - Expert evidence, e.g., forensic experts

    - Statements of the accused; exculpatory (not guilty) or inculpatory (incriminating)

    - Digital and electronic evidence

    - Documents/ forms

    - Physical evidence, such as gadgets.

Small Group Activity – Case Study A* (Use Slide 12)

Activity: this activity consists of small groups reviewing a case study.

Materials:

- Copies of case study A* (see appendix E)
- Guidelines on the Decision to Charge
- Flipchart paper & markers

Facilitate small group activity: (20 minutes)

- Ask participants to separate into groups of 3 to 5 participants

- Ask participants to review the case study and charge guidelines, and to consider the prompts:
  - Based on the decision to charge guidelines, what would you advise is the appropriate cause of action?
  - Explain why you made this decision
  - Which evidence will be needed to prove any charges against the suspect?
- Ask participants to draft sample charges.

SESSION 3: Supporting Children Through the Prosecution Process (Use Slides 13 To 22)

Supporting Child Victims/Survivors Who Have Experienced OCSEA (Use Slide 14)

Explain that you are now transitioning to the topic of supporting children who have experienced OCSEA.

Facilitate a short plenary style discussion (10 minutes) using the prompts provided on the slide and below:

- What do you think a child survivor of OCSEA might feel during the prosecution process?
- What do you think a child survivor might experience during the prosecution process?

Answers should include:

- Stress
- Anxiety
- Hopelessness
- Fear
- A sense of achievement
- Anticipation (of justice).

They may experience:

- Long waits
- Feelings of shame or being judged (depending on how they are questioned)
- Fear (if they see the perpetrator in court)
- Self-doubt (for example, if cross-examined)
- Strong emotions at different points of the prosecution process.

Why It Is Important to Provide Additional Support to Children (Use Slide 15)

Explain: Providing additional support to children who have experienced OCSEA and ensuring the child understands the proceedings is important to reduce stress. Reducing the child's stress will:

- Minimise the likelihood of causing more harm to the child
- Improve the child's ability to answer questions
- Help the child give clearer and more reliable statements / evidence

How to Provide Additional Support to Children (Use Slide 16)

Ask: what do you consider to be child-friendly interactions for children who have experienced OCSEA?

Highlight these key points if not raised by participants:

Child-friendly interactions:

- Ensure child is handled in a manner that considers the child's age, intellectual and emotional capacity, and well-being

    - Ensure that you use a language familiar to the child

    - Take into account a child's developmental and chronological age

    - Notice and adapt to how child appears and behaves (for example, if a child is shy and withdrawn, nervous or frightened, etc.)

- Ensure that the views of the child are considered (make sure the child's views are known and included in decision-making such as when and how they give evidence during diversion, plea bargaining and/or sentencing)
- Use a 'child-friendly' court, which may require making adaptations to a 'typical' court setting
- Ask the child who they want to be accompanied by when they are in court
- Ask the child if they have any concerns, such as a wish to avoid the presence of certain persons in court, and take account of these concerns
- Provide refreshments for children
- Create a conducive environment such as play therapy, to facilitate a child's testimony
- The case should be heard in camera or closed sessions
- Use child-friendly language and tone, including the use of child-friendly questions and style (inquiries rather than interrogations)
- Apply to the Court to exclude the press where appropriate
- Where appropriate, encourage the use of descriptive aids such as drawings, anatomically-accurate dolls, and/or toys to assist the child in testifying.

Ask: what processes do they think will be necessary in OCSEA cases to ensure the child's needs are met?

Highlight these key points if not raised by participants:

Child Friendly Processes:

- Open a Protection and Care (P&C) file for the child and ensure the P&C file (off-white in colour) always accompanies the criminal file (red in colour)
- Rapid decision-making and avoiding unnecessary adjournments
- Conceal identity of the survivor - confidentiality of the survivor, whenever possible
- If necessary, make an application for Protection Orders for a child victim or witness against the offender
- Children's evidence should be taken at the earliest opportunity.
- Refer intimidated witnesses to the Witness Protection Agency from the onset of the case.

There are a number of services that you can apply for on behalf of the child survivor:

- Court-appointed counsellor/child psychologist (establishment of special needs)
- Child protective services (alternative care for the child if the home environment is not safe), when necessary, noting that removal from the home should be a last resort, with removal of potential perpetrators preferred according to Kenya's Guidelines on the Right to Family-Based Alternative Care
- Priority hearing at plea taking
- Witness facilitation to enable them to attend the pre-trial conference or the hearing.

Ask: can you think of additional ways to support a child who has experienced OCSEA through the legal process?

Victim/Survivor Testimony in OCSEA Cases (Use Slide 17)

Review the terminology, re-victimization / re-traumatization from Module 2

- Re-victimization: to make someone a victim repeatedly by causing on-going abuse or exploitation.
- Re-traumatization: to inflict trauma on a person who has already experienced trauma, typically referring to causing new trauma related to a previously traumatizing event or series of event.

Review the concepts of interviewing a child victim/survivor from Module 4.

Ask why delays and adjournments may be further troubling to the child.

Pre-Trial Witness Preparation (Use Slide 18)

Review the necessary components to ensuring a witness is prepared for trial provided on the slide and below:

- Witnesses understands their rights
- Witness understands your role as a prosecutor
- Witness understands what to expect in the court process
- Witness understands security, psycho-social concerns, and gaps in evidence.

Ask: why is this reminder especially important for witnesses in OCSEA cases?

Examination of Witnesses (Use Slide 19)

Review the child-friendly approaches to examining a witness provided in the Prosecutors Guide to Children in the Criminal Justice System, on the slide and below.

- Explain clearly to the child what happens in court:
    - Examination in chief
    - Cross examination and re-examination
- Utilize best practices when examining the witness:
    - witness box (with a comfortable chair, a clean well-lit and ventilated space
    - creativity in creating an enabling environment (having the Magistrate/ Judge come down to where the child is seated and talk to the child at the same level, explaining the court processes to the child, dressing less formally)
    - Allow other forms of expression e.g.:
        - Use of anatomical diagrams - use as a tool for communication/using the same language and use for clarification to assess whether the child can understand representation of body parts
        - Use of modelling material (Play-doh/plasticine), crayons or other toys – to help relax a child and as a tool for communication
- Ensure child-friendly questions.

Ask: what would child-friendly questions sound like, compared with non-child-friendly questions?

Adducing Evidence in Court (Use Slide 20)

Ask participants to review the role of a prosecutor in adduction of evidence in court (time: 15 minutes).

Ask if there are additional steps that could be considered for OCSEA cases? Go through the following:

- Lead witness in chief
- Assess evidence
- Guide witness to introduce the evidence and ask them to identify it
- Mark exhibits for Identification (MFI)
- Exhibits should produce by relevant witnesses
- Ensure that evidence was properly extracted
- Ensure that there is a certificate of electronic evidence S.106.B
- Ensure court is enabled to play /view evidence-hardware e.g., screens
- Ensure document must be produced by the maker
- Accompanied by a certificate of electronic evidence – maker - S.106 (The certificate is mandatory in the direction of sealing integrity and reliability of the evidence)
- The person occupying a responsible position in relation to the operation of the relevant device or the management of the relevant activities is responsible for signing the certificate. See 106B (4) Evidence Act.
- Assist the court in protecting the identities of protected witnesses when adducing evidence.

Submitting Victim Impact Statements (VIS) (Use Slide 21)

Instruct participants to turn to the person next to them and discuss the prompts provided on the slide and below (10 minutes):

- What are the steps for submitting a VIS?
- Are there additional considerations for OCSEA cases?

In plenary, give 10 minutes to continue discussions and review the steps (below).

Review the steps the prosecutor takes regarding VIS:

- Inform the survivor and their representative on their right to record a VIS and if they so wish, the prosecutor shall refer them to the Victim Protection Agency for support.
- File and present the VIS to court and make reference to it during submissions on sentencing
- Make request to probation for VIS if needs be.

Particulars of the Offences and Elements to Prove (Use Slide 22)

Provide the *Particulars of the offenses and elements to prove* handout (see Appendix E).

Review what is included in the handout with participants in plenary (10 minutes).

Ask participants if there have worked on cases involving these offenses that also included OCSEA (10 minutes).

SESSION 4: Alternatives to Prosecution (Use Slides 23 To 28)

Alternatives to Prosecution (Use Slide 24)

Explain: Alternatives to prosecution can be utilized when a prosecutor has sufficient evidence to charge an offender, but prosecution of the case is not the best course of action. In such cases, a prosecutor decides not to charge and instead refers the offender to a different form of punishment, such as giving a warning, surcharge, fine, demotion or psychosocial support. Alternatives to prosecution are outlined in the guidelines on alternatives to prosecution in the Decision to Charge Guidelines 2019.

The following slides will review the options for alternatives to prosecution.

Alternatives to Prosecution – Plea Bargaining (Use Slide 25)

Review the relevant plea-bargaining guidance as it relates to OCSEA cases provided on the slide and below:

- The prosecutor shall not permit any plea bargain[35] out-of-Court settlement or Alternative Dispute Resolution in sexual offences where the victim is a child
- The prosecutor shall not permit any plea bargaining for offences under the Sexual Offences Act[36].

Further information, if needed:

- A negotiation between an offender and or their advocate on the one hand and the prosecutor on the other
- Accused agrees to plead "guilty" or "not to contest" to some crimes, in return for reduction of the severity of the charges, removal of some of the charges, and the prosecutor's willingness to recommend a particular sentence, or some other benefit to the accused
- An accused and prosecutor reach a mutually satisfactory disposition of a criminal case, subject to court approval
- Plea bargaining can conclude a criminal case without a trial
- If successful, plea-bargaining results in a plea agreement between the prosecutor and offender.

Alternatives to Prosecution – Diversion (Use Slide 26)

Review the relevance of diversions in OCSEA cases provided on the slide and below:

- Applicable in 'Romeo and Juliet' cases - both parties in a sexual offence are children. These are cases of consensual sexual relationships between minors.
    - In such cases where the subject is between 14 and 17 years, while the complainant is not more than three years younger than the subject, the prosecution is unlikely to be appropriate. The prosecutor may, in the best interest of the child and the exercise of their discretion, invoke the provision of Articles 157(6) (a), (b), (c), and 157(11) of the Constitution of Kenya.

    - Where the age gap between the suspect and the victim is wide, or the children are below the age of 14, then the same shall not be termed as a 'Romeo and Juliet' case.

- Prosecutors must advise the child's representative of the possibility of diversion
- Must be considered in all criminal cases involving children. 'Exceptional Circumstances' guidelines may apply if the offence is serious or the circumstances of the child concerned dictate otherwise as guided by the Diversion Policy Guidelines and Explanatory Notes (2019)
- The views of the parent or guardian should be sought
- Must be appropriate to the age and maturity of the child and may not interfere with the child's schooling
- Ensure that the child understands the diversion process.

Further information, if needed:

- Diversion is a means of resolving criminal cases without resort to full judicial proceedings
- Diversion can be considered at any time from arrest to the close of the prosecution case. A decision on diversion can thus be made either before or after a charge is laid. Diversion scheme is run by prosecutors in the Office of the Director of Public Prosecutions (ODPP).

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[35] 41 Section 137(N) of the Criminal Procedure Code
[36] 49 Section 137(N) of the Criminal Procedure Code

Informal Justice System (Use Slide 27)

Review the relevant information to the informal justice system for OCSEA cases provided on the slide and below:

- The informal justice system is every mechanism and process that exists separately from formal state-based justice institutions and procedures, such as police, prosecution, and courts[37]
- These mechanisms are not an alternative to prosecution in cases that involve children:

   - Article 2(4) of the Constitution of Kenya provides that any law, including customary law, that is inconsistent with the Constitution is void to the extent of the inconsistency, and any act or omission in contravention of the Constitution is invalid

   - Article 159 (3) of the Constitution of Kenya provides that traditional dispute resolution mechanisms shall not be used in a way that contravenes the Bill of Rights, is repugnant to justice and morality, or results in outcomes that are repugnant to justice or morality; or is inconsistent with the Constitution or any written law

- Often results in children not getting support and exposure to further injustices, as the child is ignored in favour of the offender -refer to Article 53(2) of the Constitution of Kenya
- Freedom from torture and cruel, inhuman or degrading treatment or punishment is a non-negotiable right - Art 25(a).

Group Activity – World Café (Use Slide 28)

World Café: (30 minutes)

- Ask participants to break into groups of 5 participants.
- Explain the format of the World Café. Each table will discuss one question for 10 minutes. After ten minutes, participants will split up again and move to a new table. This will be repeated for three rounds
- Explain that it doesn't matter if all topics are not shared with each table – if everyone is enjoying discussing their experience for example, they can continue with that discussion and move onto challenges and opportunities when they swap tables
- Ask each table to nominate one table 'host'. This person stays at the same table throughout the activity and updates people new to the table on what has previously been discussed. They can use notes on the 'table cloth'.
- Give each group a sheet of flip chart paper (you can call it a 'table cloth' for writing on!) Inform participants they don't have to make notes or drawings but they can if they find it useful. However, they will not be presenting back. The aim of this activity is discussion.
- Time 10 minutes, then ask participants to change tables or ring a bell. Instruct participants to try and work with different people for the next 10 minutes. Repeat once more. You may choose to ring a bell instead to notify participants when to change tables. Remind the table 'host' to stay where they are
- Round 1: Participants at each table discuss the questions: (10 minutes)
   - What fosters informal justice?

- Round 2: Participants at each table discuss the question: (10 minutes)
   - Where is it most prevalent and why? (10 minutes)

- Round 3: Participants at each table discuss the question: (10 minutes)
   - What needs to be done to ensure that OCSEA cases are not dealt with informally?

Participants return to plenary and spend 5 minutes sharing their thoughts on what they liked about the

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[37] UNDP, UN Women, UNICEF (2013). *Informal Justice Systems: Access to Justice and Human Rights*, p. 8. See also ACPF (2018). *Spotlighting the Invisible: Justice for children in Africa*, p. 83.

activity and any key points discussed.

SESSION 5: Prosecution-Guided Investigations and Mutual Legal Assistance (MLA) (Use Slides 29 To 37)

Prosecution – Guided Investigations (Use Slide 30)

Review the material regarding prosecution guided investigations provided on the slide and below:

- Provision of legal guidance or direction on how the investigation should be carried out
- Direction to investigate must be in writing to the Inspector General of the National Police Service or the appropriate investigative agency - for OCSEA cases it's the DCI
- Indicate a timeframe for the investigation
- Direction given, such as to an investigating officer or sub-county commander, must be copied to a prosecutor's supervisor
- The prosecutor must remain objective and impartial when evaluating evidence at the time of making a decision to charge. This means that they should seek prosecution-guided investigations (explained using slide 31).

Prosecution-Guided Investigations – Factors to Consider (Use Slide 31)

Review the factors to consider in prosecution-guided investigation of OCSEA provided on the slide and by the Guidelines on Decision to Charge.

- Prosecution-guided investigation is the provision of legal guidance or directing that investigation be carried out
- It should be prosecution-guided and not prosecution-led, as the prosecutor must remain objective and impartial when evaluating evidence at the time of making a decision to charge.

Small Group Activity – Case Law (Use Slide 32)

Activity: this activity reviews the Kenyan case law that applies to OCSEA.

i. Small group discussion (20 minutes)

- Ask participants to separate into groups of 3 to 4 participants per group
- Ask participants to review both cases and discuss the prompts.
- Thomas Msaberi Kademi v Republic [2020] eKLR
    - Review the judgement in light of the Computer Misuse and Cyber Crimes Act of 2018
    - Review the judgement in light of the Sexual Offences Act of 2006
- TU v Republic [2019] eKLR
    - Was the decision of the trial court in the best interest of the child?
    - Why?
    - Guided by the Guidelines (A Prosecutor's Guide to Children in the Criminal Justice System), what could have been done better?

Mutual Legal Assistance (Use Slide 33)

Review the key points regarding the availability of the MLA process in Kenya provided on the slides and below:

- The process by which states seek for and provide assistance to other states in servicing of judicial documents and gathering evidence for use in criminal cases

- The domestic law for mutual legal assistance is the Mutual Legal Assistance Act, Act No. 36 of 2011 of the laws of Kenya
- The Office of the Attorney General has the executive authority to receive requests for Extradition and to transmit the same to the Office of the Director of Public Prosecutions for necessary action
- The ODPP has the authority to initiate i.e., issuance of 'authority to proceed' and conduct before a court of law. (Director of Public Prosecutions v Okemo & 4 others (Petition 14 of 2020))
- MLA is used by law enforcement: during investigation, prosecutions, judicial proceedings, consultations and service of overseas processes; it also used in conducting investigative interviews in criminal investigations.

Legislative Framework for MLA (Use Slide 34)

Review the key points related to legislative framework for MLA in Kenya provided on the slide and below:

- Kenya can provide MLA based on the principles of reciprocity and mutual cooperation.
- Kenya is a member of the Commonwealth, Harare Scheme and London Scheme relating to MLA in criminal matters within the Commonwealth.
- Kenya can provide MLA to any country or territory in the world, whether or not there is such an agreement. Kenya would, however, expect reciprocity from countries to which we give assistance. Where an agreement imposes specific conditions or procedures, Kenya expects these to be adhered to.
- Decisions in these cases should be made as early as possible as to which prosecution will go first (if multiple jurisdiction prosecutions are expected) and what can be done to minimise the trauma to the victim from pursuing cases in multiple jurisdictions.
- Done through letters rogatory – A formal request from the judicial authority of one state to a judicial authority of another state.
- Request usually done through diplomatic channels collecting evidence and interviewing witnesses, on behalf of the requesting judicial authority.
- Kenya does not require requests to come via diplomatic channels. Kenya Central Authority will accept service directly to the address given below by post, courier or email. Requesting states will need to comply with their own domestic laws relating to the transmission of requests.

Office of the Attorney General and Department of Justice

Sheria House, Harambee Avenue,

P.O. Box 40112-00100, Nairobi, Kenya.

Email: ag@ag.go.ke/ centralauthority.MLA@ag.go.ke

- Formal MLA treaties work better than request letters in that they are less time consuming and reliable/dependable
- Harmonizing legal frameworks at national and international level is crucial. Having similar procedures and legislation in place makes cooperation easier and faster.
- Multilateral and regional treaties serve this purpose make cooperation easier as there are similar procedures and legislation in place.

When to Use MLA (Use Slide 35)

Explain: When to use MLA provided in the slide and below:

- As outlined in the Organized Crime Convention, legal assistance may be requested for:
    - Taking evidence or statements
    - Effecting service of judicial documents
    - Executing searches and seizures

- Examining objects and sites

- Providing information, evidence, expert evaluations, documents, and records

- Identifying or tracing proceeds of crime, property or instrumentalities for evidentiary purposes and their seizure for the purpose of confiscation

- Facilitating the appearance of witnesses

- Any other type of assistance not barred by domestic law.

Steps for MLA (Use Slide 36)

- Explain the steps for MLA provided on the slide and below:

1. Prosecutor prepares a letter of request

2. It is authenticated by the competent national court in the requesting state

3. It is delivered to by that state's foreign ministry to the embassy of the requested state

4. The embassy sends the request on to the competent judicial authorities of the requested state

5. Once the request is completed, the sequence is reversed.

Explain what a request for MLA shall contain:

- The identity of the authority making the request

- The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates, and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding

- a summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents

- a description of the assistance sought and details of any particular procedure that the requesting state party wishes to be followed

- Where possible, the identity, location and nationality of any person concerned

- The purpose for which the evidence, information or action is sought.

Legal Framework for MLA (Use Slide 37)

Explain and review the three legal frameworks used in Kenya for MLA provided in the slide and below:

- The United Nations Convention against Transnational Organized Crime
  - The convention governs the relationship between bilateral and multilateral treaties for international mutual legal assistance.

  - Does not override any existing MLA treaty already in place between states

  - Applies to states parties with no existing treaty in place,

  - Encourages states parties to enter into their own regional or bilateral agreements, with a view to enhancing cooperation regarding transnational organized crime in all its forms and manifestations, this includes OCSEA

- Mutual Legal Assistance Act No 36 of 2011
  - Provides for mutual legal assistance to be given and received by Kenya in investigations, prosecutions and judicial proceedings in relation to criminal matters.

- MLA guidelines in criminal matters for authorities outside Kenya
  - Provide essential basic information on Kenya's Mutual Legal Assistance programme
  - Give a clear understanding of the provisions of the Mutual Legal Assistance Act on which they are anchored
  - Improve the efficiency of processing of mutual legal assistance requests to Kenya.

SESSION 6: Summarising Module 6 (Use Slides 38 To 40)

Key Learning Points (Use Slide 39)

Review the key learning points for Module 6 provided on the slide and below:

- Evidence has to be relevant and sufficient
- Victims /Survivors of OCSEA need support during prosecution
- Alternatives to prosecution should be considered for child offenders
- Computer Misuse and Cybercrime Act 2018 is a key piece of legislation for prosecuting OCSEA
- The Sexual Offences Act 2006 sets the age of has provisions that can be used to prosecute OCSEA cases
- Mutual Legal Assistance can be used to collect and exchange information key to prosecution of OCSEA cases

Questions (Use Slide 40)

Ask participants if they have any questions. If you don't have the answer, write it on a piece of flipchart paper (sometimes referred to as a 'parking lot'), find out the answer and share it with participants (this can be by email or in person).

MODULE 7 – ADJUDICATING CASES OF OCSEA

This module examines Magistrates' and Judges' roles in ensuring best practices for supporting children through the legal system who experienced OCSEA, and adjudicating cases of OCSEA.

Time: 3 hours

Content	Slide No.	Time
Introduction to module (title slide)	1	5 min
Learning outcomes	2	5 min
Session 1: Introduction to the adjudication of OCSEA cases	3 – 6	45 min
Session 2: Supporting children through the legal process	7 – 18	20 min
Session 3: Principles of appropriate sentencing	18 – 28	95 min
Session 4: Summarising module 7	38 – 40	10 min

What facilitators will need for Module 7

- PowerPoint slide deck for Module 7
- Flipchart paper and pens.

Learning Outcomes (Use Slide 2)

Review the anticipated learning outcomes for Module 7:

- Better understand the principles and practice of adjudicating OCSEA cases
- Better understand how to support children involved in OCSEA cases as survivors/offenders
- Be better informed in order to adjudicate OCSEA cases using robust evidence and child-centered approaches.

SESSION 1: Introduction to The Adjudication of OCSEA Cases (Use Slides 3 To 6)

The Legislation to Inform Decision-Making (Use Slide 4)

Explain: Most of the manifestations of OCSEA are not defined in law, and as such, we rely on the existing provision of the Computer Misuse and Cyber Crimes Act and the Sexual Offences Act.

Review the following contributing factors provided on the slides and below:

- Most of the manifestations of OCSEA have no express mention or definition in our domestic laws
- Offences relevant to OCSEA can be found in the Computer Misuse and Cybercrimes Act and the Sexual Offences Act
- The difference between section 24 of the Computer Misuse and Cybercrime Act 2018 and 16 The Sexual Offences Act 2006 is the fact that section 24 makes express mention of an OCSEA space, namely a computer system

Group Activity (Use Slide 5)

Activity: small group discussion that reviews cases of OCSEA.

i. Small group discussion: (20 minutes)

- Ask participants to separate into small groups of 2 to 3 participants
- Instruct each group to select a note taker and presenter
- Review the case on Tu vs. Republic (2019) eKLR

- Discuss the following questions:
    - Was the best interest principle of the child upheld?
    - Give reasons for the answer given above.
    - What would you have done differently?

ii.   Plenary discussion (20 minutes)

- Return to plenary
- Ask the presenter from each group to give an overview of what was discussed (2 minutes each presenter)
- Spend 10 minutes discussing the questions in plenary.

Points to Note When Taking Evidence (Use Slide 6)

Review the considerations when taking evidence provided on the slide and below:

- Be transparent and verbatim
- Record elements of the offence as relayed by the witness
- Ask questions to witnesses to seek clarity on pertinent issues and not to cross-examine
- Record demeanour of the witness/victim
    - *Note that the demeanour/appearance and behaviour of a witness/victim of OCSEA may not be what is "expected" of a child who has experienced abuse. Individuals have a variety of responses to experiencing potentially traumatic events. In addition, with therapeutic interventions, individuals may learn to curb their emotional response to a challenging event and therefore appear less affected.
- Take cognisance of miscellaneous/interlocutory applications-to assist with investigations, search and seizure as well as witness protection.

Explain that you are now transitioning to the topic of supporting children who have experienced OCSEA.

SESSION 2: Supporting Children Through the Legal Process (Use Slides 7 To 18)

Supporting Child Victims/ Survivors Who Have Experienced OCSEA (Use Slide 8)

Facilitate a short plenary style discussion (10 minutes) using the prompts provided on the slide and below:

- What do you think a child survivor of OCSEA might feel during the trial process?
- What do you think a child survivor might experience during the trial process?

Answers should include:

- Stress
- Anxiety
- Hopelessness
- Fear
- A sense of achievement
- Anticipation (of justice).

They may experience:

- Long waits
- Feelings of shame or being judged (depending on how they are questioned)
- Fear (if they see the perpetrator in court)
- Self-doubt (for example, if cross-examined)
- Strong emotions at different points of the prosecution process.

Supporting Children Through the Legal Process – Factors to Consider (Use Slide 9)

Ask participants: *What do you think we need to consider when supporting children through the legal process?* Facilitate a brainstorm activity for 5 minutes.

Highlight and explain the elements provided on the slide and below (each will be discussed in further detain in the following slides):

- Best interests of the child – all actions and procedures consider what is best for the child
- Participation – the child has an active role in the process, their needs are heard and considered
- Dignity – all actions and procedures preserve the dignity of the child
- Protection from discrimination – children receive protection from discrimination

Best Interests of the Child (Use Slide 10)

Explain the concept of "best interest of the child" using the information provided on the slide and below:

- This principle is paramount in all decisions concerning a child
- This should be taken into consideration and guide all procedures and decisions throughout the process from the reporting of the abuse through sentencing
- Best interest can appear to be a simple concept, but these issues are often extremely complex. As a Magistrate/ Judge, you are experts in the law and application of the law. As experts, you will likely recognise when you are operating in an area outside of your expertise. Find and consult resources or supports for cases involving child victims, witnesses, and/or perpetrators of OCSEA.

Participation (Use Slide 11)

Explain the concepts related to participation provided on the slide and below:

- Children have the right to participate, intervene and express their views freely in all judicial or administrative proceedings that affect them
- Their views must be given due weight in accordance with their age and maturity
- Participation can be direct or through an intermediary
- Their views and best interest are to be considered in making bail decisions.

Dignity (Use Slide 12)

Review the concepts related to dignity provided on the slide and below:

- A Magistrate/ Judge should ensure that children are handled with respect, care, sensitivity and fairness
- Ensure that children are not subjected to torture and degrading treatment or punishment in all their contact with the justice system.

Protection from Discrimination (Use Slide 13)

Review the concepts related to protection from discrimination provide on the slide and below:

- All children who come into contact with the justice system must be treated equally, without discrimination of any kind, irrespective of their – or their parents' or legal guardians' – race, colour, sex, sexual orientation, language, religion, political or other opinion, national, ethnic or social origin, immigration or refugee status, family condition, socio-economic condition, disability, birth or other status.
- Children must be protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of their parents, legal guardians or family members.
- Although these concepts guide all of your work, it is important to remember that these protections are in place because of the long history of bias, discrimination, and unfair treatment of certain populations. As individuals, each of us holds a unique set of biases. We can counter those biases by being aware and observing our behaviour to counter the automatic and unintentional behaviour/ response biases can create.

- Equality v. equity. Just because something is equal does not mean it is equitable. If a person is blind, and we are handing out books, it would not be equitable to expect the blind person to read the book without a book provided in Braille. This concept can be expanded to a child, particularly a child victim/witness/survivor/child in conflict with the law in a courtroom.

Supporting Children in the Court Room (Use Slide 14)

Review the following ways that children should be supported through the legal system provided on the slide and below:

- Ensure that the court set-up is child-friendly
- All Magistrate/ Judges are gazetted to handle children matters.
- Promote child participation
- Observe and promote confidentiality
- Minimise delays.

Ensure That the Court Set Up Is Child Friendly (Use Slide 15)

Review child-friendly court set up provided on the slide and below:

- Removing of formal legal dress by judge, police and lawyers
- Use of appropriate special measures - permitting the victim or witness to testify in a manner that allows her/him to avoid seeing the accused (using screens or CCTV)
- Permitting a support person such as family member or friend to attend trial with the victim or witness
- Language, interpreter and other special assistance measures.

Promote Child Participation in Court (Use Slide 16)

Review the concepts of child participation in the court provided on the slide and below:

- The child's best interest is paramount at all stages
- Allowing a video-recorded interview as evidence in chief
- Duty to prevent the asking of any question that may expose the child to intimidation, hardship or undue distress
- Limiting the frequency, manner and length of questioning and Providing breaks whenever needed
- Provide breaks when necessary for the child and avoid other unnecessary delays
- Giving evidence via an intermediary.

Observing and Promoting Confidentiality (Use Slide 17)

Review the key points related to promoting confidentiality provided on the slide and below:

- Protecting the identity of the victim or witness from the media and the public, for example through banning publication, removing any identifying information such as names and addresses from the public records of the court, and/or using a pseudonym for the victim or witness[38]
- Emptying the public gallery (closed hearings or in-camera hearings and proceedings
- Hold closed hearings or in-camera hearings and proceedings, minimizing the number of observers.

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[38] UNODC, Handbook for the Judiciary on Effective Criminal Justice Responses to Gender-based Violence against Women and Girls (2019), at 142-143, citing UNODC, Handbook on effective prosecution responses to violence against women and girls (2014).

Minimising Delays (Use Slide 18)

Review the importance of and strategies for minimising delays for children provided on the slide and below:

- Children to testify first
- Give priority hearing dates to children cases
- Grant merited adjournments.

Ask: do you have examples of other strategies for minimising delays for children?

SESSION 3: Principles of Appropriate Sentencing (Use Slides 19 To 28)

Purpose of a Sentence (Use Slide 20)

Explain the purposes of a sentence provided on the slide and below:

- Punish the offender for his/her criminal conduct in a just manner (retribution)
- Deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences (deterrence)
- Enable the offender reform from his criminal disposition and become a law-abiding person (rehabilitation)
- Address the needs arising from the criminal conduct such as loss and damages. Criminal conduct ordinarily occasions victims', communities' and offenders' needs and justice demands that these are met (restorative justice).
- Protect the community by incapacitating the offender (community protection); and
- Communicate the community's condemnation of the criminal conduct (denunciation).

Principles of Appropriate Sentencing and Retribution (Use Slide 21)

Briefly review the principles underpinning the sentencing process – the following slides will detail out each principle as they relate to OCSEA.

- Proportionality
- Equality/uniformity/parity/consistency/impartiality
- Accountability/transparence.

Proportionality (Use Slide 22)

Review the details related to proportionality in OCSEA cases provided on the slide and below:

- OCSEA offences are grave offences carrying the same weight as contact / in person offenses
- Look to the aggravating circumstances. Use inter alia victim impact statement to the extent permitted by sections 33 of the Sexual Offences Act and sections 329A-329F of the Criminal Procedure Code.

  *In **R vs. Scott (2005) NSWCCA 152,** adopted in Kenya, Howie, Grove and Barr JJ stated: "There is a fundamental and immutable principle of sentencing that this sentence imposed must ultimately reflect the objective seriousness of the offence committed and there must be a reasonable proportionality between the sentence passed in the circumstances of the crime committed…One of the purposes of punishment is to ensure that an offender is adequately punished…a further purpose of punishment is to denounce the conduct of the offender."*

Ask participants to turn to the person next to them and for two minutes discuss the following prompts:

- Have you ever sentenced a child abuse case?
- What were the considerations in relation to proportionality?
- Were there aggravating circumstances in those cases?

Return to plenary and ask a few participants to share.

Ask participants to share potential aggravating circumstances they may see in an OCSEA case.

Equality/ Uniformity/ Parity/ Consistency/ Impartiality- Article 27 of the Constitution of Kenya (Use Slide 23)

Review the details related to equality/uniformity/etc. provided on the slide and below:

- Equality and freedom from discrimination
- Act with integrity – by exercising objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices

Accountability/ Transparency (Use Slide 24)

Review the details related to accountability and transparency provided on the slide and below:

- Fair hearing
- Accountable to the public on decisions and actions

    1. Inclusiveness- participation of victim to inform sentencing

    2. Respect for Human Rights and Fundamental Freedoms:

    3. Adherence to domestic and international law with due regard to recognized international and regional standards on sentencing- though not binding, provide important guidance in sentencing

Child Offenders of OCSEA (Use Slide 25)

Review the concepts related to child offenders of OCSEA provided on the slide and below. Ask participants to give examples of each concept and how they may apply to youth involved in OCSEA.

- Children Act: Courts must be guided by the Children Act at all times when dealing with children.
- The paramount objectives when dealing with children in conflict with the law should be reformation, social integration, rehabilitation and restorative justice. The order imposed should thus be the one best suited to realize this objective
- Non-custodial orders should be imposed
- Custodial orders should only be meted out as a measure of last resort where in light of the seriousness of the offence coupled with other factors, the court is satisfied that a custodial order is the most appropriate and would be in the child's best interest.
- Section 191 (1) of the Children Act-allows the court to deal with a child "in any other lawful manner". This order can, therefore, be used when dealing with a child in conflict with the law who understands the nature of a recognizance.
- Overriding consideration when imposing orders against a child in conflict with the law is the child's best interests.

Final Considerations Related to Adjudicating OCSEA Cases (Use Slide 26)

Review final concerns regarding adjudicating OCSEA cases provided on the slide and below:

- No rehabilitation programmes for OCSEA
- The offences are not described in law
- Knowledge gap on OCSEA among justice actors
- Lack of awareness on the existing legal provision on OCSEA among justice actors
- Limited technical and technological resources needed to successfully prosecute an OCSEA case.

Group Activity (Use Slide 27)

Activity: this is a small group discussion and presentation activity to share experiences, challenges, and how to support child survivors.

i. Small group discussion: (45 minutes)

- Ask participants to separate into groups based on the following categories (note: If Magistrate/ Judges have worked in multiple categories or none of the categories, work to ensure there is at least one Magistrate/ Judge for each group who have experience in the area and allow the others to choose based on interest):
  - Group 1 – magistrates and Judges who have adjudicated OCSEA cases
  - Group 2 – magistrates and Judges who have adjudicated child abuse cases
  - Group 3 – magistrates and Judges who have adjudicated cases with youth offenders

- Ask each group to discuss:
  - The challenges
  - The support to the children survivors/offenders
  - What laws did you rely on?

- Ask each group to create a short presentation, no longer than 10 minutes, to share lessons learned with the group.

ii. Presentations (30 minutes)

- Each group presents to the rest of the group.

Case Law Examples (Use Slide 28)

Review the case law provided on the slide and below:

- *R v. Costi*, **2006 -** Perpetrator was charged and convicted pursuant to the sexual offences act of 2003 of the United Kingdom for meeting a minor after grooming her online via internet relay chat (IRC), and performing sexual acts on her.

- **The queen vs. Ian Watkins and others, 2013**- Ian Watkins was convicted for child sexual abuse, for encouraging a mother to sexually abuse her child via skype sessions.

- **Thomas Msaberi Kademi v Republic [2020] eKLR-** Display of CSAM material to children.

Ask participants if they are familiar with the cases above and have any details to contribute.

SESSION 4: Summarising Module 7 (Use Slides 29 To 31)

Key Learning Points (Use Slide 30)

Review the key learning points of Module 7 provided on the slide and below:

- Computer Misuse and Cybercrime Act 2018 and the Sexual Offences Act are key in the adjudication of OCSEA cases
- Vigilance is required in taking down of OCSEA evidence.
- Children need support throughout the criminal justice processes
- Adherence to principles of appropriate sentencing and retribution is important and judicial officers should take note of aggravating and mitigating circumstances
- Child offenders in OCSEA cases are children in need of care and protection.

Questions (Use Slide 31)

Ask participants if they have any questions. If you don't have the answer, write it on a piece of flipchart paper (sometimes referred to as a 'parking lot'), find out the answer and share it with participants (this can be by email or in person).

This module examines the legislation applicable to OCSEA and how prosecutors can apply this legislation in the successful prosecution of OCSEA cases.

Time 4 hours 5 minutes

Content	Slide No.	Time
Introduction to module (title slide)	1	5 min
Learning outcomes	2	5 min
Session 1: An overview of legal representation in OCSEA cases	3 – 7	35 min
Session 2: Supporting children during legal representation – pre-trial	8 – 17	120 min
Session 3: Supporting children during the trial	18 – 22	70 min
Session 4: Summarising module 8	23 – 25	10 min

What facilitators will need for Module 8

- PowerPoint slide deck for Module 8
- Flipchart paper and pens.

Learning Outcomes (Use Slide 2)

Review the learning outcomes provided on the slide and below:

- An increased knowledge on the role as lawyers in offering legal support in prosecution of OCSEA cases
- An increased understanding of the social impact of OCSEA and how to best support survivors of OCSEA

Ask: what one thing do you want to take away from today's session?

Explain: Policy reforms and legal reforms are necessary in curbing OCSEA.

SESSION 1: An overview of legal representation in OCSEA cases (Use Slides 3 to 7)

Small group discussion: my experience of offering legal representation in OCSEA cases (Use Slide 4)

i.   Facilitate a small group activity: (20 minutes)

- Ask participants to separate into groups of 4 to 5 participants and discuss the following prompts regarding prosecuting OCSEA cases provided on the slide and below:

  - What process was used that made the experience better for the child?

  - What were the challenges?

  - What was the outcome?

  - What would you do differently next time?

Note: If participants have not had experience in offering legal representation in OCSEA cases, discuss cases that they have heard about from colleagues or media.

iii.   Return to plenary and spend 10 minutes asking participants to share key points of their discussion.

Social Impact of OCSEA Legislation (Use Slide 5)

Explain: OCSEA cases are considered violence against children and are criminal cases that carry as much weight as other abuses against children. There exist laws and policies that have a positive impact on the well-being of children. As much as we lack law that expressly addresses OCSEA, the Sexual Offences Act and Computer Misuse and Cybercrimes Act have provisions that can be relied on to press charges and prosecute OCSEA in Kenya.

Review the following points provided on the slide and below:

- Increased **awareness** of OCSEA by justice actors leads to better support for survivors of OCSEA.
- Anti-OCSEA initiatives by state and non-state actors to combat OCSEA, where we have programmes on prevention and response to OCSEA cases.
- Having the laws in place has ensured that cases are reported to relevant authorities and justice is eventually meted out to the survivors.
- An Increase in successful convictions of sexual offenders acts as a deterrent to child sex offenders.
- Safer communities and online spaces for children to thrive: With laws in place, cases of OCSEA against children are addressed formally, making the digital space the same for children to grow, learn and flourish.

Considerations of a Reasonable Prospect of Conviction – Evidence (Use Slide 6)

Review the considerations of a reasonable prospect of conviction related to evidence provided on the slide and below:

- Key evidence is needed to establish each element of offense against the accused
- Key evidence should be available at the point of charging
- Address chain of custody before the trial.

Key Evidence (Use Slide 7)

Review key evidence provided on the slide and below:

- Key evidence establishes elements for each offence, the person to be charged, who committed the offence? It should be available at point of charge and includes:

    - Witness testimony: in the case that numerous witnesses provide differing evidence relating to the same events, witness statements should be provided for each witness.

    - Police statements

    - Expert evidence, e.g., forensic experts

    - Statements of the accused; exculpatory (not guilty) or inculpatory (incriminating)

    - Digital and electronic evidence

    - Documents and forms

    - Physical evidence, such as gadgets.

SESSION 2: Supporting Children During the Legal Process – Pre-Trial (Use Slides 8 To 17)

Supporting Child Victims/ Survivors Who Have Experienced OCSEA (Use Slide 9)

Facilitate a short plenary style discussion (10 minutes) using the prompts provided on the slide and below:

- What do you think a child survivor of OCSEA might feel before, during, and after a trial?
- What do you think a child survivor might experience before, during and after a trial?

Answers should include:

- Stress
- Anxiety
- Hopelessness
- Fear
- A sense of achievement
- Anticipation (of justice).

They may experience:

- Long waits
- Feelings of shame or being judged (depending on how they are questioned)
- Fear (if they see the perpetrator in court)
- Self-doubt (for example, if cross-examined)
- Strong emotions at different points of the prosecution process.

Why It Is Important to Provide Additional Support to Children (Use Slide 10)

Explain: Providing additional support to children who have experienced OCSEA and ensuring the child understands the proceedings is important to reduce stress. Reducing the child's stress will:

- Minimise the likelihood of causing more harm to the child
- Improve the child's ability to answer questions
- Help the child give clearer and more reliable statements / evidence.
- Ensure that the justice actors that are mandated to support the child are involved and provide the necessary services.

How to Provide Additional Support to Children (Use Slide 11)

Ask: what do you consider to be child-friendly interactions for children who have experienced OCSEA?

Highlight these key points if not raised by participants:

Child-friendly interactions:

- Ensure child is handled in a manner that considers the child's age, intellectual and emotional capacity, and well-being

  - Ensure that you use a language familiar to the child

  - Take into account a child's developmental and chronological age

  - Notice and adapt to how child appears and behaves (for example, if a child is shy and withdrawn, nervous or frightened, etc.)

- Ensure that the views of the child are considered (make sure the child's views are known and included in decision-making such as when and how they give evidence during diversion, plea bargaining and/ or sentencing)
- Use a child-friendly court, which may require making adaptations to a 'typical' court setting
- Ask the child who they want to be accompanied by when they are in court
- Ask the child if they have any concerns, such as a wish to avoid the presence of certain persons in court, and take account of these concerns
- Provide refreshments for children
- Create a conducive environment such as play therapy, to facilitate a child's testimony
- The case should be heard in camera or closed sessions
- Use child-friendly language and tone, including the use of child-friendly questions and style (inquiries rather than interrogations)

- Apply to the Court to exclude the press where appropriate
- Where appropriate, encourage the use of descriptive aids such as drawings, anatomically-accurate dolls, and/or toys to assist the child in testifying.

Ask: What processes do they think will be necessary in OCSEA cases to ensure the child's needs are met?

Highlight these key points if not raised by participants:

Processes:

- Ensure that a Protection and Care (P&C) file is opened for the child
- Rapid decision-making and avoiding unnecessary adjournments
- Conceal identity of the survivor - confidentiality of the survivor, whenever possible
- If necessary, make an application for Protection Orders for a child victim or witness against the offender
- Children's evidence should be taken at the earliest opportunity.

There are a number of services that you can apply for on behalf of the child survivor:

- Court-appointed counsellor/child psychologist (establishment of special needs)
- Child protective services (alternative care for the child if the home environment is not safe), when necessary, noting that removal from the home should be a last resort, with removal of potential perpetrators preferred according to Kenya's Guidelines on the Right to Family-Based Alternative Care
- Priority hearing at plea taking
- Witness facilitation to enable them to attend the pre-trial conference or the hearing.

Review the case management process:

- Safety planning – is an important part of working with children who have experienced OCSEA. Safety planning consists of assessing a child's current safety (including risks and protections), connecting the child to resources/providers to ensure safety, and having a plan for if the child encounters risks to their safety in the future.
- Medical support – a child who has experienced OCSEA should receive medical support immediately in case of recent abuse. Material evidence of physical abuse is extremely time sensitive, and a child should be seen by a specialist immediately upon reporting, even if they do not disclose physical harm.
- Psychosocial support – a child who has experienced OCSEA should receive psychosocial support, such as counseling, as soon as possible.
- Reporting and navigating the legal system can be further traumatizing, and a child's mental health needs must be addressed.
- Legal support – a child who has experienced OCSEA should receive trauma-informed counsel and support from an advocate who understands the complexities of OCSEA as soon as they have made the report.

Highlight: every justice actor has role to play in supporting the child to stay safe both online and offline.

Child-Friendly Interviews (Use Slide 12)

Ask participants: what is a child friendly interview?

Review the techniques that can be applied to increase the content/details/accuracy during an interview provided on the slide and below:

- Assure safety – Ensure that the child understands that they are in a safe space, that their disclosure is confidential, and that they will not be punished for what has been done to them. Note: Shared confidentiality should be observed with no promises to keep the disclosure a secret. Manage the child's expectations by assuring them of their safety.

- Use age-appropriate, non-condescending language – speak to the child using words that the child will understand.
- Use a tone that is not aggressive while also not being condescending. Please speak to the child in a way that considers their biological age and maturity level.
- Do not shame or judge – a child who has experienced OCSEA will likely feel very ashamed.
- Make sure to use language and tone that does not further shame the child or give the impression that they are responsible for the crimes they are victims of.
- Do not push the child to continue the interview if they become distressed or upset – let them set the pace of the interview, take breaks when needed, and be sensitive to long pauses.
- Utilize creative techniques such as drawing, toys, and play to help the child communicate and feel safe.

Listening to a Child Witness/Survivor of OCSEA (Use Slide 13)

Explain the key principles of listening to a child witness/survivor of OCSEA provided on the slide and below:

Active listening to a child is key to getting information that can be used as evidence in court. Special care must be taken not to do anything that might later be construed as swaying the child's account of events. Every action or decision must always be in the child's best interest. Build a relationship of trust:

- can be achieved through several meetings with the child to explain what is happening and is expected to happen
- Be clear-use their language
- Be keen to what matters to them-be respectful

Show you're listening (active listening), e.g., put your phone down and reflect on your body language.

Ask: what are the Dos and DON'Ts when listening to a child witness on OCSEA? Review any of the following points provided on the slide and below if participants do not raise them:

DO:

- Slow down
- Explain confidentiality – including the limitations
- Believe them
- Listen
- Ask open ended questions
- Display empathy / understanding
- Reassure
- Explain what the next steps.

DON'T

- Rush/fill silences
- Promise to keep a secret
- Convey judgement/panic/ overreact
- Interrupt
- Make promises you will not/cannot keep
- Don't confront the alleged perpetrator.

Highlight: Safeguarding and child protection concerns require action from relevant authorities, such as the police, to prioritize the child's well-being.

Activity: Legally Representing Child Witnesses/ Survivors (Use Slide 14)

i. Small group discussion: (20 minutes)

- Ask participants to separate into four evenly divided groups.
- Give each group one of the following questions to discuss:
- Group 1: What questions can and should we be asking child witnesses in an OCSEA case?
- Group 2: What questions should we definitely not ask?
- Group 3: What questions are we not sure of and why?
- Group 4: How can we question child witnesses using a child-friendly, trauma-informed approach?
- Instruct the participants to select a note taker and presenter.
- Using the flipchart and markers, each group will create a 5-minute presentation in response to the group question.

ii. Presentations: (25 minutes)

- Ask each group to present for 5 minutes on their question
- Give time for comments and questions after each presentation.

Examination of Witnesses/ Survivors (Use Slide 15)

Review the legal provisions on the right of an advocate watching brief to examine witnesses/survivors.

Watching brief is the channel a lawyer uses to provide legal support in prosecuting an OCSEA case.

- Subject to the trial court's guidance, cross-examination of witnesses/survivors by the counsels for the survivors can be used to bring out the evidence that has been left out by the prosecution in examination in chief and which evidence is within the statement of the witnesses supplied to the defense and the survivor.
- Not expressly provided for by the Victim Protection Act
- Section 150 of the Criminal Procedure Code, a trial court has the general power to exercise suo moto (actions taken by the trial court without a prior motion or request from other parties) to:
    - summon, or call any person as a witness
    - examine any person in attendance though not summoned as a witness
    - recall and re-examine a person already examined.

Submitting Victim Impact Statements (VIS) (Use Slide 16)

Instruct participants to turn to the person next to them and discuss the prompts provided on the slide and below (10 minutes):

- What are the steps for submitting a VIS?
- Are there additional considerations for OCSEA cases?

In plenary, give 10 minutes to continue discussions and review the steps (below).

Role Play: Legal Representation Conversations with a Child Survivor of OCSEA (Use Slide 17)

Preparation: the facilitator should be prepared with a practiced skit, including inappropriate questions and behaviors when interacting with a child who has experienced OCSEA.

- **Note:** If there are two facilitators, one facilitator takes on the role of the child, the other the role of the lawyer. If there is only one facilitator, a volunteer participant can play the child—in this case, please remind the participant to treat the activity with dignity and respect for children and remind participants that if someone has experienced child abuse, taking on this role may be upsetting for them.

i. Role play: (10 minutes)

- Conduct the full interview with the facilitator playing the lawyer, the second facilitator, or a participant playing the child. The facilitator will commit several "don'ts" in the interview. Note: *It will be helpful to do this without being overly cartoonish. Humour can be a helpful tool when discussing difficult and painful topics. Still, it is the role of the facilitator to ensure that if there is any humour used, ensure it is not making a mockery of children or what is happening to children.*
- Once concluded, participants will be asked to identify the concerns that they observed during the role play.

ii. Small group role play: *(*20 minutes)

- Ask participants to then get into groups of three: one is the lawyer, one the child and one the facilitator. They are 'ideal' lawyers, not repeating the mistakes of the demonstrated role play
- Ask everyone to share in their small groups of what it felt like to be in each of their roles
- Everyone swaps roles after five minutes, and does so again after another five minutes, so everyone has an opportunity to role play the lawyer, child and observer.

iii. Plenary discussion: (5 minutes)

- In plenary, ask for any overarching observations and comments.

Alternative approach:

i. Role play: (10 minutes)

- Conduct the full interview with the facilitator as outlined above
- Once concluded, participants will be asked to discuss their concerns with the interview

ii. Stop action role play: *(*25 minutes)

- Instruct participants the rules of the Stop Action role play.
    - Explain that the role play will begin again.
    - In this round, whenever the lawyer is not demonstrating best-practices, the participants say "Stop!".
    - When a participant says "Stop!" the actors in the role play freeze.
    - The participant who stopped the action will take the place of the lawyer and correct the mistake.
    - Once corrected, the participant will sit down, and the original facilitator lawyer will take over to continue with the interview.
    - The stop and start will continue until all mistakes the original lawyer was making have been corrected by participants.

SESSION 3: Supporting a Child During the Trial (Use Slides 18 To 22)

Watching Brief (Use Slide 19)

Explain: A complainant can retain a lawyer who can participate in a criminal trial with a view to ensure that the complainant's rights to justice are guaranteed.

- An advocate must ensure that they make an application for participation in the trial and in case of unfavourable orders they have recourse to the High Court under Section 362-364 of the Criminal Procedure Code

- Victims have a right to compensation or restitution from the offender (Under section 26 of the VPA)
- Encourage victims to file Victim Impact Statements under Section 12 of the VPA.

Review the legislation and case law relevant to watching brief:

- The Constitution broadens the rights of complainants and victims to participate in criminal proceedings
- Article 48 of the Constitution now provides that the state shall ensure access to justice for all persons
- Article 50 (7) of the Constitution provides that in the interests of justice a court may allow an intermediary to assist a complainant to communicate with the court
- Victim Protection Act (Act No. 17 of 2014) under sections 4 and 9 gives effect to Article 50(9) of the Constitution which guarantees the rights of victims of crimes and further supports the Victim Counsel's application for participation in criminal cases.
- The victims' right to participation in the trial process subsists throughout the court process, and is active within the limits set in. the participation of the victim is a non-derogable right under Article 25 of the Constitution
- Note, a lawyer watching brief is not a passive observer.

Small Group Activity - Case Law (Use Slide 20)

i. Review the decided case law that support victim participation in criminal cases.

ii. Discuss in plenary:

- What worked well in these cases?
- What could have been done better?

What might we do next time we have an OCSEA case?

Highlight:

- Child offenders are children in need of care and protection
- All aspects of each offence have to be established
- Work in liaison with the prosecutor to ensure they prove the case to the required standard of beyond reasonable doubt.
- The technological world keeps evolving and so do the offences.
- be aware of the interlink between OCSEA and other child offences
- A child's evidence must be corroborated

- **Joseph Lendrix Waswa -v- Republic (2019) eKLR**

Lists out the guiding principles that will assist the trial Court when it is considering an application by a victim or his legal representative to participate in a trial and the manner and extent of the participation:

- The applicant must be a direct victim or such victim's legal representative in the case being tried by the Court.
- The Court should examine each case according to its special nature to determine if participation is appropriate at the stage participation is applied.
- The trial Judge must be satisfied that granting the victim participatory rights shall not occasion an undue delay in the proceedings.
- The victim's presentation should be strictly limited to "the views and concerns" of the victim in the matter granted participation.
- Victim participation must not be prejudicial to or inconsistent with the rights of the accused.

- The trial Judge may allow the victim or his legal representative to pose questions to a witness or expert who is giving evidence before the Court that the prosecutor has not posed.
- The Judge has control over the right to ask questions and should ensure that neither the victim nor the accused are subjected to unsuitable treatment or questions irrelevant to the trial.
- The trial Court should ensure that the victim or the victim's legal representative understands that prosecutorial duties remain solely with the DPP.
- While the victim's views and concerns may be persuasive and undoubtedly, in the public interest of the community within which they are acknowledged, their views and concerns cannot be equated with the public interest.
- The Court may hold proceedings on camera where necessary to protect the privacy of the victim.
- While the Court has a duty to consider the victim's views and concerns, the Court has no obligation to follow the victim's preference for punishment.
- **Leonard Maina Mwangi -v- Director of Public Prosecutions & 2 others (2016) eKLR**.
- Participation by victims does not of itself compromise the fair trial guarantees.
- It is the court's duty to measure how participation is conducted to guard against jeopardizing the rights of an accused.
- The law recognises and supports victims' participation so long it does not tip over the right of an accused to a fair trial.
- By participating in the proceedings, a victim's counsel does not take over the prosecutor's role.

Role of Lawyers in Influencing Policy Reform/ Legal Review on OCSEA (Use Slide 21)

Review the role of lawyers in influencing policy reform/legal review on OCSEA provided on the slides and below:

- Getting involved in public interest litigation to create awareness of OCSEA and advance child rights in the online space
- Public participation exercises - submit comments or feedback on Bills, policies, and regulations as they are being developed to ensure child rights mainstreaming across legislation and policy areas.
- Awareness creation - to policymakers and the citizenry through legal writing to share information on OCSEA. It can be through social media like Twitter and Facebook to educate the public and lawmakers about OCSEA.
- Legislative drafting - by researching legislation and editing them to make them stronger and clearer and incorporating emerging areas on child protection such as OCSEA into law or Bill.

World Café (Use Slide 22)

Ask participants to turn the person next to them and discuss the prompts provided on the slide and below: (30 minutes)

- Ask participants to break into groups of 5 participants.
- Explain the format of the World Café. Each table will discuss one question for 10 minutes. After ten minutes, participants will split up again and move to a new table. This will be repeated for three rounds.
- Explain that it doesn't matter if all topics are not shared with each table – if everyone is enjoying discussing their experience for example, they can continue with that discussion and move onto challenges and opportunities when they swap tables.
- Ask each table to nominate one table 'host'. This person stays at the same table throughout the activity and updates people new to the table on what has previously been discussed. They can use notes on the 'table cloth.'
- Give each group a sheet of flip chart paper (you can call it a 'table cloth' for writing on!) Inform participants they don't have to make notes or drawings but they can if they find it useful. However, they will not be presenting back. The aim of this activity is discussion.

- Time 10 minutes, then ask participants to change tables or ring a bell. Instruct participants to try and work with different people for the next 10 minutes. Repeat once more. You may choose to ring a bell instead to notify participants when to change tables. Remind the table 'host' to stay where they are.
- Round 1: Participants at each table discuss the questions: (10 minutes)

    - Thinking about our previous learning on child-centred, trauma-informed approaches, what can you bring to your role to better support children?

- Round 2: Participants at each table discuss the question: (10 minutes)

    - What might be the gaps and challenges? (10 minutes)

- Round 3: Participants at each table discuss the question: (10 minutes)

    - How might these be overcome?

Participants return to plenary and spend 5 minutes sharing their thoughts on what they liked about the activity and any key points discussed.

SESSION 4: Summarising Module 8

Key Learning Points (Use Slide 24)

Review the key learning points provided on the slide and below:

- Lawyers play an active role in supporting child witnesses in OCSEA cases
- Know the law: it is there to support you
- How we listen to and support children through OCSEA cases is often the same for wider cases of violence against children
- Listening to children, not judging or shaming, and letting them lead the pace is key
- The process should, as much as possible, not re-traumatize a child witness or survivor.

Questions (Use Slide 25)

Ask participants if they have any questions. If you don't have the answer, write it on a piece of flipchart paper (sometimes referred to as a 'parking lot'), find out the answer and share it with participants (this can be by email or in person).

Appendix A: Activity for Module 1 (Use Slide 7)

Instruction for facilitators: PREPARING for the activity:

1. Print the activity sheets on card or laminate them after printing
2. Cut out the terminologies and definitions and use a bag/paper clip to keep them together
3. Make sure there are enough copies so that each group will have one
4. Print additional copies (uncut) to give to each group at the end of the activity so they can check their answers.

Instruction for facilitators: RUNNING for the activity:

1. Participants get into small groups (3 to 5 per group)
2. Give each group the cut-out definitions and terminologies
3. Tell groups it's a race – the winner is the first group to match all terminologies to their correct definitions
4. Start the race. When a group shouts 'finished', give each group the print out (uncut) to check if all their answers are correct.

Child sexual abuse	The involvement of a child (anyone under 18) in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent.[380] This is the definition of child sexual abuse adopted by WeProtect Global Alliance ('the Alliance'), based on World Health Organization (WHO) guidelines.
Child sexual exploitation	A form of child sexual abuse that involves any actual or attempted abuse of position of vulnerability, differential power or trust. This includes, but is not limited to, profiting monetarily, socially or politically from the sexual exploitation of another.[381] This can be perpetrated by individuals or groups of offenders. What distinguishes child sexual exploitation from child sexual abuse is the underlying notion of exchange present in exploitation.[382] There is significant overlap between the two concepts, because exploitation is often a feature of abuse, and vice versa.[383]
Child sexual exploitation and abuse online	Child sexual exploitation and abuse that is partly or entirely facilitated by technology, i.e. the internet or other wireless communications. This concept is also referred to as Online Child Sexual Exploitation and Abuse (OCSEA), and 'technology-facilitated' child sexual exploitation and abuse.
Child sexual abuse material (CSAM)	Any visual or audio content of a sexual nature involving a person under 18 years old,[384] whether real or not real. **Note on alternative terminology:** Some organisations distinguish between child sexual abuse material and child sexual exploitation material (e.g. the Interagency Working Group on the Sexual Exploitation of Children define 'child sexual exploitation material' as a broader category that encompasses both 'material depicting child sexual abuse and other sexualised content depicting children'). 'Child pornography' is also used as an alternative term by some organisations. The Alliance's stated position is to refrain from use of this term: 'Child sexual abuse material' is felt to more accurately capture the heinous nature of sexual violence against children, and to protect the dignity of victims. Some 'self-generated' sexual material would also constitute child sexual abuse material, depending on the circumstances of its production (see Child 'self-generated' sexual material).

Known child sexual abuse material	Child sexual abuse material that has been previously detected and classified by law enforcement and / or moderators.
'First generation' child sexual abuse material	Child sexual abuse material that has not previously been detected and classified by law enforcement and / or moderators.
Non-photographic child sexual abuse material	This includes computer-generated images cartoons, or drawings which graphically depict children in a sexually abusive way. [385] [386]
Sexualised material of children	Material that does not represent the sexual abuse of a child, but which is used for sexual purposes. An example might be a video of children doing gymnastics, which is inappropriately viewed for sexual gratification. Sexualisation is not always an objective criterion, and the crucial element in judging such a situation is the intent of a person to sexualise a child in an image or to make use of an image for sexual purposes.
Producing child sexual abuse material	Creating child sexual abuse material by in-person photography /video / audio recording, creating textual content or non-photographic (e.g. computer-generated) visual material, or manipulating existing child sexual abuse material to create new unique imagery.
Searching for and / or viewing child sexual Abuse material	Seeking child sexual abuse material on the internet and viewing or attempting to view it.
Sharing and / or storing child sexual abuse material	Downloading, storing, hosting, uploading and / or sharing child sexual abuse material.

Grooming children online for the purpose of sexual exploitation and abuse	An individual builds a relationship, trust and emotional connection with a child or young person in order to manipulate, exploit and abuse them (facilitated, partly or entirely, by the internet or other wireless communications).[388] There is not always an intent to meet in person. Note on Alternative Terminology: Some organisations use the term 'online enticement' (as defined by NCMEC[389]) when referring to this concept.
Child 'self-generated' sexual material	Content of a sexual nature, including nude or partially nude images and video, that has been produced by children of themselves. Child 'self-generated' sexual material is not a harm per se (it can be produced voluntarily and shared as part of a developmentally appropriate exchange, e.g. between adolescents), but there are production scenarios in which harm is caused, primarily: • When a child or adolescent is coerced into producing 'self-generated' sexual material • When voluntarily 'self-generated' sexual material is shared against an adolescent's wishes This report is focused on examining the characteristics and boundaries of harmful 'self-production'. This phrase appears in quotation marks throughout the report to avoid any implication of willingness on the part of the child or young person involved. While the content may meet the definition of child sexual abuse material, the intent is likely to be unclear and therefore cannot be taken for granted in any circumstances.
Livestreaming child sexual exploitation and abuse	Transmitting child sexual abuse and exploitation in real-time over the internet.
Computer-Generated Imagery (CGI)	In the context of child sexual abuse and exploitation, this refers to wholly or partly artificially or digitally created sexualised images of children.[390]
'Deepfake'	A form of CGI that uses artificial intelligence to replace one person's likeness with another in photos or recorded video.[391]
'Capping'	Offenders capturing footage of livestreamed child sexual abuse and exploitation.[392] Capping may also include offenders capturing innocuous imagery of children and using it for sexual purposes (this imagery would then constitute sexualised images of children).
'Gamification' of abuse	The application of game-like elements (e.g. point scoring, competition with others, rules of play) to encourage participation in abuse and exploitation.

Child displaying harmful sexual behaviour	A child or young person under the age of 18 years old exhibiting behaviours that are developmentally inappropriate, may be harmful towards themselves or others and / or abusive towards another child, young person or adult.[393]
Risk factors	Factors at the individual, relationship, community, and societal level that may make a child more likely to experience sexual abuse and exploitation.
Protective factors	Factors at the individual, relationship, community, and societal level that may reduce the risk of a child being a victim of sexual abuse and exploitation.
Re-victimisation	When a victim faces any sexual abuse or assault subsequent to a first abuse or assault.[394] This includes the further distribution and viewing of imagery on the internet: a single image of a victim can be shared hundreds or thousands of times.[395] Re-victimisation may be caused by the same or a different offender to the initial victimisation.
Child trafficking	The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation.[396]
Global North	The G8 countries, the United States, Canada, all member states of the European Union, Israel, Japan, Singapore, South Korea, Australia, New Zealand and four of the five permanent members of the United Nations Security Council, excluding China.[397]
Global South	Africa, Latin America, the Middle East and developing Asia. This includes three of the four newly advanced economies of the BRIC countries (excluding Russia), which are Brazil, India and China.[398]
Surface web	The portion of the web readily available to the general public and searchable with standard web search engines.[399]
Deep web	The portion of the web whose contents are not indexed by standard web search engines, and includes many common uses such as webmail, online banking, and subscription services. Content can be located and accessed by a direct link or IP address, and may require a password or other security access beyond the public webpage.[400]
Dark web	The layer of information and pages that you can only get access to through so-called 'overlay networks' (such as Virtual Private Networks (VPN) and peer-to-peer (P2P) file sharing networks), that obscure public access. Users need special software to access the dark web because a lot of it is encrypted, and most dark web pages are hosted anonymously.[401]

Safety Technology (Safety Tech)	Solutions to facilitate safer online experiences, and to protect users from harmful content, contact or conduct.[402]
Safety-by-design	The embedding of the rights and safety of users into the design and functionality of online products and services from the outset.[403]
Peer-to-peer (P2P)	In a P2P network, the "peers" are computer systems which are connected to each other via the internet. Files can be shared directly between systems on the network without the need of a central server. In other words, each computer on a P2P network becomes a file server as well as a client.[404]
Virtual Private Network (VPN)	An arrangement that creates an encrypted connection over the Internet from a device to a network, known as a tunnel.[405]
Hashing	A process whereby a binary hash is created by a mathematical algorithm that transforms data of any size into much shorter fixed-length data. This shorter sequence represents the original data and becomes this file's unique signature, or its hash value – often called its digital fingerprint.[406]
Hash-matching	A process of using databases of hashed child sexual abuse material to detect when the material is re-shared, by matching its hash value against those of already known files.[407]
Artificial Intelligence (AI) classification or AI moderation	Automated or partly-automated moderation systems that identify harmful content by following rules and interpreting many different examples of content which is and is not harmful.[408]
Encryption	The process of encoding information into an alternative form that can only be decrypted by authorised individuals who possess the decryption key.[409]
End-to-end Encryption	A form of encryption wherein the content of each message is visible only to the sender and recipient. Unscrambling the message requires a private decryption key exchanged between correspondents, so that while the message may be intercepted, it cannot be viewed or monitored by the service provider, law enforcement or any other third party.[410]
'Hidden services'	Websites that are hosted within a proxy network (such as Tor), so their location can't be traced.[411]
Metadata	Data that describes other data.[412] Examples of metadata would include the time and duration of a phone-call (as opposed to the content of the communication itself).
Tor	An open source privacy network that permits users to browse the web anonymously. The system uses a series of layered nodes to hide web address, online data, and browsing history.[413]

Guidance for implementing the Global Strategic Response

GLOBAL STRATEGIC RESPONSE: Eliminating Child Sexual Exploitation and Abuse Online

Appendix C: C* Case Study – Handout for Module 2 (Use Slide 12)

Case study: C*'s story

For module 2 (Use Slide 12)

C* is 13 years old. She started using the internet during COVID-19 as her school went online. She quickly learned to communicate with her friends using social media platforms, especially WhatsApp, Telegram, Instagram, and TikTok. She liked TikTok as she and her friends made short videos and sent them to each other; everyone said it was safe because TikTok deleted them afterward.

One day a new girl, Maya, started joining in with conversations. She was fun and liked posting funny animal videos. After a few days, she said she had been asked to model clothes for a catalogue and was being paid for it, which was helping her family, as well as being fun. She asked if anyone else was interested. One girl asked if it was safe, and Maya said it was; they were nice to her. And her mum was pleased as they didn't have to worry so much about money. The agency even bought her a new mobile phone to say thank you.

In a private message, Maya told C* that she was the most beautiful of the group because she had sparkling eyes and the modeling agency would love her. Maya said she would set up a meeting with the agency, and C*; C* agreed. Maya said C* was her new best friend, and she wouldn't suggest anything that wasn't safe – or fun.

At the online meeting, a friendly woman called Hope told C* that because of COVID-19, the agency was asking people to model in their bedrooms. All they needed to do was to walk around their room with their webcam on. If selected, the agency would send her clothes; she could then keep them as a thank you, and they would also send her a new mobile phone. Hope said that C* would need to audition. She would need to walk around her bedroom in leggings and a t-shirt, walk towards the camera, smile, and kiss. C* agreed, and Hope told C* to quickly put on leggings and a T-shirt. After the audition, Hope told C* she had got the job. C* was excited. She gave Hope her address to post the clothes and mobile to.

A few days later, C* received the clothes and mobile. Maya helped her to set up the mobile and texted her. Now, she said, they were best friends. The clothes sent were three tight and short dresses. C* said she wasn't sure about it as she felt uncomfortable in them and knew her mum would be angry if she found her wearing

them. Maya said she had to as they had been sent now, and C* would be breaking the law if she received them but didn't do what she had agreed. Scared, C* agreed to model the dresses and did so, with Hope telling her what to do.

A few days later, Maya said lots of people loved C* and they wanted to see more. Maya said C* would need to walk around the room naked. C* said no, but then Maya changed. She said "they" already had lots of videos of C*, including her naked when she changed for the audition. They would share them with C*'s father and mother if C* didn't do as they said. Scared, C* walked naked around the room and afterward cried herself to sleep. She turned her mobile off but knew Hope and Maya would be there as soon as she went online again.

Next, Maya told her she had to keep her mobile phone on all the time and do what the people on the phone told her. On the first day, C* got five messages asking for naked photos and videos or to speak with her. The day after, this increased to twenty.

One day, Hope told C* she would do a special video where people could see her live. In it, she needed to touch her breasts, vagina, and buttocks and blow kisses at the camera. Once she had done this, C* received hundreds of requests on her mobile. She was lost and didn't know what to do. She Googled 'How to kill yourself' at school; her teacher came in and read what was on the screen. C* broke down and told her teacher what had happened. Her teacher slapped her and called her a prostitute, then took her to the head teacher. C* re-told her story to the headteacher. The headteacher had had OCSEA training and told C* it wasn't her fault; he took C* to the police, who asked her to tell them what had happened.

One police officer said C* had not been sexually assaulted so they could do nothing. Another police officer said it didn't sound like a very believable story. They took her home; they made her tell her parents what had happened and instructed her parents to stop C* from using the computer anymore. C*'s father beat her, and her mother deprived her of food for several days to punish her behavior. They went to speak to their community leader about what to do about C*s' bad behavior.

The community leader had had OCSEA training. She asked C* what had happened, then took C* back to the police and insisted they speak to a police officer with expertise in OCSEA. The community leader and police officer referred C* to psychosocial support services and supported her through the police interviews.

The perpetrators 'Hope' and 'Maya' were traced to the USA and India; the police passed the information to INTERPOL, but neither has been caught. Currently, the police are aware that the CSAM of C* has been shared over 20,000 times.

Module 5 – Phases of handling digital evidence - Handout

1. Identification

- Preliminary information by an investigator on who was involved, what happened, when, where, and how an OCSEA crime occurred
- Includes the search, recognition and documentation of relevant preliminary data to a reported OCSEA case
- Involves identification of priorities in the collection of data based on volatility
- In this phase, the priorities for evidence collection are identified based on the value and volatility of evidence
- The order of volatility is the sequence or order in which the digital evidence is collected. The order is maintained from highly volatile to less volatile data. Highly volatile data resides in the memory, cache, or CPU registers, and it will be lost as soon as the power to the computer is turned off.[39]
- During identification, victims, witnesses, and suspects of a OCSEA are interviewed by investigator to gather information and evidence of the OCSEA crime under investigation
- An Investigator is expected to carry out preliminary reconstructive actions

2. Collection

- Involves collection of all digital devices that could potentially contain data of evidentiary value. It includes preservation of volatile evidence and the powering down of digital devices.
- The type and state of operation of the digital devices dictates collection procedures of specific devices.
- Investigators carries on with reconstructive actions
- Notes and/or notebooks that might include passwords or other information about online credentials, telephones, fax machines, printers, routers, etc. should be collected as well.
- Securing the scene involves identification and protection of the scene from corruption and preservation of volatile evidence
- An OCSEA crime scene involves the physical location of digital devices used in the commissions of OCSEA, the victim/survivor and the digital devices that potentially hold digital evidence
- Investigator labels each device together with its accessories, package, and transport to a national forensics laboratory where they are inventoried, recorded and secured
- An investigator should never seek support of the user during search and documentation
- An investigator should document the crime scene before collecting evidence and should keep documenting through the whole investigative progress
- Documentation should include;
    - Detailed information about the digital devices collected, such as, physical description/ characteristics that identify the device(s)
    - The operational state of the device - on, off, standby mode and any damages or markings
    - Written notes, sketches, photographs and/or video recordings of the crime scene and evidence are also needed to document the scene and evidence
    - The actions taken by the investigator during the collection of evidence

3. Acquisition

- Evidence is extracted from the seized digital devices at the forensic laboratory
- At the forensics laboratory, digital evidence is acquired using valid and reliable tools and techniques that minimize contamination of data. Approach depends on the type of digital device.
- The seized digital devices are the primary source of evidence.
- This is done by creating a duplicate copy of the content of the digital device (a process known as imaging) while using a device (write blocker) that is designed to prevent the alteration of data during the copying process.
- The person accessing this data [forensic expert] must be competent to do so and be able to give evidence in court.

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[39] see https://resources.infosecinstitute.com/certification/security-plus-basic-forensic-procedures-sy0-401/

4. *Preservation*

- It involves protection of digital evidence from modification.
- The integrity of digital evidence should be maintained in each stage of the handling of digital evidence by maintaining a chain of custody. Documenting each stage of the digital forensics process is key to the admissibility of evidence in court.
- A chain of custody establishes the integrity of digital devices and digital evidence. It is the process by which investigators preserve the crime (or incident) scene and evidence throughout the life cycle of a case through accountable tracking mechanisms.
- Proper chain of custody ensures cases are not lost on technicalities, it is therefore important to have a system of information on the movement of exhibits. It includes information about who (names, titles, contact information) collected the evidence, where and how the evidence was collected, why (purpose of the transfers) individuals took possession of the evidence, and when (time and dates) they took possession of it.

5. The *analysis* (or examination)

- Involves the examination and interpretation of digital evidence
- Analysis determines the significance and probative value of evidence and reconstructs events
- Investigator should inform the forensic expert on the objectives of the search and background of the case because the evidence sought will depend on the OCSEA crime being investigated
  Files are analysed to determine their origin, when and where the data was created, modified, accessed, downloaded, or uploaded, and the potential connection of these files on storage devices to, for example, remote storage, such as cloud-based storage.**Appendix E – Case study A* - for Module 6 (Use Slide 12)**

Mr. Kombo, a prosecution counsel, receives a file bearing the following facts.

A case of 17-year-old boy A* was reported for an alleged case of sodomy. A* stayed with his mother, and due to financial constraints, she could not manage the cost of paying for another house. A male neighbour, Ken, who lived alone next door, offered to support the mother by allowing her son A* to be sleeping in his house since he was growing up and could not share her single room with him at night.

During this time, the man was sodomizing A*, taking photos of him while naked, and sometimes recording the act without his knowledge. This happened for quite some time, and whenever A* wanted to report it, the man threatened to share the video and photos online. In return, the man would contribute towards A*'s school fees, which made his mother feel even more comfortable with him.

The abuse did not stop, and eventually reached a level where A* became suicidal and attempted suicide.

FORM OF ABUSE	OFFENCE IN LAW	LEGAL PROVISION
Child sexual abuse / exploitation material a.k.a child pornography	Possession of an indecent photograph of a child	Sexual Offences Act S.16(1)(a)
	Exposing a child to pornography with intentions of encouraging or enabling a child to engage in a sexual act	Sexual Offences Act S.16(1)(b)
	Selling, letting, hiring, distribution, public exhibition or putting to circulation, making, production or being in possession an indecent photograph of a child	Sexual Offences Act S.16(1)(c)
	Intentional Publication of child pornography through a computer system	Computer Misuse and Cybercrimes Act S.24(1)(a)
	Production for publication of child pornography through a computer system	Computer Misuse and Cybercrimes Act S.24(1)(b)
	Downloading, distribution, transmission, dissemination, circulation, delivery, exhibition, lending for gain, exchange, barter, sale or offering for sale, letting on hire or making available apparatus for child pornography from a telecommunication	Computer Misuse and Cybercrimes Act S.24(1)(c)
	Possession of child pornography in a computer system or on a computer data storage medium	Computer Misuse and Cybercrimes Act S.24(1)(d)
	Engaging in the trade of child pornography or having knowledge of the same	Sexual Offences Act S.16(1)(d)
	Receiving proceeds of Child Pornography	Sexual Offences Act S.16(1)(e)
	Advertising Child pornography	Sexual Offences Act S.16(1)(f)
	Offering or attempting to do any act which is an offence under section 16,	Sexual Offences Act S.16(1)(g)
Sexual communication with a child	Communication with a child in sexual manner or a manner intended to encourage the child to communicate in a sexual manner,	Sexual Offences Act S.16(A)(1)

Appendix G – National Laws

Constitution of Kenya 2010

Being the supreme law of the land, Article 2(5) and (6) provides for the automatic incorporation of international law into domestic law, which broadens the variety of protection laws that can be referred to protect children from online abuse. This provision is key, given that no specific legislation on OCSEA in any Kenyan Statute exists. Article 53(1)(d) recognizes that every child in Kenya has the right to protection from abuse and all forms of violence. It does not specifically mention OCSEA.

Sexual Offences Act 2006

While there is no specific mention of online child sexual exploitation in the Sexual Offences Act, there are a number of articles that specifically prohibit, and make punishable by prison terms and fines, the instigation of contact of a sexual nature with a child, the maintenance of sexual relations with a child, the display, promotion and distribution of indecent images of children.

The Sexual Offences Act Prohibits:

- sexual acts committed in view of a child (Section 7);
- penetration (Section 7), defilement (section 8), and attempted defilement (Section 9);
- intentional contact with any part of a person's body with another person's genitals, breasts, or buttocks. It also includes exposure or display of any pornographic material to any person against their will. (Section 11);
- the manufacture, supply, and distribution of any articles of a sexual nature intended to encourage and/or enable a child to perform a sexual act (Article 12);
- using the guise of tourism to facilitate the commission of acts of a sexual nature with a child (Article 14);
- child prostitution, also known as commercial child sexual exploitation (Section 15); and
- to have an indecent photograph of a child, to make, produce, sell, hire out, distribute or publicly display or put into circulation an indecent photograph of a child (Article 16);
- to import, export, display, expose or exhibit obscene images of a child, by words or sounds, through print, audio-visual, *or any other media* (emphasis added), with the intention to encourage that child to engage in the act of a sexual nature (Article 16);
    - take part in, or profit from, any business related to images of child obscenity, or to be involved in advertising the acts which have been banned in relation to indecent images of a child (Article 16); and
    - sexual communication with a child (Article 16A).

The Sexual Offences Act gives a comprehensive definition of what an obscene image is. It broadens the meaning of an indecent photograph to include visual, audio- or audio-visual representation depicting a child in sexually explicit conduct or a person who appears to be a child engaged in sexually explicit conduct; or realistic images representing a child engaged in sexual activity.

The Children Act (Act No. 29 of 2022)

There are a number of provisions in the Children Act of 2022 which can be used both to investigate and prosecute OCSEA crimes. Perhaps the most significant and broad provision is the overarching priority in Section 8(1) that the Act places on safeguarding "the best interests of the child." The Act also requires any judicial, administrative institution or any person making an interpretation as to conflict of any provision or laws shall have regard to the best interests of a child. Part II also affords children "protection from abuse", defined to mean protection from "psychological abuse and child abuse." (Emphasis added). Very importantly, the Act defines child abuse to include the use or exposure of a child in, electronic or online,

platforms for purposes of prostitution, pornography or any other unlawful sexual practice; the use of a child's images for purposes of pornography or sexual gratification and the dissemination to a child of any material, information, education or health services that promotes, induces, condones, or normalizes sexual activity or behaviour among children or with children.

The Act gives children protection from sexual exploitation, inducement or coercion to engage in any sexual activity and exposure to obscene materials and through any electronic system, network, or other communication technology proposes or solicits to meet a child for the purpose of engaging in sexual activities contrary to the provisions of the Sexual Offences Act, transmits or causes to be transmitted any obscene material, or otherwise makes such material accessible to children, in any other way, subjects a child to online abuse, harassment or exploitation, whether through social networks, playing online games or by use of mobile phones or other electronic devices, commits an offence.

Part II proceeds to outline liability of such an offence for a term not exceeding ten years or to a fine not exceeding two million shillings, or to both. Finally, section 144 of the Children Act, identifies children in need of care and protection and this includes a child, who has been sexually abused or is likely to be exposed to sexual abuse and exploitation, including prostitution and pornography and who who engages in sexual conduct of any kind and gives a Children's Court jurisdiction under Section 150 to make an order or give a judgement on a range of issues which the Court may think fit, and in the best interest of the child.

Computer Misuse and Cyber Crimes Act 2018

Section 24 (1) of the Computer Misuse and Cyber Crimes Act expansively covers child pornography as a form of OCSEA. It does not, however, refer to it as Child Sexual Abuse Material (CSAM) which is the term currently used internationally: "We use the term child sexual abuse to reflect the gravity of the images and videos we deal with. Child pornography, child porn, and kiddie porn are not acceptable descriptions. A child cannot consent to their own abuse"[40]. Section 24 criminalizes:

- The deliberate use of a computer system to publish and/or produce CSAM for publication;
- The use of telecommunications apparatus to download, distribute, transmit, disseminate, circulate, deliver, exhibit, lend for gain, exchange, barter, sell or offer for sale, let on hire or offer to let on hire, offer in another way, or make available pornography in any way; and
- Possession of CSAM in a computer system or digital data storage medium.

CSAM is defined under Section 14 to include visual and/or audio data that depicts a child engaged in sexually explicit conduct, a person who appears to be a child engaged in sexually explicit conduct and/or realistic images representing a child engaged in sexually explicit conduct.

Section 27 (1) of the Act further criminalizes cyber harassment of a person, not specifically of a child. The section does not expressly cover OCSEA. But it does make it a criminal offense to communicate directly and indirectly in a manner likely to cause apprehension or fear of violence that detrimentally affects the person to who the communication is directed and any communication which is of an indecent or grossly offensive nature in whole or part, and affects the person.

Data Protection Act 2019

Section 25 of the Data Protection Act lays out the principles of data protection that are to be upheld by data controllers and processors while handling personal data. This provision covers all data subjects, including children whose personal data could be abused or exploited by data controllers and/or processors. Under the Act, they have the right to be informed on how their data will be used, to access it while it's in the custody of controllers and processors, to object to its processing, a right to correction of false or misleading data and deletion of false or misleading data about them.

Under this law, processing data relating to children should only be done with parental consent and in their best interest. Section 33(2) places the onus on the data controller and data processor to verify the age and consent of a child to process their data.

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[40] Internet Watch Foundation, 2021, What We Do, https://www.iwf.org.uk/what-we-do

Evidence Act 2011

Section 78A of the Evidence Act provides for the admissibility of electronic and digital evidence. The person using electronic evidence in court must do so via a 'Certificate as to Computer Printout' stating that they printed the said documents and that the contents were not altered pursuant to Section 65 and 106 B of the Evidence Act.

Kenya Information and Communications Act 1998

Section 29 of this Act prohibits any person from using a licensed telecommunications system to send a message or other content that is grossly offensive or of an indecent, obscene or menacing character, or a message that is known to be false for the purpose of causing annoyance, inconvenience or needless anxiety to another person.

Counter-Trafficking in Persons 2010

This is an Act of Parliament that seeks to implement Kenya's obligations under the United Nations Convention Against Transnational Organized Crime, specifically the Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women, and Children. It provides for the offenses relating to trafficking in persons.

The Act defines trafficking for sexual exploitation as trafficking with the intention of doing anything to or in respect of a particular person during or after a journey within Kenya or in any part of the world, which, if done, will involve the commission of an offense under the Sexual Offences Act, 2006; or in the belief that another person is likely to do something to or in respect of the person trafficked, during or after the journey in any part of the world, which if done will involve the commission of an offense under the Sexual Offences Act, 2006 (No. 3 of 2006). This provision can be relied on to prosecute cases of OCSEA where there is the offense of trafficking.

Appendix H: List of graduated Master Trainers

The list of individuals below successfully graduated from the Master Trainer training on either 24th -28th January 2022 or 21st – 24th February 2022.

NO.	NAME	INSTITUTION/AGENCY
1	Moses Muchiri	Council of Legal Education
2	Matthew Ndolo	Council of Legal Education
3	Leah Kaari Macharia	Council of Legal Education
4	Agnes Meroka-Mutua	University of Nairobi, Faculty of Law
5	Ruth Juliet Nyambura Gachanja	Kabarak University, Faculty of Law
6	Juliet Wanjiru Kiniti	Mount Kenya University, PLC
7	Kevin Muriuki kabubu	Directorate of Criminal Investigations Academy
8	Chepchirchir Evelyne	Directorate of Criminal Investigations
9	Evalyne Mboya	Directorate of Criminal Investigations
10	Lawrence Okoth	Directorate of Criminal Investigations
11	Kitonyi Augustine	Directorate of Criminal Investigations
12	Tom Nyabuti	Directorate of Criminal Investigations, Training Academy
13	Patrick Mwale	Directorate of Criminal Investigations, Training Academy
14	Anne W Thiongo	Directorate of Children Services, Head Quarters
15	Jennifer Wangari	Directorate of Children Services, Head Quarters
16	Hon. Priscah Nyotah	Kenya Judiciary Academy
17	Hon. Dr. Alice Macharia	Kenya Judiciary Academy
18	Hon. Lady Justice Teresia Matheka	Judiciary
19	Hon. Charles Nchore Ondieki	Judiciary
20	Francis Gichuhi	National Police Service
21	Kipyegon Jefferson	National Police Service
22	Wilfred Makori	National Police Service
23	Nixon Makokha	National Police Service
24	Caroline Mwangi	National Police Service
25	Chelagat Metto	Law Society of Kenya
26	Thogori Mary Mathenge	Law Society of Kenya
27	Gichohi Waweru	Law Society of Kenya
28	Ilham Hisham Said	Law Society of Kenya
29	Emma Mumma	Law Society of Kenya
30	Purity Moraa Mengwa	Mtoto News
31	Daniel Mulati	Mtoto News
32	Collins Orono Etyang	Mtoto News
33	Teresa Ngugi	Advocate of the High Court of Kenya
34	Susan Jean Ouko	Advocate of the High Court of Kenya (NCAJ)
35	Naomi Atina	Office of the Director of Public Prosecutions
36	Odongo Eunice	Office of the Director of Public Prosecutions
37	Caroline Karimi	Office of the Director of Public Prosecutions
38	Linda Ndambiri	Office of the Director of Public Prosecutions
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