

**THE VALUE OF FIRST REPORT STATEMENTS IN THE INVESTIGATION OF RAPE**

by

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## **PREFACE**

In this research, the value of the first report statement is evaluated as an investigative technique in the investigation of rape cases. There are two kinds of statements that need to be obtained during the investigation of rape cases. The first is the victim statement, which is obtained from the victim themselves (first information of crime statement); the second is the first report statement, which is a statement made to a person who is met by the complainant after the crime, in which the other person reports the victim's physical appearance after the rape. Apart from physical evidence, rape cases rely on both first report statements and victim statements, in order to be approved.

The dissertation strives to provide investigators with answers regarding what a first report statement entails, and the value of a first report statement in the investigation of rape.

## **SUMMARY**

In this research, the first report statement is evaluated, in order to establish whether the information contained in the first report statement is considered during rape investigations. The researcher explored how investigators and public prosecutors utilise the first report statements in order to ensure an effective criminal justice system.

The researcher made use of (a) an empirical design, because of the limited information available on the research topic, and (b) a qualitative research approach – which enabled real-life observations. Simple random sampling was used to select 28 investigators of rape and sexual offence related cases, four (4) prosecutors attached to sexual offences courts, and one (1) advocate from Gauteng North High Court. Data was obtained through interviews, a literature study, and case docket analysis.

## **KEYWORDS**

Rape; Victim; Contents of First Report Statement; Statement; Investigation; Criminal Investigation; Investigator; Information; Evidence; Intelligence and Prosecution.

## **ACKNOWLEDGEMENTS**

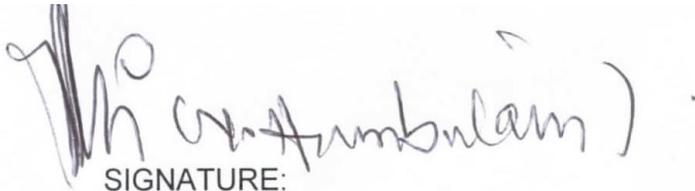
A number of people contributed to the completion of this dissertation. The undermentioned people are greatly appreciated:

- My Lord Jesus Christ who meets all my needs, and provided me with the ability to complete my dissertation;
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- And finally, a special word of thanks to my wife Ntshengedzeni Agnes Humbulani, who readily provided a fresh breath of inspiration, love and encouragement.

## **DECLARATION**

Student number: 3680918-7

I, Vhulahani Humbulani, declare that THE VALUE OF FIRST REPORT STATEMENTS IN THE INVESTIGATION OF RAPE is my own work, and that the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

A handwritten signature in blue ink, appearing to read 'Vhulahani Humbulani', is written over a light blue horizontal line. The signature is stylized and cursive.

SIGNATURE:

DATE: 12 February 2016

(VHULAHANI HUMBULANI)

## **CERTIFICATE BY THE EDITOR**

11 February 2016

I, Marlette van der Merwe, ID 480206 0118 085, hereby certify that the text and list of references of the master's dissertation (Unisa) titled

"The value of the first report statement in the investigation of rape", by Vhulahani Humbulani, have been edited by me, according to the Harvard reference method (2011 version) as used by Unisa.

A handwritten signature in black ink, appearing to read 'Marlette van der Merwe', written in a cursive style.

Marlette van der Merwe

BA, HDipLib (UCT)

## **LIST OF ABBREVIATIONS AND ACRONYMS**

BA	Bachelor of Arts
BTech	Bachelor of Technology
CAS	Crime Administration System
DS	Detective Service
FCS	Family Violence, Child Protection and Sexual Offences
LLB	Bachelor Degree of Laws
NPA	National Prosecuting Authority
SAPS	South African Police Service
Technikon SA	Technikon South Africa
Technikon RSA	Technikon Republic of South Africa
UNISA	University of South Africa

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## CHAPTER 1

### GENERAL ORIENTATION

#### 1.1 INTRODUCTION

The South African government uses an outcomes-based model, as well as evaluation and monitoring tools, in order to realise the compound strategic outcome: *All People in South Africa are and feel Safe* (Kempen, 2012:10). According to the Addendum to the Annual Report 2011/2012 (para 1) (South Africa, 2012) the outcome-based model ensures service delivery by making it a point that conviction rates needs to be improved, prosecution needs to be streamlined and sentencing should be dispensed appropriately. The entire responsibility during the outcome based model will rest on the shoulders of the government, the police, the courts, the community and society at large. The focus of the government is on reducing the number of all serious and contact crimes – which includes sexual offences. Various serious crimes contribute to these offences. There is a general perception that Gauteng is the most dangerous place to live in, while the Northern Cape is the sixth safest (Kempen, 2012:10). However, according to the latest statistics, one can no longer simply make such a comment, as one has to study the crime statistics thoroughly to obtain an overall picture of the crime situation in South Africa (Kempen, 2012:10).

The crime ratio per 100 000 of the population, pertaining to serious crime, indicates that the provinces are rated as follows:

Figure 1.1: Crime statistics 2011/2012

PROVINCE	PERCENTAGE
Western Cape	6601.9
Gauteng	4576.1
Free State	4343.9
Northern Cape	3793.5
Mpumalanga	3073.7
North West	3601.1
Eastern Cape	2806.2
Limpopo	1873.3

Source (Kempen, 2012:10).

In all serious crimes, contact crime has represented 33%, with the subcategories being as follows: assault – 30.2%, common assault – 29.4%, common robbery – 9.3%, sexual offences – 9.5%, attempted murder – 2.7%, and murder – 2.5%. According to Mnisi (2012:26), the South African Police Service (SAPS) has, however, admitted that sexual offences are a challenging crime category for the SAPS to police.

According to Mnisi (2012:26),

One area that still remains stubbornly high is that of sexual offences. The decrease should be understood in perspective, that as government we still remain concerned about the conviction rate of criminals who commit such crimes.

It is further stated that for the 2011/2012 financial year, the sexual offences ratio decreased by 3.7% and the government needs to emphasise that it is still concerned about the scourge of rape in the country. Rape decreased by 1.9%, but it is still unacceptably high. More resources and better training mechanisms to better equip the police, are being put into place (Mnisi, 2012:26). According to the Addendum to the Annual Report 2011/2012 (para 7)(South Africa, 2012), the percentage of rape was at 10.3% prior to reduction. It means that the percentage has demonstrated a gradual

decrease of rape from 2010/2011 to 2011/2012 financial years as illustrated by the crime statistics.

## **1.2 PROBLEM STATEMENT**

Cooper (2010:12) states that the first step in the scientific research process is to formulate the problem which should be investigated, and adds that if the problem is unknown, the investigation cannot be conducted systematically. By answering questions such as what are the concepts that the researcher wants to study, and what are expressions of these concepts, the researcher will be determining what research evidence will be relevant to the problem statement (Cooper, 2010:12).

Before the commencement of this research, the researcher noticed that there is a problem regarding the use of the first report statements in the investigation of rape cases by the SAPS in Pretoria Central Cluster. This was supported after he went to Pretoria Central Police Station and informally interviewed investigators. The victims of sexual offences usually report the incidents for the first time, after the commission of such incidents. The victims of sexual offences usually report the incidents to the first report witnesses for the first time, after the commission of such incidents. This is what is known as the 'first report statement', which may be reported to a doctor, the police, family members, or any member of the community.

The first report statement is one of the most important documents of a rape docket. The value of the first report statement is to corroborate the victim's own version of the event, and the first report statement can assist the presiding officer towards concluding a fair judgement during the trial. The first report statements could, if filed in the dockets, assist the public prosecutors in the successful prosecution of the perpetrators. The problem in relation to first report statements in the investigation of rape is that the investigating officers do not consider first report statement as an important during the investigation process. Where first report statement is obtained, the content of the statement does not include date and time of the first report, detailed description of injuries sustained by the victim during the incident, condition of the victim's clothing and the victim's mental and physical state.

### **1.3 AIM OF THE RESEARCH**

An aim is an anticipated outcome that is intended, or that guides planned actions (Synonim.com, 2012). Walker (2010:245) defines an aim as what you hope to achieve with a piece of research. Fox and Bayat (2007:10) state that research is often classified in terms of the aim. Some of the elements of this classification are basic research, applied research, applied research, action research, development research development and team research. The aim of applied research is to find a solution or answer to a specific problem or question. The aim of this research is to determine the value of the first report statement in the investigation of rape.

### **1.4. RESEARCH DEMARCATION**

In conducting research for a master's degree, the researcher has time to carry out a limited number of research activities, and therefore the researcher must acknowledge the constraints of time and skills. This means that the researcher must limit the study to a particular sample, geographical region, language, or time frame (Hart, 2005:376). By setting the research limitations, the researcher is letting the readers to know what will be included in the study. According to Marshall and Rossman (2011:77), *the purpose of the research limitations is to remind the reader that the study is bounded and situated in a specific context.*

The focus area of this study was Gauteng – one of the nine provinces in the Republic of South Africa. Gauteng is composed of the following 33 SAPS clusters: Katlehong, Germiston, Boksburg, Booyens, Johannesburg Central, Hillbrow, Sandton, Alexandra, Randburg, Roodepoort, Randfontein, Krugersdorp, Orlando, Moroka, Kliptown, Lenasia, Heidelberg, Vanderbijlpark, Sebokeng, Brakpan, Springs, Benoni, Daveyton, Tembisa, Kempton Park, Bronkhorstspuit, Brooklyn, Mamelodi, Pretoria Central, Sunnyside, Soshanguve, Lyttelton and Atteridgeville. The research was then limited to Pretoria Central Cluster – which comprises Pretoria Central, Pretoria West and Hercules police station areas. The researcher chose Pretoria Central Cluster, because the problem was identified in that cluster.

## 1.5 PURPOSE OF THE RESEARCH

According to the *Concise Oxford Dictionary* (2007:948), purpose is defined as the reason for which something is done or for which something exists. According to Denscombe (2002:26), *the six possible purposes for doing research are forecasting, criticizing, evaluation, description, development and empowerment*. The purpose of a research study encompasses the focus and direction of the research study, and provides criteria against which the outcomes of the research can be evaluated (Denscombe, 2002:35). This study focused on the following purposes, as described by Denscombe (2002:26-27):

- Evaluation: Evaluation is to form of an idea of the amount, number or value of (*Concise Oxford Dictionary*, 2007:399). According to Denscombe (2002:26), researchers must *investigate particular programmes or policies with the specific intention of weighing up their strengths/weaknesses and considering how things must be improved*. As a result, the researcher evaluated the closed case docketts at Pretoria Central, with the intention of determining the strengths and weaknesses in the application of the first report statement in the investigation of rape, and considering how this could be improved.
- Exploration: The researcher wanted to find out how investigators employ first report statements during the investigation of rape. According to Denscombe (2002:26), *the purpose in this instance is primarily to describe how things are, rather than how they will be, or even when they are as they are*. The researcher interviewed investigators from the FCS, the Detective Services (DS), and also public prosecutors from the National Prosecuting Authority (NPA). A literature review was conducted in both national and international sources, in order to explore the value of first report statements in the investigation of rape, and how investigators consider the value of first report statements internationally. SAPS manuals were also perused. The researcher therefore read extensively, and found new information which could be used to address the problem under investigation.
- Application: *The main driving force behind a piece of research is sometimes the desire to solve a practical problem or to improve procedures. Particularly in the*

*context of organizations and the work environment, the aim of the research is to arrive at recommendations for the good practice that will tackle a problem or enhance the performance of the organisation and the individuals through changes to the rules and procedures within which they operate* (Denscombe, 2002:27). The researcher applied the researched knowledge to recommend new guidelines policies and procedures in order to improve the use of first report statement during the investigation of rape.

- Empowerment: Finally, the researcher intends to empower investigators, including the researcher himself, with new investigative knowledge on first report statements during the investigation of rape. According to Denscombe (2002:28), *the aim is to empower the investigators in how to employ first report statements during the investigation of rape*. This will be achieved through organisational workshops.

## **1.6 RESEARCH QUESTIONS UNDER INVESTIGATION**

Grix (2004:173) states:

Research questions are intended to guide your enquiries. By establishing the research questions, the researcher begins to narrow his or her focus of enquiry, something that is essential given the amount of information available.

Heppner and Heppner (2004:69) point out that *the purpose of the research questions is to explore the relations among or between constructs*.

Blaxter, Hughes and Tight (2008:340) maintain that:

[a]n obvious starting point for focusing is to try and set out, closely at first and then more precisely, the questions you want to answer in your research project. If it suits the researcher's study, the researcher might express these as hypothesis which the researcher will then seek to prove or disapprove. But for most people, straightforward questions will be fine.

Taking the problem statement and aims of the research into consideration, the study answered the following questions:

- What does the first report statement entail?
- What is the value of a first report statement in the investigation of rape?

## **1.7 KEY THEORETICAL CONCEPTS**

The purpose of “defining” concepts, in the research, is to state or describe, exactly, the nature, scope or meaning of the concepts (*Concise Oxford Dictionary, 2007:48*). Leedy and Ormrod (2005:119) state that the purpose of defining the concepts is to prevent any misunderstanding. The concepts outlined below are therefore defined for the purpose of this research:

### 1.7.1 Investigation

Investigation is the medium through which facts necessary for successful criminal prosecution or civil litigation are discovered, identified (in terms of their relationship to an offensive act), gathered, preserved, and subsequently prepared as evidence in anticipation of a legal proceeding (Van Rooyen, 2007:5).

### 1.7.2 Criminal investigation

Criminal investigation is a logical, objective, legal inquiry involving a possible criminal activity (Gilbert, 2004:37).

### 1.7.3 Crime

Snyman (2008:4) defines a crime as *unlawful, blameworthy conduct punishable by the state*.

### 1.7.4 Investigator

An investigator is a law enforcement officer working toward the resolution of a criminal matter through investigative action (Gilbert, 2004:45).

### 1.7.5 Rape

Sampson (2005:108) defines rape as *the intentional and unlawful penetration of the mouth, vagina or anus of another person with a penis without consent to the penetration*. Snyman (2008:355) adds that any person who unlawfully and intentionally commits an act of sexual penetration with another person without the latter's consent, is guilty of an offence of rape. In this study the researcher will rely on the operational definition of Snyman (2008:355), as it is law in South Africa.

### 1.7.6 Victim

The *Concise Oxford Dictionary* (2007:1309) and Marais and Van Rooyen (1990:33) both define a victim as a person who is injured, harmed or killed as a result of a crime or accident. In this study, 'victim' means the person alleging that a sexual offence (rape) has been perpetrated against him/her.

### 1.7.7 Statement

The *Concise Oxford Dictionary* (2007:1147) defines a statement as a definite or clear expression of something in speech or writing given to the police or court, and usually made under oath or declaration. Lochner (2014:60) provides that a statement is the verbal communication or expression thereof, which presents facts and information in the form of a written narrative.

### 1.7.8 First report statement

A first report statement refers to the statement by a person to whom the victim of rape first reported the incident (Zeffert & Paizes, 2009:971).

### 1.7.9 Victim statement

Victim statement is a written or oral statement from crime victim in his or her own words, about how a crime has occurred (Geldenduys, 2015:17).

## 1.8 RESEARCH METHODOLOGY

Kumar (2015:5) states that the research is the way of obtaining answers to professional questions, to the strictly scientific, adhering to the conventional expectations of scientific procedures. Leedy and Ormrod (2010:10) add that research is a systematic process of collecting, analysing and interpreting information (data), in order to increase one's understanding of a phenomenon about which one interested or concerned. Leedy and Ormrod (2005:12) state that the methodology of a research project can be described as the approach in general that the researcher takes in carrying out his/her project, to some extent this approach dictates the particular tools the researcher selects.

### 1.8.1 Research design

According to Fink (2010:63), research design refers to the way in which research subjects or participants – that is, students, patients or customers, are organised and measured. Babbie and Mouton (2004:197) add that a research design is a plan or structured framework of how the researcher intends conducting the research process, in order to solve the problem. According to David and Sutton (2011:204), the purpose of the research design is to provide a framework for the collection and analysis of the data. It also provides the framework upon which the research is conducted, and enables the researcher to gather evidence that will allow the research question to be addressed.

Boeijie (2010:19) adds that a research design is composed of the research questions, research purpose, an ethical paragraph, an outline of the overall research strategy, and the specific methods, techniques and instruments to be used during the study.

The research design in this dissertation addresses a key question – namely, what type of study will be undertaken, in order to provide acceptable answers to the research questions? In this section the researcher will indicate the type of research design to be followed in the study, the reasons of selecting the design, and the possible challenges or limitations in the design, which will require the researcher's attention (Mouton, 2006:49).

The researcher employed an empirical design. According to Mouton (2006:57), an *empirical study uses primary data collected by virtue of surveys, experiments, case*

*studies, programme evaluation and ethnographic studies.* The rationale for using the design is for the researcher to obtain factual information from investigators and public prosecutors by having face-to-face interviews with them, and the analysis of first report statements. Grix (2004:165) maintains that *observation, experiments and experiences are part of empirical studies.*

The researcher considers an empirical design to be the best for this study, because the initial investigation revealed a limited amount of information on the research topic. Denscombe (2002:6) states that empirical research *involves the idea of getting out of the chair, going out of the office and purposefully seeking necessary information.* The empirical study assisted by answering the research questions by knowing and understanding the problem through interviews, case docket analysis and the literature review.

The researcher considered this design to be the most suitable, because the design uses primary data collected by virtue of case file analysis, interviews and programme evaluation, as revealed by Mouton (2006:49, 57) and Grix (2004:165).

### 1.8.2 Research approach

The research approach is the plan and procedures for research, which span the steps from broad assumptions to detailed methods of data collection, analysis and interpretation (Creswell, 2014:3). Qualitative inquiry is sometimes called naturalistic inquiry, because the research is conducted in real-world settings; no attempt is made to manipulate the environment (Roberts, 2004:11). Mouton (2001:161-162) maintains that qualitative evaluation approaches involve the use of predominantly qualitative research methods to describe and evaluate the performance of programmes in their natural settings, focusing on the process of implementation rather than on quantifiable outcomes. The researcher considered the qualitative research approach, because the researcher then goes into the field and collects data, makes observations, conducts in-depth and open-ended interviews, and also looks at written documents (Roberts, 2004:11). In other words, a researcher looks at the essential character or nature of something, not the quantity.

The researcher preferred the qualitative research approach, because it is presented in the form of a comprehensive literature study and semi-structured individual interviews. In the view of Hart (2005:182), qualitative research is based on participant and non-participant observation, unstructured interviewing, and the use of non-statistical data sources for analysis. This is the best approach, because, with care, it is possible to analyse qualitative studies on the same topic, and draw out similarities and differences based on the use of concepts and approaches (Hart, 2005:182).

Marshall and Rossman (2011:3) provide that the characteristics of qualitative research are as follows:

- Takes place in the real world
- Uses multiple methods that are interactive and humanistic
- Focuses on context
- Is emergent rather than tightly prefigured
- Is fundamentally interpretive

This research also applied a qualitative approach in support to the empirical design, because it is important to listen to the ideas and personal experiences of participants and to gain an in-depth understanding of their ideas. Leedy and Ormrod (2005:133) state that *qualitative research focuses on phenomena that occur in natural settings, which is real world, and involves studying those phenomena in all their complexity*. In order to meet these requirements, the researcher interviewed the investigators and public prosecutors responsible for the handling of rape cases.

### 1.8.3 Population

The population encompasses the entire collection of units from which the researcher wishes to make conclusions (Welman & Kruger, 2001:18). Suter (2006:211) states that a population is the entire group which researchers intend to make generalised statements about. Population is a well-defined group that generates a sample (often randomly), and

data from the sample are used to make inferences about the larger population (Suter, 2012:471). Welman and Kruger (2001:47) state that the size of the population usually makes it impractical and uneconomical to involve all the members of the population in a research project, and therefore the researcher had to obtain data from only a sample of the population. Christensen, Johnson and Turner (2011:150) define population as the full set of elements from which the sample is elected. Fox and Bayat (2007:52) maintain that any group of, say, individuals, events or objects that share a common characteristic and represent the whole or sum total of cases involved in a study is called the universum or population.

Jackson (2010:20) provides that population includes all people about whom a study is meant to generalise. Babbie and Mouton (2004:173) add that a population is the specified aggregation of study elements. Walker (2010: 22) provides that the population is the set of individuals you want to reach a conclusion about and the individuals are often people, but they could instead be animals, organisations, events or whatever. South Africa is composed of nine provinces, namely Limpopo, Eastern Cape, Northern Cape, Western Cape, Mpumalanga, KwaZulu-Natal, North West, Free State and Gauteng. Gauteng is composed of 33 SAPS clusters, one of which is Pretoria Central cluster. The population relevant to the purpose of the study should generally be all investigators in the SAPS attached to FCSs in South Africa. Interviews would have had to be conducted with all investigators in all nine provinces, in order to draw conclusions, because they all police sexual offences, including rape. These investigators receive the same excellent, specialised training, in order to deal with sexual offences in South Africa. The objectives of the FCSs are to ensure the effective prevention and effective investigation of sexually related offences, as well as the ensurance of excellence in service delivery to victims of sexually related offences.

The population encompasses the entire collection of units from which the researcher wishes to make conclusions and data from the sample are used to make inferences about the larger population. Welman and Kruger (2001:18), Suter (2012:471), Christensen, Johnson and Turner (2011:150), Fox and Bayat (2007:52), Jackson (2010:20), Babbie and Mouton (2004:173) and Walker (2010:22) define population as any group of

individuals , events and objects that share a common characteristic and represent the whole or sum total of cases involved in a study , sample can be selected and can instead be animals, organisations, events or whatever. Welman and Kruger (2001:147) state that the size of the population usually makes it impractical and uneconomical to involve all the members of the population in a research project, and therefore the researcher had to obtain data from only a sample of the population.

#### 1.8.4 Target population

Because of the logistical challenges, and cost-effectiveness, the researcher decided not to use the whole population for this study, and intentionally chose Pretoria Central Cluster, because the problem was identified in that cluster. Welman and Kruger (1999:122) indicate that 'target population' refers to the population to which the researcher would ideally like to generalise their results. For the purposes of this study, the target population comprised a group of police investigators who are members of the FCS, which forms part of the Division: Detective Services of the SAPS, as well as the public prosecutors of the NPA.

Welman and Kruger (2001:122) state that the target population is the population to which the researcher ideally would like to generalise his or her results. Target population is the larger population such as college students to whom the researcher hope to generalize the results of the study. Christensen et al. (2011:187) maintain that target population is the large population to which the researcher would like to generalize the study results. Fox and Bayat (2007:144) state that target population is the totality of the responders who would meet the researcher's research criteria. The population must be determined carefully, because the researcher is going to sample from the target population.

Fink (2009:89) states that a target population is a portion of the study composed of the institutions, persons, problems and systems which, or to whom, study findings are to be applied or generalised. Jackson (2010:20) provides that a target population includes all people about whom a study is meant to generalise. Babbie and Mouton (2004:173) add that a population is the specified aggregation of study elements. South Africa is composed of nine provinces, namely Limpopo, Eastern Cape, Northern Cape, Western Cape,

Mpumalanga, KwaZulu-Natal, North West, Free State and Gauteng. Gauteng is composed of 33 SAPS clusters, one of which is Pretoria Central Cluster.

## **1.9 SAMPLING**

Sampling is the process of taking a sample from a population (Christensen et al., 2011:150). The purpose of drawing the elements from the population is to obtain a sample. Fox and Bayat (2007:54) and Leedy and Ormrod (2010:196) state that sampling is the process by which elements are drawn from the population. Kumar (2011:193) defines sampling as the process of selecting a few (a sample) from a bigger group (the sampling population) to become the basis for estimating or predicting the prevalence of an unknown piece of information, situation or outcome regarding the bigger group. Champion (2000:172) states that sampling means taking the proportion of persons from the whole class of persons from or about which we seek information. Sampling and selection are principles and procedures used to identify, choose and gain access to relevant units which will fit in or relate to the relevant wider population or universe and be used for data generation by any method (Mason, 1996:83). Durrheim (1999:44) states that the main concern in sampling is selecting a sample that is representative of the population. According to Welmar and Kruger (2001:47) the different sampling techniques are probability samples, i.e. simple random sampling, stratified random sampling, systemic sampling, cluster sampling; and non-probability sampling which is composed of accidental or incidental sampling, purposive sampling, quota sampling and snowball sampling. Random sampling, also known as probability sampling, determines the probability that any element or member of the population will be included in the sample (Welman & Kruger, 2001:48). Suter (2012:472) states that random selection is a method of sampling that ensures that each member of a population has an equal and independent chance of being selected for inclusion in a sample. In this study the researcher used simple random sampling and each member of the population has the same chance of being included in the sample and each sample had the same chance of being chosen (Welman & Kruger, 2001:52). Simple random sampling is the definitive case of an equal probability of selection method. Fox and Bayat (2007: 55) state that a sample drawn from

the population in such a way that each element of that population has the same chance of being drawn during the first and each successive draw is called simple random sample.

In non-random sampling, also known as non-probability, certain elements have no chance at all of being included in such a sample (Welman & Kruger, 2001:61). In this study the researcher used the purposive sampling which is the most important kind of non-probability sampling (Welman & Kruger, 2001:63). The researcher relied on the experience and ingenuity of the sample and regarded such sample as representative of the relevant population. A sample is a number of people or things taken from a larger group and used in tests to provide information about a group. Blaickie (2003:161) states that “the ideal sample is one that provides a perfect representation of a population, with all the relevant features of the population”. Because Pretoria Central Cluster FCS investigates all the cases in the Pretoria central Cluster, the researcher considered all the investigators as perfect sample size for this research (Christensen, Johnson & Turner, 2014:275).

Sampling is the process of taking a sample from a population (Christensen et al., 2011:150). Fox and Bayat (2007:54), Leedy and Ormrod (2010: 196), Kumar (2011:193) and Champion (2000:172) define sampling as the process on which sampling is selected from the bigger group about which we seek information. The purpose of sampling is to identify chose and gain access to relevant units which will fit in or relate to the relevant wider population or universe and the main concern in sampling is selecting a sample that representative of the population (Mason, 1996:83, Durrheim, 1999:44). Welmar and Kruger (2001:47-8) mention that different sampling techniques are probability samples, and random sampling, also known as probability sampling, determines the probability that any element or member of the population will be included in the sample.

Suter (2012:472) and Welman and Kruger (2001:52) state random sampling is a method of sampling that ensures that such a member of a population has an equal and independent chance of being selected for inclusion in a sample. In this study the researcher used simple random sampling and each member of the population has the same chance of being chosen. Fox and Bayat (2007: 55) state that a sample drawn from

the population is in such a way that each element of that population has the same chance of being drawn during the first and each successive draw is called a random sampling. In non-random sampling certain elements have no chance at all of being included in the sample (Welman & Kruger, 2001:61). In this study the researcher used the purposive sampling which is the most important kind of non-probability sampling (Welman & Kruger, 2001:63). The researcher relied on the experience and ingenuity of the sample and regarded such sample as representative of the sample. Blaickie (2003:161) states that a sample is a number of people or things taken from a larger group and used in tests to provide information about a group. The author further states that the ideal sample is one that provides a perfect representation of the population, with relevant features of the population. Because Pretoria Central Cluster FCS investigates all the cases in the Pretoria Central Cluster, the researcher considered all the investigators as perfect sample size for this research (Christensen, Johnson & Turner, 2014:275).

#### 1.9.1 Sampling of investigators

SAPS Pretoria Central Cluster is composed of Pretoria Central, Pretoria West and Hercules. All reported rape cases from the four stations are investigated by the FCS, which is housed at Pretoria Central. The unit is composed of 28 investigators, and a decision was taken to interview all of them as a sample. The complete target population was chosen as a sample and will be referred to as Sample "A".

#### 1.9.2 Sampling of public prosecutors

All rape cases investigated by the FCS are tried at Atteridgeville and Pretoria Central regional courts. Two public prosecutors attached to Pretoria Central Regional Court, two public prosecutors from Atteridgeville Regional Court and an advocate from Gauteng North High Court, participated in this study. All four prosecutors were chosen as a sample, and the researcher considered them as representative of the target population for prosecutors, because the total population was selected. They will be referred to as Sample "B".

Not all the prosecutors in South Africa were considered, because the researcher thought it best to interview prosecutors prosecuting cases investigated by the sample, for more in-depth research.

### 1.9.3 Purposive sampling

David and Sutton (2011:232), Fraenkel, Wallen and Hyun (2012:G-7) and Babbie and Mouton (2004:643) define purposive sampling as non-probability sampling in which the researcher selects the units to be observed on the basis of their own judgement about which one will be the most useful because they have the needed information. This is also known as judgemental sampling. In this procedure, formal representativeness is not aimed at, but people and locations are sought because they meet certain criterion for the inclusion in the study. Alasuutari, Bickman and Brannen (2008:223) state that:

[t]he basis for making selections of cases and human subjects is consequently purposeful or purposive, since random selection might fail to yield the most informative sites or samples of human subjects, skewing findings because of sampling bias.

Babbie and Mouton (2004:166) add that sometimes it is appropriate for the researcher to select their sample on the basis of their own knowledge of the population, its elements, and the nature of the research aims. In short, it is based on their own judgement or the purpose of the study. Purposive sampling may be appropriate for certain problems, but the researcher must provide a rationale as to why they have selected that particular sample of participants (Leedy & Ormrod, 2005:206). Hoyle, Harris and Judd (2002:187) maintain that if the researcher applies good judgement and an appropriate strategy, they can handpick the cases to be included, and thus develop samples that are satisfactory for their needs.

Using his own judgement, the researcher purposefully identified Advocate Retha Meintjies, a Deputy Director of Public Prosecutions: Gauteng North High Court, and she was excluded from Sample "A" and Sample "B". She is a State Counsel, and has thirty years' experience in the prosecution of rape cases. The advocate was not asked exactly

the same questions as were Sample "A" and Sample "B", and a different interview schedule was compiled for her, in order to obtain specific data from her within her field of expertise. The purpose of the interview was to determine the value of the first report statement during the investigation of rape. This sample is referred to as Sample "C".

#### 1.9.4 Selection of case dockets

During the case docket analysis, the researcher concentrated on the cases registered in Pretoria Central, Pretoria West and Hercules, from 01 May 2010 to 31 June 2012 because the Pretoria Central Cluster FCS was opened in June 2010. The reason for choosing this time frame was that it was considered the most likely time that cases were registered. The researcher decided on a sample of sixty dockets, drawn from each of the three police stations falling under Pretoria Central Cluster, using random sampling. The researcher requested all the case docket numbers of the finalised rape dockets from the Crime Administration System (CAS) from each station during that time frame. Case docket numbers were written on pieces of paper and put in a hat. Sixty rape dockets were separately selected from Pretoria Central SAPS. The same exercise was undertaken with Hercules and Pretoria West, until 180 rape dockets were drawn for the research. A total of 180 case dockets were then analysed.

### **1.10 REPRESENTATIVITY**

Generalizability, or representativeness, has particular relevance in small-scale research (Blaxter et al., 2008: 221). It relates to whether the findings of the researcher are likely to have broader applicability beyond the focus of the study. The authors further state that if the researcher has carried out a detailed study of a specific institution, group or even individual, that researcher would be able to determine whether the findings are relevant beyond that specific institution, group or individual. To ensure that studies are representative, researchers need to draw appropriate samples – which may require considerable effort (Flick, 2011:181). According to Flick (2011:181), one approach for evaluating qualitative research is to ask what measures have been taken to define or extend the area of validity of empirical results, and the generalisability of the results is often closely linked to the way the sample is done.

A representative sample is a sample that reflects the population accurately, so that it is a microcosm of the population (Bryman, 2001:507). Gomm (2009:298) states that the object of the research is to recruit a sample of people who will be representative of the population from which the sample was drawn, so that what is found to be true for the sample can be confidentially generalised to the population. This is known as 'empirical representativeness'.

Samples are chosen by the researcher, on the basis that they are representative of the population as a whole, meaning that the sample's main characteristics are similar or identical to those of the population. Gray (2004:84) states that most methods used to achieve representative samples depend on the process of random sampling, because random sampling is the selecting of a sample such that each member of the population has an equal chance of being selected. Gray (2004:84) further states that the chances of a sample being representative are higher through random selection, than if the sample is purposive. Leedy and Ormrod (2010:100) state that the participants in a research study must be a representative sample of the population about which the researcher wishes to draw conclusions. The researcher considered the prosecutors as representative because they prosecuted all rape cases and all of them were included in the sample without excluding anyone. Based on the fact that the prosecutors prosecute all rape cases, the researcher considered the prosecutors as representative.

For the purposes of this study, the researcher intentionally selected the Pretoria Central FCS as a sample, because of the expertise of its members in the area of rape investigation. All 28 investigators attached to this unit met the criteria for inclusion, and the researcher decided to include all the investigators, in order to ensure representativeness. Two prosecutors from Pretoria Central Magistrate's Court, two prosecutors from Atteridgeville Magistrate's Court, and an advocate from the Gauteng North High Court, were also included in the study.

### **1.11 DATA COLLECTION**

Leedy and Ormrod (2005:59) and Welman and Kruger (1999:147) state that primary data is original data collected by the researcher, for the purpose of their own study at hand,

whereas secondary data is information collected by individuals, or agencies and institutions, other than the researcher themselves. In this study, the researcher used primary data from the FCS, the DS and the NPA falling under the SAPS Pretoria Central Cluster. The data collection techniques used were interviews, literature, and case docket analysis. Data is, according to Hart (2005:356), what people produce, what they do (actions/behaviours), and how they do with things they produce, which include beliefs, attitudes, opinions, science and customs. Primary data is new information gathered by the researcher during the study (Mouton, 2001:100), Welman and Kruger (2001:147) provide that primary data is original collected by the researchers for the purpose of their own study at hand. Secondary data is information collected by individuals or agencies and institutions other than the researchers themselves (Leedy & Ormrod, 2005:59). In this study, the researcher used literature, interviews and case docket analysis as primary data collecting techniques.

This process of using different methods or techniques is called triangulation, and it is very useful and essential in qualitative work. Denzin (1989) as quoted by Babbie and Mouton (2004:275) defines triangulation, or the use of multiple methods, as a plan of action that raises sociologists above the personal biases that stem from one single methodology. The combination of both methods and techniques can overcome the deficiencies that can flow from one method. Welman and Kruger (2001:192) and Jankowicz (1995:175) state that the purpose of using triangulation is to use the results from one another, and attempt to corroborate the findings according to at least three different approaches. Welman and Kruger (1999:192) maintain that triangulation is used in an attempt to corroborate the findings according to at least three different approaches. Kane (1998; as quoted by Jankowicz, 1995:175) states that the rationale for triangulation is to present archival review, questionnaires, interviews and participant observation.

The rationale for triangulation is expressed well by using archival reviews, interviews, questionnaires, participant observation and tape recordings. Thomas (2013:22) mentions that it is good for using different sources of evidence during the study-for example, reading, observing and interviewing people. As a result, the researcher used primary

data, in this study, which was obtained from literature, interviews and case docket analysis, as discussed below.

### 1.11.1 Literature

Leedy and Ormrod (2005:65) state that literature relating to the topic may be found in a number of different places, such as books, journals, newspapers, government publications, conference presentations and websites. This can be done by identifying or summarising words that can point the researcher towards potentially useful resources. The purpose of this is to find out what has been done in the researcher's field of study. In this study, the researcher consulted material at the Unisa library, Florida Campus.

The researcher consulted the catalogue for literature on the research topic, by searching for relevant sources within the fields of law, criminology, sociology, psychology, policing and investigation of crime. He also consulted the Internet via the library webpage. None of the fields revealed any literature on the same topic as this research. The researcher then broke the research topic down into concepts, and repeated the above process: 'investigation', 'criminal investigation', 'rape' and 'first report statement'. In doing this, the researcher was able to find literature relevant to the study. The researcher also consulted the Human Resource Development: Head Office of the SAPS in Pretoria, for literature on the same topic, but, as none could be found, he again broke down the concepts and again found literature relevant to the study. The researcher studied this literature to determine the practices in the SAPS. The research questions were used to focus the search on relevant information during the study.

### 1.11.2 Interviews

An interview is one of the data collection methods in the social sciences. Kumar (2011:389) defines interviewing as *any person to person interaction, either face to face, or otherwise, between two or more individuals with a specific purpose in mind and it involves asking questions and recording answers*. Leedy and Ormrod (2005:184) add that *in a semi-structured interview, the researcher asks a standard set of questions, with one*

*or more individually tailored questions to get clarification about, or probe, a person's reasoning.*

Taking into account that the purpose of the interview schedule is to gather information to answer the research questions, the researcher compiled three different schedules, with different questions for each sample. Before the interviews, a pilot study was conducted, in order to learn about the research in relation to both the topic at hand and the participants. The reason for conducting a pilot study, is that compiling a pilot study with people outside the sample makes the study effective and understandable. According to Strydom (2000:178), the pilot study forms an integral part of the research process, and its function is to assist the exact formulation of the research problem, and also serve as a tentative plan for the method and range of the investigation to be taken in a wide study.

Bryman (2001:155) and Bernard (2013:165) maintain that a pilot study is the study done before running a larger study, and recommend that it is best to find a small set of participants who are comparable to members of the population from which the full study will be taken. A pilot study helps to identify problems, and Gomm (2009:245) maintains that the purpose of a pilot study is to look for possible difficulties, and discover the interest in the research setting.

David and Sutton (2011:628) state that piloting is pre-testing of research instruments, such as interview schedules, with a small sub-sample of the target population, in order to identify weaknesses within the data collection instrument. The purpose of the pilot study is to detect any existing problems, so that they can be remedied before the main study is carried out. In this study, the pilot work was done by using five investigators from the Pretoria Central Detective Services, since they have similar characteristics to those of the investigators who were used in the main study and were not included in Sample "A".

The researcher showed the themes and questions to the investigators, and then interviewed them after the semi-structured interview schedule was perused and evaluated by the researcher's supervisor, and all points and uncertainties were rectified. The pilot study was properly conducted, and there was nothing found that could disturb the main

study. No problems were experienced insofar as answering and understanding the questions was concerned, during the pilot study.

Arrangements were made with the Detective Commander of Pretoria Central SAPS, as well as the Unit Commander of the Pretoria Central FCS, in order to conduct the interviews. Appointments were then secured with them, in order to conduct the interviews. The interviews took place in private, in a face-to-face situation, after the researcher had obtained consent from each participant. The names of the participants were not revealed (Babbie & Mouton, 2004:243).

### 1.11.3 Case docket analysis

The *Concise Oxford Dictionary* (2007:176) defines case docket as a container designed to hold or protect something. A case study is a type of qualitative research method, in which in-depth data is gathered relative to a single individual, programme or event, for the purpose of learning more about an unknown or poorly understood situation (Leedy & Ormrod, 2005:108). During the case docket analysis, the researcher concentrated on the rape case dockets. As part of the analysis, the researcher assessed whether the first report statements were filed in the dockets, and what the contents of the statements were. This was achieved by studying the diary and the statements of the first report witnesses. The researcher analysed rape case dockets which had been investigated in the past, to gather specific information in an attempt to answer the research questions. The case dockets were analysed against the following research questions:

The researcher formulated the following questions, in order to obtain answers from the dockets to address the research questions:

- Were first report statements obtained?
- Was the condition of the complainant – for example, the nature of the complainant's injuries, clothing and the condition of the complainant when making a report, mentioned in the first report statement?
- Were investigators given guidelines relating to the taking of first report statements?

- To whom was the first report statement made?
- What were the areas covered in the first report statement?
- How long after the rape incident was the report made?
- What was the content of the report?

## **1.12 DATA ANALYSIS**

Data analysis is the process of systematically searching and arranging the interview scripts, field notes, and other materials that the researcher has accumulated to increase his own understanding of them, to enable the researcher to present what a researcher has discovered, to others (Bogdan & Biklen, 2003; as quoted by Boeijie, 2010:76). In this study, the researcher made use of the data analysis spiral of Creswell, as described in Leedy and Ormrod (2005:150). In accordance with this principle, the researcher organised the data – which he obtained by breaking down the research questions by concepts, with the use of index cards, and by breaking down the large bodies of text into smaller units such as phrases. The researcher read the data several times to obtain a perspective of the whole, and wrote down notes on the data. Themes and sub-themes were identified, and the data was organised according to these themes, which gave the researcher a general sense of patterns of the data. The researcher then integrated and summarised the data for the reader.

In order to organise and analyse the data from qualitative studies, Leedy and Ormrod (2005:150-151) state that Creswell (1998) has described the data analysis spiral which is equally applicable to a wide variety of qualitative studies. Leedy and Ormrod (2005:150-151) comment that in using this approach, one goes through the data several times. The researcher followed the following steps described by (Leedy & Ormrod, 2005:150) to analyse the data:

Step 1: The researcher read through all the interview schedules, literature and case docket analysis to obtain a whole picture of the data. The researcher then made a list of topics that emerged in this research and clustered together the similar topics to form major

topics. The researcher made use of index cards to categorise the literature and interviews into smaller themes.

Step 2: The researcher then examined the data and categorised the data collected from the interviews, case docket analysis and literature to themes relevant to the questions. During this process the researcher made memo's and notes to group certain data into possible categories and note the preliminary interpretations thereof.

Step 3: Thereafter the researcher handpicked the interview schedules one by one, comparing the respondents' answers with each other and with topics under discussion. The respondents' answers were grouped and compared with different answers in the field to identify general themes and sub-themes to determine trends and reveal problem areas. All useless information was eliminated and necessary information was identified and categorised under the specific themes. The researcher discussed the different opinions of authors and searched for data that could corroborate or contradict the views and findings of the research.

Step 4: Finally, the researcher integrated and summarised the data by forming suggestions that explain the relationships among the categories. The researcher analysed the different themes through several perspectives on each issue.

The researcher also discussed the findings of the case docket analysis and literature with colleagues, to obtain a better understanding of the research findings. This approach helped the researcher to establish the areas in which training should be focused on to improve the value of first report statement during the investigation of rape cases.

#### 1.12.1 Summary of the historic information of samples

The following discussion serves as a breakdown of historic information from participants of samples "A", "B" and "C":

- Sample "A": Family Violence, Child Protection and Sexual Offences Unit (FCS) in Pretoria Central (28 participants)

In terms of gender, there were six (6) female participants and (22) male participants. The participants had an accumulation of 274 years' experience in the investigation of crime, and had an accumulation of 190 years' experience in the investigation of rape and other sexual crimes against women and children. In terms of training, 25 participants had attended the Basic Detective Course, one participant had attended the New Introductory Detective Course, and two participants had not attended courses relating to family violence, child protection and sexual offences investigation. Twenty (20) participants had attended the Family Violence, Child Protection and Sexual Offences Investigators Course, and eight (8) participants had not attended specific training to investigate rape and other sexual crimes against women and children. Of those participants who had tertiary qualifications, five participants had a National Diploma in Policing and one participant had a B Tech degree in policing.

- Sample "B": Public prosecutors from Pretoria Central and Atteridgeville regional courts (4 participants)

Sample "B" had one (1) female participant and three (3) male participants. Participants had an accumulation of 53 years' experience in prosecution, and 55 years' experience in prosecuting rape cases. All participants started prosecuting at lower courts before being transferred to regional courts. Participants had undergone specialised training in prosecuting rape cases, and had also received specific training in prosecuting rape cases. Both participants were members of the Society of State Advocates of South Africa. In terms of tertiary qualifications, all four participants had LLB degrees.

- Sample "C": Expert rape advocate from Gauteng North High Court (one participant)

An expert is defined as a person who is very knowledgeable about or skilful in a particular area (*Concise Oxford Dictionary*, 2007:406). Sample "C" consisted of one (1) participant, who is Director of Public Prosecutions at Gauteng North High Court. The participant started prosecuting in lower courts before transferred to the office of the Director of Public Prosecutions. The participant became a member of the Executive Committee of the Society of State Advocates of South Africa, and was elected the Chairperson in 1996.

The participant is a member of the Executive Committee of the International Association of Prosecutors. In terms of tertiary qualifications, the participant has a BA, LLB degrees.

### **1.13 VALIDITY**

Leedy and Ormrod (2005:28) and Babbie (1989:124) state that the term 'validity' refers to:

[t]he extent to which an empirical measure adequately the real meaning of the concept under consideration and it is further the extent to which the instrument measures what it is supposed to measure.

Validity, according to Fraenkel et al. (2012:148), is defined as referring to the appropriateness, correctness, meaningfulness and usefulness of the specific inferences researchers make, and based on the data they collect, and also refers to whether or not an experiment explains what it claims to claim. To ensure validity, the researcher conducted interviews with all the investigators, by means of an interview schedule based on the research questions. Different questions were posed to the different samples (investigators, public prosecutors and an advocate). The researcher also conducted interviews with two prosecutors from Pretoria Central Regional Court and two prosecutors from Atteridgeville Regional Court. These prosecutors are the only prosecutors appointed to try rape cases at the specific courts.

Research was done in a real-life setting, so that it would yield results with broader applicability to other real-world contexts. A pilot study was conducted, in order to try out the methods, materials and equipment in advance, before running the full-scale study itself. During the pilot study, the opinions of experienced and skilled colleagues were obtained, to determine the relevancy of the study. The researcher remained as objective as possible throughout the research. The interviews were held in private, and the participants' answers were written down by the researcher. The questions asked during the interview were obtained from the research questions, to ensure that the interviews were a true reflection of the research.

The literature study was conducted with regard to the aims of the research, the research questions and topic, which were broken down into concepts. The literature study was conducted by consulting both South African and international literature sources. All the literature obtained addressed the different concepts relevant to the topic, and can thus be considered as valid. Case docket analysis was conducted with the aim of both assessing whether investigators were filing first report statements during the investigation of each case, and establishing the contents of the first report statements, if obtained. As a result of the fact that all data was obtained by the literature study, interviews and case docket analysis, and merged together to ensure trustworthiness, the validity is ensured by triangulation as a research method. The researcher received corroboration of the findings, according to the three different approaches used during the study (Welman & Kruger, 1999:192).

Leedy and Ormrod (2005:99) explain triangulation as the convergence of different information sources, to support a particular hypothesis or theory. Cresswell (2014:201-202) recommends the use of multiple approaches to enhance the researcher's ability to assess the accuracy of findings, as well as convince readers of the accuracy of the findings. The following five strategies were incorporated:

- *Triangulation:* Different data sources of information are examined, and if themes are established based on converging several sources of data or perspectives from the participants, then this process can be claimed as adding to the validity of the study. Christensen et al. (2011:530) state that triangulation is the use multiple data sources, research methods, investigators, and/or theories/perspectives to cross-check and corroborate research data and conclusions. Leedy and Ormrod (2010:99) maintain that multiple sources of data are collected with the hope that they will all converge to support a particular hypothesis and theory. Suter (2012:474) supports the above authors and stated that triangulation is a method used in qualitative research that involves cross-checking multiple data sources and collection procedures to evaluate the extent which all evidence converges. Triangulation strategy will be used as discussed earlier on paragraph **1.11 DATA COLLECTION**. In this study the researcher engaged in interviews with the

investigators, prosecutors and an advocate, literature reviews and case docket analysis at SAPS Hercules, SAPS Pretoria West and SAPS Pretoria Central in order for the strategies to corroborate with each other.

- *Clarify the bias the researcher brings to the study:* Good qualitative research contains comments by the researchers about how their interpretation of the findings is shaped by their background – such as their gender, culture, history and socioeconomic origin. Bias on the part of the researcher is unethical. Kumar (2011:246) state that bias is deliberate attempt either to hide what the researcher found in the study, or to highlight something disproportionately to its true existence. If the researcher is unable to control his or her bias, he or she should not be engaging in the research. In this study the researcher did not do anything that changed the findings of the study from what they should be and also chose the appropriate participants for the study so that the results of the study could not be biased. The researcher also applied bracketing or epoche as mentioned by Leedy and Ormrod (2010:141). In this process the participants do most of the talking and the researcher do most of the listening. Throughout the process the researcher suspends any preconceived notions or personal experiences that may unduly influence what the researcher hears the participants saying.
- *Spend prolonged time in the field:* In this way the researcher develops an in-depth understanding of the phenomenon under study, and can convey details about the site, and the people, that lends credibility to the narrative account. The more experience a researcher has with participants in their settings, the more accurate or valid will be the findings. During the fieldwork, the researcher collects information on the patterns of behaviour and social relations among the members and listening to what they say, and also interacts in face-to-face conversations and sometimes conducts interviews (Christensen et al., 2011:373). In this study the researcher spent prolonged time in the field carefully interviewing and listening the participants at Pretoria Central Cluster FCS, Pretoria Central Magistrate Court, Atteridgeville Magistrate Court and Gauteng North High Court. The researcher worked for more than ten years as general detective whereby rape was one of the

cases being investigated. The concept of first report statement is thus well known to the researcher.

- *Use peer debriefing to enhance the accuracy of the account:* This process involves locating a person (a peer debriefer) who reviews and asks questions about the qualitative study, so that the account will resonate with people other than the researcher. This strategy adds validity to an account. The researcher had several meetings with his supervisor during which the supervisor interrogated the meanings and the interpretations by the researcher to ensure that the data collected by the researcher as correct (Cresswell, 2013:251).
- *Use an external auditor to review the entire project:* The auditor is not familiar with the researcher or the project and can provide an objective assessment of the project throughout the process of the research or at the conclusion of the study. This procedure of having independent investigator look over many aspects of the project (e.g. accuracy of transcription, the relationship between research questions and data, and the level of the data analysis from the raw data through interpretation) enhances the overall validity of a qualitative study. The editor interrogated the interpretations and the meanings by the researcher to ensure that the data collected by the researcher as correct (Cresswell, 2013:251). The researcher submitted the research to the editor and the formatting expert before submitting the work to the examination department for examination. The editor and the supervisor provided the editing and certified certificates which accompanied the research to the examination department.
- As a strategy for ensuring reliability, the researcher triangulated the different sources of information by examining evidence from the sources and using it to build a coherent justification of themes as mentioned by (Creswell, 2014:201-2). Knafl and Breitmayer (1989); as quoted by Hart (2005:349) state that the use of more than method will confirm the validity of the concept by converging data from the different methods, and give a more complete description.

Themes were established based on interviews, literature reviews and case docket analyses, which added to the validity of the study (Cresswell, 2014:201-202). Cresswell (2014:201) recommends the use of multiple approaches to access the accuracy of the findings, and, as such, the researcher also used peer debriefing in order to enhance the accuracy of the account, which also adds to the validity of the study. The researcher involved the commander of the unit, who reviewed and asked the questions regarding the qualitative study as the use of peer debriefing to enhance the accuracy of the account. The researcher asked the commander of the unit to view the questions, in order to detect any existing flaws, and determine the validity of the pilot study.

The researcher prepared himself, concerning the study phenomenon, before engaging with the participants, in order to promote the credibility of the narrative account for prolonged time spent with the participants. The research contains comments by the participants about how their interpretation of the findings was shaped by their background, such as their gender, culture, history and socio-economic origin, and the study was also perused and evaluated by the supervisor. The researcher also conducted follow-up interviews with the participants in the study and provided them with opportunities to comment on the findings. Based on the above mentioned five strategies, the researcher considers the study to be valid.

Based on the above mentioned five strategies, the researcher considers the study to be valid. Lincon and Guba (1985) are quoted in de Vos, Strydom, Fouche, Poggenpoel and Schurink (1998:351) stating that the strategies of ensuring trustworthiness during the research process are credibility, transferability, dependability and confirmability. The validity of the qualitative research can be determined by the following indicators:

- **Credibility:** According to Trochim and Dnnelley (2007) (in Kumar, 2011:185) credibility involves establishing that the results of qualitative research are credible or believable from the perspective of the participant in the research. Suter (2012:363) states that credibility refers to the believability of the findings and is enhanced by evidence such as confirming evaluation of conclusions by research participants, convergence of multiple sources of evidence, control of unwanted

influences, and theoretical fit. Schurink, Fouche and de Vos (in de Vos et al., 2011:185) explain that credibility is the alternative to internal validity and with credibility goal is to demonstrate that the research was conducted in such a manner to ensure that the participants had been accurately identified and described. The credibility of qualitative research can be increased through prolonged engagement and persistent observation in the field, triangulation of different methods, making use of formalised qualitative methods, and member checks. For the purpose of this module you are not required to conduct interviews with participants to explore their perceptions and experiences. However, you are required to indicate the credibility of the technique (i.e. literature study) during the collection of the data. The following questions can be asked: Is your research credible? Does the literature collected presents a true and accurate picture of what is claimed? Does the instrument (i.e. literature study) that you used to collect the data provide you with credible data?

- **Transferability:** Transferability refers to the degree to which the results of qualitative research can be generalized or transferred to other contexts or settings Trochim and Donneley (2007) (in Kumar, 2011:185). Suter (2012:363) provides that transferability refers to evidence supporting the generalization of findings to other contexts-across different participants, groups, situations, and so forth. According to Sandelowski (in Liamputtong, 2011:26) transferability conveys that the theoretical knowledge obtained from qualitative research can be applied to other similar individuals, groups, or situations. Schurink, Fouche and de Vos (in de Vos et al., 2011:420) explain that the researcher must question whether the findings that the research produced can be transferred from a specific situation to another. This is viewed as an alternative to external validity or generalizability. You are required to indicate how you ensured transferability in your study. This can be done by describing the process you have followed for others to replicate, such as data collection methods and challenges encountered in your study. You should also indicate how and to what extent the theoretical obtained in your study could be transferred to similar contexts.

- **Dependability:** Dependability is very similar to the concept of reliability in quantitative research. According to Trochim and Donnelley (2007) (in Kumar, 2011:185) dependability is concerned with whether one would obtain the same results if one observes the same thing twice. Suter (2012:363) provides that in this case, the qualitative researcher gathers evidence to support the claim that similar findings would be obtained if the study were repeated. De Vos, Strydom, Fouche and Delport (2005:346) maintain that dependability is the alternative to reliability, in which the researcher attempts to account for changing conditions in the phenomenon chosen for study as well as changes in the design created by increasingly refined understanding of the setting. Schurink, Fouche and de Vos (in De Vos et al., 2011:420) explain that the researcher must ask whether the research process is presented logically and well documented. Dependability is noted as the alternative to reliability, whereby the researcher attempts to account for changing conditions in the phenomenon chosen for research to be conducted on. You are required to indicate how you ensured the level of dependability in your research. This could be achieved by explaining your choice of research methodology followed to determine whether the procedures and processes followed in the study are acceptable. This will ensure coherent linkages between the data and reported findings. A consensus discussion could be held between the researcher and the supervisor to corroborate identified themes and inferences.
- **Conformability:** Conformability refers to the degree to which the results could be confirmed or corroborated by others (Trochim & Donnelley (2007) in Kumar, 2011:185). Suter (2012:363) provides that conformability refers to objectivity (neutrality) and the control of research bias. Conformability is also similar to reliability in quantitative research. It is only possible if both researchers follow the process in an identical manner for the results to be compared (Kumar, 2011:185). You should ask the question: How objective is my study? To ensure conformability in your study keep detailed record of all the literature consulted. As a result, you would be able to prove that the findings and interpretation of the findings did not derive from your imagination but are clearly linked to the data, as viewed by

Liamputtong (2013:26). Indicate how you set aside biases, motivation and perspectives that could influence the study and that it was completely guided by the literature review. As a result, your findings of the study will be determined by the view of the literature.

- Bracketing: Leedy and Ormrod (2013:146) provide that throughout the data collection process, the researcher suspends any preconceived notions or personal experiences that may unduly influence what the researcher hears the participants saying. This is called bracketing or epoche. It can be extremely difficult for a researcher who has personally experienced the phenomenon under investigation (Leedy & Ormrod, 2013:146). It is essential if the researcher is to gain an understanding of the typical experiences that people have had.

#### **1.14 RELIABILITY**

Reliability refers to whether a research instrument is neutral in its effect and consistent across multiple occasions of its use. According to Babbie and Benaquisto (2010:139) and Gast (2010:98), reliability is a matter of whether a particular technique, applied repeatedly to the same object, yields the same results each time. The quality of the measurement method must suggest the same data would have been collected each time in repeated observations of the same phenomenon.

The reliability and accuracy of the data was enhanced by the fact that twenty eight investigators were interviewed through the same questions contained in the same interview schedule. The researcher ensured reliability by evaluating all the results personally and conducting all the interviews, so as to ensure that they were conducted the same way. The literature study and case docket analysis were carried out in a similar way and attention was also given to aspects interrelated reliability, internal consistency, equivalent forms and test-retest, where the same instrument yielded the same result on two different occasions, as described by Babbie and Mouton (2004:121). Feedback was sought from colleagues in the field of study to determine whether they agreed or disagreed that the research had made appropriate interpretations and had drawn valid conclusions from the collected data. Conclusions were then taken back to the participants

after the analysis to validate whether they agreed with the conclusions, and for them to evaluate whether the conclusions made sense in their own experiences (Leedy & Ormrod, 2005:100).

The researcher collected multiple sources of information which is known as triangulation which enhanced reliability. Denzin (1989) as quoted by Babbie and Mouton (2004:275) defines triangulation as the use of multiple methods, as a plan of action that will raise the sociologists above the personal biases from single methodologies. By combining the above methods, the researcher managed to partially overcome the deficiencies that could have flawed from one research method and overcome the concepts. Gray (2004:37) supports the above authors and states that triangulation helps to balance out any of the potential weaknesses in each data collection method.

Yin (2009); as quoted by Creswell (2014:203) states that qualitative researchers need to document the procedures of their case studies, and also document as many steps and procedures as possible. Subsequently, the researcher cross-checked the codes developed by different researchers, by comparing the results that were independently derived (Creswell, 2014:203). Based on this, the researcher considers the study to be reliable.

### **1.15 ETHICAL CONSIDERATIONS**

The researcher adhered to the Unisa policy on research ethics (Unisa, 2007:5-15). In accordance with this policy the researcher observed the following aspects:

- The participation of the individuals was based on their freely given, specific and informed consent. This was done in writing.
- Measures for privacy, anonymity and confidentiality of participants, as well as any risk of breach of confidentiality and anonymity, were explained to the participants. The measures for privacy were applicable only to Sample “A” and Sample “B” whereas these measures were not applicable to Sample “C”.

- The identities of participants were not shared with any other persons with the exception of the identity of Sample “C” which was shared with other persons. Sample “C” was told that the interview was conducted for the purpose of the study.
- The researcher acknowledged the sources used during the study, since he considers plagiarism as a serious disciplinary offence.
- Permission to conduct interviews and analyse case dockets was requested from the SAPS and the NPA (see annexures D and E).
- The language used during the interviews, and at any stage of the research, was strictly academic and free from insults, insinuations or explicitness.

Leedy and Ormrod (2005:101-102) add that whenever human beings are the focus of the research, one must look closely at the ethical implications of what one is proposing to do, and that most ethical issues in research fall into one of four categories, namely protection from harm, informed consent, right to privacy, and honesty with professional colleagues, as follows:

- Protection from harm

The participants were not exposed to physical or psychological harm, since the interviews were conducted in their offices, and their lives were not at a higher risk than normal day-to-day risk. According to Joyce (2009:116), the participants, as the subjects of the research, should be provided with guarantees of anonymity and confidentiality. In order to ensure that the participants stayed anonymous and to respect their privacy, the participants’ names were not made public during the research, and anonymity numbers were allocated to each participant, which were used during the report-back stage.

- Informed consent

Joyce (2009:116) states that participants should always give their express consent to be involved in the research project. Participation in the study was completely voluntary, and participants were offered the chance to give their informed consent. The necessary

permission was obtained from the National Head Office of the SAPS and the SAPS: Pretoria Central Cluster commander, as well as the NPA South Africa. The researcher also obtained consent from all the participants, informing them that participation in this research was entirely voluntary, and that they could expect no special rewards.

- Right to privacy

The researcher assured the participants that all information given would be treated with the greatest confidentiality, that the information would only be used in the research, and that the findings would be made public. Sample “C” was informed that the interview is for the study purpose and the data will be made public.

- Honesty with professional colleague

The researcher ensured that there was no any misrepresentation of any facts in order to deliberately mislead others with the findings. All words and ideas belonging to other people were acknowledged during this research.

Data obtained from the case dockets was not illegitimately used or manipulated. Sources were referenced in accordance with the prescribed Unisa reference method (Unisa, 2004).

## **1.16 RESEARCH STRUCTURE**

The research report is divided into the following chapters:

Chapter 2: The first report statement

In this chapter, the researcher discusses the investigation of crime, objectives of investigation, and crime and rape as concepts. Attention is given to the elements of rape, types of statements, requirements of first report statements and format of report statements during the investigation of rape cases.

Chapter 3: The value of the first report statement in the investigation of rape

In this chapter, the researcher discusses the topics of information, intelligence and evidence, the information contained in the first report statements, the value of first report statements in prosecution and the value of the first report statements in the investigation of rape.

#### Chapter 4: Findings, recommendations and conclusion

This chapter discusses the findings, recommendations and conclusion of each chapter based on these findings.

## **CHAPTER 2**

### **THE FIRST REPORT STATEMENT**

#### **2.1 INTRODUCTION**

The world of investigation has its own language, concepts, principles and processes, that drive the investigator's thinking. Understanding this is essential to any investigator's success. An investigator with little or no experience in the law of evidence will find it difficult to conduct investigations successfully. Once the investigation of rape has been initiated, the investigator cannot proceed aimlessly, but must be guided by the basic knowledge of what needs to be obtained in the first report statement during the investigation of rape. If there is no positive verdict due to poorly obtained statements, or none, the case and the work performance of the investigator may be considered tainted.

A thorough knowledge and understanding of the events and surrounding circumstances is a prerequisite to the recording of effective statements (Van Rooyen, 2004:45). As a result it is important that the fundamental information of the criminal investigation must also be contained within the statement of the rape victim, which is victim statement. This information, however insignificant it might seem at first, can form all important picture of what happened during the time of the incident. Even more importantly the information provides valuable clues for resolving investigation hypothesis successfully. "The victim statement is the most important piece of evidence, especially, in a rape investigation, and it must form part of the police dockets and our records. It is therefore important to remember that when a rape victim reports the crime, the victim's exact words must be used in a statement. It is also crucial that the statement contains accurate contact details for the victim, so that the investigating officer can follow up with the complainant to get additional information if needed, ask the victim to identify a suspect and keep the victim informed of the progress of the case" (Geldenhuys, 2015:17). The thorough knowledge and understanding will assist the investigator since he or she cannot investigate rape without a victim's statement which is also known as first information of crime.

In this chapter, the researcher discusses the concepts 'investigation of crime' and 'rape'. Attention is given to the obtaining of the first report statement, the format of a first report

statement, and the requirements of a good first report statement. This chapter further aims to present 'first report statement' as an investigative tool in the investigation of rape.

## **2.2 INVESTIGATION OF CRIME**

According to McMahon (2007:171), criminal investigation is the *systematic process of identifying, collecting, preserving, and evaluating information for the purpose of bringing a criminal offender to justice*. According to Marais (1992:1), only people commit crime by using physical objects and instruments, and crime investigation involves the lawful tracing of people and instruments which may, directly or indirectly, contribute to the reconstruction of the crime situation, and supply information about the people involved in the crime, with the purpose of reconstructing and revealing the truth. Cordner and Scarborough (2010:71) and Cordner (2014:73) provide that investigation of crime constitutes the actions taken by the police, with the purpose of identifying and arresting the suspects, and includes crime scene investigation, interviewing and interrogation. It also encompasses the collection of information and evidence for identifying, apprehending and convicting offenders. Orthmann and Hess (2010:8) define 'criminal investigation' as the systematic research of the truth whereby evidence is discovered, collected, prepared, identified and presented in order to determine what happened and who is responsible. Marais and Van Rooyen (1990:13) state that crime investigation is directed at the gathering of facts and information through which the crime can be reconstructed.

Sample "A" was asked, "How would you define crime investigation?" Their answers were as follows:

- Systematic research of the truth aiming to bring perpetrators to book (18 participants);
- Crime investigation is resolving the truth (5 participants) ;
- Is to get information of what happened there (1 participant) ;
- The finding out of how the crime was committed and who is the guilty party (1 participant);

- Is the studying, enquiry into the wrong doing of persons (1 participant) ;
- Is the investigation of all elements of crime to establish the type of crime(1 participant) ; and
- It must have seven elements of crime and that is intention and unlawfulness (1 participant).

From the interviews, the researcher came to the conclusion that the 28 investigators gave more detailed definitions of crime investigation, owing to their day-to-day investigation duties. The participants agreed with one another, and their viewpoints agree with McMahon (2007:171), Marais (1992:1), Cordner and Scarborough (2010:71) and Orthmann and Hess (2010:8), who provide that investigation of crime is the systematic research for the truth, with the objectives of identifying and arresting the suspects, and includes crime scene investigations, interviewing and interrogation.

The participants agreed with one another, and their viewpoints agree with McMahon (2007:71), Marais (1992:1), Cordner and Scarborough (2010:71) and Orthmann and Hess (2010:8) who provide that the investigation of crime is the systematic search of the truth with the objectives of the identification and arresting of suspects including crime scene investigation, interviewing and interrogation. Sample “B” and Sample “C” could not contribute to the discussion of this aspect of the study since the question was not put to them.

### **2.3 OBJECTIVES OF INVESTIGATION**

Du Preez (1996:4), Van Rooyen (2013:174) and McDevitt (2012:13) provide that investigation takes place with objectives in mind, and suggest the following towards the objectives of investigation: identification of the crime, gathering of evidence, individualisation of the crime, arresting of the criminal, recovery of stolen property, and involvement in the prosecution process. Van Rooyen (2013:174) and McDevitt (2012:13-15) continue by referring to the objectives of investigation as follows: gathering intelligence information; data evaluation; establishing causes and identification of trends; clearing additional crimes by arresting perpetrators; recovery of stolen property; making

recommendations and giving advice; preventing additional crimes by identifying and arresting suspects; and, activating the process of justice. Ortmeier (2006:331) states that the objectives of investigation are to determine whether a crime was committed, identify the suspect, locate the suspect, and recognise, collect and preserve evidence that may establish the guilt or innocence of the accused in a judicial proceeding.

Sample "A" was asked the question, "What are the objectives of criminal investigation?" They replied as follows:

- To collect evidence and arrest the suspect(s) (13 participants);
- To bring the offender to court for his deeds (1 participant);
- To uncover and searching of the truth (6 participants);
- To gather information and proof in proving the accused guilty (1 participant);
- I do not know (1 participant);
- To answer the 'who, what, when, where, why and how' questions (1 participant);
- To solve unsolved cases (1 participant);
- To investigate alleged offences and ensure conviction in court (1 participant);
- To bring perpetrators to justice and make the community feel safe (1 participant);
- To identify the crime and the suspect (1 participant); and
- To get permission in court in order to convict the right person (1 participant).

In the current study, Sample "A" was asked to name the objectives of investigation. All of them agreed with the statements made by Ortmeier (2006), Van Rooyen (2013) and McDevitt (2012), mentioned above except one investigator who stated that he did not know the objectives of criminal investigation. Based on the ethical considerations the investigator could not be forced in any way to answer the interview question. Accordingly, the participants agreed with the literature pertaining to the objectives of investigation.

Sample “B” and “C” could not contribute to this aspect during the study as the question was not put to them.

## 2.4. CRIME

Joubert (2004:46) and Van Rooyen (2004:6) define crime as an act that is to be deemed wrong by statutory law or common law, which is punishable by law in criminal proceedings. Ortmeier (2006:45) defines crime as an offence against society. Joubert (2004:46-7) provides the following general elements of crime:

- **Legality:** This implies that the conduct is regarded as being of a criminal nature, and defined as such by either common law or statutory law;
- **Conduct (or the act):** This element refers to the actual act, physical act or omission to act, on the part of the accused;
- **Unlawfulness:** This element indicates that the specific act is unjustified, and there are no legal grounds of justification; and
- **Culpability:** This element implies that the accused must have been criminally accountable during the commission of the crime, and complied with all requirements of crime.

## 2.5 RAPE

Savino and Turvey (2011:9) and Gilbert (2010:292) define rape as non-consensual sexual intercourse by force or against the victim’s will. Before the coming into operation of the present Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, rape was a common law crime. It constituted a male having unlawful and intentional sexual intercourse with a female without her consent (Burchell, 2011:699). The elements of rape are sexual penetration of another person, without the consent of the victim, unlawfulness, and intention, as contained in the new Act (Snyman, 2008:355). Snyman (2008:353) states that the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (hereafter referred to as the “Act”) consolidates all crimes relating to sexual matters. The Act repeals the common law crime of rape, and replaces

it with an expanded statutory crime of rape, which is applicable to all forms of sexual penetration without consent, irrespective of the gender of the perpetrator or the victim.

Meanwhile, Snyman (2008:355) defines rape as follows:

Section 3 of the Act provides that any person who unlawfully and intentionally commits an act of sexual penetration with another person without the latter's consent, is guilty of an offence.

Hazelwood and Burgess (2009:3) submit that rape is defined as an act that includes attempted or completed vaginal, oral or anal penetration. Savino and Turvey (2011:9) refer to rape as non-consensual sexual penetration. Snyman (2008:358) submits that sexual penetration (rape) is defined in Section 1(1) of the Act (Criminal law Sexual Offences ...) (South Africa, 2007) as follows: Sexual penetration includes any act which causes penetration to any extent whatsoever by:

- (a) the genitals of one person into or beyond the genital organs, anus, or mouth of another person;
- (b) any other part of the body of one person, or any other object, including any part of the body of an animal, into or beyond the genital organs or anus of another person;  
or
- (c) the genital organs of an animal, into or beyond the mouth of another person.

Snyman (2008:355) states that Section 3 of the Act provides that *a person is guilty of the crime of rape if he or she unlawfully and intentionally commits an act of sexual penetration with the complainant, without his or her consent*. In terms of the Act, rape can also be committed by a man or woman, even if the victim is of the same gender as the perpetrator. This means that persons of both genders may be perpetrators or victims of rape. In the past, it was legally impossible for a husband to rape his wife, although he could be charged in a situation in which he aided another in the rape of his wife. Now the concept of using marital privilege as a defence against rape is legally void (Gilbert, 2010:292). The elements of rape, according to the new Act, are sexual penetration of another person, without the consent of the victim, unlawfulness, and intention (Snyman, 2008:355).

All the samples were asked to define the concept rape.

Sample "A" responded as follows:

- Rape is intentional and unlawful sexual intercourse without the victim's consent (25 participants);
- Rape is unlawful penetration without permission (1 participant);
- Rape is intentional of having unlawful intercourse against the victim by a human being (1 participant); and
- Rape is the forceful sexual penetration of a person of any object to any part of the body in terms of Section 3 of the Sexual Offences Act, without the consent of the victim (1 participant).

Sample "B" responded as follows:

- Rape is the unlawful and intentional penetration of vagina or anus by any object, penis, finger, etc. without the consent of the victim (3 participants) ; and
- Section 3 of the Act provides that any person who unlawfully and intentionally commits an act of sexual penetration with another person without the latter's consent is guilty of the offence of rape (1 participant).

Sample "C" responded as follows:

- Section 3 of the Act provides that any person who unlawfully and intentionally commits an act of sexual penetration with another person without the latter's consent is guilty for an offence of rape.

The researcher concluded that all the samples define rape as non-consensual sexual penetration, as provided in Savino and Turvey (2011:9). Samples "A", "B" and "C" all agree with each other and support Snyman (2008:355), who states that section 3 of the Act provides that any person who unlawfully and intentionally commits an act of sexual penetration with another person without the latter's consent, is guilty of an offence. The researcher is of the opinion that the investigators, prosecutors and an advocate have the

same understanding of the definition of rape, which is applicable during the investigation of rape cases.

## **2.6 ELEMENTS OF RAPE**

Every crime is unique, there are legal elements to every crime, and each crime represents an individual challenge to the investigator. All these elements must be present to prove a crime (Van Rooyen, 2001:52). Savino and Turvey (2005; as quoted by Coetzee, 2008:57) state that:

... physical injuries can confirm the child's account of rape, and demonstrate that the force was used. For example, bruising on the arms may indicate that the victim was grabbed by the arm, the so-called pressure injuries. Bite mark injuries are commonly found on rape victims, as the suspect normally bites the victim on the neck and upper body area, to control the victim. These and other injuries should also be photographed.

In the crime of rape, the act consists of the penetration of the woman's genitals (vagina) by a man's genital (penis), and it is not necessary that the intercourse be completed – the slightest penetration is sufficient (Snyman, 2008:355). The elements of rape are discussed as follows:

- Sexual intercourse (criminal conduct): It must be proved that the defendant had sexual intercourse with the victim. According to Hutton, Johnston and Sampson (2004:112), the penetration may either be through the anus or vagina. Any sexual penetration, however slight, is sufficient to complete the crime (Gilbert, 2010:292);
- Offender and victim: Gilbert (2010: 292) provides that a woman may be convicted of raping a man or another woman whereas a man may be convicted of raping a male victim; and
- Consent: Savino and Turvey (2011:6) refer to consent to the act as giving permission with full awareness of the consequences. Consent given must be true consent, and not submission consent induced by fear or fraud. People under the influence of drugs and alcohol, physically or mentally disabled, someone who is

asleep, or victims under the age of 12 years, are not capable of giving the required consent.

Snyman (2008:355) states that the elements of rape, according to the Criminal Law (Sexual Offences and Related Matters) Amendment Act, as follows: (a) sexual penetration of another person; (b) without the consent of the latter person; (c) unlawfulness; and (d) intention. Subsequently, there are no difference in viewpoints between international authors – that is, Savino and Turvey (2011), Gilbert (2010), Hutton et al. (2004) and Snyman (2008), regarding the elements of rape.

Samples “A”, “B” and “C” were asked the question, “What are the elements of rape?”

They responded as follows:

Twenty-eight (28) investigators from Sample "A", four (4) public prosecutors from Sample "B", and one (1) deputy director of public prosecutions from Sample "C", agreed with Snyman (2008:355), and mentioned the elements of rape as unlawful, intentional, non-consensual sexual intercourse with a victim, as mentioned in the Criminal Law (Sexual Offences and Related Matters) Amendment Act. The researcher concluded that both the investigators and the public prosecutors have the same understanding of the elements of rape. This will ease the prosecution process – which is included in both common law and the Criminal Law (Sexual Offences and Related Matters) Amendment Act. There is no difference in the viewpoints of the international authors and the local author, regarding the elements of rape. If one analyses what Snyman (2008:355) states about the elements of rape, according to local criminal law, and the international authors, the elements of rape are the same, internationally and locally (South Africa).

## **2.7 STATEMENTS**

Witness and victims of crime usually submit a written account of what happened, which could be used as evidence in court (Chukwuemerie, 2004:1) – this is called a statement. Chukwuemerie (2004:1) defines a statement as:

[a] signed, sworn or affirmed voluntary statement, made before a judge or other person authorised to administer oaths, of facts within the maker’s knowledge or of

knowledge or belief he derived at stated times, place and circumstances from a stated person or persons whom he believes.

The statement will be used in court during judicial proceedings. The *Concise Oxford Dictionary* (2007:1147) defines a statement as *a definite or clear expression of something in speech or writing [or] a formal account of facts or events, especially one given to the police or in court*. Bennett and Hess (2004:139) define a statement as a legal narrative description of events relating to a crime. Govender and Sewpersad (2010:151) define a statement as a verbal account of evidence that relates to the crime committed.

According to Technikon SA (1998:282), a statement is the exposition or clarification of facts that can be used as evidence and that is usually made in writing by a person under oath or solemn affirmation. If the person who makes the statement cannot read, the statement must be read to them, and an endorsement made that the statement was read to them (Hoffman & Zeffert, 1988:442). Zeffert and Paizes (2009:893) support Hoffman and Zeffert, and state that the person who read the statement must endorse that the statement was read to such a person.

A statement is a written account, sworn under oath in front of a commissioner of oaths, in which the witness or victim states the facts, within their personal knowledge, that support the complaint, and can be used as evidence in court (Garland & Stuckey, 2000:20). Buckwater (1983) as quoted by Palmiotto (2013:60) states that the objective of a statement is to get all the facts, and to record them accurately, briefly, legibly and rapidly.

A statement is a legal document that forms the point of departure, foundation or legal basis upon which a case is built, and, as a result, forms part of the administration of justice (Van Rooyen, 2004:45). A successful prosecution in criminal investigation depends on the quality, completeness, relevance and accuracy of statements taken during the investigation. According to Van Rooyen (2004:25), a statement is regarded as a vehicle which assists the investigator in transferring the evidence to court. Basically, the statement also assists in opening case dockets, as well as the acquisition and implementation of search, arrest, and attachment and forfeiture warrants.

All the samples were asked to define the concept statement.

Sample "A" responded as follows:

- A statement is a written account of what has happened or events as experienced by the complainant (21 participants);
- A statement can be classified as information (1 participant);
- The act of saying what has happened (1 participant);
- A statement is a report of reporting what has happened (1 participant);
- A statement is information that you get from witness in writing (1 participant);
- Statement is the way in which a person is explaining as to what have happened (1 participant);
- A statement must have facts of crime committed (1 participant); and
- A statement must have a station Crime Administration System, name of the complainant, as well as the particulars of the complainant; a statement must have a day, date and time of the events, and at the same time must have an oath (1 participant).

Sample "B" responded as follows:

- Could not define a statement and referred this to the police (1 participant); and
- Any version given orally or in writing by witness to a crime (3 participants).

Sample "C" responded as follows:

- It is a factual report of what was experienced and/or witnessed.

Thirty-one (31) participants from three samples, samples "A", "B" and "C", support the view of Bennett and Hess (2004:139), stating that a statement is a detailed account of events regarding crime, which might later be used as evidence in a court of law. The exception was one (1) participant from Sample "A", who could not define a statement, and who indicated that he was still under probation and (1) participant from Sample "B"

who referred the definition of a statement to the police. Participant from sample “A” had been an investigator for 1-5 years, and had not received specific training to investigate rape, as was asked on the interview schedule. Participant from sample “B” could not define statement and referred the researcher to the police for a definition. Based on the ethical considerations the participant could not be forced in any manner to answer the interview question in order to make the research valid and reliable.

### 2.7.1 Types of statements

Van Rooyen (2004:25) mentions the following four types of statements: the ordinary unsworn statement, the statement under oath or affirmed to, statements under Section 212 and 213 of the Criminal Procedure Act 51 of 1977, and dying declarations. Van Rooyen (2004:46), Govender and Sewpersad (2010:152-153) and Govender, Sewpersad, Rogers, Van Rooyen and Breytenbach (2011:58-59) provide that the following are types of statements, and they are thus briefly discussed:

- Ordinary unsworn statement

This is a statement without an affirmation or oath, and becomes a statement under oath immediately after the administration of an oath or affirmation. The evidence of a witness can be recorded in a statement that has not been sworn or affirmed (Lochner, 2014:64). Generally, the deponent can make a statement at home, and this becomes a statement under oath after administration of an oath or affirmation in terms of the Justices of the Peace and Commissioners of Oaths Act 16 of 1963 (South Africa, 1963). The disadvantage of the statement is that if the deponent changes his or version, a case of perjury cannot be opened against such a deponent whereas a magistrate would not grant a search warrant if the statement is not sworn.

- Statement made under oath

Van Rooyen (2004:48) states that a statement under oath is taken if the deponent acknowledges that they know and understand the contents of the declaration, and indicates to the Commissioner of Oaths that they have no objection to taking the prescribed oath, and that they consider the prescribed oath to be binding on their

conscience. The deponent must say the following words prior to the Commissioner of Oaths administering the oath: "I swear that the contents of this statement are true; so help me God."

Govender et al. (2011:59) are of the opinion that the purpose of taking an oath, when making a statement, is to make the deponent responsible for speaking the truth, since the deponent who makes such a statement must consider it binding on their conscience. Calligan (1985:2) states that the purpose of sworn statements includes the following:

- To allow for a quick check of the evidence, in order to filter out the cases not suitable for court;
- To allow evidence to be accepted by other parties, when not in dispute;
- To record the evidence of witnesses as soon as possible after the incident;
- To assist in the investigation of serious crime; and
- To enable a court of law to arrive at the correct verdict.

Govender et al. (2011:51) mention that it is important to remember that sworn statements can be used to obtain an authorised bench warrant of arrest, or search warrant, for later execution by the SAPS. Criminal investigators acquire considerable amounts of evidence which can be seized during the execution of a search warrant (Gilbert, 2010:55). Gilbert (2010:55) states that a search warrant is a written court order directing the police to search premises or vehicles for specific types of incriminating evidence.

- Statement made under affirmation

People, who object to taking oaths based on religious grounds, submit their statements under affirmation – which renders them responsible for speaking the truth and being bound by their conscience (Lochner, 2014:62). Unlike statements made under oath, these deponents do not take oaths, but utter the words: "I truly affirm that the contents of this declaration are true" (Govender et al., 2011:59; Lochner, 2014:103). South African courts make no distinction between a sworn statement and an affirmed statement (Lochner, 2014:62). What is important to the courts is that the evidence being presented in affirmed

and sworn statements should be correct and true. According to Lochner (2014:62), there is therefore, no difference in the evidential value of sworn witness statements and affirmed witness statements; and a statement under affirmation has the same powers as a sworn statement.

- Statements in accordance with sections 212 and 213 of the Criminal Procedure Act 51 of 1977

These statements are made by experts, such as ballistics experts – after examining firearms, forensic pathologists – after conducting an autopsy of the deceased, or chemists – after examining a blood sample. Schwikkard and Van der Merwe (2002:273) provide that the question as to whether any fact, or transaction, or occurrence, did or did not take place in any department or provincial administration, in any court of law, or bank, may, subject to certain formalities, be provided by an affidavit – which is admissible on its mere production as prima facie evidence of the matters stated on it, in terms of Section 212 of the Criminal Procedure Act. Section 213 of the Criminal Procedure Act 51 of 1977 provides that a written statement by any person, other than accused in the proceedings, shall, subject to certain conditions, be admissible as evidence to the same effect as oral evidence by such person (Schwikkard & Van der Merwe, 2002:273). The distinction between Section 212 and 213 statements is that section 212 relates to proof of certain facts by an affidavit or certificate, for example ballistic experts and section 213 relates proof of written statement by consent in criminal proceedings for example the accused is given an opportunity to study the written evidence before hand and object to it or consent by the other party must be required.

- Dying declaration

A dying declaration statement is made by the deceased while dying, and it is admissible before a court of law. According to Garland and Stuckey (2000:523), a dying declaration is an exception to the hearsay rule that provides that a statement made by an unavailable declarant may be admitted into evidence in a prosecution for homicide, or in civil proceedings, if the statement was made by the declarant while believing that his or her own death was imminent, and if it concerns the cause or circumstances of what the

declarant believed to be impending death. Garland and Stuckey (2000:523) and Gilbert (2010:275) say that only statements of victims of murders, or attempted murders, are admissible as dying declarations, and the statements must be made while the victim believes that he or she is dying, and must concern the person or persons responsible for the victim's death.

According to Technikon SA (1998:283) dying declarations are admissible only in murder and culpable homicide cases and the assumption here is that a person who is dying is unlikely to lie. The requirements to be met are that the person must have realised that his death was imminent, must have given up all hope of recovery, and must subsequently have died (Technikon SA, 1998:283). It is obviously impossible for this type of statement to be in the correct form or to be signed. The viewpoint of the South African Law of evidence, according to Schwikkard and van der Merwe (2009:288), is that dying declaration could be admitted into evidence provided that the following requirements were met: (a) the declaration was relevant to the cause of death; (b) the evidence was adduced on a charge of murder or culpable homicide; (c) the deceased would otherwise have been a competent witness; and (d) at the time of making the statement the declarant was under a settled hopeless expectation of death.

- First report statement

This is a statement made by the witness to whom the victim reported the incident after the commission of rape. According to Technikon RSA (1993:02), a first report statement must be obtained from the first person to whom the victim reported the rape. Burchell and Milton (1997:499) state that the modern version is that a complaint, by a woman to someone, that she has been raped, may be admitted in evidence at a rape trial. It entails that the first report witness will have to testify regarding their observation of the conditions and injuries of the victim, during the report. The first report statement is one of the most important parts of the rape docket.

Sgt Sepakela from Tembisa FCS Unit investigated a case in which an educator had sexual intercourse with his learners. One of the victims disclosed to his pastor that his educator had forced him to have sexual intercourse with him without his consent. The

investigating officer felt that the victim had been humiliated and decided to address the school to inform the learners that if anyone was exposed to rape or child pornography, they had to report the matter (Matla a Bana recognises good investigation work in Gauteng, 2016:48). Nine boys aged 10 and 14 years were victims of this educator. The accused was arrested, and following his trial, found guilty. He received seven life sentences, as well as twenty years' additional incarceration.

After raping her, the suspects threatened to kill her if she ever reported her ordeal to the police or anyone. When the victim arrived at home, she reported the incident to her mother, who went to the police station to open a case and the victim was taken to hospital for medical attention (Nabbed for raping minor, 2011:13).

According to Van der Watt (2011:85), first report statement is defined as follows:

... the first report statement in a rape case is obtained from the person to whom the victim made the initial disclosure after the incident took place. It is a very important source of evidence which either corroborates or refutes allegations made by the victim. Further, it serves to explain the emotional state and physical appearance of the victim after the incident took place, and could highlight important pieces of evidence that were initially disclosed by the victim, but could not be recorded by the police.

According to Meintjies, Advocate at Gauteng North High Court, and referred in the study as Sample "C", the investigators were filing the first report statements made to the police, or any other person, in the case dockets, without sufficient information such as, for example, the nature of the complainant's injuries, the complainant's condition, the apparent emotional state of the victim, and whether the victim was stained with blood or semen all of which resulted in the failure of an otherwise successful prosecution. Aspects such as wounds, injuries, harm as well as shack sustained as a result of the crime should be recorded in cases of assault, robbery, rape, etc. (Van Rooyen, 2004:51). Van Rooyen (2004:51) further states that the emotional state of mind as well as the injuries sustained gives an indication of the intensity of the crime and certain deductions could be made from this type of information. Lochner (2014: 14) provides that incomplete and inaccurate

first report statements are one of the main reasons why 3 prosecutors withdraw cases and accused persons are found not guilty. If some of this information is not included in the first report statement, the case against the perpetrator may either be withdrawn, or the perpetrator acquitted, due to lack of evidence:

An advocate representing a man who has been found guilty of raping his biological daughter, told the Pretoria Regional Court that the rape in this case is not the most serious the court has seen. There were no serious physical injuries except those caused by penetration (Du Preez, 2012:5).

Sample "A" was asked to explain the concept first report statement, and responded as follows:

- First report statement is a statement of the first person whom the victim reported to immediately after the incident (22 participants);
- First report statement is a first hearsay statement made by the reporter and was not there when the incident was happened (1 participant);
- A first report statement is a statement made to a police officer after the incident has happened (1 participant);
- First report statement is a hearsay statement (1 participant);
- Is a person that tells the witness what has happened (1 participant);
- Is like when a victim report an incident to his/her mother (1 participant); and
- A good first report statement is when the first report witness explain what he/she was told by the victim (1 participant).

Sample "B" was asked to explain the concept 'first report statement', and responded as follows:

- Is a statement of the first person to whom the victim informed about what happened to him/her (2 participants);

- It shows consistency (1 participant) ; and
- First report statement is used as corroboration to the victim statement (1 participant).

Sample "C" was asked to explain the concept 'first report statement', and responded as follows:

- It is the first version provided by a victim of a sexual offence having been committed (1 participant).

Thirty-two (32) participants from Sample "A" and Sample "B", and one (1) participant from Sample "C" agreed with one another, and supported the view of Van der Watt (2011:85), stating that the first report statement must be obtained in a rape investigation. The first report statement entails that the date, place and time of the event, as reported by the victim to the first report witness, as well as the condition of the victim, must be included on the first report statement, including informing whether the clothing was torn, or not. The injuries must also be included in the first report statement. The information contained in the first report statement will prove whether the rape did or did not occur. The participants' viewpoints are the same as provided in Palmiotto (2013:153), Savino and Turvey (2011:90) and Technikon SA (1993:302), as well as the sexual offences course for investigators manual (SAPS, 2012:5), in which it states that the first report statement must be obtained from the first report witness. The researcher could conclude that both participants understand the first report statement, and could thus successfully utilise it during the prosecution and investigation of rape.

## **2.8 REQUIREMENTS FOR A FIRST REPORT STATEMENT**

According to the SAPS Family Violence, Child Protection and Sexual Offences Learning Programme (SAPS, 2012:5), the investigator in rape cases must obtain a first report statement from the person to whom the victim reported the incident for the first time (first report witness). In other words, the first report statement must obtain the following information from the first report witness: details of the report (exact words used by the

victim), physical appearance (clothing, visible injuries) and emotional state of the victim (crying, laughing or shocked).

The following are the requirements of good and quality first report statements which are the same as the ones of a victim statement (Van Rooyen, 2004:45-46):

#### 2.8.1 Accuracy

The first report statement must be an exact, precise and reliable account of the occurrence. The investigator must know the meaning of the words, as the same words often have different meanings. The first report statement should convey what the deponent means, and not what the investigator thinks it should mean.

#### 2.8.2 Completeness

A first report statement can only be complete if it contains every fact that is applicable to the event. Nothing must be missing or left out from the first report statement. All the relevant facts – for example, the condition of the victim and a description of their injuries, among others, must be enclosed, to ensure that the first report statement is complete. The investigator must ensure that the following questions are answered: WHO? WHAT? WHERE? WHEN? WHY? and HOW? The contents of the first report statement will all differ from crime to crime.

#### 2.8.3 Conciseness

Conciseness means that the first report statement must be brief, yet comprehensive and complete. All the facts the deponent knows, must be included in the first report statement, in as few words as possible. This must be done without omitting relevant information. This means that the first report statement must be brief, yet comprehensive and complete.

#### 2.8.4 Objectiveness

Investigators must not be influenced by their own feelings and emotions during the first report statement taking process. Investigating officers must write what the deponent states, and not what they think might have happened, or what they think the deponent is trying to say, or what they think is a better way of saying the same thing.

### 2.8.5 Comprehensiveness

Comprehensiveness means that the contents of the first report statement should be of such a nature that whoever reads it would not find it necessary to request that certain aspects be explained. Anyone reading the first report statement should have no difficulty understanding what they read. Every relevant issue should be covered. The investigator taking the first report statement must be conversant with the elements of the relevant crime – that is, What is to be proved? Every piece of evidence stated by the witness should be written down by the investigating officer, even though it may be inadmissible before the court. The statement must convey the truth, and the investigator must not withhold the facts and change the meaning of the first report statement. Practically, the first report statement must be neat and presentable.

All samples were asked: according to your knowledge what are the requirements of a good first report statement?

Sample "A" responded as follows:

- I do not know (1 participant);
- A good first report statement must contain all the elements of crime (6 participants);
- The elements of good first report statement are that the statement is complete and there is nothing missing, accuracy and objectivity (18 participants);
- A first report statement must have preamble and conclusion (2 participants); and
- The first report statement must be in sequence (1 participant).

Sample "B" responded as follows:

- It must contain all elements of crime, date and time of offence, possible witnesses and telling exactly what happened (2 participants);
- It must contain all that transpired (1 participant); and

- Good first report statement is any statement by witnesses which is truthful and objective (1 participant).

Sample "C" responded as follows:

- It must be factually correct and provide all relevant details regarding the date, time, occurrence and be brief and to the point. It should answer to the reason for it being taken, namely to provide important information that will serve to prove that a crime was committed, including circumstances under which the crime was committed and the identity of the offender (1 participant).

Samples "A", "B" and "C" agree with one another regarding the requirements of a good first report statement with the exception of (1) participant from sample "A" who did not know the requirements of a good statement and there are no different viewpoints between the samples and the literature, provided by Van Rooyen (2004: 45-46). According to Palmiotto (2013:153), *the investigator must learn from the victim who the first people were she told about the incident*. Victims always tell friends and families about the incident, and those people should be interviewed, in order to establish the victim's demeanour when they disclose what happened to her.

Savino and Turvey (2011:90) state that the investigator must obtain a first report statement from the responding officer, doctor, family member and member of the community to whom the victim the incident for the first time immediately after the rape. It either corroborates or refutes the allegation made by the victim. The first report statement further serves to explain the emotional state and physical appearance of the victim after the incident has taken place, and could highlight important pieces of evidence that were initially disclosed by the victim, but not included by the police (Van der Watt, 2011:85). According to the sexual offences course for investigators manual (2012:15), the statement from a first report witness is very important in sexual offences, referring to the circumstances under which the information was obtained, as well as the physical and mental state of the victim. The first person to whom the victim reported the rape must be thoroughly questioned, and, thereafter, a comprehensive first report statement obtained, entailing the following (Technikon, RSA, 1993:302):

- Date and time of the first report;
- Condition of the victim's clothing;
- Their mental and physical state; and
- The nature and precise content of their report.

All samples were asked: according to your knowledge what are the elements of a good first report statement?

Sample "A" responded as follows:

- First report statement must give full description of the condition of the victim when reporting the incident to the first report witness, whether he/she was crying, calm, cool and sober (24 participants);
- First report statement must have a detailed description of what happened (1 participant);
- The first report witness explains what she/he was told by the victim (1 participant);
- It should have all things that transpired on the particular day of the incident (1 participant); and
- First report statement is obtained from the first person to whom the first report was made to by the victim (1 participant).

Sample "B" responded as follows:

- It must give in detail the condition of the victim when he/she informs the first reporter, like he/she was calm, terrified, crying, cool, state of mind, sober or not sober ,and the condition of the clothing (1 participant);
- Truthfulness in court and objective (1 participant);
- It must contain exactly what she/he was told by a victim of rape (1 participant); and

- The first report will be valuable if when, where and what happened is covered on the report (1 participant).

Sample "C" responded as follows:

- The date and time the information was provided, the precise version given, the reason for the information being given, the emotional and physical condition of the person/victim that provides the information (1 participant).

All participants from samples "A", "B" and "C" agree with one another, and support the view of Savino and Turvey (2011:90), stating that the first report statement must contain a detailed account of the events. This is also the view of Palmiotto (2013:153), Technikon SA (1993:302) and Van der Watt (2011:85), who state that a first report statement must be obtained during investigation of rape. From the above, there is general agreement regarding the contents of a first report statement. The requirements of a good first report statement are that it must contain a description of the condition and injuries of the victim when reporting the incident. The first report statement must be obtained from the person to whom the victim reported the incident for the first time (first report witness).

The first report witness's statement must contain the following (Technikon RSA, 1993:302):

- Details of the report (exact words used by the victim);
- Physical appearance (clothing, visible injuries); and
- Emotional state of the victim (crying, laughing, shocked, etc.).

From the literature, interviews and case docket analysis, this will represent confirmation – which means that the victims are speaking the truth that they have allegedly been raped.

## **2.9 FORMAT OF A FIRST REPORT STATEMENT**

In general, the format of a statement is of utmost importance and should receive much attention from the investigators. Investigators should ensure that they understand the

following aspects pertaining to the format of the statement (Govender & Sewpersad, 2010:154; Van Rooyen, 2004:49):

### 2.9.1 Preamble

Preamble, also known as the introductory sentence, is derived from the Latin word *praeambulus* – meaning going before (*Concise Oxford Dictionary*, 2007:918). Van Rooyen (2004:47) states that the statement begins with a preamble, and the following information about the interviewee should be included at the beginning of the statement: full names and surname; identity/passport number, sex, age and occupation; residential and work address; telephone numbers at home and work; language the statement is taken down in; fax number; email; and, cell phone number. This is supported by Hawkins and Konstan (1996:89), who state that the preamble, also known as the first paragraph, identifies the person making the statement. This paragraph is written in the first person, to show that the subject is making the statement. It includes the subject's full first names and surname, identity number, sex, age, occupation, full residential address, home telephone number, full work address, work telephone number, home language, and further particulars – for example (Hawkins & Konstan, 1996:89):

I, Julius Lucas, identity number 7406265073083, 24 years old, residing at 124 Pretorius Street, Akasia, Pretoria, telephone (012)407-0511, employed as chief clerk, Department of Public Works, 421 Curator Building, Hatfield, Pretoria, telephone (012) 481-2812, cell phone number 0714813320, state under oath in English ...

According to Unisa (2008:29), Alexander et al (2011:156) and Van Rooyen (2004:45), the information on the deponent of the statement can purposefully be used at a later stage, to locate a witness. It is therefore important for the investigator to consider that the deponent might be traced at a later stage when taking statements.

### 2.9.2 Body of the first report statement

The information contained in this part of the first report statement is of great importance, as it is supposed to indicate to the investigator the type of crime that was committed (Van

Rooyen, 2004:50). It also gives direction to the investigation process. If the investigating officer therefore wants to take a detailed and comprehensive first report statement, it is a prerequisite that they know the judicial elements of that specific crime. The kind of crime that was committed should be clear from the information. Van Rooyen (2004:51) states that:

[s]imilar to the recording of crime scene, the WWWWHW-formula” (Who, What, When, Where, How and Why) is applicable when taking a first report statement. If the investigating officer keeps this formula in mind while taking a first report statement, it increases the possibility that a very detailed first report statement will be taken. All these questions and their answers are intended, ultimately, to determine what happened and who should be responsible for it.

### 2.9.3 Conclusion of the first report statement

According to Lochner (2014:99), there are no peremptory and final directives about how a sworn witness statement should be concluded, and that the current legal view is that the regulation governing the closing, form and manner of taking sworn witness statements is not binding, but regulatory. Lochner (2014:100) states that there is no official way in which the conclusion must be written, whereas the crime committed and reported will determine what should be included in the conclusion of the sworn witness statement. According to Section 10(2) of the Justices of the Peace and Commissioners of Oaths Act (South Africa, 1963), the Commissioner of Oaths shall sign the declaration and print their full name and business address below their signature, and state their designation and the area for which he holds his appointment (or, the office held by him if he holds his appointment or the office held by him *ex officio* (which is contrary to the provisions of Lochner, above).

Van Rooyen (2004:48) states that when the investigating officer has obtained all the information pertinent to the incident, the first report statement should conclude with a sentence such as the following: *The above statement consists of [number of pages] and is true and correct to the best of my knowledge.* Regulation R.1258 of the Justices of the Peace and Commissioners of Oaths Act and Lochner (2014:99) do not support Van

Rooyen (2004:48) regarding the number of pages of the statement. The signature, thumb print or mark, together with the name of the place, date and time, and by whom the first report statement was recorded, should now be recorded at the bottom of the first report statement (Van Rooyen, 2004:48; Lochner, 2014:103; Regulation R.1258 of the Justices of the Peace and Commissioners of Oaths Act 16 of 1963).

Sample “A”, Sample “B” and Sample “C” were asked the question “how does the conclusion of a first report statement look like”, and stated that once the oath had been administered, the deponent was requested to sign the statement on the first or second line after the third answer. In practice, if the statement consists of more than one page, the deponent must initial the bottom of every page.

The deponent should also read the first report statement, or, where they cannot read, it should be read to them. If, after the first report statement is written, the deponent refuses to sign the statement, the investigator should attempt to have the deponent at least initial the statement, affirming that the contents are true. The investigating officer must ensure that every page is signed, all pages are numbered, all paragraphs are numbered, and all alterations initialled. Both the investigator and the deponent must sign and date the bottom of each page (Lochner, 2014:103). Sample “A” and Sample “B” and Sample “C” could contribute to this aspect of the study as the question was asked to them.

Alexander et al. (2010:161-162) support Regulation R1258, which regulates the governance of an oath or affirmation, and provides that the following certificates are involved in the conclusion of the first report statement:

- First certificate (at the end of the first report statement)

After all the amendments have been made, the deponent must be asked the following questions:

- Do you know and understand the contents of the declaration?
- Do you have any objection to taking the prescribed oath?
- Do you consider the prescribed oath to be binding on your conscience?

It is the responsibility of the Commissioner of Oaths to have a first report statement affirmed by letting the deponent answering these questions.

- Second certificate

After affirmation of the statement by the deponent, the Commissioner of Oaths will certify as follows:

I certify that the deponent has acknowledged that he/she knows and understands the contents of this statement. This statement was sworn to/affirmed before me and the deponent's signature/mark/thumbprint was placed thereon in my presence in (place) on (date) at (time).

The Commissioner of Oaths shall then sign the declaration, and print his full name and business address below his signature, and state his designation and the area in which he holds his appointment, as mentioned in Regulations R.1258 and R.1648 of the Justices of the Peace and Commissioners of Oaths Act and Van Rooyen (2004:55):

- Commissioner of Oaths;
- Full first names and surname in block letters;
- Business address (street address); and
- Rank, SAPS.

Sample "B" and Sample "C" were asked the question what is the format of a first report statement and replied as follows:

The first report statement must describe the deponent, his or her residence and occupation. It must be in the first person and divided into paragraphs numbered consecutively and must be sworn before a Commissioner of Oaths or other person empowered to administer oaths. The first report statement must be signed by the first report witness, and signed by the person before whom it is sworn, stating the time and date when and the place the first report statement was taken. If the first report witness is illiterate or blind, the Commissioner of Oaths shall state that the first report was read over

or translated into his or her own language and that the deponent seemed perfectly to understand the first report witness, and made his or her signature or mark in the presence of the person taking the oath. Sample "A" could not contribute to this aspect of the study the question was not put to them during the study.

#### 2.9.4 Structure of the first report statement

Lochner (2014:94) outlines the contents of the statement as preamble, which identifies the deponent and traces them later, the body which contains the crux of the investigation, and the conclusion whereby the statements are concluded in various ways. The below mentioned is the format of a first report statement:

Regulation 1 of the Justices of the Peace and Commissioners of Oaths Act (South Africa, 1963) differs from the discussion of Van Rooyen, in terms of the questions that must be asked when the oath or affirmation is administered. As a result, no changes were made by the researcher regarding the questions to be asked when administering an oath or affirmation.

According to Regulation R.1258 of the Justices of the Peace and Commissioners of Oaths Act (South Africa, 1963), Unisa (2008:30), Sample "C" and Lochner (2014:102), the Commissioner of Oaths must ask the deponent the following questions before administering the oath or affirmation:

- Whether they know and understand the contents of the declaration;
- Whether they have any objections to taking the prescribed oath; and
- Whether they consider the prescribed oath as binding on their conscience.

If the deponent acknowledges that they know and understand the contents, and have no objections to taking the prescribed oath, the Commissioner of Oaths may administer the oath. Should the deponent object to taking the oath, then an affirmation may be considered.

The researcher acknowledges the questions that are stated in the Justices of the Peace and Commissioners of Oaths Act and Lochner (2014:102), as he knows the Act from his

SAPS basic training and work experience in the SAPS. In order to ascertain this, the researcher drew the Justices of the Peace and Commissioners of Oaths Act, and found that there were no amendments concerning questions that must be asked before the administration of an oath or affirmation. Amendments made by GN1648 in GG 5716 of 19 August 1977, GN 1428 in GG 7119 of 11 July 1980 and GN R774 in GG 8169 of 23 April 1982, were studied, and no difference could be found regarding the questions to be posed to the deponent by a Commissioner of Oaths before administering an oath or affirmation (Lochner, 2014:129).

Sample "B" and Sample "C" were asked the question, "What is the correct way of writing a first report statement ?

Sample "B" responded as follows: The affidavit, in this case first report statement, must start with the full names and the contact details of the first report witness, the relationship of the first report witness with the victim, the exact date, time and place where the report is made, the circumstances in which the report is made, the state and condition of the victim, anything else leading to the report made, the report made by the victim verbatim, the oath by the first report witness, and the certificate administered by the Commissioner of Oaths. In other words, the name, address and age of the first report witness are stated before the body of the statement. The main body of the statement presents the witness's account of the incident, followed by the certification by the deponent and the Commissioner of Oaths.

Sample "C" responded that the the first report must be composed of preamble, contents and conclusion as the components. The first report statement must contain the details of the report, physical appearance, clothing, injuries, trauma, emotional state of the victim, date, place and time of the first report statement. Sample "A" was not asked this question and could not contribute to this aspect of the study.

During the study, the researcher reviewed the case dockets and first report statements, and established that the information contained was about physical descriptions of the suspects, and there was a marked absence of the information that provided clues about the rape – that is, information belonging in first report statements.

Bellengere and Palmer (2013:409) state that the evidence which the complainant in a sexual crime tells someone about the sexual crime scene after the offence, is known as the 'first report statement', and is thus admissible and allowed. Section 58 of the Criminal Law Sexual Offences ... Act (South Africa, 2007), now provides that evidence from previous consistent statements by a complainant is admissible, and that the court cannot assume that the complainant is lying, if there is no evidence.

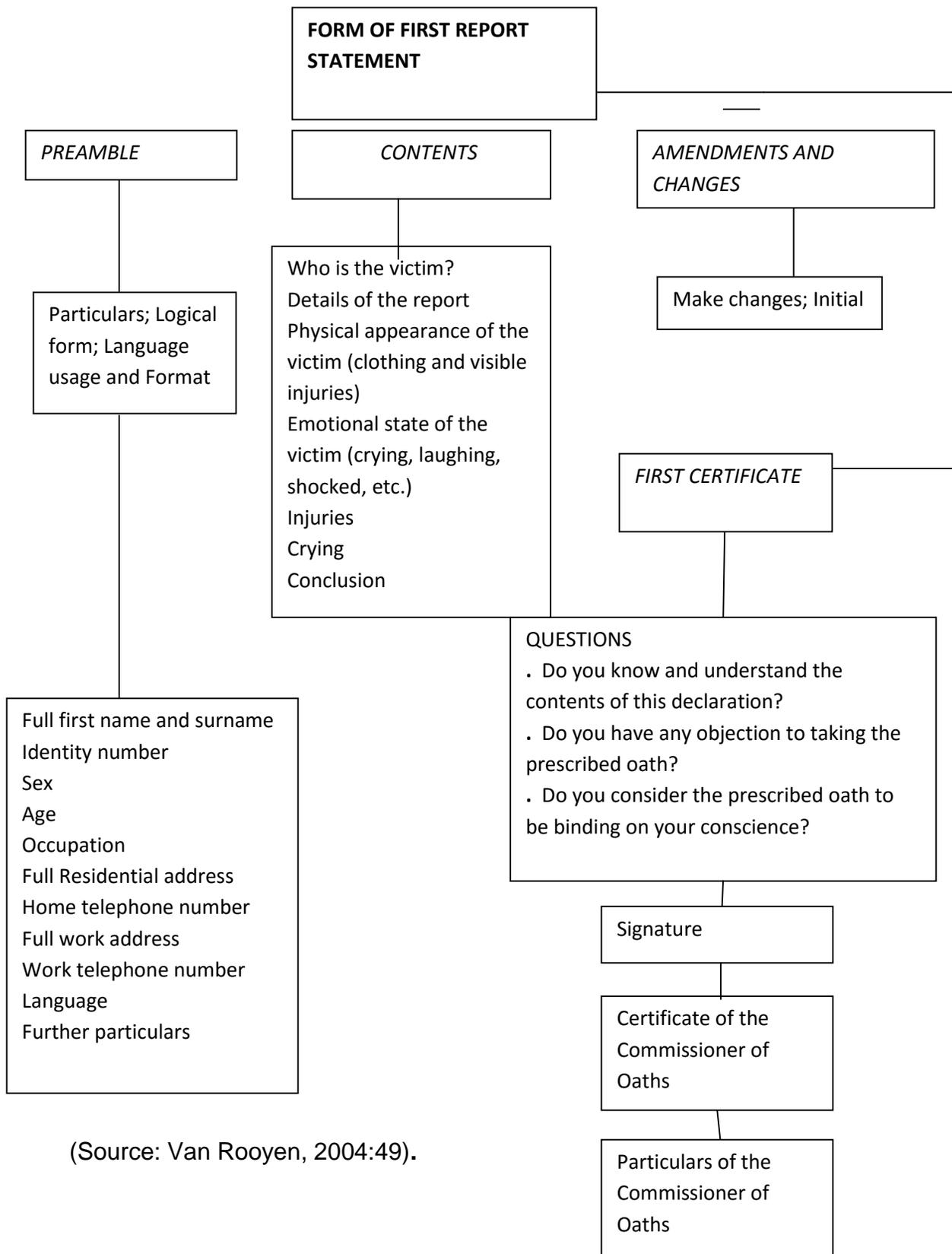
Regarding what the first report statement entails, Tilstone, Hastrup and Hald (2013:343) and Fisher (2004:327) provide that the observations, by the first report witness, of the victim, during the initial interview or when reporting the incident, must be noted in the police report (first report witness), as it will be important at a later stage. The first report must entail the psychological state of the victim, which is significant, and it is important to emphasise that people in serious emotional crises might not immediately exhibit states of anguish and grief. After the rape, the victim may feel psychologically dirty, and may have an urge to wash, bathe, douche, urinate, throw away her clothing, and clean up the scene of rape (Fisher, 2004:327). During the interview, the first report witness should determine which, if any, of these actions have occurred, and include that in the first report statement (Fisher, 2004:327, Fisher & Fisher, 2012:329-330).

Fisher (2004:351) provides that torn or soiled clothing, bruises, pulled out hair, cuts, and other indications, assist in proving that a struggle occurred during the time of intercourse – hence rape, and should thus be included in the first report statement:

Victims also report physical symptoms specific to the area of the body that has been a focus of the attack. Throat and neck symptoms may be reported by victims who have been strangled or found to have sex. Victims forced to have vaginal sex may complain of vaginal discharge, a burning sensation during urination, and generalised pain. Those forced to have anal sex may report rectal bleeding and pain in the days immediately after the rape (Hazelwood & Burgess, 1987:27).

All these pieces of information must be included in the first report statement, to assist the court in either coming to a fair decision or acquitting the suspect.

Figure 2.1: Form of a first report statement



(Source: Van Rooyen, 2004:49).

The form of a first report statement is very important and must receive proper attention like all other aspects of first report statement. Figure 2.2 outlines the phases and steps in taking down a proper first report statement as discussed on the following page by Van Rooyen (2004:47-53).

## **2.10 SUMMARY**

First report statements are an excellent means of documenting the story told to the investigator by the witness. First report statements usually consist of little more than ruled forms on which a summary has been recorded of what the witness has seen and heard, and of how they happened to be in a position to make this observation. When a first report statement is taken, it should be accurate about both what the witness has said, and what the witness is prepared to testify to, under oath, about their observations.

Criminal investigation is a search for the truth through the utilisation of objective and subjective leads. The information of the first report witness can play a major role during the investigation of rape cases, if criminal investigators use them optimally to ensure the successful prosecution of the perpetrator.

The investigator has to keep in mind that the results of the investigation will be tested in court, and will thus have a significant impact on the outcome of the trial. The obtaining of the first report statement should therefore be conducted as a planned process by investigators, who should follow certain principles and guidelines to ensure the optimal extraction and utilisation of the information that the first report witness can provide.

The sequence and type of information contained in the first report statement will differ from one incident to another. However, if the investigating officer has obtained answers on all relevant aspects, from the first report witness, the possibility is good that he will submit a good first report witness. The admissibility and relevance of the collected information can be influenced by the difference between information, intelligence and evidence. However, the information contained in a first report statement must also adhere to the requirements of objectivity, completeness, conciseness and accuracy. The following chapter will deal with the value of the information contained in the first report statement.

## CHAPTER 3

### THE VALUE OF THE FIRST REPORT STATEMENT IN THE INVESTIGATION OF RAPE

#### 3.1 INTRODUCTION

During the investigation of rape, it is possible that the investigator may discover evidence that does not point to the incident being a consensual act, or that suggests that the act did not occur at all. This type of false reporting of rape occurs for various reasons. According to Snow (2006:56), a woman may be angry with a man and want to hurt him. A prostitute may not have been paid, or may have been robbed by a customer, or, occasionally, a sex act was consensual, but then something might have happened, and the only solution for a woman is to claim rape. Examples include a husband finding out about an affair, parents finding out about the sexual activity of their underage daughter, or a woman involved in an affair who suddenly becomes frightened that she might be pregnant or have contracted a sexually transmitted disease.

A false report of rape can also be used as a means of bringing about a change in a seemingly intolerable life situation. Snow (2006:56) gives the example of a young woman who does not to stay any longer in a college, by claiming to have been raped. According to Snow (2006:57), there are a number of warnings that can tell the investigators to be alert to the possibility of a false report of rape. These include the following:

- Alleged rape victims who tell friends and co-workers about a rape, but who don't want to involve the police;
- Alleged victims who cannot give a description of the attacker, or who give only a very generic description;
- Alleged victims who claim they put up a vigorous struggle, but show no injuries consistent to this, since some victims will claim to have fought like an action figure, but have no cuts or bruises;

- Alleged victims who are uncertain of the details of the alleged assault. Real victims remember odours, sequence of events, words, and so forth;
- Cases in which officers can find no evidence that a rape occurred, and that the alleged victims refuse medical examination;
- Cases in which the alleged crime scene shows no sign of the incident;
- Cases in which even though the alleged victim has wounds, they are not consistent with her story; for example, reported defensive wounds that are not on the parts of the body that they should be; and
- Cases in which “hesitation wounds” surround any serious wounds on the alleged rape victim’s body – such as, for example, minor wounds which the alleged victim inflicted before finally being able to seriously injure herself. Suicide victims who kill themselves with knives often display that. Also, alleged victims seldom injure themselves in the eyes or on the lips, nipples, or genitalia, where a real attacker would, and where it really hurts.

Searching for information is a crucial role of the investigator during the investigation of rape cases, since the objective is to gather information that will assist the investigator to ascertain the truth. Without information, the task of ascertaining the truth regarding the crime is not possible, and the court will not be able to make an exact decision in this regard, or arrive at a meaningful decision.

A successful investigation is dependent on two investigation activities: first, on knowing where and how to find the relevant information; and, secondly, on investigative initiative – which implies the drive and will to find it (Alexander et al., 2011:111-112). These authors further maintain that:

[i]nformation is regarded as the lifeblood and heart of the investigation. In any investigation it is crucial to know where to search for the first basic piece of information and how to find it easily.

Should the investigator develop the above skills, the quality of the court case will be improved. In this chapter, the researcher discusses 'information', 'intelligence' and 'evidence' as concepts, as well as the differences between the concepts. The information contained in the first report statement will be considered. The researcher will also look at the role of both the investigator and the public prosecutor in the investigation of rape, with a view to assessing the value of the information contained in first report statements.

### **3.2 INFORMATION**

Gilbert (2010:132) maintains that information is absolutely essential to the investigative process; thus, sources of information such as, for example, informers, have been the structural framework upon which the investigation is built. For the purposes of this study, informers are defined as people who supply information about criminals, criminal activity, or planned criminal activity, to investigating officers, for rewards or other motives (Marais & Van Rooyen, 1990:133). Gilbert (2010:133) states that all effective investigators have mastered information-gathering techniques, and they know where and how to obtain information.

The value of the information is that it can dictate whether to follow an investigative lead or to scrap it, thereby determining the direction of the enquiry. According to Gilbert (2010:133), information can identify an offender, or provide background on a probable suspect, and further, that information gathered from a multitude of sources is essential for the prosecution of the suspect. Marais and Van Rooyen (1990:133) provide that an informer-like entity was already known to the Romans for centuries in biblical times, and is clearly apparent from Mark 14:10. According to this verse, Judas Iscariot arranged with the Roman soldiers to identify Jesus as the accused person, with a sign (kiss). The same authors further state that, during the 16<sup>th</sup> century, use was made of informers in France, known as moutons (sheep). The sheep (informer) had to allow themselves to be locked up as prisoners, in order to gain the trust of fellow prisoners. In this way, the sheep could glean valuable information for the police. Marais and Van Rooyen (1990:134) state that, in England, persons were appointed as informers or thief-catchers, to trace criminals. These informers were rewarded if the criminals were convicted, and this caused an

increase of corruption, because young people were led astray to commit crimes in order to receive the rewards.

Information refers to knowledge based on what the investigator has observed, heard and experienced, and which could be of assistance in an investigation. This information can directly or indirectly assist in reconstructing a crime scene, identifying suspects, tracing suspects, recovering missing property or identifying the complainant and/or witnesses (Marais, 1992:198). Alexander et al. (2011:112) provide that in the investigative sense, information is anything that a witness or accused can hear, taste, smell, see, touch or read.

Van Rooyen (2004; as quoted by Alexander et al., 2010:112) defines information as *anything which you can hear (directly or indirectly), taste, smell, read, touch or see. It also includes rumours and so called stories.* According to Bellengere and Palmer (2013:480), information is any kind of information that becomes evidence when admitted by a court of law. Evidence is any information that has been formally admitted by a court or tribunal in civil or criminal proceedings, or at administrative or quasi-judicial proceedings (Bellengere & Palmer, 2013:479).

All samples were asked the question: what is information?

Sample "A" responded as follows:

- Information is something that has been heard, seen or observed (23 participants);
- Information is the facts of the incidents that took place (1 participant);
- Information is something like a statement obtained from any person (1 participant);
- Information is a detail of subject matter (2 participants); and
- Information that you get from victim or witness (1 participant).

Sample "B" responded as follows:

- It is something that you have heard, read or saw (1 participant);

- It is anything that can be gathered during the process of investigation and can be used during the court or civil proceedings (1 participant);
- Is what you have about the crime that was committed (1 participant); and
- Anything that is relevant to a case (1 participant).

Sample "C" responded as follows:

- Information consists of facts and information obtained from the informants (1 participant).

From the above discussion, it is eminent that samples "A", "B" and "C" support one another regarding the definition of 'information'. The investigators and prosecutors support Marais (1992:198), Van Rooyen (2004:109) and Alexander et al. (2010:112), who state that information is something that can be heard, seen or read. Based on the literature and the interviews, the researcher is of the opinion that the investigators must have an understanding of what constitutes information. According to the SAPS Resolving of Crime Learnership (2009:321), it is imperative that investigators know what information is, since it is used during the investigation process, and they have attended the basic detective course, offered by the SAPS, which includes evidence as a module.

### **3.3 INTELLIGENCE**

Intelligence may be defined as knowledge of past, present or future criminal activity through collecting information which, when evaluated, provides the user with a basis of investigation. In short, the analysis of information results in intelligence and present evidence (Alexander et al., 2011:112).

The National Strategic Intelligence Act 39 of 1994 (South Africa, 1994:1) defines criminal intelligence, in Section 1(vii), as intelligence used in the prevention of crime or to conduct criminal investigations, and to prepare evidence for the purpose of law enforcement and the prosecution of the offenders. The White Paper on Intelligence (South Africa, 1995:3) defines intelligence as the product resulting from the collection, evaluation, analysis, integration and interpretation of all information. Section (5) of the National Strategic

Intelligence Act provides that relevant members of the National Intelligence structures shall gather information relating to criminal records, personal information, and any other information which is relevant to determine the security of a person and financial records.

According to the White Paper (South Africa, 1995:2), intelligence may be gathered by covert or overt means, from a range of sources, human or non-human, open or secret. Neither the White Paper (South Africa, 1995:10) nor the National Strategic Intelligence Act (South Africa, 1994:1) discusses information, but includes information under the concept 'domestic intelligence', which provides that domestic intelligence deals with information of internal activities, factors and developments detrimental to national stability, as well as threats (or potential threats) to the constitutional order and the safety and well-being of the citizens of the country.

According to Lushbaugh and Weston (2012:127) intelligence is defined as follows:

Intelligence is the secret or clandestine collecting and evaluating of information about crime and criminals not normally available to investigators through overt sources. The detection and investigation of crime and the pursuit and apprehension of criminals require reliable intelligence; otherwise, the investigator is limited to overt acts and volunteered information and thus is severely handicapped in many cases.

Gilbert (2007:517) describes intelligence as a law enforcement function concerned with the gathering, evaluating and disseminating of data related to criminal activity. Haag, Cummings and McCubbrey (2002:420) state that intelligence is the first step in the decision-making process, in which one finds or recognises a problem, need or opportunity. This implies that intelligence can be used to address a crime hypothesis. In other words, a criminal investigator can process information into intelligence, which, as a product, can be utilised to obtain credible evidence.

All samples were asked the question: what is intelligence gathering in crime investigation?

Sample "A" responded as follows:

- Intelligence is the processed information (14 participants);

- It is a group of people trained to certain duties or acts to specific crimes (1 participant);
- Intelligence is when you are applying mind in order to find some other things (2 participants);
- Intelligence is understanding of knowledge (1 participant);
- Intelligence is the credibility of a person (1 participant);
- Intelligence can be a person's wisdom (2 participants);
- I do not understand intelligence (1 participant);
- Intelligence is human ability in resolving problems (2 participants);
- It is a set-up of the investigators who crack the crimes that may be difficult to get to the main person (1 participant);
- The guidance made by the complainant to the investigator (1 participant);
- Intelligence is people who are more advanced in investigation (1 participant); and
- Intelligence is something to do cleverness or foolishness (1 participant).

The researcher came to the conclusion that some of the participants were not conversant with intelligence as a concept, because they did not understand that intelligence was a product of information.

Sample "B" responded as follows:

- Information that will help the case and must not be disclosed (1 participant);
- Intelligence is what you use to investigate the crime (1 participant);
- Intelligence is capacity to tell a thing in clever and understanding manner (1 participant); and

- Intelligence is information gathered for the purpose of establishing criminal activities by law enforcement agencies (1 participant).

The researcher concluded that the participants of Sample "B" do not work with intelligence on a daily basis, compared to the members of the SAPS, which resulted in different answers. This is supported by the historical information of Sample "B" because there is no question which needs the discussion of intelligence.

Sample "C" responded as follows:

- Knowledge gained from facts (1 participant).

From the above discussion, it is apparent that samples "A", "B" and "C" do not agree with each other regarding what intelligence entails. They do, however, support the opinions of Alexander et al. (2011:112), Lushbaugh and Weston (2012:127) and Gilbert (2007:517), who state that intelligence is the gathering, processing and evaluation of information related to criminal activity. From the literature and interviews, the researcher is of the opinion that both the investigators and public prosecutors have a clear understanding of what intelligence, which is part of the investigative tools, constitutes – even though some of the participants could not give the correct answers.

### **3.4 EVIDENCE**

According to Van Rooyen (2008:106), the only way to supply proof is by evidence. This includes written as well as oral statements from witnesses, as well as documents and objects which are presented to be examined and inspected, with the objective of establishing the facts relating to the crime. Evidence is valid information that, if admissible in court, strives to prove facts or issues. Technically, information may only be regarded as evidence once it has been presented in a court of law, has been subjected to cross-examination by the accused and/or their legal representative, and has been accepted as being admissible, relevant and carrying evidential weight (value) (Alexander et al., 2010:112). Taylor (2000:1) defines evidence as information that can prove the fact or point during a legal investigation, as well as statements or proofs admissible as testimony in a court of law. Bellengere and Palmer (2013:3) define evidence as information that a

court has formally admitted in civil or criminal proceedings, or at administrative or quasi-judicial hearings.

All the samples were asked to define the concept evidence.

Sample "A" responded as follows:

- Evidence includes all facts and information concerning any investigation that can be proven during judicial proceedings (19 participants) ;
- Evidence is proof brought forward after allegation of crime has been made (3 participants);
- Evidence is the information that has been admitted by the court of law (3 participants);
- Evidence is the tangible or intangible facts about the crime which was used to commit crime (1 participant);
- Evidence is something that we collect from the crime scene that helps in the investigation (1 participant); and
- Evidence is a concrete information (1 participant).

Sample "B" responded as follows:

- Is all information that is admissible to prove case (2 participants);
- Tools that shows a crime was committed (1 participant); and
- The statement made orally or verbally in court by witness (1 participant).

Sample "C" responded as follows:

- Information that serves to prove or disprove the commission of the offence by a certain person (1 participant).

From the above discussions it is evident that samples "A","B" and "C" agree with one another regarding the definition of the concept evidence. They support the opinion

provided in Van Rooyen (2008:106), Taylor (2000:01) and Alexander et al. (2011:112), where evidence is defined as information that can be admitted by a court of the law during the proceedings.

According to Quansah (2004: 8-10) the following are types of evidence:

- **Direct evidence:** This evidence consists of either the testimony of the witness who perceived the fact, or the production of the document which constitutes the fact. For example, a person who saw an accident happen is giving direct evidence. Swanson, Chamelin and Territo (1996:768) maintain that direct evidence ties the defendant directly to the commission of the crime – such as the testimony of an eyewitness who can positively state that the defendant committed the crime. For example, a person to whom the victim made a first report statement, must testify regarding the condition and physical appearance of the victim.
- **Circumstantial evidence:** This is evidence which, although not directly establishing the existence or non-existence of the fact at issue, is admissible, in order to enable the court to infer whether that fact did or did not exist. An example is when an accused is found in possession of suspected stolen goods, but cannot give a satisfactory explanation for it. Swanson et al. (1996:768) state that circumstantial evidence encompasses all evidence other than direct evidence, provided that it logically relates the defendant to the crime. A witness who says that he saw the accused coming out of the victim's house with a blood-stained sword, is giving circumstantial evidence from which a killing may be inferred. Another example is when a first report witness says that they saw the complainant crying, with blood-stained clothes, when making a first report statement; that is giving circumstantial evidence.
- **Hearsay evidence:** According to the rule against hearsay, an assertion other than the one made by a person while giving oral evidence in the proceedings, is inadmissible as evidence of any fact asserted. According to Chukwuemerie (2004:480), hearsay evidence is generally second-hand evidence. This is evidence which the testifying witness did not perceive himself, directly, by any of

his five natural senses of sight, hearing, touch, smell or taste, but has gathered from another person who directly observed or perceived that the fact is the substance of the testimony. Adah (2000:221) states that hearsay evidence is an oral or written statement by one who is not called as a witness, which is narrated to the court by a witness or through a document, for the purpose of establishing the truth of what is being asserted. Zeffert and Paizes (2009:390) and Schwikkard and Van der Merwe (2002:257) state that hearsay is evidence, whether oral or in writing, the probative value of which depends upon the credibility of any person other than the person giving such evidence. Khan, Buisman and Gosnell (2010:391) state that hearsay information may also be communicated through documents – to the extent that they are presented as a truthful account of events without the author being called.

An example is a statement taken from a prospective witness by an investigator. In common parlance, hearsay is used to describe statements, often gossip that one hears but does not know to be true (Keane & McKeown, 2014: 11). For all practical purposes, the first report statement is hearsay evidence, because the witness testifies partly on what the victim has told them and is supported by the observation by the deponent. It is important for hearsay evidence to be accepted as evidence, because this type of evidence may be defined as any statement, other than one made by a witness in the course of giving his evidence in the proceedings in question, by any person, whether it was made on oath or unsworn, and whether it was made orally, in writing, or by signs and gestures, which is offered as evidence of the truth of its contents (Keane & McKeown, 2014:11).

Bellengere and Palmer (2013:479) state that hearsay evidence is evidence, whether oral or in writing, the probative value of which depends on the credibility of any person other than the person giving such evidence, because the witness testifies partly on what the victim has told him/her. Zeffertt and Paizes (2009:406) state that the importance of hearsay evidence is said to establish a fundamental issue, as opposed to a subordinate or side-issue, to be a fact to be weighed against its reception. In other words, hearsay may be conveyed to a court in either oral or written form. A witness's testimony from the

stand, as to what he heard someone else say – at least, as long as he heard it more or less, is almost never excluded. For example: X was allegedly raped at gunpoint, by Y, at Orlando Stadium, after the game. After the incident, X came across Z en route to Orlando SAPS, in order to report the incident.

During the investigation, a first report statement must be obtained from Z (first report witness) regarding the appearance and condition of X during the time she reported the incident to Z (Technikon SA, 1998:286). Another example is that a person to whom the victim made a first report statement, must testify regarding the condition and physical appearance of the victim. This is tantamount to hearsay evidence. In this instance, the witness will be corroborating the hearsay evidence by virtue of what they have observed during the time the victim was making the first report statement (Khan et al., 2010:390). The same authors (2010:390) further state that a witness's testimony from the stand, as to what the first report witness heard the victim say, is almost never excluded.

- Oral evidence: Oral evidence consists of statements made in court by a witness, whether they are direct assertions of a fact or assertions of hearsay, and whatever category of admissible facts they may concern (Raitt, 2001:190). Bellengere and Palmer (2013:51) state that oral evidence is the first-hand account of events as provided by the witnesses.

As a general rule, in both criminal and civil matters, when parties present oral evidence, it must be done under oath, in court and in the presence of all parties to the court proceedings (Raitt, 2001:190). For example, a statement by a first report witness that he observed blood stains on the clothing of the victim during the time she was reporting the rape incident to the police, will be oral evidence. Raitt (2001:190) maintains that during oral evidence the witness describes something which they have perceived through their own senses – something seen, heard, smelt or felt.

- Documentary evidence: This consists of documents – a term which has a wide definition – produced for inspection by the court (Chandra, 1996:146). Raitt (2001:194) provides that documentary evidence may be defined as any written or printed matter expressed in words, and also in drawings, plans and maps.

Bellengere and Palmer (2013:61) state that a document is any written thing capable of being evidence. Hoffman and Zeffert (1988:133) and Zeffert and Paizes (2009:827) define documentary evidence as including any book, map, plan, drawing or photograph. Bellengere and Palmer (2013:478) maintain that documentary evidence is any item of evidence considered a document if the content of that item is relied on in court, irrespective of the material out of which the item is made.

Adah (2000:168) defines a document as any substance – for example, paper, wood, stone or metal, on which there are figures, letters or marks which are printed, typewritten, handwritten, engraved or embossed, in order to make a record or convey a definite meaning or information or statement. The term includes matters such as books, maps, plans, drawings and photographs, and also includes any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of these means, intended to be used, or which may be used, for the purpose of recording the matter – and it can never be oral (Adah, 2000:168, Schwikkard & Van der Merwe, 2009:404). For example, a first report statement cannot be submitted as documentary evidence during the judicial proceedings in a rape case, if it is defective in form (Adah, 2000:170). Adah further provides that a defective affidavit may be permitted by the court if the court is satisfied that it has been sworn before a duly authorised person. The hearsay rule in relation to documents, is that a party who wishes to rely upon the truth of facts stated in the document must call the maker of the document to prove the facts stated (Quansah, 2004:124).

- Real evidence: This evidence is anything other than testimony, admissible hearsay, or a document, the contents of which are offered as testimonial evidence, examined by the court as a means of proof (Bellengere & Palmer, 2013:65). For example, a stolen cheque bearing the fingerprints of the accused, may be admitted as real evidence for the inspection of the court at their trial. Adah (2000:196) defines real evidence as anything other than testimony, admissible hearsay or a document, the contents of which are offered as testimonial evidence, which is examined by the tribunal as a means of proof. Swanson et al. (1996:768) state that

real evidence is sometimes referred to as physical evidence, and it is connected with the commission of crime and can be produced in court. Examples are weapons, a crowbar and fingerprints, found at the crime scene. Allen (2008:28), Choo (2006:9) and Hoffman and Zeffert (1988:404) refer to real evidence as evidence which is presented to the senses of the tribunal and may be examined or inspected by the trier for the fact. The first report statement, by the first report witness, that the victim was crying and blood-stained during the first report, can prove as real evidence that the victim has been raped (Meintjies, 2012).

- *Prima facie evidence*: This is evidence which is declared to be sufficient evidence of facts, unless and until an opponent adduces contradictory evidence – in which case the court must weigh all the evidence tendered by all the parties, in order to decide whether the fact has been proved (Bellengere & Palmer, 2013:41). Hoffmann and Zeffert (1988:596) provide that *prima facie* means evidence capable of being supplemented by inferences drawn from the opposing party's failure to reply. Adah (2000:12) states that *prima facie* is a Latin word meaning the face of it, the first impression or at first sight. Adah (2000:11) further states that this type of evidence would entitle a party to a judgment in his favour, unless such evidence is contradicted. A first report witness can testify regarding the condition they observed the victim to be in while making the first report statement.
- **Conclusive evidence**: This is evidence which must be taken by the court as sufficient proof that cannot be disputed. For example, proof that a person is under the age of eight years, is conclusive evidence of his inability to commit a crime. Adah (2000:12) states that conclusive evidence is that evidence which cannot be contradicted, and gives an instance which relates to the criminal culpability of a child under the age of seven years.
- **Opinion evidence**: According to the Detective Learning Programme: Law of evidence module (SAPS, 2004:30), opinion evidence is admitted under certain circumstances. The rule is that a witness may not voice his or her opinion to the court, but only the facts that he or she has observed. There are the following two exceptions to the rule: a specialist may give his or her opinion regarding a case

falling under his or her field, and a layman may give his or her opinion regarding a fact that will be difficult to describe if not by an opinion.

- Similar fact evidence: According to the Detective Learning Programme: Law of evidence module (SAPS, 2004:30), similar facts are admissible if they are relevant to the fact placed in dispute. It depends on whether a reasonable deduction can be made from a similar fact regarding the fact must be proven. The court will look at the circumstances of every case to determine whether facts are relevant and admissible to prove a fact in dispute. For example, a specific method used by an accused.

All the samples were asked to name the different types of evidence.

Sample "A" responded as follows:

- Oral evidence, hearsay evidence, documentary evidence, circumstantial evidence, real evidence, viva voce evidence, direct and indirect evidence, expert evidence (11 participants); and
- Physical evidence – for example, DNA, fingerprints, footprints, knife, statement, semen, pubic hair, firearms, cigarette butts, bags, condoms, blood, knife (17 participants).

Sample "B" responded as follows:

- Documentary evidence, real evidence, oral evidence, hearsay evidence, circumstantial evidence and viva voce evidence (4 participants).

Sample "C" responded as follows:

- Direct, circumstantial, hearsay and documentary evidence.

Regarding the types of evidence, samples "A", "B" and "C" mentioned the same as literature, mentioned direct and circumstantial evidence, direct and hearsay evidence, oral and documentary evidence, real evidence, *prima facie evidence*, conclusive evidence and hearsay evidence, as mentioned in Quansah (2004:8-10), Hoffman and Zeffert

(1988:126) and Raitt (2001:170). On the basis of the responses given by the public prosecutors, the advocate and the investigators, above, it is evident that the participants have a fair understanding of the concept 'evidence'.

### **3.5 THE DIFFERENCE BETWEEN INFORMATION, INTELLIGENCE AND EVIDENCE**

From the literature study and the interviews, the researcher learnt that information, intelligence and evidence can be gathered from the crime scene, objects and people, and play an important role during the investigation process. The investigator should, therefore, not discard the information as useless, or as being of less importance, than evidence that is found during the process of investigation. All these concepts – that is, information, intelligence and evidence, as concepts, should be used by the crime investigator, in order to establish the truth.

According to Gilbert (2007:515) and Marais (1992:198), evidence is defined as all information which, if admissible, is legally presented during the trial, for review by the court, and it strives to prove facts or issues. According to the researcher, information and intelligence can be seen as indicators of the path to finding evidence for the trial. All the participants in samples "A", "B" and "C" suggest that information, intelligence and evidence is based on the knowledge of people, which can be used to solve crime as asked the question: what would you say is the difference between information, intelligence and evidence. Table 3.1 compares the difference between information, intelligence and evidence.

All samples were asked the question: what would you say is the difference between information, intelligence and evidence?

Sample "A" responded as follows:

- There is no difference (1 participants);
- Information is what you have heard, read or seen; intelligence is gathered information, whereas evidence is information that is admissible before the court of the law (18 participants);

- I do not know (1 participant);
- Information and intelligence are used to investigate confidentially but you cannot use them before the court (1 participant);
- Information and intelligence is being brought by statement whereas evidence is brought by the investigator to court (1 participant);
- There should be information and intelligence but no evidence (1 participant);
- There is no difference because intelligence is information, information is from intelligence and evidence can be the odd one out here (1 participant);
- Information is data or knowledge enquired; intelligence is when you work on information whereas evidence is proof (1 participant);
- Information is received from a person; intelligence is about knowledge whereas evidence is about hearsay (1 participant);
- Information is facts, intelligence news/information and evidence is reason to believe (1 participant); and
- Information are the facts of incidents that happened, intelligence is the manner in which the facts are presented and evidence is how real things are presented (1 participant).

Sample “B” responded as follows:

- Information is what you have heard, read or seen; intelligence is gathered information, whereas evidence is information that is admissible before the court of the law (2 participants); and
- Information is what you have about the crime, intelligence is what you have to investigate crime, and evidence is what you have to prove the case (2 participants).

Sample "C" responded as follows:

- Information is facts, intelligence is knowledge gained from facts, and evidence is information that serves to prove or disprove the commission of an offence by a certain person (1 participant).

Twenty-five (25) participants from samples "A" and "B", and one participant from Sample "C" agreed with one another regarding the difference between information, intelligence and evidence. They support Van Rooyen (2008:218), Ratcliffe (2008:92), Gilbert (2010:52) and Quansah (2004:01), in that information is regarded as something that can be heard, seen and read; intelligence as processed information; and, evidence as information that is admissible by a court of the law during judicial proceedings. Eight (8) participants from samples "A" and "B" had no idea of the difference between information, intelligence and evidence, since they had not attended training in rape cases, and they had been in the detective environment for 1-5 years. Table 3.1 below illustrate the differences between intelligence, information and evidence.

**Table 3.1:** The difference between information, intelligence and evidence.

Information	Intelligence	Evidence
1. Definition: Information relates to any information which you can hear, touch, taste, smell or touch. Samples "A" and "B" defined information as something that can be heard, seen or observed.	1. Definition: Intelligence is defined as information that has been subject to a defined evaluation and risk assessment process in order to assist with police decision-making. Samples "A" and "B" stated that intelligence is the gathering, processing and evaluation of information related to criminal activity.	1. Definition: Evidence is anything properly admissible in court that will aid the function of a criminal proceeding in establishing the guilt or innocence of the accused. Samples "A" and "B" stated that evidence is information that can be admitted by a court of law during criminal proceedings.
2. Sources: People, publication and things.	2. Sources: Informants, crime scenes and electronic surveillance.	2. Sources: Informants, crime scenes and electronic surveillance.
3. Uses: To identify an offender and provide background on a probable suspect.	3. Uses: To forecast to what could probably happen.	3. Uses: Evidence is the means of proving or disproving facts and issues on trial in a court of law.
4. Interviews: Information is something that has been heard, seen or observed.	4. Interviews: Intelligence is processed information.	4. Interviews: Evidence is the information that has been admitted by a court of law.

Sources: Gilbert (2010: 52), Quansah (2004:1), Ratcliffe (2008:92), Van Rooyen (2008:218), Sample "A", Sample "B" and Sample "C".

### **3.6 INFORMATION IN THE FIRST REPORT STATEMENT AND ITS VALUE IN THE PROSECUTION OF RAPE**

During the literature study, the researcher established that there is information that must be included in the first report statement in rape cases. Hazelwood and Burgess (2009:195) state as follows: First, it must be understood that the presence of injuries in false claims is not to be expected. However, when present, the nature of the individual's injuries can provide a great deal of information about what did or did not happen. Men or women who make false rape allegations and support the claim with injuries tend to present a surprisingly uniform pattern of wounds and behaviour (Hazelwood & Burgess, 2009:195):

- Pseudo-victims are seemingly indifferent to their injuries;
- Injuries were made with fingernails or instruments commonly used by the "victim" (e.g. fingernail, file, scissors);
- Injuries do not impact sensitive areas of the body (e.g. nipples, vagina lips, scrotum);
- The "victim" reports that the injuries occurred while attempting to defend herself, yet the location of the injuries is inconsistent with defense wounds;
- When sharp or pointed weapons are used, the resulting wounds are cuts and not stabs; and
- When cuts are inflicted, there may be "hesitation" wounding present.

Hazelwood and Burgess (2009:195) further add that:

The areas of the body that are attacked are also of investigative interest. Those portions of the body not normally covered by clothing (i.e., wrists, hands, neck, and face) are impacted by superficial injuries, whereas those areas of the body normally covered by clothing (i.e. chest, abdominal region) are likely to be impacted by more serious injuries.

According to Savino and Turvey (2011:52-53), the person to whom a first report statement is made, must observe the following reactions of the victim, which must be included in the first report statement:

- Shock: The victim may appear calm and collected subsequent to the rape; however, this is likely a manifestation of shock. They are still processing what happened and are not ready to deal with it;
- Disbelief: The victim may not want to believe that something this horrible really happened, and may not accept the reality of the attack for some time;
- Embarrassment: The victim may be reluctant to notify family and friends, not because their report is false, but because they are deeply ashamed and do not want the stigma that comes with being raped;
- Shame: The victim may feel dirty, and want to shower or bath immediately after the assault. Evidence and filing a police report may be the last things on their mind;
- Guilt: Even in the most disturbing or violent cases of rape, the victim may blame themselves for being attacked. However, this is especially true when the victim knows their rapist. This may result in an attempt to downplay the severity of the offence, or in withdrawal of the complaint;
- Disorientation: The victim may not be able to concentrate. For some, going through such a traumatic event is like having a tornado in their brain. Facts and events and memories spin wildly out of control in their mind, and they may be unable to access them in a meaningful way for some time;
- Denial: The victim may resist talking about the incident, or attempt to block it out, refusing to accept what has happened to them;
- Fear: The victim may be reluctant to go out after being attacked, and may become uncommunicative and reclusive. This can cause the victim to appear flaky and unreliable when, in fact, they are still dealing with the emotional consequences of

the attack. They may, in fact, be unaware that this is the cause of their fear-oriented behaviour;

- **Anxiety:** When the mind and emotions are in pain, the body responds physically. The victim may be nervous or develop an upset stomach, nausea, or even sleep disorders;
- **Anger:** The victim may have, and express, anger toward the offender. This may also be directed to the police or medical staff, as their efforts and attention draw out, and draw attention to, the victim's pain, humiliation and suffering;
- **Withdrawal:** The victim may stop going out in public entirely, and may even end friendships and isolate themselves from the world as a result of some of the previous responses mentioned;
- **Depression:** Also, as a result of the previous responses mentioned, the victim may begin engaging in self-destructive behaviour, such as drugs or alcohol use, and even promiscuous relationships;
- **Sexual activity:** Further, as a result of the previous responses mentioned, the victim may terminate any consensual relationships, and withdraw sexually;
- **Hysteria:** The victim may be extremely emotional or in hysterics; however, this will be continuous and eventually subside; and
- **Delayed report:** With delayed reporting, the victim may have a valid reason for the delay; some of these are listed already. However, as with any other victim behaviour, delayed reports should not deter an investigation; the delay needs to be documented and explained.

Physical injuries must also be included in the first report statement, since they can corroborate the victim's account of the assault, as well as demonstrate that force was used during the commission of the crime. A bruise on the arm may corroborate that the victim was grabbed by the arm and dragged into the car, or injuries to the inner thigh corroborate that the legs were forced apart during the rape. However, it is also important

to know that the absence of injuries does not prove the lack of force or coercion, and does not prove consent. Most sexual assault victims are not injured (Savino & Turvey, 2005:135).

Sheridan (1993; as quoted by Savino and Turvey, 2005:135) states that:

[t]he most common injuries are broken eardrums from slapping, neck bruising from choking, punch bruising to the upper arm, and 'defensive posturing' injuries to the outer mid-ulnar areas of arms. Also common are whips or cordlike injuries to the back; punch or bite injuries to the breasts and nipples; punch injuries to the abdomen, especially in pregnant women; punch and kick injuries to the lateral thighs; and facial bruising, abrasions, and laceration (Savino & Turvey, 2005:135).

Burgess and Holmstrom (1974; as quoted by Savino & Turvey, 2005:232) provide the following:

In the first hours, victims show behaviour such as crying, sobbing, smiling, restlessness, tenseness, and joking. Or they may have feelings that are masked behind a calm, composed, or subdued facade. In the first weeks, victims may suffer from physical trauma, skeletal muscle tension, gastrointestinal irritability, and genitourinary disturbance. Emotionally they may show signs of shock, numbness, embarrassment, guilt, powerlessness, loss of trust, fear, anxiety, anger, disbelief, shame, denial, re-triggering, and disorientation.

All samples were asked the question: what information should be included in the first report statement?

Sample "A" responded as follows:

- Description of events, injuries, clothing, emotional states, appearance and perpetrator (26 participants);
- The crime that you will be opening, elements of crime of a specific offence, the information about the victim, also about the suspect or accused, also about the witnesses (1 participant); and

- The date and time of the incident, when did the person report to you, the manner in which the incident happened, whether consent was given, unlawful or lawful, detailed statement and obtained verbatim (1 participant).

Sample "B" responded as follows:

- When was the report made, by who, what exactly was reported and emotional state of the victim (1 participant);
- The relationship between the victim and the demeanour of the victim (1 participant);
- Everything that the victim told the first report witness and the condition that the victim was in when he/she makes the report, time of report (1 participant); and
- Include all the information which is relevant to the offence, place, time, perpetrator, description of the perpetrator (1 participant).

Sample "C" responded as follows:

- The date and time the information was provided, the precise version given, the reason for the information being given, the emotional and physical condition of the person/victim that provides the information (1 participant).

Samples "A", "B" and "C" have the same understanding concerning the information that must be included on the first report statement during the investigation of rape. The participants stated the opinions mentioned by Hazelwood and Burgess (2009:195), Savino and Turvey (2005:135), Savino and Turvey (2011:52-53), Swanson et al. (1996:375) and Fisher (2004:327), who state that the information that must be included in the first report statement include injuries, clothing, appearance, emotions, traumatisation, crying, sperm and bloodstains. Based on the literature and the interviews with the public prosecutors and investigators, it is clear that they have a fair understanding of the type of information that should be included in the first report statement during the investigation of rape. It is therefore imperative that the investigator keeps this aspect in

mind when they embark on the investigation, and both in the subsequent interview with the first report witness, and taking down the first report statement.

According to Van Heerden (1992:2-3), the first report statement can also assist in culprit identification, because the victim might tell the first report witness as to who raped them. This is concerned with the positive identification of the offender as a person, rather than the identification of his unlawful conduct.

The information contained in the first report statement might assist the prosecution and the presiding officer regarding the condition and injuries of the victims of rape cases, and also demonstrate the grade of aggression that the perpetrator used. The first report statement, even though hearsay evidence, can assist in convicting or acquitting the perpetrator during this process, based on the evidence of the first report witness (Van Rooyen, 2004:45).

In the SAPS A1 (first information of crime) statement-taking short course learner's guide (SAPS, 2013:20), it states that although a police official is unable to describe an injury in the same manner as a medical practitioner, it is still possible to obtain an acceptable description of such injury, in a statement. The guide further states that the number of the wounds, and where they are situated, is very important, and must be described. This can be corroborated by a medical examination of the victim. The first report statement will be corroborated by other statements such as victim statements and J88 medical forms also. The court would then come to an informed conclusion.

In order to corroborate the evidence contained in the first report statement, the investigating officer must look for corroborating medical evidence such as clinical evidence of intercourse or physical injuries (Hazelwood & Burgess, 1987:9). In practice, this can be done by the completion of a form J88 – that is, a report by an authorised medical practitioner, on the completion of a medico-legal examination. In this form, the clinical findings, which include the nature, position and extent of the abrasions, wounds or other injuries must be described and noted, together with a probable date and manner of causation must be noted. The position of all injuries and wounds must also be noted on the sketches.

Tilstone et al. (2013:343) provide that in rape cases the body of the victim should be addressed as a crime scene, and the examination must thus be conducted by medically trained personnel. Fisher (1987:345) maintains that the location of any cuts, bruises, lacerations or contusions is pertinent information, and should be noted in the medical report. This type of information on the medical form may prove that the victim did not consent to intercourse and support her statement to the person to whom the first report was made and her complaint. Fisher (1987:351) mentions that torn or soiled clothing, bruises, pulled out hair, cuts and other indications assist in proving that a struggle occurred during the time of the intercourse – hence rape, and should be noted on the medical form, to corroborate the version of the first report witness. During the process of case docket analysis, it was established that a form J88 was being completed, in order to corroborate the evidence of the first report witnesses during the investigation of rape cases. In 180 case dockets it was established during the case docket analysis that a form J88 was being completed and it did support the first information of crime statements.

All the samples were asked the question: according to your knowledge, how could the information contained in a first report statement assist in the successful prosecution of the perpetrator?

Sample "A" responded as follows:

- The first report statement can corroborate with the statement of the victim pertaining as to what might have happened (22 participants);
- The first report statement will contain the information said by the victim (1 participant);
- It would establish the credibility of the witness so that the court could draw a fair judgement (4 participants); and
- It can assist in proving or disproving whether the suspect was involved or not involved in the crime (1 participant).

Sample "B" responded as follows:

- It will assist, because it will show that the victim is not fabricating the evidence because of the condition they were when they made the report. This information can put the presiding officer in the picture, because it corroborates the victim's evidence and shows consistency (4 participants).

Sample "C" responded as follows:

- Primarily it serves to prompt an investigation into the commission of a sexual offence, to confirm the fact of sexual offence having been committed, and to prove consistency on the part of the victim (1 participant).

From the literature study and the interviews with samples "A", "B" and "C", the researcher was able to come to the conclusion that the information contained in the first report statement has a major impact on the prosecution of the accused. The question was put to Sample "A", Sample "B" and Sample "C".

### **3.7 THE VALUE OF A FIRST REPORT STATEMENT IN THE INVESTIGATION OF RAPE**

The criminal investigator should focus on the value of the first report statement during the investigation of rape cases (Van Rooyen, 2004:45). It is important that the information contained in the first report statement has value and plays a crucial role during the investigation process of rape cases. This means that from the onset of the investigation, the investigating officer has to keep in mind that the information in the first report statement must be obtained, in order to be presented in court during the criminal proceedings. The investigators must know that the first report statement should be written in such a manner that the information is clear and can be used as evidence during the investigation of rape. Furthermore the investigators must know that the value of the first report statement is that it will stand in court as effective and efficient evidence (Van Rooyen, 2004:45). The value of the first report statement in rape investigation is that recorded injuries, wounds, harm, emotional state of mind as well as shock sustained during the rape incident give the intensity of the crime and certain deductions could be

made from this type of information. Van Rooyen (2004:45) maintains that justice can only be done if the facts are correctly, objectively and truthfully recorded in a first report statement during the investigation and made available to court. The value of the first report statement during the investigation of rape is situation identification. Situation identification entails the evaluation and identification of crime. The investigator, based on the information contained in the first report statement, should determine whether rape has been committed (Marais, 1992:2). Marais and van Rooyen (1990:19) state that interviews with witnesses can in most cases determine the circumstances of the events by weighing the information contained in the first report statement in order to determine the unlawful nature of the crime situation. Van Rooyen (2004:45) states that first report statement can serve as a vehicle with which the investigator can transfer evidence regarding rape cases to court. According to Lochner (2014:73-75) the value of a first report statement in the investigation of rape is as follows:

- Proving the elements of the crime: The first report statement can be used to determine whether the crime has been committed, and which elements of the crime must be investigated and proved;
- The existence of the case: All statements filed in the case docket, including first report statements can be used to determine whether there is a prima facie case against the accused;
- Record of evidence: The first report statement can also be used to officially place on record what the first report witness knows, saw, heard, smelled or observed during the investigation process;
- Furthering of investigation: The information contained in a first report statement enables prosecutors to make decisions whether the rape report is false or not; and
- *Modus operandi*: Facts contained in first report statement can help to compile a profile of a suspect and can also be used as a source of information about the *modus operandi* of criminals.

All samples were asked the question: according to your knowledge and experience, what is the value of a first report statement in the investigation of rape and responded as follows:

Sample "A" responded as follows:

- Corroborating the story of the victim-(2 participant);
- It helps to getting the truth of the matter-(2 participants);
- It is a first-hand information-(1 participant);
- It helps arriving at a fair judgement- (1 participant);
- It contains the status of the victim during the reporting of the incident-(3 participants);
- The victim tells the incident to the person he/she trusts and that person will be able to give a full reflection of what happens even if the victim say the evidence will be admissible-(1 participant);
- It proves that the rape did occur and reported to somebody else-(1 participant);
- To have a picture of what happened to the victim while the victim is still at hospital or trauma-(1 participant);
- It helps to prove our case because it contains what exactly happen on the day of the incident from the victim-(1 participant);
- This is the vehicle of taking evidence to court-(1 participant);
- It is the most important statement which gives the full facts about what the victim report the statement to the first report witness-(1 participant);
- To ascertain whether the victim is telling the truth or giving the same statement given by the first report witness- (1 participant);

- It assists us by trying to find out the truth whether the victim was raped or not- (1 participant);
- It gives or confirms what the victim has indicated-(1 participant);
- To gather the information and check if the victim is lying-(1 participant);
- It proves the credibility of the witness-(1 participant);
- Longstanding witness and very dependent on first report witness because you do not have independent witness-(1 participant);
- In order to establish the truth as well as the identity of the first report witness-(1 participant);
- It assists in proving that the victim was crying and emotional- (1 participant);
- It is to ascertain whether the crime has occurred-(1 participant);
- It assist because we get a clear picture about the condition of the victim-(1 participant);
- It will assist in determining whether there was a crime committed-(1 participant); and
- It is to assist to determine the state of the victim after the rape occurred and get opinion of first report since rape seldom has witnesses-(2 participants).

Sample “B” responded as follows:

- It gives the prosecution an insight or light as to whether indeed the incident took place or might be a false report- ( 3 participant); and
- It assists the successful prosecution-(1 participant).

Sample “C” responded as follows:

- It assists in establishing whether the victim is making a false report and can thus exonerate the perpetrator.

From the interviews with all the participants the researcher observed that the participants made mention of the fact the first report statement plays a role during the investigation of rape cases by either corroborating or refuting the allegations made by the victim. The participants supported the fact that first report statements must be obtained from the first report witnesses which in most cases can determine the circumstances of the events. Marais and Van Rooyen (1990:19) support the participants and state that the information that is contained in the first report statement can be weighed to determine the unlawful nature of incident being investigated. The investigators must take first report statements from first report witnesses to the extent that they (first report witnesses) support evidence in the victims’ statements or prove any element of the alleged rape. These first report witnesses can then act as additional voices against the perpetrators in court. Lochner (2014:73-4) also supports the participants and states that the first report statement is a very important source of evidence during the investigation of rape and the investigators should consider its value during the investigation process.

From the case docket analysis it was found that:

- First report statements were obtained in sixty eight case dockets reported and not obtained in one hundred and twelve case dockets;
- The conditions of the victims were reported in sixty eight case dockets reported only;
- The investigators were given guidelines relating to the taking of the first report statements in ninety two case dockets only;
- The first report statements were made to police officials, community members, medical practitioners, prison warders, relatives, friends and parents;

- The first report statements were made between one to twenty days after the rape incidents;
- The areas covered in the first report statements were the conditions of the victims, injuries and clothing during the rape incidents; and
- The contents of the first reports includes, inter alia, time, crime scenes, suspects (known) and *modus operandi*.

From the literature study, interviews and case docket analysis the researcher could come to the conclusion that the information that is contained in the first report statement has a huge impact on the investigation of rape because it can either corroborate or refute the allegations made by the victim. It is therefore imperative that the investigator keeps this aspect in mind when he/she embarks on the investigation and the subsequent interview with the first report witness and taking down of the first report witness statement because first report statements were not obtained from one hundred and twelve first report witnesses as determined during the case docket analysis.

### **3.8 SUMMARY**

It is important to understand that the information contained in the first report statement plays a crucial role during the investigation and prosecution process, and may provide evidence in the commission of crime. This means that from the onset of the investigation, the investigating officer has to keep in mind that the information in the first report statement must be obtained, in order to be presented in court. The information contained in the first report statement must be as thorough as possible, so that it can assist the both the investigator and the public prosecutor to trace and prosecute the perpetrator(s) successfully.

It is therefore very important that the information in the first report statement be thoroughly planned, in order to establish, for example, the condition of the victim during the time they made the first report statement to the first report witness. The manner of obtaining the first report statement will determine whether or not an investigator will be successful with their investigation. The information contained in the first report statement can, if obtained

in a professional manner, prove the elements of crime in court during the trial, and link the accused with the commission of the crime, in order to solve the case successfully. In the last chapter, Chapter 4, the researcher presents the main findings of the research, his conclusions, and finally, some recommendations.

## **CHAPTER 4**

### **FINDINGS, RECOMMENDATIONS AND CONCLUSION**

#### **4.1 INTRODUCTION**

The aim of the research was to determine the value of the first report statement in the investigation of rape. This was thus investigated. The aim was achieved, by identifying what information should be included in the first report statement, in order to ensure successful prosecution of the perpetrator.

The researcher attempted to achieve this aim by utilising data retrieved from a review of current literature, interviews conducted with a representative sample of detectives, interviews with public prosecutors from the Sexual Offences Court, and analysis of various rape case dockets. The findings made by the researcher are described below. Thereafter conclusions drawn from the study, are presented. Finally, the chapter provides recommendations both for future training in obtaining first report statements from first report witnesses, as well as for future research.

#### **4.2 FINDINGS**

The researcher made both primary and secondary findings, with regard to the research questions. Both sets of findings are discussed below.

##### **4.2.1 Primary findings regarding the research questions**

The following primary findings were made in answer to the research questions:

- Research Question 1: "What does the first report statement entail?"

The first report statement in a rape is obtained from the person to whom the victim made the initial disclosure after the incident took place. It is a very source of evidence which either corroborates or refutes the allegation made by the victim and as such it must be obtained from the person to whom he or she reported the incident for the first time. The person to whom the first report statement is made by the victim is known as the first report witness. The first report statement is composed of preamble, contents and conclusion. The first report statement must contain details of the report, physical appearance of the

victim, emotional state of the victim, and whether the victim mentioned whether it was the first time that she was raped by the suspect.

- Research Question 2: "What is the value of a first report statement in the investigation of rape?"

The literature revealed that the information contained in the content of the first report statement is of great importance, as it indicates the type of crime that was committed, and gives direction to the whole investigation process. The first person to whom the victim reported the rape must be thoroughly interviewed and there for a first report statement obtained containing date and time of the first report, conditions of the victim's clothing, the victim's mental and physical state, and the nature and precise content of the report. The value of the first report statement is that, subject to certain conditions, the contents which is hearsay evidence may be accepted as evidence in court. Thus, the investigator should know what information needs to be obtained in a first report statement by the first report witness.

Apart from the fact that the investigator will use this information to direct the investigation, the state prosecutor has to utilise the contents during the preparation of the trial. The first report statement can also assist in culprit identification, because the victim might tell the first report witness as to who raped them. This is concerned with the positive identification of the offender as a person, rather than the identification of their unlawful conduct. With regard to situation identification, the investigator should first determine whether a crime has been committed, and if so, what crime, while attempting to isolate the facts that can throw light on the crime situation in question.

The value of the first report statement during the investigation of rape is that it can corroborate or refute the allegations made by the victim to the first report witness regarding the non-consensual intercourse. Observations about the victim, noted during the time they made the first report statement, will become important at a later time. This evidence may assist to corroborate the allegations that the victim did not consent to intercourse. Evidence such as torn or soiled clothing, bruises, injuries, pulled out hair, cuts, crying and other indications, assist in proving that a struggle occurred during

intercourse and the court can arrive at a fair decision as a result of the first report statement.

The purpose of the information contained in a first report statement is the corroboration of the victim's story, or it can exonerate the suspect of a false rape report. For the purposes of this study, a false rape report or allegation refers to an untruthful statement, accusation or complaint to the authorities, asserting that a crime did occur. From the interviews with the participants, the researcher observed that the participants were conversant with the value of the first report statement during the investigation of rape, and there are no differences in the viewpoints of the literature and the participants.

#### 4.2.2 Secondary findings

The researcher made certain other relevant findings during the research. The findings are secondary, and are presented below:

- Investigation of crime

The literature sources consulted suggest that investigation of crime is the systematic process of identifying, collecting, preserving and evaluating information, for the purpose of bringing a criminal offender to justice. This definition corresponds with a second definition which states that investigation of crime is the action by the police with the purpose of identifying and arresting the suspects, and includes crime scene investigations, interviewing and interrogation. The sources also describe criminal investigation as a systematic search for the truth, and legal tracing of persons and objects through which the circumstances of an illegal act or omission, as well as the reprehensible state of mind that accompanied it, is reconstructed. According to this research, criminal investigation involves the lawful tracing of people and instruments which may, directly or indirectly, contribute to the reconstruction of a crime situation, and supply information about people involved in it. It also includes locating, gathering and using information, in order to bring offenders to justice, or to achieve the objectives set for it by the police service. There are no differences between the viewpoints of the participants and the literature.

According to this research, criminal investigation involves the lawful tracing of people and instruments which may, directly or indirectly, contribute to the reconstruction of a crime situation, and supply information about the people involved in it. It also includes locating, gathering and using information, in order to bring offenders to justice, or to achieve the objectives set for it by the police service. There are no differences between the viewpoints of the participants and the literature.

- Objectives of investigation

In this this research, it was found that the objectives of the investigation are the identification of crime, the gathering of evidence, individualisation of the crime, arresting of criminals, recovery of stolen properties, and involvement in the prosecution process. Twenty eight (28) participants from sample “A” provided similar feedback regarding the objectives of criminal investigation. Criminal investigation has the objective of presenting the results of the investigation in court, and the investigator should keep in mind when embarking on an investigation.

The participants of sample “A” agree with the literature studied during the research and conversant with the objectives of investigation. Sample “B” and Sample “C” were not asked the objectives of investigation.

- Format of the first report statement

The format of the first report is of the utmost importance. In this research, based on the literature and the interviews, it was found that the first report statement consists of the following components (Van Rooyen, 2004:49):

#### A. Preamble

The first report statement begins with a preamble. The purpose of the preamble is to identify the deponents, and to be able to trace them at a later stage.

#### B. Contents

The information contained in the body of the first report statement is of great importance, as it indicates whether the crime of rape was committed or not. Sufficient information will

enable the public prosecutor to decide on a criminal charge sheet for trial. A detailed first report statement must include the elements of rape.

### C. Conclusion of the first report statement

The signature, thumb print or mark of the deponent, together with their name, and the place, date and time at which the first report statement was recorded, should be placed at the bottom of the statement. The case docket analysis revealed that, in practice, the investigators use the format of the statement suggested by the literature and the interviews. All the statements that the researcher found had the same format.

- Information in the first report statement and its value in the prosecution of rape

Because the information contained in the first report statements is such important part of case dockets during the investigation of rape for the crime investigator, it is recommended that the investigators must know the information that must be included on the first report statements and its value. The literature and interviews confirmed what type of information should be included in the first report statements. The researcher could conclude that injuries, clothing, appearance, emotions, traumatisation, crying, sperm and bloodstains should be included in the first report statements. Based on the literature and interviews, it is clear that the participants have similar understanding of the information that should be included in the first report statements obtained from the first report witnesses during the investigation of rape.

The information contained in the contents of a first report statement is of great importance during the prosecution of rape as it indicates whether the rape was raped or not. The first report statement is very important because it may be admitted as evidence in court and support the testimony of the victim. It also assists the public prosecutor in taking decision, conducting pre-trial discussion with the first report witnesses and utilising the contents of the first report statement to lead the first report witnesses during his/her examination in chief during the trial. Sample “A”, “B” and “C” highlighted that the first report statement could corroborate with the statement of the victim pertaining to what might have happened and establish the credibility of the witness so the that court can draw a fair judgement during the prosecution.

From the literature study and the interviews, the researcher was able to come to the conclusion that the information contained in the first report statement has a value during the prosecution of the accused in a rape case. It is therefore imperative that the investigator keep this in mind when they embark on the investigation and the subsequent interview with the first report witness, and take down the first report statement which will be used as evidence during the prosecution process.

- The value of the first report statement in the investigation of rape

The first report statement in the investigation of rape is obtained from the first person to whom the victim made the initial disclosure after the incident took place. The investigator must thoroughly interview the first person to whom the first report was made and obtain a comprehensive first report statement, the contents of which is hearsay and may be accepted as evidence in court. The value of the first report statement in the investigation of rape is that it is a very important source of evidence which either corroborates or refutes the allegations made by the victim. Furthermore, the first report statement serves to explain physical appearance and the condition of the victim's clothing, emotional and mental state of the victim, date and time of the report, and whether the victim mentioned whether it was the first time that he/she was raped by the suspect. The first report statement could also highlight important pieces of evidence that were initially disclosed by the victim, but not recorded by the police during the obtaining of the victim statement. The investigating officer has a big role to play throughout the investigation of rape and should consider the value the first report statement from the first report witness and its contents to its fullest potential.

### **4.3 RECOMMENDATIONS**

The researcher makes the following recommendations that will assist investigators to include sufficient information in the first report statement, and to utilise such information more optimally:

#### **4.3.1 Training**

The researcher recommends the following:

- All investigators should be trained on how to obtain first report statements as it was established during case docket analysis that only sixty first report statements were obtained out of one hundred and eighty rape cases;
- Investigators must be adequately trained on how to obtain first report statements during the investigation of rape cases as well as what areas must be covered during the process of taking the first report statements;
- The importance of the value of the information contained in the first report statement during investigation and prosecution processes should be stressed during the sexual offences courses for investigating officers;
- Investigators should be trained as to what should be the contents of the first report statements;
- The prosecutors, investigators and community service members must attend workshops whereby the value of first report statement during rape investigation is emphasised; and
- Through the research it was found that the policies and procedures did not cover first report statement and therefor recommends that the new policies and procedures must be developed and implemented in order to improve the use of first report statement in the investigation of rape.

#### **4.4 CONCLUSION**

The investigator must take the first report witness statement from the first report witness, keeping in mind the fact that the first report statement will be used during the trial by the court. Thus, this will enable the investigator to include as much information as possible. It is important that the investigating officer focuses not only on the criminal incident, but also considers the injuries, clothes worn, blood, sperm, traumatisation and crying.

The first report statement must contain all the elements of rape, and link the perpetrator with the commission of the rape. Furthermore, the physical and emotional state of the victim, injuries to the victim, red marks and abrasions, cuts, bruising, description of

clothing and torn clothing, body fluids, grass, mud and blood transfers or spatter of the victim, must be considered when obtaining a first report statement from the first report witness. The investigating officer has a major role to play throughout the investigation process of the criminal case, and should utilise all the available information from the first report statement, to its fullest potential. This will enable the public prosecutor to prepare the charge sheet and prosecute the perpetrator successfully.

Investigators at FCS must attend both the Basic Detective Course and the FCS course successfully, since this can enable them to obtain effective first report statements from the first report witnesses. First report statements must be accurate, complete, concise, objective and comprehensive. Investigators must also bear in mind as to what type of information must be included in the first report statements during the investigation of rape cases. The investigators must determine whether the first report witnesses observed shock, disbelief, embarrassment, shame, guilt, disorientation, denial, fear, anxiety, anger, withdrawal, depression, sexual activity, hysteria and delayed report. It must also be included whether the victims showed the behaviours of crying, sobbing, smiling, restlessness, tenseness and joking, during the time that they were making the first report statements. First report statements containing these information can assist successful prosecution of rape cases, and the investigating officers must utilise all this information to its fullest potential.

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## **ANNEXURE A**

### **INTERVIEW SCHEDULE: POLICE INVESTIGATORS (SAMPLE A)**

#### **TOPIC: THE VALUE OF FIRST REPORT STATEMENTS IN THE INVESTIGATION OF RAPE**

#### **AIM: TO DETERMINE THE VALUE OF FIRST REPORT STATEMENTS IN THE INVESTIGATION OF RAPE**

#### **RESEARCH QUESTIONS:**

- **WHAT DOES THE FIRST REPORT STATEMENT ENTAIL?**
- **WHAT IS THE VALUE OF A FIRST REPORT STATEMENT IN THE INVESTIGATION OF RAPE?**

You are requested to answer the following questions in the interview schedule, for the researcher. The questions, responses and results will be dealt with in confidentiality, and no names of participants (investigators) will be revealed.

The researcher is bound to his assurances and guarantees by the research ethics code of Unisa. The researcher will adhere to the following four internationally established and accepted ethical principles:

- The researcher should respect the autonomy, rights and dignity of the research participants.
- The research should make a positive contribution towards the welfare of the people of South Africa.
- The research should not cause harm to the research participants in particular, or to people in general.
- The benefits and risks of the research should be fairly distributed among the people of South Africa.

The information you provide will be used in a research project for a Master of Technology degree registered with the Programme Group: Police Practice at Unisa. The analysed and processed data will be published in the research.

Your answers will be noted on paper, by the interviewer himself. Should any question be unclear, please ask the researcher for clarification. Only one answer per question is required. When answering the questions, it is very important to give your own opinion.

Written permission has been obtained in advance from the South African Police Service, for the interview to be conducted.

## **PARTICIPANT**

I, \_\_\_\_\_, hereby give permission to be interviewed and that the information supplied by me can be used in the research.

**YES/NO**

## **SECTION A: HISTORICAL INFORMATION: POLICE INVESTIGATORS (SAMPLE A)**

1. Are you an investigator?

**YES/NO**

2. How long have you been an investigator?

(1-5 years)\_\_\_\_ (5years-10 years) \_\_\_\_\_ (10 years and above) \_\_\_\_\_ N/A\_\_\_\_

3. Do you currently investigate rape cases?

**YES/NO**

4. How many rape cases do you have on hand?

5. For how long have you been investigating rape cases?

6. Did you undergo basic detective training?

**YES/NO**

7. Did you receive specific training to investigate rape?

**YES/NO**

### **SECTION B: FIRST REPORT STATEMENT**

8. How would you define crime investigation?

9. What are the objectives of criminal investigation?

10. Define the concept rape.

11. What are the elements of rape?

12. Define the concept statement.

13. Explain the concept first report statement.

14. According to your knowledge, what are the requirements of a good first report statement?

15. According to your knowledge, what are the elements of a good first report statement?

16. How does a conclusion of first report statement look like?

### **SECTION C: THE VALUE OF THE FIRST REPORT STATEMENT IN THE INVESTIGATION OF RAPE**

16. What is information?

17. What is intelligence gathering in crime investigation?

18. Define the concept evidence.

19. Name the different types of evidence.

20. What would you say is the difference between information, intelligence and evidence?

21. What information should be included in the first report statement?
22. According to your knowledge, how could information contained in a first report statement assist in the successful prosecution of the perpetrator?
23. According to your knowledge and experience, what is the value of a first report statement in the investigation of rape?

## **ANNEXURE B**

### **INTERVIEW SCHEDULE: PUBLIC PROSECUTORS (SAMPLE B)**

#### **TOPIC: THE VALUE OF FIRST REPORT STATEMENTS IN THE INVESTIGATION OF RAPE**

#### **AIM: TO DETERMINE THE VALUE OF FIRST REPORT STATEMENTS IN THE INVESTIGATION OF RAPE**

#### **RESEARCH QUESTIONS:**

- **WHAT DOES THE FIRST REPORT STATEMENT ENTAIL?**
- **WHAT IS THE VALUE OF A FIRST REPORT STATEMENT IN THE INVESTIGATION OF RAPE?**

You are requested to answer the following questions in the interview schedule, for the researcher. The questions, responses and results will be dealt with in confidentiality, and no names of participants (prosecutors) will be revealed.

The researcher is bound to his assurances and guarantees by the ethics code for the research of the University of South Africa. The researcher will adhere to the following four internationally established and accepted moral principles of ethics:

- The researcher should respect the autonomy, rights and dignity of research participants.
- The research should make a positive contribution towards the welfare of people.
- The research should not cause harm to the research participants in particular and people in general.
- The benefits and risks of research should be fairly distributed among people.

The information you provide will be used in a research project for a Master of Technology degree registered with the Programme Group: Police Practice at the

University of South Africa. The analysed and processed data will be published in the research report.

Your answers will be noted by the interviewer himself, on paper. Should any question be unclear, please ask the researcher for clarification. Only one answer per question is required. When answering the questions, it is very important to give your own opinion.

Written permission has been obtained from the National Prosecuting Authority of South Africa in advance, for the interview to be conducted.

## **PARTICIPANT**

I, \_\_\_\_\_, hereby give permission to be interviewed and that the information supplied by me can be used in the research.

**YES/NO**

## **SECTION A: HISTORICAL INFORMATION**

1. Are you a public prosecutor?

**YES/NO**

2. How long have you been a public prosecutor?

(1-5 years)\_\_\_\_\_ (5years-10 years) \_\_\_\_\_ (10 years and above)\_\_\_\_\_

3. Do you currently prosecute rape cases?

**YES/NO**

4. For how long have you been prosecuting rape cases?

5. Did you undergo specialised training in prosecuting rape cases?

**YES/NO**

6. Did you receive specific training to prosecute rape cases?

**YES/NO**

## **SECTION B: FIRST REPORT STATEMENT: PUBLIC PROSECUTORS (SAMPLE B)**

7. Define the concept rape.
8. What are the elements of rape?
9. Define the concept statement.
10. Explain the concept first report statement.
11. According to your experience, what are the requirements of a good first report statement?
12. According to your knowledge, what are the elements of a good first report statement?
13. How does a conclusion of a first report statement look like?
14. What is the correct way of writing a first report statement?
15. What is the format of a first report statement?

## **SECTION C: THE VALUE OF THE FIRST REPORT STATEMENT IN THE INVESTIGATION OF RAPE**

16. What is information?
17. What is intelligence gathering in crime investigation?
18. Define the concept evidence.
19. Name the different types of evidence.
20. What would you say is the difference between information, intelligence and evidence?
21. What information should be included in the first report statement?
22. According to your knowledge, how could the information contained in a first report statement assist in the successful prosecution of the perpetrator?

23. According to your knowledge and experience, what is the value of a first report statement in the investigation of rape?

## **ANNEXURE C: PURPOSIVE SAMPLING**

### **INTERVIEW SCHEDULE: DEPUTY DIRECTOR OF PUBLIC PROSECUTIONS (SAMPLE C)**

#### **TOPIC: THE VALUE OF FIRST REPORT STATEMENTS IN THE INVESTIGATION OF RAPE**

#### **AIM: TO DETERMINE THE VALUE OF FIRST REPORT STATEMENTS IN THE INVESTIGATION OF RAPE**

#### **RESEARCH QUESTIONS:**

- **WHAT DOES THE FIRST REPORT STATEMENT ENTAIL?**
- **WHAT IS THE VALUE OF A FIRST REPORT STATEMENT IN THE  
INVESTIGATION OF RAPE?**

You are requested to answer the following questions. The questions, responses and results will be revealed in due course.

The questions, responses and results will be dealt with in confidentiality, and no names of participants (deputy directors of public prosecutions) will be revealed.

The researcher is bound to his assurances and guarantees by the research ethics code of Unisa. The researcher will therefore adhere to the following four internationally established and accepted ethical principles:

- The researcher should respect the autonomy, rights and dignity of the research participants.
- The research should make a positive contribution towards the welfare of the people of South Africa.
- The research should not cause harm to the research participants in particular, or to people in general.

- The benefits and risks of the research should be fairly distributed among the people of South Africa.

The information you provide will be used in a research project for a Master of Technology degree registered with the Programme Group: Police Practice at Unisa. The analysed and processed data will be published in the research.

Your answers will be noted on paper, by the interviewer himself. Should any question be unclear, please ask the researcher for clarification. Only one answer per question is required. When answering the questions, it is very important to give your own opinion.

Written permission has been obtained in advance from the National Prosecuting Authority of South Africa, for the interview to be conducted.

## **PARTICIPANT**

I hereby give permission to be interviewed, and that the information supplied by me can be used in the research.

I, \_\_\_\_\_, hereby give permission to be interviewed and that the information supplied by me can be used in the research.

**YES/NO**

## **SECTION A: HISTORICAL INFORMATION**

1. Are you Deputy Director of Public Prosecutions?

**YES/NO**

2. How long have you been Deputy Director of Public Prosecutions?

(1-5 years)\_\_\_\_ (5years-10 years) \_\_\_\_\_ (10 years and above) \_\_\_\_\_

3. Do you currently prosecute rape cases?

**YES/NO**

4. For how long have you been prosecuting rape cases?

5. Did you undergo specialised training in prosecuting rape cases?

**YES/NO**

6. Did you receive specific training to prosecute rape cases?

**YES/NO**

## **SECTION B: FIRST REPORT STATEMENT**

7. Define the concept rape.

8. What are the elements of rape?

9. Define the concept statement.

10. Explain the concept' first report statement.

11. According to your knowledge, what are the requirements of a good first report statement?

12. According to your knowledge, what are the elements of a good first report statement?

13. How does a conclusion of a first report statement look like?

14. What is the format of a first report statement?

15. What is the correct way of writing a first report statement?

## **SECTION C: THE VALUE OF FIRST REPORT STATEMENT IN THE INVESTIGATION OF RAPE**

16. What is information?

17. What is intelligence gathering in crime investigation?

18. Define the concept evidence.

19. Name the different types of evidence.

20. What would you say is the difference between information, intelligence and evidence?

22. What information should be included in the first report statement?

23. According to your knowledge, how could the information contained in the first report statement assist in the successful prosecution of the perpetrator?

24. According to your knowledge and experience, what is the value of the first report statement in the investigation of rape?

## ANNEXURE D

### AUTHORITY FROM THE SAPS TO CONDUCT A RESEARCH

G.P.-S. 002-0222

SAP 21

SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

Ref: 3/34/2(201200039)

10-12-2012

The Provincial Commissioner  
**GAUTENG**

#### **RESEARCH PROPOSAL: THE VALUE OF FIRST REPORT STATEMENTS IN THE INVESTIGATION OF RAPE: 0480612-3 LT. COL V HUMBULANI: ANTI-CORRUPTION INVESTIGATIONS**

1. Lt. Col. V Humbulani with service no 0480612-3, stationed at Anti-corruption Investigations: DPCI is currently studying for a Master's in Forensic Investigation at the University of South Africa.
2. The aim of the research is:
  - ❖ To determine the value of the first report statement in the investigation of rape.
3. The six main purpose of the research are:
  - ❖ Evaluation - Determining the strength and weaknesses in the application of first report statement in the investigation of rape and consider how this could be improved.
  - ❖ Exploration - Determining how investigators employ first report statement during the investigation of rape.
  - ❖ Application - identifying and recommending of new policy and procedures in order to improve the use of first report statement during the investigation of rape.
  - ❖ Empowerment - empower the investigators how to employ first report statement during the investigation of rape.
4. The following are questions to be posed during the interviews.
  - ❖ *What does first report statement entail?*
  - ❖ *What is the value of a first report statement in the investigation of rape?*
5. Research design is to provide framework for the collecting of data and interviews. The researchers will also utilise qualitative methods when conducting the research, interviewing and analyzing of case docket (Rape only).

**RESEARCH PROPOSAL: THE VALUE OF FIRST REPORT STATEMENTS IN THE INVESTIGATION OF RAPE: 0480612-3 LT. COL V HUMBULANI: ANTI-CORRUPTION INVESTIGATIONS**

6. Research will be conducted / focused at Pretoria Cluster, focusing on all rape cases reported under the following stations namely: Pretoria Central Pretoria West, Hercules and Pretoria West. Interviews will be conducted with twenty eight investigators of the SAPS Pretoria Central Family Violence, Child Protection Unit.
7. A sample of sixty case dockets from the four police stations falling under Pretoria Central cluster will be analysed.
8. The organisation will benefit from the research, as it will identify means and ways of improving first report statement in the investigation of rape to ensure that the case has substantial information for prosecution.
9. The application is recommended in accordance with National Instruction 1/2006.

*COMMENT RECOMMENDED PROVIDED RESEARCHER SIGNS A CONFIDENTIALITY REPORT AND PERMISSION IS GRANTED BY VICTIMS/COMPLAINANTS TO DIVULGE THEIR INFORMATION*

*[Signature]*  
**MAJOR GENERAL**  
**PROVINCIAL HEAD: LEGAL SERVICES: GAUTENG**  
**C HENDRICKS**  
 Date:



**COMMENT:**

*[Signature]*  
**COLONEL**  
**PROVINCIAL COMMANDER: STRATEGIC MANAGEMENT: GAUTENG**  
**PS NAICKER**  
 Date:

**COMMENT:**

**RESEARCH PROPOSAL: THE VALUE OF FIRST REPORT  
STATEMENTS IN THE INVESTIGATION OF RAPE: 0480612-3 LT.  
COL V HUMBULANI: ANTI-CORRUPTION INVESTIGATIONS**



**PROVINCIAL HEAD: ORGANIZATIONAL DEVELOPMENT AND STRATEGIC  
MANAGEMENT: GAUTENG  
SJ PHETO**

Date: 2013/02/18

**BRIGADIER  
AND STRATEGIC**

**COMMENT:**



**DEPUTY PROVINCIAL COMMISSIONER: CRIME DETECTION: GAUTENG  
TC MOSIKILI**

Date: 2013-02-18

**MAJOR GENERAL**

**APPROVED / NOT APPROVED**

THE RESEARCHER MUST COMPLY TO THE ADVICE OF  
MAY GEN HENDRICKS.



**DEPUTY PROVINCIAL COMMISSIONER: OPERATIONS OFFICER: GAUTENG  
NP MASIYE**

Date: 2013. 02. 19

**MAJOR GENERAL**

**Information Note Compiled by SAC ML Ladzani**

011 274 7324 (Office)

011 274 7322 (Fax)

076 499 8661 (Cell)

**Information Note Verified by Col. PS Naicker**

011 274 7378 (Office)

011 274 7322 (Fax)

082 455 5373 (Cell)

## ANNEXURE E

### AUTHORITY FROM NPA TO CONDUCT A RESEARCH

**Office of the  
Chief Executive Officer**



Tel: +27 12 845  
6000

Victoria & Griffiths  
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123 Westlake  
Avenue  
Weavind Park  
Silverton  
Pretoria

P/Bag X752  
Pretoria  
0001  
South Africa

[www.npa.gov.za](http://www.npa.gov.za)

29 October 2013

Lt. Col. Humbulane Vhulahaine

#### AUTHORITY TO CONDUCT RESEARCH WITHIN THE NPA

Dear Sir,

The NPA acknowledges your request to conduct research within the NPA.

It is my pleasure informing you that I have agreed for you to conduct your research within the NPA.

It is however a prerequisite of the NPA, that before you release or publish your dissertation, that the NPA be given a copy for consideration.

The NPA wishes you well in the achievement of your qualification.

Kind regards,

  
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**Adv. Karen Van Rensburg**  
**Chief Executive Officer: NPA**  
Date: 20/10/2013

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Page 1 of 1