OBSERVING A RAPE CRIME SCENE WITH THE INTENT TO IDENTIFY EVIDENCE

by

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SUPERVISOR: DR JS HORNE

SEPTEMBER 2016
Declaration

I declare that this is my own work and that OBSERVING A RAPE CRIME SCENE WITH THE INTENT TO IDENTIFY EVIDENCE is my own work and all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

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Abstract

Investigating a crime of rape relies heavily upon physical evidence, which provides the court with tangible objects that are not subject to memory loss. The recognition of physical evidence plays a critical role in the investigation process. The first step of crime scene investigation is to conduct observation to locate valuable physical evidence; a task that depends on the skills of the investigating officer. The more common types of physical evidence that could link a suspect to the crime were identified in this study.

This dissertation endeavours to provide crime scene investigators with answers on how to conduct observation at a rape crime scene. This research is based on interviews and a literature study, and will furnish insight and information about the observation process at rape crime scenes. The findings of the research may generate guidelines for crime scene observation. Recommendations and conclusions are indicated in the final chapter.

Key terms:
Criminal investigation; rape; crime scene; observation; physical evidence; identification and individualisation
**List of abbreviations**

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>SAPS</td>
<td>South African Police Service</td>
</tr>
<tr>
<td>LCRC</td>
<td>Local Criminal Record Centre</td>
</tr>
<tr>
<td>FCS</td>
<td>Family Violence, Child Protection and Sexual Offence</td>
</tr>
<tr>
<td>CAS</td>
<td>Crime Administration System</td>
</tr>
<tr>
<td>SA</td>
<td>South Africa</td>
</tr>
<tr>
<td>FSL</td>
<td>Forensic Science Laboratory</td>
</tr>
<tr>
<td>Unisa</td>
<td>University of South Africa</td>
</tr>
<tr>
<td>DNA</td>
<td>Deoxyribonucleic Acid</td>
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CHAPTER 1
GENERAL ORIENTATION

1.1 Introduction

It is estimated that “a woman born in South Africa (SA) has a greater chance of being raped than learning how to read” (Sunday Herald 2009). This is a clear indication that South African society has serious problems; not only with criminals but also with the investigation of these crimes. In order to solve a rape case, testimonial and physical evidence is of vital importance. It is, therefore, imperative that proper investigation takes place at the crime scene. According to Du Preez (1996:1) the purpose of a criminal investigation is, undoubtedly, to search for the truth and find a solution to crime. Dienstein (1970:vii) is of the view that criminal investigation is the art of acquiring the knowledge of oneself, of the society and the people. The author adds that this art is inclusive of the knowledge of investigative procedures itself.

Observing a rape crime scene with the intent to identify evidence as a means to improve the investigation of rape crimes in South Africa poses a challenge in that the offender evades justice. In this study the researcher concentrated on the lack of observation abilities by investigators to identify evidence on the rape crime scene to solve the crime. The study was conducted in the Welkom and Thabong policing area. The study included analyzing case dockets pertaining to rape crime scenes and the identification of physical evidence. A case docket consist of a docket cover which is three A4 parts attached, with the front of the docket reflecting the details of the crime and exhibits seized, the center of the outer cover indicating the deceased details and the end of the cover reflecting the offenders detail. Thereafter on the inside of the docket there are three parts referred to as “A clip’, “B clip” and “C clip”. All the factual documentation of the case will be stapled to the “A clip” while correspondence to various role players will be attached to the “B clip. The “C clip” contains the investigation diary where the flow of work is captured beginning with the first responder’s tasks performed. This is done to ensure continuity of the investigation. During the proposal phase (which formed the foundation for identifying the research problem) of this research, the researcher perused already filed rape dockets from the period January 2008 to May 2011 whilst during the research phase and the writing-up of the study a further perusal of already filed rape dockets registered between the period June 2011 to
June 2012 was conducted. The docket analysis time frames were dictated by the time the researcher undertook this study. Interviews were conducted with the Family Violence, Child Protection and Sexual Offence (FCS) unit at South African Police Service (SAPS) Welkom and Thabong as well as with prosecutors of the Welkom court that deal with all the FCS cases of SAPS Welkom, SAPS Thabong and surroundings areas. Dockets still under investigation were not perused as this would compromise the identity of the victim and the offender.

1.2 Problem statement

Gardner (2005:23) believes that physical evidence has superior influence in defining what happened at any crime scene, in comparison to the testimonial evidence of a witness. This accentuates the value-adding impact of the collection of crime scene information. Marais (1992:9) emphasises that evidence will only be obtained at a crime scene if it is observed by an investigator who has the ability to recognise it as such.

In order to establish whether rape crime scenes are observed during the investigation process to identify evidence the researcher conducted a preliminary case docket analysis. The preliminary case docket analysis was done in 199 rape cases which was reported over the period from January 2008 until May 2011. The docket revealed that the victims were of all ages and race groups. These rape statistics were obtained from the SAPS database called the Crime Administration System (CAS) on 5 February 2013. The success rate of these cases was very low in terms of establishing a link through investigation for obtaining a conviction in court. There were only 42 cases that resulted in convictions and eight that were rendered a not guilty sentence, while 37 were filed as undetected and 52 cases were withdrawn at court. Forty cases were withdrawn because the victim could not be traced or the victim had furnished a withdrawal statement, while six were filed as unfounded and four were finalised otherwise. This was due to mediations that occurred between the victim and the accused. Ten cases are still under investigation.
The following table indicates the figures for each year, starting from January 2008 until May 2011. It also reflects the totals mentioned above.

Table 1: Rape statistics for January 2008 until May 2011

<table>
<thead>
<tr>
<th>Year</th>
<th>Reported</th>
<th>Under Investigation</th>
<th>Withdrawn at Court</th>
<th>Withdrawn</th>
<th>Undetected</th>
<th>Unfounded</th>
<th>Finalised Otherwise</th>
<th>Guilty</th>
<th>Not Guilty</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>48</td>
<td>1</td>
<td>18</td>
<td>9</td>
<td>7</td>
<td>2</td>
<td>0</td>
<td>8</td>
<td>3</td>
</tr>
<tr>
<td>2009</td>
<td>55</td>
<td>2</td>
<td>12</td>
<td>9</td>
<td>11</td>
<td>2</td>
<td>2</td>
<td>14</td>
<td>3</td>
</tr>
<tr>
<td>2010</td>
<td>70</td>
<td>5</td>
<td>16</td>
<td>17</td>
<td>15</td>
<td>1</td>
<td>0</td>
<td>15</td>
<td>1</td>
</tr>
<tr>
<td>May 2011</td>
<td>26</td>
<td>2</td>
<td>6</td>
<td>5</td>
<td>4</td>
<td>1</td>
<td>2</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>199</td>
<td>10</td>
<td>52</td>
<td>40</td>
<td>37</td>
<td>6</td>
<td>4</td>
<td>42</td>
<td>8</td>
</tr>
</tbody>
</table>

The researcher further perused 177 of the 199 rape dockets mentioned above. After perusal the researcher realised that investigators do not always visit the rape crime scenes. The SAPS Crime Scene Policy (2005:14) indicates that investigators must conduct a walkthrough at the crime scene. Only 61 crime scenes were visited, while 109 crime scenes were not visited. In three cases the complainants were unable to point out the scene. Ten cases are still under investigation, while two were false cases and 14 dockets were not furnished for perusal. The following table indicates the figures for each year, starting from January 2008 until May 2011. It also reflects the totals mentioned above.
Table 2: Perusal of rape dockets for January 2008 until May 2011: Crime scenes visited

<table>
<thead>
<tr>
<th>Year</th>
<th>Reported</th>
<th>Under Investigation</th>
<th>Crime scene visited</th>
<th>Crime scene not visited</th>
<th>Crime scene unknown</th>
<th>False case</th>
<th>Dockets not furnished</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>48</td>
<td>1</td>
<td>18</td>
<td>21</td>
<td>0</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>2009</td>
<td>55</td>
<td>2</td>
<td>19</td>
<td>26</td>
<td>2</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>2010</td>
<td>70</td>
<td>5</td>
<td>15</td>
<td>47</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>May 2011</td>
<td>26</td>
<td>2</td>
<td>9</td>
<td>15</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>199</td>
<td>10</td>
<td>61</td>
<td>109</td>
<td>3</td>
<td>2</td>
<td>14</td>
</tr>
</tbody>
</table>

The researcher further discovered that the investigators rely solely on the victim being able to identify their assailant. During the perusal of the dockets the researcher established that in most of the cases the investigators obtained the statement from the victim, but no effort was made to visit the scene to obtain physical evidence that may link a perpetrator to the crime. Physical evidence was discovered from 11 crimes scenes during the investigators’ visits.

These figures reveal that only 21 per cent of rape cases reported at SAPS Welkom from January 2008 until May 2011 had received a guilty verdict at court. The low conviction rate is clearly a problem. Taking into consideration the 1 per cent of false cases reported, where complainants admitted they had lied, the remaining 78 per cent of suspects were either released or could not be traced via investigation. These suspects are still free to roam in society. The possible impact is that these suspects then continue to commit these crimes, as they are not held accountable for their actions.

During the preliminary docket analysis, as indicated by the statistics above, although 61 crime scenes were visited, physical evidence was found at only 11 crime scenes. When the researcher worked through the 109 dockets where the crime scenes had not been visited, it was discovered that there was no statement or diary entries made in capturing the reason for not visiting the crime scene – or even capturing the recovery of any physical evidence. This could have resulted
in the unsuccessful prosecution or lack of leads in the case. The problem that the researcher will focus on in this study is the lack of observation abilities by investigators to identify evidence on the rape crime scene that will assist in solving the crime.

1.3 Demarcation
Although Table 2 reveals that of the 199 cases reported 109 crimes scenes were not visited, for the purpose of this study the researcher will focus on the following crime scenes: crime scenes where the crime of rape took place; and crime scenes that were visited by investigators to identify evidence. Only case dockets of Welkom SAPS in the Northern Free State were perused as the study will focus on Welkom and Thabong SAPS.

1.4 Research aims
According to Mouton (2001:50), as a researcher you must be clear about the objective of the research and the general aims of the study; in other words, what you want to find out or establish through your research. The aim of the research is to establish how observation should be conducted at a rape crime scene to identify physical evidence.

1.5 Purpose of the research
According to Maxfield and Babbie (1995:70), research serves many purposes such as exploration, description, problem explanation, forecasting or prediction, empowerment and application. This research purpose will be mainly application, that is to develop good practice and to improve procedures (Denscombe 2002:27). The researcher’s recommendations may assist in improving the current practices followed by investigators. Another purpose, as explained by Denscombe (2002:27), is to empower investigators with guidelines on how to conduct observation and collect evidence so that they may become more effective in their investigations.

This study focused on the following purposes (Denscombe 2002:26-27):

- Evaluation
The researcher evaluated current policies and procedures that guide SAPS investigators to process a rape crime scene, with the researcher’s intention of identifying the strengths and
weaknesses of the policies and procedures. The aim of the evaluation is to determine how these procedures can be improved.

- **Exploration**
The researcher wanted to explore the global and local trends that FCS investigators use to observe a rape crime scene, hence the researcher read extensively to explore this field and found information which could be used to address the problem in this study.

- **Developing good practice**
The researcher applied the knowledge gained from this evaluation to develop guidelines on how to observe a rape crime scene to identify physical evidence. This will be done by recommending enhanced procedures to improve observation at rape crime scenes which could lead to an increase in the conviction rate of rape cases in court. These recommended guidelines are contextual and may be used by other FCS units within the SAPS.

- **Empowerment**
The researcher gained more knowledge and information on conducting observation at a rape crime scene with the intent to identify physical evidence by doing in-depth research. The knowledge and information gathered in this research will be made available to FCS investigators with the aim of empowering them with this knowledge and information.

1.6 **Research questions**
Sarantakos (1998:120) states that research questions “indicate what the researcher wants to know most and first”. The following research questions were formulated and will be answered in this study:
- How should a rape crime scene be observed for evidence?
- What types of physical evidence can be identified on a rape crime scene?

1.7 **Key concepts**
Leedy and Ormrod (2005:119) state that the purpose of defining key concepts is to prevent any misunderstanding.
1.7.1 Investigator
“An investigator is one who conducts systematic enquiry” (Hawkins 1994:307).

1.7.2 Evidence
According to Houck and Siegel (2011:49), “evidence can be defined as information given in legal investigation to make a fact or proposition less or more likely”.

1.7.3 Crime scene
According to Fisher (2004:149) and Gilbert (2005:77), “the crime scene is the location at which a suspected criminal offence has occurred and it is the locale from which the majority of the physical evidence associated with the crime is obtained”.

1.7.4 Rape
Rape is defined as follows “Any person (‘A’) who unlawfully and intentionally commits an act of sexual penetration with a complainant (‘B’), without the consent of B, is guilty of the offence of rape”, according to Sexual Offences and Related Matters Amendment Act 32 of 2007.

1.7.5 Observation
According to Gardner (2005:76), “observation is looking and mentally registering the scene condition and the items found on the scene”. Osterburg and Ward (2010:313-314) add that it involves the analysis of the crime scene for clues not visible to the casual eye.

1.7.6 Forensic science
Savino and Turvey (2005:100) explain that forensic science is the application of scientific knowledge and principles used to assist in resolving legal disputes.

1.7.7 Criminal investigation
A criminal investigation is the process of discovering, collecting, preparing, identifying, and presenting evidence to determine what happened and who is responsible (Orthmann and Hess 2013:8)
1.8  Research approach and design

The research design involves the plan that the researcher will carry out during the research process. It entails breaking down the process into steps, taking care of the practical details and involving decision making such as deciding whether the research will be of a qualitative or quantitative nature. The researcher’s design and approach will be explained below (Welman, Kruger & Mitchell 2005:52; White 2004:12).

According to Babbie and Mouton (2005:76), empirical research allows a researcher to address a “real-world” problem. Denscombe (2002:12) states that empirical research involves “establishing the facts. It is generally recognised that scientific research is something more than armchair theorising, something more than philosophy, something more than dogma.” Empirical research involves the idea of getting out of the chair, going out of the office and purposefully seeking the necessary information out there (Denscombe 1998:6). As an approach to social research, the emphasis10ds to be on producing data based on real-world observations. The very notion of a survey suggests that the research has involved an active attempt by the researcher to go out, to look and to search. It is associated with getting information “straight from the horse’s mouth”. Research is purposeful and constructed (Denscombe 1998:27).

In this research study a very practical problem with regard to the investigation process will be addressed and therefore the researcher made use of an empirical design where interviews were conducted to obtain information from investigators, together with a docket analysis and the analysing of existing literature on the topic. Welman, Kruger and Mitchell (2005:52) add that a research design consists of identifying research participants and collecting information from them.

The research approach in this research is qualitative in nature. Leedy and Ormrod (2005:133) explain that the qualitative research approach focuses on phenomena that occur in their natural setting, which is the “real world”. Sarantakos (1998:167) states that this approach involves naturalistic, communicative methods and it also furnishes the researcher with the opportunity to get closer to social reality and interact with participants. Qualitative research, including focus groups, in-depth interviews and extensive examination of documents, is essential: 1) whenever
previous research and theories yield scanty information about the topic and issues; 2) when there are likely to be strong contextual effects (that is, the previous research and theories may not be a useful guide in the specific situation confronted by the researcher); and 3) when researchers want to enhance the validity of their interpretations by drawing on the experiences of those most involved in the research setting itself (Pope, Lovell & Brandl 2001:369).

1.9 Target population and sampling

Sarantakos (1998:139) explains that a target population comprises the units for which the information is required. According to Welman and Kruger (1999:46), a research problem usually has a bearing on some or other population. Rape in South Africa is investigated by the FCS unit. All the investigators that make up the FCS unit in the SAPS and the prosecutors that form the FCS prosecuting unit would be the ideal population, but for the purpose of this study, it is impractical and uneconomical. Therefore, the target population for this research project is the investigators of the FCS unit of Welkom and Thabong SAPS in the Northern Free State, as well as prosecutors of the FCS unit of Welkom court. This target population was chosen because the problem was identified in the Welkom area. It is also cost effective and convenient for the researcher, who works within close proximity to the participants.

The researcher utilised purposive sampling method to interview participants of Welkom and Thabong SAPS FCS until the data was saturated and thick rich in-depth information emerged. Leedy and Ormrod (2014: 183) explain that people are purposefully chosen because they have rich information on a particular topic. In this study the participants are all knowledgeable and experienced about the topic of research. The target population consisted of 25 investigators in total. Only eight of the 10 investigators of Welkom SAPS FCS were available to form part of Sample A. Appointments were scheduled on three different occasions with the two members who could not attend these appointments and on the fourth occasion they chose not to participate. The researcher then proceeded to Thabong SAPS FCS which consists of 15 investigators. Only 12 were available to form part of Sample B. Appointments were scheduled on three different occasions with the three members who could not attend these appointments. Two of these members were attending training courses which extended for a period of between four to six months. Due to the time limit of the research these members were not part of the sample. The last
member chose not to participate. The researcher also conducted interviews with the prosecutors of the Welkom court that deals with all the FCS cases of SAPS Welkom, SAPS Thabong and surroundings areas. This unit consists of six prosecutors. Purposive sampling method was used here as well, because the researcher wanted to interview all the FCS prosecutors of the Welkom court. The prosecutors have in-depth and rich information regarding rape cases being prosecuted in court. Only three prosecutors were available for interviews, leaving three who could not make the two appointments scheduled on different occasions, and eventually chose not to participate in the interview due to their workload. The researcher interviewed each participant to ensure that each participant had an equal chance of participating without any bias. The sample, therefore, consists of 20 participants with Sample A consisting of 8 members of Welkom SAPS FCS unit, and Sample B consisting of 12 members of Thabong SAPS FCS unit. Sample C is made up of three prosecutors of Welkom court.

### 1.10 Data collection
Henning (2005:6) elucidates that the method of data gathering may also be termed “data sources”, meaning that the source is the method or the way in which the data travel. Mouton (2001:99) explains that data can be collected from various sources such as observation, interviewing, archival or documentary sources and physical sources. Data for the purpose of this study were collected by means of interviews, an analysis of the CAS which resulted in the identification of rape cases registered, case docket analysis, a literature study and the researcher’s own personal experience. This multiple data collection method enhances the validity of the data obtained because it will ensure objectivity of data. This is also known as triangulation (Mouton 2001:159).

#### 1.10.1 Literature study
Literature was obtained from national and international sources such as books, course material, conference proceedings, theses and dissertations, dictionaries, general government publications, publications of the SAPS, journal articles, newspaper articles and the internet. The researcher made use of the aims (see 1.4) and research questions (see 1.6) to obtain relevant information for this research. All the literature sources that were used in this research were acknowledged by the researcher and a reference list is included in the dissertation.
1.10.2 Interviews

One-on-one individual interviews were conducted with 20 investigators and three prosecutors by means of a semi-structured interview schedule. According to Leedy and Ormrod (2005:184), with a semi-structured interview schedule the researcher may follow the standard questions, together with tailored questions in order to get clarification, or to probe a participant’s reasoning. The interview schedule was compiled based on the research questions and aims of the study to ensure that it measures what it is supposed to measure. The same schedule was used for Sample A and Sample B, which were made up of FCS members. A different interview schedule was used for Sample C. The general guidelines for interviewing (such as objectivity, listening skills, eye contact, body language and probing questions) were complied with as explained by Babbie (2004:263). The participants’ answers, date, time and venue of the interviews were recorded in writing. The researcher met the participants at their place of work for their convenience. The researcher did not make use of the participants’ names, due to possible victimisation – numbers were used instead. The interview questions were piloted with two investigators and two prosecutors (who do not form part of the sample) to ensure that the interpretation was correct as explained by Welman and Kruger (1999:147). This also ensured that the language used was simple and understandable. The supervisors also approved the interview questions directed at investigators to ensure that they are correct and relevant, and that the research measures what it is supposed to measure. The participants were informed that if they did not understand the questions, clarification would be given.

The researcher asked the participants of Sample A and Sample B probing questions for further clarification to their responses (Leedy & Ormrod 2005:184).

South African Police Service Instruction 1/2006 reflects a specific procedure to be followed for members who conduct research. This application was compiled and forwarded to the SAPS head office for approval to conduct the interviews. The approval is attached as Annexure C.

1.10.3 Personal experience

The researcher is 37 years old and has been in the employment of the SAPS for the past 17 years. The researcher has worked in the investigative field for five years, investigating a variety of
cases such as rape, murder, arson, assault and others, after which she joined the explosive unit for two years. She is presently involved in management training. The knowledge and experience that the researcher has obtained during these investigations will be used to contribute to this research study by analysing and interpreting the information collected.

1.10.4 Case docket analysis
The researcher performed a case docket analysis by perusing 177 already filed rape dockets out of 199 cases registered in the period January 2008 until May 2011. In this preliminary case docket analysis phase the problem was identified. The researcher further perused 62 out of 71 rape case dockets (that had been filed by 13 February 2013) to obtain information on how the scenes had been observed for evidence and what types of physical evidence had been identified to link the perpetrator with the crime. These statistics were obtained from the SAPS database called the Crime Administration System (CAS) on 13 February 2013. All filed rape case dockets at the Welkom police station, of incidents reported over the period of June 2011 to June 2012, were used.

The researcher made use of a guide to obtain the information from the dockets. The questions were based on the research questions and the aims of the research. The purpose of this analysis was to establish the following:

- Do investigators visit the crime scene?
- If so, do they conduct any observation at the crime scene?
- During observation, is physical evidence identified by the investigators?
- Do they obtain physical evidence from the crime scene?
- Are photographs taken to record any potential physical evidence found at the scene?

This analysis was used to assist the researcher to identify the factors that investigators place emphasis on during the investigative process. It would also assist to identify factors that receive little or no attention from investigators. In this way the researcher identified the common trends or patterns that the investigators follow and will offer recommendations for improvements where necessary.
1.11 Data analysis
According to Hoyle, Harris and Judd (2002:425), in data analysis a researcher arranges the data in ways that will assist to determine patterns, problems and to see whether the data are consistent with the hypothesis/hypotheses (in the case of this research, the research questions).

Henning (2005:80) further explains that the tools used during data analysis are tools of interpretation, summarisation and obtaining a well-structured conclusion. According to Henning (2005:127), when using qualitative analysis to investigate an enquiry, data should be used in a logical, step-by-step manner. Data collected in this study (interviews, an analysis of the CAS which resulted in the identification of rape cases registered, case docket analysis, a literature study and the researcher’s own personal experience) was analysed to ensure that the research aims and research questions are addressed. The researcher made use of the following cyclic process of data analysis as explained by Sarantakos (1998:315) to analyse the data obtained from the interviews, the literature and the case dockets.

1.11.1 Stage one: Data reduction
The information obtained during the interviews was categorised into “common” and “uncommon” responses, while the content and documentary research was categorised into “common trends”. The data were then summarised under the relevant research questions and aims of the study.

1.11.2 Stage two: Data organisation
The data collected by the researcher was analysed by breaking it up into manageable trends and patterns to compare it with national and international literature. The summaries compiled were placed under the relevant research questions and aims of the study, and presented in text form. Matrixes were also used.

1.11.3 Stage three: Interpretation
Conclusions were then formulated, based on the research questions where trends, (ir)regularities, viewpoints and explanations were pointed out.
1.12 Methods taken to ensure validity

According to Denscombe (2002:100), validity refers to the accuracy of the questions, the data being collected and the explanation thereof; actually referring to how the data are analysed. All the participants interviewed in this study were knowledgeable and experienced FCS investigators and they provided their own answers according to their own experience. The interview questions were piloted with two investigators (not part of the sample) to ensure correctness as explained by Mouton (2001:103). This also ensured that the language that was used was simple and understandable and that the interviews measured what they were supposed to measure, in other words, answer the research questions. The participants were informed that if they did not understand the questions, clarification would be given. All interviews were conducted according to a standard interview schedule to ensure that all the participants were asked the same questions. The researcher made use of a questionnaire to obtain the information from the dockets. The questions were based on the research questions and the aims of the study.

The information was gathered from various articles, books, journals, interviews and dockets as described by Mouton (2001:100). The research questions were also used as a guide to ensure that the information collected is relevant. The researcher ensured that the various findings to the research questions were compared with information gained from the various sources, and in the conclusion rendered a judgment about the validity of the research as suggested by Sarantakos (1998:80). The triangulation approach as explained by Sarantakos (1998:81) was used to strengthen findings, which required the use of different methods; in this case, interviews, literature review and a docket analysis. Finally, the data were analysed with the use of the cyclic data analysis process to ensure validity of the research. According to Guba and Lincoln (in Kumar, 2001:184), trustworthiness in a qualitative study is determined by four indicators: Credibility, transferability, dependability, and conformability. These four indicators will reflect validity and reliability in qualitative research.

1.12.1 Credibility

Credibility was ensured by doing the research in such a way that the facts being discussed were accurately explained. The truth value is reflected if the research has established confidence in the findings derived from the information furnished by the participants when they shared their
knowledge and personal experiences. Credibility refers to the confidence in the truth of the data and the accurate interpretation thereof. This guideline was followed faithfully. The researcher documented the experience precisely by using written records. The credibility strategies used in the research involved the achievement of the following criteria:

- **Prolonged engagement**
  In order to create beneficial relationships the researcher spent time with the participants. This was done by meeting and speaking with the participants face-to-face prior to the interview, so that they were at ease to talk freely with the researcher. It included building a rapport with participants, learning and examining the culture to check for misinformation. The interview lasted on average an hour until the data became saturated (Creswell 2013:250).

- **Persistent observation**
  Observation was done prior to and during the interview with the participants. The researcher had to make time for observing the participants’ body language and facial expressions. The researcher was alert and aware that the participants might provide untrue information, as some were just introduced to the environment. In view of this their actions had to be consistently assessed in different ways by frequently analysing data for facts. The researcher was cautious of the various influences and searched for data of significance (Babbie & Mouton 2012:277).

- **Triangulation**
  The method of triangulation used in this study to draw conclusions of what constituted the truth about observation at a rape crime scene, was a detailed description of the emergent themes. The themes were described using thick and rich descriptions. The *in vivo* quotes were taken directly from the participants’ responses to their experiences of observation at a rape crime scene. This process involved obtaining corroborating information from different sources to explain the themes (Creswell 2009:199).
• **Referential adequacy**

The materials used to document the findings were hand-written notes, later transcribed and saved onto a disc. It offered a record for the research. The hard copies were transcribed and the disc will be kept for five years (Babbie & Mouton 2012:277).

• **Peer debriefing**

This was done with a peer of the same status and who was outside the environment of the research. The peer has a broad understanding of the nature of the research and with whom the perceptions and analyses could be questioned (Babbie & Mouton 2012:277). The colleague asked difficult questions about meanings, descriptions and methods. After deliberating the various issues regarding the research, a reasoned and objective third-party view was agreed to. This person was not involved in the research process. These peer-reviewed perceptions, insights and analyses added value to the credibility of the research. The deliberation assisted in understanding the underlying meaning of the themes.

• **Member checks**

The researcher went back to some of the participants. It was critical to establish the intentions of the participants to check for obvious errors and to obtain information voluntarily. This was done to summarise the first step of the data analysis and to access the overall adequacy of the data (Babbie & Mouton 2012:277; Creswell 2013:252).

1.12.2 Transferability

Transferability refers to the degree to which the findings from the data can be transferred to other settings. A thorough, thick description of the research setting and the processes observed during the study were presented in the research (Babbie & Mouton 2012:277). The interviews with the participants were recorded verbatim, using hand-written notes. The notes were transcribed verbatim by the researcher and formed thick, rich data for each interview. This thick data will enable others to make a judgment and decide how transferable the findings are to their own settings. In the explanation of the themes the researcher used the exact words used by the participants, by providing the *in vivo codes* from the transcribed interviews (Creswell 2013:85).
1.13 Methods taken to ensure reliability
Welman and Kruger (1999:143) state that reliability in a research process deals with consistency of measurement and the degree to which the observations made by the researcher could be the same as those made by another independent researcher. Denscombe (2002:100) explains that reliability evaluates the data collection methods and techniques that were used in the research. Babbie (2004:143) vividly elaborates that clarity, specificity and practice prevent unreliability and therefore the researcher practised interviewing skills on colleagues prior to the actual interviews. The researcher first specified her purpose and encouraged participants to ask for clarification of the questions if they were unsure. A standard semi-structured interview schedule was used for consistency of data collection.

Cresswell (2013:250) discusses the following strategies used by qualitative researchers to ensure reliability in their study:

1.13.1 Dependability
The research findings must furnish its readers with information that, if it were to be repeated with the same or similar participants in the same context, the outcome would be similar. Dependability was also achieved by having independent checking and supervision by the supervisor of this study (Babbie & Mouton 2012:278).

1.13.2 Conformability
Conformability refers to the impartiality of the data. Two samples and two different data collection methods were used in collaboration to determine if the conclusions, interpretations and recommendations can be traced to their sources and if they are supported by the inquiry. Constructing such a trail involves reviewing the raw data, which are the transcribed interviews. The written field notes and documents will be kept available for reviewing (Babbie & Mouton 2012:278-279).

1.14 Ethical conduct
Mouton (2001:238) states that the ethics of science concerns what is wrong and what is right when conducting research. According to Mouton (2001:238) as well as Leedy and Ormrod
(2005:143), the most ethical issues in research fall into four categories, which are protection from harm, informed consent, right to privacy and honesty with professional colleagues. The researcher familiarised herself with all these aspects to ensure that this research project is conducted in an ethical manner, upholding the following:

- The victims’, suspects’ and participants’ details revealed during the docket analysis were protected. All sensitive and personal information of the rape victims was treated with the utmost confidentiality. The statistics that were given to the researcher were not furnished to any other person for any reason.
- The researcher obtained written approval, as indicated in the SAPS Instruction 1/2006, before commencing with this research.
- Interview participants’ consent was first obtained prior to proceeding with the interview. Ethical issues were discussed with the participants upon obtaining their consent prior to the commencement of the interview, and an informed letter of consent was drawn up and completed. The researcher protected all participants from harm by not exposing them to any undue physical or psychological harm. None of the participants’ names were made public during the research to ensure they stayed anonymous and to respect their privacy. During the interviews their names were not requested at any stage of the interview. The interview participants’ details were not revealed and each participant’s results were not discussed with other participants; all answers were used only for research purposes. The confidentiality of the interviews was maintained and the participants’ privacy respected, as stated by Mouton (2001:240). The interviews were conducted in a safe and private location where the participants were put at ease.
- The Unisa code of ethics was adhered to as the researcher refrained from plagiarism and documented all sources that were used in the research, as prescribed by the policies and procedures for postgraduate studies (Unisa 2009).
- The researcher did not commit plagiarism in any way, ensuring that full acknowledgement was given to all material that belongs to other authors.
- The research was conducted with integrity and objectivity. No participant was intentionally misled about the nature of the findings. All data were recorded and nothing was fabricated.
SAPS Instruction 1/2006 reflects a specific procedure to be followed for members who conduct research. An application was compiled and forwarded to the relevant authority, and SAPS head office has approved the application (see Annexure C).

1.15 Chapter outlay
This dissertation consists of the following subsequent chapters.

Chapter 2: Observation of a rape crime scene
In this chapter the researcher will focus on the aim of the study (see 1.4 of this chapter), namely to establish how observation should be conducted at a rape crime scene to identify physical evidence. This chapter will also endeavour to answer the first research question, namely: “How should a rape crime scene be observed for evidence?” as reflected in paragraph 1.6 of Chapter 1. The chapter begins with a discussion on what investigation, forensic investigation and rape entails. The crime scene as a source of information will be explored in this chapter. The following important aspects are included in this chapter: observation as a technique to obtain information; a person’s observation ability that can be influenced by factors such as mental state, eyesight and prejudice. Concepts such as identification, individualisation, the Locard principle, chain of custody, situation identification, deductive and inductive argument, rational reconstruction of the scene and searching and documentation of the scene are discussed.

Chapter 3: Types of physical evidence that can be identified on a rape crime scene to link the perpetrator with the crime
Chapter 3 also focuses on the aim of the study (see 1.4 of this chapter), namely to establish how observation should be conducted at a rape crime scene to identify physical evidence. Chapter 3 will however endeavour to answer the second research question as reflected in paragraph 1.6 of chapter 1, namely: “What types of physical evidence can be identified on a rape crime scene?” This chapter begins with a discussion on identification and individualisation. determine what types of physical evidence can be identified on a rape crime scene. This chapter consists of the following: a discussion of physical evidence; the value and importance of physical evidence; the most common different types of physical evidence that can be obtained on a rape crime scene; and an explanation of how this evidence can be used to link the perpetrator to the crime.
Chapter 4: Findings and Recommendations

In chapter 4 the will continue to focus on the aim of the study (see 1.4 of this chapter), namely to establish how observation should be conducted at a rape crime scene to identify physical evidence. This chapter will develop guidelines on how to effectively conduct observation and collect evidence. The findings and corresponding recommendations are reflected in this chapter. Suggestions for further research are also included in this chapter.
CHAPTER 2

OBSERVATION OF A RAPE CRIME SCENE

2.1 Introduction

“Outrage, but rape goes on” (Davids 2013). This was the headline of an article that revealed police crime statistics for 2011-2012 as being just under 65 000 sexual offences reported nationally. In the same article, child-line spokesperson Joan van Niekerk appealed for better trained police to assist in solving this rape crisis. After the perusal of 62 out of the 71 rape case dockets (during the research phase and the writing-up of the study) at Welkom police station during February 2013, it was noticed that only six case dockets had received a guilty conviction. It is not certain what the cause of this low conviction rate is. The researcher will, however, argue that if investigators were made aware of how to observe a rape crime scene for evidence, it is possible that more successful convictions could be attained.

In Chapter 2 the researcher will focus on the aim of the study (see 1.4 of Chapter 1), namely to establish how observation should be conducted at a rape crime scene to identify physical evidence. This chapter will also endeavour to answer the first research question, namely: “How should a rape crime scene be observed for evidence?” as reflected in paragraph 1.6 of Chapter 1. The following aspects are included in this chapter: forensic investigation; criminal investigation; the objectives of investigation; and the crime of rape. Thereafter the crime scene will be discussed in terms of the role of the investigating officer and observation as an investigating technique to obtain information on a rape crime scene. Lastly, this chapter explores factors that may contribute to the ability of the investigating officer, such as psychological factors, attributes of a successful officer, and processing of the crime scene. The chapter is concluded with a discussion on shortcomings identified in existing investigation procedures.

2.2 Forensic investigation

In order to explain forensic investigation, the researcher begins with an explanation of the term “forensic”. Roberts and Zuckerman (2004:3) explain the word “forensic” as a shortened form of forensic science evidence. This explanation refers to the evidence obtained from the analysis of samples by the Forensic Science Laboratory (FSL). Van Rooyen (2001:7) indicates that the word
“forensic” refers to courts of law, relating to the application of scientific analysis to respond to questions that may arise from an alleged offence. Osterburg and Ward (2010:21) agree that forensics is a fairly new term which involves the scientific examination of evidence and further add that it is derived from the Latin word “forensic” which means “forum”. This refers to the place where public and judicial matters were discussed until formal courts were introduced. This brings us to a closer look at the term “forensic investigation”.

Forensic investigation is aimed at the instituting of court proceedings (Lambrechts 2001:93). Lambrechts (2001:93) is of the opinion that scientific knowledge must be applied to a legal problem for the enquiry to be classified as forensic investigation. Moreover, scientific knowledge is applied when examination of evidence is required. Gardner (2005:1) agrees with the above definition and states that: “Forensic investigation is the collection of facts that may serve as evidence before a court of law, through which the associative part of an accused in the commission of a crime can be proved.” Osterburg and Ward (2010:22) allude that the scientific examination of physical evidence is conducted to achieve the following objectives:

- Identify a substance, object or instrument.
- Establish a connection between the physical evidence, the victim, the suspect and potential crime scene.
- Reconstruct how the crime was committed.
- To protect the innocent.
- To provide expert testimony in court.

From the above definitions it appears as if the word “forensics” is used as a shortened form to refer to forensic investigation. The researcher found that the definitions of Van Rooyen (2001:7) as well as Osterburg and Ward (2010:21) regarding forensic investigation, allude to the fact that forensic investigation involves the scientific examination of evidence that is placed before a court of law to prove the truth. Forensic investigation is, therefore, the scientific technique applied during criminal investigation in order to achieve the objectives of investigation. A discussion on criminal investigation will follow below.
2.3 Criminal investigation

Osterburg and Ward (2010:119) explain the concept of criminal investigation as having two parts. The first part is explained as the utilisation of resources, knowledge and information concerning the psychology, motivation and character of the criminal before, during and after the commission of the crime. The second part is the application of technology and scientific information to solve the crime and support the allegations in the courtroom.

Orthmann and Hess (2013:8) define criminal investigation as a process with the aim of establishing what took place and who is responsible for the act. According to Orthmann and Hess (2013:8) the criminal investigative process consists of the following activities:

- Discovering.
- Collecting.
- Preparing.
- Identifying.
- Presenting evidence.

This reconstructive process makes use of deductive reasoning, where logic is a dominant factor and a conclusion is drawn based on the specific facts that arise from the deductive reasoning (Orthmann & Hess 2013:8). To reconstruct would be to re-enact the crime scene or to “form an impression” of what happened. This reconstruction allows for deductive reasoning based on the logical factors of the crime scene. This collection of information and the analysis of the crime scene will then form the basis or foundation of underlying support for the investigation process. The objective can be concluded as to provide logical, conducive and factual evidence before the court (Review Committee 2012:42-142). This preceding discussion leads to a focus on the objectives of the investigation.

2.4 The objectives of investigation

One of the responsibilities of the police is to maintain order in society, which is essential for any democracy (South Africa 1996: Section 205). Allegations against persons who deviate from rules that assist in the maintenance of order are investigated to establish the truth (Prinsloo 1996:14).
Investigation involves collecting evidence for identifying, apprehending and convicting offenders (Osterburg & Ward 2010:5). The investigation conducted at a scene does not normally solve the crime immediately; in other words this is merely the initial step of the investigation process (Shaler 2012:4).

The objectives of investigation, as portrayed by Bennett and Hess (2004:4), are to establish whether a crime occurred, and if so, what crime; to gather evidence to determine the truth; to identify and arrest the suspect; to recover any property and reduce the victims’ loss; and lastly to assist the prosecutor to present the case. Osterburg and Ward (2010:5) are in agreement with Bennett and Hess’s (2004:4) definition of the objectives. However, they furnish a bit more detail in terms of the objectives of investigation, and note the following as the objectives of investigation:

- Determine whether a crime had been committed.
- Discover all the facts pertaining to the complainant by gathering and preserving evidence and following up on clues.
- Recover all stolen property.
- Identify the suspect or eliminate the potential suspects.
- Locate and apprehend the suspect.
- Assist with prosecution.
- Testify as a witness.

Shaler (2012:14) believes that there are five reasons for investigating the crime scene, which will assist the investigator in finding the answers to specific and critical questions. Shaler (2012:14) further contends that finding evidence is a by-product of the entire process. The five reasons for the investigation and the specific questions that must be answered (as provided by Shaler 2012:14) are illustrated in Table 3 below.
Table 3: Objectives of investigation

<table>
<thead>
<tr>
<th>Reasons for conducting investigations</th>
<th>Questions to be answered during an investigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Develop leads for investigators.</td>
<td>• What happened?</td>
</tr>
<tr>
<td>• Develop specific information in the form of evidence.</td>
<td>• When did it happen?</td>
</tr>
<tr>
<td>• Locate probative evidence.</td>
<td>• Where did it happen?</td>
</tr>
<tr>
<td>• Locate significant information in the form of evidence.</td>
<td>• Who was involved?</td>
</tr>
<tr>
<td>• Link crimes through the evidence.</td>
<td>• How was it done?</td>
</tr>
<tr>
<td></td>
<td>• Why was it done?</td>
</tr>
</tbody>
</table>

(Shaler, 2012:14)

Shaler (2012:4) combines the abovementioned reasons for investigation with the questions to be answered during an investigation. He concludes that the ultimate objectives of investigation are to reconstruct the incident, ascertain the sequence of events and to determine the mode of operation. Further objectives are to uncover a motive, discover what property was stolen, to find out all that the criminal has done, and lastly to recover physical evidence.

Essentially, the objective of investigation is to find evidence. Moreover, it is to solve a crime. Du Preez (1996:1) gives a brief but insightful analysis that investigation is the systematic search for the truth. Bennett and Hess (2004:4) believe investigation is a step-by-step inquiry of observation, as well as a careful examination and recording of evidence. The gross visual inspection conducted at the crime scene, aimed at gathering evidence and clues, is usually the act of observation (Shaler 2012:332). Observation can, therefore, be acknowledged as a visual collection of evidence used for analysis of the crime scene (Shaler 2012:332). It leads to the decision of what vital evidence needs to be collected and examined, and further leads to the reconstruction of the crime scene (Review Committee 2012:55).

Observation also leads to answering specific questions during any investigation, as stipulated above. However, in this research the focus is on the crime of rape; hence a discussion of this specific crime will follow.
2.5 Rape

In South Africa the common law definition, prior to 17 December 2007, indicates that rape occurs when a male unlawfully and intentionally has sexual intercourse with a female without her consent (Joubert 2001:116). Snyman (2006:449) states that the act in the crime of rape comprises the penetration of the woman’s genital organ by a man’s genital organ. Snyman (2006:119) defines common law rape as “sexual intercourse by a male with a female without her consent”.

Snyman (in Tshwane University of Technology, Department of Safety and Security 2006:449) states that one of the requirements for the act of rape to occur is that penetration of the woman’s genital organ by a man’s genital organ take place, however slight the penetration. In addition to this, there should be no consent furnished by the female. Snyman (in Tshwane University of Technology, Department of Safety and Security 2006:77) concedes in a complex definition that rape is an act of a male having unlawful and intentional sexual intercourse with a female without her consent. According to Snyman, this implies that for the crime of rape to be committed, the following elements of rape must be present:

- Sexual intercourse (even if it is an incomplete act).
- Occurring between a male and female.
- Without the female’s consent.
- Unlawfulness.
- Intention.

The common law definition of rape is now replaced by the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, Section 3 (South Africa 2007). This Act was adopted by Parliament and came into operation on 17 December 2007. With the inception of this new Act: Section 3 reveals that a person is guilty of rape if he or she commits an act of sexual penetration with a complainant without his or her consent. This means the perpetrator, as well as the victim of the crime of rape, may either be a man or a woman. The act further defines rape as a genital organ of one person penetrating another’s genital organ, anus or mouth. Semen does not have to be emitted. In terms of this Act, “sexual penetration” includes any act which causes
penetration to the slightest extent. Penetration may also be digital. This means that a finger or any part of the body of one person or any object (including any part of an animal’s body) can also penetrate the genital organ or anus of another, but in this case the mouth is not included. The Act also defines consent as being voluntary or un-coerced In terms of the Act, rape will occur if the genital organ of an animal is inserted into the mouth of another person.

In summary, Section 3 of this new Act defines “sexual penetration” (rape) as any act which causes penetration to any extent by any of the following ways:

a) The genital organs of one person into the genital organs, anus, or mouth of another person.

b) Any other part of the body of one person or, any object, including any part of the body of an animal, into the genital organ or anus of another person.

c) The genital organs of an animal, into the mouth of another person.

Considering that every crime is unique, as it consists of its own set of legal elements (Van Rooyen 2001:52), the investigator’s goal should therefore be aimed at gathering evidence that proves these elements of the crime of rape, as reflected in Section 3, namely sexual penetration with a complainant and the lack of consent.

The participants in Samples A and B (FCS Investigators) were asked what they understood by the term rape. This was an open-ended question where the participants could provide their own answers to the question and no choices were provided from which they could choose. Some of the participants accordingly provided more than one answer (responses indicated in brackets). The answers of the participants are presented in Table 4 below.
Table 4: Participants’ understanding of rape

<table>
<thead>
<tr>
<th>Number of participants</th>
<th>Sample A and B (FCS Investigators)</th>
<th>Rape</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Sexual conduct without consent (9)</td>
<td>Force (2)</td>
</tr>
<tr>
<td>1</td>
<td></td>
<td>Intention and unlawfulness (3)</td>
</tr>
<tr>
<td>1</td>
<td>Penetration (2)</td>
<td>Use of mouth (2)</td>
</tr>
<tr>
<td>1</td>
<td></td>
<td>Male and female victims (1)</td>
</tr>
<tr>
<td>1</td>
<td>Emotion and mind damaging (1)</td>
<td>Men and men (1)</td>
</tr>
<tr>
<td>1</td>
<td>Genital organs (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Vagina or anus (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td></td>
<td>Genital organ of a human being to any open parts of another human being or animal (1)</td>
</tr>
<tr>
<td>1</td>
<td>Men and men (3)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Men and women (2)</td>
<td>Usage of fingers and other objects (2)</td>
</tr>
<tr>
<td>1</td>
<td></td>
<td>Women and women (1)</td>
</tr>
<tr>
<td>1</td>
<td>No permission (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Unlawful penetration into women’s vagina or males’ anus (1)</td>
<td></td>
</tr>
</tbody>
</table>

Collectively, the participants’ responses were of an acceptable standard and in accordance with Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, Section 3 (South Africa 2007).

In order for the researcher to confirm the participants’ understanding of rape, a follow-up question was referred to the same participants. The participants of Sample A and B were asked what their understanding of the elements of rape was. This was once again an open-ended
question. The participants could provide their own answers to the question and no choices were provided from which they could choose. Some of the participants provided more than one answer (responses indicated in brackets). The answers of the participants are presented in Table 5 below.

**Table 5: Participants’ understanding of the elements of rape**

<table>
<thead>
<tr>
<th>Number of participants Sample A and B (FCS Investigators)</th>
<th>Elements of rape</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Use of force (2)</td>
</tr>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Unlawful, intent sexual interaction (10)</td>
</tr>
<tr>
<td>2</td>
<td>No consent (2)</td>
</tr>
<tr>
<td>2</td>
<td>Legality (2)</td>
</tr>
<tr>
<td>1</td>
<td>Penetration (3)</td>
</tr>
<tr>
<td>1</td>
<td>Lack of consent (1)</td>
</tr>
<tr>
<td>1</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Victim can be a man or a woman (1)</td>
</tr>
<tr>
<td>1</td>
<td>Assault must occur (1)</td>
</tr>
<tr>
<td>2</td>
<td>Without permission (3)</td>
</tr>
<tr>
<td>1</td>
<td>Unlawful (1)</td>
</tr>
</tbody>
</table>

The basic understanding of the elements of rape is evident from the participants’ responses. However, mentioning the elements of force and assault raises concerns as these are and were not prerequisites of a crime of rape; yet these responses are not necessarily wrong, as such factors are often taken into account during the investigative process. One participant drew a distinction between the old definition and the new definition of rape, where an indication was made that before 2007 rape occurred when men were being sexually indecent with women. This participant came close to the current definition of rape in mentioning that after 2007 (referring to the Sexual Offences Act) rape can be sexual intercourse without consent between men and women, or men and men. This response indicates awareness of the legislative change or maybe even changes that have occurred. The responses of the participants to the above two questions establishing their
understanding of the crime of rape, were fair when comparing their responses to the available literature.

The crime scene is the main location where evidence and information can be found, right from the beginning of the investigation. When processed properly and thoroughly, the evidence found on the crime scene becomes one of the most important facets of a rape case that could link the perpetrator to the victim (Fisher 2004:54). Therefore, in the next section the crime scene will be explained in detail.

2.6 Crime scene

“A place where a crime has occurred” is called a crime scene (Anderson, Rondinelli & Watkins 2013:31). The crime scene is important for the investigation because it is the main source of gathering and collecting of information as well as being the place where direct or indirect evidence of a crime, or allegedly committed crime, can be found (Fisher 2004:54). During the perusal of the 62 dockets out of the 71 rape case dockets filed by 13 February 2013 at the Welkom police station (reported over the period of June 2011 to June 2012), the researcher discovered that only 14 crime scenes had been visited by the investigators. The investigators indicated in three of the 62 dockets perused that the complainant was unable to point out the scene of the crime, while in the remaining 59 dockets no reasons were furnished. The researcher’s aim is to establish whether investigators do indeed visit the crime scenes, and to determine their understanding of the significance of such a visit.

The simple definition furnished by Anderson et al (2013:31) refers to a crime scene as also being a place where evidence may be located, even if it may be some distance from the crime or if a period of time has passed. According to Gilbert (2005:77) and Fisher (2004:149) “the crime scene is the location at which a suspected criminal offence has occurred and it is the locale from which the majority of the physical evidence associated with the crime is obtained”. SAPS Policy on Crime Scene Management 2 of 2005 explains the crime scene as a place where an alleged offence took place and includes the place where potential items of evidence may be found. Some of the reasons for the management of a crime scene, according to this policy, are to secure the
crime scene, to be able to guarantee the integrity and originality of evidence, as well as to ensure that thorough and undisturbed investigation can take place.

Collecting and processing information at the crime scene, which may have many clues, is an integrated process. In a rape case it could happen that a crime scene is not a single location, but organised into three places: 1) the primary crime scene is the location of initial occurrence of the crime; 2) another is categorised according to the events that followed involving the victim, and evidence that can be found for further analysis; and 3) a third crime scene will be secondary in nature and refers to the ensuing acts. The importance of gathering information at this scene (these scenes) for evidence can lead to proving the case in a court of law, as could be seen in the ground-breaking case in which paralympian Oscar Pistorius’s bail application hearing for a premeditated murder, was successful. In this well-publicised case the SAPS officials were criticised for negligent detective work at the scene of crime. The advocate for the defence in this case, Barry Roux, representing Pistorius, laid bare facts including that the police’s forensics team had failed to find a bullet in the toilet of his master bedroom, which was found later by the defence’s own investigators (Tolsi 2013:1).

In cases of sexual offences research has shown that the police take a long time to arrest a perpetrator from the time of the reporting, and that the quality of detective work has generally been poor. Also, the police have been said to be largely inaccessible to victims of sexual offences. Some researchers contend that the police have little control over the collation of evidence in this regard (Watson 2015:2). For this study the researcher concentrated on the first and primary crime scene; the exact location where the rape actually happened. Leaning more of the way evidence is found and collected during the initial investigation at a crime scene, by establishing whether these actions were carried out by the police through the perusal of the rape dockets, was one of the data collection methods.

Therefore, the researcher paid attention to facts observed at this primary crime scene. Investigators learn from their early years as a detective that certain traces of evidence are left behind at the scene of the crime, both by the perpetrator and the victim. The term used to best describe this is known as the “Locard principle”. The father of this theory is Edmond Locard,
who believed that when a criminal comes in contact with an object or a person, a cross transfer of evidence occurs. The explanation given by Locard is supported by Gardner (2005:25) in his research. Locard proved his theory by linking clothing of various suspects to the crime scene, resulting in these criminals confessing after being confronted with the evidence (Lushbaugh & Weston 2009:5; Saferstein, 1981:5). Authors Lee, Miller and Palmbach (2001:16) explain that systematic crime scene investigation is based on the theory found in the Locard principle, and this involves the use of scientific knowledge with forensic techniques to examine physical evidence to solve a crime.

It is, therefore, important to understand the many ways in which a crime scene is classified. Authors Lee et al (2001:2) explain that one of the many ways to classify a crime scene is based on the original location of the crime, while another is based on the activities or the boundary — even the size or condition of the crime scene itself may be used. Primary and secondary crimes scenes are classifications based on the original location of the crime. The primary crime scene is used to refer to the area where the original act occurred, while the secondary crime scene refers to the scenes of subsequent acts. Horsewell (2004:3) is in agreement with this explanation. As mentioned above, the research will focus on the initial (primary) place of the crime, however further classifications as discussed by Lee et al (2001:2) will be explained briefly.

Macroscopic and microscopic crime scenes are terms based on the size of the scene. A macroscopic crime scene refers to the location; the victim’s body; the house itself; and even a vehicle. A microscopic crime scene will refer to aspects such as bite marks on the victim, fibres, nail scrapings and even hairs. Further crime scene classifications such as passive or active crime scenes may be based on activity. In this section the researcher highlights the importance of observation at the original, primary or first crime scene, since criminals and victims could leave behind vital clues that may strengthen a case in a court of law. After thoroughly observing the crime scene with the aid of other forensic experts, the investigator needs to search the crime scene thoroughly. Important aspects of the crime scene search will subsequently be explained.
2.6.1 Crime scene search

On responding to a crime scene, the first police officer to arrive has to secure the scene properly and thereafter cordon it off so that no one tramples on it and compromises the evidence to be collected. On arrival of the investigator, a handing over of the scene takes place by proper explanation from the responder to the crime. It is a preliminary phase and arrangements are made for a detailed, systematic, careful and all-embracing search (SAPS Crime Scene Policy 2005:8-13).

The investigation starts with a meticulous search for all organic and inorganic material in the form of clothing, blood, hair and skin — among other items. The investigator has to pay specific attention to the exact location of all clues and where they are found at the crime scene. The investigator has to carefully (without interfering with this evidential material) mark the spot where each item is found — in the event that it is removed by unforeseen circumstances. The photographers are also summoned to the scene to capture all these clues at their specific locations. All clues found at the scene are sent for further analysis, which can link a person to a scene when arrested. The analysis will prove individualisation of the material found (Prinsloo 1996:20-21).

There are various methods to comb through a scene of crime, namely the wheel, the spiral, the zone, the strip and the grid method. Fish, Miller and Braswell (2011:79) and Van der Watt (2015:191-194) explain the search methods as follows:

The spiral search method starts from the outer boundary of the scene of the incident and moves in a circular fashion towards the center of the scene.
The strip search method starts at one end of the scene of the incident and moves from left to right to the other end, in straight strips. The search will move parallel to the original path from right to left were the searchers overlap their search until the end of the scene of the incident is reached.

The grid method is similar to the strip search method, which includes the search to continue across the original lines from top to bottom.

(Fish et al, 2011:79)
The zone search method requires that the scene of the incident be divided into equal sections. Each section is searched by one searcher who is then rotated in a clockwise manner to the next section. This continues until each section has been searched by the different searchers.

**Figure 4: Zone search method**

![Zone search method diagram](Fish et al, 2011:79)

Van der Watt (2011:191-194) agrees and adds a wheel search method. This method starts at the critical point and moves outwards in straight rays.

**Figure 5: Wheel search method**

![Wheel search method diagram](Van der Watt, 2015:191-194)

The investigators can use any of these methods but there must be one investigator to record observations of the entire crime scene closely, while the others search and collect information.

Osterburg and Ward (2010:437) state that the goal of a crime scene search in a rape case is to locate evidence that will:

- Link the victim and offender to the crime scene.
- Establish that sexual relations took place.
• Establish that coercion, fear or force was used.
• Establish the offender’s role.

Savino and Turvey (2005:91) advise that the following information is crucial to proceed with the processing of a crime scene:

• Exact location of the actual assault.
• Victim’s injuries.
• Items used during the attack.
• Items that the offender touched.
• Location of bodily fluid.
• Point of entry and exit into scene.

The participants in Samples A and B (FCS Investigators) were asked to define a crime scene. This was an open-ended question where the participants could provide their own answers to the question and no choices were provided from which they could choose. Some of the participants provided more than one answer (responses indicated in brackets). The answers of the participants are presented in Table 6 below.

**Table 6: Participants’ definition of a crime scene**

<table>
<thead>
<tr>
<th>Number of participants Sample A and B (FCS Investigators)</th>
<th>Crime scene</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 Place where the crime took place (13)</td>
<td></td>
</tr>
<tr>
<td>1 Indos, outdoors, a vehicle and even the body of the victim (1)</td>
<td></td>
</tr>
<tr>
<td>2 Place where the investigator gets clues and exhibits (2)</td>
<td></td>
</tr>
<tr>
<td>1 Place that may be moveable or immovable</td>
<td></td>
</tr>
</tbody>
</table>
The majority of the participants of Sample A and B more than sufficiently indicated that a crime scene is the place where the crime occurred, which corresponds with the definition of a crime scene furnished by authors Anderson et al (2013:31), Gilbert (2005:77), Fisher (2004:149), as well as the SAPS Policy on Crime Scene Management 2 of 2005. The participants’ responses indicate a general understanding as to the definition of a crime scene.

It is important to acknowledge that a crime scene may also be the place where potential items of evidence could be found and may extend wider than the original location where the crime occurred. This may be the reason why much evidence is missed when searching the scene, because a crime scene also includes the place where potential items of evidence may be found (SAPS: Crime Scene Management Policy 2 of 2005).

The classification used in this research is based on the original location of the crime. The terms “primary” and “secondary” scenes will be used. Based on the definitions furnished by authors Anderson et al (2013:31), Gilbert (2005:77), Fisher (2004:149), as well as the SAPS Policy on Crime Scene Management 2 of 2005, the researcher is of the view that an original crime scene is where the crime takes place, referring to this as the primary crime scene. However, the SAPS Policy on Crime Scene Management 2 of 2005 notes that sometimes the crime continues to another place; or potential items of evidence may be found at another place other than the original location. This is referred to as the secondary crime scene and should be part of the crime scene search.
During the perusal of the already filed 62 dockets out of the 71 rape dockets reported over the period of June 2011 to June 2012 the researcher discovered that no distinction was made between primary and secondary crimes scenes in any of the dockets. This could indicate that the investigators are unaware of the distinction or extension of a crime scene, but the participants’ responses during the interviews indicate their awareness. The investigating officer’s role in the investigation of the crime of rape will be discussed below.

2.6.2 Role of the investigating officer in the investigation of rape cases

One of the roles of an investigator at a crime scene is to identify the potential evidence found at the scene (Prinsloo 1996:16). The author further states that it is crucial to maintain integrity and continued possession of the evidence until it is presented in court. Another role of the investigator is to make notes of everything that is observed (Ogle 2012:52). This may be observation of an open window, scratch marks on windows or doors and even blood at the scene. Ogle (2012:52) further explains that the quality of such documentation must be of such a nature that it can be accepted as evidence by a court of law when the investigator testifies.

The SAPS Policy on Crime Scene Management 2 of 2005 forms the core of crime scene management within the SAPS organisation. This policy describes critical procedures to be followed by police members attending to a crime scene. The Crime Scene Management Policy states that the investigator’s responsibility is to gather physical evidence and even information at a crime scene. Such evidence and/or information may be used to maintain the integrity of potential physical evidence (SAPS Crime Scene Policy 2005:14). This policy reflects the belief of Prinsloo (1996:16) when the author states that identifying potential evidence at a crime scene is one of the roles of an investigator.

The Crime Scene Management Policy also states that the technician, the crime scene manager and the investigating officer must conduct a walkthrough to evaluate the crime scene and discuss the way forward. During the walkthrough the investigating officer will influence the process by pointing out physical evidence of importance to the crime scene technician and the crime scene manager. The physical evidence may include cigarette butts, fingerprints on glass or even traces of semen. The best way to proceed with the investigation will then be indicated. It is, therefore,
imperative to ensure lucid communication amongst all role players (SAPS Crime Scene Policy 2005:14).

The participants in Samples A and B (FCS Investigators) were asked what the role of the investigating officer is in the investigation of rape cases. Sample C (Prosecutors) were asked to indicate their opinion of what the role of the investigating officer in the investigation of rape cases is. This was an open-ended question where the participants could provide their own answers to the question and no choices were provided from which they could choose. Some of the participants accordingly provided more than one answer. The answers of the participants are presented in Table 7 below.
Table 7: Participants’ responses to the role of the investigating officer in the investigation of rape cases

<table>
<thead>
<tr>
<th>Role of the investigating officer in the investigation of rape cases</th>
<th>Sample A and B (FCS Investigators)</th>
<th>Sample C (Prosecutors)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gather or collect evidence/exhibits/information such as photographs of the scene or any injuries, statements of witnesses, condoms or blood/fluids samples of suspects (11)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Take the victim for medical examination (7)</td>
<td>Take complainant for medical examination (2)</td>
</tr>
<tr>
<td></td>
<td>LCRC must visit crime scene and process certain exhibits (4)</td>
<td>To reconstruct the crime scene to establish what happened (6)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Gather evidence (2)</td>
</tr>
<tr>
<td>Arrest the suspect (4)</td>
<td>Ensure scene is cordoned off (1)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bring the case before court (6)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Build a prima facie case against the perpetrator (1)</td>
</tr>
<tr>
<td>Communicate with relevant role players (2)</td>
<td></td>
<td>Communicate throughout the whole process to the victim (1)</td>
</tr>
<tr>
<td>Provide support to the victim (3)</td>
<td>Investigating officer to visit the crime scene (3)</td>
<td></td>
</tr>
<tr>
<td>Open the case docket (1)</td>
<td></td>
<td>Be available for bail application (2)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Protect witnesses (2)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Bring accused before court (2)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Comply with prosecutor’s instructions (2)</td>
</tr>
</tbody>
</table>

The responses of the 11 participants of Sample A and B, as well as the two participants of Sample C indicating that the role of the investigating officer is to gather evidence, corresponds with literature (Prinsloo 1996:16) as well as with the SAPS Crime Scene Management Policy
The communication role of the investigating officer pointed out by two participants of Sample A and B and one participant of Sample C, is also in accordance with Ogle (2012:52) as the court does form a role player in the investigative process. The participants go much deeper into the role of an investigating officer by furnishing elaborations on the gathering of evidence and preparation of such evidence before the court. The researcher noted that the participants’ responses correspond with the literature discussed above. The researcher believes that each crime is unique, consisting of a set of different elements. This research focuses specifically on the crime of rape. Observation at the crime scene by the investigating officer, which is another role that should be performed, must take place with the crime of rape in mind.

2.7 Observation in terms of investigation

Most evidence is generated during the commission of the crime and recovered at the crime scene (Houck 2007:33). Such evidence may be recovered by the practice of observation and interpretation, which are the primary tools in forensic investigation (Eckert 1992:1).

Buckwalter (1984:142) draws a distinction between observation and investigative observation. Observation is explained as taking specific notice, whereas adding “investigative” to observation points to more vigilant, perceptive sight while mentally recognising and recording what is being seen, and embracing the five senses: sight, hearing, smell, taste and touch (Buckwalter 1984:142). Botha (1996:75) very simplistically states that the word “observation” means “to watch over” and further contends that the object of observation in terms of investigation is to collect information about movements and activities of a person or group. In order to collect information at a crime scene, an investigator should understand the different categories of identification.

Van Heerden (1986:195-199) distinguishes the following categories of identification used in criminalist individualisation:

- Situation identification relates to the criminal element of the situation and individualises the unlawful nature of the situation. Prinsloo (1996:17) states that situation identification serves as a nexus between the scene of the crime and other possible future identification.
Van Graan and Budhram (2015:48) explain that situational identification relates to the investigator confirming the occurrence of an incident and establishing the type of incident, while immediately evaluating the situation in order to formulate an investigative hypothesis. This hypothesis must consider all the circumstances surrounding the situation of the incident.

- **Witness identification** individualises the perpetrator’s account of the event in comparison with statements of the complainant(s) and witness(es).
- **Victim identification** relates to the identification of a deceased victim.
- **Imprint identification** individualisation relates to the comparison of a disputed imprint with an alleged object.
- **Origin identification** relates to the analysis of solids or fluids to establish whether the disputed sample and the exemplar have a common origin.
- **Action identification** relates to human acts directly linked to an element of the crime.
- **Suspect identification** is the identification of the offender.
- **Cumulative identification** is the consideration of different specialist contributions.

Practical examples related to Van Heerden’s (1986:195-199) categories of identification are explained further. Osterburg and Ward (2010:100) support the view of Powers (1996:17) who advises that the victim should be asked to explain what the offender touched or stole, as these could lead to fingerprints being found in unexpected places. Other questions that could positively impact on the objectives of investigation are whether the offender used the toilet; if he raised the toilet seat or not; if the offender flushed the toilet or not; even if tissues were used to wipe his penis; or if he used a cup to drink. These questions could all give information about areas for potential fingerprints, seminal fluid or semen specimens to be found. This will assist the investigator to become aware of the events that took place at the scene of the crime. Houck (2007:33) indicates that most evidence is generated during the commission of the crime and recovered at the crime scene, or at the place where the suspect or victim had been before or after the crime.

The participants in Samples A and B (FCS Investigators) were asked to explain the meaning of “observation” in terms of an investigation. This was an open-ended question where the
participants could provide their own answers to the question and no choices were provided from which they could choose. Some of the participants provided more than one answer (responses indicated in brackets). The answers of the participants are presented in Table 8 below.

**Table 8: Participants’ view of observation in terms of investigation**

<table>
<thead>
<tr>
<th>Number of participants Sample A and B (FCS Investigators)</th>
<th>Observation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Listening to a complainant during an interview and involved in searching for information (1)</td>
</tr>
<tr>
<td>1</td>
<td>Watching a person or a place for a long period of time (1)</td>
</tr>
<tr>
<td>1</td>
<td>Reflecting upon an incident that took place (1)</td>
</tr>
<tr>
<td>1</td>
<td>To “see” the injuries of a victim (2)</td>
</tr>
<tr>
<td>1</td>
<td>Emotional state of a victim (1)</td>
</tr>
<tr>
<td>1</td>
<td>When something is about to happen and you observe it for a long time (1)</td>
</tr>
<tr>
<td>1</td>
<td>Safekeeping of information (1)</td>
</tr>
<tr>
<td>3</td>
<td>It is when an investigator looks or searches for evidence or clues (3)</td>
</tr>
<tr>
<td>3</td>
<td>What you see on a crime scene (3)</td>
</tr>
<tr>
<td>1</td>
<td>Condom (1)</td>
</tr>
<tr>
<td>2</td>
<td>Blood and semen (2)</td>
</tr>
<tr>
<td>4</td>
<td>No response (4)</td>
</tr>
</tbody>
</table>

The researcher noted that the majority of participants of Sample A and B came fairly close to understanding the concept of observation. Three participants indicated that observation involved the search for clues and another three indicated observation as “what you see on a crime scene”. This is possibly the reason why so little physical evidence is being collected during rape investigations. In brief, as it has been noted, investigators must possess latent qualities for observation to be successful. Arguably, training will enhance observation abilities, improve knowledge, broaden experience and develop an imaginative approach. Here the researcher followed the guidelines by Saferstein (1981:28) who states that while one’s observation skills may be developed with the necessary willpower and commitment, a latent skill will enhance the
investigator’s abilities to detect such evidence. Osterburg and Ward (2010:278) agree that such skills can be developed. Lochner and Zinn (2015:42) believe that an investigator will learn how to recognise physical evidence as he gains experience. The focus of the present study deals with the crime of rape. The researcher therefore discusses observation at a rape crime scene in the following section.

2.7.1 Observation at a rape crime scene

In keeping with the scope of the current study, the investigator’s goal should be aimed at gathering evidence that either proves or disproves the occurrence of the crime of rape. Clegg (2000:423) explains the steps involved in crime scene examination. The first step in crime scene examination is to conduct observation to locate physical evidence. The next step is to create a hypothesis. The author then explains the last step as the testing of the hypothesis against the physical evidence located during observation, until it cannot be refuted.

Police investigation often relies on the skills of the investigating officer to locate physical evidence at the scene (Clegg 2000:422). Such physical evidence must be located while considering the elements of the crime of rape. The definition of rape is discussed under paragraph 2.5. The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, Section 3 (South Africa 2007) states that a person is guilty of rape if he or she commits an act of sexual penetration with a complainant without his or her consent. The Act further describes “sexual penetration” as firstly, any act which causes penetration to any extent when the genital organs of one person is inserted into the genital organs, anus, or mouth of another person. Secondly, any other part of the body of one person or, any object, including any part of the body of an animal, being inserted into the genital organ or anus of another person. Lastly sexual penetration is also achieved when insertion of the genital organs of an animal, into the mouth of another person is committed.

Considering that every crime is unique as it consist of its own set of legal elements (Van Rooyen 2001:52), the investigator’s goal should therefore be aimed at gathering evidence that proves these elements of the crime of rape as reflected above. The understanding of the elements of rape, as well as the skills to locate physical evidence through observation, will assist the
investigator to interpret the facts correctly. It will further empower an investigator to reconstruct the events that took place in an attempt to understand, describe, capture and present what actually happened (Horne & Benson 2011:5).

The starting point when observing the crime scene to locate physical evidence is by conducting a walkthrough. Sharman and Elliot (2000:459) confer that the investigator should be prepared to do nothing but look and listen for a considerable time after arrival. Clegg (2000:422) states that investigations are reliant upon the physical transfer of material, whether it is obvious to the eye or otherwise. The investigator is required to possess specialised skills to locate any physical evidence left at the scene, or removed from the scene. Some areas at a scene that may commonly reveal physical evidence may include: the point of entry; the location of the crime; areas where a suspect may have cleaned up; and the point of exit. It is critical for the investigating officer to make a note of the location of the potential evidence while conducting the observation. The walkthrough should begin as close as possible to the point of entry. The first place the investigators should observe at the scene of a crime is the ground. If any evidence is observed, then a marker should be placed at the location. Investigators should keep their hands covered to prevent the depositing of unwanted fingerprints at the scene. The next step is for investigators to examine everything above eye level such as the ceiling, tree branches and cupboards. These areas may yield valuable evidence such as blood spatters and bullet holes. The crime scene should be documented with videotape, photographs and sketches upon completion of the walkthrough (Schiro 2000-2015:1).

The researcher will describe some examples of physical evidence that may be recovered from rape crime scenes, with a brief discussion on their significance. Firstly, Carney (2004:47) and Fisher (2004:331) believe that semen will irrefutably prove sexual contact between a victim and a suspect. Saliva is also an example of physical evidence that may be used to identify an individual through DNA profiling (Jackson & Jackson 2011:153). Cigarette butts, chewing gum or food may have traces of saliva (Marais 1992:131). Another example of physical evidence is pubic hair. Pubic hair may be used to indicate age range, race and gender of the suspect (Adams, Caddell & Krutsinger 2004:43). Condoms may contain semen and could, therefore, also serve as
crucial physical evidence, while the condom wrappings may be a source for fingerprints or perhaps even saliva if the suspect used his mouth to open it (Savino & Turvey 2005:189).

According to Jackson and Jackson (2011:108) fingerprints of an individual remain the same throughout the individual’s lifespan and may be used to identify presence at a crime scene. The discovery of blood at the crime scene may be used to support the statement of a rape victim, who may have experienced bleeding at the crime scene (Ogle 2004:131). According to Jackson and Jackson (2011:136) the most commonly encountered bodily fluids are blood, saliva and semen. These materials may be used to link the victim to the perpetrator and perhaps even the crime itself. Footwear impressions may be used to place a victim, suspect or witness at the crime scene. It may provide the investigator with information regarding the number of individuals that were present at the scene, and even the movements of such persons (Jackson & Jackson 2011:123).

Marais (1992:126) advises investigators to observe the bed, mattress, sheets, blankets, comforters and carpets, which may contain valuable physical evidence, should the crime occur within a house. However, should the crime occur in an open area like a park, the investigator should observe the scene for paper, dry leaves, stones or gravel that maybe stained with semen or blood.

The participants in Samples A and B (FCS Investigators) were asked: “How should you conduct observation at the scene of a rape, when considering the elements of rape?” This was an open-ended question where the participants could provide their own answers to the question and no choices were provided from which they could choose. Some of the participants provided more than one answer (responses indicated in brackets). The answers of the participants are presented in Table 9 below.
Table 9: Participants’ responses to manner of conducting observation at the scene of a rape, considering the elements of rape

<table>
<thead>
<tr>
<th>Number of participants Sample A and B (FCS Investigators)</th>
<th>Observation at the scene of a rape, when considering the elements of rape</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Observe the scene to establish what happened and look for evidence like condoms, condom wrappings, body fluids, tissue, clothes, fingerprints, or flattened grass that could assist in proving where the crime occurred (5)</td>
</tr>
<tr>
<td>1</td>
<td>Statement of Investigation Officer (1)</td>
</tr>
<tr>
<td></td>
<td>Seize or collect exhibits such as clothing, using gloves (3)</td>
</tr>
<tr>
<td>2</td>
<td>Cordon off the crime scene to protect it from any contamination to control access (6)</td>
</tr>
<tr>
<td></td>
<td>Search methods to search crime scene for evidence (1)</td>
</tr>
<tr>
<td>2</td>
<td>Visit the crime scene to observe scene (3)</td>
</tr>
<tr>
<td>1</td>
<td>Interview victim and witness (2)</td>
</tr>
<tr>
<td>1</td>
<td>Cautiously (1)</td>
</tr>
<tr>
<td>1</td>
<td>Photographs must be taken (1)</td>
</tr>
<tr>
<td>3</td>
<td>No responses (3)</td>
</tr>
</tbody>
</table>
Five participants identified the physical evidence that they would search for when attending a rape crime scene. These participants mentioned condoms, condom wrappings, body fluids, tissue, clothes, fingerprints, or even flattened grass, with a further three mentioning the seizure and collection of exhibits such as clothing. The responses of the participants correspond with literature. They cautioned that collecting of exhibits should be done while wearing gloves. This response is an indication of the participants’ awareness of possibly transferring unwanted fingerprints. One participant mentioned that the scene should be photographed. These responses were also pointed out by Schiro (2000-2015:1).

Three participants indicated that the crime scene should be visited for observation to be conducted, with six responses reflecting the importance of preserving the crime scene. Based on the participants’ views noted above, it seems as if they have a fair understanding of how observation should be conducted at a rape crime scene. One participant referred to the “search methods” to observe a crime scene. This response corresponds with the literature by Clegg (2000:423) when he explains the steps involved in crime scene examination. Although these responses are not necessarily incorrect, the view of some of these participants was so narrow; only to include the physical evidence, while leaving out the procedure of steps pointed out by Clegg (2000:423). The factors that contribute to enhancing the abilities of investigators to do proper observation will be discussed in the following sections.

The participants of Sample C (Prosecutors) were asked: “What is the importance of observation and identification of physical evidence at a rape crime scene from a legal perspective?” This was an open-ended question where the participants could provide their own answers to the questions and no choices were provided from which they could choose. Some of the participants provided more than one answer. The answers of the participants are presented in Table 10 below. For the purpose of this specific feedback only observation will be reported on that is being discussed within this chapter. Table 10 will be repeated in Chapter 3 and feedback relating to identification will thus be discussed in Chapter 3.
Table 10: Participants’ responses to the importance of observation and identification of physical evidence at a rape crime scene from a legal perspective

<table>
<thead>
<tr>
<th>The importance of observation and identification of physical evidence at a rape crime scene from a legal perspective</th>
<th>Sample C (Prosecutors)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>To protect the chain of evidence (2)</td>
</tr>
<tr>
<td>1</td>
<td>Very important to help prove a case beyond reasonable doubt (1)</td>
</tr>
</tbody>
</table>

Two participants agree that the importance of observation and identification of physical evidence at a rape crime scene, from a legal perspective, is to protect the chain of evidence and for refreshing the memory. One participant states that it is very important to help prove a case beyond reasonable doubt, as well as to overcome single witness evidence that is dealt with cautiously by the court. The participants’ responses concur with the views of Van Rooyen (2001:52) regarding the gathering of evidence to reflect the elements of the crime of rape. The understanding of the elements of rape, as well as the skills to locate physical evidence through observation, will assist the investigator to interpret the facts correctly. It will further empower the investigating officer to reconstruct the events to refresh the memory of victims in an attempt to understand, describe, capture and present what actually happened (Horne & Benson 2011:5).

2.8 Factors that contribute to an investigator’s abilities to conduct observation

Although an investigator’s ability to recognise physical evidence is a skill that will be acquired partially by training, the investigator will ultimately have to rely on his/her own experience (Saferstein 1981:28). Prinsloo (1996:16) believes the criminal investigator must have the ability to identify and utilise the latent presence of information; must maintain physical and evidential integrity; and must ensure the control, co-ordination and cumulative use of evidence. Equally important is that the potential of an object and/or characteristic is utilised in accordance with the knowledge, skill, experience, disposition and attitude of the criminal investigator. It is important to first recognise physical evidence. When the clue materials are familiar (like bullets, cartridge castings, tool marks and blood) recognition is routine, but when the clue materials are unfamiliar recognition depends on the investigator’s education, training and imaginative approach (Osterburg & Ward 2010:98).
Gardner (2005:76) explains that observing is one of the basic activities of crime scene processing. It requires the investigator to look and mentally record information. Osterburg and Ward (2010:278) further advise that although the “arrangement” of a crime scene may provide the investigator with information that may be critical, research shows that most people’s recollection of visual images are poor and often inaccurate. A crime scene visit is very important as it will allow the investigator to experience the sights, smells and sounds of the crime scene as the victim and offender perceive them (Savino & Turvey 2005:121). The investigator will then be in a position to identify transfer of evidence such as vegetation, soil or even glass that may have been transferred onto the victim or offender. Savino and Turvey (2005:121) add that the investigator may even discover further items of evidence when visiting the crime scene.

Saferstein (1981:28) states that while one’s observation skills may be developed with the necessary willpower and commitment, a latent skill will enhance the investigator’s ability to detect such evidence. Osterburg and Ward (2010:278) agree that powers of observation may be developed and add that these powers of observation involve going beyond what we see at first glance. It also involves the analysis of a crime scene by identifying clues that are not visible to the casual observer (Osterburg & Ward 2010:278). SAPS Policy on Crime Scene Management 2 of 2005 explains that the investigator is responsible for the gathering of physical evidence and relevant information at a crime scene to achieve the objective of guaranteeing the integrity of potential physical evidence.

The researcher upholds that, while observation extends to the accurate utilisation of one’s five senses (Savino & Turvey 2005:121), the first step of identification and interpretation of the significance of physical evidence must occur. An inquiring mind and a good memory are factors that contribute to an investigator’s ability to conduct observation (Osterburg & Ward 2010:9). Buckwalter (1984:67) indicates that an investigator should possess the following special skills to ensure success:

- The ability to discover evidence by searching for it, including physical evidence.
- The ability to recognise items of evidentiary value.
- Resilience to proceed and to seek for evidence until facts are discovered.
The ability to take quick and careful notice of what is transpiring.

In order for an investigator to develop the ability to discover and recognise valuable evidence, the investigator must cultivate the capacity to put aside emotions and feelings, being able to focus speedily to notice every clue at a crime scene. Therefore, the investigator has to be constantly aware of possibly inhibiting psychological factors, and must possess the required attributes of a successful investigator. These themes will be explained further.

2.8.1 Psychological factors

These skills that Buckwalter (1984:67) refers to above include psychological factors that may have a direct bearing on the investigator’s ability to observe accurately and clearly. The first factor is the ability to focus the mind on what is being seen so that accurate mental recording can occur. Attention will precede perception. This ability to focus may be activated and developed by willpower and practice. Another factor is awareness of what is happening so that when a fact is discovered, its significance to the crime is understood. Emotional reactions follow as the next factor, which tend to blur one’s observational abilities. Shock, stress and surprise negatively affect the rational powers of observation and lead to the inaccurate identification of value-adding details. The next factor is perception, which includes the process of obtaining knowledge through the senses and the comprehension of that knowledge by the mind.

Another factor is the ability and skill of mental recording and storage. The strength of the initial mental impact of the recording will determine how long the memory storage will remain operative. Mental recording and storage may be inhibited by emotional shock, excitement, interference and other forms of mental distress. A subsequent factor is to understand the situation, which is a vital element of perception. The better the situation is understood, the more accurately it is recorded. The last factor to bear in mind is the ability to recall, which includes the ability to accurately retain the original sensory input for a long period of time (Buckwalter 1984:143).
2.8.2 Attributes of a successful investigator

Osterburg and Ward (2010:9) explain that there are three attributes which enable a person to become a successful investigator. These are firstly, the ability to conduct an inquiry; secondly, the knowledge and training necessary to handle complicated investigations; and lastly, the skills required to reach your goals. They explain further that the vital ability is to conduct a proper search at the crime scene for physical evidence. Osterburg and Ward (2010:9) appear to be of the same view as Buckwalter (1984:67) when the authors state that the ability to conduct an accurate search of the scene requires the skill to recognise such evidence. A subsequent ability is to question people, with the investigator possessing the required capabilities.

According to Osterburg and Ward (2010:10) the investigator should have the motivation and determination to follow up on clues. They add that an individual should possess specific traits before joining the investigative field as potential investigators. These traits extend to the individual’s intelligence and reasoning. This involves the individual’s ability to analyse and connect a large quantity of facts. Another trait is curiosity and an imaginative approach, where the individual will act with scepticism and not take anything at face value. This implies that the person should have an inquisitive mind and an interest in investigative work. The individual must have a good memory and ability to conduct observation using his/her five senses, so that the person remains alert and attentive at all times. The individual must be aware of the processes and procedures involved in investigation to recognise and interpret the value of physical evidence. Perseverance and good levels of energy (to ensure a never-give-up attitude until the goal is achieved) are critical attributes of a good investigator. Lastly they highlight the ability to control any prejudices that may affect the job, hindering rational thinking. Osterburg and Ward (2010:11) end by adding that such an individual should display competence with computer literacy, analytical ability as well as good communicative and reading skills.

Orthmann and Hess (2013:12) state that a good investigator is knowledgeable, creative, patient and persistent but will be more effective should they possess intellectual, psychological and physical characteristics. They refer to the intellectual characteristics as the ability of the investigator to absorb and apply the training they are given. They must understand the elements of crimes and communicate with all types of people. They need to be objective, logical and
possess common sense with the ability to obtain and retain information. They also recommend that both inductive and deductive reasoning should be practised by investigators. Psychological characteristics stated are that investigators should be emotionally balanced and must be able to absorb abuse, while showing empathy. Investigators must remain detached and objective with an inquisitive mind and they must maintain self-discipline with the willingness to persevere. Investigators should be physically fit and have good vision and hearing, which will ensure good energy levels to support the perseverance required to find the truth.

Shaler (2012:331) boldly maintains that crime scene investigation will be headed for disaster if the investigator does not possess the appropriate scientific education, experience, and the ability to think creatively and with scepticism. The author further indicates without any reservation that the investigator must have mastered the underlying science behind the technology being used, and be aware of and know how and when to apply it. In Shaler’s view the investigation will be “poised for disaster” should these aspects be absent.

Benson, Jones and Horne (2015:29) posit that an effective investigator should firstly possess intellectual and emotional intelligence as well as sound moral and ethical character. Furthermore, the investigator must display the ability to operate independently and as a part of a team, with the ability to interact with people, in addition to the ability to improvise and adapt to challenges. An investigator must acquire an analytical and critical skill to think; following an organised and systematic approach. Finally, an effective investigator must be well versed with technology and must persevere.

The participants in Samples A and B (FCS Investigators) were asked what factors contribute to an investigator’s ability to conduct observation. This was an open-ended question where the participants could provide their own answers to the question and no choices were provided from which they could choose. One of the participants provided more than one answer (responses indicated in brackets). The answers of the participants are presented in Table 11 below.
Table 11: Participants’ responses to factors that contribute to an investigator’s ability to conduct observation

<table>
<thead>
<tr>
<th>Number of participants</th>
<th>Sample A and B (FCS Investigators)</th>
<th>Factors that contribute to an investigator’s ability to conduct observation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Collection of physical evidence (3)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Look at victim, witness, suspect and scene (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>First identify the suspect and establish if consent was given by the victim to establish if the act was unlawful (2)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>All role players to assist (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Victim should not wash herself (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>No contamination (1)</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Knowledge, dedication and experience (3)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Exhibits that can lead to arrest (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td> Details of the victim’s condition.</td>
<td></td>
</tr>
<tr>
<td></td>
<td> The scene as to how possible the incident was.</td>
<td></td>
</tr>
<tr>
<td></td>
<td> Witnesses around. (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Investigator’s state of mind (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Steps to be taken (1)</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>No response (4)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Buckwalter (1984:67-143) argues that the investigators must have the ability to observe a scene of crime accurately and clearly. Investigators must observe the crime scene when conducting a walkthrough. Investigators must note where the persons found at a scene were standing when they witnessed the crime. The locations of items found within the crime scene must also be noted. It is equally critical for the appearance of the scene to be observed and documented. The ability of an investigator to record information concisely will assist in justifying investigative considerations and decisions (National Institute of Justice 1999:17-18). Canter and Young (2006:325) believe the cognitive element is one of the factors influencing the decision making during investigation. These skills and abilities are dependent on the investigator’s state of mind, the knowledge the investigator possesses, and experience gained by the investigator. A critical
factor is that the investigator must be dedicated to performing a proper observation at the scene of crime.

The responses of four of the 20 participants agreed with guidelines by Buckwalter (1984:67-143), who states that investigators must have the ability to observe a crime scene accurately and clearly. Three (of these four) participants stated that the investigator’s experience, knowledge and dedication will contribute to his/her ability to conduct observation at a crime scene. The fourth participant indicated that the investigator’s state of mind is a valuable contributing factor of conducting successful observation. Four participants did not respond to this question.

These participants in this study stated that the investigator must have the ability to conduct observation. They said that the victim of the crime must be observed to determine the victim’s mental and physical condition. The same is true for the perpetrator. The investigator must observe the crime scene in the same manner for any physical evidence. The investigating officer needs to furnish a statement as indicated by at least one participant regarding his/her observation of any evidence, including the physical evidence at the scene of the crime, which may include blood, semen or clothes found at the scene. This statement furnished by the investigating officer will be upheld in a court law and will be accepted as part of the evidence. The participants’ responses to this question are therefore regarded as valid and fair, leading to the next discussion relating to who is responsible for the processing of the crime scene for physical evidence.

Interviews were conducted with three prosecutors who made up the participants in Sample C (Prosecutors). These sexual offence prosecutors were asked to indicate in their opinion which abilities an investigating officer should possess to conduct observation at rape crime scenes. This was an open-ended question where the participants could provide their own answers to the question and no choices were provided from which they could choose. Some of the participants provided more than one answer. The answers of the participants are presented in Table 12 below.
Table 12: Participants of Sample C (Prosecutors’) opinion about which abilities an investigating officer should possess to conduct observation at rape crime scenes

<table>
<thead>
<tr>
<th>Number of participants</th>
<th>Abilities an investigating officer should possess to conduct observation at rape crime scenes</th>
</tr>
</thead>
</table>
| 2                      | • Management skills because they need to ensure that the LCRC unit attends the scene to gather all evidence and prevent scene to be contaminated (2)  
                          | • Follow-up on scene and all leads must be pursued ensuring that the correct protocol is followed (2)  
                          | • Common sense, willingness to take instructions from the prosecutor and be teachable (2)   |
| 1                      | Investigators should undergo training on collection of evidence at a sexual offence scene and must be available on phone to go out to the scene immediately after the incident (1) |

Osterburg and Ward (2010:9) identify training as one of three attributes that enable a person to become a successful investigator. However, the investigator must be “teachable” as mentioned by the participants of Sample C. The researcher submits that the above participants are correct in pointing out that investigators must thereafter apply the knowledge obtained during the training received, and also make use of their common sense while conducting observation (Orthmann & Hess 2013:12). The researcher agrees with Buckwalter (1984:67) when he states that an investigator should have the ability to recognise physical evidence and interpret the situation using resilience, as well as when he states that the investigator’s state of mind will contribute to the observation ability. Osterburg and Ward (2010:9) agree, while Orthmann and Hess (2013:12) add physical fitness as another trait. The researcher concurs with the above authors but emphasises that these attributes must be coupled with commitment and dedication. (Buckwalter 1984:143) and (Saferstein 1981:28) contend that successful crime scene observation will ultimately rely on the investigator’s experience. Experience and knowledge will take care of any prejudices that the investigator may possess to ensure that a successful investigation is carried out (Osterburg & Ward 2010:10).
2.8.3 Processing of the crime scene for physical evidence

According to the SAPS Policy on Crime Scene Management 2 of 2005, the crime scene technician must be appointed by the Local Criminal Record Centre (LCRC) to identify, note, protect and process possible physical evidence at a crime scene. However, the technician must conduct a walkthrough with both the crime scene manager and the investigating officer to evaluate the crime scene and discuss the way forward. The crime scene technician remains accountable for the processing of the physical evidence on a crime scene.

For the purpose of this study, the researcher only wanted to determine who is responsible for processing the crime scene for physical evidence. The participants in Samples A and B (FCS Investigators) as well as participants of Sample C (Prosecutors) were asked to indicate “whose responsibility it is to process the crime scene for physical evidence”. The researcher will not be discussing the actual procedures of how to process a crime scene.

Sample C was further asked “Why?” This was an open-ended question where the participants could provide their own answers to the question and no choices were provided from which they could choose. Some of the participants provided more than one answer. The answers of the participants are presented in Table 13 below.

Table 13: Participants’ responses to whose responsibility it is to process the crime scene for physical evidence

<table>
<thead>
<tr>
<th>Person responsible to process the crime scene for physical evidence</th>
<th>Sample A and B (FCS Investigators)</th>
<th>Sample C (Prosecutors)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Local Criminal Record Centre (LCRC) (2)</td>
<td></td>
<td>LCRC gathering evidence, is their specialty (3)</td>
</tr>
<tr>
<td>• Investigating officer (10)</td>
<td></td>
<td>Officer first reporting to the scene (2)</td>
</tr>
<tr>
<td>• LCRC/Investigating officer (1)</td>
<td></td>
<td>Every officer at the scene (2)</td>
</tr>
<tr>
<td>• LCRC and Investigating Officer (4)</td>
<td></td>
<td>Investigating officer (2)</td>
</tr>
<tr>
<td>• First responder (1)</td>
<td></td>
<td>Investigating Officer (2)</td>
</tr>
<tr>
<td>• Police officer (1)</td>
<td></td>
<td>SAPS (3)</td>
</tr>
<tr>
<td>• Crime scene manager i.e. duty officer (1)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
The majority of participants in Sample A and B (FCS Investigators) indicated that it should be the investigating officer who processes the physical evidence at a crime scene. The majority of Sample C (Prosecutors) indicated the SAPS. The more specific and acceptable response, as indicated by the SAPS Policy on Crime Scene Management 2 of 2005, is that the LCRC member is responsible for processing physical evidence found at a crime scene. This refers to the crime scene technician. The investigating officer will influence the process by pointing out physical evidence of importance while conducting the walkthrough with the crime scene technician and the crime scene manager. It is, therefore, critical to ensure communication amongst all role players (SAPS Crime Scene Policy 2005:14). Sample C expressed that the SAPS member, in conjunction with the LCRC member, should be responsible for the processing of the evidence because they are specialised due to the training these members attend. This view corresponds with the SAPS Policy on Crime Scene Management 2 of 2005.

The preferred answer, according to the SAPS Policy on Crime Scene Management 2 of 2005, is the LCRC member, as this member will be held accountable for the processing of the evidence. However, the other role players will assist and communicate with the LCRC member to ensure that all evidence is processed. It would be safe to conclude that Samples A, B (FCS Investigators) and C (Prosecutors) have a satisfactory idea of who is responsible for the processing of the physical evidence at the crime scene, based on the above policy that forms the core of crime scene management within the SAPS.

2.8.4 Shortcomings in the current investigation procedure with regard to observation at a crime scene

Lochner and Zinn (2015:41) posit that the first step in the process of gathering physical evidence is recognising tangible clues found at a crime scene. Further the authors state that upon arrival at the crime scene, an investigator must immediately begin to look for physical evidence related to the specific crime, such as rape. The tangible clues observed at a crime scene can be used as evidence in a court of law.

For the purpose of this study the 20 participants of Sample A and B (FCS Investigators) and the three participants of Sample C (Prosecutors) were firstly asked whether they think there are
shortcomings in the current investigation procedure with regard to the observation at the crime scene. This is a close-ended question where the participants could provide either a “yes” or “no” answer and if their answer was a “yes”, they were further requested to make practical recommendations to address these specific shortcomings they had identified. The questions and feedback of the participants of Sample A and B (FCS Investigators) and Sample C (Prosecutors) will be discussed below.

**Figure 6: Participants of Sample A and B (FCS Investigators’) and Sample C (Prosecutors’) views on shortcomings in the current investigation procedure with regard to observation at the crime scene**

There were 10 participants of Sample A and B (FCS Investigators) who stated that they think there are no shortcomings in the current investigation procedure with regard to the observation of physical evidence at the crime scene. Eight participants indicated that there are shortcomings and stated that investigators must be trained in this regard. Two participants did not respond. One participant of Sample C responded with a “yes” and one participant strongly agreed by responding “for sure”. One said “no”.
Participants of Sample A and B (FCS Investigators) and Sample C (Prosecutors) were then asked for their recommendations to address the shortcomings, as a follow-up question to the question asked above, namely: “Do you think there are shortcomings in the current investigation procedure with regard to the observation at the crime scene?” The participants’ responses are illustrated in Table 14 below.

**Table 14: Participants of Sample A and B (FCS Investigators’) and Sample C (Prosecutors’) recommendations to address shortcomings with regard to observation at a crime scene**

<table>
<thead>
<tr>
<th>Recommendations to address shortcomings with regard to observation at a crime scene</th>
<th>Sample A and B (FCS Investigators)</th>
<th>Sample C (Prosecutors)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• No response (12)</td>
<td>• Show interest</td>
</tr>
<tr>
<td></td>
<td>• Yearly refresher course (1)</td>
<td>• Logical thinking</td>
</tr>
<tr>
<td></td>
<td>• LCRC member’s presence and need for investigators to have video cameras (1)</td>
<td>• Follow-up on leads</td>
</tr>
<tr>
<td></td>
<td>• Train uniform members in rape scenes (1)</td>
<td>• Obtaining all witnesses’ particulars/statements on scene.</td>
</tr>
<tr>
<td></td>
<td>• Look for evidence (1)</td>
<td>• Attend to the crime scene immediately, look for fingerprints or small articles that can link the perpetrator to give guidance to the people at the scene</td>
</tr>
<tr>
<td></td>
<td>• Protect evidence (1)</td>
<td>• LCRC must attend scenes</td>
</tr>
<tr>
<td></td>
<td>• Training (1)</td>
<td>• Take photos</td>
</tr>
<tr>
<td></td>
<td>• Workshops (1)</td>
<td>• Display interest to gather evidence or get outside witnesses</td>
</tr>
<tr>
<td></td>
<td>• More resources (1)</td>
<td>• Follow-up</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Follow-up prosecutor directions immediately and not wait too long until witnesses are not available</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Send DNA away</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(1)</td>
</tr>
</tbody>
</table>
While Sample C (Prosecutors) listed many recommendations, no one mentioned development of investigators, as Sample A and B (FCS Investigators) mentioned when responding to the same question by listing training, workshops and refresher courses. Saferstein (1981:28) and Osterburg and Ward (2010:9) agree, amongst other factors, that training is a requirement to enable a person to handle investigations. Sample C’s responses correspond with Osterburg and Ward (2010:9) when these participants point out two of the three attributes that enable a person to become a successful investigator. The first corresponding attribute is the ability to conduct an inquiry, which is linked to the response of logical thinking. The second attribute is identified as skills required to achieve their goals. This attribute is linked to the remaining responses. Several participants of Sample A and B believe that there are no shortcomings with current observation at the crime scene. The majority of Sample A and B (FCS Investigators) focus on the development of investigators, while Sample C (Prosecutors) strongly focuses on the investigators’ skills. This indicates a difference in the shortcomings relating to observation at crime scenes. However, both samples’ responses correspond well with literature.

This study revealed that the recommendations given by the participants imply that investigators fail to show interest their investigation; they lack logical thinking, fail to follow-up on leads, and do not look for fingerprints or small articles that can link the perpetrator to the crime. The participants’ responses also suggest that investigators do not attend to the crime scene immediately or give guidance to the people at the scene. Furthermore, the participants’ responses infer that investigators do not follow-up on the prosecutor’s directions immediately, and fail to send DNA away.

2.9 Summary
This chapter includes a discussion on forensic and criminal investigation. It further describes the objectives of investigation and an explanation of the crime of rape. It also entails a discussion on the crime scene and a description of observation. The chapter ends with an explanation of the factors that contribute to an investigator’s ability to conduct observation.

The importance of the application of science in an investigation of a rape crime (as per amended Act 32 of 2007) cannot be over emphasised. The objectives of investigation will be achieved
easier, should evidence be found at the crime scene. A crime scene must also be visited to ensure that valuable evidence is not lost.

The investigation of a rape crime provides many challenges (especially without the thorough gathering of physical evidence); hence the low conviction rate. The obstacle that the SAPS are facing is making investigators aware of the significance of observation at a crime scene, which requires visiting the crime scene immediately. Another challenge to overcome will be to manage the factors that contribute to investigators’ ability to conduct observation at a rape crime scene. It is critical to recruit investigators with latent qualities that could be enhanced through training and experience, so that investigation objectives may be achieved.

The next chapter will discuss the different types of physical evidence that can be identified on a rape crime scene to link the perpetrator with the crime.
CHAPTER 3
TYPES OF PHYSICAL EVIDENCE THAT CAN BE IDENTIFIED ON A RAPE CRIME SCENE TO LINK THE PERPETRATOR WITH THE CRIME

3.1 Introduction
Berg and Horgan (1997:573) discuss the different types of evidence that can be obtained from a rape crime scene, which can be used to link a perpetrator to a crime. The most common sources are blood, hair, tissue, and bodily fluid such as semen, which are termed biological evidence. Other sources are fingerprints and footprints. The authors further describe evidence as any items that assist in establishing the fact of a crime.

Berg and Horgan (1997:65-74), Lee et al (2001:135) as well as Sutton and Trueman (2009:137) all agree that physical evidence such as blood, hair, fibres and semen are invaluable in providing a source of information about potential suspects. These types of evidence can prove a fact beyond any reasonable doubt (Sutton & Trueman 2009:137). Chandra (2005:99) further elucidates on how fingerprint images are used to identify individuals.

Chapter 3 also focuses the aim of the study (see 1.4 of Chapter 1), namely to establish how observation should be conducted at a rape crime scene to identify physical evidence. This chapter will explore and provide a descriptive analysis of the types of physical evidence that can be identified on a rape crime scene to link the perpetrator with the crime. Chapter 3 will endeavour to answer the second research question as reflected in paragraph 1.6 of chapter 1, namely: “What types of physical evidence can be identified on a rape crime scene?” This chapter begins with a discussion on identification and individualisation. The following important aspects are included in this chapter: an explanation of evidence, a closer look at physical evidence, and a discussion of the role of the physical evidence found at a rape crime scene in an investigation. Thereafter, the most common types of physical evidence that can be obtained on a rape crime scene will be discussed.
3.2 Identification and individualisation

The SAPS Crime Scene Policy (2005:8-13) explains that upon the arrival of the investigator a handing over of the scene takes place by proper explanation from the responder to the crime. During the preliminary phase a detailed, systematic, careful and all-embracing search for the identification of physical evidence takes place. Some types of physical evidence can come from only one source, but most physical evidence may be associated with a group or class of sources. Determining what a material is, constitutes identification, whereas, individualisation is linking a substance or an item to one specific thing (Homeyer & Mikolajczy 2004: no pagination).

Saferstein (1981:47) states that the purpose of identification is to establish the physical or chemical identity of a substance. The author explains the process of identification as beginning with an adoption of testing procedures for specific standard materials. These results are recorded and used to prove the identity of materials. Thereafter the substance will be put through scientific testing processes to eliminate all possibilities of the substance’s identification, remaining with only one conclusion.

Houck (2007:38) is of the view that identification is the examination of the chemical and physical properties of an object and categorising it into a group. Osterburg and Ward (2010:36) explain identification as the process used to place an item in a specific class, while Ogle (2012:9) elucidates identity as “the collective aspect of a set of characteristics by which a thing is definitely recognizable”. In addition to this, he states that this set of characteristics includes all the class characteristics of the class to which the object belongs, and those individual characteristics serve to set the object apart from other objects in its class. It is this pattern of class and individuality characteristics that establishes the individuality of the object.

If the characteristic is unique to only one member of a class, identification of the individual source of evidence will take place. This process is called individualisation. Houck (2007:40) explains individualisation of evidence as being able to place it into a class with one member. Osterburg and Ward (2010:30) explain that in a rape case, the examination of the fibre found under the victim’s fingernails may reveal a naturally occurring filament as opposed to a synthetic
filament in a class of human hair as being identification, but when a single origin is established, it is individualisation.

Houck (2007:41) indicates the two processes of analysis of evidence as identification and comparison. He adds that comparison is where disputed evidence is compared with objects of which the source is known. Saferstein (1981:48) explains that comparison analysis is when a suspect specimen and a control specimen are subjected to the same test to determine whether there is a common origin.

Moar (1996:138-143) explains that fingerprints are identifiable by the fine pattern of ridges on the skin. The radiographic examination is a method helpful for the evaluation of remains, clothing and personal effects by detecting foreign objects and material. The tooth enamel, being the hardest substance in the body, provides information concerning age, race, habits, occupation and pre-existing diseases – and is known as dental characteristics. The analysis done by a physical anthropologist and the study of completeness of the skeletal remains are possible to determine age at death, sex, race and other individual characteristics. Hair examination provides a possible linkage between the suspect and the crime, or victim and weapon. A detailed examination of tattoos, birthmarks and scars provides a basis for comparison with employment and medical records. Serological and cytological examinations determine blood group antigens identifying whether persons are from one family, one race or even if it is a person at all.

The question posed to 20 participants in Sample A and B (FCS Investigators) was: “What types of physical evidence can be identified on a rape crime scene?” With this question the researcher tried to determine what their understanding was of the concept of identification, and the intention was also to ask about their understanding of the concept of individualisation. These are in essence two separate questions. The researcher will combine the responses and the feedback for the two questions in an attempt to draw a distinction between these concepts. This was once again an open-ended question where the participants could provide their own answers to the question and no choices were provided from which they could choose. Some of the participants provided more than one answer. The answers of the participants are presented in Table 15 below.
Table 15: Participants of Sample A and B (FCS Investigators’) responses to explaining identification and individualisation

<table>
<thead>
<tr>
<th>Explanation of the concepts “identification” and “individualisation”</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Identification</strong></td>
</tr>
<tr>
<td>• To link a name to a person (3)</td>
</tr>
<tr>
<td>• To positively identify an object (1)</td>
</tr>
<tr>
<td>• If the victim can point out the suspect (7)</td>
</tr>
<tr>
<td>• Anything that can identify the person, footprints, or shoeprint (1)</td>
</tr>
<tr>
<td>• Facial and body features (1)</td>
</tr>
<tr>
<td>• It’s a form or method by which a person is identified. It can be by identity document or by any other mark (1)</td>
</tr>
<tr>
<td>• Link a specific person - is identified by various means (2)</td>
</tr>
<tr>
<td>• Elimination of suspects (1)</td>
</tr>
<tr>
<td>• No response (3)</td>
</tr>
</tbody>
</table>

The responses furnished by the participants indicate confusion with the explanation of the concepts. These participants either did not understand the question or are not aware of the concepts of identification and individualisation. Their responses appear to be directed at the explanation of an identification parade where the victim will point out the suspect in order to identify the perpetrator. However, the participants would be correct based on the view of Van Heerden (1986:195-199) who describes the various categories of identification used in criminalist individualisation; one of which is suspect identification where the identification of the offender occurs. On the other hand, the participants did not distinguish between the concepts of identification and individualisation, which leads the researcher to believe that while the confusion is understandable, the concept distinction is not clear.

The participants of Sample C (Prosecutors) were asked: “What is the importance of observation and identification of physical evidence at a rape crime scene from a legal perspective?” This was an open-ended question where the participants could provide their own answers to the questions and no choices were provided from which they could choose. Some of the participants provided more than one answer. The answers of the participants are presented in Table 10 (repeated)
below and also in Chapter 2. For the purpose of this specific feedback only *identification* will be reported on, as this specific aspect is discussed within this chapter. A discussion of the responses of Sample C (Prosecutors) as well as feedback relating to *observation* is presented in Chapter 2. For clarity, Table 10 is repeated below.

**Table 10 (Repeated): Participants’ responses to the importance of observation and identification of physical evidence at a rape crime scene from a legal perspective**

<table>
<thead>
<tr>
<th>Sample C (Prosecutors)</th>
<th>The importance of observation and identification of physical evidence at a rape crime scene from a legal perspective</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>To protect the chain of evidence (2) Memory refreshing (2)</td>
</tr>
<tr>
<td>1</td>
<td>Very important to help prove a case beyond reasonable doubt (1) Overcome single witness evidence that is dealt with cautiously by the court (1)</td>
</tr>
</tbody>
</table>

Two participants agree that the importance of observation and identification of physical evidence at a rape crime scene, from a legal perspective, is to protect the chain of evidence and for refreshing the memory. One participant states that it is very important to help prove a case beyond reasonable doubt, as well as to overcome single witness evidence that is dealt with cautiously by the court. This participant’s response corresponds with that of Saferstein (1981:47) when the author states that the purpose of identification is to establish the identity of a substance assisting the prosecutor to prove their case beyond any reasonable doubt.

The 20 participants of Sample A and B (FSC investigators) and the three participants of Sample C (Prosecutors) were asked to indicate whether there is a specific procedure that must be followed for obtaining physical evidence at a rape investigation in terms of investigative procedures. This is a close-ended question where the participants could provide either a “yes” or “no” answer, and if they replied “yes” they were requested to elaborate. There were 17 participants of Sample A and B (FCS Investigators), as well as all three participants of Sample C (Prosecutors) who stated that there is a specific procedure that must be followed for obtaining physical evidence at a rape investigation in terms of investigative procedures. The answers of the participants are presented in Figure 7 below.
**Figure 7:** Participants of Sample A and B (FCS Investigators’) and Sample C (Prosecutors’) responses to whether there is a specific procedure that must be followed for obtaining physical evidence at a rape investigation in terms of investigative procedures

SPECIFIC PROCEDURE THAT MUST BE FOLLOWED FOR OBTAINING PHYSICAL EVIDENCE AT A RAPE INVESTIGATION IN TERMS OF INVESTIGATIVE PROCEDURES

![Bar graph showing responses of Sample A and B (FCS Investigators) and Sample C (Prosecutors) to the question about a specific procedure that must be followed for obtaining physical evidence at a rape investigation.]

Those who replied positively explained the procedure that must be followed for obtaining physical evidence at a rape investigation. The responses of the participants of Sample A and B (FCS Investigators) and Sample C (Prosecutors) are presented in Table 16. The remaining three participants of Sample A and B disagreed. Eleven participants of Sample A and B (FCS Investigators) explained the procedure that must be followed for obtaining physical evidence at a rape investigation, in terms of investigative procedures, as ensuring that the victim is taken for a medical exam, with nine stating that the scene must be secured. Four participants of Sample A and B indicated that the suspect must be traced and another four indicated that evidence must be gathered. All three participants of Sample C agreed with the latter. The responses of the participants of Sample A and B (FCS Investigators) and Sample C (Prosecutors) are presented in Table 16 below.
Table 16: Participants of Sample A and B (FCS Investigators’) and Sample C (Prosecutors’) explanation of the specific procedure that must be followed for obtaining physical evidence at a rape investigation in terms of investigative procedures

<table>
<thead>
<tr>
<th>Procedure in rape investigations</th>
<th>Sample A and B (FCS Investigators)</th>
<th>Sample C (Prosecutors)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Gather evidence (1)</td>
<td>2 Gather evidence (3)</td>
<td>Maintain integrity of scene and evidence (2)</td>
</tr>
<tr>
<td>2 Interview victim (5)</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>1 Medical exam (11)</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>3 Secure scene (9)</td>
<td>Trace suspect (4)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Cannot remember (1)</td>
<td></td>
</tr>
</tbody>
</table>

SAPS Crime Scene Policy (2005:8-13) explains the procedure that must be followed by stating that the first police officer has to secure the scene properly and thereafter cordon it off so that no one tramples on it and compromises the evidence to be collected. On arrival of the investigator, a handing over of the scene takes place by proper explanation from the responder to the crime. It
must be followed by arrangements for a detailed search for physical evidence. Prinsloo (1996:20-21) adds that all the clues found at the scene are sent for further analysis, which can link a person to a scene when arrested. The analysis will prove individualisation of the material found. The participants’ responses therefore comply with SAPS Crime Scene Policy (2005:8-13).

The 20 participants of Sample A and B (FSC investigators) and the three participants of Sample C (Prosecutors) were asked to indicate whether they think there are shortcomings in the current investigation procedure with regard to the identification of physical evidence at the crime scene. This is a close-ended question where the participants could provide either a “yes” or “no” answer, and if their answer was “yes” they were requested to elaborate. The answers of the participants are presented in Figure 8 below. The follow-up answers of the participants of Sample A and B (FCS Investigators) and Sample C (Prosecutors) are presented in Table 17.

Figure 8: Participants of Sample A and B (FCS Investigators’) and Sample C (Prosecutors’) responses to whether they think there are shortcomings in the current investigation procedure with regard to the identification of physical evidence at the crime scene

There were 13 participants of Sample A and B (FCS Investigators) who stated that they think there are no shortcomings in the current investigation procedure with regard to the identification
of physical evidence at the crime scene, while four indicated that there are shortcomings. Three participants did not respond. All three participants of Sample C (Prosecutors) responded with a “yes”.

Participants of Sample A and B (FCS Investigators) and Sample C (Prosecutors) were then asked what steps (if any) they would recommend for addressing the identified shortcomings as a follow-up question to the question asked above, namely: “Do you think there are shortcomings in the current investigation procedure with regard to the identification of physical evidence at the crime scene?” The participants’ responses are illustrated in Table 17 below. Some participants who did not respond to the above question furnished responses to the follow-up question. Some participants furnished more than one recommendation.
Table 17: Participants of Sample A and B (FCS Investigators’) and Sample C (Prosecutors’) recommendations to address shortcomings with regard to the identification of physical evidence at a crime scene

<table>
<thead>
<tr>
<th>Recommendations to address shortcomings with regard to the identification of physical evidence at a crime scene</th>
<th>Sample A and B (FCS Investigators)</th>
<th>Sample C (Prosecutors)</th>
</tr>
</thead>
<tbody>
<tr>
<td>* No response (13)</td>
<td>* Lack of proper supervision, letting inexperienced investigators work alone, no screening of the standard of investigations by supervision, appointing incorrect people (1)</td>
<td></td>
</tr>
<tr>
<td>* A relevant qualification prior to joining the unit (1)</td>
<td>* Lack of training (3)</td>
<td></td>
</tr>
<tr>
<td>* Crime scene bags to seal evidence must be readily available to prevent the destruction of physical evidence (1)</td>
<td>* Laziness (1)</td>
<td></td>
</tr>
<tr>
<td>* The LCRC members must always try their best to assist in evidence collection, crime kits must be readily available, more motor vehicles to ensure speedy investigation instead of sharing with several investigators, each investigator should have their own office for interviewing victims in private (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>* Investigators are lazy (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>* Training (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>* Create an identification kit (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>* New recruits must be given training (1)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Two participants of Sample A and B (FCS Investigators) and the three participants of Sample C (Prosecutors) indicated their recommendation to address the shortcomings with regard to the identification of physical evidence at a crime scene, as training for investigators. Another participant stated that a prior qualification should assist. This view is supported by Osterburg and Ward (2010:98) who state that through education, training and the development of an imaginative approach, the identification of routine clue materials such as bullets, cartridge castings, tool marks and blood will not pose a challenge for recognition by the investigator. Saferstein (1981:28) as well as Osterburg and Ward (2010:278) agree that powers of observation may be developed, also supporting the training of investigators.
3.3 Evidence

In order to explain physical evidence, the researcher begins with an explanation on evidence. Eckert (1992:72) explains that anything perceived by the five senses and accepted as reliable by court is evidence. Axelrod and Antiozzi (2003:145) also agree by stating that evidence helps to establish the facts of a crime that is under investigation. Evidence is the way in which an alleged fact is either proved as the truth or disproved (O’Hara & O’Hara 2003:671). Evidence has legal significance and is the only means of satisfying the courts (Lushbaugh & Weston 2009:5). Osterburg and Ward (2010:326) indicate that evidence is anything a judge allows in court to prove or disprove an issue. Shaler (2012:20) clearly states that evidence is used to support or reject hypotheses.

The researcher established that the authors Eckert (1992:72), Axelrod and Antiozzi (2003:145) as well as Osterburg and Ward (2010:326) concur with the description of evidence as being that which is used to prove or disprove the truth. According to Lushbaugh and Weston (2009:5), within the context of crime scene investigation evidence poses legal significance. The researcher also notes that Eckert (1992:72) indicates that evidence is observable by the five senses. Once these items are identified as evidence distinguishable from other items, they may be submitted to court.

The participants in Sample A and B (FCS Investigators) were asked about their understanding of the meaning of the term “evidence”. This was an open-ended question where the participants could provide their own answers to the question and no choices were provided from which they could choose. Some of the participants provided more than one answer. The answers of the participants are presented in Table 18 below.
<table>
<thead>
<tr>
<th>Number of participants</th>
<th>Sample A and B (FCS Investigators)</th>
<th>The term “evidence”</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Links a suspect to the victim, scene (5)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Condom (2)</td>
<td>Cell phone or fingerprints (1)</td>
</tr>
<tr>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Builds a case and explains what transpired (2)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Victim’s statement (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Witness (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Body of the victim (1)</td>
<td>Knife (1)</td>
</tr>
<tr>
<td>1</td>
<td>Any object (4)</td>
<td>Semen (2)</td>
</tr>
<tr>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Instrument, sperm, cigarettes or shoe/foot tracks (1)</td>
<td>Blood (2)</td>
</tr>
<tr>
<td>1</td>
<td>Anything that can prove the victim and suspect were in contact (1)</td>
<td>Body tissues and hair (1)</td>
</tr>
<tr>
<td>1</td>
<td>No response (1)</td>
<td>Cookies (1)</td>
</tr>
<tr>
<td>2</td>
<td>Used in court</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Proof of a crime being committed</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>No response</td>
<td></td>
</tr>
</tbody>
</table>
Five participants of Sample A and B (FCS Investigators) stated that evidence refers to the link between the suspect, victim and the crime scene, while two stated that evidence will be used to build a case and explain what transpired. One participant explained that evidence can be anything that proves the victim and suspect have been in contact. Two participants stated that evidence is proof of a crime having been committed, with another two stating that evidence is something used in court. Four participants’ responses were similar to the explanation by Osterburg and Ward (2010:326) that evidence is used as proof of a crime having been committed, or proof that may be used in court. Twelve participants furnished examples of evidence. All the examples furnished are observable by the five senses, as explained by Eckert (1992:72). Most participants referred to evidence as being the linkage between the suspect and victim, or the linkage between the suspect and the scene, or the suspect and the case itself. These responses correspond with author Shaler (2012:20) when the author explains that evidence is used to support or reject hypotheses. The participants’ responses correspond with the author’s discussion on the term “evidence”, and in the present study the participants explained that tangible facts found at a crime scene are used to link a suspect and build a case. These facts may be presented to a court to prove the occurrence of a crime.

3.4 Physical evidence

Physical evidence or real evidence, as explained by Buckwalter (1984:79), is evidence that speaks for itself and such evidence may be found by searching the crime scene. While Eckert (1992:72) states that the two basic forms of evidence are physical and testimonial evidence, he further explains physical evidence as something which may be seen, heard, touched, smelled or tasted. He states that physical evidence may be utilised in forensic investigations to define the elements of a crime; proving the commission of a crime; providing investigative leads for a case; linking a crime scene or victim to a suspect; corroborating or refuting a suspect’s statement or alibi; identifying a suspect; inducing a confession of a suspect; exonerating the innocent; and providing expert testimony in court (Eckert 1992:33).

Physical evidence is any object of a material nature and must be a physical object that is linked to a crime (Ogle 2012:4; Osterburg & Ward 2010:280). The physical evidence must be recognised as potential evidence to add value. Failure may result in the innocent being convicted
or the guilty being released. The researcher will list the sources of physical evidence below, followed by an explanation of the advantages of physical evidence. The sources of physical evidence are the crime scene; the victim’s clothing; body of the victim; suspect’s body; suspect’s clothing; weapon; vehicle; house or other area; and any article under his or her control such as electronic evidence that may be stored on a movable device (Osterburg & Ward 2010:98).

Physical evidence has certain advantages if preserved properly and presented to a court of law with a chain of evidence statement. The advantages are that it provides the court with tangible objects and may be taken into the court room where the defendant cannot distort the physical evidence. Another advantage is that physical evidence is not subject to any memory loss. Lastly, an independent expert will test the authenticity of physical evidence, thereby ensuring its validity (Osterburg & Ward 2010:280). Gardner (2005:23) believes that physical evidence is more concrete than testimonial evidence as people lie and are influenced by many external factors. Gardner (2005:348) explains that physical evidence has the power to determine irrefutable facts regarding the occurrence of a crime.

While reconstruction of the crime scene using physical evidence may establish whether the crime has occurred, and may link individual/s to other individual/s or crime scene/s to other crime scene/s, it may provide investigators with leads and the court with facts (Ogle 2012:4-8). Physical evidence is often the strongest link between the series of crimes and the perpetrator. Physical evidence discovered from the various sources of evidence, as explained by Osterburg and Ward (2010:98), can be categorised into groups. Ogle (2012:4-8) states that the major categories of physical evidence are fingerprints, evidence caused by firearms, biological evidence, document evidence, physical matching evidence, toxicology evidence, and drug evidence.

The participants in Sample A and B (FCS Investigators) were asked to define physical evidence. This was an open-ended question where the participants could provide their own answers to the question and no choices were provided from which they could choose. Some of the participants provided more than one answer. The answers of the participants are presented in Table 19 below.
Table 19: Participants’ definition of physical evidence

<table>
<thead>
<tr>
<th>Number of participants Sample A and B (FCS Investigators)</th>
<th>Definition of physical evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Semen (7)</td>
</tr>
<tr>
<td>2</td>
<td>Hair (2)</td>
</tr>
<tr>
<td></td>
<td>Pubic hair, scratch marks, nail scrapings (2)</td>
</tr>
<tr>
<td>2</td>
<td>Blood (3)</td>
</tr>
<tr>
<td></td>
<td>Clothes (2)</td>
</tr>
<tr>
<td>1</td>
<td>Condoms (1)</td>
</tr>
<tr>
<td>1</td>
<td>Things that can be seen (3)</td>
</tr>
<tr>
<td></td>
<td>Things that can be touched (5)</td>
</tr>
<tr>
<td></td>
<td>Tangible (1)</td>
</tr>
<tr>
<td>2</td>
<td>Things that can be seized and presented as evidence of crime (2)</td>
</tr>
<tr>
<td>1</td>
<td>Material or object (1)</td>
</tr>
<tr>
<td>1</td>
<td>Mark on victim (1)</td>
</tr>
<tr>
<td>2</td>
<td>Anything found on the scene (2)</td>
</tr>
<tr>
<td>2</td>
<td>Victim’s injuries (2)</td>
</tr>
</tbody>
</table>

Five participants of Sample A and B (FCS Investigators) indicated that physical evidence may be described as things that can be touched; three participants described physical evidence as things that can be seen; and one participant added that physical evidence is tangible, as indicated by Eckert (1992:72). Also corresponding with literature is the one participant who referred to physical evidence as being material or an object. Two participants stated that it is anything found
on the scene. This response corresponds with the view of Buckwalter (1984:79). 1 participant indicated that the marks found on the victim serves as physical evidence. The remaining responses merely furnished examples of physical evidence such as semen, hair, blood, condoms, pubic hair, scratch marks, nail scrapings, clothes and the victim’s injuries.

3.5 **Role of physical evidence found at a rape crime scene in an investigation**

The collection of physical evidence requires a scientific process. According to Osterburg and Ward (2010:22), forensic science deals with the scientific examination of physical evidence in order to identify a substance, an object or an instrument. It may further be utilised to establish a connection between the physical evidence, the victim, the suspect and the potential crime scene. Authors Osterburg and Ward (2010:22) add that the examination of physical evidence may also be used to reconstruct how the crime was committed.

Homeyer and Mikolajczyk (2004: no pagination) indicate that it is possible for physical evidence to prove that a crime has been committed. Physical evidence will also assist in establishing the key elements of a crime, as well as may place a suspect in contact with the crime scene or the victim. According to the authors Homeyer and Mikolajczyk (2004: no pagination), physical evidence could establish the identity of persons associated with the crime as well as elicit an admission or even a confession.

Authors Osterburg and Ward (2010:22) and Homeyer and Mikolajczyk (2004: no pagination) concur that physical evidence can be used to protect the innocent or even exclude the innocent from the crime. The victim’s statement may be collaborated by the presence of physical evidence. The authors agree that physical evidence can provide for expert testimonies in court and could provide a connection between the suspect and crime scene. Lastly, physical evidence is a more reliable source of evidence than an eyewitness’s testimonial evidence.

Savino and Turvey (2005:90) explain that an examination of all physical evidence must commence prior to the arrest of a suspect, contrary to the common practice where the examination takes place after the arrest of the suspect. An arrest is one of the most drastic infringements of a person’s constitutional right. It is also powerful legislation that the police
have at their disposal when investigating and combatting crime, subject to the limitation clause. Therefore, arrest should occur after a linkage has been established between the suspect and the crime (South Africa 1996: Section 36).

The participants in Samples A and B (FCS Investigators) were asked to explain the role of physical evidence found at a rape crime scene in an investigation, while participants of Sample C (Prosecutors) were asked: “What is the role of physical evidence found at a rape crime scene in an investigation?” This was an open-ended question where the participants could provide their own answers to the question and no choices were provided from which they could choose. Some of the participants provided more than one answer. The answers of the participants are presented in Table 20 below.
### Table 20: Participants’ responses to the role of physical evidence at a rape crime scene

<table>
<thead>
<tr>
<th>Role of physical evidence</th>
<th>Sample A and B (FCS Investigators)</th>
<th>Sample C (Prosecutors)</th>
</tr>
</thead>
<tbody>
<tr>
<td>No response (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proves a crime (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plays a big role (2)</td>
<td>Can place/link victim and suspect on scene (4)</td>
<td>Can tell you a lot about what happened/fight took place (1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Can place victim and suspect on scene (1)</td>
</tr>
<tr>
<td>Links a suspect to the crime (6)</td>
<td>Beyond reasonable doubt (1)</td>
<td>It is independent evidence that can link a suspect to the crime (3)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Proves suspect’s innocence (1)</td>
<td></td>
</tr>
<tr>
<td>Collection exhibits (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supports the victim’s statement (1)</td>
<td></td>
<td>Corroborates statements (3)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Semen (2)</td>
<td></td>
</tr>
<tr>
<td>Sperm, hair, blood (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presented in court (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evidence that is sent for processing (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Do not understand question (1)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Eckert (1992:33) explains that physical evidence may provide a linkage to the crime scene or link a victim to a suspect, prove or disprove a suspect’s statement, identify a suspect, and provide expert testimony in court, amongst other conclusions as indicated by the majority of responses.
The responses of both Sample A and B as well as Sample C participants correspond with the literature, in that the participants indicated that physical evidence can prove a crime; link a suspect, victim and crime scene; prove the innocence of a suspect; and explain what occurred at the scene (Eckert 1992:33; Osterburg & Ward 2010:22). The participants’ responses collectively were accurate. There was only one participant who did not understand the question and one participant who did not respond. The participants’ understanding of the importance of physical evidence was made clear when two participants of Sample A and B stated that the role played by physical evidence in the investigation of a rape crime scene was “big” and one participant indicated that it plays an important role. Another participant of sample A and B indicated that a suspect may be linked to a crime scene beyond reasonable doubt (Gardner 2005:348).

The participants in Samples A and B (FCS Investigators) were asked: “When you investigate a rape, what/who do you use as the primary source of information?” while Sample C (Prosecutors) were asked: “From your experience what/who is used as the primary source of information in rape cases?” Both questions were open-ended questions where the participants could provide their own answers to the questions and no choices were provided from which they could choose. Some of the participants provided more than one answer. The answers of the participants are presented in Table 21 below.
Table 21: Participants’ responses to the primary source of information in rape investigations

<table>
<thead>
<tr>
<th>Primary source of information in rape investigations</th>
<th>Sample A and B (FCS Investigators)</th>
<th>Sample C (Prosecutors)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 No response (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9 Victim (12)</td>
<td></td>
<td>1 Victim (3)</td>
</tr>
<tr>
<td>1 Witness (3)</td>
<td>Crime scene (1)</td>
<td>1 Witness (2)</td>
</tr>
<tr>
<td>1</td>
<td>Informers (1)</td>
<td>Physical evidence (1)</td>
</tr>
<tr>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 LCRC dog unit (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 Person to whom the rape was reported to first (first report) (3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 DNA /blood samples (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Semen (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Evidence collection kit (1)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Twelve participants of Sample A and B (FCS Investigators) and all three participants of Sample C (Prosecutors) believe that the primary source of information in rape investigations is the victim. Four participants of Sample A and B (FCS Investigators) alluded to physical evidence when responding with answers such as evidence collection kit, semen, DNA/blood samples, physical evidence and the crime scene. There was one participant of Sample C (Prosecutors) who agreed by stating that DNA evidence is the primary source of information in rape investigations. Three participants of Sample A and B (FCS Investigators) and one participant of Sample C (Prosecutors) indicated the first report as the primary source of information. Another three participants of Sample A and B (FCS Investigators) and one participant of Sample C
(Prosecutors) stated that witnesses are the primary source of information. The majority of the participants’ responses correspond with the literature of Osterburg and Ward (2010:98), when the authors explain that the sources of physical evidence are the crime scene; victim’s clothing; body of the victim; suspect’s body; suspect’s clothing; weapon; vehicle; house or other area; and any article under his or her control such as electronic evidence that may be stored on a movable device.

3.6 The most common types of physical evidence that can be obtained on a rape crime scene

The most common types of physical evidence found at a rape crime scene are body fluids, which include bodily excretions, bodily tissue, prints and fibres such as hair. These types of physical evidence will be explained further. Saferstein (1981:45), Eckert (1992:36) as well as Osterburg and Ward (2010:437) agree that the common types of physical evidence are body fluids such as liquid or dried blood, semen, saliva (which is often found on clothing), other fabrics or objects. The authors further elaborate that this evidence is collected on sterile cloth patches or swabs from a crime scene or person for identification and individualisation through serological techniques or DNA profiling. Other bodily excretions may include urine, perspiration and faeces. The authors then describe bodily tissue, which will include organ samples collected at the autopsy with urine, blood and stomach contents for toxicological analysis.

Furthermore, fingerprints, palmprints, footprints, footwear and tyreprints also form part of the common types of physical evidence. These prints may be visible and latent. Prints may be lifted or cast from various surfaces for identification and comparison.

Also included as common types of physical evidence are fibres (such as natural or synthetic fibres) for identification and comparison. The authors mention hair collected from the crime scene, victim or suspect as physical evidence that may be used to determine species, race and part of body origin. If human, the hair morphological features may be used to include or exclude a suspect. It is also possible to determine whether the hair was crushed, cut, burned, forcibly removed or if it had fallen out naturally.
Eckert (1992:8) explains that serological examination requires a high degree of expertise and experience in biological techniques. Sperm and blood are common forms of evidence in a rape case. O’Hara and O’Hara (2003:366) agree that while semen and blood are evidence that is required to prove a rape case, other forms of dried secretions include saliva that may prove just as important. Further physical evidence entails any debris acquired during the assault, fingernail scrapings which are collected to obtain traces of evidence such as blood, hair, skin and fibres, as well as hair samples such as pubic and head hair. Vaginal and rectal swabs may serve the same purpose and could possibly be just as critical in proving a rape crime. On the other hand, crime scene investigators may possibly – during their observation – overlook physical evidence. Therefore the court requires the medical practitioner who examines the victim to complete a medical report describing the injuries sustained by the victim. This report is referred to as the J88. Lushbaugh and Weston (2009:249) warn that investigators create a mental block with regard to other forms of physical evidence such as fingerprints, used cigarettes and saliva, due to their focus on the common forms of evidence.

Osterburg and Ward (2010:437) agree with authors Saferstein (1981:45) and Eckert (1992:36) when listing the common types of physical evidence. Eckert (1992:8) emphasises that blood and sperm are the most common samples collected in rape cases. The researcher concludes that these authors’ viewpoints on the common physical evidence of a rape crime scene concur, as all authors agree that body fluids and bodily tissue are the most common types of physical evidence at a rape crime scene.

The participants in Samples A and B (FCS Investigators) and Sample C (Prosecutors) were asked what the most common types of physical evidence found on a rape crime scene are. This was an open-ended question where the participants could provide their own answers to the question and no choices were provided to them. Some participants provided more than one answer. The answers of the participants are presented in Table 22 below.
Table 22: Participants’ responses to the most common types of physical evidence at a rape crime scene

<table>
<thead>
<tr>
<th>Most common types of physical evidence at a rape crime scene</th>
<th>Sample A and B (FCS Investigators)</th>
<th>Sample C (Prosecutors)</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Condom (14)</td>
<td>- Condom (3)</td>
<td></td>
</tr>
<tr>
<td>- Semen (16)</td>
<td>- Semen (2)</td>
<td></td>
</tr>
<tr>
<td>- Fingerprints (6)</td>
<td>- Fingerprints (2)</td>
<td></td>
</tr>
<tr>
<td>- Clothing (10)</td>
<td>- Clothing (3)</td>
<td></td>
</tr>
<tr>
<td>- Tissue paper (3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Blood (13)</td>
<td>- Weapons (1)</td>
<td></td>
</tr>
<tr>
<td>- Bite marks (1)</td>
<td>- Personal items of accused or the victim (1)</td>
<td></td>
</tr>
<tr>
<td>- Scratch marks (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Strangulation marks (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Condom wrappings (3)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Saliva (6)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Body fluid (2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Knife (8)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Stones (2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Knob-kierie (walking stick) (2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Telephone (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Laptops (2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Cigarette butts (4)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Underwear (4)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Any object belonging to accused e.g. Hat, shoe, shirt (1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Blanket/sheet on bed (2)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Hair (8)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Nail scrapings (1)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Two participants of Sample A and B (FCS Investigators) indicated body fluids as the most common physical evidence, while 16 stated semen, 13 stated blood and six participants stated saliva (all of which fall into the category of body fluids). The responses of participants correspond with authors such as Saferstein (1981:45), Eckert (1992:36) as well as Osterburg and Ward (2010:437). The mentioned authors list the most common types of physical evidence as sperm and blood. Sample C (Prosecutors) did not list blood in their response to this question. The mentioned authors further state that these body fluids are often found on clothing and this is possibly the reason why 10 participants of Sample A and B included clothing in their response. Two participants of Sample C (Prosecutors) identified semen, with all three identifying clothing,
as common types of physical evidence. The majority of participants’ responses of Sample A, B and C refer to body fluids. The condom ranks second in the participants’ responses and although not specifically mentioned, Saferstein (1981:45), Eckert (1992:36) as well as Osterburg and Ward (2010:437) allude to “other fabrics” where body fluids are often found. Participants of Sample A and B also mention blankets/bed sheets, underwear, tissue paper, condom wrappings, cigarette butts and any object belonging to the accused such as a hat, shoe or shirt that may also refer to the fabric mentioned where body fluids are most often found. Urine, perspiration and faeces are not mentioned by the participants, yet are referred to by Saferstein (1981:45), Eckert (1992:36) as well as Osterburg and Ward (2010:437).

Saferstein (1981:45), Eckert (1992:36) as well as Osterburg and Ward (2010:437) extend the list by including fingerprints as common types of physical evidence, and they include palm prints, footprints, footwear and tyre prints. Six participants of Sample A and B only indicate fingerprints. Participants of Sample C make no mention of any form of prints. Eight participants of Sample A and B mention hair, with one mentioning nail scrapings. The explanation of the participants corresponds with the abovementioned authors’ listing of common types of physical evidence. The other example of bodily tissue mentioned by the authors is stomach tissue, which would be more difficult to detect at the crime scene. This was not mentioned by Sample A, B or C.

The participants of Sample A and B list knife, stone and knob-kierie (walking stick), with Sample C participants listing weapons as common types of evidence. Sample A and B participants also mention bite marks, scratch marks and strangulation marks. Lastly, Sample A and B participants stated that cell phones and laptops are some of the most common types of physical evidence found at a rape crime scene. These items are not specifically mentioned by the authors Saferstein (1981:45), Eckert (1992:36) or Osterburg and Ward (2010:437).

The list of the most common types of physical evidence furnished by the participants corresponds with the list furnished by Saferstein (1981:45), Eckert (1992:36) and Osterburg and Ward (2010:437), as indicated above. Lushbaugh and Weston (2009:249) explain that investigators create a mental block with regard to other forms of physical evidence due to their focus on the most common types, which is sperm and blood. However, based on the length of the
list furnished by Sample A and B participants, the researcher can state that this is not always the case.

Participants were firstly asked to explain how the most common types of physical evidence can be used to link the perpetrator to the crime. They were also asked, when considering the elements of the crime, what physical evidence should be looked for when processing the rape crime scene, as a follow-up question to the question asked above: “What are the most common types of physical evidence that can be obtained on a rape crime scene?” These were open-ended questions. The participants provided their own explanations. Some of the participants provided more than one answer. The answers of the participants are presented in Table 23 and Table 24 below.

Table 23: Participants’ responses to how the most common types of physical evidence can be used to link the perpetrator to the crime

<table>
<thead>
<tr>
<th>Linking the perpetrator to the crime using the most common types of physical evidence</th>
<th>Sample A and B (FCS Investigators)</th>
<th>Sample C (Prosecutors)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>No response (1)</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>DNA process to link suspect (10)</td>
<td>DNA / Semen may be used to link the accused to the crime (1)</td>
</tr>
<tr>
<td>2</td>
<td>Use of comparisons to identify the suspect (3)</td>
<td>Clothing/ jewellery found in possession (3)</td>
</tr>
<tr>
<td>1</td>
<td>Cigarette butts (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Semen, hair, clothing, blood may be used to confirm victim’s statement of assault and/or intercourse (1)</td>
<td>May corroborate complainant’s version or link accused to crime/crime scene (1)</td>
</tr>
<tr>
<td>1</td>
<td>Analyse the semen (1)</td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Blood (1)</td>
<td></td>
</tr>
</tbody>
</table>

The responses of participants in Sample A and B (FCS Investigators) as well as Sample C (Prosecutors) corresponded with their initial reply to the question: “What are the most common
types of physical evidence that can be obtained on a rape crime scene?" 10 participants of Sample A and B specifically indicated that the DNA process could link the suspect with the crime, with one participant of Sample C agreeing. One participant of Sample C and three participants of Sample A and B state that the physical evidence could be used to identify the suspect, with the latter referring to comparison testing. Fingerprints found at a scene are compared to those on the police data base. The responses correspond with Saferstein (1981:45), Eckert (1992:36) as well as Osterburg and Ward (2010:437) when the authors state that prints may be lifted from various surfaces for comparison. One participant of Sample C explained that evidence may be used to rebut the defence, while another explained that it may corroborate the complainant’s version or link the accused to the crime/crime scene. One participant of Sample A and B agrees.

Table 24: Participants’ responses to: “When considering the elements of the crime, what physical evidence do you look for when you process the rape crime scene?”

<table>
<thead>
<tr>
<th>Physical evidence you should look for at a rape when considering the elements of the crime scene</th>
<th>Sample C (Prosecutors)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sample A and B (FCS Investigators)</td>
<td>Sample C (Prosecutors)</td>
</tr>
<tr>
<td>• Body fluids from victim and suspect (1)</td>
<td>• Weapons (3)</td>
</tr>
<tr>
<td>• Semen (11)</td>
<td>• DNA (2)</td>
</tr>
<tr>
<td>• Clothing (7)</td>
<td>• Semen (2)</td>
</tr>
<tr>
<td>• Fingerprints (4)</td>
<td>• Hair (2)</td>
</tr>
<tr>
<td>• Any material cloth which might have been used during the commission of crime (3)</td>
<td>• Fingerprints (2)</td>
</tr>
<tr>
<td>• Blood (10)</td>
<td>• Personal belongings (1)</td>
</tr>
<tr>
<td>• Any object used (3)</td>
<td>• Condoms (1)</td>
</tr>
<tr>
<td>• Saliva (2)</td>
<td>• Blood (1)</td>
</tr>
<tr>
<td>• Hair (4)</td>
<td>• Injuries to the complainant (1)</td>
</tr>
<tr>
<td>• Nails (1)</td>
<td>• Clothing (1)</td>
</tr>
<tr>
<td>• Condoms (7)</td>
<td>• Knife (1)</td>
</tr>
<tr>
<td>• Condom wrappers (1))</td>
<td>• Weapons (3)</td>
</tr>
<tr>
<td>• Firearm (2)</td>
<td>• DNA (2)</td>
</tr>
<tr>
<td>• Firearm projectiles (1)</td>
<td>• Semen (2)</td>
</tr>
<tr>
<td>• Tracks left behind by suspect (1)</td>
<td>• Hair (2)</td>
</tr>
<tr>
<td>• Bite marks (1)</td>
<td>• Fingerprints (2)</td>
</tr>
<tr>
<td>• Footprints (1)</td>
<td>• Personal belongings (1)</td>
</tr>
<tr>
<td>• Crowbar (1)</td>
<td>• Condoms (1)</td>
</tr>
<tr>
<td>• Knife (1)</td>
<td>• Blood (1)</td>
</tr>
</tbody>
</table>

The responses of participants in Sample A and B (FCS Investigators) to this follow-up question, namely: “What physical evidence should be looked for when considering the elements of the
crime?” corresponded with their responses to the initial question above, namely: “What are the most common types of physical evidence that can be obtained on a rape crime scene?” These participants further mentioned firearms and firearm projectiles, footprints as well as tracks left behind by suspects, which were not specifically mentioned previously. The responses of Sample C (Prosecutors) now included blood, which was absent in answering the initial question. The researcher is not clear as to why the examples of firearms and firearm projectiles, footprints as well as tracks left behind by suspects and blood as physical evidence, were absent in responses to the initial question but appeared in this follow-up list as part of Sample A and B and Sample C’s responses. Clearly, the responses of Sample A and B (FCS Investigators) as well as Sample C (Prosecutors) regarding physical evidence required to prove the crime of rape, are supported by literature (O’Hara & O’Hara 2003:366).

3.7 Summary
This chapter includes an in-depth discussion on evidence and physical evidence. It further explains the role of physical evidence found at a rape crime scene in an investigation. The chapter entails a discussion on the most common types of physical evidence that can be obtained at a rape crime scene. The participants’ views and understanding of certain concepts were compared to literature. The views and opinions of the participants, as well as literature, highlight the importance of thorough investigation at a crime scene. It is concluded that observation of physical evidence by an investigating officer will assist the prosecutor in proving each of the elements of the crime of rape in court during the trial.

In addition, the research showed that the most common physical evidence which is used as clues will link a suspect to the crime in order to solve the case. Physical evidence is, therefore, critical in the investigation of the crime of rape. Such evidence will assist the investigating officer with clues to direct and finalise the investigation. Evidence is anything perceptible by the five senses, and such evidence must be accepted by a court of law. The chapter also explains the concepts of identification and individualisation.

In view of the research responses, and supported by literature, it is concluded that physical evidence is preferred in a court of law, as it is a more concrete form of evidence (Gardner
The most common sources of physical evidence are identified as blood, hair, tissue, biological evidence, fingerprints and footprints. A comprehensive search for physical evidence at a secured and cordoned off crime scene must be guided by the investigator. The identification and individualisation of such physical evidence will assist the prosecution in proving a crime of rape beyond any reasonable doubt, and these processes are thus critical to solving the crime. In the last chapter the researcher will provide certain recommendations and conclusions based on the research findings.
CHAPTER 4
FINDINGS AND RECOMMENDATIONS

4.1 Introduction

The aim of this research was formulated as follows (also see 1.4):

- To establish how observation should be conducted at a rape crime scene to identify physical evidence.

The research was intended to improve the observation abilities of investigators to identify physical evidence on the crime scene to solve the crime of rape. The researcher also investigated which factors may obstruct observation at a rape crime scene, and identified how such challenges may be overcome. Two research questions (see 1.6) were formulated in order to achieve the aims of this research:

- How should a rape crime scene be observed for evidence?
- What types of physical evidence can be identified on a rape crime scene?

The researcher collected and analysed data from the literature, an analysis of the CAS which resulted in the identification of rape cases registered, case docket analysis, and held interviews with participants. The research achieved the purpose of exploring the understanding of observation as a technique to obtain information, as well as how a person’s observation ability may be influenced by various attributes of an investigator. The participants described the critical value of physical evidence and the most common types of physical evidence that can be obtained on a rape crime scene. The findings, recommendations and conclusion of the research are indicated below.

4.2 Findings

The findings of the study are described and discussed supported by information obtained from the literature, as well as from responses received from the interviews conducted on the samples that were chosen. The primary and secondary findings will be provided in this section.
4.2.1 Primary findings
The primary findings answer the main research questions of the study.

4.2.1.1 Research question one findings: How should a rape crime scene be observed for evidence?
This research sought to understand the crime of rape, the crime scene, observation in terms of investigation as a technique to obtain information on a rape crime scene, and the factors that contribute to an investigator’s abilities to conduct observation. In the responses to this research question it was established that:

- The investigator’s goal should be aimed at gathering evidence that proves the elements of the crime of rape. The crime of rape consists of its own set of legal elements. The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, Section 3 (South Africa 2007) identifies the elements of rape as sexual penetration with a complainant and the lack of consent. The participants’ responses regarding their understanding of the crime of rape were of an acceptable standard and in accordance with the latest legislation, indicating their awareness of the legislative changes. When the participants were asked for their understanding of the elements of rape, two participants indicated the elements of force and assault. These are and were not prerequisites of a crime of rape, and therefore this misunderstanding is a concern. Force and assault may be taken into account during the investigative process, but should not be regarded as prerequisites for a crime of rape to have taken place.

- Observation is the first step in crime scene examination. Observation is conducted to locate physical evidence. The next step is to create a hypothesis, followed by the testing of the hypothesis against the physical evidence located during observation. Physical evidence must be located while considering the elements of the crime of rape. Thus an understanding of the elements of rape will assist the investigator to interpret the facts correctly. The majority of participants showed an understanding of the significance of observation, but they did not always visit crime scenes, indicating the lack of application.

- The crime scene is the main source of gathering and collecting information. During the perusal of 62 dockets out of the 71 rape case dockets filed by 13 February 2013 at the
Welkom police station (reported over the period June 2011 to June 2012), the researcher discovered that only 14 crime scenes had been visited by the investigators. The investigators indicated in three of the 62 docket perused that the complainant was unable to point out the scene of the crime, while in the remaining 59 docket no reasons were furnished. This may be the reason why much evidence is missed, as a crime scene includes the place where potential items of evidence may be found. The participants’ responses indicate a general understanding as to the definition of a crime scene.

- The SAPS Policy on Crime Scene Management 2 of 2005 notes that sometimes the crime continues to a secondary crime scene, which should be part of the crime scene search. During the perusal of the 62 docket out of the 71 rape case docket filed by 13 February 2013 at the Welkom police station (reported over the period June 2011 to June 2012) the researcher discovered that no distinction was made between primary and secondary crimes scenes in any of the docket. This could indicate that the investigators (who were mentioned in the perused docket) were unaware of the distinction or extension of a crime scene. However, in this study the participants’ responses during the interviews indicate their awareness of this distinction.

- The practice of observation at a crime scene will result in evidence being recovered. The researcher noted that the majority of participants of Sample A and B came fairly close to understanding the concept of observation. Three participants indicated that observation involved the search for clues, and another three indicated observation as what you see on a crime scene. The investigators’ abilities to detect physical evidence require a latent skill of observation. A possible reason why so little physical evidence is being collected during rape investigations may be the absence of this latent skill of observation.

- The starting point to conducting observation at the crime scene to locate physical evidence is by conducting a walkthrough. The walkthrough should begin as close as possible to the point of entry to the crime scene. The investigating officer must look and listen for a considerable time after arrival. The point of entry, the location of the crime, areas where a suspect may have cleaned up, and the point of exit are areas at a scene that commonly reveal physical evidence. The first place the investigators should observe at the scene of crime is the ground; thereafter everything above eye level such as the ceiling, tree branches and cupboards. The participants’ responses indicate that they have a fair
understanding of how observation should be conducted at a rape crime scene. The participants also cautioned that seizing of exhibits should be done while wearing gloves. This response is an indication of the participants’ awareness of the transferring of unwanted fingerprints. Although the responses in this study are not necessarily deemed as incorrect, the view of some of these participants was limited to including the physical evidence without any reference to the procedure or steps involved when conducting observation.

- The participants’ recommendations to address the shortcomings in the current investigation procedure with regard to the observation at the crime scene, inferred that investigators show a lack of interest in their investigation, a lack of logical thinking and failure to follow up on the investigation. They wait for instructions from the prosecutors. This implies that investigators do not possess many of the attributes of a successful investigator. The researcher based the model reflected in Figure 6, Chapter 2 (Attributes of a successful investigator) on the literature review and responses of the interviews conducted. The researcher thus made her own contribution in respect of mapping the attributes of a successful investigator.

4.2.1.2 Research question two findings: What types of physical evidence can be identified on a rape crime scene?

This research sought to explore the common types of physical evidence that can be identified on a rape crime scene. This physical evidence can be used to link the perpetrator with the crime, while providing a descriptive analysis. Concepts such as identification, individualisation, physical evidence and its role in the rape crime scene investigation were explored. The following was found:

- Identification begins with an adoption of testing procedures for specific standard material to determine its physical or chemical identity. This process is used to place an item in a specific class, which sets the object apart from other objects in its class. It is this pattern of class and individual characteristics that establishes the individuality of the object. This means that, should the characteristic be unique to only one member of a class, identification of the individual source of evidence will take place. This process is called
individualisation. The examination of the fibre found under the victim’s fingernails may reveal a naturally occurring filament as opposed to a synthetic filament in a class of human hair as being identification, but when a single origin is established, it is individualisation. The responses furnished by the participants in this study indicate confusion with the explanation of these two concepts. The participants’ responses appear to be directed at the explanation of an identification parade where the victim will point out the suspect in order to identify the perpetrator. They did not distinguish clearly between the concepts of identification and individualisation.

- The first responder at the crime scene must prevent anyone from entering the scene by securing the scene. Investigators will then take over and conduct a detailed search for physical evidence. The participants’ responses indicate an understanding of the investigative procedure with regard to the identification of physical evidence at the crime scene. Thirteen participants of Sample A and B stated that they think there are no shortcomings in the current investigation procedure with regard to the identification of physical evidence at the crime scene, while four participants indicated that there are shortcomings. Three participants did not respond. All three participants of Sample C indicated that they believe there are shortcomings in the investigative procedure with regard to the identification of physical evidence at the crime scene. However, even those participants who were silent about the shortcomings, furnished recommendations to address possible shortcomings with regard to the identification of physical evidence at a crime scene – implying that there are in fact more shortcomings than originally indicated. The recommendations included training for investigators, prior qualifications and developing an imaginative approach.

- Physical evidence may be used to prove the commission of a crime; provide investigative leads for a case; link a crime scene or victim to a suspect; corroborate or refute a suspect’s statement or alibi; identify a suspect; induce a confession of a suspect; exonerate the innocent; and provide expert testimony in court. Physical evidence is described as something which may be seen, heard, touched, smelled or tasted. Physical evidence cannot be distorted and it is not subject to any memory loss. The major categories of physical evidence are fingerprints, evidence caused by firearms, biological evidence, document evidence, physical matching evidence, toxicology evidence and drug
evidence. The majority of participants’ responses implied an understanding of physical evidence, as their responses corresponded with the literature.

- The most common types of physical evidence found at a rape crime scene are body fluids, which include bodily excretions namely, blood and sperm as well as bodily tissue, prints, hair and fibres like material from clothing. The list of the most common types of physical evidence furnished by the participants corresponds with the list furnished by literature. The most common type of physical evidence as indicated by the 16 participants is semen, with 13 mentioning blood. Sample C (Prosecutors) did not list blood in their response to this question. The other example of bodily tissue mentioned in literature is stomach tissue, which is more difficult to detect at the crime scene. This example of body tissue was not mentioned by Samples A and B or C.

4.2.2 Secondary findings

The secondary findings do not directly answer the main research questions, but are based on important aspects derived from the discussions in each chapter above.

- **The gap between theory and application.** The participants’ responses indicate an awareness and general acceptance of the elements of rape, observation, the crime scene and the significance of searching a crime scene for physical evidence. However, the docket analysis reveals that this theory is not being applied. This implies that there is a gap between theory and application. During the perusal of the 62 dockets out of the 71 rape case dockets filed by 13 February 2013 at the Welkom police station (reported over the period June 2011 to June 2012) the

- **Supervisory inspections and guidance.** During the perusal of the 62 dockets out of the 71 rape case dockets filed by 13 February 2013 at the Welkom police station (reported over the period June 2011 to June 2012), 59 dockets had no indication of the investigator having visited the crime scenes. The SAPS Policy on Crime Scene Management 2 of 2005 notes that crime scenes must be visited by the investigating officer. This indicates to the researcher that supervisory inspections were not conducted. This may also imply that the supervisors may not have been aware of the SAPS Policy on Crime Scene
Management 2 of 2005. As a result, the investigating officers’ actions were not corrected through inspections and guidance.

4.3 Recommendations
The recommendations that are provided in this section are based on the primary and secondary findings discussed in paragraph 4.2 above. The aim of the research is to establish how observation should be conducted at a rape crime scene to identify physical evidence.

The findings and recommendations were based on the data that emerged after analysing the questionnaires. The primary and secondary recommendations, resulting from the findings, will be presented in this section.

4.3.1 Primary recommendations
The primary recommendations answer the main research questions, followed by a discussion.

4.3.1.1 Research question one recommendations: How should a rape crime scene be observed for evidence?

- **Observation at a rape crime scene for evidence:** It is recommended that the management in the SAPS should hold regular information sessions and workshops with existing and new police officials to improve their knowledge on the gathering of evidence that will substantiate the victim’s version of the allegation of rape. The police officials should be made aware that rape consists of its own set of legal elements. These laws and examples of cases should be given at the workshops. The main law that should be presented is the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007. The main Section of this law, that specifically identifies the elements of rape as sexual penetration with a victim and the lack of consent, should be firmly discussed at these workshops and information sessions.

- **Observation is the first step in crime scene examination:** The recommendations will address this theme by focusing on: conducting observation at a crime scene; the practice of observation resulting in evidence being detected; the starting point to conduct observation; locating physical evidence by conducting a walkthrough; as well as the
participants’ recommendations to improve lack of interest in investigation. Observation is conducted to locate physical evidence. It is recommended that police officials should be taught by workshops and on-the-job training on ways to create a hypothesis, followed by the testing of the hypothesis against the physical evidence located during crime scene observation. The main purpose will be to create an understanding of the elements of rape, and to highlight the significance of observation by illustrating techniques to interpret the facts correctly. Every crime scene’s investigation is unique and requires a careful and thorough understanding of the individual case. A thorough and accurate observation of the crime scene must be completed from the start to process the scene accurately. It is further recommended that rape crime scenes be photographed and video recorded to overcome the human factor of memory loss. This initial observation, supported by the understanding of the elements of the crime, will assist investigators to identify physical evidence and interpret the facts correctly. The traditional mentoring by and shadowing of experienced and top-performing investigators are methods that must be used more frequently, and should follow the successful completion of the SAPS detective training. Time should be allocated for investigators to be groomed for investigations, with succession planning as the underlying motivator.

- A report of the preliminary survey or walkthrough should be contained in the narrative report because it depicts the plan that was made to ensure thorough and accurate observation and investigation at the scene. The completion of this narrative report must be supplemented by the completion of a checklist (see Table 25). Checklist 1: “Crime scene observation”, must be signed and placed in the docket. The checklist below was formulated by the researcher and is the researcher’s own contribution to guide investigators regarding observation at crime scenes. Coupled with the recommended narrative report and checklist, the supervising officer must conduct supervisory inspections, also signing the checklist and holding investigators who fail to visit crime scenes accountable for their actions, which may have far-reaching consequences not only for the victim or the perpetrator but also their family members and the constitutional promise of justice. The completion of the report and checklist will ensure that investigators actually visit the scene and that physical evidence is searched for during observation at the location of the crime.
Table 25: Checklist 1: Crime scene observation

<table>
<thead>
<tr>
<th>Number</th>
<th>Action</th>
<th>Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>=√</td>
</tr>
<tr>
<td>1</td>
<td>I am able to apply my knowledge of the elements of rape to the investigation</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>I am able to apply the Standard Operating Procedure to the investigation</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>The scene was photographed</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>The scene was video recorded</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>I communicated with the first responder obtaining all the information available</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Scene of crime visited</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Preliminary scene identified</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Secondary scene identified</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Starting point identified</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Walkthrough completed</td>
<td></td>
</tr>
<tr>
<td>10.1</td>
<td>Looked</td>
<td></td>
</tr>
<tr>
<td>11.2</td>
<td>Listened</td>
<td></td>
</tr>
<tr>
<td>11.3</td>
<td>Sniffed</td>
<td></td>
</tr>
<tr>
<td>11.4</td>
<td>Touched (Do not disturb crime scene)</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Report written</td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Physical evidence found</td>
<td></td>
</tr>
</tbody>
</table>

- Comment
  - Indicate should an area of development exist
  - Indicate should an area of development exist
  - Indicate should a challenge exist, the name and contact details of photographer
  - Indicate should a challenge exist, the name and contact details of person recording scene
  - Indicate name and contact details of first responder
  - Indicate date and time of visit with physical location
  - Indicate/ describe location of preliminary scene
  - Indicate/ describe location of secondary scene
  - Indicate starting point
  - Indicate path of walkthrough
  - Indicate items seen, noises heard, any smells, and any textures of items noticed (Note: It is not always possible to use all senses all the time at all scenes. Investigators’ discretion must be used and the situation must dictate, while always keeping the scene preserved)
  - Indicate should a challenge exist.
  - Indicate and describe evidence found

- The crime scene is the main source of gathering and collecting information. It is recommended that the managers in the SAPS should make police officials aware of the importance of visiting crime scenes. This should be done during the parades, work sessions and lectures. The workshops arranged should also teach police officials ways to be calm, and to elicit information of the crime scene and its location without causing any
further harm to the victim. Police officials should be sensitive to a victim of rape and, if available, a female police official should perform this task.

- The investigator must possess the willpower, commitment as well as some latent observation skills prior to undergoing any training to enhance their observation abilities, their knowledge, experience and imaginative approach for such training to be successful. An investigator will learn how to recognise physical evidence as he/she gains experience. However, mostly those persons who are identified with the latent talent should preferably be recruited for training as investigators. Training will then unleash this talent, grooming them with the required attributes of a successful investigator. The investigators working in the FCS Unit should undergo psychometric testing before nomination to deal with rape cases. This will result in the best and most suitable investigators being chosen for the investigation of rape cases. A further recommendation is the distribution of the model reflected in Figure 6, Chapter 2, namely “Attributes of a successful investigator”. This model will serve as a practical guide of attributes that a successful investigator should possess and could contribute towards the quality of observation at rape crime scenes.

4.3.1.2 Research question two recommendations: Physical evidence that can be identified on a rape crime scene

- The recommendations for this theme will cross-cut into other findings that were made by participants and the recommendations will improve these themes, namely: identification begins with an adoption of testing procedures for specific standard material to determine its physical or chemical identity; the first responder at the crime scene must prevent anyone from entering the scene by securing the scene; physical evidence may be used to prove the commission of a crime; provide investigative leads for a case; link a crime scene or victim to a suspect; corroborate or refute a suspect’s statement or alibi; identify a suspect; induce a confession of a suspect; exonerate the innocent; and provide expert testimony in court. Lastly, the most common types of physical evidence found at a rape crime scene have been identified in this study as body fluids, which include bodily excretions, namely blood and sperm as well as bodily tissue, prints, hair and fibres like material from clothing. It is further suggested that these recommendations be implemented and regarded as a continuous act, with the aim of continuous improvement.
The recommendations made by the participants include training for investigators, prior qualifications and the development of an imaginative approach. These are practicable recommendations and should be implemented. Physical evidence reveals valuable information to aid the investigation. It is critical to establish the area of organising observation in line with the evidence. Physical evidence is the link between critical aspects of any crime, namely location, suspect and victim. The relationship between the location, suspect and victim with physical evidence, is illustrated below in Figure 9.

Figure 9: Flow diagram 1: Relationship between the location, suspect and victim with physical evidence

The flow diagram indicates the relationship between the location, suspect and victim with physical evidence as its central linking point. Physical evidence is the link between these critical aspects of any crime. A Standard Operating Procedure (SOP) indicating the fundamental principles of observation as a part of investigation should be compiled, keeping this model as the underlying motivation for observation at a rape crime scene. The SOP will ensure protocol when entering a crime scene and should provide a frame of reference for all components of the Criminal Justice System. A standard format will provide the prosecutors with a document depicting a systematic approach to the crime scene. This scientific approach will guide the prosecutor to prepare cases for court presentation. This SOP will empower investigators to cope
with unforeseen situations and strenuous circumstances at crime scenes. The adherence to principles of the SOP and performance of investigators prior to releasing the crime scene will be critical to establish the area of organising observation in line with the evidence. The recommendation of this study is that workshops, discussing successful rape cases where physical evidence was discovered, how it was discovered and its value, should be held with investigators and prosecutors to ensure that both these role players have a standard understanding of the types and value of physical evidence found at a rape scene. A list of the most common types of physical evidence should be extended and the mind of the investigator should be open to other types of physical evidence.

4.3.2 Secondary recommendations

The secondary recommendations that follow below are based on the secondary findings. The recommendations do not directly answer the main research questions, but are based on important aspects that have been derived from the discussions in each chapter.

- **The gap between theory and application.** It is recommended that workshops and information sessions be held with the aim of targeting newly appointed police officials during their night shifts and less busy periods. The major intention of such a workshop is to teach police officials the skill of observation at a crime scene. The workshops should be attended by senior, experienced investigators who should share their best practices, experience and knowledge with other investigators to eliminate the gap between theory and application. These seasoned investigators should form part of an elite group that are on standby and readily available to assist other investigators with the investigation of complex cases. The seasoned investigators should also be tasked with the assistance of the SAPS Communications component to write down the best practices and convert their reports suitable for publication and communication through the SAPS intranet. The publication of best practices will add value and continually improve observation and untimely the investigation of crime scenes. This constant awareness of Standing Operational Procedures and policies of observation and investigation of crime scenes will ensure that the evolving methods of investigation are communicated to members, who will then implement them.
• **Supervisory inspection and guidance.** It is recommended that the managers in charge of the FCS should conduct inspections of case dockets without delay, and these inspections will reveal when investigators fail to visit crime scenes timeously. This will also inculcate a culture of proper crime scene visits followed by observation. Those investigators who fail to visit crime scenes should be held accountable for their actions. The investigators should vigorously be given guidance and on-the-job training to correct their actions at crime scenes. Should it be discovered that the investigators neglected to perform their duties properly, departmental steps should be taken against them.

4.4 Conclusion
This research was aimed at understanding how a rape crime scene should be observed to improve observation during investigation at the scene of crime. It was also meant to determine which factors obstruct investigative observation and how such shortcomings may be managed. The following research questions were asked:

- How should a rape crime scene be observed for evidence?
- What types of physical evidence can be identified on a rape crime scene?

The research design and methodology enabled the researcher to answer the research questions. Literature on this topic was examined and discussed. The researcher conducted interviews with 20 investigators who make up the FCS unit in the SAPS and three prosecutors who form the FCS prosecuting unit.

The objective of investigation is to find evidence with the aim of solving the crime. Most evidence is recovered at the crime scene. The understanding and application of the crime of rape, as well as investigative observation at the scene of the crime, form the fundamental and critical aspects of criminal investigation. The success of criminal investigation is dependent on the investigator’s skills, abilities and state of mind; the knowledge the investigator possesses and experience gained by the investigator. Another imperative factor is that the investigator must be dedicated to performing a proper observation at the scene of crime.
This research has revealed that investigators do not conduct observation of physical evidence at rape crime scenes, as often the crime scenes are not visited. The significance and value of visiting the crime scenes, conducting observation and obtaining evidence, are understood but not applied. This discipline must be mastered by investigators through continuous training, maintenance and enhancement of investigators’ skills, abilities, knowledge and dedication to ensure that rape crimes are investigated successfully.

The researcher recommends that future research should be conducted on the formulation of SOP’s, as well as the provision of training and physical infrastructure support to enable investigating officers to conduct proper observation of rape crime scenes.
LIST OF REFERENCES


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Constitution see South Africa 1996.


Participant 1, Investigating officer from Welkom SAPS FCS.

Participant 2, Investigating officer from Welkom SAPS FCS.

Participant 3, Investigating officer from Welkom SAPS FCS.

Participant 4, Investigating officer from Welkom SAPS FCS.

Participant 5, Investigating officer from Welkom SAPS FCS.

Participant 6, Investigating officer from Welkom SAPS FCS.

Participant 7, Investigating officer from Welkom SAPS FCS.

Participant 8, Investigating officer from Welkom SAPS FCS.

Participant 9, Investigating officer from Thabong SAPS FCS.

Participant 10, Investigating officer from Thabong SAPS FCS.

Participant 11, Investigating officer from Thabong SAPS FCS.

Participant 12, Investigating officer from Thabong SAPS FCS.

Participant 13, Investigating officer from Thabong SAPS FCS.

Participant 14, Investigating officer from Thabong SAPS FCS.

Participant 15, Investigating officer from Thabong SAPS FCS.
Participant 16, Investigating officer from Thabong SAPS FCS.
Participant 17, Investigating officer from Thabong SAPS FCS.
Participant 18, Investigating officer from Thabong SAPS FCS.
Participant 19, Investigating officer from Thabong SAPS FCS.
Participant 20, Investigating officer from Thabong SAPS FCS.
Participant 21, Prosecutor from Welkom court.
Participant 22, Prosecutor from Welkom court.
Participant 23, Prosecutor from Welkom court.


Tshwane University of Technology, Department of Safety and Security Management. 2006. *Law Policing 1: Crimes against the person.* Pretoria: TUT.


ANNEXURE A
INTERVIEW SCHEDULE
OBSERVING A RAPE CRIME SCENE WITH THE INTENT TO IDENTIFY EVIDENCE

SECTION A

1. INTRODUCTION
I am a University of South Africa (Unisa) student doing my Master’s Degree in Forensic Investigation. The interview schedule is part of my research. In terms of National Instruction 1/2006, I have received authorisation from the South African Police Service (SAPS) to undertake this research. The Research Ethics Committee of the College of Law at Unisa has also approved this research.

2. OBJECTIVES OF THE STUDY
The objectives of this research are to establish how to observe a rape crime scene for evidence and how to identify the types of physical evidence that can be used to link the perpetrator with the crime of rape as defined by the Criminal Law Amendment Act 32 of 2007. Both male and female perpetrators as well as victims are included in this research.

3. INFORMATION AND INSTRUCTIONS
- Participation in this study is voluntary.
- You will not be identified individually in the research and any information that you provide will be treated as confidential.
- It should take approximately one (1) hour to complete the interview schedule.
- You will be expected to answer the questions orally and your answers will be recorded by the researcher who will be taking notes.
- Please answer every question in the schedule.
- Thank you for your participation in this research.
SECTION B

HISTORICAL INFORMATION
Participant No: __________________________
1. How many years of service have you had as a general investigator?
2. How many years of service have you had as a Family Violence, Child Protection and Sexual Offence (FCS) investigator?
3. What is/are your academic qualification/s?
4. Have you received internal SAPS training in the investigation of rape cases?

OBSERVATION FOR EVIDENCE AT A RAPE CRIME SCENE
5. What is rape?
6. What is your understanding of the elements of rape?
7. How would you define a crime scene?
8. What is observation in terms of investigation?
9. What is the role of the investigating officer in the investigation of rape cases?
10. When considering the elements of rape, how should you conduct observation at the scene of a rape?
11. What factors contribute to an investigator’s abilities to conduct observation?

TYPES OF PHYSICAL EVIDENCE THAT CAN BE IDENTIFIED ON A RAPE CRIME SCENE TO LINK THE PERPETRATOR WITH THE CRIME
12. What is your understanding of the meaning of the term “evidence”?
13. How would you define physical evidence?
14. What is the role of physical evidence found at a rape crime scene in an investigation?
15. What are the most common types of physical evidence that can be obtained on a rape crime scene?
16. In your opinion, whose responsibility is it to process the crime scene for physical evidence?
17. When considering the elements of the crime, what physical evidence do you look for when you process the rape crime scene?
18. Explain how this evidence can be used to link the perpetrator to the crime.
19. What is your understanding of the concept “identification”?
20. What is your understanding of the concept “individualisation”? 
21. When you investigate a rape, what/who do you use as the primary source of information? 
22. In terms of investigative procedures, is there a specific procedure that must be followed for a rape investigation? If so, please explain it.
23. Do you think there are shortcomings in the current investigation procedure with regard to observation at the crime scene?
24. What steps (if any) would you recommend for addressing the identified shortcomings?
25. Do you think there are shortcomings in the current investigation procedure with regard to the identification of physical evidence at the crime scene?
26. What steps (if any) would you recommend for addressing the identified shortcomings?
ANNEXURE B
INTERVIEW SCHEDULE
OBSERVING A RAPE CRIME SCENE WITH THE INTENT TO IDENTIFY EVIDENCE

SECTION A

1. **INTRODUCTION**
   I am a University of South Africa (Unisa) student doing my Master’s Degree in Forensic Investigation. The interview schedule is part of my research. In terms of National Instruction 1/2006, I have received authorisation from the South African Police Service (SAPS) to undertake this research. The Research Ethics Committee of the College of Law at Unisa has also approved this research.

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3. **INFORMATION AND INSTRUCTIONS**
   - Participation in this study is voluntary.
   - You will not be identified individually in the research and any information that you provide will be treated as confidential.
   - It should take approximately one (1) hour to complete the interview schedule.
   - You will be expected to answer the questions orally and your answers will be recorded by the researcher who will be taking notes.
   - Please answer every question in the schedule.
   - Thank you for your participation in this research.
SECTION B

HISTORICAL INFORMATION
Participant No: ______________________________
1. How many years of service have you had as a prosecutor?
2. How many years of service have you had as a Family Violence, Child Protection and Sexual Offence (FCS) prosecutor?
3. What is/are your academic qualification/s?
4. Have you received internal training in the prosecution of rape cases?

OBSERVATION FOR EVIDENCE AT A RAPE CRIME SCENE
5. In your opinion, which abilities should an investigator possess to conduct observation at rape crime scenes?

TYPES OF PHYSICAL EVIDENCE THAT CAN BE IDENTIFIED ON A RAPE CRIME SCENE TO LINK THE PERPETRATOR WITH THE CRIME
6. What is the role of physical evidence found at a rape crime scene in an investigation/prosecution?
7. What are the most common types of physical evidence that can be obtained at a rape crime scene?
8. In your opinion, whose responsibility is it to process the crime scene for physical evidence and why?
9. Does the processing of rape crime scenes for physical evidence have a positive impact on rape investigations?
10. When considering the elements of the crime, what physical evidence should be looked for at rape crime scenes to add value to the prosecution of the case?
11. Explain how this evidence can be used to link the perpetrator to the crime.
12. From your experience what/who is used as the primary source of information in rape cases?
13. In terms of investigative procedures, is there a specific procedure that must be followed for obtaining physical evidence at a rape investigation? If so, please explain it.
14. Do you think there are shortcomings in the current investigation procedure with regard to observation at the crime scene?

15. What steps (if any) would you recommend for addressing the identified shortcomings?

16. Do you think there are shortcomings in the current investigation procedure with regard to the identification of physical evidence at the crime scene?

17. What steps (if any) would you recommend for addressing the identified shortcomings?

GENERAL QUESTIONS

18. What is the importance of observation and identification of physical evidence at the rape crime scene from a legal perspective?

19. In your opinion, what is the role of the investigating officer in the investigation of rape cases?
ANNEXURE C
PERMISSION TO CONDUCT RESEARCH

South African Police Service Suid-Afrikaanse Polisiediens
Tshebeletso’ Sepolesa Afrika Borwa

Private Bag Private Bag
x20501

My reference 3/34/2
My verwysing
Tshepo ya ka

Enquiries Colonel Scharneck
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THE PROVINCIAL COMMISSIONER
DIE PROVINSIALE KOMMISSARIS

FREE STATE PROVINCE
PROVINSIE VRYSTAAT

BLOEMFONTEIN 9300

2012-06-13

M Gounden
12 Derrick Street
Naudeville
WELKOM
9549

REQUEST FOR PERMISSION TO CONDUCT RESEARCH IN THE SOUTH AFRICAN POLICE SERVICE: M GOUNDEN
Your letter dated 4 April 2012 refers.

1. In terms of National Instruction 1 of 2006 you are hereby granted permission to proceed with the research on “The Rape Crime Scene: Observation and Identification of physical evidence”.

2. It is requested that you complete the attached Undertaking and submit it to the Provincial Commissioner’s Office, marked for the attention of Lt Col AG Jegels via e-mail at FS:Strategic Management Planning & Facilitation (jegelsa@saps.gov.za) or fax at 051-5076466.

3. For any further enquiries, please feel free to consult Lt-Col AG Jegels at 051-5076568.

4. Your cooperation in this regard is appreciated.

5. Kind regards.

[Signature]
DEPUTY PROVINCIAL COMMISSIONER: OPERATIONS OFFICER
FREE STATE
MD SEMRE

/adj
d:/mydoc/provincial/saps/research/m.gounden

MAJOR GENERAL