

INTERVIEWING CHILD VICTIMS: IMPROVE COMMUNICATION AND  
UNDERSTAND CHILD BEHAVIOUR

by

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## **DECLARATION**

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I, Kate Iketsi Masango, declare that this dissertation entitled 'Interviewing child victims: improve communication and understand child behaviour', submitted in part fulfillment of the requirements for the degree of M-Tech: Forensic Investigation is my own work and that all the sources used or quoted have been reflected and acknowledged by means of complete references.

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Mrs K I Masango

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Date

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## **ABSTRACT**

This research investigates the communication abilities of children who are exposed to criminal investigations because a crime was committed against them or they have witnessed a crime happening to another person. The study also determines how crime detectives can maximise their efforts in obtaining evidence from such children with the help of an interview as a technique to elicit information.

The aim of the research was to understand the behaviour of children, so that more effective investigative interviews can be undertaken with child victims. The researcher wanted to identify the communication challenges associated with obtaining information from child victims and possible ways to overcome such challenges. It was found that the developmental stages of children, the manner in which interviewers/investigators conduct themselves during child interviews and the amount of knowledge possessed by interviewers to elicit information in a legally defensible manner are central to child victim interviews.

## **KEY TERMS**

Forensic investigation; Investigative interviewing; Criminal investigation; Child; Child victim; Detective.

## **LIST OF ABBREVIATIONS**

CASA	- Court Appointed Special Advocates
CRC	- Conventions on the Rights of the Child
DLP	- Detective Learning Programme
FCS	- Family violence, Child protection and Sexual offences
NICHD	- National Institute of Child Health and Human Development
PEACE	- Planning and preparation, Engage and explain, Account, Closure and Evaluation
PTSD	- Post Traumatic Stress Disorder
SALRC	- South African Law Reform Commission
SAPS	- South African Police Service
UNICEF	- United Nations Children's Fund
UNISA	- University of South Africa
UNODC	- United Nations Office on Drugs and Crime

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# **CHAPTER ONE: GENERAL ORIENTATION**

## **1.1 INTRODUCTION**

The 2011 census statistics released in October 2012 indicate that the South African population grew to 51.8 million people and that it has a relatively youthful population of which over a third (approximately 17.26 million) is under the age of 15 years (Statistics South Africa, 2012). While the census data does not describe the youthful population in terms of the legal definition of a child as stated in section 28(3) of the Constitution (South Africa, 1996b), these figures mean that there are more than 17.26 million children in South Africa who are below 18 years of age (Statistics South Africa, 2012).

The 2013/2014 crime statistics released by South African Police Service (SAPS) show that 45 230 contact crimes in which there were child victims were reported to the SAPS for this period (SAPS, 2014). Contact crimes include murder, attempted murder, all sexual offences, common assault and assault with the intent to cause grievous bodily harm. Other types of crimes perpetrated against children and which were reported to the SAPS have not been included in the given figure of 45 230. These crimes include the ill-treatment/abandonment of children, commercial sexual exploitation, and the unlawful removal of a child from any institution or the Republic of South Africa. Therefore it is possible that the figure is greater than the reported 45 230. This figure indicates that there were approximately 45 230 children who were involved in the criminal investigative process for 2013/2014, and who were thus likely to have been interviewed with the purpose of obtaining evidence used for legal purposes.

An interview is a kind of conversation intended to draw information from available witnesses and potential suspects (Hoffman, 2005). The same author further clarifies that an interview is generally not aimed at accusing persons from whom information is drawn. Interviews are conducted in criminal cases to gather information from people (witnesses and victims) who have or may have knowledge needed in the criminal investigation (Fisher & Geiselman, 2010:321). Since criminal investigation is defined as a thinking and reasoning process which has the primary objective of gathering facts related to a specific act or crime (Palmiotto, 2013:6), it means that the use of interviewing as a method of gathering information/evidence cannot be overlooked by detectives during criminal investigations.

## 1.2 CONTEXTUALISING THE PROBLEM

Interviewing children for investigative purposes requires a special skill which not all police officers possess. Children should, as a matter of duty and practice, be interviewed by a specially trained investigator (United Nations Office on Drugs and Crime (UNODC), 2009:15). The researcher will make reference to the terms investigator, detectives or general detectives during the course of the discussion. These terms will refer to the general detectives who are tasked with the general investigation of crime at a police station. These terms will be taken to be synonymous; unless otherwise specified, as in the case of the FCS detectives who are specially trained to investigate crimes against children.

Fisher and Geiselman (2010:321) reveal that police officers (including detectives) conduct poor interviews that limit information obtained from the witnesses and victims. The researcher has seen that the majority of general detectives she has worked with experience various difficulties when they are expected to interview child victims. These difficulties include not knowing the nature of questions suitable for each age group, difficulty in stimulating the child to tell the story, and not being familiar with the concentration span of children. It has also been the experience of the researcher that some colleagues in the general detective unit interview children in the same way they interview adults. It is thus very probable that there are quite a number of detectives in the SAPS who do not have the necessary knowledge or skills to interview children effectively.

Walsh and Bull (2010:318) assert that the effective demonstration of interview skills results in more effective interview outcomes. Specialist training should be developed to skill persons who interview witnesses with particular needs. This should include interviewing child witnesses and traumatised children (Ministry of Justice, 2011). Though they do not specialise in the interviewing of child victims, the researcher believes that general detectives will be exposed at some time or another to a situation where a child (as victim, witness or suspect) had to be interviewed; thus they can benefit from such specialised training. The SAPS provides training on the interviewing of children to a limited extent. That training is offered as a marginal section of both the entire sixteen- week Detective Learning Programme (DLP) and of the four- week Family violence, Child protection and Sexual offence course (FCS course). The researcher has noted that not all detectives are afforded an opportunity to attend both courses.

Interviewing techniques provide a definite resource for law enforcement and security professionals (Gordon & Fleisher, 2011:vii). The researcher is of the opinion that it is essential for all detectives in the SAPS to understand the value of interviewing as a technique and to be able to apply this technique when conducting interviews with children. This skill will enable them to effectively obtain information during an investigation.

Without the proper interviewing skills with which to interview children, detectives will not be in a position to solicit information for purposes of gathering evidence and securing convictions in court. Therefore, the researcher's concern is not only about the ability of the children to recall and provide accurate information, it is also about the lack of practical skills and the ability of the detectives to elicit the required information from child victims. This study is intended to understand the behaviour of children so that more effective interviews can be undertaken with child victims. The study will further determine what factors hinder the effective interviewing of child victims and how these hindrances can be overcome. The outcome of the study should enable detectives to conduct effective and fruitful interviews with child victims.

### **1.3 AIMS OF THE RESEARCH**

Denscombe (2012:50) explains that the aims indicate the direction of the study, as well as the scope and scale of the inquiry. The limits of the study are defined by setting aims that are clear, specific and achievable. The researcher intended to achieve the following with this research undertaken at specifically selected investigative units in the Mpumalanga province:

- Explore the use of investigative interviewing in the context of child interviews by detectives.
- Determine the elements which need to be considered by detectives to better understand the behaviour of a child victim during an interview.
- Determine what the interviewer can do to improve communication with a child victim during an interview.

## **1.4 PURPOSE OF THE RESEARCH**

A research purpose states in some detail what you want to learn about in your research project; thus what target you are aiming to hit (Denscombe, 2012:49). This research has two purposes, namely exploration and description.

### **1.4.1 Exploration**

According to Maxfield and Babbie (2011:10), exploration in the criminal justice discipline is conducted to explore a specific problem. The researcher intended to explore how detectives (within the selected samples) conduct investigative interviews with children. The researcher collected information from the detectives to explore how they understand the interview as a technique and how they practically apply it as a technique in their investigation duties when they interview child victims. The researcher also explored the literature and compared the information obtained with the information collected from the detectives using an interview schedule.

### **1.4.2 Description**

Maxfield and Babbie (2011:10) further explain that criminal justice studies are often descriptive in nature and are used to explore the problem and assist in verifying its existence in order to describe how the problem manifested itself. In addition, they also highlight that when the purpose of the research is descriptive, it is often concerned with counting or documenting observations. According to Given (2007), descriptive research provides a detailed account of a social setting, a group of people, a community, a situation or some other phenomenon. An additional purpose of this research was to describe what investigative interviewing is from the perspective of the research participants and from literature, the possible behaviour of child victims during investigative interviewing and how interviewers can improve communication with a child victim during investigative interviews.

## **1.5 RESEARCH QUESTIONS**

Flick (2011:98) explains that research questions come from somewhere; usually from the social or historical context of the researcher. Punch (2011:65) describes a research question as an element for the topic under study that focuses investigation into a narrow topic and guides every aspect of the research project. The researcher identified three main questions that were used to explore the research problem in particular to interviewing children. The

interviewer also used the main questions to describe the situations, events and phenomena which involve interviewing children. The important things the researcher addressed in this research are formulated in the research questions below:

- What does the field of investigative interviewing entail?
- What elements need to be considered by the investigating officer to understand the behaviour of a child victim during an interview better?
- What is the interviewer's role in improving communication with a child victim during an interview?

## **1.6 KEY THEORETICAL CONCEPTS**

According to Leedy and Ormrod (2005:55), the precise meaning of a concept has to be known in order for a researcher to establish what the research is intended to achieve. The following key concepts are explained to prevent misunderstanding.

### **1.6.1 Forensic investigation**

Forensic investigation is the collection of facts that may serve as evidence before the court of law and is used to prove the association of an accused in the commission of an offence (Kruger, 2006:3).

### **1.6.2 Investigative interviewing**

Investigative interviewing is a method of communication with anyone within the investigation process (be they witnesses, victims, suspects or the first police officer at the scene) in order to obtain the maximum quality of information (Brown & Campbell, 2010:208).

### **1.6.3 Criminal investigation**

Osterburg and Ward (2012:5) define criminal investigation as the collection of information and evidence for identification, apprehension and conviction of suspected offenders.

### **1.6.4 Child**

In chapter 1 of the Children's Act, Act 38 of 2005 a child is defined as any person below the age of 18 (South Africa, 2005).

The researcher will make use of the terms child, children, very young children, young children and older children, since these are the terms used within the literature. These terms are clarified below.

All children under the age of 5 years are referred to as very young children (Fernald & Neufeld, 2007:623; Tornello, Emery, Rowen, Potter, Ocker & Xu, 2013:871). Children below the age of 10 (but older than 5) are referred to as young children, whereas children above the age of 10, but below the age of 18 are referred to as older children (Hutton, 2010).

### **1.6.5 Child victim**

A child victim is any person below the age of 18 regardless of his or her role in the offence or prosecution (UNODC, 2009:5).

According to Webster (2008:12), a review of all South African legislation shows disparity among government departments in defining a victim; thus the definition depends on different roles played by each department. However, Webster (2008:13-21) discusses various definitions of 'victim' from which common elements were drawn. From the common themes identified, the researcher deduced that a 'victim' can be defined as a biological person who has suffered physical or psychological harm as a result of someone's actions.

The operational definition for a child victim for the purposes of this study is a person under the age of 18 years who has suffered physical or psychological harm as a result of actions or inactions of a third party.

### **1.6.6 Detective**

Detective is a word used to describe someone who investigates general and specific crimes (SAPS, 2013a). As mentioned *supra*, the researcher used the concept 'detectives' to describe both general and FCS detectives throughout the study. General and FCS detectives have been used where the researcher specified the detectives according to their duties. General detectives are doing all crime investigations, whereas FCS detectives are specialising in family violence, child protection and sexual offences.

## **1.7 RESEARCH APPROACH**

Rolfe (2006:304) describes the quantitative approach as a way used by researchers to gather numerical data, in other words, anything that can be measured in quantities. Creswell



(2013:4) explains that qualitative research is the approach used by the researcher to explore and understand the meaning individuals or groups ascribe to a social or human problem.

The researcher chose the qualitative research approach for the research, because it is concerned with individuals' different experiences, feelings and attitudes (Ryan, Coughlan & Cronin, 2007:738). It therefore means the people who form part of the study can present their subjective perceptions and experiences in words or actions. The researcher used interviews to get lived experiences pertaining to child victim interviews from the detectives. The relevant literature was also reviewed to explore the existing knowledge on the research topic. The questionnaire was pre-tested to determine if the questions are correctly phrased and would yield the intended feedback.

## **1.8 RESEARCH DESIGN**

A design is used to structure the research, to show how all the major parts of the research project, the samples or groups, measures, treatments or programmes and method of assignment work together to try to address the central research question (Babbie, 2014:116). The researcher has based the study on the empirical research design. Empirical research is based on observed and measured phenomena and derives knowledge from actual experience rather than from theory of belief (Penn State University, 2013). The empirical research design gave the researcher the opportunity to obtain data relating to the problem under investigation during the one-on-one interviews with the detectives. The researcher obtained first-hand information about the knowledge and ideas that detectives have regarding the interviewing of child victims.

## **1.9 POPULATION AND SAMPLING**

Riffe, Lacy and Fico (2014:720) describe a research population as being a generally large, well- defined collection of individuals or objects which is the main focus of the study and which is known to have similar, binding characteristics.

### **1.9.1 Target population**

The target population comprises of a set of elements larger than or different from the group that was sampled, and from which the researcher intended to generalise the study findings (Bachman & Schutt, 2012:108). As a result of the large population of all the detectives, it was not possible for the researcher to include all the detectives in the country. Instead, the

researcher used a target population of all the detectives from SAPS Vosman, SAPS Witbank and the detectives stationed at the Family violence, Child protection and Sexual offences (FCS) unit in the SAPS Witbank cluster.

This study therefore has two separately defined target populations: target population one – general detectives of the Vosman and Witbank police stations and target population two – detectives assigned to the FCS unit responsible for the Witbank cluster. The Witbank cluster comprises of six police stations, namely, Witbank, Vosman, Ogies, Kriel, Delmas and Sundra. This means that the FCS detectives of the Witbank cluster will investigate FCS related crimes reported at the Witbank, Vosman, Ogies, Kriel, Delmas and Sundra stations.

The detectives from the two police stations and the cluster FCS unit have been selected as the two target populations, because it is where the researcher, when serving as a detective in SAPS, noticed the problematic manner of child interviewing among the detectives. Furthermore, these two stations (Vosman and Witbank SAPS) are the biggest police stations in the cluster with a substantially higher volume of criminal cases being reported, which include cases where children are either victims, witnesses or even suspects. There are a total of 98 general detectives within the target population of the detectives from the Witbank and Vosman police stations. This figure consists of 43 general detectives from Vosman, and 55 general detectives from Witbank SAPS.

In the second target population there are 10 detectives from Witbank cluster FCS unit. These two separate groups were selected because the researcher wanted to determine whether those detectives who ostensibly specialise in dealing with child victims (FCS Unit) conduct their interviews in a significantly different manner from those general detectives who do not necessarily specialise in the interviewing of children.

The SAPS have taken into consideration that children are naturally vulnerable, particularly as victims of crime (SAPS, [s.a.]), and have therefore re-established the FCS units that will handle all the reported cases in which a child is a victim. The Witbank cluster FCS unit detectives have been selected because they investigate all the FCS cases committed against children for this geographical area, and are included to measure how child interviews should be done versus how it is done by general detectives.

General detectives do not specialise in child victim cases, but are likely to experience cases where both an adult and a child are victims of crime. As a result of this, their investigations

will expose them to incidents where they have to interview child victims. Therefore the inclusion of the general detectives in the study is based on the assumption that all the detectives stationed at these police stations (Vosman and Witbank) have been exposed to a situation where children had to be interviewed.

### **1.9.2 Sampling**

Riffe et al. (2014:71) describe sampling as the process of selecting units such as people, organisations, objects and events from a population of interest, so that the results of the studied sample may be fairly generalised back to the population from which the sample was drawn. In order to generalise the findings from the sample to the population from which it was selected, the sample must be representative (Bryman & Bell, 2011:176).

The researcher drew one sample from each of the target populations. The two samples were named sample A and sample B. Sample A consisted of the general detectives selected from the target population of detectives from Vosman and Witbank police stations. Sample B consisted of the target population of the Witbank cluster FCS detectives. The samples were drawn after a letter of permission to conduct the study was granted by the SAPS Provincial Office in Mpumalanga (Annexure C), as recommended by SAPS National office (Annexure B).

In the text sample A and sample B are reported on separately, because the former sample consists of general detectives who are doing general crime investigation (where children may be victims of crime) and the latter one consists of FCS detectives who are specialising in criminal cases where children are victims. One of the reasons why the researcher did this research was to determine to what extent the participants are knowledgeable about certain investigative practices when dealing with children. For this reason, the researcher could not do a collective feedback including both samples, as it would present a flawed picture of the overall level of knowledge or understanding of the topic under investigation. The sampling methods and the reasons of their choice are discussed below.

#### Sample A

Zikmund, Babin, Carr and Griffin (2013:392) describe probability sampling as a method of sampling that utilises some form of random selection. The researcher used the probability sampling method to select the sample A participants, because it reduces bias in selecting the

units to be studied and affords every member an equal opportunity to be selected (Sapsford & Jupp, 2006:30). Another reason which prompted the researcher to use the probability sampling method to select sample A participants is because it is primarily used on a large scale and it is applicable where the parameters of the research population are known to the researcher (Babbie, 2014:195-234; Flick, 2011:115-126; Strydom, 2011:222-235; Strydom & Delport, 2011:390-396). Thereby all of the 98 general detectives of target population A had an equal opportunity of being selected for this study. The researcher was not able to find anything concrete in the methodology literature which contradicted this reasoning.

The researcher used a probability method of sampling called simple random sampling. Kumar (2014:239) explains that simple random sampling is one of the three most commonly used types of sampling designs. In this design each element of the target population has an even chance of being chosen. This sampling design makes it possible to generalise the results from the sample back to the target population (Kumar, 2014:236). Also, according to Bless, Higson-Smith and Kagee (2006:103), the use of the sampling design enables the researcher to gain an advantage of increasing the availability of adequate lists and facilitating the selection of a sample without decreasing the quality. Therefore each element has an equal probability of being selected. To collect a simple random sample, each unit of the target population is assigned a number. A set of numbers is then generated and the units with those numbers are included in the sample (Crossman, 2013).

The researcher drew a sample consisting of 25 general detectives from the target population of 98 general detectives from both Vosman and Witbank police stations to participate in the study. Fifteen (15) detectives were sampled from the 55 Witbank detectives and 10 sampled from the 43 Vosman detectives. The detectives from the 2 police stations (Vosman and Witbank) were separately assigned with numbers. Using the Fishbowl draw (Kumar, 2014:236), the numbers for the detectives of each police station were put in separate boxes and the researcher randomly drew numbers from each box without showing bias. Each number in the box had equal opportunity to be selected for the sample. The names associated with the numbers drawn were therefore the participants of sample A.

The researcher believes that all 98 detectives were exposed in some way or another to a situation where a child (as victim, witness or suspect) had to be interviewed. While in the service of SAPS as a general detective, the researcher encountered a considerable number of case dockets which involved children as victims, witnesses or suspects of crime. The

researcher's selection of 98 general detectives is informed by what she experienced while in the SAPS. The general detectives were selected because their responses would assist in answering the research questions by indicating how they understand investigative interviews; the elements necessary to be considered by detectives to understand the behaviour of children better, as well as the role of detectives in improving communication during child interviews.

### Sample B

Bachman and Schutt (2012:111) describe non-probability sampling as a sampling method that does not show the likelihood of a unit selection in advance. According to Bernard (2011:143) the non-probability sampling process does not give all the individuals in the population an equal chance of being selected. The researcher used a type of non-probability sample called purposive sampling to select the 5 Witbank FCS detectives, as described by Bachman and Schutt (2012:121). In purposive sampling, each sample element is selected for a purpose, usually because of unique position of the sample elements (Bachman & Schutt, 2012:121). Kumar (2014:244) explains that in purposive sampling (also known as judgemental sampling) the researchers use their own judgement to select those participants whom they feel have the information required to address the research objectives.

There are only 10 Witbank FCS detectives and the researcher had to be selective in sampling the detectives to be interviewed. The researcher compiled a list indicating the experience in years that each FCS detective had, and purposefully selected five FCS detectives who had five or more years' experience of working in the FCS unit. The prerequisite of 5 years' experience would ensure that the FCS detective had a better understanding and more experience in interviewing children.

The FCS detectives were selected because their speciality and experience in child victim investigations would assist the researcher to find if there is a distinction between how they interview child victims and how it is done by general detectives. They would also assist the researcher to answer research questions which require knowledge on how they understand investigative interviewing in relation to their duties, their understanding of the elements that need to be considered by detectives to better understand the behaviour of a child during interviews and the role of detectives in improving communication during child interviews.

## **1.10 DATA COLLECTION**

Data collection is the process of getting and measuring information on variables of interest in an established systematic fashion that enables one to answer stated research questions, test hypotheses and evaluate outcomes (Faculty Development & Instructional Design Centre, 2005). Curry (2009) mentions observation, interviewing, focus group and documentary sources (literature) as data collection methods in research. Mindful of the research questions of the study and the data required, the researcher has therefore decided to make use of the following data collection methods to obtain data for this study:

### **1.10.1 Interviews**

The researcher conducted face-to-face interviews with the sampled detectives, using a semi-structured interview schedule. Both sample A and sample B participants were interviewed by means of the same interview schedule. According to Bain (2012), the face-to face interview is an essential tool to gain a detailed picture of a participant's reactions and emotions which cannot be determined with other forms of interviews, such as electronic or telephonic interviews.

The researcher prepared the focus questions that are relevant to the research beforehand. The researcher was guided by the aims and research questions in formulating questions to be used in the interview schedule. Semi-structured interviews were used because they provide a very flexible technique for small scale research. They begin with more general questions or topics and they give the interviewer the freedom to explore issues as a matter of course rather than pre-empting the issues (Pathak & Intratat, 2012:4).

A semi-structured interview schedule, attached as Annexure A has been designed and used during the interviews. Guided by Diccico-Bloom and Crabtree (2006:315), the researcher organised a set of pre-determined open-ended questions and refrained from asking questions that would invade the privacy of an individual. The researcher clarified the questions when the participants could not understand what was required by the question. The researcher used bracketing when doing data gathering and analysis. Bracketing is when the researcher's pre-conceptions are temporarily suspended to prevent the researcher's assumptions to shape the data collection. It also ensures that the researcher does not impose his or her understanding and construction on the data (Hamill & Sinclair, 2010).

The researcher obtained permission from the SAPS and every individual participant. The purpose of the interview was explained to the participants. The participants were assured of confidentiality. The interviews were conducted in a private place at the work place of the participants to allow participants to express themselves freely. The participants were free to give information without their names being written on the response sheet. The researcher assigned numbers to the response sheet of each individual participant. The responses were recorded on the interview schedule by the researcher.

### **1.10.2 Pre-testing of questionnaire**

The researcher conducted a pre-test of the interview schedule in order to detect irregularities of the questions. Welman, Kruger and Mitchell (2005:148) support the pre-testing of a measuring instrument before it can be used in real research. According to Phellas, Bloch, and Seale (2012:197) the objectives of pre-testing the questionnaire are to reveal unanticipated problems with question wording and instructions. The pre-testing also estimates how long it takes to complete the questionnaire. Three detectives from Witbank SAPS, who did not take part in the research were interviewed during the pre-testing phase in order to test the interview schedule. The purpose of this test was to detect possible flaws in the interview schedule and to identify unclear or ambiguous questions. The researcher made changes to the interview schedule in accordance with the outcome of the pre-test. The interview schedule was perused by the supervisor to ensure that it is correct and does not deviate from the purpose of the study.

The following is an analysis of the biographical information of Samples A and B. The twenty- five (25) general detectives interviewed have an average of fifteen years' experience, ranging from three (3) to twenty (20) years. The five (5) FCS detectives have an average of seven years' experience (as FCS detectives), which ranged between five (5) and fifteen (15) years. All twenty- five (25) general detectives underwent the SAPS detective learning programme of different durations of between four (4) weeks to three (3) months. The five (5) FCS unit detectives who were selected as sample B also underwent a detective learning programme and either the four- (4) or the six- (6) weeks' FCS course. All the participants underwent either the three (3) or the six (6) months' SAPS basic training offered during the early phase of recruitment. Therefore, in terms of experience and training, the researcher is confident that both samples were refined enough to address the research aims.

### **1.10.3 Literature**

The literature review involves the study of books, journals and articles on a specific topic grouped by theme and evaluated with regard to the study conducted (D'Angelo, 2015). The researcher accessed relevant national and international sources pertaining to the study. The literature was used by the researcher to measure the extent of knowledge the participants have about the topic under study. In the literature, the researcher found data explaining the interview as a technique used in the field of investigation, considerations to understand a child's behaviour during an interview and what aspects need to be taken into consideration by the interviewer in order to improve communication with a child. The researcher could not find sources which specifically indicated standardised ways of improving communication with a child during an interview. The researcher could also not find literature describing the specific role of the interviewer when interviewing a child victim. Therefore, information reported on in this text about the role of the interviewer was compiled from contexts not all specific to child interviews.

## **1.11 DATA ANALYSIS**

The process of analysis goes through certain stages common to many approaches (Holloway & Wheeler, 2010:282). Silverman (2011:9) explains that the purpose of data analysis is to explore and explain what is underlying or broader in the data. The researcher analysed the data following a selection of the stages of data analysis provided by Holloway and Wheeler (2010:282). The researcher sorted out the interview field notes; organised, ordered and stored data obtained from both interviews and literature; read the material collected repeatedly; coded, categorised and built themes out of the data. Topics were listed and clustered according to the research questions and irrelevant information was eliminated by clarifying the responses of interview questions with specific participants to ascertain if the particular participant was properly understood by the researcher. This was done only if there was misunderstanding.

The researcher compared the participants' answers to the literature. All the participants answered the questions except for those reported in chapter 2, 3 and 4. The researcher indicated the number of participants who chose not to answer; which answers were similar to what is in the literature and which answers differed from the literature. It means that when a count is done, the numbers will not add up to 30, since the participants mentioned more than



one aspect each and thus are represented under different answers. There are instances when only a few answered and then provided incorrect information. When this happened the researcher reported on only those that did give feedback and then elaborated on their feedback and how it compares with the literature. The researcher expanded on the reason for the inclusion of each sample above. The researcher did not allow personal feelings, views or attitudes to influence the analysis.

## **1.12 METHODS USED TO ENSURE TRUSTWORTHINESS OF THE RESEARCH**

Cope (2014:89) explains trustworthiness as a qualitative way in which the researcher persuades his or her audiences to have trust in the researcher's study. The author further mentions credibility, transferability, dependability, confirmability and authenticity as the qualitative criteria to consider when establishing if the results of the study are worth taking into account by other researchers. Creswell (2013:250) suggests that researchers focus on employing strategies which will document the "accuracy" of their studies. He labels these as validation strategies. While there are quite a number of these strategies, Creswell (2013:250) focusses on the eight strategies most employed by qualitative researchers. He argues that qualitative researchers must employ at least two of these strategies in any given study to prove the validity of their study.

### **1.12.1 Credibility**

Cope (2014:89) reveals that research is considered credible if the descriptions of human experience are immediately recognised by individuals that share the same experience. The researcher applied the following techniques mentioned by Agostinho (2005:21) to attain credibility of the research:

- Prolonged engagement until data saturation occurs. The researcher conducted interviews and clarified certain information with individual participants. The researcher also consulted the literature and repeatedly verified it.
- Persistent observation. Consistently pursue interpretations in different ways, in conjunction with a process of constant and tentative analysis. Look for multiple influences. Search for what counts and what does not count. During the research analysis, the researcher focussed in detail on those elements that are most relevant to the study.

- Triangulation. The researcher used multiple forms of data gathering techniques (interviews and literature) to collect data related to the studied topic.
- Referential adequacy. The researcher should use available materials to record findings. For example, audio or video taping provides a good record but it can be obtrusive. The researcher used a designed interview schedule to ask questions and noted answers on the designed answer sheet attached to the interview schedule. Video or audio recording was not used because participants chose to answer interview questions while not being recorded.
- Peer-debriefing. The researcher asked a colleague to read the work of the study and comment on it. This is done with a similar status colleague (not with a junior or senior peer) who is outside the context of the study, who has a general understanding of the nature of the study, and with whom you can review perceptions, insights and analyses. The peer takes the “devil advocate” position by questioning your work and assisting you in the decisions regarding which steps to take next, and so on.
- Member checks. At the end of the interview the researcher asked each participant to verify if the data obtained was captured accurately according to how they responded. The aim was to assess the intentionality of participants, to correct for obvious errors, and to provide additional volunteer information. It also creates an opportunity to summarise what the first step of the data analyses should be and to assess the overall adequacy of the data, in addition to individual data points.

The researcher pre-tested the interview schedule before conducting one- on -one +interviews with the participants. The same interview schedule was used to interview all the participants. The researcher extensively engaged with the sampled participants, followed their interpretations and critically analysed their information in relation to the focus of this study. The researcher listed the findings, addressing each main research question and acknowledged the use of literature taken from other sources.

### **1.12.2 Transferability**

According to Cope (2014:89), transferability involves the degree to which the results of the study can be generalised and applied to other contexts or settings. Researchers should provide sufficient information on the informants and the research context to enable the reader to

assess capability of the findings of being fit or transferable (Cope, 2014:89). The researcher applied 'thick description' to make the interactions, thoughts and emotions of the participants meaningful to the reader. 'Thick description' refers to the researcher's task of both describing and interpreting observed social behaviour within its particular context. (Ponterotto, 2006:543). The researcher ensured transferability when describing the sampling methods and the reason why a particular sample was drawn for the study. The explanation of how the samples were selected and how they relate to the target populations, allowed the reader to understand how the results obtained from the study could be transferred to its target population.

### **1.12.3 Dependability**

Rolfe (2006:305) regards dependability as a criterion that is related closer to reliability than validity. According to Cope (2014:89), dependability can be attained when another researcher concurs with each stage of the research process. Dependability can be addressed by using various approaches, such as triangulation and receiving feedback from informants and experts (Simon, 2011). The researcher used a semi-structured interview schedule and asked the participants the same questions. Various data collection methods such as interviews and literature were used and expert feedback was sought to make the study dependable. For it to be dependable, this approach will yield the same results if the study were to be conducted again, by another researcher, using the same interview schedule among the same group of participants.

### **1.12.4 Confirmability**

Cope (2014:89) indicates that confirmability is attained when the researcher demonstrates that the data obtained represent the participants' responses and not the researcher's biases or viewpoints. The researcher ensured confirmability by taking notes, keeping written records of interview questions and responses that may serve as a proof of how the research was conducted.

### **1.12.5 Authenticity**

Cope (2014:89) describes authenticity as the honest manner in which the researcher expresses the perceptions of the participants' experiences. The researcher avoided personal influences

to achieve authenticity, and that was ensured by using bracketing during data collection and data analysis.

### **1.13 ETHICAL CONSIDERATIONS**

According to Singh (2012:411), ethics in research include concepts and principles of right conduct which are intended to prevent any harm against human beings. Leedy and Ormrod (2013:104) regard protection from harm, voluntary and informed participation, right to privacy and honesty with professional colleagues as common ethical issues in research. Honesty, objectivity, integrity, carefulness, openness, confidentiality, informed consent and respect for intellectual property are the principles that will enable the researcher to conduct research in an ethical manner (Singh, 2012:411). The University of South Africa (UNISA) (2007) provided the guidelines for researchers to understand ethics and act as required by the guidelines. Integrity, honesty and objectivity informed consent of participants, no influence of participants and preserving anonymity during the research are some of the crucial values an ethical researcher has to adhere to at all times.

The researcher adhered to ethical guidelines by Singh (2012:411) and UNISA (2007) when conducting the research. The researcher guarded against reproducing, copying or using someone's work without acknowledging the originator. The researcher instead cited and referred to sources. The researcher signed an undertaking to confirm that the research is her own work.

Before any attempts could be made on any activity that has to cover the study, the researcher obtained written consent from the SAPS (permission is attached as Annexures B and C). Each individual respondent was sampled after the letter of permission to conduct the study was granted by South African Police Service. The researcher assured everyone affected by the study that the information required will not harm the image of the SAPS. All participants were ensured of confidentiality of any information they need the researcher not to expose. The researcher ensured that individuals or any party of interest to the study will not be harmed emotionally, physically and psychologically by the study. The researcher informed the participants that their participation was voluntarily and they were at liberty to withdraw their participation at any stage of the interview process.

Questions to the participants were not phrased in a manner to embarrass the participants. The condition of observing the sensitivity of the matter by not asking questions requiring

individual victim's identification was stressed in the SAPS letter granting permission to conduct the study at Vosman police station, Witbank police station and Witbank cluster FCS unit. The researcher refrained from asking questions that require individual particulars or identification.

A private office at work or a neutral venue that suited the participant was used to interview the participants. The researcher did not reveal the names of the participants, instead 30 different numbers were assigned to each participant. The researcher recorded the findings in an honest and complete manner in the two samples.

#### **1.14 CHAPTER OUTLAY**

The research report consists of the following chapters:

Chapter 2: Investigative interviewing - The researcher discusses the definition and meaning of investigative interviewing, including its objectives, application and principles. The chapter also includes the discussion of the regulations and practice of using investigative interviewing.

Chapter 3: Understanding children's behaviour during interviewing - The chapter provides information on children's behaviour during the interview process. Aspects such as how children disclose information, memory and suggestibility in children, child development, difficulties encountered when interviewing a child victim and understanding of the truth and lie by child victims are included in this chapter.

Chapter 4: The interviewer's role in improving communication - The chapter provides information on how the interviewer can improve communication with a child victim. Aspects such as approaching a child victim, rapport building, question formulation, the use of aids and additional resources, the training to improve child victim interviews and the role of the interviewer to improve communication during the interview process are discussed.

Chapter 5: Findings and recommendations - In this chapter the researcher summarises the findings based on each research question. Recommendations as informed by the findings of the study are provided to enhance the knowledge and skills of general detectives when interviewing is used as a technique to obtain information from a child victim. Since the need for further research is identified, the researcher mentions it in this chapter.

## CHAPTER TWO: INVESTIGATIVE INTERVIEWING

### 2.1 INTRODUCTION

Kvale (2007:xvii); Madden (2010:67) and Lune, Pumar and Koppel (2010:240) define an interview as a form of conversation that has a specific purpose of producing knowledge. Schollum (2005:15) regards the interview as central to many aspects of police work in that they are involved in situations where they obtain information from complainants, victims, suspects and witnesses. According to Rombouts (2011:137), an interview involves the process of asking questions to get answers. Collecting information of one sort or another from people is an essential part of a wide range of vocations. Nurses, doctors, lawyers and social workers all have to interview people to take down their case histories. The police are no exception (Schollum, 2005:15).

King and Horrocks (2010:1) hint on media-, employment-, clinical- and marketing interviews as some of the different types of interviews that have different purposes. Other types of interviews, especially those which are often used when interviewing children are more specialised and are therefore separately discussed in literature. Such interviews include investigative, cognitive and clinical interviews. Cognitive interviews are those interviews which enhance the witnesses' recollection of events and are also likely to contribute to the well-being of a victim (Fisher & Geiselman, 2010:321). King and Horrocks (2010:1) describe clinical interviews as communication between a client or a patient and an expert wherein the expert will diagnose the problem experienced by the client with the purpose of providing therapy that will benefit the client. According to La Rooy, Lamb and Memon (2011:27) properly conducted investigative interviews are likely to elicit accurate information from child victims. Investigative interviews are the primary type of interviews in relation to this research and will therefore be discussed in this chapter.

In this chapter the discussion will centre round the following primary themes: interviewing, investigative interviewing, objectives of investigative interviewing, principles of investigative interviewing, application of investigative interviewing, regulations supporting the use of investigative interviewing and the practice of using investigative interviewing. Information gathered from literature will be supplemented with empirical data gathered from the research participants. The research will then compare the data and make findings based on this comparison. As explained in paragraph 1.11 *supra*, during this reporting phase the number of

answers by the participants will not necessarily tally with the 30 participants (both general and FCS detectives), since the participants at times mentioned more than one aspect each, and thus they are represented under different sections (options). There are limited instances in which a few of the participants either refrained from answering, or when they did answer they provided incorrect information. When this happened, the researcher reported more elaborately on only those that gave feedback and then elaborated on their feedback and how this feedback compares with documentation found in the literature, rather than concentrating on those that either did not respond, or who gave incorrect information.

It is the opinion of the researcher that while it is important to note and address those aspects which the participants did not know or were unclear about, it is more important to focus on those that had a better understanding of the real issue at hand. Pockets of excellence need to be identified and highlighted. These participants could then have a positive influence on their less knowledgeable colleagues.

## **2.2 DEFINING AND UNDERSTANDING INVESTIGATIVE INTERVIEWING**

As discussed briefly in paragraph 1.6.2 *supra*, investigative interviewing is described as a method of communication used to get the maximum quality of information from all the people affected or involved in the investigation process. According to Simons and Boetig (2007), investigative interviewing is not only a way of communicating, but it is also a dynamic conversation between an investigator and an interviewee. Shepherd (2007:v) asserted that investigative interviewing is a form of classic search for the truth from individuals such as suspects, victims and witnesses. La Rooy, Lamb and Memon (2011:27) describe investigative interviewing broadly enough to provide for the inclusion of various kinds of investigations.

In the literature, child interviews are commonly called forensic interviews and are interchangeably used with investigative interviews (Fisher & Geiselman, 2010:25; La Rooy et al., 2011:26-28). Therefore, investigative interviewing shares the same meaning as forensic interviewing, provided that the interviewing is done to obtain accurate, relevant and reliable legally applicable information (La Rooy et al., 2011:27).

According to Morreale, Spitzberg and Barge (2007:452), investigative interviewing is a transaction between interview parties. The interviewer seeks information from the interviewee with the purpose of enhancing decision making and attempting to understand a

specified issue or situation (Morreale et al., 2007:452). Saywitz and Camparo (2014:51) add to this by highlighting that investigative interviewing does not only elicit information, but is also used as a process whereby an interviewer creates an environment free from any influence, to allow the interviewees to explain their experiences using their own words.

Simons and Boetig (2007:9-10) regard investigative interviewing as a critical element applied in legal settings, intended to get maximum, accurate and relevant information. It is an essential aspect of the investigative process for police officials who undertake a variety of duties such as patrolling, crime prevention and investigative duties (Hoffman, 2005). This kind of interviewing is conducted by both police officers and private investigators at different stages of the investigative or criminal justice processes (Powell, Fisher & Wright, 2005:11; Dempsey, 2011:312). For the purpose of the research, investigative interviewing will be discussed in the context wherein child victims are questioned to get information that will influence decisions during legal inquiry.

Rubin and Rubin (2005:5) describe investigative interviewing as a kind of interview that has a narrow and limited scope and is focussed mainly on events and processes in relation to specified events. From the literature it is clear that an investigative interview can be understood as an interaction between two people (interviewer and interviewee), used to gather evidence. Investigative interviewing is in itself a highly complex task in that the interviewer is attempting to draw a reliable and detailed account of events from all people, including children as young as 4 years old (Powell, 2002:45; Powell & Snow, 2007:57). To interview children for legal purposes requires a spectrum of specialised skills and knowledge (La Rooy et al., 2011:31; Schollum, 2005:10).

### **2.2.1 Benefits of investigative interviewing**

Schollum (2005:3) emphasises the importance of investigative interviewing, as it addresses a three-fold purpose. It is used as the main fact- finding method by police in criminal investigations, as a tool to achieve quality investigations to solve other crime- related problems and as a technique to obtain the most persuasive form of evidence. It is drawn from the assertions by Broaders and Goldin-Meadow (2010:623) that investigative interviewing is one of the vital investigative tools which cannot be eliminated from police duties. According to Perron and Hiltz (2006:216), investigative interviewing is an investigative process designed to help determine whether abuse has occurred and, if so, to elicit details in a manner



suitable for use in court. Investigative interviewing is also regarded as the initial attempt used to produce evidence and is often the only way (in child abuse investigations) to make a fact-based determination of whether child abuse has occurred or not (Kassin, Appleby & Perillo, 2011:40).

Simons and Boetig (2007) believe that investigative interviewing is a critical law enforcement enquiry, consisting of more than a series of questions posed by an officer to elicit a response from the interviewee. Powell and Lancaster (2003:46) list the key recommendations applied during interviews with children aged 3 to 12 years old. The recommendations include the use of open-ended questions when establishing rapport, setting clear ground rules for the child and communicating the purpose of interview. These recommendations imply that investigative interviewing within the context of interviewing child victims is formally planned and should be conducted by competent people who have skills and abilities to obtain the child's account of events in a legally defensible manner.

To facilitate a holistic understanding, the preceding discussions highlighted that investigative interviewing is a fact-finding determinant in all investigations that include child abuse investigations, an investigative tool and an evidence gathering technique; an essential aspect used by police at different phases of criminal investigation and processes and may be directed at suspects, victims and witnesses; a method of communication used to obtain information from the people affected by a crime; an initial attempt to verify abuse and is often the only way used in child abuse investigations to obtain information about an alleged abuse; a formal, planned and dynamic interaction carried out by trained and competent interviewers; a complex task which requires different specialised skills and it is used by both police officials and private investigators to elicit information in a manner that can be presented as evidence in court.

In this research, the participants were asked what they understood by the term investigative interviewing. The responses are reflected in Table 2.1 below and compared with the information extracted from the literature.

Table 2.1 Participants' understanding of investigative interviewing

Answers found in the literature	No. of answers from sample A participants	No. of answers from sample B participants	Answers not found in literature	No. of answers from sample A participants	No. of answers from sample B participants
A fact finding method.	03	01	To get more information that will solve a crime.	09	0
A communication method used to gather evidence.	05	03	To find if a crime was committed.	03	01
Used by police to gather information about a crime alleged to have been committed.	03	01			
Conducted by trained and competent investigators.	0	02			
A systematic search for the truth.	05	03			
It is applied in criminal investigations.	11	02			
It is used to get information from all people who are involved in the investigation (suspects, victims, experts, professionals & witnesses).	02	01			

The responses of the FCS detectives (specialists) when compared with those found in literature did not significantly differ from those of general detectives. From the literature it is apparent that information obtained through investigative interviewing enhances the decision making process and determines if a crime has been committed. None of the participants made specific reference to the interviewing of children when answering the question; they did however situate the responses within the context of law enforcement and that has shown to conform to the literature. The information from literature has in some instances provided a general understanding of investigative interviewing which is not limited to the context of only law enforcement and the interviewing of children.

Both sets of participants (samples A and B) described investigative interviewing in too narrow a manner, and they did not mention investigative interviewing as covered in the literature. The participants neither mentioned investigative interviewing as a conversation which requires specialised skills, trained and competent interviewers, nor as a tool and

technique to collect evidential information. The FCS detectives were able to mention 7 of the 8 elements mentioned in literature, while the general detectives mentioned 6. This is an indication that the participants have a fairly good understanding of the meaning of the term. Developing their understanding of this term further should have a positive impact on their overall appreciation of the meaning of the term.

The participants did mention 2 aspects that were not found in the literature. They are: to get more information that will solve a crime and to find if a crime has been committed. Drawing from what is collectively obtained from the literature, information collected through investigative interviewing is not meant to solve or find a crime, instead is used to determine whether a crime was committed and to solve a case wherein an alleged crime was reported. The manner in which the participants view the concepts (whether narrowly or broadly) has an impact on how they do their work. A narrow or limited understanding of what investigative interviewing is may result in the participants not fully appreciating how the technique can assist them to accomplish, when used correctly.

The next construct which will be considered is the objectives of investigative interviewing.

### **2.3 OBJECTIVES OF INVESTIGATIVE INTERVIEWING**

Objectives are statements of specific outcomes that are to be achieved (Lesch, 2012:8). Nagy and Fawcett (2013) state that the objectives can be determined by organisations, individuals, teams and a community. The authors also indicate that objectives differ from case to case, because they show what is to be done in order to achieve a desired goal (Nagy & Fawcett, 2013).

The following discussion will focus on what investigative interviewing is intended to achieve. This discussion is done from the understanding that the objectives (per se) will be the same, whether a child or an adult is being interviewed. The primary difference will be in relation to how it is done. The actual investigative interview of a child will thus differ from the investigative interview of an adult, because of the different developmental stages of the child and the adult. Each of them will require an approach suitable for their age development or maturity.

The specific outcomes (what is to be attained) when either an adult or a child is interviewed will consequently not differ. Therefore, the objective of an interview with either a child or an

adult is to obtain information (Shepherd, 2007:259). The term 'objectives' has been defined in general terms to facilitate a common understanding of what it is, in order to make the transition from the general to the more specific objectives of investigative interviewing in the context of child interviewing. Smith and Tilney (2007:128) assert that objectives for an investigative interview should aim to address specific issues, such as to establish the truth of the matter under investigation, to decide on time frames to complete the investigative interview process, to arrange places where an investigative interview can be held, as well as interviewer-interviewee relationships to be established for a successful interview.

Shepherd (2007:259) mentions that an investigative interview will more often than not have an objective of obtaining a free recall account of events from the interviewee by the interviewer. However, in some instances where information is already known, the objective may be to simply ascertain certain routines, practices and procedures. Milne and Powell (2010:208) emphasise that the objective of all investigative interviews should be to elicit the most accurate, complete and detailed account from an interviewee.

Specific objectives of an investigative interview of a child witness could also include eliciting the child's own account of the events being investigated, gathering information that will assist in decision making and getting information that will serve as evidence to suggest that a crime has been committed (Scottish Government, 2011:7).

The objectives of investigative interviewing mentioned by Buckwalter (1983:72-73) are still relevant after three decades they were published. This is confirmed by sources such as Milne and Powell (2010:208), SAPS (2008), Shepherd (2007:259) and Smith and Tilney (2007:128), as cited in this text. Buckwalter (1983:72-73) suggests that the objective of investigative interviews is to make the interviewee feel at ease, to create a willingness on the part of the interviewee to provide all the information he/she has in relation to the investigation, and to obtain as much information as possible from the interviewee which may be used as evidence. In addition, the interviewer should also be sure to cover all the relevant facts and elements of the case, questioning the interviewee in relation to these and to obtain the signature of the interviewee on the final statement.

The last point mentioned by Buckwalter (1983:72-73) is in relation to signing or acknowledging the summarised statement of key evidence the interviewee provided. The viability of this depends on whether the interviewee is capable of signing or acknowledging

the evidence given. The capability of signing or acknowledging the evidence obtained through investigative interviewing applies to all interviewees, including child victims who are competent to sign or acknowledge the information given. In the context of the SAPS, National Instruction 3/2008 outlines that it is not always necessary, possible or advisable that the parent/guardian or accompanying adult should physically be present whilst the child is being interviewed and the statement is obtained. This is because the courts regard the statement of the child as admissible as long as the parent/guardian or accompanying adult is aware of the contents of the statement and has acknowledged this by means of a signature (SAPS, 2008). This will be discussed further in paragraph 2.5 below. National Instructions are issued by the SAPS as guidelines in a form of an obligation, created and imposed by the South African Police Service to regulate the conduct of its employees (SAPS, 2013b).

The preceding discussion focused primarily on establishing the objectives of investigative interviews in the general sense; but there were a few sources that made specific reference to the context of child interviewing. Wright and Powell (2007:21-22) situate their discussion in the context of child investigative interviewing by mentioning that the objective of the investigative interview is to help children relate their experiences accurately and completely. It has been noted by the researcher from the literature that the objectives of investigative interviewing are applicable to all interviewees, but the difference relates to the speciality field of the author or the specific purpose the authors intended to address at the time of making their statements.

According to Koons [s.a.], the objectives of investigative interviewing in relation to a child victim are intended not to create evidence, but to determine the truth, to encourage the child to relate an event or series of events in a non-judgemental setting, to allow for the child's own interpretations of events without the interviewer placing suggestions in his mind and to enable the interviewer to make a legally competent decision regarding the allegations.

The participants were asked what they understood the objectives of investigative interviewing to be. The responses of the participants are represented in Table 2.2 below.

Table 2.2 Participants' understanding of the objectives of investigative interviewing

<b>Answers found in the literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Answers not found in the literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
To obtain the truth/fact of the matter under investigation.	13	03	To solve a crime.	09	02
To obtain relevant evidential information available from the interviewee's personal knowledge.	03	01	To obtain evidence that will secure a conviction.	04	02
Obtain evidence used in legal decision making.	08	03	To protect the victims of crime.	01	01
			To ensure that justice is done by apprehending, prosecuting and convicting the perpetrator.	03	0
			To investigate the case thoroughly.	02	01
			To give the correct punishment to the perpetrator.	0	01
			To answer the 5 questions: what/why/where/when/who?.	0	01

Both samples A and B participants mentioned 3 of the 9 objectives obtained from the literature. The following objectives were found in the literature, but were not found within the responses of the participants: to obtain the interviewee's free recall account of events about the specific matter of investigation; to ascertain certain routines, procedures and practices; to prepare the mind of the interviewee to tell the interviewer about what the interviewee knows in relation to the investigated issue; to make the interviewee willing to sign or acknowledge the contents of the statement the interviewee provided; to elicit accurate, credible, complete and detailed information known to the interviewee and to develop a reliable system of collecting information from the witnesses, victims and offenders. The participants differed from aspects found in the literature. They mentioned the objectives of investigative interviewing as being to solve a crime; obtain evidence that will secure a conviction; protect the victims of crime; ensure that justice is done by apprehending, prosecuting and convicting the perpetrator and to answer the 5 questions: what/why/where/when/who?.

The researcher noted that the participants from both samples A and B have a partial understanding of the objectives as described in the literature. The participants showed an erroneous understanding by indicating that the objective of an investigative interview was to solve a crime. Literature highlights that one of the objectives of investigative interviewing is to ascertain the truth that will enable legal decisions about the matter under investigation. The crime itself cannot be solved by the investigative interviewing, but the case for a particular reported offence can be solved. The literature also does not make mention of the protection of victims and justice to victims of crime as objectives of investigative interviewing.

The researcher is therefore concerned about the degree to which the participants understand what the objectives of investigative interviewing are, especially in relation to child victims. The data show that the participants have a limited and at times, erroneous understanding of what the objectives of investigative interviewing are and this may have a negative effect on the outcomes they expect when they conduct investigative interviews, especially with child victims. It might also imply that since they do not fully appreciate the objectives of the method, they simply do not make use of the method. The principles of investigative interviewing will subsequently be discussed.

#### **2.4 PRINCIPLES OF INVESTIGATIVE INTERVIEWING**

In order to understand the principles of investigative interviewing, it is prudent to first understand what a principle is. A principle has been defined in general terms as a guiding sense of the requirements and obligations of right conduct (Dictionary.com, 2011). For the purpose of this discussion, the principles of investigative interviewing are obtained from a general perspective, but will be discussed with specific reference to the context of child interviewing.

The principle of investigative interviewing is to test the hypothesis rather than to confirm it (Milne & Bull, 2006:11; Poole & Lamb, 1998:109; Schollum, 2005:25). According to these authors, testing the hypothesis allows an interviewee to generate more than one speculation about the suspected incident and determine if such speculation or hypothesis can be confirmed or refuted. Poole and Lamb (1998:109) provide a practical scenario: a child can say that he saw a suspect stabbing a victim with a knife, but did not see the knife in the hands of the suspect. Thus it is the responsibility of the interviewer to test if what was said by the child had indeed taken place.

La Rooy et al. (2012:176) also explain what is meant by investigative interviews which are child-centred. Such interviews are designed to guide the child victim to retrieve information, using the child's own words. It is not for the interviewer to attach his own interpretations and meanings to the child's behaviour and responses (La Rooy et al., 2012:176). This underscores the importance of specialised knowledge, skills and training required by persons who conduct investigative interviews with children.

Poole and Lamb (1998:72) also mention a further set of principles of investigative interviewing that should be adhered to when children are involved. The authors state that investigative interviewing requires that the children should be interviewed as soon as possible after the alleged incident; be afforded an opportunity to become familiar with the process of interviewing; be asked open-ended questions; be interviewed with the neutral approach that includes considering their age and circumstances; be afforded an opportunity to review and clarify what they have reported, get explanations of how an interviewer could be contacted later and have the interview closed in a supportive tone, based on neutral topics (Poole & Lamb, 1998:72).

According to Perona, Bottoms and Sorenson (2005:83), the principles of investigative interviewing guide the interviewer to minimise distress in children who are subjected to investigative interviews by minimising the number of interviews with each child; to behave in an appropriate and sensitive manner during child interviews; to avoid improper influence on memory and reports, to conduct open minded and sober interviews, to maximise the use of techniques that will elicit reliable information; to minimise the use of leading or coercive questions and to create a free recall environment.

Additional principles of investigative interviewing, as obtained from the literature indicate that investigative interviewing should encourage accurate and reliable information from those who are giving out information, fair questions and caring treatment of vulnerable victims and/or witnesses during interviews (Gloucestershire Constabulary, 2007; Schollum, 2005; Shepherd, 2007:29).

Not limited to investigative interviewing of children, the UNODC (2009:7) provides general principles that are relevant to the investigative interviews of children. The principles guide the interviewer not to discriminate against a child victim, to treat the child victim with dignity, to respect the privacy of a child, to allow the child to exercise the right to express his or her



views in his/her own words and to respect the right of the child victim to contribute to decisions affecting his or her life.

It is noted that the principles of investigative interviewing set the right conduct to guide what may be done, how it should be done and what should be avoided by interviewers during investigative interviews. The guidelines set by investigative principles can be applied in all investigative interviews, including interviews with child victims. The most notable investigative interviewing principle is to handle vulnerable victims and witnesses with care during investigative interviews. In chapter 4 (paragraph 4.3.7 & 4.4) the inherent vulnerability of children is discussed and how interviewers need to take their individual circumstances into consideration during investigative interviews.

The participants were asked what they understood by the principles of investigative interviewing. Only 19 participants from sample A answered the question, while 6 indicated that they did not know the answer and decided to not make an attempt to answer the question. All 5 participants from sample B answered the question. Responses are in Table 2.3 below.

Table 2.3 Participants' understanding of the principles of investigative interviewing

<b>Answers found in the literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Answers not found in the literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
To eliminate coercive/leading way of asking questions.	04	03	To answer the how/when/what/who/where questions about alleged crime.	0	01
The interview to be conducted by specially trained interviewers.	02	01	To visit the scene of crime before interviewing.	01	0
Victims and witnesses to be treated with special care during the investigative interviewing.	05	03	To be objective at all times.	0	01
To ask open and neutral questions.	03	02	To determine between wrong and right.	0	03
To create a free recall environment for the child victim.	01	02	To obtain information to convict the perpetrator.	03	01

<b>Answers found in the literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Answers not found in the literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
To minimise the stress the child victim might experience during interviews.	03	03	To finalise the court matter.	01	02
To protect the child's privacy where necessary.	04	03	To assist the complainant with referrals to different institutions.	0	01
			To establish the truth about crime reported.	03	01
			To interview the complainant thoroughly.	0	01
			To trace and arrest the suspect.	02	0
			To record the interview.	0	01
			To eliminate accusations during the interview.	0	01
			To be honest, loyal and have integrity.	01	03

The researcher compared the data from various sources and determined that the various authors mention very similar principles of investigative interviewing. Although different wording was used by the participants to outline the principles of investigative interviewing, the researcher noted that the participants' responses covered the principles which are repeatedly cited in the literature. These principles include a neutral approach to the interviews; asking of non-leading or non-coercive questions; obtaining of accurate, reliable and complete information; having respect for privacy and dignity and caring for those who are vulnerable during investigative interviews. This is an indication that the participants' understanding of the principles of investigative interviewing is reasonably fair and also relevant to the context of child victim interviewing.

The answers from the participants which were found to be inconsistent with the literature are: to trace and arrest the perpetrator; to be objective at all times; to visit the scene of the crime

before interviewing; to eliminate accusations during the interview; to record the interview; to obtain information to convict the perpetrator; to finalise the court matter; to determine between wrong and right; to interview the complainant thoroughly; to answer the how/when/what/who/where questions about the alleged crime; to assist the complainant with referrals to different institutions; to establish the truth about crime reported and to be honest, loyal and have integrity. Though loyalty, honesty and integrity are good values that an interviewer should possess, the literature does not mention them as principles of investigative interviewing.

When comparing the literature with the participant's responses, the researcher noticed that sample A showed an understanding of the principles, but to some extent confused the principles with the objectives of investigative interviewing and the activities an interviewer should be involved with. The activities during investigative interviewing include taking notes and recording. Sample B responses also showed a fairly reasonable understanding of the principles of investigative interviewing, but the number of responses proportional to the total number of participants showed that sample B participants have a better understanding of the principles than sample A participants. This indicates that the sample B speciality in child victim cases contributed to their knowledge, specifically in relation to how they understand the principles of investigative interviewing.

As a method of communication used to get accurate information from people involved in the investigation, investigative interviewing has objectives and principles. The objectives specify the outcomes that are to be achieved, while the principles stipulate the right conduct to achieve the desired outcomes (objectives). The objectives and principles result in meaningful application if they function together, rather than when they function separately. Therefore, for investigative interviewing to achieve the desired legally credible information (objective), the process of gathering information should be guided by the requirements and obligations of right conduct (principles).

To summarise the researcher's notes from both the literature and the participant's responses, the principles of investigative interviews revolve around the following: they set the right conduct for interviewers during interviews, guide how a child victim should be treated or cared for to be protected against harm or prejudice that may result from the interviews, define the conditions and environment in which a child victim should be interviewed and define the type of questions that may be asked during child interviews.

The following discussion will consider the legislative parameters for investigative interviewing of children.

## **2.5 LEGAL CONSIDERATIONS OF INVESTIGATIVE INTERVIEWING**

### **2.5.1 Investigative interviewing as a technique to gather evidence**

Wright and Powell (2007:21-22) describe investigative interviewing as an investigation method used to obtain evidence which can be presented in court. According to Schollum (2005:8), investigative interviewing is conducted with victims, witnesses and suspects of crime. Information obtained from investigative interviewing accounts for most evidence presented in court and it is used to corroborate physical and other forms of evidence (Schollum, 2005:15).

The Department of Justice and Constitutional Development (2004:5) developed the Service Charter for Victims of Crime in South Africa (commonly known as Victims' Charter) to uphold the rights of victims as contained in the Constitution of the Republic of South Africa and other relevant legislation. Among the rights mentioned in the Victims' Charter, the following two rights are applicable and relevant to child victim interviews: the right to offer information during criminal investigations, and the right to be treated with fairness and respect for dignity and privacy.

Wakefield (2006) regards coercive ways of obtaining information as illegal and unethical, thus encouraging investigative interviewers to use only the best, legal and ethical means to collect and preserve evidence. This aspect is addressed in section 35(5) of the Constitution (South Africa, 1996b) which stipulates that any evidence obtained in a manner that violates any right in the Bill of Rights must be excluded if the admission of such evidence would render a trial unfair.

Further, section 213(1) of the Criminal Procedure Act (South Africa, 1977) provisionally regards a statement written by any person (other than the accused) admissible in criminal proceedings. Admissible evidence is relevant evidence that is formally presented before the court of law to decide a case (Cornell University Law School, 2014). The provisions set out in section 2(a)(b) of the Criminal Procedure Act (South Africa, 1977) require the person making the statement to sign and acknowledge the contents thereof. By signing the statement one acknowledges that the statement is true to the best of one's knowledge and further

expresses knowledge that if the statement is tendered as evidence and found that the contents are not true, one may be prosecuted. The use of 'any person' in Section 213(1) of the aforementioned Act includes children.

The SAPS National Instruction 3/2008 mentions exceptional cases in which a child below the age of 12 is generally regarded as not being able to understand the declaration (as discussed above). In such cases the Instruction stresses the importance of determining whether or not the child understands the oath or affirmation (SAPS, 2008). The instruction also indicates that in instances where children below the age of 7 are unable to write their names or make a mark, but are able to give a full account of what they experienced, the police officials who interviewed them should make the statement with regard to the interviews conducted with the children.

The SAPS National Instruction 3/2008 does not mention how to treat children older than 7 years who cannot write or make a mark, but are able to give a full account of what happened. In such instances it is therefore deduced that section 28 of the Constitution (South Africa, 1996b) will be considered, as it stipulates that the best interests of the child are of paramount importance in all decisions affecting the child. It means the detective interviewing the child is not restricted to treat a child older than 7 years who cannot write or make a mark in the same way as they treat a child below the age of 7. While serving the best interests of the child, the detectives should also consider what was highlighted in paragraph 2.3 of this chapter; that the child's statement should also be seen and acknowledged by the parent/guardian or accompanying adult who will sign the statement (SAPS, 2008).

Waterhouse (2008:1) regards children amongst the most vulnerable in society. Very often the result is dependent on the attitudes and competence of the people who interact with the victim and the procedures to which the child is subjected (Waterhouse, 2008:1). The lack of appropriately trained personnel at all investigative and judicial levels poses a serious challenge in handling child victims (Centre for Child Law, 2008:7). It therefore means that child victims as vulnerable persons should be interviewed by an interviewer who has received the appropriate training pertaining to conducting investigative interviews with children.

Section 50(3)(b) of the Children's Act (South Africa, 2005) empowers any person who is authorised to investigate the circumstances of a child and upon a court order to investigate these circumstances. It is deduced from this section that the courts rely on the information

provided by the police in order to make decisions on reported crimes which involve child victims. The deduction is based on the researcher's experience that police detectives also conduct investigative interviews with all people involved in crime, including child victims. Section 31(1)(b) of the Child Care Amendment Act (South Africa, 1996a) as assented to amend Child Care Act (South Africa, 1983), allows any person authorised by the Director General or any Commissioner to enter any place to observe and interview any child therein. The police are included in the category of people authorised by this Act to observe and interview a child.

Gans and Palmer (2004:423) issue a warning that in the law of evidence, an exclusionary rule that allows the courts to scrutinise investigative conduct in particular to how evidence was obtained, is aimed at assessing the behaviour of those involved in the collection of such evidence. In the South African context, the exclusionary rule is supported by section 35(5) of the Constitution (South Africa, 1996b) when it states that 'evidence obtained in a manner that violates any right in the Bill of Rights must be excluded if the admission of that evidence would render the trial unfair or otherwise be detrimental to the administration of justice'.

Gans and Palmer (2004:424) further clarify that the purpose of the law in this regard is to prevent the state to benefit from wrong ways of accumulating evidence. To illustrate this principle, it is helpful to consider the case of the *State v Michaels* which was held in the New Jersey Supreme Court. In this case an investigative interview came under scrutiny and it was apparent that there were some problems with the interview (Myers, 2005:36). The convicted person was acquitted after it was established that the interviews which were conducted with the alleged victims (between 3-6 years old) were conducted in a suggestive and coercive manner, thus rendering the interview defective. The court held that the defence can apply for a pre-hearing to determine if the interviewing process did not influence the ability of the child to recall events in a negative manner. This case is consistent with section 35(5) of the constitution (South Africa, 1996b). It is therefore essential for police detectives as persons who are conducting investigative interviews during crime investigations to guard against any behaviour that may influence the ability of the child victim to recall events.

Schwikkard, Van der Merwe, Collier, De Vos and Van der Berg (2009:57-58) refer to recommendations made by the South African Law Reform Commission (SALRC) in relation to how evidence should be treated by courts. When determining whether probative value of evidence is outweighed by the risk that evidence will have an unfairly prejudicial effect, a

presiding officer may not adopt assumptions or make generalisations that are in conflict with the constitutional values embodied in the Constitution of the Republic of South Africa (Schwikkard et al., 2009:57-58). The references by Schwikkard et al. (2009: 57-58) and what is stated in section 35(5) of the Constitution (South Africa, 1996b) indicate that the courts have a legal obligation to decide whether to admit or dismiss evidence, including that of child witnesses.

In *R v Manda* 1951 (3) SA 158 (A), Schreiner JA articulated that among others, only two elements, namely imaginativeness and suggestibility of children propel child evidence to be scrutinised for its credibility. In the South African context, it has on numerous occasions been stressed in courts that children's evidence should be scrutinised with care, because of a legal assumption that children are highly imaginative and their evidence may be clouded by suggestiveness by the interviewer (South African Law Commission, 1997).

All interactions with children should be handled in a child-sensitive manner, appropriate to child-special needs, such as a suitable environment, and with consideration of age and intellectual maturity that will allow the child to be treated as a capable witness (UNODC, 2009:7). Section 170A of the Criminal Procedure Act illustrates how the interests of the child should be considered by reducing traumatic situations and creating a court environment that will allow the child to freely give his/her own account of events (South Africa, 1977).

Sections 9 and 10 of the Constitution (South Africa, 1996b), indicate that everyone, including a child, is equal before the law and has inherent human dignity to be respected and protected. Sections 2(b)(iv), 2(c) and 2(f) of the Children's Act (South Africa, 2005) uphold the paramount importance of the rights of children that are entrenched in the Constitution (South Africa, 1996b), giving effect to the Republic's commitment to international instruments aiming to promote the well-being of children and protecting children from discrimination (South Africa, 2005). Therefore, every child should be treated as a capable witness, subject to examination, and his or her testimony should not be presumed invalid or untrustworthy by reason of the child's age alone, as long as his or her age and maturity allow the giving of intelligible and credible testimony, with or without communication aids and other assistance (UNODC, 2009:14).

Section 28(2) of the Constitution (South Africa, 1996b) has unequivocally and explicitly stated the importance of the child's interest in every matter concerning the child. It is the

responsibility of all persons authorised to interview children to ensure that the number of interviews with child victims and witnesses are limited by using special procedures for collecting evidence from such child (UNODC, 2009:15-16).

Section 192 of the Criminal Procedure Act (South Africa, 1977) states that every person not expressly excluded by this Act from giving evidence, shall, subject to the provisions of section 206 of the Criminal Procedure Act (South Africa, 1977), be competent and compellable to give evidence in criminal proceedings. The use of 'every person' includes child victims, which means the court will determine first if the child victim is competent to give evidence before being allowed to testify. Section 193 of the Criminal Procedure Act (South Africa, 1977) empowers the court in which criminal proceedings are conducted, to decide all questions regarding competency and compellability of any witness to give evidence. The court may not always be required to hold a trial-within-a-trial in order to decide the competency and compellability of a witness to give evidence, but may base its decision on what was observed in the witness box as it was held in *S v Zenzile* 1992 (1) SACR 444 (C). This means that the child victim who may be required to testify in court will be subjected to the same procedures as adults. The difference will be that the child's age and interests will be taken into consideration by the court.

According to Schutte (2005), no age limit is imposed on the competency of children in terms of South African law, but children should pass a test before their evidence will be admitted. All children, even the young are considered to be competent witnesses and are compellable to testify, even against their parents, provided that no other disqualifying condition relating to competence applies to them and they are capable of distinguishing between the truth and falsehood and appreciate the duty of speaking the truth, they are able to give a recollection of events and they can communicate effectively (Department of Justice and Constitutional Development, 2015).

It was decided in *S v Mashava* 1994 (1) SACR 224 (T) and *Ex Parte Minister of Justice: In re R v Demingo* 1951 (1) SA 36 (A) that what is important is to ascertain whether the child understands the nature and importance of taking the oath or affirming the truth of his or her evidence'. In *R v Manda* 1951 (3) SA 158 (A) the court held that the story told by the three children should be accepted as evidence because the children gave the evidence so well and there was no reason to believe that the evidence was made up.



In terms of Section 164(1) of the Criminal Procedure Act (South Africa, 1977), ‘any person who from ignorance arising from youth, defective education, or other cause, is found not to understand the nature and import of the oath or the affirmation, may be admitted to give evidence in criminal proceedings without taking the oath or making the affirmation: provided that such person shall in lieu of the oath or affirmation, be admonished by the presiding judge or judicial officer to speak the truth, the whole truth and nothing but the truth’ (South Africa, 1977).

The participants in this research were asked whether they were aware of any regulation that supports (regulates) the use of investigative interviewing within the context of crime investigation. They were asked to elaborate whether they use these regulations (or not) and if they find them useful (or not). Both samples A and B participants’ responses are represented in Table 2.4 below.

Table 2.4 Participants’ views on the legal considerations of investigative interviewing

<b>Answers found in the literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Answers not found in the literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
The Criminal Procedure Act 51 of 1977.	09	03	Law of Evidence.	03	02
The Constitution of the Republic of South Africa Act 108 of 1996.	07	01	Criminal Law.	06	03
The Children’s Act 38 of 2005.	0	01	Common Law.	01	0
The Child Care Act 74 of 1983 (amended by the Child Care Amendment Act 96 of 1996).	01	03	Judges Rule.	0	02
Service Charter for Victims of Crime in South Africa.	0	01	Legislation preventing the abuse of children.	01	0

All the participants responded that they were aware of regulations that guide/govern the use of investigative interviewing. Sample A participants mentioned 3 regulations, while sample B mentioned 5 regulations as found in the literature. The following 3 legal regulations were found in the responses of both samples’ participants: Criminal Procedure Act, Child Care Act

and the Constitution of South Africa. Sample B participants mentioned two more regulations which are the Children's Act and the Service Charter for Victims of Crime. Neither of the samples mentioned the SAPS National Instruction 3/2008 and the international legal instruments such as United Nations Guidelines as found in the literature.

Both sample A and B participants listed the Law of Evidence and Criminal Law in their responses. The Law of Evidence form part of the Criminal Procedure Act 51 of 1977, while the Criminal Law does not regulate any use of investigative interviews, but defines specific conduct punishable by the law, and sets out the punishment for the act prohibited (Jansens Attorneys, 2012). Both sample A and B participants also listed the common law, Judges Rule and legislation preventing the abuse of children. All participants indicated that they use the regulations and found them useful. The researcher inferred of why they found the regulations useful. It was deduced that the regulations, as described by participants, guide the conduct of the detectives during criminal investigations and ensure that investigative interviews are conducted in a legally acceptable manner.

When comparing aspects in the literature with the responses of the participants, the researcher noted that the sample B participants have better knowledge of the regulations supporting the use of investigative interviews than the sample A participants. The former participants were able to mention 5 out of 7 regulations identified in the literature. Both sets of participants did not know if the Child Care Act (South Africa, 1983) has been amended by the Child Care Amendment Act (South Africa, 1996a). The participants also mentioned the Acts without giving the statute number and the dates. The participants confused other laws applied in the criminal justice system (such as Criminal Law, Common Law and Judges Rules) with the legislation supporting the investigative interviews. It is noted that the sample A participants displayed an inadequate level of knowledge of the regulations supporting the investigative interviews. This is problematic, as this may result in legal challenges that could compromise the credibility of the information obtained through interviewing child victims. It is also problematic that none of the participants mentioned the National Instruction issued by the SAPS.

The next section will consider the practical implementation or application of investigative interviews within a criminal investigation context.

## **2.5.2 Practical application of investigative interviewing in the context of criminal investigation**

South Africa is among 193 signatory members of the United Nations Conventions on the Rights of the Child (CRC) (United Nations, 2015). The CRC provides global guidance to members by setting principles how to handle children's rights. The set CRC principles, according to the United Nations (2015), are in relation to the best interest of the child, the right to protection from all forms of discrimination, the right to be heard and to have one's views taken into account and the right to survival and development. It means each member country is able to monitor their own level of compliance with the CRC principles.

South Africa was in an advanced stage of implementing the CRC obligations, describing how to handle matters related to children's rights by incorporating the CRC general principles in section 30(3) of the country's interim Constitution (South Africa, 1993) as early as in 1993. The country maintained its commitment to handling child matters by including section 28 which addresses the rights of children in the Constitution (South Africa, 1996b). It is also a positive step to have a clause that indicates a need to extend particular care, as informed by international instruments in the preamble of the Children's Act (South Africa, 2005), although the Act did not adopt a comprehensive law on children (UNICEF, 2007:27).

As a member to the Convention on the Rights of the Child (CRC), South Africa is also expected to comply with articles 8 and 13 of the 'Handbook for professionals and policy makers on Justice in matters involving child victims and witnesses of crime' (UNODC, 2009:11-15). The articles highlight how important it is that children (victims and witnesses) are interviewed by specialist trained investigators. Article 8 stresses the use of interview and assessment techniques that minimise distress or trauma to children while maximising the quality of information received from them in a sensitive, understanding, constructive and reassuring manner. Furthermore, Article 13 highlights that specialised trained investigators in child matters serve a purpose of preventing hardship during investigations.

In the report of the South African Law Commission on Sexual Offences against Children, concern was expressed with regard to the lack of appropriate training of investigators in all investigative and judicial phases (South African Law Commission, 1997). Simons and Boetig (2007) reason that an investigator conducting investigative interviewing needs to have an understanding of the elements of the crime to be able to link what the child says to the

commission of the crime. In South Africa there is no consistent approach to interviewing a child. A child victim can be questioned by a wide range of police officials, prosecutors, social workers and other child workers in the course of a particular investigation. This can lead to confusion and apparent inconsistencies due to differing interviewing techniques (Gallinetti, [s.a.]).

Pawelczyk (2012) quotes a United Nations Children's Fund (UNICEF) representative in South Africa who said 'South Africa's levels of violence against children are among the highest in the world and offenders often go unpunished'. Hall (2013:14) implies that the courts contribute to the hardships experienced by child victims. According to Bottoms, Najdowski and Goodman (2009:1), children experience difficulty of being accommodated by the legal system, yet they in many ways become involved in legal matters. Court language creates serious problems for children and accordingly prevents them from being effective witnesses and taking part in the judicial process in a meaningful way (Erasmus, 2008:iv). Schutte (2005) states in his conclusion that reforms of the courtroom should also take into account the interests of the child to be protected against procedural abuse.

In the South African context, the Criminal Procedure Act makes provision to overcome the challenges experienced by child witnesses who testify in court proceedings with the help of an intermediary. Section 170A (3)(a) of the Criminal Procedure Act, Act 51 Of 1977 allows that if an intermediary is appointed, the court may direct that the child witness shall give his or her evidence at any place which is informally arranged to set that witness at ease (South Africa, 1977).

In *S v Mokoena* 2008 (2) SACR 216 (T), *S v Phaswane* 2008 (2) SACR 216 (T), Bertelsman J declared section 170A (1) of the Criminal Procedure Act, Act 51 of 1977 to be unconstitutional because it grants the court the discretion to appoint an intermediary when a child has to appear in criminal proceedings. The researcher's understanding of the declaration by Bertelsman J is that the court's discretion is not always applied in the interest of the child and according to Bertelsman, it does not give children priority in investigative and prosecution matters as the right enshrined in section 28(2) of the Constitution (South Africa, 1996b). It means the child can still be exposed to undue stress and suffering as a result of the court's discretion that the child can testify without the intermediary.

Waterhouse (2008:2) states that poor implementation of the National Prosecuting Authority (NPA's) move to provide court preparation services caused confusion and reduced the quality of services provided to children. Protective measures available to child witnesses in court are used conservatively and discriminatory rules of evidence against child witnesses remain in place (Waterhouse, 2008:2).

The legal context had undergone significant changes in child- related processes, including but not limited to investigative interviewing (Justice, Crime Prevention & Security (JCPS), 2014). What is stated in this source is an indication that the criminal justice system has indeed made major strides to achieving better legal practices in relation to child victims and witnesses than in the past.

Rautenbach (2007:23) acknowledges that while extensive progress in the development of policies aimed at protecting vulnerable children has been made, the practical implementation of the policies is derailed by factors such as service delivery, backlogs, limited resources and lack of cooperation between responsible government sectors. The assertions made explicitly reveal that while there are good pieces of legislation and procedures for dealing with the child in all levels of the criminal justice system, there is a clear gap between the legal rules and what happens in practice.

It is also evident from the submission made by Centre for Child Law and Child line (2007:11) that South African courts do recognise the rights of a child as paramount, as enshrined in section 28(2) of the Constitution (South Africa, 1996b), but the courts do not often pay detailed attention to what the concept of "paramount" entails. Based on arguments made by the Centre for Child Law and Child line (2007:29-30), there are numerous legal problems that do not give effect to the guaranteed rights in section 28(2) of the Constitution (South Africa, 1996b) and those problems directly affect child victims in all legal matters, including investigative interviews. The submitted argument went as far as highlighting certain issues which are of concern to the required practice of investigative interviewing.

The issues of concern as extracted from the Centre for Child Law and Child line (2007:29-30) are the lack of appropriately trained personnel at all phases of the investigative and judicial process, exclusion of many child witnesses and victims, due to the misapplication of the 'competency' test (both by police and prosecutors before the matter even reaches court, as well as by the court itself), problems experienced with the law of evidence, lack of

independent legal representation for the child victim and lack of back-up resources needed to enable the courts to make orders which are in the best interests of the child victim.

The infringement of child victims' rights because of lack of competency by police and justice personnel, the problems experienced with the law of evidence and multiple investigative interviews often directed to the child impede the realisation of children's rights (Centre for Child law, 2008:7-8). Investigative interviewers should be taught ethics beyond knowledge of legal matters (Yeschke, 2003:12).

The SAPS does not specifically monitor cases withdrawn by prosecutors or cases that are unsuccessful and struck from court rolls as a result of poor evidence collection or weak investigations (Omar, [s.a.]). According to Powell (2013:716-717), it is the responsibility of everyone participating in the criminal justice system to protect the rights of children who are participating in the criminal justice system. This can be achieved by on-going monitoring and evaluation of cases in which children are victims.

The participants were asked how they experience the practice of investigative interviewing during interviews with child victims. They were asked to elaborate and state reason(s) whether they believe the practice complies (or not) with the regulations supporting the use of investigative interviews. Seventeen (17) of the sample A participants and all sample B participants answered the question. The 8 participants who did not answer indicated that they did not know the answer. All the answers are reflected in Table 2.5

Table 2.5 Participants' views on the practical application of investigative interviewing in the context of criminal investigation

<b>Answers found in the literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Responses not found in the literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
Lack of appropriately trained interviewers/detectives poses a challenge of interviewing child victims for criminal investigations.	09	01	The practice is good.	01	0
Inconsistent interview approaches used to interview child victims.	0	01	The use of victim support centres.	01	02
Limited support resources (i.e.	03	03	The interviews are conducted	05	01

<b>Answers found in the literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Responses not found in the literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
psychiatrists, social workers) derail the practical implementation of regulations supporting the investigative interviews.			according to the law.		
			Child victim interviews demand more time than what the detectives have available.	03	01
			The police standing orders force police to interview the child victims.	01	0

The literature indicates that the practice of investigative interviewing in the context of criminal investigation has improved marginally. Out of 11 statements in the literature that describe the practice of investigative interviewing in the context of criminal investigation, only 2 statements acknowledge the good practice of investigative interviewing. They are: the courts, through the National Prosecuting Authority (NPA), have introduced preparation services to accommodate children and the use of an intermediary as entrenched in Section 170A (3)(a) of the Criminal Procedure Act (South Africa, 1977). The statement further explains that poor preparation services caused confusion and reduced the quality of services provided to children in all criminal investigation- related matters. All other 9 statements indicate that there is a gap between legal rules protecting the child to participate in criminal investigations and the practice.

The participants mentioned only 3 out of the 11 answers found in the literature. All 3 of these answers indicate the challenges experienced in the practice of investigative interviewing in criminal investigations. As in the literature, the participants' answers indicate that investigative interviews of child victims are not properly conducted during criminal investigations. The participants did not mention any good practice about investigative interviewing of child victims.

In proportion to the number of participants in both sample (A and B) who answered the question, sample B participants seem to have more knowledge regarding the practice of

investigative interviewing of child victims in the context of criminal investigation than the sample A participants. This means the experience of FCS detectives in working with child victim cases has widened their area of knowledge in child victim matters. It is a concern that almost a third of the general detectives did not attempt to answer the question. Both the FCS and general detectives who answered the question mentioned significant fewer answers than what is found in the literature. This, according to the researcher's opinion, is a great challenge in that both FCS and general detectives will not be able to differentiate if they are practising good or bad investigative interviewing of children in the context of criminal investigation.

## **2.6 SUMMARY**

Investigative interviewing is a method, a technique and a primary tool which may be used by police investigators to ascertain the truth or facts. Investigative interviews may be deemed to have the same meaning as forensic interviews, but only when they intend to address legal matters. During investigative interviewing the interviewer creates an environment which is conducive to anyone (including a child) to express what was experienced in his/her own words.

The objective of the investigative interview is to obtain all evidential information present from the interviewee's personal knowledge. The investigative interview focuses on stimulating and retrieving free recall accounts from the source. Where information about the crime is known, the investigative interview can be used to ascertain routines, practices, rules and procedures. Like any other evidence, information obtained using investigative interviews is subjected to legal scrutiny. There is no age limit for an interviewee to be subjected to investigative interviews; however, a child being interviewed must pass a competency test conducted by the court to determine if the child is able to give information required for criminal investigation. Courts are entitled to test information obtained from children by using investigative interviews.

The principles of investigative interviewing guide an interviewer about the requirements and obligations of the right conduct. Investigative interviews should not be used to confirm what the interviewer already suspects or has been told, but should test the suspicion or alleged incident under investigation at the disposal of the interviewee. Investigative interviews do not have hard and fast rules to follow, but should be approached with an open mind. Particular



care and consideration should be taken when dealing with vulnerable interviewees such as child victims and witnesses.

The manner in which information or evidence is obtained during the investigative interviewing of a child must comply with the legal prescriptions such as the Constitution (South Africa, 1996b), the Criminal Procedure Act (South Africa, 1977), the Child Care Amendment Act (South Africa, 1996a), the Children's Act (South Africa, 2005), and the international legal instruments such as the United Nations Conventions on the Rights of the Child (CRC).

The participants understood investigative interviewing as a kind of interview used in legal settings and used to search for the truth, whereas in the literature the investigative interview may also be applied in private settings. The participants mentioned a third of the objectives found in the literature. The participants displayed a fair understanding of the principles of investigation, with the FCS detectives portraying a better understanding than the general detectives. In addition, the participants mentioned the following regulations supporting the investigative interviewing: the Criminal Procedure Act (South Africa, 1977), the Constitution (South Africa, 1996b), the Children's Act (South Africa, 2005) and the Service Charter for Victims of Crime in South Africa. The participants did not see any good practice of investigative interviews in the context of criminal investigation.

The next chapter will deal with a child's behaviour during investigative interviewing.

## **CHAPTER THREE: UNDERSTANDING CHILDREN'S BEHAVIOUR DURING INTERVIEWING**

### **3.1 INTRODUCTION**

The world of experience for a child is an internal matter in which a child transforms perceptions, feelings and moods into external activities. In other words, a child's interpretation of his/her experiences influences his/her behaviour (Westcott & Kynan, 2006:435). Joubert (2013:434) states that the ability of a child to provide accurate and credible information; has been a cause of concern for investigators, court prosecutors, legal representatives, court presiding officers and other people working with child evidence. This is corroborated by Jacob and Furgerson (2012:1) who clarified that there are no definite guidelines recommended to interview children. The interviewers need to be aware of influential factors such as the behaviour and values of those people in contact with children.

Fisher and Geiselman (2010:322) identify two limiting factors that can influence information elicited through investigative interviewing. The first factor involves the ability to retrieve information by the interviewee, and the second factor is concerned with the ability of performing multiple cognitive tasks by both the interviewer and interviewee during an interview. The interviewer is simultaneously required to listen and formulate the next question, while the interviewee is expected to listen and prepare how to answer the asked question. To ensure that accurate information is obtained, the interviewee should be encouraged to tell only what he or she is certain of (Fisher & Geiselman, 2010:322).

It has been explained in paragraph 1.9.2 (Chapter 1) that the reporting on samples will be done separately because two samples (sample A which was drawn from the general detectives and sample B which was drawn from specialising FCS detectives) were selected and the participants from both samples were interviewed for the study. The reason for selection of two samples was to determine if there is any distinction between how child interviews are conducted by specialised FCS detectives and the way it is done by general detectives. The responses of the participants were tabulated and compared to the information found in the literature.

As indicated in paragraphs 1.3 and 1.4 of chapter 1, the purpose of this chapter is to explore and describe the elements which need to be considered by the investigating officer to better understand the behaviour of a child victim during an interview. This chapter will discuss the

behaviour of children during the interviewing process by elaborating on who is regarded as a child, behavioural signs of possible abuse in a child victim, how an interviewer can assist a child victim to disclose information, suggestibility and memory in child victims, difficulties in interviewing child victims and how they can be overcome, child developmental stages and the understanding of the truth and a lie for children during investigative interviewing.

### **3.2 UNDERSTANDING WHO A CHILD IS**

A child victim is any person below the age of 18 (UNODC, 2009:6; South Africa, 2005). The participants were asked what their understanding of a child was. All the general detectives from sample A and the FCS detectives from sample B defined a child as any person below the age of 18 years and the researcher noted that their answers were consistent with information found in the literature.

The participants were then asked whether they had interviewed a child victim for investigative purposes. Twenty- one (21) of the participants from sample A and all the FCS detectives from sample B responded in the affirmative. Two (2) participants from sample A responded in the negative. The remaining two participants from sample A were not able to recall whether they had interviewed children for investigative purposes and their response was 'uncertain'. This means that the overwhelming majority of the participants of sample A participants have previous experience in interviewing child victims for investigative purposes, and a small minority of them either could not recall having done such interviews or specifically remembered having no such previous experience. As will be seen from the response to the next question, the latter feedback does not ring true.

The participants were further asked what they found easy in interviewing the child victim. Nineteen (19) participants from sample A reported that they did not find it easy to interview a child victim, while six (6) detectives reportedly found it easy to interview a child victim. This implies that the four detectives who either did not interview children or could not recall interviewing children answered this question based on speculation and not experience. This, in the opinion of the researcher, taints their replies.

All the participants from sample B reported that they did not find it easy to interview a child victim. Since these detectives are from the specialised group whose specific area of speciality is working with children, a high value is placed on their feedback.

The 6 detectives (24%) who reportedly found it easy to interview a child victim explained that children are compliant and they provided information easily. This additional information was supplied by them without any prompting from the interviewer. The researcher is of the view that the participants either oversimplified the content of the interviews they conducted without critically engaging with the content, or they were exposed to older child victims who were less inclined to lie or distort the truth.

### **3.3 BEHAVIOURAL SIGNS OF POSSIBLE ABUSE IN CHILD VICTIMS**

The literature addresses various behavioural signs shown during child interviews as indicators of possible abuse in child victims (Department of Education, Culture and Employment, 2005:3-4; Higgins & McCabe, 2001:547; Kolko, Moser & Weldy, 1988:529 & Pollick, 2012). While these behavioural signs manifest they do not necessarily occur simultaneously. The following are examples of possible behavioural indicators to look for in child victims: the child

- Is unaware of social boundaries (not trusting or too friendly with adults).
- Has low frustration levels, is easily upset, is too patient or too tolerant.
- Seeks attention or avoids contact with others.
- Dresses inappropriately or overtly provocative.
- Is overly attentive, watchful, has a vacant stare or flinches.
- Shows rage or anger, throws tantrums and is aggressive to other children.
- Suffers permanent or temporary physical mobility change (as a result of injury, harm and/or impairment) that resulted from the possible abuse suffered.
- Has tendencies of running away from home or care facilities (especially those children who are in the adolescent stage of development).
- Has a low self-esteem and poor self-image.
- Has poor social skills, shows withdrawal signs, is feeling depressed and/or making suicidal utterances.
- Urinates or defecates in clothes.

- Does not mind sexual language and/or re-enacts abuse experienced by performing artwork depicting abuse.
- Shows a shift between being extrovert and introvert, truancy and/or late coming at school.

The aforementioned behavioural signs displayed by children are usually as a result of physical, sexual, or emotional abuse and neglect and may manifest in child victims of all age groups (Department of Education, Culture and Employment, 2005:3-4; Higgins & McCabe, 2001:547; Kolko et al., 1988:529; Pollick, 2012).

The behavioural signs of abuse in children as listed in the medical guidelines of Stanford School of Medicine (2014) are: excessive crying; fear, anxiety and clinging; phobias; nightmares, sleeping problems; hyperactivity; poor concentration; distractibility; decreased school performance; chronic school absenteeism, speech disorders; seems afraid of parent; depression; passiveness; increased verbal abuse; destroys or injures objects and pets; substance abuse; self-harm such as cutting; showing symptoms of Post-Traumatic Stress Disorder (PTSD); avoidance of undressing; withdrawal to touch, afraid of being medically examined or overly compliant, especially with difficult or painful parts of the examination. It should be noted that many of these behavioural signs of abuse in child victims are also seen in common childhood illnesses (Stanford School of Medicine, 2014).

Pollick (2012) warns that it can be difficult to identify signs or indicators of possible abuse in a child, because some children may simply show physical and behavioural signs related to normal childhood experience and these may be mistaken for signs of abuse. It means that no single sign is proof of abuse. It is therefore essential that investigative interviewers familiarise themselves with how children across all ages behave when trying to disclose or withhold information related to them being abused.

The participants were asked whether there were any specific behavioural signs that they thought should be monitored when interviewing a child victim. They were asked to elaborate on their replies. None of the participants from samples A or B declined to answer and all of them replied that there were certain behavioural signs that they would look out for. Each then proceeded to elaborate on these behavioural signs. The responses of the participants are represented in Table 3.1.

Table 3.1 Participants' opinion of the behavioural signs that may indicate possible abuse in child victims

Answers found in literature	No. of answers from sample A participants	No. of answers from sample B participants	Answers not found in literature	No. of answers from sample A participants	No. of answers from sample B participants
Fear of certain people.	15	03	Hallucination.	01	0
Unusual/Strange behaviour.	03	01	Shyness.	03	0
Social withdrawal.	07	01	Rudeness.	05	0
Post-Traumatic Stress Disorder (PTSD)/Stress.	08	03	Changed attitude.	12	0
Aggressiveness.	05	0	Use of hands or writing on the floor or surface while talking.	01	0
Anger.	13	0	Draw pictures instead of responding.	03	0
Bedwetting or soiling clothes with urine.	03	02	Use of vulgar language.	09	02
Changed/Regressive behaviour.	0	01	Lack of respect for adults.	05	01
Poor social skills.	0	01	Easily frightened.	04	02
Sensitive to touch.	0	01	Lack of willingness to talk.	0	01
Sleeping problem.	0	01	Display mental problem.	0	01
			Having mood swings.	0	01

As can be seen from the table above, the participants provided numerous answers not found in the literature. Conversely, of the 29 signs (as indicators of possible abuse in child victims) found in the literature and discussed *supra*, the participants (from both samples) were able to list a total of only 11 collectively. When the signs listed by the participants of each sample are separately counted, the participants from sample A listed 2 fewer behavioural signs than those from sample B. Therefore, the FCS detectives mentioned 2 more signs than the general detectives. This indicates that the specialisation of FCS detectives in child interview investigations has possibly increased their ability to identify the signs of possible abuse, more so than that of the general detectives. In general, the minimal number of behavioural signs mentioned by both the FCS and general detectives is alarming and is an indication that the participants know too little about the behavioural signs to look for during child interviews. It

is the opinion of the researcher that this may have a negative impact on the way the interviews are conducted by these participants.

### **3.4 ENHANCING DISCLOSURE OF INFORMATION BY A CHILD VICTIM**

Disclosure of information occurs when a child directly or indirectly tells someone or lets a person know that he or she has been abused (Department of Education, Culture and Employment, 2005:10). Disclosure is not a straight forward concept, as children do not always purposefully talk about abuse (Allnock, 2010). That means whether asked or not, the child can use hints, art or writing to disclose such information.

Children are understandably reluctant to disclose information about abuse (Cronch, Viljoen & Hansen, 2006:196). According to Allnock (2010), disclosing is difficult for children for a variety of reasons. One of the reasons is that children fear that they may not be believed or taken seriously. To encourage the child to talk, the interviewer should actively listen and respond sensitively to the child. The interviewer should also create a safe space for children to talk (Allnock, 2010).

According to Larsson and Lamb (2008:1), the belief of practitioners in the criminal justice system, that young children were not competent to give information that will assist in the prosecution of the suspect/s, has been disproved by a number of researchers who have clearly shown that children are much more competent than was believed. Children can be competent to provide accurate and credible information about what they have experienced (Shepherd, 2007:272-273). Reliable information about experienced events can be obtained from children as young as 4 years of age, provided interviewers converse with and question them carefully and appropriately, adapting their techniques to accommodate the children's needs and capacities (Larsson & Lamb, 2008:1).

Gallinetti [s.a.] is supported by Shepherd (2007:270) when stating that; that the competency of a child to disclose or give accurate information is determined by asking questions that test the child's intelligence, sense and reason to discriminate between the truth and a lie and further to recognise that it is wrong to lie. This implies that general detectives should take into consideration the factors which can assist in determining child competency before concluding that the child victim is not competent or cannot disclose accurate information about abuse.

When considering the child's needs the focus should always be on his/her abilities. Even if the child cannot communicate through the usual communication media, this should not prevent investigators from attempting to obtain his/her account. It means that children who need special help during interviews cannot be excluded from being interviewed for investigative purposes (Scottish Government, 2011:43). The views of Pence and Wilson (1992), as echoed by Shepherd (2007:270), are still relevant two decades after they were published. The authors encourage the use of support services such as people who are qualified and specialising in child interviews to interview children. Support services should be utilised if it is in the interest of the child to use such services (Pence & Wilson, 1992). Circumstances in which support services may be used include disabilities, impairments and illness, very young age and language and ethnicity (Scottish Government, 2011:42).

Pence and Wilson (1992) further guide the actions of an interviewer (investigator) that can encourage the child to talk about possible abuse. If a child is extremely distressed or unwilling to be questioned alone, a non-offending or supportive adult may sit quietly in during the interview; the interviewer should be careful to not react in a manner that will affect the child to disclose; the interviewer should adopt an appropriate non- intimidating stance and posture; the interviewer should use language appropriate for the child's age and development; the interviewer should not approach an interview in a manner that suggests to the child that the matter under interview is already known; if a child interviewed shows discomfort the interviewer should acknowledge that by asking what will ease the child; the interviewer should arrange therapy for children who do not disclose at the first interview or who disclose part of the abuse and interviewers should be patient.

It emanates from the discussion by Heyman, Sweet and Lee (2009:739-740) that children can be influenced to withhold information just like adults. It is therefore essential for interviewers to understand that the child's age may have an impact on the degree/level to which a child may be influenced (by a third party) to either disclose or withhold information (Shepherd, 2007:272). Interviewers will not attain the goal of making a child disclose information without establishing rapport with that child. Various authors assert that building rapport with the child will assist the interviewer to familiarise him/herself with the limitations and strengths of the child's ability and/or willingness to disclose information; it will enhance the development of trust between the interviewer and the child and it assists in the creation of a warm, calm and relaxed interview atmosphere that will motivate the child to disclose



information (Milne & Bull, 2006:17; Sheppard [s.a]; Shepherd, 2007:268; Wright & Powell, 2007:21).

The participants were asked what (in their opinion) the interviewer (investigator) could do to encourage the child victim to disclose information. Two (2) participants from sample A did not respond to the question because they did not know the answer. The responses of the participants are represented in Table 3.2.

Table 3.2 Participants’ opinion of the actions that may assist children to disclose information about possible abuse

<b>Answers found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Answers not found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
Use support services to interview a child.	07	03	Make the child feel loved.	03	0
Interview in a relaxed interview atmosphere.	04	01	Make the child believe in you.	01	0
Develop a trust relationship between an interviewer and a child.	0	02	Use interview aids.	03	03
An adult familiar or close to the child be allowed in an interview room for support purposes.	05	02	Let the child play a game.	01	02
Use appropriate language to the child.	0	02	Befriend the child.	0	01

From the literature the researcher identified 13 actions which an interviewer can take to assist the child victim to disclose information about the possible abuse. The participants were able to mention 5 of these. When separately counting the answers by the participants of each sample which correlate with evidence found in the literature, the FCS detectives showed a better understanding than the general detectives by mentioning 2 more actions than the general detectives. However, both samples (A and B) failed to mention more than half of the answers found in the literature. The participants provided 5 answers not specifically found in the literature. This is an indication that both the general and FCS detectives have a great challenge when it comes to the interviewing of child victims, particularly if they do not know

how to motivate a child victim to disclose information. This also explains their feedback from question 3.2 (what did they find easy in interviewing a child victim) *supra*, when they indicated that interviewing children is difficult. Without the knowledge and skills of motivating a child to talk, an interview with a child (and more especially a non-compliant child) will be very difficult.

### **3.5 SUGGESTIBILITY AND MEMORY IN CHILD VICTIMS**

Shepherd (2007:272-275) explains the relationship between memory and suggestibility in children by specifying that certain conditions in an interview have the potential to compel the child to report something that did not occur. According to Bruck and Ceci (2012), recent evidence obtained from research indicates that by merely asking children to think repeatedly about whether an event took place conforms to suggestibility, and has proven to yield a negative effect on their subsequent memories. Johns (2012:32) reports that child memories and their ability to retrieve past experience can significantly be altered by the suggestive nature of utterances. These statements correlate to describe that the behaviour of a child susceptible to suggestive interviews is directly or indirectly linked to the memory abilities of that particular child (Shepherd, 2007:275). It is therefore crucial for detectives to understand the behaviour of child victims in relation to suggestibility and memory.

#### **3.5.1 Suggestibility during investigative interviews with child victims**

Milne and Bull (2006:17) describe suggestibility as the influence of bias by the interviewer who holds a prior belief about the occurrence or non-occurrence of certain events, and as a result, shapes the interview to elicit information from the interviewee that is consistent with the prior belief. This belief is likely to result in the interviewer not challenging the authenticity of the child's report, particularly if the child's report is consistent with the interviewers' preconception (Beatty, 2006).

Schreiber, Bellah, Martinez, McLaurin, Strok, Garven and Wood (2006:21-22) supported Schumaker (1991:134) and Bull (2001:96-100) who state that suggestibility has an effect on the behaviour of persons being interviewed. The suggestive techniques include to allow imagination or speculation in guessing if an event has taken place or not, selectively praise or acknowledge the words of a child because he or she said what the interviewer wants to hear, revealing to the child what other co-witnesses or interviewees have said to influence the interviewee to give a response that will conform to that of other co-witnesses or interviewees,

repeat the question in a manner which create doubt in the mind of a child about what he or she has already answered and introduce new information, even if it was not mentioned by the child (Bull, 2001:96-100; Schumaker, 1991:134; Schreiber et al., 2006:21-22).

La Rooy et al. (2012:176) regard as suggestive the asking of questions which are complicated and which expose children to a risk of committing errors when responding. Additional techniques as mentioned by Bull (2001:96-100) involve asking a child specific and leading questions to confirm the interviewer's suspicions about alleged abuse, deliberately giving the child information about the characteristics of the alleged perpetrator, reward or threaten the child to get fraudulent co-operation or compliance to an interview and use interview techniques specific to interviews between a designated professional and a child (such as anatomically detailed dolls). Schreiber et al. (2006:21) supports Bull (2001:96-100) on how the type of questions could contribute to suggestive interviews. Specific, choice and focussed type of questions can introduce elements of suggestiveness if they are not used sparingly in a non-suggestive manner (Milne & Bull, 2006:19; Schreiber et al., 2006:21).

According to Bull (2001:104), the suggestive biased components have proven that children who were exposed to such practices are most likely to give false reports. This is confirmed by Shepherd (2007:275) who argues that suggestibility in children manifest when the child provides you with the answer found within your question. Repeating an interview with a child victim is also regarded as being suggestive, provided it is not done in a proper manner.

In the 'Sam Stone' study reported on in Bull (2001:104), the author refers to a study where 176 young children between the ages of 3 and 6 were assigned to one of the following four conditions of the study: control, stereotype, suggestion and stereotype plus suggestion. Twenty- nine children in the 3 - 4 year old group and 22 5 - 6 year olds were interviewed under suggestive conditions about a stranger named Sam Stone; this was the suggestion group. The experimenter told another group of children that Sam Stone was a friend and that he was very clumsy (the stereotype and suggestion group). All the children in the experiment eventually did meet Sam Stone. He made one visit to their classroom and was introduced to the children during story time.

During their 'Sam Stone' interview, 51 children (the sum of 29 and 22 of the 3 to 6 year old children respectively) in the suggestion group were provided with two erroneous suggestions about what occurred during Sam's visit. At the end of 12 weeks all the children exposed to

the suggestive way of telling the story were interviewed by a new interviewer about what happened during Sam Stone's visit. It was found that the 3 and 4 year-olds were more susceptible to suggestive claims than the 5 and 6 year- pre-schoolers. Therefore, children's memory reports become more complete and accurate with age, while their suggestibility decreases. However, research also suggests that general beliefs regarding age differences in capabilities can be overridden in certain circumstances (Redlich, Ghatti & Quas, 2008:709). Libin (2013:181) mentions that interviewing children without suggestive cues allows even young pre-schoolers to provide highly accurate information. It is not only children who are susceptible to suggestive and misleading type of questioning, but adults (Shepherd, 2007:159). That means the degree to which a person is susceptible to suggestive questioning/interviewing cannot only be measured in terms of age or personality trait.

Redlich et al. (2008:707), support Cederborg, Orbach, Sternberg and Lamb (2000:1356-1359) in their study titled 'Investigative interviews of child witnesses in Sweden' by stating that 'children can be led to make gross errors in the eye witness reports and even claim that fictitious events occurred'. In their study Cederborg et al. (2000:1356-1359) evaluated the structure and informativeness of interviews conducted with 4 to 13 year old alleged victims of sexual abuse in Sweden. The allegations were not proven, because of the reduced accuracy of the information which compromised the investigation, thus resulting in the statements of those children being inadmissible in court. The manner in which the children were interviewed is bad because the interviewers relied primarily on two forms of questions. The first is suggestive questions which influence the child victim to respond in a way suggested by the manner in which the question has been phrased and the second is the option posing questions which require a child to select a response from a set of options.

Cederborg et al. (2000:1356-1359) evaluated 72 video recorded cases which were taken from a total of 110 cases involving children between the ages of 4 and 13 years which were referred to six experienced police officers. The police officers (two males, four females) were from one police district in Sweden. The police officers recorded interviews of 72 children between the ages of 4 and 13 between 1986 and 1995. The findings of the study by Cederborg et al. (2000:1356-1359) revealed that 57 per cent of all the questions asked by the investigators were either suggestive or option posing questions. This implies that more than half of the responses received from the child victims were suggestive and could not be legally admitted as evidence in court. Analysis also showed that 8 per cent of the information was extracted

from the 6 per cent of open-ended questions. The outcome indicates that the use of open-ended questions has an advantage of retrieving more accurate information which is admissible in court (Milne & Bull, 2006:17).

Schreiber et al. (2006:20) states that the more the interviewer does the talking, the more the interview drifts towards suggestiveness. The author further encourages interviewers to allow the child to describe events using his/her own words. Suggestive interview utterances are more likely to propel the child to elicit inaccurate information (Schreiber et al., 2006:20). According to Wakefield (2006), the presence of other people, such as a parent supporting the child victim, the suspect who may not be in the interview room, but in the vicinity of the interview environment and other people who may happen to form part of the interview within the interview environment may influence suggestiveness in the interview process.

The researcher asked the participants what they understood by suggestibility during interviews with child victims. Thirteen general detectives from sample A and 4 FCS detectives from sample B responded to the question. Therefore 12 sample A and 1 sample B participant did not answer this question, simply because they did not have an understanding of suggestibility. The responses of the participants who responded are represented in Table 3.3 below.

Table 3.3 Participants’ understanding of the meaning of suggestibility during investigative interviews with a child victim

<b>Answers found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Answers not found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
Ask questions that lead a child to respond in an influenced manner.	0	01	What the child thinks can be done.	01	0
When the interviewer suggests what the child must say.	0	01	Whatever children suggest could have happened.	01	0
			The things a child says could not be accepted.	05	0
			Suggesting to child.	04	0
			Suggestibility is not good that is why we have to refer to professionals.	03	0
			The victims are	03	0

Answers found in literature	No. of answers from sample A participants	No. of answers from sample B participants	Answers not found in literature	No. of answers from sample A participants	No. of answers from sample B participants
			sometimes not free to talk and to be given special attention.		
			Putting a statement in a form of suggestion and assuming that a child will say something that is wished by an interviewer.	0	01
			Frame questions in a simple manner.	0	01

The participants provided eight answers not found in the literature. Of the 12 answers found in the literature indicating what suggestibility is, the participants were able to provide only the 2 mentioned in the table above. None of the answers from sample A participants conformed to what was obtained in the literature. That may be attributed to either their lack of understanding of the term ‘suggestibility’, or it could be possible that they understand the practical implications, but are ignorant in relation to the terminology of the concept ‘suggestibility’. This indicates that it is likely that general detectives may be susceptible to conducting interviews which are suggestive in nature, as they too are sometimes exposed to child victim’s cases (as explained in paragraph 1.9.1 *supra*). It is also a challenge for the FCS detectives as represented in sample B in that only 2 of them were able to describe suggestibility in a way that conforms to evidence in the literature, although their understanding clearly indicated certain omissions in the literature (such as influence of bias by the interviewer, holding a prior belief about the occurrence or non-occurrence of a certain event and shaping the interview according to specific beliefs and selectively acknowledging child responses which are consistent with the interviewer’s beliefs).

It therefore means both the general detectives and FCS detectives still experience difficulty in distinguishing whether their own conduct during child victim interviews is suggestive or not. As a result, lack of a clear understanding of suggestibility by both FCS and general detectives may lead to little or no appreciation of the negative impact it may have on the child victim’s interviews and it may also result in them conducting interviews which are suggestive or which contain elements of suggestiveness.

### **3.5.2 Memory abilities of a child victim**

Cherry (2008) defines memory as the ability of the mind to acquire, store, retain and retrieve past experience. Memory is fragile and it can easily be altered, changed and manipulated (Milne & Bull, 2006:9). According to Nelson and Fivush (2004:486), the child memory is dependent on a number of factors like language and narrative, temporal understanding, understanding of the adult and understanding of the self.

Knutsson and Allwood (2014) report that a child's memory of a criminal act and an ability to recount events may be influenced by numerous factors. These include, but are not limited to fear, the desire to co-operate, the desire not to be involved or to be vindicated from the alleged crime, increase in age, situational variables like the type of questions asked, the context in which the interview is being held and the expectation of the interviewer versus what the child knows and can recall. According to (Shepherd, 2007:270), very young children can recall significant events; however, they may have difficulty to reconstruct their memories in a detailed manner like older children can. Unlike older children and adults, young children (children below the age of 10) experience difficulty to determine whether they obtained information from their own experiences or from other sources (Knutsson & Allwood, 2014).

Other sources from which children may obtain information that have the potential to contaminate memory include regular interaction with other children or adults. Stolzenberg and Pezdek (2012) regard the interview of a child victim as such a kind of interaction. During this interaction the interviewer interacts with the child by asking questions. The interviewer is also likely to ask repeated suggestive questions that are impressed upon the memory of the child to keep and to retrieve them later as if it were what the child had experienced.

The interviewers should therefore have knowledge and understanding of identifying the origin of the child's knowledge or event memories (Poole & Lamb, 1998:43). Interviewers should also understand the conditions that will enhance the accuracy of children's eyewitness memory, and reduce suggestive influences such as questions which press a child to respond in a manner consistent to suggestiveness (Stolzenberg & Pezdek, 2012).

Poole and Lamb (1998:51) point out that if there is a lapse of between 5 to 24 months between the event and the questioning of the child, the memory of the child will deteriorate significantly. The longer the interval between the event and the questioning, the more the memory deteriorates. It means that unnecessary and unjustified delays in conducting an

interview with a child after that child has experienced an event should be avoided (Shepherd, 2007:273).

It is understood from the aforementioned discussions that memory is one of the factors that may have an impact on the thinking of a child. External factors such as people who surround the child and the lapse of time may also have an influence on the child's ability to remember past events. Furthermore, it is not easy for young children (children below the age of 10) to differentiate whether they got the information from their own experiences or from other sources. The memory abilities of a child is influenced by various factors not limited to age, expectations of the interviewer about the child's ability to remember, fear by the child victim and/or the nature of questions asked by the interviewer. This means that the child's memory can be contaminated by those factors, which in turn may have a negative impact on the responses of the child victim during interviews.

The participants were asked what they understood about the memory abilities of a child victim. All the participants from both samples responded to the question.

Both general- and FCS detectives supplied answers that are similar in that they implied that the memory ability of a child means a child is able to remember what happened. The researcher noted that their answers were partially in agreement with the literature, but that there were some omissions from the literature. The literature gave more details which include the process of acquiring, storing, retaining and retrieving information. The researcher noted that the participants were able to mention the aspect of what a child can remember (retrieve). Though the participants partially gave the correct answer, the omitted aspects in their responses indicate their lack of a comprehensive understanding of the memory abilities child victims may have during interviews. Their limited understanding of the memory abilities of a child may have a negative effect on the outcome of the interview.

### **3.6 DIFFICULTIES ENCOUNTERED WHEN INTERVIEWING A CHILD VICTIM**

Schaeffer, Leventhal and Asnes (2011:343) find it difficult if children do not disclose or delay disclosing information. The difficulty of lack or delay in disclosure of abuse may be caused by fear of further harm, lack of opportunity to disclose, threats by the perpetrator, ignorance that a particular act constitutes abuse and the close relationship a child may have with the perpetrator (Schaeffer et al., 2011:343). It is therefore essential and crucial for



interviewers to be familiar with such possible causes which may delay the disclosure or may contribute to difficulties of interviewing a child victim. The child may then be more inclined to share with the interviewer what was witnessed and/or experienced (Department of Justice and Constitutional Development, 2004:3).

The presence of an adult person in the interview room can intentionally or inadvertently contaminate the child information. Children are used to being tested by an adult or someone with an authoritative figure to the child and may follow what is presented to them by the interviewer without being afforded an opportunity to freely reveal what they know (Wakefield, 2006). According to Bishop (2014:147), children’s linguistic skills improve with age. It means that those children who are very young (less than 6 years old) may have difficulty in articulating the meanings of words.

Paine and Hansen (2002:289-290) conclude that child victims often do not disclose the abuse because of suppressed motivational factors. They state the following as some of the feelings which are experienced by children causing them to suppress disclosing information: a child’s fear of not being believed by adults or those who are being told of the abuse, fear of physical and emotional wellbeing of self, loved ones or in some instances a perpetrator, and strategies applied by the perpetrator to gain and maintain compliance and silence from the child. According to Fouche (2007:188), a child victim may not disclose because he/she is too traumatised.

The participants were asked what difficulties (challenges) they had encountered when interviewing child victims. The responses of the participants are represented in Table 3.4.

Table 3.4 Participants’ opinions of the difficulties (challenges) encountered when interviewing child victims

<b>Answers found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Answers not found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
Children may not want to disclose because of suppressed motivational factors.	03	03	Children don’t talk when interviewed by men.	03	02
Inherently poor linguistics skills.	05	02	Explain the event in a chronological manner.	01	0G
Susceptibility to suggestibility/post-	03	01	Not telling the whole truth.	03	0

Answers found in literature	No. of answers from sample A participants	No. of answers from sample B participants	Answers not found in literature	No. of answers from sample A participants	No. of answers from sample B participants
contamination.					
Inaccurate memories.	06	01	Shy to talk.	03	01
The age of a child.	07	02	Crying.	01	0
Traumatised children.	04	03			

The literature makes mention of nine different types of difficulties/challenges; as discussed *supra*. All the participants (sample A and B) mentioned 6 out of 9 answers found in the literature. Proportional to the number of participants from each sample who answered in line with the literature (sample A have 25 participants and sample B have 5), sample B showed to have a more comprehensive understanding of the topic than the participants from sample A. The collective outcome of both samples indicates a fair understanding of the difficulties encountered when interviewing child victims. This implies that all the FCS detectives know what difficulties they will have to overcome in order to interview a child victim, but the general detectives are less so informed.

The following 5 responses are not found in the literature and were mentioned by both the general and FCS detectives respectively: children don't talk when interviewed by men, explain the event in a chronological manner, not telling the whole truth, shy to talk and crying. There is still a gap which needs to be filled in order to increase the knowledge of the participants about the difficulties that they may experience during child victim interviews. Being aware of what the difficulties are is but one part of the solution; the second part is being able to overcome these difficulties.

### **3.7 OVERCOMING THE DIFFICULTIES TO CHILD VICTIM DISCLOSURE**

Child victims or witnesses should be advised, supported and encouraged to disclose what was experienced. From the beginning of the investigation phase and throughout the entire process, child victims and witnesses of different ages and backgrounds should be supported by a person with the necessary training and professional skills to communicate with and assist them in order to prevent the risk of duress, re-victimisation and secondary victimisation (UNODC, 2009:15-16). According to Allnock (2010), the role of the interviewer is to break down the barriers to disclosure of information by listening actively and creating a safe space for children.

Rombouts (2011:138) indicates that facilitating disclosure of information is a dynamic process which prepares the interviewee to talk freely and without pressure. The disclosure can be facilitated by establishing a good relationship with the child victim. For some children a number of shorter sessions will be preferable in a single interview. That is normally applied to children with special needs. Such children may need frequent breaks in between the interview sessions (Ministry of Justice, 2011).

Fouche (2007:183) believes that if a child is interviewed in a negative way, it may have a negative effect on the manner in which a child discloses information. Hershkowitz, Orbach, Lamb, Sternberg and Horowitz (2006:767) suggest that interviewers should avoid intrusive and confrontational interviewing behaviour because they certainly do not help reluctant child victims disclose information of abuse.

Interviewers need to take note of drastic changes in the child victim's physical, emotional and sexual behaviour because the abused child often displays unusual behaviour (Department of Education, Culture and Employment, 2005:3). The changes are some of the indicators or signs of how an abused child might appear. It is not easy for the interviewer to distinguish between behaviour that may be considered normal and behaviour that may be considered strange. It therefore requires that the interviewer must have information about the child victim's behaviour prior to the abuse. Having prior knowledge will enable the interviewer to watch or observe behaviour which a child may display and which may be considered strange.

Katz, Hershkowitz, Malloy, Lamb, Atabaki and Spindler (2012:19) indicate that child victim's signs of verbal and physical disengagement early in investigative interviews are associated with whether a child will disclose or not disclose at a later stage of the investigative interview. The awareness of non-verbal behaviour shown by child victims during an interview can assist investigative interviewers to identify children who may be reluctant to disclose information during the early stages of the investigative interview (Katz et al., 2012:18-19). Early detection of reluctance to disclose information by the child victim enables investigators to adapt their own behaviour to overcome the reluctance of the child victim. According to Fouche (2007:188), investigators have the discretion to refer the children whom they find difficult to interview, who may need any kind of special care (an investigator may not be able to offer) or who cannot disclose information to support services that specialise working with child victims (such as psychiatrists, social workers, child workers).

The participants were asked what measures they took to overcome the difficulties they mentioned previously and how successful those measures were. Twenty- one (21) participants of sample A responded to the question. The 4 participants who did not respond indicated that they did not know what to answer. This level of lack of knowledge is in agreement with the level of response from paragraph 3.2 *supra* where four participants also indicated their inexperience in interviewing child victims. The responses of the participants are represented in Table 3.5.

Table 3.5 Participants’ opinions of strategies they used to overcome difficulties to child victim disclosure

Answers found in Literature	No. of answers from sample A participants	No. of answers from sample B participants	Answers not found in Literature	No. of answers from sample A participants	No. of answers from sample B participants
Refer the child to support services working with children (social workers, psychiatrists, child workers).	14	4	The child should be interviewed in the presence of the person he/she feels comfortable to be with.	17	02
Establish rapport (good relationship) with a child.	06	03	Obtain complete statement and send to court for verification.	0	01
Be an active listener.	01	0	Use teddy bear clinics/toys.	02	02
Create a safe space to interview a child victim.	0	01	Give the child something he/she will like.	01	0
Monitor the child’s verbal and non-verbal behaviour.	01	02	Tell the child the rules of the interview.	04	01
Refrain from intrusive/confrontational behaviour.	04	02	Interview the child after the abuse.	02	0
Give the child intervals between the interview session.	0	01			

Out of the 12 possible measures (strategies) with which to overcome difficulties during the interviewing of child victims found in the literature, the participants were able to mention 7. It means each sample (A and B) have a slightly greater than 50 per cent understanding of the measures to use to overcome child victim disclosure difficulties. The responses of the FCS detectives show that they listed proportionally a higher number of measures to use during an interview (to overcome difficulties) than the general detectives were able to do. While this is

but a marginal difference, it is probably an indication that their specialised training accompanied by their focussed investigations (specialised investigations) is beneficial. The participants mentioned 6 aspects not found in literature, some of which made little sense in this context.

### **3.8 DEVELOPMENTAL STAGES AND THEIR IMPACT ON THE BEHAVIOUR OF THE CHILD VICTIM**

In this text, several authors such as Fernald et al. (2007:623); Hutton (2010) and Tornello et al. (2013:871) used the concepts very young children, young children and older children to describe the age development stages of children. The authors used these concepts without linking them to specific ages. In paragraph 1.6.4 *supra* these concepts are linked to ages and not the developmental level of a child.

There are five child age stages extracted from the eight human age development categories as developed by Erik Erikson (Cherry, 2015). The five stages are as follows: infancy (birth to 18 months), early childhood (between 2 and 3 years), pre-school (from 3 to 5 years), school age (6 to 11 years) and adolescence (12 to 17 years). It means that a child at a particular age level can think at a developmental level of children younger or even older than that child.

Russel (2006:99) highlights the importance of taking into consideration the developmental stages of the child victims when asking them questions. According to Toeplitz-Winiewska (2007), the interviewer must have a fundamental knowledge about the child's development in order to elicit information about an event which the child has witnessed or participated in. It is deduced from the author that failure to have such knowledge by the interviewer will compromise the interview and may have a negative impact on the attempts by the interviewer to obtain a credible account of the child's actual experiences.

Jackson (2007:140) explains that child abuse investigations require investigators who possess knowledge of developmental capabilities of children which include child memory. The author supports Poole and Lamb (1998:x), who state that interviewing as an activity is also being influenced by children's developmental levels. Cherry (2015) stresses the importance of everyone involved with children to understand child development in order to be able to appreciate the cognitive, emotional, physical, social and educational growth of the child. Without an understanding of these developmental milestones, investigators will not be able to elicit accurate information required during the investigative interviewing.

The general approach to children's abilities to participate in legal matters undermines children's abilities to be able to give evidential information. Children as young as four can tell a judge or jury what happened, with preparation, support and accommodations to match age and special needs (Brooks & Kempe, 2014:394). The assertions by Brooks and Kempe (2014:394) sustain the findings of the study which was conducted more than two decades ago by Goodman and Bottoms (1993:1-4)

Goodman and Bottoms (1993:1-4) conducted the study in which they investigated the memory abilities of children pertaining to what they have experienced. The authors used children between the ages 2 ½ and 11 years for the study. Children were taken to a museum of archaeology where they learnt about archaeological tools, dug for 'artefacts' in a large sandbox and made clay models of what they had found. Children were asked about the event at different time intervals; immediately after the experience; six weeks later, one year later and six years later. It was found that immediately after the experience and six weeks later, the children remembered the experience in detail and with accuracy.

After a year, there was greater difficulty among the majority of the children to recall the event, as only one child managed to recall the event. However, when cues about the trip to the archaeology museum were given, the children recalled accurate details about the event. Six years after the event, the children needed more specific cues to recall the experience, but they recalled it as accurately as in the previous interviews. The findings were found to be consistent with the way adults recall events. The only difference identified was that the adults could retain information for longer periods of time than very young children (children below 5 years old). It was also found that children supplied information which was as accurate as that of adults (Goodman & Bottoms, 1993:4)

Goodman and Bottoms (1993:4) also found that the longer the time delay between the incident and the interview, the greater the difficulty experienced by the child to recall the incident. The introduction of cues is likely to refresh the memory of the child to remember the experience accurately. Older children (older than 10 years of age as explained in 1.6.4 of Chapter 1) and adults can usually recall a great deal of information in response to a general free recall question about an event which occurred shortly before an interview (Goodman & Bottoms, 1993:4)

Goodman and Bottoms (1993:4-5) also studied the recall abilities of children and compared these to an adult's recall ability. It was found that children recalled personal experiences better than adults. The same research also revealed that younger children recall less information when asked open-ended questions than older children and adults do when asked the same questions. It was also found that when the 3 and 4 year old children experience something personally their recall accuracy is more than 70 per cent. But such children had difficulty in drawing a distinction between events that they had personally experienced and what they had seen in a television programme or learnt from books. Those children could relate to fantasies of something that they had watched on television as if they had personally experienced it. For example, a child who has never been to the zoo could talk about lions and tigers which were seen in the zoo depicted in a television programme. But that does not render the child's information as inaccurate. It is therefore important for interviewers to conduct developmentally appropriate child interviews.

The participants were asked what they understood by 'child development stages'. Only 18 participants from sample A responded to the question. The seven participants who did not respond to the question indicated that they did not know the answer. The responses of the participants are represented in Table 3.6.

Table 3.6 Participants' understanding of the developmental stages and their impact on the behaviour of the child victim

<b>Answers found in Literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Answers not found in Literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
Different child development stages (put in age categories, from birth to 17 years).	06	04	They tell how a child grows physically and mentally.	04	0
They tell at which developmental level a child thinks.	03	01	A child cannot behave and think like an adult.	03	0
They are used to determine if a child can give evidence in legal matters.	02	01	They describe the age of children.	02	0
They are used in investigation process to determine if the child can give information required.	01	01			

The responses of the participants that correlate with those found in the literature describe 'child development stages' as a tool used to determine the age level at which a child behaves or thinks. Only 3 responses were not found in the literature. Of these two bear a close correlation to that which is found in the literature. They are: 'a child cannot think and behave like an adult' and 'they describe the age of children'. This is an indication that both sample A and sample B participants understand what child development stages are. In proportion to their total number, the sample B participants had more responses than the general detectives. That is an indication that they have more knowledge due to their speciality in child victim cases, and that shows the importance of specially trained or experienced investigators in child victim interviewing. It is of great concern that almost a third of sample A participants did not respond to this question since 'they do not know the answer'. This is an indication that a substantial number of child victim interviews are conducted by general detectives who do not know when to consider the 'child development stages'. Therefore, child victims may be exposed to improper interviews which may cause the information obtained from such interviews to be excluded as evidence in court. Exclusion of the information obtained from the interviews will weaken and possibly lead to the withdrawal of such child victim reported criminal case.

Eliciting information is but one aspect in terms of interviewing children. The aspect of truth and lies is another very important factor which the investigator needs to be keenly aware of.

### **3.9 UNDERSTANDING OF THE TRUTH AND LIE BY CHILD VICTIMS**

McCarron, Ridgway and Williams (2004:42) argue that the ability of the child to distinguish between telling the truth and telling a lie defines the competency of the child to give evidence for legal purposes. It is one of a number of reasons why the competency and credibility of child witnesses has on numerous occasions being subjected to scrutiny by law practitioners such as the lawyers, prosecutors, magistrates, police officials and many more professionals working with children in legal matters. It is difficult for law practitioners and professionals working with children to say when children understand the difference between lies and the truth, because the concept of a lie is multifaceted for society (Poole & Lamb, 1998:45).

Wandrey, Quas and Lyon (2012) support Bull (2001:191) by indicating that the conditions surrounding children's reports of witnessed events are crucial. The authors further explain that certain factors encourage the truth to be told while sometimes the environment in which



the child interacts with others has conditions that prohibit the telling of the truth. It therefore implies that the ability and willingness of the child to tell the truth are negatively affected by the contradiction between the encouraging factors and the restricting conditions of telling of the truth. Such factors, according to Bull (2001:191), are referred to as conversational and contextual factors.

Conversational and contextual factors can influence the child's understanding of truth and lie. Conversational factors are related to the communication skills of a person while contextual factors are associated with the environment in which a person interacts with others (Bull, 2001:191). When it is required of interviewers to admonish the truth with a child victim during an interview, it is important to first ascertain that there are no communication and contextual factors that may prohibit the child to tell the truth.

The interviewer can ascertain the absence of contextual factors by not allowing all the people who have a direct relationship with the child into the interview room, because they have the potential to influence the child (Koons, [s.a.]). Cronch et al. (2006:200) indicate that communication as a conversational factor can be ascertained by using concrete examples to test the ability of the child to understand concepts. The interviewer should be flexible and not follow a definite order and should begin by engaging the child in a warm, friendly manner with simple, general types of questions and whenever possible, use what the child has just said in the next question (use child's own words) (Harborview Centre for Sexual Assault and Traumatic Stress & Washington State Criminal Justice Training Commission, 2009).

Not all young children who did not report the truth about an event lied about it. This means that some of the children simply chose not to disclose the information; they simply kept the truth secret, but did not lie (Drane, 2014). Wandrey et al. (2012) also clarify that there are certain expressions which if made, can appear in the eyes of the child as lies. For example: An act that looks negative in the eyes of the child can be regarded by that child as a lie. When an educator makes a false statement with the intention of testing the knowledge of a child, it might appear as if he is telling a lie.

For the truth to be a meaningful concept in communication between two people, they must have a shared definition of the truth (Department of Justice, 2015). To be able to get a clear picture of how children define truth and lies, the interviewer should understand the communication concepts of that child.

Wandrey et al. (2012) discuss a possibility of young children being inclined to use factors other than those used by older children when classifying the truth and lie in information, for example; young children are likely to believe that their parents never lie, because they believe that adults do not lie. Older children have the courage to say that the parent has lied if they believe that what was said by a parent is a lie. Children can distort the truth for some reason and it depends to a large extent on the age and development stage of the child. The reasons that are likely to cause a child to distort the truth may include, but are not limited to avoiding punishment or protecting someone from the harm which the child believes may be caused by them telling the truth. Children as young as 4 years show a significant improvement of understanding the difference between truth and lies when interviewed (Poole & Lamb, 1998; Talwar, Lee, Bala & Lindsay, 2002:395; Wandrey et al., 2012).

Talwar et al. (2002:395-415) conducted experiments to test the assumption of the court competence examination that: (1) children who understand lying and its moral implications are less likely to lie, and (2) discussing the conceptual issues concerning lying and having children promising to tell the truth, promotes truth-telling. The study included children from 3 to 7 years.

The findings of the study by Talwar et al. (2002:395-415) confirmed the assumption, hence the authors (who conducted the study) encouraged the interviewers to first establish whether the child has a proper understanding of truth-telling and lying before he/she could give evidence. It has also been their finding that children who understood the moral implication of a lie and the truth and were made to promise to tell the truth were less likely to tell a lie. That means that the mere exercise of letting the child promise to tell the truth, had a remarkable impact on minimising the chances that the child would lie.

Talwar et al. (2002:395) further explain that the same results from the experiments also revealed that; most children who were interviewed lied to conceal their own transgressions, but if they were required to promise to tell the truth, the lying was significantly reduced. It is drawn from the results of the experiment that interviewers should assess the child's competency to provide truthful information (evidence), and that assessment should establish if the child distinguishes between telling the truth and telling a lie. The child should also be admonished to promise to tell the truth. This is an indication that the manner in which a child is interviewed has an impact on making the child appreciate the difference between the truth and a lie.

To account for the transition between a rudimentary understanding of lies and mistakes that is tied to a specific domain and form of questioning, and one that is domain-free and emerges in response to many question forms, requires consideration of both cultural and biological factors (Bull, 2001:219). Talwar et al. (2002:397) believe that abused children are likely to lie because of certain experiences and motivations, and that children are at times threatened into silence.

London and Nunez (2002:131-147) studied whether the ability of children (aged between 4 and 6 years) to reason about the truth and lies had an influence on their truth-telling behaviour. The children were made to play a game that motivated them to deceive by hiding minor transgressions. The interviewer discussed the processes of telling lies and telling the truth with the children before they were interviewed about a specific event. During this truth and lie discussion the children were asked general questions which were not related to the incident investigated by the interview process. The results of the study indicate that the truth and lie discussion method only determines how the child will respond to the questions and not whether the child understands the difference between the truth and a lie.

The researcher noted that a child who can differentiate between telling the truth and lying is eligible to give admissible evidence in court. However, there are certain conditions that prevent the child from telling the truth and which are in contrast with the truth telling expectations of those people surrounding the child. This contradiction results in confusing the child's understanding of truth and lies. The way in which a child communicates and the place at which a child interacts at a given time influences how the child understands the concept of truth and lying.

In order to use both the contextual situation and the communication to the benefit of the child victim's interview, the interviewer should interview a child victim in an environment which is free from distractions and he/she should use simple language, suitable to the development level of the child. Children's 'lie and truth' understanding improves as they grow older. Children may withhold information in order to protect themselves against what they perceive as harm or danger to them. Interviewers should also know and understand that discussing the truth and lies with a child before the interview does not guarantee that the child understands the 'truth and lie' concepts.

The participants were asked what they understood was meant by the phrase determining the ‘truth and lie’ during investigative interviews with a child victim. Only 13 sample A participants responded to the question. The 12 participants who did not respond indicated that they did not know the answer. The responses of the participants are represented in Table 3.7.

Table 3.7 Participants’ understanding of the meaning of the ‘truth and lie’ phrase

Answers found in Literature	No. of answers from sample A participants	No. of answers from sample B participants	Answers not found in Literature	No. of answers from sample A participants	No. of answers from sample B participants
Establish if a child distinguishes between truth and lie (by asking questions).	01	04	Make a child swear under oath.	03	0
Admonish the child to tell the truth.	0	01	Ask the family members about the child’s truth and lie behaviour.	02	0
			Asking a child general questions about friends and families.	03	0
			Monitoring the child’s body language.	05	0

The sample A participants’ responses show a lack of understanding of ‘determining the truth and lie’ during child victim interviews. Only one answer (which was incomplete), which tallies with what is found in the literature, was mentioned by a sample A participant. The part that commits a child to promise to tell the truth was omitted. The sample B participants showed more knowledge of determining the ‘truth and lie’ as compared to the knowledge displayed by sample A participants, though they too mentioned one part of establishing the truth by asking questions and they omitted the admonition part which requires a child to commit to tell the truth. Only one (1) participant mentioned the admonition part as the only response to the question. There were four answers provided that was not found in the literature.

It is a great challenge for the general detectives to understand the concept ‘to determine the truth and lie’, and that means they will not be able to conduct sound child victim interviews, conforming to legal requirements. The FCS detectives only need to improve their understanding of the whole concept of ‘determine the truth and lie’ during child victim interviews. There is a substantial lack of knowledge of ‘truth and lie’ by almost half the general detectives. It indicates that the general detectives found it challenging to distinguish if

the child could understand the difference between telling the truth and telling the lie. It means they may not be able to put into practice the court requirements of putting to the test the child's ability to testify. That means the courts cannot rely on the information obtained from such child victim interviews.

Understanding the 'truth and lie' by a child is influenced by the contextual, communication and environmental factors the child is exposed to. It should therefore be legally required to subject the child to a competency test used to determine if the child can distinguish between telling the truth and a lie.

### **3.10 SUMMARY**

A child is any person below the age of 18. The disclosure of abuse information by a child victim can take a direct or indirect form. Like adults, children are influenced by multiple factors which make them disclose or withhold information. When properly interviewed by creating an environment conducive to interviews, and not using confrontational and coercive methods, child victims are more likely to disclose information about the abuse they experienced. About 84 per cent of the general detectives have conducted an interview with a child victim for investigative purposes before, and 76 per cent of the general detectives and all of FCS detectives did not find it easy to interview a child victim. To maximise the child victim's disclosure during the interview, general detectives should employ more than single behaviour assessment. The most mentioned way to assist the child to disclose is to use the support services working with child victims to interview the child.

Children subjected to interviews need to be supported, encouraged and advised by interviewers to disclose what they experienced. Before an interview with a child is conducted, interviewers should obtain information about the normal behaviour of the child who will be interviewed. This kind of information about the child will enable the interviewer to adapt his/her own behaviour to overcome any reluctance on the part of the child to disclose information.

Knowledge of the signs of possible child abuse is instrumental in identifying if there is a possibility that the child is being abused. Both the general detectives' and FCS detectives' knowledge of possible abuse is too little to ensure fully effective child interviews and they have a limited scope of knowledge how to motivate the child victim to disclose information.

Suggestibility in child victims can take many forms, such as asking specific leading questions, and deliberately instilling information in the child about a perpetrator prior to the interview, and selectively acknowledging the child's responses which are consistent with those of the interviewer. Children who are exposed to suggestive questions are prone to give false evidence. It was challenging for both general- and FCS detectives to fully explain what suggestibility in child interviews mean, and that indicates a likelihood of them conducting interviews which may be suggestive in nature.

Interviewers often experience difficulties which are caused by various factors when interviewing child victims. The factors include the child's age, the nature of questions directed to the child by the interviewer and expectations of child responses by the interviewer. Establishing a good relationship with a child and referring a child to support services which can assist in child interviews, can help the interviewer to overcome difficulties encountered when interviewing child victims.

There is a balanced (50 per cent), reasonable understanding of difficulties experienced with child victim interviews by both general and FCS detectives. But there is still a need for them to improve their level of knowledge. Child developmental stages also play a pivotal role in investigative interviews. It is often easy to link the child's behaviour to a particular developmental age. To be able to appreciate the cognitive, emotional, physical, social and educational growth, general detectives should have knowledge of the developmental stages of children.

Children can recall the events they experienced like adults do, but the difference is that adults and older children (between ages of 10 and 18) can retain information longer than very young children (between the ages 24 months and 5 years).

Distinguishing between the truth and a lie and recognising that telling a lie is wrong, is a test applied by courts to test the child's competency in giving evidence or information. Understanding how children define situations will enable general investigators to understand how children define 'truth and lie' telling behaviour. Children as young as four years of age can distinguish between telling the truth and a lie. The general detectives are still challenged by the concept 'determine the truth and lie' during child victim interviews, while the FCS detectives partially understand the concept. The next chapter will examine the interviewer's role in improving communication with a child.

## CHAPTER FOUR: IMPROVING COMMUNICATION DURING INTERVIEWS WITH THE CHILD VICTIM

### 4.1 INTRODUCTION

Littlejohn and Foss (2008:9) define communication as a process which involves understanding how people behave in creating, exchanging and interpreting messages. Communication can either be verbal or non-verbal. Effective verbal and non-verbal communication enables people to share ideas, give opinions, teach others, define who an individual is and understand others (McNamara, 2010).

According to Lee (2010), verbal communication involves using speech to exchange information with others, whereas non-verbal communication is the process of sending and receiving wordless messages by means of facial expressions, gaze, gestures, posture and tone of voice (Given, 2012). All of these means of communication – spoken words, gestures, expressions, and inflections - contribute to the purposeful exchange of meaning, which is the essence of an interview (Economic Times, 2012). It is therefore evident that the interviewers should take into consideration that the most important trait of a good interviewer and the heart of interviewing is communication (Hoffman, 2005).

This chapter will focus on how general detectives can improve communication with a child victim during an interview. The discussion covers the following elements of the interview as a means of communication, with the focus on investigative interviews with child victims: the role of interviewers to improve communication during the interview with child victims, the manner in which interviewers may approach a child victim for investigative interviews, establishing rapport with child victims during an investigative interview, formulating questions for an investigative interview with a child victim, the use of interviewing aids during investigative interviews of child victims, the use of additional resources when doing interviews with child victims and the training to improve child victim interviews.

### 4.2 THE ROLE OF THE INTERVIEWER TO IMPROVE COMMUNICATION DURING THE INTERVIEW WITH A CHILD VICTIM

Among other role players in the investigation of crime, detectives are expected to know and understand how they fit into the process of investigative interviews with child victims and how best they can contribute to improving communication during investigative interviews

with child victims. A role is understood as behaviour expected of an individual who occupies a given social position or status, and it also serves as a strategy for coping with current situations and dealing with the role of others (Encyclopaedia Britannica, 2013).

According to Wright and Powell (2007:21), the act of eliciting reliable and detailed information from child victims is not mere conversation, but a complex process that requires specialised skills in child interviews. In order to gather information from the child victim, investigators need to communicate effectively. Communicative success depends on how well children understand their role and how effectively interviewers take advantage of children's competencies and abilities in order to maximise their informativeness (Larsson & Lamb, 2008:11).

It is a well-known fact that a child's brain is not as fully developed as that of an adult. But very few interviewers know how to effectively communicate with children and how to assist the child victim to disclose to the investigator what happened (Milne & Bull, 2006:14). According to Themeli and Panagiotaki (2014:7), taking into account the child's level of communication enables the interviewer to conduct effective interviews with children. Interviewers are cautioned to take into cognisance both the spoken words and body language of the child during such an interview. This will help the interviewer to remember that the words used by the child victim may not have the same meaning for the child as for an adult. In addition, the value of assessing the body language of the child victim in relation to the words spoken will validate the preceding statement.

Hoffman (2005) briefly mentions that the role of the interviewer is to be aware of what he or she sends or receives during communication, to guard against disparaging remarks during or after the interview, to decide on the interview techniques to use during an interview as guided by the policy and ethical standards of the organisation served, to take into consideration the victim's health and safety, to apply all the communication skills to obtain valuable information from the victim, to ask questions including follow-up questions, to write a detailed and accurate statement, and to refrain from making promises. According to Schollum (2005:3), the role of police officers as interviewers is to gather the facts. In the light of this, it is important that only legally defensible techniques are used by interviewers when seeking accurate information from children (Wright & Powell, 2007:26).



Haney and Roller (2012) state that establishing rapport is a way of developing a relationship with a witness and increases the likelihood that a witness will co-operate. According to Collins (2012:276), a communication relationship established between the interviewer and the child victim enables the interviewer to elicit appropriate and meaningful information during an interview. Based on the considerations regarding the value of rapport development, its effective use will better equip the interviewer to take advantage of a commonly underutilised portion of the interview (Haney & Roller, 2012). The authors imply that establishing rapport is one of the roles undertaken by the interviewer to improve communication with the child victim.

The researcher asked the participants what they thought was the role of the interviewer during an investigative interviewing of a child victim. The participants' answers are represented in Table 4.1.

Table 4.1 Participants' understanding of the role of the interviewer to improve communication during the interview with a child victim

<b>Answers found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Answers not found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
To gather the facts/Establish the truth/to gather evidence.	20	02	To determine the suspect.	01	0
Obtain statements/gather information.	03	05	To arrest.	01	0
To establish rapport/ to put the child victim at ease/to calm the interviewee.	0	02			
To apply interview techniques.	05	02			
To prepare a victim for the interview, to refer a child victim to support services/assist the child to tell what happened.	05	01			
Communicate effectively/ in a language understood by the child victim.	06	02			
To ask questions.	17	01			

All 25 general detectives from sample A and the 5 FCS detectives from sample B responded to the question. As highlighted in 1.11 (Chapter 1), the number of answers may not necessarily tally with the number of participants. This may be attributed to the participants who at times mentioned more than one aspect each or some who chose not to answer a research question. The researcher commented on those instances where participants did not answer. When more input was received, the researcher commented on that also. The participants provided two answers not found in literature.

From the 14 aspects pertaining to the role of the interviewer found in the literature, the participants from both samples (A and B) mentioned 7. From the literature, the role of the interviewer in improving communication during an interview with a child victim is highlighted as follows: to understand where the interviewer fits in the process of investigative interviewing; gather the facts; obtain information or statements; ask questions; communicate effectively at the child victim's highest level of communication; adhere to procedures and legal requirements of investigative interviews; consider victim's health and safety; decide on interview techniques as guided by policies and standards; avoid distracting behaviour; use the child's abilities and competencies to assist the child to tell what he/she experienced; treat children according to their age development, avoid distracting behaviour, refrain from making promises and to establish rapport.

The participants from sample A (general detectives) mentioned one less aspect than the participants from sample B (FCS detectives). The researcher noted in the responses of both samples (A and B) that some of their answers differed in wording, but they addressed the same aspects as in the literature. In that instance the researcher clustered together those answers as one aspect. The sample B (FCS detectives) participants mentioned half of the aspects found in the literature. The participants mentioned two answers not found in the literature.

This number indicates that the FCS speciality in child victim's cases has only marginally increased their knowledge of the role an interviewer should play in order to improve the communication during child victim interviews. It is therefore evident that all the participants have a fair knowledge of the role of an interviewer, but perhaps not sufficient enough to perform interviews that will effectively improve communication with child victims. While the degree to which the general detectives were able to address these questions is impressive, the degree to which the FCS detectives were able to do the same was less impressive

(mindful that they do not specialise in child victim investigations). To the researcher's mind this emphasises that the participants require a refresher training intervention on this aspect.

#### **4.3. GUIDELINES TO IMPROVE CHILD VICTIM INTERVIEWS**

The World Health Organisation (WHO) (2012:1-3) describes a guideline as a detailed explanation or recommendation guiding service providers to make informed and appropriate decisions during the performance of their duties. A guideline is interrelated with terms such as standard, procedure, protocol, rule and policy in that they all give direction to a particular behaviour (WHO, 2012:1-3; University of Wisconsin-Madison, 2014). The researcher has therefore deduced from the sources that a guideline is intended to improve the behaviour and practices, follows a particular pattern or process and is a form of agreement that requires adherence from participants.

Fouche (2007:255) finds an interview guideline (or protocol) to be valuable in that it is used in a legally defensible manner to prevent contamination of evidence. The researcher is of the opinion that it is very important for general detectives to be aware of what led to the development of interview protocols. The researcher focussed on the general detectives in this discussion, because unlike the FCS investigators, they do not receive much training (if any) on the use and the value of different interview protocols. For this reason the researcher emphasises that general detectives should also know about the value of interview protocols and their purpose. This will inform the general detectives how the development of interview protocols or guidelines influenced the latest investigative practices. General detectives will also be able to draw meaningful interpretations of the need for such interview guidelines. The knowledge of protocol procedures will enable general detectives to improve their communication with child victims during investigative interviews. Knowledge of such protocols may even have a positive impact on the manner in which general detectives approach other interviews.

Poole and Lamb (1998:120), supported by Brewer and Williams (2005:12), acknowledge the presence of interview protocols and guidelines, but report a remarkable overlap in the interview guidelines provided by different researchers and professional panels. Though there might be various overlapping interview guidelines, the authors present a point of consensus reached by various investigative interview studies. The authors state that the nature of the interaction and the goals of the interview should be explained clearly to a child by means of

opening remarks. That should be done to familiarise a child with the interviewing process and further motivate a child to provide relevant information during the interview. Furthermore, the interviewer should clearly explain the ground rules to the child, encourage open-ended questions that will lead to specific answers without leading and suggestive utterances, clarify the child responses in a legally acceptable manner and close the interview without making promises (Poole & Lamb, 1998:120).

Larsson and Lamb (2008:11) point out that there is no well-defined interview guideline or protocol that can be followed, but a combination of different guidelines can assist an investigative interviewer to apply an open mind when conducting investigative interviews with child victims. The authors further stress that investigative interviewing protocols are generally conducted by people knowledgeable about child interviews and investigation matters. The special knowledge possessed by an interviewer helps to keep the child safe, holds the perpetrator accountable for causing harm to child victims, reduces the number of interviews for child victims and enhances the evidence gathering process (Larsson & Lamb, 2008:11).

Lamb, Orbach, Hershkowitz, Esplin and Horowitz (2007:1201) found in their study that recommendations made by various professionals and experts highlight the most effective ways and careful investigative procedures that may be applied during investigative interviews with children. The objective of the study by Lamb et al. (2007:1201) was to determine if children's memory, communicative skills, social knowledge and tendencies can be translated into guidelines that improve the quality of investigative interviews. Themeli and Panagiotaki (2014:11-13) imply in their discussion that correct interviewing skills have the potential of yielding good legal benefits. The discussion indicates that mere knowledge and a combination of investigative interview protocols by general detectives do not render the investigative process legally acceptable. It therefore requires that precautionary legal measures and procedures be taken into account by the general detectives during investigative interviews of child victims.

Poole and Lamb (1998: 83-100), supported by various authors, discuss in detail how different interview protocols were developed and successively changed to improve the investigative interviewers' communication role for most effective child investigative interview results (Fisher & Geiselman, 2010:322; Fouche, 2007:238-242; Milne & Bull, 2006:9; Schollum, 2005:43; Westcott & Kynan, 2006:369). In the face of the investigative interview

developments, advantages and shortcomings were picked up with the protocols. The identified flaws did not nullify the protocols within the investigative interview practice; instead, the current improved protocols were drawn and strengthened from such protocols.

According to Milne and Bull (2006:9), good interview protocols did not achieve the good outcomes intended by those who developed them, because interviewers of witnesses and victims, such as children, often do not give the same attention to detail as they do when they are interviewing suspects. It appears as if police around the world tend to direct their interview focus to suspects. Not being able to differentiate between an investigative interview of a suspect and that of a witness by the detectives, and not being able to transfer the skills they are trained in during such an interview, impacts negatively on interviews which may result in no conviction of perpetrators. There was also a misunderstanding of how to interview a child victim who may at a later stage be a suspect (Milne & Bull, 2006:9).

This section of the chapter will provide a brief discussion of a selection of investigative interview protocols, models and guidelines that investigators can use as a technique to obtain information during an interview. The protocols included in the discussion are Cognitive, Structured, Step-wise, National Institute of Child Health and Human Development (NICHD), Memorandum of Good Practice (MOGP), PEACE model and Investigative Interview Guidelines for Children with Special needs.

#### **4.3.1 Cognitive interview protocol**

The cognitive interview protocol was originally developed to enhance the gathering of evidence from witnesses during criminal investigations (Fisher & Geiselman, 2010:322). The interview protocol is concerned with the accuracy and completeness of witness information based on generally accepted scientific principles of memory. According to Poole and Lamb (1998:92), the cognitive interview protocol loses its advantage if a long delay between the occurrence of the incident and interview is experienced, because the accuracy of memory fades with time.

#### **4.3.2 Structured interview protocol**

The structured interview involves careful planning of questions that are put in the same order to each interviewee. This kind of interview has the benefit of giving an interview direction,

but lacks the free flow of friendly conversation (Public Service Commission of Canada, 2009:2; United States Office of Personnel Management, 2008:3).

### **4.3.3 Step-wise interview protocol**

According to Fouche (2007:242), this protocol employs techniques to minimise any trauma the child may experience during the interview, maximises the amount and quality of the information obtained from the child, minimises any contamination of that information and maintains the integrity of the investigative process for the agencies involved. This type of interview protocol specifies the type of questions to be asked by the interviewer and eliminates suggestiveness in child responses by letting the child use aids to describe events in his/her own way (Poole & Lamb, 1998:97-98).

### **4.3.4 National Institute of Child Health and Human Development (NICHD) interview protocol**

According to Poole and Lamb (1998:98), the NICHD interview protocol reinforces the importance of giving children an opportunity to practice supplying information on what they know. The same authors further indicate that the NICHD interview protocol requires children to tell the truth and rectify the interviewer in the event information is being wrongly understood or captured. This interview protocol emphasises the visiting of the scene as a well-known principle in criminal investigation (Poole & Lamb, 1998:98).

Lamb et al. (2007:1229) report that the use of the structured NICHD protocol by general detectives improves the quality of information obtained from alleged victims and as a result, increases the likelihood that interventions will be appropriate. Poole and Lamb (1998:99) assert that, due to difficulty in transforming the behaviour of the interviewers to follow the requirements of investigative interviewing, a decision was taken to support general interview guidelines with specific interview scripts that interviewers are required to follow word by word. The method is found to have shown a tremendous improvement in the 'sexual behaviour of victims' study conducted in Israel in 1997 (Poole & Lamb, 1998:99). It is reported that the use of specific designed scripts has yielded more than six times the amount of expected detailed information.

#### **4.3.5 Memorandum of good practice protocol**

According to Poole and Lamb (1998:100) and Fouche (2007:238), the Memorandum is not only concerned with the procedures for conducting interviews, but also how to record interviews with children who are involved in criminal proceedings. The Memorandum allows for the first account of events by the child to be recorded and used at a later stage by the court, provided the child forms part of the court proceedings in order to be cross-examined and re-examined (Poole & Lamb, 1998:100). The only exception to this is when the absence of a child is acceptable in terms of the requirements set by court for that absence. The court requirements are determined by any reason or explanation given to exempt that child to be part of the court proceedings, and that reason or explanation should satisfy the court that indeed that particular child cannot form part of the proceedings.

If admitted by the court as the 'evidence in chief', the recorded interview shall have the same legal status as that witness's direct oral testimony in court, even if, when giving direct oral testimony in court, the witness would have been required to take an oath (Ministry of Justice, 2011). Such exceptions can be brought about by presentations or reports of supporting services such as social workers, psychologists or other legally recognised people working with child victims. In South Africa a child must still testify, irrespective whether an interview has been video - or audio recorded (Fouche, 2007:251). As a result, this memorandum of good practice does not consider different laws applied in other countries or states.

Poole and Lamb (1998:101) further report that the Memorandum of good practice protocol explains the relevant criminal laws to practitioners, such as how to handle the video recording of interviews before and after criminal proceedings in a legal way. The South African law relating to electronic evidence is hampered by the lack of procedures governing the collection, storage and presentation of electronic evidence for purposes of criminal proceedings (Watney, 2009). Therefore, South Africa has no special rule of evidence which governs the use of a video- and audio recorded interview as an electronic type of evidence.

The Memorandum explicitly relates how the interviewer can depart from the general to specific information needed during the child interview (Fouche, 2007:239). The shortcoming of the Memorandum of good practice is that it is too rigid to be of use for interviews with children below the age of 10, or children with special needs (Poole & Lamb, 1998:101).

According to Westcott and Kynan (2006:369), the Memorandum of good practice requires the balance of the competing demands in the criminal justice system, namely child protection, criminal investigation and reconciliation of evidence in chief, which is difficult to achieve. This type of interview protocol requires exceptional skills, which are rarely recognised and valued in the police fraternity; it explicitly requires that certain people who meet specific requirements are selected to conduct interviews, which is not always practicable; and its training is offered in a short period of time, which needs to be supported by on-going supervision, evaluation and refresher training (Westcott & Kynan, 2006:379).

#### **4.3.6 The PEACE model**

According to Schollum (2005:43), the PEACE model was designed as the framework for interviewing in any situation with any type of interviews. PEACE is an acronym in which the letters chronologically represent Planning and preparation; Engage and explain; Account; Closure and Evaluation (Schollum, 2005:43). This model has gained itself a common place in regulatory investigative interviews, in particular with children (Svarmstrong, 2010).

The SAPS is among the institutions which incorporated the PEACE model in the Family Violence, Child Protection and Sexual Offences (FCS) detective training interventions. While in the SAPS, the researcher was trained during FCS training on how to interview children, using the PEACE model. The researcher noted that, in spite of the PEACE model being taught to FCS detectives, there is no steadfast interview guideline or protocol issued by the SAPS when interviewing child victims. The interviewers are allowed to be flexible in choosing interviewing guidelines, or combining any of them. Their choice of interviewing guidelines is justifiable, provided it conforms to legal requirements, is informed by the communication needs of the child and it serves the purpose of obtaining relevant information for the matter under investigation (Powell, 2013:716; Themeli & Panagiotaki, 2014:6).

Although the PEACE model was developed almost two decades ago, it is still regarded as among the latest and most recommended investigative interview practice in most countries (New Zealand Herald, 2006; Walsh & Bull, 2010:306). However, according to Krahenbuhl [s.a.], interviewers do not always apply procedures and methods prescribed in interviewing protocols, thus further exposing the child victims to secondary trauma, resulting from improper methods of interviewing.



#### **4.3.7 Investigative interview guidelines for children with special needs**

Gargiulo and Kilgo (2011:xvii) describe ‘children with special needs’ to include those children who have disabilities or are delayed in their development as a result of exposure to adverse genetic, biological or environmental conditions. A ‘child with special needs’ requires specific attention to achieve normal tasks, often in the form of additional focus, removal of distractions, or physical needs (Hammond, 2012).

The Centre for the Improvement of Child Caring (2012) listed the practical types of childhood disabilities and other special needs. The list includes autistic disorder, attention deficit/hyperactivity disorder, cerebral palsy, deafness or hearing loss, down syndrome, emotional disturbance, epilepsy, learning disabilities, mental retardation, pervasive developmental disorder, reading and learning disabilities, severe or multiple disabilities, speech and language impairments, spina bifida, traumatic brain injury and visual impairments.

According to Milne and Bull (2006:16), children with special needs are in most instances vulnerable to all kinds of abuse. Their vulnerability is at times being preyed upon by perpetrators who partly hope that such victims are not able to give a comprehensive account of events. ‘Children with special needs’ are equally entitled to the same rights and protection as any other child (Hammond, 2012). Cederborg, La Rooy and Lamb (2008:103) assert that alleged victims with developmental delays, autistic conditions, or other mental problems may have difficulty in describing their experiences, because of their handicaps, but they should not be seen as incompetent witnesses. Milne and Bull (2006:15) place the onus solely on the interviewer to apply the best strategies available for eliciting detailed and reliable evidence from any child.

Milne and Bull (2006:16) report that research has shown how people tend to react in an abnormal way when meeting unfamiliar persons. Distressed children may find it extremely difficult to talk to others about their experiences (UNICEF, [s.a.]). Also taking into consideration that children are inherently vulnerable witnesses (Schollum, 2005:38), abnormal behaviour is likely to result in increased vulnerability of the child victim or witness (Milne & Bull, 2006:16). It therefore requires the interviewer to be fully aware of the child’s condition that may limit the child’s communication abilities during an investigative

interview. The interviewer should rather build on the strength of the child as an interviewee in order to get the child to open up and communicate.

Interviewers require specific knowledge about when children develop the fundamental skills they need to report autobiographical events during an interview to fully appreciate children's strengths and weaknesses. They need to know how children's accounts can be influenced by interviewers' behaviour and questioning styles (Poole & Lamb, 1998:34). Milne and Bull (2006:16) warn that investigative interviewers who are not experienced or trained to work with 'children with special needs' may have their behaviour affected by interviewing such children. Therefore, it means that the capacity of detectives to elicit accurate accounts from children with special needs depends on how they understand the communication abilities and limitations of these children during interviews.

Poole and Lamb (1998:199) also consider the limitations and suggestiveness that children with special needs are prone to, thus appealing to investigators to conduct preliminary assessments or special interview preparations that will cater for the needs of such children to overcome these limitations and suggestiveness, if identified. Those categories of victims, including children who are particularly vulnerable either through their personal characteristics or through the circumstances of the crime, should benefit from the measures tailored to their situation (Department of Justice and Constitutional Development, 2004:3).

Milne and Bull (2006:15) mention that planning and sufficient time allocations are two central points which can assist the detectives to handle 'children with special needs' during investigative interviews. Allocating sufficient time for interviews takes into account factors such as the concentration abilities of 'children with special needs', limited strategies for retrieving relevant information stored in their memory and establishing meaningful rapport with those children. Sufficient time also allows a child to reflect on his/her own experiences at any time of the interview. In circumstances where more than one interview session is held, the child is not compelled to reveal the whole story in one session (UNICEF, [s.a.]). According to Milne and Bull (2006:150), children with special needs need more time to understand the nature of the task, comprehend the questions being put to them, think about the questions, try to retrieve from memory the relevant information, put the information into words and communicate the words in a way that suits their linguistic abilities. According to Hoffman (2005), the investigator needs to accommodate a number of factors, such as the

victim's health, personal safety and emotional well-being which may compel the child interview to be postponed in order to get appropriate support.

Therefore, the researcher deduced that the detectives as interviewers and legal partners who are expected to act in the best interest of the child victim, should create sufficient time and plan ahead how best they could conduct their interview, particularly with children with special needs. Proper planning of the interviews may allow the investigator to even consider other support services which can assist in interviewing a 'child with special needs'.

The participants were asked what they understood by 'interview protocol' or 'interview guideline' in child interviews. Three (3) general detectives from sample A and one (1) FCS detective from sample B answered the question. Those who did not respond to the question (21 participants) did not know the answer. From those who did answer the question, only one (1) participant from sample B was able to give an answer which is found in the literature. The participant mentioned that an interview protocol guides in a legal manner, the conduct of an interviewer during interviews with child victims. The participant further mentioned that the interview protocol assists in alleviating contamination of evidence during interviews with children. The remaining three participants mentioned the following different answers: interview guideline or protocol is a process applied during investigation, it is to have respect for someone interviewed and it provides friendship with a child. None of these elements were found in literature. The substantial number of participants who did not answer is not a good indication in the field of investigative interviewing. It reveals a lack of knowledge and that is likely to impact negatively on the information elicited for legal purposes.

#### **4.4 APPROACHING A CHILD VICTIM FOR INVESTIGATIVE INTERVIEW PURPOSES**

This section of the chapter focusses on how the interviewer can assist the child victim to provide the required information without being suggestive, causing harm or further victimisation during the interview. DePanfilis and Salus (2003) state that the most important tool in any interview is individualising the approach, based on the circumstances and the child's developmental status and level of comfort with the interviewer.

Interviewers can select approaches that match their styles of interviewing, the ages and needs of individual children and the specifics of individual cases (State of Michigan, 2011:7). A neutral setting where the child does not feel pressured or intimidated should be created by the

interviewer (DePanfilis & Salus, 2003:62). For successful and competent interviews with children; the interviewer must adjust the language, content and questioning approaches to children (Koons [s.a.]).

Lin (2013) adds to this and indicates that the first step in interviewing children who are, or may have been victims of abuse, is to establish rapport. The interviewer should begin by briefly engaging the child in a warm and friendly manner with short, simple, general type of questions. The introduction, an explanation of the documentation, ground rules for the interview and rapport building should usually be addressed prior to exploring the reason for concern and the interviewer should not interrupt if the child begins to discuss the suspected abuse on his/her own (Centre for Sexual Assault and Traumatic Stress, 2009).

UNICEF [s.a.] links the interviewer's attitude and approach as determinants of communicating effectively with children. The interviewer should introduce him/herself to the child; respect the confidentiality of the child interview; use simple language understood by the child; portray a friendly, informal and relaxed approach; allow adequate time for the interview; accommodate the child's limited concentration span; be non-judgmental to the child and seek the child's permission before taking notes. According to Koons [s.a.], the neutral state of the interviewer helps the interviewer to generate neutral topics that enable the child to become comfortable with the interviewer. When the child is comfortable it becomes easier for the interviewer to observe communication skills and the developmental level of the child.

The Centre for Sexual Assault and Traumatic Stress (2009) recommends that the child should be interviewed preferably alone in a private and child -friendly environment which is free from distractions. The parent or guardian of the child should be allowed in the interview if the child is not comfortable to be alone. The parent or guardian should not be involved in the interview process. The alleged offender should not be present or allowed to be in the vicinity of the interview environment.

This chapter builds on what has already been mentioned in the previous chapters (2 & 3) of this study. The circumstances and developmental stages of the child also form part of the discussion in 3.8 (chapter 3) and also in 4.2 and 4.3 of this chapter. These are distinguishable and significant aspects which must be known by the detectives, so that their approach to a

child victim and their subsequent interaction with that child victim will result in the child victim retrieving the relevant investigative information during the interview.

The researcher asked the participants how they should approach a child victim for an interview. Twenty- three (23) general detectives from sample A answered the question and only 2 of the general detectives did not answer it. All (5) FCS detectives from sample B responded to the question. Their responses are in Table 4.2 below.

Table 4.2 Participants’ opinion on how to approach a child victim for an investigative interview

Answers found in literature	No. of answers from sample A participants	No. of answers from sample B participants	Answers not found in literature	No. of answers from sample A participants	No. of answers from sample B participants
Be friendly, calm and warm.	21	05	Make the child to be friendly.	01	0
Establish rapport/put the child at ease.	08	02	Be honest and trustworthy.	01	0
Interview the child individually (A family member or someone the child feels comfortable with should be allowed on condition that person will not be involved in the interview).	05	02			
Introduce yourself and explain ground rules before exploring the main reason for interview.	04	03			
Create a neutral setting free from distractions.	0	02			
Use language understood by the child victim.	11	03			
Begin an interview with a neutral topic.	0	02			
Be informal, calm and relaxed.	18	02			
Keep the interview confidential.	02	01			

There were 2 responses from the participants that were not found in the literature. Of the 16 aspects found in the literature and discussed *supra*, the participants from both samples (A and B) mentioned a total of 9. The participants from sample B (FCS detectives) mentioned more

than 8 (half) of the aspects found in the literature, while the participants from sample A (general detectives) mentioned less than 8 (half) of them.

This indicates that those detectives who specialise in child victim cases (FCS detectives) are slightly more knowledgeable on such matters than the general detectives. Even so, there is overall a significant lack of knowledge in both sets of participants of the manner in which an interviewer should approach a child victim in order to improve communication during child victim interviews. This may lead to both general and FCS detectives not being able to approach child victims in such a manner that the child feels safe enough to trust them, and may not open up and talk.

#### **4.5 ESTABLISHING RAPPORT**

Norfolk, Birdi and Walsh (2007:693) consider building rapport as fundamental to effective communication. Sheppard [s.a.] asserts that rapport is established with the interviewee by the interviewer with the intention of building a trusting interview relationship. According to Milne and Bull (2006:17), rapport is important, especially for children with intellectual disabilities, and it allows the interviewer to become more familiar with the victim's communicative limitations and strengths.

According to Kieckhaefer (2014:v), most investigative interview protocols contain recommendations about establishing rapport which is likely to facilitate the child's willingness to interact and to relate valuable information. Donate-Bartfield and Passman (2000:179) report that interacting with the child victim beforehand has the likelihood of enhancing rapport, however, they caution investigative interviewers not to overdo it, because it may result in harming the course of the interview.

According to Brewer and Williams (2005:14), interviewing for therapeutic purposes is very different from interviewing for forensic purposes. Although an investigative interview is not designed to be therapeutic, eliciting a detailed account from an interviewee requires the development of a trusting relationship in which the interviewee knows that his or her "story" will be heard (Brewer & Williams, 2005:14).

Kieckhaefer (2014:3) state that rapport is not described in terms of a specific technique but is versatile, and it includes both verbal and non-verbal behaviours. A child may be asked to recall a recent meaningful event such as a pleasant holiday outing and be encouraged to give

details of the event, or a game to play can be introduced to settle the child before an interview.

Sheppard [s.a.] indicates that rapport is mostly described by how the interviewer communicates. The interviewer should observe the body language or non-verbal behaviour displayed by the child or interviewee, ask general questions to determine the child's language and other interview needs that will require the use of support services, adjust own body language and approach in a manner encouraging the child to disclose, avoid touching the child because some of the children who experienced sexual or contact crimes may relate the touching to the abuse experienced and overreact or withdraw their participation in the interview process, listen with interest and follow up on what was said by the child victim (Sheppard, [s.a.]).

Additional ways of establishing rapport include that the interviewer should encourage the child to give narrative accounts. Such accounts can be probed by asking open-ended questions on neutral topics. Furthermore, the child should be encouraged to do more talking than the interviewer (Center for Sexual Assault and Traumatic Stress, 2009).

Wright and Powell (2007:21) assert that irrespective of the police background, personal attributes such as being warm, calm and relaxed play a pivotal role in eliciting information from the child often more so than having knowledge of legislation, prior job experience and interviewing techniques. Kieckhafer (2014:9-10) reports that the greater the rapport established between the child and the interviewer, the more information the child is likely to share and the more the child's needs and knowledge will be revealed.

According to Novick and Gris (2014:473), rapport requires sufficient time to be established. Hoffman (2005) believes that spending time with the subject and discussing non-threatening topics will put the person at ease. This implies that; proper time planning increases the chances of a child victim becoming free to give out information.

In order to build rapport with a child an interviewer should choose a calm environment with a relaxed atmosphere and minimal distractions, introduce him/herself by name, describe the reason for the appointment or visit and the roles in the interview process, watch their own behaviour, mirror the child's body language and sit in a manner that would diminish an authoritative posture to the child (Court Appointed Special Advocates, 2009).

Heron-Blake (2012) regards as important to choose a language that is appropriate to the developmental stage of the child and to take into consideration the cultural considerations in the process of rapport building. The interviewer should also look for common ground by asking questions about the child’s interests such as hobbies, listen actively by focusing on the information being relayed and reflect the information back to the child for accuracy, carefully choose words in a manner sensitive to the child’s developmental level, use open-ended and indirect questioning to allow the child to steer a conversation, have few toys to keep the child busy and handle conversation lightly by beginning with neutral topics (CASA, 2009).

It is evident from the assertions that for general detectives to be able to win the co-operation of the child victim during the investigative interview, the detectives need to understand how to communicate with child victims. The communication should encompass the ability to understand or interpret the child victim’s responses and to be able to create an environment that will make the child victim interview successful.

The researcher asked the participants what they understand about “establishing rapport” in an investigative interview. Seventeen (17) general detectives from sample A and all (5) FCS detectives from sample B responded to the question which is reflected in Table 4.3 below.

Table 4.3 Participants’ understanding of establishing rapport for an investigative interview

<b>Answers found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Answers not found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
Is used to build a trusting relationship with the interviewee by the interviewer.	07	05	Preliminary investigation.	01	0
It familiarises the interviewer with the communication abilities and limitations of the child.	0	02	Opening a case file.	01	0
It includes asking neutral questions/presenting a neutral topic.	01	01	Referring a child victim to social worker.	01	
It facilitates the child’s willingness to interact and relate valuable information.	0	01	Giving attention to the medical needs of the child victim.	0	01
It involves active listening.	0	01	First information of crime.	01	0



Answers found in literature	No. of answers from sample A participants	No. of answers from sample B participants	Answers not found in literature	No. of answers from sample A participants	No. of answers from sample B participants
			Visiting the scene of crime.	01	0
			Identifying role players in crime investigation.	01	0

The responses show 7 answers not found in the literature, provided by the general detectives and one FCS member; none of which are relevant to the question. Of the 12 aspects found in the literature (and discussed above), the participants from both samples (A and B) mentioned a total of five. The participants from sample A (general detectives) were able to give 2 aspects how they understand ‘establishing rapport’. Both sample (A and B) participants collectively mentioned less than half of the aspects found in the literature about establishing rapport. Although the sample B participants mentioned 3 more aspects than the sample A participants, there is a concern regarding the total aspects mentioned by all participants compared to what is found in the literature. The limited understanding of establishing rapport will result in both general and FCS detectives not being able to get the child victim to relate the information required during an interview. Their lack of knowledge will impact on other interviews as well, since establishing rapport is a fundamental step in any investigative interviewing process.

#### **4.6 QUESTION FORMULATION**

Powell and Lancaster (2003:46) are certain that children are more vulnerable than adults to poor questioning techniques, but acknowledge research that identify ways of maximising the amount and accuracy of information obtained from children. Powell and Lancaster (2003:46) are supported by Hoffman (2005), who asserts that it is vital for general detectives to ask open-ended questions to elicit as much information as possible. According to Hershkowitz, Fisher, Lamb and Horowitz (2007:99), open-ended prompts have the potential of eliciting half of the valuable information from 4 to 13 year aged children. This is supported by Jacob and Furgerson (2012:3) who report that protocol- guided interviews elicited more information when using open-ended questions and less information when using closed ended questions.

Anderson (2014:2) warns investigative interviewers to refrain from using words that the child interviewee did not mention. Themeli and Panagiotaki (2014:6) support this view by

mentioning that open-ended questions allow a child to narrate events using his/her own words. Open-ended questions reliably elicit more detailed and more accurate responses than more focused and specific prompts, however, some children may not have the capacity to report events to interviewers who are using open-ended questions (Faller, 2015:46; Themeli & Panagiotaki, 2014:7).

Andrews and Lamb (2013:20) assert that interviewers should limit the repetition of questions. Such questions should be asked only during clarification or to encourage an anxious child to disclose information. If used, repeated questions should be open-ended.

Wright and Powell (2007:22) emphasise that the use of non-leading open-ended questions is critical to elicit a reliable account of events from a child; however, evidence indicates that most investigative interviewers do not apply open-ended questions during child interviews. The limitation of the police's inability to ask open-ended questions is believed to be associated with how police regard themselves. Wright and Powell (2007:29) further explain that improving the interviewing practices of police officers is likely to require a change in the way that officers perceive themselves and their role within the system as well.

Lamb and Fauchier (2001:488-489) in their study 'The effects of question type on self-contradictions by children in the course of forensic interviews', are sceptical about the widespread consensus reached by different professionals in that child investigative interviews should be conducted using as many open-ended and as few focused prompts as possible. However, the results of their study strongly support the consensus reached by other professionals that open-ended questions should form the basis of each child investigative interview.

Poole and Lamb (1998:95-100) reveal that in the stages of the step-wise, NICHD and Memorandum of good practice protocols, focussed, specific and leading questions may be asked; however, it has been established that they cannot be isolated from the open-ended questions. The interview should be structured from open-ended to closed-ended questions, with more confidence on open-ended questions (Faller, 2015:44). Therefore, leading questions may be asked if necessary and in very rare cases, like in instances where the child omitted important details.

According to Milne and Bull (2006:11) research has proven that questioning of child victims by police is extensively poor. Anderson (2014:2) affirm that empirical evidence recommends

that interview questions directed at children be phrased to match the child's level of language development. However, it has been established by studies that interviewers often consider the child's language acquisition level as less important and therefore phrase questions in language too advanced for children to comprehend.

Themeli and Panagiotaki (2014:7-8) support Saywitz and Camparo (1998:828) on the guidelines of formulating child interview questions. The guidelines require an interviewer to:

- Use short questions and sentences; avoid long, compound sentences.
- Use one-to-two syllable words such as 'show me'; avoid three syllable words such as 'demonstrate'.
- Use simple grammatical constructions; avoid embedded clauses, double negatives, subjunctives, conditionals, hypotheticals.
- Use simple tenses such as 'is, was, has'; avoid multi-word verbs such as 'might have been'.
- Use concrete visual terms such as 'gun' instead of weapon, 'knife' instead of 'cutlery'.
- Use the non-legal meaning of the term such as 'hearing' instead of 'auditory', 'child' instead of 'minor', 'people' instead of 'parties'.
- Use proper names such as 'did you talk to Mary' instead of 'did you talk to her'.
- Use active voice such as 'did John take the ball?' and avoid passive voice such as 'was the ball taken by John?'
- Use stable terms such as 'in the back of the room'; avoid words whose meaning varies with time or place such as 'here, there, yesterday, tomorrow'; avoid relational times such as 'did it happen more or less than two times'.

The researcher noted from the literature that open-ended questions are most mentioned as well as sensible types of questions that interviewers could rely on when formulating questions for interviewing child victims. Other than that, the formulation of questions for child victim interviews should take into account the child's level of language development. It means that the questions formulated should be short, simple, precise, non-leading or non-

suggestive, non-direct or non-focussed, concrete, stable, with proper names and free from complex grammatical expressions.

The researcher asked the participants how they would go about formulating questions for an interview with a child victim. Twenty- one (21) participants from sample A and all (5) participants from sample B responded to the question. The responses are reflected in Table 4.4 below.

Table 4.4 Participants’ opinions on the formulation of questions for interviewing a child victim

<b>Answers found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Answers not found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
Open-ended questions.	11	03	Avoid pre-empting what the child will say.	0	01
Non- focussed/non-direct questions.	02	01			
Questions that match the child’s level of language development.	16	03			
Short questions.	07	04			
Simple questions.	13	05			
Non-leading/non-suggestive questions.	0	01			

The literature mentions 13 aspects that address the formulation of questions that may be asked of child victims during interviews. The participants from both samples (A and B) mentioned a total of 6 of these aspects. All participants (both A and B samples) collectively mentioned less than half of the aspects about establishing rapport as found in the literature. Sample B participants were able to mention one more aspect than sample A participants. Only one answer not found in the literature was provided by an FCS member, this answer does seem to fit with the theme of the question. The apparent limited knowledge of formulating questions by all the participants presents concern about their ability to elicit information by means of suitable questions. It is therefore evident that the little knowledge they have will impact negatively on the outcome of interviews with child victims.

## **4.7 THE USE OF AIDS TO INTERVIEW A CHILD VICTIM**

Poole and Lamb (1998:181) state that during an interview, investigative interviewers use many creative methods to encourage discussions of abuse with child victims. According to Wakefield and Underwager (2014), the use of images or symbols by interviewers is an unfortunate interview strategy to break the barriers of communication with a child victim. Drawings, dolls, other cues and props are reported by Poole and Lamb (1998:181) as the kind of aids that have attracted the attention of researchers. According to Mapes (1995:95), when less leading interviewing techniques have not been productive, aids may occasionally be necessary to elicit relevant information from the child. Mapes (1995:95) further warns that the use of aids is likely to subject investigators to cross-examination and credibility attacks by other participants in the criminal justice system. Wakefield and Underwager (2014) list the following image- based interview techniques: books, puppets, dolls, drawings and toys. For the purpose of this research, only dolls and drawings will be discussed. This is because they are among the most commonly included aids in child interviews studies.

### **4.7.1 Dolls**

Poole and Lamb (1998:185) report that anatomically correct dolls can be valuable interviewing aids when used for clarification after the child victim has disclosed alleged abuse. With regard to the use of dolls and other interview aids, they can be useful with children under the age of five, with reluctant children and with uncommunicative children (Faller, 2015:41). McBride (1996) and Faller (2015:41) are cautious by emphasising that all interview aids (including dolls), should be used by skilled and trained interviewers. But if such dolls are used where there is a suspicion, they may tend to promote suggestiveness in the child victim's account of events. Therefore, such interviewing aids are open to interpretation (McBride, 1996).

The anatomically detailed dolls are the most controversial (Wakefield & Underwager, 2014). Giannetakis (2013) warns forensic interviewers about the utilisation of interview aids such as anatomically detailed dolls and drawings of unclothed people which may distract the child's attention from the main theme of the interview to focus only on the genital parts. It is said that many of such aids lack a standard procedure and instructions to introduce them and have little empirical evidence supporting the interpretations (Giannetakis, 2013). More than a decade ago Poole and Lamb (1998:194) asserted that a lack of consensus about the use of anatomically detailed dolls prompts investigative interviewers to use videotape or document

their procedures when interviewing while using the dolls. The recorded or documented interview will assist the interviewers to justify the interpretations derived from the use of such aids.

Poole, Bruck and Pipe (2011:2-4) unequivocally dismiss the use of anatomical dolls as an investigatory technique and stipulates that they should not be used in courts because of their lack of evidence to assist in gaining reliable evidence about occurred events. Instead, dolls are being regarded as communication aids that model or teach a child to say what he/she did not experience or witness. Their use has not been accepted in the scientific community (Poole, Bruck & Pipe, 2011:1-2).

#### **4.7.2 Drawings**

Anim (2012:1) describe drawing as a more powerful means of expression and communication than verbal description. According to Salmon, Pipe, Malloy and Mackay (2011:370), interview aids do not increase the amount of information when compared to best practice verbal techniques. Poole and Lamb (1998:182-183) state that, if used correctly, free drawings by the child victim can assist the investigators to pay attention to subtle features such as the size of the body parts or colours used by the child in a drawing. Interview aids such as drawings can be used when establishing rapport (Toth, 2011:1). It has also been the experience of the researcher that FCS training on interviews has reinforced the use of interview aids such as drawings to establish a rapport with a child victim.

When describing the interview stages of step-wise protocol, Poole and Lamb (1998:96) mention that the use of aids such as drawings in describing the event eliminates suggestiveness. But Poole et al. (2011:3) doubt the accuracy of information obtained using the drawings. Diagrams enjoyed popularity without evidence that they were developmentally appropriate or added value to interviews (Poole et al., 2011:3).

It is noted from the discussion that there is still a legal challenge pertaining the use of aids such as dolls and drawings to improve communication during investigative interviews with child victims. It is therefore advisable that detectives refrain from investigative practice that cannot meet the legal requirements during interviews with child victims. It is further deduced that in instances where the detectives as interviewers are not skilled or trained to interview using aids, they may consider using additional resources for child victim interviews. The use of additional resources will further be outlined in section 4.8 of this chapter.

The researcher asked the participants if they have made use of interviewing aids during the interview of a child victim. The participants were required to answer with a ‘Yes’ or ‘No’. All 25 general detectives from sample A and all 5 FCS detectives from sample B answered the question. Eleven of the sample A (general detectives) participants answered ‘Yes’ and 14 ‘No’. All the sample B (FCS detectives) participants responded with a ‘Yes’ answer. The researcher then asked the participants who answered with a ‘Yes’ about the interviewing aids they used and whether they were helpful. An overview of the responses is in Table 4.5 below.

Table 4.5 Participants’ views of the interview aids that may be used to interview child victims

<b>Answers found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>	<b>Answers not found in literature</b>	<b>No. of answers from sample A participants</b>	<b>No. of answers from sample B participants</b>
Dolls.	04	03	Television set.	03	0
Drawings.	03	04	Computer.	01	0
Toys.	02	03			
Papers/books/magazines.	03	03			
Puppets.	01	04			

Two answers were provided by the general detectives that were not found in the literature, neither of these is relevant within this discipline. The researcher found five (5) types of interview aids have in the literature. They are dolls, drawings, toys, books and puppets. The researcher analysed what the participants mentioned and clustered them under the relevant interview aid found in the literature. All the sample (A and B) participants who acknowledged that they have used aids to interview child victims, were able to list a total of 5 interview aids found in the literature. In proportion to the total number of participants each sample has, the sample B participants had more participants who acknowledged that they used interview aids during child interviews, and they listed more interview aids than the sample A participants. The manner in which all the participants who responded with a ‘yes’ listed all the interview aids as found in the literature, is encouraging. This is an indication that the detectives are aware of the interview resources that may impact on their investigation duties.

When further asked if the use of interview aids were helpful during child victim interviews, 2 sample A and 1 sample B participant did not find the interview aids helpful. One (1) participant from each sample voluntarily substantiated their responses with a similar reason, namely that the interview aids did not assist in making the child victim tell the required

information. The researcher did not further establish the reasons why the interview aids did not help in eliciting relevant information from the child victim. The researcher also did not establish reasons why the participants who responded with a 'No' (did not use interview aids to conduct interviews with child victims) did not interview child victims with the help of aids. Generally, the researcher regarded the knowledge and understanding of use of interview aids by both general and FCS detectives as intermediate. This understanding is consistent with the legal challenges as found in the literature. The literature shows that there is still a legal debate around the use of interview aids to obtain accurate and complete information during interviews with child victims. The challenge may impact negatively to the outcome of the interview in that, the interviewers might not know whether to use or not use aids during interviews with child victims.

#### **4.8 USE OF ADDITIONAL RESOURCES WHEN DOING INTERVIEWS WITH CHILD VICTIMS**

Continued co-operative efforts from society are needed to protect children and to bring perpetrators to justice if we want to fully address the substantial problem of child victimisation in all forms (Cross, Finkelhor & Ormrod, 2005:242). These efforts include detectives who are among the role players who have to ensure the safety of children through investigative interviews as part of their duties. It has been indicated in the last two paragraphs of section 4.3.7 of this chapter that the investigator needs to accommodate a number of factors such as the victim's health, personal safety and emotional well-being which may compel the child interview to be postponed in order to get appropriate support (Hoffman, 2005). It is deduced from the assertion that the appropriate support comes from additional resources who are working with child victims.

People working with children recognise the need to eliminate duplication of services rendered to child victims, and consider using a team approach to interview those children (National Prosecuting Authority of South Africa, [s.a.]). According to these authors, additional resources such as child workers, social workers and psychologists promote proper and expeditious collection and preservation of evidence. Cross et al. (2005:242) reveal that the involvement of police is required to investigate crime and uphold the public safety. As such, detectives form part of the role players by virtue of being members of the police service: their role is related to the investigation of crime. The role of each additional resource is well defined according to the mandate of the office served.



The elimination of duplication of services further reduces the trauma the child victim may suffer as a result of the investigation process (National Prosecuting Authority of South Africa, [s.a.]). The use of support services also assists in reducing multiple interviews with the child victim, as different child protective services may need information from the child victim for reasons different from that of crime investigators (United States Department of Justice: 2008).

The researcher asked the participants whether they make use of additional resources, such as social workers, psychologists or others when doing interviews with child victims. All 25 general detectives from sample A and 5 FCS detectives from sample B answered the question. Eighteen (18) of sample A (general detectives) participants answered 'No' while 7 answered 'Yes'. All 5 sample B (FCS detectives) participants responded with a 'Yes' answer. The researcher further asked those participants who answered in the affirmative if they found value in making use of additional resources. They were also asked to elaborate on their answers.

Five (5) of the 7 sample A participants who answered with a 'Yes' found value in making use of additional resources such as social workers and psychologists. They substantiated their answers that such people have skills to talk to children, and that the child victims are able to volunteer information more freely to these people than when they were interviewed by a police officer. One (participant 6 of 7 participants) participant was not sure whether he found value or not, while the other one (the 7<sup>th</sup> of 7 participants) did not find value, because he experienced little or no conviction in cases where support services were used.

All 5 sample B (FCS detectives) participants found value in using additional resources. Three of them elaborated that the use of additional resources help in offering expertise skills to interview a child that they as FCS detectives do not possess, while 2 of them elaborated that the support services have facilities and more specific skills to interview the child victim than police do. The researcher noted that 18 of sample A (general detectives) participants do not use additional resources to interview child victims and only a few (7) of them acknowledged the use of additional resources to interview child victims. From the 7 sample A participants who use additional resources, more than half of them found the use of additional resources valuable in child victim investigations. The small number of sample A participants who acknowledged that they use the services of other resources to handle child victim cases in their daily duties is alarming. The researcher considers the possibility that some or all of the

general detectives were not trained in handling investigations involving child victims. If so, child victims are most likely exposed to further abuse or trauma resulting from the behaviour of such detectives. The answers of the sample B participants indicate a positive impact, resulting from the work done by specialising (FCS) units which pay attention to matters related to child victim investigations.

The researcher is aware that general detectives form part of the role players in investigating child victim matters. Therefore, they need to be equipped with the necessary knowledge and skills to handle or investigate child victim investigations. Adequate knowledge can empower them to act in the best interest of the child victim, and refer a child or request the services of other professionals as additional resources to interview a child victim if the need arises and is identified.

#### **4.9 TRAINING TO IMPROVE CHILD VICTIM INTERVIEWS**

Westcott and Kynan (2006:379) point out the need for training that will incorporate different methods to improve child victim interviews. The training methods suggested by the authors include training offered by lecturers, reviewing and annotating transcripts by paper and pencil exercises, viewing real interviews and carrying out role play simulations, mentoring of new interviewers by experienced practitioners, use of specialist interviewers, formal institutions (e.g. university) training, implementation of structured interviews, better dissemination of good models of interviewing and further research to explore the quality of child interview training received (Westcott & Kynan, 2006:379).

Westcott and Kynan (2006:379) further advise those who are involved in investigative roles to draw a distinction between informing and training. Powell (2013:714) stress that on-going training is important because it improves the interviewer's ability to interview child victims. Research which examined police officers' abilities to interview witnesses showed that this aspect of police work is usually poor (Milne & Bull, 2006:11). According to Westcott and Kynan (2006:379), some interviewers are knowledgeable about child investigative interview processes, but lack the skills to put into practice what they know. Police officers receive little or no training to conduct interviews with cooperative witnesses, and as a result they conduct interviews poorly, eliciting less information than is available (Fisher & Geiselman, 2010:321).

In order to achieve a solution to a crime all interviewees need to be interviewed appropriately by fully trained interviewers. In addition, interviewers should be assessed regularly within the workplace to ensure that their skills result in effective child interview outcomes (Milne & Bull, 2006:20; Powell, 2013:714). However, according to Powell (2013:714), the attainment of skilled and well-trained investigative interviewers may be hampered by the individual interviewer behaviour.

Article 8 of the UNODC (2009:11) unequivocally stresses the importance of providing training to all professionals working with children. The training should be adequate to educate and inform all those who are working with child victims and witnesses, include specialised methods and approaches that enhance an effective and sensitive way of handling child victims, meet the needs of the child victims and witnesses, cater for specialised units and services involving child victims, equip those who are working with children with skills and techniques to identify a need of support services, include human rights and legal rules designed to protect children, and it should take into account the cross-cultural, age-related linguistic, religious, social and gender issues.

Powell (2013:717) commends training for increasing in an effective manner the ability of an interviewer to use open-ended questions, maximise narrative details and to minimise a sense of intimidation without making the interview process meaningless. The author further mentions that the training programme should not only identify theoretical context and a broader interview framework, but should also identify and explain what interviewers need to achieve and how they will achieve it (Powell, 2013:713-714). It means that the training programme should be specific enough to equip interviewers with knowledge and skills to interview child victims.

UNODC (2009:11) warns that child interviewing training strategies of general detectives should not be done in isolation, but should be coupled with a consideration of interviewing logistics such as addressing the interviewer's needs, perceptions and challenges. The exercise of addressing the challenges can assist police and other investigative interviewers to attain the required progressive rate of solving child abuse cases which include 'children with special needs' within the legal system.

#### **4.10 SUMMARY**

Communication is a verbal or non-verbal process which involves how people create, exchange and interpret messages. It is a vital skill for every interviewer. Children are inherently vulnerable witnesses, especially those with special needs, and it is therefore essential for general detectives to take into consideration child individual circumstances when interviewing them for investigative purpose.

Detectives have a role to play in the investigation process wherein a child is a victim. For them to employ effective communication strategies and maximise their benefits during interviews with child victims, they must understand what their role is in the process of investigation and interviewing. They should take into consideration the individual abilities and development stages of child victims. They must at all times follow policies, guidelines and act in a legally defensible manner while fulfilling their roles of gathering facts during child victim interviews. The detectives as interviewers must be able to establish rapport, assess and refer a child victim to the support services if a need is identified and must at all times communicate in a language understood by the interviewed child.

Interview guidelines provide guidance regarding appropriate behaviour which detectives as child interviewers are expected to adhere to. Although there are a few studies concerned with the guidelines, procedures and protocols of child victim interviews, it is important that guidelines be based on legal requirements, because such guidelines are pivotal in eliminating contamination of evidence. Having knowledge of how the interview protocols were developed, may assist the detectives to select the most suitable protocols that will legally benefit the outcome of the investigation, while not violating the rights of a child victim. The cognitive interview addresses accuracy and completeness of information, the structured interview protocol has a fixed format, the step-wise protocol maximises the amount of information with minimal contamination, while the Memorandum of good practice outlines the procedures to be followed. The PEACE model proves to be the most productive and the guidelines for children with special needs appreciate the strength and weaknesses of child victims.

Regular features of these protocols are elements such as establishing rapport with a child victim, explaining the ground rules before the commencement of an interview, use of open-ended questions, clarifying responses in a legally acceptable manner, not making promises to

the child victim before and after the interview process and reducing the number of interviews with each child victim.

When approaching the child victim for interview purposes, the interviewers should guard against behaviour which may cause further harm or trauma to the child, and consider the circumstances and developmental stages of the child. When establishing rapport, the interviewer should observe the child victim's body language and adjust own body language not to distract the child. Questioning during child victim interviews should begin with open-ended questions. The interviewers should use short, simple and non-legal questions with one syllable, stable terms, concrete visual terms and the active voice. They should avoid long, repeated, specific and leading questions.

Interview aids which do not have a potential of leading the child's responses to suggestiveness can assist the interviewer to establish a rapport with the child victim. Precautionary measures should be taken into account when deciding on the interview aids required for an interview. Adequate on-going training; individual development research and constant monitoring of child victim interviews practice after training are required for the improvement of child victim interviews. Trained investigative interviewers are allowed to conduct multiple interviews with one victim, on condition that the welfare of the child victim is taken into consideration and multiple interviews are conducted using repeated open-ended questions. For an interview training intervention to be effective, those interviewers who have received such training should have the willingness and ability to implement what they have learnt.

## **CHAPTER FIVE: FINDINGS AND RECOMMENDATIONS**

### **5.1 INTRODUCTION**

The aim of the research was to understand the behaviour of children so that more effective investigative interviews can be undertaken with child victims. The researcher also intended to investigate what factors may hinder the effective interviewing of child victims and how such hindrances can be overcome. These aims were set out in para 1.3 *supra*. To achieve the aim of the research, the researcher asked the following main research questions:

- What does the field of investigative interviewing entail?
- What elements need to be considered by the investigating officer to understand the behaviour of a child victim better during an interview?
- What is the interviewer's role in improving communication with a child victim during an interview?

In order to answer the research questions, the researcher collected and analysed data from the literature and held interviews with sampled participants. The researcher believes that the study has achieved the purpose of exploration, because it explored the level and depth of sampled detectives' understanding of, and how they utilise investigative interviewing as a technique in their investigation duties when interviewing child victims. The research has also achieved the purpose of description by describing what investigative interviewing is, the behaviour of possible child victims and the manner in which the interviewers can improve communication with child victims during interviews.

The findings, recommendations and conclusion of the research are indicated below.

### **5.2 FINDINGS**

The findings of the study are based on information obtained from the literature and interviews conducted with the sampled participants.

#### **5.2.1 Primary findings**

The primary findings answer the main research questions of the study.

#### 5.2.1.1 Research question one: What does the field of investigative interviewing entail?

This research sought to understand what investigative interviewing is, the objectives of investigative interviewing, the principles of investigative interviews and the legislative parameters/guidelines for investigative interviews. The following was found:

- Investigative interviewing is a method of communication, a technique and a primary tool which may be used in various kinds of investigations and it is an initial attempt used to produce evidence. It is a complex, yet essential aspect of the investigative process that is used by police to determine the facts during criminal investigations. This kind of interviewing requires specialised skills, trained and competent interviewers. Both the sample A (general detectives) and sample B (FCS detectives) participants' understanding of what investigative interviews entails is fair. Only two (2) of the sample B participants were able to mention further that investigative interviews require trained and competent interviewers, which is problematic, because the link between the specialised nature of the skill and the practice of interviewing a child victim is not being made.
- The objective of the investigative interview is to obtain all evidential information from the source (a person who has knowledge of the matter under investigation) using free recall accounts. Where information about the matter under investigation is known, investigative interviews can be used to ascertain routines, practices, rules and procedures. Both sample (A and B) participants have a partial understanding of the objectives of investigative interviews. The participants also erred in mentioning that the objective of the investigative interview is to solve a crime. The crime itself cannot be solved by the objective of investigative interviews, but the case for a particular reported crime can be solved by determining the truth.
- The principles of investigative interviewing guide how the investigative interviews should be conducted. Fundamental to this is that interviews are to be conducted in a manner that does not confirm what the interviewer suspects or has been told, but to determine or establish the truth of the matter under investigation. Although the sample A participants to some extent confused the principles of investigative interviews with the objectives and activities an interviewer should conduct, both sample (A and B) participants have a reasonable understanding of what the principles of investigative interviews are. The sample B participants showed a better understanding of the

principles than the sample A participants. Furthermore, these principles should be guided by a form of legal rules/guidelines.

- Investigative interviews should comply with legal requirements in order to be used in legal settings such as courts and hearings. The following common legal guidelines are used to guide the investigative interviews in South Africa: the Criminal Procedure Act, Act 51 of 1977, the Constitution of the Republic of South Africa Act, Act 108 of 1996, the Children's Act, Act 38 of 2005, the Child Care Amendment Act, Act 96 of 1996 and the Service Charter for Victims of Crime in South Africa. The sample A participants have significantly less knowledge of common legal regulations used in South Africa than sample B participants who were able to mention 5 of the 7. Both participants excluded the SAPS National Instruction 3/2008 and the international legal instruments such as United Nations Guidelines, and are also not up to date with the amendment of the Child Care Act 74 of 1983.

5.2.1.2 Research question two: What elements need to be considered by the investigating officer to better understand the behaviour of a child victim during an interview?

In this research question it was established that:

- Knowledge of the signs of possible abuse in children is required in order to identify the possibility of a child being abused. Physical, emotional and sexual behavioural changes are noticeable but not definite indicators that a child has been abused. Both the sample (A and B) participants have little knowledge of signs of possible abuse in child victims.
- Maximum accurate information is obtained by applying more than a single way of assessing the behaviour of child victims. Good interviewers create an environment conducive to interviews and avoid confrontational methods that coerce child victims to disclose information. Both the sample (A and B) participants mentioned less than half of what should be done by an interviewer to make a child victim disclose information.
- Suggestibility in child victims includes asking leading questions, deliberately supplying information to a child about the perpetrator, selective acknowledgement of the child's responses that are consistent with the interviewer's beliefs, getting



fraudulent co-operation or compliance from the child and having pre-conceived ideas about the child's responses in a manner that the interviewer desires that those pre-conceptions will be confirmed by the interviewed child. The sample A participants do not know what suggestibility is, whereas sample B participants have a very limited understanding of what suggestibility in child interviews is, because they only mentioned two (2) of twelve (12) answers found in the literature.

- Memory is the process of acquiring, storing, retaining and retrieving information. Memory and suggestibility impact on the thinking abilities of a child. People surrounding the child and the lapse of time between an incident and the interview are external factors which affect the child's ability to remember past events. The participants have partial knowledge of what memory is. Their partial understanding of memory will impact negatively on the interviews of child victims in that they may not envisage what might influence the ability of a child to remember events.
- It is difficult to interview children who are not free to disclose information to strange people, who are used to be asked leading rather than open-ended questions, with poor linguistic skills, with inaccurate memory abilities, of a certain age (usually a pre-school age), who think they are not believed, who lack motivation to disclose what they know, who fear for their physical and emotional well-being, and who are deterred by the strategies applied by the perpetrator to disclose information. The participants know more than half of the difficulties encountered when interviewing child victims and are at a basic point of understanding how to overcome such difficulties. While there is some understanding of difficulties, there are still aspects that require improvement.
- Different ways to overcome difficulties of information disclosure by child victims are as follows: the interview process should be conducted by interviewers who are trained and who have the necessary skills to communicate with a child victim, and it should take into account other factors and not be done in isolation. Interviewers must support and encourage a child victim to disclose what he or she knows; break down the barriers to disclosure of information by listening to the interviewed child actively; create a safe environment for the interview of a child; establish a good interview relationship with the child victim; avoid an intrusive and confrontational manner of interviewing; take note of drastic changes in the child's physical, emotional and

sexual behaviour; have information about the child victim's behaviour prior to alleged or reported abuse; be aware of the non-verbal behaviour presented by child victims during an interview; detect early the reluctance of a child to disclose information in order to adapt their own behaviour to overcome the reluctance or unwillingness; refer a child which is difficult to interview to relevant support services; and if the child is willing to be interviewed, the interviewer must not break up the interview session. Both sample (A and B) participants know only half of the strategies which interviewers can employ to overcome the difficulties experienced during child interviews. In proportion to the number of participants for each sample, sample B participants showed to have more knowledge than sample A participants.

- Developmental stages provide the basis for understanding that a child at a particular age category can think and behave at a developmental level of children younger or older than that child. The five age development categories are from birth to less than 2 years, 2 to 3 years, 3 to 5 years, 6 to 11 years and 12 to 17 years. Child development stages have a direct effect on how a child provides information during investigations and court proceedings. Both sample (A and B) participants understand very little of the developmental stages. This in itself is problematic, since it impacts on all other strategies to interact with child victims.
- Determining the 'truth and lie' aspects during interviews with a child victim is to ask questions to test if a child knows the difference between telling a lie and telling the truth, and to test if the child can appreciate and act according to that knowledge. The sample A participants do not really understand the concept of determining 'truth and lie' whereas sample B participants have a partial understanding, which requires improvement.

#### 5.2.1.3 Research question three: What is the interviewer's role in improving communication with a child victim during an interview?

In this research question it was established that:

- The role of an interviewer to improve communication during an interview with a child victim is to know and understand the extent to which the interviewers contribute to the investigation and interviewing process; establish rapport; encourage the child to

speak; consider the individual abilities and developmental stages of child victims to be interviewed; consider the health and safety of the child victim; know and decide on the most effective interview techniques; watch their own conduct and avoid belittling remarks that may discourage the child to participate during interviews; follow relevant policies and guidelines; act in an ethical and legally defensible manner; gather facts during interviews; write detailed and accurate statements; assess and refer a child for support services as informed by the needs of the child victim; assess the body language of the child and communicate in language understood by the child. Sample A participants know less than half of the roles listed in the literature compared to sample B participants who know exactly half of the roles. This finding is problematic, since the interviewer plays a pivotal role in the entire criminal justice process within which the interview is to take place.

- The following are investigative interview guidelines which are known as protocols or models: Cognitive interview protocol, structured interview protocol, step-wise interview protocol, National Institute of Child Health and Human Development (NICHD), Memorandum of good practice, the PEACE model and Investigative interview guidelines for children with special needs. The sample A participants do not know the guidelines or protocols or models. Only one sample B participant was able to mention correctly the use of interview protocols or guidelines. These findings are unfortunate, since it would appear that the required specialised skills (mentioned in research question 1) seem to be lacking.
- When approaching a child victim for an interview it is important for the interviewer to introduce him or herself to the child; establish rapport; watch own behaviour; avoid causing further harm to the child victim; consider the circumstances and child developmental needs; secure a neutral setting; begin the interview with a neutral topic; show neutral emotions; keep the interview private; use language understood by the child; ask appropriate questions; begin with simple, short and general type of questions; do not interrupt the child while talking; be non-judgemental; be friendly and calm; ensure that unwanted people are not present in the interview room where the child is interviewed and accommodate the child's limited concentration span. The sample A participants are not conversant with the methodology of approaching a child victim and mentioned less than half of the answers found in the literature. The sample

B participants mentioned more than half of the answers in the literature. However, a need for improvement has been identified because of their speciality in child matters.

- Establishing rapport in an interview is when the interviewer creates in an informal manner a trusting relationship with the interviewee. It familiarises the interviewer with the communication abilities and limitations of an interviewee. Rapport includes asking neutral questions, opening the interview with neutral topics and encouraging neutral topics. It facilitates the interviewee's willingness to interact and relate valuable information. It further involves active listening and should form the basis for reaching common ground. The participants have too little knowledge and understanding of what establishing rapport is. The sample A participants are significantly less knowledgeable than those of sample B. When taken in the context of their apparent lack of knowledge in the methodology of approaching the child, neither sample A nor B (of this study population) are equipped to undertake investigative interviewing with a child victim.
- Question formulation during interviews with child victims should include questions that are open-ended, short, simple, precise, without legal concepts, with stable terms, containing concrete visual terms and in the active voice, non-leading, non-focussed; using proper names and at the child's level of development. Long, compound and complicated questions must be avoided. The participants know less than half of the aspects necessary to be considered when formulating questions for child victim interviews. Once again this finding is problematic, since a great deal of planning (which includes the formulation of questions) should happen before an investigative interview is conducted with a child victim.

## **5.2.2 Secondary findings**

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

### **5.2.2.1 Practical applications of investigative interviews in South Africa**

- In the midst of good laws designed to protect children, South Africa has so far achieved little improvement in putting the laws into practice. There is still a gap between what the legal rules protecting children require and what is practised by those working with child victims. The participants from both the A and B samples recognise

and acknowledge the challenges experienced in the practice of investigative interviews of child victims. The participants are conversant with the knowledge that child victims are in practice not sufficiently protected, as required by the laws of the country.

#### 5.2.2.2 Challenges linked to investigative interviewing of child victims in South Africa

- The following were identified as the challenges linked to the undertaking of investigative interviews with child victims: lack of appropriately trained personnel at various phases of the investigative and judicial process, exclusion of many child witnesses and victims due to misapplication of the ‘competency’ test by both the police and courts, problems experienced with the law of evidence, lack of independent legal representation for the child victim, lack of back-up resources needed to enable the courts to make orders which are in the best interest of the child, lack of effective service delivery, backlogs, lack of co-operation between responsible government sectors, inconsistent approaches in interviewing children and the reluctance of the criminal justice system personnel to consider the child as potential witness. Both the samples’ (A and B) participants have fair knowledge of the challenges linked to investigative interviewing of child victims and know half of the measures with which to overcome such challenges.

#### 5.2.2.3 The use of aids to interview a child victim

- Use of interview aids yields better benefits if used in a proper manner. There is still a legal challenge on the use of dolls and drawings to assist in eliciting accurate information. Eleven of sample A participants and all sample B participants used aids to interview child victims. All participants who acknowledged the use of interview aids (groups A and B) know the five types of interview aids found in the literature. The interview aids are dolls, drawings, toys, books and puppets. Two participants from sample A and one from sample B did not find the interview aids helpful while the rest of the participants found them helpful.

#### 5.2.2.4 Use of additional resources or support services for child victim interviews

- Multiple issues which include health, safety and emotional well-being are determinants to decide if a child victim should be referred to support services for investigative interviews. Seven of the sample A and all sample B participants used the

additional resources or support services such as social workers, psychologists and others during child victim interviews. Five of the sample A participants and all sample B participants found value in using additional resources or support services during child victim interviews because those support services have skills to elicit information from child victims.

#### 5.2.2.5 Training

Although no question specific to training was asked, from the results the researcher is of the opinion that a gap exists between what the detectives know in relation to child interviews and what they apply in practice. This may be attributed to several factors, one of which is either no training in child interviewing or inadequate child interview training and lack of a proper way of monitoring if what has been learnt is properly applied.

### 5.3. RECOMMENDATIONS

#### 5.3.1 Research question 1 finding: Investigative interviewing

- It is recommended that both the general and specialising detectives in the SAPS improve their understanding of investigative interviewing. This can be done by familiarising themselves with the objectives, principles and legal requirements of investigative interviews. It is further suggested that the South African Police Service should include in their lectures a topic wherein the detectives are more formally exposed to the subject of investigative interviewing, not just theoretically, but also practically. This must be supported by role playing to get a feel for the technique. It is also important for both the general and FCS detectives to continuously update their knowledge of the common regulations that support the investigative interviews of children.

#### 5.3.2 Research question 2 finding: Elements to be considered in child victim's interviews

- It is recommended that SAPS design standard but flexible guidelines that will give both the general and FCS detectives the basic knowledge and understanding of what impact the suggestibility, memory, developmental stages and possible signs of abuse have in child victims. This will enable them to act in the best interest of the child when handling cases in which children are victims or may turn out to be victims at a

later stage. It is perhaps advisable if this is supported with an approved SAPS Protocol for such interviews. At the time of this research no such Protocol was in place. Thus it is recommended that the SAPS consider designing such Protocol for the interviewing of child victims. It does not have to be specifically for sexual abuse, but can cover all types of crime.

### **5.3.3 Research question 3 finding: Role to improve communication with a child victim during interview**

- It is recommended that both the general and FCS detectives revive and update their knowledge and understanding of all aspects of child interviewing. This can be done by regularly consulting legislation and perusing the research documents addressing matters relevant to child investigations. They should also read the already provided guidelines, such as the service charter for victims of crime in South Africa, the SAPS National Instructions (NI) 2 of 2012-Victim empowerment, NI 3/2008-Sexual offences, NI 2/2010-Children in conflict with the law and NI 3/2010-The care and protection of children in terms of the Children's Act.

### **5.3.4 Secondary findings: Training, practical application, challenges, interview aids and additional resources related to child victim interviews**

- It is recommended that the SAPS should train all the detectives in FCS- related investigations. This should be done so that when a need to interview a child victim is identified in the course of investigation, the detective responsible should be in a position to conduct himself/herself in a manner that will maximise the chances of obtaining accurate information on the matter under investigation. The training will also assist the detectives not to influence the child's ability to retrieve information in case the child is referred to support services for an interview.

### **5.3.5 Secondary findings: Further research**

- Further research on the use of interviews to elicit reliable information from child victims is also required.

## 5.4 CONCLUSION

This research sought to understand the behaviour of children more comprehensively so that more effective investigative interviews can be undertaken with child victims. It was also intended to determine what factors hinder the effective interviewing of child victims and how such issues can be overcome. To wit the following primary research questions were asked:

- What does the field of investigative interviewing entail?
- What elements need to be considered by the investigating officer to better understand the behaviour of a child victim during an interview?
- What is the interviewer's role in improving communication with a child victim during interview?

The research design and methodology enabled the researcher to answer the research questions. The primary findings of the research revealed that both general and FCS detectives have knowledge that is not sufficient to empower them to elicit accurate and reliable information from child victims during interviews. The limited information by the detectives has a potential of contributing to improper child victim interviews, in that the interviewer may omit what is required to be done or commit what should be avoided during such child victim interviews.

In order for detectives to be good interviewers; it is crucial for them to understand that investigative interviewing is not only a communication means but is also a technique, a tool and a method used to obtain legally justifiable information. Such understanding can be achieved by familiarising themselves with the child interview protocols and understanding how they can be applied to obtain reliable information from child victims during interviews. The detectives should also understand how the developmental stages impact on the child's ability to give accurate and reliable information. Furthermore, the detectives should be able to discern and monitor the child's behaviour that may be consistent with the possible signs of abuse during interviews, so that they are able to identify such signs and communicate with a child victim in a manner that does not cause further harm to that child.

The secondary findings have shown that there are challenges, gaps and practical applications issues in child interviews. A need for meaningful and practical training on child interviews



has been identified. The outcome of the training should be monitored and evaluated on a regular basis to give it a positive effect.

‘Safety and security don’t just happen; they are the result of collective consensus and public investment. We owe our children, the most vulnerable citizens in our society a life free of violence and fear’ -Nelson Mandela.

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S v Mokoena 2008 (2) SACR 216 (T)

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S v Zenzile 1992 (1) SACR 444 (C)

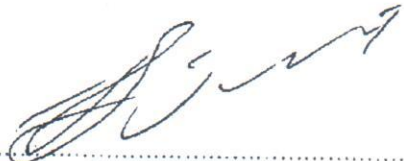
ANNEXURE B

09 SEPT 2011

**FAX COVER SHEET**

TO: KATE MASANGO  
FROM: THE HEAD :STRATEGIC MANAGEMENT: SAPS  
TEL.NR: 012-393 3118 FAX 012 -393 3178  
PAGES: 3 (Including covering page)  
  
SUBJECT: APPROVAL : RESEARCH: ME KATE MASANGO

With kind Regards



.....  
f/ HEAD : STRATEGIC MANAGEMENT  
G J JOUBERT

## ANNEXURE B

0 SAP 21

SUID-AFRIKAANSE POLIS DIENIS



SOUTH AFRICAN POLICE SERVICE

Privaatsak/Private Bag X94

Reference Nr Verwysing	3/34/2
Navrae Enquiries	Col J Schnetler Lt Col GJ Joubert
Telefoon Telephone	012-393 3177 012-393 3118
Faksnommer Fax number	012-393 3178

**STRATEGIC MANAGEMENT COMPONENT  
HEAD OFFICE  
PRETORIA**

2011-07-11

The Provincial Commissioner  
**MPUMALANGA**

**For att: Col Y Lambrecht**

**RE: RESEARCH PROPOSAL: INTERVIEWING CHILD VICTIMS: IMPROVE COMMUNICATION AND UNDERSTAND CHILD BEHAVIOUR : MASTERS TECHNOLOGIAE : UNISA : RESEARCHER : KI MASANGO**

1. The research proposal of Ms Masango pertaining to the above mentioned topic refers.
2. The aim of the study is to determine the behaviour of child victims during interviewing as well as the role of the interviewer in improving communication with the victim. By conducting the study the researcher strives to contribute towards the improvement of the quality of interviewing of child victims by general detectives.
3. The researcher will interview detectives in Witbank and Vosman policing area, as well as detectives from the Family Violence, Child and Sexual Offences Unit in the Witbank cluster.
4. Due to the sensitivity associated with cases where child victims are involved, it should be stressed that no information that may lead to the identification of any of the victims should be disclosed through the research process.
5. In accordance with National Instruction: 1/2006 Research in the Service, this office has perused the proposal and recommends it, subject to the approval of the Provincial Commissioner: Mpumalanga.

With kind regards

  
MAJOR GENERAL  
HEAD, STRATEGIC MANAGEMENT  
GE MOORCROFT

ANNEXURE C

*Col-Submitted for good info*  
*2011-08-18*

Moorcroft George - Major General



**From:** MP Prov Comm : Lt Gen Ntobela : MIC  
**Sent:** Wednesday, August 17, 2011 4:05 PM  
**To:** kate.masango@eskom.co.za  
**Cc:** Moorcroft George - Major General  
**Subject:** FW: RESEARCH REQUEST: KI MASANGO  
**Attachments:** Permission letter.pdf; RP 2011.06.10 saps.doc; Quabisa Masango, Kate Masango vcf; 2011-07-11 Research Request KI Masango.tif

Good day Kate,

1. Your request to do research is hereby granted by the Provincial Commissioner on the following grounds:
  - 1.1 Due to the sensitivity of this matter it should be stressed that no information that may lead to the identification of any of the victims should be disclosed through the research process.
  - 1.2 That this office be notified of dates when the different Police Stations and or Units will be visited, so that the necessary arrangements can be made in this regard.
  - 1.3 The Findings of the research by communicated to the Provincial Commissioner of Mpumalanga Province when finalized.
2. Your Cooperation in this regard is appreciated.

Sincerely

CC For your Information.

Lt Colonel A T Wales  
 Act Personal Assistant Provincial Commissioner Mphumalanga Province  
 Tel: (013) 762 45 37  
 Fax: (013) 762 45 47  
 Fax to email: 086 274 1817  
 Cell 0825565476

-----Original Message-----

**From:** Mataboge Daphney  
**Sent:** 15 August 2011 12:01 P M  
**To:** MP Prov Comm : Lt Gen Ntobela : MIC  
**Subject:** FW: RESEARCH REQUEST: KI MASANGO

-----Original Message-----

**From:** Moorcroft George - Major General  
**Sent:** 11 July 2011 11:36 AM  
**To:** MP Prov Comm : Lt Gen Ntobela  
**Cc:** Mataboge Daphney  
**Subject:** RESEARCH REQUEST: KI MASANGO

ANNEXURE C

With Kind Regards / Groete

Major General GE Moorcroft  
Head: Strategic Management  
South African Police Service  
Tel: 012 393 3082/3  
Fax: 012 393 3157  
E-mail: [moorcroftg@saps.org.za](mailto:moorcroftg@saps.org.za)



## DECLARATION

I, Maria Petronella Roodt, hereby declare that I have proofread and edited the dissertation by KATE IKETSI MASANGO. My qualifications are as follows: BA with major in English, BA Hons (English) and MA in English (Applied Linguistics) and an MA (Higher Education Studies)

I have extensive experience in proofreading and editing and can be contacted at the following address: [mroodt@cut.ac.za](mailto:mroodt@cut.ac.za) . My telephone numbers are 051 507 3866/ 0822025167.

*MP Roodt*

MP Roodt

15 January 2015



## DECLARATION

Student number: 32706405

I, Kate Iketsi Masango, declare that this dissertation entitled 'Interviewing child victims: improve communication and understand child behaviour', submitted in part fulfillment of the requirements for the degree of M-Tech: Forensic Investigation is my own work and that all the sources used or quoted have been reflected and acknowledged by means of complete references.



Mrs K I Masango

2015-09-11

Date