

## **ADDENDUM A**

## **INFORMED CONSENT QUALITATIVE STUDY**

### **Principle Investigator:**

**Ulene Schiller** – D Phil student:

University of Pretoria

Deo Gloria Med  
Voortrekker street 933  
Wonderboom South  
Pretoria

Tel nr: (012) 404 9189

**Name of the participant:**

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**Date:**

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- 1. Title of the study:** The development of a training programme to address re-victimization of the sexually abuse child during forensic procedures
- 2. Purpose of the study:** The purpose of the study is to address re-victimization of sexually abused children involved in the forensic process by the development of a training programme for professionals.
- 3. Procedures:** It will be expected of me to participate in a interview and share information regarding the purpose of the study.
- 4. Risks and discomforts:** There are no known medical risks or discomforts associate with this project.
- 5. Benefits:** More knowledge regarding this aspect. My participation in this study might contribute to better service delivery to children going through a forensic investigation.
- 6. Participant's Rights:** I may withdraw from participating in the study at any time.

7. **Financial Compensation:** I understand that there will be no financial gain from participating in this study.
8. **Confidentiality:** In order to assure the exact facts are recorded, notes will be taken where applicable. All the information gained from questionnaires will be dealt with confidentially. The results of this study may be published in professional journals or presented at professional conferences, but my identity will not be revealed unless required by law.
9. If I have any questions or concerns, I can call Ulene Schiller at (012) 404 9189 during office hours 8:00 – 16:30.

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Participant's signature

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Researchers signature

**INFORMED CONSENT  
QUANTITATIVE STUDY**

**Name of the participant:**

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**Date:**

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**Principle Investigator:** **Ulene Schiller** – D Phil student:  
University of Pretoria

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Tel nr: (012) 404 9189

- 10. Title of the study:** The development of a training programme to address re-victimization of the sexually abuse child during forensic procedures
- 11. Purpose of the study:** The purpose of the study is to address re-victimization of sexually abused children involved in the forensic process by the development of a training programme for professionals.
- 12. Procedures:** It will be expected of me to participate in the training session and to complete a pre-test and post-test questionnaire.
- 13. Risks and discomforts:** There are no known medical risks or discomforts associate with this project.
- 14. Benefits:** More knowledge regarding this aspect. My participation in this study might contribute to better service delivery to children going through a forensic investigation.
- 15. Participant's Rights:** I may withdraw from participating in the study at any time.

16. **Financial Compensation:** I understand that there will be no financial gain from participating in this study.
17. **Confidentiality:** In order to assure the exact facts are recorded, notes will be taken where applicable. All the information gained from questionnaires will be dealt with confidentially. The results of this study may be published in professional journals or presented at professional conferences, but my identity will not be revealed unless required by law.
18. If I have any questions or concerns, I can call Ulene Schiller at (012) 404 9189 during office hours 8:00 – 16:30.

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Participant's signature

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Researchers signature

## **ADDENDUM B**



Semi-structured interviewing schedule for prosecutors dealing with sexually  
abused children during forensic procedures

Qualification(s): \_\_\_\_\_

Year's experience: \_\_\_\_\_

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**Themes for discussion during interview**

**1. KNOWLEDGE OF SEXUAL ABUSE**

- Familial and extrafamilial abuse.
- Degree of trauma – how is it determined?
- Impact of sexual abuse on the child.
- Family dynamics of the incest family.
- Long-term effects of sexual abuse

**2. RE-VICTIMIZATION**

- What is re-victimization?
- How is a sexually abused child being re-victimized during the forensic process?
- How can one address re-victimization?

**3. PERCEPTION OF THE FORENSIC PROCESS**

Court proceedings

- Role of the prosecutor.
- How can the prosecutor protect the child during court proceedings?
- Experiences of the child during this process.

After care

- Role of the prosecutor

**4. TRAINING NEEDS**

- What aspects need to be addressed in a training programme for prosecutors working with sexually abused children during the forensic process?

**5. OTHER ASPECTS**



## **ADDENDUM C**

## PRE-TEST

# QUESTIONNAIRE FOR PROSECUTORS DEALING WITH SEXUALLY ABUSED CHILDREN DURING COURT PROCEDURES

- Please answer all of the questions
- All questionnaires will be dealt with anonymously
- Thank you for your co-operation

### A. GENERAL INFORMATION

1. Occupation \_\_\_\_\_
2. Qualifications: \_\_\_\_\_
3. Experience in years: \_\_\_\_\_
4. How many child sexual abuse cases have you dealt with?

(Indicate your answer by marking the appropriate box with an “X”)

None	1-5 cases	6-10 cases	11-15 cases	More than 15
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5. Specify your training in child law and child development.

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### B. SEXUAL ABUSE

6. How would you rate your knowledge regarding sexual abuse?  
(Indicate your answer by marking the appropriate box with an “X”)

Poor	Average	Good	Excellent
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Please specify your answer.

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7. Would you say child sexual abuse takes place in stages/phases?  
(Indicate your answer by marking the appropriate box with an “X”)

Yes		No	
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Please specify your answer.

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8. How would you rate your knowledge regarding the family interactional patterns of the incest family?  
(Please indicate your answer by marking the appropriate box with an “X”)

Poor	Average	Good	Excellent
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Please specify your answer.

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9. Describe which aspects determine the degree of trauma that a child experiences during sexual abuse?

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10. How would you rate your knowledge regarding the impact that child sexual abuse has on a victim?  
(Indicate your answer by marking the appropriate box with an “X”)

Poor	Average	Good	Excellent
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Please specify your answer.

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11. How would you rate your knowledge regarding the long-term effects of child sexual abuse?

(Indicate your answer by marking the appropriate box with an “X”)

Poor	Average	Good	Excellent
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Please specify your answer

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**C. REVICTIMIZATION**

12. How would you rate your knowledge regarding the aspects that lead to revictimization of the sexually abused child during court procedures?

(Indicate your answer by marking the appropriate box with an “X”)

Poor	Average	Good	Excellent
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Please specify your answer

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13. Please describe which role the prosecutor plays when a sexually abused child have to testify in criminal court?

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14. Is it necessary for a prosecutor to consult with a mental health professional when working with a sexually abused child?  
(Indicate your answer by marking the appropriate box with an “X”)

Yes		No	
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Please specify your answer

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*Thank you for your cooperation*

## POST-TEST

# QUESTIONNAIRE FOR PROSECUTORS DEALING WITH SEXUALLY ABUSED CHILDREN DURING COURT PROCEDURES

- Please answer all of the questions
- All questionnaires will be dealt with anonymously
- Thank you for your co-operation

**AFTER THE PROGRAM HAS BEEN PRESENTED TO YOU HOW WOULD YOU RATE YOUR ANSWERS TO THE FOLLOWING QUESTIONS?**

### D. SEXUAL ABUSE

1. Would you say that, after the presentation of the program, your knowledge regarding child sexual abuse has improved?  
(Indicate your answer by marking the appropriate box with an “X”)

Yes		No	
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Please specify your answer.

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2. Would you say that, after the presentation of the program, that child sexual abuse takes place in stages/phases?  
(Indicate your answer by marking the appropriate box with an “X”)

Yes		No	
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Please specify your answer.

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3. Would you say that, after the presentation of the program, your knowledge regarding the family interactional patterns of the incest family has improved? (Please indicate your answer by marking the appropriate box with an “X”)

Yes		No	
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Please specify your answer.

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4. Describe what new knowledge you have gained after the presentation of the program regarding the aspects that determines the degree of trauma that a child experiences during sexual abuse?

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5. Would you say that, after the presentation of the program, your knowledge regarding the impact that child sexual abuse has on the victim has improved? (Indicate your answer by marking the appropriate box with an “X”)

Yes		No	
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Please specify your answer.

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6. Would you say that, after the presentation the program, your knowledge regarding the long-term effects of child sexual abuse has improved? (Indicate your answer by marking the appropriate box with an “X”)

Yes		No	
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Please specify your answer.

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**E. REVICTIMIZATION**

7. Would you say that, after the presentation of the program, your knowledge regarding the aspects that lead to revictimization of the sexually abused child during court procedures has improved? (Indicate your answer by marking the appropriate box with an “X”)

Yes		No	
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Please specify your answer.

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8. Describe how the presentation of the program, changed your view as prosecutor to address revictimization of the sexually abused child during court procedures?

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9. What is your view, after the presentation of the program, regarding the necessity for a prosecutor to consult with a mental health professional when working with a sexually abused child?

(Indicate your answer by marking the appropriate box with an “X”)

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Please specify your answer.

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10. Please describe which other aspects you would like more training about.

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11. Would you say that the aspects dealt with in this training course could assist you in your work with sexually abused children in court?

(Please indicate your answer by marking the appropriate box with an “X”)

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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12. Any suggestions or comments.

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*Thank you for your cooperation*

## **ADDENDUM D**

TRAINING MANUAL FOR STATE PROSECUTORS:

**ADDRESSING RE-VICTIMIZATION DURING FORENSIC  
PROCEDURES WHEN WORKING WITH SEXUALLY  
ABUSED CHILDREN**

**COMPILED BY**

ULENE SCHILLER

## **1. A CHILD CENTRED APPROACH**

### **PSYCHOLOGICAL CONDITIONS OF THE PERSON CENTRED APPROACH**

- **Congruence or genuineness (realness)**

The term ‘congruence’ is used when a person presents himself, as he actually is – thus being transparent and open.

Congruence poses challenges to helpers, as they often tend to be incongruent. Facilitators are congruent when their response to the client is genuine, open, portraying their true self – their behavior perfectly reflective of what they feel inside – when their response to the client is what they feel and not pretence or defense.

Being ‘congruent’ as a state of the facilitator responding to expressions that are relevant to the client and which are relatively persistent and striking.

- **Empathy**

Empathic communication involves the ability to perceive accurately and sensitively the inner feelings of the client and to communicate an understanding of these feelings in language attuned to the client’s immediate experience. Empathic communication plays a vital role in nurturing and sustaining the helping relationship, providing the means through which the facilitator becomes emotionally significant and influential in a client’s life. It conveys further an interest and helpful intent and creates an atmosphere conducive to behavioural change. State prosecutors are often confronted with sexually abused children that feel that they do not want to be in this process and they see the court and the personnel as a threat. The state prosecutor then needs to convey an empathic attitude when dealing with these children.

Empathy can be referred to as the ability to sense and identify the feelings of others and to communicate it to the client from his or her point of view, that is, entering the client's frame of reference. Empathy is as a form of communication that involves both listening to and understanding the client. Empathy is not only a technique, but it is a *way of being* with the client. It does not mean that the helper simply sits there passively looking warm and friendly. Empathy must be communicated - the client must experience, know and hear that he or she is understood.

According to Egan (1994:117) empathy can help the facilitator accomplish the following goals:

- *Build the relationship.* In interpersonal communication, empathy is a tool of civility. Making an effort to get in touch with another's frame of reference sends a message of respect. The state prosecutor, can by using empathy, create and build a relationship where the child is sincerely respected.
- *Stimulate self-exploration.* Empathy is an unobtrusive tool for helping clients explore themselves and their concerns. When clients are understood, they tend to move on – to explore substantive issues more widely and deeply. When the sexually abused child observes the true empathy of the state prosecutor, it will help her to give information about her abuse more openly, especially when she experiences the support of the state prosecutor given to her through empathy.
- *Check understandings.* You may think you understood the client and what he/she had said only to discover that you had missed the point. Therefore, empathy is a perception-checking tool. By conveying empathy the state prosecutor can have a better understanding of the child.
- *Providing support.* Since empathy provides a continual trickle of understanding, it is a way of providing support without the helping process. It is important that the state prosecutor continually makes sure that he understands the frame of reference from which the child is conveying information.

- *Lubricate communication.* Empathy acts as a kind of communication lubricant that encourages and facilitates dialogue. This can in turn, help the state prosecutor to make the child feel at ease and understood.
- *Focus attention.* Empathy helps the client and facilitator alike to focus on core issues. This includes experiences, core behaviours and core feelings. By using empathy, the state prosecutor can help the child to focus on the issues of the case. The child will be able to focus his/her attention on these aspects, by knowing that somebody is really trying to help and understand him/her.
- *Restrain the helper.* Empathy restrains the helper from doing useless things such as asking too many questions and giving premature and inept advice. Empathy puts the ball squarely in the client's court, thus in its own way empathy encourages the client to act. By using empathy the state prosecutor will encourage the child to take part in court proceedings in such a manner that he/she will feel empowered rather than re-victimized.
- *Pave the way.* Empathy paves the way for stronger intervention suggested by the helping model, including challenging a client's assumptions and perceptions, setting goals, formulating strategies, and moving to action.
- **Unconditional positive regard**

Unconditional positive regard is assumed to be an important – if not the most important – therapeutic agent in client-centered therapy. An essential aspect of unconditional positive regard is to respect the uniqueness of each individual client. It is difficult to restrict the process of empathy to specific behavioural responses.

It is important that this attitude stays consistent with all clients regardless how they behave. Unconditional positive regard is accepting a person in totality, regardless of his/her behaviour. The state prosecutor will be confronted with the sexually abused child, who frequently acts with disruptive behaviour and then it is important that the state prosecutor would accept this child in totality, regardless of his/her behaviour. By

accepting the child in totality, the uniqueness of the child is respected and the child will feel more self-worthy.

This condition exists when the facilitator in such a way perceives the experiences of the client that neither feels more worthy than the other. Unconditional positive regard or acceptance is not the same as approval. Such an attitude requires an acute awareness of one's own values, biases, and judgments, and an ability to suspend those during one's encounter with others. The state prosecutor should be aware of these aspects especially regarding his own values, biases and judgments when he works with the sexually abused child.

## **2. SEXUAL ABUSE**

### **A. TYPES OF SEXUAL ABUSE**

This type of maltreatment is usually divided into categories based on the identity of the perpetrator:

#### Familial Abuse

The predominant form of sexual abuse in South Africa takes place within the home, and is committed by a member of the family. This type of abuse is commonly referred to as incest and comprises 70 – 80 per cent of all cases of sexual abuse. The problem of incest and sexual abuse is not confined to particular geographical areas.

Incest can be referred to as: “Sexual abuse by a blood relative who is assumed to be part of the child’s nuclear family”. An individual assuming the role of a surrogate parent, such as a stepfather or live-in-boyfriend, may be included in a functional definition of incest”. Mayer (1983:83) cites categories of incestuous activity in families and to each attaches an assessment of harm to the child. The first and least damaging to the child is sexual molestation. This includes noncoitus sexual contact, petting, fondling, exhibitionism and voyeurism, all of which result in the sexual stimulation of the perpetrator. The second category, sexual assault, consists of manual, oral, or genital contact with the genitals of the victim, masturbatory activities, fellatio (oral stimulation of the penis), and cunnilingus (oral stimulation of the clitoris). The last most damaging category is called forcible rape and includes forced sexual contact resulting in assault with the penis. Fear, violence and threats are used to ensure compliance from the victim. Mayer (1983:96) states that the latter two categories produce the most trauma for the child, but past victims of abuse say that this is not the case. A survivor who has been a victim of molestation may be as severely impacted as one who has been forcibly raped (see discussion later in this chapter – degree of trauma).



### Extrafamilial Abuse

Extrafamilial abuse, perpetrated by someone outside the child's family, represents according to Crosson-Tower (2001:125) about 40 percent of reported abuse. The abusing adult is often called a pedophile, that is, an adult whose primary sexual orientation is towards children. Pedophilia literally means, "love of children" (de Young, 1982:45). Child pornography uses children to produce sexually explicit material such as graphics, photographs, films, slides, magazines and books (Pecora, 2000:38). Using the child for pornography may be part of the engagement process – a form of initiation of the child by the perpetrator – or the pornography may be an end in itself. New evidence gives credence to the possibility that child pornography actually stimulates perpetrators to commit a sexually abusive act ( Finkelhor, 1990:54)

### **B. PROGRESSION OF SEXUAL ABUSE**

There is usually a progression in the sexual abuse of a child. The perpetrator may "try out" behaviors to measure the child's comfort. Child sexual abuse, however, is as unique in its definition as it is as a traumatic experience in that there is often a subtle process involved that does not necessarily involve violent coercion (Lewis, 1999:99). The abuser uses tricks or bribes to lure the child into a sexual experience. The interaction between the adult and the child may seem innocent at first with little physical contact. Once the abuser has developed this 'trusting' relationship with the child, the events may take on a more sexualized nature with sexual intercourse being the final stage. This grooming process often confuses the child's feelings of having experienced an abusive event. This confusion sets the foundation for what research has identified as the complex reaction to a traumatic experience (Lewis, 1999:110).

Crosson-Tower (2001:71), describes the progression of sexual abuse as follow:

1. Nudity (on the part of the adult)
2. Disrobing (of the adult in front of the child)
3. Genital exposure (by the adult)
4. Observation of the child (bathing, undressing, or excreting)
5. Kissing the child in a lingering, inappropriate manner
6. Fondling (of the child's breast, genital area, thighs, or buttocks)
7. Masturbation (mutual or solitary)
8. Fellatio – oral stimulation of the penis (of the perpetrator or the child)
9. Cunnilingus – oral stimulation of the vulva or vaginal area (of the child or the perpetrator)
10. Digital penetration (of anus, rectum or vagina)
11. Penile penetration ( of the vagina, anus or rectum)
12. “Dry intercourse” (the rubbing of the perpetrator's penis on the genital or rectal area, inner thighs, or buttocks of the child)

Not every case of sexual abuse progresses in the same manner, but there are generally five separate phases of child sexual abuse. Certainly, a longer-term relationship between the child and the perpetrator allows for a more leisurely progression over a period of time.

## C. PHASES OF SEXUAL ABUSE

Molako (1999:42) describes the phases of sexual abuse as: engagement, sexual interaction, secrecy, disclosure and suppression. It will be discussed in more detail as follows:

### Engagement phase

- In this phase the perpetrator engages the child around non-sexual issues and becomes a friend or person who provides material rewards and meets the psychological needs of the child.
- During this stage the perpetrator begins to violate the victim's boundaries by intruding in what should be the victim's private places such as the bathroom or the bedroom.
- However, no sexual advances will be made at this stage since this is only to win the victim's trust and the perpetrator will make the victim feel comfortable in his/her presence.

### Sexual interaction phase

- In this phase the perpetrator will engage the child in age-inappropriate sexual contact.
- The perpetrator will manipulate the relationship developed in the engagement phase to such an extent that it will start including sexual contact.
- Sexual contact usually progresses from exhibitionism and inappropriate kissing to fondling or ultimately to oral or genital contact.
- If the abuse is not reported or exposed after the first sexual contact, the perpetrator will then choose a safer place and time to make his/her next sexual advances with the victim.

### Secrecy phase

- In this stage the perpetrator's objective is to ensure access to the child and to facilitate a continuation of sexual contact.
- Maintaining secrecy in this phase is essential to the perpetrator's continued access to the child.
- Secrecy is maintained through direct or indirect coercion and through bribes or threats.
- Force and threat are not necessary when the child is subject to a feeling of total entrapment. Merely the realization of the consequences of disclosure is enough to render the child powerless. For example:
- The family may lose the breadwinner through conviction, thereby reducing or completely removing the family's stable income.
- The child himself may be removed from the family and placed in a stranger's care.
- The child is not believed.

### Disclosure phase

- Disclosure may be accidental either through observation by a third party, signs of physical or genital injury, diagnosis of sexually transmitted disease or the occurrence of pregnancy.
- With accidental disclosure, intervention may be difficult because neither the participant nor the members of the family may be willing to reveal the secret.
- Disclosure can be purposeful in a case where the child consciously reveals the abuse activity, depending on a variety of reasons such as the child's developmental level.

### Suppression phase

- After disclosure, suppression may occur because of denial, guilt or fear of family disruption by caregivers or the perpetrator, who may in turn, exert pressure on the child to retract her accounts of the abuse events.

- Incest is thus a process that is maintained by the manipulative relationship between the perpetrator and the victim.

#### D. FAMILY DYNAMICS OF INCEST

Understanding the family dynamics of the incest family is very important when working with a child who has been sexually abused within his/her family environment. When describing the different family interactional patterns it is important to note how in each family, these patterns have a function in that specific family.

Patton (1991) in Crosson-Tower (2001:101) suggests five interactional patterns among incestuous families:

##### Possessive-Passive

Research done by the CIBA foundation in 1984 referred to the stereotype relationship pattern within a family where child sexual abuse occurs. This family consists of an authoritative father and a mother who appears weak and dependant on her husband (CIBA, 1984).

Patton (1991) in Crosson-Tower (2001:102) refers to this as the possessive-passive pattern and often referred to in feminist literature as the patriarchal family. The father sees his wife and children as possessions, where the mother tends to be passive, insecure, and often withdrawn. The mother is often unable to protect her daughter, because she learned through her own childhood that men behave this way. The daughter regards her father as the undisputed head of the family and this makes her very vulnerable. The father turns to his daughter for sex for a variety of reasons but mostly as an abuse of power.

CASE STUDY:

*I can remember that when I was eleven years old how my father sexually abused me and always regarded us as his possessions. I had to do whatever he wanted from me. My mother was also very scared of my father and always said we should do what he expected of us – then things would be all right again. I hated him for sexually abusing me, but there was nobody I could turn to.*

Dependent-Domineering

This pattern is characterized by a strong, domineering woman with a weak, inadequate husband. The father looks to his wife for support and nurturing, and she treats him as she does their children. The father allies himself with the children, so that is why many of these children in these liaisons with their fathers, would describe their fathers as sharing and loving, and their mothers as cold and rejecting. The father may be prone to outbursts of anger and spends much of his energies compelling others to meet his needs.

Eventually the mother feels that her own needs are not being met and withdraws from the husband and the children. Because she is more outgoing than a dependant wife and has developed better social skills, she often seeks gratification outside her home through a job, activities, or education. The more the mother is absent, the more the daughter is required to perform housekeeping tasks and the father then turns to her for his emotional as well as sexual needs.

In the following case study it will be explained how this withdrawn mother sacrifices her daughter to her husband. When referring to this case study it is also important to understand why many children have a very negative feeling towards their mothers, who were not the perpetrators, but who weren't attentive enough or sacrifice their children to be sexually abused.

CASE STUDY: A child whose mother knew that her husband sexually abused their daughter

*It was seven o' clock in the evening. I walked unsuspectingly into my mother's bedroom to ask her a question about my homework. I stopped in my tracks at the doorway. She was dressed in her favourite turquoise dress, had her "going out for the evening" makeup on, and was spraying herself with perfume.*

*"What are you doing?" I asked in dismay.*

*"Tonight is my night to play cards with the girls. Remember?" she casually responded.*

*I had not remembered. The blood drained from my face as I realized that once again, this would be a night of terror. A night of trying to outrun, outsmart, outdistance my father. And once again, my mother was leaving me alone, unprotected and at the mercy of my father. She knew that he was sexually abusing me...I hated her for allowing this!*

Dependent-Dependent

In this family two needy dependent individuals come together, each with the anticipation that the spouse will magically meet his or her needs. Both parents experienced abuse or deprivation in their own childhoods. The women have frequently been abused while the men, if not abused, have observed maltreatment in their families of origin. These couples cling to each other in desperation, but since they are of no emotional support to each other, they turn to their children for nurturance

Often the oldest daughter assumes the role of surrogate mother and sees her task as keeping the family together. As she continues in her role, the father sees her as a rival to his wife, and because his daughter appears to be more nurturing, he turns to her for comfort. A girl in such a family is endowed with a great deal of power and status. Her siblings are liable to resent her for the position she holds. In turn, the victim represses anger towards her mother for not protecting her.

### Conflict-Avoiding

In conflict-avoiding families, the mother sets the emotional tone. Sexual and emotional problems are not discussed and the mother tends to distance herself. The daughter emerges as nurturer and mother figure. The father and mother covertly agree with the arrangement, rather than to bring up her role reversal problem for discussion or confrontation. The daughter in turn realizes that she cannot go to her mother for help and has in fact been abandoned despite her mother's outward appearance of competence.

It is noted in the CIBA foundation report that “the distance between the mother and the daughter may be so great that even when the child tells her mother what is happening, the allegations are dismissed. The problems are not discussed within the family and if the child is taken to the family doctor, the purpose of the visit seemingly is to seek professional confirmation for the mother's denial (CIBA, 1984:12)”.

### Conflict-Regulating

In research done by Glaser & Frosch in 1988, it is found that conflict – regulating families are far more openly ‘disturbed’ than conflict-avoiding families. According to Glaser & Frosch (1988:39), they are disorganized and argumentative, frequently violent, with obviously weakened generational boundaries and role confusing.

In conflict-regulating families the daughter is “sacrificed” to regulate conflict and avoid family breakdown. In these families the mother gives little or no support to her children. The daughter feels rejected by her mother and resentful of her lack of protection. The family allows the daughter's abuse and does not seek help (Patton (1991) in Crosson-Tower (2001:106).



## **E. DEGREE OF TRAUMA FROM SEXUAL ABUSE**

Not every child is affected by sexual abuse in the same way. Carey (1997:357) is of opinion that variables mostly associated with an increased risk of revictimization are: the frequency and duration of the abuse, penetration or forcefulness of abuse and the perpetrator's degree of relational significance to the survivor. According to Crosson-Tower (2001: 134) the degree of trauma experienced by the child depends on several variables namely:

### **The type of abuse.**

Some victims of family incest appear to be more deeply affected than those who were abused by someone outside the family. Yet abuse by non-family members who have either meant a great deal to the victim or who have been sadistic or violent can also have profound effects.

### **The identity of the perpetrator.**

The relationship to the perpetrator, – can lead to more significant trauma. Roberts (2004:527) states that when the father or father figure was involved in the molestation, it tends to be more traumatic for the victim. When children discover that someone on whom they may have been dependent has caused them harm, and that this trusted person has manipulated them through lies and misrepresentations about moral standards. Finkelhor and Browne, (1995:65) mentions that these children will experience a degree of immense betrayal, not only at the hands of their offenders, but by family members they believe should have protected them against the abuse.

### **The duration of the abuse.**

Most abuse in incestuous families goes on from one to three years before disclosure.

Roberts (2004:527) is of the opinion that damage appears to be more severe where the abuse continued for longer periods.

### **The extent of the abuse.**

A perpetrator who takes a child further along the progression, or does more physical damage to the child, creates more residual effects. According to Roberts (2004:527), if penetration was involved, the degree of trauma may be more severe.

Finkelhor & Browne, (1985:65) is of opinion that if the offender evokes a sexual response from the child, the trauma is often more intense than of the offender using the child to masturbate and if the child is enticed to participate, the trauma is usually greater than when the offender uses brute force.

### **The age at which the child was abused.**

Developmentally, children pass many milestones. Each interrupted developmental stage will cause its own particular effects. The degree of the child's understanding also impacts on the extent of the trauma experienced. Child victims at an early age or stage of development may understand few of the sexual implications of the activities (Finkelhor & Browne, 1995:65), whereas teenagers have a heightened awareness of sexual issues and confusion often arises especially about sexual identity. Victimized boys, for example, may wonder whether they are homosexuals. Victimized girls may wonder whether their sexual desirability have been impaired and whether future sexual partners will be able to "tell" that they have been sexually abused (Freshwater, 2001:392).

### **First reactions of significant others at disclosure.**

Most children attempt to tell at least one adult of the victimization. Individuals who decide to tell a trusted adult may receive help that lessen the impact. If the adults who

are involved in the child's life are not willing to believe the child, he/ she may be blamed or forced to keep the guilty secret until adulthood. Freshwater (2001:381) also suggests that denial by significant others such as family members concerning the abuse can also hinder the development of the child's personal relationships.

In the following case study the experience of a fifteen-year-old girl who was sexually abused by her stepfather, can be used as an example of how children fear to disclose information about sexual abuse and fear the reactions of significant others.

**CASE STUDY: Girl being sexually abused by her stepfather**

*Once I told my mother what was going on, I figured that was the end of it... that it was all over. I was wrong. It was just the beginning of the next phase of the whole mess.*

**The point at which the abuse was disclosed.**

In the treatment of adult survivors it has been indicated that keeping the secret does, in fact, compound the trauma. Lev-Wiesel (2000) in Wilcox, Richard & O'Keeffe (2004:339) suggests that victims were more able to survive with positive indicators of self-esteem if they placed the responsibility for the abuse on the abuser and not on themselves. In the following case study it is indicated how the perpetrator manipulates the child not to disclose any details of the sexual abuse. The victim believes that there is nothing she can do and integrates more guilt feelings and an overwhelming sense of powerlessness.

**CASE STUDY: Fourteen-year-old being sexually abused by her father**

*I remembered one night when my father sneaked into my room. He started his usual stuff, you know, the groping and touching and that stupid laugh. I don't know, something just snapped in me and I jumped off the bed. I ran down the stairs to the front door. He hollered down to me, "Get back here!!"*

*I stood at the front door thinking, who would believe me? And then the words, "Thou shall honor thy father and thy mother," went floating through my head and I went back up those stairs. There was nothing else for me to do.*

**The personality structure of the victim.**

Children differ in as many ways as perpetrators. A child being abused in a similar manner as another might react totally differently. Wilcox, Richards & O'Keeffe (2004:244) mentions that personal resilience can play a pivotal role in the way an individual can successfully adapt to adverse and traumatic events. They reasoned that good school performance, coupled with wide-ranging peer affiliations, enhances the victim's positive perceptions about him-/herself, facilitating the potential for overcoming the damaging effects of abuse.

Current research has shown that children are more likely to suffer more intensely and persistently when the trauma they have experienced was caused by a person or people they know (Hendricks, Black & Kaplan, 1993:21). Trauma also results from the nature of the event itself. Lewis (1995:5) explains that traumatic experiences are defined by their often sudden, horrifying and unexpected nature. The situation is, therefore, perceived to be so extreme that it overwhelms the individual's ability to cope.

## **F. THE IMPACT OF CHILD SEXUAL ABUSE**

A child internalizes experiences of 'self' and of 'self' in relation to others during childhood (Wieland, 1997:35). Internalization is defined as the taking in and the processing of the meaning of outer experiences as they relate to the self. The child will internalize certain messages to create an internal working model, which will finally become the base from which a child will respond to or interact with the outer world. Bates, Pugh & Thompson (1997:28) describe this as the development of an internal map or mirror of the world due to external experiences, which will influence the child's behaviour. Therefore, as a result of the sexual abuse, a child who has been sexually abused will internalize certain information that will influence that child's behaviour.

It is important to note that child sexual abuse is an expression of power and authority (Lewis, 1999:98). When an abuser chooses his victim, he is mainly with how vulnerable the victim is. The following aspects indicate how the child may experience the impact of child sexual abuse and how this has an impact on his/her behaviour:

### **Loss**

Possibly the most pervasive consequence of experiencing the trauma of sexual abuse, is the overwhelming sense of loss felt by the child. The most profound loss of all, as argued by Walker (1992:41), is the loss of childhood itself. The normal process of developing trusting and secure attachments with adults and peers is damaged, and this leaves the child with the unenviable legacy of a life defined by fear and distrust. The child's capacity and spontaneity to develop these attachments are replaced by a need to become invisible.

### ***Symptoms of loss***

In effect, the child who has experienced the trauma of sexual abuse often has to go through a phase of bereavement with regard to the loss of his/her childhood. Kubler-

Ross (1981:58) argues that child victims of abuse will experience the following phases of bereavement:

- Denial: isolation and searching disbelief and denial that the traumatic experience has ever occurred. When these children are asked about the abuse they will often deny that it ever happened, although they might have disclosed it previously.
- Anger: a common response to trauma. The child rarely expresses his/her anger to the offender and, therefore, it is often misplaced and evident in other relationships or behaviour. For example: inflicting behaviour they will cut themselves or might develop eating disorders. These children may often be aggressive to even their own peer groups.
- Depression: the apathetic phase, which, if not resolved, can have severe consequences on the child's future well-being.
- Acceptance: ultimate acceptance of the abuse and the loss of childhood and an ability to resume a more stable or healthy lifestyle.

Finkelhor & Browne (1995:70) agrees with Kubler-Ross and is of the opinion that the child victims, whose feelings of betrayal are intense, often show signs of grief and depression over the loss of a trusted person. These reactions are defined by the following:

- Feelings of deep disillusionment and disenchantment.
- An intense need to regain trust and security expressed through extreme dependency and clinging (especially in younger victims).
- The victims' judgment is often impaired and research shows that female victims become vulnerable to similar abuse in later relationships and often fail to recognize when their partner becomes abusive towards their own children.
- At the opposite extreme, reactions to betrayal characterized by hostility and anger have been observed among sexually abused girls. The victim is overwhelmed by a sense of distrust and becomes isolated, shunning any form of intimate relationships. The long-term effects of this avoiding behaviour are made apparent by noted mental problems and sexual dysfunction.

- Adolescent victims tend to show aggressive behaviour in response to anger stemming from feelings of betrayal. This aggressive behaviour is regarded as being a primitive way of trying to protect the self against further betrayals and can develop into more serious anti social behaviour and delinquency if untreated.

### **Complex post-traumatic stress disorder**

Lewis (1999:8-10) mentions that sexual abuse does not only result in the loss of childhood, but also gives rise to the more serious symptoms of a complex post-traumatic disorder. She defines this disorder as a prolonged, repeated trauma where there is often a relationship between the victim and the perpetrator of abuse. The symptoms of a complex post-traumatic disorder often result in long-term psychological disturbances. Epidemiological work has shown that up to one quarter of child sexual abuse victims have chronic and often severe mental health problems, caused by the abuse and associated family disruptions, including physical and emotional abuse and loss or departure of a parent (Bagley and King, 1990:109).

#### ***Symptoms of complex post-traumatic stress disorder***

The following symptoms of this manifestation of a traumatic experience highlight the complex impact of sexual abuse on the functioning of the child victim:

- **Low self-esteem**

Wieland (1997:42) confirms that the intrusion causes the child to internalize feelings of being ‘damaged’ and ‘powerless’. This finally leads to behaviour reflecting helplessness or aggression.

Sexually abused children often reveal a view of themselves as defenseless, worthless, guilty, at risk and threatened especially by their parents (Hall and Lloyd, 1993:66-67). This negative self image often pervades other aspects of a child's life and leads to the child believing that he/she is incapable of meeting the demands of others and blaming him/herself for things that went wrong (Hall and Lloyd, 1993:68).

A low self-esteem is often a result of this distorted self image the child has created. This distortion develops from the negative attitudes towards the abused victim, the image of "spoilt goods".

- **Fear**

Long (1986:170) argues that the primary fear of young victims of abuse is separation and abandonment followed by fear of physical damage. Lewis (1999:100) supports the latter point and is of meaning that child victims of abuse are often threatened both physically and psychologically "not to tell". Wieland (1997:67) states that all situations of sexual abuse involve threats. However, the type of threat may vary from one case to another. They, therefore, live in a continuous state of fear and anxiety, not only during the abusive period but also for many years after it has stopped. This fear is often extended to any other person who tries to get close to the child.

- **Inability to trust**

As a result of the betrayal the child has suffered at the hands of an abusive person (usually an adult), and because that person has made him/her to feel helpless, the child is severely limited in his/her ability to trust (Lewis, 1999:100). According to Wieland (1997:69) a perpetrator often tells a child that he/she loves him/her and that the child is very important to him/her. Following the statement of closeness, abuse and betrayal of that closeness occurs. These inability of trust may impair future intimate relationships.



- **Anger and hostility**

Children are rarely able to express their anger to the offender and it is often projected on other relationships or evident in their behaviour. Hall and Lloyd (1993:9) found that child victims of sexual abuse are often prone to angry outbursts, aggression and have an ability to produce conflict in many situations. The anger is often not focused and is often inappropriate, in the context of the situation to which the child is responding. In addition, Hall and Lloyd (1993:69) state that the anger is a set of complex responses to the abusive experience, the abuser, and other potentially protective adults, especially the mother. Children might experience that the mother did not protect them or even allowed the abuse to happen.

- **Inappropriate sexual behaviour**

The child may act-out sexualized behaviour in the form of repetitive re-enactment to gain mastery over the event. In acting out the abuse to show others what happened to them, this allows them to attempt to undo feelings of helplessness (Lewis 1999:100). Many child victims have difficulties in distinguishing between affection and sex (Hall and Lloyd, 1993:8). Sex may therefore be used to gain attention and affection. Finkelhor and Browne, (1995:68-69) mentions further that the impact of sexual abuse can be seen when children display, with behaviour such as sexual preoccupations and repetitive sexual behaviour, such as masturbation or compulsive sexual play. These child victims show developmentally inappropriate knowledge and interest regarding sexual activities, including wanting to engage school-age playmates in sexual intercourse or oral genital contact. Adolescent boys often show sexual aggression and may try to victimize their peers or younger children. Adolescence in young adulthood often marks the increase in promiscuous and compulsive sexual behaviour in child victims. Their emotions are therefore sexualized through the abuse experience.

In February 1996 at a National Summit Conference, a multi disciplinary group of 60 to 70 professionals from California, who were involved in the investigation and evaluation of child sexual abuse, identified premature eroticisation as one of the behavioural symptoms of child sexual abuse among pre-schoolers (Coulborn-Faller and Cordin, 1996:75). This symptom support the above-mentioned authors and include the following behaviours:

- Pre-occupation with genitals.
- Repetitive seeking to engage others in differential sexual behaviour.
- Excessive and indiscriminate masturbation with objects.
- Precocious, apparently seductive behaviour and depiction of differentiated sexual acts in doll play.

- **Depression**

In response to the child's inability to express appropriate feelings about the abuse, he/she may become clinically depressed, showing signs of emotional constriction and flat or bland affect (Lewis, 1999:102). Hall and Lloyd (1993:63) also noted periods of extreme sadness in the child's behaviour as well as the fact that the child couldn't explain these periods. In addition, the child rarely understands the extent of the losses in his/her life which are due to being abused and the sadness often reflects the signs of this unresolved grief reaction.

- **Guilt or shame**

Child victims of abuse often experience intense feelings of guilt or shame as they feel that in the long run, they were responsible for the abuse. According to Ryan & Blum (1994:57), children's first reaction whenever they are sexually abused will be to ask the question "why did it happen to me?" Wieland (1997:62) states that the secrecy around the sexual abuse will create in the child the question "why me?" This often

leads to the answer “because of me”. Long (1986:170) mentions that most guilt develops on three levels of responsibility after disclosure namely:

- a) For the sexual behaviour.
- b) For the disclosure.
- c) For the disruption of family (or other relationships).

Tsai and Wagener (1997:420) attribute the high levels of guilt about childhood experiences of abuse to the following:

- a) Silence about the abuse, suggesting that the abuse was an experience to be ashamed of and not to be revealed to others.
- b) Feelings of responsibility for the sexual abuse often made worse by the reaction of the abuser and other significant others blaming the child.
- c) Believe that the abuse was a punishment for the child’s bad behaviour.
- d) An inability to stop the abuse, giving the child the idea that he/she “allowed” it to happen.
- e) Any feelings of physical arousal felt during the abusive period.

- **Self-destructive behaviour**

As mentioned, child victims of abuse do not learn appropriate ways of dealing with feelings of anger, guilt and shame unless a therapeutic intervention took place (Hall and Lloyd, 1993:69). This often results in the child turning these feelings in on him/herself. Consequences of this inappropriate behaviour can be extreme, ranging from periodical acts of self-mutilation, frequent abuse of substances and promiscuity to suicidal attempts. This aspect is described in greater detail under the long-term effects of child sexual abuse.

- **Powerlessness**

It has been mentioned that child sexual abuse is an expression of power and authority of one individual (usually an adult) over a vulnerable child (Lewis 1999:98). The child becomes powerless to fight the abuse. This will be discussed later in this chapter under the long-term effects of child sexual abuse.

- **Blurred role boundaries and role confusion**

Whenever a child is sexually abused in an intra “familial” context, the boundaries within the family are distorted (Wieland, 1997:23). For example a female child in an incestuous relationship with a father may take on a more parental role in terms of her relationship with her siblings.

*“Children of incestuous relationships are brought up to put the needs of others above their own. Rather than being brought up to believe they are responsible for themselves, they are taught to be responsible for others” (Child Line 1998:3-4).*

- **Pseudo-maturity or developmental regression**

Children may find it difficult to relate to their own peer groups. They may have developmental stages incongruent with their age because of the abusive relationship. The loss of childhood impacts on the child’s personality, making the child appear more serious and also more mature than is expected for his age. Walker (1992:61) states that the child’s capacity for play and spontaneity is diminished. They have been forced into sexual acts that they are not ready for and now have to deal with this enormous emotional load that the abuse has inflicted on them. This is also the reason why they find it difficult to relate to their peers of their own age. Lewis (1999:27) is of the opinion that the opposite behaviour can also occur when the child victim regresses in development. The child regresses to a previous state of development in

which he/she felt more secure. This process is defined by a loss in the achievement of skills, for example the child reverts to bed wetting, thumb sucking or asking for a bottle.

- **Dissociation**

Dissociation refers to the extent to which the victims of abuse shut themselves off from aspects of the abuse such as the pain, the associated emotions or the particular behaviour of the abuser, so that they can cope with the effects of the abuse (Hall and Lloyd, 1993:93).

#### G. LONG TERM EFFECTS OF SEXUAL ABUSE

When prosecutors deal with a sexual abuse cases, it is of importance for them to understand that sexual abuse is not a once off incident, but has long-term effects that the child carries with him-/herself into adulthood. The following long-term effects will be discussed that a prosecutor will need to take into consideration when working with a sexually abused child. This will help the prosecutor to understand the world of a sexually abused child and what he/she will have to endure for the rest of his/her life.

#### **Self-esteem and personal power**

Sexual abuse also being the abuse of power often leaves a victim with a sense of powerlessness. The victims of sexual abuse often have to deal with these losses, which affects their self-confidence for the rest of their lives. Spies, O’Neil and Collins (1998:370) is of the opinion that “when adults have been abused as children, their personal boundaries, their right to say ‘no’ as well as their sense of control in the world have all been violated. As a result the child may also become powerless as an adult survivor. It is noted that many children are told directly that they’ll never succeed, that

they are stupid, or that they're only good for sex. It is clear that with messages like these, the child will have difficulty in believing in him/herself"

In research done by Spies (1996:47) authors like Sanderson (1990) and Dolan (1991) note that one of the most difficult tasks for any therapist, is to deal with adult survivors of sexual abuse who need to identify themselves with their own bodies again, because the abuse had taken away their sense of power especially regarding the way their bodies have endured the abuse. These survivors often result in self-mutilating behaviour. They punish their bodies for taking part in the abuse especially when they experienced any possible sense of pleasure. By self-mutilation the survivor gains a sense of control over his/her body – which creates a scenario where he/she can experience control.

In Spies (1996:50) Wyatt, Gunthrie and Notgrass (1992) refer to this behaviour as coping mechanisms that the adult survivor needs in order to survive. Spies (1996:51) refers to other coping mechanisms, which many adult survivors use to survive or cope with their sexual abuse trauma. These mechanisms are:

- Self-mutilation.
- Suicide.
- Eating disorders.
- Substance abuse.
- Sleeping disorders.

Spiegel (1990:252) reported on the psychological damage caused by abuse and noted that, "along with the pain and fear comes a marginally bearable sense of helplessness, a realization that one's own will and wishes become irrelevant of events, leaving a damaged or fragmented sense of self".

On the opposite side of the behaviour extreme, some sexual abuse victims may have unusual and dysfunctional needs to control or dominate. Aggressive and delinquent behaviour most often noticed in male victims, seems to develop from a need to be tough, powerful and fearsome to compensate for basic feelings of powerlessness. When victims

become offenders, thereby reenacting their own abuse, it may be in a response for a need to regain the sense of power that was lost during their own abusive experience (Finkelhor and Browne, 1995:65).

### **Feelings**

Bass & Davis (1988:201) indicates that when a child is sexually abused his/her feelings of love and trust were betrayed. They go further to explain that the child's feelings of pain, rage and fear were too great to experience fully. The child has no other option to suppress his/her feelings in order to survive the pain of the abuse. An adult survivor explains it as follows:

**CASE STUDY:**

*Certain feelings just went under. I stopped having them at a really young age. I stopped having physical sensations. You could beat me and it literally didn't hurt. By the time I was thirteen, I no longer felt angry. And once I stopped feeling anger, I never felt love either. What I lived with most was boredom, which is really not a feeling but a lack of feeling. All the highs and lows were taken out.*

Spies et. al. (1998:372) notes that an adult survivor of child sexual abuse has a fear that if he/she open up his/her feelings, he or she will suddenly go out of control. Finkelhor and Browne (1995:65), mention that when a child is repeatedly used for sexual gratification that is inappropriate to his/her level of development, sexual behaviour is conducted in exchange for affection, attention, privileges and gifts. The child learns to use sexual behaviour to manipulate others in order for the child to satisfy developmentally appropriate needs. They also associate sexual activities with frightening memories and events. These children get so confused in their sexual development, that when they are adults, they are very confused or so uncertain how to react to the feelings that they experience in these relationships. Many adult survivors also find it difficult to adjust and

realize that the abuse was not their fault because for many years they believed they were to blame or had a responsibility toward the offender. Some offenders even place the shame and blame on the child's shoulders, while other victims blame themselves for the abuse. In the latter instance, the abuser's control over the abusive experience, is often underlined by his manipulation of the child into believing that if he, (the offender), is not loved by the child, he will not survive. The child is, therefore, not necessarily stigmatized by feelings of shame, but rather overwhelmed by feelings of responsibility (Roberts, 2004:540).

### **Intimacy**

Intimacy is a bonding between two people based on trust, respect, love and the ability to share deeply. Bass & Davis (1988:233) mentions that most survivors have problems with trust, because they had to take care of themselves and it feels unfamiliar and scary to be in a close, committed relationship. They will go as far as to describe intimacy as suffocating and invasive. Spies et. al. (1998:372) describes that the building blocks of intimacy – as giving and receiving, trusting and being trustworthy – are learned in childhood. If children are given consistent loving attention, they develop skills for establishing and maintaining nurturing relationships. Unfortunately, in the case of abuse where adults abused the child's innocence, skewed the natural trust of the person, such a person can only grow up with confusing messages about the relationship between sex and love, trust and betrayal.

A survivor describes her feelings as follow:

#### **CASE STUDY:**

*I had nobody who cared about me, nobody who touched me, or whom I touched emotionally. I didn't know how to be emotional. I'd go into total anxiety if there was a hint of connecting with anybody. Its hard to explain how severe that is. It's*



*really a critical problem. People die from it. I think “shy” has got to be the biggest euphemism for pain.*

### **Sexuality**

Spies et. al. (1998:372) mentions that survivors of child sexual abuse are afraid of sex. Every time the survivor feels aroused as an adult, they also feel afraid of being hurt or hurting someone else. Finkelhor and Brown, (1995:65) states that the offender transmits misconception and confusion about sexual behaviour and sexual morality to the child. Spies et. al (1998:372) is of the opinion that survivors would rather avoid any sexual activity, because they fear they will be suffocated or overwhelmed by such intimacy or lose control over themselves and their boundaries.

In research done by Freshwater (2004:380), it is noted that women who have been victims of child sexual abuse have a greater incidence in finding themselves in relationships where they find unsuitable partners and who resemble their abuser from childhood. She goes further by stating that although these relationships may have negative consequences, they will be predictable. The expression of physical love may therefore become inter-linked with positive experiences, such as receiving attention but also with secrecy, blame, guilt, sex and violence. This might then predispose the individual to choose relationships in the future, which include an element of abuse, since abuse and love are inter-related in a confused way.

### **Relationship with the body**

Children experience and learn about their world through their bodies. “Hunger, fear, love, acceptance, rejection, support, nurturing, terror, pride, mastery, humiliation, anger – all of what you know as emotion – begin with sensation and movement on the body level (Bass & Davis, 1988:217). The child’s body can also be seen as the way he/she developed and learned about trust, intimacy, protection and nourishment. In the case of sexual abuse, children learn that the world is not a safe place where their needs will be

met. Bass & Davis (1988:217) concurs that when a child experiences the world as unsafe, he/she will behave in a certain way to adapt. All the problems survivors experience with their bodies namely: splitting, numbing, addictions and self-mutilation, to name a few – begin as attempts to survive the pain of abuse and especially the feeling of powerlessness.

According to Spies et. al. (1998:372) “sexual abuse had been perpetrated through the body, since many survivors blame their bodies for responding, for being attractive, for being womanly, for being small or large, for being vulnerable or for being susceptible to stimulation and pleasure. In order for these adults to survive they avoid these feelings or numb themselves as best they can”.

**CASE STUDY:**

*It's like I'd actually rise up out of my body. I could feel myself sitting in a chair, and I could feel myself floating up out of my body. That's exactly what it is, like being suspended in midair. I know that my body is in the chair, but the rest of me is out of my body.*

**Children and parenting**

If a person was sexually abused as a child, he or she may have a desire to protect his or her own children against any possible situation in which abuse can take place. Bass and Davis (1988:280) explain that overprotection is an exaggeration of the healthy desire of the survivor to keep children safe. Survivors may even try to keep their own children safe by limiting their activities.

Some women who were abused, neglected, or poorly parented experience difficulty in parenting relationships with their own children. According to Bass & Davis (1988:282)

they experience problems in setting appropriate boundaries, and project their own losses of their childhood on their own children. One of the most frightening consequences of sexual abuse is the noted increase in inappropriate sexual contact with their own children (Steel and Alexander, 1991:102). As parents, they often feel confused, resentful or overwhelmed. A survivor describes her experiences of being a mother as follows:

**CASE STUDY:**

*I wasn't sure of myself and what I was doing with my boys. I didn't have a memory of the right things to use as a base in my parenting. The base I had was of the wrong things, the things not to do. So I couldn't go with what I felt was right; I had to do what I thought was right. I had to be awake all the time to make sure I didn't hurt my kids. I had to be very aware.*

### **3. RE-VICTIMIZATION**

#### **Oral evidence**

The accusatorial system is generally a very unfamiliar and daunting world to both adults and children. Thus, it must be especially daunting and embarrassing for children testifying in sexual abuse cases who have to reveal “intimate and horrifying details to strangers and sometime in the presence of the alleged perpetrator” (Maleng, 1995:2).

In terms of the accusatorial system of procedure, oral evidence is given at the trial in presence of the accused. The insistence that the witness give oral evidence at the trial has two implications for child witnesses:

- a) The child must give evidence personally in the courtroom;
- b) And there is usually a long delay between the child experiencing or witnessing the original assault and then having to give evidence at the trial.

In accusatorial systems of evidence there is the fundamental assumption that the oral testimony of a witness at a trial is superior to all other means of evidence. It is this assumption which needs to be challenged since much of the stress which the child experiences stems from the fact that oral evidence must be given personally in court at the trial (Spencer and Flin, 1990:218). This assumption, on the other hand, is not shared by other legal systems. For instance, the French and German systems refer documentary evidence and they regard oral evidence as second best. Criminal courts in France use the written transcripts of pre-trial interviews, which are prepared by an official entrusted with this duty. These written transcripts supplement the oral evidence given at trial and, where children are concerned; replace it completely (Spencer and Flin, 1990:219).

South Africa made International legal (and human rights) history with the promulgation of Section 170A of Criminal Procedures Act 51 of 1977 which was introduced through

the Criminal Law Amendment Act 135 of 1991. This provides for the appointment of an intermediary for children in cases of sexual abuse for reasons of youthfulness or emotional vulnerability. Courts generally decide how and when they wish to employ the intermediary (Watney 1998:434).

### **Court delays**

The insistence that the child must give oral evidence at the trial has the practical effect that there will be a long delay between the event and the trial. Flin, Bull, Boon and Knox (1992:324) mentions that in Aberdeen child witnesses wait an average of 5 months between witnessing an offence, and having to testify. In Glasgow child witnesses wait approximately 7 months before they give evidence. In South Africa delays of up to 5 years can occur. Muller and Hollely (2000:84) is of opinion that these long delays between the event and the trial raises two major issues for child witnesses:

- a) Firstly, there is the question whether the child should receive therapy in the intervening period, and
- b) Secondly there is the danger that the child's memory may be affected by the long delays.

### **Multiple interviews**

The procedures adopted in a criminal's justice system require that a complainant will have to undergo multiple interviews before finally testifying in court. This is often worse in the case of children who have suffered abuse of some form. In most cases the complaint will first be made to a family member, friend or teacher. Once the Police have been notified, the child will be notified to make a statement, and explaining what had happened to him/her. This will rarely involve only one account. More often the child will tell his story to a Police Officer, who will then refer the matter to a specialized branch such as the Child Protection Unit. Thereafter, the child will relate what had

happened to the Investigating Officer assigned to the case. Often the child will be required to give up to three or more statements as the investigation proceeds. Additionally, the child may be seeing a psychologist or social worker and will have to repeat the story again. When the case eventually gets to court the prosecutor will consult with the child in yet another interview. There may be a number of these consultations depending on how often the case is postponed. A child witness could therefore have up to ten interviews before finally testifying in court.

Undergoing multiple interviews has the following effects: (Saywitz, 1995:134)

- a) The child is forced to repeat the details of very intimate and embarrassing experiences to strangers again and again thereby increasing the stress he is already experiencing.
- b) Since a memory of an event is too static it can be affected every time the event is discussed. Multiple interviews may also have an effect on the original account.
- c) The danger of suggestion increases with every interview. In this context, suggestion refers to the unwitting incorporation of information into the memory. This can be done in a number of ways:
  - Subtle suggestions.
  - Expectations.
  - Stereotypes.
  - Leading questions.
  - Bribes.
  - Threats.
  - And other forms of social inducement (Ceci and Bruck, 1995:44-45).

Where a child is exposed to a number of interviews there is a greater chance that suggestion in one or more forms of the above will take place;

- d) Where a child has been forced to repeat his/her story again and again, the evidence begins to sound rehearsed and he/she acquires the terminology of his/her interviewers. This creates the impression in court that the child has been coached.
- e) A further danger, pointed out by Spencer and Flin (1993:365), is that repeated interviews can diminish the child's motivation and co-operation. By the time the child has to testify he may not want to repeat the details again. In addition, children believe that the presiding officer already "knows" all the details since they have repeated them so often to so many different people. This belief that a judge is omniscient will further lower their motivation to remember details – (Saywitz, 1995:134).

It is also essential for anyone questioning a child witness, to bear in mind that children are hostile to all questioning. Questions to a child are often a preamble to criticism, orders, complaints or judgmental observations by parents, teachers or peers. Thus a child may give an evasive response to a question an adult would consider a simple request. The person asking questions must listen to what a child says, and try to understand what the child means. Often children say things that they themselves understand, but to which adults give another meaning. The interviewer should rather listen to what the child has to say, than assume. One must hear beyond the words and grasp the child witness's meaning. Questions must be carefully planned and be purposeful, giving the child the opportunity to add additional information.

Various studies reviewed by Ceci & Bruck (Institute for Psychological Therapies 1998) have shown that children, who are interviewed suggestively, can produce false narratives about fictitious events, including central events. These erroneous narratives were often coherent and detailed and could not be detected as false by professionals. This resulted in the initial caution and concern about children's reliability and suggestibility of scientific opinion. The justice system now recognizes these data. It is acknowledged that persistent suggestive questioning can lead children to provide accounts of events that

never occurred, even when they first denied them. Sometimes the questioning results in the child developing a subjective real memory of an event that never happened (Institute for Psychological Therapies, 1998).

Inappropriate interviewing styles, for example badgering the witness, may also have a detrimental effect on a child's mental health, leading the child to feel "unsafe, hopeless, guilty and shameful" (Cheung, 1997:274). In the light of the fact that a child, as result of being sexually abused, may experience these feelings, it could be said that certain courtroom procedures might constitute a form of re-victimization. Thus, the experience of testifying in court further traumatizes someone who is already victimized.

### **Confronting the accused**

Traditionally at a trial in the adversarial process, evidence is given in the presence of the accused. Children experience stress at having to give evidence in a courtroom, and this stress increases when a child is forced to testify in the presence of the accused. Empirical research has shown that physical confrontation with the accused damages the liability, quality and often the very existence of the child's evidence (Hill and Hill, 1997:820).

As a result of the trauma experienced by child witnesses having to confront the accused, various ways have been devised in which a child can be protected from the physical presence of the accused. This can be done by rearranging the courtroom in such a way, that the child does not see the accused, by placing the child behind a screen, or by allowing the child to give evidence by using an intermediary.

Although instituting innovative reforms, which make the courtroom experience more humane for children, and thereby reducing potential victimization, it does not ensure the removal of all potential re-victimizing incidents. For example, a child may still have to face the accused in the corridors of the court building (Kriel & Hollely, 1998:89).



### **Cross examination**

Cross-examination, according to Davies (1993:3), is the strategy of words and actions, which the advocate employs during the presentation of evidence by the opposition that serves to cast doubt upon the opposing party's case. The purpose of cross-examination is twofold:

- a) Firstly, to illicit information that is favourable to the party conducting the cross-examination.
  
- b) Secondly to cast doubt upon the accuracy of the evidence given by the witness.

According to Thompson (1998:2) the cross-examination of children is difficult and challenging, especially the cross-examination of a child alleged to have been the victim of a sexual crime. This is probably the most challenging courtroom situation a criminal defense lawyer can face. He emphasizes the caution in handling child witnesses.

Thompson (1998:6) gives the following reasons for the uncertainty about what to expect from a child witness. He states that the problem is probably ten percent the child, and ninety percent the result of the examiner's technique and approach. Thompson (1998:3) postulates that adults, in general, are often not good at listening to children or communicating with them on their level and that they are more skilled at dominating, lecturing and interrogating children. He also states that the problem of communication is further complicated when the child is the alleged victim of sexual abuse. Whatever basic discomfort existed may be complicated by the natural empathy the adult may have and the need to protect the vulnerable child. An added element is the almost universal discomfort experienced by talking about sexual topics in the presence of strangers.

In accusatorial systems there is a fundamental belief that cross examination, and the techniques employed in the course of it, are tools for discovering the truth and assessing credibility. According to Wigmore (1994:1367), it is "the greatest legal engine ever

invented for the discovery of the truth” and leaves not a moment’s doubt in the mind of a lawyer as to its effectiveness.

Carson (1995:4), mentions that a witness may make a lot of mistakes during cross-examination, which could lead to the court doubting his evidence, but in no way does it prove that the witness was lying. The person may simply “be very poor at being a witness rather than a truth teller”. Muller and Hollely (2000:101) explains the difficulties which children experience when they need to communicate in an adversarial environment:

- a) Cross-examination is by implication aggressive. It is the weapon with which the battle between the two parties is fought.
- b) Questions asked in a courtroom are not asked for the same reasons that questions are asked generally in society, and children do not understand the purpose which questions are being asked in court (Brennan, 1998:60).
- c) The use of leading questions is a technique employed in cross-examination and give rise to serious difficulties regarding the comprehension for the child witness.
- d) Peripheral questions are those questions, which do not deal with the direct issues in a case, but rather deal with questions relating to surrounding matters that are aimed at testing the witnesses’ credibility. Research has shown that it is easier to get children to give false answers by asking them leading questions when dealing with peripheral matters, rather than dealing with matters that are of central importance (Spencer and Flin, 1990:225).
- e) Language is fundamental to the legal process and the court appearance is seen as a verbal contest between parties (Viljoen, 1992:65-66). It is this specialized language that creates major problems for children. Carson (1995:5) divided the problems children have with court language into 3 broad categories:

- Age – inappropriate vocabulary.
- Complex syntax.
- General ambiguity.

## THE ROLES AND BOUNDARIES OF A PROSECUTOR WHEN DEALING WITH A SEXUALLY ABUSED CHILD DURING COURT PROCEDURES

### **Role of the prosecutor**

Fallon (2000:93) mentions that the prosecutor is the person ultimately responsible for deciding whether someone is going to be charged with a crime and with what crime. It is not an easy decision. This is especially true when the victim is a child. The decision is also complicated by the fact that the prosecutor is responsible not only to the victim and police but also to the community as a whole. Fallon (2000:94) is further of opinion that in today's context child prosecutors have an even greater responsibility. He is of opinion that being a prosecutor and doing the job well, is not an easy task. In addition to deciding who should be charged and with what crime there are other duties that are solely the responsibility of the prosecutor, such as the following:

- a) Deciding when to issue the charge(s).
- b) Preparing the child to testify in court.
- c) Preparing the court for the child.
- d) Filing other crimes and bad acts motions, which may involve the testimony of other victims.
- e) Exchanging information with the defence prior to the trial (i.e. the discovery process).
- f) Deciding whether to use an intermediary in the case.
- g) Developing a trial strategy.

- h) Meeting with the defence lawyer or investigator.
- i) Presenting the case at trial and disposition there of.

Fallon (2000:95) states it clearly that the duties and the responsibilities of prosecutors are as extensive as their influence. However, that influence has its limits. In child abuse cases, prosecutors sometimes overestimate the importance of their roles. First they fail to recognize that the abuse, which premised the criminal, occurred before, often long before, the prosecutor became involved. Secondly, they fail to appreciate that the effects of the abuse and the systemic response to the abuse, of which the prosecutor forms a big part, will linger long after the prosecutor has moved on to the next case.

### **Interdisciplinary teamwork**

Child abuse often means the interaction of some or all of the following disciplines (Copen, Martin & Pucci, 1995:95):

- Mental health professionals.
- Child development.
- Linguistics.
- Social services.
- Medicine.
- Law enforcement.
- Education.
- Law.

Any response requiring court intervention may have the interaction of all of the disciplines involved in a given case. Such multi-disciplinary team approach is the best way to accomplish a community's coordinated response. This means that prosecutors may require a working knowledge of the medical and social science to be successful (Fallon, 2000:95). For example familiarity with the research on children's memory, suggestibility and linguistic capabilities is critical in assessing whether a child abuse

disclosure is the product of a non-permissible suggestive forensic interview. Fallon, (2000:95) mentions that none of this is taught in Law School. It must be learned on the job and at multi-disciplinary training conferences. Many new ideas and innovative courtroom techniques used today originated in the research done by social works, psychologists and therapists.

The researcher is of opinion that it is very important for prosecutors to liaise with multi-disciplinary team members to gain excellent resources for ideas as well as expert testimony. Any information that leads to a greater understanding of the complexities of child abuse and its effect on human behaviour enhances the prosecutors ability to use the law to achieve a truly fair and just judgement in court. Similarly, a well-informed prosecutor can use his/her knowledge of the social sciences to direct and shape investigative efforts and procedures. This, in turn, will result in the development of more accurate and forensically reliable information that will be useful for all team members, not just the prosecutor. Finally, multi-disciplinary responses need to the share ideas and information among the disciplines (Fallon, 2000:96). That, in turn, will lead to a more child centred systemic response; the development of more accurate and reliable information regarding the child involved, and a greater understanding of the consolation of legal, social and psychological issues present in each and every child abuse case. The prosecutor needs to create a climate for the child where the child can feel safe to explore his/her feelings and needs. This can only be accomplished if the child feels accepted and respected. The child needs the opportunity to discover and explore these aspects that seem threatening to him/her on his/her own time.

From this sharing of ideas and information, the researcher is of opinion that better decision-making results, would increase the likelihood of a just and fair outcome in court and would improve a better mental health outlook for the child.

### **Time and effort of the prosecutor**

Family violence in general and child abuse cases in particular normally consume a great amount of time. They truly test one's patience and stamina. The degree of success experienced in these cases is directly related to the amount of time and effort invested. Because these cases are time-consuming, successful prosecutors often contribute much of their own time and energy. Prosecutors meet with the child and his/her family when it is convenient for the child and not the prosecutor. Fallon, (2000:97) mentions that prosecutors must assess the child's credibility, ability to communicate and emotional readiness for court before bringing a case to court. This aspect is very important and the researcher is of opinion that when children are brought into court cases for which they are not ready or prepared it can re-victimize them to a very serious extent. Fallon, (2000:97) mentions that in special cases, a prosecutor may need to meet with the child several times before charging the case. These meetings may include the court educator or victim-specialist especially if the prosecutor intends to discuss the abuse scenario with the child.

Some of the cases that routinely consume a vast amount of time before a charging decision can be made, are cases where (Fallon, 2000:97):

- a) More than one perpetrator has victimized the child.
- b) There are numerous child victims, as in day care cases.
- c) The child is developmentally delayed and/or impaired.
- d) There are repeated acts of interfamilial abuse.
- e) The child is severely traumatized as a result of the abuse.
- f) Force or the threat of force was used to keep the child silent or was inflicted during the abuse.

Often, more than one of these factors are present. In such cases, prosecutors need time to establish rapport and ability to communicate with the child. Many prosecutors make the mistake of confusing the ability to establish rapport, with the ability to communicate effectively with the child. It is not unusual for a prosecutor to establish a wonderful

surface rapport with the child, only to have things fall apart in the courtroom because there was a failure to communicate. In other words there is a distinction between getting along in one setting, like the prosecutor's office, and real communication in court. It is imperative that the prosecutor and the child establish a level of trust and find the means to communicate effectively with each other. If not, the case will surely be lost, and the child may experience additional trauma as a result of this failure. It is of utmost concern to the researcher that many prosecutors do not take the time to prepare the children for these court proceedings and expect of the child to describe his whole abuse scenario minutes before the court proceeds. This truly cannot be seen as a child friendly system.

Fallon, (2000:98) argues that in cases where there are allegations of extensive and repetitive interfamilial abuse, multiple offenders, or severe trauma, prosecutors and other members of the interdisciplinary team must spend time with the child before charges are filed. These time investments help the prosecutor screen cases that ordinarily would have been issued prematurely, with disastrous consequences. Time investment has also helped to present other cases successfully because a trusting relationship develops with the child over a period of time that enables the child to communicate and emotionally handle the rigors of the adversarial system.