

CHAPTER ONE
RESEARCH METHODOLOGY

1.1 INTRODUCTION

Appearing as a witness in a court of law is inherently a traumatic experience for any person, the more so when the witness is a young child who is a victim of physical, sexual, or mental abuse. The trauma is increased as it is a strange and formal environment in which the child has to tell strangers in detail about the abusive acts which were perpetrated on him in the accused's presence. This creates an environment for the intimidation of the child and his family by the perpetrator and his supporters. It is also very disempowering for the child and the parents/caregivers, especially if they do not have an understanding of the function of the court and the trial process.

The adversarial nature of court procedures has been regarded as another major stumbling block for the child witness. It allows aggressive cross-examination of the child. Many childcare workers and psychologists have described this as being secondary abuse (Muller & Hollely 2000:11).

When an intermediary is appointed, the presiding judicial officer may rule that the relevant child witness shall give his evidence at any place, which is informally arranged to set the witness at ease. The court can also order that any person, whose presence may upset the child witness, be out of sight and hearing of the child witness. This should be done in such a way that the court and any person whose presence is necessary at the relevant proceedings can see and hear the intermediary as well as the child witness during the latter's testimony, either directly or through an electronic medium or other device (Muller & Hollely, 2000:15). According to Wessels (2005), Pillay (2005), and Ferreira (2005), there is a scarcity of well-trained intermediaries, which hampers the use of child friendly facilities in court.

It is of great importance that skilled and well-trained intermediaries are available at all courts where child witnesses have to testify. Although there are a large number of intermediaries working at various courts, there is no standardised training program that is

used on national level. The researcher thus identified a need for a training program for all prospective intermediaries who are to assist a child in court cases.

In this chapter, the focus will be on the motivation of the choice of the study, the research question, the goal and objectives of the study, the hypothesis and research question, research approach, type of research, research design and research process, and the definitions of the key concepts.

1.2 MOTIVATION FOR THE CHOICE OF THE RESEARCH SUBJECT

The South African legal procedure is based on the accusatorial system. This entails the physical presence of the accused in the court whilst the witness testifies.

It is during the trial that the child's allegations of sexual abuse and the accused's defence to these allegations are tested. The quality of evidence gathered during the investigation and the cooperation of the role players (investigating officer, prosecutor and intermediary), often determines the outcome of the case. Furthermore, the child's preparedness will also determine the child's performance when called upon to testify.

No doubt with the above in mind, the legislator enacted section 170A of the Criminal Procedure Act, 1977 (Act 51 of 1977), which provides that when it appears to the presiding officer (magistrate or judge) in a criminal trial that it would expose any witness under the age of eighteen years to undue mental stress or suffering if he testifies at such proceedings in the presence of the accused, a competent person may be appointed as an intermediary (Muller & Hollely, 2000:14).

The Criminal Procedure Act, 1977 (Act 51 of 1977) makes provision for procedures aimed at accommodating the special needs of a child witness. These include in-camera proceedings, prohibition against publication of a child's identity, and the use of an intermediary.

Section 170A (1) of the Criminal Procedure Act, 1977 (Act 51 of 1977) states:

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“Whenever criminal proceedings are pending before any court and it appears to such court that it would expose any witness under the age of eighteen years to undue mental stress or suffering if he or she testifies at such proceedings, the court may, subject to subsection (4), appoint a competent person as an intermediary in order to enable such witness to give his or her evidence through that intermediary.”

From the above it can be seen that the child witness generally finds testifying in court to be an upsetting experience. It is of great importance that skilled and well-trained intermediaries be available at all courts where a child witness has to testify.

The researcher is a permanently appointed intermediary by the Department of Justice and Constitutional Development and has acted as an intermediary on a daily basis for the past four years. Although the law states the ideal situation for intermediaries in section 170A of the Criminal Procedure Act, 1977 (Act 51 of 1977), these facilities are only available at 58 sexual offences courts in South Africa at present. The vision of the Department of Justice and Constitutional Development is to have a sexual offences court available at every magistrate’s court in South Africa. It must be noted that although these courts are referred to as sexual offences courts, all abuse cases where a child under the age of 18 is to testify, are heard in these courts. In this study the term “sexual offences courts” will refer to all child abuse cases, not only sexual offences cases.

Although categories of classes of persons that can be appointed as intermediaries were published in *Government Gazette*, 15024 of July 1993, people from these categories often do not have suitable training or experience. The researcher felt that the main areas of concern were the lack of knowledge of how to make contact with the children, child development, sexual abuse, and trauma, language development of the child, court procedure, and family dynamics. As the researcher works as a full-time intermediary, she was in an ideal position to do this research study.

Section 170A of the Criminal Procedure Act, 1977 (Act 51 of 1977) states that a competent person, meaning a skilled and well-trained person, should be appointed as intermediary. The researcher identified the need for a training program for intermediaries on national level. This was a strong motivation for researcher to develop such a program.

During the past eighteen months the researcher has been a guest lecturer at Justice College where prospective intermediaries attended a three-day orientation program. Justice College previously ran a course for intermediaries, but little attention was given to aspects such as child development, language development, court preparation, child and parent support, trauma, and court procedures. Prospective intermediaries attending orientation programs voiced the need in relation to the identified shortcomings. The logical step was to develop a more comprehensive, structured training program that conformed to minimum requirements and needs identified from literature and surveys.

Preliminary discussions with prosecutors, magistrates, and other legal personnel as well as literature reviews, confirmed the existence of serious concerns relating to the competence of intermediaries. It is, however, difficult to determine competence. Communicating with and facilitating the communication of a six year old child requires a vastly different set of skills and knowledge than those required for communication with a young teenager.

The above concerns are echoed by the resolutions and recommendations that were made by the South African Law Commission in Discussion Paper 102 (2001:426). The recommendations were that all intermediaries should be registered and accredited. They further recommended training in all relevant aspects required to act as an intermediary

1.3 PROBLEM FORMULATION

Every year, hundreds of cases of sexual and other abuse involving young child witnesses are referred to the courts. The number of these referrals has increased dramatically over the past ten years, and it is likely to increase in the years to come (South African Law Commission, 2001:409). According to Travers (2004/05/18), Captain Shiluvane Malunyane, a member of the Family Violence, Child Protection and Sexual Offences Unit of Pretoria, reported that more than 80 child abuse cases are reported in Pretoria each month.

Despite continuing negative media coverage in respect of the prosecution of these cases and the reliability of child witnesses, an increasing number of children are coming to court to testify.

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In the past it was practice in South African courts for a child witness to give evidence in an ordinary courtroom, in front of the accused, and be subjected to cross-examination by the defence. According to the rules of evidence, the accused has the right to be present and to cross-examine any witness giving evidence against him. The very person, who has allegedly committed the acts against the child, could subject the child to aggressive cross-examination and further trauma. With this in mind, the legislator enacted section 170A of the Criminal Procedure Act, 1977 (Act 51 of 1977). In 1993, Section 170A was inserted by section 3 of the Criminal Law Amendment Act, 1991 (Act 135 of 1991), and came into operation that year.

A child witness entering the criminal justice system now, no longer has to be confronted by the perpetrator, whilst testifying in front of a courtroom full of strangers. The child has the opportunity to testify in a separate room away from the accused, with the help of an intermediary, in such a way that the child can understand what is expected of him and at a pace he can handle. The intermediary is a facilitator through which a child witness can give evidence in criminal proceedings. The intermediary's role is to put the questions from the court, the prosecutor, and defence, to the child in language that the child will understand. The questions are then interpreted from the legalese of court to the child's developmental level (Muller & Hollely, 2000:81-82). Presently, in most courts, the child answers directly into a microphone and is heard in court. It is however found that the courts themselves differ about what they think the duties and tasks of an intermediary are. Presently there is no national consensus about the duties, responsibilities, functions or training of the intermediary.

Categories and classes of persons that can be appointed as intermediaries were published in *Government Gazette* no. 15042 (July 30, 1993) as amended by *Government Gazette* no. 17822 (February 28, 1997) as amended by *Government Gazette* no. 22435 (July 2, 2001). The Minister of Justice and Constitutional Development determines who can be appointed as intermediaries by regulation.

From the literature study, interviews and surveys with magistrates, prosecutors and existing intermediaries, it was clear that the person being appointed as an intermediary must have experience and be knowledgeable in dealing with children and court procedures. Training should be given to equip the intermediary with the necessary skills to help and support the

child witness and his parents/caregivers from the moment they appear at the court building, through the court case and afterwards refer the child witness and his parents/caregivers for further support and therapy if needed.

The research problem can thus be formulated as follows:

For a child to appear in court can be a very daunting and traumatic experience. Presently there is no national research based training program for intermediaries in South Africa. Researcher is of the opinion that if a well trained intermediary can help the child and his parents/caregivers to understand the court procedures, explain what is going to happen in a language the child can understand, take the child's developmental stage into account, help the child to understand his emotions, assist the child whilst testifying, and debriefing the child after testifying, appearing in court will be a much less traumatic experience for both child and parents/caregivers.

1.4 PURPOSE, GOAL AND OBJECTIVES OF THE RESEARCH STUDY

1.4.1 Purpose of the study

Exploratory research aims to make a preliminary study, gaining information about a topic and the implications thereof, where little is known (Collins, 1993:30). Durrheim (1999:39) described exploratory research as a preliminary investigation into relatively unknown areas of research.”

During this study exploratory research was used to explore the perceptions, experiences, concerns, problems, expectations, and needs of magistrates and prosecutors on the role and duties of the intermediary. This was done during phase 1 of the study and will be referred to as Section A to eliminate any confusion with the phases of intervention research.

Descriptive research presents a picture of the specific details of a situation, social setting or relationship, and focuses on the “how” and “why” questions (Neumann, 2000:22).

Descriptive research was used to describe the training program that was developed as well

as the results of the evaluation of the program. This was done during phase 2 of the study and will be referred to as section B of the study.

1.4.2 Goal of the study

Anderson (1989:488) is of the opinion that a goal is a general statement that refers to the consequences of an intervention as well as the long-term experiences, whilst Neumann (2000:23) states that a goal is an objective, which implies a broader, more abstract conception of “the end toward which effort or ambition is directed.” Objectives are more specific, concrete and measurable and can be attained in a short period.

The goal of this research was:

To develop, implement and evaluate a research based training program for intermediaries for the child witness in South African courts.

1.4.3 Objectives of the study

- To develop a theoretical framework by means of a literature study regarding child development, linguistic development, court preparation, child centred communication, criminal law, South African legal system, the intermediary, sexual and other abuse, trauma debriefing, court preparation, and anatomically detailed dolls;
- To explore the perceptions, experiences, concerns, problems, expectations, and needs of magistrates and prosecutors from various sexual offences courts in South Africa on the role and duties of the intermediary;
- To explore and gain information on existing training programs for intermediaries in South Africa
- To develop a research-based training program for intermediaries in South Africa.
- To implement the training program for intermediaries;
- To evaluate the impact of the training program for intermediaries; and
- To draw conclusions and make recommendations to the Department of Justice and Constitutional Development and other trainers of intermediaries for implementation of the training program.

1.5 THE RESEARCH QUESTION AND HYPOTHESIS FOR THE STUDY

A research question is posed when there is little or no literature available on the topic and exploratory research is done. A research question differs from a hypothesis in that a hypothesis indicates the relationship between two or more variables. (Compare Bless & Higson-Smith, 1995:37; De Vos, 2002:36.) The research question must be posed in a way that can be answered by observable evidence, and the data needed to answer the question should be feasible for the researcher to obtain (Rubin & Babbie, 1993:101).

The research question for section A of this study was:

What are the duties and roles of an intermediary?

A hypothesis can be a starting point in a quantitative research study (Mouton & Marais, 1990:121). It is also a conjectural statement of the relation between two or more measurable variables as well as the implications for testing the stated relationship (Kerlinger, 1986:17). According to Rubin and Babbie (1993:120) and Bless & Higson-Smith (1995:37-38) a hypothesis is a tentative, concrete and measurable answer to a question relating to the relationship between variables. It should have the following properties: Be clear and specific; have more than one possible outcome; be of value and should be testable.

The hypothesis for section B of this research is:

If an intermediary is trained according to a research-based training program, the intermediary's knowledge of his role in assisting the child before and during the trial in a South African court will be improved.

1.6 RESEARCH APPROACH

The research approach refers to the broader theoretical perspective of the research process (Creswell, 1994:4). For the purpose of this study, the quantitative approach was used. A quantitative study can be defined as:

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“An inquiry into a social or human problem, based on testing a theory consisting out of variables, measured with numbers and analysed with statistical procedures in order to determine whether the predictive generalisations of the theory hold true” (Creswell, 1994:1-2).

Quantitative research includes experiments, surveys and content analysis (Neuman, 2000:121-155). Quantitative researchers use deductive reasoning. The researcher observes objectively and does not give his own opinion and interpretation (Delpont & De Vos, 2002:52). The data collection focuses on scales and frequency tables (Delpont, 2002:165).

The approach in this study was a quantitative approach with measurements of variables done by means of questionnaires. For the purpose of this study the researcher used Creswell’s two phases model that indicates that the study was done in two phases. Creswell describes these phases as “a qualitative phase of study and a separate quantitative phase” (Creswell, 1994:173-190) . For the purpose of this study both phases were quantitative. For the sake of clarity and to prevent confusion the two phases will be referred to as section A and section B.

Fouché and De Vos (2002:142) held that the questionnaire as a data collection method is quantitative in nature and falls into the category of the quantitative-descriptive survey design.

The researcher used the quantitative approach as measurements of variables, which was done by means of questionnaires.

During section A the researcher used a quantitative approach, by means of self-structured questionnaires, to gain insight into the perceptions, experiences, needs, concerns, problems, and opinions of magistrates and prosecutors from various sexual offences courts. This information was needed to undertake section B of the research.

During section B of the research, the researcher also used a quantitative approach to collect data from prospective intermediaries attending the training program. Questionnaires, completed before and after the training program, were obtained to measure the impact of the training program.

1.7 TYPE OF RESEARCH

When research is based on the solving of practical problems relevant to the social work profession and is aimed at discovering how behaviour can be supported or changed, it can be described as applied research. Applied science is thus aimed at the practice and entails the use of existing knowledge from research or personal experience to develop and enhance service, processes and methods (Collins, 1993:28).

Applied science can also be described as a type of research where a specific program or theory is applied under a specific or given situation (Grinnell, 1988:36).

De Vos (2002:394) uses the term intervention research as a form of applied research. Intervention research entails the development of a program, presentation of a program (intervention) and the evaluation of the effectiveness of the intervention.

Rothman and Thomas (1994:3-4) were guided by methods in development research, evaluation research, behavioural assessment, technology transfer, and social science research to develop systematic procedures in intervention research for designing, testing, evaluating, and referring needed social technology, techniques, and programs for professionals (Barnes-September, 1998:135). No one particular research technique is employed in intervention research. It draws from different methods and techniques to develop a systematic and phased system of action that harnesses the potential of diverse methods (De Vos, 2002:394-396).

Rothman and Thomas (1994:9) and De Vos (2002:395) identified three main types of intervention research. These are:

- Intervention Knowledge Development (KD) – social research strategies to extend knowledge of human behaviour.
- Intervention Knowledge Utilization (KU) – findings limited to and utilized in practice by using procedures such as meta-analysis and marketing to package and disseminate knowledge about interventions.
- Intervention Design and Development (D&D) – research directed towards developing innovative interventions.

This research study used applied research with specific reference to intervention research. The three components (KD, KU, and D&D) of intervention research were used but the D&D phase was applied as the general framework for the research procedure (Rothman & Thomas, 1994:11; De Vos, 2002:396-418).

1.8 RESEARCH DESIGN AND METHODOLOGY

1.8.1 Research design

A research design is a detailed plan according to which the research is piloted. It indicates the unit of analysis, sampling procedures, the variables to be tested, the research, the research procedure to be followed, the type of information needed, the method of data collection and the type of measuring instruments to be used (Thyer, 1993:94).

Huysamen (1993:10:) adds to this by defining the research design as the overall plan, blueprint or strategy by which data is collected and analysed, questions are answered or hypothesis are tested. Terms like strategies, methods, traditions of inquiry, and approaches would be terms that are synonymous with the term design (Fouché, 2002: 271). A research design thus indicates which strategy the research project followed to answer the social questions. It will further supply a scheme or plan according to which the research will be conducted and will therefore lend structure to the research.

- Section A made use of a survey research design and more specific a randomised cross-sectional survey. According to Fouché and De Vos (2002:143) a researcher may use the randomised cross-sectional survey design for the needs assessment phase of research dealing with the development and evaluation of an intervention or training program. During this study, the researcher explored the perceptions, experiences, concerns, problems, expectations, and needs of magistrates and prosecutors with regards to intermediary training and existing programs (see 1.4). Open-ended questions, and ordinal scaling was used. The design is written as follows:

R O₁

- For section B the Quasi-experimental design and more specifically, the one-group pretest-posttest design was used (Fouché & De Vos, 2002:143-144).

$O_1 \times O_2$

In the one-group pretest-posttest design there is measurement of a dependant variable O_1 when no independent variable X is present, and subsequently an independent variable is introduced, followed by a repeated measurement of the dependant variable O_2 later. It is important that these measurements are reliable, valid and accurate and all units must be measured (Fouché & DeVos, 2002:144; Bless & Higson-Smith, 1995:140). The dependant variable is considered to be the problem that needs improvement. In this study the dependant variable was knowledge and skills of trainees attending the training program (O). These are the dimensions in which change is expected. The dependant variable is defined in operational terms. These specific measurable indicators will assist the researcher to evaluate the changes that have occurred during the study. The independent variable (X) was the training program. By using this design, it was possible to measure the level of improvement of the respondents' knowledge and skills about the role and duties of the intermediary. The pre-test of the dependant variable was used as a base of comparison with the post-test results

Questionnaires before and after presenting the training program to trainees training to be intermediaries regarding their knowledge of and skills as intermediaries, were obtained.

1.8.2 Research methodology

Intervention research was used during this study. Characteristics of the three types of interventions were divided into six phases. Each of these phases consists of a series of steps or operations (Rothman & Thomas, 1994: 9-11 and 28; De Vos, 2002:397-418). Rothman and Thomas (1994:9) stated that these steps or activities associated with each phase continue after the introduction of the next phase. Sometimes there is going back to earlier phases.

The phases of intervention research will now be described as of interest for this study.

1.8.2.1 PHASE ONE: Problem Analysis and Project Planning

Thomas (1981:594) indicated that analysis, the first phase of the model, assumes a prerequisite, a “material condition” that implies the existence of a “problematic human condition” such as child abuse, which can be addressed by developing the technology the researcher has in mind (De Vos, 1998:386).

Discussions with various people involved with the sexual offences courts as discussed under 1.1 and 1.2, highlighted the need for further inquiry. The focus was to engage participants and the population to ensure their participation in the knowledge development (KD) process. This involved the following five steps:

Identifying and involving clients

According to Fawcett, Suarez-Balcazar, Balcazar, White, Paine, Blanchard and Embree (1994:27) intervention researchers choose a population with whom to collaborate, whose issues are of interest to clients, research and society.

- The researcher identified the population for this research as the magistrates and prosecutors in South Africa’s sexual offences courts for section A of the research and intermediaries attending the training program presented by Justice College, Pretoria, as the population during section B of the research.

Gaining entry and co-operation from settings

De Vos (2002:399) held that conversation with key informants helps researchers understand what they have to offer and how to articulate the benefits for potential participants.

- Co-operation was gained from sexual offences courts in Pretoria, Justice College, magistrates and prosecutors. Their interest in the sexual offences courts was identified. The need as well as the contents of a training program for intermediaries was explored (appendix A and B). Researcher had worked as an intermediary for the past four years so no difficulty was experienced in conversing with the relevant role-players like magistrates and prosecutors.

Identifying concerns of the population

According to Fawcett *et al.*, (1994: 29) applied researchers, once they have access to the settings, must attempt to understand the important issues of the population.

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- Preliminary interviews were held with experts in the field (1.1 and 1.2) to identify concerns of the population and to develop a KD research question.
- The researcher determined the concerns and problems of the prosecutors and magistrates with relation to the roles and duties of an intermediary during the court process by means of self-structured questionnaires.

Analyzing concerns or problems identified

According to Fawcett *et al.* (1994: 30-31) a critical aspect of this phase is to analyze those conditions that people label as community problems by using key questions.

- The nature of the discrepancy between "ideal" and "actual" had to be analyzed.
- Questions were asked to determine for whom the situation is a problem, and what the negative consequences of the problem were (De Vos, 2002:403).
- The analysis was guided by questions the researcher compiled from her experience as an intermediary and day-to-day discussion with magistrates, prosecutors, and intermediaries.
- The answers to these questions lead to an understanding of what the problems were, what had previously been done to alleviate these problems and suggestions how to facilitate change to these problems.
- These included: What needs to happen to change these problems and how can these problems be changed?

Setting the goals and objectives

- Once the problem had been identified (see 1.3), the researcher could formulate goals and objectives (Fawcett *et al.*, 1994:31). A goal and objectives are formulated under 1.4.

1.8.2.2 PHASE TWO: Information gathering and synthesis

When planning an intervention research study, it is important to discover what other researchers have done to understand and address the existing problem (Fawcett *et al.*, 1994:31-32).

Using existing information source

DeVos (2002:405) explains that a literature review consists of an examination of selected empirical research reported practice and identified innovations related to the particular concern being studied.

- A KD study was conducted by doing a literature study to gain a theoretical framework (see 1.9.1). This literature study was also done so that questionnaires could be compiled for magistrates and prosecutors to assess their experiences, concerns, problems, expectations, and needs of the role and duties of the intermediary as and to develop the training program.

Studying natural examples

Fawcett *et al.* (1994:32-33) and De Vos (2002:406) held the opinion that a particularly useful source of information is to observe how community members faced with the problem being studied, or a similar problem, have attempted to address it. Interviews with people who have actually experienced the problem and have knowledge about the problem, can provide insights into which interventions might or might not succeed and the variables that may affect success.

- Two questionnaires for magistrates and prosecutors respectively, were drawn up by the researcher with the help and advice of the Department of Statistics of the University of Pretoria and pilot tested by two magistrates and two prosecutors (see 1.9.3). These questionnaires were distributed to magistrates and prosecutors working with sexual offences in South African courts to explore their experiences, concerns, problems, expectation, and needs of the role and duties of the intermediary. The data was analysed as described in chapter seven. This information as well as the literature study was taken into consideration when developing the training program.

Identifying functional elements of successful models

Once information is gathered, researchers analyse the critical features of the programmes and practices that have previously addressed the problem in question (De Vos, 2002:407).

- The information from the questionnaires was analysed and interpreted. Researcher also attempted to explored information on existing training programs for intermediaries in South Africa but was unsuccessful (see 1.12).

1.8.2.3 PHASE THREE: Design

Researchers must design a way of observing events related to the phenomenon naturalistically, a method system for discovering the extent of the problem and detecting effects following the intervention (De Vos, 2002:408).

Designing an observational system

- During this phase an observation system was designed and procedural elements of the intervention were specified (De Vos, 2002:408). Problems identified by means of questionnaires were defined in operational terms (see 1.8.1).

According to Fawcett *et al.* (1994:34) and (De Vos, 2002:408) the type of measurement system to be chosen depends on many factors, including how many individuals and behaviours must be observed, the length of the observation sessions, the duration of intervals and availability of trained observers. The reliability and validity of the observations are affected by observer's training and experience.

Specifying procedural elements of the intervention

- A draft of the training program and questionnaires for evaluating the program was drawn up. The process was enhanced. The procedural elements were discussed under paragraph 1.8.1.

1.8.2.4 PHASE FOUR: Early development and pilot testing

Development as defined by Thomas (1981:584-587) is the process by which an innovative intervention is implemented and used on a trial basis, developmentally tested and refined and redesigned as necessary.

During this phase the draft training program and questionnaires for evaluating the program by attendants was developed and pilot tested.

Developing a prototype or preliminary intervention

- During this phase the draft training program and questionnaires for evaluating the program by attendants was designed. It was used on a trial basis and was tested for

its adequacy. It was then refined and redesigned for the pilot test with the help of the Department of Statistics, University of Pretoria.

Conducting a pilot study

- The training program and questionnaires were produced and presented to six relevant role-players (two magistrates, two intermediaries and two lecturers) and were subsequently evaluated. All the questionnaires and schedules were pretested (see 1.9.3).

Applying design criteria

- Questions such as the effectiveness of the questionnaires, whether it is simple to use and understand and practical adaptability to various contexts, for example, different cultures, were taken into consideration (De Vos, 2002:411). All the material for applying the training course during the main investigation was finalised.

1.8.2.5 PHASE FIVE: Evaluation and advanced development

This phase of the D&D model comprises the following steps:

Selecting an experimental design

- This phase involved collecting and analysing data, replicating the intervention under field conditions, and refining the intervention.

Collecting and analysing data

- Section B: Self-constructed questionnaires with ordinal questions, open questions as well as numerical scaling were used to give the respondents the opportunity for a wide variety of answers before and after the training and the researcher could thus explore the variables better (Delpont, 2002:179) (See 1.8.1).
- The first questionnaire (pre-test) was distributed to the trainees attending the training program for intermediaries for completion before the training program started. The second questionnaire (Post-test) was distributed for completion directly after the training program had been presented. The researcher did the distribution and collection personally.

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- Data analysis brings order, structure, and meaning to the collected data (De Vos, 2002:339). Rubin and Babbie (1993:389) state that data analysis is a challenging and creative process. Data analysis entails the breaking down of data into constituent parts to obtain answers to the research hypothesis. Interpretation must then take place of the raw data. The data must be described and analysed and then interpreted for results (De Vos, Fouché & Venter, 2002:223). Quantification of the results took place by means of statistical methods such as graphs and tables..
- The collected data was analysed and is presented in Chapter 7 of this research report.

Replicating the intervention under field conditions

De Vos (2002:413) held that a primary goal of intervention research is to develop interventions that are effective in a variety of real-life contexts, with those who actually experience the problem. Replication under various field conditions helps to access the generality of the effects of the intervention.

- The adapted training program (as described in chapter 6) was presented to prospective intermediaries during the training program and evaluated for effectiveness after presentation by means of two questionnaires, one pretest and one posttest measuring the same information. As a result of the researchers work description, the training program has been applied to other trainee intermediaries but was not used for research purposes.

Refining the intervention

- The training program was finalised for distribution to Justice College, Pretoria. It is presently being used as the only training program for intermediaries at Justice College.

1.8.2.6 PHASE SIX: Dissemination

Potential markets have already been identified and a demand for the program already exists. Further dissemination will take place as the training program will be made available to the Department of Justice and Constitutional Development for the training of future intermediaries. Dissemination was not part of this research and will not be discussed.

1.9 PILOT STUDY

The pilot study is a way in which the researcher can orientate himself to the project he has in mind. Its function is the exact formulation of the research problem and tentative planning of the nature and range of the investigation. A pilot study involves testing the measuring instrument on a small number of respondents sharing the characteristics of the target group (Strydom, 2002b:211).

1.9.1 Literature Study

The main purpose of the literature study is to orientate the researcher and gather information regarding existing knowledge on the proposed topic (Strydom, 2002b:212).

The researcher gained information regarding different disciplines such as social work, psychology, law, education, child development, language development, child centred communication, legal aspects, court preparation, child trauma, sexual abuse, and intermediaries. The literature was utilized when the questionnaires and training program were compiled (see phase B).

A search of the libraries of the University of Pretoria, University of South Africa, the legal library at the Regional Court in Pretoria, and the library at Justice College, were conducted. An internet search was conducted to search data bases such as SACAF; ISAP - S A Journal articles; Dialog-international journal articles; Jutastat – legislation information; S A Law Commission for the Working Papers and historical information. The inter-library loan facility at the University of Pretoria was used to obtain pertinent theses or literature from other libraries around the country as well as internationally.

1.9.2 Feasibility of the study

The researcher has worked as an intermediary at Regional Courts as well as the High Courts on a permanent basis for the past four years. The research project had been discussed with various role-players and no problems regarding the research project were experienced. Written informed permission was obtained from adv. P.A. Du Rand, Directorate: Court Management, Department of Justice and Constitutional Development.

The Department of Justice and Constitutional Development requires a report of the findings of the study. This will be submitted after the research has been completed. A discussion forum took place before the empirical study and a seminar thereafter, which was attended by role-players from different disciplines.

All financial costs incurred were at the expense of the researcher. Submission of this proposal to the Ethics Proposal and Research Committee, Faculty of Humanities of the University of Pretoria, for the final approval before commencement of the empirical study, was done.

1.9.3 Pilot Test of data-gathering instrument

A pilot test of the questionnaire can highlight problems on aspects such as question formulation, interpretation, and confusing questions. Modifications can then be made if necessary (Strydom, 2002b:216).

A pilot test for all the questionnaires (measuring instruments) was conducted with six role-players (two magistrates, two prosecutors, and two intermediaries) to test the relevance of the topics and issues (see 1.8.2). They were excluded from the main study. In addition, the Department of Statistics, University of Pretoria, colleagues, prosecutors, magistrates, and intermediaries were consulted with regard to compiling the questionnaire. Factors like the inclusion of short, clear, crucial and relevant questions were taken into consideration.

The training program, once drawn up, was also pilot tested with four intermediaries who were excluded from the main study.

1.10 THE RESEARCH POPULATION, DELINEATION OF THE SAMPLE AND SAMPLING METHODS

According to Mark (1996:366) this part of the research answers the questions of: “How was the population defined and what sampling method was employed.

1.10.1 Universum

Mouton (1996:134) defined universum as: The complete set of elements and their characteristics about which conclusion is to be drawn on the basis of a sample.

The universe of this research is:

- Section A: All the magistrates and prosecutors of the sexual offences courts in South Africa.
- Section B: All the prospective intermediaries of South Africa.

1.10.2 Research Population

Population is the term referring to the individuals who possess the characteristics being studied and to whom the findings will be generated (Strydom & Venter, 2002:198).

- Section A: The population for phase one of this study consisted of all the magistrates, prosecutors, and senior prosecutors of sexual offences courts in South Africa attending courses and workshops at Justice College, Pretoria between August and October 2004.
- Section B: The population for phase two of this study consisted of all the prospective intermediaries who attended the training program for intermediaries at Justice College, Pretoria during November 2004 and February 2005.

1.10.3 Delimitation of the sample

According to Arkava and Lane (1983:27), a sample is a subset of measurements drawn from a population to be studied. A sample is studied to understand the population from which it is drawn. The larger the population, the smaller the percentage of that population is needed. Although, if the population itself is relatively small, the sample should be reasonably large (Bless & Higson-Smith, 2000:931; Strydom & Venter, 2002:200).

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- Section A: All 150 magistrates and 90 prosecutors of sexual offences courts attending two training courses and four child law workshops in South Africa and Justice College, Pretoria during August to October 2004, were involved in the research.
- Section B: As a result of the relatively small population size all 69 trainees attending the training program for prospective intermediaries during 2004 and 2005 at Justice College, Pretoria were involved in the research.

1.10.4 Sampling Method

According to Strydom and Venter (2002:207), purposive samples are based entirely on the judgement of the researcher. The sample contains the most characteristics representative of typical attributes of the population

In this research non-probability sampling, and more specifically purposeful sampling took place and the whole population were involved. No selection took place.

A list of names regarding the above population was collected from the Department of Justice and Constitutional Development and Justice College. The group of respondents comprised males and females of various ages, different occupations, geographical area, racial-, religious- and cultural backgrounds.

1.11 ETHICAL CONSIDERATIONS

Various authors discuss the concept of ethics when obtaining data for research studies.

Strydom (2002a: 63) offers the following definition of ethics:

“Ethics is a set of moral principles that are suggested by an individual or group, are subsequently widely accepted, and offer rules and behavioural expectations about the most correct conduct towards experimental subjects and respondents, employees, sponsors, other researchers, assistants and students.”

Ethical guidelines also serve as standards and the basis on which each researcher ought to evaluate his conduct. The researcher is a registered social worker at the South African Council for Social Service Professions and endorses its ethical code.

For this study the following ethical considerations were taken into account:

▪ ***The right to experimenter responsibility***

Every participant should be able to expect that the researcher will behave responsibly. (Vermeulen, 1999:170). The researcher was sensitive to human dignity of all respondents and her intentions in respect of the research were above question

▪ ***Informed consent:***

This implies that all possible or sufficient information concerning the aim and goal of the investigation, the procedures to be followed during the research, possible advantages and disadvantages and dangers to which respondents may be exposed, as well as the credibility of the research should be rendered to potential respondents (Strydom, 2002a: 65).

All respondents were informed by means of a letter of the nature of the research, how the measurement would take place and what they could expect. The aims and goal of the research was explained to them. All the respondents were provided the opportunity to refuse or participate in the study. Written informed consent was obtained from all respondents.

▪ ***Harm to experimental respondents:***

Harm can be emotional or physical (Strydom, 2002a: 64). The researcher is aware of the ethical responsibility to protect all respondents against physical and emotional discomfort. Precautions were taken in this respect by informing the respondents of any discomfort they may experience as a result of the questionnaire. All respondents were aware, that should they need debriefing as a result of completing the questionnaires, the researcher was available for debriefing or the respondent would have been referred to an experienced therapist.

▪ ***Violation of privacy/anonymity/confidentiality***

Over and above the rights to privacy, the right of the confidentiality of personal information should also be honoured (Vermeulen, 1999:17). It is imperative that the researcher be reminded of the importance of safeguarding the privacy and identity of respondents and that information be handled confidentially at all times. (Compare Strydom, 2002a:67; Bailey, 1987:413.)

All information was and is deemed as confidential and no identifying information was or will be given. A written explanation of the total investigation (Appendix 5) was given to each respondent as well as a written consent form (Appendix 6), which was signed by each respondent.

▪ ***Actions and competence of researcher***

The researcher is knowledgeable about both the research process and acting as intermediary. A M A (S W) Play Therapy as well as two preliminary doctoral exams have been completed. The researcher is a full time intermediary employed by the Department of Justice and Constitutional Development. All possible steps such as being professional, unbiased and non-judgemental were taken to be as objective, knowledgeable and professional as possible.

▪ ***Release of publication of the findings***

For research to be meaningful, it should be introduced to the reading public in written form (Strydom, 2002a:71). The research report was written as objectively and accurately as possible. All shortcomings and errors were admitted. All respondents have access to the final research results. The researcher was also aware that before the research report could be submitted, it had to comply with the requirements of the Academic Administration of the University of Pretoria.

1.12 PROBLEMS EXPERIENCED DURING THE STUDY

- Difficulty was experienced at gaining access to prosecutors for the completion of the questionnaire. The National Prosecuting Authority refused permission to distribute the

questionnaires amongst prosecutors as too much time would be wasted if the prosecutors had to fill in questionnaires.

The researcher then approached Justice College and other presenters of courses for magistrates and prosecutors. They were prepared to distribute the questionnaires to the various respondents.

- Because of the scope of this research, the theoretical knowledge base was drawn from various disciplines including social work, psychology, law, and education. The intermediary system is only used in South Africa, Japan, and Hong Kong and was only recently introduced to neighboring African countries. This made the gathering of the knowledge base very difficult and time consuming, as there is a limited number of literature available.
- The researcher attempted to consult with other presenters of intermediary courses regarding the contents of their program. Great reluctance on the side of the presenters was experienced and no information could be obtained. Twelve questionnaires were distributed and none were received back. A workshop was held in March 2004 at Justice College where all the main role players from South Africa who did training of intermediaries, were invited to participate in the drawing up of minimum standards for a training program. Of the trainers that were present are: The Teddy Bear Clinic in Johannesburg, RAPCAN from Cape Town and Omega Centre from Vereeniging. No input was received concerning these minimum standards and the researcher was asked by Justice College to draw up and distributed minimum standards for a training program.

1.13 DEFINITIONS OF THE KEY CONCEPTS

- **Training program:**

A training program is a program of instruction by book or teaching machine in any profession

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by means of paper or booklet, with relevant details and items and in which the subject matter is broken down into logical sequence of short items of information, and a student can check immediately the suitability of his response (Kirkpatrick, 1985:789).

From the above it is seen that a training program is a structured passing over of specific material relating to a certain topic to a specific audience.

▪ **Intermediary:**

An intermediary is a facilitator through which a child witness can give evidence in criminal proceedings. The intermediary's role is to put the questions from the court, prosecutor and defence, to the child in language that the child will understand. The questions are then interpreted to a child's developmental level from the legalese of the court. This means that the child does not testify and is not directly cross-examined in an open court (South African Law Commission, 2001:402).

An intermediary conveys the content and meaning of a question to the child in a manner, which the child understands. The intermediary is thus mandated to convey the general purport of the question and is not limited to repeat the exact words that the question was originally framed in. She is able to remove all hostility and aggression from the question. The intermediary may not alter the meaning of the question (Muller & Tait, 1999a: 12-13).

For the purpose of this study, an intermediary is a person who conveys the questions put to the child witness in court in a language that is understood by the child so that the child can answer the question properly and to the best of his ability. The child and intermediary are alone in an adjacent room to the court where the trial is held.

▪ **Presiding Officer/Magistrate**

The presiding officer/magistrate listens to the evidence presented by both parties and ensures that the rules of evidence and procedure are adhered to. He must remain neutral and see that justice is done (Muller & Tait, 1999a:3).

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The magistrate is a person who plays a passive role, almost akin to that of an umpire in a cricket match. He hears both sides and sees to it that the rules of evidence and procedure are adhered to. At the end of the trial he must make a finding as to the facts found proved and he must apply the law and give judgment. He plays a neutral role (South African Law Commission, 1989:4).

From the above it can be seen that the role of the magistrate is mainly passive. He listens to the evidence that is presented to him and then makes a decision.

▪ **Prosecutor:**

The role of the prosecutor is primarily to ensure justice where there has been transgression of the law. He is described as the “people’s attorney” who represents the administration of justice in the prosecution of criminal offences. He is tasked with assisting the court to arrive at a just verdict by guiding the police through the investigation process, making the decision to prosecute, addressing the court on bail, presenting evidence in court, arguing cases and helping the court arrive at a just sentence in the event of conviction (South African Human Rights Commission, 2001:25).

The prosecutor leads the evidence for the State by tendering the evidence in chief of the witness for the state in order to place their evidence before the court (South African Law Commission, 1989:5).

The prosecutor receives the docket from the investigating officer. This docket contains statements and other relevant documentation. The prosecutor uses these statements in the court case. He then assists the child to testify in court by leading the child’s evidence.

▪ **Sexual Offences Court:**

A specialized sexual offences court is a court based at regional court level and dedicated to sexual offence cases. The objectives of the court are to improve inappropriate and insensitive treatment of victims of sexual offences in the criminal justice system, create an integrated approach to the management of sexual offences by various agencies and

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ultimately, improve reporting, investigation, prosecution and conviction rate in sexual offences cases (South African Human Rights Commission, 2001:28).

Sexual offences courts give specialist treatment to these cases. The prosecutors assigned to these courts are selected on the basis of their personal make-up and ability to relate to such victims. Unnecessary delays are avoided, thorough preparation beforehand takes place, in-depth consultations with the victims take place, in camera proceedings and intermediaries are utilized (South African Law Commission, 2001:67).

For the purpose of this study the sexual offences court is a specialized court that is put in place to hear sexual offence cases as well as any other child abuse cases as soon as possible and with as little trauma as possible. The child testifies in such cases either in a separate room with an intermediary, alone in a separate room or with a screen between him and the perpetrator in the open court.

▪ **Child witness**

The Criminal Law (Sexual Offences) Amendment Bill, 2003 defines a child witness as a person below the age of 18 that has to testify in a court of law about an offence committed against him.

From the above it can be seen that a child who is under the age of 18 years and has to testify in a court about an offence perpetrated against him is considered a child witness. Such testimony can be given in an open court unless decided otherwise by the presiding officer. This can be done in terms of section 158 or section 170A of the Criminal Procedure Act of 1977 (Act 51 of 1977).

Throughout this study the child will be referred to as “he” (being male). The researcher however wants to make it clear that the child witness can be either male or female

1.14 CONTENTS OF THE RESEARCH REPORT

- Chapter 1:- General orientation to the study including motivation; problem formulation; goal and objectives of the study; research question and

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hypothesis; methodology; and definitions of the key concepts.

- Chapter 2:- South African Legal System, past and present and other relevant legal aspects.
- Chapter 3:- The developing child: different developmental stages, cognitive, emotional, linguistic, brain, perceptual, memory, moral, and social-emotional.
- Chapter 4:- Communication with the child witness.
- Chapter 5:- Assisting the child witness during the court experience.
- Chapter 6:- A training program for intermediaries.
- Chapter 7:- Empirical study and research findings.
- Chapter 8:- Summary, conclusions and recommendations.