

**THE ANALYSIS OF A CHEQUE TO IDENTIFY CRIME**

by

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## **Preface**

In this study the main focus of the researcher was to analyse a cheque to identify crime. This study intends to give the forensic investigator a guideline to follow during the analysis of a cheque under investigation. Crimes that could be detected during the analysis of a cheque are fraud, forgery and uttering. Other aspects were also explained to ensure a better understanding of the study, namely: forensic investigation, forensic investigator, identification and crime scenes.

Forensic investigation is a systematic search for the truth with the primary purpose of finding a positive solution to a crime. Forensic investigation is not a game of chance, or based on storybook types of coincidences. Therefore, forensic investigators cannot rely on coincidental success to come their way. It is true that luck sometimes plays a role in forensic investigations, but it is the thorough investigator who creates his/her own opportunities and arrives at the right place at the right time. In order for a forensic investigator to strive for excellence, he/she must have a good knowledge of his/her field of work.

It is important for the forensic investigator to understand that identification plays an important role in forensic investigation. An additional benefit is derived when one can individualise something because it makes the identification much more valuable. All crime scenes should furthermore be managed in such a way that all physical evidence can be collected in order to ensure successful prosecution and conviction in a court of law. It is the belief of the researcher that because cheques are not acknowledged as crime scenes and therefore not properly handled or protected, many investigations fail in court and the accused are acquitted.

## **Voorwoord**

Die fokus van hierdie studie was om 'n tjek te analiseer ten einde misdaad te identifiseer. Die studie gee ook riglyne vir die analisering van 'n tjek aan forensiese ondersoekers. Misdade wat tydens die analisering van 'n tjek geïdentifiseer kan word, is bedrog, vervalsing en uitgifte. Ander aspekte word ook verduidelik ten einde die studie beter te kan verstaan, naamlik: forensiese ondersoek, forensiese ondersoeker, identifikasie en misdaadtonele.

Forensiese ondersoek is 'n sistematiese soeke na die waarheid met die hoofdoel om die misdaad suksesvol op te los. Forensiese ondersoek is nie 'n gelukspel nie en ook nie iets wat op fiksie of verhale gebaseer word nie. Daarom kan 'n forensiese ondersoeker nie wag dat die saak self opgelos word nie. Dit is waar dat geluk soms 'n rol speel, maar dit is die deeglike ondersoeker wat sy/haar eie sukses bepaal en op die regte tyd en plek arriveer. Om 'n goeie forensiese ondersoeker te wees, moet die ondersoeker streef na uitmuntendheid en moet hy/sy oor goeie kennis van sy/haar vakgebied beskik.

Dit is belangrik om te weet dat identifikasie 'n belangrike rol in forensiese ondersoek speel. 'n Verdere voordeel tydens 'n ondersoek is wanneer iets geïndividualiseer kan word, aangesien dit identifikasie baie meer waardevol maak. Alle misdaadtonele behoort so hanteer te word dat indien 'n bewysstuk op die toneel versamel word, dit nie gekontamineer word nie en suksesvol in die hof aangebied kan word. Die navorser glo omdat tjeks nie as 'n misdaadtoneel beskou word nie en sodoende nie korrek gehanteer en beskerm word nie, baie sake nie in die hof slaag nie en beskuldigdes onskuldig bevind word.

### **Acknowledgement**

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## **CHAPTER 1**

### **General Orientation**

#### **1.1 Introduction**

There are legal elements for every crime (Marais & Van Rooyen, 1994:25). According to law, these elements must be present in order for a crime to be constituted (Adams, Caddell & Krutsinger, 2004:17). If one of these elements is absent, the crime cannot be proved and there will not be a conviction in court (Marais & Van Rooyen, 1994:25; Adams et al., 2004:11). When a cheque is used as an instrument to commit a crime, it will contain evidence of misrepresentation and other unlawful changes, which must be identified in order to prove that a crime has been committed. A cheque that is used to commit a crime may contain evidence of the following crimes: fraud, uttering and forgery. In terms of the Locard principle, it can be assumed that a cheque that was used to commit a crime will display evidence of the crime that has been committed. The Locard principle states that if two objects touch each other, a transfer of trails occurs (Chisum & Turvey, 2000:11). For example, if a suspect signs or handles a cheque, evidence that can identify him/her, such as fingerprints, is transferred to the cheque.

The problem is that most investigators do not understand the importance of a cheque as a source of information to identify a crime. From the researcher's experience, it appears that in most investigations the investigators focus on the authenticity of the signature only, without paying attention to other important information, such as handwriting, unlawful changes, fingerprints, paper, authenticity of the account, etc.

#### **1.2 Aims of the research**

In general, the aim of research is to establish facts, gather new data and to determine whether there are interesting patterns in the data (Mouton, 1996:103). The aim of this research was to analyse a cheque, to establish what information and/or evidence it contains that could be used to identify different crimes.



### **1.3 Purpose of the research**

The statement of purpose indicates the focus and direction of the research, and provides criteria for the evaluation of the outcomes of the research. There should be a reason for doing research or else there would be no point in spending time, money and effort to undertake the investigation (Denscombe, 2002:25).

Maxfield and Babbie (1995:70) say that research serves many purposes, such as exploration, description, explanation, forecasting or prediction, empowerment and application. A given research can have more than one of these purposes. In this research the researcher concentrated on the description, application and empowerment purposes.

In the first place, Denscombe (2002:27) says descriptive research is to describe something, in other words to say what it is. In descriptive research the researcher breaks into new territory to explore things, collect facts, describe them and report back on what he/she has found. The purpose of this research is to describe what a cheque is, to describe which clues can be found on a cheque, which could be used to identify a crime, and finally to describe why a cheque should be treated as a crime scene.

In the second place, application research is fundamentally based on a need for specific facts and findings with policy implications. Application can be to evaluate or to analyse something. The main drive behind a piece of research is the desire to solve a practical problem or to improve procedures (Denscombe, 2002:27). In this research the purpose is also to develop good practice (Denscombe, 2002:27). In the past not much attention was given to a cheque or to consider a cheque as a crime scene. This research intends to improve the investigator's skills as far as the handling of a cheque is concerned.

In the third place, the purpose is to empower investigators with new knowledge and insight into the use of a cheque during investigation. The researcher wants to empower investigators to become better investigators and to be more effective in

doing their work (Denscombe, 2002:27). This will be done by creating training material for investigators to enable them to understand the value of a cheque as a source of information to identify crime by identifying unlawful changes on the cheque.

#### **1.4 Research questions under investigation**

In the initial planning of the research, the researcher should think ahead to the areas of interest that he/she envisages addressing. As far as possible researchers need to give advance thought, at the outset of the project, to the key themes that they wish to address, and to design their project accordingly (Noak & Wincup, 2004: 122). Research questions specify exactly what is to be investigated. They are not the broad goals of the research that are directly investigated by the research, but are specific things that are to be observed, measured and interrogated in order to shed light on the broader topic (Denscombe, 2002:31).

With the purpose and aim of the research in mind, the researcher attempted to answer the following research questions:

- What is forensic investigation?
- What role does identification play in forensic investigation?
- What information on a cheque could identify crime?

#### **1.5 Key theoretical concepts**

##### **1.5.1 Forensic investigation**

Forensic investigation can be defined as the collection of facts that may serve as evidence before a court of law, through which the associative part of an accused in the commission of a crime can be proved (Lambrechts & Theart, 1996:1; Gardner, 2005:1-2).

##### **1.5.2 Crime**

Crime is a conduct which is legally forbidden which may, in principle, be prosecuted only by the state, and which always results in the imposition of punishment (Snyman, 2002:6; Horswell, 2004:3).

### **1.5.3 Locard's principle**

Locard's principle states that if two objects touch each other, transfer of trails occurs (Chisum & Turvey, 2000:11; Ogle, 2004:3).

### **1.5.4 Cheque**

A cheque is a bill of exchange drawn on a banker and payable on demand (French, 1985:50; Puttick & Van Esch, 2003:450).

### **1.5.5 Crime scene**

A crime scene is a place where direct or indirect evidence of a crime or allegedly committed crime can be found. It refers to an area where the crime took place (Fisher, 2004:54; Swanson, Chamelin & Territo, 2003:35).

## **1.6 Research approach and research design**

A research design is an exposition or plan of the way in which the researcher plans to execute the research problem that has been formulated (Mouton, 1996:175). Basically, it consists of a clear statement of the research problem as well as plans for gathering, processing, and interpreting the observations intended to provide some resolutions to the problem (Singleton & Straits, 1999: 91).

The researcher decided to use an empirical design in this research, because it involves the researcher going into the field (fieldwork) and focusing on the personal experience of the participants in the study (Mouton, 2001:149). This was necessary because of the shortage of literature on the topic. Empirical research is the production of knowledge based on experience or observation (Maxfield & Babbie, 1995:4). For this reason, the researcher decided to use only investigators with investigation experience. The design's strength is that it has high construct validity, provides in-depth insights, and that a rapport with the research subjects is produced (Mouton, 2001:150). According to Mouton (2001:150), the design's limitations are that the results cannot be generalised because they constitute the views of individuals, measurements cannot be standardised, and the collection and analysis

of data may be time-consuming. The researcher attempted to eliminate these limitations through an in-depth literature study.

The research approach was qualitative in nature (Leedy, 1997:106). The main reason for conducting a qualitative study was because qualitative research is multi-method in focus, involving an interpretive, naturalistic approach to its subject matter. This means qualitative researchers study things in their natural settings (Creswell, 1998:15; Pope, Lovell & Brandl, 2001: 369). The researcher decided on a qualitative approach because she wished to obtain practical answers to the problem.

Qualitative research is exploratory, and the researcher sought to listen to the participants and to build up a picture based on their ideas and personal experience (Creswell, 1994:21; Taylor, 1994:208). Further to this, the topic needed to be explored, because of the need to present a detailed view of the topic (Creswell, 1998:17-18). The use of a cheque needed to be explored, because of the high number of fraud cases where cheques are used to defraud others.

### **1.7 Population and sampling procedures**

According to Bailey (1987:81), the sum of all the units of analysis is called the population or universe. In this research the population should have been all fraud investigators in South Africa, but for practical reasons it was impossible to interview all of them. The study population therefore consisted of investigators in the South African Police Services (SAPS), Scorpions and corporate sectors in the Western Cape involved in, and with experience in, the investigation of cheque fraud. Based on the opinion of the researcher, they currently have the most experience in the investigation of financial crime. There were a total of 35 investigators in this group. A study population is that aggregation of elements from which the sample is actually selected (Maxfield & Babbie, 1995:186).

The researcher decided to draw a sample of 25. Denscombe (1998:11) said a sample is a small portion of the whole (Bailey, 1987:82). The ideal sample is one that provides a perfect representation of a population, with all the relevant features of

the population included in the sample in the same proportion (Blaickie, 2003:161).

The simple random sampling technique was used to select the sample from the study population (Bailey, 1987:78). Random sampling involves a selection process that gives every possible sample of a particular size the same chance of selection (Blaickie, 2003:168). The researcher wrote the 35 names of the investigators from the different units each on a piece of paper and put the names in a box and then drew 25 names from the box to form the sample.

## **1.8 Data collection**

Data is facts or evidence that is at the disposal of the proponent of an argument (Bauer & Gaskell, 2000:355). According to Mouton (2001:57) and Patton (1980:43), qualitative research involves the following data collection techniques: surveys, experiments, case studies, programme evaluation and ethnographic studies. The researcher decided on literature, interviews and case studies for this research, because under the circumstances these were the best methods to collect the primary data needed to address the research questions (Creswell, 1994:148) and (Leedy, 1997:71).

In this research the type of data used is primary data. Primary data is generated by a researcher who is responsible for the design of the study, collection, analysis and reporting of the data. This new data is used to answer specific research questions. Primary data is characterised by the fact that it is the result of direct contact between the researcher and the source, and that it is generated by the application of particular methods by the researcher, such as interviews (Blaickie, 2003:18).

### **1.8.1 Literature**

Data was collected from journal articles, the Internet and from existing literature in the study fields of policing, criminology and law. New data was added as new information and compared to existing data. The topic was therefore divided into various concepts in an attempt to find a greater number of sources. The researcher identified the following concepts:

- Cheques
- Cheque fraud
- Forensic investigation
- Locard's principle
- Identification
- Questioned documents
- Crime scene

Literature was searched for information on these concepts and some valuable information relevant to the topic was gathered.

### **1.8.2 Interviews**

Interviews took place in a face-to-face situation with one interviewer and one interviewee (Robson, 2000:88). The researcher conducted structured interviews, using an interview schedule with open-ended questions (Robson, 2000:88). The interview questions focused on the research questions and on obtaining the personal experience of each participant. The questions were tested on the researcher's colleagues to see if they were understandable and whether they would elicit the desired data. Once the interview schedule had been set up, interviews were arranged and personally conducted with the participants at their places of work, after their permission was obtained to participate in the research. Each participant's interview was documented with regard to his/her understanding and experience. The interviews were documented in order to ensure that the researcher would have access to the exact opinion/experience of each respondent, as well as for reference purposes. The interviewees chose not to reveal their names and the researcher therefore labelled each interviewee as a "respondent".

### **1.8.3 Case study**

Following the case study approach, as described by Merriam (1991:5), McMillan and Schumacher (1984:26) and Bailey (1987:298), a case study with regard to the way in which cheques were analysed as a source of information in closed cases was conducted, because this illustrated the reality in practice. As an investigator at Old

Mutual the researcher had access to closed cases in Old Mutual. The researcher was not allowed access to other organisations' investigations due to their confidential nature. Cheque-related crimes which had been investigated between January 2002 and June 2004 were obtained from the database at the researcher's place of work. There were 50 cases available and all were studied. These cases were analysed in order to establish the way in which the fraudulent cheques were dealt with to identify a crime, and to get a hands-on idea of how such crimes were investigated in the past, in support of the interviews.

#### **1.8.4 Personal experience**

The researcher is a former police officer and was an investigator in the SAPS for 15 years. Currently the researcher is employed as a forensic investigator at Old Mutual, with the main focus on financial investigations. The researcher currently has 16 years of investigative experience. During this time the researcher has had to investigate and assist in several cases where, *inter alia*, cheques were involved. This experience has been used to come to a better understanding of the terms used by respondents and in the evaluation and analysis of the data.

#### **1.9 Data analysis**

After all the data had been collected the researcher had to obtain a holistic picture of all the data and to analyse it. The researcher used the process described by Yusoff (2004:11-19) and Mouton (2001:198) during the data analysis process:

- Data from the different data-collecting methods (interviews, case study and literature) was organised and then categorised according to the research questions.
- Information was compared within the categories in order to identify variations and similar meanings.
- Similar data was categorised together.
- Variations were categorised together.
- Useless information was eliminated.
- Where information was still needed it was easily identified, obtained and then categorised.

- After each interview the researcher discussed the answers with the specific respondent to make sure he/or she had been correctly understood.
- Findings on the case study and literature were discussed with colleagues for better understanding.

The above-mentioned approach assisted the researcher in ascertaining in which areas training should be focused in order to develop investigators' skills in dealing with this subject and to establish what their personal experiences were.

### **1.10 Validity**

In order to ensure validity, as described by Mouton (2001:100) and Merriam (1991:167), the researcher used multiple sources of data (literature, interviews and a case study). Literature was gathered from subject-specific published books, journals, articles, etc. to ensure that information was taken from reliable and valid sources. An interview schedule with previously developed questions based on the key concepts and research questions of the study was used in each interview. The interview schedule ensured that the same questions were asked of all participants during the interviews. Each participant provided answers according to his/her personal experience, which were recorded. The researcher discussed her interpretation with the participant to ensure that it was interpreted correctly (Lacey and Luff, 2001:23-24). The results of the case study were discussed with an experienced colleague to ensure that the researcher interpreted the said results correctly.

### **1.11 Reliability**

The researcher described how data was collected (literature, interviews and a case study), how it was analysed, how the sampling was done and how conclusions were reached following Mouton (2001:100) and Lacey and Luff (2001:22). The researcher interviewed respondents who were investigators in the SAPS, Scorpions and corporate sectors in the Western Cape, because under the circumstances they were the most experienced people from whom to obtain information in this research.



Information was categorised and documented in such a manner that should another researcher use these notes he/she would be able to replicate the study (Bauer and Gaskell, 2000:363). However, it needs to be kept in mind that should interviews be conducted with the same respondent using the same interview schedule in the future, it could well be that the answers to the same questions would be different, because the respondent might have gained training and experience in the interim. Merriam (1991:170) explains that human behaviour is never static.

### **1.12 Ethical conduct**

The researcher at all times strove to maintain objectivity and to show integrity during the research (Merriam, 1991:178). Reference was made to all sources that were consulted (Leedy & Ormrod, 2005:102). The participants who participated in the interviews were not harmed in any way nor was their privacy violated (Mouton, 2001:240-243). The participants all requested that their names should not be used, therefore the researcher decided to refer to them as Respondent 1, Respondents 2, etc. (Leedy & Ormrod, 2005:101). The participants were informed of the nature of the study and given the choice of participating or not participating. They were also told that if they agree to participate, they have the right to withdraw from the study at any time (Leedy & Ormrod, 2005:102). The researcher did not fabricate data to support any finding or recommendation. The findings and the recommendations are based on the facts determined in the research (Leedy & Ormrod, 2005:102). The researcher did not use any special equipment and did not make use of a trained fieldworker.

### **1.13 Chapter outline**

The report is divided into the following chapters in which the research questions are discussed, the research design presented and the findings of the research interpreted:

- Chapter 2 – Forensic Investigation

In this chapter the main focus is on what forensic investigation is, the role it could play, its objectives and also what constitutes a forensic investigator.

- Chapter 3 – Identification

This chapter explains how identification can play a role in forensic investigation as well as how to understand and analyse a cheque in order to determine if a crime has been committed. The chapter also explains the concept “individualisation”.

- Chapter 4 – Analysing of a cheque to identify crime

In this chapter the researcher explains what a crime scene is and how a cheque can be defined as a crime scene.

- Chapter 5 – Findings and Conclusions

In this chapter, the final findings and conclusions of each chapter are discussed.

## CHAPTER 2

### Forensic Investigation

#### 2.1 Introduction

Forensic investigation involves the lawful tracing of people and exhibits, which may, directly or indirectly, contribute to the reconstruction of a crime situation, and supply information about the *modus operandi* and the persons involved in the crime for the purpose of bringing a criminal to justice (Dowling, 1997:1). In essence, it involves observation and inquiry in order to obtain factual information about allegations, circumstances and associations (Marais & Van Rooyen, 1994:13). In this process an attempt is made (a) to establish exactly what happened when the crime, for example fraud, was committed, in order to uncover the truth surrounding the events; (b) to prepare and present a *prima facie* case in a court of law; and (c) to submit the evidence required to reveal the unlawful action of the accused (Marais, 1992:1).

Forensic investigation is a specialised field that requires intensive training (Kennedy, 2004:1). It stands to reason, therefore, that the forensic investigator must have a specialised knowledge of investigation (Van Niekerk, 2000:12). Forensic investigation is an art requiring knowledge of self, society, and people (Genge, 2002:19). For example, just as a craftsman cannot do a job without his tools, neither can an investigator do a job without knowledge of the investigative procedure. However, a word of caution: tools do not make a craftsman; neither will knowledge or the use of techniques alone make a forensic investigator (Van der Westhuizen, 1996:1).

In this chapter the researcher will explain what forensic investigation and a forensic investigator are.

#### 2.2 Meaning of forensic investigation

The term “forensic” is derived from the Latin word *forum*, which means “the market place”. In early Roman society, justice was administered in the market place (Mogotsi, 2002:27). Even today people continue to use the word “forum” to refer to a public speaking place and have adopted the word “forensic” as the term for anything

related to the administration of justice (*Concise Oxford Dictionary*, 2002:555; Horswell, 2004:3; Lee & Harris, 2000:17). According to respondent 14 (2004), investigator in the South African Police Service, “forensic” also means to “work” for the court and where the court is your “main client”, meaning that the court is the final place where it will be decided whether or not an accused is guilty. The investigator should present evidence of such a nature that the court is convinced of the guilt of the accused.

In early societies, the collection of evidence, arrest and prosecution of criminals originally occurred in the most primitive and vicious ways imaginable (Technikon SA, 1992:2). At that time, the judicial process depended entirely on evidence provided by the community. Evidence revolved around witchcraft, suspicion and confessions that could be induced through torture, and the so-called two-classis evidence. This state of affairs was largely attributable to an unshakeable confidence in the credibility of people. Today the successful investigation of crime refers to the resolving of the crime situation, and means that the perpetrator is traced and that sufficient information, exhibits and facts are collected to prove his/her guilt in a court of law (Van Heerden, 1986:188).

According to Lambrechts and Theart (1996:12), and James and Nordby (2003:116), forensic investigation means to observe intensely, to question systematically and to gather information. Horswell (2004:4) says it is a searching inquiry in order to ascertain facts. This, it is believed, will reveal the truth and ultimately lead to the reconstruction of the crime. All the information obtained must be dealt with and noted in such a manner that it is available for use during further investigation, but in the end it must also be introduced as evidence as part of the criminal procedures in a court of law (Lambrechts & Theart, 1996:12).

In the current study, it appears that some of the respondents were confused about the meaning of forensic investigation. In response to the question “What is your understanding of forensic investigation?”, nine respondents said that it entails the investigation of finance-related/financial crimes. The remainder of the group (16 of the 25 respondents) came up with the following:

- It means to have sufficient evidence to prove a case in court (one respondent)
- It means to combine scientific and investigative methods to ensure a proper investigation and to present the evidence in a court of law (one respondent)
- It is any investigation of a criminal nature, which is presented in a court of law (eight respondents)
- It is any investigation where a crime was committed (eight respondents)
- It is an investigation that searches for the truth (three respondents)

Forensic investigation represents the medium whereby facts for positive investigation are detected, identified, collected, preserved and prepared for the judicial process (Marais & Van Rooyen, 1994:17). Lambrechts (2001:93) and Gardner (2005:1) support this by stating that forensic investigation is an investigation aimed at instituting court proceedings.

According to respondent 16 (2004), investigator in the South African Police Service, forensic investigation means to have sufficient evidence to prove a case in court. According to this definition, it is essential to know that every crime consists of legal elements (Marais & Van Rooyen, 1994:25). If one of these elements is absent, no crime has been committed, and there will not be a conviction in court (Marais & Van Rooyen, 1994:25; Adams et al., 2004:17). For example, when a cheque is used as an instrument to commit fraud, it will contain evidence of misrepresentation as well as other unlawful changes which must be identified in order to prove the crime of fraud. According to Lambrechts (2001:93) and Fisher (2004:73), forensic investigation involves the combination of scientific and investigative methods and techniques to ensure a proper investigation and to present the evidence in a court of law. Respondent 2 (2004), forensic investigator from Old Mutual, agreed with the above, and expressed confidence that if these methods and techniques were utilised, the truth would be established.

### **2.3 Purpose of forensic investigation**

The purpose of forensic investigation is to ensure that the criminal, or alleged criminal, will be present at the trial, and to submit the evidence required to prove the

unlawful action (Van der Westhuizen, 1996:1; respondent 7:2004). Gardner (2005:2) agrees with van der Westhuizen, but said that the prevention of crime and disorder is also important. Horswell (2004:1) explains crime prevention as the actions and efforts designed to keep crime from occurring in the first place, which is not only a police function. Adams et al. (2004:1) says that more should be done towards crime prevention, because this would improve the relationship between the police and the community.

According to Fisher (2004:48), the purpose of forensic investigation is to identify, collect and retrieve physical evidence from the crime scene. In response to the question “What is the purpose of forensic investigation?”, the respondents came up with the following:

- To investigate an irregularity when it is reported (two respondents)
- To gather information and evidence to collate a record of events and evidence that will represent the truth (four respondents)
- To investigate a crime in order to gather evidence for court purposes (ten respondents)
- To investigate a case (two respondents)
- To investigate a crime, catch the perpetrator and bring him/her before a court of law (nine respondents)
- To eliminate suspicious individuals in order to identify the perpetrator who had committed the crime (one respondent)
- To recover the financial losses suffered by crime victims during a forensic investigation (one respondent).

Forensic investigation can also be utilised as a tool in the illumination of suspicious individuals, in order to identify the perpetrator who had committed the crime (respondent 25, 2004). According to Lambrechts and Theart (1996:1) and Gardner (2005:3), the basic purpose of forensic investigation is to collect facts that may serve as evidence before a court of law, through which the associative part of an accused in the commission of a crime can be proved. Ogle (2004:2) said the ultimate purpose of forensic investigation is to reconstruct the event of the crime in order to answer the

questions: What happened? Who was responsible for each action? and, What was the sequence of actions?

Respondent 2 (2004) explained that forensic investigation was to deliver testimony regarding facts and opinions in a court of law on a specific subject. Any forensic investigation consists of various strategies to gather evidence that may be presented to prove or disprove a case in a court of law.

Forensic investigation is a systematic search for the truth with the primary purpose of finding a positive solution to a crime with the help of objective and subjective clues (Adams et al., 2004:4; Lee & Harris, 2000:3). Objective clues are material proof (objects), while subjective clues are the *viva voci* evidence of witnesses (victims, complainants, eye-witnesses and culprits) who are directly or indirectly involved in the commission of the crime (Marais & Van Rooyen, 1994:13; Adams et al., 2004:5-6). Collecting evidence or facts is the fundamental characteristic of any forensic investigation (Van der Westhuizen, 1996:1).

Respondent 13 (2004), forensic investigator from ABSA, suggested that the purpose of forensic investigation is to get to the bottom of a crime situation, identify the perpetrator, bring him/her to justice and to implement preventative measures for the future. Respondent 9 (2004), investigator in the South African Police Service, added that it was also important to attempt to recover the financial losses suffered by crime victims, during a forensic investigation. Forensic investigators should not rely on presumptions but need to prove the crime by means of evidence (Lambrechts, 2002:83). Gardner (2005:76) agrees with Lambrechts.

#### **2.4 Objective of forensic investigation**

Swanson et al. (2003:28) said the objective of forensic investigation is to establish that a crime had actually been committed, to identify and apprehend the suspect(s), recover stolen property and to assist in the prosecution of the person(s) charged with the crime. Dowling (1997:1) agrees with Swanson et al. (2003:28) and added that it was a systematic planned process, consisting of the above-mentioned components,

as well as the gathering and safe keeping of evidence and evaluation. Van der Westhuizen (1996:4) and Van Heerden (1985:10) agree with Dowling's proposition.

#### **2.4.1 Systematic, planned process**

All the respondents agreed that forensic investigation could not be approached in an unplanned or disorganised manner. Fisher (2004:54) says crime scene investigation is characterised by three essential conditions for success: organisation, thoroughness and caution. A systematic plan of action, or investigative process whereby information is gathered, forms the basis of any forensic investigation (Ogle, 2004:19; Adams et al., 2004:59). Without such a systematic and planned process, very important and relevant evidence may be overlooked or ineffectively collected, with the result that incorrect deductions are made and the investigation sent in the wrong direction (Marais & Van Rooyen, 1994:18; Ogle, 2004:24; Fisher, 2004:54). A systematic plan arranges and directs the investigative procedures and can therefore assist the investigator in determining whether a crime has in fact been committed, who the perpetrator is, and in the process proving conclusively his/her guilt or innocence (Van der Westhuizen, 1996:2; Fisher, 2004:53). In this process information originates mainly from two sources: people (direct source of information) and objects (indirect source of information), with the emphasis falling on both these sources to obtain as much information as possible that could assist in the investigation (Van der Westhuizen, 1996:2).

#### **2.4.2 Identification of the crime**

The crime (e.g. fraud) must be identified/recognised, not only in terms of the judicial requirements for the furnishing of proof, but also in terms of the initial observations that are made at the crime scene (Marais & Van Rooyen, 1994:19). Evidence identified at a scene of a crime during interviews with complainants, victims and witnesses, can identify the nature of the events. Evidence collected in this way can then be considered to determine the unlawful nature of the event, identifying it as a criminal offence (Dowling, 1997:1; Horswell, 2004:7).



The forensic investigator should be able to recognise and identify all relevant information that can shed light on the crime committed before it has been gathered (Byrd, 2004:1). Identification also requires that the investigator is conscious of the possible value of each potential source of information and has an extensive knowledge of the evidential requirements of the different types of crime (Van der Westhuizen, 1996:3).

The main challenge for an investigator is to become acquainted with the environment in which the various types of crimes are committed, as that very often determines the *modus operandi* of the offences committed. He/she also needs to know and understand the law prohibiting the particular offence committed in order to prevent the wasting of time on unrelated matters (Marais, 1992:2-3). It is of the utmost importance for the forensic investigator to first determine whether an offence has in fact been committed and, if so, what offence (Dowling, 1997:2; Horswell, 2004:9). Accordingly, the correct identification of the crime situation is of fundamental importance, because mistaken identification can give rise to the investigation being conducted in the wrong direction, which will lead to valuable evidence being lost and any hypothesis that the investigator has remaining unconfirmed (Marais, 1992:2-3). Adams et al. (2004:10) said only once the forensic investigator had determined that there had been no foul play, he/she could discard the fact that no crime had been committed.

#### **2.4.3 Collection of evidence**

The gathering of evidence begins at the crime scene, because the crime scene contains visible and hidden information (Byrd, 2004:1). Great care should be taken to collect all evidence (Ogle, 2004:20; Fisher, 2004:55; Adams et al., 2004:71). Each piece of evidence should be identified, collected and preserved as a separate entity (Van Niekerk, 2000:7; Fisher, 2004:53). Evidence falls into two categories: testimonial evidence and physical evidence (Fisher, 2004:1; Ogle, 2004:1). Testimonial evidence is any witnessed account of an incident. Physical evidence refers to any material items that are present at the crime scene (Byrd, 2004:1; James & Nordby, 2003:521). The forensic investigation process revolves totally around the

collection of information, whether subjective or objective, by means of which the whole truth may be determined (Van der Westhuizen, 1996:2; Lee & Harris, 2000:13).

According to Byrd (2004:1), the reason for collecting evidence at a crime scene is so that the evidence may:

- Prove that a crime has been committed
- Establish any key elements of a crime
- Link a suspect to a crime scene
- Establish the identity of a victim or suspect
- Corroborate verbal witness testimony
- Exonerate the innocent.

All physical evidence at the scene of the crime should be collected carefully and kept in such a way that its identity and legal integrity is protected (Genge, 2002:8; Fisher, 2004:53). Maintenance of continuity and record-keeping of possession is of vital importance in the evidential process. This simply means the continuous safekeeping and identification of physical evidence (Van der Westhuizen, 1996:3; Gardner, 2005:56).

The investigator is responsible for collecting evidence after a crime has been committed (Genge, 2002:18). Despite the fact that the forensic investigator can avail him/herself of the expertise of various experts, he/she remains the central figure in the collection of evidence (Dowling, 1997:3). Should he/she be unable to detect clues, interpret them correctly, place their relative association on record, submit them to the appropriate expert and handle them in such a manner so as to maximise the examination results, a situation can arise where months of hard work is doomed to failure (Marais, 1992:7; Adams et al., 2004:1).

#### **2.4.4 Individualisation of the perpetrator**

Dowling (1997:2) claims that a primary task of the investigator is to identify who has committed the crime. Lee and Harris (2000:14) agree with Dowling. The emphasis

here falls on the perpetrator's involvement in the crime, i.e. the probability, based on facts and information collected, that a particular individual could have committed the crime and that the facts collected are sufficient to justify the arrest of the individual (Marais & Van Rooyen, 1994:20; Van der Westhuizen, 1996:7). A perpetrator's signature, sometimes referred to as his/her calling card, is left at each crime scene (James & Nordby, 2003:523; Fisher, 2004:6). Once all relevant evidence has been collected and the perpetrator positively individualised, the investigator can proceed with the arrest of the criminal (Van Niekerk, 2000:4).

It is also the responsibility of the investigator to ensure that the criminal or alleged criminal will be present at his/her trial, and to submit the evidence required to reveal his/her unlawful action to the court (Van der Westhuizen, 1996:1; Gardner, 2005:2). The investigator needs to be sure that the right person is arrested for the crime (Swanson et al., 2003:28). However, proving guilt conclusively also implies that the perpetrator will be brought to justice to account for his/her criminal action. This means that the factual and legal guilt of the accused must be determined. This requires that the gathering of information and facts should be conducted in a lawful way so that the evidence presented will indeed be admissible in a court of law as evidence (Lambrechts, 2002:83). The evidence presented should also be of such a nature that the unlawful act of the accused is demonstrated beyond any reasonable doubt (Van der Westhuizen, 1996:2).

#### **2.4.5 Arrest of the perpetrator**

The purpose of arrest is to ensure the presence of the accused at the trial (Marais & Van Rooyen, 1994:20; Van der Westhuizen, 1996:7; Criminal Procedures Act 51 of 1977, section 38; Kriegler and Kruger, 2002:90). An accused can also be summoned or by means of a written warning brought before the court (Criminal Procedures Act 51 of 1977, section 38). A primary task of the forensic investigator is to identify who has committed the crime (Lee & Harris, 2000:14). Unless he/she completes this step, the forensic investigator's overall job is largely spoiled (Dowling, 1997:2). Adams et al. (2004:59) says the forensic investigator does not begin to

search or process the scene when a suspect may still be present. The forensic investigator should first attempt to arrest the suspect.

#### **2.4.6 Recovery of stolen property**

The investigator should always attempt to recover stolen property (Dowling, 1997:4). Van der Westhuizen (1996:7) argues that the aim of recovering, for instance, stolen property in an investigation is not only the minimisation of the victim's loss, but also to utilise the recovered property as evidence against a suspect during the trial. (Marais & Van Rooyen, 1994:21). Section 300 of the Criminal Procedures Act 51 of 1977 can be utilised if there were losses with regard to theft or fraud. To recover losses the investigator should remind the prosecutor of section 300 and ask him/her to put the request to the court.

#### **2.4.7 Evaluation**

All information gathered during the investigation should be properly evaluated (Horswell, 2004:90). This is essential not only to determine whether the information is relevant and conclusive, but also whether it has potential to shed light on the crime committed (Ogle, 2004:30). For instance, it is desirable to evaluate the information furnished by eyewitnesses on the basis of information already gathered, in order to determine its reliability (Ogle, 2004:30). It should always be remembered that not all information collected during the investigation of a crime will necessarily be acceptable or be able to be presented as evidence (Van Heerden, 1986:188). Adams et al. (2004:75) agrees with Van Heerden and adds that this is why the forensic investigator should collect all evidence at the crime scene in order to prevent something that could have been important being overlooked. One can never collect too much evidence (Ogle, 2004:30).

The evidence eventually offered at the trial is in fact the end product of the process of discovering, tracing, evaluating and selecting relevant information. In the sifting process the investigator should take note of the legal requirements regarding proof and the drawing of inferences in a manner that will not jeopardise their admissibility as evidence (Van der Westhuizen, 1996:3; James & Nordby, 2003:115). This

requirement implies that evidence cannot be based on presumptions (Lambrechts, 2002:83). This puts a high premium on the knowledge and ability of the forensic investigator because he/she is responsible for gathering facts, which may serve as evidence that associates a suspect with a crime (Swanson et al., 2003:28). The presentation of evidence therefore forms the nucleus of proof and is indeed the final test of every forensic investigation (Van der Westhuizen, 1996:3).

#### **2.4.8 Prosecution**

This objective is to assist the public prosecutor in the prosecution process to present the evidence and to reconstruct the crime in court (Palm, 2000:35). In most instances the forensic investigator will be asked to testify in court (Gardner, 2005:1). The successful prosecution of criminals depends to a great extent upon the skill and efficiency of the investigator who has conducted the forensic investigation (Van der Westhuizen, 1996:7; Adams et al., 2004:49). The investigator's involvement in the prosecution process also entails the duty to ensure that everyone (witnesses) and everything (material evidence) is present at the court on the trial date (Van der Westhuizen, 1996:7). The relationship between prosecutors and forensic investigators should be one of efficient and close co-operation, with mutual respect for the distinct functions and operational independence of each profession (Bekker, Geldenhuys, Joubert, Swanepoel, Terblanche, Van der Merwe & Van Rooyen, 2003:60). In order to ensure successful prosecution and conviction it is important that the forensic investigator has gained and documented enough evidence to link the accused to the crime (Bester, 2002:29).

#### **2.5 Forensic investigator**

The word "detective" is very descriptive of the task of forensic investigation. The word "detective" is derived from the Greek word *detergere*, which can be translated as "expose" or "uncover" (Callanan, 1994:1). The detective/investigator can thus be regarded as the person responsible for the exposure or uncovering of the truth concerning a crime (Callanan, 1994:1). According to the *Concise Oxford Dictionary* (2002:745), an "investigator" seeks to expose malpractice or the miscarriage of justice.

Swanson et al. (2003:28) said a forensic investigator is someone who gathers, documents, and evaluates evidence and information and this is accomplished through the process of investigation. In response to the question “What is a forensic investigator?”, all the respondents agree that it is a person who uses various techniques to gather information and evidence to collate a record of events that will represent the truth in order to present it in a court of law. Adams et al. (2004:49) agrees with the respondents.

An investigator should be a specialist, should know the elements of the specific crime under investigation, and he/she should search for the truth (Swanson et al., 2003:28; Respondent 14, 2004). Respondent 8 (2004), investigator in the South African Police Service, defined a forensic investigator as a person who will analyse a certain scenario in order to see if a crime has been committed and through evidence and witnesses compile a *prima facie* case. A forensic investigator should be blessed with a more-than-average portion of legal know-how, thoroughness, patience, and perseverance and with good luck in abundance (SAPS Detective Academy, 1999:10; Swanson et al., 2003:28).

Forensic investigation places exceptionally high demands on forensic investigators (Horswell, 2004:57). According to Dowling (1997:1), the forensic investigator carries out the investigation function. It is clear from this that the forensic investigator is definitely the central figure in the investigative process and must have a wide and specialised knowledge in order to utilise the sources of information at his/her disposal to the full (Horswell, 2004:57; Gardner, 2005:1). The forensic investigator should conduct an investigation in a thorough, competent and unbiased manner (Fisher, 2004:15; Gardner, 2005:18).

In response to the question “What is the role of the forensic investigator?”, the respondents said the following:

- The investigator should gather information and evidence that will represent the truth (six respondents)

- The investigator should identify the crime, investigate it, identify the perpetrator and bring him/her before a court of law (14 respondents)
- The investigator should manage the investigation and collect evidence to support his/her case (three respondents)
- The investigator should investigate crime (three respondents)
- Senior investigators should train less experienced investigators (one respondent)

Horswell (2004:69) summarises the main duties of a forensic investigator as:

- Assessment of the crime scene
- Control of the crime scene
- Examination of the crime scene
- Interpretation of the evidence
- Recording of the crime scene
- Evidence collection
- Case management

Swanson et al. (2003:29) said successful forensic investigators have the following characteristics:

- Invariably have a strong degree of self-discipline
- Use legally approved methods and are highly ethical
- Have the ability to win the confidence of people with whom they interact
- Do not act out of malice or bias
- Include in their case documentation all evidence that may point to the innocence of the suspect, no matter how unsavoury his/her character
- Know that investigation is a systematic method of inquiry
- Use their own initiative and resourcefulness
- Have wide-ranging contacts across many occupations
- Make use of experts from many different fields to help the investigation onward

- Learn something from every person with whom they come into contact, knowing that the wider their understanding of other factors/things the more effective they will be
- Have the sensitivity and compassion to do their job without causing unnecessary anguish
- Avoid becoming calloused and cynical from their contact with criminals, keeping in mind that the criminal element does not represent everyone

## **2.6 Mandate to investigate**

The question is: is it only the responsibility of the SAPS to investigate crime or could private/corporate sectors assist? According to the *American Heritage Dictionary of the English Language* (2003:324), an “investigator” could be a police officer or anyone else. Respondent 7 (2004), Forensic Investigator from the Scorpions, agrees that an investigator could be anybody investigating a case.

In *S v Botha and Others* (1) 1995 (2) SACR 598(w) the defence attorney argued that according to section 215(b) of the South African Interim Constitution Act 200 of 1993 only police officials could investigate crime and that no other possessed this authority. The judge ruled that it was not the purpose of section 215(b) to prevent someone who is not a member of the SAPS from conducting an investigation and said that there are many private/corporate sectors that conduct their own investigations before results are handed to the SAPS.

According to Bennett (1988:5), private/corporate sectors often conduct investigations to assist the police, in a joint effort to combat crime. Marud (2004:28) believes that when it comes to crime, everyone should share information and assist each other in combating it. This includes the SAPS and private/corporate sectors. Respondent 23 (2004), investigator in the South African Police Service, agrees with Marud. However, according to section 205 of the South African Constitution Act 108 of 1996 the SAPS is a legal institution that may investigate criminal activities and criminal cases. Furthermore, according to the National Prosecuting Authority Act 32 of 1998, the Director of Investigations is also empowered to investigate certain designated



offences and criminal cases. Private and corporate sectors do not have the legal authority to investigate criminal cases, but they can investigate criminal activities that affect their companies in internal investigations according to company policies (Bekker et al., 2003:49).

## **2.7 Summary**

Forensic investigation is not a game of chance, or based on storybook types of coincidences. Forensic investigators cannot rely on coincidental success to come their way. It is true that luck sometimes plays a role in forensic investigations, but it is the thorough investigator who creates his own luck and arrives at the right place at the right time. Forensic investigation requires a systematic search for the truth in accordance with scientific principles (that is, the Locard principle) (Van der Westhuizen, 1996:1). It also requires a very positive attitude towards the investigation of clues at a scene of crime (Callanan, 1994:8; Horswell, 2004:7). The respondents emphasised that experience plays a very important role in forensic investigation. Lee, Palmbach and Miller (2003:69) agree with the respondents.

In the next chapter the researcher will explain how identification and individualisation can play a role in forensic investigation.

## **CHAPTER 3**

### **Identification**

#### **3.1 Introduction**

Although it is not widely publicised, the extent of crime that involves documents of some or other nature has reached enormous proportions (Brayer, 2000:1). No potential instrument of crime is so freely circulated as the document. Crimes that are committed with bombs and firearms attract media and public interest, while falsification of documents, which does not attract much media attention, often amounts to millions of rands and probably has a much bigger and more negative impact on the economy of a country (Marais, 1992:181; Brayer, 2000:1). Documents are part of everyday existence and therefore have a great potential for use in crime.

One of the most frequently utilised documents in everyday life is the cheque (Wells, 2004:122). Money lost through forged cheques alone runs into billions of rands (Schronen, 2003:1). Cheques should be understood in their wider context rather than the restricted meaning of a piece of paper on which a message appears. Every thorough investigation of a fraudulent cheque holds the promise of identification, which in turn can lead to the conclusion of an issue.

Identification in general is a crucial aspect of forensic investigation as without identification there can be no certainty whether or not a crime has been committed. Without identification a forensic investigation would be unfocused, as the investigator would be unsure as to the offence that was committed, and what, if any, needs must be pursued to solve the crime. Without identification, it would also be unclear how the perpetrator could be individualised, and thus be difficult to prove the case in a court of law.

#### **3.2 Meaning of identification**

The word “identify” comes from the Latin word *idem*, which means “the same” (Concise Oxford Dictionary, 2002:705). To identify something or somebody means to place it in a specific category, because it is “the same” as other objects/people in

that category and can be said to belong with them (Van der Westhuizen, 1996:6; Lee & Harris, 2000:12). “Identification” means to put something with other objects that have the same characteristics (*Concise Oxford Dictionary*, 2002:705; Lee et al., 2003:183).

“Characteristic” means the intentional or design features that would be common to a particular group or family of items (Doyle, 2003:2; Horswell, 2004:6; Gardner, 2005:24). For example, one could ask of a collection of documents whether certain documents in that collection could be grouped together, because they are cheques and not something else.

In response to the question “What is the meaning of identification?”, the respondents said the following:

- It is to place something in a certain category, because it belongs together (ten respondents)
- It means to identify the crime (five respondents)
- It is to identify somebody or something for what it is and it could also be done through previous experience (ten respondents)

Respondent 14 (2004) and respondent 7 (2004) stated that identification is to establish what the attributes of an object is in order to place it in a certain category. For example, by analysing a cheque, one sees lines and symbols with specific shapes, which one identifies as handwriting, because of the forms of specific symbols. But one cannot say to whom the handwriting belongs; one only identifies it as handwriting.

In addition to this, identification could also be made on the basis of previous experience (Respondent 16, 2004). An example of this is when a piece of paper is recognised as a cheque belonging to a specific bank, because of its logo or watermarks. One does not always need to be an expert to identify someone or something (Respondent 24, 2004).

During the identification process analysis is an important step, because to identify something one has to analyse it. According to the *Concise Oxford English Dictionary* (2002:47), “analysis” means to examine the elements or structure of something in detail. It is the process of separating something into its constituent elements. Respondent 16 (2004) agrees with the definition mentioned above. Schwabe (2001:44) says that to analyse something, is to understand it better. That is why analysis is a very important step in investigation (Respondent 14, 2004). According to Gilbert (1993:163), analysis means to examine one subject and compare it with another subject like it.

Respondent 14 (2004) defines analysis as follows: “It is called the law of ACE, which means to analyse, compare and evaluate something. It is a process where something is divided into its identifiable characteristics. It is important to start with the unknown item, in order not to be influenced by the characteristics of the known. When the characteristics are identified, it can be compared with the known and then the result can be evaluated”. In response to the question “What is the meaning of analysis?”, the respondents said the following:

- It is to study and/or critically investigate something (11 respondents)
- It is to examine something in order to come to a conclusion (14 respondents)

Identification forms the basis of forensic investigation (Adams et al., 2004:5-6). A series of identifications leads to the encompassing aim in respect of crime investigation, namely individualisation (Callanan, 1994:1; Lee & Harris, 2000:12). Identification for forensic investigation purposes is always merely a prelude to the true function of forensic investigation, i.e. that of individualisation (Lee & Harris, 2000:12). According to Van der Westhuizen (1996:6), the overall aim of identification and individualisation is to individualise a crime as the act of a person or persons. An object can be identical only with itself, never with anything else (Marais, 1992:19).

### **3.3 Meaning of individualisation**

The word “individualisation” comes from the Latin word *individuus*, which is based on the word *dividere*, which means to divide. “Individualisation” means to distinguish

somebody or something from others (*Concise Oxford Dictionary*, 2002:722; Horswell, 2004:6). This implies that things are unique and can therefore be distinguished from all others (Doyle, 2003:2; Fisher, 2004:5). The *American Heritage Dictionary* (2003:322) also defines “individualisation” as the characteristics that distinguish one person or thing from others. Fisher (2004:5) and Lee et al. (2003:184) said individualisation means that an item of evidence comes from a unique source.

Individualisation in forensic investigation simply means that a crime is individualised as the act of a particular person or persons (Van der Westhuizen, 1996:6; Gardner, 2005:24). This means that one does not only identify an object as such, but that one compares it with other samples of known origin with a view to determining individuality (Callanan, 1994:1; Ogle, 2004:9). Take handwriting for example: by means of comparison an expert can individualise a sample of handwriting as that of a specific person on the basis of the unique features of that specific person’s handwriting (respondent 15:2004). The practice of individualisation has arisen because of comparison (Van Heerden, 1985:12). Respondent 14 (2004), respondent 15 (2004), respondent 16 (2004) and Lee and Harris (2000:27) shared Van Heerden’s (1985) viewpoint.

Doyle (2003:2) and Lee and Harris (2000:12) explain that individualisation means, that a conclusion is reached by the expert, that all characteristics/unique features agree and that a sufficient correlation between individual characteristics is found. Ogle (2004:6) shares Doyle’s and Lee and Harris’s viewpoint. Therefore, individualisation involves comparison, usually of the disputed object found at the scene of crime with the one of known origin obtained, for example, from the suspected criminal (Van der Westhuizen, 1996:6).

In one of the cases studied as part of the case study, the perpetrators were individualised and linked to the crime by matching their signatures to those found on the fraudulent cheques.

### **3.4. The role identification plays in forensic investigation**

Adams et al. (2004:10) and Gardner (2005:351) said that the role of identification is to assist the investigator to identify the crime and how it was perpetrated. Respondent 7 (2004) agrees with Adams et al. (2004:10).

It is important, however, that identification is followed by individualisation and that these processes complement one another (respondent 14, 2004; Fisher, 2004:6). In essence this means that the forensic investigator should be able to identify all potential relevant information that can throw light on the crime situation before it is gathered or obtained, and make sure the integrity of the evidence is preserved (Ogle, 2004:12; Adams et al., 2004:10). Knowledge of his/her work is essential for any investigator (Respondent 9, 2004). Lee and Harris (2000:3) agree with Respondent 9 and add that it is essential that the forensic investigator identify the correct evidence at a crime scene.

The implication is that every forensic investigator should be aware of the possible value of each potential source of information and should also possess a wide knowledge of the evidential requirements of the various crimes (Marais & Van Rooyen, 1994:18; Lee & Harris, 2000:3). Respondent 11 (2004), investigator in the South African Police Service, explains that the role of identification was to assist the investigator to identify the perpetrator and bring him or her before the court. Fisher (2004:6) shares Respondent 11's viewpoint.

The identification process starts at the time the crime was committed and continues until the guilt of the perpetrator is either proved or disproved in court (Marais, 1992:1). This process begins the moment the investigator tries to identify the crime committed; evidence is then collected and analysed in order to identify the perpetrator and to link him/her to the crime (Gardner, 2005:14). A *prima facie* case is then put forward in a court of law, where the perpetrator is either found guilty or acquitted (Van Heerden, 1986:194).

In response to the question “What is the role of identification in forensic investigation?”, respondents responded as follows:

- To identify the crime and its elements (seven respondents)
- To identify clues that will prove the crime (four respondents)
- To identify exhibits (four respondents)
- To identify possible witnesses and victims (three respondents)
- To identify the perpetrator (seven respondents)

### **3.5 Categories of identification**

One of the purposes of visiting the crime scene is to fulfil the action of identification. According to Van Heerden (1986:195) there are different categories of identification that could be used in forensic investigation. These are:

- Situation identification
- Witness identification
- Victim identification
- Imprint identification
- Origin identification
- Action identification
- Culprit identification
- Cumulative identification

Because of the specific focus of this research (the type of crime that can be identified on a cheque), only the following categories will be discussed: situation identification, imprint identification, action identification and cumulative identification. In this particular investigation there is no need to identify the perpetrator or to speak to witnesses, because the research is about using the cheque to identify crime.

#### **3.5.1 Situation identification**

Situation identification is used to establish if a crime had been committed and, if so, what type of crime (Van Heerden, 1985:14; Lee et al., 2003:27; Adams et al., 2004:10). When a forensic investigator arrives at an alleged crime scene, it is not always obvious which type of crime has been committed or whether a crime has in

fact been committed; therefore, the forensic investigator should assume nothing (Gardner, 2005:71; Lee et al., 2003:24). Horswell (2004:8) says prior to attending the crime scene it is important to obtain the best possible assessment of the circumstances relating to the incident.

Van Heerden (1985:14) and Gardner (2005:19) believe that the investigator should keep an open mind to ensure he/she does not make a mistake by being subjective. For example, uncertainty can sometimes arise about whether a building had burned down as a result of arson or whether it had been set alight accidentally (Marais, 1992:2). In the same way one might be uncertain about whether a signature on a cheque is a fraudulent signature or whether it only appears to be fraudulent (Respondent 14, 2004).

Adams et al. (2004:12) says that the forensic investigators should know the elements of each crime that they are going to investigate. Situation identification relates to the crime situation and individualises the unlawful nature of the situation (Van der Westhuizen, 1996:6, Gardner, 2005:75).

If this identification category is applied during the analysis of a cheque, the forensic investigator will be able to identify if a crime has been committed and if so, what type of crime, for example: fraud, forgery or uttering. All these crimes will indicate that there were fraudulent changes made on a cheque and therefore highlight the element of misrepresentation.

### **3.5.2 Imprint identification**

Lee and Harris (2000:14) say that imprint identification is based on the Locard principle, which will be discussed in Chapter four. The fundamental principle of imprint identification is that the distinctive characteristics of objects are transferred to the surface with which they come into contact, for example: the signature of a person on a cheque (James & Nordby, 2003:172; Respondent 24, 2004).



These imprints should first be identified for what they are (e.g. a signature) and thereafter compared with those of a person or instrument (e.g. typewriter) (Brayer, 2000:53; Lee & Harris, 2000:20). Should there be sufficient corresponding marks, the allegation can be substantiated that the specific imprint on the scene was made by a specific person or instrument (Chisum & Turvey, 2000:4; Gardner, 2005:49).

In some cases the connection of a person to a crime by means of an imprint is sufficient evidence that he/she is responsible for the identified crime (Lee & Harris, 2000:14). In other cases, this connection is merely contributory. Whatever the case may be, the value of imprint identification should never be underestimated (James & Nordby, 2003:173), as it attempts to achieve individualisation by comparing a disputed imprint with a controlled imprint of the alleged object (Gardner, 2005:53; Respondent 25, 2004).

In one of the cases studied as part of the case study, the signature on the cheque was proved to be fraudulent just by comparing it to the original owner's signature and no expert analyses were used. It will sometimes be possible, by just looking at a cheque, to identify a crime because of the specific imprints that were made on a cheque.

### **3.5.3 Action identification**

Chisum and Turvey (2000:8) explain that action identification refers to the identification of human acts directly related to the crime, for example, handwriting, *modus operandi*, etc. Lee and Harris (2000:13) agree with Chisum and Turvey. Many involuntary habits creep into these human actions and eventually develop into personal characteristics unique to each individual (Palm, 2000:3; Lee et al., 2003:29). Consequently characteristics are developed, such as invariability, uniqueness, etc., making action identification a useful identification medium (Palm, 2000:4). In a case studied as part of the case study it is mentioned that criminals were linked to the crime under investigation because of their *modus operandi*.

### **3.5.4 Cumulative identification**

The individual value of every identification category can only become apparent if the forensic investigator utilises the relevant categories of identification properly during the investigation (Van Heerden, 1986:198; Lee & Harris, 2000:11). If the above-mentioned identification has been done, the forensic investigator can come to the conclusion that on a preponderance of probabilities it is justified to summon a particular person to court (Callanan, 1994:7).

An understanding of the different identification categories and what they can be used for suggests that identification categories should be utilised during the investigation of cheques.

### **3.6 Cheque as a document**

The word “document” comes from the Latin word *documentum*, which means a written instruction or proof (*Concise Oxford Dictionary*, 2002:421). A document can be defined as any writing, book or thing that gives information (*Concise Oxford Dictionary*, 2002:421). The Learners Guide (2002:34) adds that a document can also be any material object such as a coin or stone on which a presentation of human ideas appears, in the form of signs or symbols. Zeffertt, Paizes and Skeen (2003:685) support this definition. In *S v Tsapo* 1970 (2) SA 256 (T) 259 the court ruled that a map could be seen as a document and that a document was any writing or printing capable of being made evidence. In *S v Joffe* 1934 SWA 108 and *S v Timol* 1959 (1) PH H47 (N) the court ruled that a cheque was a document.

According to the *Concise Oxford Dictionary* (2002:242), a “cheque” is an order to a bank to pay a stated sum from the drawer’s account, written on a specially printed form. A cheque is a negotiable instrument which, when completed, is worth the value entered thereon (respondent 18, 2004). Then again, it is worth a lot more to fraudsters (respondent 1, 2004). Havenga, Havenga, Garbers, Meiring, Schulze, Van der Linde & van der Merwe (1998:178), The Afrikaanse Handelsinstituut (1999:1) and Minton (2002:1) concur that a cheque is a financial instrument of exchange or that it is a signed, written instruction that one gives to the bank to pay

money out of one's account. Respondent 3 (2004), forensic investigator from Old Mutual, agrees with the above-mentioned definition. According to respondent 2 (2004), a cheque is a means of payment and for respondent 7 (2004) it is an instruction to the bank to effect payment to someone. The Departement van Handelsreg's (1998:9) definition confirms those of respondent 2 (2004) and respondent 7 (2004). Taylor, Kritzingler & Puttick (1987:143) add that a cheque is a legally accepted means of payment. Respondent 13 (2004) and respondent 16 (2004) say that a cheque is an instrument to exchange money; it is a promise to pay and it is also a medium with which to do a financial transaction.

In response to the question "What is a cheque?", the respondents had the following to say:

- It is a negotiable instrument which, when completed, is worth the value entered thereon (two respondents)
- It is a means of payment (15 respondents)
- It is an instrument to exchange money (three respondents)
- It is a written instruction that one gives to the bank to pay money out of one's account (five respondents)

### **3.7 Summary**

The distinction between identification and individualisation should always be clearly made and understood (Chisum & Turvey, 2000:6). However, the one process usually complements the other (Van Heerden, 1986:194). It is important to understand that identification plays an important role in forensic investigation and that one does not have to be an expert to identify something. An additional benefit is derived when one can individualise something because it makes the identification much more valuable (Gardner, 2005:25; Lee & Harris, 2000:12).

In the next chapter the researcher will discuss what a crime scene is, why a cheque should be treated as a crime scene and how a cheque could be analysed to identify crime.

## **CHAPTER 4**

### **Analysing a Cheque to Identify Crime**

#### **4.1 Introduction**

The basic purpose of forensic investigation is to collect facts that can serve as evidence before a court of law, through which the participation of an accused in the commission of a crime can be proved. To achieve this, there is only one starting point, namely: the scene of crime (Horswell, 2004:3). The crime scene is the most important source of information when it comes to the solving of an offence (Van Heerden, 1986:190; Gardner, 2005:18).

In this chapter the researcher will explain what a crime scene is, why a cheque should be treated as a crime scene, the role the Locard principle plays in an investigation, and how a cheque can be analysed to identify crime. The markings on a cheque that indicate misrepresentation, which are useful to the forensic investigator, will also be discussed. For illustration purposes the researcher obtained and used a total fake cheque, which was investigated in a previous investigation, and the case was filed undetected.

#### **4.2 Locard principle**

Mogotsi (2002:27) and Fisher (2004:30) explain that according to the Locard principle there is no such thing as a clean contact between two objects. When two bodies or objects come into contact they mutually contaminate each other with minute fragments of material (evidence) (Ogle, 2004:3).

Locard believes that when one person or object comes into contact with another object or person, a cross-transfer of physical evidence occurs (Chisum & Turvey, 2000:4; Gardner, 2005:25). Locard claims that wherever the perpetrator steps, whatever he/she touches, or whatever he/she even touches unconsciously, will serve as a silent witness against him/her (Dobrowski, 2004:1). For example, if a suspect claims that he never touched a fraudulent cheque, but unique evidence like fingerprints on the cheque turns out to be those of the suspect, then the investigator

can prove that the suspect did touch the cheque and can therefore be connected with the crime.

In response to the question “Do you know what the Locard principle is?”, 18 respondents said that when a person or object comes into contact with another person or object a cross-transfer of traces occurs. Seven respondents said that they did not know. These seven respondents were not familiar with the term “Locard principle”. After it had been explained to them they admitted that this was the first time they had heard of the principle. The reason for this might be that these respondents did not receive the basic criminal investigation training, as they are corporate investigators.

The Locard principle is an important scientifically founded principle relevant to crime investigation (Callanan, 1994:7). This scientific reality is not always fully appreciated when it comes to the approach to crime scenes. This scientific fact implies that clues in some form must be left at every scene of crime, through which the true facts of the crime can be exposed (Gardner, 2005:25).

The forensic investigator’s approach to a crime scene should always be that clues are left at every crime scene, due to the fact that every contact leaves a trace (Horswell, 2004:46). These traces are often so concealed at the crime scene that they cannot be exposed to the eye but need specialised examination (Horswell, 2004:5). That they are always there, however, must be borne in mind (Adams et al., 2004:4). When evidence cannot be found, this could be because the crime scene was not protected, resulting in the contamination of evidence, or because the investigator did not collect any, or did not know what to look for (Van Heerden, 1986:1993; Horswell, 2004:5).

With the exception of omission, a person cannot commit a crime without performing some act. Irrespective of the nature of the act, be it violent or taciturn, the possibility is that the perpetrator will leave something at or remove something from the scene, which could contribute in connecting him/her with the criminal act (Dobrowski, 2004:1; Adams et al., 2004:4). Therefore, if a person touched a cheque by, for

example, signing his/her name, that person transferred palm and fingerprints onto the cheque. The investigator should be aware of this and search for it. If the Locard principle is applied during the investigation of a fraudulent cheque, then a cheque should be acknowledged as a crime scene.

### **4.3 Evidence**

According to the *Concise Oxford Dictionary* (2002:494), “evidence” means that there is a thing or object which could be helpful in forming a conclusion or judgment, or information used to establish facts in a legal investigation or admissible as testimony in a court of law. Van Heerden (1986:216) suggests that evidence could be a liquid, an object, a print or an instrument that can reveal the truth about the crime committed. Marais (1992:6) and Van der Westuizen (1996:5) agree with Van Heerden’s viewpoint and add that evidence is any type of material left at, or taken from a crime scene, or the result of contact between two surfaces. It can usually be measured, photographed, analysed and presented in court as a physical object (Adams et al., 2004:77).

Evidence can be defined as anything that lends itself logically to prove or disprove a fact at issue in a judicial case or controversy. Simply put, anything that might have the slightest bearing on the outcome of a case can be broadly classified as evidence, providing it has a logical tendency to relate to the outcome of the case. In a criminal case, if the matter has a bearing on the guilt or innocence of the defendant, it is evidence. The word “anything” should be emphasised because, in its broadest sense, “anything” can be evidence (Swanson et al., 2003:769). With the above in mind, a cheque can be considered as evidence because it contains evidence that could establish a link between the perpetrator and the crime.

Fisher (2004:1) and Gardner (2005:348) say evidence could be divided into two types, namely testimonial evidence and physical evidence. Testimonial evidence refers to statements made by people; physical evidence is any type of evidence with an objective existence, that is, anything with size, shape and dimension. Ogle (2004:1) agrees with Fisher and adds that evidence could also be either direct or

circumstantial evidence. Direct evidence refers to evidence that conclusively establishes the fact and circumstantial evidence is evidence from which a fair assumption can be made as to the validity of the fact (Ogle, 2004:1).

According to Horswell (2004:7) forensic evidence can:

- Prove a crime has been committed
- Establish key elements of a crime
- Be the decisive element in determining guilt or innocence
- Provide the lead to the perpetrator of a crime
- Provide a link in a chain of circumstantial evidence
- Corroborate other evidence
- Test the statements of complainants, witnesses or suspects

To present evidence in court the forensic investigator should show that there was a constant chain of custody from the time the evidence was first discovered until it is presented in court (Adams et al., 2004:77; Horswell, 2004:23). Gardner (2005:83) says the forensic investigator should preclude any contamination to the collected evidence in order to retain its authenticity.

Reconstruction of the crime scene is one of the major purposes of the collection of evidence (Ogle, 2004:2). Crime scene reconstruction is the process of determining the event and actions that occurred during the commission of a crime, through analysis of the crime scene and the examination of evidence (Lee & Harris, 2000:25). Gardner (2005:348) says the reconstruction of the crime scene is to correlate all of the pieces of evidence with each other in an attempt to objectively describe the nature and order of the events that entail the incident being investigated. For James and Nordby (2003:538) the reconstruction of the crime scene provides the forensic investigator with an understanding of the way in which the victim was approached and controlled, as well as the likely interactions between the offender and the victim.

The role of the forensic investigator, when he/she visits a crime scene, is to determine what crime, if any, took place, and to collect as much evidence as possible to establish the crime.

#### **4.4 Possible crimes committed by means of a cheque**

The following crimes could be committed by means of a cheque:

##### **4.4.1 Fraud**

“Fraud” is a criminal deception intended to result in financial or personal gain (*Concise Oxford dictionary*, 2002:562; Wells, 2004:2). It is an intentional distortion of the facts to mislead a victim into believing that something is true, when in fact it is untrue (Lambrechts, 1996:33). Snyman (2002:520) says that through the analysis of all definitions of fraud, the following elements may be clearly identified: misrepresentation, prejudice, unlawfulness and intention. A similar definition of fraud was given in *Myeza* 1985 (4) SA 30 (T) 31-32; *Ex parte Lebowa Development Corporation Ltd* 1989 (3) SA 71(T) 101; *Van der Berg* 1991 (1) SACR 104 (T) 106 and *Campbell* 1991 1 SACR 503 (Nm) 505b-c. Burchell and Milton (1997:579) also agree with the definition.

According to Cox and Wade (1998:85), fraud involves the obtaining of the property of another by misrepresenting a material fact. Respondent 1 (2004), Forensic investigator from Old Mutual, says fraud is a misrepresentation by one person to another, irrespective of whether or not there is material loss. For respondent 6 (2004), forensic investigator from Old Mutual, the nature of the loss does not have to be financial; it could be in any form. Respondent 6 concluded that fraud could be committed if a person misrepresented him/herself to be someone that he/she is not.

When a cheque is used to commit fraud, a misrepresentation is made. Misrepresentation is made if an actual cheque was copied, created or duplicated/cloned, as well as if chemical alteration was done. This consists of removing some or all of the information and manipulating it to the benefit of the criminal (National Cheque Fraud Centre’s Guidelines, 2003:1). Respondent 9 (2004)



added to this by saying “cheque fraud” could also be where a person misrepresents the fact that there is enough money in the bank to honour the cheque.

According to the National Cheque Fraud Centre’s Guidelines (2003:1), “cheque fraud” is one of the largest challenges facing businesses and financial institutions. Respondent 11 (2004) and respondent 9 (2004) say there could be a decrease in the use of genuine cheques but definitely not in the use of fraudulent cheques. According to Schronen (2003:1), cheque fraud is costing the banking sector roughly R500 million a year.

With the advancements in computer technology it is increasingly easy for criminals, either independently or in organised gangs, to manipulate cheques in such a way that innocent people are deceived (National Cheque Fraud Centre’s Guidelines, 2003:1). “Cheque fraud” is one of the most common ways to commit fraud (Joubert, 2001:156).

There could also be attempted fraud. Where the misrepresentation was not completed and it did not reach the potential representee, but it can be proved that the misrepresentation is potentially prejudice, the presenter could be found guilty of attempted fraud (Learners Guide, 2002:24).

#### **4.4.2 Forgery**

Forgery comes from the Latin word “fabricare” which means fabricate (*Concise Oxford dictionary*, 2002:556). The *Concise Oxford dictionary* defines “forgery” as to produce a fraudulent copy or imitation of a document (i.e. cheque) (*Concise Oxford dictionary*, 2002:556). Forgery is committed when a person unlawfully draws up a false cheque or amends an existing cheque with the intention to defraud another person to the actual or potential prejudice of the person to be defrauded (Joubert, 2001:157). Burchell and Milton (1997:579), agree with Joubert by stating that forgery consists of unlawfully making a false cheque with intent to defraud - which causes actual or potential prejudice to another.

According to Snyman (2002:529), forgery is merely a species of fraud. In forgery the misrepresentation takes place by way of the falsification of a document. Apart from this all the requirements for the crime fraud must be present. There is, however, one small difference between fraud and forgery: fraud is committed when the misrepresentation is completed (in other words the cheque is presented to somebody as a valid cheque); forgery is committed the moment the cheque is falsified. For example, if a suspect is caught with self-manufactured cheques, he/she could be charged with forgery (Snyman, 2002:529). In the *State vs Ponono* (2000) JOL 7311 (E) it was decided that a person can not be charged with fraud, forgery and uttering at the same time as this leads to duplication of charges.

In *Banur Investments (Pty) LTD* 1970 (3) SA 767 (AD) and *Muller* 1953 (2) SA 146 (T), it was stated that forgery is the false making, or altering, of a document (cheque) and in *Hymans* 1927 AD 35 it was stated that forgery is a crime on its own. According to Wells (2004:128), forgery is the falsely making or altering, with the intent to defraud, a negotiable and legally enforceable instrument such as a cheque. The Training Design and Research Unit (2000:59) says that a person is guilty of forgery if he/she makes a false cheque, with the intention that he/she or another shall use it to induce somebody to accept it as genuine, and by reason of so accepting it to do or not to do some act to his/her own or any other person's prejudice. Forgery of cheques normally occurs after the cheque has been legitimately used. Fraudsters then forge the cheque by either adding or removing information (Abagnale, 2003:4). Various chemicals and sharp instruments are used to remove information (Palm, 2000:5). In *S v De Beer* 1940 TPD 268, the court decided that forgery could be achieved by alteration, erasure and/or addition of the particulars of the cheque.

Alteration primarily refers to the use of chemicals and solvents such as acetone, bleach, etc. to remove or modify handwriting and information on the cheque (Respondent, 14:2004). When performed on specific locations on the cheque such as the payee's name or amount, it is called spot alteration; when an attempt to erase information from the entire cheque is made, it is called cheque washing. According to Abagnale (2003:2), forgery is to make a copy of a cheque in order to deceive. In

one of the cases read during the case study it was explained that syndicates recreate cheques by using the same account number and cheque number but the drawer, payee and branch details are changed.

Counterfeiting can also be seen as a form of forgery. Fraudsters make use of the latest technology to counterfeit a complete cheque, by using scanners, photocopiers, printers, etc. (Respondent, 10:2004). Counterfeit means the exact imitation (cloning) of a cheque with the intention to defraud (*Concise Oxford Dictionary*, 2002:326). Respondent 3 (2004) added to this by saying that counterfeit meant that the cheque looked genuine but was not. This means that the fraudsters can reproduce cheques that bear remarkable resemblance to the originals, with only slight differences with regard to paper and printing quality (Abagnale, 2003:2). However, to spot a counterfeit cheque by just looking at it is almost impossible. The only way to identify a counterfeit cheque by just looking at it is if the forensic investigator has two or more of the same counterfeited cheques or the genuine cheque. For example, each chequebook contains up to fifty cheques and each cheque in the chequebook has its own number. If two cheques are found with the same number, it means that one of the cheques was cloned.

#### **4.4.3 Uttering**

Uttering consists in unlawfully and intentionally passing off a false document to the actual or potential prejudice of another (Snyman, 2002:532). In most cases the person who utters the cheque is the one who forged it, and he/she could be charged with two offences, namely forgery and uttering. In *S v Hymans* 1927 AD 35 the accused wrote another person's signature to a cheque and presented the cheque at the bank for payment. He was convicted of forgery and uttering. If the person who utters the cheque is not the person who forged it, he/she could be charged with uttering only.

Snyman (2002:532) says that uttering, like forgery, is merely a species of fraud and the element of prejudice and intention to defraud are similar to the corresponding elements in the crime of fraud. The requirements of a false cheque are the same as

in the crime of forgery, but the person who utters the document must present it as genuine. The Training Design and Research Unit (2000:64) agrees with Snyman.

#### **4.5 Misrepresentation**

According to Joubert (2001:153), the essence of all the above-mentioned crimes is that the perpetrator must make a misrepresentation to the prejudiced party. Burchell and Milton (1997:579) also agree with Joubert. All things are subject to change - even the most secure documents. In the case of cheques, most crimes are perpetrated using valid cheques that have been intercepted, and then altering the payee and amount or both (Cirrus, 2004:1).

One of the elements of all crimes is an act or action. This consists of voluntary human conduct, which can manifest itself in either the doing of something (commission), or the failure to do something, which the law requires to be done (omission). The first thing that the forensic investigator has to determine, is whether the suspect did in fact act. With regard to fraud, uttering and forgery, the act consists of a misrepresentation (Hawkins, 1995:4).

A misrepresentation consists of a false message, which is conveyed by one person to another. The basic ingredient of a misrepresentation is that it is a lie, or “a perversion or distortion of the truth” (Snyman, 2002:521). It is also a lie about an existing fact, which is told for the purpose of inducing the person to whom it is told to react (Hawkins, 1995:4).

It is evident that misrepresentation is a key element of fraud, uttering and forgery. This is the only element that can be detected on a cheque in order to determine if one of the said crimes were committed. According to Joubert (2001:153) and Snyman (2002:521), misrepresentation could be made in the following ways, namely:

- Orally: for example, where a person orally admits that it is his signature on the cheque, and it is not.
- In writing: for example, where a person signs his name as the owner of the cheque and he is not the owner.

- By means of conduct: for example, where a person presents a cheque as a genuine cheque and it is not.
- By remaining silent: for example, where a person remains silent, but shows his/her agreement by nodding the head.

#### **4.6 Crime scene**

Horswell (2004:3) says: "Any place could become a crime scene and it is usually a place where a crime or an incident that may end in legal proceedings, has occurred". It is a place where direct or indirect evidence of a crime or of an allegedly committed crime can be found (James & Nordby, 2003:566). It is not just a place where one can get information from witnesses and victims, but also where visible and latent evidence may be found to solve the crime committed (Adams et al., 2004:3). Further to this, the crime scene can also be seen as a field laboratory where evidence can be found, and then analysed in a laboratory in order to obtain more information on the crime and for individualisation purposes (Van Heerden, 1986:217). Van der Westhuizen (1996:20) describes the crime scene as the site where there is direct and indirect evidence of the committed or alleged unlawful act. It is, therefore, evident that the crime scene is the most important source of information in solving a crime, because this is where one's investigation will start (respondent 21, 2004; Gardner, 2005:18). The crime scene is the foundation of a criminal investigation (Gardner, 2005:350; Lee et al., 2003:1).

The crime scene is a temporary source of information and should be utilised and studied to the fullest as soon as possible (Van der Westhuizen, 1996:13; Fisher, 2004:28). Once a piece of evidence is removed or contaminated it changes the crime scene forever (Gardner, 2005:77). The reason that the crime scene is described as being a temporary source of information is due to the many factors that could play a role in destroying a crime scene; for example, natural elements such as water, dampness, fire, wind, and people who through incorrect handling contaminate the evidence (Horswell, 2004:209). Therefore, it is of the utmost importance that the crime scene should be secured, protected and handled with great care (respondent 18, 2004).

Bester and Rambujan (2002a: 21) argue that every crime scene is unique and should be handled accordingly. Hence no hard or fast rules can be laid down for procedure at a scene of crime (Lambrechts & Theart, 1996:2; Gardner, 2005:14). However, before an investigator begins to examine a crime scene, he/she should gather as much information as possible about the scene and the alleged crime committed. If this is not done, the investigator may overlook valuable clues (Technikon SA, 1992:5; Gardner, 2005:76). The forensic investigator should protect the crime scene until he/she is convinced that all relevant evidence has been collected (Marais, 1992:10). The reason for protecting the crime scene is to prevent the destruction of valuable and/or fragile evidence such as fingerprints, handwriting, signatures, etc. (Schiro, 2003:1).

As stated by Lee et al. (2003:27) it is very important that the forensic investigator should first ascertain whether a crime was in fact committed, and, if it was, what type of crime. The forensic investigator should be careful not to draw his/her own conclusions concerning the crime situation at first glance, and thus look only for evidence and physical clues which support his/her theory (Van Heerden, 1985:14; Fisher, 2004:49). Sherlock Holmes once said: "It is a capital mistake to theorise before one has the facts. Inevitably one begins to twist the facts to fit the theory, instead of making the theory fit the facts" (Trimm, 2003:1).

What the forensic investigator should understand is that crime scenes can be divided into two types: the primary crime scene and the secondary crime scene (Baldwin, 2004:2; Gardner, 2005:67-68; James & Nordby, 2003:115). The primary crime scene is where the initial crime was committed (Lee et al., 2003:2). The secondary crime scene could be seen as all avenues leading to, from, and linked to the primary crime scene (Baldwin, 2004:2). An example of a primary crime scene might be where a robber robbed a person of his/her money. If the robber then ran away and threw the purse in the bushes, that would be the secondary crime scene (O'Neill, 2004:1). With this in mind, the question can be asked: How is this applicable to a cheque?

#### **4.6.1 Primary crime scene**

The primary crime scene will differ from crime to crime. According to Horswell (2004:3), a primary crime scene is an area or place where the incident occurred or where the majority or a high concentration of physical evidence proving the majority of elements of the crime will be found. Gardner (2005:68) agrees with Horswell.

As previously mentioned, the only element of the crimes fraud, forgery and uttering that can be detected on a fraudulent cheque is misrepresentation. When misrepresentation is detected on a cheque it means that a crime has been completed, although the cheque was not presented. Even if the cheque has not yet been presented, the crimes of forgery and fraud have been completed (Snyman, 2002:529). Therefore, if the first indication that a crime has been committed is found on the cheque itself, the cheque should be seen as the primary crime scene because, as Baldwin (2004:2) and Horswell (2004:3) explain, the primary crime scene is the place or thing where the crime was committed. However, if the fraudulent cheque was presented at a bank, the bank will be the primary crime scene, because more elements of the crime occurred during the presentation of the cheque at the bank, as explained by Horswell (2004:3). The fraudulent cheque is then the secondary crime scene.

Mahoney (2003:1) claims that multiple crime scenes (primary and secondary crime scenes) are possible because of the Locard principle, which refers to the exchange of traces between two objects that have come into contact with each other. Van der Westhuizen (1996:20) agrees and adds that the primary crime scene will have clues which can lead to the clarification and detection of a crime, but that there could be other places or localities (secondary crime scenes) where physical clues relating to the crime can be found.

#### **4.6.2 Secondary crime scene**

Horswell (2004:3) says the secondary crime scene could be seen as a place or area where physical evidence relating to the incident may be found. It is explained by O'Neill (2004:1) that the secondary crime scene could be seen as an avenue that

leads back to the primary crime scene. In practice a secondary crime scene can be the place or area where the perpetrator practiced the signature and handwriting of the account holder before forging the cheque; it could also be the place or area where the perpetrator, after presenting the cheque, destroyed all information gathered on the accountholder, for example a dustbin or open space.

If the forensic investigator found the fraudulent cheque and he/she was able to link it to the bank where the fraudulent cheque was presented, this could be seen as an avenue linking the secondary crime scene (fraudulent cheque) to the primary crime scene (the bank) (Dobrowski, 2004:1). According to the *National Training Manual for Law Enforcement* (2004:12), the secondary crime scene is also important, because it may have some vital clues that could assist in solving the case (Gardner, 2005:68; Horswell, 2004:3).

#### **4.7 Cheque as a crime scene**

For many people a crime scene is a blood-splattered room, but in reality a crime scene might be a room, the keypad of a telephone booth, a computer or even a cheque (Genge, 2002:1; Middleton, 2002:82). When a person/object makes contact with another person or object there will always be a transfer of traces (Dobrowski, 2004:1; Chisum & Turvey, 2000:4; Gardner, 2005:25). The same rule applies when a crime is committed with a cheque (Bester & Rambujan, 2002b: 20).

In response to the question “Could a cheque be a crime scene?” seven respondents replied “no”, and 15 respondents “yes”. It is believed that the seven respondents who replied in the negative responded in this way because they do not understand the Locard principle or the meaning of a secondary crime scene. These respondents did not take into consideration that the perpetrator transfers traces to the cheque (handwriting, ink, fingerprints, etc.), or that traces of the cheque are transferred to the perpetrator (wet ink transferring to his/her hands, etc.).

Respondent 3 (2004) says “A cheque could be a crime scene if it was used to commit an offence. Evidence will be found on the cheque due to the Locard



principle. In the case of a fraudulent cheque, fraud is perpetrated by supplying information on the cheque that convinces the recipient to accept it as *bona fide*. Evidence of crime on a cheque does not necessarily require the forensic investigator to prove the location of where the crime was perpetrated.” The perpetrator thus creates a misrepresentation on the cheque, and this crime can be committed at different places and times. Each time this is done the intent to commit an offence occurs; hence a cheque could be a crime scene (respondent 2, 2004). Furthermore, notice should be taken of fingerprints, signatures, handwriting, etc. These are all examples of evidence that a cross-transfer took place (Locard principle) (respondent 1, 2004; Adams et al., 2004:4).

On the other hand, respondent 18 (2004), investigator from the South African Police Services, disagrees that a cheque could be a crime scene, arguing that the crime scene would rather be the place where the cheque was presented, and a cheque would rather be an exhibit of a crime committed (respondent 20, 2004). According to respondent 22 (2004), investigator from the South African Police Services, it is difficult to identify a cheque as a crime scene. People would rather identify a crime scene as a place where, for example, a murder was committed. For there to be a crime scene, there must be a building, blood, etc.

If one look at these arguments, one has to admit that both respondents are not wrong in their viewpoint and that a cheque can also be an exhibit. It is clear that these respondents do not distinguish between a primary and a secondary crime scene. For the purpose of finding evidence they have to open their imagination and apply the Locard principle to the cheque. It can also be argued that these respondents do not understand or have knowledge of the Locard principle. If one has a scenario where a fraudulent cheque is presented at the bank, and the teller accepting the cheque recognises the cheque as a fraudulent cheque, it is very clear that the bank where the cheque was presented is the primary crime scene. However, if the fraudulent cheque was not presented yet, but found by the forensic investigator during an investigation, the fraudulent cheque becomes the primary

crime scene, because the cheque is proof that a crime has already been committed. All the elements of a crime are present. See discussion 4.6.1 and 4.6.2.

As stated above, evidence obtained from a cheque under investigation will indicate whether a crime has been committed or not, and link a person to or exclude a person from the crime which has been committed (Learners Guide, 2002:7; Horswell, 2004:7). If a cheque is fraudulent, it means that a misrepresentation has been made (Joubert, 2001:153). Due to the misrepresentation there will be evidence that should be collected from the cheque to prove that a crime has been committed (respondent 19, 2004; Mogotsi, 2002:27; Fisher, 2004:30). Therefore, on the basis of the Locard principle, a fraudulent cheque should be regarded as a crime scene, and it is of utmost importance that it should be protected in the same manner as any other crime scene.

In conclusion, if one takes a cheque on which a misrepresentation has been made, and compare the traces found on that cheque to the aspects that one finds at a crime scene as described in 4.6, it is clear that a cheque may contain all the direct or indirect evidence that can be found at any traditional crime scene (murder, rape, robbery, etc.) If one compares a cheque with the definitions of a crime scene it answers to the requirement “a place where direct or indirect evidence of a crime can be found” (James & Nordby, 2003:566), “a place where one can get information from witnesses and victims, but also where visible and latent evidence may be found” (Adams et al., 2004:3), and “a field laboratory where evidence can be found and analysed in a laboratory in order to obtain information” (Van Heerden, 1986:217).

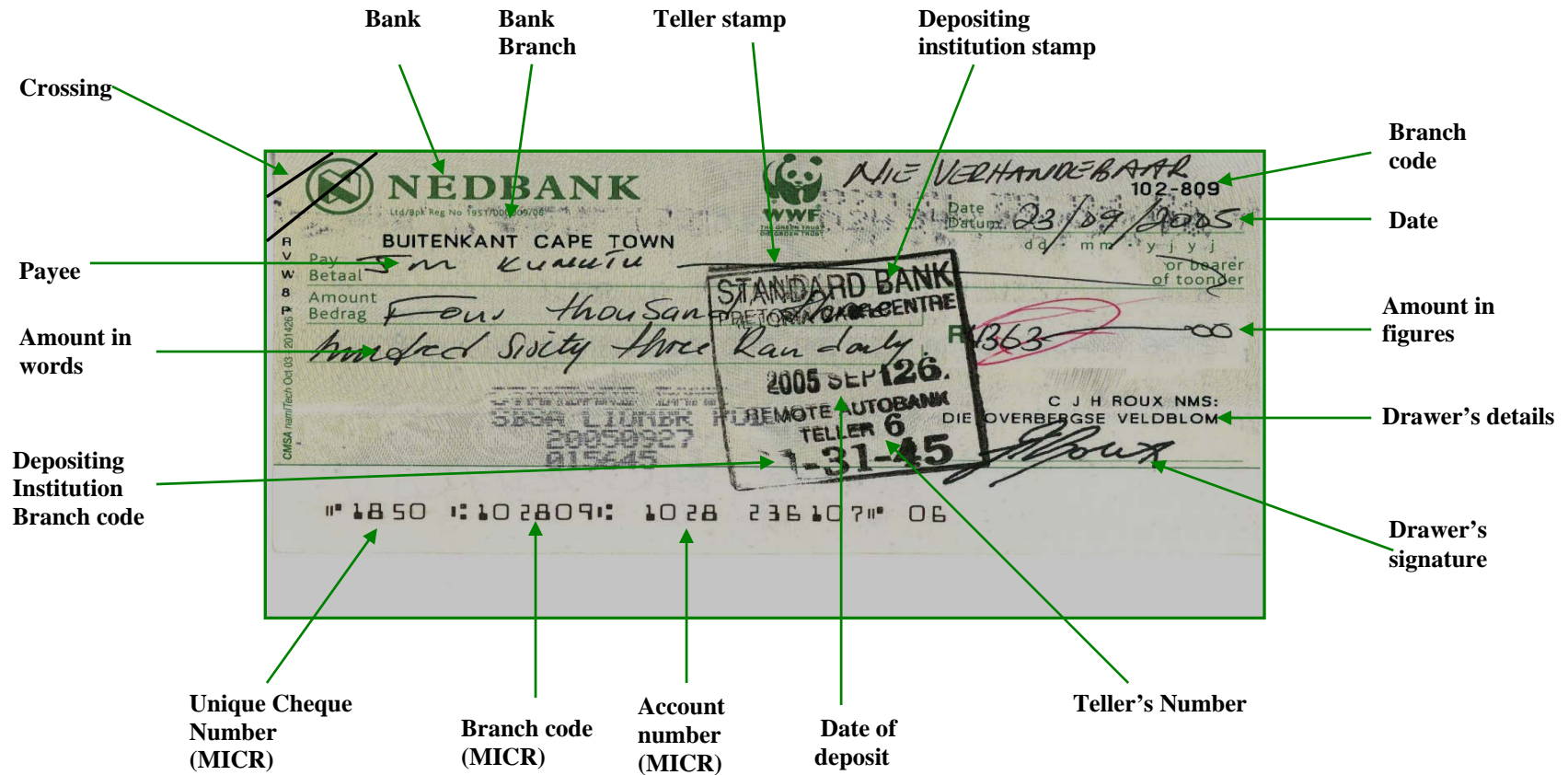
#### **4.8 Understanding a cheque**

The forensic investigator needs to understand a cheque in order to conduct a thorough investigation. According to the National Cheque Fraud Centre’s Guidelines (2003:2-3), banks print their own cheques according to their personal design, and some companies also design their own cheques.

The National Cheque Fraud Centre's Guidelines (2003:2) identify different markings on a cheque and, by analysing a cheque presented to a bank, as illustrated in Figure 1, a cheque can be explained as follows:

- Branch code – Each branch has its own branch code, which differs from bank to bank and identifies the specific branch. This code also identifies the branch where the account is held.
- Date – This is the date on the cheque, which stipulates when the cheque was issued.
- Amount in figures – This is another opportunity for the drawer to state the amount in figures that must be paid to the payee.
- Drawer's signature – A cheque is not valid if the account holder has not signed it. Signing the cheque mandates the bank to honour the cheque.
- Drawer's details – This is the holder of the account.
- Co-signatures – In case of a joint account, the co-holder of the account must also sign the mandate to the bank to pay the money.
- Account number – Each account has its own number, which identifies the account.
- Individual cheque number – Each cheque has its own unique number. This unique number refers to a specific chequebook and therefore the bank can establish from which cheque book the cheque was issued.
- Depositing institution's branch code – If a cheque is offered to a bank for payment, the teller at that bank puts the branch stamp on the cheque, stipulating that it was received for payment.
- Date of deposit – The stamp also stipulates the date on which the deposit was made.
- Teller stamp – The teller's stamp identifies the bank, the branch, the branch code, the date of deposit, the depositing institution branch code and the teller's number.
- Depositing institution's stamp – The agency where the cheque is presented puts its stamp on the cheque as proof of receiving the cheque.
- Payee – This section indicates to which person the bank must pay out the money. It can be to a specific person or in cash.

Figure 1 -  
Understanding a Cheque



#### **4.9 Red flags that could identify crime**

The investigator who comes across a cheque, which, as a result of certain circumstances, appears to be unauthentic or falsified, should first undertake a preliminary investigation to confirm his/her suspicions (Lee et al., 2003:27). Respondent 14 (2004) said that when a knowledgeable forensic investigator studies a cheque certain markings would immediately raise suspicions or act as “red flags” (warnings that a cheque could be fraudulent).

Sometimes the most important clues are not found in the actual writing, but in indentation marks on the cheque (respondent 15, 2004; Lee & Harris, 2000:111). It is also important for the forensic investigator to know that perpetrators leave indications of their natural handwriting/signatures on the cheque (Palm, 2000:3; Gardner, 2005:53). It is possible for the forensic investigator to spot red flags by just looking at the cheque (Zaret, 2003:3). The forensic investigator should also realise the importance of the questioned document examiner in the analysing of the cheque in the search for latent evidence. The questioned document examiner could examine the cheque in laboratory conditions and testify as an expert witness on that in court (Brayer, 2000:2; Adams et al., 2004:101).

If the forensic investigator understands these different red flags on the cheque, it will be easy to identify clues that could indicate that a crime has been committed without consulting an expert (respondent 7, 2004). In response to the question: “Which red flags on a cheque can indicate to the forensic investigator that a crime has been committed?”, two respondents said that it was not possible to identify any red flags because the perpetrators are masters in forging cheques and that a forensic expert in questioned documents needs to be involved. The remainder of the group said that it was possible to identify red flags on a cheque without the involvement of an expert and came up with a wide range of red flags that will be discussed below. Marais (1992:187-188) agrees with the remainder of the group.

Red flag indicators are illustrated in figure 2 and will now be discussed.

#### **4.9.1 Presence of obvious alterations and crowding**

Alterations are usually made to a cheque in order to deceive (Wells, 2004:149). A person could therefore be charged with forgery, uttering or fraud (Wells, 2004:128). Marais (1992:184) suggests that a forensic investigator could sometimes, depending on how professionally the alterations were done, determine the following:

- Additions
- Omissions
- Changes to the content or meaning of words
- Addition or erasure of words

Olivier (2004:11) explains that alterations are made by overwriting or by the patching of existing writing. Wells (2004:149) agrees with Olivier. The most common form of alteration is the change of numerals, such as a “1” to a “7” (Olivier, 2004:11). The forensic investigator should also look out for crowding; for example, an extra “0” will be added to increase the amount (National Cheque Fraud Centre’s Guidelines, 2003:2-3).

The respondents had the following to say about the presence of overwriting or crowding:

- The type of font used to print the customer’s name looks visibly different from the font used to print the address. Patching or overwriting, in particular, is rather carefully performed (12 respondents).
- Additions to the cheque (e.g. phone numbers) have been written by hand (13 respondents).

#### **4.9.2 Presence of obvious erasures**

A person can be charged with forgery when he/she erases something from a legitimate cheque (Wells, 2004:128). Erasures are made to a cheque in order to deceive (Marais, 1992:184). Erasure is the destruction or partial destruction by means of mechanical methods or chemical agents of the handwriting, typewriting or printing or by another medium as a result of which the message on the cheque is disguised or distorted (Palm, 2000:5; Lee & Harris, 2000:100).

Olivier (2004:11) adds that erasure often accompanies alteration, but could also be used alone in many instances. Fifteen of the 25 respondents felt that stains or discolorations on the cheque could possibly be caused by erasure. By scanning through a group of returned cheques, a counterfeit cheque may stand out as having a slightly different colour than the other cheques in the batch (National Cheque Fraud Centre's Guidelines, 2003:2-3).

#### **4.9.3 Noticeable differences in handwriting**

Handwriting is formed by a series of subconscious patterns, which occurs out of habit and is part of an individual as much as any other personal habit (Palm, 2000:3; Fisher, 2004:116; Ogle, 2004:191). Sometimes it is possible for the forensic investigator to see that a suspect's handwriting used in a misrepresentation differs from the cheque holder's real handwriting (Brayer, 2000:9). However, as in the case of signatures, the forensic investigator is not an expert in handwriting and will not be able to testify as one in court (Bester & Rambujan, 2002c: 36).

Sixteen of the 25 respondents are of the opinion that a forensic investigator should check to see whether different handwritings appear on the cheque. Sometimes there is a noticeable difference in the formation of letters, when one compares the genuine handwriting with the forger's handwriting. This is as a result of poor execution by the forger. If a person is caught for falsifying handwriting in order to deceive, he/she could be charged with fraud.

#### **4.9.4 Noticeable differences in a signature**

Similar to handwriting, a signature is also formed by a series of subconscious patterns, which occurs out of habit and is part of an individual as much as any other personal habit (Learners Guide, 2002:2). Signatures, however, contain certain elements not normally found in handwriting (Palm, 2000:4). This is because a genuine signature is usually written faster than your regular handwriting, and as a result it contains fewer details than written text (Brayer, 2000:11).

Sometime it is possible for the forensic investigator to see if a person's alleged signature differs from a person's real signature. But, in order to do that, a sample of the real signature has to be available. However, the forensic investigator is not an expert in signatures and will not be able to testify as one in court. In *S v Ndhlovu and Others* 2001(1) SACR 85 (WLD) the court ruled that it could only accept the opinion of a handwriting expert, which linked the suspect to the crime.

According to 19 of the 25 respondents, one of the most important red flags is when the cheque lacks an authorised signature. If a person is caught for falsifying a signature in order to deceive, he/she could be charged with fraud.

#### **4.9.5 Use of different inks**

Ink contains many characteristics that could, under certain circumstances, indicate to the expert that the writing instrument has been changed (Gardner, 2005:53). A cheque may have been completed with different types of ink. The difference in ink can be determined by its chemical composition (Lee & Harris, 2000:112). Different inks of the same type can be distinguished as a result of a difference in colour, serial and fluidity (Marais, 1992:185).

The National Cheque Fraud Centre's Guidelines (2003:2-3), Olivier (2004:11) and 12 of the 25 respondents concurred that the forensic investigator should notice if different colours ink have been used on the cheque, for example: blue and black ink. The different colour inks on a cheque (document) could indicate that fraud or forgery has taken place. The remainder of the group did not indicate that ink could be a red flag, most probably because they had not had experience in this regard.

#### **4.10 Other red flag indicators**

Additional to the above-mentioned red flags, the National Cheque Fraud Centre's Guidelines (2003:2-3) add the following red flags on which the forensic investigator could concentrate:

- Many companies are now using in-house laser printers with Magnetic Ink Character Recognitions (MICR) capabilities to generate their own cheques from



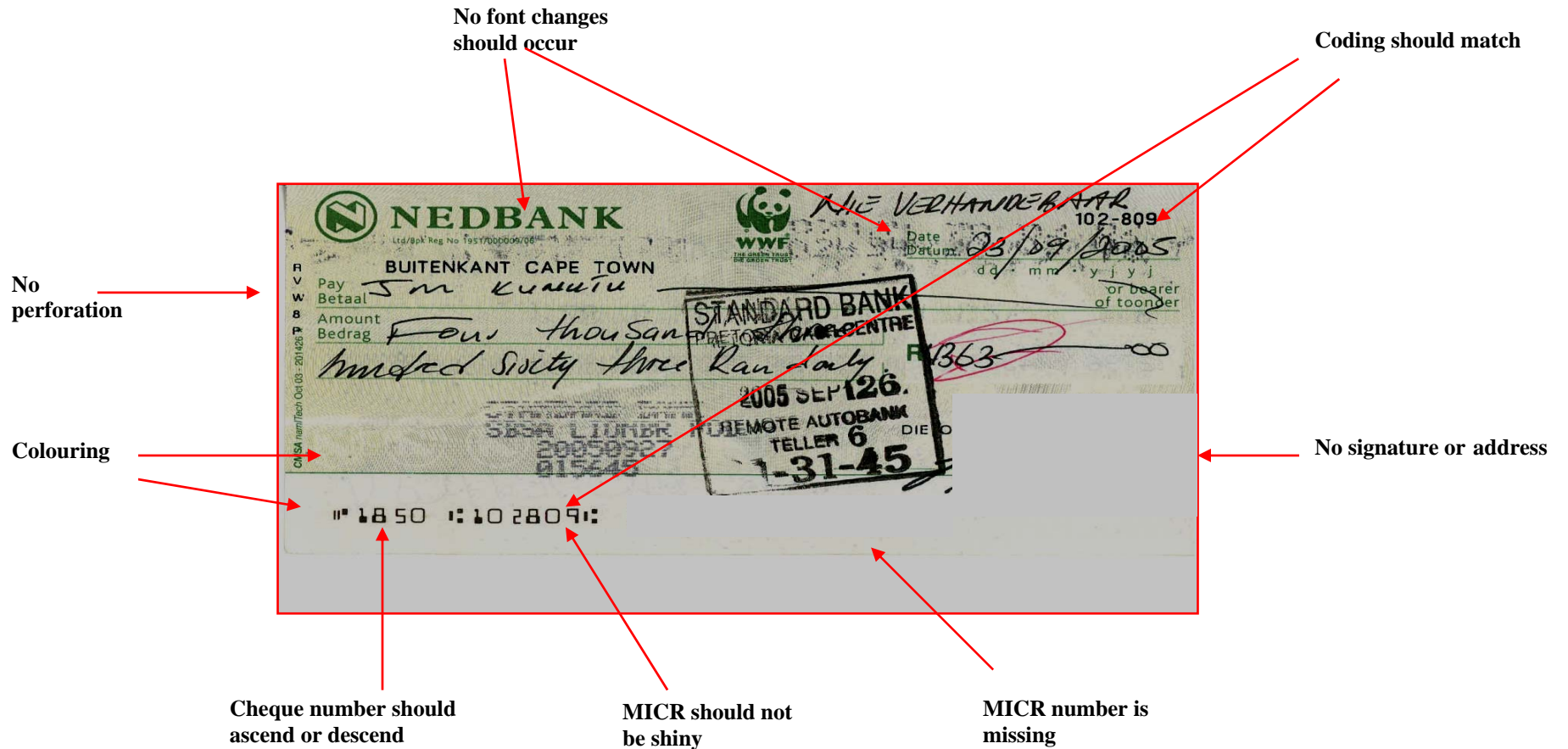
blank stock. These cheques may have a micro-perforated edge that is difficult to detect.

- Most, but not all, forgers lack the ability to encode with magnetic ink the bank and customer account information on the bottom of a cheque. They will often substitute regular toner or ink for magnetic ink, which is dull and non-reflective. Real magnetic ink applied by laser printers is the exception and may have a shine or gloss.
- If a counterfeit MICR line is printed or altered with non-magnetic ink, the bank sorting equipment will be unable to read the MICR line, thus causing a reject item. Unfortunately, the bank will normally apply a new magnetic strip and process the cheque. This works to the forgers' advantage because it takes additional time to process the fraudulent cheque, reducing the time the bank has to return the item. Banks cannot treat every non-MICR cheque as a fraudulent item because millions of legitimate cheques are rejected each day because of unreadable MICR lines.
- The number printed along the bottom of the cheque is shiny. Real magnetic ink is dull and non-glossy in appearance.
- The MICR encoding at the bottom of the cheque does not match the cheque number.
- The MICR numbers are missing.
- The MICR coding does not match the bank district and the routing symbol in the upper right-hand corner of the cheque.

The respondents added the following red flags:

- Spelling mistakes (17 respondents)
- The customer's address is missing (nine respondents)
- The bank's address is missing (11 respondents)
- The name of the payee appears to have been printed by a typewriter: most payable expenses and dividend cheques are printed via computer (five respondents)
- The amount in words differs from the amount in numbers (12 respondents)

Figure 2 -  
Red flag indicators



- The cheque lacks perforations: most cheques produced by a legitimate printer are perforated and have at least one rough edge (14 respondents)
- The cheque number is either missing or does not change (four respondents)
- The cheque account is less than one year old and therefore the cheque numbers that are used are low (101 up to 400) on personal cheques or (1001 to 1500) on business cheques. Ninety per cent of bad cheques are written on accounts that are less than one year old. The reason for this is that the account is young and does not have a long history with the bank, which therefore makes it difficult to spot fraud (two respondents).

#### **4.11 Summary**

Every crime scene should be managed in such a way that all physical evidence can be collected from it in order to ensure successful prosecution and conviction (Bester & Rambujan, 2002a:21). It is evident that there is a difference in opinion about whether or not a cheque can be a crime scene in a fraud investigation. The fact is that a fraudulent cheque contains evidence which should be protected in the same way as evidence at a crime scene. It appears that many investigators were not familiar with the Locard principle. This might be the reason why some forensic investigators were not able to identify a cheque as a crime scene in a fraud investigation. It is the belief of the researcher that because cheques are not acknowledged as crime scenes and therefore not properly handled or protected, many investigations fail in court and the accused are acquitted.

In the preceding explanation the most general examinations that can be conducted in connection with a cheque have been summarised. The possibilities of further examinations that may offer better solutions are, however, not excluded. It is strongly recommended that if it seems necessary to make use of the services of an expert, he/she be approached as soon as possible, as important evidence can thus be saved while unnecessary and time-consuming work is obviated (Van der Westhuizen, 1996: 313). If the investigator and expert work together, they will be able to answer the vital question of whether a crime has been committed, how and when it was committed, who committed it, and, just as importantly, who could not

have committed it (Gilbert, 1993:223). If people could be taught how to identify or recognise misrepresentation on a cheque, it could stop 99% of the most sophisticated forgers in the world (Abagnale, 2003:3).

## **CHAPTER 5**

### **Findings and Conclusions**

#### **5.1 Introduction**

This research was born out of the need to improve the general knowledge of investigators - specifically those investigating crimes where cheques are involved. In these cases the cheque is the centre of the investigation and can be used as an exhibit as well as a crime scene, if the principles coming from the Locard principle are applied. For successful investigation the cheque should be used to the ultimate and in this case to identify all possible crimes that were committed, in order to solve crime. From experience, investigators do not examine the cheque properly to determine possible crimes that were committed, but charge the suspect with the first and obvious crime that comes to mind.

To address this shortcoming the aim of the research was to analyse a cheque to establish what information it contains, to identify possible crimes. To address this aim, three research questions were asked, namely:

- What is forensic investigation?
- What role does identification play in forensic investigation?
- What information on a cheque could identify crime?

In an attempt to address these research questions the researcher gathered information from literature by authors of national and international origin, and also involved the experience of investigators to obtain knowledge from practice. This, to use the words of Pope, Lovell and Brandl (2001:369) was an attempt by the researcher to enhance the validity of her interpretation by drawing on the experiences of those most involved in the research setting itself.

#### **5.2 Findings**

##### **5.2.1 Findings regarding the research questions**

The following findings related to the research questions:

### **5.2.1.1 Research question one: What is forensic investigation?**

- In this research it was established that forensic investigation is derived from the Latin word *forum*, which means “the market place”. In practice, forensic investigation refers to an objective and court-orientated investigation of any type of crime. This means that a *prima facie* case, based on approved methods and techniques, is presented in court in order to prove that a particular perpetrator has committed the crime under investigation.
- Not all the respondents had a clear understanding of what constitutes a forensic investigation. Sixteen respondents had no difficulty in explaining the term, but nine believed that forensic investigation was only conducted where financial crime had been committed. The respondents also said that forensic investigation was used to:
  - ❖ Catch the perpetrator
  - ❖ Reveal the truth
  - ❖ Present a case in court
  - ❖ Investigate a crime

However, very few respondents said that it actually involved all of the above. This indicated that the respondents were not properly trained.

### **5.2.1.2 Research question two: What is the role of identification in forensic investigation?**

- It was established that identification forms the basis of forensic investigation, starting when the complaint is lodged and continuing until the case is presented in court. Through the process of identification, witnesses, suspected persons, exhibits, evidence and the elements of crime are identified.
- The respondents have some knowledge on what identification means, but are not in general agreement on how it could be applied in practice.

### **5.2.1.3 Research question three: What information on a cheque could identify crime?**

- In this research it was proved that if a cheque is properly examined and analysed

it could contain elements of fraud, forgery and uttering. The following could be main indicators of possible elements of different crimes which represent the element misrepresentation:

- ❖ Alterations and crowding
  - ❖ Erasures
  - ❖ Difference in handwriting
  - ❖ Difference in signature
  - ❖ Use of different inks
- The respondents are generally in agreement that there is information on a cheque that could be used to identify crime, although not all of them mentioned the same indicators.

### **5.3 Secondary findings**

The following findings were made in terms of certain other relevant points that the researcher came upon during the research.

#### **5.3.1 Purpose of forensic investigation**

- The researcher established that the purpose of forensic investigation is to ensure that the criminal, or alleged criminal, will be present at the trial, the required evidence is collected and submitted to court in order to prove the unlawful act. Putting the aforementioned together: the main purpose of forensic investigation is to resolve crime.
- The respondents did have a general understanding of what the purpose of forensic investigation is, although they did not see the purpose of forensic investigation to resolve crime.

#### **5.3.2 Objective of forensic investigation**

- It was established that the objectives of forensic investigation are to establish if a crime has actually been committed, to identify and apprehend the suspect(s), to gather and safely keep evidence, recover stolen property and to assist in the prosecution of the person(s) charged with the crime. It is also a systematic, planned process that has to be followed.

- The respondents were not certain about the objective of forensic investigation.

### **5.3.3 Mandate to investigate**

- The researcher established that the SAPS, the Director of Investigations and other organisations have a legal mandate to investigate criminal cases. However, if an organisation wants to institute criminal action it would have to involve the SAPS.
- The respondents were not in agreement on who has the mandate to investigate. Much confusion exists in this area.

### **5.3.4 Evidence**

- Evidence is anything that lends itself logically to prove or disprove a fact at issue in a judicial case or controversy. A cheque can be physical evidence if it is used to prove a crime.
- The respondents understood what evidence is and that it plays an important role in the investigation process. They all agreed that a cheque is physical evidence.

### **5.3.5 Locard principle**

- The Locard principle refers to the transfer of trails when two objects/persons come in contact with each other. It was also established that the Locard principle still plays a vital role in investigation.
- Some of the respondents (seven) did not have a proper understanding of the Locard principle. The remainder of the sample had some knowledge of the Locard principle and the part it plays in investigation.

### **5.3.6 Cheque as document**

- In this research it was established that a cheque is a document (S v Joffe 1934 SWA 108) and (S v Timol 1959 (1) PH H47 (N)).
- None of the respondents indicated that a cheque is a document.

### **5.3.7 Cheque as a crime scene**

- Based on the arguments in the research, it was found that a cheque could in



some instances be a primary crime scene and in others a secondary crime scene. Therefore, on the basis of the Locard principle, a fraudulent cheque should be regarded as a crime scene and be protected in the same manner as any other crime scene.

- Fifteen respondents acknowledged that a cheque could be a crime scene while seven disagreed. The seven respondents who disagree were also not familiar with the Locard principle. This indicates that the respondents do not understand the meaning of a “secondary” and “primary” crime scene.

### **5.3.8 Understanding a cheque**

Through personal experience and the knowledge of experts, the researcher managed to draw up a table (paragraph 4.8) which could assist investigators in understanding a cheque, to be used when dealing with cases where cheques are involved.

## **5.4 Recommendations**

At the beginning of this research it was stated that the set purpose was to develop good practice and to empower those involved in investigations. This can only be achieved if investigators have sufficient knowledge, as well as a proper understanding of what they are investigating.

The researcher therefore recommends that more research be done in the following areas, to improve the investigation process:

- Forensic investigation, its purpose and objectives
- Identification as a method in forensic investigation
- The mandate to investigate

The researcher established that there is a lack of knowledge due to no or insufficient training of investigators in different aspects addressed earlier in this research. It is therefore recommended that the following topics be incorporated in training curricula, whether basic or in service training:

- Forensic investigation, its purpose and objectives

- Identification as method in forensic investigation
- Information that could be found on a cheque which could be helpful during the investigation
- The mandate to investigate
- Cheque as document
- Cheque as crime scene
- Understanding a cheque
- Locard principle
- Primary and secondary crime scenes

## **5.5 Conclusion**

The aim of the research was to determine how to analyse a cheque in order to establish if a crime had been committed. In chapter four a cheque was analysed to obtain a better understanding of the document. The cheque was also analysed to determine specific changes that could constitute elements of a crime. It was established that different additions, alterations and omissions could be made on a cheque, which could serve as red flags to the investigator. Red flags are indicators that everything is not in order with the cheque. It was also discussed in Chapter four that, based on specific elements of different crimes, it was possible to analyse these red flags to determine crime and that because of the Locard principle a cheque could be regarded as a crime scene. It is therefore evident that there is crucial information on a cheque, which, if not protected and handled with care, could affect the investigation negatively, with the result that the case could be lost in court.

The researcher hopes that this research will empower investigators with knowledge as it has empowered her. She hopes that investigators will use the research to enhance their performance and ability to investigate more effectively, in order to resolve crime.

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## **Interview Schedule (Annexure A)**

### **The analysis of a cheque to identify crime**

#### Research questions

- What is forensic investigation?
- What role does identification play in forensic investigation?
- What information on a cheque could identify crime?

#### Historical Information

1. Are you an investigator?
2. For how many years?
3. In what type of crime investigation do you specialise?
4. Specify your tertiary qualifications?
5. For which company/organization do you work?
6. Did you undergo any training in the investigation of crime?
7. Specify the training you referred to in question 6?
8. Did you receive any training in the examination of a fraudulent cheque?

#### Forensic Investigation

9. What is the meaning of forensic investigation?
10. What is the purpose of forensic investigation?
11. What is the objective of forensic investigation?
12. What is your definition of a forensic investigator?

#### Identification

13. What is the meaning of identification?
14. What is the meaning of individualization?
15. What is the role identification plays in forensic investigation?
16. What are the categories of identification?
17. Would you describe a cheque as a document?

Analysing a cheque to identify a crime

18. What is the Locard Principle?

19. What are the crimes that could be committed by means of a cheque?

20. What is the definition of a crime scene?

21. Could a cheque be a crime scene?

22. What are the red flags on a cheque that could identify a crime?