

An analysis of the modus operandi of perpetrators in human trafficking

by

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## **EXECUTIVE SUMMARY**

This research attempts to analyse the modus operandi (MO) of perpetrators used in cases of trafficking in persons for sexual purposes, and trafficking in children.

The Trafficking in Persons Bill was passed in South Africa, but not gazetted; therefore, alternate charges are used to prosecute perpetrators.

The purpose, value and elements of MO allow an investigator to link a perpetrator to a specific crime scene.

The research provides an examination of case dockets and the MO of perpetrators in human trafficking – inter alia, looking at such issues as time, location, transport routes used, criminal motive, recruitment styles, and the number of offenders.

The MO of perpetrators identified during docket analysis indicates many similarities, when compared to the international MO of traffickers.

The gathering of MO information forms a critical part of any investigation to link a perpetrator to a crime.

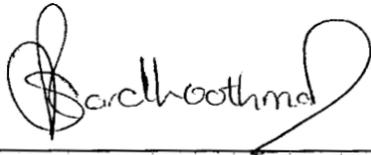
This research therefore presents a comprehensive examination of the MO of perpetrators, and delivers practical recommendations to monitor and combat trafficking.

### **KEY TERMS**

Human trafficking, forensic investigation, crime scene, criminal investigation, docket, modus operandi, perpetrator, Organised Crime Unit, Prevention and Combating of Trafficking in Persons Bill.

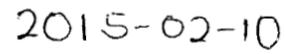
## DECLARATION

I, **SWASTIKA PARDHOOTHMAN**, declare that **AN ANALYSIS OF THE MODUS OPERANDI OF PERPETRATORS IN HUMAN TRAFFICKING** is my own work and that all sources that I have used or quoted have been indicated and acknowledged my means of complete references.

A handwritten signature in black ink, appearing to read 'Swastika Pardhoothman', written over a horizontal line.

**SIGNATURE**

**(SWASTIKA PARDHOOTHMAN)**

A handwritten date '2015-02-10' written in black ink, positioned above a horizontal line.

**DATE**

## EDITING CERTIFICATE

25 February 2015

I, Marlette van der Merwe, ID 4802060118085, hereby certify that the text and list of references of the master's dissertation, "Analysis of the modus operandi of perpetrators in human trafficking", by Swastika Pardhoothman, have been edited by me, according to the Harvard reference method, UNISA Standardised Referencing Style, as used by the School of Criminal Justice, UNISA.

A handwritten signature in black ink that reads "Marlette van der Merwe". The signature is written in a cursive style with a large initial 'M'.

Marlette van der Merwe BA HDipLib (UCT)  
Language editor: UNISA School of Computing

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## LIST OF ABBREVIATIONS AND ACRONYMS

AU	African Union
CAS	Crime Administration System
DPCI	Directorate of Priority Crime Investigation
IGO	Intergovernmental Organisations
IOM	International Organisation for Migration
KZN	KwaZulu-Natal
MO	Modus Operandi
NCOP	National Council of Provinces
NGO	Non-Governmental Organisation
OCU	Organised Crime Unit
SAPS	South African Police Service
TIP	The Prevention and Combating of Trafficking In Persons Bill
UNISA	University of South Africa
UNODC	United Nations Office on Drugs and Crime
UN	United Nations
IRIN	Integrated Regional Information Networks
AU COMMIT	African Union Commission Initiative Against Trafficking
AUC	African Union Commission
POCA	Prevention of Organised Crime Act

# CHAPTER 1

## GENERAL ORIENTATION

### 1.1. INTRODUCTION

South Africa is a signatory to the 2000 United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking Victims. In signing this document, also known as the Palermo Protocol, the government committed to adopting legislation to make human trafficking a criminal offence, and began the process of drafting a law in 2003. However, the Prevention and Combating of Trafficking in Persons (TIP) Bill only reached parliament in March 2010, and was passed on 29 July 2013 (Simon, 2013).

The procrastination on the part of government in passing the TIP Bill in 2013 has resulted in the police and prosecutors using alternative laws that deal with sexual offences, employment-related offences, and organised crime and kidnapping, to deal with traffickers, resulting in penalties that are often insufficient. The TIP Bill was passed by the National Assembly on 30 June 2013 (Integrated Regional Information Networks (IRIN), 2013). The TIP Bill was passed by the President, but has not been gazetted, so that the Bill is not operational, and not yet law.

The proposed legislation seeks to effect South Africa's obligation, as set out in various international agreements. The protocol places particular emphasis on women and children, and it will bring South Africa in line with international standards. The Bill flows from an investigation and report conducted and produced by the South African Law and Reform Commission, on trafficking in persons. The Bill advocates putting in place public awareness campaigns that are designed to prevent and combat human trafficking.

Addressing human trafficking has become a priority for governments and non-governmental organisations (NGO's), and many aspects of the phenomenon remain poorly understood (Moore, 2013:36). Available information in South Africa about the magnitude of the problem is limited. Human trafficking may be shrouded in secrecy, but it is perpetrated on a regular basis. Trafficking in persons has been practised for centuries; however it is in the last decade of the 20th century that people have

witnessed an increased awareness of the problem, and the social, political and economic ills that it engenders. This has led to an increased focus on efforts to combat trafficking in persons, which is a highly complex phenomenon. Due to the intricacies of trafficking in persons, there are no easy answers (Koen, Mobilyn, Solomons, Molo Songololo, UNODC, 2007:7).

## **1.2. PROBLEM STATEMENT**

A 'problem statement' is a concise description of the issues that need to be addressed by a problem-solving team, and should be presented to them (or created by them) before they try to solve a problem. A good problem statement should answer the following questions: (Anon, 2014).

- Who has the problem or who is the client/customer? This should explain who needs the solution, and who will decide when the problem has been solved.
- In what form can the resolution be? What are the scope and limitations (in time, money, resources and technologies) that can be used to solve the problem?

The experience of the researcher in interacting with investigators, and assisting with investigations, shows that investigators rarely analyse the modus operandi (MO) of perpetrators in dockets related to trafficking in persons for sexual purposes, and trafficking in children. This results in little effort being put into integrating the cases, as there is no linking of the crime to human trafficking. The nature and extent of human trafficking in persons for sexual purposes and trafficking in children, in Kwa-Zulu Natal (KZN) South Africa is increasing at an alarming rate.

Prior to The Prevention and Combating of Trafficking in Persons (TIP) Bill Act being passed on 29 July 2013, it was difficult for investigators to analyse the MO of perpetrators who committed human trafficking. Perpetrators who had previously been convicted for crimes that made up the Human Trafficking Act – for example, keeping of a brothel and kidnapping, among others, were handed lesser sentences by the courts. On 29 July 2013, President Jacob Zuma signed the Preventing and Combating of the Trafficking in Person's Bill. However, the Bill currently has not been gazetted, and has not been promulgated into law. Once the Bill is signed, South Africa will have a single piece of legislation which holistically and comprehensively

addresses the crime of human trafficking (Simon, 2013).

Penalties in the new law for the crime of human trafficking include a maximum penalty of R100 million, or life imprisonment. The Act may assist in addressing the crime of human trafficking and, in particular, the existing MO of perpetrators currently conducting their illegal operations in respect of recruitment, transportation routes and exploitation. The current legal framework in South Africa, and The Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007(Act 32 of 2007), are practices used in South Africa.

The existing practices and procedures can be found with Non-Governmental Organisations (NGO), legislation, international sources and what is practised currently by investigation units in the SAPS. Currently, offenders of human trafficking are charged under the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, which makes an interim provision relating to trafficking in persons for sexual purposes. Furthermore, The Children's Act 38 of 2005 also makes an interim provision for trafficking in children. This is pending the promulgation of the Prevention and Combating of Trafficking in Persons Bill, which was recently passed by the National Council of Provinces (NCOP), and is awaiting final signature by the President.

Due to the fact that there are no such cases or law for human trafficking in place in South Africa, the researcher analysed dockets for the MO for trafficking in persons for sexual purposes, and trafficking in children. Although there are no cases on human trafficking, the researcher focused on the Protocol of the United Nations and its elements of human trafficking. The researcher compared the elements of human trafficking, and compared them to other crimes – for example, trafficking in persons for sexual purposes, and trafficking in children. It was found that these two crimes, and the elements specific to human trafficking, were present. According to the *Anti-human-trafficking manual for criminal justice practitioners* (UNODC, 2009), trafficking in persons has three constituent elements, which are described in the following table:

**Table 1.1: Elements of human trafficking**

ACT	MEANS	PURPOSE	
<ul style="list-style-type: none"> <li>• Recruitment</li> <li>• Transport</li> <li>• Transfer</li> <li>• Harbouring</li> <li>• Receipt of persons</li> </ul>	<ul style="list-style-type: none"> <li>• Threat or use of force</li> <li>• Coercion</li> <li>• Abduction</li> <li>• Fraud</li> <li>• Abuse of power or vulnerability</li> <li>• Giving payments or benefits</li> </ul>	<ul style="list-style-type: none"> <li>• Exploitation, including</li> <li>• Prostitution of others</li> <li>• Sexual exploitation</li> <li>• Forced labour</li> <li>• Slavery or similar practices</li> <li>• Removal of organs</li> <li>• Other types of exploitation</li> </ul>	<p><b>= TRAFFICKING</b></p>

(UNODC: UN GIFT, 2009).

The absence of relevant legislation requires the SAPS to investigate and charge perpetrators on alternative charges, which invariably presents challenges in identifying cases specific to human trafficking, and analysing the MO of suspects.

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

According to Mouton (1996:103), the aims of research are to establish facts, gather new data, and determine whether there are interesting patterns contained in the data. The aim of research is to discover new facts and their correct interpretations, and to revise accepted conclusions, theories or laws in the light of newly discovered facts, or the practical application of such a conclusion (Leedy, 1993:11).

On the basis of the research topic and problem statement, the aim of this research is to analyse the modus operandi of cases where elements of the phenomenon of human trafficking appear.

#### **1.4. DEMARCATION**

Due to the study being of limited scope, it was demarcated specifically to the Durban area, as the researcher works and resides in this area. The SAPS Durban Organised Crime Unit (OCU) investigates serious and organised crime in which the specific elements of human trafficking exist.

According to Koen et al. (2007:7), there are three elements of human trafficking which comprise the act, the means and the purpose. Currently, in South Africa, there are perpetrators who are charged where the elements of human trafficking are present. It will further be demarcated to the United Nations Office on Drugs and Crime (UNODC), which stipulates the elements of human trafficking.

Globally, government action on trafficking is centered on the United Nations Protocol, to prevent, suppress and punish trafficking in persons, and the majority of governments in the entire region have ratified this instrument. This document has been adopted by other countries, including South Africa, and used as a guide in the phenomenon of human trafficking. This has committed governments to criminalising human trafficking, and developing legislation to combat and address this crime. The TIP Bill has not yet been promulgated, and hence the researcher did not include it in this discussion.

Due to the limited scope of this research, it is limited to two types of cases, namely: trafficking in persons for sexual purposes, and trafficking in children.

#### **1.5. RESEARCH QUESTIONS**

Research questions were formulated from the problem statement. The research questions provide guidance for the kinds of data that the researcher must collect, and offer suggestions as to how the researcher should analyse and interpret the data collected (Leedy & Ormrod, 2001:60). "The 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 observed, measured and interrogated in order to shed light on the broader topic" (Denscombe, 2002:31).

The research questions that are to be addressed in this dissertation are:

- What are the objectives of the investigation?
- What is the modus operandi of perpetrators suspected of committing the phenomenon of human trafficking?

## **1.6. PURPOSE OF THE RESEARCH**

The researcher's purpose in analysing the MO of perpetrators who commit human trafficking is to arrive at practical solutions and recommendations that will assist investigators and the SAPS in analysing the MO of perpetrators of the phenomenon of human trafficking.

"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). Based on the research questions and research aims, the researcher identified the following as the purpose of this research:

### ➤ **Evaluation Research**

The researcher wanted to critically evaluate the existing practices and procedures used by investigators when analysing the MO of the phenomenon of human trafficking, and to determine their strengths and weaknesses, in order to consider how the practice might be improved (Denscombe, 2002:25). At present, the offenders who are suspected of human trafficking are charged under the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, which makes an interim provision relating to the trafficking in persons for sexual purposes. The Children's Act 38 of 2005 also makes an interim provision for trafficking in children. These Acts were evaluated in order to determine their strengths and weaknesses in determining modus operandi.

### ➤ **Exploratory Research**

The researcher needs to explore what is stated in literature (Denscombe, 2002:27) by national and international authors, as well as experienced experts or investigators in the field of human trafficking. The researcher explored national and international

literature in respect of MO, to establish what new trends had emerged with regard to the analysis of the MO of human trafficking. The researcher had to find answers to account for the lack of research material, and therefore consulted various literature and interviewed experts in the field.

➤ **Applied Research**

“The main drive behind a piece of research is the desire to solve a practical problem or to improve procedures” (Denscombe, 2002:27). The researcher intends to arrive at suggestions and recommendations for the analysis of MO, which will enhance the performance and skills of investigators, and improve the existing practices as far as the topic is concerned. In this research, the purpose is also to develop good practice (Denscombe, 2002:27). The researcher’s intention is to arrive at practical solutions and recommendations that will assist investigators, and the SAPS, in analysing the MO of perpetrators of human trafficking, in order to identify them.

➤ **Empowerment**

The purpose of the research is to empower investigators, and the researcher, with new knowledge and insights on the MO of perpetrators of human trafficking. The researcher aims to empower both the investigators and herself to become better investigators, and become more effective in identifying suspects (Denscombe, 2002:27). This will be done by methods in which the researcher will make information available from this study to investigators, which will be valuable to enable the investigators to understand the analysis of MO in terms of human trafficking. The researcher wishes to develop training material for investigators, to enable them to understand this great necessity, and to create an emphasis on the awareness of human trafficking, in order to create intensive operational planning in respect of the MO of perpetrators who commit human trafficking, as well as to provide crime intelligence.

## **1.7. KEY THEORETICAL CONCEPTS**

Mouton (1996:114) is of the opinion that familiarity with the most important theories relating to the research problem, is an essential precondition for an adequate conceptualisation. The important concepts in this study will be defined for the purpose of clarity.

#### 1.7.1. Docket

A docket is an official document in which a record is kept of a reported crime and the investigation conducted into such a crime (Docket Analysis Learner Manual, 2002:2).

#### 1.7.2. 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).

#### 1.7.3. Modus operandi

Van Heerden (1985:10) describes MO as the habits and techniques of criminals, which have become stereotyped. He views it as a routine mode of conduct in which individualised techniques are employed.

MO comprises of distinct patterns or a manner of working that comes to be associated with a particular criminal. Criminologists have observed that, whatever his speciality – burglary, auto theft or embezzling – the professional criminal is very likely to adhere to his particular way of operating. If, for example, a burglar begins his career by entering houses from the roof, he will, in all probability, continue using this method for as long as he is able to work (*Encyclopedia Britannica*, 2014).

#### 1.7.4. Perpetrator

The classification of a person as a perpetrator depends on whether his conduct satisfies all the elements of an offence. A perpetrator can therefore be defined as a person who complies with all the requirements of the offence (Joubert, 1999:97).

#### 1.7.5. Human trafficking

Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring, or receipt of persons, by means of a threat, or use of force, or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (United Nations Office of Drugs and Crime (UNODC), 2000:12).

#### 1.7.6. Criminal investigation

Criminal investigation can be defined as a systematic, organised search for the truth. It consists of observation and/or enquiries with the purpose of gathering information about an alleged crime or incident (Technikon SA, 1996:3). According to Bennett and Hess (as quoted by Marais & Van Rooyen, 1990:1), criminal investigation is really a search for the truth.

### 1.8. 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). Welman and Kruger (2001:46) state that “a research design is the plan according to which we obtain research participants (objects) and collect information from them”.

The researcher decided to use an empirical design in this research. Empirical research is based on experience and observation (Maxfield & Babbie, 1995:4). For this reason, the researcher decided to use only investigators with investigation experience, and employed the simple random sampling technique. The participants used their own experiences and observations during investigations to research the MO of human trafficking. For this reason, the researcher conducted an extensive literature search in documents, as well as interviews, in accordance with the suggestion made by Denscombe (1998:6) of “getting out of the chair, going out of the office and purposefully seeking the necessary information out there”. This assisted and enlightened the researcher on some practical insights into the information which pertains to this study.

This type of research involves the researcher going into the field and focussing on the personal experiences of the participants in the study (Mouton, 2001:149). In order to address the lack of knowledge illustrated in the problem statement, the researcher needed to produce new knowledge which was based on experience.

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 the data may be time consuming. In order to overcome these limitations, the researcher engaged in one-on-one interviews, using a semi-structured interview schedule, literature, and docket analysis, to investigate the MO of human trafficking.

### **1.9. RESEARCH APPROACH**

Schloss and Smith (1999:86) explain that a qualitative research approach is best suited for trying to better understand complex and interactive phenomena. Qualitative research is multi-method in focus, involving an interpretive, naturalistic approach to its subject matter – for example, the definition and analysis of various *modi operandi* in human trafficking.

The research approach that was used by the researcher is a qualitative approach, due to the fact that this research is exploratory, and the researcher sought to listen to expert interviewees. This enabled the researcher to build a picture of their ideas and personal experiences (Creswell, 1994:21; Taylor, 1994:208). The main strength of this approach is that it leads to an in-depth insight into the research topic (Mouton, 2001:150), which is important for developing an understanding of the investigative discipline explored in the research. The intention was to obtain practical solutions to the problems, from the participants who were involved in the investigation field.

### **1.10. TARGET POPULATION AND SAMPLING PROCEDURES**

A target population is the aggregation of elements from which the sample is actually selected (Maxfield & Babbie, 1995:186). A population refers to the entire collection of units of analysis on which the research problem has a bearing, while a sample is a group chosen from within the target population to provide the information required (Welman, Kruger & Mitchell, 2012:52-53). A population is the entire group or class from which information is to be gathered (Dantzker & Hunter, 2012:198; Welman et al., 2012:52).

Babbie and Mouton (2001:174) state that a population is that aggregation of elements from which the sample is actually selected. The ideal population for this research was the investigators of the SAPS investigating the phenomenon of human

trafficking cases. However, it was impossible to use the total population of investigators, as it would have been time consuming and also costly, so the researcher decided to use a target population. Investigating officers from the Durban Organised Crime Unit, who investigate human trafficking cases in the Durban metropolitan area, were chosen as the target population. The researcher chose Durban, as she resides in that area. The target population is not representative of the population, as it was not selected but chosen. This sub-population was therefore accessible to the researcher.

#### 1.10.1. Sampling

A sample of investigators was selected using the simple random sampling technique. With simple random sampling, each member of the population has the same chance of being included in the sample (Welman et al., 2012:59). A name list of all the investigators working at the Durban Organised Crime Unit was requested from the Unit.

There are 72 investigators presently attached to the Durban Organised Crime Unit, who investigate cases pertaining to human trafficking in the Durban Central Policing Cluster Area. These investigators are knowledgeable, and have investigation experience in cases in which elements of human trafficking exist. The researcher wrote down the name of each investigator on a piece of paper, each piece being the same size, and placed them in a basket. The basket was shuffled, and a piece of paper was drawn blindly. Where applicable, the remaining pieces of paper were shuffled again, and another piece was drawn blindly. This type of sampling is known as simple random sampling. A total of 25 investigators' names was drawn. Huysamen (1991:183-185) indicates that a sample of 25 or more is the preferred unit of analysis. The sample therefore consisted of a total of 25 investigators from the Durban Organised Crime Unit.

#### 1.10.2. Selection of case files

The Durban Organised Crime Unit receives cases from four police stations that comprise the Durban Central Policing Cluster Area. These stations include SAPS Durban Central, SAPS Durban North, SAPS Point and SAPS Umbilo. Upon

completion of the investigations, the files are returned to the relevant police stations for filing. With specific cases in which elements of human trafficking are present, the respective police stations are obligated to report them immediately to the Organised Crime Unit, so that an Organised Crime Detective can be assigned to each case. The Durban Organised Crime Unit records all cases received in a Case File Register. Perusal of the Register showed that, for the period 1 January 2008 to 31 December 2011, a total of 30 case files was received, comprising all the cases that had elements of the phenomenon of human trafficking from the various Cluster Stations. These crimes included trafficking in persons for sexual purposes, and cases of trafficking in children where the elements of human trafficking were present. From the elements above, the MO could be determined, in order to link perpetrators. The researcher therefore decided not to employ any sampling in the selection of the case files, but decided to use all 30 cases, for the purpose of case file analysis, which would be collected from the various Cluster Stations.

#### **1.11. DATA COLLECTION**

According to Mouton (2001:57), qualitative research involves the following data collection techniques: surveys, experiments, docket analysis, programme evaluation and ethnographic studies. In this study, the researcher used interviews, literature and docket analysis for the research, as these were the best methods to collect the primary data needed in order to address the research questions outlined (Leedy & Ormrod, 2001:70; Creswell, 2009:17).

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 (Blaikie, 2003:18). The researcher used primary data in this research, as this type of data is generated by a researcher who is responsible for the design of the study, and the collection and analysis of the data. The data collected by the researcher was used to answer the research questions in the study.

The researcher made use of triangulation: a method which is a combination of quantitative and qualitative methodology. Mouton and Marais (1990:72, 91),

however, argue that the term 'triangulation' refers mainly to the use of multiple methods of data collection, with a view to increasing the reliability of the observation, and not specifically to the combination of quantitative and qualitative approaches. For the purposes of this research, the researcher decided that docket analysis, literature and interviews would be the most suitable techniques.

#### 1.11.1. Literature study

A literature study was conducted in terms of the collection of data. This included information from journals, the Internet and literature, in the fields of policing, law and criminology. The purpose of a literature study is to establish what has already been done in the researcher's field of study (Mouton, 2001:88).

'Literature study' refers to the reviewing of existing literature dealing with the chosen topic. It is further argued by Mouton and Marais (1990:77) that there are various documentary sources from which data can be gathered. Such sources could be records, documents, library collections or mass media material. The researcher was guided by the aims of the research, as well as the research questions.

In an attempt to seek literature that was relevant to the topic, information was collected from the Internet, journal articles and libraries using key words from the topic. Literature in the various study fields of policing, criminology and law enforcement were identified by the researcher. According to Mouton (2001:87), it is important to conduct a literature review, in order to establish what has already been done in a specific field of study. The objective of the literature review is to inform the researcher about what is already known on the subject, so that this knowledge can be used as the background for an investigation, which will progress and guide the study through new learning (Denscombe, 2002:86).

After an extensive literature review, the researcher was able to identify a single source similar to the topic being researched: "Modus operandi as a technique in suspect identification in burglary cases", by Berning (2008), a dissertation which the researcher consulted and used. This research is different from that of Berning, in that although they both focus on MO, the crimes differ. A further difference is that this

research is on human trafficking, and Berning's research is based on burglary cases. No further articles or books with the same topic were identified by the researcher. The concepts from the research topic were taken and individualised with existing literature from books and the Internet, and no concepts pertaining to the analysis of the MO of human trafficking was found.

This research is relevant, as there are still aspects to this topic that require further an in-depth research knowledge which needs to be explored. The researcher used the literature to reach a better understanding of how the MO of perpetrators in human trafficking is analysed internationally.

The researcher found literature on "modus operandi" and "human trafficking", but there was no other research found using the data collected from the same population. The topic was therefore divided into the following concepts, in an attempt to expand on the sources. The following concepts were identified by the researcher:

- Modus operandi
- Human trafficking
- Forensic investigation
- Perpetrator
- Identification

The research questions and aims form a guide in finding the correct data. Extensive research and reading was carried out, to gather information about the above concepts. Very relevant information was gathered. The literature study presented here is made up of material gleaned from library sources, media, newspaper reports and the Internet. To ensure that the most up-to-date and relevant sources were used, the researcher conducted extensive online database searches.

#### 1.11.2. Interviews

Interviews are an effective and accepted data collection method (Mouton 2001:105). Face-to-face interviews were held with the participants (Robson, 2000:88). Welman and Kruger (2001:165) describe a semi-structured interview as a fixed sequence of predetermined questions. The interview can be structured with all interviewees being

asked the same set of questions. The researcher conducted structured interviews using one interview schedule with open-ended questions (Robson, 2000:88). The researcher considered using structured interviews in this study, for the simple reason that greater involvement and interaction is achieved between the researcher and the interviewee, so that quality data is achieved. The questions were formulated by the researcher, and the research questions and aims were considered by the researcher when developing the questions for the interview schedule.

The researcher used the guidelines for conducting a productive interview as prescribed by Leedy and Ormrod (2005:147-149):

**Step 1: Identify some questions in advance**

The researcher identified questions in advance, based on the research topic. The researcher had to ensure that the conversation was guided in the right direction and was productive. The researcher ensured that the questions related to the research topic and questions. The topic, aims and research questions were the guiding standard to identify questions on MO for human trafficking. The researcher designed an interview schedule (filed as Annexure "A") to record the experience and expertise of the investigators in the field of investigation, and, more specifically, in the MO of perpetrators in human trafficking.

**Step 2: Make sure your interviews are representative of the group**

There are 72 investigators who are presently attached to the Durban Organised Crime Unit. The researcher wrote down the name of each investigator on a separate piece of paper of the same size, and placed them in a basket. The basket was shuffled and a piece of paper was drawn blindly. Where applicable, the remaining pieces of paper were shuffled again and another piece drawn blindly. This type of sampling is known as simple random sampling. A total of 25 investigators' names were drawn.

Huysamen (1991:183-185) indicates that a sample of 25 or more is a preferable unit of analysis. The sample therefore consisted of a total of 25 investigators from the Durban Organised Crime Unit. The target population was not representative of the

population, because it was chosen. The findings of the population cannot be generalised. The sample is only representative of the chosen target population.

### **Step 3: Find a suitable location**

In theory, an interview can be conducted anywhere. The interviewer selected a quiet boardroom at the respondents' workplace for the interview to be conducted so that there would be no distractions or interruptions. The researcher found a suitable location that was comfortable, as well as convenient for the participants.

### **Step 4: Get written permission**

The researcher obtained written permission from the SAPS Head Office: Strategic Management, and the Provincial Office, before conducting this research, attached as per Annexure "B". The interview session was arranged with the permission of the commanders of the unit, so that the participants had no excuse for not participating in the interviews.

The researcher ensured that written permission was obtained in advance, by forwarding consent forms to all the participants, asking them to sign and agree to an interview. The signed consent forms are not attached to the dissertation, due to ethical reasons.

### **Step 5: Establish and maintain rapport**

The researcher maintained the standard of being courteous and respectful at all times in the presence of the participants. The researcher kept the interview informal, as a qualitative study would expect the conversation to be informal, and this aided the researcher in "breaking the ice". To maintain rapport and the general feelings of closeness and trust, the researcher maintained eye contact, and showed an interest by smiling, and encouraged the participants to "please go on" which gave the interviewees encouragement, and allowed them to feel at ease while they spoke.

### **Step 8: Record responses verbatim**

Responses given by the participants were recorded with a tape recorder by the researcher, with the permission of the participants. The conversation between the

researcher and the participants was captured in shorthand and then on a laptop, and this was done with all the interviewees. The researcher had a transcript of the tape and a hard copy, on hand, and also had on hand a recorder to record the interviews for transcription purposes, thereby also allowing the researcher to give more attention to the participants. This assisted with the data analysis as well, as the researcher had the actual words of the recorded interview. The researcher at a later stage sat with the interview schedule and feedback from the participants, and transcribed the actual words onto the interview schedule.

**Step 9: Keep your reactions to yourself**

The researcher did not react emotionally to the participant's information by showing signs of surprise or confusion. At all times, the researcher maintained a "poker face", in order to obtain the most accurate information. The researcher did not show signs of surprise, shock or disappointment, which could have prevented the interviewees from sharing their information any further.

**Step 10: Remember that you are not necessarily getting the facts**

Most of the participants were convincing, and came across as being very confident. The researcher treated all the responses as perceptions, rather than as facts, and compared the various responses of the investigators, taking cognisance of the fact that their responses were not always fact, but given through their experience and knowledge. The researcher therefore conducted data collection through literature in books and on the Internet, as well as from docket analysis.

The first step the researcher took was to compile the interview questions which were drafted in terms of personal experience, research aims and the research questions of the study. The researcher conducted structured, individual interviews with each of the investigators included in the study population, in order to address the analysis of the MO of perpetrators in human trafficking. Every participant who was interviewed has been documented, in respect of their personal investigative experience and understanding.

The interviews contained both open-ended questions, where a more in-depth answer is required by the investigator, and closed-ended questions. The open-ended questions were designed to allow the participants to elaborate on their responses, and thus provide qualitative data, so that the answers were more of a qualitative nature.

According to Leedy and Ormrod (2005:124), a pilot study is “a brief exploratory investigation”. The purpose of a pilot study is to check the correctness of the questions, and gain a better understanding of them:

- To detect possible flaws in the measurement procedures
- To identify unclear or ambiguously formulated items
- Pilot studies allow researchers to try out particular procedures, explore new measurement instruments, or utilise new methods of analysis.
- Pilot studies also allow researchers to see whether further exploration is necessary, which can be qualitative or quantitative.

A pilot study in respect of the research, was conducted by the researcher. An interview schedule was designed as a measuring instrument to record the experience and expertise of the investigators in the field of investigation – more specifically, in terms of the MO of perpetrators in human trafficking. The researcher identified eight (8) investigators who were not part of the sample, and handed them the interview schedule to read for the purpose of identifying shortfalls. The interview schedule was refined after the pilot study, and some minor changes were incorporated. As part of the pilot study with the investigators, the interview schedule was sent to the supervisor and co-supervisor for their approval (Anon, 2014).

### 1.11.3. Case docket analysis

Case docket analysis is a research method for observing a specific populace or individual case, with the goal of investigating a focused hypothesis or making a broad observation of behaviour or experience.

Distinctive characteristics of case docket analysis research are that the researcher generally plays an observational role only, and that note taking must be accurately

outlined and methodical (Yin, 1994:14). The type of cases analysed were trafficking in persons for sexual offences, and trafficking in children.

Dockets were studied to determine the following:

- The number of offenders
- Which MO was used in the specific case
- The route taken and the method of committing the crime
- The method of transportation to and from the crime scene
- The criminal motive
- The methods of committing the crime
- Pre-surveillance of the crime scene(s) or victim
- The location of the offence
- Recruitment style, the method of transportation of the victims, and the threat or force that was placed on the victims' lives by the perpetrator

## **1.12. EXPERIENCE**

The researcher has five years of investigation experience. Over the past three years, the researcher has assisted the Durban Organised Crime Unit with investigations in this specific area and various human trafficking sting operations, in which the elements of human trafficking were present. This resulted in the researcher gaining first-hand experience, and a better understanding, of the concept of the MO in human trafficking.

The researcher investigated three cases in which the elements of human trafficking were present. During these investigations, the researcher noted that there was a need for more investigators to be trained and adequately equipped with knowledge on the concept of human trafficking. The experience gained by the researcher in the analysis of MO includes the ability to identify the recruitment style, the method of transportation of the victims, and the threat or force that was placed on their lives by the perpetrators, as well as a better understanding of the emotional status of the victims.

During the interviews, analysis of data, and writing of information from the participants, the researcher kept her own knowledge and experience separate from what was documented on paper from the participants. Everything documented on paper, and reported by the participants, represented their own views, and not those of the researcher.

The researcher, from the outset, understood her position on any biases or assumptions, so as not to influence the participants, especially in terms of rank and experience, as depicted in Creswell (2013:250-252). There was no specific bias, prejudice or assumption relating to the research topic or research questions that could influence the approach, interpretations or findings of the researcher. The topic was approached in an objective manner, working with facts and information and the perspectives of the participants. The researcher did not inform the participants at any time of her SAPS rank or personal experience.

Before the interviews were conducted, the participants were informed that their participation was voluntary and that their recordings and transcripts would be protected by the researcher, in terms of anonymity. During the interviews, the researcher built a trust relationship with the participants, in order to focus on what the participants said (Creswell, 2013:250-252), and this allowed the participants to speak voluntarily and freely.

### **1.13. DATA ANALYSIS**

Data analysis involves breaking up the data into manageable themes, patterns, trends and relationships. The aim of this analysis is to understand the various constituent elements of the data, through an inspection of the relationship between the concepts, constructs or variables, and to see whether there are any patterns or trends that can be identified or isolated, to establish themes in the data (Mouton, 2001:108).

Tesch's eight-step process for data analysis was used to support this (Tesch, 1990:142-145), as follows:

- **Get a sense of the whole:** The researcher read through the information and made a summary of the different points from the literature and interviews obtained. The researcher took one interview that was the most understandable to her, and used it as a baseline. She then added other information that was relevant to MO.
- **Pick one document from a prescribed interview, read through it carefully, and identify its meaning:** One interview document was identified, and the researcher extracted the important information from it and analysed the meaning of its content. The researcher used the identified interview schedule and extracted the most relevant and meaningful information, in order to analyse the meaning of the information.
- **Make lists of the topics that emerge, and cluster similar topics together:** In addition to this, the researcher listed all the topics that arose from the literature and the interviews, and grouped the topics of the same kind in separate groups. The researcher analysed the data by identifying a specific concept. The researcher also looked for similar concepts in other material. New concepts which emerged enabled the researcher to build new paragraphs. This procedure was also done with other sources.
- **Code the same information to see whether new categories and codes have emerged:** Each group was given a code by the researcher, and, in the event that new information was received, a new group with a code was introduced. As the researcher read through the literature, new concepts came through, and the researcher was able to generate new paragraphs with new ideas.
- **Find descriptive words, and categorise these by grouping them together:** The researcher found new descriptive words and developed new paragraphs with these new descriptive words.
- **Make a final decision and alphabetise these codes:** The researcher made a final decision whereby the different groups of information were arranged in chronological sequence. The researcher gathered the new words and ideas and arranged them in sequence, in order to develop new paragraphs.

- **Assemble the data material belonging to each category in one place, and perform a preliminary analysis:** All data material was assembled and an analysis of the groups was conducted. All existing data was recorded where necessary, and the researcher arranged the data in such a manner that all the similar ideas were placed in the same paragraph. Each new paragraph therefore contained a new idea.
- **Recode the existing data if necessary:** The researcher followed the same steps in examining all the data collected and obtaining a sense of the whole. The researcher was then able to identify the underlying meaning of the gathered data, which led her to identify the topics which emerged from the data. The topics with similar concepts were then put together and given codes. The data was re-examined, and the codes were written in conjunction with the categorised data.

Topics were then sorted into categories by the researcher. Data from each category was tested in the context of the other data for the category, and the preliminary analysis was conducted. Through this process, the researcher was able to create concepts and categories from the data that was collected. One interview document was identified, and the researcher extracted important information from it, to analyse the meaning of its content. The researcher then made a final decision whereby the different groups of information would be arranged in chronological sequence.

#### 1.13.1. Summary of background information

The researcher posed the following questions to the investigators, and their responses to these questions were noted as follows:

*“Years of experience?”*

- The participants interviewed indicated on the interview schedule the number of years of investigation experience they each had. All of the participants interviewed had over 5 years of investigation experience.

*“Crime specialisation”*

- Their experience in investigation included drug trafficking, human trafficking, wildlife-endangered species, specific violent crime, money laundering,

corruption, cash in transit, crimes against the state, terrorism, and precious metals and diamonds.

#### *“Training on human trafficking”*

- The investigators did receive basic training on human trafficking. Three investigators received further in depth training on human trafficking.

### **1.14. METHODS TAKEN TO ENSURE VALIDITY**

According to Denscombe (2002:100), validity concerns the accuracy of the questions asked, the data collected, and the explanations offered. The target population was not representative of the population, as it was not selected but chosen. This sub-population was therefore accessible to the researcher. The target population was not representative of the total population, thereby allowing the sample to be valid. The research questions were valid, due to the fact that the questions used in the interview schedule were developed from the research questions, which, in turn, were based on the problems of the research.

The questions the researcher asked were valid, and were in line with the research topic, research aim and questions pertaining to the MO of perpetrators in human trafficking. During the interviews, the same questions from the interview schedule were posed to all the participants, which ensured a certain standard of consistency in the qualitative data collection. The validity of the research was addressed in both the population and the measuring instruments used. The three data collection techniques that were used were as follows:

- Literature: The researcher used data from various data collections, (interviews, journals and articles from the internet) which was extracted and analysed to ensure validity, in conjunction with the interviews. The research questions and research aim were also taken into consideration to ensure validity.
- Case docket analysis: Various case dockets were analysed by the researcher, with the intention of determining the MO used by perpetrators, to ensure validity. During the case docket analysis, the same questions were asked as those that had been asked when information was collected for data analysis,

in order to ensure validity. The crime administrative system (CAS) was approved, monitored and an official system used by the SAPS. In order to ensure validity in the research, the researcher drew case dockets from the different stations, analysed them, and used the CAS system in order to ensure their validity. The dockets drawn were cases pertaining to human trafficking. Human trafficking is not a crime in South Africa. The elements of “an act”, “means” and “purpose” were put together by the researcher, to identify relevant case dockets.

- Interviews: The questions were valid, because the questions used in the interview schedule were developed from the research questions which, in turn, were based on the identified problems in the research. The same interview schedule was used for all the participants. The researcher noted that in all the participants’ answers they expressed their personal experience and knowledge in respect of the research topic. A pilot study was done on the schedule, with the purpose of testing the questions, which contributed to their validity.

The analysis of data in this research was based on Tesch’s eight-step process for data analysis. This data analysis process is a tested and approved process for a great deal of research. The Tesch process is a well-tested process used by many researchers for that regard the way in which data to be valid. Data was collected from published articles, journals and books, and associated subject literature. The data and literature sources were those of accredited authors who are regarded as experts in their field.

Creswell (2013:250-252) highlights the following strategies to ensure validity:

- Prolonged engagement
- Triangulation
- Peer review or debriefing
- Negative case analysis
- Clarifying the researcher’s bias
- Member checking

- Rich, thick description
- External audits

The researcher ensured validity by using the points described by Creswell (2013:250-252) as follows:

- Triangulation: is a method which is a combination of quantitative and qualitative methodology, whereby multiple methods of data collection are used. For the purposes of this research, the researcher decided that docket analysis, literature and interviews would be the most suitable techniques to ensure that the data collected is valid.
- Peer review or debriefing: this provides the researcher with a critical view from the 'outside', where a peer debriefer examines the research methodology, interpretations and findings of a study. This validation strategy was also used by discussing the research process, data collection and analysis, and the findings of the study, with independent, experienced colleagues who did not form part of the group of participants. Independent perspectives, ideas and comments were used to validate those of the participants. This was done with the participants interviewed by the researcher.
- Negative case analysis: this is data that differs from a researcher's expectations or the researcher's working theory. Due to there being no legislation of crime for this study, the researcher had to rely on alternative charges. The researcher reviewed and refined working hypotheses in the light of negative or disconfirming evidence. Including negative evidence or exceptions contributes towards validating the study, by giving it a realistic dimension. Findings from the SAPS docket analysis, interview transcript analysis, interviews with colleagues, and the practical experience of the researcher, were cross-examined and compared for similarities and differences. This was done to determine whether the data yielded any negative or disconfirming data. No major or significant discrepancies, differences or contradictory data, or statements or evidence that specifically warranted further exploration, were found. This fact made a further contribution towards strengthening and confirming the validity of the study.

- Clarifying researcher bias: The researcher's past experiences, biases, prejudices and assumptions were stated at the outset, in order to provide an understanding of the researcher's position, approach and interpretations. The issue of researcher bias was addressed by explaining the background and experience of the researcher. There was no specific bias or prejudice, or any assumptions relating to the research topic or research questions that could influence the approach, interpretations or findings of the researcher. The topic was approached in an objective manner, working with facts and information and the perspectives of the participants.
- Member checking: The researcher sought the participants' opinions on the credibility of the findings and interpretations of the study. This is regarded as an important validation strategy (Creswell, 2013:252). It involves presenting data, analyses, interpretations and findings to participants, and obtaining feedback in respect of the accuracy and credibility thereof. Validity was ensured by presenting transcripts of interviews, data collected, interpretations, findings and conclusions, for review and comment, to participants.

Rich, thick description: This strategy concerns using such a detailed, abundant, in-depth description of themes, participants' views and observations, that readers are enabled to transfer the information provided by the researcher to other settings and circumstances, and to determine the degree to which the findings of the study can be transferred and considered as relevant to those settings and circumstances. A rich, thick description supports validity, by strengthening the transferability of the study. Throughout the study, the researcher placed emphasis on collecting and describing data, and recording observations, using rich, thick (dense) descriptive language, abundant in detail, description and meaning, to ensure that exposure to the topic on modus operandi is highlighted.

#### **1.15. METHODS TAKEN TO ENSURE RELIABILITY**

According to Mouton and Marais (1990:79) and De Vos (2003:168), the requirement for reliability is the application of a valid measuring instrument to a different set of circumstances that should lead to the same observation. The researcher described

how data was collected (literature and interviews), how it was analysed, how the sampling was done, and how the conclusions were reached (Mouton, 2001:100). Reliability relates to the stability and consistency, over a period of time, of the methods and techniques (instruments/measuring devices) used to collect data. If a study is repeated (replicated), the measuring device (data collection methods and techniques) should provide dependable and consistent results (Dantzker & Hunter, 2012:188).

The structured interview schedule used by the researcher for the interviews conducted with the target population deems the study to be reliable. The interview schedule was compiled with the topic, aim and research questions in mind. The sample is considered to be reliable, by virtue of the fact that the members of the SAPS have the relevant investigations skills, training and experience necessary.

The data collection methods used by the researcher included an in-depth study of relevant literature, individual interviews with selected participants, analysis and capturing information from SAPS case dockets, and information drawn from the personal experience of the researcher. The measurement instruments used were a standard structured interview schedule for individual interviews, and a docket analysis template for docket analysis. These instruments themselves were stable and consistent, since they consisted of a fixed set of questions in a fixed sequence. The same instruments were used throughout the research.

The researcher interviewed participants from the SAPS, who were experienced investigators, who had investigated cases of MO, or, more specifically, human trafficking cases. The researcher ensured that the same measuring instrument was used (interview schedule) for all the participants in all the interviews. Information was categorised and documented in such a manner that, should another researcher use these notes, they would be able to replicate the study (Bauer & Gaskell, 2000:363).

To ensure reliability, Denscombe (2002:101) recommends the following three necessary actions to the researcher:

- Must ask the right questions: The researcher used the interview schedule as a guide to ask the correct questions. The interview schedule was compiled with the topic, aim and research questions in mind.
- Must produce precise, detailed data: The researcher used recordings, and the transcripts of the participants' responses were put in place for the researcher's use.
- Must ensure that the information gathered is the truth: The researcher used literature relevant to the topic and the aim of the research. A literature study was conducted in terms of the collection of data. This included information from journals, the Internet, and literature in the fields of policing, law and criminology.

Bell (2004:117) describes reliability as the extent to which a test produces similar results under constant conditions on all occasions. According to Creswell (2014:203), the following are points to ensure reliability:

- Check transcripts

The researcher used the above points to ensure reliability, by ensuring that the transcripts would be protected by the researcher, in terms of anonymity. The researcher checked the transcripts by using the recordings of the participants which were put in place for the researcher's use.

- Make sure that there is no drift in definitions, etc.

Another important point that the researcher ensured was not to drift in definition, and this was done by adhering to the interview schedule.

- Cross-checking codes

By cross-checking codes, the researcher ensured that the information in the different categories was paragraphed accordingly, and that the information was arranged in chronological sequence.

## **1.16. ETHICAL CONSIDERATIONS**

Ethical considerations were maintained throughout this research. All data collected was reflected in this research without any changes. Objectivity and integrity was maintained in conducting the research. The methods and techniques of analysis

have been clearly set out in this study. The research has not been submitted to any other academic institution. The sources of the data used have been correctly referenced in the list of references and in the study. The researcher has also strictly adhered to the ethical issues stipulated in Leedy and Ormrod (2005:101, 102):

- **Protection from harm:** The researcher did not expose the research participants to any form of physical or physiological harm during this study. This was done by ensuring that the risk involved in participating in this study was not greater than the normal risk involved in day-to-day living. This was ensured by protecting the anonymity of the participants in the interviews that were conducted by the researcher, in respect of the transcripts obtained from the participants. Before the interviews were conducted, the participants were informed by the researcher that their participation was voluntary, and that their recordings and transcripts would be protected by the researcher in terms of anonymity. Interviews were conducted in a safe environment – which was the participants' workplace.
- **Right to privacy:** The researcher ensured that the participants' right to privacy was maintained throughout the study. The researcher ensured the right to privacy of each participant by not using their names on the interview schedule, and maintaining anonymity in this manner. The researcher maintained the idea of confidentiality by presenting the research in a way that fellow readers were not aware of the participants' identity. None of the participants' privacy was violated in any way, and their names were not used; instead they were referred to as Participant 1, Participant 2, Participant 3, and so on.
- **Informed consent:** The researcher ensured that the participants were informed of the nature of the research study, and were given the choice to participate or not. The participants who participated were given the right to withdraw from the study at any time. Consent was obtained from the participants involved in the research study. The researcher did this by obtaining written permission from the SAPS Head Office: Strategic Management and the letter is attached as Annexure "B". The SAPS Management and the SAPS Provincial Office were informed before research was conducted on this topic. The interview sessions were arranged with the

permission of the commanders of each unit and the investigators who voluntarily participated in the interviews.

- **Honesty with professional colleagues:** The researcher did not fabricate data to support any findings or recommendations. The researcher ensured that all the literature sources were acknowledged, and avoided plagiarism by acknowledging the **authors** of the sourced literature in the list of references and in the text.

## **1.17. RESEARCH STRUCTURE**

The research report is divided into the following chapters in which the research questions are discussed:

- Chapter 1: General Orientation

In this chapter, the methodology of the research is discussed.

- Chapter 2: Objectives of the Investigation

In this chapter, the main focus is on what forensic investigation is, and the objective of the investigation of human trafficking.

- Chapter 3: Modus Operandi

In this chapter, the researcher focuses on analysing the MO of perpetrators suspected of committing human trafficking.

- Chapter 4: Findings and Recommendations

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

## **CHAPTER 2**

### **OBJECTIVES OF THE INVESTIGATION**

#### **2.1. INTRODUCTION**

The International Organisation for Migration (IOM), the National Prosecuting Authority (Department of Justice ..., 1998a) and the Public Protector are examples of organisations which have been functioning as independent entities in the fight against human trafficking (Van Rooyen, 2008:1). The main function of the Directorate of Priority Crime Investigation (DPCI) is to prevent, combat and investigate national priority offences and any other offence or category of offences referred to by the National Commissioner. Section 17(d)(1) of the SAPS Amendment Act of 2009 empowers them to conduct investigations. The DPCI focuses on serious organised crime, serious corruption and serious commercial crime (Department of Justice ..., 2011). It is therefore important for investigators to understand what investigation entails, its purposes and its goals.

This chapter discusses the concept of investigation and its evolution into different fields of discipline – for example, criminal investigation and forensic investigation. In addition, the chapter will address the process, concept and objectives of investigation, including the field of investigation and its importance in addressing the MO of perpetrators suspected of committing the phenomenon of human trafficking.

The researcher addressed the difference between forensic and criminal investigation, and the purpose and objectives of investigation.

#### **2.2. CRIMINAL INVESTIGATION**

Investigation of crime forms the core of any investigator's daily task. Comer (1997:271) offers a wide and unspecified definition of investigation as a process that involves the detection, through to the resolution, of the crime, by criminal prosecution or some other course. Marais and Van Rooyen (1990:17) elaborate that criminal investigation means to observe intensely, question systematically and gather information and evidence which will reveal the truth.

They further state that a criminal investigation is a systematic search for the truth, and is primarily aimed at the positive clarification of the crime situation on the basis of objective and subjective traces. Criminal investigation is described by Du Preez (as quoted by Van der Westhuizen, 1996:1-2) as a systematic, planned search for the truth with the primary purpose of finding a solution to a crime, by finding facts that will help to prove who committed the crime, making use of objective and subjective evidence, and relevant information.

Orthmann (2004:3) explains criminal investigation as an enquiry which involves the process of discovering, collecting, preparing, identifying and presenting evidence to determine what happened and who is responsible. The results of the enquiry, if successful, will answer the following questions:

- Did a criminal violation as described by a code or statute occur?
- Where and at what time or date did the crime occur?
- Who were the individuals involved in the planning, execution and after-effects of the violation?
- Was a witness to the criminal activity present?
- Is there evidence of the criminal offence?
- In what manner or method was the crime perpetrated?
- Is there any indication of guilt or innocence?

According to the participants interviewed the response to the question: “What is the meaning of the concept criminal investigation?” included the following:

- Investigation of all illegal activities to establish who the responsible person is for the commission of crime – seven (7) participants.
- To establish if a crime was committed, and prove the elements of crime beyond a reasonable doubt – four (4) participants.
- To prove and successfully prosecute in a court of law and that all the elements of a crime should be present for criminal investigation, in order to have a prima facie case – eight (8) participants.

- To gather information pertaining to a crime and to prove that the offence was committed – four (4) participants.
- It is a systematic search for the truth – two (2) participants.

The participants' viewpoints are similar to those of the literature. Marais and Van Rooyen (1990:17) provide an in-depth description of the concept of criminal investigation, and how the field of investigation has evolved. In South Africa today, there is widespread concern about the quality of investigative services and the overall professional conduct of the police investigators. This has resulted in many organisations opting to protect their assets, and also address ways of preventing their assets from being abused by employees and syndicates which target their businesses (Van Rooyen, 2008:1). In addressing this concern, companies have created internal investigation departments which address crime, maladministration and irregularities, all under the guise of forensic investigation.

### **2.3. FORENSIC INVESTIGATION**

The term “forensic” is derived from the Latin word “*forum*”, which means “the marketplace”. In early Roman society, justice was administered in the market place (Mogotsi, 2002:27). Even today, people use the term “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).

Karagiozis and Sgaglio (2005: vii) refer to the increasing spectrum of professionals involved in forensic investigation, both in the public and private sector. Van Rooyen (2008) cited by Botha (2009:50), refers to “forensic investigators”, who now present themselves in practice in public service departments in the following guises:

- Customs officials
- Private sector investigators
- Investigators employed by the prosecuting authority
- Investigators employed by the revenue service

Van Rooyen (2008:2) further provides examples of forensic investigators in the private sector, namely:

- Private investigators
- Departmental investigators in government departments
- Forensic investigators of independent private companies
- Corporate investigators in private companies

Van Rooyen (as quoted by Botha, 2009:49) further states that the true meaning of the term “forensic” is twofold:

- It refers to ‘courts of law, juristic or court directed’ and relating to the application of science to decide questions arising from crime or litigation.
- It includes the function of examination or analysing.

Slyter (1995:21) explains that forensic investigation is a process of collecting facts that can 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. Forensic investigation, and in particular the term “forensics” as a noun, refers to the art of debate. However, the adjective “forensic” simply designates a connection with the use in public discussion and debate, more specifically in a court of law. Saferstein (2004:2) argues that forensic investigation is the application of science to those criminal and civil laws that are enforced by police agencies in a criminal justice system.

Jackson and Jackson (2004:1) define the term “forensic investigation” as the use of any scientific method for the resolution of criminal cases, which mainly includes the recovery and analysis of physical evidence that is crucial to the success of the subsequent enquiry. According to Jackson and Jackson (2004:1), who concur with Van Heerden (1991:8), that the term “forensic” relates to an activity directed at serving justice by means of scientific knowledge.

The participants, when asked the question, “What is the meaning of the concept forensic investigation?” responded as follows:

- It is a collection of physical evidence (collected for laboratory purposes) – eleven (11) participants.

- It is an investigation process to search for the truth – seven (7) participants.
- It is a specific method of collecting evidence (scientific and investigative), in order to present it before a court of law – seven (7) participants.

From the responses of the participants, it is noted that they are consistent with the literature, as provided by criminal investigation authors. It is evident that the participants associate the term “forensic investigation” with technical investigative methods, as described by Marais (1992:1-2).

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. Participants 3, 8, 11 and 22 agreed, and expressed similar viewpoints to those of Lambrechts (2001:93) and Fisher (2004:73). From the interviews conducted with the participants, the researcher can state that they are in line with the authors' viewpoint.

The participants were not sure about the concept of forensic investigation. The researcher is of the view that investigators need to be enlightened on the concept of forensic investigation, and that the term “forensic investigation” should become a part of their daily vocabulary. The researcher agrees with Van Rooyen (2004:7), who speaks about the existing confusion around the term "forensic investigation" as this is a growing industry – which explains the reason for the differences in the views of the participants.

In an attempt to address the concept of forensic investigation, the researcher is of the view that it can be described as a process which involves investigations in which individual or multidisciplinary approaches are adopted in the fields of law, science, information technology and accountancy, in addressing matters specific to irregularities, transgressions, incidents and acts of a criminal and civil nature, which may be presented for the purposes of prosecution at a court of law, in order to determine the guilt or innocence of a person.

Taking into account the broad spectrum of the concepts of forensic investigation by the many authors in the criminal investigation field, the researcher argues that one

can safely classify 'detective work', and its scientific methods and techniques, as part of forensic investigation.

#### **2.4. DIFFERENCE BETWEEN FORENSIC INVESTIGATION AND CRIMINAL INVESTIGATION**

According to Morn (2000:77), when comparing the concepts of, and differences between, forensic investigation and criminal investigation, there seems to be no real difference. He argues, in understanding forensic investigation, it is important to understand that it involves different investigations types, namely criminal, civil and work place investigations. This view is also supported by Lambrechts (2001:93).

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) states that forensic investigation entails the use of both scientific and investigative methods and techniques, to ensure a sound investigation and to present evidence in a court of law. Gardner (2005:1) supports this by stating that forensic investigation is an investigation aimed at instituting court proceedings.

However, criminal investigation includes investigation that is specific to common law and statutory law whilst forensic investigation includes different investigation types as explained by (Morn, 2000:7; Lambrechts, 2001:93) including quasi-judicial process for example the holding of special tribunals and commissions of enquiry. An analysis of the concepts show that there seems to be no real difference because of the fact both involve investigations, collection of evidence and litigation.

The participants were asked the following question: "What is the difference between forensic investigation and criminal investigation?" All 25 participants responded as follows:

- Criminal investigation is an investigation that is conducted by a police investigator, which involves court proceedings – twenty-five (25) participants.
- Forensic investigation is an investigation that is conducted by experts who have scientific knowledge in a specific field in which they specialise, e.g.

fingerprint experts and ballistic experts, which also has to be led in a criminal court as evidence – twenty-five (25) participants.

## **2.5. FORENSIC SCIENCE**

In science one collects, preserves and analyses, so that science is the collection and analysis of evidence. Forensic science, in its broadest concept, is the application of science to law (Davia, 2000:121). Forensic science applies the knowledge and technology of science and the enforcement of such law (Saferstein, 2009:2), so that forensic science can be defined as the application of science to the criminal laws that are enforced by police agencies in a criminal justice system. Forensic science is an umbrella term, encompassing a myriad of professions that use their skills to aid law enforcement officials in conducting their investigations. Further to this, Saferstein (2009:2) outlines the diversity of professions practising forensic science. These include the following:

- a. Criminalistics
- b. Digital and multimedia science
- c. Engineering science
- d. General
- e. Jurisprudence
- f. Odontology
- g. Pathology/biology
- h. Physical anthropology
- i. Psychiatry/behavioural science
- j. Questioned documents
- k. Toxicology

Shaler (2012:15) agrees with Saferstein (2009:2) and defines forensic science as ‘a discipline comprised of a diverse group of forensic professionals who employ and adhere to the rigorous standards of their respective professions, and who consider matters under consideration, in order to ascertain the truth of a set of alleged facts, criminal or civil’.

Saferstein (2009:3) also states that the functions of forensic scientists remain primarily behind the scenes, collecting and analysing evidence. The role they play is just as crucial, however, because their findings can help guide the direction of the investigation, and even definitively link a suspect to a crime.

To the question, “What is forensic science?” the participants responded as follows:

- Forensic science is the gathering of scientific information – fourteen (14) participants.
- It is applied science, and consists of a range of different disciplines – (seven (7) participants.
- Forensic science is applied science, such as biology, chemistry and pathology, which can help in the determination of a court case – four (4) participants.

From the responses of the participants and the literature, it can be seen that the term “forensic science” comprises a wide spread of disciplines which all narrow down to a similar concept and definition of forensic science.

## **2.6. PROCESS OF CRIMINAL INVESTIGATION**

Criminal investigations are often complex in nature, and in many cases they involve the use of many disciplines – for example, legal information, auditing and accounting. In order for an investigation to be successful, the investigation must unfold incrementally and progressively in distinctive steps. According to Van Rooyen (2008:87), the investigation process as a science, can be summarised as follows:

- the receiving of an assignment or allegation
- agreement
- preparation and planning
- information gathering
- verification and analysis
- documenting evidence

- legal proceedings
- determination and disbursement of disciplinary or corrective action
- prevention
- application of human behaviour knowledge

Peripheral issues surface from time to time regarding the investigative process – for example, questions such as “Is luck important to the outcome of an investigation?” In order to dispel such thoughts by sceptics, it is of fundamental importance that investigation is acknowledged as a scientific process. There are, however, diverging views. Sennewald and Tsukayama (2001:03) view the investigative process as an art, while Osterburg and Ward (2010:298) argue that if an art and science are part of a continuum, the question that needs to be asked is, “Where does the separation point lie”? The answer, according to Osterburg and Ward (2010:298), is that the separation point is moving by degrees towards science - for example, culinary creativeness leans towards the arts (since any chef can read a cookbook and follow directions), while criminal investigation generally commences as an inductive process with deductive and scientific reasoning integral to it.

Osterburg and Ward (2010:298) state that the criminal investigation process as a science can be summarised as follows:

- State the problem
- Form a hypothesis
- Collect data by observing and experimenting
- Interpret the data as a test of the hypothesis
- If the data supports the hypothesis, continue to collect additional data (as a logical consequence of the hypothesis)
- Draw conclusions (which, if the data are sufficiently supportive, may lead to a theory)

According to the New South Wales Department of Education (New South Wales ..., 2015), the criminal investigation process consists of the following:

- Police powers: Power to arrest or to give a warning, right to obtain identification, power to stop and detain, power to enter premises; power to prevent breach of peace and domestic violence, or arrest someone. In respect of this study, the victims fear retribution from the offender; therefore, the police have to intervene to report the incident as the complainant. This is relevant to cases of sexual offences.
- Reporting of crime: A citizen has the discretion to report crime, assuming that the police are not present. In respect of this study, the victims fear retribution from the offender – for example, in cases of sexual offences where the victim fears for the safety of her/his life, and the threat imposed by the perpetrator.
- Investigation of crime: This is the gathering of evidence, use of technology, search and seizure, and use of warrants.
- Arrest and charge, summons, warrants: The police do not have a general power to compel a suspect to attend a police station; the only lawful means is to place a suspect under arrest. The suspect is cautioned. The police believe that the suspect is about to commit a crime, or has just committed a crime, or they witnessed a crime taking place. In respect of this study, a perpetrator can be arrested in a case where the Sexual Offences Act 32 of 2007 has been contravened.
- Bail or remand: Bail is conditional freedom prior to a verdict. It is also the security for the attendance of a perpetrator in court. A police officer has the discretion, subject to the provisions of the bail, to grant or refuse bail. In this study, if the suspect had pending cases of the same nature, or was a flight risk, bail could have been denied.
- Detention and interrogation, rights of suspects: Once a person is under arrest, they may be detained by the police for a period of four hours. This enables the police to conduct investigations. In this study, the perpetrators were arrested, and the majority chose to remain silent.

The process depicted above is the daily process that is used by police officers in carrying out their duties. The participants were also asked the following question: “What is the process of criminal investigation?” They stated the following:

- Eighteen (18) participants said that it was a process which involves a step-by-step procedure, listed as follows:
  - Problem/report
  - Collection of evidence
  - Recruiting of informers/gathering evidence
  - Arrest and detention
  - Court proceedings
  
- Seven participants said that it is a procedure which starts at the time a complaint is reported, and involves investigation of the complaint and prosecution of the perpetrator in the matter.

The processes of criminal investigation outlined in the literature were highlighted by the participants in their opinions given during the interviews.

## **2.7. OBJECTIVES OF CRIMINAL INVESTIGATION**

An investigator needs to understand the objectives of an investigation, in order for their investigation to be successful. According to Marais and Van Rooyen (1994:19), the objectives of investigation are broken down into two main aspects, namely: situation identification and gathering of evidence. In situation evidence, the crime committed is identified not only in terms of the jurisdictional requirements, but also in terms of making an observation at a crime scene, and the gathering of evidence should begin at the crime scene.

Criminal investigation takes place with definite objectives in mind. An objective, according to Du Preez (1996:4), describes more precisely a commitment which must be achieved within an appointed time, according to a specified standard. Van Heerden (1986:8) identifies the following objectives of criminal investigation:

- identification of the crime
- gathering of evidence
- individualisation of the crime
- arrest of the criminal

- recovery of stolen property
- involvement in the prosecution process

Becker (2000:8) and Bennett and Hess (2001:5) agree, in mentioning the following as the objectives of an investigation:

- to determine whether a crime has been committed
- to legally obtain information and evidence to identify the person responsible
- to arrest the suspect
- to recover the stolen property
- to present the best possible case to the prosecutor
- to convict the defendant

Du Preez (1996:4), Van Heerden (1986:8), Becker (2000:8) and Bennett and Hess (2001:5) have similar views on the objectives of investigation which includes forensic investigation. The above objective is also applied to the investigation of human trafficking. The elements of human trafficking should be present. Profiling and intelligence in human trafficking is evidence in identifying the responsible person. Thereafter, an arrest is made of the suspects. Gathering the evidence, and presenting the elements of the crime to the prosecutor, will allow for a defendant to be convicted.

The participants believed that the objective of criminal investigation is as follows:

Sixteen (16) participants stated the following:

- To solve a crime
- To collect evidence and prepare for court
- To prove a criminal case
- To bring a perpetrator to book, and obtain a conviction in court
- To successfully prosecute the matter in a court of law, to achieve a conviction.

Four (4) participants stated the following reasons:

- To have offenders convicted and sentenced to jail
- To solve a crime that has taken place

- To identify a perpetrator in a case, and bring them to justice
- To collect evidence

Three (3) participants stated the following reasons:

- To successfully prosecute individuals or groups guilty of contravening the legislation.
- To prove illegal activities and bring perpetrators before a court for conviction.

Two (2) participants stated the following reasons:

- To gather the truth about the offence committed.
- To gather evidence and to prove if the perpetrator is guilty or innocent.
- To successfully solve a crime, present the evidence to a court of law, and obtain a conviction.

The participants' responses were similar and in context with Du Preez (1996:4), Van Heerden (1986:8), Becker (2000:8) and Bennett and Hess (2001:5), on the objectives of criminal investigation, as they deal with it in the performance of their daily duties.

## **2.8. PURPOSE OF INVESTIGATION**

In the definition given by Bennett and Hess (2004:4), it is mentioned that investigation is a process with different phases, methods and techniques, to obtain information and evidence which the investigator requires in order to solve the crime, apprehend the perpetrator, and then to follow through the court proceedings, to find the perpetrator either guilty or not guilty. Silverstone and Sheetz (2007:111) points out that investigations all share similarities irrespective of whether the investigation centres on financial crimes, burglary or murder, each of these investigations must pass through the same general stages of initiation, planning, execution, prosecution and reflection.

Lyman (1999:169) suggests the following as the purposes of investigation:

- Firstly, as a reactive measure, to follow up on crimes that have occurred.
- Secondly, as a proactive measure, to monitor crime as it occurs.

- Thirdly, as a preventative measure, to ensure that certain crimes will not be committed – for example, to arrest perpetrators so as to prevent them from committing further crime.

The participants from the sample were asked “What is the purpose of investigation?  
The response was as follows:

- All 25 participants stated that it was to establish facts in which suspects are identified, evidence collected and preserved for presentation in court proceedings.

The participants’ responses were in line with the literature, namely Bennett and Hess (2004:4) and Lyman (1999:169). The researcher supports this view as it is generally accepted that the purpose of investigation is such.

## **2.9. INTERNATIONAL PROTOCOLS**

The universal protocol to prevent, suppress and punish trafficking in persons, especially women and children (also referred to as the Trafficking Protocol, or UN TIP Protocol) is a protocol to the convention against transnational organised crime. The following are international protocols, which constitutes international legislation addressing human trafficking:

### **2.9.1. The UN Declaration**

The United Nations Office on Drugs and Crime (UNODC) has been a global leader in the fight against illicit drugs and international crime since its establishment in 1977. The UNODC covers 11 countries in Southern Africa. The UNODC assists member states, such as South Africa, upon requests for the ratification and implementation of these international instruments. The work of the UNODC, with regard to trafficking in persons, is guided by the United Nations Convention against Transnational Organised Crime, and its supplementing protocols, particularly the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Koen et al., 2007:7). The protocol was adopted by the United Nations General Assembly in 2000, and enforced on 25 December 2003. As of September 2014, it was ratified by 163 states.

The UNODC is responsible for implementing the Protocol. It offers practical help to states in drafting laws, creating comprehensive national anti-trafficking strategies, and assisting with resources to implement them. The Protocol commits to ratifying states to prevent and combat trafficking in persons, protecting and assisting victims of trafficking, and promoting co-operation among states in order to meet those objectives.

### 2.9.2. The Palermo Protocol

The Palermo Protocol (United Nations Office on Drugs and Crime (UNODC), 2000) has been successful with respect to human trafficking, in conjunction with NGOs, various campaign groups, Intergovernmental Organisations (IGOs), civil and academic groups, and committed individuals.

South Africa ratified the primary international instrument used in addressing human trafficking on 20 February 2004. Many countries ratified this Protocol. South Africa published its own Prevention and Combating in Trafficking in Persons (TIP) Bill Act on 29 of July 2013. The United Nations adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons in November 2000, referred to as the “Palermo Protocol”. This Protocol offers the first internationally agreed upon definition of human trafficking, and was established to increase international co-operation in order to effectively prevent and combat human trafficking (UNODC, 2000:28).

### 2.9.3. Declaration in Africa (the African Union-AU)

After drug and arms trafficking, trafficking in persons is the third-largest criminal activity in the world (Olujuwon, 2008). The trafficking and commercial sexual exploitation of women and girls in Africa is a widespread human rights abuse, requiring immediate action by member states. It is in this regard that the African Union (AU) incorporated article 4(2) (g) of the Protocol to the African Charter on Human and Peoples’ Rights on the rights of women, which was later affirmed in the Ouagadougou Action Plan (endorsed by the AU’s Executive Council decision EX.CL/Dec.324 (X)).

Member states are also encouraged to actively participate in the realisation of the goals of the AU Commission Initiative Against Trafficking (AU COMMIT) Campaign

that has been running since 2009, spearheaded by the African Union Commission (AUC) Social Affairs Department.

## **2.10. SOUTH AFRICAN EXPERIENCE**

The Constitution of the Republic of South Africa Act 108 of 1996 (Department of Justice ..., 1996), is the supreme law of South Africa, which describes the functions of the president, government, parliament, courts, state institutions, public administration and security services, among others. Any law or conduct inconsistent with the Constitution is invalid, and the obligations imposed by the Constitution must be fulfilled (Department of Justice ..., 1996). In terms of the Constitution, all citizens are equally entitled to the rights, privileges and benefits of citizenship. The Constitution lays down that the SAPS has the responsibility to prevent, combat and investigate crime, maintain public order, protect and secure the inhabitants of the Republic and their property, uphold and enforce the law, create a safe and secure environment for all people in South Africa, prevent anything that may threaten the safety or security of any community, investigate any crimes that threaten the safety or security of any community, ensure that criminals are brought to justice, and participate in efforts to address the causes of crime.

South Africa does not have any legislation that specifically prohibits human trafficking, and there is no law in place to address the phenomenon. South Africa is one of the member states that has ratified international instruments aimed at combating, suppressing and punishing trafficking in persons. To date, no law has been passed in South Africa; however, there is the TIP Bill that is currently in use, which covers the South African trafficking provisions. South Africa is at present working on legislation in respect of the phenomenon of human trafficking. The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 makes an interim provision relating to the TIP for sexual purposes. The Children's Act 38 of 2005 also makes an interim provision for trafficking in children. Due to the procrastination in implementing human trafficking laws in South Africa, SA is reliant solely on common law and statutory law crime to prosecute perpetrators. These crimes include trafficking in persons for sexual purposes, trafficking in children, keeping a brothel and prostitution.

## **2.11. SUMMARY**

This chapter addressed the concepts of criminal and forensic investigation, their meaning, and differences. Further, the purposes and objectives of investigation were discussed, to provide an understanding as to why an investigation should be conducted. Various international protocols were discussed which criminalise the act of human trafficking. Currently, no law exists in South Africa to prosecute the crime of human trafficking. Investigators are therefore reliant on alternative common law and statutory provisions to prosecute perpetrators. The following chapter will discuss the elements, purpose and value of the MO of perpetrators in the phenomenon of human trafficking.

## **CHAPTER 3**

### **MODUS OPERANDI OF PERPETRATORS IN THE PHENOMENON OF HUMAN TRAFFICKING**

#### **3.1. INTRODUCTION**

Certain crimes, such as armed robbery, are of such a nature that almost no physical clues are left behind at the scene. In such cases, the criminal investigators have to rely to a large extent on other sources of information. One of the most important sources of information is the criminal's method of working, or modus operandi (MO) (Unisa, 2004:44).

According to Marais (1992:1), tactical investigation methods must be followed by means of studying specific methods or techniques of criminals in committing a crime, such as MO. The classification of criminals according to their MO can make a valuable contribution in crimes such as human trafficking. The criminal's MO can make a significant contribution to the identification and tracing of the criminal, just as in the case of physical evidence at a crime scene. As with physical evidence at the crime scene, the MO of criminals can also contribute towards identifying and tracing them.

This chapter will focus on the concepts of perpetrators, human trafficking and MO. The researcher will address the MO, including important related issues pertaining to MO and human trafficking, including the following:

- the meaning of the concept of MO
- the elements of MO
- the factors that can influence MO
- the value of MO
- the purpose of MO

Due to the absence of cases and laws on human trafficking in South Africa, the researcher analysed cases on the MO of perpetrators for trafficking in persons for sexual purposes, and trafficking in children. In the following paragraph the researcher will address the definition of a perpetrator, and the participant's views.

### **3.2. HUMAN TRAFFICKING**

The Palermo Protocol offers the first internationally agreed-upon definition of human trafficking (UNODC, 2000:4), and defines trafficking in persons as follows:

- "The act of recruitment, transportation, transfer, harbouring, or receipt of persons;
- By means of the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim;
- For the purpose of exploitation which includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs".

In response to the question, "What do you understand by the concept of human trafficking?" the participants responded as follows:

- It is keeping a person and exploiting them for financial gain – twelve (12) participants.
- It is the control of a person by means of misrepresentation for sexual purposes – nine (9) participants.
- It is the use of foreign nationals to engage in prostitution for monetary gain – four (4) participants.

The participants and the literature share a similar viewpoint on the meaning of the concept, as was previously outlined in Chapter 1. The researcher has gathered, through interviews and the literature review, that there is no specific law that prohibits human trafficking, in South Africa, as no law has yet been passed, although, internationally, one could be charged for contravening the UN TIP Protocol.

### **3.3. STIPULATED CHARGES FOR THE PHENOMENON OF HUMAN TRAFFICKING**

The Prevention of Organised Crime Act 121 of 1998 (POCA) (Department of

Justice ..., 1998b) governs all organised crime in South Africa. Organised Crime investigations conducted fall under the POCA Act. There are various charges that are utilised under the POCA Act, in order to charge a perpetrator for the phenomenon of human trafficking. These are listed as follows:

- Section 2 (1) (e) POCA and Section 2 (1) (f) POCA
- Keeping a brothel
- “Prostitution” – reward
- The Immigration Act 13 of 2002
- The Children’s Act No 38 of 2005
- The Business Act 71 of 1991
- Section 4 and Section 6 POCA Money Laundering
- Section 71 (b) Sexual Offences Act 32 of 2007

The participants were asked to “stipulate the charges that are used for cases of human trafficking”. The participants provided multiple answers, namely:

- All twenty five (25) participants stated two common charges, which were the POCA Act 121 of 1998 and the Sexual Offences Act Section 70/71 of Act 32 of 2007.
- Twenty-two (22) participants stated "keeping a brothel".
- Thirteen (13) participants stated "prostitution".
- Seven (7) participants listed racketeering.
- Sixteen (16) participants listed money laundering.
- Three (3) participants listed the Children’s Act.
- Five (5) participants listed the Immigration Act 13 of 2002.

If a perpetrator commits a crime, they will be charged according to the abovementioned Acts.

### **3.4. PERPETRATORS**

According to Joubert (1999:97), the classification of a person as a perpetrator depends on whether such person’s conduct satisfies all the elements of an offence.

A perpetrator can therefore be defined as a person who complies with all the requirements of the offence.

Joubert (2010:91) highlights four situations where a person will be considered to be a perpetrator:

- Where a person satisfies all the elements of the offence, he/she will be considered as a perpetrator in his/her own right.
- Where a person procures another person (who may be an innocent or unwilling agent) to commit an offence. The conduct of the innocent or unwilling perpetrator will be attributed to the person who procured him/her.
- Where a person, with the required form of culpability, does not commit the crime.
- Actual unlawful conduct, but the conduct of the perpetrator is attributed to him/her by virtue of his/her prior agreement or association with a common purpose to commit the crime in question.

The participants interviewed shared similar thoughts to those quoted by Joubert (1999:97), in that a perpetrator is one who commits a crime, the people/group involved in a crime, or someone who contravenes a law or legal provision. A breakdown of the responses is as follows:

- Nineteen (19) participants defined a perpetrator as someone who commits a crime and who contravenes the law.
- Four (4) participants believed that a perpetrator is someone who was arrested and not charged.
- Two (2) participants believed that a perpetrator is someone who is linked to a crime scene and there is a substantial amount of evidence available to link them to a crime.

The participants and the literature have similar viewpoints on the meaning of the concept.

### **3.5. MODUS OPERANDI**

Modus operandi is a Latin term that means behaviour, conduct or operational

methodology, so that modus operandi refers to the behaviour or methodology of the criminal. Offenders tend to use the same method repeatedly in the commission of their crimes (Du Preez, 1996:32). MO is the characteristic way in which a criminal commits a specific type of crime (Bennett & Hess, 2004:552). Van Heerden (1985:10) gives a more comprehensive description of MO, describing it as “habits and techniques of criminals which have become stereotyped”.

MO is the action an offender generally uses to commit a crime. Zinn (2002:39) points out that an early example of crime pattern analysis was through Sir Llewelyn W. Atcherley, who gave prominence to the term “modus operandi” with his view that an offender may be identified by the manner in which he committed the crime. Marais and Van Rooyen (1990:66) believe that MO is “an offender identification technique” which can speed up the investigation process by narrowing down the number of suspects, and provide guidance to the investigators. Zinn (2002:83) elaborates that MO information could be useful to investigators in identifying and tracing likely offenders, and could help the investigator to refine his interrogation techniques and trace physical evidence at the crime scene.

According to Caldwell (as quoted by Du Plessis, 1989:84), MO is a means of identification which is based on the fact that many offenders tend to use the same method, time and again, when committing a crime. Barnes and Teeters (as quoted by Du Plessis, 1989:84), describe it as a system to identify an offender – a system based on the surmise that a transgressor leaves behind his trade mark in the form of the crime he commits and the methods he employs. In a manner corresponding with the Locard principle, criminals cannot escape the crime information which they transfer to the scene (Du Preez, 1996:38).

A more comprehensive description of the definition with regard to MO, is explained by Joubert (1999:420): ‘criminals will usually use the same mode of operation (modus operandi) by committing similar offences or the same type of crime in a similar manner. The police, for this reason, compile profiles on criminals for the various cases which could later assist in tracking and tracing perpetrators in other related cases. The doctrine of MO has its limits; it is very useful in compiling a profile

of a serial criminal, since it can assist the investigating officer in predicting the serial criminal's future conduct, thus enabling him/her to track down the suspect.'

The sample was asked, "What is modus operandi?" and responded as follows:

- It is a method a person uses to commit a crime – twelve (12) participants.
- It is a method of operation and a method used by criminals for a specific crime – three (3) participants.
- It is a method used repeatedly by criminals who use of the same pattern – six (6) participants.
- It is a method or manner in which crime is planned and executed, or a specific way of doing something on a regular basis, creating a pattern – four (4) participants.

All 25 investigators shared similar views, as shown above, that MO is a method used by a criminal to commit a crime, thereby creating a pattern. The researcher is of the view that the participants have a good understanding of the concept, and share similar views to the authors listed above.

However, the results of docket analysis show the different types of MO used in specific cases. The modus operandi of perpetrators identified includes the following:

- The route that a perpetrator would use,
- The method of transportation,
- The recruitment style and the threat placed on the victim's life by the perpetrator.

To the question, "Name the different types of modus operandi you came across during your years of experience?" the participants responded as follows:

- Perpetrators lure their victims by promising them lucrative jobs in modelling agencies, advertising agencies, scholarships, waitressing, hairdressing salons and beauty salons – eleven (11) participants.
- Perpetrators identify victims who come from poverty-stricken homes – one (1) participant.

- They are stripped of their passports and travel documents – three (3) participants.
- Perpetrators identified persons who are vulnerable – four (4) participants.
- The perpetrator would promise them citizenship of that country – three (3) participants.
- The perpetrator would promise material and financial wealth to the victim, and a better way of life – two (2) participants.
- The victim's parents were paid in order for the release of the victim, and promise of a job and better life, and money to be sent to family – one (1) participant.

Another question put to the participants during the interviews was the following:

“What is the modus operandi of perpetrators in human trafficking cases in KZN?”

- To lure victims – thirteen (13) participants.
- To promise them fancy jobs – four (4) participants.
- To identify vulnerable persons – three (3) participants.
- To confiscate their passports and travel documents – five (5) participants.

### 3.5.1. The purpose of modus operandi

Today, all crimes that are reported to the SAPS are recorded on the Crime Administration System (CAS). All information, such as dates, times, places, methods used, target groups and MO of criminals, is logged into the CAS system by the data typist.

The purpose of MO is to identify possible criminals, as well as the collection, safekeeping and presentation of evidence relating to the alleged crimes, and the searching, tracing and collection of facts (Du Preez, 1996:33).

The purpose of MO, according to Turvey (2008:310-311), is the collection, storage, and examination of a criminal's MO have traditionally been investigative relevant for the following reasons:

- The linkage of unsolved cases by MO.

- Suspect identification by comparing known criminals' MO with the MO evident in unsolved cases.
- Routine comparison of arrestee MO with the MO evident in unsolved cases.
- Development of investigative leads or suspect identity in unsolved cases by virtue of accumulating MO information.
- Suspect prioritisation or elimination.
- Clearance of unsolved cases.

The researcher asked the participants, "What is the purpose of modus operandi?" and their responses were as follows:

- To identify the perpetrator in crime – twenty-three (23) participants.
- To trace a perpetrator/syndicate – two (2) participants.

MO is therefore used to trace perpetrators. MO is the characteristics of a person's action when committing a crime. The purpose for using MO is to identify the perpetrator in trafficking cases.

Twenty-three of the participants in the sample shared the same view as Du Preez (1996:33) and Turvey (2008:310), while the other two participants said the same thing but in a different manner. The participants had two responses which were similar to the views of Du Preez (1996:33) and Turvey (2008:310-311).

In response to the question "How can modus operandi be used to investigate a case of trafficking?" the participants came up with the following responses:

- Six participants responded that modus operandi can be used to investigate a case by identifying the perpetrator or victim and the methods and techniques they used.
- Five participants responded that modus operandi can be used to investigate cases by linking existing cases, and to show trends in trafficking activity.
- Two participants responded that modus operandi can be used to investigate cases by infiltrating the syndicate and gathering evidence.

- Nine participants responded that modus operandi can be used in a case to identify perpetrators who repeatedly use a similar approach repeatedly to lure victims.
- Three participants responded that modus operandi can be used in a case by linking similar cases and perpetrators.

Today all modus operandi information is computerised on the CAS system. This was evident in the 30 case dockets analysed by the researcher. This information is completed by investigators as every case docket must be captured on the CAS system which contains the details of the elements of crime, modus operandi and description of the crime.

### 3.5.2. The value of modus operandi

Modus operandi information can be used effectively to reduce the number of suspects in a case, and, in so doing, give direction to the entire investigation process (UNISA, 2004:64).

Zinn (2002:83) takes the view that MO includes, for example, trademarks of a specific group of criminals who commit crime together. A complete databank, in terms of trademarks, is invaluable in the investigation process, for the identification and tracing of possible offenders, as well as for determining the best interrogation techniques regarding an offender, as well as the tracing of physical evidence at a crime scene.

Lee, De Forest and Gaensslen (1983:29) also take the view that "many criminals have a particular modus operandi, which consists of their characteristic way of committing a crime. Physical evidence can help in establishing modus operandi, for example, the clothing left behind, cigarette butts, hair or semen or any other signs that are all important."

The researcher is of the opinion that the authors are in agreement that the value of MO can be knowledge of criminality and methods of their apprehension, skill, patience, tact and a way of committing crime.

According to UNISA (2004:64), MO can be used in the following ways:

- As a perpetrator identification technique to bring about the identification and tracing of criminals.
- As a resource for preventing crime.
- As a resource for interrogating suspects.
- For distributing investigating personnel and resources in places where observations have been made.

Prinsloo (1993:44) states that MO can be used in the exact same manner as mentioned above by UNISA (2004:64), except that Prinsloo adds the following in addition to the above:

- For reactive police operations.
- In the planning, co-ordination and utilisation of resources (for example, the deploying of resources such as patrol vehicles and human resources to patrol the identified areas).
- As a database (of contacts or suspects) during the questioning of suspects.

To the question, “What is the value of modus operandi?” the responses were as follows:

- It is trademarks that are found of a single perpetrator or a syndicate at a crime scene – five (5) participants.
- Modus operandi is to identify crime threats and crime patterns – seventeen (17) participants.
- Its value includes factors which are time, place and the identity of a perpetrator – three (3) participants.

The researcher’s observation from the 30 case dockets is similar to that of Lee, De Forest and Gaensslen (1983), where the method of operating by perpetrators, the manner in which they carry out a criminal act, and trademarks left on a crime scene, were highlighted as the value of modus operandi.

In response to the question, “Through your experience, have you used MO information to investigate any cases and if yes under what circumstances did you

use MO information?” the participants came up with the following responses:

- All twenty five participants stated that they used modus operandi to investigate cases.
- Eight participants stated that they used modus operandi in cases of serial rapes and murders whereby a similar style or pattern was used by a perpetrator.
- Fifteen participants stated that they used modus operandi in house robbery, armed robbery and property related crimes whereby the same perpetrator would use the same pattern of committing the crime.
- Two participants stated that they used modus operandi in fraud cases whereby the perpetrator used credit cards and internet banking to conduct the same fraudulent activities repeatedly.

### **3.6. ELEMENTS OF MODUS OPERANDI**

An offender’s MO behaviour is functional in nature. It is comprised of learnt behaviours that can evolve and develop over time. It can be refined as an offender becomes more experienced, sophisticated and confident. It can also become less competent and skilled over time, decompensating by virtue of a deteriorating mental state, or increased use of controlled substances (Turvey, 2000:231).

Turvey (2012:335) states that MO behaviours usually serve (or fail to serve) one or more of three general purposes:

- Protection of offender identity: for example, wearing a mask during a daytime bank robbery, covering a victim’s eyes during a rape, wearing gloves during a burglary, killing a witness to any of the above, and staging the crime.
- Successful completion of the crime: for example, targeting and acquiring the victim, using a gag to silence the victim, using a weapon to control a victim, making a list of potential victims with pertinent information, and using a gun to kill the victim.
- Facilitation of offender escape: for example, use of a stolen vehicle during the commission of a crime, disposal of a vehicle after the commission of a crime,

and tying up/knocking out victims to prevent their escape and hamper their attempts to get help.

Turvey (2012:336) highlights the general types of MO, which can include crime scene characteristics such as, but not limited to, the following:

- Number of offenders
- Amount of planning before a crime
- Offence location selected
- Route taken to offence location
- Pre-surveillance of crime scenes or victim
- Involvement of victim during a crime (non-fantasy-related)
- Nature and extent of injuries to the victim
- Method of killing the victim
- Location and position of the victim's clothing
- Location and position of the victim's body
- Items taken from the victim or crime scene(s) for profit or to prevent identification
- Method of transportation to and from the scene(s)
- Direction of escape route taken from offence location
- Use of a weapon during the crime
- Nature and extent of precautionary acts
- Location of offence
- Methods of committing the crime
- Techniques and instruments to be used
- Protection of offender's identity (wearing a mask or gloves during the crime).
- Facilitation of offender escape (disposal of a vehicle after the commission of a crime, etc.)

Douglas, Burges and Ressler (1992:2) state that when attempting to link cases, the MO has great significance. A critical step in crime scene analysis is the resulting

correlation that connects cases due to similarities in MO.

Turvey (2002:232) supports Douglas et al. (1992:2) by saying that the offender becomes more experienced and sophisticated; for example, a novice burglar might shatter a locked basement window to gain access to a house. Fearing that the sound of the window breaking will attract attention, he rushes in to reach for valuable. Later, during subsequent crimes, he brings tools to force open locks, which will minimize the noise. This shows that the burglar has refined his housebreaking and entering techniques, to lower the risk of apprehension and increase his profit.

According to Douglas et al. (1992:2), this demonstrates that MO is a learned behaviour that is dynamic and flexible. Developing over time, the MO continuously evolves as offenders gain experience and confidence.

The participants in the sample were asked to list the elements of MO. Their responses were as follows:

- Twenty-two (22) participants in the sample shared a similar opinion, that the elements of MO are the five questions that one would usually ask: *how, when, what, who* and *why*. This is asked in order to get more clarity or insight into the cases of human trafficking. These are the general questions one asks in obtaining statements in a criminal case.
- The remaining three (3) participants believed that the elements of MO were the method of the crime, the style, and the pattern of crime.

In conclusion to the responses received by the researcher, the participants' responses were different from that of the authors Turvey (2002:231-232) and Douglas et al. (1992:2) as none of the authors refers to the *how, when, what, who* or *why*.

### **3.7. MODUS OPERANDI OF CASE DOCKETS ANALYSED**

The researcher analysed 30 case dockets. The dockets analysed were trafficking in persons for sexual purpose and trafficking in children. The cases were analysed by the researcher, and the modus operandi of perpetrators was noted accordingly:

➤ **Establish the number of offenders:** From the 30 case dockets analysed, it was established that in eight case dockets there was more than one perpetrator involved. From the eight case dockets alone, the researcher gathered that there was a total of 19 offenders who were identified. From the balance of the 22 case dockets, 14 offenders were identified. Therefore the total numbers of offenders established by the researcher was 33 offenders.

➤ Which modus operandi was used in the specific cases:

- Trafficking in persons for sexual purposes: the researcher identified that, in 28 dockets, the modus operandi used was that the perpetrators lured the victims on pretence of good job offers. Another common modus operandi used was that the victims incurred a debt from the perpetrators (16 case dockets). This included their flight cost, visas and accommodation. They were forced to work to pay off their debt. The perpetrators added this to a debt list. All debts were incurred to a debt list. In this way, the victim was not able to get rid of their tab. The researcher noticed that this was common purpose in all 30 dockets analysed.

However, the most common modus operandi noted by the researcher was debt bondage. The perpetrators introduced drugs to the victims so that the victims would become vulnerable and become addicted. This was evident in all 30 dockets.

- Trafficking in children: the researcher identified that, in two dockets, the modus operandi used was that the perpetrators targeted children from poor and vulnerable families. In the two case dockets analysed, the children were not aware of the type of work they were going to do. The perpetrators had promised the child victims jobs in fancy hotels. The perpetrator forced the victims into working as sex workers with little or no income, and introduced them to drugs. The victims also became runners in the drug trade for the perpetrators.

➤ **Establish the route taken and the method of committing the crime-** From 18 case dockets analysed, it came to light that perpetrators used South Africa because it was easy to smuggle people through the ports. It was noted that

victims came from Thailand and Germany. From the remaining 12 case dockets, it was noted that the perpetrators used cross border routes clandestinely (18 case dockets) or legitimately (12 case dockets). The method of committing the crime in all 30 case dockets was similar in all cases. Perpetrators use three simple steps. These steps were to recruit, transport and exploit. The victims were promised jobs and the travel, identity and passport documents of the victims were taken by the perpetrators as soon as they landed. This was evident in 30 dockets. This allowed the perpetrators to control and exploit the victims. This modus operandi was evident in all the dockets analysed.

- **Establish the method of transportation to and from the crime scene-** in all 30 case dockets, the method of transportation used by the perpetrators to and from the crime scene was a vehicle that was arranged by the perpetrators.
- **Identify the criminal motive-** the common criminal motive noted in all 30 case dockets was that the perpetrator sexually exploited the victims for financial profits/ gains.
- **Identify the methods of committing the crime-** the method of committing the crime was conducted by using deceiving methods (30 case dockets) of false promises, threatening the victim and force.
- **Pre-surveillance of crime scene/victim-** from the 30 case dockets analysed, the following points were noted by the researcher, which included pre-surveillance of trafficked victims.
  - Age of the victims- younger persons were identified as victims.
  - Sex of the victim- cases highlighted that young women and girls were affected.
  - Nationality/ethnicity- vulnerable and poor communities were victims.
  - Documentation- seized by the perpetrator for control of the victim.
  - Last location- this included brothels or clubs agencies where the victim was exploited.

- Signs of abuse- signs of physical abuse were also noted as an indication of trafficking in the dockets analysed.
- **Establish the location of offences-** from docket analysis it was established that, for 27 cases analysed, the location was at brothels. From three case dockets, the location of the offence was at motels/lodges that were hired by the perpetrator.
- **Recruitment style-** the method of transportation of victims and the threat or force that is placed on a victim's life by the perpetrator- the recruitment style noted by the researcher was methods of deceptive promises made by the perpetrator. Victims were lured by promises of employment in hotel and beauty salons. This was common practice noticed in all 30 case dockets. The threat noted in the case dockets analysed was that of debt bondage and the confiscation of their travel documents. This was noted in 26 dockets, where the victims had to pay the perpetrators for their travel expenses, food and accommodation. Another method of threatening the victim was through violence. This was noted in three case dockets analysed.

The dockets studied by the researcher indicate that the modus operandi used by perpetrators in the two cases of trafficking in persons for sexual purposes and trafficking in children.

### **3.8. FACTORS THAT INFLUENCE MODUS OPERANDI IN HUMAN TRAFFICKING**

According to Turvey (2002:32), the criminal investigator must be aware that when the same modus operandi is used in two crime situations, it does not always necessarily mean that the same criminal committed the two crimes. Such a similarity can be merely a coincidence, and it is even possible that the methods and techniques of one criminal can be copied successfully by another (Turvey, 2002:32).

Turvey (2002:32) states that an offender's modus operandi behaviours are, by extension, dynamic and flexible. He says this is because modus operandi behaviour is affected by time, and can change as the offender learns or deteriorates. For example, an offender may realise that some of the things that they do during a crime

are more effective. They may subsequently repeat them in future offences, and become more skilful, refining their modus operandi.

However, Turvey (2002:32) states that modus operandi behaviour may also change, due to an offender's deteriorating mental state, or to the influence of controlled substances, or to increased confidence that they will not be apprehended successfully by the law (police, etc). All this can influence the offender to become less skilful, less competent and more careless. On the other hand, the offender's career may also refine their modus operandi that unintentionally reveals something about their identity, character or experience, or the offender may also learn how to be more skilful in committing a crime, to escape captivity, and also to conceal their identity.

According to Bennett and Hess (2004:336), important MO factors include the time, type of victim, type of premises, point and means of entry, type of property taken, and any peculiarities of offences.

Marais (1989:48-49) lists the following factors that influence MO, with practical examples:

- **Opportunity to commit a crime:** A perpetrator will take a chance and smuggle women, if he sees that there is an opportunity and that there is no threat stopping him from committing the criminal offence. A perpetrator can commit a crime with no planning and without a fixed MO.
- **Physical capacity:** A well-known, prominent businessman, who always wears a collar and tie but is involved in human trafficking activities on the side, can, by his physical appearance, mislead a community. A person's physical needs and status in society determine his/her operational method to a large extent.
- **Changing needs and desires:** A perpetrator who is involved in a business such as a massage parlour, traffics women and children due to changing needs and the large amount of income human trafficking generates. Changing needs and desires lead to changes in the MO of the perpetrators.

- **The situation in which the criminal finds himself/herself:** The perpetrator will operate his shop as a beauty parlour, but an inspection of the business premises may force them to operate from a private home, in order to avoid regular inspection of business property by the municipality and other government departments. The situations in which perpetrators find themselves can force them to deviate from fixed operational methods.
- **Knowledge and experience:** If a professional person, such as a police officer who was dismissed on a corruption case, finds themselves unemployed, they could then use their knowledge and experience to open a small business which could involve human trafficking. Knowledge and experience gained in a legal manner can be used to commit a crime.

The researcher asked the participants the following question: “What are some of the factors that influence modus operandi in human trafficking?” The responses were as follows:

- Twenty-three (23) participants stated that the factors to prove modus operandi were the methods used by perpetrators, the crime patterns of perpetrators and the behaviour of perpetrators. Opportunities to commit a crime and the perpetrator’s changing needs and desires were the main factors which the participants highlighted.
- Two (2) participants were not sure, and did not respond to the question.

From the responses received, it is evident that the participants had a fairly good understanding of the factors that influence or determine MO.

### **3.9. COMPARISON OF THE MODUS OPERANDI OF PERPETRATORS OF THE PHENOMENON OF HUMAN TRAFFICKING**

The researcher made a comparison of the international MO of perpetrators as per Source Annexure: D. *Modus operandi of illegal recruiters- “no to trafficking [s.a.]” as per international standards* and law and compared that to South African modus operandi, obtained from the docket analysis. The following table highlights a few types of modus operandi that perpetrators use.

**Table 3.1:** Modus operandi of recruiters.

<b>Type Of Modus Operandi</b>	<b><i>International modus operandi (as per website)</i></b>	<b>National Modus Operandi of perpetrators of case docket analysed</b>
<b>Tourist Worker Scheme</b>	<i>Workers leave the country as tourists but are actually leaving for employment abroad.</i>	This was noted in all 30 case dockets where victims were lured by perpetrators on pretence of false job promises.
<b>Escort Services</b>	<i>Workers are “escorted” at airports and seaports and allowed to leave even without the required travel documents.</i>	From the 30 dockets analysed, all perpetrators used South Africa, as it was easy to smuggle the victims through the ports.
<b>Blind Ads</b>	<i>Advertisements for overseas employment published in the dailies do not indicate the name of the recruiter, but provide a P.O. Box to which applications may be submitted.</i>	In the dockets analysed, it was established that the perpetrators lured the victims into jobs which were advertised on false pretence. This was noted in all 30 cases.
<b>By Correspondence</b>	<i>Applicants are encouraged to submit their requirements through mail, together with a seemingly minimal fee.</i>	This type of modus operandi was not noted in the case dockets analysed by the researcher.
<b>Backdoor Exit</b>	<i>Workers leave through the southern ports of exit where immigration control is lax. They usually leave on cargo ships or on boats.</i>	The researcher observed that in all 30 cases the victims were always transported via the ports. The perpetrators used this method of transportation, as it was an easier method.
<b>Trainee-Worker Scheme</b>	<i>Workers are recruited and deployed as trainees on a training agreement. More often, HRM students leave under the guise of a traineeship programme for hotels abroad, but eventually land jobs in hotels/restaurants abroad.</i>	This was noted in all the cases where the victims were lured into sexual exploitation, and not the jobs they were promised in their contracts.
<b>Visa Assistance or Immigration Consultancy Scheme</b>	<i>Entities operating under the guise of consultancy, or offering services for visa facilitation, are actually engaged in recruitment by offering placements abroad on immigrant visas. Some of them also operate through the conducting of orientation seminars, which are actually recruiting activities.</i>	From the cases analysed, it was found that in all 30 dockets the perpetrators had arranged for the passports of the victims, and were operating their own recruitment offices where the travel documents of the victims were processed.
<b>Camouflaged participants/representatives in seminars/sports events</b>	<i>Workers leave as participants in seminars or sports events abroad, but actually intend to work there.</i>	It was noted in the cases that the victims were promised jobs in beauty salons, or hair dressing salons and massage parlours. But this was not according to the contracts signed, and was a total misrepresentation.
<b>Mail Order Bride Scheme</b>	<i>Marriage is arranged by brokers between Filipino women and foreigners. The Filipino wife ends up being a domestic helper to her husband and his family, or in worse situations abroad</i>	This was not found in any of the cases analysed by the researcher.
<b>Direct hiring</b>	<i>Workers are recruited directly by the foreign employer, and deployed either as tourists or through any of the other illegal means.</i>	This method of direct hiring of the victims was conducted by the perpetrator in the cases analysed by the researcher.
<b>Assumed identity</b>	<i>Workers leave under another name, either using the name of another worker or through the “baklas system” or obtaining passports through fake birth certificates and other documents. Minors are usually deployed through this scheme.</i>	From the cases analysed it was found that all the victims used a short calling name, and never used their original names. It was also noted that, in 16 dockets, the perpetrators used false names on the passports of their victims.
<b>Tie-Up or Kabit System</b>	<i>Unlicensed recruiter’s tie-up with licensed agencies and recruit workers through the facilities of the latter. Workers are either deployed under the job order of the licensed agency, but actually work for another employer abroad, or the foreign principal of the unlicensed recruiter is registered or accredited under the licensed agency’s name.</i>	This modus operandi was noted in all case dockets, where the perpetrators would employ the victims on registered lawful companies, e.g. registered beauty salons and massage parlours.

(Annexure. Modus operandi of illegal recruiters- no to trafficking “[s.a.]”.

The above table depicts a comparison between the international MO of perpetrators and the South African (national) MO of the case docket analysed by the researcher in Kwa- Zulu Natal (KZN). The international MO of perpetrators in human trafficking is similar to the case docket analysed by the researcher, and there are only two MOs from the international standards which were not present in the docket analysed. The “mail order bride scheme” and “by correspondence” was not noted in the 30 docket analysed by the researcher.

### **3.10. SIMILARITIES OF INTERNATIONAL AND NATIONAL CASE DOCKET MODUS OPERANDI TO IDENTIFY PERPETRATORS**

Analysing and studying the phases through which the crime is perpetrated, is the mirror in which its consequences can be seen. Information obtained can be used to learn new ways of committing the crime, which today still have the perpetrators signature on the crime scene. (Annexure D).

- Tourist worker scheme: Perpetrators can be linked and identified by the tourist worker scheme.
- Escort services: The owner of the escort services (if not the perpetrator) needs to provide the identity of the perpetrator.
- Blind ads: The person who placed the advertisement is obligated to provide the identity of the perpetrator.
- Backdoor exit: National port authorities need to hold the captains and crews of the vessels, in order to identify the perpetrator.
- Trainee worker schemes: The director of the trainee worker scheme needs to provide details of the perpetrator.
- Visa assistance or immigration consultancy scheme: The responsible person authorising passports and identity documents for Home Affairs and the Immigration Office, is under obligation to furnish details of the perpetrator.
- Camouflaged participants/representatives in seminars/sports events: Owners and managers of beauty salons and massage parlours are to be interviewed and are under obligation to furnish details to identify the perpetrators.

- Direct hiring: Upon interviewing victims and obtaining further witness statements, perpetrators can be identified.
- Assumed identity: The victims indicated that the perpetrator is known to them. The perpetrator can be identified by the victim.

The above similarities of international and local case dockets are methods of identifying perpetrators MO in human trafficking. The researcher can therefore positively link MO to identify a perpetrator successfully.

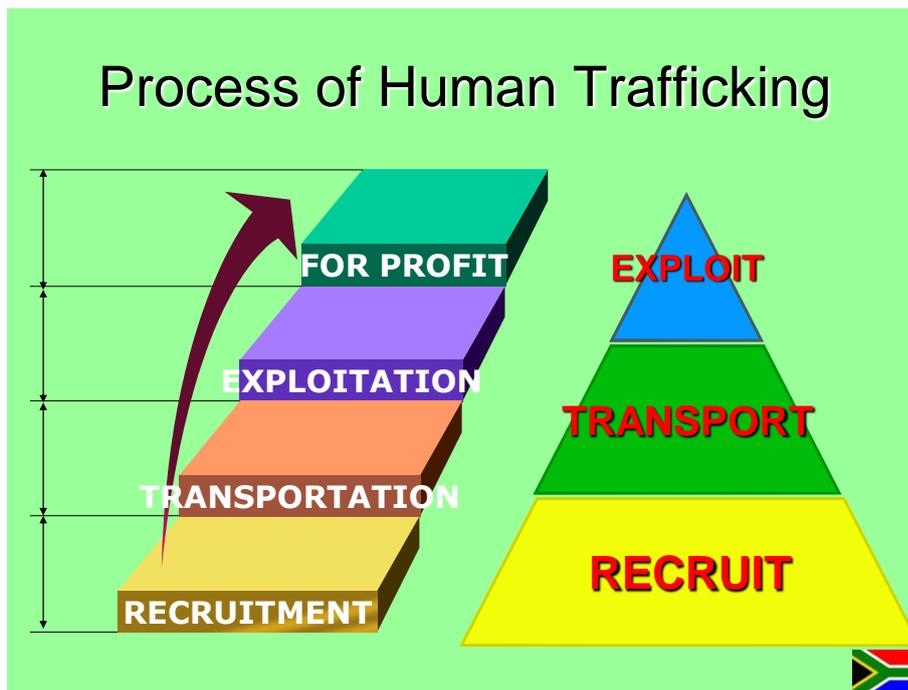
The following question was put to the participants: “How can an investigator use modus operandi to identify perpetrators of human trafficking?”

- Five participants stated that the clients are usually linked to the perpetrator. Their contacts can be traced to identify the perpetrator.
- Seven participants mentioned the distinguishing features, language and nationality of the perpetrator.
- Four participants stated that they would look for the vehicle registration number plates of the perpetrator.
- Nine participants stated that modern technology should be used to trace the perpetrators, using cell phone numbers and towers.

From the interviews conducted with the participants, it was noted that most perpetrators were traced using technology and distinguishing features, language and nationality to identify them.

It was noted that the three phases were the ultimate clues for identifying perpetrators. The figure 3.1 below is a visual explanation of the process of human trafficking and how it is initiated from the base step level to the top level.

**Figure 3.1:** Process of human trafficking



(Coleman, 2014:105)

According to the participants and the literature, the MO of perpetrators in the phenomenon of human trafficking cases in KZN is illustrated in the above figure. This includes the processes of recruitment, transportation and exploitation, and contains the process of trafficking. The similar phases of recruiting, transporting and exploitation were evident in the trafficking of persons for sexual purposes and trafficking in children, and are visible in this illustration.

The evidence gathered from the dockets and the participants show the three phases, which include recruiting, transporting and exploitation. MO is connected with the characteristics of the perpetrator of the crime, and therefore its analysis is a means of finding information that can be used to build a profile of the possible perpetrator of the crime. The three phases of trafficking build a framework for the MO which identifies a perpetrator.

### **3.11. SUMMARY**

For an incident to be identified as a case of human trafficking, it must contain the three (3) elements of MO, which consist of the act, the means and the purpose – that

is, if the person was fraudulently recruited, if the person was transported, and, finally, if there is any evidence to suggest that a person has been exploited in another region or country of destination. The MO of the crimes of trafficking in persons for sexual purposes, and trafficking in children, were analysed, in order to provide the MO of perpetrators in human trafficking. This chapter provided an analysis of the similarities and differences in the MO of international perpetrators, in the case docket analysed. The following chapter addresses the findings and recommendations.

## **CHAPTER 4**

### **FINDINGS AND RECOMMENDATIONS**

#### **4.1. INTRODUCTION**

The aim of this research was to analyse the modus operandi of perpetrators in human trafficking. To address this aim, two research questions were asked, namely:

- What are the objectives of the investigation?
- What is the modus operandi of perpetrators suspected of committing the phenomenon of human trafficking?

The researcher used data from interviews conducted with investigators, analysed case dockets, and conducted a literature review, in order to address the above research questions. The findings and recommendations were deduced by the researcher, once the analysis of literature and the information from the participants was concluded. This chapter deals with the findings and recommendations of this study.

#### **4.2. PRIMARY FINDINGS**

The findings by the researcher regarding the research questions and research aims are addressed as primary findings. Information obtained from the participants and national and international sources are indicated below.

##### 4.2.1. Research Question 1:

"What are the objectives of the investigation?"

- It has been established that the objectives of investigation are to determine whether a crime has been committed, to identify the perpetrator, locate and apprehend the perpetrator, gather and preserve physical evidence, and assist in the prosecution and conviction of the defendants.
- All the participants had a knowledgeable understanding of the objectives of investigation. Their feedback was similar to that of the literature consulted.

##### 4.2.2. Research question 2:

"What is the modus operandi of perpetrators suspected of committing the phenomenon of human trafficking?"

It has been established that the modus operandi of perpetrators in the phenomenon

of human trafficking is as follows:

- Perpetrators lure their victims on pretence of good or false job offers.
- Perpetrators target victims from poor and vulnerable families.
- Perpetrators use ports to smuggle their victims.
- Perpetrators sexually exploit their victims for financial gain/profit.
- Perpetrators use methods of force and threats upon their victims.
- Perpetrators use surveillance methods as means of identifying their victims in terms of age, location and nationality.
- Perpetrators use brothels in the commission of the phenomenon of human trafficking.
- Perpetrators abroad and locally use various methods or types of modus operandi. These include escort services, blind ads, tourist worker schemes, and many more.
- Human trafficking is a front for predicate crime, namely racketeering and money laundering. Human trafficking is a crime shrouded in secrecy affair.
- It is difficult to identify, as victims are threatened, traumatised, and afraid to talk (even when rescued).
- Exploitation takes place behind the fronts of legitimate businesses.

### **4.3. SECONDARY FINDINGS**

#### 4.3.1. Research Question 1:

"What are the objectives of investigation?"

The following secondary findings were made, in terms of further relevant points that the researcher identified:

##### 4.3.1.1. *Forensic investigation*

From the literature consulted, it was established that forensic investigation is a process of collecting facts that can serve as evidence before a court of law. It can also be described as the application of science to those criminal and civil laws that are enforced in the justice system. The participants interviewed had a similar idea of the meaning of forensic investigation.

The concept of forensic investigation can be described as a process which involves investigations in which individual or multidisciplinary approaches are adopted in the fields of law, science, information technology and accountancy, in addressing matters specific to irregularities, transgressions, incidents and acts of a criminal and civil nature, which may be presented for the purposes of prosecution at a court of law, in order to determine the guilt or innocence of a person.

The vast concepts of forensic investigation by the many authors in the criminal investigation field, it can be firmly stated that it is scientific methods and techniques, as part of forensic investigation.

#### 4.3.1.2. *Criminal investigation*

Investigation of crime forms the core of any investigator's daily task. Criminal investigation means to observe intensely, question systematically and gather information and evidence which will reveal the truth. Criminal investigation is a systematic search for the truth. The participant's viewpoints are in line with the literature provided by the authors.

#### 4.3.1.3. *Difference between forensic investigation and criminal investigation*

It was established that there is no real difference between the concepts of forensic investigation and criminal investigation. The both investigations include criminal, civil and work place investigations. Criminal investigation includes investigation that is specific to common law and statutory law whilst forensic investigation includes the holding of special tribunals and commissions of enquiry. From the discussion in Chapter 2 it is evident from the authors that both concepts follow an investigation process, with the collection of evidence and litigation.

From the literature gathered, forensic investigation is, in a sense, plagiaristic or derived from criminal investigation. It is therefore the conclusion of the researcher that criminal investigation is a police investigation that is court driven, and forensic investigation is expert evidence investigation that is also court driven. Both forensic

and criminal investigation involves the use of methods and techniques to investigate crime systematically, and to bring evidence before a court of law. The interviews conducted with the participants on the concepts of criminal investigation and forensic investigations clearly indicate that they have an understanding of the two concepts.

#### 4.3.1.4. *Forensic science*

From the research conducted, forensic science is the collection and analysis of evidence. Forensic science is the application of science to the criminal and civil laws that are enforced by police agencies in a criminal justice system.

#### 4.3.1.5. *Process of criminal investigation*

From the literature gathered, the process of investigation is summarised as follows:

- the receiving of an assignment or allegation
- agreement
- preparation and planning
- information gathering
- verification and analysis
- documenting evidence
- legal proceedings
- determination and disbursement of disciplinary or corrective action
- prevention
- application of human behaviour knowledge

#### 4.3.1.6. *Purpose of investigation*

It was established that the purpose of investigation involves the gathering of information and evidence in order to arrest a perpetrator and resolve a crime. Court proceedings are followed by the Justice System and courts to determine whether a perpetrator is guilty or not guilty.

#### 4.3.1.7. *Mandate to investigate*

The UN Declaration: Upon request, the UNODC assists member states, such as

South Africa, in the ratification and implementation of these international instruments. The Palermo Protocol has been successful with respect to human trafficking, in conjunction with NGOs, various campaign groups, Intergovernmental Organisations (IGOs), civil and academic groups and committed individuals.

Declaration in Africa: The African Union (AU) incorporated article 4 (2) (g) of the Protocol into the African Charter on Human and Peoples' Rights.

South African experience: South Africa does not have any legislation that specifically prohibits human trafficking. The TIP Bill covers the South African trafficking provisions.

#### 4.3.2. Research Question 2:

"What is the modus operandi of perpetrators suspected of committing the phenomenon of human trafficking?"

##### 4.3.2.1. *Human Trafficking*

From the literature gathered by the researcher, human trafficking is:

- The act of recruitment, transportation, transfer, harbouring or receipt of persons.
- By means of a threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person, for the control of the victim
- For the purpose of exploitation, which includes, at a minimum, exploiting the prostitution of others, sexual experiences, forced labour, slavery or similar practices, or the removal of organs? Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, and servitude or the removal of organs (UNODC, 2000:4).
- The participants and literature share similar views on the meaning of this concept.

#### 4.3.2.2. *Stipulated charges for the phenomenon of human trafficking*

A list of charges is applicable to perpetrators who fit the elements of the phenomenon of human trafficking. At present, perpetrators cannot be charged for human trafficking, because there is no Act in place. Perpetrators will be charged on alternative charges.

#### 4.3.2.3. *Perpetrators*

In this research, it was established that a perpetrator can be defined as a person who complies with all the requirements of the offence. The participants interviewed shared similar thoughts: that a perpetrator is one who commits a crime, the people/group involved in a crime, or someone who contravenes a law or legal provision.

#### 4.3.2.4. *Modus operandi*

Modus operandi is a Latin term that means behaviour, conduct or operational methodology. From the discussion in Chapter 3 it was established that modus operandi is:

- Habits and techniques of a criminal which have become stereotyped.
- The behaviour or methodology of criminals.
- Characteristic ways in which a criminal commits a specific type of crime.
- Modus operandi is an offender identification technique.
- It is the same mode of operation by committing similar offences.
- Modus operandi is a means of identification which is based on the fact that many offenders use the same method time and time again when committing a crime.

Modus operandi in the phenomenon of human trafficking includes the following:

- Trafficking of females
- Keeping of a brothel
- trafficking for sexual purposes, and trafficking in children

#### 4.3.2.5. *Purpose of modus operandi*

From the literature consulted by the researcher, the researcher is of the opinion that the purpose of MO is to identify and arrest possible criminals, ensure the collection, safekeeping and presentation of evidence related to the alleged crimes, and also includes the searching, tracing and collection of facts.

#### 4.3.2.6. *The value of modus operandi*

This is identified as the knowledge an investigator has of the MO of criminals. MO information can be used effectively to reduce the number of suspects in a case, and, in so doing, give direction to the entire investigation process.

#### 4.3.2.7. *Elements of modus operandi*

The elements of MO include the following:

- Number of offenders
- Amount of planning before a crime
- Offence location selected
- Route taken to offence location
- Pre-surveillance of crime scene or victim
- Involvement of victim during a crime (non-fantasy-related)

#### 4.3.2.8. *Modus operandi of the case dockets analysed*

The MO of perpetrators for the two types of cases were analysed, namely trafficking for sexual purposes, and trafficking in children. The MO of each case docket was analysed during the docket analysis.

#### 4.3.2.9. *Factors that influence modus operandi in human trafficking*

Literature consulted by the researcher indicates that the following factors influence or determine MO:

- Opportunity to commit a crime
- Physical capacity
- Changing needs and desires

- The situation in which the criminal finds themselves
- Knowledge and experience

#### 4.3.2.10. *Comparison of the modus operandi of perpetrators of the phenomenon of human trafficking*

The MO of international perpetrators and the MO of the case dockets were analysed by the researcher, in order to identify the similarities and differences.

The international MO of perpetrators in human trafficking is similar to the case dockets analysed with the exception of two types, i.e. “mail order bride scheme” and “by correspondence” which was not evident in the case dockets analysed.

These two types of modus operandi methods from the international standards (Annexure D) were not present in the dockets analysed.

#### 4.3.2.11. *Similarities of international and case docket modus operandi to identify perpetrators*

The similarities of the international and case docket MO methods of identifying perpetrators of human trafficking were analysed by the researcher. The similarities in the MO of case dockets analysed, are similar to those of the international MO of international perpetrators (Annexure D). The similarities of international and case docket modus operandi are listed below:

- Tourist worker scheme
- Escort services
- Blind ads
- Backdoor exit
- Trainee-worker scheme
- Visa assistance or immigration consultancy scheme
- Camouflaged participants/representatives in seminars/sports events
- Direct hiring
- Assumed identity
- Tie-up or Kabit system

#### 4.3.2.12. *Modus operandi of perpetrators in human trafficking in KZN*

The modus operandi of perpetrators as highlighted in chapter 3 includes the identification of vulnerable victims, the confiscation of the identity documents and passports and the false promises made to the victim for fancy jobs.

#### 4.3.2.13. *Use of modus operandi to investigate cases of trafficking*

Modus operandi can be used in many ways to investigate trafficking cases:

By linking existing cases, identifying the perpetrator or victim and the methods and techniques they used, infiltrating the syndicate and gathering evidence and by identifying repeat offenders.

#### 4.3.2.14. *Use of modus operandi by participants to investigate cases*

It was found that modus operandi is an important tool in investigating criminal cases. Investigators are able to use modus operandi especially in cases of serial rapes or murder whereby a specific pattern/style is used by the perpetrator. In cases of house robbery, armed robbery and property related crimes and fraud whereby the same perpetrator would use the same pattern of committing the crime. It was found that modus operandi cannot be used in cases of intimidation, damage to property and crimen injuria. There has to be a crime pattern or a method of operating.

### **4.4. RECOMMENDATIONS**

In this section, the researcher will make recommendations, based on her findings from the research. The following recommendations are made on the basis of the facts discovered during the research:

- Due to the lack of the availability of literature which specifically deals with this topic, the researcher recommends that further research be conducted on the following: modus operandi of perpetrators involved in human trafficking.
- The absence of comprehensive legislation that specifically addresses human trafficking makes it difficult to adequately respond to the crime and bring justice to the victims involved. It is therefore recommended that the legislation covering trafficking in persons, which is currently drafted, be accepted and passed as law, for approval, at the earliest date possible. After this new law

governing trafficking in persons is passed, extensive training will be necessary for the SAPS and justice departments.

- Repeated cases of sexual offences, trafficking in children for sexual purposes, sexual exploitation of prostitution, and keeping a brothel, should be noted and analysed by commanders, so that a record is kept, in the event of a suspected trafficking syndicate.

#### **4.5. CONCLUSION**

The aim of this research project was to analyse the modus operandi of perpetrators in human trafficking. It is evident that information on this topic is limited, and that more research is required. This can only come into effect once the TIP Bill is gazetted and becomes law in South Africa. The format and methodology of this research has addressed the research aims and research questions in all aspects.

The researcher has empowered herself with the knowledge gained from this research project. She anticipates that this research will empower, and provide the necessary knowledge to, investigators, and also provide them with a better understanding of MO, so that they can perform better in their investigations, armed with this improved understanding of modus operandi and human trafficking.

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## **ANNEXURE A: INTERVIEW SCHEDULE**

### **TOPIC: AN ANALYSIS OF THE MODUS OPERANDI OF PERPETRATORS IN HUMAN TRAFFICKING**

Introduction:

You are kindly requested to answer all of the questions in this interview schedule as honestly as possible. The information collected for this study will be analysed in order to develop an accurate picture for this research project on “AN ANALYSIS OF THE MODUS OPERANDI OF PERPETRATORS IN HUMAN TRAFFICKING”. This research will assist the researcher to make findings and recommendations to the topic of modus operandi of perpetrators in human trafficking.

The researcher is bound to her assurances and guarantees by the ethics code for research of the University of South Africa. You do not need to identify yourself and, similarly, the researcher will uphold anonymity in that there will be no possibility of any respondent being identified or linked in any way to the research findings in the final research report. Written permission has been obtained from the SAPS for interviews to be conducted. The analysed and processed data will be published in a research report.

Please write your responses clearly and legibly in the space provided using a black ballpoint pen.

Consent:

I hereby give permission to be interviewed for this research project and for the information I supply to be used in the research YES / NO

Signed .....

**PARTICIPANT NUMBER:** \_\_\_\_

**SECTION A: Historical Information**

1. Are you an investigator?

 YES NO

2. Which unit do you work for?

3. Total number of years of investigation experience?

 0 TO 5 6 TO 10 11 TO 15 15 TO 20

4. What type of crime investigation do you specialise in?

5. Did you undergo any detective training in the investigation of a crime?

 YES NO

6. If yes, specify the type of training received with reference to Question 5.

7. Did you receive any training in human trafficking?

 YES NO

8. How many years of experience do you have in the investigation of human trafficking?

**SECTION B: What are the objectives of investigation?**

1. What is the meaning of the concept criminal investigation?
2. What is the meaning of the concept forensic investigation?
3. What is the difference between forensic investigation and criminal investigation?
4. What is forensic science?
5. What is the process of criminal investigation?
6. What is the objective of criminal investigation?
7. What is the purpose of investigation?

**SECTION C: What is the modus operandi of perpetrators in human trafficking cases in KZN?**

1. What do you understand by the concept of 'human trafficking'?
2. Stipulate the charges that are used for cases of human trafficking.
3. What is meant by the concept of 'perpetrators'?

4. What is modus operandi?
5. Name the different types of modus operandi you came across during your years of experience? {question moved as per comment}
6. What is the purpose of modus operandi?
7. What is the value of modus operandi?
8. What are some of the factors that influence modus operandi in human trafficking?
9. List the elements of modus operandi.
10. How can an investigator use modus operandi to identify perpetrators in human trafficking?
11. What is the modus operandi of perpetrators in human trafficking cases in KZN?
12. How can modus operandi be used to investigate a case of trafficking?
13. Through your experience, have you used modus operandi to investigate any cases?

YES

NO

14. If the answer to Question 13 is 'yes', under what circumstances did you use modus operandi?

## ANNEXURE B: PERMISSION TO CONDUCT RESEARCH

SAP 21

SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

Privaatsak/Private Bag **X94**

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

**STRATEGIC MANAGEMENT COMPONENT  
HEAD OFFICE  
PRETORIA**

2011-03-22

The Divisional Commissioner  
**KWAZULU NATAL**

**For Attention:** Col Van der Linde

**RE: RESEARCH REQUEST: AN ANALYSIS OF THE MODUS OPERANDI OF PERPETRATORS IN HUMAN TRAFFICKING: M TECH IN FORENSIC INVESTIGATION : UNISA : RESEARCHER : WO S PARDOOTHMAN**

1. The research proposal of Warrant Officer S Pardootham with the above mentioned topic, refers (see attached).
2. The aim of the research is to determine the modus operandi of perpetrators in human trafficking in Kwa-Zulu Natal.
3. The target population consists of investigators who are attached to the four Organized Crime Units in KZN, namely, Richards Bay, Pietermaritzburg, Port Shepstone and Durban.
4. For the purpose of the research, the researcher will make use of case docket analysis, literature study and interviews.
5. This office recommends the study in terms of National Instruction 1 of 2006 Research in the Service, subject to the approval of the Provincial Commissioner : Kwazulu Natal. If the study is approved, the researcher must ensure that this office receive a copy of the final research report.

With kind regards

  
**MAJOR GENERAL  
HEAD OF STRATEGIC MANAGEMENT  
GÉ MOORCROFT**

**From:** Provincial Commander: Strategic Management KZN  
**Sent:** 24 May 2011 02:24 PM  
**To:** KZN:Greenwood Park SCM  
**Subject:** FW: RESEARCH REQUEST: W/O S PARDOOTHMAN: Approval by Provincial Commissioner; KZN Ref: 25/7/12/2/3(227)  
**Attachments:** FW: RESEARCH REQUEST: W/O S PARDOOTHMAN; S PARDOOTHMAN.wpd

Re-send

**From:** Olkers HT - Lieutenant Colonel  
**Sent:** 24 May 2011 02:10 PM  
**To:** KZN:Greenwood Park SCM  
**Cc:** Joubert Giep - Lieutenant Colonel; Provincial Commander: Strategic Management KZN  
**Subject:** FW: RESEARCH REQUEST: W/O S PARDOOTHMAN: Approval by Provincial Commissioner; KZN Ref: 25/7/12/2/3(227)

W/Off. S Pardhoothman

**PERMISSION TO CONDUCT RESEARCH: THE MODUS OPERANDI OF PERPETRATORS IN HUMAN TRAFFICKING: M TECH IN FORENSIC INVESTIGATION: UNISA: RESEARCH: W/O S PARDOOTHMAN**

1. Your application in this regard have reference.
2. Please find attached National and Provincial Approval letters to conduct the research.
3. Your research will also be to the benefit of the SAPS.
4. We wish all the best with your research project and would be glad to assist you in any other further way.

Thank you.

CC. Copy for your information.

Thank you.



Lieutenant Colonel H.T.Olkers  
South African Police Service  
KwaZulu-Natal Strategic Management  
Tel: 031 3254914  
Cell: 0730771577

# ANNEXURE C: CRIME ADMINISTRATION SYSTEM KEYWORD ENQUIRY

C1

Page: 1 Document Name: untitled

CRIME ADMINISTRATION SYSTEM  
KEY WORD ENQUIRY

2014-11-17  
(12.7.1 1/4)

DISPLAY KEYWORDS STARTING WITH: SEXUAL OFFENCES

MOVE CURSOR TO CHOICE AND CONFIRM:

SEXUAL OFFENCES  
SEXUAL OFFENCES - ASSIST IN THE COMMITTING OF INDECENT ACT  
SEXUAL OFFENCES - ASSISTANCE FOR PURPOSES OF INDECENT ACT  
SEXUAL OFFENCES - CARNAL INTERCOURSE WITH GIRL UNDER AGE OF CONSENT  
SEXUAL OFFENCES - COMMIT INDECENT ACT FOR PAYMENT  
SEXUAL OFFENCES - ENTICING THE COMMISSION OF INDECENT ACTS  
SEXUAL OFFENCES - INDECENT ACT WITH ANOTHER PERSON IN PUBLIC  
SEXUAL OFFENCES - INDECENT ACT WITH GIRL UNDER 16 YEARS  
SEXUAL OFFENCES - INDECENT EXPOSURE  
SEXUAL OFFENCES - KEEPING A BROTHEL  
SEXUAL OFFENCES - LIVING FROM THE PROCEEDS OF IMMORALITY  
SEXUAL OFFENCES - PERMITTING PREMISES TO USED  
SEXUAL OFFENCES - PROCURATION  
SEXUAL OFFENCES - SOLICIT/ENTICE COMMISSION OF INDECENT ACT- GIRL UNDER 1

COUNT: 14

C2

Page: 1 Document Name: untitled

CRIME ADMINISTRATION SYSTEM  
KEY WORD ENQUIRY

2014-11-17  
(12.7.1 1/4)

DISPLAY KEYWORDS STARTING WITH: SEXUAL OFFENCES

MOVE CURSOR TO CHOICE AND CONFIRM:

SEXUAL OFFENCES - CARNAL INTERCOURSE WITH GIRL UNDER AGE OF CONSENT  
SEXUAL OFFENCES - COMMIT INDECENT ACT FOR PAYMENT  
SEXUAL OFFENCES - ENTICING THE COMMISSION OF INDECENT ACTS  
SEXUAL OFFENCES - INDECENT ACT WITH ANOTHER PERSON IN PUBLIC  
SEXUAL OFFENCES - INDECENT ACT WITH GIRL UNDER 16 YEARS  
SEXUAL OFFENCES - INDECENT EXPOSURE  
SEXUAL OFFENCES - KEEPING A BROTHEL  
SEXUAL OFFENCES - LIVING FROM THE PROCEEDS OF IMMORALITY  
SEXUAL OFFENCES - PERMITTING PREMISES TO USED  
SEXUAL OFFENCES - PROCURATION  
SEXUAL OFFENCES - SOLICIT/ENTICE COMMISSION OF INDECENT ACT- GIRL UNDER  
SEXUAL OFFENCES - SOLICITING FOR IMMORAL PURPOSES  
SEXUAL OFFENCES - SUPPLYING ARTICLE FOR UNNATURAL SEXUAL ACT  
SEXUAL OFFENCES ACT

1569-AT LAST RECORD  
COUNT: 17

# ANNEXURE D: MODUS OPERANDI OF ILLEGAL RECRUITERS

[RECOMMEND](#) | [ADVANCED SEARCH](#) | [STEER PROJECT BROCHURE](#) | [LINKS](#)



**STRENGTHENING  
THE ENABLING ENVIRONMENT  
TO IMPROVE RESPONSE  
TO TIP AND RELATED CASES  
(STEER) PROJECT**

**REPORT ANY POTENTIAL  
INCIDENT OF TRAFFICKING  
OR ILLEGAL RECRUITMENT,  
CALL/TEXT OUR HOTLINE**

**+ 63 2 922 0917  
+63 917 855 1225**

### Modus Operandi of Illegal Recruiters

1. **Tourist Worker Scheme** - workers leave the country as tourists but are actually leaving for employment abroad.
2. **Escort Services** - workers are "escorted" at the airports and seaports and allowed to leave even without the required travel documents.
3. **Blind Ads** - advertisements for overseas employment published in the dailies do not indicate the name of the recruiter but provides a P.O. Box to which applications may be submitted.
4. **By Correspondence** - applicants are encouraged to submit their requirements through mail together with seemingly minimal fee.
5. **Backdoor Exit** - workers leave through the southern ports of exit where immigration control is lax. They usually leave on cargo ships or on boats.
6. **Assumed Identity** - workers leave under another name either using the name of another worker or through the "baklas system" or obtaining passports through fake birth certificates and other documents. Minors are usually deployed through this scheme.
7. **Direct hiring** - workers are recruited directly by the foreign employer and deployed either as tourists or through any of the other illegal means.
8. **Trainee-Worker Scheme** - workers are recruited and deployed as trainees on a training agreement. More often, HRM students leaving in the guise of a traineeship program for hotels abroad but eventually landing jobs in hotels/restaurants abroad.
9. **Tie-Up or Kabit System** - unlicensed recruiters tie-up with licensed agencies and recruit workers through the facilities of the latter. Workers are either deployed under the job order of the licensed agency but actually work for another employer abroad or the foreign principal of the unlicensed recruiter is registered or accredited under the licensed agency's name.
10. **Visa Assistance or Immigration Consultancy Scheme** - entities operating under the guise of consultancy or offering services for visa facilitation are actually engaged in recruitment by offering placement abroad on immigrant visa. Some of them also operate through the conduct of orientation seminars, which are actually recruiting activities.
11. **Camouflaged participants/representatives in seminars/sports events** - workers leave as participants in seminars or sports events abroad but actually intend to work there.
12. **Mail Order Bride Scheme** - marriage is arranged by brokers between Filipino women and foreigners. The Filipino wife ends up being a domestic helper to her husband and his family or in worst situations abroad.

search...

Anti-Trafficking Hotlines

- POLO Offices
- POEA OPW Advisory
- Iwasan ang Illegal Recruitment
- How to Avoid Illegal Recruitment
- POEA's Stop Illegal Recruitment!
- Are you sure you are applying with a Licensed Agency?
- Restricted Labor Markets/Skills
- 10 Don'ts to Avoid Illegal Recruitment
- 10 Huwag Para Maka-iwas Maging Biktima ng Illegal Recruitment
- 10 Huwag Para Makaiwas nga Maguin Biktima han Illegal Recruitment
- Modus Operandi of Illegal Recruiters
- Modus Operandi ti Panangalilaw Dagiti Illegal nga Recruiters
- NB's 10 Tips vs. Illegal Recruitment
- How to Recognize Trafficking Victims
- POEA's How to Identify an Illegal Recruiter
- POEA's Overseas Employment Scams
- POEA's Tips to Job applicants using the Internet in job search
- POEA's What are the penalties for illegal recruitment?
- CFO's Human Trafficking Statistical Report
- Do's and Don'ts for Pncoys Intending to work in China
- Countries with existing OPW Deployment Ban
- See the website of our Anti-Trafficking Project |

**LOGIN**

Username  
[            ]  
Password  
[            ]  
[ ] Remember me

## ANNEXURE E: NEWSPAPER ARTICLES

1/2

Corruption plays a role in every stage of human trafficking, a researcher told Kevin Farley

**T**HERE have been a number of cases in the past few years in which Thai nationals were alleged to have been trafficked into greater Durban for commercial sexual exploitation, says Monique Emser.

A researcher with a special focus on human trafficking, Emser has been affiliated with the KZN human trafficking task team since 2009.

She has a PhD on the subject and is the author of LexisNexis South Africa's two Human Trafficking Awareness Index Reports for South Africa and the African region.

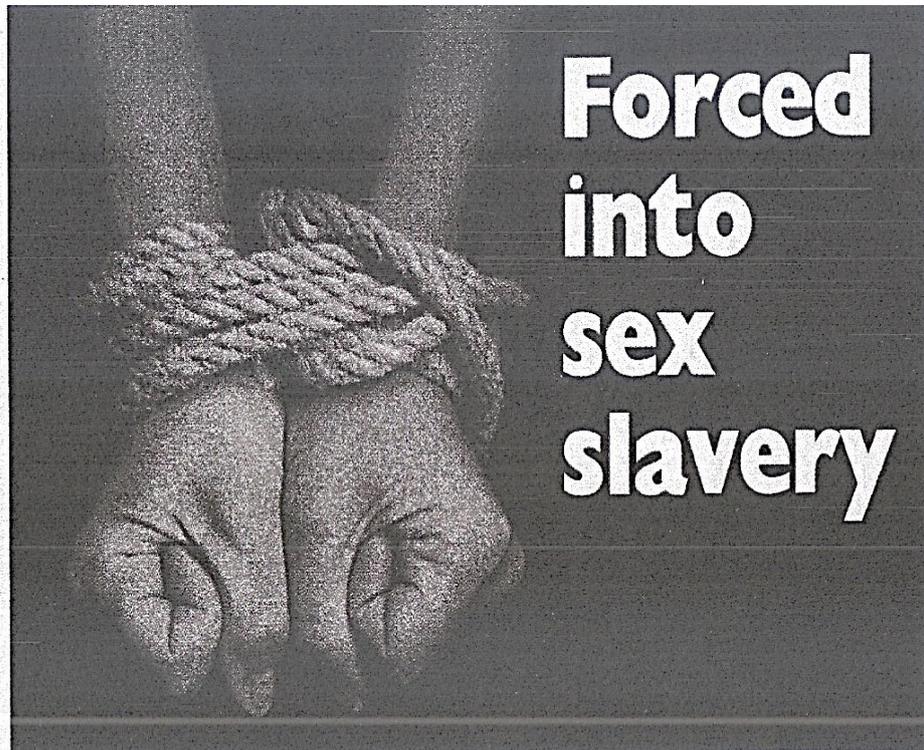
"A significant percentage of Thai nationals trafficked to South Africa for commercial sexual exploitation were already engaged in some form of sex work in their home country," she said.

"Many were aware that they were coming here to work as prostitutes, but were deceived about working conditions and being held in debt bondage.

"However, some who were not involved in sex work were duped into coming here."

Emser said the trafficking syndicates involved were "international and sophisticated".

"Thai recruiters are typically second-wave - women who were trafficked at some



Some Thai women who come to South Africa know that they are going to be sex workers, but they do not expect the harsh working conditions or debt bondage.

stage and worked their way up in the hierarchy to positions of mama-sans (brothel managers)," she said.

Emser said corruption was the driving force behind human trafficking and the most important factor in explaining it.

"Corruption is thought to play a role in every stage of the trafficking process, ranging from law enforcement to immigration and other departments that come into contact with victims of trafficking.

"Work by outreach organisations (NGOs) involved in prostitution ministry and sex

worker exit projects have reported that police officers are often involved.

"These officers essentially collect bribes to turn a blind eye on the trade or to use their services for free," she said.

She said the latest bust in Durban involving Thai women followed a number of similar cases.

In December 2006, a Durban "gentlemen's club" was raided by the police. This resulted in the arrest of 26 Thai women and four men.

"It was alleged that the brothel owners would use corrupt police to scare the girls,

telling them that if they refused to obey their orders they would be thrown in jail for being in the country illegally.

"And several Home Affairs officials were arrested for supplying illegal passports and fraudulent visas," said Emser.

In 2007, after a "buy and bust" operation at a brothel in Bartle Road, Umbilo (Durban), it emerged prostitutes had been recruited from Thailand by the brothel owner's wife to work in South Africa.

"Although they willingly entered the country to engage in sex work, they did not expect

the harsh working conditions and exploitation to which they were subjected.

"They were forced to work off a R60 000 debt they had each incurred in being transported to South Africa, before they would be able to earn any money for themselves," said Emser.

Basheer Sayed and his Thai wife, Somcharee Chulchumphorn, were subsequently charged and convicted on 19 counts relating to racketeering for the purposes of sexual exploitation, and on immigration offences.

*Kevin.farley@inl.co.za*

THE brothel raid in Durban North on Thursday saw more than 15 unmarked cars from the SAPS, National Intervention Unit, State Security Agency, Home Affairs and Organised Crime line the quiet crescent off Kenneth Kaunda (Northway) Road.

The absence of any marked police cars at the raid meant that clients continued to pull up to the house throughout the four hours that the Sunday Tribune was outside the property.

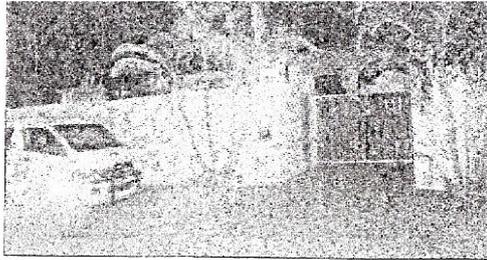
Thursday night was clearly supposed to be busy at the brothel. Several cars either made their way slowly up to the house before being spooked by groups of plain clothes police officers on the street and sped off or brazenly pulled into the driveway.

The cars that drew up included a white Ford Ranger double cab with ND plates and two white men inside, a Ford Focus with tinted windows, a gold Mercedes C-class driven by a black man, as well as a black BMW with NJ plates and three Indian men inside.

They sped off embarrassed, denying knowing anything about Thai women, after being approached by policemen.

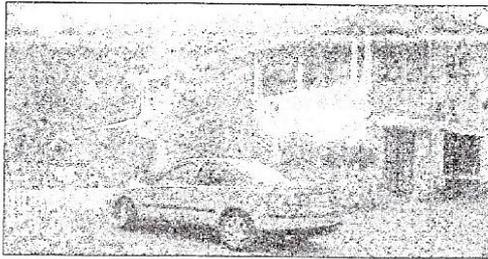
A source close to the investigation said prices differed for race groups.

White and Indian clients



Outside 2 Grosvenor Crescent, the house where the brothel allegedly operated, on the night of the raid.

Pictures: NABEELAH SHAIKH



The house that was raided in Durban North.

The next day several more cars pulled up at the house in the 30 minutes the Sunday Tribune team was interviewing neighbours.

An Asian man pulled up in a white Golf GTi and repeat-

there to see his friend". He denied knowing anything about any girls and said he would call his friend. When it was pointed out his friend was in jail, he quickly drove away.

As we were about to leave, a

# Hotel owner, wife deny prostitution claims

**MASOOD BOOMGAARD**

DON'T believe the lies about my wife, said Dr Genchen Rugnath, accused of allowing a prostitution ring to use his Durban hotels.

He rubbished claims made in court this week by Veena Budhram, a former manager of the Inn Town Lodge and the Down Town Lodge, that the doctor's wife, Ravina, had used the rooms three or four times, accompanied by a male friend.

The Rugnaths have been charged along with Sandile Patrick Zweni, Nonduzo Dlamini and Bhabha Dubazini and have pleaded not guilty to 156 charges, including assault, rape, sexual exploitation of a child, and racketeering.



Genchen Rugnath denies his wife Ravina used his hotel rooms in the company of another man.

Picture: SIBONELO NGCOBO

Rugnath claims he knew nothing about prostitution at the Inn Town Lodge and left the running of his hotel to Budhram. His wife claimed she was a

Rugnath was aware of prostitution at the Inn Town Lodge and said that his wife had used the rooms on occasion.

"The allegations are utter nonsense and lies, and an indication of the despicable level to which the prosecution and witness are willing to stoop to create a case against us when there is none.

"I have instructed attorney Anand Nepal to execute a no holds barred cross examination of the witness to expose the truth. I have instructed him to sue the State and the witness for damages arising from this malicious prosecution and the lies spoken against us. These lies seek to create problems in my family and destroy the bond between my wife and I. It's absolute trash. The truth will emerge"

# Police swoop on upmarket brothel

**NABEELAH SHAIKH  
and KEVIN FARLEY**

AFTER months of investigations, a night-time raid on a Durban North home this week cracked open a Thai prostitution ring with links to human trafficking.

On Thursday night an elite law enforcement team struck at a house in upmarket Grosvenor Crescent which borders a pre-school.

They included members of the State Security Agency, a provincial task team led by Brigadier Clifford Marion and Captain Adele Roos, the Hawks, immigration officials and the Pietermaritzburg Organised Crime Unit.

The raid netted the 62-year-old kingpin and 14 Thai women. Two clients were also caught with their pants down.

The kingpin faces a raft of charges under the Sexual Offences Act which include racketeering, money laundering and harbouring illegal immigrants.

Police spokesman Major Thulani Zwane confirmed the incident.

"Seventeen arrests were made when police raided a brothel in Durban North. The owner was arrested along with 14 Thai women and two clients. The suspects will appear in court tomorrow," said Zwane.

The Sunday Tribune was tipped off about the goings-on at the house, where sessions cost up to R900 an hour, and it is believed that:

- The prostitution ring was run for two years under the guise of a bed and breakfast establishment called The Captain's Inn.

- The kingpin's wife is a Thai national who allegedly recruited the women from Thailand.

- The women were brought into the country on a 30-day visitor's visa but remained for longer periods.

- The couple have brought in more than 100 women since they began operating.

- Some of the women were aware they were coming to South Africa as sex workers. However, they

did not know their passports would be taken away when they arrived.

- They did not know they would have to "work off" a R70 000 debt.

A source close to the investigation (who could not be named because he is not authorised to speak to the media) said all the Thai women were in the country illegally.

Neighbours were not surprised the house was used as a brothel.

Jo Hyatt said many people were aware of the house. She said clients mistook her home for the brothel and would ring her intercom at all hours of the night.

"This is the most exciting news I have received all year," she said. "We have approached authorities several times and nothing was ever done. We hope action will be taken."

Claire Fuller, who lives across the road, said that she was unaware of the goings-on at the property until she received an anonymous note in her post box saying a brothel was being run on the property.

"This is meant to be a lovely neighbourhood where you can bring up your kids in a safe environment, but a brothel was operating next door. I cannot tell you how happy I am," she said.

The owner of the property, who lives next door, said she had no idea what had been going on. "I can't believe it. I just found out about it. I am shocked," she said.

Former Durban North councillor, Dean MacPherson, said the house was well known to him and he had repeatedly tried to bring it to the attention of police.

"Two years ago, I wrote to the Hawks because I got complaints about the brothel. It goes way beyond just running a brothel. Some of the girls are being trafficked and that is the biggest concern," he said.

MacPherson said he was glad action had finally been taken.

Current councillor Shaun Ryley commended the police team for their work.

*nabeelah.shaiikh@inl.co.za  
kevin.farley@inl.co.za*

**How the raid went down: See page 6**