

# **CHAPTER 4**

## ***MODUS OPERANDI AND CRIME SCENES***

#### **4.1 INTRODUCTION**

*Modus operandi* and crime scenes, although often quite diverse, dynamic and regularly incongruent in nature, are not only integrally linked to one or more of the characteristics/incentives ensconced in the previous chapter, but also to each other, and can hence, be regarded as fundamental pieces of the puzzle that is the illegal reptile trade.

*Modus operandi*, which according to Marais and Van Rooyen (1991:66) means conduct, manner of conduct, or operational method of procedure relates, in the context of this thesis, to the methods and techniques used by reptile exploiters to acquire, convey and dispose of sentient target species. Crime scenes, on the other hand, associate essentially to the location/s where the crime is committed, and can routinely, as will be detailed elsewhere in this chapter, be of an incessant rather than ephemeral nature.

Apart from the obvious and generic benefits of examining the *modus operandi* of criminals, crime scenes will habitually play an important and decisive role in determining *modus operandi* and should, therefore, always be regarded as a vital and seminal ingredient of the crime scene ~*modus operandi* interface.

It is thus, in order to address these matters holistically, and provide an authentic representation within the framework of conservation criminology, important to examine and analyse their intrinsic nexus, dynamics and interrelationships synchronously within this chapter.

#### **4.2 MODUS OPERANDI**

*Modus operandi* can, based on the user groups impacting on herpetological resources, and for the sake of addressing its various forms in a structured and chronological manner, be divided into three broad categories. These categories can, as acceded to by Gildenhuys (2002) be identified, in ascending order of complexity, injurious conservation impact and

premeditation as the following: *incidental exploitation*, *subsistence exploitation*, and *intentional exploitation*.

#### **4.2.1 INCIDENTAL EXPLOITATION**

Incidental exploitation refers to the *ad hoc*, and even accidental, illegal capture<sup>1</sup> or removal of reptiles from their natural environment, whether fortuitously or intentionally, and their subsequent illegal transport and/or possession. While perhaps not 'illegal trade' in the true sense of the word, this form of illegal exploitation is considered an integral part of the larger illegal trade dynamic. Involvement at this level could well be the catalyst that promotes the further, and more serious, participation in the illegal exploitation of these natural resources. This form of manipulation should, therefore, for the purposes of addressing the phenomenon holistically, not be ignored in a study of this nature.

Incidental exploitation occurs, for amongst others, the following reasons, ignorance, "good samaritanism", curiosity, pity, amusement and/or novelty (Van der Westhuizen 2002), and therefore, has a distinct bearing on the methods employed to acquire organisms, and naturally also the crime scene/s. Target reptiles are usually those that are less reticent by nature and often venture out into the open where they are easily noticed by pedestrians, hikers, motorists, homeowners, and the like. In the Western Cape it is particularly tortoises, and to a slightly lesser extent snakes and lizards, that cross roadways in the face of oncoming traffic, wander onto residential properties, and/or make their presence known in some or other overt manner, that are targeted. These organisms are simply, due to insufficient conservation policing capacity and resources (Gildenhuys; Hignett 2002; Stadler 2002; Van der Westhuizen 2002) collected with impunity, by hand from that particular location, transported to a residence, if found along a roadway/pathway, and more often than not retained as pets or curiosities

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<sup>1</sup> Capture, as defined in section 2 of the Nature and Environmental Conservation Ordinance, 1974 (Ord. 19 of 1974) in relation to any wild animal means, by any means whatsoever to capture, catch or take or to attempt or to pursue with intent to capture, catch or take.

(Van der Westhuizen 2002). Figure 4.1 below can be viewed as proof positive of the above submissions.

As dead tortoises, snakes and lizards are a relatively common occurrence along many arterials; people often regard the removal of such an organism from its perceived immediate danger to the confines of a residence, as being the most appropriate action to take, in essence believing that they are saving/rescuing the organism. Apart from it being an illegal action, and, at least, one that is detrimental to the organism/s involved, this activity, if done on a large scale, could have serious implications for the continued viability of wild populations and organism gene pools.



Figure 4.1 Newspaper cutting illustrating the ease and impunity with which reptiles can be removed from their natural environment (Cape Times 2001:page and date unknown).

The novelty of having such a “rescued” animal, as a “pet” often seems to wear off rapidly, and the organism is then unceremoniously returned back to the wild. Replacing such captive reptiles into strange and unfamiliar habitats will, however, apart from the un-permitted transport and release thereof being illegal, typically result in the animal’s demise, as it will in all probability be highly stressed and not suitably adapted to the new habitat in terms of, amongst others, food and climate (Baard 2002; Gildenhuys 2002; Van der Westhuizen 2002). Arbitrary rehabilitation by the uninitiated could, furthermore, cause diseases to be spread indiscriminately (*Asian Turtle Trade: Proceedings of a ...*1999:18; Baard 2002; 18).

These actions have the potential, it is submitted, in the absence of effective pro-active and reactive conservation measures, amongst an uninformed and desensitised populace, to rapidly escalate and reach proportions that could seriously impact on the biodiversity of certain reticent and localised reptile populations.

It could well be argued that these insalubrious activities are essentially of low impact, and therefore, inconsequential in conservation terms, but due to their high frequency and consistent nature, can undeniably realize negative conservation impacts.

According to Van der Westhuizen (2002), numerous individuals collecting reptiles on an impromptu basis could impact more severely on biodiversity than low frequency high consequence conservation type transgressions, and therefore, need to be addressed vigorously and incessantly.

A further form of incidental exploitation occurs when individuals possessing reptiles legally, in terms of a permit issued by the relevant conservation authority, fail to adhere to permit conditions. They either neglect to renew the permit before its expiry date, fail to record changes in captive reptile status, for example, mortality and/or natality, and/or donate, transport, export or even translocate captive reptiles in contravention of permit requisites.

Even if predominantly as a result of ignorance and/or lassitude, the relevant conservation authority in the Western Cape province charged with the administration of such issues has, in the opinion of the researcher, played a major role in promoting a state of indifference and lethargy towards reptile husbandry in general, serving furthermore, to erode compliance with the rule law as it pertains to this natural resource grouping.

The following reasons, the gist of which will tersely be mentioned here, and discussed more comprehensively under the caption incidence of the crime, are regarded as being the most influential in this regard.

- ❑ Cape Nature Conservation<sup>2</sup> (CNC) has until recently issued captivity permits for tortoises with a *lifelong* (italics mine) validity period. Permits for other fauna and even flora, however, require annual, bi-annual or tri-annual renewal (Baard 2002; Hignett 2002; Stadler 2002; Van der Westhuizen 2002),
- ❑ Applications by the public to possess reptiles, particularly tortoises, are not assessed after an *in situ* inspection by a conservation officer, as is the case for other [more important?] species of fauna and flora, but are generally completed telephonically (Gildenhuys 2002; Hignett 2002; Stadler 2002; Van der Westhuizen 2002).

Incidental exploitation is, due to its very nature, regrettably an exploitation mechanism that is extremely difficult to quantify, but is undoubtedly a matter that has to be factored into the illegal reptile trade equation. It must also be emphasised here, that while the problem of incidental exploitation, in terms of conservation impact, is generally viewed with scepticism, and played down by conservation authorities as a significant conservation biodiversity threat (researcher's own observations), it holds an innate risk to reptile conservation.

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<sup>2</sup> Cape Nature Conservation (CNC) has since 2000 attained statutory board status and is now known as the Western Cape Nature Conservation Board (Van der Westhuizen 2002).

According to Hignett (2002), CNC, due to policing capacity problems, only currently targets the sporadic lower frequency, higher impact type transgressions, ignoring to a large extent the, lets say, recurring prosaic type indiscretions, in essence high frequency, “low impact” cases.

#### **4.2.2 SUBSISTENCE EXPLOITATION**

Subsistence exploitation, in the context of this thesis, entails the intentional removal/harvesting of reptiles, usually by unemployed or poverty stricken individuals, from the natural environment for sustenance reasons. This form of illegal exploitation, although primarily directed at subsisting, involves the harvesting of reptiles (a “free” resource) for two distinct methods of subsistence. Firstly, reptiles could be harvested as victuals, for personal or familial consumption, or secondly for the purposes of selling them to collectors/traders/dealers whom have placed orders for specific reptiles with locals (Van Wyk 2002), and are exploiting, as it were, their impoverished predicament. The proceeds of these sales are then used primarily to purchase rations, as well as for other subsistence purposes. This fact accentuates the socio-economic relationship embedded in this form of deviance, and is, in essence, a classic example of the greedy exploiting the needy.

##### **4.2.2.1 HARVESTING FOR VICTUAL PURPOSES**

Harvesting for these purposes occurs where individuals, and even communities, have fallen on hard times and need to supplement their diet with natural resources in order to survive. Reptiles, specifically tortoises, are a readily available source of protein in the more rural and peri-urban locales, which can, due to their predominantly reptant nature and somewhat leisurely gait, be effortlessly exploited, by even the youngest of partaker. If a penchant for reptile flesh is developed, this form of illegal exploitation can, should the exploiters should become insatiate, persist long after the hardships have subsided.

Productive areas are basically entered on foot by itinerants and indigent community members, driven through hunger and survival instincts, and surreptitiously and systematically stripped (manually) of their edible herpetofauna, until all but the best-hidden and inedible species remain.

A case in point is the Harmony Flats Geometric Tortoise Reserve, which according to Baard (2002), was an unstaffed provincial nature reserve situated, albeit less than appropriately, adjacent to certain lower socio-economic peri-urban settlements in the vicinity of Gordon's Bay.

This CNC administered reserve was home to large numbers of the extremely rare and endangered geometric tortoise (*Psammobates geometricus*) as well as its natural renosterveld habitat. Although situated strategically, in terms of preserving geometric tortoise habitat and resident populations, cognisance was not adequately taken by CNC management of the proximity of the aforesaid developments, resulting in the reserve being systematically plundered, and ultimately being relieved of its entire tortoise content.

Baard (2002) reluctantly admits that the reserve was not permanently staffed, due to what CNC at the time considered unfavourable cost - benefit considerations, i.e. staff costs overshadowing environmental benefits, an assessment that can, unfortunately in retrospect, be deemed decidedly *non-sequitur*. The unstaffed reserve focussed community interest on itself for the wrong reasons, and due to subsistence and perhaps other criminally orientated considerations, compounded by an environmentally desensitised, alienated and apathetic community, resulted in its demise at the expense of reptile biodiversity.

It is clear that the community had not been provided with an incentive to conserve this valuable reserve, and were, as far as can be ascertained, not involved in the reserve's management or informed of how the preservation of this valuable natural resource could benefit them and/or their district. Ironically, enormous amounts of taxpayer money have subsequently been expended by CNC on geometric tortoise conservation, specifically to bolster



population numbers, something that the very same organisation was, to a certain degree, instrumental in destabilizing in the first place. Impecunious communities living on the urban fringe, as many large squatter and low cost housing communities in the Western Cape do, can in a similar manner pillage surrounding natural areas of all that is edible and/or saleable. Such sustained onslaughts will rapidly serve to generate sterile environments and severely disturbed ecosystems, bringing forth a multitude of related crime problems when resource yield begins to wane.

Scenarios such as these are not conducive to urban conservation initiatives, which have for some time now been in vogue, or even crime prevention efforts, for that matter, and will, in the final analysis, reduce the quality of life for all. Conservation endeavours will, therefore, have to recognize these socio-economic community issues as a fundamental tenet of the illegal reptile trade, and hence address them with regard to most intervention programmes considered.

#### **4.2.2.2 HARVESTING FOR RESALE PURPOSES**

Unique and attractive, high value species are, as has been alluded to elsewhere in this study, often found in restricted habitats. Criminally orientated traders, dealers and/or collectors (intentional exploiters) are also acutely aware of this fact and often use the inhabitants of [destitute] local communities/farm labourers, specifically in rural areas/unemployed individuals/peripatetics, and even cash strapped students, to gather these organisms on their behalf (Gildenhuys 2002; Stadler 2002; Van Wyk 2002). Locals are, to put it briefly, offered money in exchange for the correct [target] organisms.

Criminally orientated traders in this way reduce their exposure to miscreant activities, and therefore, also their chances of being apprehended. Middlemen/agents or runners are also often engaged as the contact between the illegal harvesters and the collector/dealer/trader, who are thus seldom

physically involved in the reptile acquisition process, making their prosecution virtually impossible (Gildenhuys 2002). These individuals only really become involved in benefactor form, promoting as it were, the secretiveness that is so synonymous with the illegal reptile trade (Bruwer 1997:6).

According to Horn (2002) and Van Wyk (2002) the conservation division of a prominent local authority on the Cape's west coast recently conducted random covert assessments in this region to determine the degree of willingness of farm workers (being the most representative and ubiquitous group in the area) to collect reptiles, specifically tortoises, in return for pecuniary reward. Of the five randomly chosen, unrelated and spatially remote farms visited, the workers were, without hesitation, prepared to collect and sell reptiles for between R5.00 and R10.00 each to the operatives (Horn 2002; Van Wyk 2002). Workers were willing to collect organisms during the working day, as well as thereafter, and were even prepared to task their children with collection responsibilities (Van Wyk 2002).

Such actions thus not only rape the natural environment, but serve to inculcate criminal tendencies and antisocial behaviour amongst the youth, who look to their parents and other community role models for guidance, readily emulating and normalising deviant behaviour perceived to be the norm. This state of affairs, essentially social learning, undoubtedly serves to weaken social controls and results in the manifestation of poor self-control mechanisms, in essence, predisposing the youth to crime (Van der Hoven & Joubert 1997:25), and thereby escalating the illegal reptile exploitation dilemma.

The researcher was, furthermore, informed by the aforementioned functionaries that the farm workers were, without exception, all well aware of the fact that the collection activities proposed by the operatives were illegal, but were nevertheless willing to take the chance. Many expressed the sentiment that they would never be caught, as they seldom, if ever, saw nature conservation officers patrolling in their area.

Some did, however, express a certain amount of concern about being apprehended by the police, although the operatives felt that this sentiment was most likely due to an inherent fear of the police, rather than anything else. An extrapolation of this unanimous finding to the larger farming community gives rise to an extremely dismal prognosis with regard the future well being of the reptile resource in specifically the Western Cape, but presumably also elsewhere.

By way of example, if one considers that the world's smallest tortoise, the southern speckled padloper (*Homopus signatus cafer*), only occurs in a thin band from Piketberg to Klawer, the magnitude of the problem starts to become clear. This area is intensely utilised for farming activities, and is, furthermore, frequented by tourists, both during the week and on weekends. Since the vicinity is riddled with farm workers (as an example of a sector/cluster representing the lower end of the socio-economic continuum), many of whom barely eke out what can be little more than a subsistence existence, these scarce tortoises could thus easily be targeted and plundered by the criminally orientated among them, as well as those being manipulated by outside influences (traders/collectors/dealers), as described above. Unscrupulous individuals harvesting these resources will not be conspicuous, because both farm workers and tourists are a common occurrence in the area, and will consequently not arouse suspicion even if they should be partaking in dubious pursuits.

Paradoxically, even the relatively widespread angulate tortoise (*Chersina angulata*), in all probability the tortoise species of which the most would be collected, fetches, according to Pamplin (2001:17), between R3 150.00 and R8 400.00 each on the international market.

Notwithstanding the foregoing, exploitation of reptiles is also undertaken, albeit to a lesser extent, for the purposes of obtaining their skins and shells. These objects are then used to make ornaments and curios for subsequent selling to unsuspecting tourists, and the like, principally in the rural, tourist frequented, areas of the Western Cape and certain metropolitan craft markets

(researcher's own observations; Van Wyk 2002). These articles are readily purchased as examples of indigenous/ethnic craft, and are seen as harmless and legal gestures promoting the local economy.

Apart from the fact that the selling/buying/transport of the carcase<sup>3</sup> of a wild animal without a permit is illegal, this practice, although providing the funds with which to purchase provisions, and therefore, permitting the peddler/merchant to subsist, promotes, it is submitted, the injudicious harvesting of reptiles from the wild, and could well be the catalyst for further criminality in the conservation sphere. Conservation crime, in other words, becomes an attraction to people who have a tendency towards it, because it holds the promise of reward/pleasure. Crime will in all probability ensue if it appears that the pleasure, which can be obtained from the crime, is more important than the possible consequences (Van der Hoven & Joubert 1997:26). The illegal harvesting of live specimens also, on the odd occasion, takes place for the purposes of selling organisms [with subsistence intent], out of hand, to gullible individuals who then, after purchasing the organism/s, by default, become part of the incidental exploiter group who, in most cases, unwittingly, and somewhat ironically, perpetuate the crime in this manner.

#### **4.2.3 INTENTIONAL EXPLOITATION**

The intentional exploitation category not only contains the largest miscellany of exploiters, and is the most enduring, but is also concomitantly the most complex and varied in terms of *modus operandi*. Intentional exploiters can be divided into two main groups, namely traders/collectors/dealers, essentially the poachers/rustlers of the reptile fraternity, and miscellaneous exploiters who basically abuse opportunities created by the legal conservation mandates/authorizations they obtain, for personal benefit. Miscellaneous exploiters can, by the very nature of their involvement with the reptile

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<sup>3</sup> Carcase, as defined in section 2 of the Nature and Environmental Conservation Ordinance, 1974 (Ord. 19 of 1974) in relation to any wild animal means the whole or any part of the meat (whether dried, smoked, salted, cured or treated in any manner), the head, tooth, horns, shell, scale, tusks, bones, feathers, tail, claw, paw, hoof, skin, hide, hair, viscera, or any part whatsoever of the carcase, and includes the egg.

resource, also often be traders/collectors/dealers. Because this is, however, not always the case, this group is regarded as an ancillary sector within the intentional exploiter category. The various types of exploitation in this category will be identified (in no particular sequence) below and the *modus operandi* employed by each one discussed independently.

#### **4.2.3.1 REPTILE TRADERS/COLLECTORS/DEALERS**

From the outset it must be placed on record that not all reptile traders/collectors/dealers are criminally orientated or deviant. Many are in fact extremely law abiding, conservation orientated individuals who are willing to assist authorities with many facets of reptile conservation, as well as promote herpetological conservation where and whenever they can. This faction also embraces, however, the malicious activities and manipulations of the malaligned and criminally deviant trader/collector/dealer that this study, amongst others, endeavours to examine. It is premeditated and malicious intent; therefore, that distinguishes this group from those already discussed.

According to Bruwer (1997:5), a number of independent, but interlinked international syndicates at present operate in South Africa. She goes on to state most of them tend to keep fairly much to themselves, but as a result of the South African herpetological community being so close-knit, they are obliged to interact. This author states further that the various traders deal almost exclusively by means of facsimile messages and electronic mail, making it exceedingly difficult to intercept consignments (Bruwer 1997:6). Damm (2002:75) maintains in this regard that whilst there is evidence that organised crime is becoming increasingly involved in the lucrative wildlife trade; much of the illegal trade starts at the individual collector/enthusiast level.

Criminally deviant traders/collectors/dealers, hereafter referred to as CDTC&D's, exploit reptile reserves in many ways, some more inimitable than others.

They can personally, or through agents/middlemen, rape sections of the environment for specific species, illegally transport, import and/or export endemic/indigenous and/or exotic reptiles as well as launder reptiles, often using their legal collector/trader dealer or even exhibitor/rehabilitator/research/captive breeder status as a front for more deviant and clandestine activities (Gildenhuys 2002; Hignett 2002).

#### **4.2.3.1.1 REPTILE LAUNDERING**

As with money laundering, the laundering of reptiles involves the disposal of illegal proceeds through seemingly legal means. This form of deviance is, according to Hignett (2002), rife in South Africa, especially with regard to reptiles and certain species of avifauna. Hignett *supra* states, furthermore, that deviance in this sector is compounded by a lack of conservation policing/monitoring capacity, antagonism between the [permitting] conservation staff of the various provinces and disparate legislation between provinces. Hignett (2002) is of the opinion that launderers make full use of these inadequacies to pursue their dishonest goals, and launder reptiles in the following manner.

A person, usually a CDTC&D applies to CNC for an export permit for certain rare species, lets say some listed in CITIES Appendix II. The permit issuing authority should confirm the origin of the organisms, for example, ascertain and verify if they are captive bred or wild caught, before deciding to issue or decline a permit. Because of capacity problems, a physical inspection cannot, however, be done. The CNC permit section, also severely understaffed, issues a permit based on the *bona fides* of the information provided in the application.

The applicant, having received the permit, now poaches or obtains the organisms for which the permit was issued through illicit means, even sometimes smuggling them in from another country, and subsequently exports them as legal organisms, with the appropriate documentation.

Through these less than effective control mechanisms CNC, it is submitted, showcases its inadequacies and lack of commitment to protect South Africa's natural assets, creating precedents, which are then capitalised upon by the CDTC&D's.

Poor controls and regulation regarding inter-provincial export/import/transport facilitates this process, giving rise to what Gildenhuis (2002) terms 'province hopping' as many provinces don't require permits for local/national export/import/transport. Province hopping, according to Gildenhuis (2002), basically involves the legal import of a reptile species into a province, and the subsequent illegal import/transport thereof (usually per road by courier) into a province in which it has, for example, been banned or blacklisted. The further transport of the organism/s occurs either from the province into which it was originally imported, or from a province to which it was subsequently transported (perhaps nearer to the target province) that did not require any permits therefore.

Hignett (2002) goes on to state that launderers also make use of poor conservation policing, regulation and monitoring capacity to move species look-alikes. Often species are similar in appearance to the untrained eye. Highly sought after species are exported under the guise of these less important species due to identification ignorance and lack of expertise in this field. Bruwer (1997:6) and Hignett (2002) are of the opinion that the large number of indigenous South African snakes, tortoises, girdled lizards and invertebrates appearing on the internet were in all probability exported by unethical traders with dubious documents.

Bruwer (1997:8) mentions further in the reptile laundering regard that animals illegally exported from South Africa are often exchanged by the recipients for specimens favoured by the trade in South Africa such as iguanas or boa species listed in CITES Appendix I, which are then illegally imported [smuggled] into South Africa. These reptiles are then ostensibly traded or exchanged here and the process starts all over again.

According to the aforementioned author, it has been established that orders for certain reptiles can be placed by illegal trade syndicates prior to the exchanges. The animals ordered, are then obtained in the overseas country by the traders by means of valid permits. These animals are, however, laundered and more of the same animals are obtained and kept on valid permits. The animals that are to be exchanged with the syndicate member are kept without any permits. The animals that were initially obtained legally with a valid permit are then exported without permits.

Franke and Telecky (2001:80) state that just as counterfeit money is laundered through commercial interests into the legitimate currency trade, illegally wild-caught reptiles are laundered through dealers as supposedly captive-bred reptiles because captive bred reptiles generally command higher prices than wild-caught reptiles.

Reptile laundering would certainly appear, therefore, to be somewhat of a worldwide trend and certainly not a tactic that is only restricted to South Africa. According to *Asian Turtle Trade: Proceedings of a ...* (1999:25) and Franke and Telecky (2002:80), the pet trade affords dealers a perfect opportunity to “launder” shipments of turtles and tortoises – e.g., Indian star tortoises are smuggled in thousands through the United Arab Emirates (UAE), from where they are re-exported as “captive-bred” specimens with UAE official CITES documentation.

#### **4.2.3.1.2 COLLECTION FROM THE WILD**

CDTC&D's are more often than not experts in the field of herpetology and can effortlessly identify areas where naturally occurring populations of reptile target species occur. They can due to their knowledge of reptile characteristics and ecology easily, therefore, locate the desired reptiles in their agrarian habitats, given the fact that many have severely restricted ranges and specialised habitat requirements, and remove them (Baard 2002; Gildenhuys 2002; Malherbe 2002; Van der Westhuizen 2002).



Gildenhuys (2002) mentions further in this regard that foreign CDTC&D's often have contacts in local museums or pretend to be researchers/authors/members of photo safaris, and so forth, so as to gain access to reptile records from which they then glean all the information necessary to locate and poach them.

The capture of wild organisms, apart from the ecological damage to the homeostasis of the larger ecosystem they inhabited causes, also usually spells doom for many individual organisms. Wild capture essentially involves the collection of a "free" commodity, since collectors seldom have anything invested in these organisms in terms of costs of rearing, feeding, and so forth. It is, therefore, easier and less risqué to capture numerous animals using techniques that result in high mortality or impairment, than it would be to catch fewer animals with more judicious techniques, which essentially leave the poacher more vulnerable, in terms of apprehension risk, due to prolonged exposure.

It is estimated that wild-caught reptiles experience, on average, a 90 percent mortality rate between capture and the end of their first year in captivity (Franke & Telecky 2001:85). These authors go on to state that just like the "cut flower" industry, the reptile industry is based on a perishable commodity that is fully expected to die shortly after retail sale – those in the business must get their product to the marketplace and sold to the consumer before the product expires. However, unlike buyers of proteas and roses, consumers who purchase reptiles expect them to survive, thrive under their care, and become companion animals. The fact that the signs of suffering and ill health of reptiles are difficult for the average consumer to recognize enables, it is submitted, the reptile industry to exploit both the animals and the consumers to further increase profits. Reptiles do not cry or shiver as an abused or ill cat or dog might; consequently, average consumers are unaware that they are purchasing abused or ill animals (Franke & Telecky 2001:85).

A recent case involving two Slovenian nationals illustrates the ease with which even foreigners can locate and pilfer natural reptile reserves in the Western

Cape. Pamplin (2001:17) and Viljoen (2001:2) report that the two Slovenians were apprehended in the Lambert's Bay area after a police officer per chance noticed their vehicle stopping at short intervals on the road in front of him. Upon closer inspection the two Slovenians were found to be in possession of 113 angulate tortoises (*Chersina angulata*) valued at R355 000, detailed maps of the specific area, as well as false passports. They also attempted to bribe the police officer by offering him US\$ 500, a testament to the value these organisms would have realised on the overseas market.

According to Gildenhuis (2002), the following insidious methods are, amongst others, principally employed to capture reptiles from the wild:

- ❑ Tortoises are collected during that period of the day in which they are most active, in the case of angulate tortoises (*Chersina angulata*), for example, between 09:00 and 11:00 in the morning and 16:00 and 18:00 in the evening, by simply picking them up by hand in, depending on the species being targeted, the area they naturally inhabit;
- ❑ Lizards are "shot" from the rocks on which they characteristically perch with elastic bands, doused with ice cold water to stun them, caught with thin fishing line and small hooks baited with worms or other prey species favoured by the target species, scratched out from crevices, in which they seek shelter, with wire hooks, and/or caught with a hangman's noose bound into the fishing line dangling from the end of a standard fishing rod that is ordinarily used for angling purposes. "Going fishing for reptiles" is hence poacher speak for harvesting by means of this extremely insidious and apparently popular method.
- ❑ Snakes are caught less effortlessly, but characteristically also by hand, within their chosen habitat during that period of the day that they are most active.

Gildenhuys (2002) was, furthermore, based on his observations over a period of time, of the opinion that reptiles are generally captured illegally from the wild in the ratio 1/3 male to 2/3 female, indicating the market preference for, what can only be described as, potential breeding stock.

An Endangered Species Protection Unit press release detailing an operation [Operation Cobra] directed at reptile smuggling and trade, states in regard to collection from the wild: 'The systematic rape of the South African environment to supply the pet trade in Europe with non-poisonous [reptile] species has led to the total destruction of small ecosystems. Smugglers would target an area and literally clear it of every living animal, which could include beetles, spiders, scorpions, frogs snakes and tortoises'.

Hignett (2002), maintains that the increasing number of enquiries his office receives for information on where to obtain aurora house snakes (*Lamprophis aurora*), a species once in plentiful supply, is symptomatic of the fact that natural populations are, in all probability, being progressively extirpated to supply the pet trade elsewhere in South Africa, and/or abroad.

#### **4.2.3.1.3 TRANSPORT, IMPORT AND EXPORT**

By far the most reptiles<sup>4</sup> are traded by making use of one or a combination of the above mechanisms. Bruwer (1997:7) identifies the following popular methods used to convey the different reptile species:

- ❑ Snakes are packed in empty video cassette boxes, wrapped as parcels and mailed to their destination;
- ❑ Snakes are placed in cotton bags, and then cushioned by placing tissue paper around the bags, and the bags finally packed in sturdy

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<sup>4</sup> Reptiles are referred to here more specifically in the context of live chelonians, lizards and snakes. Although juvenile crocodiles are also traded illegally, crocodilians are usually traded in product form as processed meat, skins, belts, shoes, purses/wallets and other diverse objects d' art (Hignett 2002).

cardboard/hardboard boxes (see figure 4.2). The package is then sent by mail. In both instances the packages are incorrectly marked, for example “children’s toys” and no return address is provided;

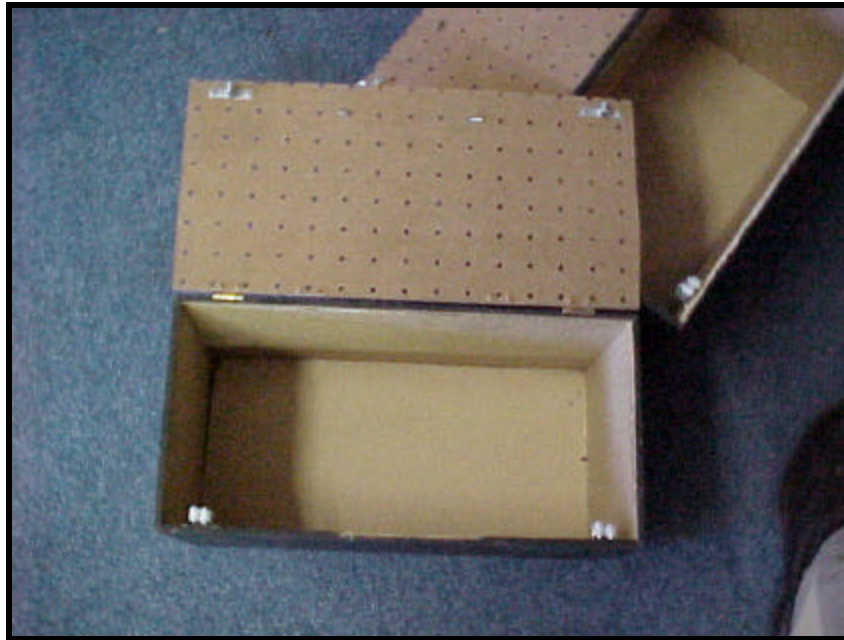


Figure 4.2: Example of containers in which an illegal consignment of snakes was smuggled (Photograph: Environmental Crime Investigation Service, Western Cape Nature Conservation Board, 2001).

- ❑ Geckos and invertebrates, specifically spiders and scorpions, are packed in small commercially manufactured polystyrene containers to which homemade divisions are added. As many as ten specimens can be packed into one container. These containers, up to fifteen in one crate, are then packed into larger polystyrene crates and exported by ship or plane. The total package is the size of a 40-litre box.
- ❑ Exotic reptiles, specifically iguanas, are imported by adding false compartments to the bottoms of containers used for the transport of tropical fish (Franke & Telecky 2001:81) or marine fish. Since little control is exercised over the importation of marine/tropical fish these containers are not properly examined on arrival.

- ❑ Reptiles have been sewn into the seams of the outer garments worn by smugglers, or are simply carried in hand luggage by a compliant courier. In this regard, Makings (2002:5) states that the Airports Company of South Africa (ACSA) has admitted that the X-ray scanners at airports cannot easily detect animals in baggage, and if books or clothes are packed together in the luggage, the animals' outline could easily be obscured. Corroborating Bruwer's submission, Kalb and Salzberg (2000:26) mention parenthetically that one Rodney Carrington, a pet storeowner from Barbados, was arrested for bringing 55 endangered red-footed tortoises into the United States. He had stuffed all 55, 4inch tortoises into his pants – which gave him away at customs.
- ❑ Suitcases, which have been carefully modified, with a number of holes and containing several false compartments, have been used to export a variety of reptiles including tortoises. These are usually submitted as ordinary luggage to the airline authorities (see figure 4.3).



Figure 4.3: A consignment of angulate/rooipens tortoises (*Chersina angulata*) ready for export in ordinary suitcases. The uppermost suitcase shows the tortoises packed in bags to facilitate transport, restrict movement and reduce sound emission (Photograph: SAPS, Vredendal 2001).

- ❑ The traditional fraudulent method of adding a few illegal animals to a legal consignment is still being used.

In addition to the *modus operandi* detailed by Bruwer above, the following supplementary methods are, according to Gildenhuys (2002) and Van der Westhuizen (2002), also employed:

- ❑ Packaging a consignment with seemingly legal (permitted) faunal content, but replacing the content with species for which no permits have been obtained. Freight company weigh bills simply reflect that which the consigner specifies as the content, and subsequently, due to paper work ostensibly being in order, the veiled cargo arouses little further suspicion.
- ❑ Labelling illegal non-poisonous consignments with misleading or daunting labels, e.g. poisonous reptiles – so as to discourage customs and/or other regulating/monitoring staff from inspecting the cargo. Cargo manifests indicating only the organisms' scientific names are used to confuse the mostly [herpetologically] ignorant inspection officials.
- ❑ As a slight variation of this method, *Asian Turtle Trade: Proceedings of a ...* (1999:14) reports that turtles [tortoises] are often shipped in Asia by openly mislabelling the consignment as fish/seafood, or even as general freight, in order to bypass more thorough type inspections. This *modus operandi* is undoubtedly also utilised to import illegal batches of reptile contraband into South Africa, and in all probability, also to export local species to international destinations.
- ❑ Shipping consignments out through harbours (under the guise of rations/victuals) on foreign vessels where very little or no control is as a rule exercised by conservation staff. A multitude of Taiwanese, Japanese, Chinese and other foreign craft sailing under Asian flags call at ports within the Western Cape province (researcher's own

observations). Since the predominantly Asian crew on these vessels have a partiality for chelonian flesh, and bearing in mind that, according to Kalb and Salzberg (2000:4), in China alone the volume of the chelonian food trade is measured in tens of tons per day and millions per year, the use of these ports, with their perfunctory control, can, all things being equal, be viewed as a most effective clandestine method of promoting, what can broadly be termed, biopiracy. In this same vein Franke and Telecky (2001:80) point out that the transportation of reptiles by speedboat, e.g., from the Malagasy Republic to the Island of Reunion or South Africa is becoming an increasingly common method for transporting illegal reptiles.

- ❑ Packing blatantly poisonous species on the top of other more valuable reptile (or other) contraband concealed below, discouraging a thorough search of the consignment.

#### **4.2.3.2 MISCELLANEOUS EXPLOITATION**

Miscellaneous exploitation can, as an adjunct of, and due to its close nexus to, the intentional exploiter grouping, be divided into 4 distinct categories each with its own particular *modus operandi*. The categories, listed in no particular order of significance, can be identified as follows: *exhibition, rehabilitation/problem snake collection, captive breeding and scientific research*, and have as a central shared characteristic, the potential to undermine, misuse and exploit for personal gain, opportunities created by exemptions and legal conservation mandates.

This particular group of reptile aficionados is, as mentioned earlier, placed strategically within the gamut of the intentional exploiter category due to the fact that many of these individuals are also collectors/traders/dealers, or the like. It must, however, to avoid being accused of overgeneralization and/or oversimplification, once again be emphasised that by no means all of those falling into this category are criminally orientated, and many, if not the

majority, are truly involved in their particular field in order to promote reptile conservation.

#### **4.2.3.2.1 REPTILE EXHIBITORS**

Reptile exhibitors essentially keep reptiles in captivity for the purposes of exhibiting them to the public for economic gain, however, some might be non-profit organisations, which rely on the income generated for their continued operation (Erasmus 1996:1). Invariably those afforded this status obtain the right to transport and display their reptiles at various centres on a regular basis. Given this freedom and compounded by the lack of conservation policing capacity to effectively regulate and monitor this form of exploitation, opportunities are created which, can easily be capitalised upon by the criminally orientated exhibitor. In this regard one immediately thinks of such a person acting as a courier or liaison for CDTC&D's and other criminally orientated parties, with the added bonus of not arousing unnecessary suspicion. Status as an exhibitor could quite easily facilitate the illegal collection and disposal of organisms under the guise of legal operations, essentially acting as a front for illicit dealings.

According to Hignett (2002), exhibitors are subject to strict permit conditions and may only undertake exhibitions if in possession of a valid permit from CNC to do so. Having been supplied with a list of successful exhibition applicants by Hignett, great was the researcher's surprise when on two occasions reptile exhibitions were advertised in the local press, but the responsible person/s therefore were not listed as authorised exhibitors. Questioning Hignett in this regard resulted in what can only be described as a confusing and disconcerting answer, corroborating yet again the inadequacies of the relevant and accountable conservation authority in the province to discharge its reptile conservation responsibilities effectively.

Hignett (2002), responded in this regard by stating that although the individuals were not currently permit holders, they would in all probability be



issued with permits should they apply, and that they were in fact doing CNC a favour by educating the public vis-à-vis reptile conservation. Just as the lifelong issuing of chelonian permits, it is submitted, undermined the importance of the conservation value of this resource, so the blatant condonation of these illegal activities undermines the conservation of reptiles amongst a highly sensitised group, awakening in all likelihood, criminal tendencies should same be at all latently present.



Figure 4.4: Example of a newspaper article indicating a forthcoming reptile display/exhibition by a (at that time) unauthorised exhibitor (Die Burger, 6 July 2001).

Blunders such as these make a laughing stock of CNC policies, legislation and ultimately the organisation itself, broadly promoting and sustaining, as it were, the negative reptile stereotype that is so detrimental to the resource.

#### **4.2.3.2.2 REPTILE REHABILITATORS/PROBLEM SNAKE COLLECTORS**

Reptile rehabilitators/problem snake collectors obtain a mandate from CNC to, depending on the particular situation, collect/capture and/or take in injured or

ailing animals in order to restore that animal to its original condition. Rehabilitated animals must, after recovery, be returned to their natural environment where they can hopefully survive the elements and effectively re-enter the social hierarchy of the species. (Erasmus 1996:1).

A problem snake collection permit holder may, furthermore, within his/her specified area of operation, capture and remove problem snakes from properties/premises, which they have inadvertently entered. If healthy and unharmed, these snakes must be released immediately, but if injured/sickly, may be retained for up to 3 months. Releases should be undertaken in the presence of a nature conservation functionary and a detailed register must be kept of all captures and releases by the permit holder (Gildenhuys 2002: Hignett 2002; Van der Westhuizen 2002).

As with the reptile exhibitor, the administration of such an initiative necessitates thorough and continuous monitoring and regulation. Since the capacity to regulate and monitor does not exist in any readily identifiable form, opportunities for illegal trade are created which can, with impunity, be exploited by the opportunistic and/or criminally orientated rehabilitator/collector. Collection methodology will naturally depend on the organism being collected/captured and transportation will characteristically be per vehicle.

Hignett (2002), Malherbe (2002), Van der Westhuizen (2002) and Vorster (2002), confirm that seldom, if ever, do conservation functionaries monitor releases, and that records, if ever scrutinized, are basically taken on face value and accepted as a true and accurate reflection of the permit holder's activities and conservation *bona fides*. Van der Westhuizen (2002) also confirmed that should such an inspection be carried out, the person will be contacted telephonically in advance, and a convenient time and date agreed upon, accordingly providing the miscreant individual with ample opportunity to make the records appear acceptable and permissible. Given these capacity problems, deviant snake collectors/rehabilitators can, once again, without arousing undue suspicion, collect, transport, and possess snakes legally,

which can facilitate the illegal trade therein, and act as a front for a variety of glaringly obvious illicit dealings. Criminally orientated collectors/rehabilitators basically have, under such circumstances, *carte blanche* and simply record what they wish, when they wish, if they wish, undermining as it were the noble cause, for which they were capacitated, *ipso facto* enhancing biopiracy in this sphere. According to Fattah (1993:248), employment in a position of trust creates the opportunity (situation) that makes embezzlement/breach of trust possible.

Danie Malherbe (2002), veteran private herpetologist of 49 years, proprietor of the popular Die Vonds Snakepark in Noorder-Paarl, and himself an authorised problem snake collector/rehabilitator, supports the above-mentioned sentiments by stating that he has identified the superfluity of opportunities and temptations to illegally exploit natural reptile resources created by the inadequate collection/rehabilitation protocols implemented by CNC. Malherbe (2002) states that he has on many occasions been tempted to use the unpoliced mandate given to him by CNC to promote his own herpetological interests, but has refrained due to his strong conservation ethics. He states further that, although he personally subscribes to high conservation ethics, there are numerous individuals that purport to be reptile conservationists, but habitually abuse these very same mandates for personal gain with impunity.

#### **4.2.3.2.3 CAPTIVE BREEDING CENTRES**

Captive reptile breeding entails the keeping of reptiles (usually rare or endangered species) in captivity for the sole purpose of procreating viable individuals that can ultimately be returned to the natural environment (Erasmus 1996:1).

Captive breeding programmes at breeding centres, including certain Zoological gardens, (Zoo's) are subject to strict permit conditions and are, due to the scientific import of such initiatives, usually implemented, monitored and jointly administrated by the CNC's herpetological scientific component.

Breeding stock is, however, obtained from, amongst others, wild populations and these collection activities are not always monitored as effectively as the breeding programme itself, once again due to capacity constraints. Unmonitored collection from the wild can, therefore, provide the opportunities for crime and can serve to predispose programme participants (at any level within the institutional hierarchy) to partake in illegal activities.

Malherbe (2000) suggests what can loosely be termed a counterview by stating that strict CNC policy, impeding the breeding with captured/rehabilitated reptiles by authorised collectors/rehabilitators, undermines reptile conservation efforts. It is Malherbe's submission that lack of captive breeding capacity in the private herpetological sector results in fewer reptiles being available for purchase locally, promoting, as it were, wild collection and depletion of naturally occurring populations. Malherbe (2002) admits, however, that the ubiquity of opportunists poised to abuse such privileges, and the lack of policing capacity by the authorities, renders such initiatives obsolete or, at the very least, extremely risqué.

It is, however, not only at this juncture that the illegal reptile trade is promoted in the captive breeding sector. Franke and Telecky (2001:82), posit in this regard that Zoo officials have also misused their positions to import protected species on behalf of the Zoo, only to sell off their offspring for personal gain and profit.

Breeding centres also concentrate rare and endangered species in particular locales and can, therefore, facilitate their plunder should a criminal assault materialise. Many organisms, if poor or inadequate physical security arrangements exist, can be removed (stolen) in one fell swoop, so to say. Franke and Telecky (2001:80) state a propos that captive breeding centres have, in a few cases, been burglarised in order to obtain animals for the illegal trade in reptiles, and in the process valuable genetic resources have been lost to species recovery efforts. As the number of reptiles available to collectors diminishes, due to either over-collecting or habitat destruction, it is inevitable

that collectors will encroach on reserves, national parks and other areas where species are congregated.

Bruwer (1997:11) mentions further in this regard that ten (10) CITIES Appendix I and II tortoises, that were part of a captive breeding programme, were stolen from the Tygerberg Zoo during April 1997, a number of radiated tortoises were stolen from an institute in Durban during February 1997, and an undetermined number of tortoises were stolen from the Kleinplasie Reptile World in Worcester late in 1996. Although it is generally accepted that external elements are responsible for such thefts, it could just as easily be internal staff members involved with the conservation programmes that commit such crimes and/or conspire to commit them.

#### **4.2.3.2.4 RESEARCH**

According to Hignett (2002), approximately 10 reptile research permits are issued annually to both research institutions and private individuals in the Western Cape province. Although permits are issued for the collection of all types of reptiles, most requests are, according to Hignett *supra*, for the collection of lizards and chameleons.

Hignett (2002) mentions further that these permits are usually issued for as long as the person requests, but do not generally exceed 5 years, provided that annual reports are submitted. Research permit holders may, subject to the permit conditions, collect/capture, transport, possess reptiles and perform whatever research has been approved with the captured species within a certain geographic locality. Because a permit is issued for scientific reasons the *bona fides* of the researchers involved seem to be taken on face value and little or no physical regulation/monitoring takes place.

Gildenhuys (2002) and Van der Westhuizen (2002), lend credence to the above submission by regarding this as a major dilemma, and are of the opinion that this method of supposedly legal research lends itself to illegal

exploitation, especially, according to Van der Westhuizen (2002), with regard to foreign research practitioners. Van der Westhuizen (2002) states further that no fieldwork regulation/monitoring is undertaken, and that the existence of such research programmes are seldom, if ever, brought to the operational functionaries' attention, resulting in this form of exploitation remaining largely an enigma. It seems that the entire research application and approval process is an administrative exercise, which is evaluated on the basis of a paper trail.

To believe that all research participants and programmes are one hundred percent legitimate due to their association with the research fraternity, would seem to be extremely naïve, given the legion of opportunities generated, lack of exploitation encumbrances and poor guardianship of such a valuable and attractive resource. Even missionaries have been involved in reptile smuggling (Franke & Telecky 2001:82) and it would, therefore, not be at all surprising to discover research participant involvement in this illegal pursuit.

Although the annual report criterion is indeed one of the numerous checks and balances that can be employed to regulate and monitor this form of exploitation, due the absence of policing capacity, research permit holders can easily obfuscate officials by fabricating records that purport to reflect the actual legal situation/transactions and basically can provide an acceptable record of what the officials would like to see.

### **4.3 CRIME SCENES**

As mentioned in the prolegomenon to this chapter, crime scenes, although far less complex than *modus operandi* per se, are integrally related to reptile ecology, characteristics and *modus operandi*. Any one, or combination, of these factors will essentially dictate the location of, and even duration at, the crime scene. By way of example, a person wishing to capture/collect armadillo girdled lizards (*Cordylus cataphractus*) from the wild would logically visit the area where they are most abundant so as to be able to collect the

greatest number of target organisms in the shortest space of time. Because this crime scene would in all probability be in a natural setting, the *modus operandi* would be influenced accordingly, i.e., target species would necessitate overt manual collection procedures, and immediate further transportation/dissemination by road.

From a further analysis of this scenario one can deduce that the crime scene is determined and visited in order to acquire an attractive (valuable/rare) species. The distribution range (ecology) and attractiveness (characteristics) of the particular organism are thus central factors in crime scene determination. The characteristics of the target organism in relation to its lifestyle, i.e., cryptic versus palpable, will further determine the ease and method with which organisms will be captured, and thus play a significant role in determining time spent at the crime scene, as well as *modus operandi* employed. The interface between the crime scene, ecology and reptile characteristics as well as *modus operandi* is therefore abundantly clear.

Although the above example can be regarded as generic with regard to reptile crime scenes, there is one other, shared and rather unique, crime scene characteristic that can be distinguished in the illegal reptile trade sphere. In most cases reptile crime scenes are, in contrast to the crime scenes of more conventional crimes such as murder, assault, rape and arson, to name but a few, far more protracted in nature. Evaluating the above-mentioned example in this context, the following facts become evident.

The crime is perpetrated in a particular locality or localities, making this the initial physical crime scene/s. The illegally collected/captured reptiles are, however, then illegally transported from this crime scene to a residence or dissemination point, making the vehicle in which the bounty is being transported an additional or extended crime scene.

Possession at this residence/dissemination point is also illegal, making this additional point a further crime scene in its own right.

Should the poached/stolen reptiles be transported/exported to another province/country from this point, this too will represent a furtherance of the crime scene from whence the reptiles were originally exploited. Apprehension at any point along this extended crime scene will, for record purposes, be indicated as the crime scene proper, although it is in actual fact merely part of the larger crime scene dynamic.

The crime scene will, therefore, depending on the type of exploitation/trade be of a longer or shorter duration but will, notwithstanding this fact, characteristically remain of an incessant rather than ephemeral nature.

#### **4.4 SUMMARY AND CONCLUSION**

It has unambiguously been established in this chapter that the herpetological resources in the Western Cape province are impacted upon by diverse user groups, but also that there exists amongst this diversity a strong nexus between *modus operandi*, situational variables such as reptile characteristics/ecology, and crime scenes.

Although *modus operandi* differs between user groups it has crystallised out of this exposition that all of these groups impact in some or other way on naturally occurring reptile reserves to the detriment of biodiversity and conservation in general. In order to address this phenomenon strategically and holistically it is thus imperative to recognise the interrelatedness of these issues, as well as firmly embedded peripheral issues like policing capacity and socio-economics. For ease of reference the associations revealed in this chapter are best articulated by means of an explanatory schematic (see figure 4.5 below).

The following chapter will embroider on those associations already made and detail certain contributory and motivational incentives for partaking in the illegal reptile trade, as well as further scrutinize the interface between these issues and those already examined.



