

AN ANALYSIS OF A CHEQUE TO IDENTIFY FRAUD

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DECLARATION OF AUTHENTICITY

I declare that this research dissertation, “**An analysis of a cheque to identify fraud**”, is my own original work and that all sources that I have used or quoted have been indicated and acknowledged by means of complete references. This dissertation is submitted in partial fulfilment of the requirements for the degree of Magister Technologiae in the subject Forensic Investigation at the School of Criminal Justice, College of Law, University of South Africa (Unisa). It has not been submitted before at any other university or tertiary institution.

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ABSTRACT

“An analysis of a cheque to identify fraud”

This study investigates and analyses a cheque in order to identify fraud. The study entails qualitative data obtained from interviews with the detectives or investigators, literature, as well as case studies. The study found that certain forensic investigation methods and techniques can be used to investigate and identify suspects.

There are many techniques that the detectives should apply in order to identify suspects or perpetrators of a criminal act. To conduct an effective investigation, it is important for criminal investigators to be familiar with the methods and techniques of identification and the application thereof.

Different role players, including the Forensic Auditors, Document Examiners, SABRIC, as well as the station level detectives, plays an important role in this study, “An analysis of a cheque to identify fraud”. The methods to be used by the detectives to investigate cheque fraud were discussed thoroughly. It is important that the detectives work with other government departments and private detectives to investigate cheque fraud as it gives the detectives more knowledge and experience in fighting this crime.

KEYWORDS

Bank, cheque, cheque fraud, crime scene, evidence, forensic investigation, fraud, identification, individualisation, information, interview, and Locard's Principle.

LIST OF ABBREVIATIONS

ACFE	: Association of Certified Fraud Examiners
AFIS	: Automated Fingerprints Identification System
BASA	: Banking Association of South Africa
BCSA	: Banking Council of South Africa
Brig	: Brigadier
CAS	: Crime Information System
CEO	: Chief Executive Officer
DNA	: Deoxyribonucleic Acid
DPCI	: Directorate for Priority Crime Investigations
IPID	: Independent Police Investigative Directorate
LCRC	: Local Criminal Record Centre
Lt. Col	: Lieutenant Colonel
MICR	: Magnetic Ink Character Recognition
MO	: Modus Operandi
NPA	: National Prosecuting Authority
SABRIC	: South African Banking Risk Information Centre
SAPS	: South African Police Service
SARB	: South African Reserve Bank
SARS	: South African Revenue Service
SIU	: Special Investigating Unit
UNISA	: University of South Africa

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CHAPTER 1: GENERAL ORIENTATION

1.1 INTRODUCTION

Crime in South Africa occurs on a daily basis, and it is having a direct effect on the country's economy. Cheque fraud is one of the crimes which have a great impact on the economy. Despite the decline in cheque usage, cheque fraud remains one of the largest challenges facing businesses and financial institutions in the country.

According to the Banking Association of South Africa (BASA) (2013:1), cheques are a handy way to make payments without having to use cash. It decreases the risk of going around with cash in your pocket. Cheque fraud has become prevalent amongst businesses and financial institutions (Orthman & Hess, 2013:445). People are continuing to lose money through this kind of fraud, and advanced computer technology has also allowed significant amounts of cheque fraud through counterfeiting to copy or create duplicates and chemical alteration to manipulate information. During 2013, a total value of R310 million was lost through cheque fraud in banking institutions, companies and individuals throughout South Africa (Schulze, Kelbrick, Manamela, Stoop, Hurter & Masuku, 2016:38).

Many questions are asked on a daily basis as to what can be done to eradicate a scourge of crime in the business sector as well as the individuals. One aspect of the issue is very obvious, and that is, for as long as the detectives have the right methods and techniques to identify a possible fraudster, they will most definitely contribute to the reduction of cheque fraud. The detectives need to be able to use identification methods effectively in order to be able to catch the suspected individuals.

Recently, cheque fraud is being investigated by the detectives at the station level. Anything less than R100 000.00 is taken over by the detectives at the station level. The methods the criminals use to defraud businesses using fake cheques, the procedure to be followed when investigating a crime, identification methods used in the investigation of cheque fraud, and discussion of a cheque as well as the analysis of a cheque in order to identify a possible fraudster will be discussed in chapter 2 and 3 respectively.

1.2 PROBLEM STATEMENT

The problem statement serves as the engine of your thesis (Bak, 2013:20). It is regarded as a short and concise explanation of a problem an organisation or business is facing and a proposed solution to a problem. It is said in Withrow (2014:5) that a problem statement drives the various sections, directs your discussion towards the destination you want to get to, and informs the way in which you will develop your thesis. Badenhorst (2015:77) also emphasised that a problem statement is like a compass. It gives you a means to plot your path, always heading in the same direction. It is a document you will refer to and refine over and over. According to Welman, Kruger, and Mitchell (2011:13), the research problem involves breaking down our general interest in a research topic to focus on a particular research problem that is small enough to be investigated. In other words, without a research statement, it is impossible to conduct proper research.

Cheque fraud is one of the most common ways of committing fraud (Joubert, 2011:161). The perpetrator often writes out a cheque to pay for goods, knowing that he or she does not have money to pay for them. Consequently, cheques are still an acceptable method of payment and cheque fraud is still a popular source of illegal activity for criminals, through which they gain financial advantage from unsuspecting individuals, especially businesses (Orthmann & Hess, 2013:445). The researcher has observed that cheque fraud has become prevalent among businesses, where the suspects buy goods with a counterfeit or fraudulent cheque. Besides an intervention by the police and the South African Banking Risk Information Centre (SABRIC), for consistently releases information on different types of criminal activity to alert customers to be more vigilant, cheque fraud is still on the rise in South Africa (Gloeck & De Jager, 2005:49).

According to SABRIC, a cheque is a signed, written instruction you give to your bank to pay money out of your account. Cheques are a handy way to make payments without having to use cash. Cheque fraud remains one of the largest challenges facing business and financial institutions (Myberg, 2000). The victims include banks, financial institutions, businesses or customers that accept and issue cheques. Cheque fraud costs South African companies millions of rands each year, and advanced computer technology has allowed significant amounts of cheque fraud through counterfeiting to copy or create duplicates and chemical alteration to manipulate information (Myberg, 2000). The Banking Council of South Africa estimates that more than 60 percent of the actual losses from cheque fraud – which stood at R162 million on the financial year 2017/2018 could be attributed to altered cheques (Gloeck & De Jager, 2005:50).

These crimes are usually committed by means of cheque interceptions, the substitution of genuinely issued cheques with fraudulent ones, and cheque washing, through which they gain financial advantage from unsuspecting individuals, businesses, and companies. Cheque washing can be described as the process of erasing details from cheques to allow them to be rewritten, usually for criminal purposes such as fraudulent withdrawal from the victim's bank account (Yeon, Anuar & Hussain, 2018:146). These crimes are being investigated by the detectives at the station level. Mostly, the police experience a vast number of cases where a business accepts a cheque and later finds out that it is invalid.

Usually, cheque fraud is committed during business hours, especially when the business is about to close (South African Banking Risk Information Centre (SABRIC, 2018:1-5). The criminals are using this time frame to defraud because the seller is not in a position to verify the information on the cheque and releases the goods to the fraudster based on the fact that the words "Bank cheque" appear on the cheque. According to the South African Banking Risk Information Centre (2018:4), the fraudsters usually arrive or send third parties immediately before the close of business but after banking hours to purchase goods. Cheque crossings should be used appropriately and always mark crossed cheques as "not transferable" to help prevent fraud. The businesses should also guarantee and check if the cheque is valid. The criminals sometimes carry old, outdated chequebooks to buy goods.

The impact of the problem is that businesses and individuals are continuing to lose money through cheque fraud. If an Absa cheque was presented as payment, the person receiving the cheque would have to verify its validity and could contact the branch that issued it before handing over the goods (Divitt, 2013:22)

The researcher tends to educate businesses, banks, and the community about the method the fraudsters use to rob the businesses using fake cheques. The researcher also would like to educate or warn the businesses and the people who are using cheques as a method of payment to verify and check for validity before accepting any cheque by contacting the branch that issued it before handing over goods.

1.3 RESEARCH AIM

Research must always have a specific "destination" that is aimed at, otherwise, it will never get implemented (Bak, 2013:15). According to Anderson (2014:45), a research aim is a broad statement of the general intention of the research, and it provides an overview of the problem or issues you plan to address. Maree (2012:111) agrees with Anderson (2014:45) and added that a research aim is a broad statement of desired outcomes or the general intentions of the research, which "paint a picture" of your research project. According to Hagan (2014:5), formulating the aim of research helps shape and guides

your work after you have decided on a topic. It also points out what you want to accomplish and your desired outcomes from your research.

This research aims to determine the use of cheque analysis in order to identify fraud to detect and prevent cheque fraud.

1.4 RESEARCH OBJECTIVES

Research objectives are the results sought by the researcher at the end of the research project (Hagan, 2014:5). It summarises what is to be achieved by the study. According to Anderson (2014:24), a research objective explains what you hope to achieve. It helps you express what you need to do to realise your research aim and begin with a verb that indicates what sort of activity you will undertake. However, Maree (2012:111) is of the opinion that research objectives divide the research aim into several parts and address each part separately. The research objectives are clear and relevant; they are derived from the identification and definition of a valid and practicable project.

The objectives of this research are:-

- (i) To identify the methods the criminals use to defraud the businesses using fake cheques,
- (ii) To describe the correct procedure to be followed by the investigators when investigating cheque fraud, and
- (iii) To identify criminals through cheque analysis.
- (iv) To make recommendations to the businesses and the people for the prevention of cheque fraud and detection of criminal syndicates.

1.5 RESEARCH PURPOSE

According to Denscombe (2002:10), there should be a reason for doing research, if not, it would be pointless spending all your time and effort undertaking the investigation. The main purpose behind the research is to solve a practical problem or improve procedure (Denscombe, 2002:10). Maree (2012:32) explains that the purpose of the research should clearly state what you want to achieve with the research. Henning, Hutter and Bailey (2011:34) are of the same view as Maree (2012:32) and added that the purpose of the research should consider what you want to achieve through your research. The purpose statement for the research will direct and focus the entire project (Badenhorst, 2014:23).

According to Denscombe (2002:11), there could be different purposes for doing research. This study has focused on the following purposes:

- (i) The researcher wanted to discuss the standard procedure that the detectives should use when investigating fraud.
- (ii) The researcher wanted to show cheque analysis to identify criminals/fraudsters.
- (iii) The researcher wanted to evaluate the identification methods used in the investigation of cheque fraud.
- (iv) The researcher wanted to add or apply new knowledge by recommending new procedures and improving the investigation techniques in fraud investigation.
- (v) The researcher also wanted to empower himself as well as the detectives with information on how to identify fraudsters.

1.6 RESEARCH QUESTIONS

A research question is a question about some aspect of crime or criminals that you seek to answer through the collection and analysis of first hand, verifiable, empirical data (Bachman & Schutt, 2014:22). Anderson (2014:48) states that a research question articulates what you need to find out to answer your principal research questions or test the propositions that follow from your hypothesis. According to Badenhorst (2015:78), the research questions unpack the research problem systematically and show the scope of the project. Badenhorst (2015:127) further states that research questions stimulate thoughts, define tasks, convey problems, and identify issues. Questions help give our thinking direction; they induce us to dig beneath the surface. These are not questions one would ask an interviewee when gathering data. Instead, they are guiding questions like apple pie slices that make up the whole pie (Badenhorst, 2014:25)

The research questions are stated as follows:

- (i) What is a cheque?
- (ii) How to analyse a cheque in order to identify fraud?

1.7 KEY THEORETICAL CONCEPTS

Birks and Mills (2014:15) comment that definitions concretise the intended meaning of a concept in relation to a particular study.

According to Bachman and Schutt (2014:77), conceptualisation is the process of specifying what we mean by a term. It is an important part of the process used to make sense of related observations. Anderson (2014:52) is of the same view as Bachman and Schutt (2014:77) and explained that theoretical concepts are abstract: they do not exist in reality, we cannot touch them, but they provide a structure to

the way we understand and explain what goes on in the observable world. Bless, Higson-Smith and Sithole (2013:72) refer concepts to a particular idea that can be described in words. The following definitions explain the key concepts of the research:

- 1.7.1 **Cheque** – refers to an order to a bank to pay a stated sum from the drawer’s account, written on a specially printed form (Divitt, 2013:22).
- 1.7.2 **Identification** – refers merely to categorising something or someone belonging to a specified class or group (Osterburg & Ward, 2014:103).
- 1.7.3 **Fraud** – According to Van Rooyen (2008:130), fraud is the unlawful and intentional making of misrepresentation with intent to deceive and to defraud by causing actual or potential prejudice to another.
- 1.7.4 **Forensic investigation** – can be defined as an in-depth, meticulous investigation, searching for the truth through the use of specialised skills and expert knowledge and the application of scientific investigation methods and techniques in order to lawfully discover, collect, prepare, identify and present evidence which can be presented to a court of law, disciplinary council, instructing clients or company (Zinn & Dintwe, 2016:19).
- 1.7.5 **Bank** – is a financial institution licensed to receive deposits and make loans and also provide services such as wealth management, currency exchange and safe deposit boxes (Ayadi, 2019:25)
- 1.7.6 **Interview** – may be defined as communication involving two or more people for the purpose of obtaining information (Gilbert, 2010:102).

1.8 VALUE OF THE RESEARCH

Research should be worthwhile, address specific, current practical needs and contribute to the development of existing knowledge (Denscombe, 2009:43-44). According to Creswell (2014:16), research seeks to advance the existing body of knowledge by creating new knowledge as well as sharing that knowledge. The value of this research is as follows:

- (i) **Academic Community:** Upon completing this research, the academic community will know what procedure to use or follow when they have been defrauded. They will also master the new and advanced methods that criminals use to defraud the community.
- (ii) **South African Society:** The country as a whole, and more specifically cheque holders, will benefit a lot from this research by mastering the modus operandi the criminals use to defraud society. An improved understanding of the new ways criminals use to commit cheque fraud will alert society to be careful when issuing cheques.

- (iii) **Industry:** This research aims to improve the skills and quality of the detectives when performing their investigation. The South African Police Service will benefit from the new knowledge that has been created in respect of the research problem. This could assist in improving and enhancing current SAPS training curricula to ensure that the detectives are more knowledgeable and better equipped to investigate and combat cheque fraud through the use of forensic methods and techniques.
- (iv) **Prospective students:** From an academic perspective, the research can serve as a basis for further research and developing best practices on how to use the identification methods and techniques to investigate cheque fraud effectively.

1.9 PRELIMINARY LITERATURE REVIEW

A study should be followed by exploring the existing literature in the particular area of interest (Maree, 2012:33). In this section of a research proposal, one should therefore discuss the main issues relating to the proposed study in terms of the existing body of knowledge.

According to Bless et al. (2013:49), a literature review involves searching and studying current writings on the problem under investigation. This is achieved mainly by reading whatever has been published that appears relevant to the research topic. The researcher visited the University of South Africa's (Unisa) library, Durban Metropolitan libraries, the internet, google scholar and other search engines to search for literature covering the research topic, aims and questions. Researchers publish an enormous amount of research each year (Beins, 2009:81). Internet searches revealed that there had been some research on cheque fraud, however, the researcher noted that the other researchers did not deal with the technique to identify cheque fraud suspects.

According to Anderson (2014:24), a literature review shows how your research is positioned in the existing literature and where your study fits existing knowledge about the topic. Badenhorst (2015:165) is of the view that a good way to begin to understand differences between the discourses of various disciplines is to look at several pieces of writing on the same subject, and the purpose of the literature review is to situate research within the broader literature, to set up a rationale which is the knowledge gap (Badenhorst, 2015:107)

Merely appealing own experiences or general knowledge is not enough. For your research proposal, the literature engagement should draw on a limited number of key sources (Bak, 2013:17), and Badenhorst (2014:43) believes that the literature review is the place where previous research is discussed, and

current research is located. In the literature review, the researcher will unpack the key concepts and theory and discuss the conceptual framework.

1.10 RESEARCH DESIGN AND APPROACH

1.10.1 Research design

According to Welman, Kruger and Mitchell (2011:52), a research design is a plan according to which we obtain research participants (subjects) and collect information from them. In it, we describe what we are going to do with the respondents, with a view to reaching conclusions about the research problem. To do this, the researcher had to interview and interact with the most experienced detectives of cheque fraud. Maree (2012:35) is of the same view as Welman, Kruger and Mitchell (2011:52) and described a research design as a specific plan for studying the research problem. Maree (2012:35) also referred to the research design as a blueprint of how you intend to conduct the research. In comparison, Badenhorst (2015:53) believes that a research design involves choosing a research paradigm, a methodology, data collection methods, and a data analysis strategy. According to Bachman and Schutt (2014:28), a research design was designed systematically with careful attention to the specification of terms and clarification of assumptions and focused on the possibility of different outcomes rather than certainty about one preferred outcome.

1.10.2 Research approach

The researcher will use a qualitative research approach in this study because this approach uses a detailed observation process to gain better information about the views of the subject and is presented in the form of a comprehensive literature study.

The researcher will apply a qualitative approach to this study in that the researcher will use face-to-face contact with the respondents of the study to obtain practical answers to the research problem. According to Welman, Kruger and Mitchell (2011:188), qualitative research can be described as an approach rather than a particular design or set of techniques. It is an umbrella phrase covering an array of interpretive techniques which seek to describe, decode, translate, and otherwise come to terms with the meaning of naturally occurring phenomena in the social world. Welman et al. (2011:8) further state that the qualitative research approach focuses on processes and meanings that are not rigorously examined or measured in terms of quantity, amount, intensity or frequency, and the aim of the qualitative research approach is to establish the socially constructed nature of reality, to stress the relationship between the researcher and the object of study, as well as to emphasise the value-laden nature of the enquiry.

1.11 TARGET POPULATION AND SAMPLING

1.11.1 Target Population

The population is the mass of individuals, cases, events to which the statements of the study will refer and which has to be delimited unambiguously beforehand with regards to the research question and the operationalisation (Flick, 2011:71). According to Welman, Kruger and Mitchell (2011:55), a target population is a group of potential respondents to whom you want to generalise the results. It is the study object and consists of individuals, groups, organisations, human products and events, or the conditions they are exposed to. Bless et al (2013:162) agree with Welman et al. (2011:55) and add that a target population refers to the entire set of objects or people that are the focus of a research project and about which the researcher wants to determine some characteristics. Therefore, a researcher relates this research only to the organisation, namely the South African Police Service, especially the cheque fraud detectives. The reason being, this research is directed at the South African Police Service. Fifteen detectives from the SAPS will be used in this research for cheque fraud interview.

1.11.2 Sampling

According to Babbie and Mouton (2012:328), sampling refers to the selection of a subset of persons or things from a larger population, also known as a sampling frame, and Mason (2009:120) implies that sampling are principles and procedures used to identify, choose, and gain access to relevant data sources from which you will generate data using your chosen methods. According to Hagan (2014:110), sampling is a procedure used in research by which a select subunit of a population is studied in order to analyse the entire population. Sampling enables an inexpensive, relatively quick assessment, by even small groups of researchers, of a population that is often so large, usually at great savings in time and cost (Beins, 2009:126). In this study, the researcher used 15 detectives as respondents. The researcher believes that 15 respondents will be enough to obtain all the information relating to cheque fraud.

The researcher will use a non-probability sampling procedure in the form of purposive sampling as this sampling method is used for the selection of knowledgeable and experienced respondents in the field of policing (Beins, 2009:126). A purposive sampling will be used because the researcher will rely on his experience as a police officer and the previous research findings to obtain units of analysis deliberately. According to Bachman and Schutt (2014:119), a purposive sampling approach is a non-probability sampling method in which elements are selected for a purpose, usually because of their unique position, and Hagan (2014:117) is of the same view as Bachman and Schutt (2014:119) and

added that a purposive sampling represents the selection of an appropriate sample based on the researcher's skill, judgement, and needs. The advantages of a purposive sampling are that it is likely to produce good results because it targets individuals who are particularly knowledgeable about the issues under investigation (Bachman & Schutt, 2014:119). The disadvantages are that it does not produce a sample representing some larger population, instead, it generalises the results (Bachman & Schutt, 2014:120).

1.12 DATA COLLECTION

According to Badenhorst (2015:53), data collection strategy is the nitty-gritty of collecting data. It answers questions like how will you gain access to the data, in what ways will you collect it, and how will you organise it?. As you collect data, you will be grouping, organising, and categorising (Badenhorst, 2015:178). Bless et al. (2013:184) indicate that frequently used data collection methods in qualitative research include literature, observation and interviewing. The researcher will use all the above-mentioned methods. Fifteen detectives were interviewed telephonically and not face-to-face due to the COVID-19 pandemic.

1.12.1 Literature

A review of literature resources in respect of the research topic and research problem is very crucial. A literature review puts the research in context within the existing body of knowledge in the field that is being investigated (Denscombe, 2002:50). Ormrod (2013:51) emphasises the importance of literature in respect of the ways of the research problem and research questions.

The most effective way of reviewing existing literature is to generate keywords and search terms that are related to the research problem, research questions and the purpose of the research (Creswell, 2009:29). Therefore, the various relevant keywords and terms were generated based on the thorough discussion with the cheque fraud detectives at SAPS Inanda. Keywords were also generated by reading books on the subject and from the researcher's own experience in the field. The researcher used the literature that focuses on the cheque analysis, identification, bank, interview and fraud.

The literature was obtained by visits to libraries, official South African Police Service directives and policies, and from documents that contain information about the cheques, identification, bank, interview and fraud where the researcher would conduct the research to gather information on the topic. International and local sources such as books, journals, newspapers, research dissertations and the internet were consulted to obtain relevant information for the research. To ensure that the data sources

were dealt with in the same manner, the researcher extracted the relevant information from the sources. The contents and quotes were analysed by comparing the data to establish where the authors concur and where their views and findings differ.

The researcher made use of literature that focuses on methods and techniques to investigate cheque fraud efficiently. Information relevant to identification as well will be collected. Data already gathered was obtained by visits to the libraries at Unisa Durban Campus, official South African Police Service directives and from documents that contains information about cheque fraud and identification.

1.12.2 Semi-structured interview

Maree (2012:87) describes an interview as a two-way conversation in which the interviewer asks the respondents questions with the aim of collecting data, beliefs, views and opinions from the respondents. The aim of a qualitative interview is to see or find the research problem in the eyes of the respondents.

In a semi-structured interview, the respondents are required to answer questions to guide the line of enquiry. This type of interview allows the interviewer to use probing and exploring questions from the respondents in order to obtain explanations and clarification about the research questions used in the research (Bouma & Ling, 2010:65). Probing and exploring questions help the interviewer to develop the topic of the research and explore ideas to obtain as much information as possible from the respondents (Maree, 2012:87). The researcher used open-ended questions during semi-structured interviews in order to obtain as much information as possible regarding the research questions and the research problem. These kinds of questions provide no structure in which the respondents should answer, and they are intended to invite a more comprehensive, in-depth answer to a question (Bouma & Ling, 2010:65).

The interview schedule was used to guide the interview between the researcher and the respondents from SAPS Inanda, who investigates cheque fraud and fraud in general. Before any respondents was interviewed, the researcher obtained formal approval from the South African Police Service in terms of the SAPS National Instruction 1 of 2006 to conduct research and interview SAPS detectives for purposes of the study. Approval from the SAPS is attached hereto as Annexure A. The interview schedule used during interviews with the SAPS detectives is attached hereto as Annexure B. Leedy and Ormrod (2013:154) provide the guidelines for interviewers to ensure effective and productive interviews, which the researcher followed. Prior to the interviews, the researcher asked for consent from each respondents to be interviewed. Each respondent was interviewed telephonically to comply with the COVID-19 regulations. The researcher established and maintained rapport with the interviewee by an introduction and explaining the background, purpose and scope of the interview. The researcher first

asked a number of questions on the respondent's background, interests and experience to allow the respondents to speak freely and open at all times. The respondents were ensured of their privacy and confidentiality of interviews, and the researcher made sure not to publish the participant's response without their consent.

1.13 DATA ANALYSIS

Babbie and Mouton (2012:107) point out that content analysis by means of decoding is the most suitable technique for qualitative research. Thinking and writing analytically appear to be a stage after data collection (Badenhorst, 2015:179). In reality, the researcher begins to analyse from the beginning of the project. The following steps are of importance to effective data analysis and were therefore followed and executed by the researcher:-

- Analysis took place by studying, comparing, breaking up and grouping similar answers and literature together. The remainder of the answers and literature were grouped into categories in the same manner.
- Synthesis was reached by combining the analysed data into a whole.
- Induction took place by incorporating known facts into the research to set a general rule.
- Deduction was accomplished by studying all the facts and, as a result, thereof arrived at answers for the research questions.

The obtained data from the documentary sources and interviews were compared, analysed and coded with the literature to point out differences and to establish trends and patterns.

1.14 METHODS TO ENSURE TRUSTWORTHINESS

According to Withrow (2014:162), trustworthiness might be the demonstration that the evidence for the results reported is sound and when the argument made based on the results is strong. Beins (2009:132) simply defined trustworthiness in qualitative research as the study's findings that are credible, transferable, confirmable, and dependable. Trustworthiness is done in terms of how much trust can be given to the research process and findings (Bless et al., 2013:236)

To ensure rigour and trustworthiness in qualitative research, specific strategies were followed to meet four criteria: credibility, transferability, dependability, and confirmability (Gray, 2014:185-186). The researcher applied various strategies to meet these criteria, as proposed by Creswell (2014:249-253) and Savin-Baden and Major (2013:476-480)

1.14.1 Credibility

Credibility is the extent to which a test or measuring instrument measures what it intends or claims to measure (i.e. the effectiveness, applicability and appropriateness of the data collection instrument), as proposed by Bless et al (2013:236). Strategies to ensure credibility include prolonged engagement, time spent in the field and persistent observation, triangulation, random sampling, peer review/debriefing, negative case analysis and clarifying researcher bias.

During the study, triangulation was used to validate data from different sources. Information obtained from different sources was compared in order to verify its correctness and accuracy. Triangulation involved the use of multiple and different sources, methods, interviews, researchers and investigation strategies to corroborate evidence and findings (Creswell, 2014:251; Hagan, 2014:249). Peer review was also applied by discussing the research process, data collection and analysis, and findings of the study with independent, knowledgeable colleagues who did not form part of the group of respondents. Their perspectives and ideas were also used to corroborate those of the respondents. There was no specific bias, prejudice, or assumption relating to the research topic or research questions that could influence the researcher's approach, interpretations, or findings.

1.14.2 Transferability

Transferability relates to the extent to which the findings of a study can be applied to other situations (Hagan, 2014:240). A strategy to meet the requirement of transferability involves using such a detailed, abundant, in-depth description of themes, contextual factors impacting the study, respondents' views and observations that it enables readers to transfer the information provided by the researcher to other settings and circumstances. The researcher also clearly stated any restrictions or inhibiting factors, which have impacted the study.

The researcher was able to determine the degree to which the findings of the study can be transferred as relevant to other settings and circumstances. Throughout the study, the researcher placed emphasis on recording and describing data and meaning to ensure that the study would be transferable to the larger cheque fraud environment.

1.14.3 Dependability

Dependability concerns the stability and consistency over a period of the research design, data collection methods and instruments to produce consistent results under the same circumstances and in the same context (Bouma & Ling, 2010:83). Gray 2014:185) posits a thorough description by the researcher of

the research design and all processes and methods used during the study to enable future replications of the study.

A detailed description of the research design, data collection and data analysis methods was provided, including the sampling procedures. The researcher used standard interview schedules to guide interviews with selected cheque fraud detectives in answering the research questions effectively. Interviews were recorded, and the respondent's responses were captured verbatim in writing. Furthermore, a detailed reference list of all sources used was compiled, and sources were properly cited.

1.14.4 Confirmability

Confirmability involves objectivity in the study. Researcher bias should be neutralised by using strategies such as triangulation and clarifying preferences the researcher might have had (Bless et al., 2013:237). According to Flick (2011:186), triangulation means combining data drawn from different sources and at different times, in different places or from different people. The researcher collaborated information from different sources and interviews from the people concerned, for example, the SAPS cheque fraud detectives. A detailed audit trail of the research process, data collection, data analysis and the researcher's interpretations and conclusions is critical to meet the requirement of confirmability (Given, 2008:43-44). In order to achieve this, the researcher used triangulation as a strategy, kept a research diary and maintained a proper audit trail of the entire research process.

1.15 ETHICAL CONSIDERATIONS

The word 'ethics' means one's character or disposition (Bless et al., 2013:28). It is related to the term 'morality', meaning one's manners or character. The spirit of our thinking is a matter of ethical decision, as is the choice of techniques and practices of thinking (Badenhorst, 2015:189). In research, our credibility is linked to our ethics. If we respect our respondents, if we feel the research task is important and if we feel the research conclusions are worthy, we will value honesty and integrity in research. We will protect our respondents because we recognise they are people – heroes in their own stories and not just side characters in ours.

If research involves people and/or vertebrate animals as research subjects, you probably have to include an ethics statement in your proposal (Bak, 2013:28). Such a statement is an indication of awareness of the ethical considerations and an agreement to conduct research in accordance with procedures. The goal of ethics in research is to ensure that no one is harmed as a result of your research.

The researcher is aware of the Ethical code for Research of the University of South Africa. Ethical behaviour is very important in research. The researcher adhered to the Code of Ethics of the University of South Africa when doing this research. Certain ethical considerations, concerned with such matters as plagiarism and honesty in reporting results, arise in all research (Welman et al., 2011:181). The researcher took into consideration the principles underlying research ethics, such as honesty and respect for the rights of individuals when doing this research. All sources consulted were written in the researcher's own words to avoid plagiarism, and the research was done in accordance with the civil code of behaviour.

Ethics in research relates to doing what is morally and legally right when conducting research (Dantzker & Hunter, 2012:190; Welman et al., 2011:201). Throughout the study, the researcher maintained the highest ethical standards, as discussed by Leedy and Ormrod (2013:104-109), namely:-

- *Protection from harm:* No harm of a physical, psychological, social or emotional nature was caused to any respondents. No stress, embarrassment or loss of self-esteem was caused during the research.
- *Right to privacy or confidentiality:* No person's right to privacy or confidentiality was violated. The researcher treated the identities and responses of respondents as strictly confidential. These have not and will not be revealed to anyone unless written consent is given by a respondents.
- *Voluntary, informed participation and obtaining prior consent:* The researcher ensured that participation in the study was completely voluntary. The respondents were informed prior to participation what the purpose of the study and the interview was and what it entailed. Informed written consent was obtained from each respondents prior to any participation.
- *Consent to conduct research in the SAPS:* Prior written consent was obtained by the researcher to conduct research in the SAPS in terms of its research policy and to interview SAPS detectives. The cheque fraud detectives were used to conduct this research.
- *Honesty with professional colleagues:* Findings was reported in a complete and honest manner without any misrepresentations. No data or findings were inflated, falsified or fabricated.
- *Maintain high standards, avoid plagiarism and acknowledge sources:* The researcher strived towards maintaining high standards of research throughout the study. He avoided plagiarism at all times and did not intrude on anyone's intellectual property rights. Where data was unavailable or any aspect required further research, it was stated clearly. All sources were properly referenced, and the work of other authors was properly cited and acknowledged.
- *Professional codes of ethics:* The researcher adhered to the Unisa Policy on Research Ethics and applicable institutional policies and guidelines at all times (University of South Africa, 2012). Data collected during the research will be kept for a period of at least five years. The

researcher is aware that the copyright of the data collected and the research report belongs to the University of South Africa.

1.16 RESEARCH STRUCTURE (CHAPTER LAYOUT)

If the main research questions are the heart of the research proposal, the chapter outline is the skeleton. The purpose of the research structure is to give a reader an indication of how the various elements of the study fit together and the logical development of the investigation (Bak, 2013:29).

To address the research problem and ensure that all the research questions will be answered, the researcher divided the report into the following chapters:-

Chapter 1: General Orientation

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

Chapter 2: Cheque

This chapter deals with defining as well as describing what a cheque is, how to use a cheque and the safety precautions that should be taken to use a cheque responsibly. Methods used by the criminals to defraud a cheque are also discussed, as well as the role played by the criminal investigator in obtaining this information.

Chapter 3: Analysing a cheque in order to identify fraud

The concepts of fraud and forgery are briefly discussed in this chapter. The analysis of a cheque and profile of a fraudster was also discussed as well as the investigation thereof.

Chapter 4: Findings and Recommendations

In this chapter, the final findings, conclusions and recommendations were discussed accordingly

1.17 SUMMARY

In this chapter, the researcher addressed the problem statement of the research and also emphasised that a problem statement is like a compass. It should give a means to plot your path, always heading in the

same direction. The research aim, which is to determine the use of cheque analysis in order to identify fraud, was discussed accordingly. The research objectives, which summarises what is to be achieved by the study, were stated clearly and are relevant to the study.

Moreover, there should be a reason for doing research, otherwise, it would be pointless to spend all your time and effort undertaking the investigation. The main purpose of this research was to evaluate the identification methods used in the investigation of cheque fraud. The researcher also formulated two research questions to articulate what the researcher is trying to find out. To answer the research questions, the researcher came up with the key concepts mentioned in Section 1.7.

Thereafter, the researcher used literature and semi-structured interviews as data collection strategies. The interviews were conducted telephonically to comply with COVID-19 regulations, and the data were analysed using a qualitative research approach. In this research, the researcher made sure he follows the Code of Ethics of the University of South Africa to ensure honesty in reporting results. The rights of the respondents were respected and protected from harm. No person's rights to privacy or confidentiality were violated.

CHAPTER 2: A CHEQUE

2.1 Introduction

Every day billions of rands are transferred in South Africa between payers (debtors) and payees (creditors) involved in money transactions. The payment transactions may be made using any one or a combination of a number of instruments such as cheques (Schulze et al, 2016:379). A cheque is one of the most common methods of payment, apart from cash, and it is widely used all over the world. Cheques are an easy and convenient way to carry large sums of cash in your pocket and just a small piece of paper. No criminal will ever notice that you have money in your pocket when carrying a cheque.

According to the Banking Association of South Africa (2013:1), cheques are a convenient way to avoid carrying cash, but it is also prone to fraud. Usually, the fraudsters perpetrating cheque fraud often use the stolen originals, forgery (alteration and tampering), or counterfeiting, as will be discussed in this chapter. This chapter aims to go in-depth and define what a cheque entails as well as the analysis thereof. This is the first step of the detectives when trying to investigate cheque fraud. One cannot just go on with the investigation before understanding what is being investigated. Cheque as a method of payment and the impact of cheque fraud is also discussed in this chapter.

Lastly, the beneficial factor of using cheques compared to electronic payments will be discussed to emphasise the importance of using a cheque. The researcher further discussed the meaning, definitions and elements of fraud to assist the investigators with the insight of fraud in their investigation.

2.2 Forensic investigation

Forensic investigations are often complex affairs (Van Rooyen, 2008:87). They involve the integration of many disciplines, including fingerprints, digital imaging, and auditing, among others, in order to conduct an effective investigation and to fight crime. According to Zinn and Dintwe (2016:19), forensic investigation can be defined as a deep, thorough investigation, searching for the truth through the use of specialised skills and expert knowledge and the application of scientific investigation methods and techniques, with the intent to discover and present evidence to a court of law. Brandl (2014:45) supported Zinn and Dintwe (2016:19) and stated that forensic investigation refers to the use of sophisticated investigative techniques to obtain evidence that can prove the true facts in a court of law about the crime committed. In forensic investigations, there are many techniques that can be used to solve a criminal case, one of them can be the identification of a suspect. It can also be the

individualisation of a suspect who has already been identified. Houck, Crispino and McAdam (2012:4) refers to the forensic investigation as the methods and techniques of associating people, places, and things involved in criminal activities. An example would be the fingerprints found from the forged cheque that can be lifted and compared to the forger.

Furthermore, the purpose of forensic investigation, as stated in Zinn and Dintwe (2016:19), is finding a positive solution to a crime in order to reconstruct a scene of the incident, identify the perpetrator, apply scientific knowledge to a legal problem, and methodically and systematically analyse evidence to find proof of and establish transactions. In contrast, Van Rooyen (2008:14) mentions the function of the forensic investigator as to provide investigative leads to the detectives and other investigators, for example, by finding the matching fingerprints in a forged cheque and to conduct a comparison test with the suspect's fingerprints. As the nature and methods of committing crime have become more sophisticated and so have the nature and methods of investigation (Van Rooyen, 2008:3). Whereas in the past, the detectives depended only on information provided by the informers, these days, there are new investigative techniques, which are identification, individualisation, fingerprints, that has come to light to the detectives. Therefore, the detectives need to acquaint themselves with the methods and techniques of forensic investigation when investigating a crime. Similarly, to be a good forensic investigator, one must take into consideration the principles of investigation, namely, the Locard's Principle, the identification and individualisation of objects/people, which will be discussed in the following chapters.

In the means to answer the question: 'What does forensic investigation mean?' two respondents indicated that forensic investigation refers to a specialised or advanced investigation aimed at proving the guilt or the innocence of the accused in the court of law. The rest indicated that it is the means to identify and individualise the accused to answer to the charge against him/her. Based on the above authors as well as the respondents, the researcher concluded that forensic investigation is one of the sophisticated ways of investigation whereby different experts or investigators gather and analyse evidence as well as use the methods and techniques available within the criminal justice with the aim of resolving a case.

2.2.1 The meaning of identification

Alphonse Bertillon, the French Anthropologist, was the first man to create the identification system based on physical measurements like documents and fingerprints identification (Newburn, Williamson & Wright, 2011:24). The ineffectiveness of the police investigation made him come up with the advanced method to search for the truth in criminal investigations. The identification system would then assist the detectives in the mistaken identity by the witnesses or the victims since the humans sometimes

forget the picture of the perpetrator (Houck & Siegel, 2010:57). As mentioned in Gilbert (2010:455), the primary task of the criminal investigator is to identify the perpetrator. In many cases referred to the detectives, the suspects are usually unknown, but the suspect's actions are known. Even when the suspect's identity is known, identification procedures may be required to confirm information furnished by victims or witnesses (Girard, 2011:39). Identification is the cornerstone of cheque fraud investigation – whether a cheque has been intercepted or stolen, identification can be the most useful technique in a criminal investigation. In Harris and Lee (2019:21), the identification of stolen property increases the probability of its return to the victim and the successful arrest of the offender. The identification of stolen cheques can lower the rate of theft if the identification technique can be used thoroughly.

According to Van Rooyen (2008:20), identification is based on the presumption that everything is unique and distinctive in that it has certain individual trait and class characteristics. It examines the chemical and physical properties of an object and uses them to categorise the object as a member of a group. Houck and Siegel (2010:57) agree with Van Rooyen (2008:20) that identification is the classification process by which an object is definitely recognisable or known. The purpose of identification is to ensure that the investigator arrested the right person for the crime committed (Kruger, 2006:20). However, proving guilt conclusively also implies that the perpetrator will be brought to justice to answer to his/her allegations placed before him/her. This means that the factual and legal guilt of the accused must be determined.

An example would be to ask of a collection of documents whether certain documents in that collection could be grouped together because they are cheques and not something else. Without identification, a forensic investigator would be unfocused, as the investigator would be unsure as to the offence that was committed and what, if any, needs must be pursued to solve the crime. To conclude, identification needs to be followed by the process of individualisation, during which the positive identity of the suspect is established, and the suspect is distinguished from all other persons as the perpetrator of the crime. All the respondents agree with Van Rooyen, as in their response to the question: “What is the meaning of identification?” they stated that it has to do with the advanced method to search for the truth, whereby the investigator uses the identification techniques to assist in the mistaken identity by the witness or the victim.

2.2.2 Individualisation

The primary objective of the detectives is to positively identify the individual who has committed the criminal act (Newburn et al., 2011:308). Individualisation can be seen as the sophisticated investigation technique used to find the person(s) suspected or involved in criminal activities. According to Girard (2011:15), individualisation is the process of proving that a particular unknown sample is unique, even

among members of the same class or proving that a known sample and a questioned sample share a unique common origin. Houck and Siegel (2010:59) say if an object can be classified into a group with only one member (itself), it is said to have been “individualised”. Individualisation is a process of linking physical evidence to a common source (Zinn & Dintwe, 2016:64). According to Ogle (2012:9), the individuality of a specific object, based on the objects class and individual characteristics, when unique to only one member of a class, allows the identification of the individual source of the evidence item; this process is called “individualisation”. In simple terms, the word individualisation implies the uniqueness of an item or person among members of the class (Harris & Lee, 2019:22).

Moreover, individualisation involves answering one of the golden criminalistics ‘who’ question. It considers the question of the identity of the source (i.e. the question of the unique or the common origin of the objects) as stated in Newburn et al. (2011:308). Individualisation is made possible by conducting comparison testing. The best example of a comparison individualisation is the fingerprint evidence found in a forged cheque. Recent advances in automated fingerprint identification systems (AFIS) and deoxyribonucleic acid (DNA) databases allow a single fingerprint found at a crime scene to identify and individualise a suspect (James & Nordby, 2005:169). A cheque, for instance, is individualised when the examiner is able to match the set of class and individual characteristics found in the question item to the same set of characteristics in the known sample (Ogle, 2012:9). The researcher notes that all the authors agree that individualisation involves proving that a known sample and an unknown sample share a unique common origin. The researcher then defined individualisation as the method used to establish the individuality of a specific object. Bertino (2012:23) explains that individual evidence narrows the identity to a single person or thing; it typically has such a unique combination of characteristics that could only belong to one person or thing.

The following are the responses to the question: “What is individualisation?”

- Individualisation is to identify something specific (respondents 1, 3, 4, 10, 11 and 12).
- Individualisation assists the investigator in identifying the perpetrator rather than a group of criminals (respondents 2, 5, 6, 7, 8 and 13).
- To individualise something means to categorise (respondent 9 and 14).
- It involves proving that the exhibits share the same origin (respondent 15).

The participants’ responses are aligned to literature and the conclusion is that the respondents know what individualisation is.

2.3 A cheque

According to the Banking Association of South Africa (2013:1), cheques are a handy way to make payments without having to use cash, as shown in Annexure D. It decreases the risk of going around with cash in your pocket. This is evident in Orthmann and Hess (2013:445) that cheque fraud has become prevalent amongst businesses and financial institutions to make payments to individuals and businesses.

When someone gets to own a cheque, he/she gets a cheque book. Cheques books are issued by banks to their customers who prefer not to use or carry cash in public. Cheques also have a cheque card, and Calhoun (2010:36) described a cheque card (as shown in Annexure E) as a debit card that looks like a credit card, but when you are purchasing something, the funds come out of your checking account. Burton and Brown (2009:489) agree with Calhoun (2010:36) and state that a cheque card allows users to pay for a purchase by making a withdrawal from their checking account without writing a cheque. A cheque card looks like an ATM card but has a credit card symbol (such as Visa) in a corner, as shown in Annexure D below. Although, a cheque card can be an easy way to carry large sums of money in just a small piece, it is also prone to fraud. Burton and Brown (2009:489) state that the advantages of a cheque card include the convenience, it is easy and flexible to use in that it may be used in places that accept credit cards but will not take cheques. Usually, it does not require additional identification as cheques do. It allows the owner to get cash from a huge network of ATMs around the world. Fabozzi, Modigliani, Jones and Ferri (2002:49) asserts the advantages of a cheque card as an account that pays no interest and can be withdrawn upon demand. Lewis (2012:101) states the disadvantages of cheque cards as it has led to a significant reduction in the detected incidents of cheque fraud. As stated in Mishkin (2014:8), a bank is a financial institution licensed to receive deposits and make loans and provide services such as wealth management, currency exchange, and safe deposit boxes. In addition, Cecchetti and Schoenholtz (2011:326) described a bank as a financial institution that accepts deposits from savers and makes loans to borrowers. Generally, a bank would aim to borrow funds from depositors and the South African Reserve Bank (SARB) at a low-interest rate and then lend this to the clients through, for example, mortgages and vehicle loans, at a higher interest rate (Koch & MacDonald, 2010:34). Coetzee (2016:17-18) and McEachern (2014:592) points out the functions of a bank as the intermediation function (act as an intermediary that accepts deposits and channels these funds into lending activities), the credit function (the provisions of credit enables borrowers to create wealth and purchase goods that would otherwise not be available to them), the payments function (banks carry out the payment of goods and services for their clients through services including cheque clearing and electronic transfers), and the provision of financial services and lower transaction costs which include loans and insurances (King, 2012:432). According to Malan, Pretorius and Du Toit (2009:254), a banker is a person who manages or owns a bank or a group of banks. However, in *The Godfather v Commissioner for Inland Revenue* 1993 (2) SA 426 (N), when dealing with the concept of a banker, it

is accepted that, in order to determine that one is a ‘banker’, it was irrelevant that one was not a ‘banking institution’ under the repealed Banks Act 23 of 1965.

2.3.1 The concept of a cheque

According to The Bills of Exchange Act 56 of 2000, a cheque is ‘an unconditional order in writing, addressed by one person to a bank, signed by the person giving it, requiring the bank to whom it is addressed to pay on demand a sum certain in money to a specified person or his order, or bearer’ (Havenga et al, 2004:331). Divitt (2013:22) is of the same view as Schulze et al. (2016:382) that a cheque refers to an order to a bank to pay a stated sum from the drawer’s account, written on a specially printed form. Whereas, Mishkin (2014:98) defines a cheque as an instruction from you to your bank to transfer money from your account to someone else’s account when he/she deposits the cheque. An example would be a person who hands over a cheque to a merchant, who then takes it to the bank written on a cheque. The bank will then credit the amount of the cheque to the merchant’s account and send that cheque through the cheque clearing system to be processed. The cheque originated in payment instructions given by a customer to his/her bank, as stated in Malan et al. (2009:243), and it is governed by the body of rules and principles between the parties to the cheque. A cheque, as mentioned in Puttick and Van Esch (2003:450), is accepted according to normal auditing principles and practices as a document that serves as evidence in settling the amount owing to the supplier, and In *S v Timol* 1959 1PH H47 (N), the court ruled that a cheque is indeed a document and it can be produced as evidence in a trial.

Malan et al. (2009:1) simply defined a cheque as a bill drawn on a bank payable on demand. By “on demand”, it means that someone needs to claim a cheque before he/she get paid. Cecchetti and Schoenholtz (2011:66) believe that a cheque is just an instruction to the bank to take funds from your account and transfer them to the person or firm whose name you have written in the “Pay to the order of” line. Malan et al. (2009:1) further state that a cheque is a commercial paper that plays an important role in commercial transactions as an instrument of payment. Paying cash is not always practicable, as seen by Cecchetti et al. (2011:66), and it is more convenient to draw a cheque in favour of a creditor and deliver it to him. In that instance, the payee will then present the cheque for payment to the bank on which it is drawn to obtain payment. A cheque was designed with the primary purpose in mind. According to Koch and MacDonald (2010:422), a cheque was designed to foster innovation in the payments and cheque collection system without printing the receipts of a cheque in electronic form. All paper cheques were returned to the people who wrote them, and recently, they are scanned, and the customers can be able to view electronic images on their bank’s website (Divitt, 2013:67). Like any other bill of exchange, cheques are governed by The Bills of Exchange Act 56 of 2000 (Havenga et al, 2004:329). According to this bill, an instrument that does not comply with its conditions, is not a bill

of exchange. The following were the answers by the respondents on the question “What is the concept of a cheque?”

- Respondent 1, 7, 4 and 13 stated a cheque is a safe and lawful payment without the use of cash.
- Respondent 2, 3 and 5 stated a cheque is assigned and written instruction to a bank to pay money from your account.
- Respondents 6, 8, and 14 stated that a cheque is another way of paying for things. It can be used for almost everything, including paying rent, electricity bills, etc.
- Respondents 9, 10, 11, 12 and 15 stated that a cheque is another form of payment besides cash, suitable for people who prefer the convenient way to carry large sums of money in a piece of paper. The advantages are that, unlike a debit card where a criminal would snatch it and withdraw money same time, a cheque takes time to process, and that can result in a suspect being apprehended.

The researcher concluded that, when one looks at the respondent’s response, all are in line with the definition of a cheque as set out by the above authors as well as The Bills of Exchange Act 56 of 2000. All the respondents agree that a cheque is a document that orders the bank to pay a specific sum of money from a cheque owner’s account to the person written on a cheque for withdrawal. According to my respondents, a cheque is utilised to make safe payments other than electronic payments, and it is secure and convenient.

Divitt (2013:22) outlines that a cheque becomes “stale” after six or, in the case of bank cheques, three months after its date. Although such cheques are still valid, but banks refuse to pay for them. In *Jadine Engineering (Pty) Ltd v Tool Storing Systems (Pty) Ltd*, the plaintiff sued for two cheques that were presented for payment more than six months after the date that appeared on the cheques. The defendant submitted to the court the certificate of one Van Biljon, a credit manager of Trust Bank, to the effect that it is a “general commercial practice” among banks that cheques of clients become invalid after six months, while bank cheques are invalidated after three months. The judge referred to Section 43(2) (b) of Act 56 of 2000, which provides that a bill which is payable on demand must be presented “within a reasonable time”, but the fact that the cheque is post-dated does not render it to be invalid. This view was, however, been challenged, and it was suggested that Section 11(2) makes it plain that a post-dated cheque is not invalid because of such post-dating.

2.3.2 The meaning of cheque fraud

Cheque fraud is a growing problem for the banking industry and other financial institutions that offer cheque account services (Douglas & Levesque, 2006:1). In most cases, the cheque holders usually experience problems with their cheque accounts where they deposit a cheque to someone and later found out that the amount written in the cheque had been changed, and a lot of money was withdrawn from the holder's account. In this instance, the account holder is normally held fully liable for all bank penalties, civil penalties, as well as criminal charges. According to Levi and Handley (1998:20), cheque fraud refers to the unlawful use of cheques in order to get funds that do not exist within the holder's account. In comparison, Comer (2016:34) defined cheque fraud as when someone steals your actual cheques or reproduces them and is then able to cash those cheques, pulling money right out of your bank account. For example, in *S v Deeflets* 1953 (1) SA 418 (A), it is seen that a person "X" can be found guilty of cheque fraud if he pays "Y" by means of a cheque, while "X" does not at that stage have sufficient funds in his/her account to honour the cheque on presentation. In that instance, "X" made the false representation to "Y" that he believes that the cheque will be honoured when presented for payment (Nagel, Barnard, Delpont, Kent, & Van Jaarsveld, 2015:45). Gottschalk (2010:8) explained cheque fraud as an act of diverting a stolen, altered or forged cheque to an unauthorised person who illegally accesses the funds and then closes the account or simply disappears. The respondents answered the question "What is cheque fraud" as follows:

- Respondents 11, 12 and 15 stated that cheque fraud refers to the forging of a cheque with the aim to defraud someone.
- Respondents 1, 4, 5 and 7 stated cheque fraud is when the perpetrator steals an original cheque, alters the name of the account holder, and the amount to be paid using the chemicals.
- Respondents 2, 3 and 13 stated cheque fraud means reproducing the entire original cheque document and depositing it into his/her bank account.
- Respondents 6, 8, 9 and 14 stated it is the forgery of a document using the erasures or adhesive tape to remove the ink from a cheque.
- Respondent 10 stated it is the fabrication of a cheque, and all the information on it is false.

It is said in Gilbert (2010:343) that cheque fraud has been a constant problem for both private and law enforcement. Similarly, most methods of cheque fraud involve taking advantage of the "float" (the time between the negotiation of the cheque and clearance at the cheque's writer's financial institution) to draw out these funds. In general, for a person to be guilty of passing a bad cheque, the bank the cheque is drawn on must refuse payment, and the cheque cashier must fail to make the cheque good within 10 days after finding out the cheque was not honoured (Siegel, 2011:303). One of the reasons why people commit cheque fraud, as explained in Siegel (2011:303), is because of a financial crisis that demands an immediate resolution – perhaps they have lost money at the race-track or gambling and have some

pressing bills to pay. That alone can make someone turn to fraud in order to be able to pay his/her bills. There are many ways in which one could be scammed in cheque fraud. Comer (2016:28) highlights the examples of cheque fraud scams as follows:

- A group of fraudsters using a common cheque scam to try and fleece unsuspecting people and businesses by claiming to have mistakenly deposited money into their bank accounts,
- A scammer phones a cheque book owner and says he received a call from someone in Johannesburg on Friday saying he was from Telkom, and the caller told him that he intended depositing an R3500 refund into his account but had mistakenly deposited R50 000 and if he could return the money to a Telkom account with FNB.

2.3.3 *The elements of a cheque*

These elements are contained in the definition of a cheque, and since they are necessary elements, they have to be present in order for the instrument in question to be a valid cheque.

According to Nagel et al. (2015:34), the wording of the cheque must constitute an order and not merely a request, as shown in Annexure D. The order cannot be given to an individual or a company. The order must be addressed by one person to a bank and signed by the person giving the order (Govindjee, Holness, Driver, Elsebeth, Horsten, Keep & Claase, 2010:34).

Moreover, the order to pay must be unconditional, as Schulze et al (2016:384-389) said, which means that it must not be made dependent upon the fulfilment of some condition. An example would be, if the order were to say, “pay to Marcus provided the receipt form at the back hereof is duly signed”, the order to pay would be conditional, and the cheque would not be valid. Laha (2011:34) mentioned that if the words “the receipt at the back hereof must be signed” appear at the bottom of a cheque, the order on that cheque is unconditional since the direction is addressed to the payee and does not form part of the order to pay, addressed by the drawer to the drawee bank. According to Calhoun (2010:151), a payer is a person who makes a payment, for example, if you write a cheque, you are the payer, whereas a payee is a person or organisation to whom a cheque is made payable. Remember that the purpose of a cheque is that it should be transferable with ease. This purpose would be defeated if the order were to be conditional, and then payment would be uncertain, and few people would be interested in taking such a cheque (Havenga et al, 2004:333).

As the right to claim payment on the cheque is embodied in the written instrument, this right can be conveniently transferred by the transfer of the cheque (Laha, 2011:37). Writing is therefore required to facilitate easy transfer of the cheque. In this regard, it may be noted that Section 3 of the Interpretation Act 33 of 1957 provides that, unless a contrary intention appears, writing shall be construed as including

also type-writing, lithography, photography, and all other modes of representing or reproducing words in visible form (Nagel et al., 2015:34).

The order to pay is addressed by the drawer to the drawee bank (Govindjee et al., 2010:34), as shown in Annexure D. Calhoun (2010:61) defined a drawer as the person who writes a cheque to pay someone else, and the drawee as the person or bank who is expected to pay a cheque, whereas, the drawee bank is the bank upon which the cheque is drawn. This bank must be named or otherwise indicated in the cheque with reasonable certainty. This requirement does not apply to notes since there is no drawee to whom an order to pay is directed (Havenga et al., 2004:334). In the case of a cheque, the drawee to which the order is addressed can only be a bank. If the drawer and the drawee are the same person, the holder may choose to treat the instrument as a cheque or a promissory note. It is important to note that in the case of a bill of exchange, the order to pay is addressed by one person (or institution) to another. If the person or institution to which the order is addressed is a bank, the document is, by definition, a cheque (Laha, 2011:31).

According to Douglas and Levesque (2006:384-389), the drawer's signature is essential to the validity of a cheque. As the definition of a cheque illustrates at Govindjee et al. (2010:34), the cheque needs to be signed by the person giving the order as shown in Annexure D, otherwise, it becomes invalid. A cross or a mark can be a signature for present purposes (Laha, 2011:35). Also, the authorised sealing with the corporate seal of a company, or the authorised stamping with an official rubber stamp of a bank or juristic person, for example, is deemed to be sufficient and equivalent to a signature (Malan et al., 2009:267)

The order must be to pay a definite sum of money, as shown in Annexure D (Nagel et al., 2015:55). An order to "pay R500 and all further amounts which may be owing on due date", for example, renders the cheque in question invalid. The fact that payment must be made with interest or stated instalments would not make the cheque invalid (Laha, 2011:36). The act does not require that the amount payable be expressed in words and figures, but the general practice is to do so. If the amount stated in words differs from the amount written in figures, the Act provides that the amount in words is payable. However, the banks have decided that they will not pay such cheques, instead, they will return them marked "amount in words and figures differ".

A cheque is, by definition, payable on demand (Govindjee et al. 2010:34), which means that there has to be someone to ask or request to be paid by a cheque. The fact that a cheque is antedated, post-dated, or bears the date of a non-business day, does not render it invalid (Schulze et al., 2016:384-389). An example is found in *Jadine Engineering (Pty) Ltd v Tool Storing Systems (Pty) Ltd*, where the plaintiff sued for provisional sentence on two cheques that were presented for payment more than six months

after the date which appeared on the cheques. The defendant submitted to the court the “certificate” of one Van Biljon, who was a credit manager of Trust Bank, to the effect that it is a “general commercial practice” among banks that cheques of clients become invalid after six months, while bank cheques are invalidated after three months. Van Zyl J referred to Section 43(2)(b) of the Act, which provides that a bill that is payable on demand must be presented “within a reasonable time”. A cheque becomes stale (no longer valid) six months after the date which appears on a cheque, and unfortunately, it is said in Cecchetti and Schoenholtz (2011:69) that banks are not prepared to pay stale cheques. Therefore, it becomes the drawer's responsibility to draw the cheque within a reasonable time before it expires.

The order to pay must indicate to whom payment must be made (Laha, 2011:35). Koch and MacDonald (2010:34) are of the same view as Schulze et al. (2016:384) that the order requires the bank to pay a certain sum of money to the person specified on the bill, namely the payee, his or her order, or the bearer. For example, if James has a bank account with facilities to use a cheque, he can give you a cheque for the amount of R5000, and you can hand in the cheque at the bank, and the bank will have to pay you the amount on the cheque. On the basis of the indication of the payee, one can distinguish between order and bearer cheques: an order cheque is payable to a specified person or his/her order, a bearer cheque simply to its bearer (Nagel et al., 2015:60). According to Havenga et al. (2004:336), a cheque does not have to be payable to order or bearer; it is possible to restrict the further transfer of an instrument, in which case the cheque is known as a “non-transferable cheque”. With the order cheques, the payee may be named in the cheque, or he/she may be indicated in such a way that his/her identity can be determined with reasonable certainty from the cheque itself. The payee may even be indicated by the office which he/she holds. A cheque may be made payable to two or more payees jointly (‘pay Lindiwe and Thabiso’) or two or more payees in the alternative (‘pay Lindiwe or Thabiso’).

The payer may be required to date a cheque as shown in Annexure D but is not invalid merely because it is not dated (Havenga et al, 2004:336). Where a cheque or an endorsement on a cheque is dated, the stated date will, unless the contrary is proved, be deemed to be the true date of such drawing or endorsement (Schulze et al., 2016:384-389). If the cheque does not state the date on which it was drawn, and the date is necessary to calculate the interest, then the date of issue of the cheque is regarded as the date of the cheque (Nagel et al., 2015:60). The Act provides that interest runs from the date of issue of a cheque where the cheque is undated and payable with interest.

A cheque is not invalid because the place of payment is not specified, as stated in Laha (2011:36). It is standard practice for the printed cheque form to state the branch of the drawee bank on which the cheque is drawn. Where this is done, the cheque must be presented for payment at that branch of the drawee bank (Havenga et al, 2004:336).

A cheque provider will produce the stamp with your company name, bank routing and transit number and your bank account number, but stamping is no longer required for the validity of a cheque (Douglas & Levesque, 2008:384-389). According to Havenga et al (2004:336), the necessity to stamp the cheque has been removed because the cheque will have the name of the person or firm printed where it is signed by the authorised signatory. The person who was liable for stamp duty in respect of debit entries was the banker or the person carrying on the credit card scheme (Malan et al., 2009:260).

Lastly, the drawer or endorser of a cheque may insert an express stipulation regarding or limiting his/her own liability to the holder (Nagel et al., 2015:60). Havenga et al (2004:336) mentioned that the usual form employs the words ‘*sans recours*’ or ‘without recourse’, for example, ‘Pay Londiwe or order without recourse to me’. The effect is that the drawer or endorser in such a case cannot be held liable at all if the cheque is dishonoured. When interviewing the respondents, they stated the elements of a cheque as follows:

- Respondents 1, 4 and 12 mentioned that the elements of a cheque involve writing clearly the names of the person to whom the cheque is to be made. The name of the bank is called the “drawee bank”, and the “payee” is the person to whom the cheque is to be made. The name of the person is spelt correctly, and it should be written close to the words “pay to”, and the account holder must also draw the line on the space after the payee’s name to avoid alteration.
- Respondents 2, 3, 7, 9, 11 and 15 indicated that, in order to be able to receive payment, the date must be the current date
- Respondent 5 and 13 indicated that the payment must be written in words and to ensure that it is in figures as well. The amount in words and figures should be close together, otherwise, the bank will return the cheque
- Respondents 6 and 10 stated the drawer should sign the cheque
- Respondent 8 and 14 stated that the drawer should make sure that the cheque has a serial number. Each cheque has a serial number for identification purposes.

2.3.4 *The analysis of a cheque*

It is necessary to analyse a cheque to see if it is valid or not. According to Doig (2013:52), fraudulent or incorrect banking details results in thousands of rands lost on uncontrolled payments, which is why it is necessary to verify the cheque before accepting or releasing goods to the buyer. There are some pointers that can determine whether a cheque is valid or not. According to Schulze et al. (2016:392-414), the signature, markings on a cheque, crossings, among others, can confirm that the cheque is indeed forged.

To achieve good results in the analysis of a cheque, the detectives needs to scrutinise the signature that appears on a cheque. According to the Bills of Exchange Act 56 of 2000, the signature means any mark which identifies it as the act of the party concerned. In addition, Havenga et al (2004:341) also defined a signature as any mark which identifies it as the act of the party concerned. So it does not necessarily mean writing a person's name and surname, or his/her initials and surname do not constitute a signature. Writing initials alone may be sufficient.

It is also unnecessary for a person to sign a cheque by his/her own hand, as stated in Levi, Bissell and Richardson (2005:8). The signature can be of someone else acting under his/her authority, for example, a company has to use a person in charge to affix the company's signature to the cheque (Nagel et al., 2015:384-389). However, signing a cheque on behalf of a company gives rise to many problems. The company may be liable on the cheque if the person who signs the cheque on behalf of the company has the authority to do so, for example, a director or other official of a company may sign a cheque provided he/she is qualified as stated in the company law. In *Moon and Co Ltd v Eureka Stores (Pty) Ltd and Others* 1949 (4) SA 40 (T), the name of the company was imprinted by means of a rubber stamp. Two directors signed without qualification on two dotted lines forming part of the stamp. The two directors were held liable.

The forgery of a cheque, as stated by Gilbert (2010:343), involves the signing of another's name to a cheque without authority and with the intent to defraud. Usually, the name signed on the cheque may be not the real signature of the cheque owner or may be the true name of the party to whom the cheque is issued. An example of a forged cheque can be found in Annexure I. The Bills of Exchange Act provides that a forged or unauthorised signature on a cheque is invalid, as stated in Kruger (2006:42-43). For example, Siphon draws a cheque from ABSA in favour of John or order and issue the cheque to him. Lucas steals the cheque from John and forges his signature on the back of the cheque as a purported endorsement in blank. If Lucas then delivers the cheque to George, George will not be a holder even if he takes the cheque in good faith, as the forged signature is wholly inoperative. George is still in possession of a cheque payable to John or order, which he has not endorsed. The best thing about the forged cheque to the investigators is that, if the cheque is forged, evidence is available for law enforcement (Biegelman, 2009:82).

There are special provisions available in cases where an unauthorised person's signature has been placed on a cheque without the owner's authority. According to Govindjee et al. (2010:58), these provisions are as follows:

- (a) A person who signs a cheque without the authority to sign is personally liable for the cheque.

- (b) An unauthorised signatory has no right to enforce payment of it against any party can be acquired through that signature unless that party is precluded by common law or by the so-called statutory law from raising the forgery as a defence.

In order to determine exactly when a signature is unauthorised, one must apply the general principles of the law of agency (Nagel et al. 2015:35). The facts of every situation should always be considered to determine whether the person who signed on someone else's behalf was competent and authorised to do so, for example, a person who signs a cheque as a drawer must add words to his/her signature indicating that he/she signs on behalf of a principal owner. Such a person will not be personally liable for the cheque. If a person had no such authority to sign, he/she is personally liable for the cheque. The alleged principal may re-sign and becomes liable for it (Havenga et al, 2004:347).

Markings on a cheque serve as an addition, such as the words 'not negotiable' or 'not transferable' (Laha, 2011:34). A cheque can be marked 'good for payment' sometimes by means of a special stamp and guaranteed by the bank on which it is drawn (Levi & Handley, 2005:384-389). The issuer of the check is thereby acknowledged to have sufficient funds to cover the payment (Gibson, 2003:476). The drawer or certain specified other parties may make certain markings on a cheque. Malan et al. (2009:357) state that these markings serve to confirm the drawer's right to cash a cheque.

Two kinds of crossings that can be made on a cheque are general crossings and special crossings (Doig, 2013:75). A general crossing is made by adding two parallel transverse lines only, or two parallel transverse lines with the words 'not negotiable' across the face of a cheque (Govindjee et al., 2010:56). According to Laha (2011:34), a special crossing is made by adding across the face of a cheque the name of a bank, with or without the words 'not negotiable'. A cheque is crossed by drawing two diagonal, parallel lines on the face of the cheque. Although it is unnecessary to add two parallel lines to a special crossing, a special crossing may be combined with a general crossing. Certain words may be included in the crossing, such as the name of a bank or the words 'not negotiable' or 'not transferable'. In *Columbus Joint Venture v ABSA Bank Ltd 2002 (1) SA 90 (SCA)*, it was said: "The bank is under an obligation to take reasonable steps to ensure that the client is whom they say they are and to scrutinise with reasonable caution documentation submitted to it in substantiation of the uses to which they propose to put the accounts they open. By crossing a cheque, the drawer ensures that payment will be made to a bank on behalf of someone whose identity and title has been verified. In this way, the risk of paying an unlawful possessor is minimised. Laha (2011:37) also mentioned that a cheque might be crossed at any time before it is discharged through payment by any of the following persons:

- (a) The drawer may cross the cheque when he/she draws the cheque either generally or specially.
- (b) A collecting bank may also cross the cheque generally or specially.
- (c) Any holder may cross a cheque in his/her possession whether it is generally or specially.

- (d) The bank named in a special crossing may add a second special crossing to the cheque. This is known as a special crossing for collection.

Nagel et al. (2015:24) further highlighted that a crossing is a material part of a cheque and may not be cancelled, changed or added to, except as set out above.

Crossing a cheque does not affect it to be negotiable or transferable; in principle, it may be transferred freely, and it is possible for its holder to be a holder in due course (Taylor, 2005:59). When a cheque is lost or stolen by the holder, the holder will acquire the cheque in due course (Malan et al., 2009:362). Such was the situation in *Smith v The Union Bank of London (1875) 1 QBD 31*, where the provisions dealing with the addition of the words “not negotiable” to crossed cheques. The facts were that the drawer of a cheque delivered it to his creditor, the payee, who endorsed it and crossed it “specially” to his bank. An example of a cheque with not negotiable can be found in Annexure H. The cheque was stolen from the payee and negotiated to a holder in due course, where the latter deposited it with his bank, which is different from the one to which it was crossed, for collection. Adding the words ‘not negotiable’ to a cheque, as stated in Laha (2011:36), has two consequences:

- (a) The cheque in question is no longer negotiable, but it remains transferable. In other words, any holder of such a cheque takes it subject to equities – he/she cannot be a holder in due course. This principle is contained in Section 80 of the Act, which states that a person who takes a crossed cheque marked ‘not negotiable’ cannot give a better title to it than the title of the person from whom he/she took it.
- (b) Section 81 of the Act comes into play to protect the rights of the true owner of a lost or stolen cheque that has been crossed and marked in this way.

If a cheque is marked ‘not negotiable’, this can be endorsed on the back by the original payee and transferred to someone else (Crawford, 2013:28).

A non-transferable cheque is not negotiable, and it cannot be cashed by the drawer that is not authorised by the endorser; it must be paid to the named payee only (Havenga et al, 2004:356). By drawing a cheque “not transferable”, as shown in Annexure F, the risk of an unlawful possessor obtaining payment is reduced. Laha (2011:40) points out that Section 75A of the Act provides that when a cheque bears boldly across its face the words ‘not transferable’, either with or without the word ‘only’ after the payee’s name:

- (a) The cheque shall not be transferable but shall be valid between the parties thereto, namely the drawer, payee and drawee.
- (b) The cheque shall be deemed to be crossed generally unless it is crossed specially, and
- (c) The words ‘not transferable’ may not be cancelled, and any cancellation shall be of no effect.

In *KwaMashu Bakery Limited v Standard Bank of South Africa Limited* 1995 (1) SA 377 (D), the court pointed out that the ‘non-transferable cheque’ reflects what most people want and use a cheque for. Therefore, one should make sure to use the correct markings on a cheque. When one marks it ‘not transferable’, that cheque can only be accepted in an account with the payee’s name only (<https://www.nedbank.co.za/legal/fraud-awareness/cheque-fraud.html> (17 June 2019)).

The respondents had a clear understanding of how to analyse a cheque to identify fraud and are trained to perform this task. When asked the respondents about the analysis of a cheque, they stated as follows:

- Respondents 2, 3, 4, 7 and 8 stated the payee should be careful not to accept a forged cheque as the fraudsters usually sign a forged cheque on behalf of the drawer. The drawer should first verify if the cheque is legit or not before proceeding with any transaction.
- Respondents 1, 5, 6 and 15 stated the payee should make it to a point to take note of the markings and crossings on a cheque. By crossing a cheque, the drawer ensures that the payment will be made to a bank on behalf of someone whose identity and title has been verified.
- Respondents 9, 10 and 14 stated the payee should look carefully at the signature that appears on a cheque. Before he/she hands over the goods, it must correspond with the signature of the drawer of a cheque.

2.3.5 *Types of cheque fraud*

Criminals are working night and day trying to get money through cheque fraud, and a huge amount of cash is lost every day. A focus by banks on identifying lost or fraudulent cheques as they pass through the clearing system means that a huge amount of funds in attempted cheque fraud is stopped before a loss occurs, as stated in Bohm and Lang (2011:100). However, a minority of fraudulent cheques do get through the system, and it is helpful if customers know what kind of crime is attempted so they can try and avoid falling victims. There are many different types of cheque fraud. Cheques are either manufactured, cloned, altered, amended, stolen, or forged.

Manufactured or cloned cheques are created for the purpose of committing fraud, as stated in Laha (2011:38). According to the Learners Guide (2000:36), cloned cheques are cheques that are entirely reprinted with exactly the same information as that of the account holder. A cloned cheque is a replica or a copy of the original right down to the cheque number. Although a cloned cheque appears to be legitimate, when someone takes a closer look at the details like signatures and drawer details, someone can be able to identify fraud in it (Calhoun, 2010:347). In this case, the detectives need to examine the

cheque for the composition of the paper, watermarks on the paper, and inks used in the document. All this can provide useful information to ascertain when the document or cheque was stolen (Harris & Lee, 2019:164). Over the years, the manufacturing methods to make paper and the raw materials used to make it have evolved. If a document is on paper manufactured much earlier or, particularly later than the purported date of the document, it is a strong indication that the document is not authentic. Most high-quality paper is watermarked.

Counterfeit cheques are cheques that have been created on an unauthorised paper or non-bank paper to look genuine (Doig, 2013:75). It relates to a genuine account but has been created and written by fraudsters for the purpose of committing fraud. This means reproducing the document in its entirety. Usually, the cheque's account number does not exist in that fraudulent cheque (Asmah, Ofoeda & Gyapong, 2018:26). Furthermore, counterfeit cheques are normally deposited into a bank account that has been fraudulently opened, and funds are then removed from this fraudulent account against the counterfeit or stolen cheques that were deposited. There are signs a person should notice when a cheque is counterfeited. According to Calhoun (2010:347), the signs includes, for example, a cheque with no address for a customer or the bank, stains or discolorations which may perhaps cause by erasures or alterations, the Magnetic Ink Character Recognition (MICR) coding number printed at the bottom of the cheque, if it is shining or does not match the cheque number, those signs can indicate a bad cheque.

Also, the altered or amended cheques, as shown in Annexure I, involve a rearrangement of pre-existing information or erasures or additions (Gilbert, 2010:343). Whereas the Learners Guide (2000:36) is of the view that altered cheques refer to a cheque that is altered to show a different amount or payee. For instance, the fraudster can do an alteration technique and overpay him/herself by changing the R1000 to R10 000. The fraudster's primary purpose is to alter the amount of the cheque and change it to any amount they wish to receive from the account holder. Altered cheques are legally issued by the account holder, as stated in Laha (2011:39), but a fraudster will intercept the cheque and make changes like:

- Creating a new payee name,
- Adjusting the payee name, e.g. "Edgars" is changed to "WEdgars Smith",
- And by adjusting the value of the cheque.

Detecting alterations and erasures can be extremely important to the detectives. Document examiners should be able to see whether a document or a cheque is authentic or original (Harris et al., 2019:158).

Criminals also use the stolen cheques to commit fraud. According to Malan et al. (2009:393), stolen cheques are a movable corporeal that can be lost or stolen. In stolen cheques, the signatures of any of the parties can be forged, and its contents can be altered. In Laha (2011:39), it is quoted that "stolen

cheques are genuinely issued by the registered account holder but stolen and fraudulently cashed". The cheque can be stolen in a variety of ways, and according to Statham (2014:343), fraudsters tend to steal cheques in the post and proceed to pay the cheque into a fraudulently opened account in the payee's name.

Similarly, it can be stolen through burglary, theft from a car, and pickpocketing. Moreover, the suspect might have access to a cheque printing machine by which a fictitious cheque is issued (Harris et al., 2019:158). There are many incidents where cheques were stolen and used to buy properties, for example, a group of syndicates was operating in Gauteng, which were involved in vehicle hijacking and theft of victim's personal belongings. This happened after most of the victims visited local bars, clubs and restaurants before they were robbed. It is alleged that a group of women would approach a victim, usually a male, and after having a few drinks, the said women would accompany the victim to his place where they would drug him and take all his belongings, including cheque book account and went away. After a thorough investigation, it was found that the suspects used the victim's cheque book to buy some goods in different retail stores in Gauteng (Hlongwane, 2008).

Lastly, cheque fraud can be committed by means of forged cheques. The Concise Oxford Dictionary (2002:556) defines "forgery" as producing a fraudulent copy or imitation of a document (i.e. cheque). In *Banur Investments (Pty) LTD 1970 (3) 767 (AD)*, it was stated that forgery is the false making or altering of a document (cheque). The forgery of a cheque, as stated in Gilbert (2012:343), involves the signing of another's name to a cheque without authority and with the intent to defraud. Usually, the name signed on a fraudulent cheque may not be real or may be the true name of the party to whom the cheque is issued. The criminals usually steal a legitimate cheque or cheque book and forge it (Levi et al., 2005:26), and then completes the cheque and sign it on behalf of the drawer. The signature is always forged, and it may or may not resemble the legitimate signature specimens. In brief, the forgery of a cheque normally occurs after the cheque has been legitimately used. After the cheque has been forged, the detectives (with the assistance of the forensic team) may find mechanical erasures, erasable writing ink or adhesive tape. The fraudsters use chemical erasures to remove handwritten ink, stamp impressions or other specific images on cheques. In some cases, cheques are immersed in a solvent that removes the signatures and printed security background (Newburn et al., 2011:381). During an interview with the respondents on the different types of cheque fraud, they mentioned the following:

- Cloned cheques,
- Counterfeit cheques,
- Altered cheques,
- Stolen cheques, as well as
- Forged cheques.

2.4 Cheque as a source of information

The detectives deal with information on a daily basis. The way they obtain, gather and collect information and use it during a criminal investigation determines their success as the detectives. When dealing with information, the detectives need to collect evidence as well in order to seal the case and be able to put the perpetrators to book. It is said in James, Nordby and Bell (2014:15) that the successful investigating officer needs a variety of skills, but the most important skill is the ability to know where and how to find information, as information could become important evidence.

The successful resolution of a criminal investigation lies in the availability of relevant and admissible evidence (Hess, Orthmann & Cho, 2014:369). According to Murphy (2008:1), 'evidence' means the information that is used in court to try to prove a case. For example, the witness may be asked to describe what he/she had seen regarding the case in question. Evidence may be defined as anything that can prove or disprove a fact at issue (Gilbert, 2010:45). Gardner (2005:7) supports the definition by Gilbert (2010:45) in that evidence can be anything that tends to prove or disprove a fact in contention. In other words, anything that might have proof of the outcome of a case can be broadly classified as evidence. Evidence is court-approved information that the trier of fact (a judge) is allowed to consider when determining a defendant's guilt or innocence (James et al., 2014:24). Therefore, a fingerprint or the DNA found on a forged cheque can be regarded as evidence in a court of law. As a general rule, evidence has to be obtained subject to the provisions of the Constitution (Joubert, 2018:296). This means that if the police officials obtain evidence in a manner that infringes the rights and is not justified by the legislation or the common law, their conduct will be unconstitutional. A central concept regarding the admissibility of evidence is a solid foundation where evidence was obtained and how it was obtained (James et al., 2014:25). Meaning that sufficient and supportive evidence presented to a judge to convince him/her that the suspect did commit a crime by means of evidence submitted before the court. Fisher (2004:1) explained the value of physical evidence as follows:

- To prove that a crime has been committed or establish key elements of crime.
- It can place the suspect in contact with the crime scene.
- It can establish the identity of persons associated with the crime.
- And it can exclude the innocent in committing a crime.

To link the individual with the crime scene, many types of evidence may be used to associate an individual with the crime (Shaler, 2012:20-21). An example would be direct evidence, and trace evidence.

Direct evidence is that kind of evidence that establishes proof of a fact without any other evidence (Hess et al., 2014:370). Dutelle (2017:13) support the definition by Hess et al. (2014:370) that direct evidence is that which proves a fact without the necessity of inference or a presumption. For example, a forged cheque found in possession of a suspect is regarded as direct evidence. Gilbert (2010:45) also have the same opinion as Hess et al. (2014:370) that direct evidence is evidence that proves a fact without the necessity of inference or a presumption, and that, when true, conclusively establishes the fact. An example is a testimony by a completely credible witness that proves the fact stated in the testimony (Gilbert, 2010:45).

Usually, at a scene of a crime, there are often tiny fragments of physical evidence that can help the detectives tell the story as to what happened (Worrall & Schmalleger, 2013:111). These are referred to as trace evidence. According to Shaler (2012:466), trace evidence is created when objects make contact where the material is often transferred by heat or induced by contact friction, for example, the DNA can be transferred to a cheque while busy forging it. Mostly, trace evidence may be created at every crime scene, from the glass that was broken to gain entry to the premises - to the bullet fragments from the firearm that can leave marks on bullets or cartridge cases, which may be specific to a particular firearm (Hess et al., 2014:370). This can ascertain the origin of the traces. Dutelle (2017:140-141) mentions that trace evidence is microscopic, which means that it can be found using a microscope. According to Newburn et al. (2011:311), trace evidence may allow the national, regional or ethnic origin of an unknown person to be determined. The importance of trace evidence in criminal investigations, as stated by Schwikkard, Van Der Merwe, Collier, De Vos and Van Der Berg (2009:395), cannot be left aside when investigating cheque fraud, since the forensic scientists themselves use trace evidence to reconstruct crimes and to describe the people, places, and things involved in crime.

Moreover, trace evidence can be seen in the Locard's principle as a technique that can also serve or assist in the investigation of cheque fraud. According to Houck and Siegel (2010:55), Locard's Principle states that information is transferred when two things come into contact. Newburn et al. (2011:320) agree with Houck and Siegel (2010:55) and state that the transfer principle (Locard's Principle): states that 'every contact leaves a trace'. This means that in the commission of every crime, traces will be left at a crime scene. Girard (2011:16) refers to the Locard's Principle as the key to modern forensic science. He further states that in practice, this means that physical evidence will be exchanged during any physical contact between a suspect and his victim or the crime scene. Lyle (2012:20) agrees with Girard (2011:16) by saying the Locard's Principle is the heart and soul of forensic science, and understanding this principle is important to grasp the true workings of forensic investigation. Lyle (2012:20) also explains that the basic premise of Locard's Principle is that whenever a person comes into contact with an object, place or another person, an exchange of materials occurs. For example, if a suspect claims that he/she never touched a fraudulent cheque, but unique evidence like fingerprints on the cheque turns

out to be those of the suspect, then the detectives can prove that the suspect did touch the cheque and can therefore be connected with the crime. The author states that, at any crime scene (in this case, a forged cheque), the bodily fluids, hair, fibres, and fingerprints are left at a forged cheque to be collected and analysed in order to identify a perpetrator. The Locard's Principle is an important scientifically founded principle relevant to crime investigation (Shaler, 2012:63-64). This scientific reality is not always fully appreciated by the detectives when it comes to the approach to crime scenes, as it can contribute to connecting the suspect with the criminal act.

A cheque can be a source of information in criminal investigations. Information is an extremely important resource in a criminal investigation process (Cordner, 2014:329), and without accurate information, good decisions cannot be made, good plans cannot be formulated (Gottschalk, 2010:114). The term 'information' means to have specific details of something not listed (Wilson, 1989:387). According to Wetch and Rago (2006:582), it is said that information comes in the form of oral, visual, and sometimes written statements, documents, or electronic means. As stated in Smit, Minnaar and Schnetler (2004:162), crime information can be obtained from many resources, for example, informants, community forums, police databases, case dockets, offender profiling, crime mapping, arrested suspects, as well as in sentenced prisoners. According to Dutelle et al. (2019:51), an informer is simply the one who provides information to the police. Informants may be in a better position than a police officer to obtain information about a particular crime. In most cases, an informant's tip can establish probable cause to arrest (Hess et al., 2014:59). For example, an informant can provide the police with information about the suspect's place of residence, how he/she committed a crime of cheque fraud, where, and where the forged cheque was used.

A forged cheque can also become a crime scene. A crime scene is explained as a place where a crime has occurred (Gilbert, 2010:45). Savino and Turvey (2011:140) support Gilbert's explanation and state that any area where a crime took place is a crime scene. Dutelle (2011:13) gives a working definition of a crime scene, both primary and secondary, as any place where evidence may be collected that will assist in explaining the events that occurred. Lyle (2012:28) states that a crime scene is the location of the crime and includes the paths the criminals used to and from the primary scene, the paths between the primary and secondary scenes and the planning and staging areas. According to Dutelle (2017:12), a primary crime scene is where a crime took place, like a forged cheque, while a secondary crime scene is a site related to the crime, such as a certain business. Gilbert (2010:46) support Dutelle's explanation of primary and secondary scenes by saying that the first criminal activity is the primary scene and any subsequent crime scenes as secondary. A crime scene can be anywhere, for example, inside a truck, beneath a house or river. Shaler (2012:3) also explained a crime scene to be a 'laboratory of information', and therefore, during a cheque fraud investigation, the cheque is in most cases the only link to information to trace, identify and individualise the perpetrator, which means that a cheque should

be treated as a crime scene. Normally, a cheque can be considered an exhibit because it proves the elements of a crime.

Moreover, when analysed, a cheque can provide evidence from witnesses and victims, and it can also provide visible and latent evidence to solve the crime committed. Therefore, as a crime scene, a cheque should also be analysed because it contains concealed information to prove a crime (Van Rooyen, 2008:19). The respondents commented on a cheque as a source of information as follows:

- Respondents 1, 4, 5, 6, 9, 11 and 15 emphasised that they deal with a lot of information concerning crime on a daily basis. Information such as a group of syndicates planning to commit a crime, and the whereabouts of the suspects. They had to deal with that information in a professional manner, as their negligence can put the informant in a dangerous situation. They also mentioned that a cheque could be a source of information in a way that, when the detectives find a forged cheque, information about the suspect can be obtained by lifting fingerprints on a forged cheque to determine who the suspect is.
- Respondents 2, 3, 7, 8, 10, 12, 13 and 14 mentioned that a cheque can be a source of information if the detectives can be able to find evidence to link the suspect with the crime scene. Moreover, in a forged cheque, there can be DNA evidence that can be transferred to a cheque while busy committing a crime with it. They also mentioned that trace evidence can be located during the forging of a cheque, which says that “every contact leaves a trace”.

2.5 Cheque as a source of payment

It is inconvenient and dangerous to carry large amounts of cash nowadays (Brandl, 2014:444), and the most common form of payment, apart from cash, are amongst others, cheques, credit cards, bills of exchange, debit orders, and cheques are still the type of negotiable instrument most widely used in businesses today. There are three necessary parties to a cheque: the person who gives the order, the bank to which the order is addressed, and the person to whom payment must be made.

Firstly, the person who gives an order is the drawer, as stated in Havenga et al. (2004:332). In simple terms, a drawer is referred to as an employer who writes the cheque. It is the party to whom the drawer gives the order to pay the amount to the person named on the cheque or his order to the bearer. According to (Gibson 2003:477), an order cheque is one that is payable to a particular person written on a cheque that is authorised to pay the payee.

Another party involved in a cheque is the bank to which the order is addressed (the drawee bank). The bank that cashes your cheque is the drawee. A cheque may, provided the requirements of subsection

(1), paragraphs (a) and (b) of subsection (2) and subsection (3) of Section 43 are met, be presented for payment to the drawee by a collecting bank on behalf of the holder (Malan et al., 2009:249). According to Shaler (2012:4), the drawee bank is the party that has been directed by the depositor to pay a certain sum of money to the person presenting a cheque at the bank.

Lastly, the person to whom the payment must be made is referred to as a payee. A payee is a person or organisation that receives a payment, as stated in Shaler (2012:7). In legal jargon, the drawer draws the cheque on the drawee bank in favour of (or payable to) the payee (Schulze et al., 2016:382). On other occasions, the necessary parties need not be three different persons, as the drawer and the payee may be the same person. In principle, the drawer and the drawee bank should be different persons since the definition of a cheque requires it to be addressed by one person to another (a bank). Moreover, the payee can transfer an order cheque to someone else by signing his or her name on the back of the cheque.

There are other parties involved in a cheque where the payee wishes to pay the other party. According to The Bills of Exchange Act 56 of 2000, if the payee wishes to transfer an order cheque, he/she must endorse the cheque – the payee signs the cheque and delivers it to someone else. When this has been done, the payee becomes known as an endorser of the cheque (Havenga et al., 2004:332). Where the endorser names the person to whom he/she wants payment to be made, that person is known as the endorsee of the cheque (Cecchetti & Schoenholtz, 2011:66). If the endorsee now signs and delivers the cheque to someone else, he/she becomes another endorser of the cheque, and so on.

In addition, there are responsibilities involved to claim payment on a cheque. Laha (2011:125) laid out the persons who can claim the payment on a cheque as follows: the holder and the holder in due course. Firstly, the holder of a cheque is a person in possession of an instrument payable to the identified person possessing it, as stated in The Bills of Exchange Act 56 of 2000. In simple terms, a holder is an assignee in a cheque. According to Divitt (2013:22), a holder of a cheque is the person who can claim payment on the cheque. The term ‘holder’ is defined as the payee or endorsee in possession of an order cheque or the person in possession of a bearer cheque. To determine whether a person in possession of a cheque is the holder, it is crucial to determine whether the cheque is an order or a bearer cheque (Divitt, 2013:22). The definition of a ‘holder’ does not require the possession of the cheque to be lawful, even a thief of a bearer cheque can become its holder, as any person in possession of a bearer cheque is, by definition, its bearer and thus its holder. Also, a person who steals an order cheque on which he/she is indicated as its payee or endorsee will qualify as its holder (Malan et al., 2009:244). However, such a person will not be able to claim successfully on the cheque because it was not delivered to him/her.

Secondly, there is a holder in due course. According to The Bills of Exchange Act 56 of 2000, a holder in due course means any person who, for consideration, becomes the possessor of a cheque. In other

words, a holder in due course is someone who acquires the right to make a claim for the instrument's value against its originator. Anyone who accepts a third-party cheque is a holder in due course (Havenga et al, 2004:338). Sometimes a person can acquire a valid title to a cheque even though his/her predecessor had a defective title to the cheque, or even no title at all (Brandl, 2014:445). A holder in this position is known as 'a holder in due course'. Section 27 defines 'a holder in due course' as a holder who has taken a cheque, complete and regular on the face of it, under the following circumstances:

- (a) He/she must have become the holder of it before it was overdue, and if it had previously been dishonoured, without notice thereof, and
- (b) He/she must have taken the cheque in good faith, and for value, and at the time the cheque was negotiated to him, he must have had no notice of any defect in the title of the person who negotiated it.

2.6 The concept of fraud

According to Albrecht and Zimbelman (2012:7), fraud is a false representation with an intent to damage or harm, for example, if someone purposely enters incorrect numbers on a cheque to trick the shop owner, this amounts to fraud. Gilbert (2010:339) added that fraud includes deception or concealment elements but does not involve the application of physical force. Moreover, Hess and Orthmann (2010:432); (Gottschalk, 2011:5) also believe that fraud is an unlawful and intentional deception to cause a person to give up property or some lawful right of that property. For example, if a person claims that he is a Certified Computer Technician and asks you to hand over your computer so that he could do the repairs, and you later found out that the person is not a computer technician and he does not know how to repair a computer, that person is guilty of fraud. However, Helfgott (2008:257) simply defined fraud as an offence of deception.

Albrecht et al. (2012:9) agree with Helfgott (2008:257) and add that deception is the main point when defrauding someone. Fraud is said to be a predatory crime because it involves the transfer of wealth from victim to offender by deception (Doig, 2013:5). The researcher believes that other frauds include perpetrators who were living high lifestyles trying to impress their peers, for example, the perpetrator who discovered that he had spent the money on expensive cars, jewellery and clothes could have pressure to commit fraud. In *S v Mbokazi* 1998 (1) SACR 438 (N), the accused made a misrepresentation to the bank that employed him when he had withdrawn money from a customer's account for his own use: the implied representation was that the customer had authorised the transaction (at 446a-c). He had also made a misrepresentation when he had given the seller of a motor vehicle an invalid cheque: the misrepresentation was that there was a valid underlying causa for the cheque and that the seller would be able to recover the amount of the cheque from the drawer (at 445-6). In *SA Chemical Workers Union*,

Mokgosi and Mooketsi v Plascon Paints (Tvl) (Pty) Ltd (1999) 10 (10) SALLR 9 (LAC), the appellants appealed against a Section 46(9) determination of the industrial court to the effect that the dismissal of the individual appellants (the employees) by the respondent (the company) did not constitute an unfair labour practice. On 6 July 1995, the employees had set off from the premises of the company on their normal duties, making deliveries of company goods to various customers. According to their version, they had been accosted by two hijackers at gunpoint after they made the first delivery. They had been driven, in the company truck, to a certain spot where they have been released. They had telephoned the company and informed their superiors of their misfortune. The company truck had been found soon afterwards, and the company goods transported in it. The employees had been charged with defrauding the company and found guilty at a disciplinary hearing and dismissed. Their efforts to have this result overturned on internal appeal and in the industrial court had failed, and this appeal was a further attempt on their part to gain reinstatement in their former employment. The evidence was found on an on-board computer installed in the truck they had been driving and were charged with fraud.

Cheque fraud has a lot of impact on the banks, the individuals who accept or receive a cheque, as well as other businesses that use a cheque. Cheque fraud has cost businesses as well as individuals millions of rands throughout the world (Gilbert, 2010:341-343). Coetzee (2016:16) also added that, as the use of the cheque in lieu of cash became more prevalent, cheque forgery problem increased. Firstly, there are challenges facing the banks in cheque fraud. Coetzee (2016:16) state that banks are in the business of managing risks. These risks can originate from almost every activity in which they participate, which includes cheques, and in relation to every market participant with whom they interact (Mishkin, 2014:242). The intent of banks is mostly to profit from loans and other means of exchange, as well as the everyday charges (Cecchetti & Schoenholtz, 2011:326). However, the risk that the banks experience in cheques is marginable. Over the years, financial institutions have reduced the importance of checkable deposits in the day-to-day business of banking (Nagel et al., 2015:55). The reason for their decline is that checking accounts pay little or no interest than electronic payments. They are a low low-cost source of funds for banks but a low return investment for depositors. In the early 2000s, as stated in Cecchetti and Schoenholtz (2011:331), most of the banks went for electronic deposits, savings and time deposits with the purpose of increased profits.

Secondly, the challenges facing the individuals that accept or issue a cheque when receiving a cheque includes, for example, the long process of a series of transactions for paying whoever requires the funds (Doig, 2013:66). You hand over the cheque to someone, who then takes it to the bank, the bank sends the cheque through the cheque clearing system and then the cheque is approved. The bank will credit the amount of the cheque to the receiver's account immediately or with a short lag. Thereafter, on receipt of the cheque, the bank debits your account. Tylor (2005:327) also explained that several days might pass before your bank collects funds from your employer's bank account. In that way, you return

and wait for their approval before you could cash the cheque. Confidentiality is the main thing the banks have to consider when dealing with a cheque. It is the bank's duty to confidentiality and secrecy of your information (James et al., 2014:373). Failing to do that can result in a criminal offence (Ashworth, 2009:394). If any misunderstanding occurred regarding banks, the office of the Banking Ombudsman should be contacted. According to The Bills of Exchange Act 56 of 2000, the purpose of the Ombudsman is to provide customers with a dispute resolution mechanism that is easily accessible, informal, quick, affordable and effective, without detracting from the customer's right to resort to litigation at any time if he/she wants to do so. When asked the respondents about the concept of fraud:

- Respondent 1 defined fraud as the unlawful misrepresentation of a victim with the intent to defraud. An example is when the perpetrator convinces the victim to hand over the sum of money to the perpetrator in order to invest it in the perpetrator's non-existing business.
- Respondent 2, 8, 11 and 12 emphasised deception as the main key when defining fraud.
- Respondents 3, 6, 7 and 10 stated the reason why people commit fraud, as the unemployment. Most unemployed people cannot maintain life and end up committing fraud. Sometimes, it is the desire to live a high life.
- Respondents 4, 5, 13 and 14 mentioned that the impact of fraud results in the loss of money from the individuals themselves as well as the businesses.
- Respondent 9 and 15 mentioned that the company would lose money and have a bad reputation towards the investors and the customers. People working at the company will not get an increase because of the loss of money.

2.7 The elements of fraud

In order to have a better understanding of fraud, there are elements that can assist in defining fraud, namely: misrepresentation, unlawfulness, intention, and prejudice. According to Van Rooyen (2008:138), a misrepresentation is a distortion or change of the truth that can be made either verbally or in writing. For example, selling someone an old cell phone as if it is new. Even if the representee is aware of the true facts and is not deceived by the misrepresentation, the representor is still guilty of fraud. Actual prejudice is, however, not a requirement. The mere fact that misrepresentation may cause the victim prejudice (i.e. that the potential or prejudice is present) is sufficient (*R v Heyne* 1956 (3) SA 604 (A) 622). In *Maqebhula v unreported* (284/17) [2018] ZASCA 010 (5 March 2018) (SCA), the accused (who is the Lieutenant Colonel in the SAPS) was convicted on two counts of fraud and sentenced to a fine of R20 000 or two years' incarceration. The charges arose from the two trips that the accused took in police vehicles, the first on Thursday and Friday 24 and 25 June 2010, and the second on Saturday 12 February 2011. It is alleged that the accused unlawfully, falsely and with the intention to defraud, represented to his Commander that he had to testify in his official capacity in a

criminal case in Cradock, while the accused did not attend the court and he travelled to certain towns alleged in the preamble to the charge, and that, by means of the said misrepresentations, the accused induced the SAPS - to its loss and prejudice – to grant him authorisation to use the state vehicle for the purpose stated in the prescribed application.

Secondly, unlawfulness consists of making a misrepresentation with the intent to cause prejudice (Van Rooyen, 2008:139). The term “unlawful” indicates that the specific conduct is unjustified (Joubert, 2018:47), and the grounds of justification, such as consent and acting on an order, may exclude the unlawfulness of the act. Meaning that there must be no legal justification for the particular act. Sometimes, it happens that certain acts appear to be unlawful, whereas they are not. An example is when a television presenter advertises a funeral cover saying that it covers all the expenses when someone passes away, whereas the funeral cover will only cover the transport to the family of the deceased and not the catering. In this way, the trader’s behaviour is not unlawful. According to Joubert (2018:168-169), the trader’s behaviour will not constitute an offence. Where a particular act has not been previously identified as being unlawful, the courts would then determine the matter. According to “*The Minister of Police v Ewels* 1975 (3) SA 590 (AD), the general rule is that the unlawfulness of an act is determined according to the perceptions of society as to what is legally “right or wrong” at any given time.

Cheque fraud can only be committed intentionally. Meaning that a special form of intention is required, namely that the perpetrator must have the intention to defraud the victim (Joubert, 2018:169). Van Rooyen (2008:139) agrees with Joubert (2019:169) that the representor must intend to deceive and defraud the representee. He must thus intend to mislead him as well as to induce him or someone else to act to his detriment. If the representor honestly believes that the representee will not react to the misrepresentation, he does not commit fraud. A person has the intention of defrauding another if he/she makes a misrepresentation to the victim with the intention of getting the victim to act to his/her own detriment. Therefore, the perpetrator wants the victim to react to his/her misrepresentation by taking some action that causes him/her to suffer harm or prejudice. However, if it is found that the perpetrator did have the intent to defraud the victim, it is then sufficient to satisfy the elements of intention or culpability. According to Lushbaugh and Weston (2012:241), the criminal intent is to achieve the wrongful objective of the scheme. Intention is an element that applies both to the act (misrepresentation) and the consequences thereof (prejudice) as determined in *Kruse* 1946 AD 254.

Actual prejudice is not necessary. Potential prejudice will suffice (Van Rooyen, 2008:139), meaning that a fraudster need not complete the act; an attempt to defraud someone is sufficient to result in fraud. According to Oxford Advanced Learners Dictionary (2002:1142), prejudice means harm or injury that results or may result from some action or judgement. An example would be, if someone forges a cheque

and the bank deduct on your account without knowing of that transaction. Although prejudice is normally of a patrimonial nature, this is not a requirement. Prejudice of a non-patrimonial nature is sufficient. All the respondents knew the elements of fraud, and they answered the question “What are the elements of fraud?” as follows:

- Unlawfulness,
- Intent,
- Misrepresentation of the truth,
- With the aim to cause prejudice to the victim.

2.8 The beneficial factor of using cheques compared to electronic payments

Cheques are still the type of payment most widely used today (Schulze et al., 2016:381). However, the electronic transfer of funds has, in the recent past, overtaken the cheque as the preferred method of payment. Electronic payments include a debit card, credit card, electronic funds transfer, and store-value card (Cecchetti & Schoenholtz, 2011:69).

Some of the businesses, as well as individuals, are using cheques to pay their employees since it is the safest method of payment than electronic transfers (Nagel et al., 2015:32). It was reported in Schulze et al. (2016:382) that the businesses in South Africa estimated a total loss of R7.5 billion in electronic transfers compared to R18.7 million in cheque payments. Electronic payments show an increase of fraud more than cheque fraud (Pillay, 2018:21). It is said in Osterburg and Ward (2014:276) that the disadvantages of electronic funds transfer is that it has made it possible for individuals to move funds to offshore accounts and has been used to gain entry illegally into funding institutions and make transfers, and to embezzle large amounts of money. However, Mishkin (2014:54) mentions that using cheques is advantageous in that loss from theft is generally reduced, and the banks provide convenient receipts for purchases. Also, the use of cheques reduces the transportation costs associated with the payment system and improves economic efficiency. The Advanced Cheque Production systems have been developed by banks, as mentioned in Douglas et al. (2006:1), to counteract cheque fraud practices. This system prints codes onto cheques and special types of cheque papers in order to be able to verify if the cheque is duplicated or not. It then becomes safer to use cheques compared to electronic payments. Recently, banks came up with the so-called “e-cheques” as a means of payment for internet transactions. E-cheques are not money but rather digital tokens, and they can be presented for online purchases. Koch and MacDonald (2010:420) argue that e-cheques are more of an electronic instruction to pay than true electronic money. All the respondents mentioned that using cheques is much safer than using electronic payments. This is evidence in many cases reported for electronic payments compared to fewer cases of

cheques. Although electronic transactions make it cheap to pay bills electronically, the cheques are still the safest method to carry cash in just one piece of paper.

2.9 Extent of cheque fraud

According to Malan et al. (2009:244), about 83.6 million cheques are presented for collection, representing a value of more than R1549 billion. People are continuing to lose money through this kind of fraud, and advanced computer technology has also allowed significant amounts of cheque fraud through counterfeiting to copy or create duplicates to manipulate information. In 2013, a total value of R310 million was lost through cheque fraud in banking institutions, companies and individuals throughout South Africa (Schulze et al., 2016:38).

Tips to consider in order to avoid becoming a victim of cheque fraud: There are some security measures that may prevent the fraudulent use of a cheque. According to Brandl (2014:444), some retailers require that the buyer provide a fingerprint upon the use of a personal cheque. Some retailers require a customer who uses a cheque to provide a signature that is then compared with the signature on a driver's licence, as mentioned in Malan et al. (2009:244). These security measures, along with the alert salesperson, could assist in the prevention of cheque fraud or assist in the investigation thereof. According to the Banking Association of South Africa (2013:8), there are safety precautions that can be taken into account to use a cheque responsibly:-

- Cheque book must always be kept in a safe place.
- If a cheque book has been lost or stolen or you suspect fraud in your account, the bank must be notified as soon as possible.
- Keep the returned cheques locked away in a safe place.
- Report lost/stolen or missing cheques immediately.
- The payee must ensure to complete the payee details tab in full and include the amount in figures as closely as possible.
- The payee's account number must be included in the payee line when making account payments.
- Use crossings appropriately and in a legitimate way.
- Always mark crossed cheques as "not transferable" to help prevent fraud.
- Check bank statements regularly.
- If possible, use alternative payment methods such as cash, electronic, card or cell phone banking.
- Do not use cheques made out of cash if possible.
- Tear or cut old, outdated cheque books.

- Do not carry cheque books unnecessarily on your person or in bags, briefcases or vehicles.
- Ensure to stop payments if a cheque book is misplaced or stolen or misplaced to prevent fraudulent use of the cheques. Cheques are a valuable commodity to criminals, irrespective if the signature is present or not.
- Never sign blank cheques because fraudsters can simply complete the details to suit themselves.
- Always write out payee details in full and do not use abbreviations.
- Do not post cheques.
- Do not release goods even if a bank cheque is presented without checking with your bank.
- Do not advertise the banking details.
- Wait until the cheque has cleared before drawing money.

2.10 Summary

In this chapter, the researcher have discussed a cheque and provided definitions of key terms thereof. The elements of cheque fraud, as well as identification and individualisation processes, were explained. In order to process a cheque, one should first analyse and verify it, and the analysis and verification of a cheque, including the forged signatures and markings on a cheque, have been discussed thereof. If the detectives use their knowledge of these concepts together, it should enhance their investigation skills and empower them to become better equipped for the challenges they face in identifying, individualising and tracing the perpetrators in order to ensure successful prosecution and conviction.

Normally, a cheque can be considered as an exhibit because it proves the elements of crime. Therefore, the researcher have explored a cheque as a crime scene because a cheque is a document on which changes were made. Furthermore, the Locard's Principle – the technique that can be used by the detectives in the scene of cheque fraud was discussed.

CHAPTER 3: THE ANALYSIS OF A CHEQUE IN ORDER TO IDENTIFY FRAUD

3.1 Introduction

Fraud is certainly one of the most costly kinds of crime in companies, as well as government institutions. It costs South Africans millions of rands each and every year, and it is still on the rise (Teixeira, Maia, Moreira & Pimenta, 2014:170).

Every crime scene of fraud presents unique challenges, and the detectives must be able to adapt to new situations. The guidelines of fraud investigation in this chapter provide the detectives with the investigative techniques in fraud and cheque fraud investigation to ensure that each and every crime scene is handled accordingly. The researcher has emphasised the investigation side of cheque fraud in this chapter and included the forensic methods and techniques that are more suitable in the investigation of cheque fraud. During the criminal investigation process, investigators frequently use various scientific methods and techniques found in criminalistics to help identify and arrest the perpetrators of cheque fraud. All this is done in an effort to link criminal offenders to the crime committed. Also, the roles and the responsibility of the Forensic Auditor and SABRIC in forensic investigations are discussed to give the detectives some more tools to use in their investigations. Lastly, the researcher discussed some preventative measures or initiatives one should adhere to or follow in order to avoid being a victim of cheque fraud. Yet, the primary goal of the police is to prevent crime, but the community should also try to take care of themselves by adopting some preventative measures to protect themselves through this crime.

3.2 The common ways of committing cheque fraud

Puttick and Van Esch (2003:56) mentioned that cheque fraud can be committed through, amongst others, forgery, cheque duplication, cheque interceptions, cheque washing, and cheque kiting. Firstly, the forgery of a cheque involves signing another's name to a cheque without authority, with the intent to defraud (Gilbert, 2010:343). According to Hess and Orthmann (2010:437), forged cheques are stolen legitimate cheques bearing a forged signature. The name signed on the cheque may or may not be the true name of the party to whom the cheque is issued. One form of forgery involves the use of a victim's legitimate cheques that have either been stolen and then cashed or altering a cheque that has been legitimately written to the perpetrator by adding words or digits in order to raise the amount on the cheque (Gottschalk, 2010:8).

A cheque can also be duplicated with the aim of committing cheque fraud. According to Oxford Advanced Learners Dictionary (2000:456), the word “duplicate” means to make an exact copy of something or to do something again. Duplicate cheques provide a copy of every cheque written, which is useful if the owner forgot to enter it in the cheque book register. Usually, duplicate cheques come in the same type of a normal cheque, but the thing is that it is duplicated. Having a duplicate makes it easy to see who was paid, how much was spent, and when the cheque was written, as stated in Pritchard (2019).

Moreover, with duplicates, each cheque is followed by a thin sheet of paper that serves as a carbon copy of the cheque, and that copy has the same cheque number printed in it (Anderson, 2016:175). The pressure from the pen transfers each and everything written to the duplicate. After a cheque is written, it is torn out, and it leaves a duplicate sheet attached to the cheque book so that there is a copy for reference purposes. In this way, the owner is left with a record or evidence of what is written, which includes the payee, amount, and date.

Cheque interception is a type of fraudulent scheme in which an employee either prepares a fraudulent cheque for his/her own benefit or intercepts a cheque intended for another person and converts the cheque to his/her own benefit (Albrecht & Zimelman, 2012:508). Carlston, Volker, Feuillerade and Lategan (2011:82) supported Albrecht et al. (2012:508) that cheques are intercepted in the mail and chemically washed to change the beneficiary and the amount on a cheque. According to <https://www.grfcpa.com> (27/11/2019), cheque tempering or interception is a scheme in which an employee steals company funds by intercepting, forging or altering a cheque drawn on one of the organisation’s bank accounts.

On the other hand, cheque washing is another form of cheque alteration, as stated in Gilbert (2010:344). It occurs when a perpetrator obtains cheques through mail theft, stealing people’s outgoing mail bills that look as though they might contain a personal cheque. A chemical is then used to wipe away the pen ink from the payee and the rand portion of the cheque, leaving the victim’s signature and cheque face intact, and the cheque is then made out to match false identification and cashed. Malan et al. (2009:244) support Gilbert (2010:344) and state that fraudsters use specific chemicals to “wash” or “clean” details off legitimate cheques to replace with other information. Changing the face of a cheque, which is cheque washing, has become a norm to criminals. According to Biegelman (2009:80), cheque washing involves the theft of a cheque in transit between the writer and the recipient, followed by the use of chemicals to remove the ink representing all parts other than the signature. After removing the ink from the cheque, the perpetrator then fills in the blanks to his/her advantage.

Cheque kiting is also a relatively sophisticated technique that involves the manipulation of accounts and capitalising on bank error (James et al., 2014:344). Meaning that a stolen cheque is generally used to open a new cheque account in a bank, and the suspect indicates that part of the cheque is to be credited to his/her account. In that way, a second account is then opened with another worthless cheque, drawn on the first cheque before it has had time to bounce. Another example of cheque kiting is when customers make rapid deposit and withdrawal transactions, especially depositing cheques written on the same account. According to Biegelman (2009:92), cheque kiting refers to the use of float to take advantage and delay the notice of non-existent funds. Other forms of cheque kiting involve personal insufficient funds rather than stolen cheques, where a suspect write cheques on one bank when there are insufficient funds in the account to cover them (Gilbert, 2010:344).

When the respondents were asked about the common ways of committing cheque fraud, most of them mentioned cheque duplication, cheque interceptions, cheque washing, cheque kiting, and forgery.

- Respondents 1, 4, 7 and 9 explained cheque duplication as copying an original cheque. The good thing about the duplicated cheques is that it is easy to find a culprit as the cheque books keep a copy of every cheque you write.
- Respondent 2, 8, 11, 12, 13 and 15 explained cheque interceptions as altering a cheque by the employee of a certain company in order to steal company funds.
- Respondents 3, 5, 6, 10 and 14 mentioned that cheque washing is another form of cheque altering where a certain chemical is used to wipe off the ink in that cheque and re-write in favour of the fraudster.

The respondents are in agreement on common ways of committing cheque fraud. They provided ways of how cheque fraud is committed in various jurisdictions.

3.3 Using advanced computer technology and modern methods in cheque fraud

Due to the rapidly changing society in technology, the task of the criminal investigator has become more complex (Osterburg & Ward, 2014:3). The use and abuse of the computer is now a major part of criminal investigation (Gilbert, 2010:154). Similarly, the technological advances in corporate crimes have increased a greater need for the detectives to be familiar with the basics and think outside the box when dealing with cheque fraud. The detectives needs to use other alternatives as well to investigate cheque fraud, for example, the detectives can do the investigation electronically by accessing the original cheque on a computer database where the victim opened an account and start the investigation process. This is evident in Mishkin (2014:67) that nearly every facet of life, from personal banking to

social networking to medical and business records, is electronically recorded and transmitted to the database.

According to Hess et al. (2014:16), computer crime is any criminal offence in which the computer is either the tool or the object of a crime. Computer crime can take many forms, for example, bills, intelligence data, and orders for products. Furthermore, banking institutions, stock brokerage firms, payroll departments, and government agencies all may be defrauded through computer misuse. The suspect may have access to a cheque printing machine by which a fictitious cheque is issued.

Even though this cheque fraud cases can be committed through a computer, computers are still an integral part of the investigative process to the detectives (Gilbert, 2010:154). It is useful in law enforcement in information-gathering when a case of cheque fraud has been reported. Traditionally, police internal computer systems have been confined to the functions of storage and retrieval of data, which makes it easier for an detectives to trace and arrest the suspect of cheque fraud (McEachern, 2014:45). A programming technique known as artificial intelligence can manipulate data and draw conclusions concerning a case. The system uses technology and police expertise to aid case solution by collecting, storing, and analysing data that can match information taken from crime scenes with potential perpetrators.

Nowadays, criminals use more advanced computer technology in almost every criminal cases, including cheque fraud. One of the most common techniques used by criminals in cheque fraud is to divert incoming funds (Newburn et al., 2011:241). This method commonly occurs in the banking industry when funds are transferred from legitimate accounts to fictitious accounts. In this way, the offender programmes any number of fraudulent accounts to receive funds that are systematically diverted from legitimate accounts (McEachern, 2014:47). Some computer criminals who have control over computers that issue cheques programme the device to issue completely fraudulent cheques to themselves or an accomplice. For example, a bank employee can manipulate a computer and change the particulars of the cheque to transfer funds to his name.

Fortunately, most police investigators are now familiar with the methods used by criminals a few years ago to commit a crime. Nowadays, the detectives are guided by both the traditional way of investigation as well as by modern trends in the field and technology towards change (Gilbert, 2010:490). It is said in Mishkin (2014:67) that the present crime trends are more sophisticated than the previous years. Recently, the police have upgraded their operations, technology, management techniques, and other development areas. However, some of the operations within the law enforcement agencies still use the traditional way of investigation. For example, specific areas such as the investigative area have been

criticised by some for conserving traditional methods that are ill-suited for today's crime environment, as stated in Gilbert (2010:490).

Furthermore, the multiagency investigative units have proven very effective in many police organisations worldwide (Cordner, 2014:492). This type of investigative effort allows the national, municipal, and any other police agencies to apply their combined resources more effectively to a specific investigative problem. By consolidating their efforts, some agencies can establish uniform enforcement priorities, and some can participate in undercover operations with greater success, and others can conduct trans-jurisdictional investigations. That requires the criminal investigators to up their game and increase the probability of suspect identification. Suspect identification can be done through DNA and other forensic techniques commonly used by investigators worldwide. Accordingly, today's specialised investigative function has become more rather than less necessary than the previous years. As a result, the investigator's job demands far greater numbers of college-educated officers, technology, and future-oriented management.

According to the researcher, computer technology is still a challenge to some of the detectives. Some of them cannot even perform a simple task on a computer like charging a suspect on the SAPS CAS system on function 5.3. They depend on the help of other detectives to perform that task on their behalf. The researcher further highlighted that cheque can also be analysed on a computer, like checking the financial transactions. All the respondents mentioned that cheques are investigated by using a computer. They gather information on a case of cheque fraud as to who reported the case, what transpired on that case, which might be the suspect by using the profiling technique and then do the follow-up investigation. According to the respondents, funds can be diverted to the account belonging to the culprit. These transactions are usually done by the bank employees using computers. They can also programme the device to issue completely fraudulent cheques to themselves or the account of their choice. In the interview with the respondents about using advanced computer technology in cheque fraud investigation, some of them mentioned that using advanced computer technology in cheque fraud investigation is still a challenge in the police service. The task of the detectives has become more complex and challenging as most of them are not familiar with technology. They stated that although the cheque fraud investigation can be electronically done, some of them are not familiar with it.

3.4 Cheque fraud investigation

The word "investigate" means to make a systematic examination or to conduct an official enquiry (Dutelle & Becker, 2019:3) meaning that, a detective will have to discover all the facts pertaining to the

complaint by gathering and preserving physical evidence and developing and following up all clues with the aim of investigating a crime.

In order to commence an investigation, the victim must have received a forged cheque showing a withdrawal from his/her account, or a banking institution or business may contact the police (Hess et al., 2010:437). Any person in a position to identify the suspect must be interviewed without delay. The clerk or bank teller should be questioned regarding the suspect's method of operation, and physical characteristics, as well as the type of identification used to cash the cheque, should also be ascertained. Furthermore, the detectives should note any type of property, other than cash, that may have been obtained for the cheque, a certain type of property may be traceable. For example, the suspect may buy a television with a cheque that has some serial number that can help the detectives with the identification of the property. This is supported in Osterburg and Ward. (2014:605) that, when investigating cheque fraud, the detectives should be aware that the critical evidence for making a case involves records that may include diaries (to compare the handwriting of the culprit), contracts, and other computerised files. In addition, when a cheque has been altered or forged on an individual's bank account, the victim may be able to provide tracing clues. For example, the detectives should determine whether the victim has any knowledge of the cheque or how the forger may have obtained it.

There are several possible courses of action for the detectives to pursue, and Brandl (2014:445) lists the following as the actions the detectives should take in order to investigate cheque fraud properly:-

- Firstly, it is important to obtain a hard copy of a cheque that was forged or altered or any other fraudulent documents associated with fraud, for example, the cheque account application form. These documents can help establish that a crime occurred, provide for handwriting analysis comparisons, and may even contain fingerprints or DNA.
- Secondly, if the fraud was facilitated by theft of cheque, a successful investigation of that crime may lead to the offender who committed the fraud.
- Thirdly, when burglars, robbers, and any other offenders are identified, a search of items in their possession may reveal stolen cheques that were used fraudulently, thereby linking one offender to many crimes.
- Fourthly, from the cancelled or returned cheque, the date, place, and possibly the time the cheque was used should be able to be determined. With this information, it may be possible to obtain information about the offender from the salesperson who conducted the transaction and to examine security cameras at the store to find the image of the person who fraudulently made the purchase.
- Finally, as in burglaries and robberies where a cheque was stolen, a potentially useful investigative activity is to locate the property that was fraudulently purchased. If the property

is found, the offender may be identified as well. Pawnshops, second-hand stores, and online auctions are common outlets for fraudulently purchased merchandise.

There are forensic methods and techniques available for the detectives to utilise in cheque fraud investigations. Since the investigations have improved along with the advances in forensic science, the detectives have also drawn more attention to the developing field of forensics in police work (Siegel, 2007:178). It is said in Albanese (2015:255) that, unlike traditional police work, investigating these kinds of crimes requires a more sophisticated approach. Meaning that the detectives should not just investigate cheque fraud as any other crimes like assault. It should be approached more technically with the use of forensic methods and techniques available for the detectives. It is evident in Lyman (2011:224) that the use of investigative techniques in crime investigations has been the core of the investigation process in the police organisations, and the detectives need not ignore these skills. There are many forensic investigative techniques that the detectives may use, and Brand (2014:163) lists the following as the methods and techniques that detectives can use in cheque fraud investigation, namely the interviews and the modus operandi in which the suspects used to defraud the victims.

Firstly, the interview is an important type of routine communication used by police for the purpose of solving a crime and a successful prosecution. Verbal communication with victims, witnesses, suspects, and others is certainly one of the most vital aspects of the detective's work. According to James et al. (2014:102), an interview may be defined as communication involving two or more people for the purpose of obtaining information. As suggested by the researcher, the detectives needs to do the following interviews for the purpose of investigating cheque fraud: witness interviews, victim interviews, an employee at a financial institution interviews, and suspect interviews.

Witness interviews are essential to the investigative process, for they often provide descriptions that result in an arrest, and Gilbert (2010:105) also mentioned that the witness has proven to be both a blessing and a problem to the criminal justice system. They provide testimony that is instrumental in securing a conviction, and at the same time, they have been the most unreliable source of evidence (Brandl, 2014:163). According to Newburn et al. (2011:450), a witness is defined as one who sees or knows by personal presence and perception. In this phase of the interviewing process, the detectives must try not to accuse the witness in order to develop information to move a criminal investigation forward.

On the other hand, the detectives needs to do the victim interviews. Interviewing a victim may be relatively simple, or it can continue for a long time and difficult experience demanding maximum skill from the officer and should involve a thorough preparation. Although it is not always possible, as mentioned in Osterburg and Ward (2014:605), the officer should determine the following before

actually interviewing the victim: (a) the nature of the crime, (b) the identity and background of the victim, and (c) the emotional state of the victim. It is said in Newburn et al. (2011:466-467) that the allegations of fraud are most likely to come from a victim. Therefore, it is important to interview a victim in order to get information on how the cheque fraud happened, who is involved, and where the evidence might be kept or stored.

Moreover, it is of utmost importance for the detectives to interview an employee at a financial institution where the cheque fraud transaction took place. In this interview, the detectives need to keep records, which should be as detailed as possible, including dates, types of alleged transactions, the names and background information on all persons who may be involved (including suspects as well as uninformed employees), and business relationships (Brandl, 2014:46). Additionally, the detectives should ascertain the names of other individuals who might be willing to co-operate (Osterburg and Ward, 2014:605). This is particularly useful in developing witnesses who are not likely to be involved in criminal activity. They include secretaries, administrative assistants, office workers, or individuals in other business that may be privy to incriminating information. There are some factors that can make a bank employee commit fraud, for instance, the need for an upgrade in life. Sometimes an employee may find him/herself behind the living standards compared to that of his/her peers, and they turn to criminal activities. One of the most common techniques used by bank employees is to divert incoming funds. This method commonly occurs in the banking industry when funds are transferred from legitimate accounts to accounts that do not exist. In this way, the offender programmes any number of fraudulent accounts to receive funds that are systematically diverted from legitimate accounts (Hess et al., 2010:157). Some computer criminals that have control over computers that issue cheques, programme the device to issue completely fraudulent cheques to themselves or an accomplice. That is the reason why the detectives need not exclude the employee at banking institution when they want to solve the case completely and successfully, because they might be the perpetrators of cheque fraud, for example, a bank employee can manipulate a computer and change the particulars of the cheque to transfer funds to his name. Sometimes, the bank employee can also commit this crime by stealing the bank's software and illegally duplicate a cheque for his/her own use (Gilbert, 2010:165-166).

Suspect interviews, on the other hand, should not be left aside. Before the detective jumps into an interrogation process, he/she should consider interviewing the suspect first. The detective should not jump into the interview process unless there is sufficient evidence to make an arrest. In the preplanning stage, it should be determined who will be responsible for crime scene search, collection and record of evidence, as well as the one who will be responsible for interviewing the suspect. Before the detectives can make an arrest, it is advisable to conduct background investigations on suspects, including information on their financial holdings, indebtedness, marital status, travel, bank records, medical records, criminal record, lifestyle, credit and credit card activity, and major purchase (Osterburg and

Ward, 2014:605). Although some of this information may require a search warrant, much can be obtained through observation or surveillance, social media outlets such as Facebook and internet sources such as google (Savino & Turvey, 2011:65). Thereafter, the interviewers can commence with the interviews. Interviewers should be prepared with a set of questions and responses recorded. When a *prima facie* case has been made, it is advisable to secure one or more search warrants, or where applicable, a wiretap authorisation. As stated in Payne (2012:113), examination of evidence is likely to open further avenues of investigation, and these should be pursued carefully. For example, evidence may identify others who may be involved, either as victims or suspects. This may be of value later in court testimony. Follow-up investigation will undoubtedly lead to further interviews as data is retrieved.

Criminals have their own or unique way or method to commit a crime. Some commit cheque fraud by washing cheques and reissuing them (<https://www.sabrics.co.za> (22 November 2019)). That alone can give the detectives a clue as to whom (group of criminals) is using that method to commit crimes. Because the suspect's identity is almost always unknown to the victim, the detective's goal is to find it. It is said in Gilbert (2010:224) that the *modus operandi* has always been considered a strong tracing element in most investigations. McEachern (2015:105) emphasised that, indeed, many criminal groups have a fixed method of operation. For example, the robbers tend to develop a methodology from which they operate, and they rarely deviate from that method. The methods employed by the perpetrator to commit the crime may be so unusual as to bear nothing. It is these methods (M.O) that may be an unintended clue to the offender's identity (Dutelle et al., 2019:60). The criminal investigator is constantly investigating occurrences after the fact; therefore, it is important that the detectives develop the leads that might assist in tracing the offender's movements (Mishkin, 2014:224). If the cheque fraud occurred, for example, at Absa bank, the detectives should find the previous cheque fraud cases that occurred at that particular bank, it might happen that the offender was traced previously, and he/she should look at the way the offender committed that crime in question. The way the crime was committed could link with the current one, which might lead to the same method that was used before (Gragido & Pirc, 2011:120).

In trying to answer the question "how to investigate cheque fraud", the respondents stated as follows:

- Respondent 1 first explained the concept of criminal investigation as the means to identify the culprits by utilising the identification methods and techniques with the help of the victim, witnesses, as well as informants, with the aim of answering the charge against him/her in a court of law.
- Respondents 2, 3 and 5 further stated that investigating cheque fraud requires many role players, for example, the victim, the witnesses, and the bank employees.

- Respondents 4, 6, 7 and 10 stated that the forensic methods and techniques such as the modus operandi and the interviews are the useful investigative techniques that can assist the detectives in cheque fraud investigation.
- Respondents 8, 9, 11 and 15 stated that, in order for their investigation to be successful, they work hand-in-hand with the SABRIC for the latest information regarding cheque fraud, the Commercial Crime Unit in the Directorate for Priority Crime Investigation (DPCI) for the advanced investigative skills, as well as the National Prosecuting Authority (NPA) for the proper and legal way to deal with the criminal procedure one should follow when apprehending and investigating the culprits of cheque fraud, and the Forensic Auditor/Document Examiner for educating the detectives on any particular issue regarding cheque fraud. They examine financial documents to detect and investigate crime by thoroughly checking for fraud if there was any mistake on that cheque.
- Respondents 12, 13 and 14 stated that in order to investigate cheque fraud thoroughly, the detective needs to use investigative methods and techniques such as interviewing, and by studying the modus operandi the criminals use to commit crimes, may assist the detectives in identifying the culprits of cheque fraud.

All the respondents has a clue on cheque fraud investigation. They all agree with the author's opinion on cheque fraud investigation.

3.5 Mandate to investigate cheque fraud

Most detectives are expected to be trained and competent in performing basic investigative operations like the preliminary and follow-up investigations in the police stations (Hess et al., 2014:368). Some of the detectives, for example, the Directorate for Priority Crime Investigations (DPCI), need to do advanced training in a specialised field to conduct proper and thorough investigations. All commercial crimes should be reported to the South African Police Service (Carlston, Volker, Feuilherade & Lategan, 2011:9). The SAPS is the primary crime investigation body in South Africa. Section 205(3) of the Constitution of the Republic of South Africa, 1996 (Act no. 108 of 1996) places a legal obligation on the South African Police Service to investigate crime. In addition, the legal framework for the investigation of crime by the SAPS is established by the South African Police Service Act, 1995 (Act no. 68 of 1995), the Criminal Procedure Act, 1977 (Act no. 51 of 1977) (CPA) and different statutes which declare certain types of conduct as offences. The mandate for the investigation of cheque fraud jointly rests with the Commercial Crime Unit of the DPCI and station level detectives of the SAPS. In this case, the researcher will concentrate on the station level detectives since the DPCI is no longer investigating cheque fraud. It has now been transferred to the station level detectives for investigation.

Other than the SAPS, the government institutions and agencies which have powers to investigate include the Special Investigating Unit (SIU), the National Prosecuting Authority (NPA), the Public Protector, registered auditors, the South African Revenue Service (SARS), Military Police, Independent Police Investigative Directorate (IPID), Customs and Excise, and others (Carlston et al., 2011:53-55). Certain banks, companies and corporations have internal investigators who conduct investigations in the course and scope of their normal business to safeguard their security, strategic, operational or business interest (Benson, 2015:17-18). Investigations include employee's misconduct, security breaches, loss and theft of assets, and offences specifically targeting the clients and systems, instruments, resources or products of the bank or business (Van Rooyen, 2008:59). Although internal bank and corporate investigators act on behalf of their employers, evidence collected during internal investigations is recognised and accepted by South African courts. In most cases, the private investigator works independently, but the common thing is that the information gathering and the evidence collection are done in the same way (Zinn & Dintwe, 2016:18). In *S v Dube* 2000 (1) SACR 53 (N), the court accepted the evidence of the detective who conducted an internal investigation into thefts taking place at a motorcar manufacturer. The evidence related to photograph and tape recordings made by the detective, acting as an agent of the employer during an undercover trap.

3.6 The importance of the Forensic Auditor and the Document Examiner in cheque fraud investigation

An expert opinion has been a success in courts and has been widely used in the investigation of crime (McEachern, 2014:4). Expert witnesses are usually skilled or knowledgeable on a particular subject (Brandl, 2014:475). In addition, expert witnesses can express their opinions in court and can discuss hypothetical scenarios and their testimony is usually supposed to educate the jury or judge on a particular issue that may not be understood by lay persons. In other words, an expert's opinion is advisory to the jury. The detectives should use the experts in crime scenes, as the prospects of having success in investigating and solving an incident are severely hampered when available experts and aids are not utilised at the scene of the incident (Zinn & Dintwe, 2016:167).

The expert that is responsible for investigating cheque fraud is the Forensic Auditor and the Document Examiner. According to Van Rooyen (2008:14), a Forensic Auditor can be described as a person who examines financial documents as well as the compliance of policies and procedures with the goal of detection and investigation of crime. The traditional concept of a Forensic Auditor, as stated in Lushbaugh and Weston (2012:85), is that of an individual coming in to check the books, looking for fraud and mistakes, and who will take great pleasure in finding either. Furthermore, the purpose of a

Forensic Auditor, as stated in Payne (2012:521), is to search for wrongdoing, and they have been described as “widely used organisational defence against fraud”. Fraud auditors are required to give greater consideration to incorporate fraud detection into their audit plan. In brief, (Vona, 2008:32) outlines that the Forensic Auditor requires a certain approach to answer the following questions when investigating fraud:

- Who committed fraud, and how?
- What type of fraud are we looking for?
- Should fraud be an inherent risk or capable of being passed from father to son?
- How is fraud concealed?
- What ways can a fraud auditor use to detect fraud?
- Can fraud be detected when there is no evidence of alleged fraud?

Carlston, Volker, Feuilherade and Lategan (2011:27) described the purpose of the Forensic Auditors as to obtain a reasonable assurance that all material errors or omissions that could affect the organisation’s financial status are uncovered. In *S v Gardner and Another* [2011] ZASCA 24, two Chief Executive Officers (CEO) failed to disclose certain financial interests to the board of the company and had secured a lot of profits from these interests. The Supreme Court of Appeal convicted the two CEOs of fraud. The Forensic Auditor confirmed that, through the assessment of the company’s financial books, when the two CEOs deliberately withhold information, there is, in the absence of an explanation for such conduct which may reasonably be true, and a case of fraudulent non-disclosure. Both prejudice and the intention to prejudice are proved beyond doubt, and they were convicted of fraud.

Documentary evidence is the approach used in cheque fraud investigation (Harris et al., 2019:143). For the detective to be able to investigate cheque fraud, he/she needs to understand the basic terms that can assist in the investigation, for example, a document. According to Gilbert (2010:348), a document can be literally anything upon which a mark is made for the purpose of conveying a message, and Brandl (2014:48) defined documentary evidence as any evidence that is in the form of a document or to evidence that documents some issue related to the crime. Documentary evidence, as stated in James et al. (2014:451), may include, for example, printed emails relating to the crime, bank statements, or any other documents relating to the crime.

Usually, in cheque fraud, the document is either counterfeited or altered. There may be any other documents like the cheque account application form which are available for the document examiner to analyse. Also, there may be forged cheques or written documents that can be analysed for handwriting. According to Albrecht and Albrecht (2015:240), written documents are examined in order to associate a suspect with a written document or associate written documents with each other. The paper can be

analysed as to its type, brand, and manufacture, and the ink used to write the words can be analysed to determine the type of writing instrument used (for example, ballpoint pen, fountain pen) and allow for a comparison of ink samples (Gilbert, 2010:349). Moreover, a comparison of a written document in question with a writing example from an identified suspect is performed in order to determine if the handwriting is consistent in the two samples.

Brandl (2014:139-140) added that a written document in question might be compared with the handwriting of an identified suspect. In this case, several procedures are recommended:-

- Use the same type and size of paper, request handwriting and give verbal and written instructions as to what the suspect is to write.
- The writer and the witness to the writing should initial and date each page of writing.
- Do not allow the writer to see the writing that is in question and being compared.
- It may be necessary to obtain several repetitions in order to obtain a natural and valid writing sample.
- Writing examples from the right and left hand should be obtained, as well as writing containing both upper-and-lowercase letters.
- If possible, obtain other existing writing samples from the suspect, such as notes or letters.

Payne (2012:522) mentioned that the difficulty is that the handwriting of each person is not always the same. Therefore, it becomes invalid to state a percentage probability that a handwriting example was written by a particular suspect; there is no basis on which to conclude how common handwriting characteristics are in a given population.

The researcher concluded that the suspect should be given more days to be assessed of his/her handwriting so that even if the handwriting may not be the same, a document examiner may be able to ascertain if the suspect is guilty of fraud or not. The following are the responses to the question “What is the importance of the Forensic Auditor/Document Examiner in cheque fraud investigation”:

- Respondent 1 mentioned that Forensic Auditors check for any mistakes in the organisation and verify the information provided to them.
- Respondents 6 and 10 emphasised the working relationship between the detectives and the Forensic Auditors in cheque fraud investigation that these experts are skilled and have wide knowledge in cheque fraud investigation.
- Respondent 2, 5 and 13 mentioned that these experts could solve a wide and confusing case which is not easy to be solved by an ordinary detectives.

- Respondents 3, 4, 7, 8 and 9 mentioned that Forensic Auditors are widely used in any large or small organisations to check for fraud and prove beyond reasonable doubt that fraud indeed took place.
- Respondents 2, 11 and 12 mentioned that the Forensic Auditors are very good at analysing documentary evidence, for example, forged cheques or written documents that can be analysed for handwriting.

3.7 The role of the SABRIC in fighting cheque fraud

According to the South African Banking Risk Information Centre (2013:4), SABRIC keeps you informed of the latest banking scams and fraudsters activity to make sure that you do not get trapped in any kind of fraud and that you do not end up as a statistic (Kempen, 2018:4). According to Burgess (2018:43), SABRIC warns banking customers to stay vigilant about numerous bank-related crimes. Therefore, to get an update about the latest fraud going on in our community nowadays, we should get in contact with the SABRIC. According to Carlston et al. (2011:23), the best and the most profitable way of dealing with commercial crimes are to prevent them. Good and efficient internal controls can assist organisations in preventing, detecting and deterring fraud.

Regarding cheque fraud, SABRIC also has some tips, as found in The Annual Report of the South African Police Service (2000), to adhere to in order to avoid being a victim of cheque fraud. They play a crucial role in the community with regard to every financial service in South Africa as a whole. They are the leaders in combatting organised crime in the banking industry (Clarke & Furnell, 2018:98). Should someone experience some difficulties with regards to complaints pertaining to financial service providers, the Financial Services Ombudsman Schemes should also be contacted. The Financial Ombudsman Schemes Act 37 of 2004 deals with matters involving the financial service providers (Kelbrick et al., 2016:370).

All the respondents noted that SABRIC plays an important role in fighting cheque fraud. Without SABRIC, people would suffer financially as the fraudsters would continue with their bad habits and not be caught. When one searches their website on www.sabric.co.za, there are many precautions or tips on which one should take note before using cheques. The methodology used by the criminals to defraud the community has been explained thereto. Also, the methods and techniques, for example, the modus operandi (MO) the criminals' use, were discussed in detail. There is a good relationship between the police and SABRIC; this is evident in Kempen (2018:4), where the SAPS and SABRIC recommit to intensify the fight against bank robberies.

3.8 Cheque fraud prevention initiatives

The investigation of cheque fraud alone is not enough if the police cannot reduce it; the prevention methods of this offence can play a significant role in the reduction and educating the individuals when using this kind of payment (Cecchetti and Schoenholtz, 2011:253). In a 2009 Global Economic Crime Survey alone, South Africa was rated as the second worst white-collar crime rate in the world (Carlston et al., 2011:36). A similar study conducted by the Association of Certified Fraud Examiners (ACFE) in 2010 found that organisations lose about 5 per cent of their annual revenue each year due to fraud. The prevention and control environment, the accounting system, can work together to eliminate or reduce the opportunity for employees and others to commit fraud (McEachern, 2014:44). According to Gilbert (2010:345), there are many ways to reduce cheque fraud and laid out the ways in which one should do to prevent forged or altered cheques. These methods could be used by, for example, the clerks, merchants and bank tellers before they could approve a cheque:

- (i) They should pay special attention to improperly set type of printed cheques, misspellings, or ‘crowding’ of the handwriting of numbers,
- (ii) Areas of the paper that are off colour because of erasure or chemical alteration,
- (iii) Ink that does not match pre-existing ink colours or that indicates a second writing instrument,
- (iv) The payee's name endorsed differently from the way it appears on the name of the cheque,
- (v) An individual attempting to cash a cheque which is ‘wrong’ for the type of cheque presented, for example, a juvenile who presents a pension cheque,
- (vi) A person who has ‘forgotten to bring identification document’ or who uses methods of distraction, and
- (vii) A person who uses a cheque of a large amount to pay for a purchased item of very low worth.

Calhoun (2010:347) claims that cheque fraud can be prevented with the use of the following tips:

- (i) A person using a cheque should use a cheque that has built-in security features. If no security features, that person should avoid that cheque at all costs. The cheques have a padlock icon to indicate that there is a security feature on that cheque. It can be a watermark or maybe a micro printing in it.
- (ii) If a cheque does not have your social security number imprinted on the cheque, it is enough for the criminals to get a credit card, bank card, or maybe a fake loan with that cheque.
- (iii) Do not sign a cheque before you cash or deposit it. It is better if you sign it in the presence of a teller.
- (iv) Do not leave spaces on a cheque; write words close together. If there is a blank space, draw a horizontal line in that space, especially on the amount lines.

- (v) Check your account on a regular basis, and if you notice any suspicions on your account, you should call your bank.
- (vi) Tear all the cancelled cheques, ATM slips, and credit card slips, rather than throwing them in the bin.

Gilbert (2010:345) further highlighted that banks and other institutions had adopted devices to reduce cheque fraud during the cashing transaction, where they stamp the back of a cheque with special chemicals compounds, and the customer is then instructed to touch the area, leaving a fingerprint in it. Other businesses use the *regiscope*, a photo-identity camera that records the customer's image before the cheque is cashed. These initiatives could help to reduce cheque fraud drastically. Also, the use of computers has additionally achieved a marked effect in reducing cheque fraud, as stated in Gilbert (2010:345), where lost or stolen cheque numbers are fed into a computer system into which a bank cashier will phone prior to the cashing of any questioned cheque. Fraud prevention is 80 per cent of the solution, as mentioned in Carlston et al. (2011:36). With the above tips on reducing and preventing cheque fraud, the businesses will ensure that all the finances and the reputation of the business stay in the right direction.

3.9 Summary

In this chapter, the researcher have taken a look at the common ways the criminals use in committing cheque fraud as well as its investigation. The researcher have explored the advanced computer technology in cheque fraud. One of the fundamental purposes of this chapter is to emphasise the value of the investigation methods and techniques when investigating cheque fraud. The interviews, the modus operandi the criminals use to defraud the community are the heart of the investigation in the police industry. As crime continues to be a major problem to society, the criminal justice system struggles to maintain its effectiveness. Therefore, the investigation is a highly important function to apprehend suspected syndicates which depends upon successful investigations.

An increase in cases of cheque fraud in the country has come with a dire need for a better grasp of the scope and skills of forensic investigators. Forensic investigators have become a vital part of any organisation in South Africa. They are highly capable and recommended to solve a case in a court of law.

CHAPTER 4: FINDINGS AND RECOMMENDATIONS

4.1 INTRODUCTION

This chapter provides information on what was discovered within the research. It relates to the interview from the respondents and the viewpoints of literature sources. The findings and recommendations that were made related to the initial research problem, aims and research questions. Recommendations are made on the findings of the research. In order to achieve the aim of this research, the researcher formulated two research questions from the problem statement. For the researcher to succeed in addressing the research question, he collected data from literature, the internet, SAPS directives and policies, and from documents that contain information about the cheques, cheque fraud, identification, bank, interview and fraud in general.

The researcher believes that if the findings and recommendations can be implemented in practice, it could enhance the value of identification in cheque fraud to a greater extent. A comprehensive conclusion, which summarises the whole study, is presented at the end of the chapter.

4.2 RESEARCH FINDINGS

The following findings were based on research question 1 and 2.

4.2.1 RESEARCH QUESTION 1: A CHEQUE

4.2.1.1 Forensic investigation

The researcher found that forensic investigation refers to the use of sophisticated investigative techniques that involve scientific analysis to obtain evidence that can prove the true facts in a court of law about the crime committed. It also refers to the methods and techniques of associating people, places, and things involved in criminal activities. The purpose of forensic investigation could be to find a positive solution to a crime scene to reconstruct a scene of the incident, identify the perpetrator, apply scientific knowledge to a legal problem, and methodically and systematically analyse evidence to find proof of a fact in question. Two respondents agree with Zinn and Dintwe (2016:19) and indicated that forensic investigation refers to specialised or advanced investigations aimed at proving the guilt or the innocence of the accused in a court of law. The majority of the respondents indicated that it is the means to identify and individualise the accused to answer to the charge against him/her.

4.2.1.2 A cheque

The researcher found that a cheque is one of the most common methods of payment, apart from cash, which is widely used all over the world. It is an easy and convenient way to carry large sums of cash in your pocket on just a small piece of paper. A cheque is a handy way to make payments without having to use cash.

4.2.1.3 The concept of a cheque

The researcher found that a cheque is an unconditional order in writing, addressed by one person to a bank, signed by the person giving it, requiring the bank to whom it is addressed to pay on demand a sum certain in money to a specified person or his order, or to bearer. It refers to an order to a bank to pay a stated sum from the drawer's account, written on a specially printed form.

4.2.1.4 The elements of a cheque

The researcher found the elements of a cheque as follows:

- The wording of a cheque must constitute an order,
- It must be unconditional,
- It must be in writing,
- It must be addressed by one person to a bank,
- It must be signed by the drawer,
- The order must be to pay a definite sum of money,
- A cheque must be payable on demand,
- The order to pay must indicate to whom payment must be made,
- The payer may be required to date a cheque,
- A cheque must have a place of payment,
- A cheque provider must produce the stamp with the company name, bank routine, transit number, and bank account number, and lastly,
- The drawer or endorser of a cheque may insert an express stipulation regarding or limiting his/her liability to the holder.

4.2.1.5 The analysis of a cheque

The researcher found that it is necessary to analyse a cheque to see if it is valid or not, as the fraudulent or incorrect banking details result in thousands of rands lost on uncontrolled payments. In order to analyse a cheque, the detectives should look for some pointers to determine whether a cheque is valid or not. Those pointers are:

- The signature that appears on a cheque.
- Markings on a cheque such as “not negotiable” or “not transferable”.
- Crossings which can be general crossing or special crossings.

4.2.1.6 Types of cheque fraud

The researcher found the types of fraud to be as follows:

- Manufactured or cloned cheques,
- Counterfeit cheques,
- Altered or amended cheques,
- Stolen cheques, and
- Forged cheques.

4.2.1.7 Cheque as a source of information

The researcher found that in order for a cheque to be a source of information, the following need to be available:

- **Evidence:** in this regard, the witness may be asked to describe what he/she had seen regarding the case in question. That evidence can then be used to prove or disprove the facts at issue.
- **Direct evidence:** it is that kind of evidence that establishes proof of a fact without any other evidence, like a forged cheque found in possession of a suspect, can be regarded as direct evidence and can serve as a source of information to cheque fraud.
- **Trace evidence:** is regarded as tiny fragments of physical evidence that can help the investigator to tell the story as to what transpired. Like the DNA can be transferred to a cheque while the perpetrator is busy forging it.
- **Locard’s Principle:** trace evidence can be seen in the Locard’s Principle that can also serve or assist in the investigation of cheque fraud. Locard’s Principle states that information is transferred when two objects come into contact. This means that, in the commission of every crime, traces will be left at a crime scene.

- **Information:** a cheque can be a source of information in criminal investigations. Information can be obtained from many resources such as the informants, community forums, police databases, case dockets, crime mapping, offender profiling, and arrested persons as to how the perpetrator got hold of the cheque, when, and from whom.
- **Crime scene:** a forged cheque can also become a crime scene. A place where a forged cheque took place, such as a certain business, can serve as a source of information in cheque fraud. A cheque could be the only link to information to trace, identify and individualise the perpetrator.

4.2.1.8 Cheque as a source of payment

The researcher found that, in order for a cheque to be considered a source of payment, there are parties that need to be involved. These parties are as follows:

- **The person who gives the order:** the person who gives an order is the drawee, or it is someone who writes a cheque.
- **The bank to which the order is addressed:** who is the drawee bank. It is the bank that cashes your cheque, or it is the party that has been directed by the depositor to pay a certain sum of money to the person presenting a cheque at the bank.
- **The person to whom the payment must be made:** is the person or organisation that receives a payment.

Also, there needs to be someone responsible to claim payment on a cheque, and the persons who can claim payment on a cheque are the holder, who is the person in possession of an instrument payable to the identified person possessing it. The holder, in due course, the person who becomes the possessor of a cheque.

4.2.1.9 The concept of fraud

The researcher found that fraud is a false representation with intent to damage or harm. For example, if someone enters incorrect numbers on a cheque to trick the shop owner, this amounts to fraud. Fraud includes the elements of deception or concealment, but it does not involve the application of physical force. Fraud can be simply defined as an offence of deception. Deception is the main point when defrauding someone.

4.2.1.10 The elements of fraud

The researcher found the elements of fraud to be as follows:

- Misrepresentation or distortion, or changing of the truth that can be made either verbally or in writing.
- Unlawfulness, which consists in the making of misrepresentation with the intent to cause prejudice.
- Intention, the perpetrator must have the intention to defraud the victim.
- Prejudice, which means harm or injury that results or may result from some action or judgement.

4.2.1.11 The beneficial factor of using cheques compared to electronic payments

The researcher found that some of the businesses, as well as the individuals, are using cheques to pay their employees since it is the safest method of payment rather than electronic transfers. The businesses in South Africa estimated a total loss of R7.5 billion in electronic transfers compared to R18.7 billion in cheque transfers. It is found that electronic payments show an increase of fraud more than cheque fraud. Using cheques is advantageous in that loss from theft is generally reduced, and the banks provide convenient receipts for purchases.

4.2.2 *RESEARCH QUESTION 2: THE ANALYSIS OF A CHEQUE IN ORDER TO IDENTIFY FRAUD*

4.2.2.1 The common ways of committing cheque fraud

The researcher found that cheque fraud can be committed through:

- **Forgery:** involves the signing of another's name to a cheque without authority, with the intent to defraud.
- **Cheque duplication involves making** an exact false copy of a cheque or doing the cheque again.
- **Cheque interception:** is a type of fraudulent scheme in which a bank employee either prepares a fraudulent cheque for his/her own benefit or intercepts a cheque intended for another person and converts the cheque to his/her own benefit.
- **Cheque washing:** occurs when a perpetrator obtains a cheque through theft, stealing people's outgoing mail bills that look as though they might contain a personal cheque. A chemical is then used to wipe away the pen ink from the payee and the rand portion of the cheque, leaving

the victim's signature and cheque face intact, and the cheque is then made out to match false identification and cashed.

- **Cheque kiting:** is a relatively sophisticated technique that involves the manipulation of accounts and capitalising on bank error. A stolen cheque is generally used to open a new cheque account in a bank, and the suspect indicates that part of the cheque is to be credited to his/her account. In that way, a second account is then opened with another worthless cheque, drawn on the first cheque before it has had time to bounce.
- **Bad cheque writing:** occurs when, for example, a cheque is written to a merchant or other recipient, hoping the recipient will not suspect that the cheque will not clear. The buyer will then take possession of the cash, goods or services purchased with the cheque and hope the recipient will not take action or do so in vain.
- **Cheque abandonment:** occurs when, for example, the paper hanger deposits a cheque one time that he/she knows is bad or does not exist into his/her account. When the banks consider the funds available (usually on the next business day), but before the bank is informed that the cheque is bad, the paper hanger then withdraws the funds in cash.

4.2.2.2 Using advanced computer technology and modern methods in cheque fraud

The researcher found that, due to the rapidly changing society in technology, the task of the criminal investigator has become more complex. The use and abuse of the computer is now a major part of a criminal investigation. Nowadays, the detectives can do the investigation electronically by accessing the original cheque on a computer database where the victim opened an account and start the investigation process. The police system nowadays is well suited to certain types of complex criminal investigations like some fraud cases that involve financial transactions that are analysed by computer system. The researcher also found that the police internal computer systems have been confined to the functions of storage and retrieval of data, which makes it easier for an detectives to trace and arrest the suspect of cheque fraud. Also, a programming technique known as artificial intelligence can be able to manipulate data and draw conclusions concerning a case. This system uses technology and police expertise to aid case solution by collecting, storing and analysing data that can match information taken from crime scenes with potential perpetrators.

4.2.2.3 Cheque fraud investigation

The researcher found that, before the detectives can commence with cheque fraud investigation, they should first understand the concepts of investigation, criminal investigation, and cheque fraud in a

broader sense. It is no use to investigate cheque fraud without knowing the basics of investigation. The researcher also found that the detectives needs to have an approach in their investigation. These approaches can be a useful tool in the investigation of cheque fraud. The approaches are as follows:

- **Testimonial evidence:** is gathered from individuals like the interviewing, interrogation, and polygraph.
- **Documentary evidence:** is gathered from paper, computers, and other written or printed sources.
- **Physical evidence:** includes fingerprints found on a forged cheque, stolen property, identification numbers or marks on stolen projects.
- **Personal observation:** involves evidence that is sensed like seen, heard or felt.

In cheque fraud investigation, the victim must have received a forged cheque showing a withdrawal from his/her account. When a cheque has been altered or forged on an individual's bank account, the victim may be able to provide tracing clues. For example, the detectives should determine whether the victim has any knowledge of the cheque or how the forger may have obtained it. There are several possible courses of action for investigators to pursue, which includes:

- Firstly, the detectives should obtain a hard copy of a cheque that was forged or altered or the cheque account application form.
- Secondly, if a cheque was stolen, a successful investigation may lead to the offender who committed fraud.
- Thirdly, when burglars or robbers are identified, a search of items in their possession may reveal stolen cheques that were used fraudulently, thereby linking one offender to many crimes.
- Fourthly, from a cancelled or returned cheque, the date, time, and the time the cheque was used, the detectives may be able to obtain information about the offender from the salesperson who conducted the transaction and to examine security cameras at the store to find the image of the person who fraudulently made the purchase.

Moreover, in cheque fraud investigation, the detectives can utilise the forensic methods and techniques since the use of investigative techniques have been the core of the investigation process in police organisations. The investigative techniques include:

- **The interviews:** Suspects, victims, witnesses, an employee at a financial institution is certainly one of the most vital aspects of the investigator's work and need to be interviewed soon after the commission of crime.
- **Modus operandi:** The criminals have their own or unique way or method to commit a crime. That can give the detectives a clue as to whom (group of criminals) is using that method.

4.2.2.4 Mandate to investigate cheque fraud

The researcher found that the South African Police Service is the primary crime investigation body in South Africa. Section 205(3) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) places a legal obligation on the SAPS to investigate crime. The mandate for the investigation of cheque fraud jointly rests with the Commercial Crime Unit of the Directorate for Priority Crime Investigation (DPCI) and the station level detectives of the SAPS. Anything above R100 000 in value is being investigated by the DPCI, and less than that, the station level detectives take over the case. Certain banks, companies, and corporations have internal investigators who conduct investigations regarding cheque fraud.

4.2.2.5 The importance of the Forensic Auditor and the Document Examiner in cheque fraud investigation

The researcher found that an expert opinion has been a success in courts and has been widely used in the investigation of crime. These experts are skilled and knowledgeable in document examination as well as fraud in general. The Forensic Auditor is also skilled in cheque fraud investigation by examining financial documents as well as the compliance of policies and procedures with the goal of detection and investigation of crime. They check the books, looking for any suspicion of fraud and mistakes, and they give greater consideration to incorporate fraud detection. The researcher also found the purpose of the Forensic Auditor as to obtain a reasonable assurance that all material errors or omissions that could affect the organisation's financial status are uncovered.

4.2.2.6 The role of the SABRIC in fighting cheque fraud

The researcher found that the South African Banking Risk Information Centre keeps the people informed of the latest banking scams and fraudsters activity to ensure that people do not get trapped in any kind of fraud. SABRIC warns banking customers too to stay vigilant about numerous bank-related crimes by updating them about the latest methods the fraudsters use to defraud people. SABRIC plays an important part in the prevention and detection of fraud.

4.2.2.7 Cheque fraud prevention initiatives

The researcher found that the investigation of cheque fraud alone is not enough if the police cannot reduce it. The prevention methods of this offence can play a significant role in the reduction and

educating the individuals when using this kind of payment. The researcher also found that, in order to prevent cheque fraud successfully, the prevention and control environment, the accounting system, plays a huge part in the prevention of cheque fraud in any organisation or corporate entities.

4.3 RESEARCH RECOMMENDATIONS

The following recommendations were based on the findings on research questions 1 and 2.

4.3.1 *Research Question One: A Cheque*

The researcher recommends that, when investigating a case of cheque fraud, the detectives should first understand the concept of a cheque, cheque fraud, identification, and acquaint themselves with the methods and techniques the forensic investigators use when investigating a crime. Again, the researcher recommends that, when the detectives receive a case of cheque fraud, they should look for the elements of a cheque fraud in that particular case. These elements should be present in order to prosecute the culprits in cheque fraud successfully. The detectives, as well as the individuals, should also take their time and analyse a cheque to see if it is valid or not. The signature, markings on a cheque, crossings, among others, can confirm that the cheque is indeed forged.

It is helpful if the detectives and other individuals know and understand the types of cheque fraud so that they can try and avoid falling victims. Therefore, the researcher recommends that the individuals know and be on the lookout if the cheques they receive are manufactured, cloned, altered, stolen, or forged before accepting them. The researcher recommends that businesses and individuals use cheques when paying their employees since it is the safest method of payment rather than electronic transfers. The studies conducted show that electronic payments have increased more than cheque fraud.

The SAPS should make it mandatory for every detective at station level to be trained on fraudulent cheques and how cheques should be investigated.

Tips to consider in order to avoid becoming a victim of cheque fraud should always be adhered to. The Banking Association of South Africa has some safety precautions that can be taken into account to use a cheque responsibly. The researcher then recommends that these safety precautions should be kept in mind by the individuals and businesses using a cheque. The police should compile pamphlets, and conduct workshops and educate members of public about warning signs on fraudulent cheques so they can avoid becoming victims.

4.3.2 *Research Question Two: The analysis of a cheque in order to identify fraud.*

The researcher recommends that individuals and businesses be on the lookout for the common ways criminals use to commit cheque fraud. They should know if the cheque is forged, duplicated or washed. The criminals nowadays are using advanced computer technology and modern methods in committing cheque fraud. The researcher recommends that the detectives be familiar with the investigation using computer technology. Fraud cases that involve extensive financial transactions can be analysed thoroughly by a computer.

When investigating cheque fraud, the investigators should look for the approaches. These approaches can be a useful tool in the investigation of cheque fraud. The victims, suspects, witnesses, and employees at a financial institution should be interviewed thoroughly. The interview preparations are of paramount importance to avoid any surprises that might occur.

The criminals also have their own unique way or method to commit a crime. Therefore, the detectives are recommended to know the criminal's modus operandi to trace the perpetrators of cheque fraud. The method the criminals use to defraud people can give the detectives a clue as to whom (group of criminals) is using that method to commit crimes.

An expert's opinion is a prerequisite for the detectives to solve a case successfully. In cheque fraud cases, the researcher recommends that the detectives should work hand-in-hand with the Forensic Auditors or Document Examiner, SABRIC, The Banking Association of South Africa, as the prospects of having success in investigating and solving an incident is hampered when available experts and aid are not utilised at the scene of the incident.

4.4 CONCLUSION

One of the fundamental purposes of this study is to evaluate the identification methods and techniques used in the investigation of cheque fraud. The identification is the heart of investigation in the police, and the detectives must be familiar with the identification techniques to investigate specific crimes. Forensic identification can be the most effective method of investigating a crime, and the detectives cannot hesitate to use it when investigating cheque fraud.

The researcher has identified the identification techniques that an detectives can use to solve a case of cheque fraud. The interviews and the modus operandi are among the investigative techniques the researcher has used in this study. The researcher have also taken a look at a cheque, its elements, the

analysis, as well as fraud in general. The researcher have explored the beneficial factor of using cheques compared to electronic payments, the extent of cheque fraud thereof. The researcher outlined the common ways of committing cheque fraud was outlined by the researcher with the aim of warning the people and the companies using cheques on how to prevent themselves from being a victim of cheque fraud. The increased cases of cheque fraud in South Africa have come with a dire need for the skills of forensic investigators as the experts in trying to solve cheque fraud. The researcher found that, when investigating cheque fraud, the detectives should use forensic methods and techniques like the interviews and modus operandi. It is evident that using forensic methods and techniques has been the core of the investigation process in police organisations. The researcher recommends that, when investigating cheque fraud, the detectives should acquaint themselves with the forensic methods and techniques the forensic investigators use when investigating a crime.

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- Respondent 6, Fraud Investigator in the South African Police Service. Statement to Author, 5 January 2021
- Respondent 7, Fraud Investigator in the South African Police Service. Statement to Author, 5 January 2021
- Respondent 8, Fraud Investigator in the South African Police Service. Statement to Author, 5 January 2021
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- Respondent 10, Fraud Investigator in the South African Police Service. Statement to Author, 6 January 2021
- Respondent 11, Fraud Investigator in the South African Police Service. Statement to Author, 6 January 2021
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CASE LAW

- Banur Investments (Pty) Ltd 1970 (3) 767 (AD)*
- Columbus Joint Venture v ABSA Bank Ltd 2002 (1) SA 90 (SCA)*
- Jadine Engineering (Pty) Ltd v Tool Systems (Pty) Ltd*
- Kruse 1946 AD 254*
- KwaMashu Bakery Limited v Standard Bank of South Africa Limited 1995(1) SA377 (D)*
- Magebhula v unreported (284/17[2018] ZASCA 010 (5March 2018) (SCA)*
- Moon and Co Ltd v Eureka Stores (Pty) Ltd and Others 1949 (4) SA 40 (T)*
- R v Heyne 1956 (3) SA 604 (A) 622*
- SA Chemical Workers Union, Mokgosi and Mooketsi v Plascon Paints (Tvl) (Pty) Ltd (1999) 10 (10) SALLR 9 (LAC)*
- Smith v The Union Bank of London (1875) 1 QBD 31*

S v Deeflets 1953 (1) SA 418 (A)

S v Dube 2000 (1) SACR 53 (N)

S v Gardner and Another [2011] ZASCA 24 (2011)

S v Mbokazi 1998 (1) SACR 438 (N)

S v Timol 1959 1 PH H47 (N)

The Godfather v Commissioner for Inland Revenue 1993 (2) SA 426 (N)

The Minister of Police v Ewels (1975) (3) SA 590 (AD)

ANNEXURE A: PERMISSION TO CONDUCT RESEARCH WITHIN THE SAPS

South African Police Service



South African Police Service

Privaatsak Private Bag X04	Pretoria 0001	Faks No. Fax No.	(012) 334 3518
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Your reference/My verwysing:

My reference/My verwysing: 3/34/2

THE HEAD: RESEARCH
SOUTH AFRICAN POLICE SERVICE
PRETORIA
0001

Enquiries/Navrae:

Lt Col Joubert
AC Thenga
(012) 393 3118
JoubertG@saps.gov.za

Tel:

Email:



Mr AS Dlodla
UNIVERSITY OF SOUTH AFRICA

RE: PERMISSION TO CONDUCT RESEARCH IN SAPS: ANALYSIS OF A CHEQUE TO IDENTIFY FRAUD: UNIVERSITY OF SOUTH AFRICA: MASTERS DEGREE: RESEARCHER: AS DLUDLA

The above subject matter refers.

You are hereby granted approval for your research study on the above mentioned topic in terms of National Instruction 1 of 2006.

Further arrangements regarding the research study may be made with the following office:

The Provincial Commissioner: KwaZulu-Natal:

- **Contact Person:** Col AD Van der Linde
- **Contact Details:** (031) 325 4841/4946
- **Email Address:** vanderLinde@saps.gov.za

The Provincial Commissioner: KwaZulu-Natal has stressed that participation in interviews will be on a voluntary basis and respondents may refuse to answer questions implying sensitive information.

Kindly adhere to paragraph 6 of our attached letter signed on the **2020-09-22** with the same above reference number.

**MAJOR GENERAL
THE HEAD: RESEARCH
DR PR VUMA**

DATE: 2020-12-01

ANNEXURE B: CERTIFICATE BY EDITOR



Lötz Publishing
WE BELIEVE IN THE MAGIC OF BOOKS

4 May 2021

To whom it may concern,

This is to certify that I have edited Aubrey Sabelo Dlodla's dissertation titled

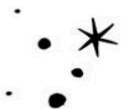
AN ANALYSIS OF A CHEQUE TO IDENTIFY FRAUD

checking grammar, spelling, punctuation, tense and sentence construction, as well as repetition/redundancy. I corrected the formatting, the Table of Contents and page numbering.

I wish him the best of luck.

Yours sincerely,

Bridget LötZ



ANNEXURE C: INTERVIEW SCHEDULE: FRAUD AND CHEQUE FRAUD INVESTIGATORS

An Analysis of a Cheque to identify Fraud

Interview schedule

Participant no

(South African Police Service detectives)

The aim of this research is to determine the use of cheque analysis to identify fraud. The research questions of this research are the following:

- What is a cheque?
- How to analyse a cheque in order to identify fraud?

The respondents were interviewed telephonically due to COVID-19 and Unisa COVID-19 guidelines on research.

I, the interviewee, give permission to be interviewed and that the information supplied during the interview may be used in the research.

Yes	No
-----	----

Section 1: Historical information

1. Are you a crime investigator?
2. If not, please state the field or environment in which you work.
3. For which company or organisation do you work?
4. How many years of experience have you got in your organisation?
5. In which age group are you? (20-30 years, 31-40 years, 41-50 years, 51-60 years).
6. Please give a broad outline of your job functions.
7. In what type of crime investigation do you specialise?
8. Please specify your tertiary qualifications.
9. Give a summary of the training you have received in the field in which you are working.

Section 2: A Cheque

10. What is your understanding of forensic investigation as well as its methods and techniques?
11. What is the meaning of a cheque?
12. What do you understand about the elements of a cheque?
13. How to analyse a cheque in order to identify fraud?

14. What is the concept of fraud as well as the elements thereof?
15. According to your understanding, what is the impact of fraud in your organisation or the businesses and individuals?
16. Based on your experience in the investigation of cheque fraud, what are the benefits of using a cheque compared to electronic payments?
17. What would you say is the extent of cheque fraud?

Section 3: An analysis of a cheque to identify fraud

18. What are the common ways of committing cheque fraud?
19. What are the advanced computer technology or modern methods the criminals use to defraud individuals and businesses?
20. Who is mandated to investigate fraud?
21. Based on your experience in the investigation, what is the importance of the Forensic Auditor/Document Examiner in cheque fraud investigation?
22. What is the role of SABRIC in fighting cheque fraud?
23. Are there any prevention programme initiatives you have in fighting cheque fraud, if yes, what are those prevention programmes?
24. How to investigate cheque fraud?

ANNEXURE D: A CHEQUE

1. Write Payee Name and put a line 7. Write "A/C Payee" (Optional) 5. Cancel "Bearer"

6. Write date

HDFC BANK
MUNICIPAL COUNCIL NO 270/11, KHASRA NO. 18/24/2/1,
SHEHZADA NANGAL, TIBRI ROAD, GURDASPUR-143521, PUNJAB
RTGS / NEFT IFSC : HDFC0000265

Pay Anil Kumar

Rupees रुपये Ten thousand rupees only

अदा करें ₹ 10,000

A/c No. 50100XXXXXXX Brn: 0265 Pdt: 100 (New Account)
SB A/C

Payable at par through clearing/transfer at all branches of HDFC BANK LTD

Weekly Holiday on SUNDAY
22 02 2018
D D M M Y Y Y Y
Valid for 3 months only

~~Or Bearer~~
या धारक को

SUNIL KUMAR
Please sign above / कृपया यहाँ हस्ताक्षर करें

11*00000211* 1432402021* 04607511* 31

2. Write Amount in words and put a line 3. Write amount in numbers 4. Sign here

ANNEXURE E: A CHEQUE CARD



ANNEXURE F: A CHEQUE (not transferable)

cheque counterfoil	cheque
<p>Date: 10/01/2012 ①</p> <p>To: Steaks Fast Food Ltd ②</p> <p>For: second-hand fridge ③</p> <p>Balance b/f:</p> <p>Deposit:</p> <p>Other debits:</p> <p>This cheque: R500,00 ④</p> <p>Balance:</p> <p style="text-align: right;">C4 ⑦</p>	<p style="text-align: right;">⑦ C4</p> <p>OUR BANK ⑨</p> <p>Parow ⑩</p> <p style="text-align: right;">10/10/2012 ①</p> <p style="text-align: center; font-size: 1.2em; font-weight: bold; transform: rotate(-10deg);">not transferable</p> <p>Pay Steaks Fast Food Ltd ② or Bearer</p> <p>the sum of Five hundred rand only ⑤</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin-left: auto;"> <p>R 500,00 ④</p> </div> <p style="text-align: right;">Thandi Mpotali ⑥</p> <p style="text-align: right;">⑧ On behalf of TM's Tuckshop</p> <p style="text-align: center;">" 406 245 678 ⑪</p>

ANNEXURE G: A CHEQUE (with parallel lines)



ANNEXURE H: A CHEQUE (not negotiable)



ANNEXURE I: A CHEQUE (safe and unsafe cheque)

“Unsafe” Cheque

PERSONAL BANKING : SAVINGS ACCOUNT DATE 08-12-06

PAY ~~X Anil Sharma~~ X Sharma # _____ # _____ OR BEARER

RUPEES X Two X thousand ~~four~~ hundred X ~~three~~ fifty X only # _____

Rs. X2450X

SBSN A/c No. 000401005709

ICICI Bank
ICICI Bank Limited
Mumbai Bandra Kurla Complex Extn.
ICICI Bank Towers, 6th Flr, South Towers,
East Wing, BKC, Bandra (E), Mumbai - 400051

RAKESH S.

433628 4002290024 686407* 40

- X Do not leave extra spaces between words or figures.
- Avoid making alterations. Instead, write a new cheque.
- # Always draw a line through any unused space.
- ✓ Remember to cross your cheque whenever applicable.
- | Do not write/sign/mark/pin/staple/paste/fold on this band.

“Safe” Cheque

PERSONAL BANKING : SAVINGS ACCOUNT DATE 08-12-06

PAY Anil Sharma # _____ # _____ OR BEARER

RUPEES two thousand four hundred fifty only # _____

Rs. 2,450/-

SBSN A/c No. 000401005709

ICICI Bank
ICICI Bank Limited
Mumbai Bandra Kurla Complex Extn.
ICICI Bank Towers, 6th Flr, South Towers,
East Wing, BKC, Bandra (E), Mumbai - 400051

RAKESH S.

433628 4002290024 686407* 40

ANNEXURE J: Turn-it-in Certificate

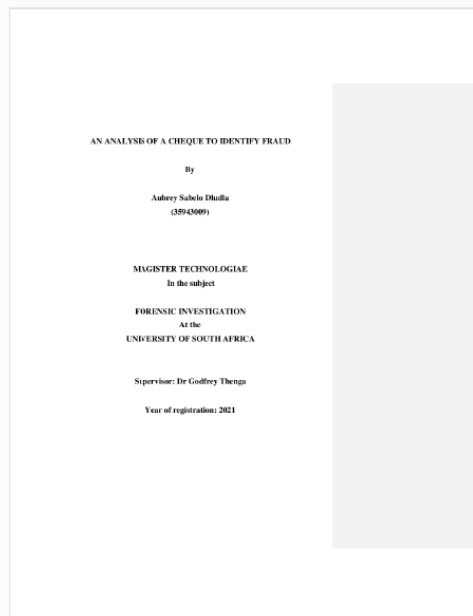


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Assignment title: Complete dissertation/thesis for examination
Submission title: An analysis of a cheque to identify fraud
File name: Edited_Dissertation_19-05-2021.docx
File size: 846.71K
Page count: 108
Word count: 37,800
Character count: 197,054
Submission date: 21-May-2021 06:02PM (UTC+0200)
Submission ID: 1591268761



ANNEXURE K: Unisa Ethical Clearance Certificate



UNISA 2020 ETHICS REVIEW COMMITTEE

Date: 2020:03:12

ERC Reference No. : ST12
Name : AS Dlodla

Dear AS Dlodla

**Decision: Ethics Approval from
2020:07:15 to 2023:07:15**

Researcher: Aubrey Sabelo Dlodla

Supervisor: Dr G Thenga

An Analysis of a Cheque to Identify Fraud

Qualification: M-Tech Forensic Investigation

Thank you for the application for research ethics clearance by the Unisa 2020 Ethics Review Committee for the above mentioned research. Ethics approval is granted for 3 years.

*The **Low risk application** was reviewed by the CLAW Ethics Review Committee on 1 March 2020 in compliance with the Unisa Policy on Research Ethics and the Standard Operating Procedure on Research Ethics Risk Assessment.*

The proposed research may now commence with the provisions that:

- 1. The researcher will ensure that the research project adheres to the relevant guidelines set out in the Unisa Covid-19 position statement on research ethics attached.**
2. The researcher(s) will ensure that the research project adheres to the values and principles expressed in the UNISA Policy on Research Ethics.



University of South Africa
Pretter Street, Muckleneuk Ridge, City of Tshwane
PO Box 392 UNISA 0003 South Africa
Telephone: +27 12 429 3111 Facsimile: +27 12 429 4150
www.unisa.ac.za

3. Any adverse circumstance arising in the undertaking of the research project that is relevant to the ethicality of the study should be communicated in writing to the CLAW Committee.
4. The researcher(s) will conduct the study according to the methods and procedures set out in the approved application.
5. Any changes that can affect the study-related risks for the research participants, particularly in terms of assurances made with regards to the protection of participants' privacy and the confidentiality of the data, should be reported to the Committee in writing, accompanied by a progress report.
6. The researcher will ensure that the research project adheres to any applicable national legislation, professional codes of conduct, institutional guidelines and scientific standards relevant to the specific field of study. Adherence to the following South African legislation is important, if applicable: Protection of Personal Information Act, no 4 of 2013; Children's act no 38 of 2005 and the National Health Act, no 61 of 2003.
7. Only de-identified research data may be used for secondary research purposes in future on condition that the research objectives are similar to those of the original research. Secondary use of identifiable human research data require additional ethics clearance.
8. No field work activities may continue after the expiry date **2023:03:12**. Submission of a completed research ethics progress report will constitute an application for renewal of Ethics Research Committee approval.

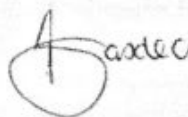
Note:

The reference number ST 12-2020 should be clearly indicated on all forms of communication with the intended research participants, as well as with the Committee.

Yours sincerely,



Prof T Budhram
Chair of CLAW ERC
E-mail: budhrt@unisa.ac.za
Tel: (012) 433-9462



Prof M Basdeo
Executive Dean : CLAW
E-mail: MBasdeo@unisa.ac.za
Tel: (012) 429-8603