

**UTILISATION OF THE FINANCIAL INTELLIGENCE CENTRE AS A
CRIME INTELLIGENCE SOURCE**

by

DERICK MOSTERT

**submitted in accordance with the requirements for
the degree of**

MAGISTER TECHNOLOGIAE

in the subject

FORENSIC INVESTIGATION

at the

UNIVERSITY OF SOUTH AFRICA

SUPERVISOR: MS J S HORNE

CO-SUPERVISOR: MS M E VAN ZYL

NOVEMBER 2012

ABSTRACT

The research was conducted as a result of the researcher's concern that the possibility exists that members of the different law enforcement agencies in South Africa might have a misconception about the mandate and functions of the Financial Intelligence Centre. If such a misconception in fact exists, it poses a huge challenge towards fruitful co-operation among the Centre and the different law enforcement agencies. The researcher identified certain practical problems, namely, that investigators are not aware of the types of intelligence that the Centre could provide them with, and that investigators might not be informed about the specific procedures to follow when they need to request intelligence from the Centre.

The research has shown that, in the past, the Centre has been a useful source of crime intelligence concerning a range of predicate offences including narcotics, fraud and tax related crimes. The research has further found that, although the majority of participants gained a lot of experience in law enforcement and investigations, they had limited awareness about the Financial Intelligence Centre and its functions.

This research project studied the utilisation of the Financial Intelligence Centre as a crime intelligence source.

KEY TERMS:

Financial Intelligence Centre; Money Laundering; Financial Action Task Force; Investigation of Crime; Forensic Investigation; Intelligence Cycle; Financial Investigation; Financial Crime; Suspicious Transaction Reports; Financial Intelligence Units.

DEDICATION AND ACKNOWLEDGEMENTS

This study is dedicated to:

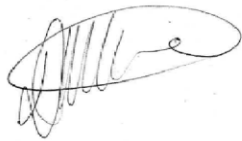
My Lord Jesus Christ, for the strength and ability to persist and finalise this project. My mother Martie, brothers Johan, Francois and Jacques, sister Marié, and late father Johan and brother Marius who have both passed away while I was conducting the final stages of my research.

I would, furthermore, like to express my sincere appreciation to my supervisor: Me Juanida Horne and co-supervisor: Me Marielize van Zyl. Your guidance and support during this project did not pass unnoticed and is very much appreciated. Lastly, thank you to Denize Tait and Shane Redelinghuys for editing and proof reading my dissertation and for their continuous support and precious friendship. Also, a big thank you, to my extended family, friends and colleagues at the Financial Intelligence Centre for their support.

STUDENT NUMBER: 08576203

DECLARATION OF OWN WORK

I, Derick Mostert, declare that “Utilisation of the Financial Intelligence Centre as a Crime Intelligence Source” is my own work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

A handwritten signature in black ink, appearing to read 'D Mostert', enclosed within a hand-drawn oval shape.

Mr D Mostert

November 2012

CONFIRMATION OF LANGUAGE EDITING

WILD EGG BUSINESS ART

2004/094036/23

PO BOX 7133, CENTURION, 0046

6 Botanica, 2 Maiana Avenue, Brummeria, Pretoria, 0184

082 925 7960 denize@webart.co.za

2012-11-02

To Whom It May Concern:

Confirmation and Certification of Language Editing: Dissertation by Mr Derick Mostert

This serves to certify that I, Denize Tait, language editing consultant of Wild Egg Business Art, edited the **Dissertation by Mr Derick Mostert** entitled:

“UTILISATION OF THE FINANCIAL INTELLIGENCE CENTRE AS A CRIME INTELLIGENCE SOURCE”

submitted in part fulfilment of the requirements for the degree of

MAGISTER TECHNOLOGIAE

in the subject

FORENSIC INVESTIGATION

The editing of the dissertation was done during October 2012 and finalised on 2 November 2012. Mr Mostert paid the company for the service rendered.

Yours sincerely,



Denize Tait
Director

TABLE OF CONTENTS

ABSTRACT AND KEY TERMS	i
DEDICATION AND ACKNOWLEDGEMENTS	ii
DECLARATION OF OWN WORK	iii
CONFIRMATION OF LANGUAGE EDITING	iv

CHAPTER 1: GENERAL ORIENTATION

1.1	Introduction	1
1.2	Research Aims	3
1.3	Research Purpose	3
1.4	Research Questions	4
1.5	Key Theoretical Concepts	4
1.5.1	Money Laundering	4
1.5.2	Request	5
1.5.3	Suspicious Transaction Report (STR)	5
1.5.4	Accountable Institution	6
1.6	Research Design and Approach	6
1.7	Target Population and Sampling	7
1.8	Data Collection	9
1.8.1	Literature Study	9
1.8.2	Interviews	10
1.8.3	Personal Experience	15
1.9	Data Analysis	16
1.10	Reliability	17
1.11	Validity	17
1.12	Ethical Considerations	18
1.13	Chapter Layout	19

CHAPTER 2: FINANCIAL INVESTIGATIONS

2.1	Introduction	21
2.2	White Collar Crime	22

2.2.1	A Financial Investigation	24
2.3	The Criminal Investigation Process	26
2.4	The Use of Intelligence	29
2.4.1	Intelligence-led Policing	30
2.4.1.1	The Intelligence Cycle	31
2.4.1.1.1	Direction or Collection Phase	32
2.4.1.1.2	Evaluation and Collation Phase	32
2.4.1.1.3	Analysis Phase	33
2.4.1.1.4	Dissemination Phase	39
2.4.1.1.5	Feedback and Review Phase	40
2.4.2	The Different Intelligence Levels	42
2.4.2.1	Tactical Intelligence	42
2.4.2.2	Strategic Intelligence	43
2.5	Forensic Investigation as a Scientific Approach to Investigations	44
2.6	Types of Financial Crimes	46
2.6.1	Money Laundering	49
2.6.1.1	Stages of Money Laundering	51
2.6.1.2	Dimensions of Money Laundering	53
2.7	Asset Tracking, Freezing and Forfeiture	54
2.8	Summary	55

CHAPTER 3: THE FINANCIAL INTELLIGENCE CENTRE

3.1	Introduction	56
3.2	The Establishment of the Centre	57
3.3	Relevant Legislation	58
3.3.1	The Proceeds of Crime Act, (Act 76 of 1996) (PRCA)	59
3.3.2	The Prevention of Organised Crime Act, (Act 121 of 1998)	59
3.3.3	The Financial Intelligence Centre Act, (Act 38 of 2001), as well as the Financial Intelligence Centre Amendment Act, (Act 11 of 2008)	59

3.3.4	The Prevention and Combating of Corrupt Activities Act (PRECCA), (Act 12 of 2004)	60
3.3.5	The Protection of Constitutional Democracy Against Terrorist and Related Activities Act, (Act 33 of 2004) (POCDATARA)	60
3.4	The Researcher’s Personal Involvement at the Financial Intelligence Centre	62
3.5	Objectives for the Existence of the Centre	62
3.6	The Structure of the Centre	64
3.6.1	The Office of the Director	65
3.6.2	The Legal and Policy Department	66
3.6.2.1	Legal and Policy Department Achievements	66
3.6.3	The Compliance and Prevention Department	67
3.6.3.1	Compliance and Prevention Department Achievements	67
3.6.4	The Monitoring and Analysis Department	69
3.6.4.1	Monitoring and Analysis Department Achievements	71
3.6.5	Administration and Support Services Department	73
3.7	International and Regional Organisations	73
3.7.1	The Financial Action Task Force (FATF)	74
3.7.1.1	The FATF Recommendations	74
3.7.2	The Egmont Group	76
3.7.2.1	The Goal of the Egmont Group	77
3.7.3	Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG)	77
3.8	Different Types of Financial Intelligence Units	78
3.9	Summary	79

CHAPTER 4: INTELLIGENCE OBTAINED FROM THE FINANCIAL INTELLIGENCE CENTRE

4.1	Introduction	80
4.2	Establish if a Person or Entity is a Client	80
4.3	Issuing an Intervention on an Account	82

4.4	Issuing a Monitoring Order	83
4.5	Access to Information in the Centre's Possession	84
4.6	Summary	87
CHAPTER 5: FINDINGS AND RECOMMENDATIONS		
5.1	Introduction	88
5.2	Findings	89
5.2.2	Research Question One: What do Financial Investigations Entail?	90
5.2.2	Research Question Two: What is the Financial Intelligence Centre?	92
5.2.3	Research Question Three: How Can Intelligence be Obtained from the Centre?	95
5.3	Recommendations	97
5.4	Summary	98
6.	List of References	100
	Interview Schedule (Annexure A)	109
	Approval to Conduct Research: SAPS (Annexure B)	114
	Approval to Conduct Research: SARS (Annexure C)	116

INDEX OF TABLES

Table 2.1	Estimates of Money Laundering	49
Table 3.1	Compliance Reviews Conducted (2006/07 – 2009/10)	68
Table 3.2	Volumes of Suspicious Transaction Reports Received for the Period 1 February 2003 until 31 March 2010	71

INDEX OF FIGURES

Figure 1.1	Gender of the Participants	12
Figure 1.2	Age Groups of the Participants	13
Figure 1.3	Participants' Years of Experience in Law Enforcement	14
Figure 2.1	The Intelligence Cycle	31
Figure 2.2	Example of an Elementary Analyst's Notebook Chart	35
Figure 2.3	Example of a More Complex Analyst's Notebook Chart	36
Figure 2.4	Close-up Screenshot of Figure 2.3	37
Figure 2.5	Close-up Screenshot of Figure 2.3	38
Figure 3.1	Structure of the Centre	65
Figure 3.2	Structure of the Egmont Group	76

CHAPTER 1

GENERAL ORIENTATION

1.1 Introduction

According to Madinger (2006:293), one of the challenges of our time for criminal investigators is heightened awareness of the different sources of information and knowing what is available from these sources. Madinger (2006:293) further explains that the job of an investigator is not to know it all, but to be able to find information when it is required and to know where to search for it. According to Madinger (2006:296), the United States Treasury Department's Financial Crimes Enforcement Network (FinCEN) exists to collect and disseminate information about money laundering and other financial crimes. FinCEN was commissioned to provide intelligence via analytical assistance to federal, state, and local law enforcement agencies nationwide, and certain federal regulatory authorities. FinCEN provides this assistance by using law enforcement and financial databases that are made available to FinCEN through Memoranda of Understanding, and via purchasing commercial database services under Service Level Agreements. The focus of the analytical assistance that is given to law enforcement agencies and authorities is on narcotics, money laundering, financial crimes and information on alleged violators of a wide spectrum of other crimes. Information obtained from commercial databases and the federal database can be disseminated without any further clearance. Information obtained from law enforcement databases has to be cleared, prior to its dissemination, with the agency that preserves the relevant database (Madinger, 2006:296).

The researcher is able to confirm, based on employment at the Financial Intelligence Centre (hereinafter referred to as "the Centre"), that the Financial Intelligence Centre is the South African equivalent of the United States Financial Crimes Enforcement Network (FinCEN). The Centre has been established in terms of the Financial Intelligence Centre Act, (Act no. 38 of 2001), and the official receipt of Suspicious Transaction Reports started on 3 February 2003. The

researcher undertook this study in an attempt to establish the levels of knowledge and understanding about the existence of the Centre as well as the capabilities of the Centre among investigators from various law enforcement agencies, namely, the South African Police Service, South African Revenue Service, and Intelligence Services in South Africa. Although the researcher could not identify any existing South African literature addressing the Centre as a source of intelligence, the available literature that was consulted, contained brief references to the role of the Financial Intelligence Centre (Botes, 2005:61).

The researcher is currently employed as a team leader at the Centre, and previously worked as a Captain in the South African Police Service for 11 years (1991-2002) before joining the South African Revenue Service (SARS) as a Senior Field Research and Analysis Officer in December 2002. SARS seconded the researcher to the Financial Intelligence Centre upon its establishment in 2003. The researcher was one of a group of five analysts who started the Monitoring and Analysis Department of the Centre. During the performance of duties and interaction with law enforcement agencies, the researcher identified the need for an increased number of awareness sessions that could cover topics such as the reasons for the existence of the Centre as well as the capabilities of the Centre. The researcher identified the following practical problems:

- Investigators are not always aware of the types of intelligence that the Centre can provide them with; furthermore, many investigators do not know how to obtain this intelligence from the Centre, namely, that only authorised officers may request information from the Centre on their behalf.
- The Centre has received relatively low volumes of requests from law enforcement agencies (refer to Chapter 3, which reflects these numbers), which might indicate a lack of awareness among investigators about the existence of the Centre, and what they could obtain from the Centre.
- Madinger (2006) compiled an international guide, which, in the opinion of the researcher, is an excellent example of what could be compiled for the South African audience. A similar, comprehensive handbook for

investigators containing information about financial investigations in general, as well as details about the existence and capabilities of the Centre, could prove to be valuable to investigators, especially those who investigate financial-type crimes.

As these practical problems became more prevalent in the day-to-day functions of the Centre, the researcher identified that the need for research into the existence of these problems became crucial, so as to prove that these identified problems do indeed exist and require recommendations regarding ways to address these problems. The following research aims indicate what the researcher endeavoured to achieve with this research study.

1.2 Research aims

According to Mouton (1996:103) and Fouchè (2002:107), the aims of research studies are to establish the “facts”, to gather new data, and to determine whether there are interesting patterns in the existing data. The researcher identified the following as the aims for this research:

- To determine what financial investigations entail.
- To determine what the Financial Intelligence Centre is.
- To provide guidance to investigators, wanting to make use of the Centre, about the types of services that are available and the procedures to follow to obtain intelligence from the Centre.
- To make recommendations on the basis of the findings of this research, which might be useful to South African investigators.

1.3 Research purpose

According to Murray (2002:260), the purpose of the research must be clear to the reader at first glance. Denscombe (2002:26-27) further explains that research can serve a multitude of purposes, which include, but is not limited to the following: describing problems, explaining things, evaluating or improving existing

procedures and empowering those taking part in the research project. In this study, the researcher described the practical problems that the Centre currently experience resulting from a possible lack of awareness among investigators: firstly, about the existence of the Centre and, secondly, about the types of intelligence products (which only authorised officers can request on behalf of the investigating officers) that are available from the Centre. The main purpose of this research was to explain the current level of awareness among investigators about the Centre and its mandate. The researcher will also attempt to formulate recommendations that could possibly assist to improve awareness among investigators about the existence of the Centre and its mandate.

1.4 Research questions

According to Denscombe (2002:31) and Mouton (1996:53), research questions should specify exactly what needs to be investigated, and it should be formulated to focus on the research problem that has been identified. The researcher formulated the following research questions:

- What do financial investigations entail?
- What is the Financial Intelligence Centre?
- How can intelligence be obtained from the Centre?

1.5 Key theoretical concepts

The purpose of defining key concepts is the prevention of any misunderstanding (Leedy & Ormrod, 2005:119). The following definitions will apply for the purposes of this study:

1.5.1 Money laundering

The researcher has combined the definitions of “money laundering” according to the Financial Intelligence Centre Act, (Act 38 of 2001) (FICA), Gup (2007:3),

Zwick (2003:36) and Blair and Brent (2008:161) to form the following wide-ranging definition: Money laundering is an activity that has, or is likely to have the effect of concealing or disguising the nature, source, location, disposition or movement of the proceeds of unlawful activities, or the conversion of the monetary proceeds of criminal activity, into funds with an apparently legal source without revealing the true nature, source, or ownership of those proceeds. In other words, it is the process of transforming illegally obtained funds into apparently legitimate income.

1.5.2 Request

An official definition for the term “request”, as applicable to the Centre, is not available. Therefore, the following description has been quoted from the Financial Intelligence Centre Act, (Act 38 of 2001): “A request is an official written document in terms of Section 40 of the Financial Intelligence Centre Act, (Act 38 of 2001), submitted on a prescribed template to the Centre and signed off by an authorised officer”.

1.5.3 Suspicious Transaction Report (STR)

Suspicious Transaction Report (STR) refers to a suspicious or unusual transaction report, submitted in terms of Section 29 of the Financial Intelligence Centre Act, (Act 38 of 2001). These reports contain certain prescribed information, namely, details of the suspicion; reasons for the suspicion; date and time plus the amount of the suspicious transaction reported; and details of the accounts and persons and/or entities involved. International literature commonly refers to these reports as suspicious activity reports (Richards, 1999:142; Madinger, 2006:488 and Blair & Brent, 2008:21).

1.5.4 Accountable institution

There is no official definition for the term “accountable institution”; however, an accountable institution can be defined as a person or entity referred to in Schedule 1 of the Financial Intelligence Centre Act, (Act 38 of 2001). This schedule refers to 19 categories of persons or legal entities that have a reporting obligation in terms of the Financial Intelligence Centre Act, (Act 38 of 2001), and includes institutions such as banks, casinos, estate agencies and money remittances.

1.6 Research design and approach

According to Mouton (2001:55), the research design is a plan of how the researcher intends to conduct the research. An empirical design has been applied in this research, because it aspires to produce knowledge that is based on experience or observations made by the participants in their day-to-day work (Maxfield & Babbie, 1995:4). The researcher has furthermore made use of interviews and the analysis of secondary data sources as described by Welman and Kruger (2002:57). The researcher also went into the field to obtain significant information from experienced members, as described by Denscombe (2002:6).

According to Mouton (2001:150) and Leedy and Ormrod (2005:133), the focus of the qualitative approach is on phenomena that occur in their natural setting, which involve the study of phenomena in all its complexity, leading to an in-depth insight into the topic being researched. The qualitative research approach further enabled the researcher to obtain first-hand information during the semi-structured individual interviews with the participants, representing both the SAPS and SARS. The interviews were preceded by a broad literature study that included the reading of books and articles obtained from the Unisa Library as well as the internet.

Creswell (1998:15) further alludes to the fact that a qualitative approach is multi-method in focus, thus it would better assist the researcher to arrive at the best

results. In this study, interviews formed the basis of primary data sources and the literature study provided the secondary data.

1.7 Target population and sampling

According to Welman and Kruger (2002:18) and Maxfield and Babbie (2005:186), the population encapsulates the entire collection of units that the researcher would like to draw conclusions about. In this research, the ideal population under scrutiny would have included all the criminal investigators in South Africa who are employed by the Asset Forfeiture Unit (AFU), the South African Revenue Service (SARS), the South African Police Service (SAPS), the State Security Agency (SSA) – formerly known as the National Intelligence Agency (NIA), and the South African Secret Service (SASS). However, due to time, cost and security constraints, it was impossible for the researcher to get hold of the names of all the investigators and to consult this total population during the interviewing process of this research project. The researcher, therefore, elected to make use of a study population as described by Maxfield and Babbie (1995:186), and decided to limit the study population to investigators from the two organisations with headquarters in Gauteng, as the researcher is based in Gauteng. The researcher selected a target population or sample, as explained by Denscombe (2002:11), which was representative of the total population. The researcher consulted the request registers of the Centre and found that, in the past, the South African Police Service and the South African Revenue Service were the two organisations that have submitted the most requests for information. The researcher was of the opinion that if a sample was selected from the two organisations that have submitted the most number of requests for information historically, these participants' views could be generalised and accepted as a satisfactory reflection of the opinions and understanding of most investigators in South Africa.

The simple random sampling technique as described by Leedy and Ormrod (2001:199), as well as the snowball sampling technique as described by Lindlof and Taylor (2011:114) were chosen as the most appropriate methods to identify the

thirty (30) participants that were required for this research. The researcher required any fifteen (15) participants from each of the two identified institutions, namely, the SAPS and SARS.

The sampling frame consisted of all the investigating officers and analysts from the identified units of the SAPS and SARS. The researcher requested the list of names of investigating officers and analysts from both organisations, but was only able to obtain a list of names from SARS. The researcher identified 76 investigating officers from the list of names that was obtained from the South African Revenue Service; these officers were all from the Criminal Investigations and Prosecutions Unit of SARS.

The simple random sampling technique was used to select a sample of SARS participants for the purposes of this research. All the names of the SARS members were captured in an Excel spreadsheet. The names were numbered from 1 to 76, and the selection was done as follows: the numbers (1 to 76) were printed and placed in a hat, fifteen (15) random numbers were picked from the hat, and the corresponding names on the Excel spreadsheet were contacted to request interviews. Thereafter, five (5) additional names were selected; these five (5) names were kept as back-ups in the event of any of the selected participants not being able to take part in the interviews on the identified dates. The researcher wishes to state that none of the additional names were used, since all the originally selected members were available for the scheduled interviews.

The South African Police Service did not provide the researcher with a list of names. In an effort to guard against any unnecessary delay in the completion of the research, the researcher decided to make use of the snowball sampling technique, as described by Lindlof and Taylor (2011:114), to select the sample of SAPS participants. The researcher was able to, from the database kept by the Centre, identify one (1) authorised officer. This officer, based at the Silverton offices of the Directorate of Priority Crime Investigations (DPCI, division of SAPS), was willing

to serve the dual role of participant as well as guide to new participants that were members of the DPCI division of the SAPS, as well as a further two members from Crime Intelligence. This member, after being interviewed, also referred the researcher to investigating officers and analysts from the DPCI and the Crime Intelligence Division of the SAPS. Therefore, the final fifteen (15) members that were identified by means of the snowball sampling technique included thirteen (13) participants from the DPCI and two (2) participants from the Crime Intelligence Division of the SAPS.

A total of thirty (30) participants were interviewed for the purposes of this study, with equal representation from both the SAPS and SARS, namely, fifteen (15) participants from each agency.

1.8 Data collection

According to Maxfield and Babbie (2005:209), the value of research is influenced by the methods that are applied in gathering data, the type of research, and the purpose of the research. Mouton (2001:99) explains that the data can be classified into various categories, namely, observation, interviews, archival or documentary sources, and physical sources. In order to reach the aspired research objectives, as set out earlier, the researcher decided that conducting a literature study, supported by thirty (30) interviews, would be the most appropriate method of gathering the required information.

1.8.1 Literature study

The research questions, aims and keywords such as Financial Intelligence Centre, money laundering and accountable institutions were contained in a request and submitted to the main Unisa Library to conduct a comprehensive literature search for all relevant information. The researcher applied the criteria as suggested by Mouton (2001:90) for a comprehensive literature review, which included local and international sources such as books, journals, newspapers and research

dissertations. The researcher also made use of Google scholar to obtain literature that covers criminal investigation methods and techniques in general, but specifically focuses on money laundering and financial investigations. Hard copies and/or the electronic internet format of journals from the International Association of Law Enforcement Intelligence Analysts and all the relevant annual reports of the Financial Intelligence Centre were consulted to gain relevant and up-to-date information on this research topic (avoiding old and outdated information).

Although none of the obtained literature contained the exact topic of this research study, the researcher could find a few documents referring to the Financial Intelligence Centre and/or money laundering aspects in South Africa.

1.8.2 Interviews

In this research, the semi-structured, face-to-face, individual interview technique has been utilised as described in Robson (2000:88) and Mouton (2001:105). This type of interview was also supported as an accepted data collection method by Schloss and Smith (1999:66) as well as Welman and Kruger (2002:166). The researcher developed a standard, semi-structured interview schedule with open-ended questions, ensuring that all the participants were addressed with the same questions, and the questions were numbered and divided into four sections; this approach made the collected data more easily compatible as indicated by Robson (2000:91). Thirty (30) interviews with participants from the South African Police Service and South African Revenue Service, as identified earlier, were conducted.

The researcher studied the guidelines for interviewing as described by Leedy and Ormrod (2001:159 and 2005:147) and applied these to the interviews. Some of the important things (as pointed out by these authors), which the researcher took into consideration, were objectivity, the protection of the privacy of the participants, the setting of the interviews, and making the participants feel at ease and comfortable with sharing their views without the fear that their identity would be disclosed.

Furthermore, the interviews were documented on individual interview schedules as printed for each participant. The interviews were conducted in private boardrooms at the participants' offices in order to ensure that their attention was not unnecessarily distracted or the interviews unduly interrupted. The necessary permission was obtained from the SAPS and SARS to conduct interviews with the members that were selected as the participants, and the participants were also made aware of their rights to privacy and anonymity, prior to conducting the interviews. The participants were also informed that they had the right to withdraw from the interview at any time if they preferred to. The researcher kept in mind that the participants were giving their own interpretation of what they understood under each question and, therefore, tried at all times not to put words in their mouths by asking leading questions.

The researcher tested the interview schedule on two FIC colleagues (not part of the sample), to ensure that all the interview questions were clear, understandable and unambiguous. The interview schedule was further perused by the Unisa co-supervisor (Ms Marielize van Zyl) prior to conducting the interviews. As indicated earlier, the necessary permission to conduct the research was obtained prior to the interviews and the participants were informed that they had the right to withdraw from the interview process at any time if they did not feel comfortable to continue (refer to annexure B and annexure C: copies of the approval letters to conduct the interviews).

A total of thirty (30) investigating officers and analysts [fifteen (15) from the South African Police Service and fifteen (15) from the South African Revenue Service] were interviewed on a face-to-face basis by making use of a semi-structured interview schedule containing closed and open ended questions. The participants were asked specific questions, based on the research questions and aims of the research, which were contained in the interview schedule. All the participants were asked the same closed and open-ended questions. The responses of the participants were written down on the individual interview schedules as printed for each

participant. The interviews with the South African Police Service members were conducted in the privacy of a meeting room located at the offices of the Directorate of Priority Crime Investigations (DPCI) in Silverton, Pretoria. The interviews with the South African Revenue Service members were conducted in the privacy of a meeting room located at the Riverwalk offices of the South African Revenue Service in Ashlea Gardens, Pretoria. The participants' anonymity was ensured and the interviews were not recorded by means of any electronic equipment.

The participants were allocated numbers as means of identification in order to ensure the continuation of anonymity; numbers 1 to 15 were allocated to the South African Revenue Service participants and numbers 16 to 30 to the South African Police Service participants. Figures 1.1 to 1.3 (refer below) represent the demographics of the thirty (30) participants that took part in this research study. The researcher analysed the background information pertaining to the thirty (30) participants; the results are indicated below each figure.

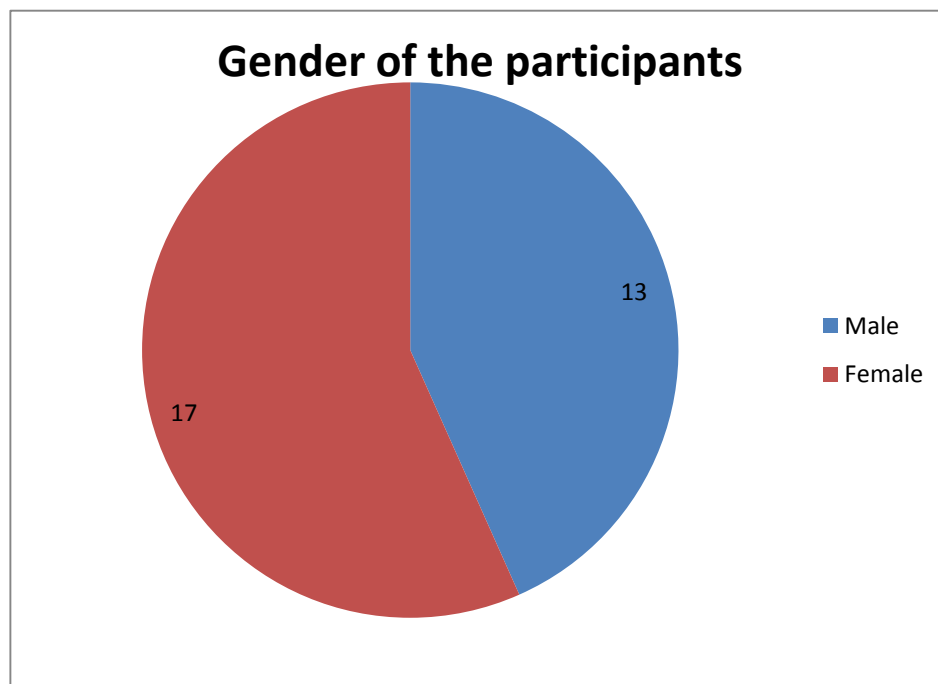


Figure 1.1 Gender of the participants

Figure 1.1 above illustrates that the researcher found that thirteen (13) out of the thirty (30) participants were male and seventeen (17) participants were female, which equates to the following percentages: 57% Female and 43% Male.

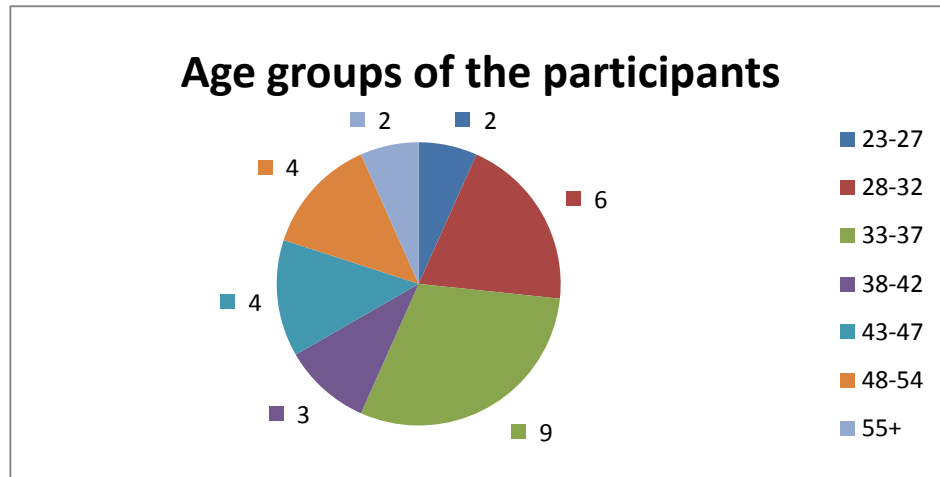


Figure 1.2 Age groups of the participants

Figure 1.2 above illustrates the researcher's calculation that the majority (i.e., 73%) of the participants were older than 33 years of age. This percentage was calculated by adding together the number of participants from each of the age groups containing participants who were older than 33 years of age: nine (9) in the 33-37 age category; three (3) in the 38-42 age category; four (4) in the 43-47 age category; four (4) in the 48-54 age category; and two (2) in the 55 years and older category. Therefore, a total of twenty-two (22) participants.

The remaining participants (i.e., 27%) fell in the following categories: two (2) in the 23-27 age category and six (6) in the 28-32 age category. There were no (0) participants in the 18-22 age category.

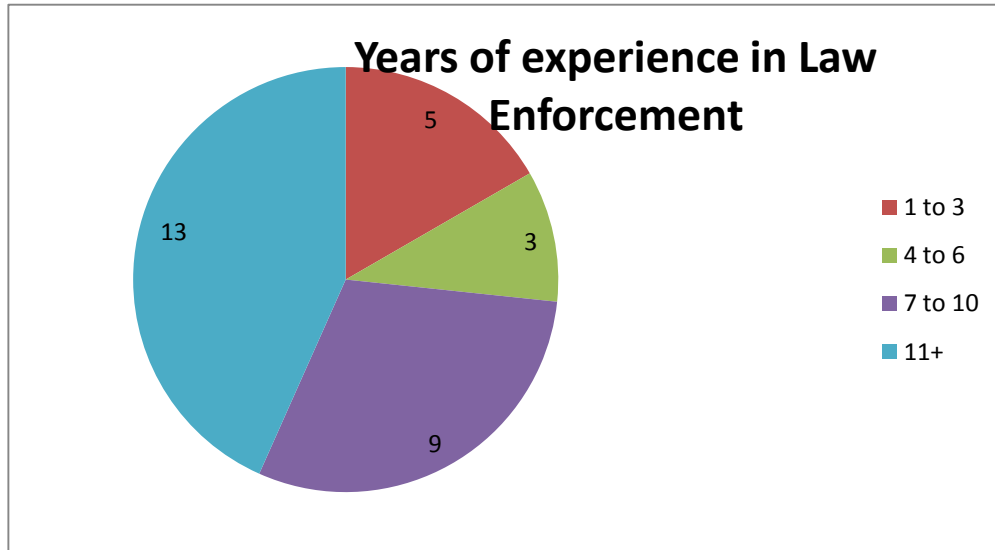


Figure 1.3 Participants' years of experience in Law Enforcement

It is clear, from Figure 1.3 above, that the majority (i.e., 73%) of participants had more than 7 years of Law Enforcement experience. This percentage was calculated by adding the participants from the following groups together: nine (9) that had 7 to 10 years experience in Law Enforcement and thirteen (13) that had more than 11 years experience; thus, a total of twenty-two (22) participants. The remaining participants (i.e., 27%) fell in the following categories: three (3) had between 4 and 6 years experience and five (5) had between 1 and 5 years experience.

Thirteen (13) of the participants indicated that they were, at the time of the interviews, employed as financial investigators or had previous experience in financial investigation and seventeen (17) indicated that they had no experience in financial investigation. Out of the thirteen (13) participants who indicated that they were financial investigators, four (4) had less than 5 years' experience, three (3) had between five and ten years' experience and six (6) indicated that they had more than ten years' experience.

Although none (0) of the participants have completed the Financial Investigators Course, presented by the Financial Intelligence Centre (in conjunction with the

Asset Forfeiture Unit), they have attended many other training courses, or have obtained tertiary qualifications in the financial investigation field. The courses that the participants mentioned as having completed, included the following:

The following courses were mentioned among those that have been completed by the participant “Commercial Crime Course”, “Organised Crime Course”, “PFMA Course”, “Anti-Money Laundering Diploma (University of Johannesburg)”, “Anti-Money Laundering Course (University of Pretoria)”, “Fraud Investigations Course”, “Internal SARS Investigation Course”, “POCA Workshop”, “B-Com Accounting Degree”, “Criminal Justice and Forensic Audit Course”, “LLB Degree”, “B-Com Degree”, “IT Accounting Course”, “Procurement Contract Fraud Course”, “Terrorist Finance Investigation Course” and “Fraud Examination Course”.

The researcher observed that twenty-one (**21**) of the participants had current or previous analysis experience at the time of the interviews and nine (**9**) participants had no analysis experience. Eleven (11) of the twenty-one (21) participants (who indicated that they had analysis experience) had six or more years’ experience. It is, therefore, clear that ten (10) participants had less than six years’ experience in analysis work.

1.8.3 Personal experience

The researcher’s career history was applied to analyse and evaluate the gathered data from a personal perspective; this career history includes 11 years of experience as an Analyst in the South African Police Service’s Crime Intelligence Division, employment in the South African Revenue Service, and his position at the Centre at the time of the research.

The researcher obtained a BA Police Science Degree from Unisa during 1995 and a honours BA Degree in Criminology from Unisa during 1998. Other tertiary qualifications include a diploma in Datametrics obtained from Unisa during 2001, a Certificate in Taxation obtained from the University of Pretoria during 2003 and a

Certificate in Money Laundering Control from the University of Johannesburg (previously known as RAU) during 2004. In addition to the above, the researcher attended various internal as well as external training sessions during the course of employment in the South African Police Service and left the service during 2002, whilst holding the rank of Captain.

1.9 Data analysis

The researcher is of the opinion that the data analysis and interpretation in this research project has been combined with the data collection process as pointed out by Leedy and Ormrod (2005:150). This has been done in order to understand the variety of elements that were contained in the gathered data and to identify possible trends or patterns in the data as explained by Mouton (2001:108). Furthermore, Welman and Kruger (2002:195) and Maxfield and Babbie (2005:107) pointed out that content analysis by means of decoding is the most suitable technique for qualitative research. The researcher used raw data and applied the following steps of the data spiral as described by Leedy and Ormrod (2001:161) to ensure effective data analysis:

- Analysis was conducted by organising the relevant publications and correspondence that were consulted in an arch lever file. The researcher also created a dedicated computer folder with subfolders for all the relevant documents that have been consulted during the research process, as well as information related to the interviews. The researcher also captured all the answers from the interview schedules, as written down by the researcher during the interviews, by typing it onto an Excel spreadsheet.
- The researcher perused all the relevant information several times and made use of personal notes to extract the relevant data.
- The researcher categorised the data by dividing it into smaller groups and possible themes, and created different tabs in the Excel spreadsheet to group information about each subsection together, for example, financial investigations and the Financial Intelligence Centre.

- Synthesis was reached by combining all the analysed data, together with supporting graphical representations, into one written report.
- Deductions were made after studying all the gathered information (results of the interviews, literature and personal experience) and then applied to arrive at answers for the posed research questions.

The data from the interviews and documentary sources were compared, analysed, and grouped together to draw a comparison between the different participants' versions. The obtained data was compared with the obtained literature to determine the possible differences, trends and similarities. The combination of all the abovementioned approaches resulted in comprehensive and efficient analysis of the data; the acquired results were reported in the research document.

1.10 Reliability

Mouton & Marais (1992:81), Schloss and Smith (1999:93), as well as Maxfield and Babbie (2005:129) all indicated that reliability means that the acquired results must be measured in a consistent manner in order to ensure that the observations that were made by the researcher could be replicated should the same data collection methods be applied by another researcher. The researcher ensured that all the participants were asked the same questions, as per the interview schedule. The researcher did not ask leading questions and applied the indirect method of ensuring reliability by following the steps regarding validity as described below.

1.11 Validity

Denscombe (2002:100) indicates that validity concerns the accuracy of the questions asked, the data collected and the explanations offered. The use of semi-structured interview schedules ensured consistency throughout the interviews with regard to qualitative data collection. The interview schedule was compiled by

using the research questions as headings and then arranging the relevant questions according to the sections of the interview schedule.

The researcher, furthermore, ensured confidentiality by conducting the interviews in private. The researcher did not ask leading questions and endeavoured to ensure that the participants felt comfortable giving their honest opinions. The participants had the opportunity to select where they wanted to sit in the selected boardroom, allowing them to concentrate and respond freely during the interview, and ensuring the least amount of interruptions during the time. The answers to the questions were comprehensively written down to ensure an accurate record of the interviews. According to Leedy and Ormrod (2005:100), the idea of validity can further be enhanced by words such as “verification”, “trustworthiness” or “credibility”.

1.12 Ethical Considerations

Post-graduate students are sensitised to adhere to ethical rules and principles during research (Mouton, 2001:238). The researcher, being aware of the importance of maintaining morally acceptable norms and values in scientific research, adhered thereto at all times. The researcher ensured the confidentiality of all the responses that were given by all the participants. Anonymity was guaranteed where requested, and the necessary consent was obtained before disclosing any information that was obtained during this research project. According to the *Policy on Research Ethics of the University of South Africa*, (Unisa, 2007:7), researchers should respect and protect the dignity, privacy and confidentiality of participants; the researcher adhered to these guidelines during the research.

The following ethical matters, as emphasised by several authors (Madsen, 1992:79; Mouton, 2001:241; Leedy and Ormrod, 2005:101), were taken note of and adhered to while conducting this research:

The researcher obtained “informed consent” from all the participants: voluntary participation was a prerequisite; participants were presented with enough

information about the research, enabling them to make informed decisions about their willingness to participate.

The participants were “protected from harm”: the participants were not exposed to unnecessary stress or embarrassment; none of their answers were discussed with any of the other participants or anybody else.

The researcher adhered to “honesty” towards professional colleagues: the researcher did not fabricate data to support any personal specific findings, ensured that all sources were acknowledged, and refrained from committing plagiarism.

Every individual participant’s “right to privacy”, as described by Mouton (2001:239), has been respected: the researcher did not disclose any response by any participant in a manner that exposed the specific participant.

“Reference” was made to all sources incorporated in the research: all the consulted sources were included in the comprehensive list of references.

1.13 Chapter Layout

The chapters of this research have been separated according to the following breakdown, ensuring that the research aims and questions were all addressed, the research report was well-structured and a logical order was applied to the content:

Chapter 2: Financial Investigations

In this chapter, the focus will be on financial investigations. The difference between criminal investigation and forensic investigation will be touched on to bring into context the nexus between criminal, financial and forensic investigations, as well as intelligence. This chapter will also provide the reader with an introduction to money laundering and asset tracking, freezing and forfeiture. These aspects form

part of the financial investigation techniques that are used by investigators, especially when the assistance of the Financial Intelligence Centre is requested.

Chapter 3: The Financial Intelligence Centre

This chapter will mainly focus on providing an overview of the Financial Intelligence Centre. It will provide background information about the origin and establishment of the Centre, and refer to the international organisations, which had an influence on the establishment of the Centre. It will explain the mandate and mission and vision of the Centre, and lastly, reflect some of the strategic achievements as reported by the Centre in its annual reports.

Chapter 4: Intelligence obtained from the Financial Intelligence Centre

In this chapter, the researcher will provide an overview of the relevant sections of the Financial Intelligence Centre Act, (Act 38 of 2001). These sections deal with the obtaining of relevant intelligence from the various accountable institutions, as well as the freezing of accounts. This chapter will further explore the types of intelligence that a person could obtain from the Centre, and describe the different types of intelligence products that the Monitoring and Analysis Department of the Centre can provide, without disclosing any classified information, to the different law enforcement agencies.

Chapter 5: Findings and Recommendations

This chapter will provide the reader with an overview of what has been discovered as a result of the research. Furthermore, it will relate to the aims and research questions on which the researcher based the findings and recommendations of this research. Any recommendations for further research will also be included in this chapter.

CHAPTER 2

FINANCIAL INVESTIGATIONS

2.1 Introduction

Both Pasco (2009:1) and Zagaris (2010:6) are of the opinion that financial crime is hard to define by means of a single definition, because it involves crimes that are covered by different criminal and civil laws. The researcher shares this view and can add that a lot of investigators do not make a distinction between criminal and financial investigations. Pasco (2009:5) further states that financial crimes have existed as long as men have had financial dealings with each other. These crimes have been categorised separately from other crimes and criminal activity due to criminals using fraud and conspiracy to commit these crimes.

The researcher also shares the opinion of Pasco (2009:5) that illegal financial schemes became more innovative and complex as the economy and standards of living expanded and developed. The important thing to remember is that financial crime is costing the economies of all countries billions in currency each year.

The researcher is of the opinion that, in the modern era of policing, it has become important for the investigators to utilise innovative ways of obtaining intelligence about a suspect, as it could assist in the investigation of alleged contraventions. The researcher believes that the gathering of financial information about an individual may assist the investigator to create a paper trail of the transactions conducted by a suspect. This might lead the investigator to other individuals involved in the possible criminal activity. Therefore, the investigation of financial evidence may be of considerable help in trying to solve complicated financial crimes, especially when a large number of individual perpetrators are involved.

The following aspects will be discussed in this chapter in order to emphasise the importance of financial investigation: white collar crime, a financial investigation,

the criminal investigation process, the use of intelligence, forensic investigation as a scientific approach to investigation, types of financial crimes, and asset tracking, freezing and forfeiture. This chapter will further focus on important aspects with regard to forensic investigations and the utilisation of intelligence during investigations of money laundering cases. It will introduce the reader to the work of the Financial Intelligence Centre, whilst the later chapters will address specific details regarding the work of the Centre and the types of intelligence products available.

2.2 White Collar Crime

Financial crime forms part of the broader classification of crimes, namely, white collar crime. White collar crime has first been explained by Edwin Sutherland in a speech to the American Sociological Society in 1939 as “what may be defined almost as crime committed by a person of respectability and high social status in the course of his occupation” (Pasco, 2009:2; Zagaris, 2010:1).

Zagaris (2010:6), furthermore, points out that financial crime refers to diverse activities that cannot be included under a standardised category. The newness of the field, the overlap of criminal and statutory law, and differences among legal systems make an accurate definition elusive.

Zagaris (2010:504) also reported that one dynamic of international white collar crime is that economic crime reacts to systemic economic changes that are caused by new combinations of productive factors such as the combination of banking and computers, which have led to internet banking and online gambling. These new developments have opened up new opportunities for criminals to gain access to people’s money via, for example, “phishing scams”. The researcher further agrees with Zagaris (2010:504) that phishing is when a criminal attempts to acquire sensitive information such as passwords or credit card details through email or instant messaging by pretending to be a legitimate business representative. In South

Africa, according to the researcher's experience, the senders of these types of e-mails pretend to send the e-mails from online services such as EasyPay, SARS eFiling, and also the Financial Intelligence Centre.

During the interviews, the thirty (30) participants were asked: "Can you explain what white collar crime is?" The majority of the participants, twenty-seven (27) out of the thirty, either had some idea or gave the correct answer to the question. Three (3) participants did not answer the question, or indicated that they were not sure what it was. Six (6) of the twenty-seven (27) participants that did answer the question, provided answers that are similar to definitions obtained from literature. Twenty-one (21) participants had some idea what white collar crime is, mostly trying to explain the term by providing examples of crimes that they would classify as white collar crimes. The following were the answers provided by the participants (grouped together according to similarity); some participants did not provide any answer and others provided more than one answer (the amounts in brackets indicate the amount of answers/similar answers):

- "It is a crime committed by a person of respectability and high social status." (3)
- "It is crimes such as fraud, bribery, computer crime, money laundering, identity theft and forgery." (12)
- "Crimes involving high ranking people like the Commissioner of SARS." (1)
- "Where people use their intelligence to commit fraud and use their connections that work in government departments." (1)
- "Crimes committed by decent people, not thugs." (1)
- "Persons in specific positions have access to large sums of money which they then steal." (1)
- "It is crimes committed by people with knowledge of mathematics or accounting." (6)

From the provided answers, as listed above, it is clear to the researcher that none of the participants are familiar with the textbook meaning of white collar crime, but that most of them have some idea what the term refers to, as they indicated that it relates to the type of person that conducts the crime.

2.2.1 A Financial Investigation

The researcher agrees with the following explanation by Van Duyne, Pheijffer, Kuijl, van Dijk and Bakker (2001:18) regarding financial investigations: “A Financial investigation is the collecting, controlling, complementing, processing and analysing of financial and/or related data on behalf of law enforcement”. In other words, it is sifting through financial information such as bank accounts in order to identify the flow of money and thereby assisting the investigators in identifying not only the possible perpetrators, but also the possible proceeds of crime.

The researcher supports the opinion of Van Duyne *et al.* (2001:71) and also agrees with Ratcliffe (2008:136) that the core of financial investigation is an analytic and systematic approach to all aspects of criminal information, which is related to the financial aspects of crime. The nature and structure of a criminal grouping is determined by factors such as commodity, culture and the pressure of law enforcement; therefore, financial investigation is determined by the kind of criminal information resulting from the interaction between these factors.

During the interviews, the thirty (30) participants were asked: “Is there, in your opinion, a difference between a Financial Investigation and a Criminal Investigation?” Those who answered “yes” were asked to explain the difference. Eighteen (18) of the thirty (30) participants indicated that there was a difference between criminal and financial investigations, and twelve (12) indicated that there was no difference. Some of the participants did not indicate any difference and others provided more than one difference. The following differences were

mentioned (the amounts in brackets indicate the amount of answers/similar answers): “Financial investigations follow the money trail and are much more focused on documents” (2), “It identifies the proceeds of crime” (3), and “It is difficult to detect because usually there are no witnesses” (1). Six (6) participants provided answers that pointed out that criminal investigations are performed to uncover information about a crime and to search for evidence. Three (3) participants explained the following differences: “Financial investigations focus on accounts and documents specifically and criminal investigations concentrate more on suspects, families and the crime itself”.

The researcher deduced, from the answers provided, that a divided opinion exists about whether there is indeed a difference between a criminal and a financial investigation. Although eighteen (18) participants indicated that there is a difference, twelve (12) were of the opinion that the same investigation principles apply to both types of investigations. Those indicating a difference highlighted the fact that financial investigations focus more on documentation. The difference in opinion among the participants gave the researcher some indication that a lot of the participants apply normal investigative techniques towards complex financial investigations; this might be a possible reason why not all investigators make use of the intelligence that is available from the Financial Intelligence Centre.

According to Pasco (2009:6), the gathering of documentary evidence plays an integral part in any financial investigation, since the bulk of evidence in most financial investigations consists of documentation. Pasco (2009:104) states that one way of describing the use of forensic accounting in a financial investigation is the compiling of all the financial transactions of a subject for consecutive time periods, and then comparing the results of the time periods in sequence to determine the income or loss the subject incurred during each period. A summary schedule is prepared to show the increase of wealth of the subject from period to period. All legal income for these periods is deducted and what is left will most likely be

income from an illegal source. The analysts of the Centre usually refer to this method as a lifestyle audit.

The thirty (30) participants were asked: “Can you explain what a financial investigation is?” Not all of the participants provided answers to this question; those providing answers, stated the following (the amounts in brackets indicate the amount of answers/similar answers): “When you look at finances of a person and compare it to his/her spending patterns” (6), “It is when you conduct a lifestyle analysis” (1), “It is usually document intensive and involves bank account details” (1), “The major goal is to identify and document the movement of money” (1), “It is the systematic search for the truth using accounting principles” (1).

Seventeen (17) participants, in order to explain how they understood the term, provided examples of the types of crimes that are investigated when conducting a financial investigation; the following crimes were mentioned (the amounts in brackets indicate the amount of answers/similar answers): “Fraud” (11), “bribery” (3), “crimes committed by decent people not thugs” (2), “computer related crimes”(1). Three (3) participants did not give any answer, or indicated that they were not sure. The researcher can conclude from the above-mentioned answers that, although not all of the participants provided textbook answers, the majority had an idea what is meant by “a financial investigation”.

2.3 The Criminal Investigation Process

Criminologists will continue debating the theories on method (how), type (what), motive (why), and place (where) of crime. However, according to Pasco (2009:2), the two most commonly asked questions in the investigation of crime are definitely: “Who committed the crime?” and “What was the motive?”

The researcher will explain the term “criminal investigations” by briefly presenting definitions by other authors such as Marais and Van Rooyen (1990:17) indicating

that the investigation of crime *“is a scientific and systematic search for the truth with the purpose of solving the committed crime”*.

Gilbert (2004:64) mentions that the investigation process, in general, consists of the following three phases:

- Preliminary investigation: reporting of the crime, crime scene management and the gathering of evidence from the crime scene.
- In-depth investigation: comprehensive investigation of the matter by obtaining witness statements, forensic reports and identifying the suspects.
- Final investigation: arrest of the perpetrator and submitting the comprehensive case docket to court for litigation purposes.

Although the researcher agrees that an investigation usually consists of three phases, the first phase in the case of a financial crime investigation very often does not have a traditional crime scene. In the case of financial crimes, the scene that needs to be investigated usually refers to a fraudulent cheque or bank statements that form the basis of the investigation. The principal of gathering evidence in the first phase is also relevant, although the “crime scene” will be, for example, a cheque or bank statement. Furthermore, Bedi (2004:413) indicated that the way in which law enforcement works today, is to include financial investigations in general criminal investigations.

During the interviews, the thirty (30) participants were asked: “Can you explain briefly what the three phases are which the investigation process consist of?” Six (6) of the participants indicated that the investigating process consists of the following phases: “Gather”, “Analyse”, “Dissemination”, “Planning or Investigation”, and “Prosecution”. Nineteen (19) participants were of the opinion that the following were phases in the investigation process: “Exploration”, “confirmation”, “development of understanding”, “first information of crime”, “gathering information”, “court proceedings”, “planning”, “execution”, and “court

process” (not all 19 provided the phases in this exact sequence, but the researcher grouped these 19 responses together because of commonality). Five (5) participants either did not give any answers, or indicated that they were not sure. The explanations that were provided by the participants might indicate that not all of the participants are familiar with the different phases of the investigation process. It might have a negative effect on an investigation if the investigator is not familiar with the important phases of the process and the sequence of events (what needs to happen when).

Newburn, Williamson and Wright (2007:36) believe that investigative requirements do not stagnate; every age produces new targets, offers fresh techniques and demands different evidential standards.

Since this research will focus on financial investigations, the researcher wants to draw the reader’s attention to the five key elements of the investigation process concerning white collar crime, as summarised by Bintliff (1993:22) and supported by Pasco (2009:103), namely:

- The investigation must have a specific intent and limited objectives;
- The investigation should be tailored to the specific white collar crime, since each white collar crime has its own characteristics;
- All relevant, documented evidence should be properly collected and handled;
- The essential elements of proof should be established; and
- Investigators should strive to prove the crime despite their goals.

The researcher can state, by means of personal experience, that investigators utilise different investigation techniques, and that the main types can be divided into overt and covert techniques (Pasco, 2009:92-94). Overt techniques refer to normal police methods that are used to gather evidence, such as obtaining witness statements or gathering physical evidence from a crime scene (Madinger, 2006:269) supported by Pasco (2009:23-24).

The researcher is of the opinion that when investigators make use of intelligence in their investigations, it could be classified as covert investigations as explained by Newburn *et al.*(2007:660) and Pasco (2009:92). According to Madinger (2006:269), the reason for classifying the use of intelligence in the investigation as a covert technique, is because the investigation is conducted without the suspect's knowledge about the on-going investigation. The researcher is of the opinion that obtaining financial intelligence from the Financial Intelligence Centre can be classified as a covert investigative technique, because the information that is gathered cannot be used as evidence, but only for intelligence purposes.

For the benefit of the reader, the researcher will subsequently shed more light on the term “intelligence”, since it formed an essential part in the establishment of the Financial Intelligence Centre.

2.4 The use of intelligence

The researcher is of the opinion and, therefore, agrees that modern investigators have moved away from traditional investigation techniques to increasingly make use of intelligence in their investigations (Newburn *et al.*, 2007:60; Pasco, 2009:1; Zagaris, 2010:1-2).

To illustrate the importance of the use of intelligence, the thirty (30) participants were asked: “Please explain what the use of intelligence in a financial investigation is?” Twenty-two (22) of the participants provided a mixture of the following: “Information gathering” (13), “lifestyle analysis” (7), “background checks” (5), “profiling suspects” (3), and “identifies properties and companies where the suspects are involved in” (2). The other eight (8) participants gave no answer, or the wrong answer, for example, “that it is used for evidence”.

These answers provide a clear picture that the majority of the participants had a clear understanding of the use of intelligence in a financial investigation and that intelligence cannot be used as evidence.

The researcher is of the opinion that the Financial Intelligence Centre can play an integrate role in providing timely and accurate intelligence; therefore, assisting law enforcement agencies to adhere to the first principle of the CompStat model. CompStat is an innovation that provides a proactive means to ensure that law enforcement organisations are using thoughtfully developed crime analysis to plan their manner of crime prevention and investigation. It is a computerised system that keeps track of week-by-week crime figures for each precinct, and the weekly figures are being made available to the public within a week. In addition, "...the CompStat model provides law enforcement agencies with a way to restructure their management framework to improve resource allocation, strengthen partnerships with other government agencies, and improve services to citizens" (University of Maryland, 2011).

2.4.1 Intelligence-led policing

The researcher is of the opinion that intelligence-led policing can be defined in layman's terms as a model of policing where intelligence is used as a guide to operations (Maguire & John, 2006:67-84). Ratcliffe (2008:76) explains that the crime reduction mechanism of the Compstat model involves four principles, namely: timely and accurate intelligence, effective tactics, rapid deployment, and relentless follow-up and assessment.

Various authors, including Sonne (2006:93) and Ratcliffe (2008:136) emphasised the following important aspects that need to be incorporated in intelligence-led policing efforts: forensic accounting and corporate investigation, and the ability to track financial transactions across multiple accounts in different jurisdictions. The investigator should also identify locations that are prone to narcotics related crimes.

2.4.1.1 The intelligence cycle

The researcher shares the opinion of Swanson, Chamelin and Territo (2003:245), Newburn *et al.* (2007:204), and Ratcliffe (2008:105) explaining that the intelligence cycle is a repetitive cycle of stages that have been used effectively in both military and law enforcement circles. The researcher is of the opinion that it is important to explain the stages of the intelligence cycle, as the intelligence that can be obtained from the Centre can, at any point, be re-appreciated and re-introduced into the cycle, making it a never-ending process. The cycle will normally start with direction (or planning and collection), followed by the remaining stages, namely: collation, analysis, dissemination and feedback.

The researcher is of the opinion that when the investigating officer submits a request for information to the Centre, it forms an integral part of the intelligence cycle, because the Centre may provide the investigating officer with new information that might assist them in tracking down the suspect/s that they are looking for.

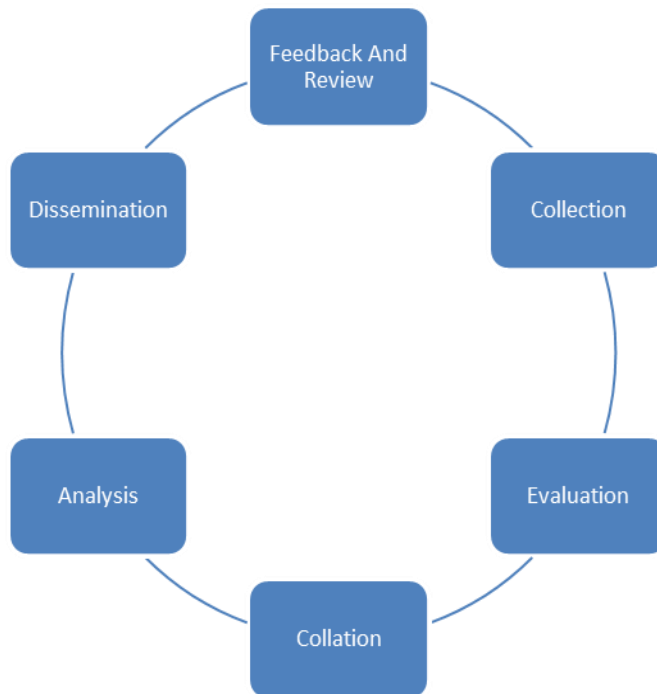


Figure 2.1 The intelligence cycle as provided by Ratcliffe (2008:105)

2.4.1.1.1 Direction or collection phase

During the planning and direction or collection phase of the intelligence cycle, the needs of the clients or requestors are considered, and the collection requirements are adjusted to the needs of these clients (Swanson *et al.*, 2003:245).

All the possible sources of information need to be identified; the investigator needs to constantly think about new sources of useful information and not only traditional sources (Newburn *et al.*, 2007:205).

From personal experience, the researcher can state that the Centre takes the requirements of the different requestors into consideration before the Centre's analysts start preparing a response to a request for information and try, as far as possible, to extensively answer the questions posed by the requestors.

The requestors are provided access to information that is held by the Centre in terms of Section 40 of the Financial Intelligence Centre Act, (Act 38 of 2001). Law enforcement agencies, the South African Revenue Service or the Intelligence Services may be provided with information upon request or at the initiative of the Centre (De Koker 2007: Com 5-7).

2.4.1.1.2 Evaluation and collation phase

The gathered intelligence needs to be evaluated to establish if it will be of any value to the investigator. The investigator allocates a grading to the source and the intelligence obtained to indicate if the same source will be useful in future (Newburn *et al.*, (2007:206).

During the collation phase, the raw information needs to be gathered, managed and analysed in order to produce a final intelligence product (Ratcliffe, 2008:105; Newburn *et al.*, 2007:206).

Investigations may utilise overt and/or covert collection methods (refer to paragraph 2.3) and the intelligence obtained from the Centre could be classified as covert information, since the identity of the reporter of the information may not be disclosed; reporters are protected in terms of Section 38 of the Financial Intelligence Centre Act, (Act 38 of 2001).

2.4.1.1.3 Analysis phase

Analysts need to convert a vast amount of raw information, which they collect from both the SAPS and other relevant sources, in the process of turning raw information into useful intelligence (Swanson *et al.*, 2003:245; Newburn *et al.*, 2007:208). The researcher is of the opinion that analysis functions have become less complicated than in earlier years when analysts had to rely on physical files and indexing systems to make associations. The modern day analysts have access to software programmes such as Analyst's Notebook and iBase, which assist them in the analysis process.

During the analysis process (forming part of the intelligence cycle), the analysts convert the basic gathered information into a final intelligence product. This is achieved through integrating, evaluating and analysing all the available data in order to exclude irrelevant, invalid or unreliable data. As a result of this process, the analysts can present their findings in a clear and concise manner, thereby influencing the thinking of decision makers. The outcome might be positive or negative and, therefore, the analysts should take care when checking for relevance and validity of intelligence (Sonne, 2006:122).

The researcher can state, from personal experience, that the analysts at the Financial Intelligence Centre make use of iBase, goAML, and Analyst's Notebook programmes to enhance the intelligence reports that they are required to compile;

this includes visual representations of the facts contained in their intelligence reports.

The following figures contain examples of Analyst's Notebook charts as created by analysts during the analysis process (i2 Ltd, 2010:1). This information is hypothetical for the purpose of not disclosing any information of a confidential nature (i2 Ltd, 2010:1).

Figure 2.2 depicts the associations and demographics of "Kevin DUPLEASE"; it is an example of a not-that-complicated (elementary) association chart that can be created with the Analyst's Notebook tool.

Figure 2.3 depicts a more complex chart, combining different styles of charting. It makes reference to different timelines and makes use of the grouping together of activities that contain common denominators. The following details are provided about the chart by the Analyst's Notebook tool: "This example shows how several styles can be combined in one chart. It shows a timeline chart represented as theme lines, with associated event frames, icons and OLE objects. Some entity style features to look for: the entity www.i2Group.com has a hyperlink that you can activate; the entity Juan PEREZ has aliases using different language alphabets; the entity 500 Silver Street has been enlarged for emphasis; the Associates grouping box uses a background fill colour."

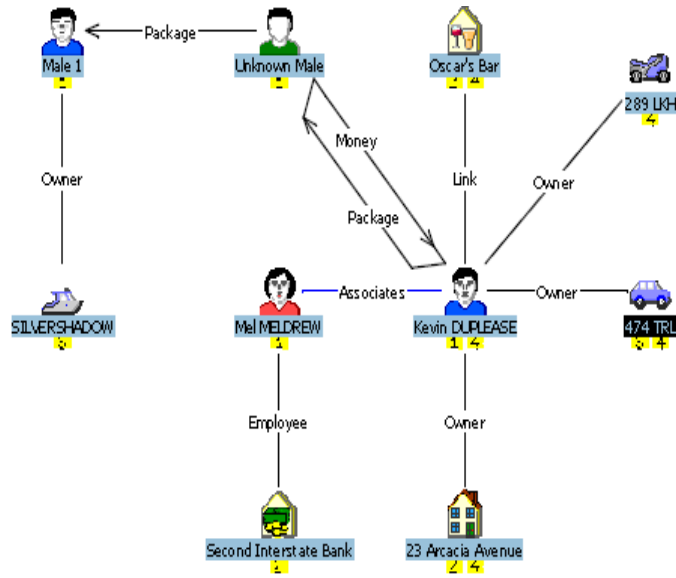


Figure 2.2 Example of an elementary Analyst's Notebook Chart

Source: i2 Ltd (2010:1)

Combining Different Styles in a Chart

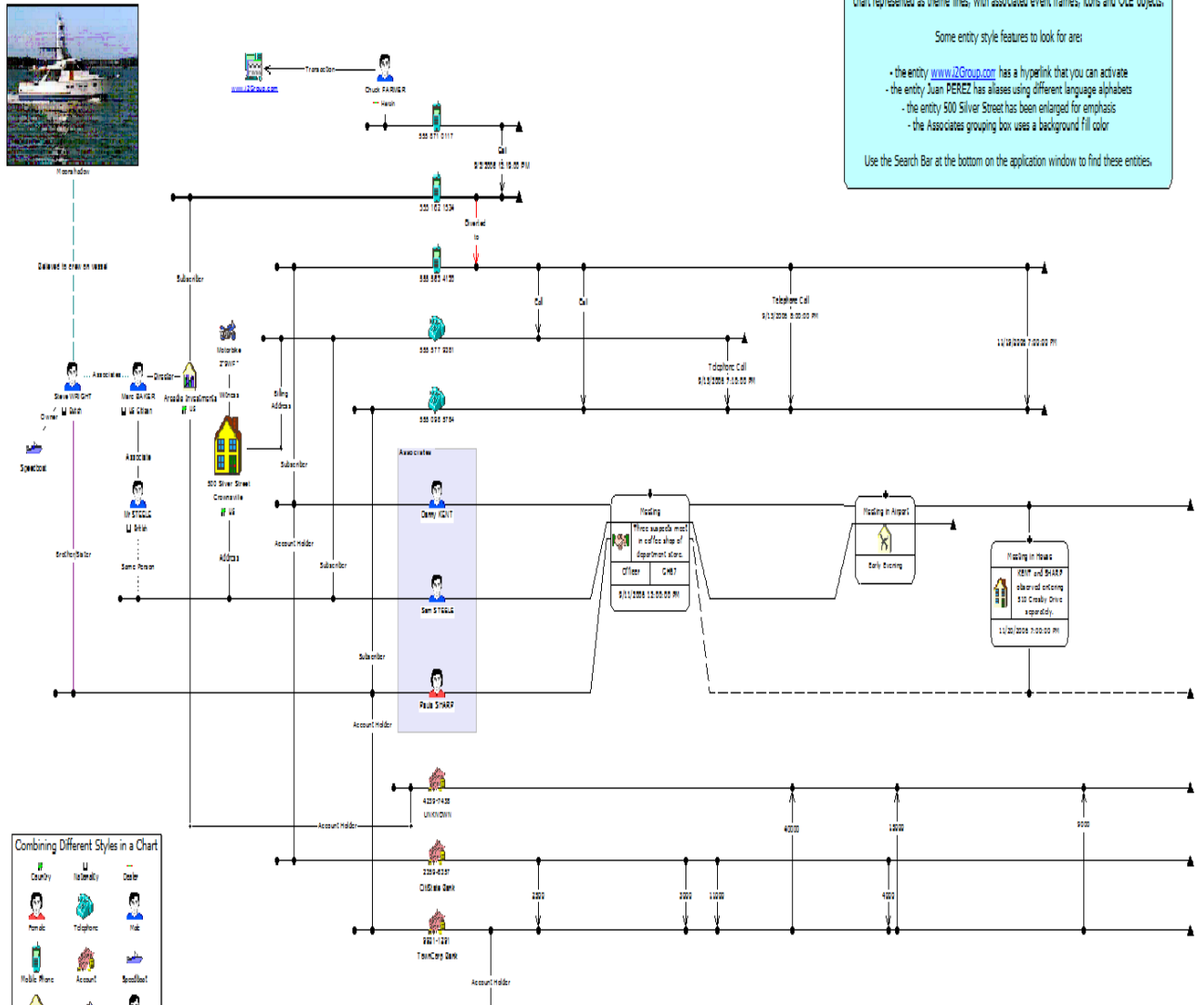


Figure 2.3 Example of a more complex Analyst's Notebook Chart
Source i2 Ltd (2010:5)

In an attempt to increase the legibility of the chart in Figure 2.3, the researcher has included the following computer screenshots (refer to Figure 2.4 and Figure 2.5):

Combining Different Styles in a Chart

ABOUT THE CHART

This example shows how several styles can be combined in one chart. It shows a timeline chart represented as theme lines, with associated event frames, icons and OLE objects.

Some entity style features to look for are:

- the entity www.i2Group.com has a hyperlink that you can activate
- the entity Juan PEREZ has aliases using different language alphabets
- the entity 500 Silver Street has been enlarged for emphasis
- the Associates grouping box uses a background fill color

Use the Search Bar at the bottom on the application window to find these entities.

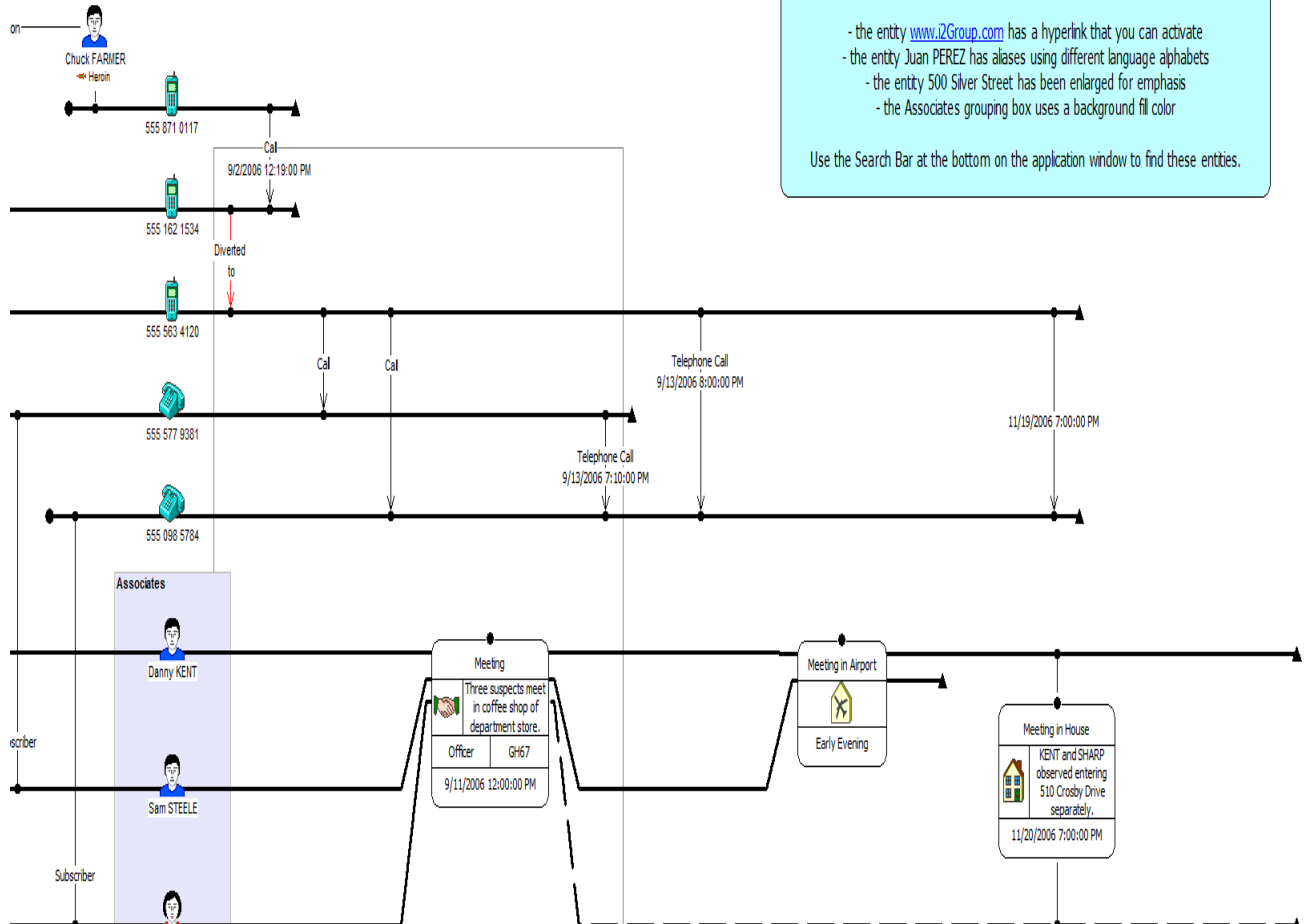


Figure 2.4 Close-up screenshot of Figure 2.3

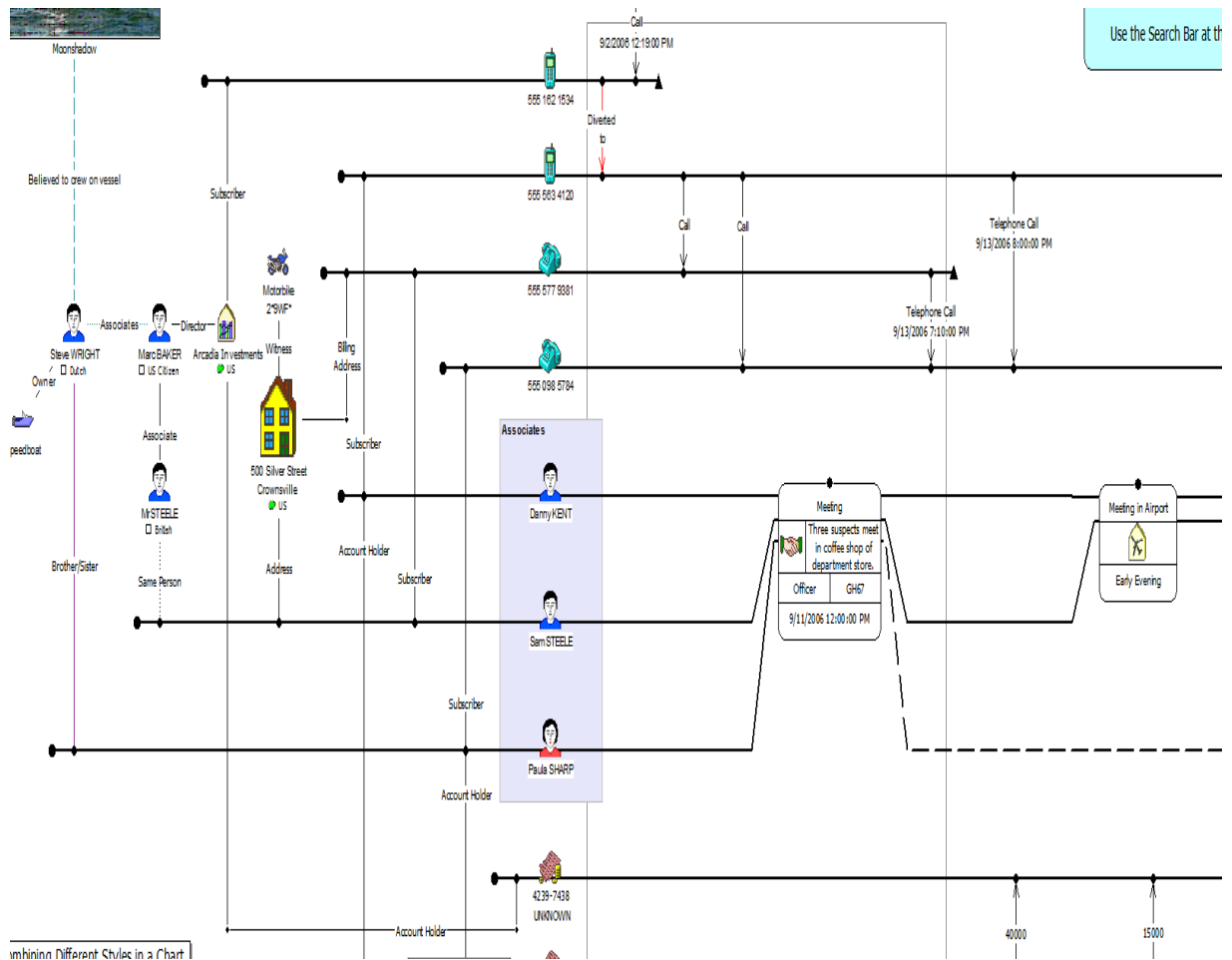


Figure 2.5 Close-up screenshot of Figure 2.3

In order to determine the participants' exposure to analysis software, during the interviews, the thirty (30) participants were asked: "Do you utilise Analysts' Notebook or similar software?" they were further asked: "If no, do you have access to an analyst, who can assist you in compiling charts and reports (analysis products)?" Fourteen (14) participants indicated that they have made use of this kind of software to create charts, and sixteen (16) indicated that they have never used such software. Only six (6) of the sixteen (16) participants not having access to the software on their own computers, had access to analysts assisting them in creating analysis charts. Ten (10) participants did not have any access to analysis products or software, either directly or indirectly.

These responses indicated that there is a definitive lack of access by the participants to software that could assist in the analysis of crime and also the investigation of

financial crimes. This is an area where the Centre could assist, since the majority of its analysts have access to these software packages.

During the interviews, the thirty (30) participants were asked: “Can you read and understand an analysis chart?” Twenty four (24) participants indicated that they understood analysis charts and only six (6) admitted that they do not understand, or cannot interpret such charts.

During the interviews, the thirty (30) participants were asked: “Do you know what the dotted and solid lines on a chart mean?” Eighteen (18) participants indicated that they knew, and twelve (12) that they did not know. The participants who answered “yes” were further asked: “If yes, can you explain what a dotted line on the chart means?” and “Explain briefly what a solid line on a chart means?” All eighteen (18) participants who indicated that they knew what the different lines meant, answered correctly, namely: “A solid line indicates a confirmed link and a dotted line indicates a tentative or unconfirmed link”.

These responses might be indicative of a lack of awareness about the benefits of utilising analysis software, especially when conducting financial investigations. These kinds of software programmes might be of great assistance during financial investigations, especially when large numbers of bank statements need to be analysed and interpreted; the utilisation of software as well as trained analysts might be of great value to an investigation.

2.4.1.1.4 Dissemination phase

According to Ratcliffe (2008:112), intelligence production is without real value unless it is timely and reaches the prospective users in a format that allows for quick utilisation of the intelligence. The modern business environment is extraordinarily dynamic, resulting in time-sensitive information and intelligence that is at highest value at the time of acquisition, but depreciates rapidly from that

moment on. Actionable intelligence is perishable, although it may also serve well as historical information. The key is accelerated production and dissemination for action. The researcher agrees with Newburn *et al.* (2007:209) that the function of dissemination is to ensure that the finished intelligence product is circulated in an acceptable time frame to those requiring it.

The researcher can state, from personal experience, that the Financial Intelligence Centre disseminates the packaged intelligence from a nodal point to the relevant investigation authorities. Depending on the type of intelligence, it might be disseminated to the South African Police Service, the South African Revenue Service, the relevant intelligence services, or international counterparts of the Centre for further investigation by these parties.

2.4.1.1.5 Feedback and review phase

According to the researcher and authors such as Gill (1994:5) and Ratcliffe (2008:229), the main difference between information and intelligence is the fact that information refers to those pieces of knowledge, reports or data that provide raw material for the collectors of information; these information pieces are then evaluated, filtered and analysed and processed to become intelligence.

The researcher furthermore supports the opinion of Ratcliffe (2008:113) that the intelligence process does not end with delivering the product to the customer. Instead, it continues with ongoing dialogue between the producer and the user. If the product is to be useful, dissemination should involve timely feedback. Intelligence producers need constant feedback from the users. They need to know what was useful and what was not useful in order to adjust their intelligence requirements. If feedback is obtained, producers can modify their practices to further develop those activities that served the user well, and improve or eliminate those that did not.

According to McDowell (2009:18-29), feedback should include key questions such as:

- Was the product usable?
- Was the product timely?
- Was the product in fact used?
- Did the product meet expectations? If not, why not?
- What next?

The researcher is of the view that the answers to these questions, in future, could lead to refined production, greater use of intelligence by decision makers, and further feedback sessions. Thus, production of intelligence actually generates more requirements through this interactive process.

The researcher can further emphasize that regular and on-going interaction between law enforcement agencies and the Financial Intelligence Centre will be of utmost importance in order to continually improve the standard of the Centre's products. Practical experience has, however, proven that the mission to obtain useful feedback is a cumbersome and difficult process, mainly due to the fact that investigators in South Africa have huge workloads and are assigned to oversee numerous case files at a time.

During the interviews, in order to establish their awareness and understanding of the intelligence cycle, the thirty (30) participants were asked: "Can you name the different phases in the intelligence cycle?" Only three (3) provided answers that correlated with the answers that the researcher found in literature relating to the different phases, namely: "identification", "collection", "confirmation", "analysis and dissemination", "problem identification", and "planning". Ten (10) of the participants provided answers that indicated that they had some idea; their answers referred to the following phases: "gathering", "basic intelligence", "tasking", "analysis and collection". Seventeen (17) of the participants indicated that they did not know what the phases were. From these answers, it could be concluded that the

majority of participants were not aware of the different phases of the intelligence cycle. It might be of importance that all investigators should have knowledge of the intelligence cycle, as it forms an important part of the investigation process and might assist investigators in obtaining relevant intelligence that could be useful when applied in investigations.

2.4.2 The different intelligence levels

Although some authors distinguish between tactical, strategic and operational intelligence, the researcher will refer to the difference between tactical and strategic intelligence. Some authors also use the terms “tactical intelligence” and “operational intelligence” interchangeably, as mentioned by McDowell (2009:53). The researcher believes that it is important that financial investigators should be familiar with both tactical and strategic intelligence, because these types of intelligence can be applied in their investigations.

2.4.2.1 Tactical intelligence

The researcher agrees with Brown (2001:64) as well as Ratcliffe (2008:128) describing tactical intelligence as information that

- is directly related to some present activity;
- must be made available in a timely fashion to operational personnel;
- should directly support an immediate law enforcement objective; and
- is primarily used by operational officers (patrolmen and women as well as investigators).

McDowell (2009:54) states that tactical and operational intelligence is aimed at directly meeting agency objectives and responsibilities by focusing on criminal organisations, individuals and modus operandi. This type of intelligence is targeted at specific risks and threats with the aim of immediately neutralising it.

The researcher can state that the types of tactical intelligence that a person could obtain from the Centre include (but is not limited to) descriptive information of an individual or legal entity such as the latest physical address and telephone number, bank account details, a copy of identity documents and proof of address. The Centre provides this kind of information to accountable institutions as part of the client identification and verification process as required by law, more specifically in terms of Section 34 of the Financial Intelligence Centre Act, (Act 38 of 2001).

2.4.2.2 Strategic intelligence

The researcher agrees with Brown (2001:64) as well as Ratcliffe (2008:137) when they describe strategic intelligence as information that can be utilised to achieve the following results:

- It is used by decision makers to make projections/predictions about future law enforcement needs.
- It is used to compile threat assessment documents in order to plan according to possible threats that are posed by specific criminal groupings.
- It takes other factors (e.g., sociological and economic factors) that might contribute to rising crime statistics into account.

McDowell (2009:54) refers to strategic intelligence as intelligence that is obtained from the formation of a national defence policy and military plans at both national and international levels. The author furthermore states that strategic intelligence provides the law enforcement organisation with an overview of criminal capabilities, vulnerabilities, trends, and intentions in order to allow for the formulation of policies and plans to combat these criminal activities.

The researcher is of the opinion that future intelligence, which the Centre could provide on a strategic level, will include information about the amount of unbanked citizens of South Africa, and the different economical and financial contributors,

which contributes to the increase in crime levels (more particularly financial crimes).

The researcher is of the opinion that it is important to indicate the nexus between financial investigations, intelligence and forensic investigation. The following is a brief discussion of forensic investigations, as found in the literature.

2.5 Forensic investigation as a scientific approach to investigations

Although most people will associate the term “forensics” with the types of investigation techniques they see on television programmes such as CSI: New York, which includes ballistics, chemistry and biology, the term “forensic investigation”, as applied in this research, is used to refer to investigations into financial crimes such as money-laundering, fraud, racketeering, forgery, tax evasion, embezzlement and bribery.

It is deemed appropriate to define forensic investigation adequately, with specific emphasis on financial forensic investigation. According to Van der Westhuizen (1996:9), the term “forensic” refers to a definite competency that is aimed at providing law enforcement with specific scientific knowledge. The researcher agrees with Zonderman (1999:3) that scientific knowledge and techniques must be applied to a legal challenge to be classified as forensic investigation.

Newburn *et al.* (2007:381) refer to the application of forensic science to criminal investigation as the application of specialist skills and knowledge to complex practical problems, for example, the expert witnesses that will testify to prove that the bullet that was found at the crime scene was fired from a specific weapon.

It is the experience of the researcher that when the investigation of crime is conducted according to tested and trusted investigative methods and techniques, it will ensure that all possible evidence have been gathered, thus bringing a complete

case before court. The evidence must, furthermore, be gathered in such a fashion that it will pass the test of admissibility in court (Newburn *et al.*, 2007:385).

The researcher is of the opinion that the following forensic techniques, namely, forensic auditing, statement analysis, intelligence utilisation and offender profiling are relevant to financial investigations.

By comparing the views of the various authors mentioned earlier, it appears that the wide scope of general science, for example, natural science, economic science and social science all find application within the science of forensic investigation. The researcher also agrees with Bologna (1995:29) that the skills of a forensic investigator correlate in a number of ways to that of an auditor. The researcher can share, from personal experience, that the analysts working at the Financial Intelligence Centre apply these skills on a daily basis. Analysts should have inquisitive minds and seek to find explanations for things that don't appear to be the norm or what one would logically expect, as the forensic investigative process aims at incorporating proper financial analysis, seeking documentary evidence of proper accounting/business transactions and following proper legal process (Bologna, 1995:32).

Newburn *et al.* (2007:381), furthermore, emphasise the importance of knowledge complementarity as "... what each party needs to know of the other's work to enhance the work they perform together". The researcher supports Van der Westhuizen's (1996:357) argument that successfully prosecuted and convicted cases have improved substantially since the South African Police Service adopted a scientific approach towards criminal investigation.

In the following subsection, the researcher will introduce the reader to the types of crimes that might be linked to a financial aspect.

2.6 Types of financial crimes

The researcher is of the opinion that almost every crime might have some kind of financial motivation and agrees that the following are examples of crimes with a financial aspect, as listed by United States Internal Revenue Service (1993:5):

- Fraud
- Tax evasion
- Bribery
- Embezzlement
- Larceny
- Forgery
- Counterfeiting
- Blackmail
- Extortion
- Kickbacks
- Racketeering
- Insider trading
- Money laundering

During the interviews, the thirty (30) participants were asked: “According to your knowledge, name the different types of crimes that can be regarded as financial crimes?” Almost all of the participants, i.e., twenty-nine (29), were able to name one or more types of crimes. Their answers corresponded to the crimes obtained from the literature study as listed above. Only one (1) participant was not able to name any type of financial crime. The answers of the other twenty-nine (29) participants were grouped together, because some of them provided more than one answer, and a number of them provided similar answers. The crimes mentioned, included the following (the amounts in brackets indicate the amount of answers/similar answers):

- “Fraud” (25)
- “Theft” (25)

- “Money laundering” (20)
- “Tax evasion” (15)
- “Vat fraud” (9)
- “Corruption” (9)
- “Counterfeiting” (3)
- “Cheque fraud” (2)
- “Credit card fraud” (1)
- “Forgery” (1)
- “ATM card skimming” (1)
- “Company fraud” (1)
- “Custom duties fraud” (1)
- “Not paying deducted PAYE over to SARS” (1)

It is clear, from the crimes mentioned, that almost all the participants knew what types of crimes could be categorised as financial crimes.

Gottschalk (2010:180) states that financial crimes often occurs as part of organised crime and these criminal groups often make use of dedicated money launderers. The researcher further agrees with this author when stating that, according to the rational choice theory, people commit crimes after considering the risks of detection plus punishment and comparing it to the rewards of completing these acts successfully.

The researcher shares the opinion of the United States Internal Revenue Service (1993:8) that the abovementioned crimes are what people normally think of when they hear the term “financial crime”. However, these days, investigators also use financial evidence to build cases against persons suspected of crimes such as kidnapping, espionage, murder and arson. In a murder or arson investigation, for example, the investigator might, as a result of financial evidence, link an individual to a case that might have seemed totally unrelated. The investigator might identify that the wife of the murder victim paid a substantial sum of money to the suspect, possibly indicating that she has been involved in the planning of the murder (e.g.,

the Taliep Petersen case in the Western Cape during 2006, where Petersen's wife, Najwa, was convicted of planned or premeditated murder).

According to Van Duyne *et al.* (2001:18), tactical financial investigations focus on specific targets such as suspects and related facts, tangible objects, money, and structures (which include businesses as well as social structures). The value of a method is sometimes better substantiated by explaining the flaws and human mistakes that took place during its application; therefore, the following example from Van Duyne *et al.* (2001:151) has been identified by the researcher as being useful to describe the utilisation of financial information in a narcotics case:

“An international drug dealer, operating from Amsterdam, was for many years the prime target of the police. He was considered very wealthy and dangerous. He also had contacts within law enforcement. As the investigation squad observed him for years, one member obtained financial information, which aroused nobody's interest. The files containing the financial documents were placed in a storeroom. A researcher when conducting research on organised crime figures studied the financial file linked to this case and got permission to inspect the fiscal files of every person, whether friend or relative connected to the main target. His attention was drawn to a loan of 500000 Euros from Hong Kong for the acquisition of a villa. The notary act looked unusual and he asked the fiscal inspectors who would go on a mission to Hong Kong for another investigation, if they could pass along the address where the loaning company resided. They detected that the firm was not capable to provide such a loan, because it was just a shell company and didn't conduct legitimate business. This is just one example of how financial information can assist in shedding light on a normal criminal investigation.”

2.6.1 Money laundering

This research focused on the contributions of a South African organisation, namely, the Financial Intelligence Centre, in the fight against crime; therefore, the researcher will only elaborate on the financial crimes with which the South African readers are more familiar.

The following is an introduction and overview of the financial crime of money laundering in the Eastern and Southern Africa region (refer to Chapter 1, paragraph 1.5.1 for a definition of money laundering)

Table 2.1 below presents an overview of the estimates of the extent of money laundering activity in the Southern African sub-region. It is alarming that as far back as 1999, the total amount of internally laundered money as well as money brought into the region amounted to just over US \$ 18.07 billion (Goredema, 2003:206). The researcher agrees with the author that money laundering in the sub-region of Southern Africa occurs on a significant scale and that statistics often cited internationally are based on the results of the Walker model. According to the Walker model, a total of US \$ 22 billion was laundered through the financial systems of Southern Africa in 1998 (Goredema, 2003:206).

Table 2.1 Estimates of Money Laundering

Amounts in US \$ Millions								
Country	Internal	Outgoing	Total Generated	Incoming	Total Laundered	% Internal	% Outgoing	% Incoming
Botswana	123.4	117.6	241.0	1722	1845.0	51.2	48.8	93.3
Kenya	734.8	140.0	874.8	77	811.8	84.0	16.0	9.5
Lesotho	0.9	0.1	1.0	458	458.7	86.4	13.6	99.8
Malawi	96.4	47.0	143.4	62	158.1	67.2	32.8	39.1
Mauritius	95.2	61.4	156.6	1129	1224.5	60.8	39.2	92.2
Mozambique	87.6	34.1	121.7	17	104.8	72.0	28.0	16.4
Namibia	114.6	84.3	198.9	489	603.5	57.6	42.4	81.0
Seychelles	68.1	4.8	73.0	1963	2031.5	93.4	6.6	96.6
South Africa	6143.7	4095.8	10239.5	566	6707.9	60.0	40.0	8.4
Swaziland	20.3	3.2	23.5	414	434.8	86.4	13.6	95.3

Country	Internal	Outgoing	Total Generated	Incoming	Total Laundered	% Internal	% Outgoing	% Incoming
Tanzania	693.5	124.3	817.8	63	756.7	84.8	15.2	8.3
Uganda	611.4	130.6	742.0	54	665.9	82.4	17.6	8.2
Zambia	1098.0	427.0	1525.0	177	1274.6	72	28.0	13.9
Zimbabwe	726.6	354.7	1081.3	272	999.1	67.2	32.8	27.3

Source: Goredema (2003:206)

From the table above, it is evident that South Africa had the largest amount of laundered money in US \$ millions value, followed by the Republics of Seychelles, Botswana, Zambia and Mauritius. It is interesting, given the fact that Seychelles and Mauritius are island countries; however, it has to be kept in mind that these are popular tourist destinations that attract many international tourists bringing foreign currency of higher value into these countries.

Roper (2001:96) explains that in the light of cross-border currency movements, which have been demonstrated to be conducted primarily by means of currency smuggling and money laundering, member countries of the Egmont Group have been requested to consider putting mechanisms in place for the monitoring of cross-border currency movements.

The researcher supports the statement by Michell (2010:44) that South Africa is one of only a handful of countries that, in line with exchange controls, tracks incoming and outgoing currency. The levels of currency flows have important implications for macroeconomic policy, trade and financial purposes. The Financial Intelligence Centre has been involved in pilot projects during the 2009/10 financial year with regards to receiving Cash Threshold Reports, Cash Conveyance Reports and Electronic Transfer Reports, resulting in an increase in its data analysis and reporting capabilities (Michell, 2010:37-44).

The researcher agrees with various authors on the three stages of money laundering, namely, placement, layering and integration (Goredema, 2003:38; Michell, 2004:8; Klein, 2008:2; Zagaris, 2010:67; Financial Action Task Force, 2011:1).

The following is a brief discussion regarding the three stages of money laundering, namely, placement, layering and integration.

2.6.1.1 Stages of money laundering

Stage One: Placement

According to Van Duyne *et al.* (2001:71), Klein (2008:2) and Zagaris (2010:67), placement is the introducing of the illicit funds into the financial cycle. Even if the funds were already in a bank or brokerage account (as in fraud cases), it is that first step of it being illicit funds that is viewed as placement. The most common examples of placement is a drug dealer who needs to get large quantities of smaller currency bills into the banking system, or a money-lauderer who is making use of the “smurfing method” and needs access to an extensive reserve of cash couriers.

The term “smurfing” is explained by Klein (2008:45) and Wikipedia (2011a) as banking industry jargon that is used to describe the act of splitting a large financial transaction into smaller transactions to avoid scrutiny by regulators and law enforcement investigators, and the practice of executing financial transactions (such as the making of bank deposits) in a specific pattern calculated to avoid the creation of certain records and reports required by law, such as Cash Threshold Reports required in terms of Section 28 of the Financial Intelligence Centre Act, (Act 38 of 2001). The requirements of this and other relevant sections of the Act will be discussed in more detail during the later chapters of this research.

Stage Two: Layering

The researcher agrees with various authors that layering is the moving and transferring of funds in order to disguise the origin and true ownership of the money (Klein, 2008:2; Zagaris, 2010:67). This phase can be the most important and the most difficult – it truly separates the professionals from the amateurs. In this stage, the money can, for example, change accounts, form, ownership, and country. It can go into and out of trusts and shell companies, it can buy or sell real estate or physical goods (assets), it can move through different jurisdictions – anything to confuse or eliminate a paper trail and make tracing it back to the suspect very difficult.

Stage Three: Integration

According to Klein (2008:2) and Zagaris (2010:67), integration is the process of using apparently legitimate transactions to disguise the illicit proceeds, allowing the laundered funds to be disbursed back to the criminal. This is when the criminal takes economic advantage of the illicit funds and it appears to have come from legitimate sources, for example, the drug dealer who buys a mansion, expensive car, yacht, or even airplanes to move drugs and other money. In the case of the airplanes, it will likely be bought through a front or shell leasing company, who will rent it to a front or shell freight company, so that when the airplane is ultimately impounded somewhere by law enforcement, it cannot be traced back to the dealer.

During the interviews, the thirty (30) participants were asked: “Briefly explain the different stages of money laundering?” They responded as follows: two (2) participants indicated the three stages of money laundering correctly, namely, “Placement, layering and integration”. Fifteen (15) participants provided the following answers to this question: “Generate documentation for the purposes of gaining money (VAT refunds)”, “Conceal the origin of the money”, “After a crime has been committed, change the money to look legitimate”, “Committing a

predicate offence', "Information phase", "Obtaining money illegally and then cleaning it", "When selling drugs the seller takes the money out of South Africa without declaring it", "A corruptor, a corruptee, and a wrongful act", "The basic crime and thereafter they try to hide the money for instance in an offshore account", "Establish a legitimate business to clean the money", "Repeat offences", and "Syndicates". Thirteen (13) of the participants did not know what the three stages are, or elected not to provide answers. The researcher concluded from the obtained answers that the majority of participants were not familiar with the different stages of money laundering.

2.6.1.2 Dimensions of money laundering

The researcher agrees with Goredema (2003:184) on the three dimensions of money laundering, namely:

- Internal money laundering, characterised by the laundering of the proceeds of, or assets derived from crime within the country where the crime was committed
- Incoming money laundering, in which the laundered proceeds or assets are derived from crimes that were committed outside the country and thereafter introduced into the country; and
- Outgoing money laundering, wherein the proceeds of crimes committed within the country are laundered through exportation to one or more countries.

According to the researcher's experience, the fact that there is close co-operation among Financial Intelligence Units internationally eases some of the burden on investigators when they are faced with an investigation that comprises of all three the abovementioned dimensions of laundering.

2.7 Asset tracking, freezing and forfeiture

Van Duyne *et al.* (2001:152) point out that other aspects of financial investigations that form an integral part of the support service that is provided by Units such as the Financial Intelligence Centre, are the tracking, freezing and confiscation of assets that are linked to a known criminal or his or her associates. The most usual form of tracking and freezing of assets that were derived from crime occur at and after a house raid, when the detectives draw up an extensive list of every item they could find. These items can range from household goods and furniture to the most expensive cars and even race horses and artwork.

When dealing with tracking, freezing and confiscation of assets, it is also important to understand what criminal property means. Blair and Brent (2008:162) state that “Property is ‘criminal property’ if (a) it constitutes a person’s benefit from criminal conduct or it represents such a benefit (in whole or in part and whether directly or indirectly), and (b) the alleged offender knows or suspects that it constitutes or represents such a benefit. The latter element gives the expression ‘criminal property’ a somewhat artificial meaning because the knowledge of the person dealing with the property becomes relevant at this point. It further extends to property anywhere in the world and includes money, all forms of property, real or personal, heritable or movable, things in action and other things intangible or incorporeal property”.

The United States Internal Revenue Service (1993:314) refers to forfeiture as the means to divest criminals of their illegal gains. The later chapters of this research will address the relevant sections of the Financial Intelligence Centre Act, (Act 38 of 2001), dealing with freezing of funds and asset forfeiture.

Furthermore, the researcher agrees with Bedi (2004:413) that each launderer wants to hide the criminal origin of his assets by creating four kinds of “distances” between the predicate offence and the money:

- Distance in geography: by moving assets out of the country.
- Distance in person: this can refer to creating a front-man or companies.
- Distance in product: the launderer will try to change the money into some other asset.
- Distance in time: if the criminal successfully hides the proceeds of crime for 10 years, he/she is well on the way to safety.

The researcher believes that the fact that criminals tend to hide the origin of their assets, illustrates the vital importance of the use of intelligence in investigating these types of crimes.

2.8 Summary

In this chapter, the researcher introduced the reader to the concepts of criminal, forensic and financial investigations, and intelligence. The researcher furthermore introduced the reader to the elements of the intelligence cycle, as well as the term “money laundering”, which includes the different stages and dimensions of money laundering.

The world keeps on changing and, therefore, investigators need to keep track of all the relevant investigation techniques that may assist them to optimally investigate financial crimes. Chapter 3 will provide the reader with an overview of the Financial Intelligence Centre.

CHAPTER 3

THE FINANCIAL INTELLIGENCE CENTRE

3.1 Introduction

Since the early nineties, South Africa has developed a comprehensive legal framework to combat money laundering and terrorist financing. The first set of provisions that dealt with money laundering was contained in the Drugs and Drug Trafficking Act, Act 140 of 1992 (De Koker 2007: Com 2-3). Subsequently, a number of other acts have been promulgated that all deal with the concepts of combating money laundering and terrorist financing. The relevant legislation that has provided the framework for establishing a South African Financial Intelligence Unit will be discussed later during this chapter.

Michell (2004:5) explains that the Financial Intelligence Centre Act, (Act 38 of 2001), together with the establishment of the Financial Intelligence Centre, is based on the Government's understanding of the longstanding, global effort to combat organised crime, money laundering and terrorist financing.

According to De Koker (2007: Com 5-9), the FIC is still a relatively young institution that was formally established on 31 January 2002, and commenced with the receiving of Section 29 reports from February 2003. The fact that the Centre has become operational during February 2003 as a part of South Africa's efforts to combat money laundering and terrorist financing in terms of Section 2 of the Financial Intelligence Centre Act (Act 38 of 2001), in itself, was a major achievement according to De Koker (2007: Com 5-9).

This chapter will mainly focus on providing an overview of the Financial Intelligence Centre. The overview will be explained by sharing background information about the origin and establishment of the Centre, and discussing some of the international organisations and regulatory bodies that also had an influence on the establishment of the Centre. The researcher will, subsequently, explain the

mandate and mission and vision of the Centre; and lastly, touch on some of the strategic achievements, as reported by the Centre in its annual reports, to enlighten the reader regarding the functions (i.e., what the Centre does) of the Financial Intelligence Centre.

This overview might assist in creating awareness among investigators who would like to make use of the intelligence that is obtainable from the Centre.

As Smit (2001:1), as well as De Koker (2007: Com 1-3), rightly pointed out, the establishment of a financial intelligence unit formed a vital part of the fight against money laundering and terrorist financing. According to Michell (2008:15), all countries were encouraged to establish financial intelligence units in terms of Recommendation 26 of the Financial Action Task Force's "40+9 Recommendations". Prior to the existence of the Centre, all Suspicious and/or Unusual Transaction Reports (STRS) were reported to the Commercial Crime Unit of the South African Police Service in terms of Section 7 of the Prevention of Organised Crime Act, (Act no. 121 of 1998), (De Koker, 2007: POCA-13).

3.2 The establishment of the Centre

According to Michell (2004:3) and De Koker (2007: Com 5-9), the Financial Intelligence Centre, also known as "The Centre" or "FIC", was formally established on 31 January 2002. However, the researcher can state that the Centre became operational on 3 February 2003; when the first reports were received. In its first few years of existence, the FIC managed to play a leading role in the implementation of money laundering and terror financing laws.

The researcher wanted to measure the awareness of the participants about the existence of the Centre by asking the thirty (30) participants the following question: "What year was the Financial Intelligence Centre established?" Only two (2) participants answered correctly, namely, "2003". The other twenty-eight (28) either did not provide an answer or indicated the following years: "1995", "1998/99", "2000", "2000-2005", "2001", "2004", "2005", "2008", "2009" and "2010".

It became clear, from these answers, that the majority of the participants were not aware of the year when the Centre was established; this might indicate that they were not aware of the existence of the Centre at all.

Michell (2009:15) indicated that South Africa became a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) during August, 2002, and a member of the Financial Action Task Force (FATF) during June, 2003. South Africa also became a member of the Egmont Group of Financial Intelligence Units during 2003. The Egmont Group was formed during 1995 by a number of financial intelligence units that identified the need for an international forum for co-operation and information exchange to support the anti-money laundering regimes of member countries (Michell, 2004:6).

The researcher supports the opinion of De Koker (2007: Com 5-9) that the FIC played a key role in South Africa's presidency of the FATF in 2005-2006, and that the reporting system of the FIC appears to be working well.

In a further attempt by the researcher to measure awareness, the thirty (30) participants were asked: "Where is the FIC's office?" Only nine (9) of the participants answered correctly, namely, "in Centurion". The others provided the following answers (the amounts in brackets indicate the amount of answers/similar answers): "FSB building at Riverwalk" (6), "Treasury building in Pretoria" (2), "Johannesburg" (2) and "don't know" (11). The researcher is of the opinion that this further indicates a lack of awareness about the existence of the Centre.

3.3 Relevant legislation

The following Acts provide the Centre with a comprehensive legal framework and mandate of providing intelligence to the relevant authorities and, therefore, contributing to the fight against crime.

3.3.1 The Proceeds of Crime Act, (Act 76 of 1996) (PRCA)

This Act provides for the recovery of the proceeds of crime, the prohibition of money laundering, and an obligation to report certain information and all matters connected to this information.

3.3.2 The Prevention of Organised Crime Act, (Act 121 of 1998) (POCA)

The Prevention of Organised Crime Act introduces measures to combat organised crime, money laundering and criminal activities; and to prohibit certain activities relating to racketeering activities. De Koker (2007: Com 3-5) points out that the Prevention of Organised Crime Act creates two sets of money laundering offences, namely, general money laundering offences involving proceeds of all forms of crime, and offences involving proceeds of a pattern of racketeering.

The researcher agrees with De Koker (2007: Com 3-18) on the definition of a “pattern of racketeering activity” as the planned, on-going, continuous or repeated participation or involvement in any number of serious offences; a pattern requires that at least two listed offences were committed during a specific term.

3.3.3 The Financial Intelligence Centre Act, (Act 38 of 2001), as well as the Financial Intelligence Centre Amendment Act, (Act 11 of 2008)

These Acts were both created to establish the Financial Intelligence Centre and a Counter-Money Laundering Advisory Council in order to combat money laundering and terror financing activities, impose certain duties on institutions to report suspicious activities, and provide for the sharing of information by the Centre and supervisory bodies as part of its roles and responsibilities. The amendment Act furthermore provides for the registration of accountable and reporting institutions and provides the Centre and supervisory bodies with powers to conduct inspections.

3.3.4 The Prevention and Combating of Corrupt Activities Act, (Act 12 of 2004) (PRECCA)

De Koker (2007: Com 3-25) explains that Chapter 2 of PRECCA identifies and defines a host of new offences related to corrupt activities, which include the following six parts:

Part 1: The general offence of corruption.

Part 2: The offences in respect of corrupt activities relating to specific persons (public officers, foreign public officials, agents, members of legislative authority, judicial officers and prosecuting authority).

Part 3: The offences in respect of corrupt activities relating to the receiving or offering of unauthorised gratification by or to a party to an employment relationship.

Part 4: Offences in respect of corrupt activities relating to specific matters, which include witnesses and evidential material in certain proceedings, contracts, procuring and withdrawal of tenders, auctions, sporting events, gambling games or games of chance.

Part 5: Miscellaneous offences relating to the possible conflict of interest and other unacceptable conduct.

Part 6: Other offences relating to corrupt activities such as the accessory to or after an offence and attempt, conspiracy and inducing another person to commit an offence.

3.3.5 The Protection of Constitutional Democracy Against Terrorist and Related Activities Act, (Act 33 of 2004) (POCDATARA)

This Act was created to a) provide for measures to prevent and combat terrorist and related activities, b) provide for an offence of terrorism and other offences

associated or connected with terrorist activities, c) provide for Convention offences, d) give effect to international instruments dealing with terrorist and related activities, e) provide for a mechanism to comply with United Nations Security Council Resolutions, which are binding on member States, in respect of terrorist and related activities, f) provide for measures to prevent and combat terror financing and related activities, and g) provide for investigative measures in respect of such activities.

During the interviews, the thirty (30) participants were asked: “According to your knowledge, name the legislation that is relevant to the existence of the Financial Intelligence Centre?” Twenty-one (21) of the thirty (30) participants were able to mention examples of the relevant acts (some mentioned more than one act; the amounts in brackets indicate the amount of answers/similar answers):

- “FICA” (18)
- “POCA” (7)
- “Corruption Act” (3)
- “Criminal Procedures Act” (3)
- “POCDATARA” (2)
- “Insolvency Act”
- “PFMA”
- “Municipalities Act”
- “Whistle blowers Act”
- “Income tax Act”
- “SARS Act”
- “The Constitution”

Nine (9) participants were unable to mention any applicable legislation. The researcher is of the opinion that these answers are an indication of a lack of knowledge about the relevant legislation and that this might indicate a general lack of awareness about the existence of the Centre, or the specific mandate of the Centre.

3.4 The researcher's personal involvement at the Financial Intelligence Centre

The researcher formed part of an initial group of five analysts who were all seconded from the South African Revenue Service to assist with the establishment of the Monitoring and Analysis Department of the Centre during the course of 2003. The accountable institutions were encouraged, from the onset of the Centre, to submit their Suspicious Transaction Reports electronically by capturing the relevant information on the Centre's website. "Accountable institutions" are defined in terms of Schedule 1 of the Financial Intelligence Centre Act, (Act 38 of 2001), and forms part of the 19 categories of institutions with reporting obligations in terms of suspicious transactions. These institutions include banks, casinos, estate agents, lawyers, and money remitters.

Madinger (2006:292) believes that international best practice has proven that the electronic submission of Suspicious Transaction Reports (STRs) assists in the optimisation of the analysis cycle (from receiving the STRs to the dissemination of intelligence products to the relevant law enforcement agency), and it also improves turnaround times with regards to providing warning intelligence products to law enforcement agencies. The researcher experienced this (the same) and can, therefore, agree with the author.

According to Michell (2008:35), the Monitoring and Analysis (M&A) and Compliance Departments had one senior manager overseeing both departments during the first few years of existence. The Centre expanded rapidly and the staff complement grew from less than 20 members in 2003 to more than 120 members in 2008. Michell (2010:21) also revealed that the number of employees at the Centre grew to 140 during the 2009/10 financial year and the target is to employ 250 staff members by 2015.

3.5 Objectives for the existence of the Centre

According to the website of the Centre, supported by De Koker (2007: Com 1-3); Smit (2001:3); Michell (2008:11) and Michell (2009:12), the principal objective of

the Centre is to assist in the identification of the proceeds of unlawful activities, as well as the combating of organised crime, and money laundering and terrorist financing activities. Further objectives include the following:

- Sharing of collected information with investigative authorities, SARS and the Intelligence Services in order to facilitate the administration and enforcement of the laws of South Africa; and
- Information exchange with international counterparts (financial intelligence units) regarding money laundering activities and other related offences.

During the interviews, the thirty (30) participants were asked: “What are the objectives for the existence of the Centre?” Only two (2) of the participants gave correct answers, namely: “To assist in the identification of proceeds of unlawful activities and combating of money laundering”, and “To exchange information with similar bodies in other countries regarding money laundering and similar offences”.

Twelve (12) participants had some idea and answered the following (some provided more than one answer; the amounts in brackets indicate the amount of answers/similar answers): “The Centre helps with the investigation of Money Laundering” (9), “Provides intelligence regarding financial crimes” (3), and “Assists with compiling financial profiles of suspects” (2). Sixteen (16) participants did not know the objectives for the existence of the Centre, or did not provide any answers. The researcher is of the view that the lack of knowledge about the objectives of the Centre might indicate a lack of awareness among investigators about the Centre and its mandate.

According to Michell (2008:15), the values of the Centre are reflected in the following goals, as set for the members of the Centre:

- Strive towards a spirit of Ubuntu. People demonstrate integrity in all their actions through the spirit of Ubuntu, and a person with Ubuntu is open and available to others, affirming others, not feeling threatened that

others are able and good, for he or she has a proper self-assurance that comes from knowing that he or she belongs in a greater whole and is diminished when others are humiliated or diminished, or when others are tortured or oppressed (Wikipedia, 2011b).

- Display pride and discipline in work;
- Strive for excellence and professionalism;
- Optimise relationships with stakeholders and partners; and
- Ensure the security of organisational assets and information.

The researcher agrees with Michell (2009:12) that the Centre should furthermore perform the following functions in terms of Section 4 of the Financial intelligence centre Act, (Act 38 of 2001), in order to achieve its objectives:

- Monitor and provide guidance to accountable institutions, supervisory bodies and other persons regarding the performance of their duties and their compliance with the provisions of the Financial Intelligence Centre Act, (Act 38 of 2001).
- Retain all information obtained and received pursuant to compliance with the provisions of the Financial Intelligence Centre Act, (Act 38 of 2001).

3.6 The Structure of the Centre

To enable readers to understand the structure of the Centre, the following diagram has been adapted from the Annual Reports of the Centre (Michell, 2008:21 and 2010:48). It provides the reader with an overview of the different Departments within the Centre.

During the interviews, the thirty (30) participants were asked: “Can you name a few of the departments in the FIC?” Only six (6) of the participants could name some of these departments, namely: “Monitoring and Analysis”,

“Compliance”, “Legal”, “Human Resources”, “IT” and “Finance”. This means that twenty-four (24) of the participants could not name a single department in the FIC. The participants’ responses to this question furthermore confirmed the researcher’s view that there is a general lack of awareness among investigators about the Centre and its functions.

The researcher will briefly discuss each department to provide the reader with a better understanding of the operational structure of the Centre.

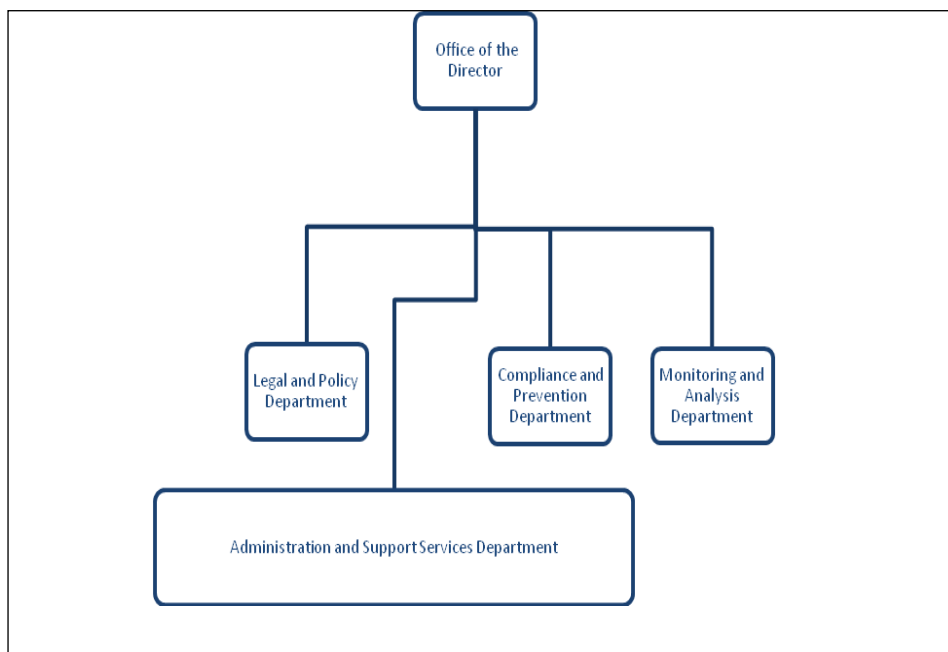


Figure 3.1
Structure of the Centre Michell (2010:48)

3.6.1 The Office of the Director

Michell (2008:20) explains that the Office of the Director provides operational support to the Director of the Centre and also houses the communications department of the Centre. The communications department is responsible for co-ordinating all internal and external official communication and retaining and enhancing all stakeholder relationships.

3.6.2 The Legal and Policy Department

Michell (2008:22) reports that the Legal and Policy Department is responsible for three areas of responsibility, namely, the administration of all the relevant sections of the Financial Intelligence Centre Act, (Act 38 of 2001); the co-ordination of the engagements with international and regional policy-forming and standard-setting organisations [such as the Financial Action Task Force (FATF) and Eastern And Southern Africa Anti-Money Laundering Group (ESAAMLG)]; and the provision of policy advice on matters of a strategic nature, which concerns money laundering and terror financing.

3.6.2.1 Legal and Policy achievements

The Legal and Policy Department of the Centre developed a set of amendments to the Financial Intelligence Centre Act, (Act 38 of 2001), as part of the process to improve the anti-money laundering and counter-terrorist financing framework in South Africa. With these amendments, the department aim to improve the legal framework for the supervision of compliance with the provisions of the act. These amendments will be implemented soon, since the Financial Intelligence Centre Amendment Act, (Act 11 of 2008), has come into operation on 1 December 2010. The need has been identified for revision of the list of supervisory bodies as contained in Schedule 2 of the Act (Michell, 2008:22).

Michell (2008:22) points out that South Africa, as a member of the FATF, underwent a Mutual Evaluation during 2008 to assess the extent to which the South African systems and mechanisms, in combating money laundering and terrorist financing, meet the international standards and requirements.

This evaluation process required a vast amount of co-operation among a number of public and private sector bodies. The Legal and Policy Department was responsible for the facilitation of the preparations for this evaluation (Michell, 2008:23). The evaluation process culminated in a debate regarding the Evaluation Report on South

Africa that took place at the FATF plenary meeting in Paris, France, during February 2009 (Michell, 2008:24).

3.6.3 The Compliance and Prevention Department

The Compliance and Prevention Department is responsible for compliance oversight of the Financial Intelligence Centre Act, (Act 38 of 2001). A core function of this department is to inform, advise and collaborate with other supervisory bodies in order to ensure effective supervision of compliance (Michell, 2008:23).

Michell (2008:23) mentions that this department also conducts inspections and issues written guidance notes to the industry. The department's preventative focus makes provision for the creation and expansion of public awareness, and the creation and issuance of guidance notes for accountable institutions; it also provides compliance related training regarding the obligations in terms of the Financial Intelligence Centre Act, (Act 38 of 2001), to the relevant affected entities.

3.6.3.1 Compliance and Prevention achievements

Michell (2010:35) reports that the Compliance and Prevention Department engaged in responding to 529 queries from members of the public during the 2009/10 financial year; these queries were mainly related to practical challenges that accountable institutions and the public encountered during the application of the Financial Intelligence Centre Act, (Act 38 of 2001). This department has also been involved in compliance reviews and several other stakeholder engagements. Regular meetings are held to obtain feedback from the different industries. The following table has been adopted from Michell (2010:35) and reflects the compliance reviews that were conducted from the 2006/07 financial year until the 2009/10 financial year.

Table 3.1 Compliance reviews conducted: 2006/07 – 2009/10, Michell (2010:35)

Supervisory body	Industry/ sector	2006 /07	2007 /08	2008 /09	2009 /10
National Gambling Board	Casinos	27	24	7	35
National Gambling Board	Bookmakers	-	42	43	28
Estate Agency Affairs Board	Estate Agents	8	13	27	11
Reserve Bank (Exchange Control Department)	Authorised dealers with limited authority	16	25	43	21
Financial Services Board	Insurance Companies	-	52	16	-
Financial Services Board	Financial services providers	-	26	3	25
Financial Services Board	Collective investment scheme managers	-	24	30	4
JSE Limited	JSE stockbrokers and authorised users of the Bond Exchange	-	3	9	19
Law Society of SA	Attorneys	-	0	27	29
Financial Intelligence Centre	Postbank	-	27	30	27
TOTAL		51	236	235	199

Based on the researcher's experience at the Financial Intelligence Centre, the figures contained in the table above can be interpreted as follows: the Financial Intelligence Centre's Compliance Department has conducted its highest number of compliance reviews, namely, 52, in conjunction with the Financial Services Board during the 2007/08 financial year. The second highest number of compliance reviews (43) has been conducted in conjunction with the National Gambling Board

(on bookmakers) and the Reserve Bank (Exchange Control Department) (on authorised dealers with limited authority) during the 2008/09 financial year.

It is further evident that the Estate Agency Affairs Board experienced challenges, since this industry conducted the least compliance reviews over the period under review (2006-2010).

The researcher also concludes, from the figures above, that the Law Society of SA and the JSE Limited also experienced challenges, because these sectors also conducted limited numbers of compliance reviews during the reporting period.

3.6.4 The Monitoring and Analysis Department

The researcher, being a member of the Monitoring and Analysis Department (M&A) of the Centre, can confirm on the grounds of personal experience, that this department plays an important role in supporting law enforcement agencies to combat complex financial and organised crimes. This is achieved through constant interaction with the relevant agencies as well as the accountable institutions and reporting institutions.

The Centre receives its Suspicious Transaction Reports from the relevant institutions such as banks, casinos and estate agents via the M&A Department (i.e., the point of entry at the Centre). Due to the fact that electronic reporting is preferred and encouraged, the majority of reports are submitted via the Centre's website and only a limited amount of reports are submitted per fax or hand-delivery.

The researcher can confirm that the Suspicious Transaction Reports are read, captured, assessed and analysed upon receipt, whereafter selected reports are referred to the relevant agencies for possible further investigation. Michell (2010:15) observes that 29 411 STRs have been submitted to the Centre during the 2009/2010 financial year.

The researcher can, from personal experience, report that each received report is read and evaluated to determine if further action is necessary. This analysis process involves queries for additional financial transaction data, searches on other data sources and checks with partner agencies.

Reports are assessed and classified in terms of the suspected activity and data quality, and rated on the significance of the matter as described by the report. If analysts determine that a report may be of interest to one of the Centre's stakeholders, the report may be referred to that agency for further investigation (Michell, 2008:33).

Michell (2008:33-38) points out that the Monitoring and Analysis Department (M&A) is furthermore responsible for producing financial intelligence assessments on matters of potential interest to the Centre's domestic and international stakeholders. The unit consists of a number of highly skilled analysts who are experts in interrogating the Centre's databases and preparing intelligence assessments detailing the financial behaviour of persons, thereby highlighting suspicious and/or potential criminal activity.

The researcher can furthermore add that additional matters of interest can also be identified via manual detection, or via a request from a law enforcement agency for analysis on a specified suspect or entity. Assessments that were disseminated to a partner agency may initiate an investigation, assist to further a current investigation, or it may be used for intelligence purposes only.

The researcher supports Michell (2008:34) in stating that the Monitoring and Analysis Department disseminated 1 221 analysed reports during the 2008/2009 financial year to partner agencies, which included the South African Police Service, the Asset Forfeiture Unit, various supervisory bodies, the Intelligence Services and the South African Revenue Service. It also included 9 spontaneous disclosures to foreign financial intelligence units.

The Monitoring and Analysis Department also responds to requests for information when received from authorised officers from the relevant law enforcement and intelligence agencies in South Africa or the centre’s international counterparts. The annual reports of the Centre reflected that the following number of requests were received from domestic law enforcement agencies over the previous three financial years: 251 in 2008/09, 393 in 2009/10 and 495 in 2010/11 (Michell, 2009:35), (Michell, 2010:31) and (Michell, 2011:3). Although this might seem like a relative increase in requests, the researcher can share, from personal experience, that a great number of these requests could not be responded to due to the fact that it contained requests for information that falls outside the mandate of the Centre.

3.6.4.1 Monitoring and Analysis Achievements

The researcher experienced the Monitoring and Analysis Department’s progress as reported in Michell (2010:28) regarding the Centre taking important steps forward in improving the consumption of its products. This is partly due to a growing awareness among the public regarding their reporting responsibilities, as well as training and awareness campaigns that are conducted by accountable institutions such as banks, casinos and estate agencies. The following table has been adopted from Michell (2011:6); it depicts the number of Suspicious Transaction Reports that the Centre received for the period from inception, in 2003, until the 2010/11 financial year.

Table 3.2 Volumes of Suspicious Transaction Reports Received for the period from 1 February 2003 until 31 March 2011, Michell (2011:6)

Suspicious Transaction Reports made to the Financial Intelligence Centre				
Financial Year	No of STRs	Accumulated Total	Difference	% Increase or Decrease
2002/03	991	991	-	-

Financial Year	No of STRs	Accumulated Total	Difference	% Increase or Decrease
2003/04	7 480	8 471	6489	654.79%
2004/05	15 757	24 228	8277	110.66%
2005/06	19 793	44 021	4036	25.61%
2006/07	21 466	65 487	1673	8.45%
2007/08	24 580	90 067	3114	14.51%
2008/09	22 762	112 829	-1818	-7.40%
2009/10	29 411	142 240	6649	29.21%
2010/11	36 990	179 230	7579	25.77%

Based on the researcher's experience at the Financial Intelligence Centre, the figures contained in Table 3.2 can be interpreted as follows:

It is evident that there has been an annual increase in the amount of reports as received by the Centre. The two exceptional differences were the 654.79% increase from the 2002/03 to the 2003/04 financial year and the -7.40% decrease from the 2007/08 to the 2008/09 financial year. One should keep in mind that the Centre only became operational and started receiving reports during February 2003, and that the 2002/03 financial year ended on 31 March 2003. Therefore, the amount of reports as received by the Centre for the 2002/03 financial year constituted only 2 months in practice and contributed to what seems to be a huge increase in reports, whilst the monthly average amount of reports as received, remained constant (495 for the 2002/03 financial year and 623 for the 2003/04 financial year).

The researcher also supports the view of Michell (2010:28) that the Centre has improved its relationship with law enforcement agencies through increased interaction based on referrals and requests. Geldenhuys (2009:35) supports this argument in the article, "Organised Crime, the role of the Financial Intelligence Centre in Organised Crime".

The Centre referred 331 intelligence reports dealing with suspected proceeds of crime, money laundering, and terror financing to law enforcement agencies during the 2009/10 financial year, and also responded to 393 requests for information from local as well as international law enforcement and security agencies (Michell, 2010:31). The FIC, as well as the user community, would obviously like to see an increase in the number of referrals, which requires an improvement of the quality of reports that are filed as well as an increase in the capacity of the FIC to analyse and process these reports (De Koker, 2007: Com 5-10).

The researcher further supports this author's opinion that, despite the relatively small number of referrals made, there were encouraging signs that these referrals were providing support to law enforcement agencies. It was indicated that by mid-2005, the Asset Forfeiture Unit had frozen assets worth close on R100 million based on the strength of referrals received from the FIC (De Koker, 2007: Com 5-10).

3.6.5 Administration and Support Services Department

According to the researcher, all the support services such as the Information and Communications Technology Unit, Procurement, Finance, and Human Resources divisions make up this department. These services are essential for the day-to-day functioning of the Centre and, therefore, deliver a required function.

3.7 International and regional organisations

Several international organisations are responsible for setting standards for financial intelligence units globally. The researcher will provide some background information about three of these organisations, namely, the Financial Action Task Force (FATF), the Egmont Group of financial intelligence units and the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG).

During the interviews, the thirty (30) participants were asked: "Can you name any international organisation that deals with anti-money laundering measures?"

Twenty-eight (28) participants could not name any international organisation. Two (2) of the thirty (30) participants were able to name the following organisations: “FATF”, and “ESAAMLG” and “Egmont”. The researcher, therefore, concluded that the responses to this question further confirmed that the participants have limited exposure to the Centre and its functions and that they are not aware of the existing co-operation between the Centre and its international counterparts.

3.7.1 The Financial Action Task Force (FATF)

The researcher can share, from personal experience, that the FATF is an inter-governmental body that sets international standards, developing and promoting policies to combat money laundering and terror financing. It currently consists of over 30 countries. South Africa became a member of the FATF, and the first member country from Africa, during 2003. Over 180 jurisdictions have joined the FATF or an FATF-style regional body (such as ESAAMLG; refer to paragraph 3.6.3). The FATF furthermore assesses and monitors compliance with its standards and conducts typology studies of money laundering and terror financing trends, methods and techniques (Deitz & Buttle, 2008:10).

3.7.1.1 The FATF Recommendations

The collective recommendations (40 Recommendations plus 9 Special Recommendations) provide a complete set of counter-measures against money laundering, covering the criminal justice system and law enforcement, the financial system and the regulation thereof, and international co-operation (Deitz & Buttle, 2008:11-15 and Financial Action Task Force, 2011:1).

Initially developed in 1990, the first revision of the 40 Recommendations took place in 1996 to take changes in money laundering trends into account and to anticipate potential future threats. More recently (2003), the FATF has completed a thorough review and update of the 40 Recommendations. The FATF has also elaborated on various Interpretative Notes, which they designed to clarify the

application of specific recommendations and to provide additional guidance (Deitz & Buttle, 2008:11-15).

Money laundering methods and techniques change in response to developing counter-measures. In recent years, the Financial Action Task Force (FATF) has noted increasingly sophisticated combinations of techniques, such as the increased use of legal persons (trusts and companies) to disguise the true ownership and control of illegal proceeds, and an increased use of professionals to launder money.

The revised 40 Recommendations do not only apply to money laundering, but also to terrorist financing; when combined with the 9 Special Recommendations on Terrorist Financing, it provides an enhanced, comprehensive and consistent framework of measures for combating money laundering and terror financing. The FATF recognises that countries have diverse legal and financial systems and that not all countries can, therefore, implement similar measures to achieve the common objective, especially when referring to matters of detail.

The 40 Recommendations plus 9 Special Recommendations, therefore, set minimum standards for countries it requires to take action to implement the detail according to their particular circumstances and constitutional frameworks. These recommendations cover all the measures that national systems should have in place within their criminal justice and regulatory systems; the preventive measures to be taken by financial institutions and certain other businesses and professions; and international co-operation (Financial Action Task Force, 2011:3-4).

The need for the monitoring and evaluation of systems of countries according to these international standards is a key element in the fight against money laundering and terror financing. The mutual evaluations that are conducted by the FATF and FATF-style regional bodies, as well as the assessments that are conducted by the International Monetary Fund (IMF) and World Bank, are vital mechanisms for ensuring that the FATF-recommendations are effectively implemented by all countries (Financial Action Task Force, 2011:4).

3.7.2 The Egmont Group

On international level, the Centre also became a member of the Egmont Group of Financial Intelligence Units during 2003. The Egmont Group had 104 member countries in 2006 (Michell, 2006:29), and currently consists of 169 member countries (Egmont, 2011:1).

The main purpose of the Egmont Group is to facilitate and enable the sharing of information and intelligence among the member financial intelligence units across the world (Michell, 2006:5).

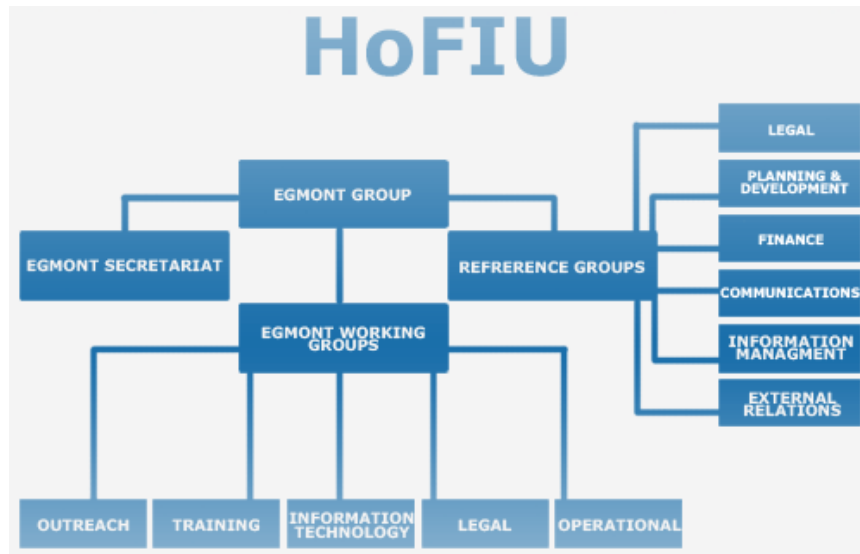


Figure 3.2 Structure of the Egmont Group, according to Egmont (2011:1)

The Egmont Group organises regular working group and plenary meetings. The working groups in which South Africa has participated over the years include the outreach, training information technology, legal and operational working groups. The working group and plenary meetings were held in Oranjestad, Aruba, from 14-17 March 2011, and from 11-15 July 2011, in Yerevan, Armenia (Egmont, 2011:1).

3.7.2.1 The Goal of the Egmont Group

According to Egmont (2011:1), and based on the researcher's experience, the goal of the Egmont Group is to provide a forum for financial intelligence units around the globe to improve co-operation in the fight against money laundering and terrorist financing. It also encourages all members to implement domestic programmes in these fields.

This support includes:

- Expanding and arranging international co-operation in the mutual exchange of information;
- Increasing the effectiveness of financial intelligence units by offering training and promoting personnel exchanges to improve the expertise and capabilities of staff employed by financial intelligence units;
- Developing better and secure communication among financial intelligence units through the application of technology, such as the Egmont Secure Web (ESW);
- Promoting increased co-ordination and support among the operational divisions of member Units;
- Promoting the operational autonomy of financial intelligence units; and
- Promoting the establishment of financial intelligence units in conjunction with authorities that have an AML/CFT programme in place, or in areas with a programme in the early stages of development.

3.7.3 Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG)

The Financial Action Task Force has several regional bodies, known as FATF-Style Regional Bodies (FSRBs), which are important in the promotion and implementation of Anti-Money Laundering and Counter-Terrorist Financing standards within their respective regions (Zagaris, 2010:64).

According to Zagaris (2010:64), the following five FSRBs are in operation:

- Asia/Pacific Group on Money Laundering (APG)
- Caribbean Financial Action Task Force (CFATF)
- The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL)
- Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG)
- Financial Action Task Force on Money Laundering in South America (GAFISUD)

South Africa also forms part of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), which is a FATF-style regional body that was established in 1999 (Michell, 2006:28). It currently consists of 15 member countries in the region, namely: the Republics of Botswana, Comoros, Kenya, Malawi, Mozambique, Mauritius, Namibia, South Africa, Seychelles, Tanzania, Uganda, Zambia and Zimbabwe and the Kingdoms of Lesotho and Swaziland (ESAAMLG, 2011:1).

3.8 Different types of financial intelligence units

According to Gleason and Gottselig (2004:9-17), the following different types of financial intelligence units can be found internationally:

- Administrative-type
- Law-Enforcement-type
- Judicial or prosecutorial-type
- Hybrid

The researcher can, from experience as an employee of the South African Financial Intelligence Centre, confirm that the Centre is moving from an Administrative-type towards a more Hybrid unit.

3.9 Summary

From the above discussions, it has become clear that the investigation of money laundering related offences, by utilising the intelligence obtained from the Financial Intelligence Centre, are in line with the objectives of forensic investigation. A money laundering investigation makes use of forensic methods to gather evidence, trace assets obtained by the culprits, and identify and arrest the perpetrator/s. The reader has been introduced to the structure, overview (the duties of the departments) and some achievements of the Financial Intelligence Centre since its inception (2003) until 2010.

The researcher is of the opinion that the obtaining of intelligence from the Financial Intelligence Centre during money laundering and other investigations serves the purpose of gathering intelligence, which the investigating officer should later transform into evidence.

The following chapter will explain how a person can obtain intelligence from the Centre.

CHAPTER 4

INTELLIGENCE OBTAINED FROM THE FINANCIAL INTELLIGENCE CENTRE

4.1 Introduction

It is crucial that investigators should not only be informed about what they can obtain from institutions outside the South African Police Service and other competent authorities, but also how to obtain this information via the correct channels for effective application of this information in their investigations.

It is of vital importance for an investigator to obtain intelligence for investigative purposes (Bedi, 2004:187-211 and Gottschalk, 2010:125). The researcher, furthermore, agrees with these authors that it is even more important that the investigators should know how to use the obtained intelligence as part of their investigations.

The researcher will introduce the reader to the methods of obtaining intelligence from the Centre as well as the different types of intelligence products that the relevant investigators could obtain from the Centre. The researcher will focus on specific sections of the Financial Intelligence Centre Act, (Act 38 of 2001), and the subsequent Financial Intelligence Centre Amendment Act, (Act 11 of 2008); namely Sections 27, 34, 35 and 40 of the Act, as these sections are frequently used by the Centre in obtaining the different types of intelligence to provide to law enforcement agencies for use during their investigations, which are mostly of a financial nature.

4.2 Establishing if a person or entity is a client

The researcher can report, from experience as an employee of the Centre, that

Section 27 of the Financial Intelligence Centre Act, (Act 38 of 2001), refers to the authority of the Centre, or an authorised representative of the Centre, to obtain information regarding clients or persons acting on behalf of clients from relevant accountable institutions. The relevant accountable institution has to advise the Centre, within a reasonable agreed upon time, whether a specified person or entity is, or has been a client of that institution; either directly or indirectly. This means that even if such a person or entity is acting or has acted on behalf of a client of that institution, or a client of the institution is acting or has acted on behalf of a specified person or entity, this must be reported to the Centre upon request in terms of this section of the Financial Intelligence Centre Act, (Act 38 of 2001), (Muller, Kälin & Goldsworth, 2007:793).

During the interviews, the thirty (30) participants were asked: “Do you know what a request is in terms of Section 27 of the Financial Intelligence Centre Act?” Only seven (7) of the participants knew that this is a request that is sent to accountable institutions in order to establish whether a specified person or entity is, or has been, a client of that institution; either directly or indirectly. Some of the seven (7) answered as follows: “It is when the Centre establishes if a person is a client of a bank, casino or insurance company”, or “When the FIC confirms if a person or company banks at a certain bank”. Three (3) of the seven (7) participants specifically said: “The FIC asks banks if a person or company is their client”, “It is when the FIC helps to confirm to which banks we can send our Section 205 Subpoenas” and “The FIC requests banks, brokers, insurance agencies and casinos if a specific person is their client”. These seven (7) participants were subsequently asked: “If yes, do you specify that the Centre should submit a Section 27 requests to accountable institutions, when you submit a request to the Centre?” Only four (4) of the seven (7) participants indicated that they did specify that they requested the Centre on previous occasions to establish, in terms of Section 27, whether a specified person or entity is, or has been, a client of that institution. The other three (3) participants did not specify the requirement, that requests in terms of Section 27 should be submitted to accountable institutions, on their requests to the FIC.

It is evident to the researcher that most of the participants do not have a lot of exposure to the Financial Intelligence Centre Act, (Act 38 of 2001). The effect of this is that the Centre, as a source of information, may not be optimally utilised. The researcher can, from personal experience at the Centre, further report that this section of the Act is utilised regularly to establish if certain individuals or legal entities are, have been, or are acting on behalf of clients of specific banks, estate agents, casinos, financial service providers and insurance companies in South Africa. The analysts provide the obtained information to the investigating officers to guide them to which organisations they can direct their subpoenas in terms of Section 205 of the Criminal Procedure Act (Act 51 of 1977).

4.3 Issuing an Intervention on an Account

The researcher can report, from personal experience as an employee of the Centre, that Section 34 of the Financial Intelligence Centre Act, (Act 38 of 2001), refers to the authority of the Centre to issue an instruction to freeze a specified account or accounts for a period of five (5) working days. This section does not apply to the carrying out of a transaction to which the rules of an exchange apply (Muller, Kälin & Goldsworth, 2007:793).

During the interviews, the thirty (30) participants were asked: “Do you know what an intervention is in terms of Section 34 of the Financial Intelligence Centre Act is?” Only six (6) of the participants knew that this is an instruction to freeze a specified account or accounts for a period of five (5) working days. The remaining twenty-four (24) participants either gave no answer or indicated that they were not sure. The participants were further asked: “How many requests for intervention have you submitted to the Centre before, if any?” Three (3) participants indicated that they have submitted requests for interventions before. One (1) of the three (3) participants previously submitted one request for an intervention, and two (2) of the three (3) participants submitted more than one request. These answers support the researcher’s opinion that the majority of the participants were unaware of the

powers of the Centre to intervene on an account when suspecting that the proceeds of crime were deposited into that account.

The researcher can furthermore report that the Centre works closely with the Asset Forfeiture Unit of the National Prosecuting Authority in order to obtain preservation and/or confiscation orders in terms of the Prevention of Organised Crime Act, 121 of 1998 (POCA), in the majority of cases where an intervention order in terms of Section 34 of the Financial Intelligence Centre Act, (Act 38 of 2001), has been issued.

4.4 Issuing a Monitoring Order

The researcher has personally experienced that a designated judge can, on receipt of a written application from the Centre in terms of Section 35 of the Financial Intelligence Centre Act, (Act 38 of 2001), order an accountable institution to report to the Centre on all transactions concluded by a specified person or account. The order will be granted if there are reasonable grounds to suspect that funds transferred to, or received by the accountable institution, are the proceeds of unlawful activities, or that the account has been or is being used to launder money. Such an order lapses after 3 months, but may be extended at the discretion of the judge, if the reasonable grounds for the suspicion still exist, or the judge deems that the interests of justice will be best served by continued monitoring (Muller, Kälin & Goldsworth, 2007:793).

During the interviews, the thirty (30) participants were asked: “Do you know what a Monitoring Order is in terms of Section 35 of the Financial Intelligence Centre Act is?” Six (6) of the thirty (30) participants answered that they knew what it is. They were further asked: “How many requests for Monitoring Orders have you submitted to the Centre, if any?” One (1) participant indicated submitting one request for a monitoring order previously. These answers, furthermore, support the researcher’s

view that a lack of awareness existed among the participants, at the time of the interview, regarding the powers of the Centre to perform monitoring of accounts.

The researcher can share, from personal experience, that Section 35 of the Financial Intelligence Centre Act, (Act 38 of 2001), has not been utilised optimally during the existence of the Centre; the reasons for this under-utilisation are unknown to the researcher. The hope exists that, with the growing awareness about the existence of the Centre and its powers, Section 35 would be utilised more effectively in future.

4.5 Access to information in the Centre's possession

It is the researcher's experience that Section 40 of the Financial Intelligence Centre Act, (Act 38 of 2001), contains the main provisions that regulate access to the information that is held by the Centre. This section makes provision that the Centre may supply investigating authorities, SARS and the Intelligence Services with information - on request, or at the initiative of the Centre. It may provide information to foreign entities performing functions similar to its own, pursuant to a formal, written agreement between the Centre and such an entity. The Centre may furthermore decide to provide information to accountable or reporting institutions or persons regarding steps taken by its analysts in connection with transactions that these parties reported to the Centre, unless it would be deemed inappropriate to disclose such information. Information may also be supplied to a supervisory body to enable it to exercise its powers and perform its functions in relation to an accountable institution. In addition, the Centre may supply information in terms of a court order, or in terms of other national legislation (De Koker, 2007: Com 5-8).

During the interviews, the thirty (30) participants were asked: "How do you use the intelligence obtained from the FIC?" Only three (3) participants indicated that they used it for intelligence-profiling and value-adding purposes regarding their existing intelligence. Twenty-seven (27) of the participants have never obtained any intelligence from the Centre. The researcher, therefore, concluded that it is clear

from the twenty-seven (27) responses that the majority of participants were not aware, at the time of the interview, of the kinds of intelligence that are obtainable from the Centre.

The researcher can report that requests for information are directed to the Centre's Monitoring and Analysis Department by authorised officers (on behalf of requestors) in terms of Section 40 (a)(i) of the Financial Intelligence Centre Act, (Act 38 of 2001). These requests are considered for action on the grounds of its contents. The requests that can be answered, will subsequently be operationalised; otherwise, the requestor will be informed (via the relevant authorised officer) that the specific details that are contained in his or her request fall outside the mandate of the Centre, and that it will, unfortunately, not be able to respond to the request.

During the interviews, the thirty (30) participants were asked the following three questions in relation to authorised officers: "Do you know what an authorised officer in terms of Section 40 of the Financial Intelligence Centre Act is?" and "Are you an authorised officer?" and lastly: "Have you submitted any requests for information to the FIC before?" Eleven (11) participants indicated that they knew what an authorised officer is and nineteen (19) indicated that they did not know. Only five (5) of the participants indicated that they act as authorised officers for their organisations. Thirteen (13) participants have submitted requests for information to the Centre before and seventeen (17) have not submitted any. The responses by the participants indicated that the majority of them were unaware about the term "authorised officer" at the time of the interview.

The Centre also initiates the referral of information it deems appropriate for further investigation to the relevant investigative authorities in terms of Section 40 of the Financial Intelligence Centre Act, (Act 38 of 2001), (refer to Chapter 3, paragraph 3.5.4.1 Monitoring and Analysis Achievements, for a discussion on some details about the number of referrals).

During the interviews, the thirty (30) participants were finally asked: “Do you have any suggestions to improve the performance of the Centre?” They provided the following suggestions regarding the improvement of the Centre’s performance (some provided more than one suggestion):

- “More co-operation required; require operational contact in order to add the financial investigation ability to investigations.”
- “Create more awareness of what the Centre can do for investigators.”
- “Problem with the reporting structure, regarding the reporting to FIC. Need to make it more approachable.”
- “Not accessible enough.”
- “Market them better, interact with SARS at operational level on a regular basis.”
- “Make it easier to communicate with the Centre. Red tape prevents interaction at an operational level.”
- “Communication and interaction should be improved.”
- “More interaction on lower levels is required.”
- “All law enforcement agencies should be working closer together, sharing information in task teams.”
- “The FIC should have direct access to live accounting institution databases. This will enable FIC to address requests effectively and on time as they have access to live databases.”
- “Submitted requests in September - no feedback received as yet. Improve turnaround times regarding requests submitted.”
- “Weekly feedback and interaction between requestors and analysts from the FIC.”
- “Interaction face to face. Workshops, inform of changes and latest trends.”
- “Turnaround times for requests should be improved, analysts should call the recipients and tell them what the delays are, and communication should be improved in order to increase interaction.”

- “All the relevant raw data, moneygrams, partial information should be sent with responses to SAPS. One or two levels more analysis should be added. Progress reports should be given to the investigating officer and the analyst/s should have direct access to the requestor.”
- “Immediately support all reports with the necessary affidavits so that the information and facts are court prepared. On some Suspicious Transaction Reports the analysts need to perform preliminary investigations to eliminate suspicion before referral.”
- “One or more constructed reports send to eliminate unnecessary big investigations that waste time.”

The researcher is of the opinion that these suggestions could initiate valuable contributions to improve the overall performance of the Centre.

4.6 Summary

The sections of the Financial Intelligence Centre Act, (Act 38 of 2001), that are most frequently utilised to obtain intelligence from accountable institutions have been discussed in this chapter.

Furthermore, the process for the identification of clients by an accountable institution has been discussed and the researcher referred to the intervention on and monitoring of accounts. Lastly, an overview of Section 40, which governs the controls over access to information obtained and held by the Centre, has been presented.

The next chapter will reflect the findings and recommendations of this research study.

CHAPTER 5

FINDINGS AND RECOMMENDATIONS

5.1 Introduction

The research resulted from the researcher's observation that the need exists to improve awareness among investigators about the existence of the Financial Intelligence Centre in general, and more specifically, the process of obtaining intelligence from the Centre as well as the different types of intelligence products that are available from the Centre.

The Financial Intelligence Centre has an important role to play in the fight against crime. Therefore, it is of utmost importance that all the role players in the law enforcement field possess enough knowledge about the existence of the Centre as well as its mandate and limitations.

The aims of the research were to determine what financial investigations entail, what the Financial Intelligence Centre is, and to empower and educate investigators regarding obtaining intelligence from the Centre. These aims enabled the researcher to make recommendations that may contribute to the improvement of the overall standard of financial investigations in South Africa.

The researcher gathered information from literature written by international and domestic authors and conducted interviews with fifteen (15) investigating officers and analysts from the South African Police Service as well as fifteen (15) investigating officers and analysts from the South African Revenue Service in an attempt to address the following research questions:

- What do financial investigations entail?
- What is the Financial Intelligence Centre?
- How can intelligence be obtained from the Centre?

The following findings and recommendations were derived from the research aims and questions in order to ensure validity of the research.

5.2 Findings

The following findings were made in relation to each of the research questions:

5.2.1 Research Question One: What do financial investigations entail?

- The research has revealed that a “financial investigation” is the collecting, controlling, complementing, processing and analysing of financial and/or related data on behalf of law enforcement.
- During a financial investigation, the investigators sift through financial information, for example, bank accounts in order to identify the flow of money to identify not only the possible perpetrators, but also possible proceeds of crime.
- The core of a financial investigation is an analytic and systematic approach to all aspects of criminal information that relate to the financial aspects of crime.
- Most of the participants were familiar with what a financial investigation is; only a few of them were not able to describe the term “financial investigation”.
- It became evident that financial crime refers to diverse activities that cannot be included under a standardised category, because of factors that make an accurate definition elusive, namely, the newness of the field, the overlap of criminal and statutory law, and differences among legal systems.
- A financial investigation can also form part of a forensic investigation, which is described as a scientific approach to criminal investigation and

aimed at ascertaining the facts that will lead to the reconstruction of a crime or crime scene.

- The main focus of a financial investigation is the gathering of documentary evidence, for example, accounts and documents (as also pointed out by the participants). However, financial evidence can also be used to build cases against persons suspected of crimes such as kidnapping, murder and arson.
- The participants were creative in their description of the investigation phases, mentioning the following phases: “first information of crime”, “gathering of information”, “investigation”, “analyses”, “dissemination”, “planning and execution”, “exploration”, “confirmation”, “development of understanding” and “prosecution”.
- It was confirmed that the investigation process with regard to white collar crime is also applicable to a financial investigation. The process requires the following five important elements: 1) the investigation must have specific intent and limited objectives, 2) the investigation should be tailored to the specific white collar crime, because each white collar crime has its own characteristics, 3) all relevant, documented evidence should be properly collected and handled, 4) the essential elements of proof should be established, and 5) the investigating officer should strive to prove the crime despite the goal.
- During a financial investigation, when intelligence is obtained from the Financial Intelligence Centre, adherence to the intelligence cycle is of utmost importance to improve the standard of the intelligence products (information) prepared by the Analysts for the investigators. This intelligence cycle consists of the following phases: direction or collection, evaluation and collation, analysis, dissemination, feedback, and review.

- It also became evident that tactical intelligence has an important role to play in financial investigations, because it is information that is directly related to some present activity, must be made available in a timely fashion to operational personnel, should directly support an immediate law enforcement objective, and is primarily used by operational officers such as investigators. This type of tactical intelligence relating to an individual or entity, for example, latest physical address, telephone number, bank account details, identity documents and proof of address, can be obtained from the Centre.
- Strategic intelligence is also of importance in financial investigations and can be utilised to make projections and/or predictions about future law enforcement needs, and to compile threat assessment documents in order to plan according to possible threats posed by specific criminal groupings, taking into account other factors, such as sociological and economic factors that might contribute to a rise in crime statistics. In future, the Centre can play a more prominent role in providing strategic intelligence to law enforcement agencies.
- Almost every crime might have some kind of financial motivation. The following are examples of financial crimes: money laundering, fraud, corruption, tax evasion, bribery, embezzlement, larceny, forgery, counterfeiting, blackmail, extortion, kickbacks, racketeering and insider trading.
- Money laundering poses a huge challenge to financial investigators. Money laundering in the sub-region of Southern Africa occurs on a significant scale; a total of US\$ 22 billion was laundered through the financial systems of Southern Africa in 1998.

- Money laundering consists of three stages, placement (the introduction of illicit funds into the financial cycle), layering (the moving and transferring of funds in order to disguise the origins and true ownership of the money) and integration (the process of using apparently legitimate transactions to disguise the illicit proceeds, allowing the laundered funds to be disbursed back to the criminal).
- An important aspect of financial investigations is the tracking, freezing and confiscation of assets that are linked to a known criminal or his or her associates. The Centre provides information and support to financial investigators in this regard.

5.2.2 Research Question Two: What is the Financial Intelligence Centre?

- It was determined that the Financial Intelligence Centre, also known as “The Centre” or “FIC”, has been established on 31 January 2002, and commenced with the receiving of Section 29 reports from February 2003. It managed to play a leading role in the implementation of money laundering and terror financing laws.
- The research has revealed that the objectives for the existence of the Financial Intelligence Centre are the following: assisting in the identification of the proceeds of unlawful activities; combating of organised crime, money laundering activities and terror financing activities; sharing of collected information with investigative authorities, the South African Revenue Services and the Intelligence Services to facilitate the administration and enforcement of the laws of South Africa; exchanging information with international counterparts (financial intelligence units) regarding money laundering activities and other related offences; monitoring and providing guidance to accountable institutions, supervisory bodies and other persons regarding: the performance of their duties, their

compliance with the provisions of the Act, and retaining all information (obtained and received pursuant to compliance with the provisions of the Act).

- The research has shown that there is a limited amount of knowledge among investigators about the capabilities of the Centre.
- It was determined that the values of the Centre are based on the principle of Ubuntu (i.e., people demonstrating integrity in all their actions and who are open and available to others, affirming others, not feeling threatened that others are able and good, for they have a proper self-assurance that comes from knowing that they belong in a greater whole and are diminished when others are humiliated or diminished, or when others are tortured or oppressed). The members of the Centre, therefore, display pride and discipline in their work, strive for excellence and professionalism, optimise relationships with stakeholders and partners, and ensure the security of organisational assets and information.
- It was revealed that the Compliance and Prevention Department has been involved in compliance reviews and several other stakeholder engagements. Regular meetings were held where feedback was obtained from the different industries to address some of the practical challenges.
- It is evident that the Monitoring and Analysis Department plays an important role in supporting law enforcement agencies to combat complex financial and organised crimes. The unit consists of a number of highly skilled analysts who are experts in interrogating the Centre's databases and preparing intelligence assessments detailing the financial behaviour of persons, highlighting suspicious and or potential criminal activity.

- The Administration and Support Services Department of the Centre consists of services such as information technology, procurement, finance and human resources. These services are essential for the day-to-day functioning of the Centre.
- It was revealed that the following international and regional organisations deal with anti-money laundering and terror financing measures: the Financial Action Task Force (FATF), the Egmont Group, and the Eastern and Southern Africa Anti-Money Laundering Group.
- The research has shown that the Financial Action Task Force (FATF) is an international body, which sets international standards, and developing and promoting policies to combat money laundering and terror financing. South Africa became a member, and the first member country from Africa, during 2003.
- It was revealed that the Financial Action Task Force has several regional bodies that are known as FATF-Style Regional Bodies, which are important in the promotion and implementation of anti-money laundering and counter-terrorist financing standards within its respective regions. The regional bodies are the following: Asia/Pacific Group on Money Laundering (APG), Caribbean Financial Action Task Force (CFATF), The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), and Financial Action Task Force on Money Laundering in South America (GAFISUD).

5.2.3 Research Question Three: How can intelligence be obtained from the Centre?

- It has become evident that it is of vital importance that investigators know how to obtain intelligence for their investigations from the Centre.
- It was determined that Section 27 of the Financial Intelligence Centre Act, (Act 38 of 2001), refers to the authority of the Centre to obtain information regarding clients from relevant accountable institutions.
- The research has shown that the relevant accountable institution has to advise the Centre, within a reasonable agreed upon time, whether a specified person or entity is, or has been a client of that institution; directly or indirectly.
- It became evident that Section 27 of the Financial Intelligence Centre Act, (Act 38 of 2001), is utilised regularly to establish if certain individuals or legal entities are, have been, or are acting on behalf of clients of specific banks, estate agents, casinos, financial service providers and insurance companies in South Africa.
- The research has revealed that Section 34 of the Financial Intelligence Centre Act, (Act 38 of 2001), refers to the authority of the Centre to issue an instruction to freeze a specified account or accounts for a period of five (5) working days.
- The research has revealed that a designated judge can, on receipt of a written application from the Centre in terms of Section 35 of the Financial Intelligence Centre Act, (Act 38 of 2001), order an accountable institution to report to the Centre on all transactions concluded by a specified person or account. An order will be granted if there are reasonable grounds to suspect

that funds transferred to, or received by the accountable institution are the proceeds of unlawful activities, or that the account has been, or is being used to launder money.

- It was revealed that access to information in the Centre's possession is regulated by Section 40 of the Financial Intelligence Centre Act, (Act 38 of 2001). This section makes provision for investigating authorities, SARS and intelligence services to be provided with information regarding suspicious transactions, on request or at the initiative of the Centre.
- Requests for information are directed to the Centre's Monitoring and Analysis Department by authorised officers (on behalf of requestors) in terms of Section 40 (a)(i) of the Financial Intelligence Centre Act, (Act 38 of 2001).
- The research has revealed shortcomings and problems in the following specific areas:
 - Co-operation and operational contact between the Centre and clients;
 - Awareness on what the Centre can offer the investigators;
 - The reporting structure of the Centre (not approachable enough);
 - Accessibility of the Centre;
 - Communication and interaction with the Centre (red tape prevents interaction at an operational level);
 - Working relationship with law enforcement agencies (not working together close enough and information sharing in task teams is not taking place);
 - Promotion of the Centre;
 - The Centre's access to live databases at accounting institutions (no direct access to these databases; this affects the Centre's ability to address requests effectively);

- The Centre response to submitted reports;
- The Centre's manpower;
- Face-to-face interaction with the Centre;
- Training regarding what the Centre offers;
- Progress reports from the Centre to investigating officers;
- Direct access between investigators and analysts;
- The necessary affidavits that are required to accompany the reports from the Centre in order for the evidence to be court prepared.

5.3 Recommendations

Following the above research findings, the researcher recommends that the Centre:

- Includes the following aspects in its training curricula: comprehensive detail regarding white collar crime, the phases of the investigation process, the crimes that fall in the category of financial crimes, distinguishing between criminal and financial investigations, the different investigation techniques, and the steps of the intelligence cycle;
- Emphasises the value of investigators using software that was designed for analysts (e.g., Analyst's Notebook and iBase), especially when the investigators conduct financial investigations;
- Improves awareness about the existence of international bodies such as FATF, the Egmont Group and ESAAMLG by means of distribution of pamphlets about these organisations or by providing information about the websites of these organisations;
- Enhances awareness about the existence of the Centre and the types of intelligence products that a person could obtain from the Centre; this, in turn, might lead to more interaction between the Centre and its clients;

- Makes an effort to increase co-operation and operational contact between the Centre and its clients;
- Improves awareness regarding what the Centre can offer the investigators;
- Attempts to improve its turnaround times when responding to requests;
- Conducts an aggressive recruitment drive in order to address the shortage of manpower;
- Attempts to increase the number of face-to-face interaction sessions with its clients;
- Implements the practice of sending out progress reports to the investigating officers in order to keep them informed about progress in specific matters; and
- Creates a platform for direct access between investigators and analysts.

5.4 Summary

The researcher could address all the research questions adequately by means of the methodology applied during this research. It is of utmost importance that investigators should continually enhance their investigative skills and use the best, most effective and relevant methods and techniques available for the improvement of the investigation of crime. It is of utmost importance that investigators should continually enhance their investigative skills and use the best, most effective and relevant methods and techniques available for the improvement of the investigation of crime.

The research findings emphasised a general lack of awareness about the Financial Intelligence Centre and its functions, even though the majority of participants had a number of years of experience in law enforcement and investigations. In addition, the research proved that the majority of the participants lacked knowledge about the definition/specification of white collar crime, differences between financial and criminal investigations, phases of the investigation process, steps of the intelligence cycle, date of establishment of the Centre, objectives for the existence of the Centre, stages of money laundering, and international organisations dealing with anti-money laundering measures.

The researcher, therefore, recommends that the Centre embarks on a number of active awareness campaigns in an effort to enhance knowledge about the existence of the Centre, and ways in which it could assist investigators of financial crime.

Further research into South African trends in money laundering is also recommended; more specifically in the following four (4) areas to improve investigations of a financial nature (especially those similar to Ponzi schemes): 1) Limitations in terms of information that a person could obtain by utilising Section 27 of the Financial Intelligence Centre Act, (Act 38 of 2001); 2) Measures that can be implemented to increase the number of requests submitted to the Centre by law enforcement agencies; 3) Methods of improving the utilisation of Section 34 of the Financial Intelligence Centre Act, (Act 38 of 2001), (i.e., to increase the number of intervention or freezing orders); and 4) Ways in which the utilisation of Section 35 of the Financial Intelligence Centre Act, (Act 38 of 2001), can be improved (i.e., to increase the number of monitoring orders).

6. LIST OF REFERENCES

- Bedi, R. 2004. *Money Laundering: Controls and Prevention*. London: iSentry.
- Bintliff, R.L. 1993. *Complete manual of white collar crime detection and prevention*. New Jersey: Prentice Hall.
- Blair, W.B. & Brent. R. 2008. *Banks and financial crime: the international law of tainted money*. Oxford: University Press.
- Bologna, J. 1995. *The accountant's handbook of fraud and commercial crime*. New York: Wiley.
- Botes, L. 2005. *Money Laundering and organised crime in South Africa*. Oudtshoorn: Bowles.
- Brown, M.F. 2001. *Criminal Investigation Law and Practice*. 2nd ed. Boston: Butterworth-Heinemann.
- Creswell, J.W. 1998. *Qualitative Inquiry and Research Design – Choosing among Five Traditions*. California: SAGE.
- Criminal Procedure Act *see* South Africa. 1977.
- Deitz, A. & Buttle, J. 2008. *Anti-Money Laundering Handbook*. Sydney: Thomson Lawbook Company.
- De Koker, L. 2007. *South African money laundering and terror financing law*. Durban: LexisNexis.
- Denscombe, M. 2002. *Ground Rules for Good Research: 10 point guide for social researchers*. Philadelphia: Open University Press.

Drugs and Drug Trafficking Act see South Africa. 1992.

Egmont. 2011. *The Egmont Group of Financial Intelligence Units*. [Online]
Available from: <http://www.egmontgroup.org> [Accessed: 1 July 2011].

ESAAMLG. 2011. *Eastern and Southern Africa Anti-Money Laundering Group*.
[Online] Available from: <http://esaamlg.org/mcp/index.php> [Accessed: 1
July 2011].

Financial Action Task Force. 2011. *FATF Money Laundering FAQ*. [Online]
Available from: <http://www.fatf-gafi.org> [Accessed: 22 June 2011].

Financial Intelligence Centre Act see South Africa. 2001.

Financial Intelligence Centre Amendment Act see South Africa. 2008.

Fouchè, C.B. 2002. *Research at grass roots for the social sciences and human
services professions*. Second Edition. Pretoria: Van Schaik.

Geldenhuis, K. 2009. Pollex. *Servamus*, April: 35.

Gilbert, J.N. 2004. *Criminal Investigation*. 6th edition. New Jersey:
Prentice Hall.

Gill, P. 1994. *Policing Politics: Security Intelligence and the Liberal
Democratic State*. Great Britain: Frank Cass.

Gleason, P. & Gottselig, G. 2004. *Financial Intelligence Units. An Overview*.
Washington DC. International Monetary Fund.

- Goredema, C. 2003. *Money Laundering in East and Southern Africa: An overview of the Threat*. Cape Town: ISS.
- Gottschalk, P. 2010. *Investigation and Prevention of Financial Crime. Knowledge Management, Intelligence Strategy and Executive Leadership*. Surrey: Gower Publishing Limited.
- Gup, B.E. 2007. *Money Laundering, Financing Terrorism and Suspicious Activities*. New York: Nova Science Publishers.
- International Monetary Fund and the World Bank *see* Gleason & Gottselig. 2004.
- i2 Ltd. 2010. *i2 Analyst's Notebook 8: i2 iBase 5*. [Online] Available from: <http://www.i2group.com> [Accessed: 21 June 2011].
- Klein, L.B. 2008. *Bank Secrecy Act/ Anti-Money Laundering*. New York: Nova Science Publishers.
- Kruger, A. 2008. *Organised Crime and Proceeds of Crime Law in South Africa*. Durban: LexisNexis.
- Leedy, P.D. & Ormrod, J.E. 2001. *Practical Research. Planning and design*. New York: Routledge.
- Leedy, P.D. & Ormrod, J.E. 2005. *Practical Research: Planning and design*. 8th edition. Upper Saddle River: Merrill Prentice Hall.
- Lindlof, T.R. & Taylor, B.C. 2011. *Qualitative Communication Research Methods*. 3rd ed. California: SAGE.

- Madinger, J. 2006. *Money Laundering, a Guide for Criminal Investigators*. BocaRaton: CRC Press.
- Madsen, D. 1992. *Successful Dissertations and Theses. A Guide to graduate Student research from proposal to completion*. 2nd edition. Oxford: Jossey-Bass.
- Maguire, M. & John, T. 2006. Intelligence led policing, managerialism and community engagement: Competing priorities and the role of the National Intelligence Model in the UK. *Policing and Society*, 16(1):67-84).
- Marais, C.W. & Van Rooyen, H.J.N. 1990. *Misdaadondersoek*. Silverton: Pro-Media.
- McDowell, D. 2009. *Strategic Intelligence: A Handbook for Practitioners, Managers, and Users*. Toronto: The Scarecrow Press.
- Maxfield, M.G. & Babbie, E. 1995. *Research Methods for Criminal Justice and Criminology*. Boston: Wadsworth.
- Maxfield, M.G. & Babbie, E. 2005. *Research Methods for Criminal Justice and Criminology*. Belmont: Wadsworth.
- Michell, M. 2004. *Financial Intelligence Centre Annual Report 2003/2004*. [Online] Available from: <http://www.fic.gov.za> [Accessed: 25 August 2010].
- Michell, M. 2005. *Financial Intelligence Centre Annual Report 2004/2005*. [Online] Available from: <http://www.fic.gov.za> [Accessed: 25 August 2010].

- Michell, M. 2006. *Financial Intelligence Centre Annual Report 2005/2006*.
[Online] Available from: <http://www.fic.gov.za> [Accessed: 25 August 2010].
- Michell, M. 2008. *Financial Intelligence Centre Annual Report 2007/2008*.
[Online] Available from: <http://www.fic.gov.za> [Accessed: 25 August 2010].
- Michell, M. 2009. *Financial Intelligence Centre Annual Report 2008/2009*.
[Online] Available from: <http://www.fic.gov.za> [Accessed: 25 August 2010].
- Michell, M. 2010. *Financial Intelligence Centre Annual Report 2009/2010*.
[Online] Available from: <http://www.fic.gov.za> [Accessed: 14 October 2010].
- Michell, M. 2011. *Summary report on the Financial Intelligence Centre Annual Report 2010/2011*. [Online] Available from: <http://www.fic.gov.za>
[Accessed: 20 July 2012].
- Mouton, J. 1996. *Understanding Social Research*. Pretoria: Van Schaik.
- Mouton, J. 2001. *How to succeed in your Master's & Doctoral Studies*. A South African guide and resource book. Pretoria: Van Schaik.
- Mouton, J & Marais, H.C. 1992. *Basiese begrippe: Metodologie van die Geesteswetenskappe*. Pretoria: RGN-uitgewers.
- Murray, R. 2002. *How to write a thesis*. Hong Kong: Open University Press.

- Muller, W.H., Kälin, C.H. & Goldsworth, J.G. 2007. *Anti-Money Laundering. International Law and Practice*. West Sussex: John Wiley & Sons.
- Newburn, T., Williamson, T. & Wright, A. 2007. *Handbook of Criminal Investigation*. Devon: Willan Publishing.
- Pasco, G.A. 2009. *Criminal financial investigations. The use of forensic accounting techniques and indirect methods of proof*. Boca Ranton: CRC press.
- Prevention of Organised Crime Act *see* South Africa. 1998.
- Prevention and Combating of Corrupt Activities Act *see* South Africa. 2004.
- Proceeds of Crime Act *see* South Africa.1996.
- Protection of Constitutional Democracy Against Terrorist and Related Activities Act *see* South Africa. 2004.
- Ratcliffe, J.R. 2008. *Intelligence-Led Policing*. Portland: Willan Publishing.
- Richards, J.R. 1999. *Transnational Criminal Organizations, Cybercrime, and money laundering. A Handbook for Law Enforcement Officers, Auditors, and Financial Investigators*. New York: CRC Press.
- Robson, C. 2000. *Doing qualitative research: A practical handbook*. London: Sage.
- Roper, P. 2001. *Offshore Insight*. Johannesburg: Butterworths.

- Schloss, P.J. & Smith, M.A. 1999. *Conducting Research*. Upper Saddle River: Prentice-Hall.
- Smit, P. 2001. *Clean Money, Suspect Source Turning Organised Crime Against Itself*. [Online] Available from: <http://www.iss.co.za/Pubs/Monographs> [Accessed: 15August 2008].
- Sonne, W.J. 2006. *Criminal Investigation for the Professional Investigator*. Boca Raton: CRC Press.
- South Africa. 1977. *Criminal Procedure Act 51 of 1977*. Pretoria: Government Printer.
- South Africa. 1992. *Drugs and Drug Trafficking Act 142 of 1992*. Pretoria: Government Printer.
- South Africa. 1996. *Proceeds of Crime Act 76 of 1996*. Pretoria: Government Printer.
- South Africa. 1998. *Prevention of Organised Crime Act 121 of 1998*. Pretoria: Government Printer.
- South Africa. 2001. *Financial Intelligence Centre Act 38 of 2001*. Pretoria: Government Printer.
- South Africa. 2004. *Prevention and Combating of Corrupt Activities Act 12 of 2004*. Pretoria: Government Printer.
- South Africa. 2004. *Protection of Constitutional Democracy Against Terrorist and Related Activities Act 33 of 2004*. Pretoria: Government Printer.

South Africa. 2008. *Financial Intelligence Amendment Centre Act 11 of 2008*. Pretoria: Government Printer.

Swanson, C.R., Chamelin, N.C. & Territo, L. 2003. *Criminal Investigation*. 8th ed. Boston: McGraw-hill.

Unisa. 2008. *M-Tech: Forensic Investigation (Dissertation) Tutorial letter 1(1st registration 2008) for FOR 501-M*. Florida: Unisa.

Unisa. 2007. *Policy on Research Ethics of the University of South Africa*. Pretoria: Unisa.

United States Internal Revenue Service. 1993. *Financial Investigations: A financial approach to detecting and resolving crimes*. Washington, D.C.: Dept. of the Treasury, Internal Revenue Service.

University of Maryland. 2011. *Implementing and institutionalizing CompStat in Maryland*. [Online] Available from: <http://www.compstat.umd.edu/faq.php> [Accessed: 27 September 2011].

Van der Westhuizen, J. 1996. *Forensic Criminalistics*. 2nd ed. Isando: Heinemann.

Van Duyne, P.C., Pheijffer, M., Kuijl, H.G, van Dijk, A.Th.H. and Bakker, G.J.C.M. 2001. *Financial investigation of Crime*. The Hague: Koninklike Vermande.

Welman, J.C. & Kruger, S.J. 2002. *Research Methodology*. 2nd edition. Cape Town: Oxford University Press.

Wikipedia. 2011a. *Smurfing (money laundering)*. [Online] Available from: <http://www.en.wikipedia.org/wiki/structuring> [Accessed: 2011-06-06].

Wikipedia. 2011b. *Ubuntu (money laundering)*. [Online] Available from: [http://www.en.wikipedia.org/wiki/ubuntu_\(philosophy\)](http://www.en.wikipedia.org/wiki/ubuntu_(philosophy)) [Accessed: 2011-06-24].

Zagaris, 2010. *International White Collar Crime. Cases and Materials*. Cambridge: University Press.

Zonderman, J. 1999. *Beyond the Crime Lab*. New York: Wiley.

Zwick, M. 2003. *Banking Secrecy and Money Laundering. The challenge of Consolidating Luxembourg Banking Secrecy Rules and the Active Fight against Money Laundering*. Luxembourg: Promoculture.

1. INTERVIEW SCHEDULE

Section 1: Background Information/ Historical information

Gender:

Male	Female
------	--------

Age group:

18-22	23-27	28-32	33-37	38-42	43-47	48-54	55+
-------	-------	-------	-------	-------	-------	-------	-----

Period in Law Enforcement (years):

Less than 1	1-3	4-6	7-10	11+
-------------	-----	-----	------	-----

1.1 Are you a financial investigator? Y/N

1.2 If yes, how long have you been investigating financial crimes?

1.3 Have you completed the financial investigator's course presented by the FIC? Y/N

1.4 Have you completed any other financial investigation/ money laundering or Commercial Crime courses? Y/N
If yes, please list it.

1.5 Do you have analysis experience? Y/N

1.6 If yes, for how long? _____

Section 2: Financial Investigations

2.1 Can you explain what white collar crime is?

2.2 Can you explain what a financial investigation is?

2.3 Can you explain briefly what the three phases of the investigation process consist of?

2.3.1 Is there, in your opinion, a difference between a Financial Investigation and a Criminal Investigation? Y/N

2.4.1 If the answer to the previous question is “yes”, please explain briefly what the differences are?

2.5 Please explain what the use of intelligence in a financial investigation is?

2.6 Can you name the different phases of the intelligence cycle?

2.7 Briefly explain the different stages of money laundering?

2.8 Do you utilise Analyst's Notebook or similar software? Y/N

2.8.1 If no, do you have access to an analyst who can assist you in compiling charts and reports (analysis products?) Y/N

2.9 Can you read and understand an analysis chart? Y/N

2.10 Do you know what the dotted and solid lines on a chart mean? Y/N

2.10.1 If yes, can you explain what a dotted line on a chart means?

2.10.2 Explain briefly what a solid line on a chart means?

2.11 According to your knowledge, name the different types of crimes that can be regarded as financial crimes?

Section 3: The Financial Intelligence Centre

3.1 What year was the Centre established?

3.2 According to your knowledge, name the legislation that is relevant to the existence of the Centre?

3.3 What are the objectives for the existence of the Centre?

3.3.1 Where is the FIC's office?

3.3.2 Can you name a few of the Departments in the FIC?

3.4 Can you name any international organisation that deals with anti-money laundering measures?

Section 4: Intelligence obtained from the Financial Intelligence Centre

4.1 Do you know what an Authorised Officer in terms of Section 40 of the Financial Intelligence Centre Act is? Y/N

4.2.1 Are you an Authorised Officer? Y/N

4.2.2 Have you submitted a request for information to the FIC before? Y/N

4.3 Do you know what a request in terms of Section 27 of the Financial Intelligence Centre Act is? Y/N

4.3.1 If yes, do you specify that the Centre should submit a request in terms of Section 27 to accountable institutions when you send a request to the Centre? Y/N

4.4 Do you know what an intervention in terms of Section 34 of the Financial Intelligence Centre Act is? Y/N

4.4.1 How many requests for intervention have you submitted to the Centre, if any?

4.5 Do you know what a monitoring order in terms of Section 35 of the Financial Intelligence Centre Act is? Y/N

4.5.1 How many requests for monitoring orders have you submitted to the Centre, if any?

4.6 How do you use the intelligence obtained from the FIC?

4.7 Do you have any suggestions to improve the performance of the Centre?



Ref: 26/57/3

INFORMATION NOTE

The Head
Directorate for Priority Crime Investigation
S A Police Service

APPLICATION TO CONDUCT RESEARCH IN THE DIRECTORATE FOR PRIORITY CRIME INVESTIGATION (DPCI): POST GRADUATE STUDY: MAGISTER TECHNOLOGIAE: UNIVERSITY OF SOUTH AFRICA: RESEARCHER: DERICK MOSTERT.

1. The above mentioned student is currently studying a Masters in Forensic Investigation at University of South Africa.
2. The topic for Mostert's study is the Financial Intelligence Centre as a Crime Intelligence Source.
3. The Centre has been established in terms of the Financial Intelligence Centre Act (Act no. 38 of 2001) of Suspicious Transaction Reports started on 03 February 2003.
4. The research objective of the study is:
 - To determine what the Centre entails.
 - To determine what types of intelligence can be obtained from the Center.
 - To determine what are the legal considerations in obtaining information from the Centre.
 - To determine if investigators are utilizing the Centre to its paramount capacity as source of criminal intelligence.
 - To finally make recommendations that may contribute to the improvement of the overall standard of investigations in South Africa.
5. The aspect of the research is assistance given to law enforcement agencies focuses on narcotics, money laundering, financial crimes fugitives and information on alleged violators on a wide spectrum of other crimes. Information are obtained from commercial database and the Federal Data base.

6. Some of the problems seem to be that investigators are not aware of the existence of Centre. The researcher found it alarming that a vast number of investigating officers have never heard of the existence of the Centre, or did not know what the mandate of the Centre is.
7. The SAPS forms part of the target population for this research. The researcher is requesting permission to conduct 15 interviews with members from Commercial Crime and Organised crime.
8. The application is recommended according to the National Instruction of 1/2006 as the outcome may enhance the understanding of the importance of utilizing the FIC.


: LIEUTENANT GENERAL
 DIVISIONAL COMMISSIONER: DIRECTORATE FOR PRIORITY CRIME INVESTIGATION
 SG LEBEYA 2010 12-17

APPROVED / ~~NOT APPROVED~~


.....

.....

.....

.....

.....


 LIEUTENANT GENERAL
 DEPUTY NATIONAL COMMISSIONER: HEAD: DIRECTORATE FOR PRIORITY CRIME
 INVESTIGATION
 A DRAMAT
 2 2 DEC 2010



South African Revenue Service

Pretoria Head Office
299 Bronkhorst Street,
Nieuw Muckleneuk, 0181
Private Bag X923, Pretoria, 0001
SARS online: www.sars.gov.za
Telephone (012) 422 4000

Office: Riverwalk Office
Park
Enquiries: Chris Solomon
Telephone:(012) 430 3343
Facsimile:(086) 515 3363
Building: A Block
Reference:
ACAS/InfoSec/01/11
Date: 16 September 2011


To Whom It May Concern:

RE: CONFIRMATION LETTER – D MOSTERT (857-620-3)

This serves to confirm that Mr. Mostert has been given permission by the Anti-Corruption and Security (ACAS) division to conduct research within SARS for his MTech studies at UNISA. The research questions are limited to his registered topic on the “**Utilisation of the Financial Intelligence Centre as a Crime Intelligence Source**”.

Mr. Mostert has undertaken to preserve the necessary confidentiality required by the laws governing SARS and employees are encouraged to objectively contribute to his research.

Yours truly,


Chris Solomon, CPP
Senior Manager: Information Security
Anti-Corruption and Security