

**MODUS OPERANDI AS TECHNIQUE IN SUSPECT  
IDENTIFICATION IN BURGLARY CASES**

**by**

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**submitted in part fulfillment of the requirements for  
the degree of**

**MAGISTER TECHNOLOGIAE**

**in the subject**

**Forensic Investigation**

**at the**

**UNIVERSITY OF SOUTH AFRICA**

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**AUGUST 2008**

## **ACKNOWLEDGEMENT**

**A number of people contributed to the completion of this dissertation. To them my sincere thanks:**

**Dr Nick Olivier my supervisor for his support and guidance;**

**Marlette van der Merwe who edited this dissertation;**

**The University of South Africa for the facilities they have put at my disposal during the research;**

**The South African Police Service who granted me permission to access the information at their disposal;**

**Captain Jacques Wiese who assisted me in accessing the respondents at the individual police stations for the interviews;**

**All the respondents who were willing to grant me the interviews;**

**And, finally, a special word of thanks to my son who has been my inspiration and believed in me.**

## **ABSTRACT**

**The research attempts to establish how modus operandi can be used to identify suspects in burglary cases. To conduct effective investigation, it is important for investigators to be familiar with the concept modus operandi, its elements, its influence and its values.**

**To achieve the goals and objectives of the practice of modus operandi, investigators must know how to apply modus operandi, what the situational factors are during a criminal act, and how to use it as technique to identify suspects in burglary cases.**

**The direction by implication and clarification of the crime situation is hardly possible without the determination of the identity of the perpetrator or suspect of a criminal act. The recognition of the modus operandi system as any form of evidence gathering is of outmost importance.**

## LIST OF ABBREVIATIONS

CAS	-Crime Administration System
CIO	-Crime Information Offices
M.Tech	- <i>Magister Technologia</i>
NCIC	-National Crime Information Centre
SAPS	-South African Police Service
Technikon SA	-Technikon Southern Africa
UNISA	-University of South Africa

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I declare MODUS OPERANDI AS TECHNIQUE IN SUSPECT IDENTIFICATION IN BURGLARY CASES 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.

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SIGNATURE

(MS JMSP BERNING)

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DATE

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# **CHAPTER 1**

## **GENERAL ORIENTATION**

### **1.1 INTRODUCTION**

The question asked when a crime has been committed is: Who did it? The question is critical in criminal investigations. In some cases the suspect is obvious, but in most cases there is no suspect, initially. Factors to resolve criminal investigations are called solvability factors (Bennett & Hess, 2004:161). These are the factors investigators should consider when investigating a crime. Even if a suspect is known or has confessed, the investigator must prove the elements of the crime and establish evidence connecting the suspect with the criminal act (Bennett & Hess, 2004:161). One form of suspect identification is *modus operandi*.

### **1.2 PROBLEM STATEMENT**

A series of crimes committed by the same person often creates a recognisable *modus operandi*, such as burglars who steal the same type of property. If a series of burglaries occurs at the same time of day, this may be the suspect's time away from their regular activities, such as a job. This is important information, and could furnish investigative leads. The problem is that most investigators do not check the details of a specific crime against their crime statistics, dockets, registers and undetected convictions.

It is the researchers understanding that the South African Police Service (SAPS) is challenged by the fact that a large number of experienced police officials have left the organisation, taking their skills and experience with them. To add to the problem, there are members that who have not been provided with the necessary skills to meet the demands of investigating a crime (Kiplin, 2002:3).

It is the responsibility of an investigator to collect evidence when a crime is committed, to bring the perpetrator to trial and then submit the evidence required, in order to reveal the unlawful action of the offender. A case can only go to court if the crime that was committed has been fully investigated. Criminal investigation is a process of searching and the collecting facts and proof whereby the crime situation can be clarified (Van der Westhuizen, 1996:1)

It is well known that the SAPS cannot give the attention that it deserves to each and every reported case. This situation is mostly due to time constraints, manpower shortages and heavy workload. This is not always understood by society. It is expected from the SAPS to restore order when it has been violated; in other words a crime must be solved, no matter what.

Although investigators today have all the advanced technological aids at their disposal, it is sometimes not enough to reveal the true surroundings of a crime. It could be because no physical evidence was found during the searching of the crime scene, while this is needed to be gathered, analysed, evaluated and interpreted, using scientific, technological aids. The reason for this is the individualisation of the perpetrator, and thus revealing the true surrounding of the committed crime. However, there are two types of information that can be gathered by the investigator, applying the relevant method and techniques. These are physical evidence and the other verbal evidence. Another source of information that can play a valuable role in crime investigation is information about the criminal's modus operandi (Clarke, Cowley, De Klerk, Lamprecht, Mendes, Myburg, Van Schoor, Van Zyl & Zinn, 2004:6).

Although information about modus operandi is very useful, the researcher has observed, from sources researched, that investigators should guard against relying exclusively on this type of information. However, modus operandi information can be used effectively to reduce the number of suspects in a case, and in doing so, gives direction to the entire investigation process (Clarke et al.,

2004:42). Du Plessis (1989:86) is of the opinion that the general analysis of crime, and with that also modus operandi information, is valuable for identifying criminals and is of cardinal importance in investigating and preventing crime.

### 1.3. AIM OF THE RESEARCH

According to Leedy (1993:11), the aim of research is to discover new facts and their correct interpretations, to revise accepted conclusions, theories, or laws in the light of newly discovered facts, or the practical application of such a conclusion.

The aim of this research is to establish how modus operandi can be used to identify suspects in burglary cases and if modus operandi as evidence is admissible in South African courts. Modus operandi can only be used as evidence in court when reference is made to similar facts, this relates to facts that are similar to the facts in issue in the present criminal proceedings. The admissibility of evidence relating to similar facts is, once again, based on the requirements of relevancy. Crimes differ and so do their perpetrators. Perpetrators committing different crimes make use of different techniques when committing the crimes. For this purpose the researcher decided to limit the study only to the crime of burglary. Due to the above discussion the researcher did not attend to the following issues in this study:

- What procedures to be followed regarding the MO in burglary investigations
- What problems are experienced by investigators regarding, MO's in burglary cases
- The various techniques used or not used by investigators, regarding MO in burglary cases.

## 1.4 PURPOSE

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

Based on what Denscombe (2002:25-27) says, the researcher considers the following as the purpose for this research:

- To establish how well a detective in the SAPS currently uses *modus operandi*, the researcher investigated burglary dockets and other files with the specific intention of weighing up the strengths and weaknesses and to consider how the use of *modus operandi* could be improved.
- The researcher also explored national and international literature, in an attempt to discover new information. The researcher's intent is to break into new territory, find new information and report back, in an attempt to improve the current use of *modus operandi* in burglary cases.
- The researcher also intends to develop good practice (Denscombe, 2002:27). The main drive behind the research is to solve practical problems in the practice of investigation and to improve procedures (Denscombe, 2002:27). The aim is to arrive at recommendations for good practice that will address the problem at hand, and to enhance the performance of detectives in the use of *modus operandi*. The researcher hopes that this research will be applied and contribute to better performance by all investigators, and by so raise the image of the SAPS and investigators in general.
- The researcher also wants to empower her-self and investigators with new knowledge in and insight into the use of *modus operandi*. The researcher wants to see that investigators become more effective and efficient in doing their work as investigators (Denscombe, 2002:27). This will be done by offering valuable reading material through this study available for

investigators, to enable them to understand the value of modus operandi to identify suspects in burglary cases.

## 1.5 RESEARCH QUESTIONS

According to Descombe (2002:31), research questions specify exactly what is to be investigated by the research. The research will therefore address the following research questions:

- What does modus operandi entail?
- How should modus operandi be used to identify suspects?

## 1.6 KEY THEORETICAL CONCEPTS

The important concepts in this study will be defined for the purpose of clarity.

### 1.6.1 Crime

A crime can be defined as any blameworthy conduct involving any act or omission which is punishable by the state (Snyman, 1991:2).

### 1.6.2 Forensic investigation

Forensic Investigation is an investigation aimed at instituting court proceedings (criminal as well as civil) and where some or other scientific knowledge is applied to a legal problem (Pollex, 2001:93).

### 1.6.3 Modus operandi

Van Heerden (1985:10) gives a more comprehensive description of the term and regards it as the habits and techniques of criminals which have become stereotyped. He views it as a routine mode of conduct in which individualised techniques are employed.

#### 1.6.4 Suspect

A suspect is a person suspected to be involved in the commission of a crime and includes accomplices (persons who assisted in committing the crime) and accessories (persons who assisted in furthering the crime) (Snyman, 1991:220). Joubert (2001:234) adds that a suspect can also be an arrested or detained person.

#### 1.6.5 Objective clues

According to Van der Westhuizen (1996:1), Van Heerden describes objective clues: as “the factual proof and objective explanations of these, that is, the so-called mute, indirect or circumstantial evidence ... that is, physical clues”.

#### 1.6.6 Identification

Identification is based on the principle that all subjects in the universe are unique because they have certain unique individual or group characteristics (Marais, 1992:19).

#### 1.6.7 Burglary

According to Gilbert (2007:512), burglary is the unlawful entering of a legally defined structure with the intent to commit a felony or theft.

### 1.7 RESEARCH APPROACH AND RESEARCH DESIGN

In all research projects the research methodology is determined by the type of data required and the research questions (problem statement) (Leedy, 1993:139). Accordingly, the researcher followed both a qualitative and quantitative approach for the type of data needed and to formulate the research questions. This approach is known as the triangulation method that refers to the “use of a variety of methods and techniques of data collection in a single study” (Mouton, 1996:156). Leedy (1993:142) is of the opinion that in order to present a

full and complete overview the use of both qualitative and quantitative approach is an advantage.

#### 1.7.1 The use of the qualitative approach in this study

The qualitative research is multi-method in focus, involving an interpretive, naturalistic approach to its subject matter. This means qualitative researchers study things in their natural settings (Creswell, 1998:15; Pope, Lovell & Brandl, 2001:369). For example: what is the meaning of modus operandi and how should it be use to identify a suspect in a burglary investigation. The questions in the interview schedule, aimed at the gathering of qualitative data, were mainly so-called open-ended questions in which descriptive type of questions were asked (Zinn, 2002:32). The researcher therefore wished to obtain practical answers to the problems from those involved in the field of investigation. Bailey (1982:126) points out that the advantage of open-ended questions is that “they allow for more creativity or self-expression by the respondents”.

Qualitative research is exploratory, and the researcher sought to listen to the participants and build up a picture based on their ideas and personal experiences (Creswell, 1994:21). Further to this, the topic needed to be explored because of the need to present a detailed view of the topic (Creswell, 1998:17-18) and to enable those responsible for investigation to use modus operandi to improve the conviction rate of cases reported. It will reveal the thoughts and perceptions of the investigators with regard to the value of modus operandi.

#### 1.7.2 The use of the quantitative approach in this study

In the quantitative part of the study, the interview schedule also consists of closed-ended question where from relevant and pertinent information was obtained. For example the data about age, years being an investigator, did respondents done the basic detective course, how many respondents are involved in the investigation of burglary cases, does modus operandi been used to investigate a case or to identify a suspect and does the respondents think they

can use modus operandi to identify a suspect. Sixty dockets for the last six months of the year 2006 were also analysed to determine the use of modus operandi in burglary cases. Again the simple random technique was employed.

A research design is defined as “a set of guidelines and instructions to be followed in addressing the research problem” (Mouton, 1996:107). Welman and Kruger (2001:46) say “a research design is the plan according to which we obtain research participants (objects) and collect information from them”. The research design of this research is presented in the form of a literature study, which involves current literature on the subject modus operandi and a presentation of the empirical research findings. A structured interview schedule was designed to collect the relevant data from investigators involved in investigation of burglary. To achieve this goal the researcher only used investigators with investigation experience. The design’s strength is that it has high construct validity, provides in-depth insights, and that a rapport with the research subjects is produced (Mouton, 2001:150).

The design’s limitations, according to Mouton (2001:150), are that the results cannot be generalised because they constitute the views of individuals, measurements cannot be standardised, and the collection and analysis of data may be time-consuming. The researcher attempted to eliminate these limitations, as described by Mouton (2001:56), through an in-depth literature study, face-to-face interviews in a control group based on a structured interview schedule and docket analysis to investigate the research problem of modus operandi.

Primary data has been collected by the researcher through face to face interviews, using a structured interview schedule, where all respondents were asked the same questions and were often offered the same options in answering them. Through docket analysis and analysis of the Crime Administration System (CAS) of the SAPS, information was gathered on the nature of burglary and the modus operandi of this crime. This information helped to generate and structure



ideas, focus the research, and familiarise the researcher with the topic. Welman and Kruger (2001:35) state that “a primary source is the written or oral statement of a direct witness of, or a participant in, an event, or an audiotape, videotape or photographic recording of it”. This would then represent first-hand evidence of what happened.

The researcher also obtained secondary data by conducting a literature study, as described by Mouton (2001:69). Secondary data provides second-hand information of events. This is when the sources did not witness the events themselves, but have obtained the information from someone who did experience the events or who has obtained the information from someone else who did experience them first-hand (Welman & Kruger, 2001:35).

### 1.7.3 Steps taken to conduct this research

The following steps were taken in conducting this research:

- After approval of the research proposal by the Research Committee of the School of Law, Department Criminal Justice, at UNISA, the researcher submitted a written application for permission to proceed with the research to the Head of strategic research at SAPS Head Office and the respective Station Commissioners of the three police stations in this research. Permission was granted by the respective Heads of the SAPS.
- The practical research was preceded by an in-depth study of relevant literature.
- An interview schedule was drawn up and submitted for evaluation and comment to the researcher’s supervisor. The supervisor’s comments and suggestions were incorporated and added to the interview schedule. The interview schedule was then piloted and tested with three detectives who were not respondents (Leedy, 1985:81).

## 1.8 POPULATION AND SAMPLING PROCEDURES

Mouton (1996:134) describes a 'population' as a collection of objects, events or individuals having some common characteristic that the researcher is interested in studying. The population for this research should be all investigators in the SAPS because they are responsible for investigation of crime. It is impossible to do such a study, however because of the time it takes the numbers and the costs involved.

The researcher therefore decided on a target population. Welman and Kruger (2001:3) say a target population is the study object which may be individuals, groups or organisations. Only a part of the target population has been selected, and the survey only involves this selected group. The group is referred to as the sample, and the process of selecting the sample is known as sampling (Hofstee, 2006:114). The target population for this research is all detectives from three police stations, namely, Florida, Roodepoort and Honeydew in the West Rand area of the Gauteng Province. The researcher believes that the target population is representative of the population because they are all police officials who have received the same basic training, administer the same laws and are recruited according to the same guidelines. There are eleven stations with detective units in the West Rand. The researcher then selected three stations by means of the simple random sampling technique. Simple random sampling is the most basic probability sampling technique, as at each draw each unit has the same probability of being included in the sample. In a random sample each person in the universe has an equal probability of being chosen for the sample, and every collection of persons of the same size has an equal probability of becoming the actual sample, as long as they are members of the same universe. All that is required to conduct a random sample, after an adequate sampling frame is constructed, is to select persons without showing bias for any personal characteristics (Bailey, 1987:87). The researcher wrote the names of the stations on equally sized pieces of paper, put them in a hat and drew three

stations. Miller and Whitehead (1996:115) agree that the probability sample should be representative of the population from which it is selected. After the researcher had obtained the investigator's name lists from each police station (Florida – 22; Roodepoort – 24; Honeydew – 23), she followed the scientific procedure of sampling every second name on the list of investigators (systematic sampling) and drew thirty names (Mouton, 1996:137). Due to the limited number of investigators at each station the research started with number 1 on each list to select the required number of investigators. The investigators on the list all had an equal opportunity of being selected.

Apart from probability sampling the researcher also used non-probability sampling - more specifically, purposive sampling. Purposive sampling (Huysamen, 1994:44) is the most important kind of non-probability sampling. Researchers rely on their experience, ingenuity and/or previous research findings to deliberately obtain participants in such a manner that the sample obtained may be regarded as representative of the relevant population. The researcher interviewed two expert investigators from the SAPS at one of the three police stations in this study, a detective unit commander that is the head of one of the detective units and a crime information analyst that provided the researcher with valuable information concerning statistics on burglary the recording of modus operandi. This has been done because of the lack of information and literature.

## 1.9 DATA COLLECTION

The most common qualitative research techniques are questionnaires, interviews, observation and documentary sources (Clarke, 1999:67). For the purpose of this research, it was decided that interviews, docket analysis and a thorough literature study would be the most appropriate techniques.

### 1.9.1 Literature

A literature search was conducted to find out what work had already been done in this research area. All possible national and international sources in the area of policing and criminology, including the Internet, were consulted for articles covering the same topic, but no article or book with the same topic was found. There are a number of books available on *modus operandi* but not on *modus operandi* as identification technique.

Due to this problem it was decided that the topic be divided into different concepts which were identified in order to find literature, namely: crime, forensic investigation, investigation, identification, suspects, perpetrator, burglary and tracings. The relevant literature was studied to find answers to the research questions.

### 1.9.2 Interviews

This study utilised structured interviews as described by Welman and Kruger (2001:165-171). A fully structured interview is where there is a fixed sequence of predetermined questions. They can be structured, with all interviewees being asked the same questions. These questions can range from open-ended questions to only a few 'yes' or 'no' questions (Hofstee, 2006:135).

This technique has the advantage of being in a social situation where someone who is good at interviewing can build up greater empathy between themselves and the interviewee, leading it is hoped, to a greater involvement and better quality data. Data obtained is then more easily compared, with less risk of bias occurring simply because different people are being asked rather different questions (Robson, 2000:90). Welman and Kruger (2001:145) are of the opinion that working with a captured audience such as investigators is to administrate a group measurement/test. The sessions were arranged with the permission of the Head of these police stations so that no respondent had an excuse for not taking part in the interviews. After discussions with the sample of thirty respondents,

eight respondents withdrew due to work commitments and personal reasons. The researcher continued interviews with the remaining twenty two respondents.

The researcher conducted structured face-to-face, individual interviews with the investigators included in the sample, to address the problem of *modus operandi* in burglary cases. The questions in the interview schedule focused on the research questions and the personal experience of each participant. Each participant's interview has been documented with regard to their understanding and experience. The questions in the interview schedule consisted of a combination of closed- and open-ended questions. The type of information gathered by means of the closed-ended questions was of a more quantitative nature. The advantage of close-ended questions was that they formed clear categories, so that responses could be classified systematically, quantitatively compared and statistically analysed. In contrast the open-ended questions (as described by Miller & Whitehead, 1996:181) were aimed at obtaining the more in-depth detail about *modus operandi* itself, and to allow respondents to answer more fully. This information was of a more qualitative nature. Bailey (1982:126) points out that the advantage of open-ended questions is that "they allow for more creativity or self-expression by the respondents". The questions were grouped into categories to make it easier for the respondents, and to make the analysis easier, and were also structured to address the research questions. The questions in the interview schedule were tested on three investigators not included in the sample, and the necessary corrections were made before the interviews. Detailed data was obtained through the thirty so called open-ended and few 'yes' or 'no' questions in the interview schedule. The interviews with the respondents were conducted only on a once-off basis.

The researcher also interviewed two expert investigators from the SAPS - a detective unit commander and a crime information analyst at one of the three police stations in this study - because of the lack of information and literature available on the topic. Due to confidentiality, the researcher cannot name the

investigators, the unit commander and the crime analyst. The researcher did not ask the two respondents exactly the same questions as indicated in the questionnaire. She asked questions specifically based on the non-existence of modus operandi forms in dockets of burglary cases, during the docket analysis. The detective unit commander and the crime information analyst explained why no modus operandi forms were filed in the dockets, and told the researcher of the advance technological process that has been used to capture modus operandi information. This will be discussed in Chapter 2.

### 1.9.3 Docket analysis

The simple random sampling technique was once again employed at the three police stations to analyse closed dockets in burglary cases for the last six months of the year 2006. The researcher decided to draw 20 dockets from each station. A total of 1563 burglary dockets were found at the three police stations. The researcher wrote the number 1-20 on individual pieces of paper and put each number in a hat. A number was drawn from the hat to indicate at which number the selection will start. The number seven was drawn. The researcher then started with number seven and thereafter every 25<sup>th</sup> number. The total sample of dockets that were analysed is sixty. The crime information analyst provided the researcher with statistical documentation concerning burglary cases, to evaluate. Because of confidentiality, the documentation was for the researcher's perusal only.

The sixty dockets were tested against the following questions:

- Was a modus operandi form completed for each case?
- Was the form properly completed, and
- Was the form sent to the Crime Information Office (CIO)?

## 1.10 DATA ANALYSIS

The researcher analysed the collected information according to the different themes, by using the following strategies, as explained by Creswell (1998:249):

- Analysis
- Synthesis
- Induction
- Deduction

The information from the interviews and documentary sources was compared, integrated and analysed to determine trends and best practices and to reveal problem areas (Creswell, 1998:249). The Tesch and Guba technique was also used in the qualitative analysis for the collection of data. The process of analysis usually begins once the data collection process has been concluded. Data analysis in qualitative research can be done by hand or with the aid of a computer program.

Tesch's eight-step process of analysing has been used (Tesch, 1990:142-145) to:

- Get a sense of the whole.
- Pick one document from a described interview, read through it carefully and identify its meaning.
- Make lists of topics that emerge and cluster similar topics together.
- Code the same information to see whether new categories and codes emerge.
- Find descriptive words and categorise by grouping them together.
- Make a final decision and alphabetise these codes.
- Assemble the data material belonging to each category in one place and perform a preliminary analysis.
- Recode existing data if necessary.

Tesch's analysis process is just one of the processes that can be used to analyse data.

The data obtained from the questions in the interview schedule and the docket analysis have been analysed in Chapter 3 of this study. The collection of the qualitative data is substantial, since the researcher personally conducted the interviews. Accordingly, the researcher could properly and extensively describe all respondents' explanations and answers. The researcher was also able to observe and note each respondent's reaction. This resulted in the analysis of the qualitative data being high.

#### 1.11 METHODS USED TO ENSURE VALIDITY

It is important that measuring instruments used ensure some measure of reliability and validity. According to Welman and Kruger (1999:38), the validity of a measuring instrument is reflected to the extent that it measures what it intends to measure. The measuring instrument can be regarded to have valid content if a complete range of content is exposed by means of literature or through the researcher's own experience (Pretorius, 2004:8). Various case dockets were analysed by the researcher, and structured and unstructured interviews were conducted. During the structured interviews the same questions from the interview schedule were put to all interviewees, which ensured a particular consistency in the qualitative data collection. The questions used during the interview were tested by approaching three investigators of a police station on the West Rand that is not included in this study, and also the researcher's study leader, so that they could answer the questions in the interview schedule and identify potential problems. The suggested changes were incorporated in the final interview schedule for use during the interviews. This ensured that the questions were clear and easily understandable, before being implemented. The questions in the interview schedule were based on the research questions, to ensure that they measure what they intended to measure as accurately as possible (Miller &



Whitehead, 1996:183). The sampling method that was used for the research (see 1.7) gave the investigators in the population an equal opportunity to be included in the research. All interpretations, analyses and conclusions were made on the basis of data gathered from the interviews, docket analysis and literature studies (Mouton, 2001:110).

#### 1.12 METHODS USED TO ENSURE RELIABILITY

Leedy (1985:26) is of the opinion that “reliability deals with accuracy”. Reliability asks one question above others, which is: With what accuracy does the measurement (test, instrument, questionnaire, and inventory) measure what it is intended to measure? (Leedy, 1985:26). In the data analysis the Tesch and Guba technique - which has, proved to be reliable in various - studies was used, to adhere to generally accepted scientific standards. The suggestions of Bouma (1993:14), to provide proper records for analysis, were also used when interviews were recorded on paper.

An interview schedule was designed as a measuring instrument to record the experience and expertise of investigators in the field of investigation - more specifically, the use of *modus operandi*. As stated above, the interview schedule was tested before the interviews with the respondents' by doing a pilot study whereby three expert investigators were interviewed. The interviews were conducted at random from a fixed list, with previous notification. The respondents were not forced to answer the questions. The interviewer did not make use of leading questions or influence the answers of the respondents in any way. Everything was documented by the use of proper notes, and presented in such a manner that if another researcher were to use these documented notes they would be able to obtain the same results. Literature that was used in the research has been acknowledged throughout the report.

## 1.13 ETHICAL CONSIDERATIONS

Leedy (1985:100) points out:

The principles of ethical propriety lying at the base of most of these guidelines resolves into simple considerations of fairness, honesty, openness of intent, disclosure of methods that will be employed, the ends for which the research is executed, a respect for the integrity of the individual, the obligation of the researcher to guarantee unequivocally individual privacy, and informed willingness on the part of the subject to participate voluntarily in the research activity.

Prior written permission from the SAPS was obtained for undertaking this research project. The Code of Ethics for Research at Technikon SA (Unisa) (Technikon SA, 2000:128-134), emphasises ethical principles that researchers associated with Unisa (the former TSA) are expected to adhere to, for example, integrity, confidentiality and anonymity. Before the interviews were conducted, the respondents were informed by the researcher that participation was voluntary, and that their anonymity would be protected by the researcher. This was achieved by ensuring the confidentiality of the information collected, and protecting the anonymity of the research participants. Acknowledgement has been given to all sources consulted. The obtaining of consent from all participants and permission from the relevant authorities was sought and obtained. The researcher respected and fulfilled all undertakings.

## 1.14 ARRANGEMENT OF THE REPORT

**Chapter 2 Modus operandi** – this chapter deals with the meaning and purpose of modus operandi.

**Chapter 3 Modus operandi as technique to identify burglary suspects** – this chapter focuses on how to apply modus operandi and the situational factors during a criminal act, and how to use it as a technique to identify burglary suspects.

**Chapter 4 Findings and recommendations** – this chapter concludes the study, with conclusions and recommendations on the findings of the study.

## **CHAPTER 2**

### **MODUS OPERANDI**

#### **2.1 INTRODUCTION**

As with physical evidence at the crime scene, the modus operandi of criminals can also contribute to identify and trace them. According to Marais (1992:1), tactical investigation methods must be followed by means of studying specific methods or techniques of criminals in committing a crime, such as modus operandi. The success of the methods depends directly on the knowledge of the investigator. The classification of criminals in terms of their modus operandi can make a valuable contribution in crime, such as burglary. However, the modus operandi of criminals is useless if this information is not properly recovered at the scene of the crime, and if it cannot be used properly. It needs to be described scientifically, studied, classified and documented for future reference (Marais & Van Rooyen, 1990:66 and (Barnard, Cronje, De Klerk, Van Zyl & Zinn, 1998:11).

This chapter focuses on the following topics: the concept of modus operandi, its elements, its influence and its value. Also, the concepts of forensic investigation and criminal investigation and the differences between them, and the goals, purposes, methods, techniques of these investigation processes are highlighted.

#### **2.2 MODUS OPERANDI**

Modus operandi is a Latin term that means “method of operating”. It refers to the manner in which a crime has been committed (Gross, 1924:478). Bennett and Hess (2004:552) say it refers to the characteristic way a criminal commits a specific type of crime. Horgan (1979:57) describes the term as “business practices, a manner of action or operational procedures”. Van Heerden (1985:10) gives a more comprehensive description of the term and regards it as the “habits

and techniques of criminals which have become stereotyped". He views it as a "routine mode of conduct in which individualised techniques are employed". Marais and Van Rooyen (1990:67) add that this profile not only involves operational methods and techniques, but also includes masquerade techniques, secret language, writing, and communication signs of criminals.

According to Caldwell (Du Plessis, 1989:84), *modus operandi* is a means of identification which is based on the fact that many offenders tend to use the same method time and again when committing a crime. Barnes and Teeters as discussed in (Du Plessis, 1989:84) describe it as a system to identify the offender a system based on the surmise that a transgressor leaves behind his trade mark in the form of the crime he commits and the methods he employs. In a manner corresponding with the Locard principle (also see 3.6.1), the criminal cannot escape the crime information which they transfer to the scene (Van der Westhuizen, 1996:38).

According Du Plessis (1989:86), general crime analysis and with it the *modus operandi* information is of cardinal importance for the investigation and prevention of crime. Prinsloo (1993:36) takes this point of view even further with his approach that besides the description of general ecological tendencies, exceptional crime patterns can in this matter be projected for the future, and resources can be meaningfully utilised for the maintaining of the restoration of the social order.

The respondents were requested to define the concept 'modus operandi' from their experience. Their definitions are outlined as follows:

- Nine respondents mainly regarded *modus operandi* as the method and technique use to commit a crime.
- Four respondents defined *modus operandi* as the manner in which the crime was committed and all the instruments used.

- One respondent was of the opinion that modus operandi is the way suspects operate to enable them to penetrate their victim or target.
- Three respondents were of the opinion that modus operandi is a specific way that someone does something.
- Four other respondents were of the opinion that modus operandi is to identify the way the suspect commit crimes at the same way
- The last respondent (22), regarded modus operandi as identifying a suspect.

The researcher agrees with Burstein (1999:22), in that each individual could have their own definition of the understanding of modus operandi, depending on how each one interprets it. This was not exactly the case with the respondents. Nine of the respondents had the same opinion as to what modus operandi means which corresponds with authors, such as Marais and Van Rooyen (1990:67), Caldwell (Du Plessis 1989:84) and Van Heerden (1985:10). Twelve respondents had other opinions that are also in line with definitions of authors, such as Gross (1924:478), Horgan (1979:57), Van Heerden (1985:10) and Bennett and Hess (2004:552). Respondent 22 had a different opinion, formulated by authors such as Barnes and Teeters (Du Plessis 1989:84), they describe modus operandi as a system to identify the offender. It is therefore evident from the respondents' responses that they display sufficient knowledge to show that they know what modus operandi means.

The respondents' replies were that modus operandi can be seen as the operational profile of a criminal - a profile which includes their operational methods and techniques, such as trademarks, disguise techniques, secret language, writing and signs, and it has to be committed more than once. Therefore, modus operandi refers to the behaviour or methodology of the criminal.

During the docket analysis it was evident that the burglary dockets did not contain any modus operandi forms. It is clear from the sample police stations that detectives do not use - or complete - modus operandi forms. Interviews with the respondents and other members at these stations confirmed the fact that modus operandi forms are not used, and therefore the researcher could not find any MO forms in the dockets. However, it was evident from the statements in the burglary dockets which the researcher analysed, that criminals follow a constant, stereotyped pattern of conduct and employ individualised techniques when committing burglary.

### 2.2.1 The Elements of Modus Operandi

According to Turvey (2002:231-232), a criminal's modus operandi is comprised of learned behaviours that can evolve and develop over time. It can be refined as an offender becomes more experienced, sophisticated and confident. It can also become less competent and less skillful over time, de-compensating by virtue of a deteriorating mental state, or increased use, of controlled substances (Turvey, 2000:221). Turvey (2002:231) continues to say that in either case an offender's modus operandi is functional in nature. It most often serves or fails one or more purposes:

- Protection of offender's identity (wearing a mask or gloves during burglary, etc.).
- Successful completion of the crime (making a list of potential victims with pertinent information, etc.).
- Facilitation of offender escape (disposal of a vehicle after the commission of a crime, etc.).

O'Connell and Soderman (1936:254-260) state that there are general types of modus operandi behaviour, which include, but are not limited to:

- Number of offenders.
- Amount of planning before a crime.
- Route taken to offence location.

- Pre-surveillance of, crime scene(s) or victim.
- Use of a weapon during a crime.
- Nature and extent of precautionary acts.
- Location of offence.
- Methods of committing the crime.
- Techniques and instruments to be used.
- Items taken from the crime scene(s) for profit or to prevent identification.
- Method of escape/route taken from the offence location.
- The criminal motive.
- Method of transportation to and from the crime scene(s).

The respondents were requested to name the elements of modus operandi. They stated the following:

- Nineteen of the respondents responded by listing the following elements:
  - How was the crime committed?
  - Why was it committed?
  - When was it committed?
  - Who committed the crime?
  - What is the motive?
- One of the respondents was of the opinion that the elements of modus operandi are something specific at a specific time and place.
- Two respondents identified the elements as methods, techniques, instruments, time and place.

Based on comparison with literature, such as Turvey (2000:221), Turvey (2002:231-232) and O'Connell and Soderman (1936:254-260), there is not a great difference between the answers of the respondents and these authors. It is evident that the respondents understand and know what the elements of modus operandi are.



Douglas, Burgess & Ressler (1992:2) says that when attempting to link cases, the modus operandi has great significance. A critical step in crime scene analysis is the resulting correlation that connects cases due to similarities in modus operandi. Douglas, et al. (1992:2), however, asks the question: What causes an offender to use a certain modus operandi? What circumstances shape the modus operandi? Is the modus operandi static or dynamic?

Unfortunately, investigators make a serious mistake by placing too much significance on the modus operandi when linking crimes. Douglas, et al. (1992:2) supports Turvey (2002:232) by saying that the offender become more experienced and sophisticated - for example, a novice burglar shatters a locked basement window to gain access to a house. Fearing that the sound of a window breaking will attract attention, he rushes in his reach for valuables. Later, during subsequent crimes, he brings tools to force open locks, which will minimise the noise. This shows that the burglar has refined his house-breaking-and-entering techniques to lower the risk of apprehension and to increase his profit. According to Douglas, et al. (1992:2), this demonstrates that modus operandi is a learned behaviour that is dynamic and flexible. Developed over time, the modus operandi continuously evolves as offenders gain experience and confidence.

### 2.3 FACTORS THAT CAN DETERMINE OR INFLUENCE MODUS OPERANDI

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

Turvey (2002: 32) states that an offender's modus operandi behaviours are, by extension, dynamic and flexible. He says this is because modus operandi behaviour is affected by time, and can change as the offender learns or deteriorates. For example, offenders may realise that some of the things they do during a crime are more effective. They may subsequently repeat them in future offences, and become more skillful, refining their modus operandi.

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

Bennett and Hess (2004:336) are also of the opinion that important modus operandi factors includes the time, type of victim, type of premises, point and means of entry, type of property taken and any peculiarities of offences. Bennett and Hess (2004:336) continue to say that effective modus operandi files are essential in investigating cases such as burglaries, because most burglars commit a series of burglaries. One should look for pattern in the location, day of the week, time of day, type of property stolen, and method of entry or exit. The burglar may take only cash or jewellery, drink liquor at the scene or eat from the refrigerator. Such peculiarities can tie several burglaries to one suspect.

Marais (1989:48-49) also takes this view, and mentions that the following factors can also influence modus operandi:

- Opportunity to commit a crime.
- Physical capacity.

- Changing needs and desires.
- The situation in which the offender finds him-/herself.
- Knowledge and experience.

The respondents were requested to list the factors that can influence or determine modus operandi. The respondents' answers were very vague; most of them did not answer the question on the schedule:

- Only two of the twenty-two respondents were able to give an answer that takes the view of Marais (1989:48-49).
- Sixteen respondents' answers were vague and were not nearly in line with the authors Marais (1989:48-49), Bennett and Hess (2004:5) and Turvey (2002:232).
- Four respondents did not give any answer

It is evident from the respondents' responses that they are not sure - or do not know - which factors can influence or determine modus operandi. The docket analysis shows that there were no modus operandi forms in the dockets, that could be analysed. The researcher suggests that this could be a possible reason for the respondents' ignorance regarding the question "What factors can influence or determine modus operandi?"

## 2.4 THE VALUE OF MODUS OPERANDI

The value of modus operandi data in identifying a criminal during crime investigation, is well known and documented. Zinn (2002:83) takes the view that modus operandi includes, for example, trademarks of a specific group of criminals who commit the crime together. A complete data bank in terms of trademarks, is invaluable in the investigation process, for the identification and tracing of possible offenders, as well as for determining the best interrogation techniques regarding a offender, and the tracing of physical evidence at a crime scene.

O'Connell and Soderman (1936:1) are very passionate about the value of *modus operandi*. They describe it as follows: "Knowledge of the *modus operandi* of criminals and methods of their apprehension, skill, patience, tact, industry and thoroughness will be everlasting primary assets in detective work". Authors, such as Lee, De Forest and Gaensslen (1983:29) also take the view that: "many criminals have a particular *modus operandi*, which consists of their characteristic way of committing a crime. Physical evidence can help in establishing *modus operandi*, for example, the means used to gain entry, tools that were used, items taken, or any other signs that are all important".

The availability of information on crime tendencies or *modus operandi* of, for example, burglars who operate in specific areas, using the same means of entry, tools or any other apprehension skills that are important and available, has the result that resources such as patrol vehicles and human resources are deployed to combat or prevent crime effectively. This view is also supported by Osterburg and Ward (1997:148) in Zinn (2002:84), with their opinion that *modus operandi* information can be used for the identification and arrest of offenders, and is valuable in formulating strategies to combat crime. In the context of crime tendencies, the public can also be supplied with specific information regarding successful crime prevention strategies and actions for a specific crime such as burglary in the neighborhood (Zinn, 2002:84).

According to Prinsloo (1993:44), *modus operandi* can be used in a number of ways, namely:

- As a scientifically based tactical perpetrator identification technique in order to effect the identification and tracing of criminals.
- In reactive police operations.
- As an aid in the prevention of crime.
- As a resource for the interrogation of suspects.

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

Bennett and Hess (2004:5) continue to say that modus operandi can provide clues in numerous cases. For example, if several burglaries are committed between 11h00 and 13h00 in one area of a community, and involve broken glass doors, it may be inferred that the same individual committed the crimes. A similar time, area and method of entry would further support the assumption. Although the burglaries may be unrelated, the probability is low. It may further be assumed that the burglar would not commit armed robbery or other crimes, unless surprised while committing burglary. Such assumptions are not certainties, however. Bennett and Hess (2004:5) also say:

In addition to proving that a crime has been committed, investigators must determine who committed it. Investigation is often aided by knowing how criminals usually operate, that is, their modus operandi (MO). The particulars of each crime scene may be entered into an MO file and matched with characteristics of known perpetrators of previous crimes.

The respondents were asked about the value of modus operandi. Their answers were grouped as follows:

- Seven respondents were of the opinion that the value of modus operandi is to identify a criminal during a crime investigation.
- Five respondents said it is to identify trademarks of a specific criminal/ group of criminals who commit a crime.
- Another five respondents replied that modus operandi is to identify crime tendencies, such as the target areas and time of crime.
- Three respondents' responses were that the availability of information on modus operandi means that resources can be deployed in a more focused way and time.

- One respondent was of the opinion that modus operandi is to be utilised for the identification and arrest of an offender.
- The remaining respondent said that the formulation of strategies in crime prevention is the value of modus operandi.

The respondents' answers were compared with the views of authors, such as O'Connell and Soderman (1936:1), Lee, De Forest and Gaenssien (1983:29), Zinn (2002:83) and Bennett and Hess (2004:337). There is not a big difference between the respondents' answers and these authors' opinions, which means that they are mostly in agreement on the value of modus operandi.

## 2.5 THE PURPOSE OF MODUS OPERANDI

Van der Westhuizen (1996:33) sees the purpose of modus operandi as the identifying and arresting of possible criminals, as well as the collection, safekeeping and presentation of evidence related to their alleged crimes, and the searching, tracking and collecting of facts.

The respondents' answers were compared to the view of Van der Westhuizen (1996:33), from which the following answers arose and were grouped as follows:

- Twenty respondents were of the opinion that the purpose is to ensure safety, to prevent crime and to arrest suspects.
- Twelve of the twenty respondents also said it is to combat and solve crime.
- One respondent was also of the opinion that it is to collect and preserve evidence.
- One respondent wanted to add "to get convictions".

Twenty of the respondents also indicated that modus operandi information about criminals is worthless, if this information is not described in a scientific manner, studied, classified and recorded for further use. Two respondents did not

comment on this statement. Marais and Van Rooyen (1990:133) confirm this statement. Looking at the value and the purpose of modus operandi, it can be concluded that they are very close to each other. The authors and the respondents held the same opinion on the two topics.

The modus operandi information about criminals is useless if it has not been described, studied, classified and recorded in a scientific manner. Today almost all the modus operandi information is computerised. The Crime Information Offices (CIO) of the SAPS makes a valuable contribution towards the capturing of crime and modus operandi records. First, the information about all cases including modus operandi if any exists, are captured (computerised) at the various police stations on the Crime Administration System (CAS). The CAS system has a comment function under the code 8111 and if any modus operandi was involved in the crime captured, it would be noted under the comment function (8111). Crime information such as modus operandi is sent to the Crime Information Offices (CIO) where analysts transfer the information onto the various systems where the information can then assist investigators with valuable information. By keeping detailed records of the modus operandi information of all offenders, the police will be able to identify possible suspects, and trace and arrest the offenders. In the view of the study the researcher did discuss any specifics in capturing data on to the CAS system.

## 2.6 CRIMINAL INVESTIGATION

Criminal investigation, from which forensic investigation originated, began in England during the 18th century, a period known for its numerous social, political and economic changes (Swanson, Chamelin & Territo, 2003:3). Kenney and More (1994:7) state that the lack of science in criminal investigation was first recognised by Hans Gross (1847-1915), an Australian magistrate. He became the first to speak in favour of criminal investigation as a science. He developed a

system of investigation in which science was to play a prominent role (Van Zyl, 2005:11).

According to Lyman (2002:15), the mission of law enforcement is complex and demanding, but contains some fundamental components, including the maintenance of peace in communities and the protection of lives and property. When people violate the law, offenders must be identified and brought to justice. The task of identifying these offenders, according to Bennett and Hess (2004:3), is the most important part of criminal investigation. A criminal investigation usually starts with personal observation or information from a citizen. Police on patrol may see some suspicious action or persons, or a citizen may report suspicious action or people. That information is then received by the police for response. Bennett and Hess (2004:3) maintain that the initial response is crucial to the success of the investigation. They continue to say that although the belief is that cases are won or lost in court, they feel that most cases are actually lost during the first hour of an investigation (the initial response period), rather than in court.

Reactive policing follows on a violation of order, and requires corrections by means of repressive methods such as arrests, detention, trial, sentencing and imprisonment, etc. (Du Preez 1991:2). Zinn (2002:6) says it is important, in a democratic system, that these respective methods and the accompanying crime prevention and criminal investigation take place within the framework of the law and generally accepted human rights.

Lyman (2002:16) and Dempsey (2003:33) state that criminal investigations are conducted by means of three different responses, namely, reactive, proactive and preventive. The reactive response addresses crimes that have already occurred, such as burglary, murder and robbery. In this case, investigators will respond to a crime, collect evidence, locate and interview witnesses, and identify and arrest a suspected offender. When investigations are conducted in a



proactive manner, this means that the investigation is conducted before the crime is committed, and the suspect is identified before s/he commits the crime. Finally, investigations are sometimes conducted as a preventive response. Prevention through deterrence is sometimes achieved by arresting the criminal and aggressive prosecution (Lyman, 2002:16).

Grové (1985:53) says crime investigation (reactive policing) can be viewed as an integral part of the police function in the formal social control structure whereby internal order is maintained. Du Preez (1993:2) and Zinn (2002:6) further describe crime investigation as a systematic and planned information collection process. It consists of observation and/or inquiry conducted during different phases, in order to collect information about the alleged crime. Marais (1992:1) states that information and facts play an important role in crime investigations and are primarily derived from two sources, namely, people and objects.

Effectiveness of criminal investigation is largely based on the availability of crime information and crime intelligence. Sir Atcherley gave stature to the term 'modus operandi' with his approach that a suspect in a specific case can sometimes be identified by how the crime is committed. Atcherley's concept was an early example of crime pattern analysis (Prinsloo, 1996:33; Zinn, 2002:82).

The respondents were requested to define the concept 'criminal investigation' from their experience. Their definitions are outlined as follows:

- Eight respondents regarded criminal investigation as a process whereby the question has been asked, when a crime is committed: Who did it? The respondents stated that this question is critical in any criminal investigation.
- One respondent defined criminal investigation as "the search for truth".
- The remaining 13 respondents were all of the opinion that criminal investigation is to look for evidence, to investigate and to take the offender to court and get a conviction.

Burstein (1999:22) reminds us that there are many definitions of the term 'investigation', depending on one's interpretation. Bennet and Hess (2004:4) and Van Zyl (2005:13) state that the term 'investigate' is derived from the Latin word *vestigate*. It means 'tracking' or 'tracing', which is easily related to police investigation. According to the *Concise Oxford Dictionary* (1990:624), 'investigate' means "to examine, inquire into or search".

Van der Westhuizen (1996:1) and Kenny and More (1994:9) maintain that criminal investigation is a methodical probing of the truth in order to solve crime and to consider the facts as the basis for the investigation. It is evident from the observations, that criminal investigation is a process of discovering, collecting, preparing, identifying and presenting evidence to determine who is responsible, and to take the offender(s) to justice (Bennet & Hess, 2004:4). When comparing the definitions of the respondents with the various authors above, there is not a big difference in their understanding. The effectiveness of criminal investigation is largely based on availability of crime information and crime intelligence. This research focuses on modus operandi that can also be utilised during criminal investigations.

### 2.6.1 Objectives of criminal investigation

The obvious objective of criminal investigation should be to solve cases (Bennett & Hess 2004:5). Authors such as Van der Westhuizen (1996:4), Lyman (2002:14), Swanson et al. (2003:28) and Joubert (2001:225) in Van Zyl (2005:14) also share the same list of objectives for criminal investigation, namely to:

- Decide whether a crime has been committed.
- To identify the crime that has been committed.
- To see if information were legally obtained.
- To gather evidence to identify the suspect.
- To arrest the suspect.
- To see if stolen property were recovered.
- To prepare sound criminal cases for prosecution.

- To determine the truth and ensure obedience to the law.

According to Lyman (2002:14), “[t]he premise behind the criminal investigation field is that people make mistakes while committing crimes. For example, a burglar may leave behind broken glass or clothing fibers, a rapist may leave fingerprints, skin tissue or blood. As a result of these oversights, evidence of who they are is also left behind. It is the job of the criminal investigator to know how, when, and where to look for such evidence”.

Bennett and Hess (2004:5) also state that the success of an investigation depends on the following:

- A logical order of events is followed.
- Physical evidence is procured according to law.
- All witnesses are successfully interviewed.
- All suspects are legally and efficiently interviewed.
- Leads are followed and property investigated.
- All information regarding the case is carefully and thoroughly recorded and reported.

According to Burstein, 1999:29), the finding of facts to prove a statement or theory seems to be the basic objective of all investigations. Burstein (1999:29) acknowledges, however, that there are differences in the motivation of criminal justice agencies, and to a certain extent that of corporate security representatives and those employed by others. For the police investigator there is no motivation or objective that is instigated by profit. The only motivation should be to conduct the investigation effectively and to reach a logical conclusion - in other words, a conviction in court.

#### 2.6.2 Purpose of criminal investigation

Pearsall and Hanks (1998:434) defines crime as “an action or omission which constitutes an offence and is punishable by law”. From the definition of crime it is

clear that it is expected from the investigator, as the instrument of law, to apprehend someone - the criminal - to be punished by law. This is an important aspect, as investigators now know that they must investigate crime for a reason. Investigators' first step in criminal investigation is to ascertain whether a crime has in fact been committed: "does the evidence support a specific offense? A legal arrest cannot be made for an act that is not defined by statute or ordinance as a crime" (Bennett and Hess 2004:4).

Taking the definition and discussion of Bennett & Hess, (2004:4) into consideration, it is logical that crime investigation is a process with different phases, methods and techniques to obtain information and evidence which the investigator is in direct need of in order to solve the crime, apprehend the perpetrator, and then follow through with the court proceedings to find the perpetrator either guilty or not guilty.

Van der Westhuizen (1996:1) states that "[c]riminal investigation is a search for the truth with the primary purpose of finding a positive solution to the crime with the help of objective and subjective clues". Van Heerden (1986:188) describes objective clues as factual proof - that is, indirect or circumstantial evidence. Van Heerden (1986:188) then defines subjective clues as the evidence offered by people, such as victims, eyewitnesses, culprits and complainants who are directly and indirectly involved in the crime. Van Zyl (2005:16) (as seen by Sennewald & Tsukkyama (2001:3) agrees with this argument and suggests that the purpose of investigation can also be seen as the searching, tracking and collecting of facts that have to be examined and studied in order to find answers or solutions to solve problems. The searching for clues to reconstruct the circumstances of the crime is also important (Weston & Lushbaugh, 2003:2). Bennett and Hess (2001:3) conclude by saying that the investigation process is primarily concerned with the gathering of information.

The respondents were asked about the purpose of investigation. According to all twenty-two respondents, it is:

- Prevention of crime.
- Crime combating.
- To ensure citizens' safety.
- Solving crime.
- Arresting offenders.
- Prevent further crime.
- Get convictions.
- Determine reason for crime.
- Collect and preserve evidence to solve the crime.

If the answers are compared with the views of the various authors above, there is not a big difference between them, which means that they are mostly in agreement on the purpose of investigation.

## 2.7. FORENSIC INVESTIGATION

According to Nickell and Fischer (1999:1), forensic investigation involves the scientific investigation of crime that is utilised in investigations, with the goal of bringing criminals to justice. According to Morn (2000:77), forensic science investigation can be defined in two ways, namely, the application of scientific theory, technology and technicians to crime and criminal investigation, secondly, and more specifically, it is divided into pathology and criminalistics. Criminalistics deals with physical evidence, while pathology deals specifically with death.

Forensic investigation is regarded as an investigation aimed at instituting court proceedings, criminal as well as civil, and where some other scientific knowledge is applied to a legal problem (Pollex, 2001:93). According to the Pearsal and Hanks (1998:718), 'forensic' is defined as "relating to or denoting the application of scientific methods and techniques to the investigation of crime". Looking at the

definitions as discussed above, the question might be asked: What has science to do with the investigation of crime, as in the case of forensic investigation? Kenny and More (1994:7) point out that science should play a prominent role in investigation. Swanson et al. (2003:3) agree and state that within the investigation process, various scientific methods are used to gather evidence, collect information and identify suspects.

The respondents were requested to define the concept 'forensic investigation'. Their definitions are outlined as follows:

- Nine respondents mainly regarded forensic investigation as a process whereby they are looking for solvable factors (evidence, information, etc.) to investigate a crime and to arrest offenders and bring them before the court.
- Two of the respondents defined forensic investigation as looking for scientific clues that can put the offender at the crime scene.
- Another respondent said that forensic investigation is a process to determine who committed the crime.
- The remaining twelve respondents were not sure what to say. Their answers were almost the same as those to the previous question, "What is criminal investigation?"

The researcher agrees with Burstein (1999:22) in that each person will have their own definition for the concept 'forensic investigation', depending on how each person interprets it. This was definitely the outcome with the respondents' answers. Although nine of them had the same interpretation, the rest did not exactly know what to answer, and repeated their answers to the previous question. Pollex (2001:93) states, that virtually all investigations today are referred to as forensic investigations.

Forensic investigation can be described as the search for the truth by collecting evidence which can reveal the truth surrounding a crime, and by using specific

scientific knowledge to identify and gather the evidence. However, forensic investigation not only applies to investigators, but also to a forensic specialist, as both of them are subject to the requirements of science. Therefore, they need to apply the methods and techniques accordingly, to collect evidence that can be scientific proof as the solution in the search for the truth. The researcher suggests that a description for forensic investigation could be “criminal investigation in a scientific way”.

The researcher is of the opinion that there is little difference between the terms ‘criminal investigation’ and ‘forensic investigation’. This will be briefly discussed in this chapter, in 2.9.

## 2.8 OBJECTIVES AND GOALS OF FORENSIC INVESTIGATION

The objectives and goals of forensic investigation are a means of assisting the investigator to solve a crime by using scientific methods and techniques. The information obtained can then provide sufficient evidence to secure a successful conviction.

According to Van der Westhuizen (1996:4), criminal investigation takes place with definite objectives in mind. He is of the opinion that “[a]n objective describes more precisely a commitment which must be achieved within an appointed time and according to a specified standard”. Van Heerden (as quoted by Van der Westhuizen (1996:4), identifies the following objectives of criminal investigation: “[c]rime identification, evidence gathering, crime individualisation, arrest of the offender, recovery of stolen goods, and involvement in the prosecution process”.

Van der Westhuizen (1996:8) is of the opinion that criminals are acting more scientifically every day, and regards this as an indisputable fact. As emphasised by Van der Westhuizen (1996:8) it is important that criminal investigators, in order to succeed in their task of investigations, must keep up with the criminals

and their scientific ways. However, it is not expected from investigators to generate their own advanced technological and scientific aids but to use the established aids which are developed and refined on a continuous basis. This means that the investigator has to use appropriate methods and techniques to detect, gather and preserve physical evidence, rather than to seek for evidence of a verbal nature, as that might not always be sufficient. Physical evidence will be analysed, evaluated and interpreted by laboratory assistants or forensic experts, to maximise the evidential value thereof.

Hans Gross (1847-1915), a pioneer in the development of scientific crime detection methods, held the following view in Marais (1992:1): “[i]nvestigators can solve a far greater number of crimes by searching for, preserving and analysing physical evidence found on a crime scene, than on relying on their skills as investigators”.

If the definitions by Marais (1992:1) and Van der Westhuizen (1996:8) of a criminal investigator are taken into account, the opinion can be formulated that in order for investigators to be able to compete with criminals, they should make use of scientific technological aids. In other words, they should gather as much information as possible to reveal the true surroundings of the crime, by using scientific methods and techniques. The goals of criminal investigation, as discussed by Bennett and Hess (2004:5), are to determine whether a crime has been committed, if there is evidence to identify the suspect, to arrest the suspect, to recover stolen property (theft, housebreaking cases), and to present the best possible case to the prosecutor.

The respondents were requested to list the goals of forensic investigation. Their answers were grouped as follows:

- Six respondents said the evidence from forensics cannot be disputed and so you get the connection.



- Two respondents said that the goals of forensic investigation are the evidence handed to the investigator such as blood results, to arrest a suspect.
- Five respondents said that the goals of forensic investigation are to decide if a crime has been committed.
- Another two respondents said that the goals are to identify the crime.
- One respondent said that the goal is to find information.
- Another three respondents said the goal is to determine the truth through scientific methods and techniques.
- One of the respondents said that the goal was to become involved in the prosecution process.
- Another respondent said that the goal is to ensure that the prosecution receives the best possible information to prove the case.
- The last respondent said that the goal was to find facts to prove a statement/theory.

It is evident that the respondents understand what the objectives and goals of forensic investigation are. All the respondents agreed that the objectives and goals of forensic investigation are to assist the investigator in one or other way in solving crimes, and stressed that it is done by scientific methods and techniques, to ensure a successful conviction. They also said that the investigation could lead to the identification of the offender, and also establish whether a crime has been committed.

## 2.9 DIFFERENCE BETWEEN FORENSIC AND CRIMINAL INVESTIGATION

According to Van Zyl (2005:14), when comparing the concepts 'forensic investigation' and 'criminal investigation', there seems not to be a real difference. With forensic investigation the emphasis is on the use of scientific knowledge. The various definitions of authors - Morn (2000:77) and Nickell and Fischer (1999:1) - make that clear. If one looks at criminal investigation, it is aimed at the

institution of court proceedings. Criminal investigation can be viewed as an integral part of the police function in the formal social control structure whereby internal order is maintained. The various definitions by authors Bennett and Hess (2001:4), Van der Westhuizen (1996:1) and Kenney and More (1994:9) have already been discussed. The forensic expert, on the other hand, determines the evidential value of a given object or phenomenon, relying solely on the methods, techniques and knowledge of his particular science.

Gross (as quoted by Van der Westhuizen, 1996:8) was the first to give a scientific basis to crime investigation, and named it criminalistics. Van Heerden (as quoted by Van der Westhuizen, 1996:8) is of the opinion that Gross approached each crime as a scientific problem. Abstract, theoretical, juridical knowledge to determine guilt or innocence of the offender was not enough to solve the problem appropriately. Furthermore, to ensure that the investigation of all crime situations could be approached scientifically and objectively, it was necessary to get factual insight. This could only be done by studying the crime phenomenon in its complexity.

Van der Westhuizen (1996:8) summarises it by saying that “[c]rime is seen as a scientific problem which requires scientific solutions”. The reason why science is applied in criminal investigations is to use scientific proof of the perpetrator’s involvement in the crime, by individualising the crime or detecting the alleged perpetrator. Criminalistics can therefore be seen as the science of criminal investigation.

Marais and Van Rooyen (1994:14-15) confirm this opinion, but their definition also includes the perpetrator’s actions: “[c]riminalistic tactics involve the methods and techniques of the crime investigator in the solving of the criminal act”. This is confirmed by Van Heerden (as quoted by Van der Westhuizen, 1996:10) that “[c]riminal tactics involve not only the methods and techniques used by the

criminal investigator in seeking its solution but also the methods and techniques of the criminal investigator in seeing its solution”.

From previous discussion it is accepted that criminal investigation is the gathering of information, and that forensic investigation is the application of scientific methods and techniques. According to Bennett and Hess (in Marais & Van Rooyen, 1990:1), criminal investigation is really a search for the truth. In this search the investigator can use two types of sources of information:

- Physical evidence at the crime scene. This type of evidence is referred to as indirect or circumstantial evidence. According to Bennett and Hess (2004:5-6), this type of evidence is referred to as objective evidence, since it can be tested scientifically. There can be no doubt about its correctness and value.
- Evidence given by people. This includes the evidence of, for example, victims, complainants, witnesses and perpetrators. This type of evidence is typified as subjective evidence, since there are various factors which can impair people’s perceptual abilities and consequently make them subjective (Bennett & Hess, 2004:5-6).

According to Van der Westhuizen (1996:9), it is clear that in criminalistics, physical evidence is of great importance. He states that in executing a crime, a large variety of traces and objects are used, known as physical evidence, and to gather these facts and information, a large variety of dissimilar analyses and experts must be utilised. The conclusion can be drawn that there is no difference between crime investigation and forensic investigation. Forensic investigation refers to investigation where scientific methods and techniques are applied to gather information, especially physical evidence, in order for it to be analysed, evaluated and interpreted by scientific experts, to provide scientific proof to present during the judicial process. What it results in is that the investigator must use appropriate methods and techniques to gather mainly physical evidence from a source of information and, in their turn, forensic experts will use appropriate

methods and techniques to analyse, evaluate and interpret this physical evidence. The object of this whole process is to individualise the perpetrator, thus revealing the truth surrounding the specific crime. However, it has been said that sources of evidence to prove a case of modus operandi are fairly limited. If forensic science is used to individualise the perpetrator, however, it becomes much easier, and that is needed to find physical evidence.

The respondents were requested to indicate what the difference is between forensic investigation and criminal investigation. All twenty-two respondents knew that there are similarities and very few differences. The researcher observed from the respondents' answers that they all have a good idea what the difference is between criminal investigation and forensic investigation. The opinions of the respondents are as follows:

- Forensic investigation: the emphasis is on the use of scientific knowledge and the fact that the investigation is aimed at the institution of court proceedings.
- According to all twenty-two respondents, the actual performing of criminal investigation requires that the investigation should be aimed at the institution of court proceedings, although it is not always clearly reflected in the way it is defined.
- The respondents are also of the opinion that forensic as well as criminal investigation is investigation done by using techniques that will stand scrutiny in court.

They know what investigation and forensic investigation is. Their adequate knowledge is displayed in their answers. The majority (thirteen of the twenty-two respondents) are registered students of Unisa, where Investigation of Crime is offered as part of the degree programme Forensic Investigation. There is good communication between the students and the other detectives at their workplace. All twenty-two respondents confirmed that forensic investigation involves the use

of scientific methods to solve a crime. Both are court-driven investigations, using techniques that stand up to the scrutiny of the court.

## 2.10 TECHNIQUES AND METHODS IN INVESTIGATION

According to the Pearsall and Hanks (1998:1903), a technique is defined as “a way of carrying out a particular task, especially the execution or performance of an artistic work or scientific procedure, while a method, according to Crowther (1995:734), it is defined as “a way of doing something”. To illustrate: identifying the suspect could be seen as the method used by investigators, while the different ways of identification, such as fingerprint identification, photo identification and identification parades can be seen as the different techniques in the identification process.

The respondents were asked to explain techniques and methods in the investigation process. They responded as follows:

- All twenty-two respondents mentioned analysis, comparison and evaluation of information.
- Two respondents added “to interview people for information to their response”.
- Three respondents believed that to establish evidence should be part of their response.
- One respondent also added analysis of information to his response.
- Two respondents also mentioned that the method could be modus operandi and that trademarks reveal the modus operandi of criminals.
- Three respondents added that trademarks during the commission of the crime are very important and the method and use of implements.

The respondents’ answers are compared to the views of some of the authors above, but they are not clear on the difference between methods and techniques.

The reason for this might be the fact that the difference, as far as the researcher could determine, is not discussed in any training curriculum.

## 2.11 SUMMARY

Developing, locating, identifying and arresting offenders are primarily the responsibility of investigators. If offenders are not immediately identified, there must be an investigation. Offenders must be identified and information must be obtained. Physical evidence and methods of how the crime has been committed must all be obtained.

In addition to proving that a crime has been committed, investigators must determine who committed it. In the investigation, it will be of help to know how a criminal usually operates - that is, their modus operandi (MO). Bennett and Hess (2004:5) use the example of the 'work' of Jack the Ripper. It was relatively easy to recognise his work. Modus operandi information can provide clues in numerous cases, and Bennett and Hess (2004:5) continue to say that suspects should never be eliminated simply because their known modus operandi does not fit the crime that is being investigated. To be able to conduct effective investigation, it is important for all investigators to be familiar with the concept of modus operandi - its elements, its influence and its value. They also have to be familiar with the objectives, purposes, methods and techniques of the investigation process. If there is not a clear understanding about what needs to be achieved, investigators will not be able to achieve their goals.

To achieve the goals and objectives of the practice of modus operandi, it is very important for investigators to know how to apply modus operandi, what the situational factors are during a criminal act, and how to use them as a technique to identify suspects. This will be discussed in the next chapter.

## CHAPTER 3

### MODUS OPERANDI AS A TECHNIQUE TO IDENTIFY SUSPECTS

#### 3.1 INTRODUCTION

In the investigation of crime it is important for the investigator to use all possible lawful resources, methods and techniques to investigate the crime and establish the truth. Only people commit crime, which is generally committed with physical objects or instruments. The determination of the identity of the perpetrator or suspect of a criminal act is very important, because the direction and, by implication, clarification of the crime situation is hardly possible without it (Marais, 1992:1).

'Hard' forensic evidence (*e.g.* DNA) may be the best means of linking crimes, but it is often absent from burglary crime scenes. Modus operandi information is always present to some degree, but little is known of its significance in matching burglaries. According to O'Connell and Sodermann (1936:1), knowledge of the modus operandi of criminals and methods of their apprehensive skill, patience, tact, industry and thoroughness will be everlasting primary assets in detective work.

Many criminals have a particular modus operandi which consists of their characteristic way of committing a crime. Physical evidence can help in establishing modus operandi. For example, the means used to gain entry, tools that were used, types of items taken and other telltale signs are all important (Lee, De Forest & Gaensslen, 1983:29).

The choice of a particular crime to commit, and the selection of a method of committing it, is the modus operandi of a criminal. All criminals do not have a particular modus operandi, but enough of them have distinctive methods of

operation to justify classifying crimes by their characteristics. The modus operandi of a criminal is his or her “signature” (Weston & Lushbaugh, 2003:89).

This chapter focuses on specific aspects of modus operandi to identify suspects. It begins with aspects such as what a suspect is, the difference between identification and individualisation, identification techniques to identify a suspect and a person, and the admissible requirements to use modus operandi in identifying a suspect in court.

### 3.2 SUSPECT

The classic question in detective stories is “Who did it?” This question is also critical in criminal investigation. However, in most cases there is initially no suspect(s). Many crimes are witnessed, but victims or witnesses may not be able to recognise or describe the suspect(s). Then there are the crimes that have not been witnessed (Bennett & Hess, 2004:161).

Snyman (1991:220) is of the opinion that a suspect is a person suspected to be involved in committing a crime, and includes accomplices (persons who assisted in committing the crime) and accessories (persons who assisted in furthering the crime). Joubert (2001:234) adds that a suspect can also be a detained person. Bennett and Hess (2004:161) see a suspect as “a person considered to be directly or indirectly connected with a crime, either by an overt act or by planning or directing it”. Bennett and Hess (2004:161) continue to say that:

Factors crucial to resolving a criminal investigation are called solvability factors. These factors should be considered when deciding whether to investigate a crime. Among the most important are the existence of one or more witnesses and whether a suspect can be named or at least be described and located. Even if a suspect is known or has confessed, the elements of the crime must be proved, and the evidence connecting the suspect to the criminal act must be established.



The respondents were requested to define a suspect. Their definitions are outlined as follows:

- Thirteen respondents mainly regarded a suspect as any person who unlawfully and intentionally committed an offence.
- Three respondents defined a suspect as a person suspected of committing a crime.
- Two were of the opinion that a suspect is a person who has committed a crime but has not been arrested.
- Two respondents were of the opinion that a suspect is a person who has been arrested but not charged.
- One respondent said that a suspect is any person present at the crime scene.
- The last respondent regarded a suspect as a person seen committing a crime.

According to Burstein (1999:22), people's understanding of a definition will be according to how they interpret the definition or subject. This was indeed the case. Thirteen respondents had mainly the same interpretation of a suspect - they regarded a suspect as a person who has unlawfully and intentionally committed an offence. The other respondents had the same understanding, but their definition/description of a suspect was more specific and therefore differs from that of the other thirteen respondents. Specifics that came from the other respondents were that a suspect must be present at the crime scene, and that the offence committed must be unlawful and intentional. The suspect could be someone seen committing the crime, or a person not yet arrested, or a person arrested but not yet charged. According to the view of Burstein (1999:22), Snyman (1991:220), Joubert (2001:234) and Bennett and Hess (2004:161), in their discussion on a suspect, it is evident from the respondent's answers that they know what a suspect is.

### 3.3. IDENTIFICATION

Identification is based on the principle that everything in the universe is unique, having its own particular distinguishing (unique) individual or class characteristics. This methodology is applied by various sciences to classify objects into different categories or groups - that is, to single out an object as belonging to a specific class of objects. In this way it is a scheme of classification which classes objects with similar characteristics in one category and gives a name to such a category (Marais, 1992:19-20; (Cilliers et al., 2006:42). For example, at the scene of the crime, a crime investigator finds an object which was probably used to force open a window. The first class characteristic is that it is manufactured in the form of a crowbar. Marais (1992:19) continues to say that identification can be seen as a classification scheme whereby objects with similar characteristics are placed in one category and given a name. Marais (1992:19) states that the term identity refers to uniqueness, and says that each object or person (individual) can only be identical with itself or himself (individuality).

The problem of who commits the crime is simple when the perpetrator is caught in the act, or apprehended in flight from the scene shortly after the crime. When the perpetrator is not arrested on the spot, the direction of the investigation varies according to whether the case falls in one of two categories, namely, known identity or unknown identity. Whether known or unknown, the suspect/perpetrator should positively be identified and linked to the crime (Weston & Lushbaugh, 2003:80).

Bennett and Hess (2004:13) are of the opinion that if a suspect is not on the scene, not immediately identified and not apprehended nearby, the obvious next step is to gather information which will enable identification of the suspect, and suggest that suspects are identified by the following means:

- Information provided by victims, witnesses and others likely to know about the crime or the suspect.
- Physical evidence left at the crime scene.
- Psychological profiling.
- Information in police files.
- Information in the files of other agents.
- Informants, etc.

Weston and Lushbaugh (2003:80) are also of the opinion that if there is no named suspect, the basic investigative leads must be developed by the investigator to reveal the identity of the perpetrator. Motive, presence and opportunity are broad areas of investigation basic to any crime and people and things involved in crime offer leads to the identity, motive and opportunity of any perpetrator, known or unknown.

Identification rests on the theory that everything in the universe is unique in that it has certain distinctive, individual and class characteristics. Views of the concept differ among various sciences, but according to Marais (1992:18), it is generally applied by these sciences to place objects into specified groups, that is, to pinpoint an object as belonging to a specific class of objects.

Just as with physical evidence at the crime scene, the modus operandi of criminals can also contribute to words identifying and tracing them. The identification and tracing of the perpetrator is needed. According to Marais (1992:1), tactical investigation methods must be followed by studying specific methods or techniques of criminals in committing crime, such as modus operandi. The success of the methods, depend directly on the knowledge of the investigator. Some crimes are of such a nature that practically no physical clues are left at the crime scene. In such cases the investigator must rely largely on the evidence and description of eyewitnesses. The classification of criminals in terms of their modus operandi can make a valuable contribution in this type of

crime. However, the modus operandi of criminals is useless if this information is not identified at the scene of the crime and used properly (Marais & Van Rooyen, 1990:66).

When investigating a crime, the investigator must first establish whether a crime has, in fact, been committed, and if so, what crime it is. The identification and evaluation of the crime situation implies the formulation of a crime hypothesis. On the basis of personal experience and knowledge of the crime facts, the investigator tries to identify those facts that can shed light on the relevant crime situation, such as the identity of the suspect(s). The collection and gathering of information begins with situation identification. As an integrated process, crime detection and combating revolve around the individualisation of a criminal act by means of scientific methods and techniques from the time the crime was committed until the guilt of the alleged perpetrator has either been proved positively, or until s/he has rationally been eliminated as a suspect (Barnard, et al., 2002:150).

In personal identification, the general characteristics of a human being are analysed to eventually arrive their identity. It basically a process of elimination, whereby the possibilities become less whenever a class characteristic is positively determined. This process may be explained as follows: all people in the world are either male or female (Marais 1992:18-19). According to Marais, (1992:19), "Should this class characteristic be able to be determined by the body features, then the number of possible candidates for identification purposes will be halved". In this manner there are various other class characteristics which could be appreciably reduce the number of candidates.

The respondents were requested to explain how they understand identification. Their explanations are outlined as follow:

- Six respondents said that identification is to link the suspect(s) to the crime and the person who committed the crime.

- Ten respondents mainly regarded identification as when a victim identifies the perpetrator by photo or identification parade, or knows the suspect personally.
- Two respondents explained that the complainant and witnesses are used to point out the suspect(s) who have committed the crime. Another two respondents say it is to identify a person, thing or features.
- One respondent was of the opinion that identification is to identify a person through fingerprint or identification parades.
- The last respondent regarded identification as that because each and every person is unique, there are certain things about a person that stand out, and that makes them different from others. Those things that are different are used to make an identification.

Although individuals each have their own opinion or understanding of identification, it is evident from the respondents' responses that they display sufficient knowledge in their answers, that correspond with the views of the various authors above. Unfortunately, none of the respondents mentioned modus operandi as a mean of identification. According to Caldwell (Du Plessis, 1989:84), modus operandi is a means of identification which is based on the fact that many offenders tend to use the same method time and again when committing a crime. Modus operandi is described by Barnes and Teeters (in Du Plessis, 1989:84) as a system to identify the offender, a system based on the surmise that a perpetrator leaves behind evidence.

The positive identification and detection of persons who have committed a crime is a requirement for successful investigation, and is also very valuable as evidence in court. The investigator must therefore be thoroughly familiar with the different identification techniques that can be used to identify a criminal positively. Crime investigation is actually a process during which people and physical objects are identified, from the time of the commission of the crime until the perpetrator's guilt or innocence has been proved in court. Generally

speaking, identification forms the basis of crime investigation (Barnard et al., 2002:161). According to Van Heerden (1986:195-198), there are categories of identification that are important and which are used in criminalistic individualisation. This will now be discussed.

### 3.3.1 Different categories of identification

The success of criminal investigation depends to a large extent on the positive identification of the perpetrator. In many crimes, especially violent crimes such as assault, robbery and rape, the perpetrator comes into direct contact with the victim, and it is possible that the victim will be able to identify or describe the perpetrator later on. Positive identification is a requirement for the solving of a crime. Minimum descriptions are of little value. General classifications of a suspect/person by sex, race, height, weight and approximate age, are not specific enough to identify one person among others who equally fit the general description. One needs to obtain as much detailed descriptive information as possible to be able to recognise a suspect. The more specific the description is, provided that it is reasonably accurate, the better. No single description will ever include all the potential identification clues (Buckwalter, 1984:151-152).

Van Heerden 1986:195-198) is of the opinion that the following categories of identification are important and are used in criminalistic individualisation:

- Situation identification relates to the crime situation, and individualises the unlawful nature of the situation.
- Witness identification individualises the part of the alleged perpetrator by means of the account of events that emerges from the statements of complainants and witnesses.
- Victim identification concerns, in particular, the identification of the dead victim.
- Imprint identification attempts to achieve individualisation by comparing a disputed imprint with a control imprint of the alleged object.

- Origin identification is mainly concerned with the analysis of organic and inorganic solids and fluids, to determine whether the disputed sample and the exemplar have a common origin.
- Action identification refers to the identification of human acts that are directly related to the crime and, indeed, constitute the essential element of the crime.
- Culprit identification is concerned with the positive identification of the offender as a person, rather than the identification of his unlawful conduct.
- Cumulative identification is where contributions of different specialists are collectively considered within the framework of the history and relevant circumstances of the crime situation as a whole.

Barnard et al. (2002:151), states that identification categories lead to the complete and actual reconstruction of the crime events, according to the requirements for criminal liability. An overview of the identification categories highlights the following three components:

- The persons who are directly or indirectly involved in victim, perpetrator and witness identification.
- The nature of the deed and the way in which it was carried out, which in turn suggest identification of deed, imprint and origin.
- The unlawful nature of the deed, which in this instance points to the identification of a crime situation.

Identification of the crime situation serves as the link between the crime scene and further identification (Barnard et al., (2002:151).

The respondents were requested to name the categories of identification. The responses of twenty of the respondents were almost the same as their answers they supplied to the previous question, "Which technique can be used to identify a suspect?" A possible reason for the respondents not giving clear answers could be the confusion that exists among investigators, due to a lack of training.

Respondents were requested to state which techniques could be used to identify a suspect or person. Their answers are as follows:

- Two respondents replied that they do not know what the categories of identification are.
- Ten respondents listed the following as categories:
  - DNA (blood)
  - Identification parades
  - Fingerprints
  - Footprints
  - Photos
  - CC television footage
  - Witnesses
  - Complainant(s)
  - Modus operandi.
- Five respondents listed the following as categories:
  - Body movement
  - Facial features
  - Voice
  - Sign language.
- Three respondents answered “to be helped by witnesses”.
- The last two respondents had individual answers:
  - To point out suspects by witnesses or complainant
  - To identify the perpetrator.

### 3.4 INDIVIDUALISATION

The positive identification of all persons involved in a crime is an indispensable requirement for the individualisation of crime. Positive identification of offenders is a legal requirement, while the solving of crimes can only proceed once the victim has positively been identified (Marais, 1992:18). Individualisation is only possible where it has been preceded by a series of identifications. Therefore,



identification is a prerequisite for individualisation. Individualisation is impossible in the absence of identification (Marais, 1992:20). According to Van Heerden (1992:187), it serves as a guideline for the gathering of facts by means of which the guilt or innocence of the offender can be positively individualised in the interests of society. Van Heerden (1992:195-199) is of the opinion that individualisation takes place by means of comparison. The identified physical evidence or disputed object found at the scene of the crime, in a vehicle or on the suspect's person, is compared with a control or standard of comparison, to determine its individuality.

Some investigators, according to Fisher (2000:6), believe that every item of physical evidence can be directly related to a specific person, place or thing. This is not always the case. Only a few kinds of physical evidence can be individualised. Individualisation means that an item of evidence is unique. It can be shown to be directly associated with a specific individual source.

Individualisation is, according to Marais (1992:19), "only possible if it is preceded by a series of identifications. Individualisation is based on, and takes place through, comparison; it refers to the demonstration that a particular sample is unique, even among members of the same class". Marais (1992:19) then continues to say that individualisation indicates further that a disputed object found at a crime scene, and the standard of comparison, are of the same origin. A standard of comparison is an authentic specimen of known origin, i.e. a comparable specific object which is derived from the crime scene, objects, vehicles or persons directly or probably involved in the crime (Marais, 1992:19). Marais and Van Rooyen (1990:20) are of the opinion that in order to justify an arrest, the perpetrator's involvement in the crime must be determined through the process of what is called individualisation, they call this process individualisation, and say it takes place through comparison.

The respondents were requested to describe their understanding of the concept 'individualisation'. Their discussion follows:

- Twelve respondents were of the opinion that individualisation is to connect the suspect to the crime by means of evidence such as fingerprints, witnesses and DNA.
- Three respondents said that individualisation is a certain way that a person commits a crime, to do it in a unique way.
- One respondent was of the opinion that it is when someone is committing a crime alone, without help from his friends or gang.
- One of the respondents was of the opinion that it is the person who has been pointed out or found at the crime scene.
- Another respondent said that it is where the investigating officer identified the suspect.
- Three of the respondents indicated that they did not know what individualisation means. In comparing the respondents' answers with the views of the above authors' the researcher came to the conclusion that the respondents are mostly in agreement as to what individualisation is.

The researcher is of the opinion that there is a difference between identification and individualisation and will briefly discuss this in 3.5.

### 3.5 THE DIFFERENCES BETWEEN IDENTIFICATION AND INDIVIDUALISATION

According to Van Heerden (1986:194) it is important, however, that identification is followed by individualisation, and that they complement each another. Based on information gathered from the respondents and different authors such as Van Heerden (1985:11-12), Kirk (1974:12-19), Van Heerden (1986:194), Van der Westhuizen (1996:6), Marais (1992:8), Marais and Van Rooyen, (1990:66) in Barnard et al. (1998:11), Weston and Lushbaugh (2003:80) and Bennett and Hess (2004:87), the researcher compiled the following table to indicate the differences:

Identification	Individualisation
<p>Identification of something/somebody belonging to a specific category. In other words A is simply A and hair is simply hair. No comparisons are drawn.</p>	<p>Individualisation involves comparison, usually of the disputed object found at the scene of the crime, with one of known origin obtained, for example, from the suspected criminal. An example is a fingerprint found at a murder scene (print in dispute), which is compared with the fingerprints of a known criminal (fingerprint of origin).</p>
<p>Identifications and comparisons have a twofold aim:</p> <ul style="list-style-type: none"> <li>• To individualise positively the various objects in dispute</li> <li>• To conclusively determine the criminal involvement of the object or person providing the standard comparison</li> </ul>	<p>A process of individualisation takes place to determine individuality; for example, a comparison is made to determine whether the print in dispute at the scene of the murder is that of a known criminal with previous convictions whose fingerprints are on record.</p>
<p>Identification rather serves as a direction, giving aid in the investigation of crime, or victim identification.</p>	<p>The positive identification of all persons involved in a crime is an indispensable requirement for the individualisation of crime</p>
<p>The success of criminal investigation depends to a large extent on the positive identification of the perpetrator.</p>	<p>Individualisation is only possible where it has been preceded by a series of identifications.</p>
<p>To identify something is not the same as to individualise something.</p>	<p>Individualisation is impossible in the absence of identifications.</p>
<p>Identification without eventual</p>	<p>Individualisation is a certain way that a</p>

individualisation has no evidential value	person commits a crime; doing it in a unique way.
Positive identification through fingerprints, DNA or identification parades. is a requirement for the solving of a crime	Individualisation is to connect the suspect to the crime by means of evidence such as fingerprints, witnesses and DNA.
Identification forms the basis of crime investigation	To justify an arrest, the perpetrator's involvement in a crime must be determined through the process of individualisation.
Identification is to link the suspect(s) to the crime, and the person who committed the crime.	A process of individualisation takes place to determine individuality.
Identification is pointing at the victim.	Individualisation is where the person was identified by the use of fingerprints.
Identification is to identify a perpetrator.	Individualisation is convicting the perpetrator.
Identification is to prove who you are.	Individualisation is working or doing something.
Identification is to identify the suspect.	Individualisation is connecting the suspect with the crime.
Identification is to point out the suspect as a person who is positively identified as committing a crime.	Individualisation is a certain way that a person did something.
Identification is where a suspect is traced and linked to the crime.	Individualisation is where the suspect has been operating alone

Identification is where the person is physically identified.	Individualisation is tracing with particulars.
Identification is to be able to identify through certain marks.	Individualisation is to be able to point out the specific suspect.
Identification is to identify a person.	Individualisation is a person or people doing or going together or someone doing something on their own.

According to Marais (1992:8), “identification and individualisation in criminalistics are two inalienable concepts. The one follows the other and they are complementary to each other. Identification without eventual individualisation has no evidential value but serves rather as a direction, giving aid in the investigation of crime, or victim identification”. The positive identification of all persons involved in a crime is an indispensable requirement for the individualisation of crime (Barnard et al., 2002:151). Turvey (2002:xxi) is of the opinion that “to identify something is not the same as to individuate something”.

When the researcher perused the discussions of various authors including Van der Westhuizen (1996:6), Weston and Wells (1997:32), Marais (1992:18-22) and Bennett and Hess (2004:87), the researcher came to the conclusion that the respondents are not very clear about the difference between identification and individualisation. However, they are aware that there is a difference between the two concepts, and this is reflected in their responses.

### 3.6 TECHNIQUES THAT COULD BE USE TO IDENTIFY A SUSPECT

The researcher consulted different authors including O’Hara, (1976:657), Buckwalter (1984:153), Marais and Van Rooyen (1990:83), Marais (1992:5), Weston and Lushbaugh (2003:80) and Bennett and Hess (2004:193), on the

different techniques which, according to them, could be used to identify a suspect. They are of the opinion that the positive identification of a person who has committed a crime is a requirement for successful crime investigation and is also a prerequisite as evidence in court. Therefore, the investigator in a criminal case must be familiar with the different identification techniques that can be used to positively identify a suspect positively. Determining the identity of the perpetrator or alleged perpetrator in a criminal act is decisive; by implication, the solving of the crime is scarcely possible without it (Barnard et al., 2002:162).

The researcher perused the discussions of the various authors above and according to the various authors in the collection process the crime investigator can make use of the direct and indirect methods of identification. The direct method refers especially to perpetrator identification techniques such as:

- Personal descriptions
- Sketches by police artists
- Identification parades
- Incidental identifications
- Photo identifications
- Composites (picture of the basic facial features of the alleged perpetrator such as beard, moustache, chin, eyes, hair, lips and scars)
- Voice identifications
- Modus operandi.

In contrast the indirect method has to do with physical evidence and phenomena by which the identity of the perpetrator, or their part, may be determined. Physical evidence includes a large variety of objects: “Almost any object, substance, trace or impression could constitute physical evidence” (Marais, 1992:5). Physical evidence therefore comprises concrete objects which can be measured, photographed, analysed and seen (Van Heerden, 1992:209). Examples of physical evidence left behind at the scene by the offender, that links the perpetrator with the victim or crime scene could be:

- Semen
- Blood
- Hair
- Fingernail scrapings
- Fibers
- Fingerprints
- Footprints
- Tool impressions.

According to Celliers, Marais, Smit and Van Vuuren (2006:43), although the definition of crime investigation refers to physical evidence as circumstantial evidence, one must take note of the fact that these two concepts are supplementary concepts. Celliers et al. (2006:43) gives an example; at the scene of the crime, a shoeprint is found in the soft soil just outside the window through which entry was gained. The shoeprint and the shoe that made it are examples of physical evidence, while the fact that the criminal wore the shoes at the time s/he committed the crime, is circumstantial evidence.

The respondents' replies to techniques of identification of a suspect are as follows:

- Ten respondents listed the following techniques:
  - DNA
  - Identification parades
  - Fingerprints
  - Footprints
  - Photos
  - CC television footage
  - Witnesses
  - Complainant(s)
  - Modus operandi.

- Five respondents listed the following techniques:
  - Body movement
  - Facial features
  - Voice
  - Sign language.
- Another three respondents listed how the person
  - Walks
  - Speaks
  - Looks
  - Clothes
  - Smells.
- The other four respondents had individual answers, such as:
  - To get more police patrols and informers
  - To point out suspects by witnesses or complainant
  - To identify the suspect
  - Investigations.

The respondents did not categorise, specifically that there is both direct and indirect identification, as mentioned in the above discussion. The respondents were aware that there are various techniques that could be used to identify a suspect or person, but were not specific in their answers.

### 3.6.1 The Locard exchange principle

Modern forensic science dates back to 1910 and the exchange principle set forth by French criminologist Edmond Locard. Locard's exchange principle states: "[a]nyone or anything entering a crime scene both takes something of the scene with them, and leaves something of themselves behind when they leave" (Turvey, 2002:88). Bennett and Hess (2004:87) continue to say that the Locard exchange principle states that "[a] criminal always removes something from the crime scene or leaves behind incriminating evidence".



Physical evidence, according to Weston and Wells (1997:61), is any solid, semisolid or liquid material, however microscopic, that may aid in determining the truth during an investigation. In 1928 Locard stated his theory of transfer evidence: whenever two surfaces are in contact with each other, there is partial transfer of material from one onto the other. Locard noted that such evidence is a silent, yet certain, reliable witness of a person's actions and contacts. Traces from the scene may be carried away by the perpetrator, or the perpetrator may leave traces at the crime scene (Weston & Wells, 1997:61).

### 3.6.2 Evidence

A primary purpose of investigation is to locate, identify and preserve evidence – data on which a judgment or conclusion may be based (Bennett & Hess, 2004:87). Bennett and Hess (2004:87), suggests “[t]he latest evidence collection tools and techniques allow investigators to piece together the story of the crime before the scene is cold”. Evidence is used to determine the facts of the case, for laboratory examination and for direct presentation in court (Bennett & Hess, 2004:87). Evidence is the means by anything that helps to establish the facts related to crime.

Evidence can be classified in different ways. One common classification is direct and indirect evidence, according to Bennett and Hess (2004:87):

- Direct evidence is to establish proof of a fact without any other evidence. Direct evidence refers to the evidence of a person who actually observed a crime, an eyewitness.
- Indirect evidence is evidence that incriminates a person, such as a suspect's footprints found near a crime scene. Indirect evidence is also called circumstantial evidence.
- Trace evidence consists of extremely small items, such as hair or fibres, and is a subset of direct evidence. According to Weston and Wells (1997:32), traces have value as associated evidence when laboratory

examination can establish identity and origin, and connect a suspect with a crime. Examples of this evidence could be soil and mud, debris from the underside of a vehicle and its fenders, dust, and other forms, particularly on persons and their clothing.

### 3.7 MODUS OPERANDI AS IDENTIFICATION TECHNIQUE

A broad discussion of modus operandi was presented in Chapter 2. The researcher will only refer back to this discussion, and continue to discuss the use of modus operandi to identify a suspect.

Marais (1992:5) refers to both direct and indirect methods for identification. Modus operandi is listed as a direct method for suspect identification. Weston and Wells (1997:103) and Weston and Lushbach (2003:89) are of the opinion that the choice of a particular crime to commit, and the selection of method of committing it, is the modus operandi of a criminal. Not all criminals have a particular modus operandi, but enough of them have distinctive methods of operation to justify classifying crimes by their like characteristics. The modus operandi of a criminal is their 'signature'. For this reason, investigators compare the manner in which a crime was committed with relevant records stored in the modus operandi section of the police record system.

A modus operandi file contains information about methods of operation of known criminals, and the methods used in unsolved crimes. This file has, according to Weston and Lushbach (2003:89), three major capabilities:

- Identifying a perpetrator by naming suspects whose modus operandi in past crimes fits the facts of the crime being investigated.
- Linking an unknown perpetrator with the modus operandi of past crimes committed by unknown perpetrators for the purpose of structuring the identity of a suspect from the modus operandi and leads of several connected crimes.

- Storing data on unsolved crimes according to modus operandi, to allow comparison with the crime techniques of an apprehended suspect and unresolved crimes, with an arrestee.

Bennett and Hess (2004:166) support the statement by Weston and Lushbach (2003:89-91), and express themselves further by saying that a series of crimes often creates a recognisable modus operandi, such as burglars who take the same type of property, or the time when the burglaries took place, i.e. occurring at the same time of day. Such modus operandi provide important investigative leads. Because a suspect's identity is most of the time unknown to the victim, it is first and foremost the goal of investigators to find out the suspect's identity. Gilbert (2007:217) says that modus operandi has always been considered a strong tracing element in crimes such as robbery and housebreaking, and that many criminal groups have fixed methods of operation. Investigators are constantly investigating occurrences after the fact. To develop leads and subsequently learn the offender's identity, investigators should trace the offender's movements from beginning to end. Investigators should check details of a specific crime against their departments' modus operandi files, and if no similar modus operandi is listed, they are probably looking at a new criminal who is starting his/her activities in that area, or it could also be the only crime the suspect has committed.

According to Weston and Lushbach (2003:90-91), a search through modus operandi records often provides photographs of suspects taken at the time of a previous arrest. These photographs, called "mug shots", are available, and if the crime being investigated has been witnessed, the investigator has an opportunity to ask an eyewitness to view them. When one or more of the photographs appear to resemble the perpetrator, further inquiry is conducted. The investigator then concentrates on the whereabouts of the person(s) selected as "possible". The modus operandi records could also contain information on the specific method of operation used by the criminal during the crime, how entry was gained

in the case of a burglary, what time the crime was committed, where it occurred, and any other traces that could have been left behind during the crime. Investigators must also take into consideration some other circumstances such as whether the suspect was in prison, out of town, or living in another city at the time of the crime, and therefore would be able to eliminate persons from a group of suspects, and reduce the group, allowing concentration upon the remainder.

The modus operandi of criminals is useless if it has not been described, studied, classified and recorded in a scientific manner, for future comparison, reference and identification (Marais & Van Rooyen, 1990:133). Almost all the modus operandi information is computerised today. It is in this field that the Crime Information Office (CIO) of the SAPS makes a valuable contribution. By keeping detailed records of the modus operandi of offenders, the police will, more likely, be able to identify suspects, trace them and arrest them.

The classification of criminals according to their modus operandi, can make a valuable contribution towards the solving of certain crimes such as burglary. As in the case of physical evidence at the crime scene, the perpetrator's modus operandi can make a significant contribution to the identification and tracing of the criminal (Marais & Van Rooyen, 1990:133).

Respondents were asked to say how modus operandi could be used to identify a suspect in a burglary case:

- Seventeen respondents each listed a different method on how to use modus operandi to identify a suspect in a burglary case. Their answers are as follows:
  - Fingerprints was find on the scene.
  - Look how the crime was committed (same place).
  - If the method and technique is not the same it is likely to be the same person.
  - Suspects can use the same methods to commit different crimes.

- Suspects have been identified by fingerprints.
- Modus operandi is always used in burglary cases to identify a suspect.
- The way the suspect operates.
- Analyzing dockets and checking if in the past the same person was arrested.
- Using the same implements to commit the crime.
- To bring the complainant/victim to an identification parade.
- Methods use to commit a crime.
- To link the suspect(s) with other cases.
- To link profiles of suspects.
- Five of the respondents did not know or did not answer the question.

The respondents' answers were very individual, although the answers were not very clear and specific. The researcher observed that none of the respondents mentioned the Crime Information Office (CIO) and the valuable contribution that this centre of the SAPS delivers. None of the respondents mentioned the fact that all modus operandi information must be recorded on the CAS system at the police station, and sent through to the Crime Information Office. Only one respondent referred to the docket for previous information on the crime and the suspect. It was of concern to the researcher to note from the answers of the respondents, that they do not really know what the contribution and use of modus operandi is in identifying a suspect in burglary cases. The researcher did not investigate the above statement in detail.

Although information on modus operandi is very useful, it should not be exclusively relied on to identify a suspect, because, as already mentioned in this chapter, it often does not have individualisation value, and is not accepted as evidence in court. The modus operandi information can nevertheless be used effectively to identify suspects and reduce the number of suspects in a case; by doing so, it gives direction and could possibly solve the case.

### 3.8 THE ADMISSIBLE REQUIREMENTS TO USE MODUS OPERANDI IN IDENTIFYING A SUSPECT IN COURT

What is meant by saying that something must be admissible? It means that it must be acceptable or allowed for the purpose for which it is intended. According to the law of evidence, admissibility relates to the type of evidence that is permissible for acceptance in a court of law. Admissibility therefore has a bearing on whether evidential material can lawfully be put before the court. There are no degrees of admissibility. Evidential material is either admissible or inadmissible there is no middle path. The admissibility of evidence is mainly determined by relevance. Evidence can never be admissible if it is not relevant to the facts at issue. Section 210 of the Criminal Procedure Act 51 of 1977 provides that “[n]o evidence as to any fact, matter or thing shall be admissible which is irrelevant or immaterial and which cannot conduce to prove or disprove any point or fact at issue in criminal proceedings”.

Modus operandi must be regarded merely as an aid in a criminal investigation, because numerous factors can cause changes in the modus operandi of criminals, or even cause them to deviate from their established methods (Barnard et al., 2002:38). Du Plessis (1989:85-86) stresses the value of modus operandi analyses when handling enquiries concerning identification of unknown criminals. The importance of modus operandi, with regard to repressive policing, is evident when it is borne in mind that all facts, by means of which the whole truth of a case can be exposed, must be gathered and presented as evidence. Despite what is often believed in this regard, evidence of modus operandi is admissible during criminal proceedings (Marais & Van Rooyen, 1990:80; Prinsloo, 1996:47).

Whether similar facts of the same kind as those in question in respect of other crimes by the suspect, can be produced as evidence during their trial, has been

ruled to be a question of relevancy (Hiemstra, 1987:450; Schmidt, 1989:387). It depends on whether a reasonable conclusion can be drawn from a similar fact about the dispute. This is inevitably determined by the circumstances of a specific case. A mere criminal tendency, or a suspicion of a continuation of criminal tendency, cannot establish a link between the similar fact and the fact in dispute (Schmidt, 1989:388-390). There are, however, numerous possible reasons for the admissibility of similar facts, as the reasons of relevancy cover the entire field of the suspect's activities.

According to Schmidt (1989:388-390), the proximity regarding time or place is often a factor which makes similar facts relevant. Although an act cannot normally be proved with the evidence of a previous similar act, evidence can possibly be presented to prove the identity of the perpetrator, where this is in dispute, provided that the act has been proved. Evidence about similar facts is normally admissible, if it can be proved that the accused had the opportunity, means and the ability to commit the crime, but then only if there is also evidence that the accused had made use of such means when committing the crime. Where the crime itself has been proved, and the identity of the criminal is in dispute, similar facts are often admissible to present evidence of similar previous crimes by the accused, in order to identify him/her as a criminal. There must, however, be special features regarding the behaviour or appearance of the criminal (Schmidt, 1989:399).

Since evidence about systematic action can be used to prove the unlawful act itself, it can self-evidently also be used to substantiate another relevant point such as the identity of a criminal, his intention, or the mutual association of two criminals, if a continuous plan or system can be proved (Schmidt, 1989:401; Hiemstra, 1987:453). Schmidt (1989:392) states that the cumulative effect of evidence, where admissibility of similar facts is strengthened as other evidence is presented which could also be other similar facts, is of great importance and must not be ignored. The more circumstantial evidence there is, the smaller the

possibility that the similarities are accidental. At the same time this reduces the possibility of unfair prejudice.

The respondents were asked for the admissible requirements to use *modus operandi* to identify a suspect in court. The respondents had different opinions, as follows:

- Nine respondents were of the opinion that the admissible requirements are the forensic results of fingerprints, identification parades and witnesses, that should be presented in court.
- Six of the respondents were of the opinion that the profiles had to be linked to other cases, and that the very same methods and materials were used to commit the crimes in different places.
- Three respondents said that *modus operandi* alone is not enough in court, and that evidence and exhibits were necessary to put the perpetrator at the scene of the crime.
- Two respondents were of the opinion that the suspects must confess their guilt in court.
- Two respondents did not answer the question.

The respondents' answers were very much in line with statements of Hiemstra and Schmidt, although the researcher is not sure that the respondents used the guidelines effectively. In Chapter 4 the researcher will draw conclusions and make recommendations. The purpose of *modus operandi* is an investigative technique that could be used to identify and trace suspects. The fact is, it can be used to identify suspects, and if suspects have been identified, investigators can use other admissible evidence to present their case in court. Although there is doubt about the admissibility of *modus operandi* in court, the researcher is of the opinion that investigators should nevertheless use the technique to identify suspects, and to make use of exhibits and evidence to link and individualise the suspect with the crime.



### 3.9 SUMMARY

Investigators may, at times, need to rely on their own intuition, imagination and resourcefulness in order to use their cognitive and analytical powers. Logic should always prevail. Investigators must guard against errors in logic, unjustifiable conclusions and the inability to distinguish between facts and probabilities. The correct identification of the suspect is vitally important, because incorrect identification can steer the investigation in the wrong direction, and may cause evidence of value to be lost, resulting in the hypothesis remaining unconfirmed, and the suspect either being set free or wrongfully sentenced.

“An identification of the defendant made by the victim prior to trial is admissible to corroborate a witness’ testimony relative to identity. However, an extrajudicial identification cannot sustain a conviction in the absence of other evidence tending to connect the defendant with the offense” (Buckwalter, 1984:187).

It is the duty of the SAPS to investigate crimes to the best of their ability. That is why it is important to have strategies, methods and techniques in place to do so. The recognition of the modus operandi system as a form of evidence gathering is of the outmost importance. Another important point is the protection of the evidence, so that the expert or investigator can ensure its recovery, ensure the identification of the criminal, and trace him or her.

## **CHAPTER 4**

### **FINDINGS AND RECOMMENDATIONS**

#### **4.1 INTRODUCTION**

The aim of the research to establish how modus operandi can be used to identify suspects, and what modus operandi entails - has been achieved. Research purposes, development of guidelines, reading material, enhancing of the validity and what modus operandi entails, the evaluating and criticising of interview preparations and empowerment of those who have been part of the research with information on modus operandi, were all achieved.

The benefit of the study primarily resides in the fact that it has demonstrated the value of modus operandi as a lawful resource to investigate crime, such as burglary. Moreover, it can provide the investigator with the determination of the identity of the perpetrator or suspect in a criminal act. Crime information that can be obtained from the docket, the CAS system and the Crime Information Office of the SAPS, can be utilised by investigators to concentrate more effectively on the aspect of modus operandi of criminals, to determine the identification and tracing of perpetrator or suspects - specifically in burglary, but also in all other criminal cases. However, crime information such as modus operandi can only be employed effectively if it is analysed, processed and used together with other crime information and crime intelligence. This is an ideal that can only be achieved if sufficient information about modus operandi is obtained and documented from various sources, and properly documented in the SAPS records.

The application of the researcher's findings and recommendations by investigators, as well as internal and external sources, will now follow.

## 4.2 FINDINGS

The findings are based on information that was obtained from the sample group of respondents and from the viewpoints of national and international sources.

### Research Question 1

What does modus operandi entail?

In this research it was established that:

- Modus operandi is regarded as the characteristic way in which a criminal commits a specific type of crime, and is also described as the habits and techniques of criminals which have become stereotyped. The elements of modus operandi comprise methods, techniques, instruments, time and place. There are several factors that can determine or influence modus operandi; offenders may become more skillful and refine their modus operandi, or a change due to circumstances can cause the offender's modus operandi to deteriorate. In both these cases modus operandi can be determined or influenced.
- The value of modus operandi is the knowledge of the modus operandi of criminals and methods of their apprehension skills, patience, tact, industry and thoroughness that will be the primary assets of an investigator. Modus operandi information can also be used for the identification and arrest of offenders, and a valuable strategy to combat crime.
- The respondents are familiar with the concept 'modus operandi' and understand and know the elements of modus operandi. When considering the factors which can influence or determine modus operandi, most of the respondents were not familiar with the factors; only two were well informed of the factors.

- The purpose of modus operandi is the identifying and arresting of possible criminals, the safekeeping and presentation of evidence relating to their alleged crimes, and the searching, tracking and collecting of facts. By keeping detailed modus operandi information records of all offenders, the police will be able to trace and arrest offenders. The mission of law enforcement is demanding. It includes the maintenance of peace in the community, and the protection of lives and property. An important task of criminal investigation is to identify these offenders.
- The respondents have a good understanding of the value and purpose of modus operandi.
- The objectives of criminal investigation are to identify the crime, to gather evidence, to individualise the crime, to arrest the offender, recover stolen goods and proceed to prosecution.
- There is no real difference between criminal investigation and forensic investigation. Criminal investigation is the gathering of information, and forensic investigation is the application of scientific methods and techniques. Forensic investigation is aimed at instituting court proceedings, criminal as well as civil, and where some or other scientific knowledge is applied to a legal problem.
- The sample also has a good understanding of what is meant by 'criminal investigation' and 'forensic investigation', and their objectives and purpose. The respondents can also distinguish between 'criminal investigation' and 'forensic investigation'.
- According to literature, developing, locating, identifying and arresting offenders are primarily the responsibility of investigators.
- Docket analysis showed that no information concerning modus operandi is to be found in the dockets, and no modus operandi forms are used at any of the sample stations.
- Crime information is stored and processed into the crime database.

## Research Question 2

How should modus operandi be used to identify suspects?

In this research it was established that:

- A suspect is regarded as a person suspected of being involved in the commission of a crime, and includes accomplices and accessories.
- The respondents know what a suspect is. Nine of the respondents were very specific in their description of a suspect, and therefore differ from the other thirteen respondents who have a common agreement on what a suspect is.
- The correct identification of a suspect is vitally important. Wrong identification could steer the investigation in the wrong direction and may cause evidence to be lost and the hypothesis to remain unconfirmed. The suspect could be freed or wrongfully sentenced. The positive identification of a person who committed a crime is therefore a requirement for successful investigation, and a prerequisite for evidence in court.
- Each respondent has an individual understanding of identification. It is clear from each response that they display sufficient knowledge, and understand identification.
- All the respondents are clear on what individualisation means.
- All the respondents know that there is a difference between identification and individualisation, but only fifteen of them explained the difference, while two admitted they do not know what the difference is, and the remaining five were of the opinion that identification and individualisation are almost the same, but not quite.
- None of the respondents mentioned modus operandi as a direct method for suspect identification.
- Seventeen respondents have different opinions on how to use modus operandi as a technique to identify a suspect; their answers

are not very clear and specific. Five of the respondents do not know how to use modus operandi to identify a suspect.

- Crime investigators can make use of the direct and indirect methods of identification.
- Modus operandi is listed as a direct method of suspect identification. Modus operandi is a means of identification, based on the fact that many offenders tend to use the same methods over again, when committing a crime.
- Respondents understand the importance of the admissible requirements of modus operandi in identifying a suspect in court, but they have different opinions on the admissible requirements.
- Positive identification of persons involved in a crime is a requirement for the individualisation of crime. It means that if an item of evidence is unique, it could be directly associated with a specific individual source. Individualisation is impossible in the absence of identification.

#### 4.3 RECOMMENDATIONS

The following recommendations are made on the basis of the facts discovered during the course of the research:

##### Research Question 1

- Findings have shown that investigators are not fully aware of the value of modus operandi and what it entails. It is suggested that they take more notice of the value of, and especially the factors that determine and influence, modus operandi.
- There is a lack of training in the use of modus operandi. It is recommended that investigators receive some essential training prior to the utilisation of modus operandi. A certain level of training, and training

material that includes the topic 'modus operandi', should be available to all investigators.

- It is recommended that the modus operandi information be captured on the SAPS, CAS system and not be neglected.
- It is recommended that all relevant databases should be used to identify and arrest repeat offenders, and be used as reference databases for comparing the modus operandi of well known burglary offenders, in the investigation of crimes.
- It is also recommended that the databases of the SAPS ensure accuracy of information, and not be neglected by failing to load their information onto the database, or neglecting, to verify the information.

#### Research Question 2

- It is recommended that investigators become more knowledgeable in understanding the importance of the admissible requirements of modus operandi to identify a suspect in court, and that they should use the guidelines effectively. Training and training material in the SAPS should include principles of the law of evidence in the investigation of crime, to explain the principles of admissibility of evidence.
- It is also recommended that investigators develop the necessary skills and knowledge in information systems. The use of Information systems should definitely become an important part of any police official's daily duties. From the research, and from the interviews with the respondents, it is clear that the old-fashioned paperwork has been replaced proportionally by computer technology.

#### 4.4 CONCLUSION

The design and methodology of the research project have addressed the research questions, and show that there is a definite process which should be followed to use modus operandi. The research results demonstrate that support

education and training in the field of modus operandi are much needed. Furthermore, it is extremely important that all members of the criminal justice system involved with investigation of crime and with the collection of crime information receive proper training. **“Effective investigators obtain and retain information, apply technical knowledge, remain open minded, objective and logical”** (Bennett & Hess, 2004:25).



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## **MODUS OPERANDI AS TECHNIQUE IN SUSPECT IDENTIFICATION AT WEST RAND POLICE STATIONS**

**You are kindly requested to answer the questions in this interview schedule, to the researcher. The questions, responses and the results will be dealt with confidentiality and no names of respondents (investigators) will be revealed.**

The researcher is bound to her assurances and guarantees by the ethics code for research of the University of South Africa. The information you provide will be used in a research project for a Master of Technology degree registered with the Program Group Police Practice at the University Of South Africa. The analysed and processed data will be published in a research report.

Your answers will be noted by the interviewer herself on paper. Should any questions be unclear, please ask the researcher for clarification. Only one answer per question is required. When answering the questions it is very important to give your own opinion.

Written permission has been obtained from the South African Police Service in advance for the interviews to be conducted.

### **HISTORICAL INFORMATION**

Let's start with some general information. I would like to know something about your background as an investigator.

1. Are you an investigator?

Yes

No

2. How long are you an investigator?

1-5yrs

5yrs-10yrs

10yrs and above

3. Did you do the Basic Detective Course?

Yes       No

4. Are you involved in the investigation of burglary cases?

Yes       No

**WHAT DOES MODUS OPERANDI ENTAILS?**

1. How will you define forensic investigation?

.....  
.....

2. How will you define criminal investigation?

.....  
.....

3. What is the difference between forensic investigation and criminal investigation?

.....  
.....

4. What are the goals of forensic investigation?

.....  
.....

5. What is the purpose of investigation?

.....  
.....



6. What is your understanding of a method in the investigation process?

.....  
.....

7. What is your understanding of a technique in the investigation process?

.....  
.....

8. How will you explain the difference between a technique and a method?

.....  
.....

9. What are the elements of modus operandi?

.....  
.....

10. What is modus operandi?

.....  
.....

11. What factors can influence or determine modus operandi?

.....  
.....

12. What is the value of modus operandi?

.....  
.....

13. Did you ever use modus operandi to investigate a case?

Yes  No

14. Under what circumstances did you use modus operandi?

.....  
.....

14. What do you think is the purpose of modus operandi?

.....  
.....

**HOW SHOULD MODUS OPERANDI BE USE TO IDENTIFY SUSPECTS?**

1. How will you define a suspect?

.....  
.....

2. What is identification?

.....  
.....

3. What is individualization?

.....  
.....

4. How will you explain the difference between identification and individualisation?

.....  
.....

5. Which techniques could be used to identify a suspect?

.....  
.....

6. What are the different categories of identification?

.....  
.....

7. Which techniques can be used to identify a person?

.....  
.....

8. Do you think one can use modus operandi to identify a suspect?

Yes  No

9. Did you ever use modus operandi as identification of a suspect?

Yes  No

10. How can one use modus operandi to identify a suspect?

.....  
.....

11. What are the admissible requirements to use modus operandi in identifying a suspect in court?

.....  
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