

Original Paper

Integrity...Courage...Honour: A Comparative Study of Law Enforcement Agencies

Ansia Storm^{1*}

¹ School for Accounting Sciences, Northwest University, Potchefstroom, South Africa

* Ansia Storm, School for Accounting Sciences, Northwest University, Potchefstroom, South Africa

Received: November 12 Accepted: November 20, 2020 Online Published: November 28, 2020

doi:10.22158/wjssr.v7n4p119

URL: <http://dx.doi.org/10.22158/wjssr.v7n4p119>

Abstract

Purpose—The purpose of this paper was to compare three first-world countries' law enforcement agencies to those of South Africa. The aim was to identify areas where South Africa's agencies can improve to take the fighting of corruption to a higher level, and in doing so, improve their ranking on Transparency International's scale, and their Corruption Perception Index.

Design/methodology/approach—The author compared South Africa's law enforcement agencies to those of the United States, the United Kingdom, and Australia to identify possible areas where South Africa's agencies can improve.

Findings—The results indicate preliminary support for areas in South Africa's law enforcement agencies that need restructuring and improvement.

Practical implications—Improved law enforcement agencies will assist in the fight against corruption, improving South Africa's corruption perception index (among others), which might encourage foreign investment.

Originality/value—The results of this study point to opportunities to strengthen law enforcement agencies in South Africa, which will result in improved crime-fighting abilities, higher prosecution rates, and improved crime statistics.

Research limitations—Law enforcement agencies (which deals with corruption in general) from the USA, the U.K., and Australia will be explored and compared with those of South Africa.

Keywords

law enforcement, law enforcement agencies, corruption, money laundering

1. Introduction

“And maybe remind the few if ill of us they speak, that we are all that stands between the monsters and the weak” (Anon).

Law enforcement is not only about upholding peace under the law, but averting and identifying criminal activities as well (Collins English Dictionary; Cambridge Dictionary). Police officers play a crucial role in any law enforcement system: deterring illegal and dangerous behaviour (Kokemuller, 2015).

However, even though the police are the first line of defence, it does not guarantee them having integrity nor protecting the people. This statement is based on Global Corruption Barometer (GCB) Africa’s report that the South African police force is perceived as being the most corrupt institution in the country (Pring & Vrushi, 2019, p. 12). According to this report, the top three types of corruption experienced are bribery, abuse of power, and dereliction of duty (Motala, 2018; Corruption Watch, 2019).

Law enforcement agencies of the United States of America (USA), the United Kingdom (U.K.), and Australia were chosen to analyze and compare with South Africa’s based on the following:

- Some of the U.K.’s and Australia’s agencies were modelled on the USA’s Federal Bureau of Investigation and Central Intelligence Agency; and
- The Corruption Perception Index (CPI) 2019.

The USA was ranked 23 out of 180 countries with a CPI of 69 out of 100, while Australia showed a CPI of 77 out of 100, which gave them the 12th place on the list of 180 countries. The U.K. also occupied the 12th place with a score of 77 out of 100. (Transparency International, 2019).

Placing the above figures into perspective: A scale of zero to 100 is used to rate the level of corruption in a specific country. A score of zero means a country is highly corrupt while a score of 100 means a country is very clean. Thus, with scores of 69, and 77 respectively, the USA, Australia, and the U.K. are considered to have little corruption taking place (Transparency International, 2019).

South Africa ranked 70 out of 180 with a CPI of 44 out of 100, thus seen as a highly corrupt country according to Transparency International’s scale. Possible reasons for lower-ranked countries are bad functioning public institutions such as the police and judiciary (Transparency International, 2019).

Various reasons for this may exist, for example:

- 1) The law may not be enforced efficiently;
- 2) Inefficient communication between law enforcement agencies and regulators;
- 3) Prosecutions and convictions are not strict enough to deter criminal activities;
- 4) Basic morals of individuals; and
- 5) The citizens’ perception of Government (Source: author).

The reason that the U.K., USA and Australia are high-ranked may be due to their independent judicial systems and the stronger standards of integrity of public officials (Transparency International, 2017). Thus, by identifying and comparing the various law enforcement agencies of the different countries selected, one might discover (within this context) where South Africa's law enforcement agencies can improve.

2. Limitation of Scope

Law enforcement agencies (which deals with corruption in general) from the USA, the U.K., and Australia will be explored and compared with those of South Africa. The definition of corruption for purposes of this paper is: "abuse of public or private office for personal gain" (Van Vuuren, 2004, p. 11; OECD, 2007; Transparency International, 2011) with emphasis on the following forms of corruption:

- Tax evasion, excessive profiteering and money laundering;
- Black market operations and links with organized crime;
- Misappropriation, diverted funds, misuse of funds;
- Theft and fraud through illegal transactions; and
- Institutional corruption. (Turner, 2008, p. 30; Fleming & Zyglidopoulos, 2009, pp. 6-7).

Human factors such as integrity, and personal principles and ethics will not be explored.

3. Discussion

3.1 Law Enforcement Agencies: United States of America

3.1.1 Federal Bureau of Investigation (FBI)

The Mission of the FBI is to "protect the American people and uphold the Constitution of the United States" through their vision, which is to be "ahead of the threat through leadership, agility and integration". One of the FBI's priorities relating to this study is to combat public corruption at all levels (Mission and Priorities).

The asset forfeiture/money laundering unit in the Criminal Investigative Division was established since illicit proceeds are a continuing and growing problem for the USA. This unit aims to "identify, target, disrupt, and dismantle criminal and terrorist organizations and individuals engaged in money laundering schemes" (FBI Money Laundering).

The FBI also participates in a programme called the Organized Crime Drug Enforcement Task Force Program which aims to disrupt and dismantle major drug trafficking organizations, money laundering organizations, and related criminal enterprises (Criminal Division, 2015). The FBI's Money Laundering Unit gather intelligence by watching tendencies and different types of crime problems, working alongside other FBI divisions with the sole objective of disrupting criminal operations (FBI News, 2016; ACAMS, 2017).

3.1.2 Office of the Attorney General: Criminal Division

This Division's primary responsibilities are to develop, enforce and supervise the application of all federal criminal laws except those specifically assigned to other divisions. The Division and the 93 U.S. Attorneys have to oversee criminal matters and certain civil litigation. Many nationally significant cases are prosecuted by the Criminal Division's attorneys. The Division is also tasked with formulating and implementing criminal enforcement policies, and it provides advice and assistance on criminal matters (Criminal Division, 2017). There are 16 offices within the Criminal Division, but only the offices applicable to this study will be discussed.

3.1.2.1 Money Laundering and Asset Recovery Section (MLARS)

MLARS' primary objective is leading the Department of Justice's asset forfeiture and anti-money laundering enforcement efforts. This section provides leadership through the following:

- 1) Prosecuting and coordinating complex, sensitive, multi-district, and international money laundering and asset forfeiture investigations and cases;
- 2) Providing legal and policy assistance and training to federal, state and local prosecutors and law enforcement personnel, as well as to foreign governments;
- 3) Assisting Departmental and interagency policymakers by developing and reviewing legislative, regulatory and policy initiatives; and
- 4) Managing the Department's Asset Forfeiture Program, including distributing forfeited funds and properties to appropriate domestic and foreign law enforcement agencies and community groups within the United States, as well as adjudicating petitions for remission or mitigation of forfeited assets (Money Laundering and Asset Recovery Section.).

To achieve the above-mentioned, MLARS consists of seven units and associated teams. Of these seven units, only the Money Laundering and Forfeiture Unit, and the Special Financial Investigations Unit will be discussed.

3.1.2.2 Money Laundering and Forfeiture Unit

This unit investigates and prosecutes professional money launderers, gatekeepers (provides services to serious criminal organizations) and individuals and entities using modern and most refined money laundering techniques. Other functions of this unit are litigating civil forfeiture cases for the Criminal Division, supporting the Division in cases that involve substantial or multifaceted criminal forfeiture allegations and it is the Division's experts on domestic forfeiture (Money Laundering and Forfeiture Unit).

3.1.2.3 Special Financial Investigations Unit

This unit assists MLARS in complex financial investigations since the experts on financial investigations is in this unit. The Special Financial Investigations Unit supplements the law enforcement partners to conduct intricate financial investigations together with MLARS litigating units.

Other functions include assisting the litigating units in setting investigative priorities, in liaising with the interagency operational law enforcement centres and the intelligence community, and in coordinating MLARS' classified litigation (Special Financial Investigations Unit).

3.2 Internal Revenue Service: Criminal Investigation Unit

According to the IRS, the Criminal Investigation Unit's conviction rate has never fallen below 90%, and it is a success that is unmatched by federal law enforcement (IRS: Criminal Investigation at-a-glance).

The mission of the Criminal Investigation Unit is to "investigate potential criminal violations of the Internal Revenue Code and related financial crimes in a manner that fosters confidence in the tax system and compliance with the law". The special agents of the IRS have investigative jurisdiction over tax, money laundering and the Bank Secrecy Act. The IRS is the only federal agency that can investigate potential criminal violations of the Internal Revenue Code. The Criminal Investigation Unit's special agents have not only financial investigative skills but also the skill to use specialized forensic technology (IRS: Criminal Investigation at-a-glance, 2016).

Three interdependent programmes were implemented to achieve strategic priorities, namely the Legal Source Tax Crimes, the Illegal Source Financial Crimes, and the Narcotics Related and Counterterrorism Financial Crimes. The use of all statutes in the Criminal Investigation Unit's jurisdiction, the grand jury process, and enforcement techniques are encouraged to combat money laundering and currency crime violations (IRS: Criminal Investigation At-a-glance, 2016).

Sources of criminal investigations include information obtained within the IRS, information received from the public, and information obtained from other law enforcement agencies or the U.S. Attorney's Offices. The analysis of this information will determine whether a financial crime has been committed, where-after relevant information is evaluated, and the continuation or cessation of further investigation is determined. After initiating a "subject criminal investigation", facts and evidence are obtained to form the elements of criminal activity (Tax Division, 2016; How criminal investigations are initiated, 2017).

The evidence that has been gathered and analyzed will determine whether the case will be terminated or whether a recommendation of prosecution will be prepared. A "special agent report" is compiled detailing the findings of a violation of the law together with a recommendation of prosecution. If the case must be criminally prosecuted, this report is forwarded to the U.S. Attorney for all other investigations. This "special agent report" has to pass four levels before it is sent to the Department of Justice or the U.S. Attorney. During the review in each of these levels, it can be found that the evidence does not validate criminal charges and therefore, should not be prosecuted (How criminal investigations are initiated, 2017).

3.2 The United Kingdom

3.2.1 National Crime Agency (NCA)

The NCA is compared to the FBI of the U.S., mainly because it appears that the NCA was closely modelled on the FBI (Info Security, 2013). The NCA's mission is "to protect the public from the most serious threats by disrupting and bringing to justice those serious and organized criminals who present the highest risk to the U.K." (Our Mission).

The NCA has separate divisions of which the Economic Crime Command falls within the Prosperity Division with its main resolution to "reduce the impact of economic crime on U.K. society and U.K. economy". The "economic crimes" referred to include money laundering, international corruption, fraud and counterfeit currency.

The Economic Crime Command's priorities can be divided into four areas. They are:

- Combatting money laundering and criminal assets "by leading multi-agency action" on money laundering on a national and international scale;
- Disrupting criminal access to professional skills with the help of law enforcement, regulators, banks and professional bodies and by increasing the impact of the NCA's operative skills in financial investigation, civil recovery and taxation; and
- Leveraging change in the economic crime operating environment through, among others, the Joint Money Laundering Intelligence Taskforce. (Economic Crime Command).

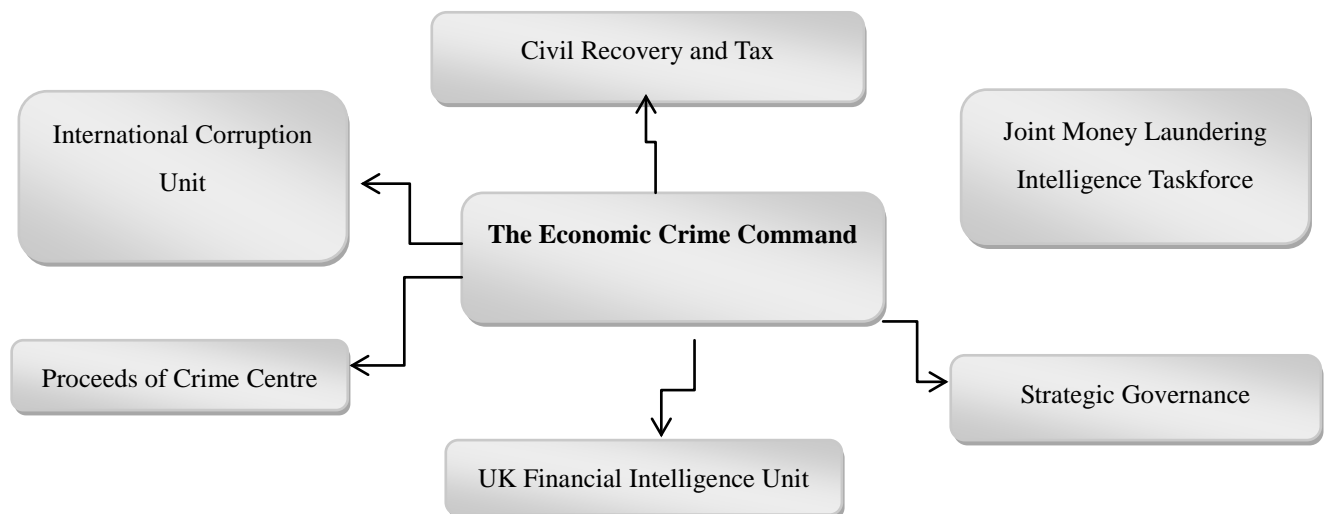


Figure 1. Breakdown of the Economic Crime Command's Units (Source: Author)

The Joint Money Laundering Intelligence Taskforce (JMLIT)

The JMLIT works with the financial sector to combat high-end money laundering. High-end money laundering is defined as "specialist, usually involves transactions of substantial value, and involves the

abuse of the financial sector and so-called professional enablers". In major frauds and overseas corruption, money laundering is specifically relevant because the crime is electronic and using cash will only be found further down the laundering process; it disguises audit trails. These "so-called professional enablers" are usually individuals in a profession such as lawyers, bankers and accountants who can set up a complicated process to hide the identity of the perpetrator (Money Laundering).

This task force has four key operational priorities:

- Understanding and disrupting the funding flows linked to bribery and corruption;
- Understanding and disrupting trade-based money laundering;
- Understanding and disrupting the funding flows linked to organized immigration crime and human trafficking; and
- Understanding key terrorist financing methodologies (Joint Money Laundering Taskforce).

3.2.2 Civil Recovery and Tax (CRT)

The objective of this unit is to recover property obtained through illegal activities. Because this unit has non-conviction power, it is used when the criminal process has failed or cannot continue or when the civil recovery and tax approach characterizes a better placement of resources. Civil recovery will be utilized if proof can be presented that the assets in question have been obtained through illegal activities.

The tax powers are utilized when reasonable grounds exist that income was obtained relatively through illegal activities and was not declared to Her Majesty's Revenue and Customs (HMRC). The NCA is authorized to then take over from HMRC and raise an assessment with penalties and interest on the tax due.

3.2.3 International Corruption Unit (ICU)

This unit has three main functions as part of the Economic Crime Command:

- To investigate money laundering in the U.K. resulting from corruption of high-ranking officials overseas;
- To investigate bribery involving UK-based companies or nationals that have an international element; and
- To investigate cross-border bribery where there is a link to the U.K. As part of their duties, they also trace and recover proceeds of international corruption (International Corruption Unit).

3.2.4 Proceeds of Crime Center (PoCC)

This centre is tasked with the accreditation and monitoring of all financial investigators' performance. It also provides training in financial investigation, asset recovery and the operation of the Proceeds of Crime Act 2002. The Joint Asset Recovery Database and the Financial Investigation Support System are also managed by PoCC. The Joint Asset Recovery Database holds information on asset recovery

cases going through the criminal justice system, while the Financial Investigation Support System is a professional register, providing resources for investigators (Proceeds of Crime Centre).

3.2.5 The Government Communications Headquarters (GCHQ)

The GCHQ is working with Her Majesty's Government and the industry to defend government systems from cyber threat and to provide support to the Armed Forces. According to GCHQ, they face four threats to the U.K.: cyber threats, threats from serious crime, threats from terrorism, and threats from espionage. For purposes of this paper, only the threats from serious crimes will be discussed (GCHQ: What We Do).

The GCHQ is working closely with the NCA and HMRC as well as other government agencies to protect the U.K. from severe criminals by identifying who these criminals are, what they do, and how they operate. There is a wide range of high-priority topics of which money laundering is one (GCHQ: The threat from serious crime, 2015).

3.2.6 Her Majesty's Revenue and Customs (HMRC)

HMRC is the tax and customs authority in the U.K. Their Fraud Investigations Service Unit has the responsibility of investigating severe tax fraud and aggressive tax avoidance (Gilbert Tax, 2017). This unit conducts criminal and civil investigations. Criminal investigations will usually be done in cases of organized criminal gangs attacking the tax system or systematic frauds where losses represent a serious threat to the tax base and in cases involving money laundering with particular focus on advisors, accountants, solicitors and others acting in a "professional" capacity who provide the means to put tainted money out of reach of law enforcement...among others (HMRC, 2015).

The Fraud Investigation Service is notorious for investigations under the Code of Practice 8 and Code of Practice 9. The main difference between these two codes is an investigation under Code of Practice 9 can escalate into a criminal prosecution. An investigation under Code of Practice 8 is conducted when there is suspicion of tax avoidance, whereas an investigation under Code of Practice 9 is undertaken when there is a notion of fraud or dishonesty involving large tax amounts (Code of Practice 8, 2016; Code of Practice 9, 2014; Mazars).

3.2.7 Serious Fraud Office (SFO)

"The Serious Fraud Office is a specialist prosecuting authority tackling the top level of serious or complex fraud, bribery, and corruption". This organization takes on a small number of broad economic crime cases and investigates and prosecutes them (What We Do, 2017).

The types of cases investigated and prosecuted by this organization mainly: involve activity in many countries; involve alleged criminals who go to great lengths to hide their activity and the money they make from it; require analysis of substantial quantities of information and take longer than standard criminal cases to investigate and prosecute (More about our cases and how we work, 2017).

There are four stages to a case:

1) Gathering information

The SFO's intelligence unit assesses the information received and generated (by the intelligence unit) to determine whether the alleged activity exists. Then it becomes the subject of a criminal investigation.

2) Investigation and prosecution

The Roskill model is used as the basis for the investigation and prosecution. The Roskill model refers to a report where it was recommended that investigators and prosecutors work together from the beginning. This is a model that is unique to the SFO as it is not standard practice for investigators and prosecutors to work together. "...because our cases need strong cooperation and management from both lawyers and investigators all the way through, to make sure that the lines of investigation are the best ones to uncover criminal activity, and eventually prove it in court". If enough evidence exists to support the prospect of a successful conviction, and prosecution is seen as being in the public's interest, charges will be filed.

3) Trial

The trial will take place in a court of law and takes typically longer than other trials.

4) Proceeds of crime

This stage involves the recovery of the proceeds of the crime to compensate victims wherever possible (Stages of a Case, 2017).

3.2.8 Secret Service and Secret Intelligence Service

The Security Service is also known as MI5. This organization investigates threats of terrorism (internationally and domestic), espionage, threats of cyber as well as the proliferation of weapons of mass destruction (MI5: What We Do). Pincus (2010) compares MI5 to the FBI, stating that MI5 is a domestic service. Unfortunately, there is not much information available to elaborate further on this organization.

An assumption made, however, is that money laundering will possibly form part of the terrorism threat as the financing of terrorism usually also entails money laundering. Based on the information obtained on the SFO, it may be possible that MI5 refers to some of these financings of terrorism or money laundering top-level cases to the SFO (author).

The Secret Intelligence Service (MI6) works abroad to develop foreign contacts and to gather intelligence to make the U.K. safer and more successful. Pincus (2010) also compares MI6 to the CIA, stating that "...like the CIA, [MI6] operates outside the British homeland, gathering information primarily from human sources". MI6 operates outside the U.K. to gather information, to counter-terrorism, to "resolve international conflict and to prevent the spread of nuclear and other non-conventional weapons" (Pincus, 2010; Global Intelligence).

Its mission is to provide the U.K.'s Government with "global covert capability" to keep the continent's people safe. The agency not only gathers secret intelligence, but it also conducts operations abroad to prevent and detect serious crime, and it also promotes and defends the national security and the economic security of the U.K. (MI6: Our Mission). MI6 works closely with MI5 and GCHQ and is governed by the British National Security Council.

3.3 Australia

3.3.1 The Australian Security Intelligence Organisation (ASIO)

The ASIO can be compared to the FBI (USA) and MI5 (U.K.) in being Australia's domestic security agency. Their primary responsibility is to gather and analyze intelligence to warn the Government of national security threats (Collins, 2013; Inspector-General of Intelligence and Security).

3.3.2 The Australian Secret Intelligence Service (ASIS)

ASIS can be paralleled with the CIA (USA) and MI6 (U.K.) in being Australia's international security agency, also called HUMINT (human intelligence). Their primary responsibility is to obtain and communicate intelligence that is not readily available by other means, about the capabilities, intentions and activities of individuals or organizations outside Australia (Collins, 2013; Inspector-General of Intelligence and Security).

3.3.3 The Australian Signals Directorate (ASD)

This agency's primary function is to collect, analyze and distribute foreign signals intelligence and forms part of the Department of Defence. It can be compared to the U.S.'s NSA and the U.K.'s GCHQ. As with GCHQ and NSA, it is also the national authority on communications and computer security (Collins, 2013; Inspector-General of Intelligence and Security).

3.3.4 The Office of National Assessments (ONA)

This office collects information and assessments on international political, strategic and economic developments from all the other agencies. It reports its findings to the Prime Minister, senior ministers in the National Security Community of Cabinet and senior officials of government departments. It is also tasked with the coordination and evaluation of Australia's foreign intelligence activities. ONA operates under its legislation, stipulating the independence of its judgements (Collins, 2013; Inspector-General of Intelligence and Security).

3.3.5 The Australian Federal Police (AFP)

The AFP is a global policing agency whose role is not only to protect Commonwealth and national interests from crime but also to enforce Commonwealth criminal law. They are responsible for the prevention, detection and investigation of criminal offences such as money laundering, among others. On an international level, they are committed to international relations, which enables them to fight transnational crime anywhere in the world. On a national level, they are working with the Australian Government and other critical agencies on countering terrorism as well as crime-fighting and

capacity-building initiatives. The AFP is Australia's equivalent of the USA' FBI and to the U.K.'s MI5 (Australian Federal Police; Yearbook Australia, 2010; Davis, 2016).

3.3.6 The Australian Criminal Intelligence Commission (ACIC)

The ACIC is Australia's national criminal intelligence agency whose functions are to investigate, research and deliver information to law enforcement agencies to improve their ability to prevent and deter illegal activity. Their mission is to protect Australia through "improved national ability to discover, understand and respond to current and emerging crime threats and criminal justice issues, including the ability to connect police and law enforcement to essential policing knowledge and information" by working with a comprehensive range of national and international partners (Australian Criminal Intelligence Commission, 2016).

3.4 South Africa

3.4.1 South African Police Service (SAPS)

The Code of Conduct of SAPS mainly comprises the creation of a safe and secure environment for all people in South Africa by participating in endeavours to address root causes of crime in the community; preventing action which may threaten the safety of any community; and investigating criminal conduct which has endangered the safety or security of the community and bringing perpetrators thereof to justice (SAPS: Code of Conduct, 2014).

It is the author's observation that this Code of Conduct is comprehensive and includes a myriad of criminal offences as well as civil proceedings. Although SAPS is the primary law enforcement agency in South Africa, there are other investigations and enforcement agencies.

3.4.2 Directorate of Priority Crime Investigation (Hawks)

The Hawks was established as part of an independent directorate within SAPS. Their responsibilities include combating, investigating and preventing serious organized crime, serious commercial crime, and serious corruption (Hawks, 2014).

The predecessor of the Hawks was the Directorate of Special Operations (Scorpions). There is a core difference between these two directorates: The Scorpions were a multidisciplinary agency of the National Prosecuting Authority (NPA), while the Hawks fall under the Minister of Police. The Scorpions were modelled after the FBI of the USA; the same cannot be said about the Hawks (Laurence, 2008). The Scorpions were disbanded during January 2009 by acting president Motlanthe after receiving this recommendation from South Africa's minister of safety and security. When the statistics of the successes of the Scorpions are compared to that of the Hawks from January 2009 up until 2016, there is a decline in arrests and a decline in convictions of 60 per cent and 80 per cent, respectively. The African National Congress decided to merge the Scorpions with SAPS to reduce the Scorpions' power, and after their disbandment, the Hawks were established (Anon, 2016; Berger, 2008; Roelf, 2008).

3.4.3 The National Prosecuting Authority (NPA)

The powers of the National Prosecuting Authority are “to institute and conduct criminal proceedings on behalf of the State; to carry out any necessary functions incidental to instituting and conducting such criminal proceedings (this includes investigations) and to discontinue criminal proceedings” (Justice and Correctional Services, 2016; About the NPA, 2017).

The National Prosecuting Authority has six core business units, namely the:

- National Prosecutions Service,
- Asset Forfeiture Unit,
- Sexual Offences and Community Affairs,
- Specialized Commercial Crime Unit,
- Witness Protection Unit, and
- Priority Crimes Litigation Unit.

Only the units that have a direct link to money laundering and corruption cases will be discussed.

3.4.4 The Asset Forfeiture Unit (AFU)

The AFU has to ensure that the criminal assets seized would be used to their maximum effect in the fight against organized crime. The AFU seeks to, among others, build capacity to ensure that asset forfeiture is used as widely as possible to make a real impact on organized crime and to establish excellent relationships with SAPS and the South African Revenue Services (SARS) (Asset Forfeiture Unit, 2017).

3.4.5 The Specialized Commercial Crime Unit (SCCU)

As the name of this unit suggests, their mandate is to prosecute complex commercial crime cases originating from SAPS’ commercial branches. These commercial crime cases do not include only state institutions, but also private individuals as well as corporate entities (Justice and Correctional Services, 2016).

3.4.6 The Priority Crimes Litigation Unit (PCLU)

The PCLU deals with cases that threaten national security. These cases are either allocated by the President or by the National Director of Public Prosecutions. The primary function of the PCLU is to manage and direct investigations and prosecutions concerning the following:

- The non-proliferation of weapons of mass destruction;
- The regulation of conventional military arms;
- The regulation of mercenary and related activities;
- The International Court created by the Statute of Rome;
- National and international terrorism; and
- Prosecution of persons who were refused or failed to apply for amnesty in terms of the South African Truth and Reconciliation Commission processes.

Although there is no mention of money laundering and/or corruption in the above paragraph, the inference can be made that one or all of the above-mentioned cases, money laundering and/or corruption might flow from it; therefore, the reason for discussing PCLU.

3.4.7 The State Security Agency (SSA)

During 2009, the minister of the Cabinet was asked to review the structure of the civilian intelligence community to develop a more effective intelligence organization. The SSA arose as the new intelligence organization, with a mandate to provide the Government with intelligence on domestic and foreign threats or potential threats to national stability, the constitutional order, and the safety and wellbeing of our [South Africa's] people. When reading the mandate, it can be deduced that the SSA is the equivalent to the USA' CIA, the U.K.'s MI6 and ASIS. Figure 2 below illustrates the branches of the SSA. A discussion on the domestic and foreign unit as well as on the intelligence training, corporate services and national communications will follow.

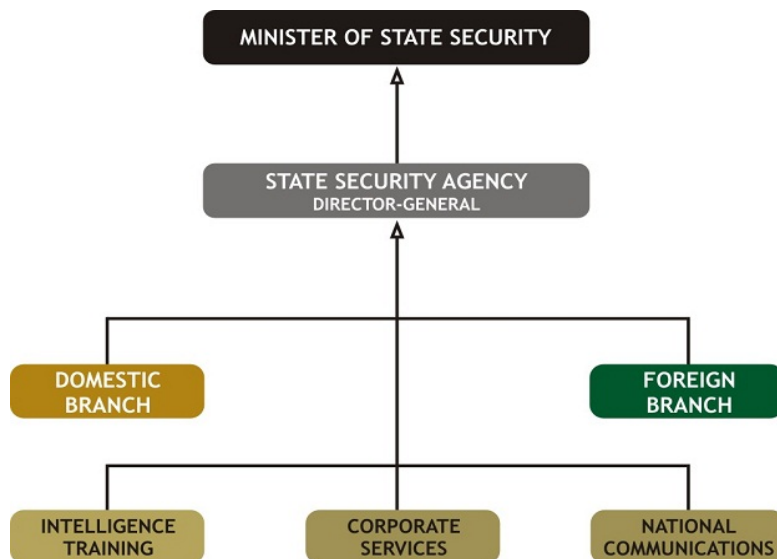


Figure 2. Branches of the SSA (Source: Structure of the State Security Agency, 2016)

The foreign branch of the SSA was incorporated into the SSA in 2009 as per a presidential proclamation. The functions of this branch are to gather, correlate, evaluate and analyze foreign intelligence; to institute counter-intelligence measures nationally and internationally; and to gather departmental intelligence on the request of any interested department of State (SSA Foreign Branch, 2016).

The National Intelligence Agency (the domestic branch) was also incorporated into the SSA as per presidential proclamation. As can be derived from the name, the domestic branch is responsible for the gathering, correlation, evaluation and analysis of domestic intelligence (SSA Domestic Branch, 2016).

The intelligence training of the SSA is done by the Intelligence Agency whose primary responsibility is to provide quality intelligence training to the members of the Intelligence Community (Intelligence Academy, 2016).

The Corporate Services' branch' of the SSA handles all of its administrative functions, for example, human resources, information technology, infrastructure and logistics and finance (Corporate Services, 2016). The National Communications' branch' of the SSA consists of three components:

- The Electronic Communications Security,
- The National Consumer Commission, and
- The Office for Interception Centre (National Communications Branch, 2016).

The Office for Interception Centre provides a centralized interception service to law enforcement agencies involved in fighting national security threats. The Electronic Communications Security was previously a private company but was incorporated into the SSA as per presidential proclamation. Their primary purposes, after the proclamation in 2009, are now:

- To protect and secure electronic communications of the state against security threats;
- To conduct intermittent analyses of the state on the information communication technology security; and
- To identify and provide security to serious electronic communications infrastructure of Organs of State. 'Organs of State' can be defined in terms of South African Law as "including any statutory or functioning body" (Mdumbe, 2009; National Communications Branch, 2016).

3.4.8 The South African Revenue Services (SARS)

SARS can be compared to the IRS of the USA, the HMRC of the U.K., and the ATO of Australia. All of these organizations represent their country's tax collecting authority.

Their approach to encourage compliance is making sure that taxpayers are aware of their obligations, making it easy to meet them and acting against those who break the law (SARS: About us, 2016). Investigations done by SARS are mainly regulated by the Tax Administration Act (28 of 2011) (Le Cordeur, 2016).

While a SARS official is conducting an audit and becomes aware of a serious tax offence that may have been committed, it must be referred to a senior SARS official responsible for criminal investigations. Should the senior SARS official decide that a criminal investigation must be pursued, the investigation is done by the Criminal Investigations Unit by the group executives. Hereafter, the case is referred to the NPA for further investigation and prosecution (SARS: About us, 2016; Tax Administration Act; Le Cordeur, 2016).

4. The Result: Summary of Agencies and Recommendations

The aim of this summary (Table 1) was to categorize the various agencies into groups with similar

duties and responsibilities. This will simplify the comparison between countries and identify South Africa's shortcomings.

Table 1. Summary of Agencies (Source: Author)

Duties and responsibilities	United States of America	United Kingdom	Australia	South Africa
<ul style="list-style-type: none"> Domestic Major white-collar crime Public corruption Protect people Uphold the Constitution 	FBI	NCA; MI5	AFP; ASIO	There is no agency currently in South Africa that has the same responsibilities and duties
International intelligence gathering	CIA	MI6	ASIS	SSA
Taxation: Money laundering and tax evasion	IRS	HMRC	ATO	SARS
<ul style="list-style-type: none"> Protecting Government against cyber threats Support Armed Forces 	NSA	GCHQ	ASD	There is currently no agency in South Africa that operates on the same level as that of the other countries
Investigate, research and deliver information to law enforcement to improve the ability to prevent and detect serious organized crime			ACIC	
Investigate and prosecute the top level of serious or complex fraud, bribery and corruption		SFO		NPA Not top-level-types of cases

Banoba (2017) stated that elections in 2016 in [South] Africa are a fair reflection of corruption trends in the region, referring to the citizens' frustration with Government's corruption record reflected in the voting polls. One of his recommendations is that African leaders must strengthen the institutions that hold their governments accountable (Banoba, 2017).

For a comparison between the number of and the responsibility of each of those agencies and organizations to their CPI (2019), a link may be drawn between those agencies, the enforcement of their laws and the place on the CPI (2019). This link can be strengthened by the following excerpt: "2016 was also notable in that large corruption investigations continued to jump across national borders. ...we see increasing communication and cooperation among regulators and law enforcement..."

(Ebrard, 2017).

Comparing the number of agencies of South Africa and their duties to that of the other countries, several gaps can be identified, leading to recommendations for improvement. These gaps and enhancements will be discussed in the next paragraph.

Gaps and Improvements: Recommendations for South Africa

Refer to Table 1; the first gap identified was that South Africa does not have an agency that can be compared to or has the same responsibilities as that of the FBI, the NCA and MI5, the ASIO and the AFP.

The Scorpions was replaced with the Hawks, which is not nearly as successful as their predecessors. This statement can be substantiated by referring to the decline in the number of convictions and prosecutions. There was a decline of 60 per cent and 80 per cent, respectively (Anon, 2016, Berger 2008, Roelf, 2008).

The second gap that was identified relates to South Africa's tax authority. The individuals tasked with investigations do not have adequate skills. While the USA's IRS has a Criminal Investigation Unit with special agents, who not only have financial investigative skills but also possess the skill to use specialized forensic technology, the same cannot be said of SARS.

The third gap identified relates to protecting the South African Government from cyber threats and supporting its Armed Forces. South Africa does have the Electronic Communications Security, whose primary responsibilities was mentioned in the paragraphs above. Although no mention of protection against cyber threats is made, protecting the Government against cyber-attacks may form part of "security threats". No mention of an agency that supports the Republic's Armed Forces was found. The closest identified by the analysis was the Office for Interception Centre, which provides an interception service to law enforcement agencies involved in national security threats.

The fourth gap is that South Africa does not have an organization that investigates, researches and delivers information to law enforcement to improve their ability to prevent and detect serious organized crime (Source: Author).

The fifth gap relates to the investigation and prosecution of top-level serious or complex fraud, bribery and corruption cases. Even though South Africa has the NPA, no organization focuses only on the said top-level cases involving fraud, bribery and corruption (Source: Author).

Although these gaps are a good indicator for recommendations, it is not the only information that should be taken into account. The fact that South Africa has a CPI of 44 out of 100 is an indication that their law enforcement agencies (and other public organizations) are not functioning as they should.

Recommendations:

- 1) Based on the admission requirements gathered from the agencies discussed, South Africa needs to increase the admission requirements and qualifications for personnel of public

organizations and law enforcement.

- 2) Establish a new independent, elite law enforcement agency modelled after the FBI, NCA, MI5, and the ASIO.
- 3) Remodel SAPS after the AFP and instigate higher admission requirements for its personnel.
- 4) For SARS to function at its most effective, the Minister of Finance must have the necessary qualifications, experience and understanding of South Africa's economy. The Commissioner, in turn, must ensure that the employees of SARS have the essential qualifications required to effectively run that specific department.
- 5) A separate investigations unit must be established with employees who possess special forensic qualifications and skills to investigate white-collar crime before handing over to the NPA. Use the IRS' Criminal Investigation Unit, HMRC, and the ATO as a basis and restructure SARS accordingly.
- 6) The current Electronic Communications Security department can be expanded to include protecting the Government against cyber threats as a whole. Currently, it seems that this department is only concerned with issues relating to communications.
- 7) An organization should be established that can investigate and do research on serious organized crime to improve law enforcement's ability to prevent and detect. This organization can form part of SAPS with employees who also have an applicable accredited tertiary qualification. The Government can also consider funding a university department to do these types of investigations and research by using top researchers who already have the necessary experience.
- 8) South Africa should seriously consider establishing an organization such as the SFO that specializes only in prosecuting top-level serious or complex fraud cases, irrespective whether it is criminal or civil. This organization must also function independently. Creating such an organization will enable the NPA to take on and prosecute more cases.

To conclude, South Africa still has much to learn from first-world countries to improve their ranking concerning corruption. Not only should organizations and law enforcement agencies be restructured, but qualifications, admission requirements, and general transparency should be improved.

5. Conclusion

The objective of this paper was to compare various law enforcement agencies who deal with corruption (in general) to determine where South Africa can improve. The research revealed that first-world countries have more law enforcement agencies and public organizations than in South Africa. Those agencies and organizations also maintain a high level of competency as was demonstrated by the CPI 2019. After comparisons were made, nine recommendations were listed. These recommendations do

not include detailed, structured plans for improvement; although the essential starting points were highlighted.

References

- About CIA. (2016). *Central Intelligence Agency: About CIA—CIA Vision, Mission, Ethos & Challenges*. Retrieved from <https://www.cia.gov/about-cia/cia-vision-mission-values>
- About the NPA. (2017). *National Prosecuting Authority of South Africa: Home—About the NPA*. Retrieved from <https://www.npa.gov.za/node/8>
- ACAMS (Association of Certified Anti-money laundering Specialists). (2017). *FBI Deploys Specialized Unit against Professional Money Launderers*. Retrieved from http://na-sj13.marketo.com/rs/582-QUS-0045/images/FBI_Deploys_Specialized_Unit_against_Professional_Money_Launderers.pdf
- Anon. (2016). *Who exactly are the South African Police Unit, the Hawks?* Retrieved from <http://www.sapeople.com/2016/05/16/who-exactly-are-the-south-african-police-hawks>
- Anon. (n.d.). *Whisper: Popular*. Retrieved from <http://whisper.sh/whisper/0518ad546ccda8378792e1b7563b739b983429/And-maybe-remind-the-few-if-ill-of-us-they-speak-that-we-are-all-that#>
- Asset Forfeiture Unit. (2017). *National Prosecuting Authority of South Africa Business Units—Asset forfeiture unit*. Retrieved from <https://www.npa.gov.za/node/13>
- Australian Criminal Intelligence Commission. (2016). *Australian Criminal Intelligence Commission: About us*. Retrieved from <https://www.acic.gov.au/about->
- Australian Federal Police. (n.d.). *AFP: Australian Federal Police: What we do*. Retrieved from <https://www.afp.gov.au/what-we-do>
- Australian Taxation Office. (2015). *Australian Government: Australian Taxation Office: About us*. Retrieved from <https://www.ato.gov.au/About-ATO/About-us/>
- Banoba, P. (2017). *Sub Saharan Africa: Corruption is a big issue in 2016 African Elections*. Retrieved from http://www.transparency.org/news/features/africa_corruption_is_a_big_issue_in_2016_african_elections
- Becker, L. J., & Seligman, C. (1981). Welcome to the energy crisis. *Journal of Social Issues*, 37(2), 1-7. <https://doi.org/10.1111/j.1540-4560.1981.tb02623.x>
- Berger, S. (2008). *The National: South African Crime-fighting Unit stung by its own success*. Retrieved from <http://www.thenational.ae/news/world/africa/south-african-crime-fighting-unit-stung-by-its-own-success>

- Cambridge Dictionary. (n.d.). *Definition of "law enforcement"*. Retrieved from <https://dictionary.cambridge.org/dictionary/english/law-enforcement>
- CIA: Our Mission. (2013). *Central Intelligence Agency: Kid's Zone—Our Mission*. Retrieved from <https://www.cia.gov/kids-page/6-12th-grade/who-we-are-what-we-do/our-mission.html>
- Clandestine Services. (2016). *Central Intelligence Agency: Offices of CIA*. Retrieved from <https://www.cia.gov/offices-of-cia/clandestine-service/index.html>
- Code of Practice 8. (2016). *H.M. Revenue and Customs Fraud Investigation Service—Code of Practice 8*. Retrieved from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/565421/COP8_09_16.pdf
- Code of Practice 9. (2014). *H.M. Revenue and Customs: Code of Practice 9—Where we suspect tax fraud*. Retrieved from https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/494808/COP9_06_14.pdf
- Collins English Dictionary. (n.d.). *Definition of "law enforcement"*. Retrieved from <https://www.collinsdictionary.com/dictionary/english/law-enforcement>
- Collins, B. (2013). *Business Insider: Australia—Australia has 6 intelligence agencies: Here's what they are and the work they do*. Retrieved from <https://www.businessinsider.com.au/australia-6-intelligence-agencies-heres-what-they-are-and-the-work-they-do-2013-11>
- Corporate Services. (2016). *Republic of South Africa: State Security Agency—About us*. Retrieved from <http://www.ssa.gov.za/AboutUs/Branches/CorporateServices.aspx>
- Corruption Watch. (2019). *Corruption News: Global Corruption Barometer Africa 2019*. Retrieved from <https://www.corruptionwatch.org.za/global-corruption-barometer-africa-2019/>
- Criminal Division. (2015). *Department of Justice: Organized Crime Drug Enforcement Taskforces*. Retrieved from <https://www.justice.gov/criminal/organized-crime-drug-enforcement-task-forces>
- Criminal Division. (2017). *Department of Justice: About the Criminal Division*. Retrieved from <https://www.justice.gov/criminal/about-criminal-division>
- Criminal Investigation at-a-glance. (2016). *Internal Revenue Services: Criminal Investigation (CI) At-a-Glance*. Retrieved from <https://www.irs.gov/uac/criminal-investigation-ci-at-a-glance>
- Davis, K. (2016). *Quora: What is Australia's equivalent of the FBI and CIA?* Retrieved from <https://www.quora.com/What-is-Australias-equivalent-of-the-FBI-and-CIA-How-were-they-established>
- Digital Innovation. (2015). *Central Intelligence Agency: Offices of CIA*. Retrieved from <https://www.cia.gov/offices-of-cia/digital-innovation/index.html>

- Economic Crime Command. (n.d.). *NCA: National Crime Agency: What We Do*. Retrieved from <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime>
- FBI Jobs. (n.d.). *Eligibility*. Retrieved from <https://www.fbijobs.gov/working-at-FBI/eligibility>
- FBI Money Laundering. (n.d.). *FBI Retired Signature Directories: Skill sets*.
- FBI News. (2016). *Combating the Growing Money Laundering Threat*. Retrieved from <https://www.fbi.gov/news/stories/combating-the-growing-money-laundering-threat>
- Fraud prevention and investigations: Australian Taxation Office. (2015). *Australian Government: Australian Taxation Office*. Retrieved from <https://www.ato.gov.au/about-ato/annual-reports/annual-report-2012-13/part-03-management-and-accountability/external-scrutiny-and-governance/governance/fraud-prevention-and-investigations/#>
- GCHQ: the threat from serious crime. (2015). *Government Communications Headquarters*. Retrieved from <https://www.gchq.gov.uk/features/threat-serious-crime>
- GCHQ: what we do. (n.d.). *Government Communications Headquarters*. Retrieved from <https://www.gchq.gov.uk/what-we-do>
- Gilbert Tax. (2017). *Fraud Investigation Service*. Retrieved from <http://www.gilberttax.co.uk/fraud-investigation-service>
- Global Intelligence. (n.d.). Secret Intelligence Service (MI6). *Global intelligence to protect the U.K.* Retrieved from <https://www.sis.gov.uk/>
- HMRC (Her Majesty's Revenue and Customs) policy. (2015). *Her Majesty's Revenue and Customs: Guidance HMRC policy*. Retrieved from <https://www.gov.uk/government/publications/criminal-investigation/hmrc-criminal-investigation-policy>
- HMRC: What we Do (Her Majesty's Revenue and Customs). (n.d.). *Her Majesty's Revenue and Customs—What We Do*. Retrieved from <https://www.gov.uk/government/organisations/hm-revenue-customs>.
- Info Security. (2013). *InfoSecurity Magazine Home—News: U.K. Launches its own FBI: The NCA*. Retrieved from <https://www.infosecurity-magazine.com/news/uk-launches-its-own-fbi-the-nca/>
- Inspector-General of Intelligence and Security. (n.d.). *The Australian Intelligence Community*. Retrieved from <https://www.igis.gov.au/australian-intelligence-community>
- Intelligence & Analysis. (2015). *Central Intelligence Agency: Offices of CIA*. Retrieved from <https://www.cia.gov/offices-of-cia/intelligence-analysis/index.html>
- Intelligence Academy. (2016). *Republic of South Africa: State Security Agency—About us*. Retrieved from <http://www.ssa.gov.za/AboutUs/Branches/IntelligenceAcademy.aspx>

- Internal audits: Australian Taxation Office. (2015). *Australian Government: Australian Taxation Office*. Retrieved from <https://www.ato.gov.au/About-ATO/Annual-Reports/Annual-Report-2012-13/Part-03-Management-and-accountability/External-scrutiny-and-governance/Governance/Internal-audit/#>
- International Corruption Unit. (n.d.). *NCA: National Crime Agency: Economic Crime Command—International Corruption Unit*. Retrieved from <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/international-corruption-unit-icu>
- IRS: *Criminal investigation at-a-glance*. (n.d.). Retrieved from <https://www.irs.gov/uac/criminal-investigation-ci-at-a-glance/>
- Joint Money Laundering Taskforce. (n.d.). *National Crime Agency: Economic Crime Command—Joint Money Laundering Taskforce*. Retrieved from <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/joint-money-laundering-intelligence-taskforce-jmlit>
- Kokemuller, N. (2015). *Role of a Police Officer*. Retrieved from <http://work.chron.com/role-police-officer-8056.html>
- Laurence, P. (2008). The Helen Suzman Foundation Journal: The Sting of the Scorpions' tale. *Focus issue 49, 1st Quarter*. Retrieved from <http://www.politicsweb.co.za/news-and-analysis/the-sting-in-the-scorpions-tale>
- Le Cordeur, M. (2016). S&P: Undermining key institutions could see South Africa downgraded to junk status. *Mail & Guardian*. Retrieved from <https://mg.co.za/article/2016-10-13-sp-undermining-key-institutions-could-see-south-africa-downgraded-to-junk-status>
- Mazars. (n.d.). *Who are the HMRC Fraud Investigations Service Unit and what do they do?* Retrieved from <http://www.mazars.co.uk/Home/Our-Services/Tax/Tax-investigations/Who-are-the-HMRC-Fraud-Investigations-Service-Unit>
- MI5: What we do. (n.d.). *The Security Service: MI5*. Retrieved from <https://www.mi5.gov.uk/what-we-do>
- MI6: Our Mission. (n.d.). *Secret Intelligence Service (MI6): Our Mission—our operations*. Retrieved from <https://www.sis.gov.uk/our-mission.html>
- Mission and Priorities. (n.d.). *FBI: About*. Retrieved from <https://www.fbi.gov/about/mission>
- Money Laundering and Asset Recovery Section. (n.d.). *Department of Justice*. Retrieved from <https://www.justice.gov/criminal-mlars>

- Money Laundering and Forfeiture Unit. (n.d.). *Department of Justice: Money Laundering and Asset Recovery Section*. Retrieved from <https://www.justice.gov/criminal-mlars>
- Money Laundering. (n.d.). *National Crime Agency: Crime Threats - Money Laundering*. Retrieved from <http://www.nationalcrimeagency.gov.uk/crime-threats/money-laundering>
- More about our cases and how we work. (2017). *Serious Fraud Office: About Us—More about our cases and how we work*. Retrieved from <https://www.sfo.gov.uk/about-us/>
- Motala, S. (2018). Upholding Democracy: The Ongoing Fight for Human Rights Annual Report 2018. *Young Voices: Enough is Enough*. Retrieved from <https://www.corruptionwatch.org.za/wp-content/uploads/2019/05/CW-Annual-Report-2018-Upholding-Democracy-Single-Pages-Agent-Orange-Design-10042019.pdf>
- National Communications Branch. (2016). *Republic of South Africa: State Security Agency—About us*. Retrieved from <http://www.ssa.gov.za/AboutUs/Branches/NationalCommunications.aspx>
- Our Mission. (n.d.). *NCA: National Crime Agency. About Us*. Retrieved from <http://www.nationalcrimeagency.gov.uk/about-us>
- Pincus, W. (2010). *Washington Post: Britain's MI6 operates a bit differently than CIA*. Retrieved from <http://www.washingtonpost.com/wp-dyn/content/article/2010/11/02/AR2010110200467.html>
- Pring, C. & Vrushi, J. (2019). Global Corruption Barometer Africa 2019: Citizens' Views and Experiences of Corruption. *Transparency International*. Retrieved from <https://www.corruptionwatch.org.za/wp-content/uploads/2019/07/GCB-Africa-2019-Full-report-WEB.pdf>
- Proceeds of Crime Center. (n.d.). *NCA: National Crime Agency—Proceeds of Crime Center*. Retrieved from <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/economic-crime/proceeds-of-crime-centre>
- Roelf, W. (2008). *Reuters: South Africa's Scorpion crime fighters to be disbanded*. Retrieved from <http://www.reuters.com/article/us-safrica-scorpions-idUSL1223114320080212>
- SAPS (South African Police Service): Code of Conduct. (2014). *South African Police Service: About us—Code of Conduct*. Retrieved from <https://www.saps.gov.za/about/about.php>
- SARS (South African Revenue Service). (2016). *South African Revenue Service: SARS and the Criminal Justice System*. Retrieved from <http://www.sars.gov.za/TargTaxCrime/WhatTaxCrime/Pages/SARS-and-the-Criminal-Justice-System.aspx>
- SARS (South African Revenue Service): About us. (2016). *South African Revenue Service: Home—about us*. Retrieved from <http://www.sars.gov.za/About/Pages/default.aspx>

- Science & Technology. (2015). *Central Intelligence Agency: Offices of CIA*. Retrieved from <https://www.cia.gov/offices-of-cia/science-technology/index.html>
- Special Financial Investigations Unit. (n.d.). *Department of Justice: Money Laundering and Asset Recovery Section*. Retrieved from <https://www.justice.gov/criminal-mlars>
- SSA Domestic Branch. (2016). *Republic of South Africa: State Security Agency—About us*. Retrieved from <http://www.ssa.gov.za/AboutUs/Branches/DomesticBranch.aspx>
- Structure of the State Security Agency. (2016). *Republic of South Africa: State Security Agency—About us*. Retrieved from <http://www.ssa.gov.za/AboutUs/Branches.aspx>
- Support to Mission. (2016). *Central Intelligence Agency: Offices of CIA*. Retrieved from <https://www.cia.gov/offices-of-cia/mission-support/index.html>
- Tax Division. (2016). *Department of Justice: Tax Division*. Retrieved from <https://www.justice.gov/tax/about-division>
- The Australian Tax Office*. (n.d.). Retrieved from <https://www.ato.gov.au/>
- Today's CIA. (2015). *Central Intelligence Agency: About CIA—Today's CIA*. Retrieved from <https://www.cia.gov/about-cia/todays-cia>
- Transparency International. (2017). *How to make anti-corruption agencies accountable and independent*. Retrieved from https://www.transparency.org/news/feature/how_to_make_anti_corruption_agencies_accountable_and_independent
- Transparency International. (2019). *Corruption Perceptions Index 2019*. Retrieved from https://www.transparency.org/news/feature/corruption_perceptions_index_2019
- Turner, J.E. (2011). *Money laundering prevention: Deterring, detecting, and resolving financial fraud*. John Wiley & Sons. <https://doi.org/10.1002/9781119200604>
- What we do. (2017). *Serious Fraud Office: About Us—What we do*. Retrieved from <https://www.sfo.gov.uk/about-us/>