

INVESTIGATION UNIT TRAINING PACKAGE

(I)

INVESTIGATIONS MODULE

Units

<i>Unit I1</i>	<i>Receiving Information</i>
<i>Unit I2</i>	<i>Planning an Investigation</i>
<i>Unit I3</i>	<i>Investigative Approach</i>
<i>Unit I4</i>	<i>Care and Custody of Exhibits</i>
<i>Unit I5</i>	<i>Search Warrants</i>

Unit I1: RECEIVING INFORMATION

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Objectives

By the end of this unit you will be able to:

- deal with identifiable and unidentified informants
- ensure supplied information is properly documented and actioned
- better understand the importance of correctly receiving information

Receiving Information

INTRODUCTION

Most investigations are commenced by an informant contacting the Ministry or by an officer of the Ministry referring a suspicion of fraud or abuse noticed while administering their clients' benefit entitlements.

The Ministry has a dedicated allegation line that manages most of these calls, however, any staff member should accept and record information alleging suspected fraud or abuse and pass that information on to the allegation line. If the information relates to an open investigation, it may be passed on to the relevant staff member.

One of the factors that can assist in determining the successful outcome of an investigation is the quality of the information received initially. The staff member receiving the allegation should take all the information available as this can save much time during an investigation.

INFORMANTS

Anyone who provides information to the Ministry about a client is an informant. Informants can generally be classified into five categories:

- the average citizen
- fellow employees
- employees from other government agencies
- other persons in receipt of benefit
- ex-partners and family members

Informants who contact the Ministry and do not wish to be identified are usually referred to as "confidential" or "anonymous" informants. Some are willing to give their identity details but may not wish it disclosed to anyone and in particular to our client.

Then there are people who are quite willing to supply their details and are also happy to have their identity known and if need be, are willing to appear in court to give evidence.

From time to time a client or a solicitor (acting on behalf of his client) will contact the National Fraud Investigation Unit to discuss a client's situation. The solicitor, whilst not divulging any names, will state the client's circumstances (eg, living in a relationship and continuing to receive the DPB). He may advise that his client wishes to "come clean" and in doing so seeks immunity from prosecution.

Whilst the client should be given credit for coming forward, no guarantee should be given that the client will not be prosecuted nor have a penalty

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imposed. The normal factors will have to be taken into account when deciding upon any punitive action.

If the matter goes to prosecution, then the issue of the client coming forward should be properly taken into account by the Judge at the time of sentencing. If the matter is dealt with by way of the imposition of a Section 86(2) penalty, then this issue can be considered in the amount of penalty imposed.

Staff may cultivate informants merely by the type of work they are involved in and the persons they deal with in the work context.

It is important to ensure that all information given is received by the Ministry in a lawful manner and that client's personal information is not unlawfully disclosed while trying to seek information.

Motivation of Informants

- Civic duty/sense of justice
- Revenge
- Vindictiveness
- Personal satisfaction
- Trade-off for personal favourable treatment
- Work & Income client.

Dealing with Informants

In dealing with informants, ensure that you:

- deal with them in a professional manner
- obtain their confidence and maintain their trust
- are discreet
- maintain the initiative
- encourage them to give information but do not disclose anything relating to that particular client to them
- suggest that they call you back if any further information comes to hand
- abide by their wishes to remain anonymous, but give them your name so that they can call you with any additional information
- do not disclose their details unnecessarily to other staff members
- treat them courteously as they have made an effort to contact us
- do not trade information for promises that cannot/will not be met.

Risks Associated with Informants

- Under no circumstances should staff place themselves in any compromising situation eg, by becoming too familiar with clients

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- Informants may wish to be treated favourably in relation to their own benefit fraud activities
- Be wary of informants who supply the same information to more than one staff member eg, the informant may gain the advantage by playing one staff member off against the other.
- Be mindful of malicious informants.

Information

- Ensure you obtain all possible information in the initial contact - you may not have another opportunity.
- Refer allegation information to the Integrity Intervention Unit or log the allegations into IMS.

Protection of Informants Identities

Staff have an ethical, moral and professional obligation to ensure the identity of informants is not unnecessarily disclosed. Failure to do this could result in the intimidation of or injury to the informer or their families. This failure may also put the Ministry at risk of legal proceedings - either under the Privacy Act or for damages.

A staff member should not unnecessarily expose informants to situations where their identities are likely to be exposed without first advising informants that this is a possibility.

Staff should be aware that although information may have been given to the Ministry by an anonymous source, there may be particular information which, if disclosed to the client, would lead to the identity of the informant.

Where an informant's identity is known, there is the possibility they may be required to attend court and could be summonsed to do so.

THE PRIVACY ACT 1993

When informants contact the Ministry they often make it quite clear that they do not want their identities disclosed under any circumstances. These people are quite entitled to make this request. If a request is later made for the informants details this can be refused as can the release of any information that might lead to the identification of the informant. This is covered within the provisions of Section 27(1)(c) of the Privacy Act 1993.

This section states inter alia - *"An agency may refuse to disclose information requested pursuant to Principle 6 if the disclosure of the information would be likely to prejudice the maintenance of law, including the prevention, investigation, and detection of offences, and the right to a fair trial..."*

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However, the person making the request is then entitled to seek a ruling from the Privacy Commissioner on the release of the information and the identity of the informant. Based on current trends, it is unlikely that the Privacy Commissioner would instruct the Ministry to release those details.

The leading Case Law in this area is *Nicholl v Chief Executive of the Department of Work & Income* where the High Court ruled that disclosure of the identity of the informant would prejudice the maintenance of the law pursuant to section 27(1)(c) of the Privacy Act 1993.

Sometimes there is a fine line as to what can be said or not said to informants about a client against whom an allegation has been made. In all cases investigators should err on the side of caution and seek legal advice when they are unsure how to best manage a request for disclosure of information and the identity of any informant.

REFERRAL

An allegation sheet shall be prepared by the Integrity Intervention Unit and referred to a staff member who has the ability to make an assessment as to whether the matter should be investigated any further.

All allegations must be entered into the Ministry's Investigation Management System (IMS). The majority of allegations are entered into IMS by the Integrity Intervention Unit. Some allegations may be entered into IMS by staff working in the National Fraud Investigation Unit, screened (based on risk) and referred to a staff member.

SUMMARY

Informants are invaluable in assisting the Ministry to initiate investigations into benefit fraud. Their value should never be underestimated.

Staff should be mindful of the motives of informants when acting upon information received and where possible information should be verified.

Informants should be dealt with in a professional manner and under no circumstances should members place themselves in a situation where they may be compromised or the Ministry embarrassed.

Under no circumstances are informants for the Ministry, paid for giving information.

NEXT UNIT - UNIT 12: Planning an Investigation

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Unit I2: PLANNING AN INVESTIGATION

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Objectives

By the end of this unit you will be able to:

- know the importance of proper planning prior to an investigation
- formulate a plan in order to commence an investigation

Planning an Investigation

INTRODUCTION

The main task for an Investigator is to obtain all the possible information that is available to support or negate an allegation or complaint which could lead to an overpayment, penalty or offence.

Once it is clear that an offence has been committed or there is reasonable cause to suspect an offence has been committed, it is a matter of deciding what inquiries are necessary, and the order in which they should be carried out.

The information obtained may form part of the evidence that will later be presented in Court to prove the matter under investigation. It is the role of the Investigator to ensure that all avenues of the inquiry are covered systematically, in a chronological sequence and that the inquiries have covered all the ingredients of the alleged offence.

To achieve this, the investigation must be planned.

Initial planning requires:

- an understanding of what the alleged offence is
- determining what internal information needs to be gathered or obtained
- deciding who has to be seen or contacted for information within the wider community
- identifying methods available to be used to gather/obtain the information
- prioritising the order in which the inquiry will be conducted.

MAKING DECISIONS

Briefly, the process of making decisions is nothing more than selecting a course of action from a number of alternatives.

Your course of action must be in line with the Ministry's policies and procedures. Care must be given to ensure compliance with these is always maintained. These are found in http://doogle/map/tocfiles/Fraud_investigation.htm – familiarise yourself with these now.

Before you can make a selection you must have first formulated a number of alternatives. It is rare for alternatives to be lacking for any situation or course of action.

Good decision making, therefore, involves a search for the alternative representing the best path to a desired goal, but before you can be sure that you have found the best path you must have considered all the other possible alternatives. The question that must be asked is, *"What are all the possible solutions to this problem?"*

When you have compiled a list, then ask yourself, *"What is the best and most appropriate solution among those alternatives?"*

Making the Right Decision

The right decision is not a matter of luck or guesswork - it is the process of logical reasoning. Authorities on the topic are all in agreement that decisions are reached by a sequence of reasoning based on the following formula:

- A situation must exist (or be reasonably anticipated) in which it is necessary to make a decision.
- The problem must then be clearly identified, isolated and analysed.
- A clear objective must then be formulated and the question asked, "What are we aiming to achieve?"
- The next step is to gather all data and information that is required to be known to determine the ways in which the aim might possibly be achieved.
- Based upon that information, a list is then drawn up of all the ways in which the aim might possibly be achieved.
- Each of these alternatives is then individually weighed and studied and the most suitable and appropriate way is selected as the chosen means for reaching the objective.
- Finally, a plan is prepared for putting the selected course into action.

For dealing with military situations, the Armed Forces have developed an even more simple formula called the appreciation technique, more or less based on the same concepts. It is easy to see how it can be used to advantage in even the simplest situations involving benefit fraud investigations. In each instance ***it is essential to have an efficient plan of action based on sound, reliable information and reasoning, with a firmly fixed objective, that is to be achieved by pursuing the most appropriate course of action open or available.***

Before discussing the actual details of the appreciation technique, it is appropriate to discuss briefly WHO is to make the decision.

It goes without saying that every decision must be made by the person who should make it. The more serious the consequences of the decision, the higher up the scale the decision should be made. The decisions must also be made by a person who is equipped to make and who has the necessary "qualities" for making it. That person should have:

- knowledge (of the law applicable, the correct procedures, etc)
- authority
- judgement
- initiative

THE APPRECIATION TECHNIQUE

There are two forms of appreciation:

- the full formal appreciation
- the shortened note appreciation

The full appreciation is normally used for high level or difficult tactical or administrative problems and the note appreciation is intended for use in dealing with urgent or pressing problems requiring some immediate action. The shortened form may also be used for non-urgent problems that are not complicated or complex in their composition. It is the shortened form that has the greater application to your duties.

Written and Mental Appreciations

An appreciation may be either a written or mental exercise. In urgent and/or straightforward problems there is probably no great need to commit the appreciation to writing and it may be formulated in the mind. The appreciation should be written:

- when, because of the number of points to be considered, there is a danger of some being overlooked if not written down.
- when it is desired to present a clear picture of the situation to a higher authority with a logical argument that will carry conviction.

A written appreciation also provides a record of why a certain course of action was taken and may be useful for later reference.

In the shortened note form, a written appreciation need only contain sufficient detail to ensure that all relevant deductions may be made from it. The amount written is therefore a fine balance between the need for brevity and the requirement to include all data pertinent to the problem.

The Appreciation Process

The appreciation process consists of the orderly sequence of attending to four basic steps:

- fixing a firm AIM or objective.
- studying all the FACTORS involved.
- considering the different COURSES OPEN and selecting the one that is the best and most appropriate to the circumstances.
- making a PLAN to implement the chosen COURSE.

To remember the routine, you simply remember the words:

- AIM
- FACTORS
- COURSES OPEN
- PLAN

Form an AIM

The aim is the whole object of the exercise. It is the expression of what you are trying to achieve.

It is vital that the correct aim be established because clearly an incorrect aim will produce an incorrect result. The aim must be expressed clearly, concisely and in definite terms. It must also be brief and to the point.

The aim must be constantly borne in mind through the remaining deliberations. If you are tending to wander off your objective a check of the stated aim will bring you back to the right track.

In police work, the aim of the Officer in Charge of a murder investigation is to apprehend the offender. In a search and rescue operation the aim of the exercise is to find the missing person.

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In benefit fraud investigations the aim is to establish whether the person was/is entitled to income support and whether an offence has been committed them.

In your work, your aim will be directly related to your instructions and you should make certain that your instructions clearly reflect what is to be achieved. Otherwise, you will not be able to form a definite, clear and concise aim to act as a starting point for your plan. If your instructions are not clear, or if you are not certain how your terms of reference should be applied in a particular situation, ask your supervisor, "What do you want me to achieve?"

If your instructions are vague and demand only that you "Get up there and have a look around, see what happened", it is suggested that you ask your superior the same question, or this one "With what end in view?"

Study the FACTORS

A factor may be described as a fact, influence or circumstance contributing to a result.

In the context of an appreciation it is something which has an effect on the manner in which you will achieve your aim. To perceive the various factors you must assemble all the information relating to the situation. Examine that information and if it will have a bearing on the accomplishment of the aim, then it is a factor.

In any one of your investigations, the following may be factors which are frequently required to be taken into account:

- manpower
- seriousness of incident/offence
- known history of parties
- records which are available
- length of possible offending
- evidence located to date
- advice or directions of superiors
- time available
- pattern of incidents/offences
- experts available
- witnesses available
- paperwork
- procedure laid down to follow

Each factor must be considered in relation to the aim and a useful and logical deduction made from each.

If it produced no deduction it should be discarded. The factors should be individually subjected to exhaustive examination. It is not sufficient to draw one deduction and assume that the factor has been adequately dealt with. The deduction itself must be examined to see if it, in turn, will yield a further deduction and so on, until it is squeezed completely dry. The question, "So what?", or "Therefore?", should be asked of each factor and each deduction, until nothing more can be drawn out of it.

Do not give undue weight to one factor until all the others have been studied and their combined influence has been assessed.

Consider the COURSES OPEN

What could be done, bearing in mind the factors and the deductions made from the factors?

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If there is an offender (or person under investigation), we must consider the courses open to them because they affect our selection of a course of action that is designed to anticipate their moves to some degree.

For example, is the person under investigation aware that they are being investigated or could they be reasonably expected to find out that they are? *(So what? - Therefore?) Is there any evidence they could dispose of before I get to it? Are there any witnesses they could "get at" before I see them? (So what?)*

In having regard to the courses open to the person under investigation, it is important to keep the courses as broad as possible, not to look too far ahead, but to credit them with a certain degree of logic and wisdom unless they have already shown that they intend to act otherwise.

The courses that are open to us are based on the deductions that emanate from the factors considered as being relevant to the situation. There may be many courses that are open to us in any given situation and each course must be carefully examined and evaluated. Each must be listed (mentally, if it is a mental appreciation) and, in turn, a list of the advantages and disadvantages of each course should also be drawn up and carefully considered. From these considerations you will be able to decide upon the most appropriate course to adopt to achieve your aim.

Select that course as the course you will adopt.

Arrive at a PLAN

Having selected the best course, the final step is to proceed to the task of planning. The plan is the logical result of the appreciation.

It must not introduce any new matter which was not considered during the appreciation. The plan must be a clear, definite and practical proposal of the manner in which the stated aim is to be achieved. If written, it must be expressed in clear and concise language and leave no room for misinterpretation or misunderstanding. In other words, it should convey the writer's full intentions to the reader in the briefest possible way.

Whether the appreciation is a written one or a mental exercise only, reduce the PLAN to writing, (brief notes will suffice). Do not trust it to memory and do not commit it to scraps of paper.

DECISIONS & RISK

The Ministry on the whole, faces a number of risks. The political environment, the amount of personal information held in relation to person and the strict policies that need to be adhered to when conducting an investigation, are examples of this.

Therefore, not only do investigators need to act in a professional manner to maintain integrity and make good decisions, it is also imperative that the risk associated with any decisions is considered.

Your Senior Fraud Investigation Advisor, Operations Manager and/or Legal Services need to be advised of possible or actual risks identified in the course of your job.

IDENTIFYING SOURCES OF INFORMATION

Internal

Most of the charges proposed by an Investigator will be based on either original documents completed by the person, or information received or held on the Ministry's computer records pertaining to the person during the time they were receiving benefit.

This information can generally be obtained from the person individual profile in SWIFTT, SAL, SOLO, UCVII, AIMOS and IMS computer systems, and other records held by the Ministry.

This information will form the basis of your investigation.

Applications

(Example, Main Benefits, Supplementary, Advances, SNGs)

The basis of any benefit investigation is the application form for the respective benefit(s). The application form with the transfers to all types of benefits is required to show that the person actually applied for the benefit, and that he/she signed the acknowledgments of conditions of grant of the benefit.

NB: This will prove useful in helping you prove the necessary element of mens rea (guilty mind). These can be used in considering a charge of wilful omission.

Identification and Verification Documents

Example: birth certificates, driver's licences, passports, tenancy agreements etc

Renewals/Applications for Continuation

Example: applications to review forms for benefit are often the forms that attract "false statement" and "using a document" charges.

Incidental Forms

Example: personal details, change of address, change of bank account, medical certificates and other supporting documentation provided by the person.

Ministry Records

These documents are extremely important for establishing identification, particularly in multiple benefit fraud cases. These documents can be the basis of the commission of an offence and could lead to other types of charges under the Crimes Act 1961. Furthermore it is not uncommon for people to forge tenancy agreements, again this type of offending could attract charges under the Crimes Act 1961.

Letters	Letters supplied by person
Interview notes	Notes made by Customer Service Officers and Case Managers
Computer notes	Previous notes on SWIFTT, UCVII, AIMOS, SAL, SOLO and IMS
Verification details	Tenancy, hire purchases, mortgage, power, phone,

External

Once you have identified the relevant internal documents and records, you may need to identify external sources which will assist you to:

- verify the information provided to the Ministry, or
- assist in establishing a person's entitlement to benefit

These sources will vary dependant upon the type of case investigated.

REMEMBER: *A vast amount of information can be obtained from these sources. However, an Investigator should have a good idea of how the information obtained relates to the ingredients that are required to be proved.*

Sources of Information

These are numerous potential sources of evidence/information available to assist during an inquiry. Some of these but not to the exclusion of any others include:

Family/Friends

Family/friends
Parents
Other family
Flatmates
Boarders
Neighbours
Friends
Referees

Financial

Banks/Credit Unions
Credit card companies
Insurance companies
Finance companies

Local Authorities

Local councils

Social Environs

Social workers
Children Youth & Family Service
General Practitioners
Hospitals
Schools
Kindergartens
Clubs and associations
Religious communities
Landlords

Employment/Business Associates

Employer
Work colleagues
Partner's work colleagues
Business associates

Government Agencies/Quangos

Police
Land Transport Safety Authority
Courts
Community Corrections Ministry
Accident Compensation Corporation
Births, Deaths & Marriages
Land Transfer Office
Ministry of Agriculture and Fisheries
Official Assignee
NZ Post
Public Trust
Electoral Office

Commercial Area

Retailers
Hire outlets
Real estate agents
Veda Advantage
Telephone/internet suppliers
Digital television suppliers
Other utility suppliers

TYPES OF INFORMATION

From the list above, you will note that information can be categorised into either public or personal information. The type of case you are investigating will determine the order in which you access either public or private information.

The provisions surrounding Section 11 Code of Conduct have by design fashioned that any information publicly available that could assist the inquiry be sought first. Sources of such information could include –

- Ministry records and systems
- Telephone and other directories
- Local Bodies, e.g Rates Offices
- Neighbours
- You can also talk to witnesses under the provisions of section 12

Once you have elicited any such public information, you should consider what personal information would be required. In accordance with the Section 11 Code of Conduct the private information could then be sought, generally this would lead to requesting this information from the person first and would result in an initial interview with the person.

TYPES OF INQUIRIES

Routine Inquiries

These are basic inquiries used to gather information which relates to the initial allegation. These inquiries are the starting point of every investigation.

Lengthy/Complex Inquiries

When routine inquiries have been conducted, and a more complex situation is uncovered, the inquiry may no longer be straight forward (routine), but may become a lengthy and protracted one.

Protracted inquiries are inquiries that will require more time because of the complexity of the situation. Because of this complexity more resources and expert advice may be needed.

Example: An allegation is made that a person is working at a local store. During the routine inquiries it is discovered that the person is operating several large retail outlets, and that he uses several different names.

Multiple benefit situations: In this case a protracted inquiry has commenced.

Urgent Inquiries

On occasions you will be given information that requires urgent action. It is important that you accurately establish priorities. Do not waste time on matters that can be covered later at the expense of possibly losing evidence that may be critical to the outcome of the investigation.

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Example: You have received an allegation that a person is living in a marriage type relationship and is leaving next week to live permanently in Australia. The allegation suggests that the person is leaving the country next week. In this instance it is vital that you make contact with the person prior to their departure.

METHODS OF INQUIRIES

Once you have identified what information is needed to assist, you are well on the way to commencing your investigation.

Each situation will differ depending upon the circumstances of the case. However, it is important to use a method that is systematic and carried out in a chronological manner. This will enhance the likelihood of securing a positive outcome.

In most investigations you will identify people who can assist you with your investigation. These may be people who are witnesses to the offending, or may simply be able to supply information to advance your investigation.

There are five main methods of conducting your inquiry:

- Computer Inquiries
- Telephone
- Fax Inquiries
- Written Inquiries
- Field Inquiries

Computer Inquiries

The standard computer inquiries conducted will involve utilising the Ministry's computer systems (SWIFTT, SAL, SOLO, UCVII, AIMOS and IMS) and also other systems that are currently utilised by the Ministry (eg Veda Advantage and Infolog).

Often a check of these systems first will assist you in:

- corroborating or negating allegations
- identifying potential witnesses
- identifying person(s) under investigation

Example: You are investigating a relationship case and have decided to conduct a Veda inquiry. The Veda system indicates that the person has applied for credit at other organisations. These organisations subsequently confirm that the applications for credit were made in joint names.

Telephone Inquiries

There will be times where an inquiry via the telephone may be required. Whilst this can be a quick method of conducting inquiries, there are traps to be aware of:

- Any conversation of a future evidential nature, must be followed up with a personal interview to ensure that you have obtained the correct information from the right person.

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- Any admissions/confessions of guilt be taken over the telephone must be accurately recorded and followed up with a personal interview as soon as possible.

Telephone conversations are of no evidential value as the identity of the person being interviewed cannot be confirmed.

This quick method may help you decide whether to continue with this aspect of your investigative plan.

Written Inquiries

ALL our enquiries are conducted because we do have statutory powers. Any dispute or question as to entitlement to the information should be discussed with the knowledge that there is this statutory power of compulsion.

In general, all requests for information made pursuant to Section 11 about a person must first be sought directly from the person first. This is done by issuing the person with a Section 11 preliminary notice. This is covered in detail in 'Guidelines to the Section 11 Code of Conduct' which you should read and understand at this point.

Having already requested the information from the person, there will be occasions when you will need to issue a Section 11 notice directly to the source i.e to a person, an organisation, banks, employers etc.

- Copies of requests for information should be kept to verify that a request has been made. If in future the information is not supplied as requested your copy may also be used as the base document for other charges involving the witness. Note: The Ministry will need to prove that the request was sent and that other party received it. Therefore, if a dispute arises, a further copy of the request should be sent by registered mail.
- Ensure that documentary information supplied can be verified from the source (eg, wages details from wage books, employment contracts, bank records etc). Some cases may warrant a personal approach before sending a written request.
- Ensure that the format of all request comply with the required business standards.

Field Inquiries (Personal Interviews)

These are inquiries that are made out of the office by visiting people and places.

This method is a most effective way of gathering information. By speaking to people you are able to use your skills to obtain the maximum information available.

When conducting field inquiries it is important to:

- present yourself in a professional manner
- see people at the earliest opportunity
- ensure people know who you are and where you can be contacted
- conduct thorough interviews
- obtain written statements from people where appropriate
- assess person's suitability as a potential witness
- advise people that they may later be needed as a witness in court

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- establish good relationships with people
- not collect documentary evidence if this would contravene the Section 11 Code of Conduct

NB: The procedures for interviewing are covered in the module on Statements and Interviewing.

SUMMARY

No matter what your objective is a systematic approach always brings the best results. As an Investigator you must know all the facts surrounding the allegation. You must understand the requirements of the law and in particular what facts you must establish and what evidence you will need to substantiate these facts.

An inquiry carried out in a logical sequence and in chronological order should usually ensure a result. Conversely, an inquiry carried out with little planning will be fraught with problems and the end result may be one of confusion.

NEXT UNIT - Unit 13: Investigative Approach

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Unit I3: INVESTIGATIVE APPROACH

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Objectives

By the end of this unit you will:

- confidently and competently carry out an investigation

Investigative Approach

INTRODUCTION

Once you have planned your inquiry, the investigation will commence. It is highly likely that areas of "Planning an Inquiry" will overlap into your "Investigative Approach". Do not be alarmed by this. Often in practice there are no clear boundary lines.

Any investigation should be carried out in accordance with guidelines on MAP http://doogie/map/tocfiles/Fraud_investigation.htm.

OPENING

At this stage you will have done your appreciation and plan. In some cases a Technical Officer may have already gathered some information for the Investigator using the FIRE process. By carrying out your investigation, you should at the conclusion be in a position to establish one of three possibilities:

- a benefit fraud offence has been committed
- no benefit fraud offence has been committed (but there may still be an overpayment)
- you are not able to establish one way or the other whether a benefit fraud offence has been committed

RESOURCES AVAILABLE TO ASSIST

- Fraud Investigation Team members
- Senior Fraud Investigation Advisor
- Operations Manager
- Intelligence Analyst
- Financial Determination Analyst
- Forensic Analyst
- Legal Services
- Privacy Officer
- Other law enforcement agencies
- MAP/Doogie

INVESTIGATIVE APPROACH

The most successful Investigators are those who have the ability to relate to people. It is a matter of gaining the confidence of the person to whom you are speaking. Thus a general approach of writing letters or using the telephone is not the recommended approach in the first instance other than to the likes of banks and

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business houses etc. Whilst writing letters and using the telephone have their rightful place, it is recommended that a personal approach be used where it is believed that a potential witness can supply crucial evidence.

SOURCES OF INFORMATION

As stated in the "Planning an Investigation" unit, there are numerous potential sources of evidence/information available to assist during an inquiry.

Family/Friends

Family/friends
Parents
Other family
Flatmates
Boarders
Neighbours
Friends
Referees

Financial

Banks/Credit Unions
Credit card companies
Insurance companies
Finance companies

Local Authorities

Local councils

Social Environs

Social workers
Children Youth & Family Service
General Practitioners
Hospitals
Schools
Kindergartens
Clubs and associations
Religious communities
Landlords

Employment/Business Associates

Employer
Work colleagues
Partner's work colleagues
Business associates

Government Agencies/Quangos

Police
Land Transport Safety Authority
Courts
Community Corrections Ministry
Accident Compensation Corporation
Births, Deaths & Marriages
Land Transfer Office
Ministry of Agriculture and Fisheries
Official Assignee
NZ Post
Public Trust
Telecom
Electoral Office

Commercial Area

Retailers/ Hire purchase documents
Hire outlets
Electricity suppliers
Telephone and internet suppliers
Digital television suppliers
Real estate agents
Veda Advantage

COMMENCING THE INVESTIGATION

Commence the inquiry with an open mind and no preconceived ideas as to the outcome. Preconceived ideas will ultimately lead to a preconceived outcome which may not be the correct one. Once the plan has been decided upon, then it is a matter of putting it into practice and following it. The starting point is probably with an inquiry that is not too difficult or complex. This will lead you gently into the inquiry and will give you confidence to carry on. Often a number of inquiries can

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quite easily be carried out at the same time. On occasions, some inquiries cannot be carried out until the results of earlier ones are known.

HOW TO INVESTIGATE

There is no set procedure on how to carry out an investigation but the FIRE process should be used to guide you.

Gather Information

<http://doogie/resources/helping-clients/procedures-manuals/integrity/nfiu/gathering-information/gather-information-phase.html>

Analyse, Interview and Decide

<http://doogie/resources/helping-clients/procedures-manuals/integrity/nfiu/analyse-interview-and-decide/fraud-investigation-process-technical-officer-analyse-interview-and-decide.html>

Debt, sanction and prosecution - Investigators

<http://doogie/resources/helping-clients/procedures-manuals/integrity/nfiu/debt-sanction-and-prosecution/fraud-investigation-process-investigator-debt-sanction-and-prosecution.html>

Debt, sanction and prosecution - Technical Officers

<http://doogie/resources/helping-clients/procedures-manuals/integrity/nfiu/debt-sanction-and-prosecution/fraud-investigation-process-technical-officer-debt-sanction-and-prosecution.html>

Each Investigator may develop his or her own style over a period of time. With more experience Investigators will fine tune their processes and investigation techniques. Having prepared a plan (Planning an Investigation module), the investigation is then ready to commence.

When carrying out your inquiries, remember to review your investigation regularly and if necessary make changes to keep it on track.

Adaptable Flexible/Fluidly Situations

As the results of inquiries become known, it is sometimes necessary to change the direction of the inquiry. Be aware of this - this is what may be loosely referred to as a "fluid" situation. That is why it is necessary for a professional investigator to be adaptable and flexible.

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Time Taken for Inquiry

Investigations should be completed within a reasonable timeframe. Where investigations are prolonged unnecessarily there is a risk that the impetus may be lost. It is also in the client's and Ministry's best interests to have the matter resolved as quickly as possible. There is a risk also that any unnecessary delay in concluding the inquiry or with subsequent court proceedings may result in an appeal based on the time taken which may be seen as prejudicial to the customer. There are also time limits for prosecutions being commenced set out in the Social Security Act and the Education Act.

WITNESSES

Where witnesses could be vital to the outcome of the investigation, they should be seen early and visited personally. Arrange to see them at a time and place suitable to them. When you visit them talk with them – listen to what they have to say – put them at ease. Once you are clear in your own mind what they have to offer then take a written or recorded statement from them. Establish whether they are prepared for their information to be used in evidence if necessary either internally or at a subsequent court hearing. **Take any statement at the first available opportunity as you may not have another chance.**

On occasions it may be necessary to interview a witness more than once but this should be the exception rather than the rule. Make sure you know how and where they can be contacted and that they have your name and phone number in case they wish to get back to you with further information.

Not all witnesses will tell the truth when interviewed for a variety of reasons. It is up to you as the investigator to make a judgement as to the veracity of the information given.

It is much easier to take a statement and not need it than to later have the witness decline to give one. The reasons for taking statements are three fold.

- Firstly, the witness has a greater chance to remembering events closer to when they occurred
- Secondly, a written or recorded statement can be used by a witness to refresh his/her memory prior to giving evidence, and

Lastly, if the witness is later called and does not come up to brief then the statement is available should the witness need to be declared a "hostile" witness. A "hostile" witness is one who shows animosity towards the party calling him.

CLIENTS UNDER INVESTIGATION/OFFENDERS

When planning an inquiry, decide when you are going to interview the person under investigation.

There are occasions where a person under investigation may be interviewed early in the inquiry. This could be because you may want to request additional information from the person. This could also occur when the person volunteers information that he/she may have been involved in benefit fraud and wishes to clear up the matter. In these cases you may well be interviewing totally blind knowing very little about the file, the person under investigation or the potential offence. You will then have to rely upon your experience and draw out the information from the person being investigated.

You will need to ask questions to obtain as much information as possible from the person under investigation to develop a full picture of the offending, and you will be largely dependent upon the responses provided during the interview(s).

Once the interview is completed it will be necessary to then commence the inquiry to verify what you have been told is the truth. The depth of the inquiry will depend upon the likely outcome resulting from their benefit fraud. If there is any likelihood of there being any court proceedings then it will be vital to conduct a full investigation. It would be unwise to consider prosecuting a person solely on his admission with no other inquiries having been made. If charged in court, the defendant has various courses open to him/her, including pleading "Not Guilty". It is not uncommon for persons to make such a plea even though they have admitted the crime. The likelihood of obtaining a conviction in a "Not Guilty" hearing with the case resting solely on their admission is virtually non-existent.

Where a person under investigation is interviewed, it is important that he/she is interviewed in accordance with prescribed protocols and procedures and that their legal rights are safeguarded.

Statements

The procedure of taking statements from both witnesses and client under investigations is covered in the unit "Interviews and Statements".

Exhibits

The care and custody of exhibits is covered in the unit "Care and Custody Exhibits".

LENGTH OF AN INVESTIGATION

If you have completed an APPRECIATION of the situation and prepared a plan for the investigation you will have some idea how long inquiries might take. At some point a decision will need to be made as to the depth of the investigation. This will depend

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UNIT 13: INVESTIGATIVE APPROACH

upon the seriousness of the benefit fraud, the number of inquiries required, the likelihood of a positive result and any other factors relevant to that particular case.

INVESTIGATION CONCLUSION

All investigations should conclude with a recommendation and evidence to justify:

- no further action
- establishment and recovery of any overpayment
- imposition of a sanction
- written warning
- imposition of a section 86(2) penalty
- referral for prosecution

Notification of Outcome

Once an investigation is complete, the person being investigated should be advised of the outcome as soon as practicable after that final decision has been made. This advice must be noted in IMS.

NEXT UNIT – Unit 14: CARE & CUSTODY OF EXHIBITS

MODULE 2: INVESTIGATIONS
UNIT I4: CARE AND CUSTODY OF EXHIBITS

INVESTIGATION UNIT TRAINING PACKAGE

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INVESTIGATIONS MODULE

Units

<i>Unit I1</i>	<i>Receiving Information</i>
<i>Unit I2</i>	<i>Planning an Investigation</i>
<i>Unit I3</i>	<i>Investigative Approach</i>
<i>Unit I4</i>	<i>Care and Custody of Exhibits</i>
<i>Unit I5</i>	<i>Search Warrants</i>

Unit I4: CARE AND CUSTODY OF EXHIBITS

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WHAT IS AN EXHIBIT?	2
HANDLING EXHIBITS	3
CUSTODY OF EXHIBITS	4
SUMMARY	4
APPENDIX A	5
APPENDIX B	6

Objectives

By the end of this unit you will know:

- what an exhibit is
- the importance of preserving and securing exhibits
- the importance of recording the movements of an exhibit

Care and Custody of Exhibits

INTRODUCTION

The production of exhibits in court forms an important part of the court proceedings. The majority of the exhibits produced will be documents. It is essential that they are handled with care to protect the evidential value that will be attributed to them.

In a case where the facts are in dispute, the importance of having exhibits to produce as evidence may be crucial to any proceedings. It is vital that when exhibits are obtained they be kept in a place of security to protect their evidential value.

Exhibits must be recorded and secured once obtained to prevent any suggestion that they have been tampered with, or altered in any way to the disadvantage of the party against whom they are being produced.

WHAT IS AN EXHIBIT?

The concise Oxford Dictionary defines 'exhibit' as:

"A document or other item or object produced in a court as evidence"

Anything used in the commission of an offence or to assist in the commission of an offence is an exhibit. An exhibit provides the Court with the opportunity to view the article from which the Judge or jury can make up their minds as to the evidential value to be accorded to it.

Exhibits may be used to support or negate other evidence produced.

Ministry of Social Development documents are usually original documents more and more the Ministry documents used may be those that have been scanned and will be found in UC VII.

Documents received from external agencies are usually copies of information held by them. If your prosecution results in a defended hearing you will need to advise your witness that they must produce the original documents on the day of the defended hearing.

You must note the date that you receive copies of information throughout your investigation. This will help form proof of the chain of evidence.

HANDLING EXHIBITS

Do not underestimate the potential of a document at some later stage. When conducting an investigation never lose sight of the fact that a document may strengthen your case, and can provide further avenues of inquiry which in turn corroborates evidence already gained.

In order to protect the evidential value of an exhibit, it should be handled as little as possible. Always bear in mind the possibility of fingerprints being available on the document. The use of experts in this area requires the document to be uncontaminated prior to the examination. Exhibits must therefore be handled with precision and care.

Here are some tips for handling original exhibits:

Upon receipt of documents:

- place original document in a clean protective covering large enough to hold it unfolded. Do this as soon as possible. Use plastic bags, or if too large it is to be rolled and wrapped to preserve its condition.
- label the protective covering containing the document - time, date received and name of document. Never tag or label document directly.
- if there is a likelihood of documents being treated for fingerprints, then handle with tweezers or new rubber gloves.
- unfold any folded documents and preserve, ensuring that no fresh creases, marks or impressions are made.
- do not interfere with tears and creases, or pen, pencil and other markings.
- note physical condition ensuring this is not impaired or materially altered.
- if the document is to be used during investigation, obtain a photocopy as a working copy
- never write or make any marks on the document - be careful that the document does not become mixed up with other papers allowing for the possibility of foreign impressions or indentations to occur and damaging the document.
- never mount or affix the document with staples, pins, cellotape or glue as damage may result.
- never use manila folders/envelopes to preserve the document as fibre contamination may result.
- during an interview, never let a client under investigation handle the original document as this will destroy the evidential value of fingerprints - use a

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UNIT 14: CARE AND CUSTODY OF EXHIBITS

photocopy if necessary to show contents of a document to witnesses and suspects. This will rebut any suggestion that the document may have been handled at that time.

CUSTODY OF EXHIBITS

- Exhibits must be secured in a safe place at all times.
- Exhibits from one case must be kept separate from another case.
- In cases where there are likely to be a number of exhibits, an Exhibit Register Form should be prepared for each exhibit (See Appendix A).
- In cases where there are likely to be a number of exhibits an Exhibit Sheet should be completed for each case and numbered in the order they were obtained for reference purposes (See Appendix B).
- Exhibits should be checked regularly by the investigator in charge of the investigation to ensure no damage or deterioration has occurred.
- Do not allow other people access to your exhibits without your authority or control. This will reduce the possibility of contamination, destruction or loss.
- Always record the movement of an exhibit on the Exhibit Sheet particularly the time and date the exhibit was received or removed, and the name of the person(s) from whom it was received or removed by.
- When preparing prosecution files for legal always take a copy of exhibits for the file. The original exhibits stay with the investigator.
- Once case is finalised, return all exhibits to their owners.

SUMMARY

Exhibits must be afforded the best possible attention because of their evidential value. The care and custody must be free from accusations of negligence, obliteration, or alteration and strict security must be maintained at all times.

Properly handled an exhibit can be of enormous value to your case as it adds weight to the evidence given.

Recording of receipt of exhibits is important and must be maintained throughout the course of your investigation.

NEXT UNIT – Unit 14: SEARCH WARRANTS

MODULE 2: INVESTIGATIONS
UNIT 14: CARE AND CUSTODY OF EXHIBITS

APPENDIX A

EXHIBIT REGISTER FORM			
Exhibit No:			
Case Name:			
Description of exhibit:			
Where found:			
Time:		Date:	
Found by whom:			
Received from	Received by	Date	Signature

RELEASED UNDER THE OFFICIAL INFORMATION ACT

INVESTIGATION UNIT TRAINING PACKAGE

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INVESTIGATIONS MODULE

Units

<i>Unit I1</i>	<i>Receiving Information</i>
<i>Unit I2</i>	<i>Planning an Investigation</i>
<i>Unit I3</i>	<i>Investigative Approach</i>
<i>Unit I4</i>	<i>Care and Custody of Exhibits</i>
<i>Unit I5</i>	<i>Search Warrants</i>

Unit I4: SEARCH WARRANTS

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Responsibility for criminal disclosure	7
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Objectives

By the end of this unit you will:

- understand MSD's search warrant responsibilities

Search Warrants



Introduction

Some complex fraud cases will require the execution of a search warrant to secure evidence. Generally, this will be frauds that are serious in nature by either the type or the length of offending.

The legislation administered by the Ministry of Social Development (MSD); the Social Security Act 1964 and the Housing Restructuring and Tenancy Matters Act 1992 do not contain provisions for an officer to apply for a search warrant.

Legislative changes introduced by the Search and Surveillance Act 2012 mean that Ministry staff have no power to search a client's home (that is to examine bedrooms, look in cupboards, bathrooms etc.) without first obtaining a search warrant.

Investigations requiring a search warrant must be given careful consideration and must not be undertaken unless approval has been given by the National Fraud Investigation Manager.

Decision Making

Consideration needs to be given during each step of your investigation as to the appropriateness of executing a search warrant. There will be certain cases that will require you to consider the use of a search warrant at an early phase of your investigation; other cases may present an opportunity once your investigation is already in progress.

When making decisions about your course of action you would need to apply good decision making processes which could include:

- Identifying the problem
- Setting goals and aims of your investigation
- Searching and gathering evidence
- Generating ideas and logical alternatives
- Creating a hypothesis
- Challenging your hypothesis
- Reaching a conclusion

There are also other influences that must be considered when making a decision to execute a search warrant. You will need to consider:

- Whether you have met the **Legal Requirement** for a search warrant
- The interaction and **Co-operation with Police** that will be required to apply for and execute the search warrant

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- Other **Ministry risk** that could be associated with the execution of a search warrant
- **Evidential need** – timeliness of the application.

Legal requirements

The legislation that covers search warrants is the Search and Surveillance Act 2012.

Co-operation with Police

The National Fraud Investigation Unit has investigative and prosecution functions but no statutory search and production powers under the Search and Surveillance Act 2012, so we have to work closely with Police who have powers to apply for and execute search warrants. Police are also able to seize evidential material, hold it and dispose of it.

When working with Police, we work co-operatively to ensure all relevant information held by MSD is provided in a timely and appropriate manner. Guidelines for working with Police are available on doogle.

<http://doogle.ssi.govt.nz/resources/helping-clients/procedures-manuals/integrity/nfiu/analyse-interview-and-decide/procedure-for-requesting-and-executing-search-warrants.html>

Ministry Risk

The decision to execute a search warrant also needs to be aligned to assessment of Ministry Risk. You will need to consider other factors such as the age of a client, the seriousness of the offending or the wellness of the client.

The decision to apply for and execute a search warrant must be made in consultation with the Operations Manager or Senior Fraud Investigation Advisor. Search Warrant approvals must be authorised by the Fraud Investigation Manager and approved by the National Fraud Investigation Manager.

Making a Request for a Search Warrant

Requests by MSD for the Police to apply for and execute a search warrant or production order on their behalf, must be made to the Police in the geographical area where the intended search warrant is to be executed or in the case of multiple warrants, the area from where the search coordination is to be managed. A meeting should be arranged with the Police to discuss the following:

- the reasons for the request for Police assistance
- operational implications arising from the request
- using MSD staff as much as possible to assist with the search, rather than Police having to supply their own staff for this function

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- using a Police Electronic Crime Liaison Officer (ECLO) to assist in the search if it is likely that electronic material will be sought in the warrant
- costs that the Ministry may incur in relation to:
 - Police resources to be used
 - photographing evidential material, copying documents or creating forensic copies of electronic data.

Certain criteria must be met if the Police are to approve our request for assistance. Before making a decision on the request, the Police must be satisfied the following criteria are met:

- the application is justified and meets all legislative requirements
- the request and the making of an application is in accordance with any agreement or other protocol that may exist between MSD and Police
- the assessed risk of execution can be safely managed
- the workload involved with the application (making the application, the number of warrants or orders and their execution, seizure, receipt of produced documents, storage, management, including attendance at Court and disposal of seized or produced items) is manageable with other law enforcement commitments
- operational priorities impacting on Police at the time are not compromised.

Decision and timeframes for reply

The decision whether the Police provisionally approve, delay or decline the request will be given to MSD in writing as soon as practicable and should not exceed 14 days from receipt of our initial request.

Once the decision is provisionally approved the local Police will contact the Officer in Charge of the CIB area responsible for managing the Search Warrant who will assign suitable officer(s) to:

- be assigned the request file
- conduct the planning and risk assessment
- apply for a search warrant or production order
- carry out the execution and reporting of the search warrant or production order
- take responsibility for the seizure, production, storage, custody and disposal of exhibits (evidential material).

Information for Police

Requests for Police to apply for and execute search warrants on MSD's behalf must be emailed with the following documents attached:

Draft MSD affidavit that includes information under the following headings:

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- the suspect(s) identity (including date of birth if known)
- the alleged offending (including statutory references for each offence) and relevant information to support the allegation
- in relation to search warrants:
 - the place, vehicle, thing or facility to be searched and its location
 - a description of evidential material being searched for and why it is evidential material in relation to the alleged offending
 - facts or information indicating that the evidential material will be found in the proposed search
- additional information in relation to both types of proposed applications:
 - any information relevant to whether any material to be searched, seized or produced could be protected by any of the privileges recognised by § 136 of the Act.
 - all other relevant information, whether helpful or not.
- Covering report that includes information about:
 - contact details of the agency and agency's investigator
 - the facts established by the agency's investigation to date, without reference to any suspicions or beliefs held by the investigator
- In relation to search warrants; profile of target address, vehicles, or things to be searched including occupiers or other persons who may be present
- In relation to production orders; profile of target person, body corporate, or unincorporated body
- MSD's pre-search risk assessment of:
 - **threat** – includes intent, capability, opportunity and the physical environment
 - **exposure** – includes safety of agency staff, Police and the public and security of the operation
 - **necessity** – whether to act now, later or not at all
- Any other documents containing information that may assist the application and execution phases.

The Police will make the application to an Issuing Officer for a Search Warrant. The investigator should be contactable when the application is lodged, so the Police officer can make contact about any queries raised by the issuing officer concerning the investigation.

Before the search warrant is executed

A combined briefing should be held between MSD staff and police prior to the execution of the search warrant.

You should agree a time and date to execute the search warrant.

At execution of the search warrant

The Police Officers will request MSD staff to assist with undertaking the search. As a result MSD staff are allowed to:

- enter and search the place, vehicle or thing specified in the warrant
- seize specified evidential material

While under direction of the assigned officer exercising the search power, the Police may use force that is reasonable in the circumstances to enter and break open or access any area.

Note: The assigned Police Officer exercising the power must accompany any MSD staff on the first occasion when we enter the place, vehicle or other thing to be searched and provide supervision as is reasonable in the circumstances

Process for exhibits at the conclusion of the search

The Police will:

- Secure and retain custody of seized or produced evidential material (exhibits)
- Provide notice to owners and others in relation to things seized and original copy of property record sheet
- Review the evidential material seized or produced and supply copies of documents and photographs of evidential material that will enable the agency to continue their investigation, decide the outcome and if required, prepare their prosecution case
- Hold all original evidential material including forensic copies of electronic data
- Organise expert examination of retained evidential material on behalf of the agency if required, e.g.:
 - document examination for handwriting etc
 - fingerprint examination
 - electronic searches and forensic copying data
- Ensure inventory of items, receipts, storage, chain of custody and disposal are fully documented.
- Communicate with and consider advice from the Ministry's investigator if any application for access to or release of seized or produced

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thing(s) is made. The Police are responsible for dealing with the application and corresponding with the applicant.

Note: The Police Exhibits Officer will be required as a witness for any future MSD prosecution.

If any electronic media is to be seized

The Electronic Crime Liaison Officer (ECLO) may if possible, provide an onsite preview (to view and determine what is to be copied into a master and working copy) with the investigator and preserve electronic evidence.

The ECLO will copy only data believed to be evidential material of the suspected offence for which the warrant was issued:

- at the scene, or
- at station, or
- seize (under search warrant) the electronic device for submitting to the Police Electronic Crime Lab to have electronic data copied.

If electronic items are not or cannot be previewed they will be sent to the Police Electronic Crime Lab for analysis. Once the content has been obtained the Police will:

- Invite the investigator to preview in a private viewing room at the Electronic Crime Lab to determine what is evidential material
- Determine what is to be copied for MSD (note, only data believed to be evidential material of the suspected offence for which the warrant or order was issued is to be copied)

If we want to obtain working copies of anything from seized electronic data we must make a request to the Police Exhibits Officer.

Criminal Disclosure and Requests for Information

Responsibility for criminal disclosure

For criminal proceedings brought by MSD, the Ministry's Investigation officer is responsible for all criminal disclosure under the Criminal Disclosure Act 2008.

Requests for official and personal information

Responding to requests for official information under the Official Information Act 1982 and personal information under the Privacy Act 1993 is the responsibility of:

- **Police** when the requested information relates to:
 - An application for a search warrant made by Police
 - The briefing and execution of the search warrant or production order conducted by Police

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- The debrief of the Police execution of the search warrant or production order
 - The security and custody of seized or produced evidential material.
 - **MSD** when the requested information relates to:
 - Our investigation
 - Our prosecution
-

CONGRATULATIONS!!

You have now finished the **Investigations Module**

**NEXT MODULE:
STATEMENTS AND INTERVIEWING**