



OECD Africa Academy for Tax and Financial Crime Investigation
Cash Economy Investigations and an Insight into Crypto Assets



Effective Use of Intelligence in Financial Investigations

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Learning Objectives

01

The basics – Intelligence and Investigations

02

Sources of Information

03

Intelligence Collection Techniques

04

Emerging Issues in Intelligence Collection





Financial Investigations (Cash Economy)

- Cash money is a good asset for; cash hoarding, corruption payments, black market exchange, illicit trade (contraband), illicit financial flows, money laundering and also poses a security risk to the country.
- Cash-based economies enable money to circulate outside of the conventional or traditional financial system, resulting in *untraceable* and undocumented cash transactions.
- Proceeds from crime can be placed, layered and integrated without entering the formal financial sector of the economy

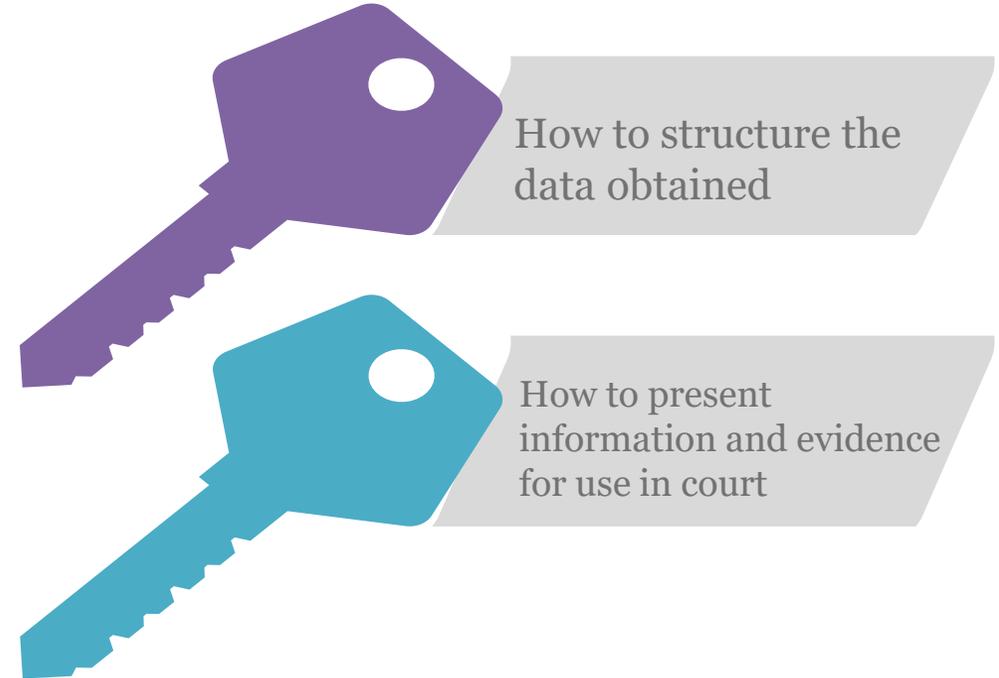


Financial Investigations (Cash Economy)

- Many jurisdictions have made taken legitimate steps to increase visibility of Cash transactions e.g.
 - KYC requirements
 - Appointment of Reporting Institutions
 - Compliance Reporting (STRs and CTS)
 - Currency Declarations



Most Investigators struggle with





Most Investigators





*What is the role of Financial Intelligence
in any investigative process?*



Intelligence Vs Evidence

- The process of intelligence gathering is usually a prelude to an effective evidence gathering phase.
- A state's national legislation will dictate the way intelligence can be used for law enforcement purposes.
- Legislation will also dictate whether intelligence material gathered during the course of an investigation is admissible or protected from disclosure in criminal proceedings

Intelligence Vs Evidence

Intelligence

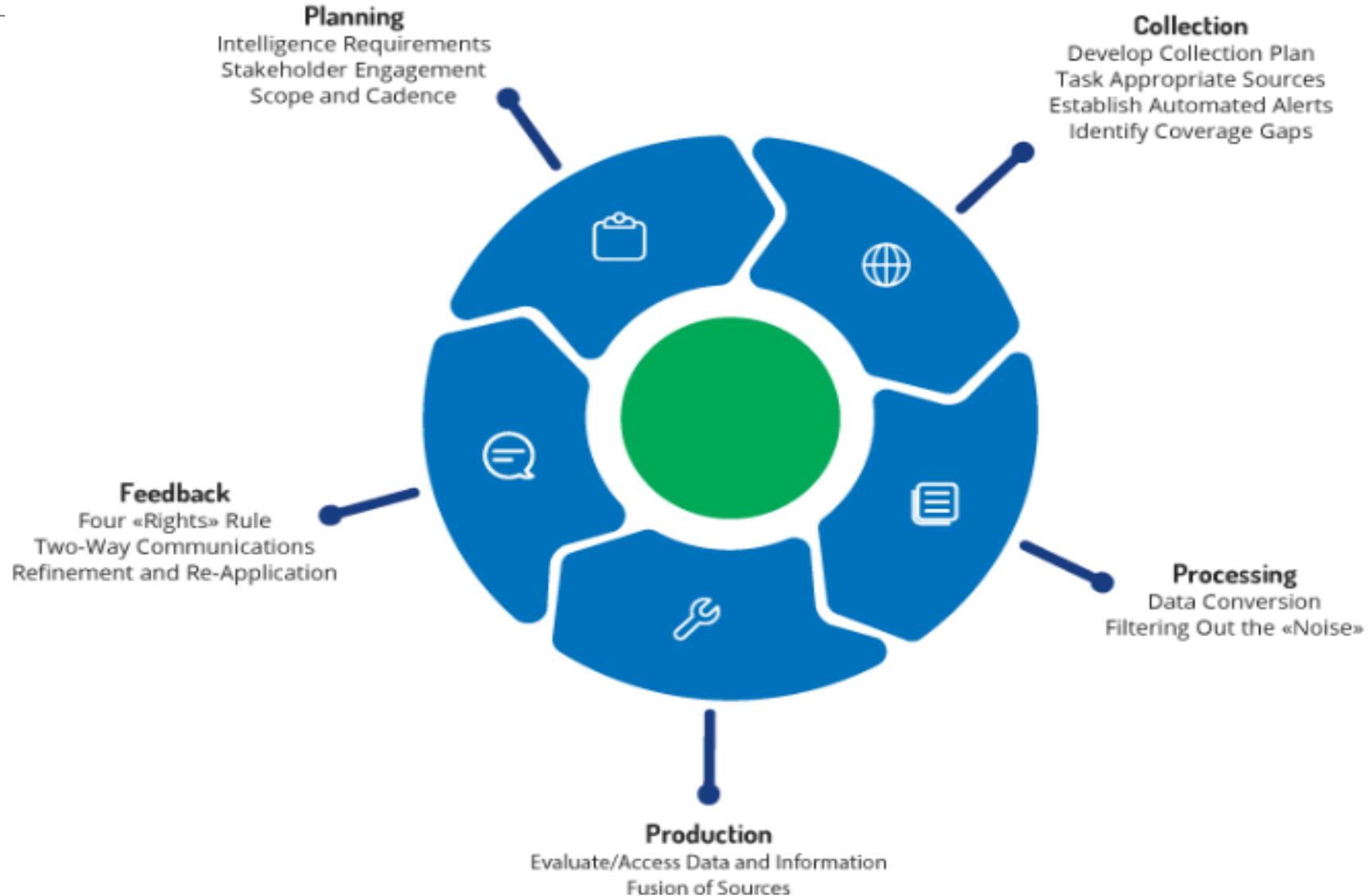
- Process – Covert/Overt may not be lawful
- Gather leading insights to any financial crimes.
- Consider admissibility and secondary offences
- Suspect may be a source of intelligence
- Undertaken by trained/skilled personnel.
- Consider counter considerations for methods used to gather intelligence

Evidence

- Process - All evidence must be obtained lawfully
- Have evidence for each violation/offence.
- *burdens of proof: Proof Beyond Reasonable Doubt*
- *Self-Incriminating Evidence – Tweel Doctrine*
- An advocate/ lawyer must be part of the team
- All rights of the taxpayer must be observed especially on fair administration of justice.



Intelligence Cycle



Intelligence Cycle



Planning

- Consider the Investigations' needs
- Tasking
 - Who tasks?
 - How do they task?
 - Why do they task?
 - What tasks are set?



Collection

- Refers to process to obtain and use of data
- **Collection plan:** a formally defined approach to describing the Information needed and means of acquiring it



Processing

- Collation
- Integration & Analysis
- examination of the information to make meaning.
- Inferences
 - Hypothesis
 - Prediction
 - Estimation
 - Conclusion

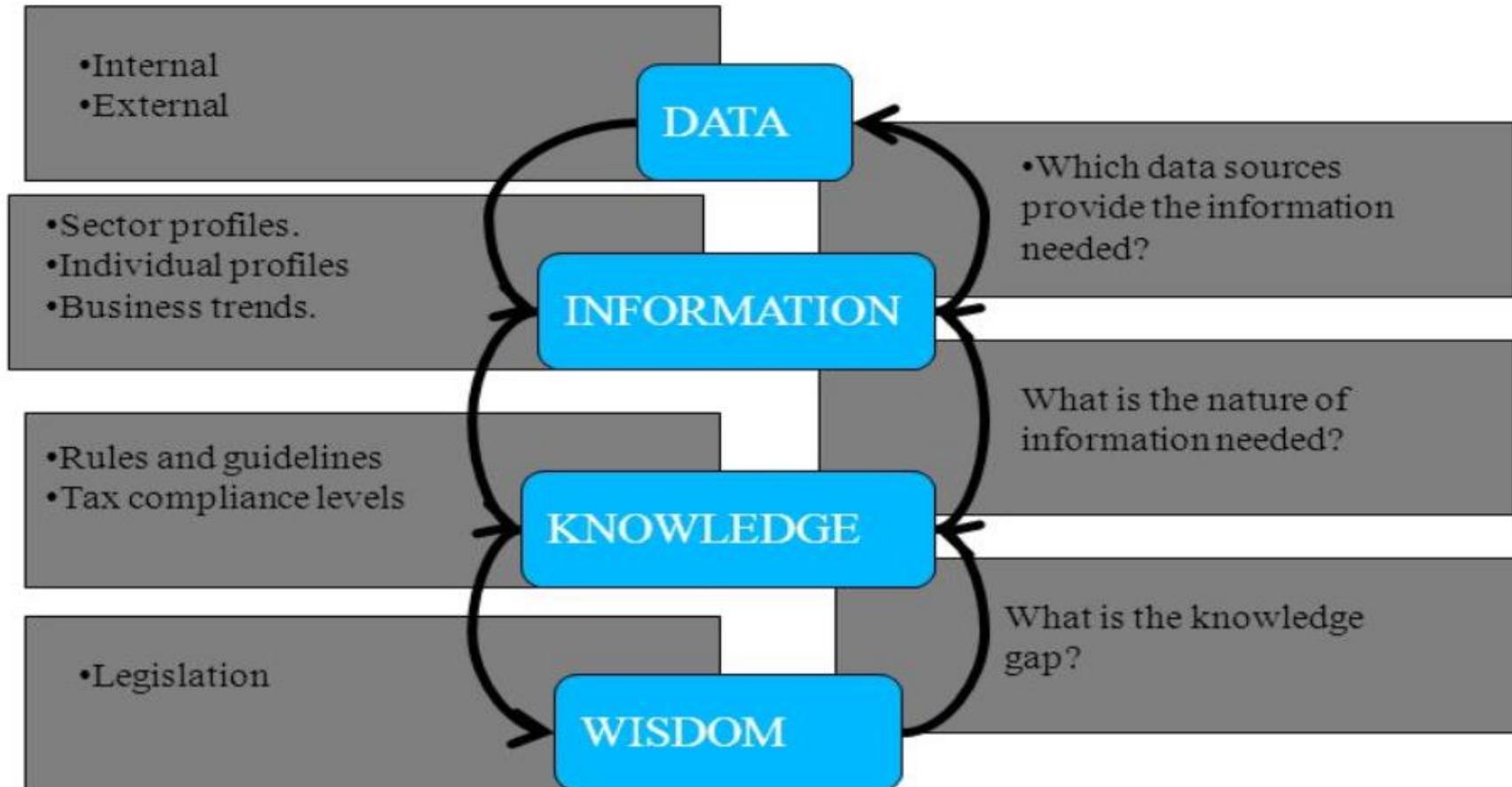


Production & Dissemination

- Preparation of Output
- Formats
 - Structured formalized report
 - formal oral presentation
 - Bulletins
 - Ad-hoc briefings - operational

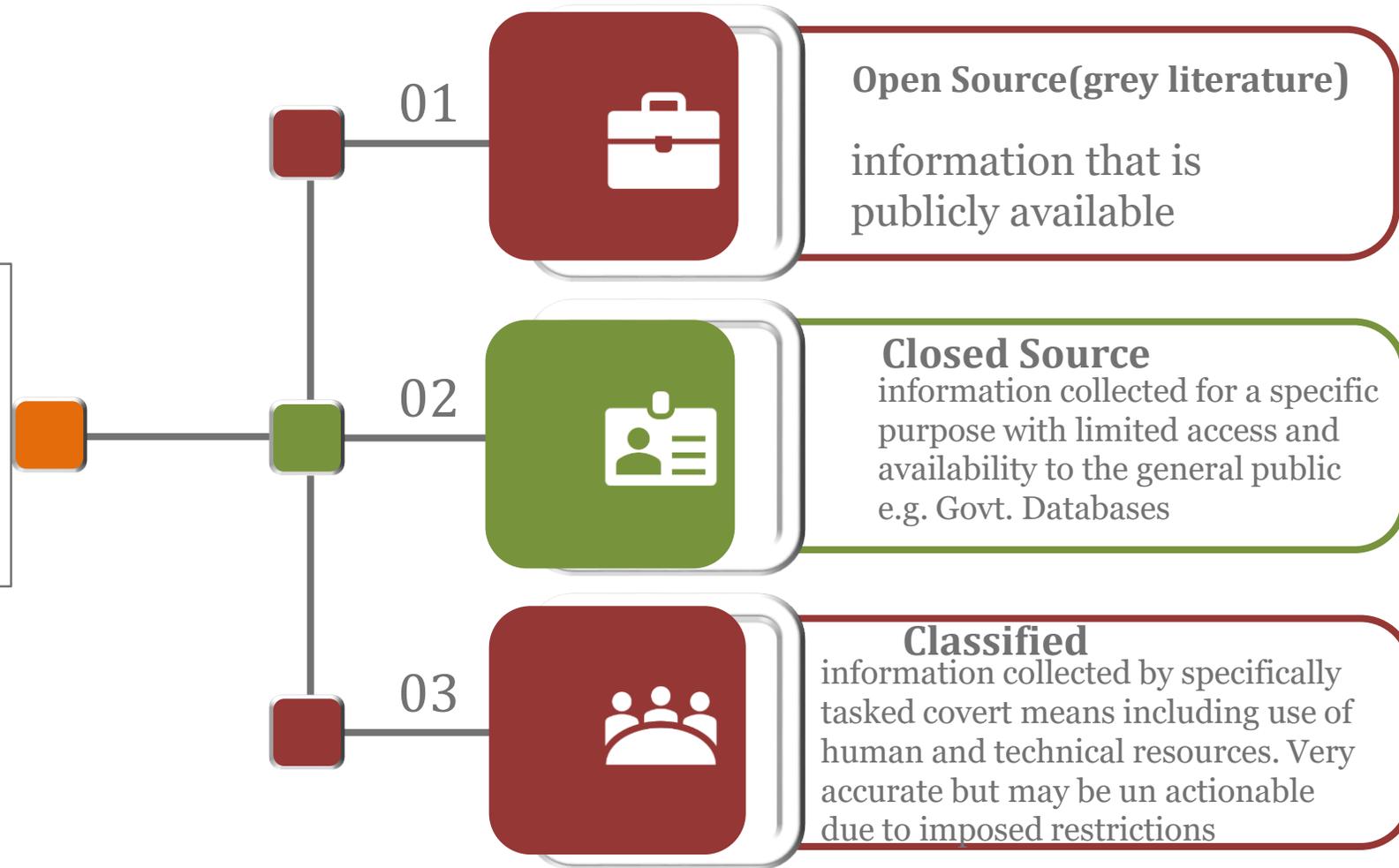


Intelligence Life Cycle





Classification of Intelligence Sources

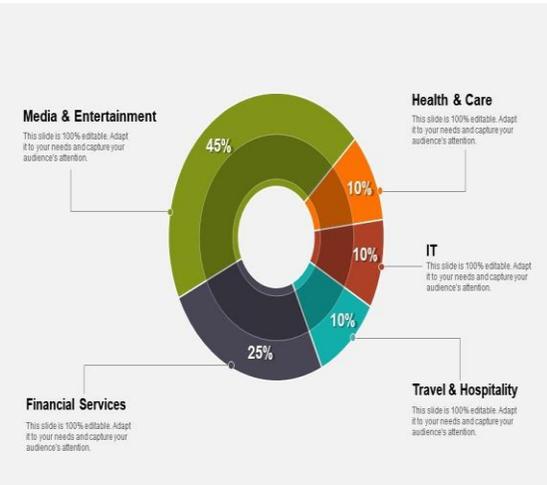


Influenced by need or not to use Intelligence specialized techniques for their collection.



Triggers for an Intelligence Collection Activity

Industry Sector Survey Analysis Presentation



Sector Analysis/Tax Head Analysis/Predictive Data



PGAs



Informers/Whistle Blowers



Threats/Risk Assessments



Post Events - Reactive



Managing Limited Resources - Case Selection

- Initial Review - Preliminary Review Unit – Review merits, threshold and advice on the most appropriate manner to handle the case.
- limited to fact finding analysis focused on:
 - Understand the context
 - Review any applicable policies and procedures e.g. how were they dealt with before or could the issues be adequately dealt with under a different division?
 - Undertake a limited fact finding analysis, and if possible answer a few basic questions e.g. is the case credible, how serious is the case, who is the subject of the allegation, who might have pertinent information about the case etc.



Sources Of Information



Group Discussion

Groups 2 & 4

- *Select a Jurisdiction of Choice*
- *Identify all the cash equivalents/value transfer products that are available in your jurisdiction?*
- *Against each product, List the data and information source available to you as an investigator in this format.*

Value Transfer Asset	Cash	Hawala	Crypto Assets
Source of Information	Bank		
	Informer		
	Search Operation		

- *Can you effectively trace and investigate these value transfer assets*



Group Discussion

Where do you get Financial Information?

- i. Group 1 - Tax Administration
- ii. Group 3 – Anti Corruption Agency



Group Discussion

- i. Which data sources does your organization rely on when conducting its investigations?
- ii. How do you acquire this information/which tools do you use?
- iii. What other data/information sources are known to you as an agency but are not optimally utilized?
- iv. In reference to your answers in (i) and (iii) above, why aren't you using all the data sources known to you? Challenges?
- v. Suggested Remedies/Recommendations



Intelligence Leads

Open Source – Social
Media, Grey
Matter(Leaks

Lifestyles, Trophy
Displays

Risk Analysis
Tools

Motor Vehicles
Registry (Luxury
Vehicles/No)

Land Registry

Financial Institutions,
Investment Banks and
Intermediaries

Central Bank –
Investment Portfolios

Utility Bills
(Registration Vs
Use)

Judicial Rulings

Tax Fillings – Assets, Investment
Deductions, Exemptions, Stamp
Duty Payments, Capital Gains
Declarations

Wealth Declarations (Take
note of Associates, family
members)

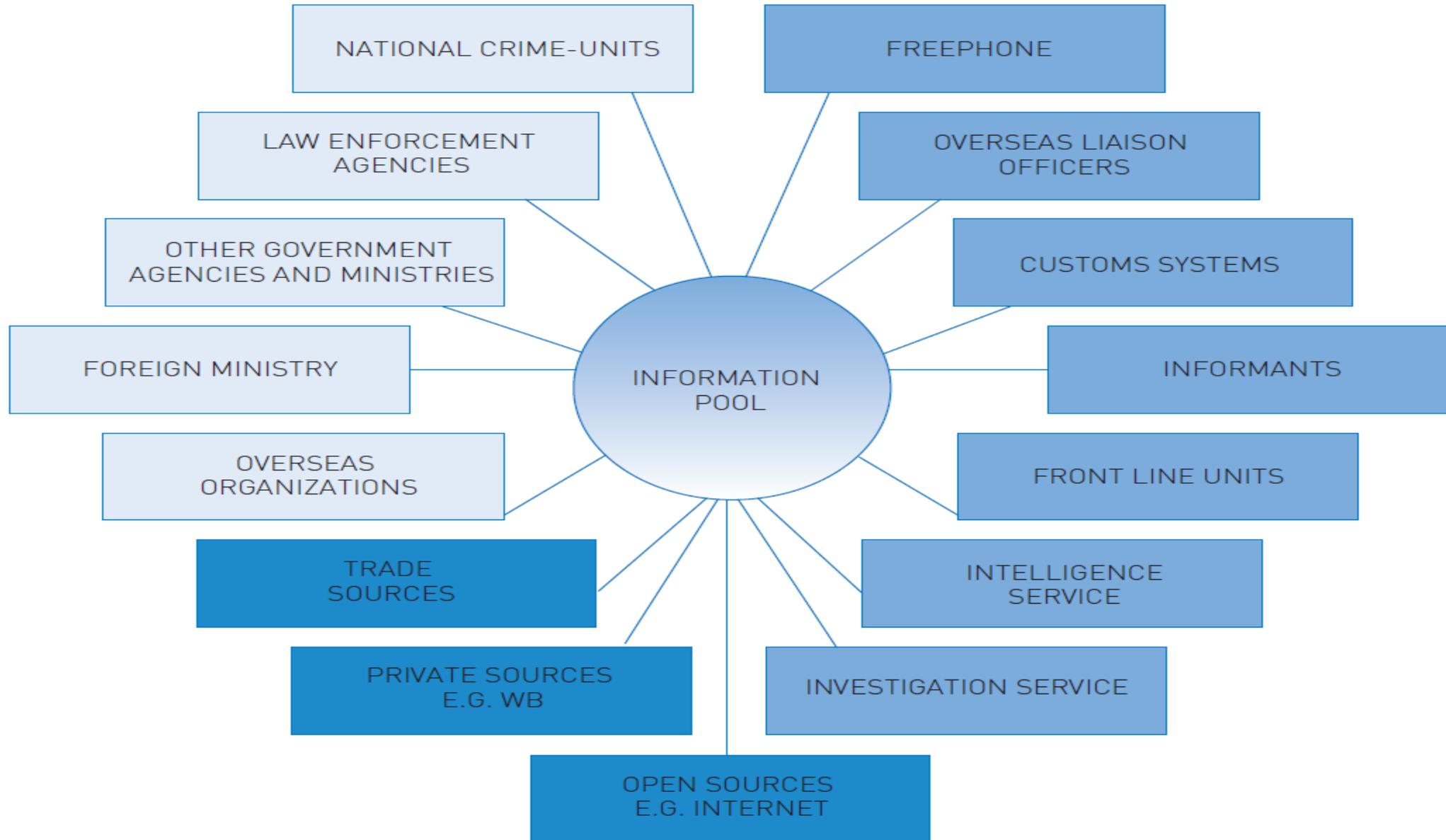


Current Avenues for Asset/Value Transfers

- Cash
- Crypto Assets
- Acquisition of Fixed Assets
- Hire Purchase Agreements
- Acquiring Assets outside your jurisdiction
- Gifts
- Investing in Other Businesses
- Settlement of Debts
- Prepaid Cards
- Use of 3rd parties(lawyers, families, nominees, employees)
- Insurance Products
- Jewelry
- Mobile Money
- Digital lenders
- Hawalas
- Government Securities(Bonds/Bills)



Information Pool





Sources of Financial Information

- Bank Records - Core financial i.e. statements, deposit and withdrawal records, loan records, and records of checks.
- Wire transfer records - electronic fund transfers, domestic or international.
- Investment Accounts - Brokerage statements, transaction records, and holdings information pertaining to stocks, bonds, mutual funds, or other investments.
- Credit Card Records - Statements and transaction details offer insights into spending patterns, revealing unusual purchases that could be linked to criminal activity or used to launder money



Sources of Financial Information

- Financial Records - Financial statements, invoices, contracts, tax records, and internal documents specific to a business involved in the suspected activity.
- Block chain Analytics - Block chain technology, with its public ledger system, can be used to trace the movement of crypto assets, identify suspicious wallets.
- 3rd Party data providers - Specialized firms offer access to comprehensive data sets, including consumer spending, business ownership structures, and financial transactions.



Sources of Financial Information

- Financial Disclosures - Reports required for (PEPs) or disclosures associated with certain financial transactions. These offer information on significant holdings and potential sources of unexplained wealth.
- Digital Evidence Sources - Emails, text messages, computer files, and data from websites or social media relevant to the suspected crime. These contain communications and potential evidence of coordination between perpetrators or admissions of guilt.



Intelligence Collection activity needs to reach all data and/or information possible by means of open actions(overt) or not(covert).



IC Methods and Tools

Key Consideration – law, process and output!

- Objectives
- Rights and privileges,
- Consequences of breach in law during intelligence gathering e.g. exclusion of evidence, invasion of privacy claims.



Techniques for Collectors/Investigators

1. **Risk analysis and identification of targets:**
 - **Internal sources** - databases such as I tax, Simba System, ICMS and associated systems (CAMIS, MMS,COSIS etc.), ITMS, etc.
 - **Open source** - Public records, Private records, Government records, databases, Third party information/external sources
2. **Forensic/ financial analysis**
3. **Search and seizure:** Search of taxpayer's premises
4. **Summons and interviews**
5. **Sources of information and Confidential Informants**
6. **Covert operations:** Monitoring/Reconnaissance, Surveillance,
Undercover operations, Photography and filming, trash runs



Technological Tools

- Extraction Tools: Web Crawlers, advanced parsers, maltego, entity extraction, scraper, shodan, spider foot, Linux based Website decoding tools.
- Analysis tools: IDEA, Power BI, Programming Languages e.g. SQL, Python and Ruby
- Case Management Systems and Repositories
- Digital Forensic Laboratory and Tools



Data Mining

Data Mining for Investigations involves extracting valuable insights and patterns from large datasets through techniques like statistical analysis and modeling, enabling informed decision-making and enhancing linkages.

Effective Data Mining

- Availability of data sets and accessibility of data points (Data Warehouse)
- Data Mining and Analysis Skills
 - Basic Skills (Excel)
 - Advanced(Programming languages)
 - Reporting/Dashboards
 - AI enabled





OSINT

- is the systematic collection, processing and analysis of information that is freely available to the general public, such as media articles, research reports or company records in an open business registry... not necessarily digital
- generates leads, corroborates information received from other sources and backs up evidence used in court cases.
- Take note of:
 - fake news
 - too much information can easily infoxicate us and cloud the decision-making
 - Humint - Still critical



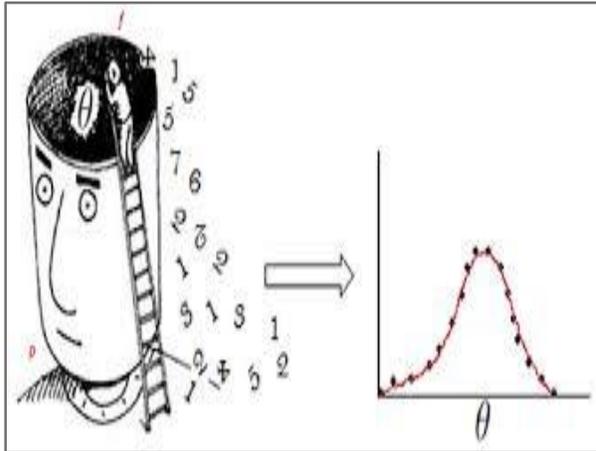
Financial Investigations (Cash Economy)

- Austria uses internet monitoring using different internet scraping tools (web harvesting or web data extraction), some of which are open source and others are custom-made tools.
- Argentina - special registration system for VAT purposes i.e. The operator of the online portal is obliged to act as VAT collection agents in respect of the transactions performed through the online portal.
- The UK is using a product called COSAIN which automates the collation and filtering of social media and websites. The tool collates profiles, which can be used to monitor the trends within a geographic area or specific business sector. In future the e-commerce sector will be able to be analyzed, such as collating data from sites such as Craigslist, eBay and Gumtree.
- Kenya has set up a Digital Forensic Laboratory and is acquiring the appropriate tools(OSINT, Analysis)



Elicitation

- According to the Oxford Dictionary, the word "elicit" has its origin in the Latin term "elicio," which means "to draw out," "to call forth," or "to evoke" by magic or trickery.
- Technique used to gather intelligence through what appears to be normal, even mundane, social or professional contact.
- Normally used to confirm or expand knowledge of a sensitive program or gain clearer insight into a person targeted for recruitment.
- **Cover Story** – *Usually made up stories used to gather information or to conceal identity when at risk.*
- **Remember** – *you are always at risk because of the nature of information that you possess or have access to.*





Sources and Agents

- An **Agent** refers to individuals who provide the department with valid and reliable information for recovery of taxes and tax related offences.
- Develop a Source/Agent Management guidelines to guides on:
 - Sporting
 - Recruitment
 - Management
 - Termination of sources and agents
- Compensation of agents – Does your HR Policy/Compensation policy provide



Who is an Agent?

- Are individuals who have been recruited for purposes of providing intelligence to an Authority.
- They have full access to the needed information.
- They are compensated for engagement.
- The source handler/officer has full control of the source/agent and needed information.
- They have been trained by their handlers on confidentiality and how to channel information.
- They have been validated as reliable – Source Classification either A1



Criteria to establish a SANDA

- Recruit from areas of interest. The person is in a unique position to help the Department in a present or future investigation.
- The person will not compromise Department interests or activities.
- The person will accept the direction necessary to effectively use their services.
- Key issues to consider:
 - What is their motive?
 - How do they know?
 - Are they credible?
 - Are they reliable?

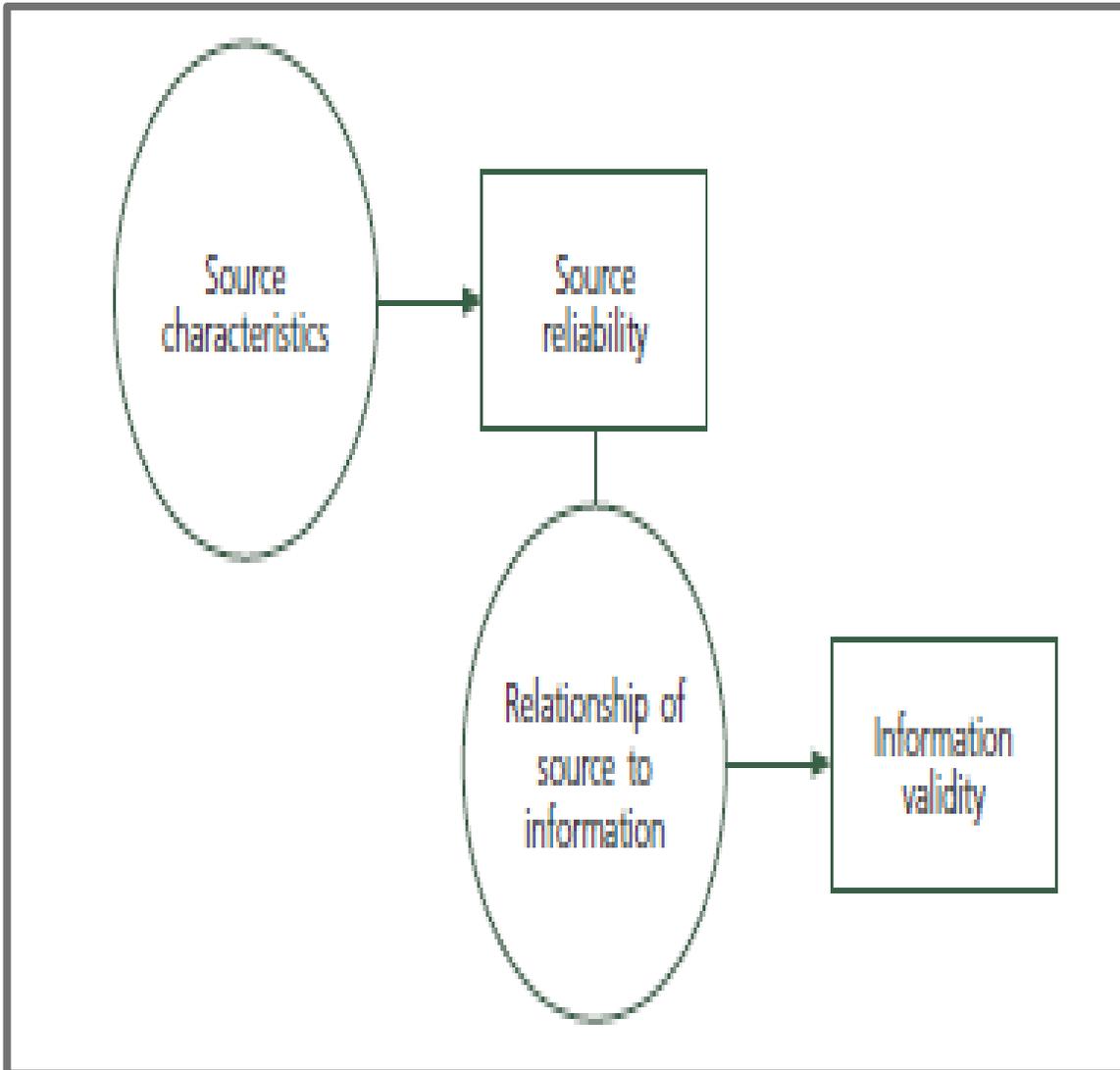


Precautions When Dealing with SANDAS

- Never provide agent with knowledge of operations, activities, or personnel.
- Document all significant contacts e.g. Briefing and Debrief sessions, receiving information about criminals or criminal activity including information from phone conversations, any compensation made to CIs, any contact resulting in an arrest, execution of a search warrant or collection of tax
- Avoid revealing a CI's identity.



Evaluation Criteria for SANDAs



SOURCE CODES	INFORMATION CODES
(A) No doubt of the authenticity of the source.	(1) Information is known to be true without any reservation.
(B) A source that in the majority of instances has proved to be reliable.	(2) Information is known personally to the source but is not known personally to the reporting officer.
(C) A source that in the majority of instances has proved to be unreliable.	(3) Information is not known personally to the source but is corroborated by information already recorded.
(D) Previously untried sources or where there is doubt about the authenticity of the source.	(4) Information is not known personally to the source and cannot be corroborated in any way (at this time).



Informers

- **Informer** – Any person in possession of information relating to commission of a tax offence and who passes that information to the Authority.
- Develop Informer Management Guidelines – guides the Process of Receiving of Information, Recording, Processing, Compensation, Filing
- Consider Informer Reward Schemes and Whistle Blower Protection Policies
 - Kenya's Quantum of Rewards under Informer Reward Scheme provides for;
 - Information leading to recovery of un assessed taxes – Kshs. 5,000,000 (USD 50,000) or 5% of taxes identified, whichever is less
 - Others – Kshs. 500,000 (USD 5000)
 - Also provides clearly for Exclusions from Rewards



Whistle blower protection

Law and Policy

- Most jurisdictions recognize the importance and have some form of whistle blowing policy.
- Various Studies e.g. by T.I reveals that the different sets of guidelines had their own blind spots, own style and distinctive emphasis e.g. ***Can a public Officer be a whistle blower?***
- **ISO Standard 37002** - the new whistleblowing management system standard was published in July, 2022.
- ISO 37002:2021 aims to provide guidelines for implementing, managing, evaluating, maintaining and improving robust and effective whistleblowing management systems. <https://www.integrityline.com/expertise/blog/iso-37002/>
- Salient Considerations: **Legal Frameworks, Procedures, Anonymity, Training, Culture**



Searches and Seizures

- Very effective surprise tool in forensic investigation.
- Relates to thorough, systematic and complete search of a site upon acquisition of a search warrant. Confidentiality issues???
- Requires a thorough planning :
 - What type of evidence are you looking for in each room of the site? E.g. computers, financial records, negotiable instruments, etc.
 - How much time will be available for the operation?
 - What special equipment may be needed for the operation? E.g. lights (which are battery powered), tools to image computers, cameras, exhibit containers, etc.
 - Whether floor plans or architects' drawings of the site are available before the operation to facilitate developing a search plan.



Search Team

- The smallest team that can conduct a proper search and seizure operation consists of three persons, each with specific responsibilities. The **searcher, evaluator** and **processors**
- Searcher is the person who will actually carry out the physical search,
- Evaluator is the team leader who makes the decisions and issues specific guidance as to what to search for and what not to search for.
- Processor establishes and maintains the chain of custody for evidence by:
 - Safeguarding the item until it can be transferred to the custody of another authorized person who has been trained in maintaining the chain of custody.
 - Documenting transfer of the item from the custody of the search element to the custody of the person who takes charge of it for transport.
 - Packing the item in a way that it can be taken away from the site being searched without being damaged, changed, lost or tampered with.



Covert/Undercover operations

Considerations

- Costs / benefits of an operation
- Risk of personal injury, property, financial loss to person or business, harm to reputation
- Risk of invasion of privacy, constitutional / charter of rights / legal issues
- Public perception of government's role in a particular activity
- Civil risk to the government (lawsuits).



Covert operations

- **Surveillance** – planned observation of people, places or objects incidental to the primary interest of gathering information. Range from physical observation to electronic monitoring. Considerations for this technique; reasonable expectation of privacy, limited application, necessary tools and resources, potential of detection and evidence preservation.
- **Undercover Operation** – Gathering evidence directly from people involved through the use of disguise. Investigators assume an identity other than their own to gather information relating to criminal violations.



Covert operations

Three types of surveillance which could be used in tax crime investigations:

- Stationary or fixed
- Moving, tailing, shadowing
- Electronic/Digital Surveillance



Sample Covert Tools



Social Media





Poll Question





Effective Information Exchange Protocols

- **Methods/Process Gateways Must Exist!!!**
 - Direct access to information contained in agency records or databases;
 - an obligation to provide information spontaneously, sometimes expressed as a “reporting obligation”
 - an ability, but not an obligation, to provide information spontaneously; and
 - an obligation or ability to provide information only on request.
- **Examples: Joint- Inter-Agency Task Forces, National Criminal Intelligence Sharing Plan(US Department of Justice), Multi Agency Framework(Kenya/Uganda)**
 - Shared Resources – e.g. Forensic Lab, Vessel Tracking systems etc.



Specialised Units – Intelligence Community USA



Kenya's Case Examples – OGA Sources





Developing Challenges in IC

- Globalization: Current international order prevails in an ever more globalized economy, jurisdictional limitations
- Digitalization and increased use of modern information technology.
 - IT allows individuals or organizations to control a large volume of data and information that could be stored in servers located in different places or even in other countries.
 - Temporary nature of the storage of this information on the Web
 - Increase of electronic commerce has led to large volumes of records, documents and purchase and sales transactions, without any effective control mechanisms on the part of the state.
- DATA and Too Much Information(Information integrity)
- Organized crime: Transnational criminal organizations that act in an extremely structured manner, according to the patterns of the large multinational corporations.
- White collar crime: complex tax evasion and money laundering schemes involving the participation of several individuals and, in general, several phases which many times may include entities of the national or international financial system. E.g. illegal tax refunds and Value Added Tax (VAT) carousel scams.



Developing Challenges in IC - Kenya

- Impact of increased democratic space due to promulgation of a new constitution with an expanded bill of rights in 2010.
 - Some sections of tax statute rendered unconstitutional e.g. Sections 44 (1) and (2), 60(1) and (3) and 59(4) of Tax Procedures Act, 2015.
 - Need for trust and facilitation.
- Need to coordinate with other state agencies under MAT: OP, EACC, ODPP, DCI, NIS, FRC, ARA, other members coopted on need basis.
 - May also represent the challenge of dealing with sensitive aspects of information exchange, since the taxpayer data are protected by rules of confidentiality.
- Capacity challenges of tax authorities
 - Funding
 - Scarcity of specialists and tools capable of recovering data, whether they are encrypted or deleted.



Feedback Session