

**In financial crime,  
there is knowledge, belief and suspicion.**

**Of These The Greatest Is Suspicion.**



**Suspicion in Financial Crime  
THE ENFORCEMENT PERSPECTIVE**

**Face-to-Face Seminars for  
Law and Tax Enforcement,  
Intelligence Agencies, Prosecutors,  
Customs, Immigration, Judges and Regulators.**

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# Suspicion in relation to financial crime is different to suspicion in almost all other crime.

Across the world, suspects are arrested with a form of caution that starts "you are arrested on suspicion of...." In this case, the person that is suspicious is the arresting officer. In the vast majority of crimes, that suspicion arises from demonstrable facts, often with physical evidence.

To put it brutally, it's easy to assess the evidential value of a weapon with the victim's blood and the suspect's fingerprints. That is, of course, not the case in relation to financial crime.

In financial crime there is evidence: there are money trails, there are assets that are beyond a person's known means to acquire. But the evidence is not tangible: a prosecutor can't produce it with a flourish and tell a jury "this is the implement that was used." Well, he could, but a spreadsheet doesn't have quite the same impact as a bloody knife.



That is why there is a discrete investigative skill, with specialised training, of financial investigation and presenting the evidence produced. That's not what this course is about.

**This course is about the three words that are at the heart of prosecution for financial crime: knowledge, belief and suspicion and, in particular, suspicion.**

# What is suspicion?



**Judge:** What is this "suspicion" I keep hearing about?  
Can *anyone* explain it?

**Lawyers:** mumble, mumble, mumble

There's a line and at one end of that line is knowledge. At the other end of that line is... well, I don't think anyone actually knows. It isn't disbelief because that means that there is a known reaction to knowledge and that reaction is a belief that the knowledge is not true.

And it's not wilful blindness. It might be ignorance. We'll discuss that. Somewhere between the two we pass "belief" and "suspicion." What that is, is why this course exists.

# Why suspicion is so important

Suspicion is the base standard upon which knowledge and belief are founded.

It is also the most difficult to understand, the least defined in jurisprudence and the most debated, albeit obliquely, in everything from astronomy to astrology, from religion to sociology, from philosophy to psychology and more.

Why is something so fundamental so difficult to understand?



It's because until I published research into the subject, no one had undertaken a comprehensive review of what suspicion is, how and why it is formed, how and why it is not formed and why those who form suspicion fail to act as required.

And it's not easy because we are messing about inside the mind of the individual, looking for something that allows us an "aha" moment that says "he was suspicious but he didn't act appropriately" or, often, "so that's why he wasn't suspicious when I would have been."

We'll examine "reasonable cause to believe/ suspect" and wilful blindness"

# Whose suspicion are we dealing with?

In relation to financial crime, the offence often involves suspicion held by the suspect.

As a result, increasingly, police and other investigators are required to assess whether a person held suspicions and failed to act on them.

The suspicions in this class often do not relate to any form of physical evidence. There is no dented car with paint from a different vehicle on the bumper.

This class is that of financial crime. It includes bribery, corruption, fraud, money laundering and financing future crime including terrorist financing.

In many ways, the person being questioned will be a victim, a witness and a suspect, all at the same time, all in relation to the same conduct.



You may be interviewing a victim of an online laundering scam, a compromised bank clerk or a branch manager who knew the a local builder wasn't declaring some of his income for tax.

Facts will be ascertained with reference to intelligence, information and data and all of these are subject to interpretation. That's why laws use the word "reasonable cause...."

If we take, as an example, the offence of money laundering, the most common definitions include

a) that a person knowing or believing ...."

b) that a person knowing or having reasonable cause to suspect..."

Knowing, believing and suspecting are degrees of the same state of mind.

For a conviction to result, it is necessary to establish

a) that a person did in fact know; or

b) did in fact believe; or

c) did in fact suspect; or

d) that there were grounds to believe, know or suspect but the suspect did not do so and that those grounds were "reasonable."

There are many, many reasons why people do not form e.g. suspicion when it appears reasonable to do so.

These include

a) cultural

b) familiarity

c) choose not to.

To reach a conviction is a long and complex process.

The initial investigating officer must satisfy one layer of bureaucracy after another that there is

- a) a case to answer; and
- b) a case that can be won; and
- c) that the case deserves the allocation of resources as against other deserving cases.

And then when all his ducks are in a row, a prosecutor has to satisfy a court, however it is constituted, of a set of circumstances which did act, or should have acted, on the mind of an individual.



Investigating officers need to know

- a) how people form suspicion;
- b) why people form suspicion;
- c) why people fail to form suspicion; and
- d) why, if they do form suspicion, people don't act on it.

The range of factors that affect these questions is immense.

It is the fact, mentioned above, that a person being interviewed can, in the same investigation, even within the same interview, be a victim, a witness or a suspect that increases the complexity.

# Artificial Suspicion

New for 2023: understanding the abilities and limitations of algorithmic analysis and the resulting decisions.

That sounds a lot more serious than "artificial intelligence" doesn't it?

I have been working with computers, including so-called artificial intelligence, since the 1980s. My advantage is that I am not constrained by the deep fascination, even adoration, that its advocates and evangelists hold.

In this addition to UNDERSTANDING SUSPICION in FINANCIAL CRIME will examine the design and deployment of algorithms, the production of results and whether those results are reliable for deciding that there is suspicion.

Spoiler: no, they are not.

The importance of this section is to explain why that is so and how that should affect your own view of, for example, the adequacy of Know Your Customer processes.



## Who will benefit from this course?

The course is for all those who must understand suspicion formed, or not formed, by persons subject to the criminal law relating to money laundering, terrorist financing, bribery, corruption and other financial crimes.

That includes:

- police and revenue officers conducting investigations
- regulators of financial institutions and professions which are required to assess whether regulated persons and/or their staff did in fact, or should have, identified suspicious activity and acted as required by law and regulation
- Judges who, when sitting alone or when directing a jury, are required to understand and explain reasonable cause for suspicion and, therefore, to understand and explain suspicion and, of course, the related topic of wilful blindness
- Prosecutors: for all of the above reasons.

## **Administrative details.**

**Duration:** two days

**Format:** Face-to-face. Combined lecture / exercises / workshop

Seminar capacity: maximum 30 persons.

**Language:** English.

**Locations:** In house only. May be "off-site." The seminar is available only in such jurisdictions as are feasible for travel .

**Provider:** Vortex Centrum Limited, UK.

**Presenter:** Nigel Morris-Cotterill

**Fee:** the fee will depend on a number of factors including location, travel requirements, any safety protocols (including but not limited to CoVid-19), accommodation and other related expenses.

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