

## 1. Introduction

- 1.1 CPN Forensic & Accounting Services (Pty) Ltd (CPN) was appointed by the National Commissioner of the South African Police Services (SAPS) on 23 March 2013 to conduct a forensic investigation at the Forensic Science Laboratory (Forensic Division) of the SAPS.
- 1.2 It was alleged by the Police and Prisons Civil Rights Union (POPCRU) in a letter dated 25 June 2012 that one of their members raised concerns about unlawful practices that took place at the Forensic Division of the SAPS.
- 1.3 It was alleged that a shop steward of POPCRU, Warrant Officer (WO) SS Ramalepe wrote a letter dated 4 July 2011 addressed to the National Commissioner (Nat. Comm) and the Divisional Commissioner: Forensic Science Laboratory (Div Comm) which letter was allegedly received by the latter on the same date.
- 1.4 It was further alleged in the 25 June 2012 letter of POPCRU that an email dated 25 April 2012 written by Lt Col Ramolobe was forwarded to the then Acting National Commissioner and the COO of the SAPS.
- 1.5 At the time of drafting this report, we received bundles of documentation from POPCRU relevant to the investigation. However some annexures referred to in POPCRU letter were incomplete despite several requests for further documentation to Lt Col Ramolobe and the writer of the letter.

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**i Relevant individuals and entities**

Individuals

Lt Genl SG Lebeya	Lieutenant General Lebeya	Deputy National Commissioner of the South African Police Service
Lt Genl JK Phahlane	Lieutenant General Phahlane	Divisional Commissioner: Forensic Services
Maj Genl Ngokha	Major General Ngokha	Forensic Science Laboratory
Brig S Diko	Brigadier Diko	Section Head: Crime Scene Management
Brig J Lambert	Brigadier Lambert	Provincial Commander: Local Criminal Record Centres, Gauteng
Brig (f) RM Morapedi	Brigadier (f) Morapedi	Section Head: Questioned Documents Unit
Brig (f) LA De wit	Brigadier (f) De Wit	Section Head: Project

		Management and Strategic Planning
Brig JT Mothoa	Brigadier Mothoa	Section Head: Questioned Documents Unit
Brig (f) Mmolawa	Brigadier (f) Mmolawa	Section Head: Support Services
Brig (f) J Allen	Brigadier (f) Allen	Section Head: Chemistry
Brig (f) S de Klerk	Brigadier (f) S de Klerk	Section Head: Scientific Analyses Unit
Col MM Mathebula	Colonel Mathebula	Section Head: Questioned Documents Analysis
Col S Moonsamy	Colonel Moonsamy	Commander: Local Criminal Centre, East London
Col E Honiball	Colonel Honiball	Section Commander: Supply Chain Management: Forensic Services
Col TP Shore	Colonel Shore	Section Commander: Archives and Disposals

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Col Erasmus	Colonel Erasmus	Directorate for Priority Crime Investigation
Lt Col D Ramolobe	Lieutenant Colonel Ramolobe: POPCRU	Section Commander: Bank Fraud
Lt Col M Mashabela	Lieutenant Colonel Mashabela	Section Commander: Questioned Documents
Maj F Mabasa	Major Mabasa	Section Commander: Reception and Registration, Forensic Science Laboratory
Capt M Zinserling	Captain Zinserling	Senior Provincial Administration officer: Criminal Record Centre
Capt O Kwakwa	Captain Kwakwa	Commander: Questioned Documents Unit: Reception
Capt SF Motshaisi	Captain Motshaisi	Logistical Head: Local Criminal

		Record Centre, Kwa-Mhlanga
WO Malatjie	Warrant Officer Malatjie: POPCRU	
WO SS Ramalepe	Warrant Officer Ramalepe: POPCRU	
WO M Schoeman	Warrant Officer Schoeman	Forensic Science Laboratory: Statistics
WO M Le Roux	Warrant Officer Le Roux	Laboratory Technician: Local Criminal Record Centre, Zamdela
WO (f) T Matole	Warrant Officer (f) Matole	Laboratory Technician: Local Criminal Record Centre, Brits
WO (f) NM Tshitake	Warrant Officer (f) Tshitake	Laboratory technician: Local Criminal Record Centre, Modimolle
WO DG Mamabolo	Warrant Officer (f) Mamabolo	Detective
SAC F Ntakwana	Senior Administration Clerk Ntakwana	Questioned Documents Unit: Reception
SAC MP Makgatho	Senior Administration Clerk Makgatho	Questioned Documents Unit: Reception

SAC TS Sekwakwa	Senior Administration Clerk Sekwakwa	Questioned Documents Unit: Reception
AC LM Mahlangu	Administration Clerk Mahlangu	Questioned Documents Unit: Reception
SAC S Jansen van Vuuren	Senior Administration Clerk Jansen van Vuuren	Questioned Documents Unit: Reception

Entities

CPN	CPN Forensic & Accounting Services (Pty) Ltd
Crimetech	Crimetech Laboratories (Pty) Ltd
Kriminalistik	Kriminalistik CC
National Treasury	National Treasury
POPCRU	Police and Prisons Civil Rights Union
SAPS	South African Police Services
Vertex	Vertex Automation/ Blue Raindrop Trading 130



**Abbreviations**

ASO	Auxiliary Service Officer
BAC	Bid Adjudication Committee
BEC	Bid Evaluation Committee
CCTV	Closed Circuit Television
CIPC	Companies and Intellectual Property Commission
CJS	Criminal Justice Centre
CRC	Criminal Record Centre
COO	Chief Operational Officer
DIPCI	Directorate of Priority Crimes Investigation
Div Comm	Divisional Commissioner: Forensic Science Laboratory
FSL	Forensic Science Laboratories
GCC	General Conditions of Contract
LCRC	Local Criminal Record Centre
Lt Col	Lieutenant Colonel
Lt Genl	Lieutenant General
Maj	Major
Maj Genl	Major General
MISS	Minimum Information Security Standards
DPP	Director of Public Prosecutions
Nat Comm	National Commissioner
NPA	National Prosecuting Authority
PMFA	Public Management Finance Act, 1999, Act no. 1 of 1999
QDU	Question Document Unit
RT152-2009	Contract RT152-2009: Supply and Delivery of Photographic, Micrographic Reproduction material and video tapes to the State

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RT152-2011

Contract RT152-2011: Supply and Delivery of Photographic,  
Micrographic Reproduction material and video tapes to the  
State

SARS

South African Revenue Service

SAU

Scientific Analyses Unit

SCC

Special Requirements and Conditions of Contract

SCM

Supply Chain Management

Sgt

Sergeant

SSSBC

Safety and Security Sectoral Bargaining Council

Supplier

Crimetech Laboratories CC/ (Pty) Ltd

TCC

Tax clearance certificate

VAT

Value Added Tax

WO

Warrant Officer

**Exhibits**

- Exhibit 1 POPCRU letter dated 25 June 2012
- Exhibit 2 Vertex report dated 5 May 2011
- Exhibit 3 Response letter by Lt Genl Phahlane
- Exhibit 4 Report by Col Khelawanlall
- 
- Exhibit 5 Affidavit by Col Smit: First quotation
- Exhibit 6 Second quotation for decommissioning of machine
- Exhibit 7 Information note dated 24 May 2011, Lt-Genl Phahlane reported to the National Commissioner
- Exhibit 8 Copy of report to the Portfolio Committee on Police dated 19 April 2012
- Exhibit 9 Email correspondence regarding allegation of the backlog at the FSL dated 25 April 2012
- Exhibit 10 Copy of sworn affidavit by Col Ramalobe
- Exhibit 11 Receipt for good delivered to the FSL for analyses
- Exhibit 12 Email from WO Schoeman to Brig (f) De Wit regarding backlog dated 1 April 2012
- Exhibit 13 Quality procedure manual – handling of banknotes received from SBV and Commercial Banks
- Exhibit 14 Quality procedure manual - case receipt and registration

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- Exhibit 15 Annexure P: POPCRU
- Exhibit 16 Copy of Standing order (Stores) 2 – Demand management
- Exhibit 17 Copy of order A 284243
- Exhibit 18 Copy of order AC 484703
- Exhibit 19 Copy of order AC 484741
- Exhibit 20 Copy of order AC 484814
- Exhibit 21 Copy of order AC 484845
- Exhibit 22 Copy of order AC 484902
- Exhibit 23 Copy of order AC 150191
- Exhibit 24 Copy of invoice CIT 1100165
- Exhibit 25 Credit note dated 27 March 2012
- Exhibit 26 Copy of Contract RT152-2011
- Exhibit 27 Affidavit: Col Moonsamy
- Exhibit 28 Affidavit: Capt Howard
- Exhibit 29 Copy of Contract RT152-2009
- Exhibit 30 SBD 1 – CRIMETECH LABORATORIES submitted a VAT number: 4220228636
- Exhibit 31 Tax clearance certificate for 2009
- Exhibit 32 SBD 6.3 - CRIMETECH LABORATORIES
- Exhibit 33 Sample: schedule for pricing of chemicals – in all prices furnished stated to be VAT inclusive

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- Exhibit 34 Document SBD 1 – CRIMETECH LABORATORIES furnished no VAT number, only stated "pending"
- Exhibit 35 Tax clearance certificate for 2011
- Exhibit 36 SBD 6.3 - CRIMETECH LABORATORIES
- Exhibit 37 Samples: schedule for pricing of chemicals – in some instances; prices furnished stated to be VAT inclusive
- 
- Exhibit 38 Sample: Invoice
- Exhibit 39 Tax invoice with delivery note
- Exhibit 40 Special conditions: RT152 for 2009
- Exhibit 41 Special conditions: RT152 for 2011
- Exhibit 42 Information note: Col Diko dated 23 May 2011
- Exhibit 43 CIPC reports: Crimotech Laboratories CC  
Crimotech Laboratories (PTY) Ltd
- Exhibit 44 CIPC report: Kriminalistik CC
- Exhibit 45 Address list: Suppliers on RT152
- Exhibit 46 Test result: Crimotech
- Exhibit 47 Quotation: Kriminalistik CC
- Exhibit 48 SBD 4: Kriminalistik CC
- Exhibit 49 CIPC report: Komodealowicz Technologies cc
- Exhibit 50 Letter: Div. Comm. Kruser
- Exhibit 51 Letter: Brig van Zyl dated 25 May 2009

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Exhibit 52	Letter: Brig van Zyl dated 8 June 2009
Exhibit 53	Letter: Div. Comm. Rasegatla
Exhibit 54	Email dated 18 October 2010
Exhibit 55	Letter: Col Naidu
Exhibit 56	Information note: Lt Genl Phahlane dated 29 May 2012
Exhibit 57	J15: Charge sheet
Exhibit 58	Information note: Lt Genl Phahlane dated 10 July 2012
Exhibit 59	Circular: Scarce skills
Exhibit 60	Policy: Scarce skills
Exhibit 61	Note: Capt Kleynhans dated 19 July 2013
Exhibit 61	Persap: WO Mohlala
Exhibit 62	Note: Capt Kleynhans dated 19 July 2013
Exhibit 63	Agreement: ASO KE Nkgodi
Exhibit 64	Certificate: ASO KE Nkgodi
Exhibit 65	Job description: ASO KE Nkgodi
Exhibit 66	Qualifications: ASO KE Nkgodi
Exhibit 67	Letter dated 30 June 2011: ASO KE Nkgodi
Exhibit 68	Agreement: Maj Genl Shezi
Exhibit 69	Certificate: Maj Genl Shezi
Exhibit 70	Note: Capt Kleynhans dated 19 July 2013

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Exhibit 71	Persap: WO Nhlapo
Exhibit 72	Note: Capt Kleynhans dated 19 July 2013
Exhibit 73	Appointment: Col Daku
Exhibit 74	National Instruction 6/ 2005
Exhibit 75	National Instruction 2/ 2008
Exhibit 76	Persap: Col Daku
Exhibit 77	Appointment: Col van der Hammen
Exhibit 78	Appointment: Brigadier Morapedi, Post 11052280
Exhibit 79	Appointment: Brigadier Morapedi, Post 11062329
Exhibit 80	List of candidates: Post 11062329
Exhibit 81	Panel assessment: Post 11062329
Exhibit 82	National Instruction: 2/ 2005
Exhibit 83	National Instruction 4/ 2010
Exhibit 84	Information note: Decentralization QDU to KZN
Exhibit 85	Application: Visit to KZN
Exhibit 86	Letter: Decentralization QDU to KZN
Exhibit 87	Appointment: WO Nhlapo
Exhibit 88	Advertisement: Post 10082172
Exhibit 89	Information note: List of panel members
Exhibit 90	Short list of candidates: Post 10082172

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Exhibit 91	Score card: Post 10082172
Exhibit 92	Gender schedule: Post 10082172
Exhibit 93	Appointment letter: Brig Mmolawa
Exhibit 94	Affidavit by Brig (f) Mmolawa
Exhibit 95	Affidavit by Brig (f) De Wit
Exhibit 96	Information note date 29 December 2010
Exhibit 97	Information note date 23 May 2011
Exhibit 98	Appointment letter: Brig de Wit
Exhibit 99	Agreement: Brig de Wit
Exhibit 100	Job evaluation date 24 June 2011
Exhibit 101	Report dated 14 December 2007
Exhibit 102	Affidavit: Capt Fortmuller
Exhibit 103	Memorandum dated 3 December 2007
Exhibit 104	Memorandum dated 14 December 2007
Exhibit 105	Affidavit: Mr Chiloane
Exhibit 106	Affidavit: Sgt Moripe
Exhibit 107	Affidavit: Col Shole
Exhibit 108	Affidavit: Sgt Chauke
Exhibit 109	Letter: DPP dated 2 November 2010
Exhibit 110	Affidavit: Lt Col Serekeno



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Exhibit 111	Affidavit: Mr Chiloane
Exhibit 112	Affidavit: WO Schoeman
Exhibit 113	Agreement: SSBC dated 28 September 2011
Exhibit 114	Agreement: PSCBC dated 31 July 2012
Exhibit 115	New SAPS structure dated 9 March 2011
Exhibit 116	Email: Col Ramalobe
Exhibit 117	Letter: Col Mathebula dated 30 May 2012
Exhibit 118	Case reception register: QDU0019F
Exhibit 119	Case reception register: QDU0020F
Exhibit 120	Chart: QDU work flow process
Exhibit 121	Letter: Control Prosecutor dated 26 March 2012
Exhibit 122	Letter: Col Rehder dated 11 June 2012
Exhibit 123	Letter: Brigadier Jonker dated 24 April 2012
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Annexure B	Financial analyses of payments for chemicals

**1. Introduction**

- 1.1 CPN Forensic & Accounting Services (Pty) Ltd (CPN) was appointed by the National Commissioner of the South African Police Services (SAPS) on 23 March 2013 to conduct a forensic investigation at the Forensic Science Laboratory (Forensic Division) of the SAPS.
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- 1.3 It was alleged that a shop steward of POPCRU, Warrant Officer (WO) SS Ramalepe wrote a letter dated 4 July 2011 addressed to the National Commissioner (Nat. Comm) and the Divisional Commissioner: Forensic Science Laboratory (Div Comm) which letter was allegedly received by the latter on the same date.
- 1.4 It was further alleged in the 25 June 2012 letter of POPCRU that an email dated 25 April 2012 written by Lt Col Ramolobe was forwarded to the then Acting National Commissioner and the COO of the SAPS.
- 1.5 At the time of drafting this report, we received bundles of documentation from POPCRU relevant to the investigation. However some annexures referred to in POPCRU letter were incomplete despite several requests for further documentation to Lt Col Ramolobe and the writer of the letter.

- 1.6 According to the 25 June 2012 POPCRU letter, the following irregular matters / conduct were addressed in the email referred to in paragraph 1.4:
- The backlog on testing exhibits;
  - Unlawful outsourcing of services;
  - Questioned documents;
  - Cash heists and fraudulent notes investigation reports and exhibits; and
  - Reported cases not registered at FSL within the timeline of 8 days.
- 
- 1.7 The 25 June 2012 POPCRU letter further referred to disciplinary steps taken against three whistle-blowers who are POPCRU members. The disciplinary hearings of these individuals were scheduled for 12 to 14 June 2012, but was later postponed and not yet finalised. The further specific matters addressed in the POPCRU letter will be summarised in the report with specific referral to each matter.
- 1.8 We were informed that civil litigation is currently pending as a result of press releases made by POPCRU relevant to the matters referred to in the letter dated 25 June 2012. According to a letter of demand dated 1 February 2013 written by Mr Dendy from Mervyn Dendy Attorneys, the legal representative of Lt Genl Phahlane, the intention is to institute defamation of character claims against POPCRU and its members as identified in the POPCRU letter addressed to the National Commissioner.
- 1.9 This report sets out a summary of the facts available to CPN and findings relating to the specific matters as set out in the mandate.

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- 1.10 The purpose of the report is to provide the National Commissioner with our findings and recommendations relevant to the investigation. Should further information and/or documentation be placed at our disposal, the findings and recommendations might change accordingly.
- 1.11 Please note that the report may not be disclosed to any third parties or used for any other purposes than intended, without our prior written consent.

**2. Scope and approach**

2.1 The scope of the investigation was determined by the allegations made by POPCRU referred to above.

2.2 As agreed with the Nat Comm not all the allegations contained in the POPCRU letters formed part of the mandate prescribing the investigation.

2.3 The following allegations were investigated:

*finding: not irreg.*

**Allegation 1: Decommissioning of Marshall RI (Reference Index) System**

That the Marshall RI (Reference Index) System (the System) to the value of R46 million is missing. It was alleged that different parts of the "machine" were sold to police officers and private people and that money was paid to those police officers, private people and a recreational club of a private company amounting to R10 000.00. It is also alleged that some parts of the "machine" were kept and used in some private companies' buildings. In this regard reference is made to a report by Mr Koos Smit of Vertex Automation/Blue Raindrops Trading 130 (Vertex) dated 5 May 2011 addressed to Col P Khelawanlall of the Forensic Science Laboratory (FSL).

**Allegation 2: Presentation to Parliamentary Committee on backlog of cases at FSL**

That the Div Comm's presentation to the Parliamentary Portfolio Committee during April 2012 reported a backlog of 182 cases and that these statistics were "fraudulent". According to POPCRU approximately 5 000 cases were not captured by 23 April 2012 at 11:30. In corroboration of this allegation reference is made

to video footage taken by "one of the whistle blowers". This video footage was allegedly taken within a week after the presentation was made to the Portfolio Committee. The video footage would reflect, among others, a backlog in counterfeit South African banknotes that were received for examination to the value of R5 million.

**Allegation 3: Procurement irregularities: Goods not delivered at the CRC**

That not all goods that were purchased and paid for by the SARS were received "as expected from the supplier". Reference is made to a report allegedly indicating that goods amounting close to R30 million were not delivered by the supplier. Also, that service providers "get approval from Div. Com. e.g. threatening a white male Brigadier in an e-mail with dismissal if payment to the service provider was not made".

**Allegation 4: Procurement irregularities: Eastern Cape information**

That a Pretoria based official acknowledged receipt of goods received in the Eastern Cape.

**Allegation 5: Human Resources: Fraud Case (CAS 1519/03/2011)**

That senior SAPS members attended the hearing of the fraud case against Lt Col Moorghia-Pillay and former Brig S Malabe-Thema without authorisation or having taken leave for that purpose. Furthermore, no disciplinary action was instituted against Lt Col Moorghia-Pillay for committing fraud against the SAPS.

Allegation 6: Human Resources: Irregular payments

That "officers...Mohlala and Nkodi" are receiving scarce skills allowances notwithstanding the fact that they only have three months service. The relevant policy allegedly provides that a member must have five years' service to qualify for such an allowance. Also, that "an administration clerk, Bafana," receives the allowance despite being insufficiently qualified. It is also alleged that W/O Ramalepe lodged a grievance, because he did not receive the allowance.

Allegation 7: Human Resources: Irregular Appointments

That the following members were irregularly appointed in their posts:

- Col Daku
- Col M van der Hammen
- Brig Morapedi
- Lt Col Mashabela
- WO Bafana
- Brig Mmolawa
- Brig L de Wit

As part of the allegations pertaining to the aforementioned appointments, it is alleged that "(a)n african female and a white one (both are Brigadiers) employed at FSL ..... have been impregnated by the Acting National Commissioner and that they both have kids out of this relationship".

Allegation 8: Theft of narcotics and rhino horn from FSL

That numerous narcotics and a rhino horn have been stolen from the FSL. It is alleged that CCTV footage that has been viewed by Lt Genl Phahlane, showing the theft of narcotics by an ex-FSL employee who is currently in prison following his conviction of theft of a rhino horn. No disciplinary steps were taken against

the suspect. Analysts colluded by falsely indicating that the rhino horn was that of a cow.

**Allegation 9: Human Resources: Disregard of organisational structure**

That posts within the CRC were filled disregarding the organisational structure. The new SAPS structure was under discussion at the Safety and Security Sectoral Bargaining Council (SSSBC).

**Allegation 10: Reckless neglect of duties (CAS 350/09/2011)**

That Col Mathebula made a misrepresentation to a court by alleging that it was not possible to allocate an urgent case (Soshanguve CAS 350/09/2011) for handwriting analyses due to a shortage of senior analysts, who were abroad.

**Approach**

- 2.4 The approach that was followed was to identify persons who may have information relevant to each of the matters that are being investigated, interview the persons identified, source and peruse documents pertaining to the issues, analyse information contained in the documents, and where applicable conduct certain site visits.
- 2.5 In order to commence with the investigation, the following was required:
- Sourcing of the relevant documentation in the possession of the POPCRU members.
  - Sourcing documentation pertaining to the allegations made regarding procurement irregularities, human resource related irregularities and other



incorrect information and/or documentation provided by the Forensic Division.

- Requesting information from informants and other individuals in order to investigate the specific allegations made by POPCRU.
- Determining whether expenditure incurred by SAPS at the FSL was in accordance with procurement processes, procedures and legislation.

2.6 Our approach and procedures followed included the following:

- Interviews with the three POPCRU members identified in the POPCRU letters;
- interviews with various members of the SAPS implicated or identified in the POPCRU letter/s;
- interviews with various informants and other members of the SAPS who provided documentation relevant to our current mandate;
- the requesting and reviewing of financial and procurement documentation relevant to the allegations made of irregular expenditure in the POPCRU letter; and
- identifying any breach of the SAPS policies, procedures and legislation.

2.7 Our investigation did not constitute an audit in terms of International Standards on Auditing, nor was it required to.

### 3. **Decommissioning of Marshall RI (Reference Index) System**

#### Introduction and background

- 3.1. In a letter dated 25 June 2012, addressed to the National Commissioner of the SAPS, the General Secretary of POPCRU, amongst others, requested an investigation into the "missing Marshall System machine to the value of R46 million" (see **Exhibit 1**).
- 3.2. It was alleged that different parts of the "machine" were sold to police officers and private people and that money was paid to those police officers, private people and a recreational club of a private company amounting to R10 000.00.
- 3.3. It was also alleged that some parts of the "machine" were kept and used in some private companies' buildings. In this regard reference was made to a report by Mr Koos Smit of Vertex Automation/Blue Raindrops Trading 130 (Vertex) dated 5 May 2011 addressed to Col P Khelawanlall of the FSL (see **Exhibit 2**).
- 3.4. In an Information Note dated 12 September 2012 addressed to all members of the Division: Forensic Services, Lt Genl Phahlane (see **Exhibit 3**), pointed out the following regarding POPCRU's allegations pertaining to the Marshall System ("the System"):
- He had commissioned a liability investigation into the dismantling of the System and a detailed report was made in this regard to the Portfolio Committee on Police.

Phahlane's actions to prevent

What happened with this investigation. → Answer in 3.5 & 3.6

- Following commitments made before the Portfolio Committee, in collaboration with Lt Genl Dramat, Maj Genl Meiring was appointed to investigate the criminal case regarding the alleged dismantling of the System.
- The suggestion by POPCRU that management responded to Parliament as if they did not know where the System was, was incorrect and misleading.

3.5 It appears that Col Khelawanlall, who was the Acting Head of the Biology Section at the time, did the liability investigation referred to above. On 15 June 2011 the outcome of the investigation was reported to the Chairperson of the Portfolio Committee on Police by General B.H. Cele, National Commissioner of the SAPS at the time. Col Khelawanlall indicated in conclusion that all the equipment of the System could be accounted for (see **Exhibit 4**).

3.6 Maj Genl Meiring appointed Lt Col van der Merwe of the Directorate of Priority Crime Investigations: Commercial Crime to conduct the criminal investigation. The investigation was conducted under reference N01/06/2012. The investigation file was subsequently submitted to the National Prosecuting Authority's Specialised Commercial Crime Unit for a decision whether or not to prosecute. On 4 February 2013 a Deputy Director of Public Prosecution decided not to institute a prosecution.

The investigation by Lt Col van der Merwe

3.7 The investigation by Lt Col Van der Merwe revealed the following:

- It appeared that the System was an attempt by the SAPS Forensic Science Laboratory to design and implement a fully automated robotic DNA processing system. The System consisted of hardware such as robots, analysis equipment, storage containers, etc. It also consisted of software for the functioning of the hardware and the management of samples submitted to the System. The System was accommodated in a one-unit work station, which had its own power plant, electric sensing doors, power supply, own ventilation and air conditioning system, and different atmospheric pressures in the different working areas.
- It appeared that the European Union would have initially funded the project. However, the SAPS followed its own procurement policy. As a result, the European Union withdrew their offer. The tender contract was eventually awarded to ISI (Pty) Ltd who subcontracted to other companies, among others Vertex, who had to manufacture and install certain components. The total value of the contract was approximately R9.6 million. The System was installed during 2001.
- During the Budget Vote Hearing on 29 and 30 March 2011 the Portfolio Committee on Police wanted to know who sanctioned the disassembly of the System, when this was and what happened to the components.
- In a letter dated 15 June 2011 the National Commissioner at the time, Genl B.H. Cele, informed Mrs LS Chikunga, MP, Chairperson: Portfolio Commission on Police, among others, as follows regarding the Committee's questions:
  - After several years of investment in the System, the System failed to yield a return on the investment. Consequently, the FSL had to consider the options of either upgrading the System at an estimated

cost of R35 million, or decommissioning and dismantling it at an estimated cost of R200 000.00.

- The System was eventually dismantled for an amount of R96 900.00 which included the refurbishment of the laboratory that accommodated the System.
- The dismantling of the System was allocated on a quotation basis to the entity styled Vertex.
- The following items were retained by Vertex after dismantling the System: (The reason why Vertex retained these items is discussed below).
  - Two robots, which were sold by Vertex to Motoman for R30 000.00 each;
  - An Atlas Copco piston compressor;
  - A Marshall UPS system;
  - Pneumatic cylinders;
  - Pneumatic valve;
  - Electric sensors;
  - Electric switch gear, circuit breakers and terminals; and
  - The cooling unit used for the Marshall cold storage facility.
- The following disassembled items were delivered at the FSL, Arcadia:
  - 1 DNA Analyser;
  - 1 Thermo cycler 4 bay;
  - 1 TECAN Genesis Liquid Handler;
  - 2 TECAN Mini Prep;
  - 2 AB gene Plate Sealers; and

- 2 Computers for interface.
- The following items of the System were identified at the FSL, Biology Section, Arcadia:
  - 1 ABI 3130 Genetic Analyser;
  - 1 Computer interface attached to the ABI 3130 Genetic Analyser;
  - 2 AB gene plate sealers for spare parts at the Genetic Sample Processing System; and
  - 1 Computer interface.
- It seems that the following items were boarded:
  - Two TECAN Mini Prep liquid handlers;
  - The Thermal cycler 4 bay; and
  - The Genesis Liquid Handler.
- Based on the liability investigation that was done, it is fair to assume that all items of the System can be accounted for, even though the boarding packing notes do not specify the items very clearly.

3.8 According to Ms Talita de Lange, a Senior Administration Clerk and an inventory controller who is responsible for the administration of fixed assets, Capt Gouws instructed her to board certain old laboratory equipment. WO Seboko assisted her in the process and they transported the boarded equipment to the premises of the auctioneer used by the SAPS. Ms De Lange and WO Seboko are not analysts and some items were vaguely described by her on the packing notes as the exact descriptions were unknown to her. The packing notes referred to are attached to her affidavit submitted during the SAPS investigation and on the strength thereof she opines that the following items as described in the packing notes could have been part of the System:

- DNA engine tetral, P81201;
- Laboratory equipment for DNA. (At Forum);
- Broken laboratory machine. (At Forum);
- (TECAN) Mini Prep. (Serial number not recorded); and
- Robotic liquid level detection, 2365B.

WO Seboko and Capt Gouws corroborated the version of Ms De Lange.

- 3.9 Col Smith stated that at the end of 2007 Brig PJ Joubert, at the time Section Head: Biology, requested input on the future and possible decommissioning of the System. This was briefly discussed at the Biology Management Meetings. Different options were proposed and it is Col Smith's understanding that these were presented to the Head: FSL and the Divisional Commissioner: Criminal Record and Forensic Science Service.
- 3.10 Col Smith was later instructed by Brig Joubert to request a quotation from Vertex to do the decommissioning of the System and the restoration of the laboratory. He thought that the reason why he had to approach Vertex was because they were involved in the installation of the robotics in the System. He, however, approached other companies as well, but received no other positive response.
- 3.11 Col Smith gave the quotation that was received from Vertex to Brig Joubert. Col Smit stated in his affidavit that the first quotation according to his recollection was for around R200 000.00. (see **Exhibit 5**). Brig Joubert requested him to go back to Vertex and request a new reduced quotation, taking the following into consideration:
- The decommissioning of the System;

- The moving of 1 thermal cycler, 2 small TECAN liquid handler stations, 1 liquid handler, 2 plate sealers, 1 genetic analyser and fridges, which could possibly be used for DNA analyses to the FSL, Arcadia;
- The safe disposal of scrap and items not "directly" usable for DNA analyses and to discount the price originally quoted;
- The restoration of the power circuitry; and
- The replacement of work bench tops.

3.12 A revised quotation was received during January 2008 and submitted to Brig Joubert (see **Exhibit 6**). Col Smith was lead to believe that Brig Joubert discussed the basis for the quotation and the decommissioning of the System with the Head of the FSL and Lt Genl Du Toit, who was the Divisional Commissioner: Forensic Science Laboratory & Criminal Record Centre at the time. Eventually the requisition was approved and an order number issued for the decommissioning of the System. The equipment, referred to above, that was destined for the FSL, Arcadia was duly so delivered.

3.13 Col Smith was aware of the instruction by Brig Joubert to Capt Gouws to board certain of the equipment that were standing unused at the FSL, Arcadia. He confirmed that Ms de Lange and WO Seboko assisted in the boarding process. During 2010, after questions were raised and he looked into the matter, he discovered that equipment boarded by the Biology Section, was vaguely described in the packing notes.

3.14 Mr Smit of Vertex stated in an affidavit that the equipment that had to be moved to FSL, Arcadia, was handed over to Capt Gouws. He pointed out that in terms of item 1.2 of the quotation, Vertex had to dispose of all other equipment and



parts that were not usable as individual systems by the FSL. According to him, the following was done therewith:

- The robots were sold back to Motoman, who initially supplied it, at a price of R30.000.00 each. The units were small and have limited applications in the industry. The robots were already superseded by new versions, which made it very difficult to sell for a reasonable price;
- The only equipment that could be used by Vertex was the compressor and the UPS;
- It was ascertained that to modify the UPS for their purposes was too costly and they abandoned the idea of using it. It was however kept in their store. They were also not able to sell the unit, due to a lack of interest in same;
- During the construction of the new CI laboratory it became evident that the size of one UPS was miscalculated by the main contractor. The Marshall UPS was thereupon offered to the contractor. It was not functional anymore and had to be sent to Vertex's supplier for repairs. The following was done at Vertex's own cost:
  - ✓ Delivery to, and collection from, the supplier.
  - ✓ Repairs by the supplier.
  - ✓ Replacement of a complete battery set.
  - ✓ Commissioning of the unit at FSL CI laboratory.
  - ✓ Moving the unit to the outside of the building and building an enclosure for it.
  - ✓ Paying the electrical contractor to test and issue the necessary certificate for the installation.

- The compressor was stored as it was too small for Vertex's own use. Due to its age, the second hand price was low and a new compressor costs approximately R 15 000.00. This was a specialised compressor, but had limited application in the market and much cheaper compressors were available. Vertex eventually gave the compressor at no cost to Mr Hannes Smit who left the company and bought his own manufacturing company.
- The rest of the equipment was custom designed and built for the System. It therefore had no value as individual units. It was disassembled and usable components were used over time. These were, among others, pneumatic cylinders; pneumatic valves; electrical sensors; electrical switch gear, circuit breakers and terminals; and the cooling unit that was used for the cold storage facility. The value of the items that were used over time was approximately R10 000.00. The rest of the equipment was disassembled and sold as scrap. No record thereof was kept, but the estimated income was approximately R13 000.00.

3.15 Brig Joubert, who retired in June 2011, submitted a statement to the SAPS and stated that during 2007, due to a number of problems experienced with the System, the future of the System was explored and various options were considered. It was recommended that the System should be decommissioned. A copy of an unsigned memorandum dated 24 September 2007 addressed to "Assistant Commissioner" Ngokha, Head of the FSL, in this regard was made available by him. The problems experienced were again mentioned in a report dated 14 April 2011. The problems experienced were described as follows:

- There was a lack of capacity regarding IT-support from SITA;

- No maintenance contract on the System was approved by SITA;
- There was a lack of expert support from the supplier company;
- The resignation of trained Biology personnel; and
- Outdated hard- and software technology.

3.16 According to Brig Joubert, taking into account the complexity of the System, he and Col Smith were satisfied that the original quote for the decommissioning of the System of R200 000.00 was fair. A problem they had was that the Biology Section would afterwards end up with equipment and parts of equipment that cannot be utilised in future. It would take up storage place, which was lacking due to a huge backlog of cases. After negotiations with Vertex it was agreed that the Biology Section would keep only the equipment that could be utilised. The rest that is of no use to the laboratory would be removed by Vertex to deal with it as it deems fit. As a result of discussions relevant to the above, the quote was reduced to R96 900.00.

3.17 According to Brig Joubert, the SAPS did not suffer any losses in the above regard, but was in fact in a better position at the end of the process.

3.18 Maj Genl Ngokha, then Head of the FSL, stated in an affidavit that at the relevant time Brig Joubert, as Section Head of the Biology Section, reported directly to him. He was aware that towards the end of 2007 discussions were held on the future of the System. Brig Joubert and his team were tasked to investigate possible options and make recommendations to the FSL management. After several options were considered, it was decided that the best option would be to decommission the System.

3.19 Capt Conradie stated in an affidavit that he works in the Administration and Financial Section of the FSL and had unrestricted access to financial records. He stated that there was no irregularity in the procurement or payment process which included the following processes:

- The quotation, together with the supplier's undertaking and the requisition for the service, was submitted to the Financial and Administration Section of the FSL for processing and payment at a later stage. The requisition was also sent to the Financial Office for an indication whether the necessary funds were available.
- A financial authorisation was thereupon captured on the Polfin System. The financial authorisation was approved by Lt Col De Beer. It was also approved by Lt Col Carstens as the chief user.
- The requisition was then submitted to the Head Logistics at Head Office, Brig Mamahlodi who approved the supply of the service. Thereafter an order form was issued.
- After the service was rendered a tax invoice was submitted and the user signed the necessary acknowledgement of receipt to the effect that the service was rendered satisfactorily and that payment to the supplier may be affected. Payment was effected to the service provider.

3.20 Lt Genl du Toit, retired during August 2010, as the Div Comm Forensic Science Laboratory and Criminal Record Centre. He approved the decommissioning of the System. According to his statement submitted to the SAPS, the decommissioning was the cheaper option, without compromising service delivery.

The Genetic Sample Processing System had already taken over 90% of the System's work. According to him, no irregularities took place in respect of the decommissioning and dismantling of the System.

- 3.21 The SAPS docket referred to above was submitted to the Deputy Director of Public Prosecution for a decision regarding possible prosecution and it was decided not to prosecute anybody in this matter.
- 3.22 We communicated with Col Khelawanlall who did the liability investigation. He stated in a report under reference 3/21/3/1/218 that all items of the System can be accounted for, but the boarding packing notes did not specify the items boarded to a degree of certainty.
- 3.23 According to an information note dated 24 May 2011, Lt Genl Phahlane reported to the National Commissioner that the procurement of the System was an attempt by the SAPS to design and implement a fully automated robotic DNA processing system (see **Exhibit 7**). The System primarily focussed on the processing of blood samples. However, after several years of investment in the System, it failed to yield a return on the investment. It was therefore necessary to consider the options of upgrading the System at an estimated cost of R35 million or decommission and dismantling the System at an estimated cost of R200 000 which amount was later decreased to R96 900.00.

#### 4. Presentation to Parliamentary Committee on backlog of cases at FSL

##### Introduction and background

- 4.1 In a memorandum addressed to the National Commissioner of the SAPS dated 25 June 2012 (but signed on 18 July 2012) the General Secretary of POPCRU alleged, among others, that the Divisional Commissioner's presentation to the Portfolio Committee during April 2012 reported a backlog of 182 cases (see **Exhibit 8**). It is alleged that these statistics were "fraudulent". According to the General Secretary approximately 5 000 cases were not captured by 23 April 2012 at 11:30. In corroboration of this allegation reference is made to video footage taken by "one of the whistle blowers". This video footage could allegedly reflect, among others, a backlog in counterfeit South African banknotes that were received for examination to the value of R5 million.
- 4.2 It is further alleged that on 3 May 2012 Maj Genl Ngokha carried out an inspection on the case dockets in the safe. Members of the Questioned Documents Unit (QDU) allegedly informed him that there was a backlog of more than 1 000 cases that needed to be attended to. It is averred that Brig Morapedi was later called by Major Genl Ngokha to account for that backlog.
- 4.3 The scope of this investigation did not include the allegations referred to in paragraph 4.2 above. As a result, the following has reference to the allegations referred to in paragraph 4.1 only as reflected in the mandate of CPN.
- 4.4 In order to present a proper perspective regarding the above-mentioned matter, it is apposite to also refer to same as reflected hereunder.

- In a memorandum dated 25 April 2012, addressed to the Acting National Commissioner, Lt Genl N Mkhwanazi and the Deputy National Commissioner, Lt Genl Mgwenya, Lt Col Ramolobe (at the time Section Head of the QDU), among others, alleged that the "*FSL management manipulated production statistics and misrepresented the true facts....., in particular QDU cases received during 2011 (which) are not registered but Intentionally (sic) concealed, by instruction from Col Mathebula.*"
- On the same day Lt Gen Mkhwanazi forwarded the aforementioned memorandum to Lt Genl SG Lebeya for attention (see **Exhibit 9**).
- On 25 April 2011 Lt Genl Mgwenya also referred the matter to Lt Genl Lebeya for the compilation of a factual report on or before 21 May 2012.
- On 26 April 2012 Lt Genl Lebeya wrote an e-mail to Lt Col Ramolobe requesting a detailed affidavit from him to support the allegations. Apparently Lt Col Ramolobe had indicated to him that he would be prepared to submit an affidavit. Lt Col Ramolobe submitted an affidavit dated 2 May 2012 in substantiation of, amongst others, the allegations regarding the alleged misrepresentation to the Portfolio Committee pertaining to the backlog of cases (see **Exhibit 10**).

#### Summary of facts

- 4.5 In a memorandum dated 12 September 2012 addressed to all the members of the Division Forensic Services Lt Genl Phahlane reacted to allegations which POPCRU raised in the media on 7 September 2012 regarding the management of the Division and, particularly, against him and described it as malicious.

- 4.6 According to Lt Genl Phahlane the 182 cases referred to was the backlog as at 31 March 2012 (the end of the fourth quarter) and did not include cases which were in the process, but have not yet exceeded the predetermined turnaround time of 28 work days. He indicated that POPCRU's allegation that on 23 April 2012, 5 000 cases were not captured is "*baseless and unfounded*". He averred that the 5 000 cases referred to by POPCRU bears no relevance to the backlog as on 31 March 2012.
- 
- 4.7 It appeared from a consultation with WO M Schoeman, who is responsible for, amongst others, compiling and verifying statistics for use by the Div. Comm's Office, that statistics are compiled from a computerised program. The time line applicable to the process whereby items are received and registered for analyses was prescribed by the Div Comm, Lt Genl Phahlane.
- 4.8 According to WO Schoeman the general process to be followed comprises the following:
- Administration clerks receive items that are handed in for analyses (see **Exhibit 11**). On receiving an item the clerk issues a receipt to the person submitting the item. An attachment referring thereto is attached to same and it is thereafter kept in a vault. Within two work days the clerk (or another clerk) must register the item on the computer program (the system). From the registration time of the item on the system, it is reflected as a statistic. Within a further 10 work days the item must be allocated to an analyst who has to finalise the analyses within 28 work days. In practice the system reflects the position as on 25 work days. Once an item is reflected on the system it would automatically be indicated as a backlog if the prescribed time line is exceeded.



- 4.9 Further, according to WO Schoeman, the only way in which statistics can be manipulated is by not registering items on the system (see **Exhibit 12**). The Office of the Div Comm would not be aware thereof, as they rely on the statistics given to them as reflected on the system. The backlog of 182 cases that was presented to the Portfolio Committee was a national backlog, which was determined from the statistics reflected on the system.
- 4.10 As far as the allegations under discussion are concerned, Lt Col Ramolobe's affidavit dated 2 May 2012 indicated that he is the Section Commander: Case Management at QDU since February 2012. During February 2012 he inspected the case registration vault and noticed two blue bags (one full and the other one half full) that were received from a cash-in-transit company, SBV, containing questioned Bank notes. He asked Col Mathebula when they were received who indicated that it was received during December 2011 and February 2012. In response to his enquiry as to why the cases were not registered on the system, Col Mathebula responded that the items in the two blue bags must not be registered, because they will reflect as backlog on the system and will negatively affect production statistics. Lt Col Ramolobe thereupon indicated to Col Mathebula that it is a manipulation of statistics to follow such processes. However, Col Mathebula remained adamant in his attitude.
- 4.11 Lt Col Ramolobe further declared that on 23 April 2012 at about 11:30 he was invited to attend his first management meeting as Section Commander at Case Management division (QDU). The meeting was attended by Brig Morapedi, Col Rehder, Col Mathebula, Col Twala and himself. He again raised the issue of the manipulation of statistics and the two SBV bags. He advised that he would not allow the manipulation of statistics at the QDU. Brig Morapedi accompanied him in order for him to point out what he meant regarding the SBV bags. He also

raised the dilemma they would be in if they receive an unannounced visit by the Div Comm, while these bags were already received during December 2011 and February 2012 and not even opened yet. He indicated that Brig Morapedi was of the view that management would answer in such an event and that the SBV items are not important.

- 4.12 Lt Col Ramolobe in his affidavit further argued the importance of giving due attention to the SBV matters. It is not necessary to elaborate hereon for purposes of this report. Suffice to indicate that if the SBV matters do not receive the attention it deserves, it could have detrimental effects. It appears from Lt Col Ramolobe's affidavit that he is of the view that the 28 work days turnaround time also applies to SBV cases.
- 4.13 Lt Col Ramolobe was requested on more than one occasion to provide the video material referred to in the allegation. At the time of writing of this report, it was still outstanding. However, in the light thereof that (as is indicated hereunder) Capt Kwakwa and Brig Morapedi confirmed the presence of the two contentious bags during April 2012 (see **Exhibit 13** and **Exhibit 14**). It is submitted that the issue can be disposed of without having insight into the video recording as it appears to be common cause that the bags existed. Furthermore, Lt Col Ramolobe also provided the seal numbers of the two SBV bags he referred to in his affidavit. These numbers are 20964024357899 and 20964023204217.
- 4.14 Capt Kwakwa stated in a consultation that he has been working at the reception desk at the QDU since 2005. He supervises the receipt of cases submitted for inspection by SAPS members and the SBV; manages cases received; and acts as custodian of the vault in which items are stored for safe keeping. He explained

that the process with regard to SBV bags received differs from that in respect of other documents. The process with regard to SBV matters is as follows:

- SBV cases are sealed in a blue bag by staff of SBV. The seal has a specific number and the seal is not to be broken or tampered with when the bag is submitted. The bag may contain any number of notes (cases) and the number may run into the thousands.
- The recipient at the QDU reception completes a prescribed receipt.
- A covering letter from SBV containing all details and particulars of all the cases in the bag must be attached to the bag.
- The bag is thereupon stored in the vault. Capt Kwakwa is informed verbally of new cases in the vault by the staff working in the division.
- Depending on the number of cases in the vault it may be necessary to request management to approve overtime payment in order that cases could be registered on the system as soon as possible.

4.15 Capt Kwakwa could not recall any specific incident concerning SBV bags during December 2011 and February 2012. He remembered that during April 2012 Lt Col Ramolobe visited the vault and made a video recording of the contents of the vault. Capt Kwakwa confirmed to Lt Col Ramolobe that the two SBV bags had been in the vault for a "very long" time. Sometime thereafter management applied for overtime payment in order that the backlog with regard to SBV cases could be addressed.

- 4.16 Mrs T Sekwakwa, Mrs LM Mahlangu and Mrs MP Makgatho, administration clerks at reception, in separate consultations confirmed the process that applies to SBV cases described by Capt Kwakwa.
- 4.17 Brig Morapedi was interviewed with regard to the allegations made in Lt Col Ramolobe's affidavit referred to above. More particularly, she was also questioned about the allegations pertaining to her attitude when Lt Col Ramolobe showed her the SBV bags referred to by him.
- 4.18 Brig Morapedi confirmed that she is the Section Head: Questioned Documents and her functions and duties pertain to the overseeing of cases received and registered at the reception of QDU. More particularly in this regard, she sees to it that cases are handed over for analyses; liaise with Capt Kwakwa and the administrative staff; and ensure that cases receive the necessary attention. When a backlog occurs, it is addressed by means of applying for overtime payment.
- 4.19 Brig Morapedi indicated that she is aware of the allegations made by Lt Col Ramolobe and that he visited the vault during April 2012 and took some video footage. She confirmed that the two SBV bags referred to by Lt Col Ramolobe were in the vault during April 2012, but were not regarded by her as a backlog because it were not yet captured on the system for purposes of analyses.
- 4.20 Brig Morapedi explained that SBV cases are handled differently from other cases received, because of the volume of cases (notes) contained in an SBV bag. An SBV bag could contain between 1 000 and 3 000 notes and each must be separately registered on the system as a case. To capture these cases on the

system a file or docket has to be opened in respect of each note. It would be humanly impossible to comply with the time lines prescribed with regard to other cases. Each data capturer has a target of 65 cases per day. There are four data capturers. It follows that if an SBV bag containing 1 000 cases is received it would be humanly impossible to register all of it within two days. Not all data capturers can work full time on the SBV cases as they also have to capture other cases. As the SBV cases are not yet registered as criminal cases with the SAPS, they are captured as and when staff is available. She also indicated that the capturers are registering the cases to the best of their capabilities.

- 4.21 Whenever a large quantity of cases is received, especially so-called SBV cases, application for overtime payment would be made to facilitate the registering process according to Brig Morapedi. She also pointed out that the bags received during December 2011 could possibly not have received urgent attention as it was the holiday season and there were also public holidays involved. Brig Morapedi denied that she had indicated to Lt Col Ramolobe that SBV cases are not important.
- 4.22 Col Mathebula was interviewed Lt Col Ramolobe's allegations. He is currently the Operational Manager: Question Documents Analyses. He indicated that he is not responsible for the registration of cases and his responsibilities are to oversee the cases that are being analysed after having been registered on the system.
- 4.23 According to Col Mathebula, the case management commander was Lt Col Ramolobe. He could not recall having had a discussion with Lt Col Ramolobe during February 2012 regarding any backlog issues. He found it strange that Lt Col Ramolobe would have called him to the vault to discuss the backlog in

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unregistered cases as the registration of cases is not his (Col Mathebula's) responsibility.

- 4.24 The records concerning the receipt of the two bags with the serial numbers referred to above in paragraph 11 above were sourced. According to these, the bag with seal number 20964024357899 was received on 7 December 2011 and the other bag with seal number 20964023204217 was received on 3 March 2012.

**5. Procurement irregularities: Goods not delivered at the CRC**

Introduction and background

5.1 In a memorandum addressed to the National Commissioner of the SAPS dated 25 June 2012 and signed on 18 July 2012, the General Secretary of POPCRU alleged, among others, that goods purchased and paid for by the "Department" amounting close to R30 million were not delivered by the supplier. Reference in this regard was made to an "Annexure P" which referred to six orders for the delivery of chemicals and reflected the following (the abbreviation "CJS" in the heading refers to funds allocated under the Criminal Justice System)(see **Exhibit 15**):

<b>CRIMETECH LABORATORIES STOCK OF CJS</b>			
<b>ORDER NUMBER</b>	<b>AMOUNT OF ORDER</b>	<b>INVOICES PAID</b>	<b>OUTSTANDING AMOUNT</b>
A284243	R1 971 600.00	R1 793 585.00	R178 015.00
AC484703	R2 159 730.00	R2 094 630.00	R65 100.00
AC484741	R5 135 500.00	R5 135 500.00	R0.00
AC484814	R7 493 500.00	R3 200 000.00	R4 293 500.00
AC484845	R14 733 000.00	R0.00	R14 733 000.00
AC484902	R10 468 500.00		
<b>TOTAL OUTSTANDING</b>			<b>R29 738 115.00</b>

- 5.2 It appears that the abovementioned orders pertained to chemicals that were used by the CRC and LCRC's. The first order was issued on 23 December 2010 and the other orders were issued on 8 March 2011; 24 March 2011; 11 May 2011; 23 June 2011; 29 June 2011; and 20 August 2011 respectively.
- 5.3 It was ascertained during our investigation that the chemicals were supplied in terms of transversal contracts entered into by the National Treasury with several suppliers for various products. The contracts, RT152-2009 and RT152-2011, in so far as it relates to the supply of chemicals to the CRC and LCRC's, were entered into, among others, with Crimetech Laboratories CC (the supplier).
- 5.4 Interviews were conducted with numerous members of the SAPS. Various documents, including financial documents (orders, invoices, delivery notes, stock requisitions, stock withdrawals and Polfin information), were sourced in order to comply with our mandate. It must at the outset be pointed out that we were not required to audit the financial documentation in terms of the International Standards on Auditing.
- 5.5 As a consequence of our investigation specific facts and/or allegations came to our attention relevant to the procurement of the goods and not only the delivery thereof and because of the seriousness and importance thereof, it has been deemed imperative to report thereon.
- Summary of facts
- 5.6 In response to POPCRU'S allegations referred to above, Lt Genl Phahlane reacted as follows in a memorandum dated 12 September 2012 addressed to all the members of the Division: Forensic Services:



- His office was not aware of any payments made for goods and services before delivery in the Forensic Services environment. The Supply Chain Management processes and procurement prescripts are strictly complied with.
- The current procurement process that was followed is to the effect that goods were delivered to the stores of the CRC as a central point where after it was redistributed by the supplier to the respective end users according to a distribution list that was provided. According to him this mechanism was introduced to ensure proper control and management of stock levels *"following the reporting of a deviation in this regard"*. This deviation and the circumstances relevant thereto were not explained in the memorandum.

- 5.7 Capt M Zinserling, who is in control of the stores at the CRC, was interviewed with regard to the allegations by POPCRU. According to Capt Zinserling the deliveries by the supplier were initially done directly to the LCRC's. Each LCRC did its own need assessment and payment was effected once proof of delivery to the LCRC's was supplied.
- 5.8 After Lt Genl Phahlane took office he, at some stage during 2011, ordered that delivery must first be done to the CRC and that the supplier must thereafter distribute the goods to the LCRC's. The effect hereof was that the supplier was paid once delivery at the CRC took place. According to Capt Zinserling, this resulted in the supplier taking its time to do the distribution.
- 5.9 The distribution referred to above was done according to a distribution list compiled by Brig Diko. The need assessments were also done by Brig Diko. As

far as Capt Zinserling knew, the LCRC's did not give input for purposes of a need assessment. As a result hereof, overstocking of chemicals at the CRC and LCRC's became the norm. According to Capt Zinserling, this posed a risk, because the chemicals have expiry dates. If chemicals expire, the SAPS could suffer financial losses and storage space was problematic (see **Exhibit 16**). Chemicals that were not properly stored, resulted in health and safety risks and the stores at the CRC were not in all respects complying in the aforementioned regard. We drafted a schedule reflecting the flow chart of procurement processes (see **Annexure A**).

5.10 Capt Zinserling uttered the following concerns regarding the present process:

- After delivery of the chemicals to the CRC stores, an invoice was submitted and the supplier was paid. Delivery at the CRC stores had the effect that the chemicals became the property of the SAPS. When the supplier collected the goods for distribution, the supplier took control over State property. The CRC had no control over the delivery of the goods, except for the delivery notes that had to be submitted after delivery took place at the LCRC's. The CRC had no proof that the original retrieved chemicals were indeed the chemicals delivered at the various LCRC's.
- A reconciliation of the CRC's SAP 24 store register was done during September 2011 and it was found that a number of alleged deliveries to LCRC's in terms of the aforementioned procedure could not be verified by the delivery notes. We obtained a copy of an analyses in the aforementioned regard compiled by Capt Zinserling, Capt TS Mnumzana and Col E Honiball.
- According to Capt Zinserling it was established that before one order for chemicals has been fulfilled, the next order was issued. He drafted a letter

to the supplier for signature by Maj Genl Khunou requesting assistance with the outstanding delivery notes. He also noted that the number of orders has escalated dramatically over recent years, resulting in a dramatic rise in expenditure and the overstocking of goods.

- 5.11 It was ascertained that Brig Diko at CRC did the need assessments, where after Maj Genl Khunou recommended the demand and Col Honiball prepared the required documentation for approval by Lt Gen Phahlane. After the approval, Col Honiball issued the orders.

Financial analysis

- 5.12 A financial analysis was done with respect to the 7 orders that ranged from 23 December 2010 to 20 August 2012 (see **Annexure B**). The relevant orders; delivery notes; invoices; and the payments reflected on the POLFIN System were evaluated. We did not have insight into all the delivery notes, as would appear hereunder. The information contained in the following schedule drafted by us, reflects relevant information of the 7 orders. The first 6 orders were those referred to by POPCRU in the letter referred to in our report and relates to contract number RT152-2009. The seventh order relates to contract RT152-2011.

Orders	Total ( R ) ordered	Total ( R ) paid	Balance	Exhibit
A 284243 23/12/10	1 971 600.00	1 899 965.00	71 635.00	17
AC 484703 08/03/11	2 159 370.00	2 159 370.00	0.00	18
AC 484741 24/03/11	5 135 500.00	5 135 500.00	0.00	19

AC 484814 11/05/11	7 493 500.00	7 421 427.20	72 072.80	20
AC 484845 23/06/11	14 733 000.00	15 375 428.00	-642 428.00	21
AC 484902 29/06/11	10 468 500.00	10 417 620.00	50 880.00	22
AF 150191 20/08/12	21 669 700.00	21 669 690.01	9.99	23
<b>Total</b>	<b>63 631 170.00</b>	<b>64 079 000.21</b>	<b>-447 830.21</b>	

5.13 The abovementioned schedule reflects an overpayment of R447 830.21 to the supplier on the 7 orders.

5.14 The total payments to the supplier per financial year reflected a drastic increase over the period of 3 years as indicated hereunder:

- 2010/2011 R9 780 480.00
- 2011/2012 R33 840 894.20
- 2012/2013 R22 974 236.01

5.15 It was noted during the analysis that the same items were ordered within very short intervals, even before the previous order(s) have been fulfilled. For example, the last invoice in respect of order number A 284243 of 23 December 2010 (the first order) was only paid on 1 June 2012. It was also found that the orders escalated shortly before the contract expired.

5.16 The three schedules hereunder confirm the fact that to a large extent, the same items were ordered within very short intervals.

Items	Unit price	Quantity ordered	Quantity ordered	Quantity ordered
		<b>A 284243 (23/12/10)</b>	<b>AC 484703 (08/03/11)</b>	<b>AC 484741 (24/03/11)</b>
DFO HFE Premix	3 250.00	151	150	500
Ninhydrin HFE Premix	2 950.00	151	150	500
Ninhydrin Methanol Premix	1 050.00	336	150	500
Rhodamine 6G Premix	795.00	336	315	500
SPR Premix	795.00	75	150	200
Sudan Black Premix	795.00	96	205	200
Amido Black Premix	795.00	75	150	200

Items	Unit price	Quantity ordered	Quantity ordered	Quantity ordered
		<b>AC 484814 (11/05/11)</b>	<b>AC 484845 (23/06/11)</b>	<b>AC 484902 (29/06/11)</b>
Ninhydrin Aerosol Spray Aeroprint Ninhydrin 150ml	395.00	3500	5000	5000
DFO Aerosol Spray Aeroprint DFO 150 ml	375.00	3500	8000	8000

Items	Unit price	Quantity ordered	Quantity ordered	Quantity ordered
		AC 484814 (11/05/11)	AC 484845 (23/06/11)	AC 484902 (29/06/11)
Aeroprint Black 80	59.00	20000	5000	
Aeroprint Silver 80	59.00	20000	5000	
Aeroprint Black Coastal	175.00	500		
Aeroprint White Coastal	125.00		1000	
Aeroprint Bichromatic 150ml	195.00	1500	1000	
Aeroprint UV Yellow 150ml	125.00	1500	2000	
Aeroprint UV Orange 150ml	125.00	1500	2000	
Aeroprint UV Green 150ml	125.00	1500	2000	
Aeroprint UV Pink 150ml	125.00	1500	2000	
Aeroprint Red Oxide 150ml	81.00	1500	1000	
Aeroprint White 150ml	59.00	3000		1000
Aeroprint White, 80, 150ml	125.00		1000	1000
Aero Dye Base Red 250ml	225.00	1000	1000	
Aero Dye Base Yellow 250ml	225.00	1000	1000	

- 5.17 The cursory evaluation of payments against invoices established that on one occasion, an invoice, relevant to specific delivery acknowledgements, appear to have been duplicated. POLFIN payment information revealed that payment was made against an invoice 'CIT 1100165" (see **Exhibit 24**) for an amount of R714 875.00 on 4 August 2011. A slightly differently recorded invoice number "06201100165", which contained the same items and amount under the same

order number, was paid on the same date. This, among others, was rectified by means of a credit note dated 27 March 2012 given by the supplier for an amount of R838 625.00, which reflects on POLFIN. It could not on the information at our disposal be determined what the balance of the credit note covered (see **Exhibit 25**). Col Honiball, whose interview is referred to hereunder, also could not assist in this regard, due to the time lapse.

- 5.18 Only via a thorough forensic financial analysis, including all invoices issued; delivery notes filed; and a reconciliation of all the relevant SAP 24 store registers would it be able to conclude a detailed finding and quantification as to payments made on official orders against invoices submitted and quantities delivered. The delivery notes in respect of the following invoices, which were paid, could not be found amongst the documentation that was at our disposal:

Date	LCRC/CRC	Order no	Invoice no	Amount ( R )
19/01/11	Middelburg	A 284243	CIT 0120110021	6 075.00
12/01/11	Kimberley	A 284243	CIT 0120110031	9 225.00
12/01/11	Worcester	A 284243	CIT 0120110034	9 225.00
12/01/11	Cape Town PTT	A 284243	CIT 0120110035	9 225.00
12/01/11	Paarl	A 284243	CIT 0120110036	11 070.00

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12/01/11	Cape Town	A 284243	CIT 0120110037	11 070.00
19/01/11	Mmabatho	A 284243	CIT 0120110051	6 075.00
25/01/11	Germiston	A 284243	CIT 0120110068	14 250.00
25/01/11	Soweto	A 284243	CIT 0120110069	14 250.00
25/01/11	Vereeniging	A 284243	CIT 0120110070	14 250.00
25/01/11	Johannesburg	A 284243	CIT 0120110072	14 250.00
25/01/11	Ga-Rankuwa	A 284243	CIT 0120110073	11 610.00
25/01/11	Kemptonpark	A 284243	CIT 0120110074	11 610.00
09/02/11	Newcastle	A 284243	CIT 0120110079	2 385.00
11/02/11	Seleshosha	A 284243	CIT 0120110084	2 385.00
11/02/11	Bethlehem	A 284243	CIT 0120110085	2 385.00
11/02/11	Phudathithaba	A 284243	CIT 0120110086	2 385.00



11/02/11	Kroonstad	A 284243	CIT 0120110087	2 385.00
11/02/11	Welkom	A 284243	CIT 0120110088	2 385.00
09/03/11	Richardsbay	A 284243	CIT 0120110099	22 370.00
09/03/11	Pietermaritzburg	A 284243	CIT 0120110100	22 370.00
27/03/12	CRC	A 284243	CIT 00000204	28 875.00
18/08/11	CRC	AC 484902	CIT 06201100179	29 500.00
12/10/11	CRC	AC 484902	CIT 06201100197	395 115.00
03/10/11	CRC	AC 484902	CIT 06201100191	1 077 300.00
30/09/11	CRC	AC 484902	CIT 06201100187	29 500.00
18/08/11	CRC	AC 484902	CIT 06201100168	90 000.00
27/03/12	CRC	AC 484902	CIT 00000205	6 375.00
27/03/12	CRC	AC 484902	CIT 00000203	29 500.00
23/05/11	CRC	AC 484902	CIT 00000207	83 625.00
09/05/12	CRC	AC 484845	CIT 00000208	347 997.00

17/08/11	CRC	AC 484845	CIT 06201100166	265 500.00
18/08/11	CRC	AC 484845	CIT 06201100167	197 500.00
30/09/11	CRC	AC 484845	CIT 06201100193	1 144 000.00
04/12/12	CRC	AF 150191	CIT 011	8 457 740.00
	<b>Total</b>			<b>R12 383 762.00</b>

5.19 The fact that the abovementioned invoices could not be found, does not necessarily mean that deliveries in those instances did not take place. An audit of the relevant SAP 24 registers would be required in order to determine whether deliveries in the absence of delivery notes took place.

5.20 Col Honiball of the Division: Forensic Services, Section Support Services was consulted and he stated the following:

- He was, among others, involved in the payment of the supplier rendering services to Forensic Services. Brigadier Diko drafted the need assessments for the CRC.
- Lt Genl Phahlane at a stage changed the process of delivery so that delivery of chemicals takes place at the CRC store where after the supplier distributes chemicals to the various LCRC's. The change was made in order to exercise better control over the receipt, payment and distribution of chemicals.

- The analyses by Capt Zinserling was incomplete in some respects and he had numerous meetings with the supplier and sorted out all the seemingly under or over deliveries. As a result, all payments of all invoices could be accounted for.
- Capt Zinserling is overall responsible for the CRC store and the completion and updating of the SAP 24 register when chemicals are received or withdrawn by the supplier for distribution.
- All LCRC's were required to update their SAP 24 registers. If there was an under or over stock of chemicals at those offices, the commanders of such offices were responsible for same and thus accountable. Those commanders were responsible for supplying the correct figures and correct need assessments.
- During 2010/2011 there were many problems with the first order, A284243 dated 23 December 2010. For instance, duplicate payments occurred in certain instances, due to incorrect invoice numbers.
- He commenced duties as Section Commander Supply Chain Management at Forensic Services around July 2011.
- With regard to the issue of outstanding delivery notes of deliveries to the LCRC's, he confirmed that certain delivery notes are still outstanding. This was mostly with regard to the first order, to wit order number A284243. According to him, Capt (f) Lombard at the CRC was overseeing the process at that time.
- He noted during 2011/2012 that the supplier was not VAT registered. He did not liaise with the supplier in this regard. It also did not occur to him that historically the fact that the supplier was not a VAT vendor had the

effect that the supplier received VAT, which seemingly was not paid over to SARS. Contract RT 152-2011 was awarded specifically on the basis of a VAT inclusive price per unit (see **Exhibit 26**).

- During August 2012 the supplier informed him that it has changed its status from a closed corporation to that of a company and has registered for VAT. The documentation pertaining to the aforementioned was submitted to the Finance Division on 23 August 2012.
- According to Col Honiball all the invoices he processed for payment, were paid after delivery of the relevant items.

5.21 Brig Diko was also interviewed. He is the Section Head: Crime Scene Management and has for the last three years been responsible for the need assessments pertaining to the procurement of chemicals for all the LCRC's. After delivery of chemicals has taken place at the CRC, he compiled a distribution list for the distribution by the supplier of the chemicals to the various LCRC's.

5.22 Brig Diko explained the need assessment process as follows:

- During 2009/2010 the LCRC's did the procurement of chemicals. During September 2010 a national problem occurred in that the levels of available chemicals became very low. As a result, CRC management decided to procure chemicals that are used on a daily bases from the so-called CJS budget. This decision was taken by Maj Genl Khunou, Brig Voster and Brig Diko.

- At the time the supplier was delivering directly to the LCRC's. Problems were, however, experienced with the reconciling of deliveries and payment thereof. This resulted in the decision that the supplier must first deliver to the CRC and thereafter distribute goods to the LCRC's according to the distribution list.
- Brig Diko conceded that for the purposes of the first order issued in December 2010 and the orders issued during 2011 the LCRC's were not consulted in order to determine the need for chemicals. He referred to previous crime statistics and the size of the LCRC's (being categorised into small, medium and large offices) to determine the need. He conceded further that one cannot do a proper need assessment in this manner and that the LCRC's inputs through the provincial heads should also have been requested. For purposes of the last order that was issued during August 2012, he did consult the LCRC's through the provincial heads. Brig Diko submitted examples of his e-mails in this regard. However, he also indicated that, for example, where a LCRC had indicated a need for 50 boxes of a particular chemical he would request 100 boxes. He explained that he did not want a shortage to come into existence.
- According to Brig Diko the provincial heads should have informed him of overstocking. According to him, that did not happen.
- It was pointed out to Brig Diko that the orders that were placed during December 2010 and during 2011 were issued in very short order. Orders were issued on –
  - 23 December 2010 to the amount of R1 971 600.00;
  - 8 March 2011 to the amount of R2 159 370.00;
  - 24 March 2011 to the amount of R5 135 500.00;

- 11 May 2011 to the amount of R7 493 500.00;
- 23 June 2011 to the amount of R14 733 000.00; and
- 29 June 2011 to the amount of R10 468 500.00.

Brig Diko explained that the reasons for the above were two fold, namely the orders during 2011 were not for the same chemicals and the problem of depleted chemicals during 2010 had to be addressed.

- Brig Diko was also requested to explain the apparent drastic escalation in procurement as already referred to above. His explanation in this regard was to the effect that the crime statistics would show the need for the increase.

5.23 We were made aware of several complaints pertaining to the quality of certain of the chemical products received from the supplier. It also appears that e-mail correspondence exist, which is addressed to the CRC management pointing out the problems experienced with certain chemicals, including canisters which have exploded and leaked. Although this aspect does not fall directly within our mandate, we felt it necessary to cursorily canvass it with Brig Diko.

5.24 Brig Diko indicated that the canisters that were bought during 2007 to 2009 worked excellent. During this time only a small quantity of canisters were bought. During 2010 a once off large quantity ("thousands") of canisters were bought. It was then that problems were experienced. Canisters exploded and leaked. Due to the large quantity bought during 2010, no canisters were bought after that. According to Brig Diko investigations were done with regard to the faulty canisters. He did not know the outcome thereof. As a precautionary measure,

special heat resistant bags were bought in which the canisters had to be transported. This, according to him, remedied the problem.

- 5.25 Brig Diko was aware of complaints that some pre-mixes did not work properly and did not give the required results. The supplier was informed of this. The supplier visited the laboratory on the 8<sup>th</sup> floor of the CRC and did sample testing that gave results. It was established that the laboratory technicians were using the pre-mixes incorrectly. A need for further training by the supplier was then identified.

#### The Overstocking of LCRC's

- 5.26 During our investigation and interviews it became apparent that there was an overstock of chemicals at various LCRC's nationally and a need was identified to visit some of the laboratories to familiarise us with the status in this regard.
- 5.27 The LCRC's visited were chosen randomly. The following LCRC's were visited and interviews were held with the persons indicated:
- LCRC, Modimolle – interview with WO Tshitake;
  - LCRC, Kwa-Mhlanga – interview with Capt Motshaisi;
  - LCRC, Brits – interview with WO Matole; and
  - LCRC, Zamdela – interview with WO Le Roux.
- 5.28 The following observations were made:
- At Modimolle chemicals were found that had two different expiry dates indicated on the same item;

- An overstock of chemicals was found at all the LCRC's visited;
- Although the Kwa-Mhlanga Office does not have a laboratory, it received high volumes of chemicals;
- Faulty chemicals were noted at Zamdela that was not removed by the supplier; and
- Comments made by all SAPS staff at the LCRC's were to the effect that they received chemicals that were not requisitioned by them.

5.29 Col Moonsamy from East London was interviewed in Pretoria. He indicated that chemicals were delivered to his laboratory without any requisition having been made there for. He later supplied us with two affidavits confirming same (see **Exhibit 27** and **Exhibit 28**).

5.30 Information regarding the delivery of chemicals to various LCRC's in Gauteng was also sourced. It transpired that in many instances stocks were received without it having been ordered; stores were overstocked and chemicals have expired or are approaching expiry dates; in some instances more than one expiry date appears on the same item; in other instances expiry dates are vague in that it only indicate the year of expiry; and many complaints regarding the quality of certain chemicals and canisters containing chemicals were received.

#### Value Added Tax and price irregularities

5.31 In order to comply with our mandate pertaining to POPCRU's allegation regarding the non-delivery of goods already paid for, we evaluated aspects relating to the terms of National Treasury contract numbers RT152-2009 and RT152-2011,



which constitutes the procurement basis between the FSL (and CRC) and the supplier.

5.32 The most relevant terms that came to the fore were the following:

General Conditions of Contract (GCC):

- Paragraph 16.1: *"The method and conditions of payment to be made to the supplier under this contract shall be specified in SCC (Special Conditions of Contract)"*.
- Paragraph 16.2: *"The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract"*.
- Paragraph 17.1: *"Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustment authorised in SCC or in the purchaser's request for bid validity extension, as the case may be"*.
- Paragraph 18.1: *"No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties concerned"*.
- Paragraph 32.2: *"A local supplier shall be entirely responsible for all taxes, duties, and license fees etc., incurred until delivery of the contracted goods to the purchaser"*.
- Paragraph 32.3: *"No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid the Department must*

*be in possession of a tax clearance certificate, submitted by the bidder. This certificate must be an original issued by the South African Revenue Services”.*

Special Requirements & Conditions of Contract (RT152-2011: 1/7/2011 to 30/6/2013) (SCC):

- Paragraph 6: *“All bid prices must be inclusive of 14% Value Added Tax”.* (Emphasis added).
- Paragraph 7: *“An original and valid tax clearance certificate issued by the South African Revenue Services certifying that the taxes of the bidder are in order must be submitted at the closing date and time of bid. Failure to comply with this condition will invalidate the bid”.*
- Paragraph 13.1.a: *“Prices submitted for this bid will be regarded as non-firm and subject to adjustment(s) in terms of the following formula, defined areas of cost and defined periods of time”.*
- Paragraph 13.1.b: *“Bidders should quote a delivered price”.*
- Paragraph 13.5.a: *“Unless prior approval has been obtained from Contract Management, no adjustment in contract prices will be made”.*
- Paragraph 13.5.b: *“Applications for price adjustment must be accompanied by documentary evidence in support of any adjustment”.*
- Paragraph 14.1.a: *“Delivery of products must be made in accordance with the instructions appearing on the official order form emanating from the above-mentioned institutions placing the orders”.*

- Paragraph 14.1.b: *"All deliveries or dispatches must be accompanied by a delivery note stating the official order number against which the delivery has been effected. No other documents must be attached"*.
- Paragraph 14.1.d: *"The instructions appearing on the official order form regarding supply, dispatch and submission of invoices must be strictly adhered to"*.
- Paragraph 14.1.e: *"All invoices should be delivered/posted to reach the institution that placed the order timeously. The invoices should be original and accompanied by proof of delivery"*.

5.33 A cursory investigation and analysis of the orders, delivery notes and invoices, relevant to the supply of chemicals by the supplier to the SAPS Forensic Services (FSL and CRC), during the period 2011 to 2012, revealed the following serious concerns:

Aspects relevant to VAT

5.34 It is apparent from an evaluation of the GCC and SCC, as referred to above, that the successful bid was awarded on the basis that the stated bid price by the bidder included VAT at the rate of 14%. The supplier's bid documents pertaining to his bids for contracts RT 152-2009 and RT 152-2011 were sourced from the National Treasury (see copy of RT 152-2009 as **Exhibit 29**). The following with regard to the VAT aspect appeared from these documents:

Contract RT 152-2009

- On SBD 1 and SBD 6.1 the supplier furnished a VAT number 4220228636 (see **Exhibit 30**). The tax clearance certificate (TCC) for the period 13 March 2009 to 13 March 2010 that was submitted by the supplier, however, does not contain a VAT number (see **Exhibit 31**).
- On SBD 6.3 the supplier indicated that his total annual turnover is R4 million (see **Exhibit 32**). This in itself is an indication that the entity was compelled to register for VAT, which seemingly (in terms of the TCC) was not the case.
- The list of chemicals indicated in the bid documents (pages 337 to 405) reflects the unit prices as VAT inclusive (see **Exhibit 33**).

Contract RT 152-2011

- On SBD 1 and SBD 6.1 the supplier indicates that VAT registration is pending (see **Exhibit 34**). The TCC for the period 4 May 2010 to 4 May 2011 that was submitted for purposes of this bid, did not reflect a VAT number (see **Exhibit 35**).
- On SBD 6.3 the supplier indicated that his yearly turnover was R5 million (see **Exhibit 36**). We did not peruse orders and invoices for 2009. It was noted that the first order (A284243) was issued on 23 December 2010. However, considering the orders issued by the SAPS from 23 December 2010 to 8 March 2011, it amounted to R4 130 970.00.
- The list of chemicals indicated in the bid documents (pages 259 to 327) reflects the unit prices as VAT inclusive (see samples as **Exhibit**

37). In some instances the word "VAT" was deleted, but in other instances not. It is however unknown who deleted this word as no signatures/initials were inserted at the change/s. It should, however, be reiterated that the SCC's applicable to this bid requires the unit prices to be VAT inclusive.

- In the light of the above and upon evaluation of the payment invoices submitted by the supplier during that period, it is clear that the supplier's unit prices, in correlation with the Contract Circular Report prices quoted (see **Exhibit 26**), as well as the endorsement on the invoices, to wit "Incl VAT" indeed included a VAT component of 14%. Factually therefore, the SAPS, when paying the full total of the supplier's invoices, which was indeed the case, paid the 14% VAT component to the supplier.
- During 2011 and up until June 2012 the supplier was not a registered VAT vendor with SARS, nor did the supplier indicate a VAT registration number on its invoices (see **Exhibit 38**). VAT registration information sourced from SARS confirmed that the supplier was not registered for VAT during the above-mentioned period. It, therefore, seems that the supplier, during that period, irregularly retained the benefit of the 14% VAT component in respect of invoices so paid by the SAPS.
- Further substantiation for the above contentions is to be found in the following:

From a TAX invoice dated 27 July 2012 in respect of order number 0308 to the amount of R94 842.11 in which the supplier clearly indicated that VAT indeed formed part of the price per unit charged, whilst he was not registered as a VAT vendor, it can be concluded that the supplier knowingly acted in contravention of SARS legislation (see **Exhibit 39**). The invoice

pertains to an order that was dated prior to the supplier's VAT registration date of 30 June 2012, to wit 29 June 2011 (see **Annexure B**).

- The facts ascertained thus far and described above are sufficient to constitute a *prima facie* indication that the supplier's conjunctive actions with regards to the quote on the bid unit price (knowing that they are not registered VAT vendors); followed by the submission of numerous invoices which purport to contain a unit price inclusive of VAT; and subsequent to having been paid the full amount, the retaining of the VAT benefit, was, *prima facie*, a fraudulent misrepresentation and/or a potential criminal act of value added tax law evasion.
- A further aspect that raises concern in this regard, but which requires further investigation, is the question as to how it came about that National Treasury and/or the BEC/BAC proceeded under the circumstances to successfully award a bid to a bidder who were clearly at the time of the tender/bid evaluation not a registered VAT vendor. (Paragraph 6 of the SCC appears to create a compulsory VAT vendor obligation in that it requires the VAT component as per **Exhibit 40** and **Exhibit 41**). Even if one were to hypothetically assume that a bidder would not necessarily be disqualified on the basis that it was not registered for VAT, then the question still remains as to why the bidder was potentially awarded a bid without requiring that the irregular 14% VAT component be deducted from the quoted unit price.

#### Aspects relevant to Price and Payment of Invoices

- From the limited investigation conducted into the payment of invoices and the unit prices charged by the supplier, it appears that there was no formal unit price increase or amendment during the period 2011 and 2012. On an information note requesting procurement authority, dated 23 May 2011,

issued by Brig Diko and recommended and approved by Maj Gen Khunou (which appears to be contrary to general policy on segregation of authority), the unit price of two items (out of a total of 30), to wit Aeroprint Blue Oxide and Aerowet were respectively increased from R81.00 and R75.00 to R85.00 and R95.00 (see **Exhibit 42**). It appears that this price adjustment could, therefore, have been effected contrary to the provisions of paragraph 17.1 and paragraph 18.1 of the GCC.

#### Relationship between Crimotech Laboratories and Kriminalistik

- The supplier of chemicals to the SAPS under of the two year National Treasury contract RT 152-2009 was Crimotech Laboratories CC (Crimotech). (It later changed into a company as is shown hereunder). In terms of the two year contract RT 152-2011 Crimotech was the supplier of certain chemicals whilst Kriminalistik CC became the supplier of various other chemicals, which were previously supplied by Crimotech under contract RT 152-2009. It furthermore came to our knowledge that Kriminalistik changed ownership during 2013, prior to the opening of the bidding for the new contract RT 152-2013.
- As a result of the relationship (as is pointed out hereunder) between Crimotech in both its forms and Kriminalistik before and after it changed ownership, the concern is that possible collusion in the tender processes may have taken place between the role players and that this merits further investigation. The facts pertaining to this concern appears from, among others, the following profiling that was done from CIPC information:

Name : Crimotech Laboratories CC  
Registration number: 2009/ 036969/ 23

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Registration date : 26 February 2009  
Members : Deale, Johan Henry, ID 590904 5033 088  
Komodolowicz, Jolanta Regina,  
ID 740519 0859 185  
(Ms Komodolowicz's membership started  
on 30/01/2012)  
Address : Midas Avenue 20/2  
Tweefontein 61  
Bronkhorstspuit  
1020

Name : Crimetech Laboratories (Pty) Ltd  
Registration number: 2012/ 068960/ 07  
Registration date : 16 April 2012  
Directors : Deale, Johan Henry, ID 590904 5033 088  
Komodolowicz, Jolanta Regina,  
ID 740519 0859 185  
Address : Plot 20  
Midas Avenue  
Olympus  
Pretoria East  
0081

Ms Komodolowicz, resigned from Kriminalistik during 7 February 2013.  
Kriminalistik's profile is as follows:

(see **Exhibit 43**)

Name : Kriminalistik  
Registration number : 2009/ 027418/ 23  
Registration date : 12 February 2009



Members : Dlugosz, Karolina Ewelina, ID 930725 1133 187  
(Ms Dlugosz became member on 7/02/2013)  
Address : 3B Player Street  
Silver lakes  
Pretoria  
0081

(see **Exhibit 44**)

Ms Dlugosz is the daughter of Ms Komodolowicz. National Treasury contract RT 152-2011 reflects that Crimotech and Kriminalistik provided the same contact details, to wit:

Crimotech Laboratories CC	Fax (012) 991 2131
Kriminalistik CC	Tel (012) 991 2131

(see **Exhibit 45**)

5.35 Additional documentation perused also indicates that the details provided on a test result issued by Crimotech and a quotation issued by Kriminalistik, with Ms Dlugosz as member, were the same, to wit (see **Exhibit 46**):

	<u>Crimotech Laboratories</u>	<u>Kriminalistik</u>
Physical address :	Plot 20 Midas Avenue Olympus Pretoria East	Plot 20 Midas Avenue Olympus Pretoria East
Postal address :	PO Box 2608 Faerie Glen Pretoria	PO Box 2608 Faerie Glen

South Africa  
0043

Tel : 012 940 8156 012 940 8156

- 5.36 It was also noted that on a quotation dated 14 March 2013 submitted by Kriminalistik, the registration numbers of both Crimotech and Kriminalistik are reflected, which in the absence of proof of an error, constitutes a misrepresentation (see **Exhibit 47**). At the time of our investigation, the confirmation of payment of this quotation, was outstanding.
- 5.37 In the declaration of interest (SBD 4, paragraph 2.11) that accompanied the abovementioned quotation it is declared that Ms Dlugosz, as member of Kriminalistik, does not have "*any interest in any other related companies whether or not they are bidding for this contract*" (see **Exhibit 48**).
- 5.38 It further appears that Ms Komodolowicz and Mr Deale were, during 2010, members of the following entity:

Name : Komodealowicz Technologies CC  
Registration number : 2010/ 076674/ 23  
Registration date : 27 May 2010  
Members : Deale, Johan Henry, ID 590904 5033 088  
Komodolowicz, Jolanta Regina,  
ID 740519 0859 185  
Address : Network Complex 3A  
Cnr of Eddeson and Bell Street  
Henospark  
0157

(see **Exhibit 49**)

South African Police Service



Suid-Afrikaanse Polisie

Private Bag  
Privaatsak

X94 Pretoria

Fax No:  
Faks No: (012) 393-7209

Your reference/U verwysing:

My reference/My verwysing: 4/19/1

Enquiries/Navrae: Maj Gen Makubo  
Colonel Luyt

Tel: (012) 393 4332/7134

THE DIVISIONAL COMMISSIONER  
HUMAN RESOURCE MANAGEMENT  
SOUTH AFRICAN POLICE SERVICE  
PRETORIA  
0001

Mr N Theledi  
Police and Prisons Civil Rights Union  
1 Marie Road  
Auckland Park  
**JOHANNESBURG**  
2000

### INVESTIGATION OF ALLEGATIONS BY POPCRU: FORENSIC SCIENCE SERVICES

The above matter refers.

Your office has requested a copy of page 74 of the above mentioned report.

Advocate Van Nieuwenhuys, a Director at CPN Forensic & Accounting Services, the Company which conducted the investigation and compiled the report, has since confirmed that the above mentioned report does not have a page 74 (see attached copy).

The report in your possession is therefore a complete investigation as done by the Company.

As previously agreed, your inputs / comments regarding the report are therefore expected as soon as possible, but not later than next week Thursday, 2015-12-10.

We hope you find the above in order.

L. Ntshiea  
DIVISIONAL COMMISSIONER: HUMAN RESOURCE MANAGEMENT  
L NTSHIEA

LIEUTENANT GENERAL  
HUMAN RESOURCE MANAGEMENT

Date: 2015:12:03

**6. Procurement irregularities: Eastern Cape Information**

Introduction and background

- 6.1 POPCRU alleged that a Pretoria based official acknowledged receipt of goods received in the Eastern Cape. Due to the vagueness of the allegation, POPCRU was requested for more particulars.

Summary of facts

- 6.2 POPCRU indicated that Col Moonsamy of the East London LCRC would be able to provide information in this regard. Col Moonsamy was interviewed with regard to this allegation and he indicated that he has no knowledge of this matter.
- 6.3 In the light thereof that no other information has been forthcoming that would enable an investigation into the allegation, this allegation was not further investigated.

**7. Human Resource: Fraud case (CAS 1519/03/2011)**

Introduction and background

- 7.1 It was alleged that senior SAPS managers attended the fraud case of Lt Col Moorghia-Pillay without authorisation or approved annual leave. In addition no disciplinary action was instituted against the said employee accused of committing fraud against the SAPS.
- 7.2 Reference is hereunder made to ranks at the time of the alleged incidents.
- Summary of facts
- 7.3 An incident was reported by the Div Comm of Training, G.J. Kruser, to the Div Comm, National Inspectorate, according to a letter dated 4 June 2009 compiled by Div Comm, MJ Rasegatla. It was requested that the National Inspectorate enquire about an event that took place at the Pretoria West Training Institution.
- 7.4 Lt Genl Kruser wrote in a letter dated 29 May 2009 that he received numerous complaints regarding an event that was held at the Training Facility on 29 May 2009. The complaints revolved around the loud music from the SAPS band and other loud noise emanating from where the event took place. The event took place during working hours and caused disruption to various meetings and other functions according to the contents of the letter. Lt Genl Kruser requested an independent investigation into the occurrences on the specific day (see **Exhibit 50**).
- 7.5 It was reported by the Section Head of the National Inspectorate, Director H.C. van Zyl in a letter dated 2 June 2009 that an enquiry was made into the intention,

arrangement, procurement procedure, financial authorisation and the actual event that took place on 29 May 2009 at the East Hall of the Pretoria West Training Institution, after it was reported to the National Inspectorate on 1 June 2009. The report included the following information:

- A written application was made by Capt Moorghia-Pillay, the Staff Officer of the Div Comm: Personnel Services, Div Comm Phahlane, to the Training Institution for a personnel services work session;
- Capt Moorghia-Pillay explained verbally that it was a special event and that a special breakfast was required for 50 attendees;
- A quotation for R190.00 per attendee was provided by Capt Matthee;
- The detail of members at the Personnel Services Division who were involved with the financial authorisation process:
  - Capt Moorghia-Pillay submitted an application for the financial authorisation for the work session to be held on 29 May 2009 supported by a quotation in the amount of R9 500.00;
  - Senior-Superintendent Reddy approved the application;
  - Director Stratford also approved the application;
- Attached to the application referred to above, was an agenda and a name list of personnel that were to attend the meeting on 29 May 2009;
- The purpose of the meeting on the agenda was reflected as "Feedback on visits to Provinces and Divisions";

- The commencement time was scheduled for 7h30 to 8h00 and lunch was scheduled for 13h00 to 14h00;
- *"That it was never the intention of Capt Moorghia-Pillay to arrange a work session and her intention was to arrange a breakfast to celebrate the birthday of the Divisional Commissioner Phahlane which is evident from the following:"*
  - The SAPS band was booked for the event from 08h00 to 10h00.
  - The band was asked to play the *"Happy Birthday"* song.
  - Music was provided throughout the event.
  - Various speakers at the event congratulated Div Comm Phahlane with his birthday.
  - No minutes of the meeting were available and no feedback was given in accordance with the agenda.
  - Director Malebe-Thema was responsible for setting the round tables at the venue the evening before the event.
  - All cutlery, tablecloths and other decorations were provided by employees of the Personnel Services Division.
  - Tables were set for a breakfast and not for a work session.
  - A birthday cake was also provided by the employees of Personnel Services Division.
  - The event finished at about 11h00 after which members left the venue.

- In conclusion it was stated that although the correct financial procurement procedures were followed, it was done *"under false pretences"*.
- 7.6 Director van Zyl further stated in his report dated 25 May 2009 (see **Exhibit 51**) that *"it was his personal view that this incident and expenditure was no different from other expenditure that Divisions at Head Office incur when workshops over a period of 2 or 3 days, were held at private game lodges and other luxury facilities. It was common knowledge that events such as game drives were provided by these venues which were included in the negotiated prices"*.
- 7.7 It was recommended by Director van Zyl that the incident be discussed in order to determine whether further investigation into the incident and similar incidents were necessary. Director van Zyl further submitted documentation relevant to the event as was noted in a letter dated 8 June 2009 (see **Exhibit 52**).
- 7.8 In a letter dated 18 June 2009, Div Comm Rasegatla notified the Div Comm: Personnel Services that an investigation has been instituted emanating from an enquiry relevant to the nature and authorisation of an event held on 29 May 2009 at the SAPS Training College (see **Exhibit 53**). It was stated that Director van Zyl was appointed to investigate the preceding administration and authorisation of the said event and it was requested that the employees who were involved in same, needed to be served with notices of the departmental investigation. These employees included Director Stratford, Senior-Superintendent Reddy and Capt Moorghia-Pillay. It was also requested that the copies of return of services of the notices, be forwarded to Director van Zyl by 18 June 2009.



- 7.9 From an email dated 18 October 2010 addressed to Genl Booysen, it was noted that Lt Genl Dramat had stated that Col Naidoo was appointed to assist the Office of Div Comm Rasegatla with an investigation into above mentioned events (see **Exhibit 54**).
- 7.10 In a letter dated 12 May 2011 and addressed to the Deputy National Commissioner, Directorate of Priority Crimes Investigation, the writer of same, Col Naidu (sic), stated that CAS 1519/03/2011 related to alleged fraud committed by two members, being Lt Col Moorghia-Pillay and (former) Brig Malebe-Thema was opened (see **Exhibit 55**).
- 7.11 According to an information note dated 29 May 2012, Lt Genl Phahlane stated that he became aware of rumours regarding an investigation into the event that took place on 29 May 2009. Nothing happened relevant to same until the arrest of the two members (see **Exhibit 56**).
- 7.12 Lt Col Moorghia-Pillay and Brig Malebe-Thema were arrested on 11 May 2011 and granted bail in the amount of R1 000.00 each. They appeared in the Regional Court and were acquitted in terms of section 174 of Act 51 of 1977 on 18 June 2012 (see **Exhibit 57**).
- 7.13 We were informed by the legal representative of the two members, that they are considering civil action against the SAPS relevant to their arrest.

CAS 1519/03/2011

- 7.14 Col Naidu from the Directorate of Priority Crimes Investigation Unit was appointed as the investigating officer of the SAPS.
- 7.15 It was alleged that the two accused, Lt Col Moorghia-Pillay and former Brig Malebe-Thema committed fraud.
- 7.16 Col Naidu reported to the Deputy National Commissioner, Directorate of Priority Crimes Investigation Unit in a letter dated 12 May 2011 (see **Exhibit 55**), that the investigation related to an allegation of the abuse of government funds which were utilised to host a private birthday party for Lt Genl Phahlane who at the time of the alleged offence was the Divisional Commissioner for Personnel Services. According to Col Naidu's letter the application for financial authority was disguised as though a workshop was to be arranged for a feedback session on visits to Provinces and Divisions.
- 7.17 According to Col Naidu it was alleged that during May 2009, Lt Col Moorghia-Pillay, the staff officer to Lt Genl Phahlane, approached the Pretoria West Police Training Institution to secure a venue for 29 May 2009 for a function. After securing the facility, she met with officials of the college to discuss the breakfast arrangements and she mentioned it was a special function and therefore a special menu was required. The cost of the menu was R190.00 per person.
- 7.18 We sourced copies of the case docket and the J15 charge sheet (Case 14/00759/2011) and perused the contents thereof.

Disciplinary action against the two arrested members

- 7.19 We consulted with Brig Mmolawa on 5 June 2013 regarding the lack of institution of disciplinary action against the two arrested members. She alleged that she was not made aware of the arrests although she is the Section Head and the investigating officer of the case did not inform her regarding same. He did not exchange information nor did he provide feedback subsequent to the arrests. She however confirmed that in terms of standard procedure, upon receiving information regarding the arrest of a member, a disciplinary process / procedure must be instituted.
- 7.20 Lt Genl Phahlane stated in the information note dated 10 July 2012, that the investigation and subsequent arrest and trial of the two members were malicious and aimed at attacking the integrity of himself. He informed the National Commissioner that there will be no departmental steps taken against Lt Col Moorghia-Pillay. At the same time he requested the National Commissioner to make a decision relevant to same. Brig Malebe-Thema resigned in the interim (see **Exhibit 58**).

## 8. Human Resources: Irregular payments

### Introduction and background

- 8.1 POPCRU alleged that WO Mohlala and "Nkhodi" were receiving scarce skills allowances, notwithstanding that they only had three months service and that the relevant policy stipulates that a member must complete a five year period before qualifying for such an allowance. Further, it was alleged that Major Gen Shezi is receiving scarce skills allowance despite being in "Support Services" and not being regarded as an expert. It was further alleged that WO Bafana (later identified as WO Nhlapo) was receiving a scarce skills allowance despite being insufficiently qualified.
- 8.2 The relevant policy regulating this particular aspect is to be found in Circular 4/2/1 dated 2006/11/13 and Circular 4/2/1 dated 2007/01/24 (with reference to the interim measures on scarce skills through intervention by the National Commissioner) (see **Exhibit 59**). A scarce skills policy was finalised by the SAPS on 30 September 2004 (see **Exhibit 60**). A task team was established and a detailed report was drawn up and recommendations were forwarded to the Minister for Safety and Security. For purposes of our investigation herein we however did not have access or insight into last-mentioned documentation.
- WO Mohlala
- 8.3 As a departure point, we sourced Persap information relating to potential payments to this member in respect of scarce skills allowance since appointment in the SAPS (see **Exhibit 61**). The information obtained from SAPS Head Office: Allowance Section revealed that this member had not received any scarce skills

allowance as afore said (see **Exhibit 62**). In light hereof it is apparent that POPCRU's allegation in this regard is without substance.

Mr Nkgodi

- 8.4 It is important to note that subsequent to initial misconception regarding the spelling of the relevant person's name, created by the reference in POPCRU's letter, we managed to ascertain that the person being referred to, was in fact K E Nkgodi after some delay was experienced. We lodged certain requests to SAPS National regarding potential scarce skills payment information regarding the said individual. We received a copy of correspondence application for scarce skills allowance from Col Du Toit (QDU) to The Head: Forensic Science Laboratory, as well as forwarding correspondence of the said application from Col Moonsamy to the National Commissioner: SAPS Allowance Section, dated respectively 30 June 2011 and 19 July 2011. Last mentioned further contained a submission that the member qualifies for a scarce skills allowance as an Auxiliary Services Officer as from 28 May 2008 due to "*three years' experience calculated as from 28 May 2008 until 28 May 2011*".
- 8.5 Attached to the said application was the following:
- Scare Skills agreement between the member and the SAPS, dated 26 July 2011. The agreement *inter alia* stated that he "*will receive the allowance as long as he is utilised as an Assistant Analyst in the Unit/Component identified in the scarce skills strategy*" (Note: The agreement was only signed by the SAPS (Maj Genl Ngokha) on 26 July 2011, approximately one week after the application was already forwarded to the National Commissioner: Allowance Section. The member however signed on 30 June 2011 (see **Exhibit 63**).

- Scarce Skills Allowance Certificate (see **Exhibit 64**), dated 30 June 2011, wherein the member certified with his signature that he comply with the criteria for the payment of scarce skills allowance as set out in Circular 4/2/1 dated 2006/11/13 and Circular 4/2/1 dated 2007/01/24 and that he works as an Assistant Analyst at the "*marked occupational categorie (sic)*", which category according to the table reflected on the document was marked as "*Questioned Documents Unit*". The member's Commander, Col Du Toit, in the Commander's certification section, indicated that the member is working as an "*Auxiliary Services Officer*".
- The member's job description, which *inter alia* confirms that the member's job title is Specialised Auxiliary Services Officer (Laboratory Assistant) (see **Exhibit 65**). Interestingly, the only reference relating to a potential technical skill that could possibly justify as a scarce skill component was a reference under item 7 – "*Tasks*" which stated "*perform analysis by using applicable instrumentation*". The member appears to perform "*assistant*" type services and it is debatable whether this type of service will qualify as a scarce skill. This job description in itself does not render a definition to scarce skill/s.
- Qualification documentation (1998) and Senior Certificate and statement (1996) of member (see **Exhibit 66**). The qualification relates to a certificate in respect of a course in fundamentals of computing. It is therefore apparent that the member may not have possessed a "*recognised qualification*" for the payment of the scarce skills allowance, as referred to in paragraph 1.2 of Circular 4/2/1 dated 24/01/2007 and paragraph 5.2 of Circular 4/2/1 dated 13/11/2006.

8.6 Notwithstanding the question mark over the validity of the member's recognised qualification and his "*assistant status*" as above, another issue of concern is the fact that the qualification for the allowance in this case appears to be based on the three years' experience principle as per paragraph 2.1 of Circular 4/2/1 dated 24/01/2007 and paragraph 5.2 of Circular dated 13/11/2006. This consideration appears to be incorrectly applied, as it is apparent that the criteria of respectively paragraph 2.2 and 5.3 of the Circulars were in fact applicable instead. Last mentioned *inter alia* states that "*if a member does not have a relevant qualification, he/she must have at least five (5) years' service within the employee category which possess scarce skills in order for the member to acquire the necessary competencies*". The above-mentioned factor creates a debatable scenario as to whether the member should have in fact qualified for the allowance as at July 2011 (see **Exhibit 67**).

8.7 What need to be borne in mind with regards to the qualification and categorising of scarce skills are the contents of paragraphs 7, 8 and 9 of Circular 4/2/1 dated 13/11/2006. In this regard we were not able to ascertain exactly what is defined as "*support functions*", what type of "*internal training*" qualifies and whether subsequent scarce skills occupations reviews (conducted every 24 months) may have amended or advanced the policy on these issues. We did not have access to such further records and it can therefore not be excluded that the content of such records may have an influence on our current findings which is based on the policy position as at 2006.

Major Gen Shezi

8.8 We ascertained that Maj Genl Shezi (in the rank of Snr Supt at the time) entered into a scarce skills agreement with the SAPS on 15 December 2006, during a time

when she was allegedly a "Control Forensic Analyst" at the FSL (see **Exhibit 68**). In terms hereof she received a monthly allowance of R1 500.00. The agreement *inter alia* stated that she "will receive the allowance as long as she is utilised as a Quality Manager in the Unit/Component identified in the scarce skills strategy". We further obtained another document, titled "Scarce skills Allowance" (certificate) and which contains certification paragraphs both for the member as well as the Commander. In terms of last-mentioned both Maj Genl Shezi and Brig Gouws certified with their signature that the member complied with the criteria for the payment of scarce skills allowance as set out in Circular 4/2/1 dated 2006/11/13 and Circular 4/2/1 dated 2007/01/24 (see **Exhibit 69**). It was further certified that she had been working as a "Control Forensic Analyst" at the above "marked occupational categorie (sic)" with effect from 1 July 1996. The marked occupational category (in terms of scarce skills) were endorsed as "Specialised Support TQM & SHE".

- 8.9 The endorsement was applied in handwriting in an empty block whilst all the other occupational categories were typed onto the category table. There was no provision made for "Specialised Support TQM & SHE" in the table of recognised occupational categories, as per Circular 4/2/1, dated 13/11/2006, under paragraph 4.1. Last-mentioned fact raises suspicion in terms of whether the occupational category indeed qualified as a scarce skills category at the time. The certification document was signed and dated 24 June 2009, approximately two and a half years subsequent to the agreement. We have not ascertained the reason for afore said document only been signed and completed in 2009.
- 8.10 What did become apparent during evaluation of information received from SAPS Head Office: Allowance Section was the fact that the current Maj Genl Shezi, upon her previous promotion from the rank of Col to Brig, effectively as from 1



June 2011, no longer received any scarce skills allowance payments (see **Exhibit 70**) The reason for this was the fact that she no longer qualified for the allowance as a result of the fact that she then fell within the SMS (Senior Management Services) category, which category is excluded from receiving the allowance as per the provisions of paragraph 4 of the Circular dated 24/01/2007. The payments were therefore appropriately ceased as from June 2011.

- 8.11 In light of the above it needs to be noted that POPCRU's allegations, dated 25 June 2012, in this regard created the impression, by using present tense, that Maj Genl Shezi was still receiving the allowance at the time of the allegations. Last mentioned fact was refuted by the findings recorded in the prior paragraph.
- 8.12 A cursory investigation into Major Gen Shezi's SAPS career background and her qualifications revealed that she does appear to *inter alia* possess a tertiary education BSC university degree. Whether the "*Support Services*" she served under during the period when she received the allowance is to be considered a scarce skills category is once again an issue of determination.
- 8.13 We did not investigate the POPCRU allegation that Major Gen Shezi is not to be considered an "*Expert*", as we were not required to do so. Last-mentioned is an exercise that the SAPS should perform with reference to specific policy *inter alia* contained in Policy 3/2003 and Policy 4/2003.

WO Nhlapo (Bafana)

- 8.14 We sourced Persap information relating to potential payments to this member in respect of scarce skills allowance since appointment in the SAPS. The information obtained from SAPS Head Office (see **Exhibit 71**): Allowance Section revealed that this member had not received any scarce skills allowance as afore said (see **Exhibit 72**). In light hereof it is apparent that POPCRU's allegation in this regard is without substance.

WO Ramalepe

- 8.15 We have noted from the POPCRU letter that WO Ramalepe has lodged a grievance for not having received a scarce skills allowance. The grievance procedure is an internal matter that has to be conducted according to certain prescripts.

**9. Human Resources: Irregular appointments**

Introduction and background

9.1 POPCRU alleged that the following members were irregularly appointed in their posts:

- Col Daku
- Col M van der Hammen
- Brig Morapedi
- Lt Col Mashabela
- WO Bafana (Nhlapo)
- Brig Mmolawa
- Brig de Wit

9.2 As part of the allegations pertaining to the aforementioned appointments, it is alleged that *"(a)n african female and a white one (both are Brigadiers) employed at FSL ..... have been impregnated by the Acting National Commissioner and that they both have kids out of this relationship"*

Summary of facts

Col Daku

9.3 Col Daku (previously Capt), applied for Post FS 132/2011, Col: Forensic Science Laboratory: Questioned Documents, Eastern Cape.

- 9.4 As a result of a pending arbitration with the SSSBC, where the second shortlisted candidate during the evaluation process is advancing a dispute, our access to the relevant selection and appointment documentation (specifically the record of the panel proceedings and its constitution) was limited. Our investigation was based on the documentation made available to us (see **Exhibit 73**).
- 9.5 The said post was advertised internally as a vacant post, during July 2011, as an appointment position in terms of National Instruction 6/2005 (Post levels 1 to 12).

The effect and applicability of National Instructions 6/2005 and 2/2008:

- 9.6 It was noted that the utilisation of National Instruction 6/2005 (see **Exhibit 74**), for purposes of appointments to a vacant post in the service, as a consequence, negates adherence to the more strict prerequisites for advancement in rank/level/band contained in National Instruction 2/2008 (see **Exhibit 75**) (Grade Progression and Promotion of Employees of the Service Post Levels 2 to 12 and Bands A to MMS). More specifically section 4 under sub-section 6(d) provides that *"An employee may only apply for promotion to a post at the next higher level or band. Ranks, levels or bands may not be skipped"*. (Under sub-section 5, the levels and bands are defined in more detail).
- 9.7 It is apparent that SAPS Human Resources, therefore, when assessing an appointment to a vacant post in terms of the provisions of National Instruction 6/2005, considered the requirements in terms of National Instruction 2/2008 as non-applicable, as a result of the interpretation of the following words as per section 2, definitions: *"Applicant" means any person who applies for a vacant*

*post at levels 1 – 12” and “Appointment’ means the appointment of a person in a post, but excludes the appointment of a person as a result of a promotion or lateral transfer”.*

- 9.8 Capt Daku’s appointment to the rank of Col (MMS Band) effectively resulted in the skipping of two ranks, to wit those of Major and Lieutenant Colonel, under circumstances where Capt Daku historically (the preceding cycle of promotion) also appeared to have skipped ranks from Sergeant to Capt. Effectively, upon his appointment as Col in the relevant post on 1 December 2011, Col Daku has progressed from the rank of Sgt to that of Col in a mere 9 years. This is based on the available information as per Persap and the fact that we could not locate any indication of a fast tracking element in terms of the current appointment (see **Exhibit 76**).
- 9.9 In addition to the allegation discussed above, it was also alleged that Col. Daku, even though having accepted the relevant appointment in the Eastern Cape, never physically took up the post and remained within the Forensic Services Division in Pretoria. We were not provided with any documentation that could be evaluated in order to substantiate or refute this allegation and the reason for the aforementioned. Col Daku is indeed still serving in Pretoria and did not transfer to the Eastern Cape. This fact, on face value, appears to be irregular and it is unknown at the time of drafting of this report whether a post was created for him in order to circumvent the appointment and whether potentially another alternative appointment were made relevant to the Eastern Cape Division.

Col van der Hammen

- 9.10 It was established that Col van der Hammen *inter alia* also applied for post number 11062329 in terms of which the successful candidate was Brig Morapedi. Brig Morapedi's appointment is discussed separately in this report. The allegation however appears to relate to Col van der Hammen's permanent redeployment and placement in Kwazulu Natal at the Forensic Science Laboratory: QDU. According to Brig de Wit, Col van der Hammen requested the lateral transfer and further based on a management decision to utilise his expert skills in Kwazulu Natal, it was decided to effect the transfer (see **Exhibit 77**).

Brig Morapedi

- 9.11 The following became apparent during the evaluation of the appointment application documentation relating to the appointment of Brig Morapedi, in the position as Section Head: Questioned Documents: Division: Forensic Services:
- Her formal application document was completed in respect of an application for post number 11052280 (Section Commander: Evidence Recovery Laboratory) and no application documentation were provided initially relating to the actual post in which she was appointed, it being post number 11062329 (Section Head: Questioned Documents) (see **Exhibit 78**).
  - We however later obtained the correct application form for post 11062329 (see **Exhibit 79**).
  - Inspection of the panel assessment and short listing documentation revealed, under an attached list of "*Rejected Candidates*", that her application under post number 11062329 was rejected, for reason "*CV not*" ^

*attached, only copies of qualifications*" (see **Exhibit 80**). There are no written indications in the documentation as to how it came about, subsequent to her being disqualified that her application could have been re-submitted for consideration and there appears to be no explanation/reason recorded for the aforementioned. ^

- The minutes/records of the panel assessment appears lacking in respect of details and/or attached documentation relating to *inter alia* the individual candidate scoring and evaluation process followed in testing candidates against the core functions, inherent requirements of the job and required/appropriate past experience. ^
- It was noted on the CV of Brig Morapedi, referred to above, that she indicated at the qualifications section of her CV, that she had not completed her M.Tech Forensic Investigation degree successfully at the time, based on a clear endorsement "*Dissertation (Outstanding)*" which was made next to this reference. At the shortlisting detail column of Brig Morapedi, attached to the panel assessment minutes/records, the panel, under her qualifications column, appeared to have factually ascribed the degree of M.Tech: Forensic Investigation to her qualifications. If she was therefore assessed under this incorrect assumption, last-mentioned error in itself would have compromised the substantive correctness of her assessment for the appointment. }

^ 9.12 A further aspect of concern was the fact that, according to the employment records and CV of Brig Morapedi and at the time of her assessment, she only completed a service term, under the rank of Col (previously Snr Supt), for a period

less than two years. The advertisement in terms of which this position was advertised, required a minimum of three years appropriate managerial experience. There was no indication on the panel minutes/records as to how the panel dealt with her applicable 'appropriate' managerial experience.

- 9.13 It was noted that under paragraph two of the panel assessment minutes dated 12 August 2011 that Lt Genl Moonoo was not present for the assessment process due to unforeseen circumstances (see **Exhibit 81**). No further comments were noted in relation to this aspect. This raises concern in respect of the procedural regularity of the process in that it appears that the provisions of section 5 (9) and 5 (10) could have been contravened. Subsection 9 requires that the selection process should be suspended and only be continued upon the return of a panel member who had to be excused temporarily during any stage of the selection process. Subsection 10 provides that if a member of the selection panel, for whatever reason, cannot continue with his/her functions, the chairperson must – if there are at least still 3 members left, continue with the selection process without the said panel member. ^
- 9.14 Although it is apparent that there were still 3 panel members remaining at that point in time, the concern is vested in the fact that no recording was made by the chairperson as to whether the absence of Lt Genl Moonoo was of a temporarily or permanent nature. In fact, it is unclear whether Lt Genl Moonoo was for any reason in a position where he "cannot continue" with his functions. Last mentioned were in our opinion irregularly not recorded and it is clear that due to the strict nature of compliance with these procedure, it is expected that last mentioned facts be properly recorded. It is clear that Lt Genl Moonoo already formed part of the selection process having regard to his involvement in the short listing of candidates performed on 1 August 2011. It appears that the



chairperson, upon of becoming aware of the absence of Lt Genl Moonoo, should have suspended the process and continued with same upon establishing facts relevant to the return of the panel member to the process. ^

- 9.15 The post was relevant to an *appointment* process in terms of National Instruction 4/2010 (levels 13 to 15). Section 7(1) of National Instruction 2/2005: Advertising of posts did not apply, due to the fact that the post was a SMS post, which did not require to be advertised for *promotion* purposes nationally (see **Exhibit 82**).
- 9.16 Section 4(1)(a) of National Instruction 4/2010 states that: "*If a post is advertised internally on any of the salary levels 13 to 15, an applicant may only be considered for the post if he or she – has a minimum period of (3) three years uninterrupted service in the Service on the salary level which immediately precedes the salary level on which the post has been advertised, or ....*" (see **Exhibit 83**)
- 9.17 Section 4(2)(a) of National Instruction 4/2010 states that: "*If a post is advertised externally on any of the salary levels 13 to 15, an applicant may only be considered for the post if he or she has a minimum period of three years appropriate managerial experience;*"
- 9.18 The issue becomes somewhat problematic when a post is advertised both internally and externally, as interpretation of the policy is then required in order to determine whether the requirements of Section 4(1)(a) will still be applicable upon an applicant who applies from within the service (such as Brig Morapedi at that point in time). Upon a face value and logical interpretation, it would appear

that section 4(1)(a) must have been included into policy by the policy writers for a "reason". One can only assume that this reason was to probably avoid unwarranted and premature rank skipping or progressions in the SMS component between levels 13 to 15 by candidates who factually did not complete an acceptable period of experience on a high management level and thereby creating a flood of unacceptable applications from applicants who have not yet justified their management competence through actual experience obtained through service. Naturally, for obvious reasons, this higher level of management should not be allowed to become "top heavy". The provision made in the policy to advertise the appointments externally, inter alia, must surely be to enable the SAPS to fill high management posts, by appointment of suitable external candidates, in the event that the internal pool of applicants are either unsuitable, insufficiently qualified or lacking the required period of experience.

- 9.19 Surely the policy did not have in mind a scenario where section 4(1)(a), in as far as an internal applicant is concerned, should suddenly loses its application and function, for the sole reason that a post is advertised both internally and externally and therefore the interpretation of section 4(2)(a) replaces the requirements of section 4(1)(a) also in as far as an internal applicant for the same post is concerned. What was the purpose of section 4(1)(a) then in the first place? We are of the opinion that in these scenarios, section 4(1)(a) remains applicable on internal candidates and section 4(2)(a) on external applicants.
- 9.20 If it is determined that the above interpretation of the policy is correct, then Brig Morapedi should have been disqualified from the appointment to the post (rank of Brig) as she only had factual experience of service in the post of Col for approximately 2 years at the time of applying for the post of Brigadier.

Lt Col Mashabela

9.21 We obtained the following documentation:

- Information Note 21/1/2/2/6073 dated 17 February 2011 issued by Maj Genl Ngokha and recommended by Genl Phahlane. This document, inter alia, requested approval for proceeding with preparatory work and capacity building and decentralisation of the QDU Kwazulu Natal (KZN) Regional Laboratory from 1 May 2011; attending, by Brig Mothoa in consultation with Lt Col Mashabela, to the purchase of furniture, renovations and alterations on the building and implementing of laboratory equipment and safes (see **Exhibit 84**); and
- Correspondence, dated 8 April 2011 from Brig Mothoa to Maj Genl Ngokha, seeking approval for the KZN pre-visit, by Lt Col Mashabela and Lt Col Ramolobe and as well as transport and accommodation requirements. Maj Genl Ngokha approved same, except for requiring that only one member, Lt Col Mashabela, should initially attend to same (see **Exhibit 85**).

9.22 We further consulted both Lt Col Mashabela and Brig Mothoa, Section Head: QDU Pretoria. Lt Col Mashabela stated the following during a consultation that:

- He confirmed instructions as per the Information Note and correspondence quoted above, regarding his visit to KZN for purposes of attending to the setting up of the QDU;
- He indicated that Brig Mothoa created, verbally, an expectation with him that, once the capacity building work had been completed, he will be appointed to head the relevant unit in KZN;

- He confirmed that Col van der Hamman was later laterally transferred to head the relevant section in KZN via application under post 154/2011;
- He indicated that he did not apply for the post referred to above as due to reasons relevant to his family, it was not personally suitable for him to move to KZN;

9.23 It became apparent that Lt Col Mashabela's grievance in this matter was not truly related to the filling of the post, but in fact related to subsistence allowance monies which he claimed he was not paid by the SAPS during his temporary employment in KZN and to which he was in fact entitled. He indicated that he was not paid the daily allowance as reflected per a letter dated 23 March 2011 (see **Exhibit 86**). We however did not investigate his grievance as it did not form part of our current mandate.

9.24 We conducted a telephonic interview with Brig Mothoa, due to his illness and having being on sick leave for quite some time. In summary, Brig Mothoa confirmed the following:

- He was aware of the matter relating to Lt Col Mashabela being tasked to travel and take up office to establish the QDU in KZN;
- He confirmed that Lt Col Mashabela was chosen due to his knowledge and skill within the QDU;
- At no stage were any promises or guarantees made to Lt Col Mashabela that he would be appointed should such a post as Commander of the QDU KZN be advertised;

- He emphasised the temporary nature of Lt Col Mashabela's assignment at the time and the fact that, according to him, Lt Col Mashabela was well aware of same. Furthermore, he stressed the fact that any such alleged promise or expectation will be contrary to policy and a member should know that such expectation cannot be executed.

9.25 Lt Col Mashabela, by own admission, declined to formally apply for the position under Post 154/2011, which fact is indicative that he could not have had any personal commitment or expectation to filling the post.

WO Nhlapo (Bafana)

9.26 It was established that the "Bafana" member referred to in the POPCRU letter is WO Nhlapo, previously the Provisioning Administration Officer who applied for post FS 144/2011, Forensic Services: Quality Management: Arcadia. Four posts were advertised at the time.

9.27 The said post was advertised internally as a vacant post, during July 2011, as an appointment position in terms of National Instruction 6/2005 (Post levels 1 to 12). In this regard reference made to the dissertation relevant to NI 6/2005 and NI 2/2008 as per the findings set out under the appointment of Col. Daku.

9.28 Four posts were to be filled in terms of an advertisement. We could not find any apparent irregularities with regards to the procedure followed, panel constitution or the evaluation process. Subsequent to the panel evaluation, three candidates (five were shortlisted) were recommended for the filling of three of the four posts.

9.29 In as far as WO Nhlapo is concerned, he accepted appointment to the post effective as from 1 November 2011. The allegation made by POPCRU relevant to the appointment of W/O Nhlapo appears to be unfounded (see **Exhibit 87**).

Brig Mmolawa

9.30 We evaluated documentation provided to us relating to the appointment of Brig Mmolawa under post 10/08/10082172. The following became apparent:

- The appointment was processed in terms of the provisions of National Instruction 4/2010. The post was advertised internally and externally and therefore appeared to have resulted in an interpretation of appropriate managerial experience in exclusion of the provisions of Section 4(1)(a) of NI 4/2010 (see **Exhibit 88**);
- The selection panel appeared to have been properly constituted and consisted of Lt Genl Phahlane (Chairperson), Maj Genl Ngokha, Maj Genl Mbele, Maj Genl Piepār and Maj Genl Mofomme. It appeared that Maj Genl Mofomme was subsequently replaced by Maj Genl Nomoyi (see **Exhibit 89**);
- Six candidates were short-listed, including inter alia Col Mmolawa and Col Traut (De Wit) (see **Exhibit 90**). The selection process involved a draft test and written appreciation scored by the panel members. According to the scoring totals calculated by the Selection Panel, it is apparent that Col Traut (De Wit) scored the highest percentage in relation to the testing and evaluation criteria (69.86%). Col Mmolawa scored second highest (61.87%) (see **Exhibit 91**);

- The Panel record/minute included a Division: Equity distribution on Race and Gender schedule. The recorded statistics relevant to approved, current and over and under representation in terms of RAG, indicated, at the time of application, a purported over representation of "+1" with regard to White Females and a purported under representation of "-4" with regard to African Females, relevant to the current structure of appointment representation (see **Exhibit 92**);
- An endorsement under the "*comments by the selection panel*" column on the panel records/minutes reflected that the selection panel initially recommended Col Traut for appointment in the post, in accordance with the highest score obtained as referred to above. Last-mentioned recommendation appears to be dated 17 November 2010;
- It appears from the record of the selection panel, that the national panel's final recommendation and approval, was concluded, or at least the national panel approval for the appointment was obtained, around 30 December 2010 (as per document titled "Comments", the recommendation signed by Div Comm Mofomme and recommendations and approval signed by Dept Nat Comm Stander and Nat Comm Cele, dated 30 December 2010) (see **Exhibit 91**);
- It is apparent that the Nat Comm Cele approved the appointment of Col Mmolawa to the post as per the selection panel's recommendation, based on an apparent equity consideration. Last-mentioned is apparent from the endorsement "*Post 10082172 Mmolawa D M will be appointed in the post esp. to work on equity issues*". Dept Nat Comm Stander appears to have supported the panel and Div Comm Mofomme's recommendation and included an endorsement "*Also see additional I/Note submitted by D C*

*Phahlane with ref 4/5/7/1/590 dated 2010-12-29 w.r.t. Post 10082172', however Nat Comm Cele decided to over-ride same;*

- Col Mmolawa, at the time of applying for the position, had served approximately five years on the rank of Col and therefore appeared to have qualified technically with regards to the required years of experience on a preceding rank / appropriate managerial experience, as referred to in Section 4 of National Instruction 4/2010.
- 9.31 The provisions of Section 13 (3) to 13(9) of National Instruction 4/2010 were considered in this instance as the Nat Comm may decide not to approve the recommendation of the Selection Panel/Div Comm and appoint another candidate, based on equity representation considerations. However it is compulsory for the Nat Comm to, under such circumstances, record his/her reasons for such a decision taken. Having regard to the endorsement made by the Nat Comm as referred to above, regarding appointing Col Mmolawa instead of Col Traut under post 10082172, his reasons for the afore said were not recorded in detail, except for the reference to "*equity issues*".
- 9.32 We concluded consultations with Brig Mmolawa on various dates in May and June 2013. She was appointed as Section Head: Support Services: Division: Criminal Record and Forensic Science Services subsequent to having applied for the post, internally advertised on 1 August 2010, under post number 10082172 (see **Exhibit 93**).
- 9.33 She applied for a transfer, from SAPS Klerksdorp (in the position as Head: Support Services, with the rank of Col) to Criminal Record and Forensic Science Services (where she is still stationed currently), shortly prior to also applying for the Brig's post as referred to above. Her transfer from Klerksdorp as afore said was



effective 1 September 2010 and she accepted the post as Brig (Head: Support Services) approximately 4 months thereafter, effective January 2011.

- 9.34 She was fully apprised with the allegations made in the POPCRU letter relevant to the investigation, concerning her appointment and alleged irregular relationship with Lt Genl Phahlane.
- 9.35 She denied the allegation that she has or had any improper relationship with Lt Genl Phahlane or that he fathered a child with her. After an initial refusal and after having explained the purpose of the investigation more comprehensively to her, she withdrew any objections in granting permission that her Polmed Medical Aid records could be scrutinised, as well as birth registration records held at the Department of Home Affairs, for purposes of providing assistance in the sourcing of information that could substantiate the truth or falseness of the mentioned allegation by POPCRU. She confirmed her permission by means of affidavit and further voluntarily provided the details of her offspring and their relevant ages (see **Exhibit 94**).
- 9.36 We obtained the relevant Polmed Medical Scheme and Department of Home Affairs Birth Registration Records in respect of Brig Mmolawa. On a face value evaluation of the mentioned records, same appears to corroborate the detail provided by her during our consultations. We further obtained information from personnel security clearance records, with regards to the names of children and their dates of birth.

- 9.37 On the information currently available within the parameters of our mandate, there appears to be no substance in these allegations made by POPCRU regarding the relationship with Lt Genl Phahlane.

Brig de Wit

- 9.38 We concluded consultations with Brig De Wit, the Section Head: Project Management and Strategic Planning, respectively on more than one occasion. From the outset Brig De Wit acknowledged that she was fully apprised with the content of the POPCRU allegation letter, relevant to our investigation, even prior to our appointment. She further confirmed that she entertained no doubt as to the fact that she is one of the female Brigadiers that POPCRU is alluding to in their allegations. The reason being is that she is the only white female Brig who reports to Lt Genl Phahlane directly and she used to carry the surname "Traut", as have been referred to in the POPCRU allegations.
- 9.39 Brig De Wit denied the allegation that she has or had any improper relationship with Lt Genl Phahlane or that he fathered a child with her. She indicated that she have no objections in granting permission that her Polmed Medical Aid records be scrutinised, as well as birth registration records held at the Department of Home Affairs, for purposes of providing assistance in the sourcing of information that could substantiate the truth or falseness of the mentioned allegation (see **Exhibit 95**). Brig De Wit voluntarily provided the details of her offspring and their relevant ages. She confirmed her eldest daughter had a child (aged around 3 years of age) and that this daughter of her and the child is staying in the Western Cape, with her (De Wit's) mother. She is convinced that the age of the 3 year old granddaughter might have sparked unfounded rumours that she has another young child.

- 9.40 Brig De Wit indicated that she had been working directly under Lt Genl Phahlane for several years and have followed him with the transfer from Personnel Management to the FSL. She commented on her promotion to the rank of Brig, that she was quite surprised when she was contacted by Lt Genl Phahlane telephonically to advise her of the promotion.
- 9.41 She further indicated that her relevant appointment, together with other senior management appointments as reflected under Information Note 4/5/7/1/590, dated 29 December 2010, were concluded in terms of the process provided for in SAPS Employment Regulations: Regulation 45, paragraph 8, 9 and 10 (see **Exhibit 96**). In terms of paragraph 9 specifically, the Nat Comm may promote an employee into a post without advertising the post and without following the selection process, under certain specific circumstances.
- 9.42 She confirmed that, shortly prior to the above appointment, she in fact applied for the position of Head: Support Services: Division: Criminal Record and Forensic Science Services, as advertised under Post Number 100810082172 on 1 August 2010 (see **Exhibit 88**).
- 9.43 Although Brig De Wit was not the successful candidate, she had no disputes about the outcome of the appointment process, as, according to her, she only applied as a result of loyalty towards Lt Genl Phahlane, as he needed to fill the post urgently and required a very apt individual to head the relevant section and therefore a competent pool of candidate applications were required. She however was in a sense relieved for not being appointed as she did not desire to

head the specific division in that her personal preferences and specialities were not aligned with the division of support services, although she would have been capable of performing the function.

- 9.44 It was subsequent to the above mentioned process that she was advised by Lt Genl Phahlane that her own promotion to Brig was approved by the Nat Comm. Brig De Wit expressed an open and frank admiration towards Lt Genl Phahlane and made it clear that her complete loyalty lies with him. She further expressed her opinion that the appointments made by Lt Genl Phahlane since he took over the position as Div Comm: Forensic Services, were necessary and done in line with policy. She supported his actions in ensuring that he brought over his own senior staff component from Personnel Management to Forensic Services.
- 9.45 We analysed, *inter alia*, the following information and documentation we obtained relevant to the appointment of Brig de Wit:
- Information Note 4/5/7/1/590 dated 29 December 2010 (IN 29/12). The mentioned note originated from the office of Lt Genl Phahlane and its object was to obtain the approval of the Nat Comm for the appointment of *inter alia* Col Shezi to the rank of Brig and Col Traut (De Wit) to the rank of Brig, without following the prescribed advertisement and selection process/es;
  - Application, Selection Panel Assessment and Scoring Documentation relevant to post 10082172 (Section Head: Support Services CR and FSS) (see **Exhibit 89**);
  - Information Note 4/5/7/1/590 dated 23 May 2011 (IN 23/5) (see **Exhibit 97**). The mentioned note originated from the office of Lt Genl Phahlane and was clearly an attempt to elaborate on and amend certain matters dealt

with in IN 29/12. It therefore appears to be a re-submission of same, except for the approval of Col Traut's position which were amended as discussed hereunder;

- Correspondence relevant to the formal appointment of Brig De Wit and her appointment letter (see **Exhibit 98**). It is apparent that Brig De Wit was formally appointed in the rank of Brig, Section Head: Project Management and Strategic Planning on 1 June 2011 and accordingly signed her agreement on 7 June 2011 (see **Exhibit 99**).

- 9.46 We ascertained that the first attempt to obtain approval for Brig De Wit's appointment failed in that the Nat Comm Cele declined approval on IN 29/12. There is an apparent endorsement appended above the Nat Comm's signature reading "from 6.1.1 to 6.1.4 except 6.1.3 posts still to be job evaluated. 6.1.5 dealt with as advertised in post 10082172 ...". In terms of the content of paragraph 6 of the note, "6.1.5" relates to the appointment of Col Traut (De Wit). It therefore appears that the Nat Comm did not approve the appointment of Col Traut to the rank of Brig in terms of IN 29/12.
- 9.47 Of importance is the fact that the "new post" that Col Traut was to be promoted to was referred to as "*The Section Head: Support Services*" in IN 29/12 (paragraph 2.5.5 and 6.1.5). This is in fact the very post description that was advertised under post 10082172 and for which Col Traut (De Wit) applied, but Brig Mmolawa was appointed therein. Further, her current post placement at that point in time was described in the Note as "*Section Head: Strategic Planning & Management Information at the Division: Criminal Record & Forensic Science Services*" (paragraph 2.5.2).

- 9.48 Analysis of IN 23/5 revealed that on re-submission for approval (approximately 5 months subsequent to IN 29/12), her current placement was amended to be "Acting Section Head: Project Management and Strategic Planning at the Division: FS" (paragraph 2.4.2 and 6.1.4). The "new post" that Col Traut was to be promoted to was now referred to as "The Section Head: Project Management and Strategic Planning: Division FS" (paragraph 2.4.5). At the end of the last-mentioned paragraph, the words "The post is confirmed through equate to be on the level of Brigadier".
- 9.49 Under the recommendations/approval section of IN 23/5, Dept Nat Comm Lebeya endorsed "6.1.4 should be dealt with as directed by the National Commissioner on a memorandum of December 2010". It is therefore apparent that he could have supported the impression that, in as far as the appointment of Col Traut (De Wit) was concerned, the Nat Comm have already dealt with the matter as per IN 29/12.
- 9.50 Dept Nat Comm Stander commented on Dept. Nat Comm Lebeya's endorsement by the comment "Comments made by Lt Gen Lebeya not applicable to 6.1.4 as this recommendation is for a new post which was Job Evaluated and not the Support Services post that was dealt with during Dec 2010". In what purports to be the handwriting of Nat Comm Cele (last-mentioned is deducted from the position of the handwritten endorsement, but could however not be ascertained conclusively as being that of Nat Comm Cele) approval for the appointment was confirmed by an endorsement reading "As recommended by the Divisional Commissioner and supported by Genl Stander recommendation by Genl Lebeya is amended to include 6.1.4".

- 9.51 Last-mentioned is therefore interpreted to be approval from the Nat Comm with regards to the appointment of Col Traut to the rank of Brig, in terms of Regulation 45(9) and no longer for the post Section Head: Support Services.
- 9.52 We obtained the formal job evaluation of the relevant post (Section Head: Project Management and Strategic Planning) (see **Exhibit 100**). Last-mentioned was contained in correspondence addressed to the Div Comm: FS and Head: Organisational Development. The said correspondence was titled "*Results of the jobs evaluated and presented to the Job Evaluation Panel on 13 June 2011*". Brig De Wit was therefore already appointed in the post approximately 12 days before the job evaluation panel considered and recommended on the relevant post. The document further confirmed that "*the job evaluation process has been completed and the results were approved by Deputy National Commissioner Stander on recommendation of the Job Evaluation Panel*". Attached to the said document was an Annexure which *inter alia* contained the job title referred to as Section Head: Project Management and Strategic Management (although the annexure refer to "*Strategic Management*" instead of "*Strategic Planning*". It appears safe to assume that reference was made to the same job title.
- 9.53 The following needs to be taken into account relevant to her appointment:
- With the exception of the amendments relating to the description of the post in terms of which approval was sought and the sentence "*The post is confirmed through equate to be on the level of Brigadier*", the contents of IN 29/12 and IN 23/5 remained virtually word for word the same in terms of the two notes in as far as the information of Col Traut was concerned;

- Regulation 45(9) states the following:  
*Notwithstanding the provisions of sub-regulation (8)(b), the National Commissioner may promote an employee into a post without advertising the post, and without following the selection process, if –*
  - (a) *the National Commissioner is satisfied that –*
    - (i) *the employee qualifies in all respects for the post;*
    - (ii) *there are exceptional circumstances that warrant the deviation from the said sub-regulation; and*
    - (iii) *such deviation is in the interest of Service; and*
  - (b) *the National Commissioner has recorded the reasons for the deviation in writing.*
  
- A proper interpretation of the regulation clearly requires, *inter alia*, “*exceptional circumstances that warrant the deviation*”, and “*a deviation in the interest of Service*” and that the “*National Commissioner has recorded the reasons for the deviation*”.
  
- Having regard to what was stated above, the face value merit of Lt Genl Phahlane’s motivations, in both IN 29/12 and IN 23/5, was evaluated in order to ascertain whether the circumstances surrounding Col Traut’s promotion motivation warranted approval in terms of the above section and whether the Nat Comm acted regularly in approving same. The following factors appears eminent:
  - The only sentences that could have been an attempt to motivate exceptional circumstances, appears to be found respectively in paragraph 2.5.5 and 2.4.5 of IN 29/12 and IN 23/5. Last-mentioned reads: “*should ensure the retention of skills and serve as recognition for extra-ordinary performance in support of the strategic objectives. Her appointment should enhance gender representatively at senior*



*management level*". The remainder of the contents relates mostly to the experience, qualifications and background of Col Traut and not facts that support exceptional circumstances. Even the above highlighted wording, on face value, falls short of any interpretation of *"exceptional circumstances"*.

- With regards to the requirement of being in the interest of service, the question beckons as to how a process of promotion to a vacant new post, without advertising same, could be more in the interest of service than a more transparent prescribed process of advertising through which the most apt candidate could have been selected from a comprehensive pool of candidates.
- There are on additional comment/s of the Nat Comm available, apart from what we have mentioned herein above, that could be interpreted as compliance to the requirement of *"has recorded the reasons for deviation in writing"*. Should it be argued that the contents of the IN 29/12 or IN 23/5 serves as the basis for such reasons, then the reasons falls short of motivating the aspects of *"in the interest of the Service"* and *"exceptional circumstances"*.
- It is apparent that although the selection panel for post 10082172 recommended Col Traut instead of Col Mmolawa for the post Section Head: Support Services, the Nat Comm declined this recommendation. It is important to note here that Lt Genl Phahlane issued IN 29/12 already prior to the recommendations of the Selection Panel and the seeking of approval from the National Panel (Nat Comm), as reference to IN 29/12 was already made by Div Comm Mofomme, to the Nat Comm, on 30 December 2010.

- IN 26/5 was issued by Lt Genl Phahlane prior to obtaining the approval of the Job Evaluation Committee. In fact, Brig de Wit was appointed as Section Head: Project Management and Strategic Development at least 12 days before the panel considered the relevant post. The statement by Lt Genl Phahlane under paragraph 2.4.2 of IN 23/5, that Col Traut was at the time placed as the Acting Section Head: Project Management and Strategic Planning, was therefore technically incorrect as an official cannot be acting in a post which have not formally been approved and therefore do not qualify as a vacant post.
- The comment made by Dept Nat Comm Stander, under the recommendation column in IN 23/5, that "*it was a new post which was job evaluated*", was therefore technically incorrect.
- Col Traut had only served approximately two years in the rank of Col (according to Persap SAP 96 information) at the time of the information note and application for post 10082172, and should therefore not have qualified for promotion to the rank of Brig due to non-compliance with section 4(1)(a).

**10. Theft of narcotics and rhino horn from FSL**

Introduction and background

- 10.1 It was alleged by POPCRU that a suspect involved in the theft of drugs was captured on security footage video. Specific reference was made to evidence bags with letters FSE 276860 and FSE-276863. It was also alleged that the same person is a suspect in a matter relating to four missing rhino horns and that no disciplinary action had been taken against the suspect. It is further alleged that the video footage was seen by Lt Genl Phahlane and that it serves as evidence to warrant an arrest.

Summary of facts

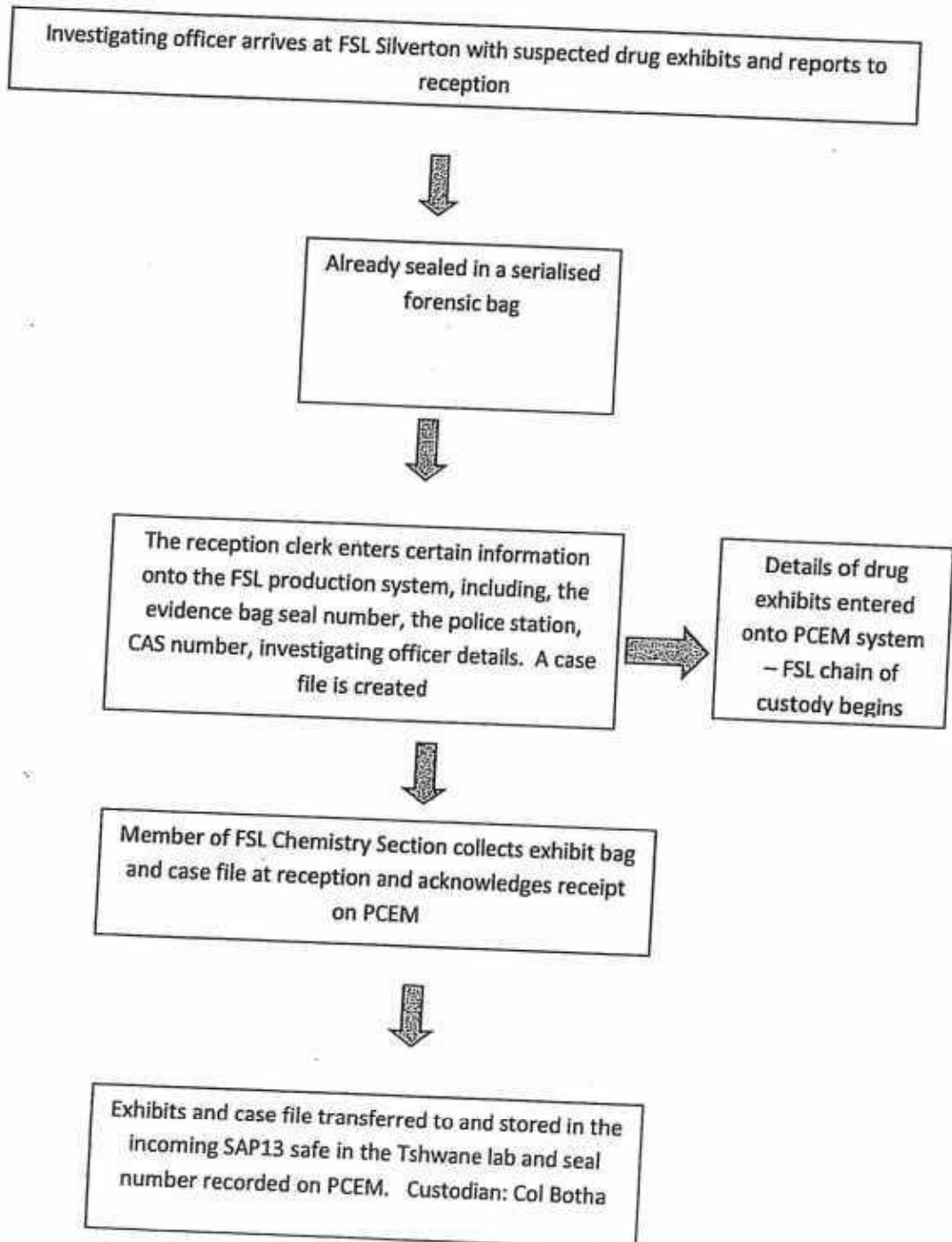
- 10.2 Lt Genl Phahlane reacted in a memorandum dated 12 September 2012 addressed to all members of the Division: Forensic Services to the effect that the alleged theft of drugs was investigated. According to him following the outcome of the investigations disciplinary or criminal proceedings could not be instituted as no one could be held liable for the reported losses. With regard to the theft of the rhino horn allegation, a prosecution was instituted and a member of the SAPS was subsequently charged according to Lt Genl Phahlane. Disciplinary proceedings were instituted against the member and he was subsequently found guilty. The sanction which was arrived at, included removal of the member from FSL Silverton and placement within the support services environment in Arcadia.
- 10.3 Col Shole the Section Commander: Archives and Disposals was interviewed with regards to amongst other things the process of recording the incidents of missing drugs and the list of all incidents reported since 2008. He stated amongst other things the following during the consultation:
- He is the custodian of the archiving safe and the SAP 13 exhibits records.

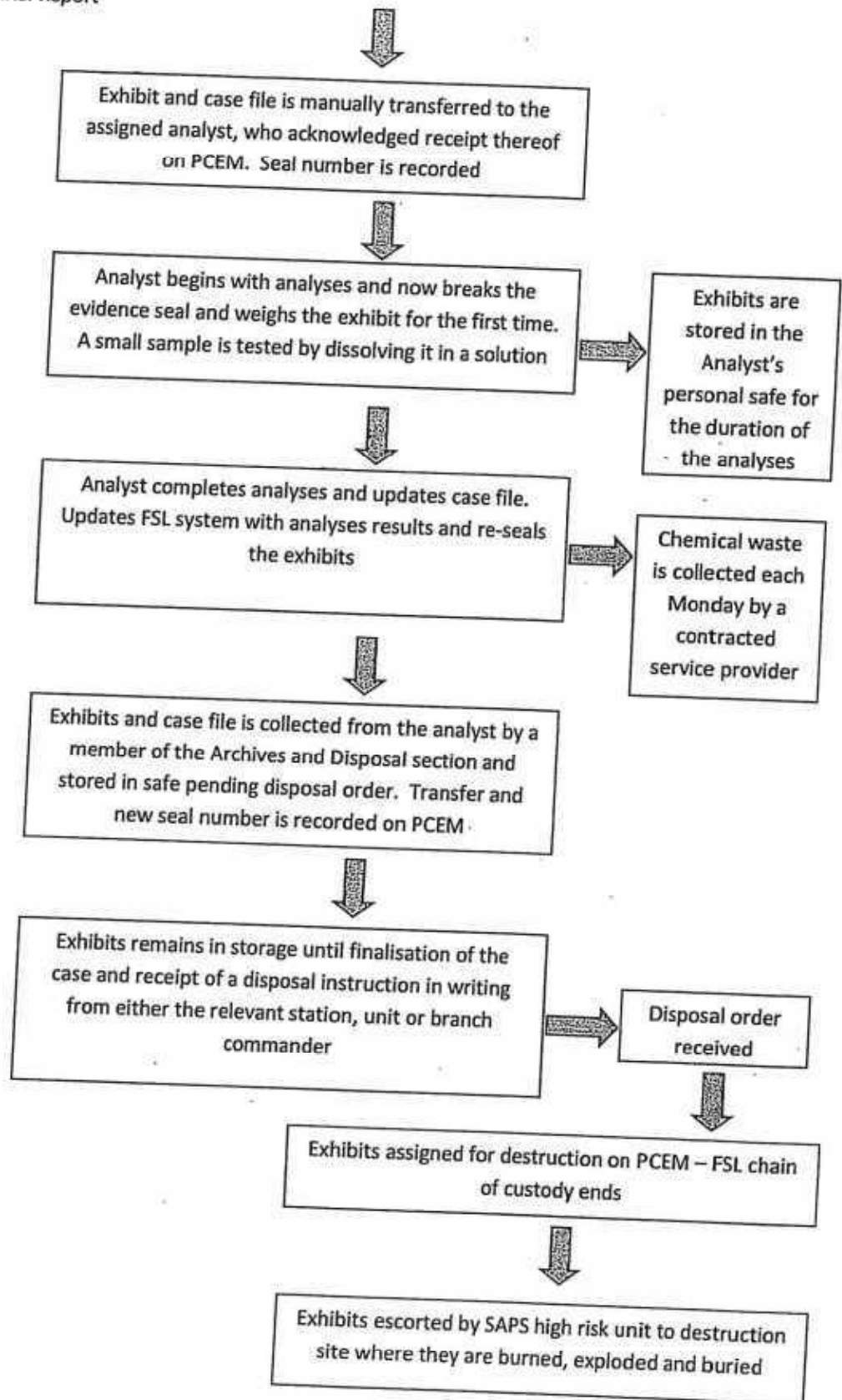
- The FSL no longer utilises SAP 31 registers and currently record all data electronically on the FSL Production Management System.
- The FSL initially used a system called EMS, but this system was replaced by the Property Control and Exhibit Management System (PCEM), which is essentially a chain of custody system.
- None of the above-mentioned systems possesses a data field to record losses of thefts of exhibits.
- The systems in use by the FSL do not permit the same seal number to be used more than once.
- Some of the safes within the FSL Chemistry section are accessed biometrically and others are locked with keys.
- He is the custodian of the archiving safes and their keys are kept with him at all times.
- He and 18 others have access to the archiving safes.
- Col Botha is the custodian of the incoming safes, the keys of which are stored with her, these safes are also accessed biometrically.
- Keys to personal safes are kept by the members to whom the safes are allocated.
- Spare keys to all of the above-mentioned safes are kept in a safe in the MISS department.

- Col Sizane is the custodian of the MISS safe.
- There are a total of 6 safes on the FSL premises (Incoming and Archiving), two of which are refrigerated.
- Access to the various areas within the FSL are controlled either by fingerprint biometrics or access cards.
- A CCTV system is installed and operational within the FSL. The system is not actively monitored and not all areas are covered.
- Exhibits are not weighed upon receipt, but only when they are received for analysis by the respective analysts. They are not weighed again after the analysis.
- Col Botha, Col Mahlangu and ASO Chauke are responsible for the allocation of exhibits to analysts for analysis.
- Destruction of exhibits is conducted on an as and when required basis and not by set routine.
- All losses and thefts are reported to and recorded by Brig Allen, the Section Head of Chemistry.
- All losses are reported to the Portfolio Committee and the Silverton SAPS for investigation.
- The reference numbers of the reported cases are not recorded on either of the administration systems in use by the FSL.

- A list of Silverton CAS numbers relating to incidents of theft of drugs from the FSL were compiled.

10.4 Col Shole described the process flow of exhibits once received by his section, after analysis, as follows:





10.5 Brig Allen was interviewed with regards to her knowledge of the losses experienced within her section and the processes in place to report such losses. She stated the following:

- All losses within her section are reported to her when identified.
- Losses were recorded and the list provided by Col Shole reflected the total losses identified and reported to the SAPS Silverton for investigation for the period 2007 to date.
- That the commanders of the various sections within Chemistry were responsible for reporting the losses to her and to the SAPS Silverton.

10.6 We accompanied Brig Allen on a walkthrough of one of the safes for archived exhibits and she pointed out the constraints, in terms of amongst other things, space available for storage. She introduced us to Col Botha, the Section Commander: Case Management, who showed us the incoming-safe in order to observe the constraints experienced in terms of amongst other things, space and security. She explained further that exhibits which had been analysed and archived could not be destroyed until the conclusion of the trial. Only once her section received a destruction order in writing from the commanding officer of the investigating authority to proceed with such destruction. This caused the archive section to store a large number of exhibits for many years which added strain to the storage facilities which are over capacitated.

10.7 Maj Mabasa, Section Commander: Reception and Registration FSL explained during an interview the processes followed in the Reception and Registration area of the FSL as follows:



An investigating officer arrives at FSL Silverton with exhibits requiring forensic analysis, in sealed evidence bags, together with two copies of a covering letter requesting the FSL to conduct analysis of the exhibit and reports to reception.



The reception clerk first reads the covering letter to ensure the FSL is responsible for the requested analysis. The exhibit must be in a sealed exhibit bag. If not, it is not received.



The reception clerk completes a receipt form upon which the following information must be recorded:

- Name of the Station
- Case Number
- Particulars of the deliverer (Investigating Officer)
- Evidence bag number
- Particulars of the recipient (Reception Clerk)

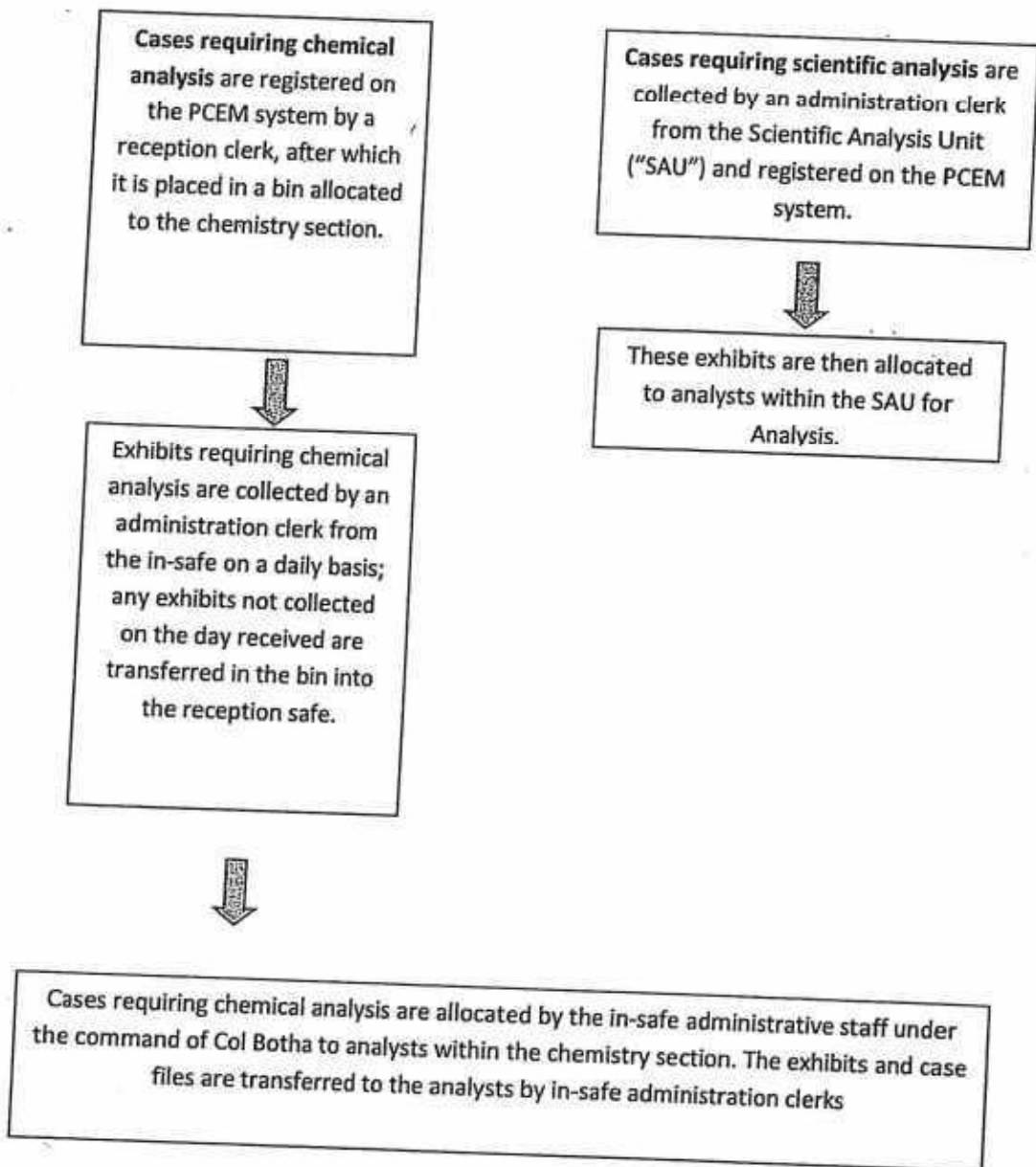


The reception clerk date stamps and signs both the covering letter and receipt form. A tear off slip from the receipt form is attached to the deliverer's copy of the covering letter as proof of delivery. The second copy of the covering letter is retained by the FSL reception together with the exhibit.



The case is registered on the FSL administration system and assigned a LAB number.





10.8 Col Erasmus, the Directorate for Priority Crime Investigations, stated during an interview as follows:

- The specific department no longer investigate drug theft cases and only run projects. All Silverton cases relating to the theft of drugs at the FSL had been returned to Silverton SAPS.

- There had been no project registered in respect of the incidents at the FSL.
- 10.9 WO Marnabolo, a detective at the Silverton SAPS was interviewed with regard to the only active case involving the theft of drugs from the FSL (CAS 631/06/2012). He provided us with a copy of the case file.
- 10.10 Brig de Klerk, the Section Head at SAU, was interviewed with respect to the theft of the rhino horn by a member under her command. She indicated that there had ever had only ever been one case of theft of rhino horn. She confirmed that the member, Matjila, had been employed in her section at the time of the theft.
- 10.11 Copies of the Silverton CAS dockets relating to the theft of drugs were obtained from Silverton SAPS and the contents were reviewed. It is summarised in the schedules hereunder as follows per case docket:

Silverton CAS 203/12/2007

Description of Events	Date	Additional Description/Comments
Originating CAS	October 2007	ORTIA CAS 444/10/07
Exhibits Received at FSL reception	29/10/2007	Handed to reception by Sgt Sello Simon Moripe FSL Analyst on Standby, Registered by Admin Clerk J Chiloane

Loss Identified	30/10/2007	Identified by Moripe, Supt Mahlangu and Capt Fortmuller
Area of Loss		Case Reception
Description of Loss		Evidence Bags: FSG215135 FSG220462
Description of Contents		Large quantity of Suspected Cocaine
Date Reported to Silverton SAPS	07/12/2007	Complainant: Col Shezi
Suspects Identified		None
Linked Case	October 2010	Silverton CAS 642/10/2010 registered upon instruction of DPP
Result	17/11/2011	DPP declined to prosecute

10.12 The loss of the exhibits relating to the above case was identified one day after the exhibits were received at case reception. It should have been a simple matter of identifying the persons who had access to the area and the exhibits in the short period between the times they were received until they were identified as missing.

Description of Events	Date	Additional Description/Comments
Originating CAS	October 2007	ORTIA CAS 270/10/2007
Exhibits Received at FSL Reception	19/11/2007	Received by Chiloane
Loss Identified		No Loss Existed on ORTIA CAS 270/10/201 refer ORTIA CAS 41/11/2007
Area of Loss		N/a
Description of Loss		No Loss
Description of Contents		Suspected to be Cocaine
Date Reported to Silverton SAPS	N/A	Loss was not reported as there was no loss refer ORTIA CAS 41/11/2007
Suspects Identified	N/A	N/A
Linked Case	October 2010	Silverton CAS 637/10/2010 registered upon instruction of DPP
Result	17/05/2011	DPP declined to prosecute

10.13 No loss was reported on above matter. The exhibit FSG284392, was suspected to be lost after an audit of the exhibits recorded on the covering letter of ORTIA CAS 41/11/2007 was done. It was however established that the aforementioned

exhibit had been incorrectly recorded on the covering letter. The investigating officer Capt Sihlangu and the DPP failed to identify this mistake and he registered a separate case with Silverton CAS 637/10/2010.

<b>Description of Events</b>	<b>Date</b>	<b>Additional Description/Comments</b>
<b>Originating CAS</b>	<b>November 2007</b>	<b>ORTIA CAS 41/11/2007</b>
Exhibits Received at FSL Reception	05/11/2007	Received by FSL Admin Clerk J Chiloane
Loss Identified	12/12/2007	Incorrectly identified as a loss by Director EA Kadwa
Area of Loss		N/A
Description of Loss	FSG284392	No Loss, FSG284392 was incorrectly recorded on the covering letter
Description of Contents		Suspected to be Cocaine
Date Reported to Silverton SAPS	N/A	Loss was not reported as there was no loss refer ORTIA CAS 270/11/2007
Suspects Identified	N/A	N/A
Linked Case	October 2010	Silverton CAS 638/10/2010 registered upon instruction of DPP
Result	17/05/2011	DPP declined to prosecute

- 10.14 It was initially suspected that an evidence bag with seal number FSG284392 was missing after an audit was conducted of the exhibits recorded on the covering letter of ORTIA CAS 41/11/2007. At the time of the audit the aforementioned exhibit bag containing a substance suspected to be cocaine; could not be located. It was established however that the evidence bag in question had in fact been received as an exhibit of ORTIA CAS 270/10/2007.
- 10.15 Mr Chiloane was the admin clerk responsible for receiving the exhibits in both ORTIA cases. He failed to identify that the exhibit FSG284392 was incorrectly recorded on the covering letter of ORTIA CAS 270/10/2007. He should have identified the error on the covering letter and the letter should have been amended prior to him receiving the exhibits. Although the docket contains the report from Brig Allen dated 14 December 2007 (see **Exhibit 101**) explaining the confusion, the investigating officer Capt Sihlangu of the DPCI failed to notice it and acting upon instruction from the DPP opened a separate case with Silverton CAS 637/10/2010.
- 10.16 Mr Chiloane appeared to have been negligent in the performance of his duties.

Description of Events	Date	Additional Description/Comments
<b>Originating CAS</b>	<b>November 2007</b>	<b>ORTIA CAS 14/11/2007</b>
Exhibits Received at FSL Reception	02/11/2007	Received by FSL admin clerk L Maluleke
Loss Identified	05/11/2007	Loss initially identified by Capt Fortmuller

Area of Loss		Case Reception
Description of Loss		Evidence Bags: FSE125556, FSE125563, FSE125566 & FSE125574
Description of Contents		Suspected to be Cocaine
Date Reported to Silverton SAPS	13/12/2007	Reported to I/O after inspection was done at FSL by Kadwa
Suspects Identified	None	None
Linked Case	October 2010	Silverton CAS 639/10/2010 registered upon instruction of DPP
Result	17/05/2011	DPP declined to prosecute

- 10.17 Capt Fortmuller identified that there were four exhibit bags missing when she registered the case and found that she had four stickers without exhibit bags. She stated in an affidavit dated 09 January 2008 that on the day after she had discovered the missing exhibits, she had asked A Mlondobozi from the drugs section to see if he could locate the missing bags (see **Exhibit 102**). He failed to report back to her and she assumed he had found the missing exhibits.
- 10.18 Capt Fortmuller appears to have been negligent in the performance of her duties in that she had tasked a member who is not stationed within her section to find exhibits which appear to have gone missing at case reception.



10.19 Her failure to follow up on the missing exhibits is further evidence of negligence in the performance of her duties. The loss of the exhibits in this case occurred within a period of three days after they were received at reception and in the reception area. This limits the area under scrutiny and the people who had access to the exhibits.

Description of Events	Date	Additional Description/Comments
<b>Originating CAS</b>	<b>February 2007</b>	<b>Midrand CAS 997/02/2007</b>
Exhibits Received at FSL Reception	02/03/2007	Received by FSL admin clerk B Motlabane
Loss Identified	03/12/2007	Loss appears to have been identified after an audit was conducted at the FSL see reports issued by Brig Allen on 03/12/2007 and 14/12/2007
Area of Loss		Case Reception
Description of Loss		Evidence Bags: FSB333540 FSG119641
Description of Contents		Suspected to be cocaine

Date Reported to Silverton SAPS	07/12/2007	Reported by Snr Supt Shezi
Suspects Identified	None	None
Linked Case	October 2010	Silverton CAS 640/10/2010 registered upon instruction of DPP
Result	17/05/2011	DPP declined to prosecute

- 10.20 The above case was received by FSL reception on 02 March 2007, on 03 December 2007 Brig Allen reported that the case file and two exhibit bags with seal numbers FSB333540 and FSG119641 were missing out of eight exhibit bags received by case reception (see **Exhibit 103**).
- 10.21 Later on 14 December 2007 Brig Allen reported that exhibit bag with seal number FSB333540 had apparently been found at case reception on 13 December 2007 (see **Exhibit 104**). It took nine months to identify and report the loss of two exhibit bags; thereafter it took 10 days to find one of the missing exhibit bags in the case reception. It appears that the exhibit bag with seal number FSB333540 containing what was suspected to be cocaine lay in case reception for nine months without any query.

Description of Events	Date	Additional Description/Comments
Originating CAS	April 2007	ORTIA CAS 457/04/2007

Exhibits Received at FSL Reception	31/05/2007	Received by Chiloane from Moripe who had received the exhibits from the I/O on 28/10/2007
Loss Identified	October 2007	Identified during an audit conducted at the FSL
Area of Loss		Case Reception
Description of Loss		Exhibit Bag: FSG08725
Description of Contents		Suspected to be cocaine
Date Reported to Silverton SAPS	07/12/2007	Reported by Snr Supt Shezi
Suspects Identified	None	None
Linked Case	October 2010	Silverton CAS 641/10/2010 registered upon instruction of DPP
Result	17/05/2011	DPP declined to prosecute

10.22 This case and all nineteen exhibits were received by case reception on 31 May 2007. The loss of one exhibit bag was only identified during an audit conducted during October 2007. Mr Chiloane stated in an affidavit that he registered exhibit bags FSG08735, FSG08736 and FSG08737 on this case, and that he was unable to explain the differences with the exhibits (see **Exhibit 105**). Mr Chiloane appears to have been negligent in the performance of his duties when registering this case.

Description of Events	Date	Additional Description/Comments
Originating CAS	October 2007	ORTIA CAS 444/10/2007
Exhibits Received at FSL Reception	28/10/2007	Received by L Maluleke from Moripe who had received the exhibits from the I/O on 28/10/2007
Loss Identified	01/11/2007	Capt Fortmuller Identified the missing exhibits after they had been received on the system by Mr Chiloane on 30/10/2007
Area of Loss		Case Reception
Description of Loss		Evidence Bags: FSG215135 FSG215136
Description of Contents		Suspected to be Cocaine
Date Reported to Silverton SAPS	07/12/2007	Reported by Snr Supt Shezi
Suspects Identified	None	None
Linked Case	October 2010	Silverton CAS 642/10/2010 registered upon instruction of DPP

Result	17/05/2011	DPP declined to prosecute
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- 10.23 Mr Chiloane stated in an affidavit in the case docket that he cannot remember if Sgt Moripe has bought the actual bags to the Receiving office or only the Covering letter. This statement by Mr Chiloane infers that he may or may not have had sight of the exhibits at the time that he registered the case on the system which speaks to his negligence in the performance of his duties.
- 10.24 In an affidavit submitted by Sgt Moripe, he submitted the exhibits to Maluleke in Reception, but he failed to get her to sign the receipt (see **Exhibit 106**). Sgt Moripe was negligent in the performance of his duties in this regards as he should have obtained a signature from Mr Maluleke for his own records and to maintain the chain of evidence.

Silverton CAS 330/08/2008

Description of Events	Date	Additional Description/Comments
Originating CAS	January 2005	ORTIA CAS 192/01/2005
Exhibits Received at FSL Reception	28/01/2005	Received by Chiloane
Loss Identified	21/07/2008	Loss identified by Shore and WA Mlondobozi
Area of Loss		Archive Safe K13
Description of Loss		Evidence Bags: FSD73287

		FSD73282
Description of Contents		Confirmed 1392.41g Cocaine
Date Reported to Silverton SAPS	14/08/2008	Reported by Col Shole
Suspects Identified	None	None
Result	17/05/2011	DPP declined to prosecute

- 10.25 The exhibits FSD73287 and FSD73282 were located by Col Shole whilst moving exhibits from the Tshwane basement safe TB2 to basement safe K13 and the chiller room over the weekend of 19 & 20 July 2008. Col Shole states in an affidavit that on 21 July 2008 he had been provided a list of exhibits required by Ass. Comm Ngokha which included the above mentioned exhibits (see **Exhibit 107**). However when the above exhibits were sought by Mlondobozi they could not be found.
- 10.26 Voice Stress Analysis tests appear to have been conducted on a number of members who had access to the exhibits on the weekend that the exhibits were moved. The results of these tests in the docket were unclear.
- 10.27 The period from the time the exhibits were identified in basement safe TB2, placed in a utility bin and moved to K13 until they were discovered missing is limited to two days and only a limited number of persons had access to it.
- 10.28 Col Shole should be answerable in terms of this loss since he had identified the exhibits over the weekend, it was under his control that the exhibits were placed in a utility bin and moved. He should explain what happened to the exhibits.

Silverton CAS 210/09/2008

Description of Events	Date	Additional Description/Comments
Originating CAS	September 2005	ORTIA CAS 109/07/2005
Exhibits Received at FSL Reception	14/07/2005	Received by Mr Chiloane
Loss Identified	08/09/2008	Loss reported by Brig Allen
Area of Loss		Toxicology Lab
Description of Loss		Evidence Bags: FSD70213 Bag used after analysis.
Description of Contents		Confirmed 822.90g cocaine
Date Reported to Silverton SAPS	14/08/2008	Reported by Brig Allen
Suspects Identified	None	None
Result	20/05/2011	File Withdrawn

10.29 Sgt Chauke stated in an affidavit that she kept the exhibits relating to ORTIA CAS 109/07/2005 from 2005-08-08 to 2005-08-16 behind lock and key (see **Exhibit 108**). She also stated that after completion of the analysis the exhibit material

was sealed in a FSL evidence bag with unique number FSD70213 and it was handed over to the Drugs Administration division for the safe disposal thereof.

10.30 The loss of the exhibit was reported to SAPS Silverton on 14 August 2008. In a letter dated 2 November 2010 the Director Public Prosecutions as represented by CJH Kruger, requested that Sgt Chauke should make a statement relevant to the evidence bag (see **Exhibit 109**). It took over two years for the Office of the DPP to instruct the investigating officer to obtain a statement from the last person who was in possession of the missing exhibit. The investigating officer, Lt Col Serekeno, submitted a statement wherein he stated that Sgt Chauke resigned from the SAPS and that her whereabouts were unknown (see **Exhibit 110**).

Silverton CAS 137/04/2009

Description of Events	Date	Additional Description/Comments
Originating CAS	May 2005	ORTIA CAS 178/05/2005
Exhibits Received at FSL Reception	14/07/2005	Received by Chiloane
Loss Identified	04/02/2009	Loss reported by Allen on
Area of Loss		Toxicology Lab
Description of Loss		Evidence Bags: FSD70223 Bag used after analysis.



Description of Contents		Confirmed 989.28g Cocaine
Date Reported to Silverton SAPS	07/04/2009	Reported by Allen
Suspects Identified	None	None
Result	17/05/2011	DPP declined to prosecute

10.31 Sgt Chauke stated in an affidavit that she kept the exhibits relating to ORTIA CAS 178/05/2005 from 2005-08-08 to 2005-08-10 behind lock and key. She stated further that after completion of the analysis the exhibit material was sealed in a FSL evidence bag with unique number FSD 70223 and handed over to Toxicology Administration division for the safe disposal thereof. The affidavit was dated 10 August 2006 and the loss of the exhibit was reported to the SAPS Silverton on 7 March 2009. Approximately two years later the Office of the DPP requested the investigating officer to obtain a statement relevant to the missing exhibit. The investigating officer again informed the Office of the DPP of the resignation of Sgt Chauke from the SAPS.

Silverton CAS 351/05/2009

Description of Events	Date	Additional Description/Comments
Originating CAS	April 2008	ORTIA CAS 179/03/2008
Exhibits Received at FSL Reception	11/03/2008	Received by Maloleke

Loss Identified	12/03/2008	Loss identified by Mr S Mashilo and Bandile Mothlabane
Area of Loss		Case Reception
Description of Loss		Evidence Bags: FSE276860 FSE276863
Description of Contents		7 Blocks of Suspected Cocaine
Date Reported to Silverton SAPS	13/05/2008	Reported by Maluleke
Suspects Identified	Matjila	Matjila
Result	17/05/2011	DPP declined to prosecute

10.32 The loss of the exhibits in this matter was identified by "Mashilo" a day after the exhibits were received. Mashilo reported the loss to Chiloane and Mr Motlabane immediately after it was discovering that the exhibit was missing. Chiloane and Mothlabane contacted W/O Schoeman and arranged to view the CCTV footage from 11 March 2008 to 12 March 2008. This viewing of the recording took place on 12 March 2008. Mr Chiloane stated in an affidavit dated 11 February 2010 that he saw Mr Shawn Matjila taking two forensic bags from the bag containing the drugs and putting it inside the bag that he was collecting (see **Exhibit 111**). The bags that Mr Matjila took was not done as part of his duties. This footage was also made available to Major Gen Shezi and Brig Allen on 12 March 2008. Brig De Klerk also viewed the footage on 9 April 2008.

- 10.33 WO Schoeman stated in an affidavit dated 26 February 2010 that the next time he entered room 205, the technicians working on the camera system, due to their not knowing about the critical recorded footage, re-ordered the cameras on the DVR's in an order that is easier to view (see **Exhibit 112**). The data was lost during this working process of the technicians. W/O Schoeman was aware of the incident, yet he failed to secure a copy of the relevant footage for use as evidence. The loss of the exhibit was identified a day after the exhibits were received, but was only reported to the Silverton SAPS on 13 May 2008.

Silverton CAS 141/11/2010

Description of Events	Date	Additional Description/Comments
<b>Originating CAS</b>	<b>December 2009</b>	<b>Sundra CAS 45/12/2009</b>
Exhibits Received at FSL Reception	24/12/2009	Received by PL Masebe
Loss Identified	22/09/2010	Loss identified by Principal Forensic Analyst Lt Col Mahlangu
Area of Loss		Chemistry Section Laboratory
Description of Loss		Unconfirmed Evidence Bags

Description of Contents		Approximately R41 650,00 cash
Date Reported to Silverton SAPS	05/11/2010	Reported by Lt Col Mahlangu
Suspects Identified	None	None
Result	18/04/2011	Recorded as Undetected by Col May of Organised Crime Pretoria

10.34 In an affidavit dated 5 November 2010 submitted to SAPS Silverton by Lt Col Mahlangu she stated that she was on duty on 22 September 2010 when she realised that exhibit material was missing in the case of Sundra CAS 45/12/2009 and Langlaagte CAS 202/04/2010. The matter was reported to the Silverton SAPS more than a month after she identified the missing exhibit.

Silverton CAS 142/11/2010

Description of Events	Date	Additional Description/Comments
Originating CAS	July 2005	Delft CAS 207/07/2005
Exhibits Received at FSL Reception	Not Recorded	Not Recorded

Loss Identified	04/05/2006	Loss identified Forensic Analyst AK Maleke
Area of Loss		Chemistry Section Laboratory
Description of Loss		Evidence Bag: FSCC102700
Description of Contents		Unclear
Date Reported to Silverton SAPS	05/11/2010	Reported by Col Skade
Suspects Identified	None	None
Result	17/05/2011	DPP declined to prosecute

10.35 The missing exhibits were later found behind the drawer of Maleke.

Silverton CAS 487/11/2010

Description of Events	Date	Additional Description/Comments
Originating CAS	June 2005	Worcester CAS 577/06/2005
Exhibits Received at FSL Reception	Not Recorded	Not Recorded
Loss Identified	04/05/2006	Loss identified Forensic Analyst Maleke

Area of Loss		Chemistry Section Laboratory
Description of Loss		Evidence Bag: FSCC201094
Description of Contents		Unclear
Date Reported to Silverton SAPS	05/11/2010	Reported by Col Skade
Suspects Identified	None	None
Result	17/05/2011	DPP declined to prosecute

10.36 The missing exhibits were found behind the drawer of Maleke.

Silverton CAS 631/06/2012

Description of Events	Date	Additional Description/Comments
Originating CAS	June 2005	Worcester CAS 577/06/2005
Exhibits Received at FSL Reception	Not Recorded in Docket	Not Recorded
Loss Identified	29/06/2012	Loss identified by Lt Col Shole
Area of Loss		Archives
Description of Loss		Evidence Bag: Unknown

Description of Contents		Unclear
Date Reported to Silverton SAPS	29/06/2012	Reported by Col Skade
Suspects Identified		Still under investigation
Result	17/05/2011	Still under investigation by Mamabolo

10.37 On request of the defence attorney in the ORTIA CAS 192/09/2011 matter, the exhibits were sought by Col Shole in archives during May 2012. Lt Col Shole reported on 29 June 2012 to Col Skade that one of the exhibit bags was missing. The investigation of this matter is still ongoing.

10.38 Some SAPS members were subjected to polygraph examinations

10.39 The following members have been subjected to polygraph examinations conducted by polygraph examiners attached to the FSL:

- Tshepo Paul Shole
- Shaun Govender
- Mkhacani Derrick Chauke
- Kagiso Frank Dlangamandla
- Tlangelani Davies Khoza
- Malesela Simon Ledwaba

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- Wisani Alex Mlondobozi
- Lizette Shones Minnaar
- Nomthandazo Monica Netshiozwi
- Ruth Kgomotso Mongalo
- Zodwa Betty Skhosana
- Hasani Michael Mitileni
- Ernest Bongani Mnguni
- Mothusi Michael Seremo
- Billy Mmariane Mohale
- Pakiso Alfred Mosia
- Didimalo Prtjie Mashigo
- Doctor Mathews Letsobe

10.40 The following of whom were found to be deceptive:

- Tshepo Paul Shole
- Tlangelani Davies Khoza



- Ruth Kgomotso Mongalo

10.41 Theft of the rhino horn was reported to the Silverton SAPS in CAS 266/02/2010

Description of Events	Date	Additional Description/Comments
Originating CAS	June 2009	Villoria CAS 11/06/2009
Exhibits Received at FSL Reception	03/08/2009	Received by Mothlabane
Loss Identified	04/08/2009	Loss identified by Lt Col Vermeulen
Area of Loss		SAU
Description of Loss		Evidence Bag: FSC296963 FSC296965
Description of Contents		Four rhino horns
Date Reported to Silverton SAPS	February 2010	Reported by W/O Mhlanga
Suspects Identified		Matjila
Result		Guilty

10.42 An internal investigation was conducted by Capt Ras who identified Mr Matjila as a suspect in the matter. The trail commenced during December 2011 and Mr

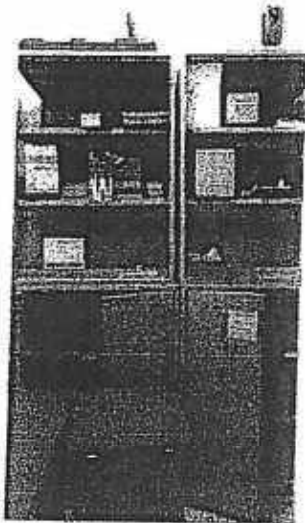
Matjila was convicted during the criminal proceedings. He was given an imprisonment sentence. Disciplinary charges were also proffered against Mr Matjila and an enquiry was held on 31 October 2011.

- 10.43 Mr Matjila was found guilty in terms of Regulation 20 (z) and (f) and was redeployed to Support outside the FSL.

Site inspection

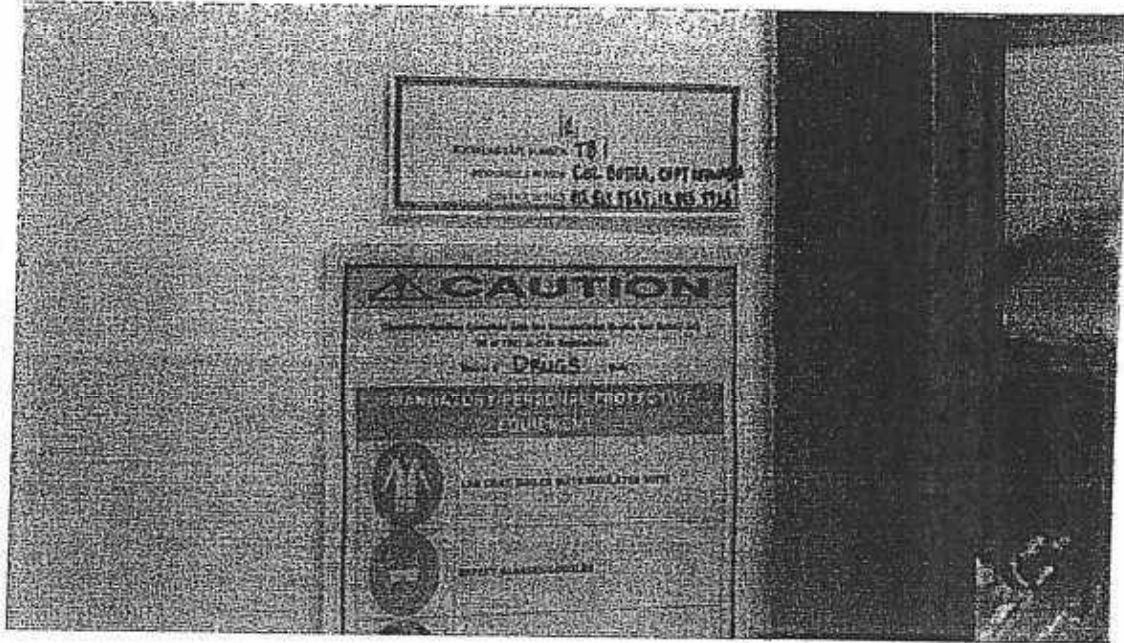
- 10.44 A site inspection was conducted of the safes at the FSL Silverton and photographs of these safes were taken to record the status of the safes and the space constraints and other risks identified which could contribute to the theft of drugs from the FSL.

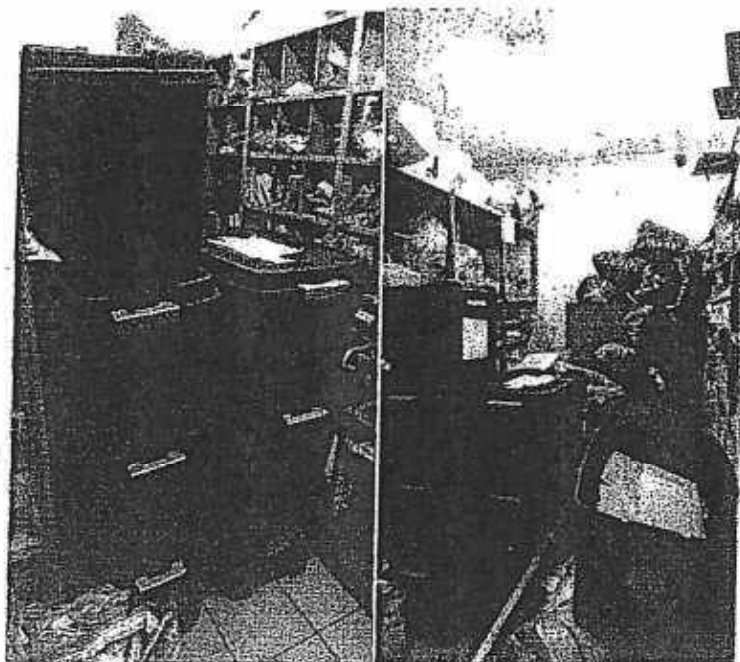
Reception Safe (Case Reception and Registration)



- e Major Mabasa is currently the Section Commander: Case Reception and Registration and is the custodian of the keys to this safe. The Reception Safe is used to store exhibits received at Reception and which need to be stored overnight before being collected by members from Case Management.

Incoming Safe TB 1 (Case Management)





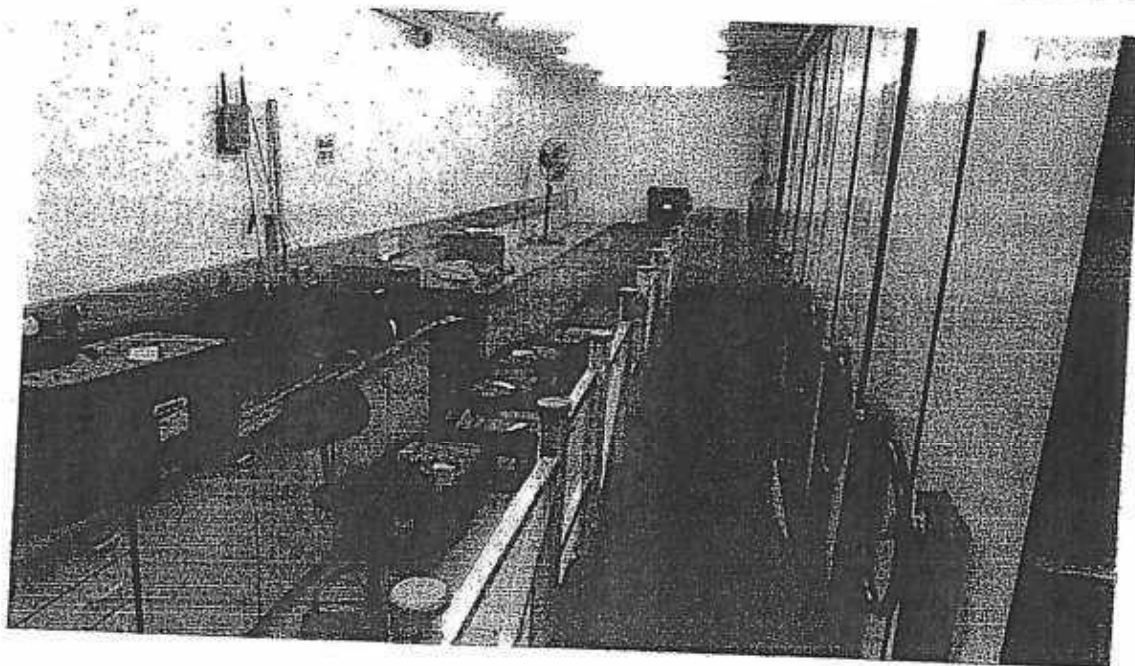
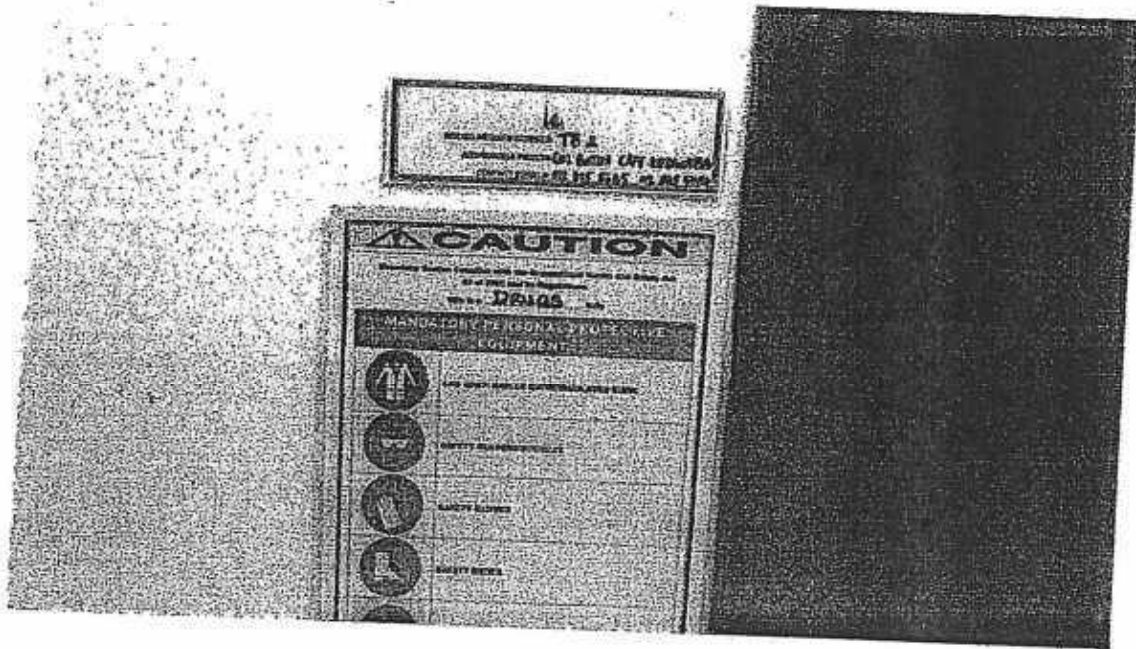
10.45 Col Botha is currently the Section Commander: Case Management and is the custodian of the keys to this safe. This safe is used to store exhibits collected from reception and prior to allocation to analysts.

- 10.46 Space is currently a problem and volumes of exhibits cannot be stored properly. In order for the staff to gain access to the safe, the bins need to be removed from the safe and stored in the alley outside the safe during working hours.



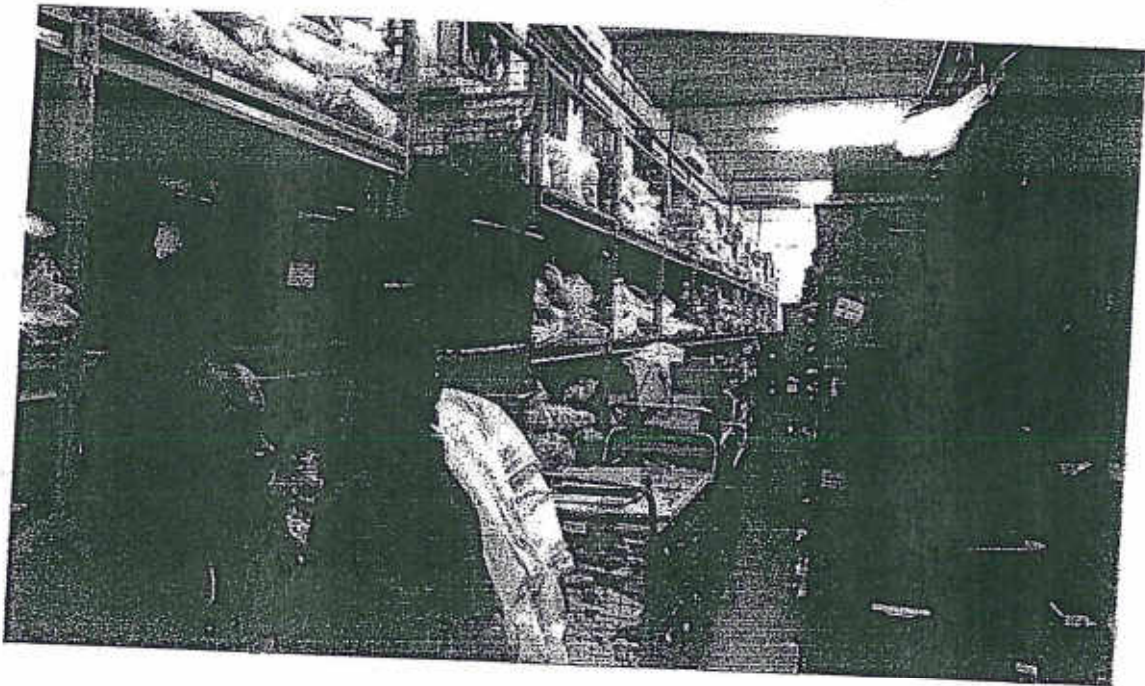
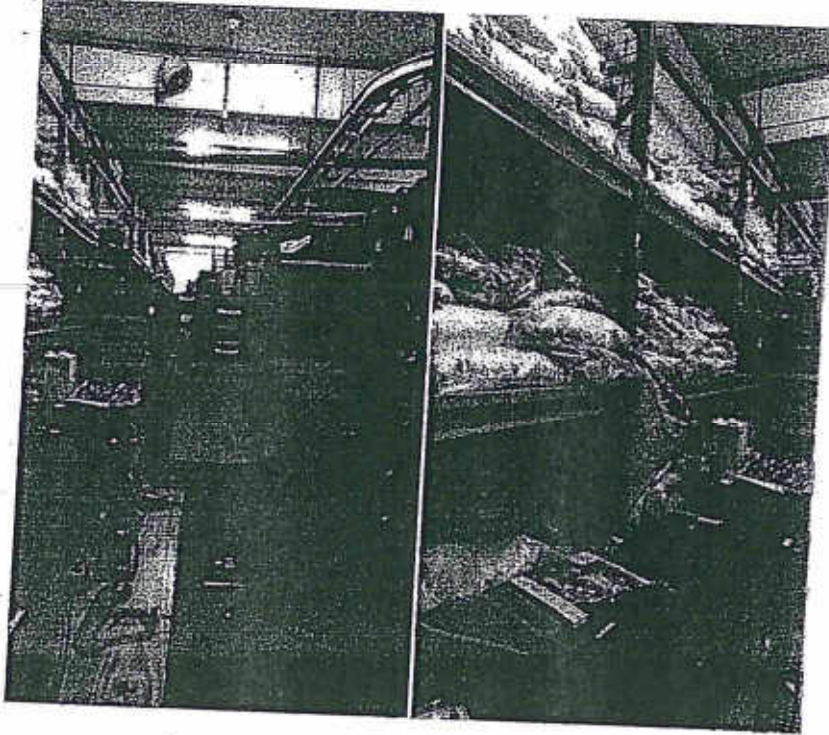
These bins then need to be returned to the safe before locking up:

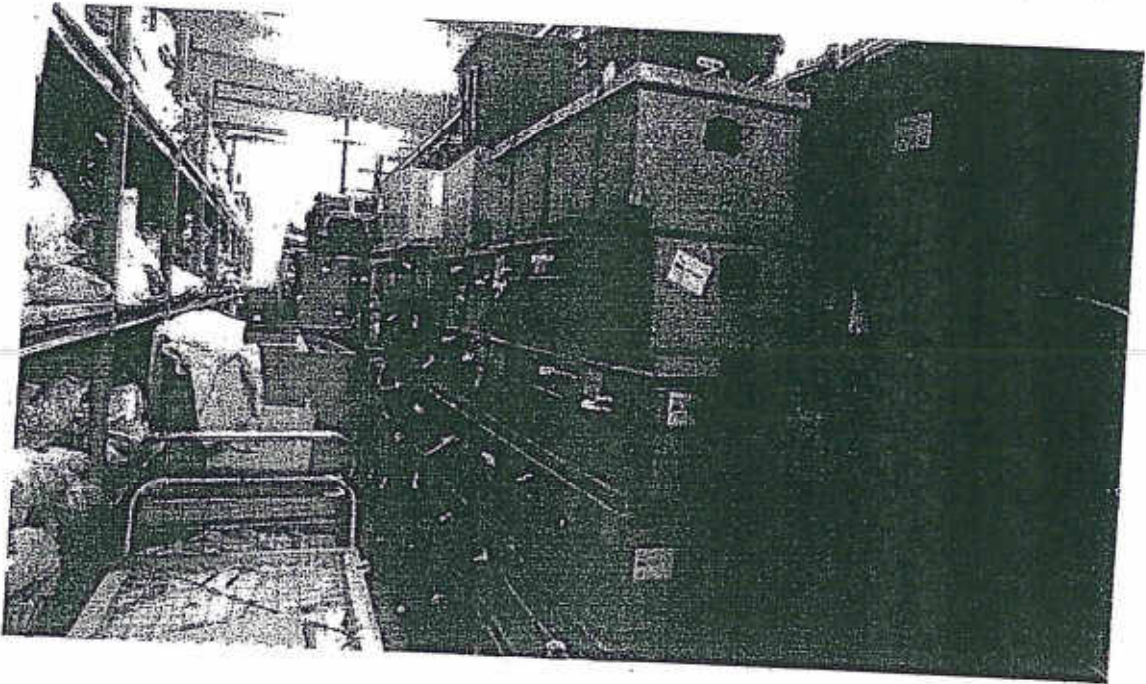
Archiving Safe TB2 (Archiving)



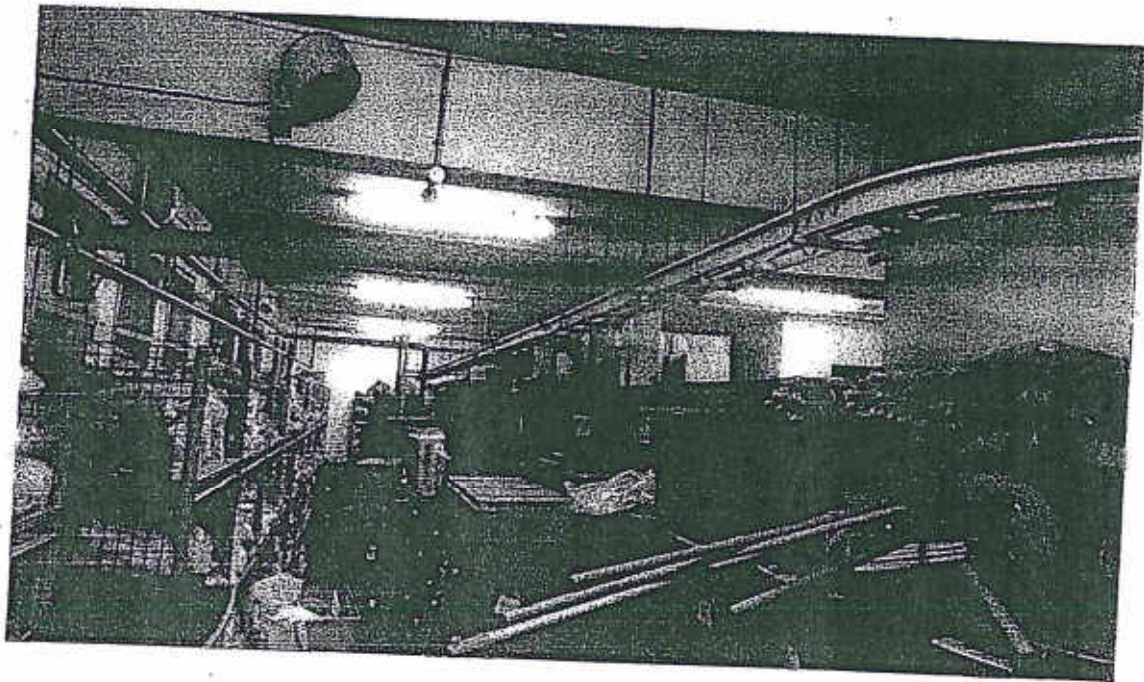
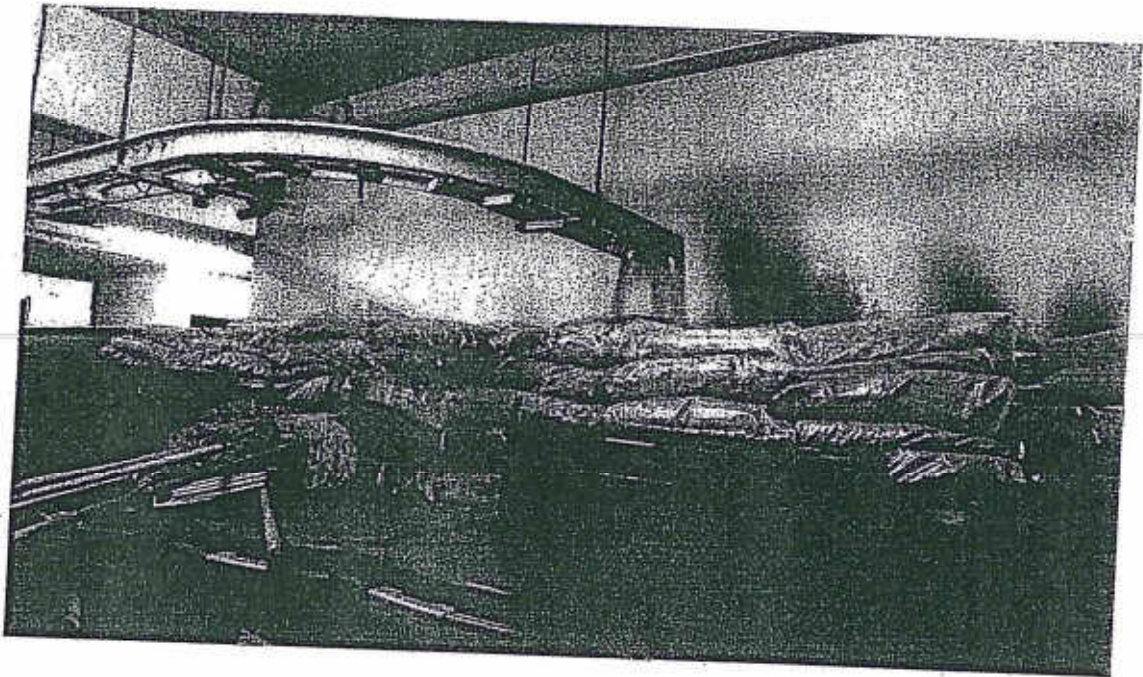
10.47 Lt Col Shole is currently the Section Commander: Archiving and is the custodian of the keys to this safe. The Archiving Safe TB2 is largely used to store case files and small exhibits received from the analysts post analysis.

Archiving Safe (K13)







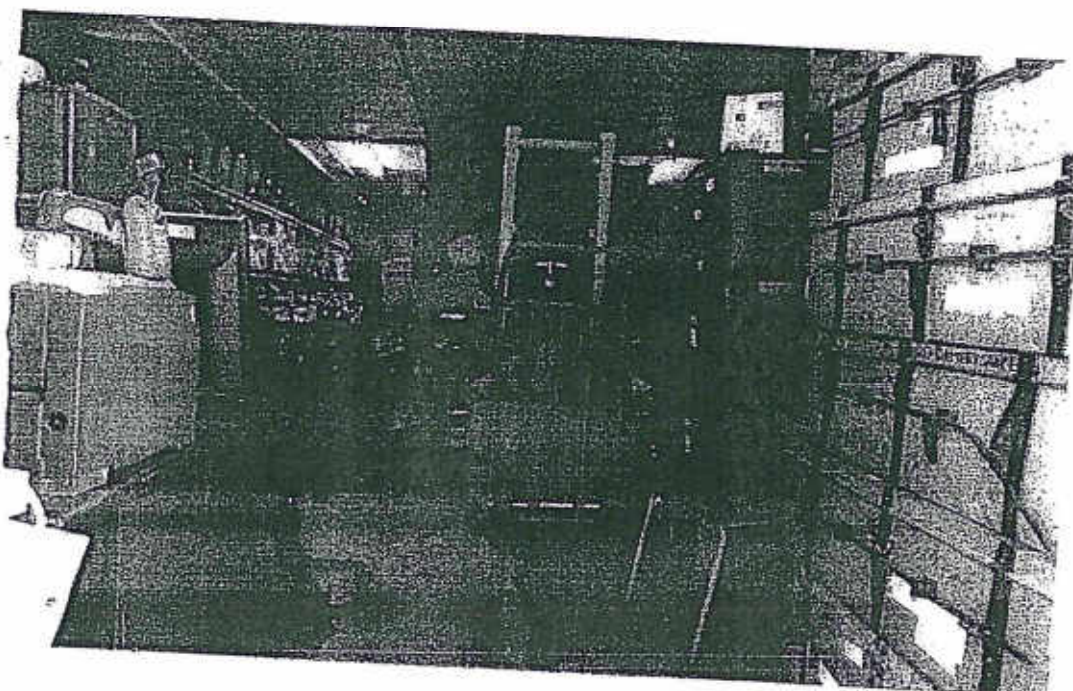


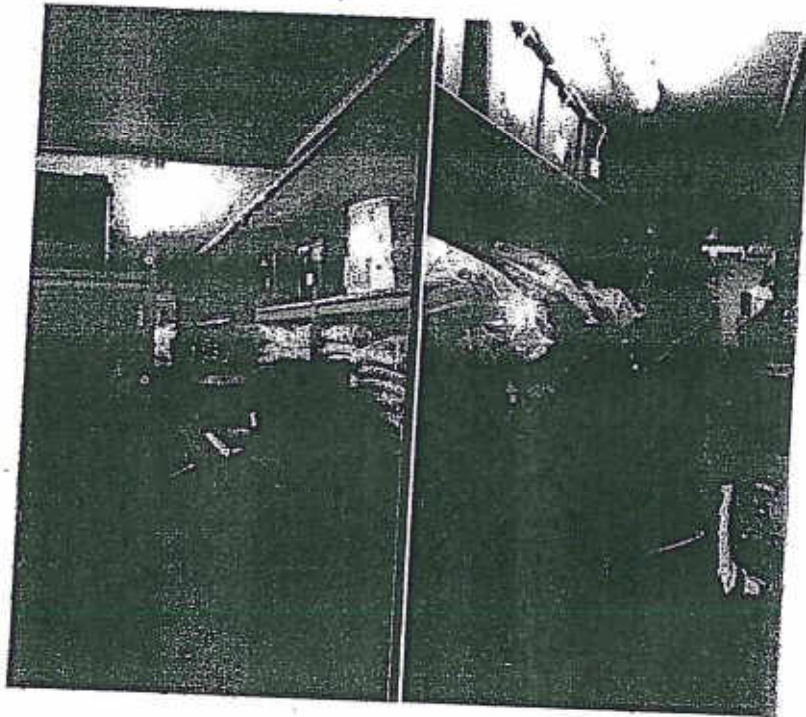
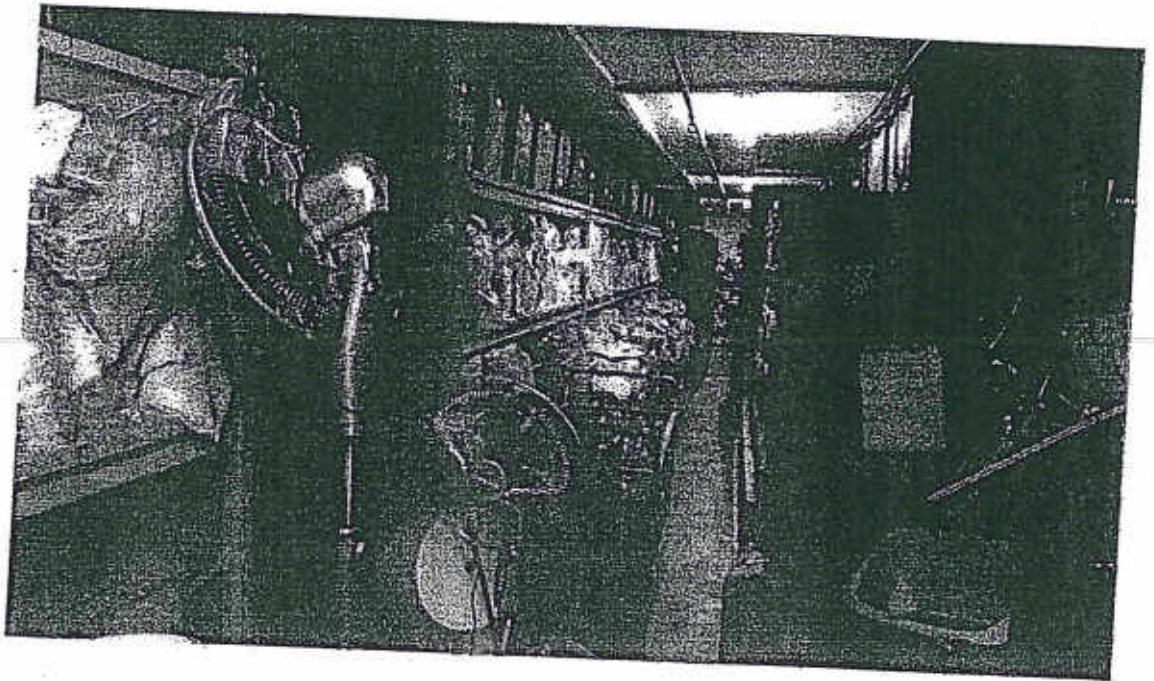
10.48 Lt Col Shole is currently the Section Commander: Archiving and is the custodian of the keys to this safe. The archiving safe K13 is used for the storage of exhibits received from the analysts post analysis and pending destruction. As can be seen from the photographs above space is a huge constraint. It can also be noted in

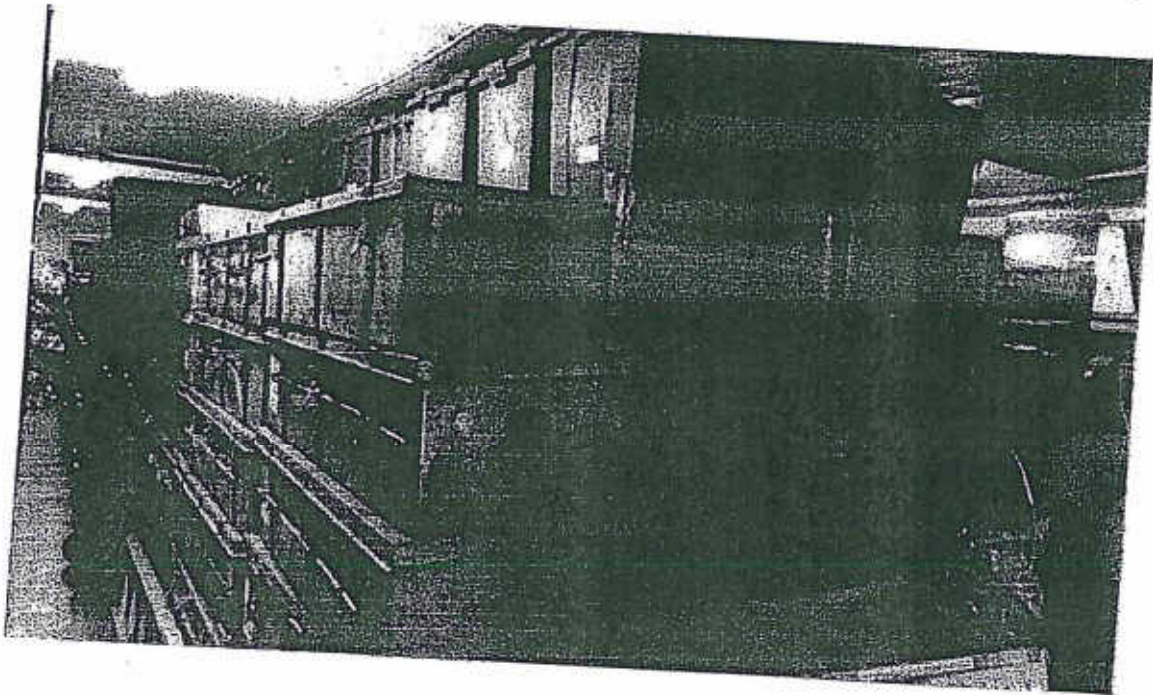
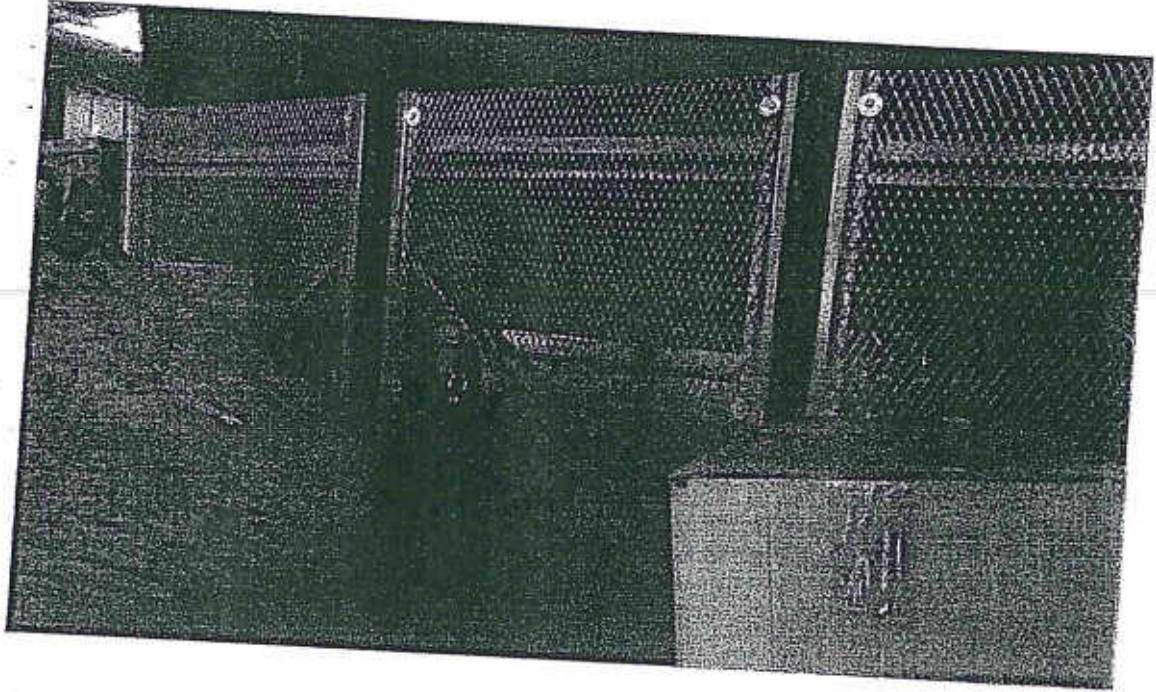
the above photographs that the water tanks for the buildings fire sprinkler system are housed in the safe, this poses various risks including a risk of water damage to the exhibits in the event the tanks or the sprinkler nozzles leak.

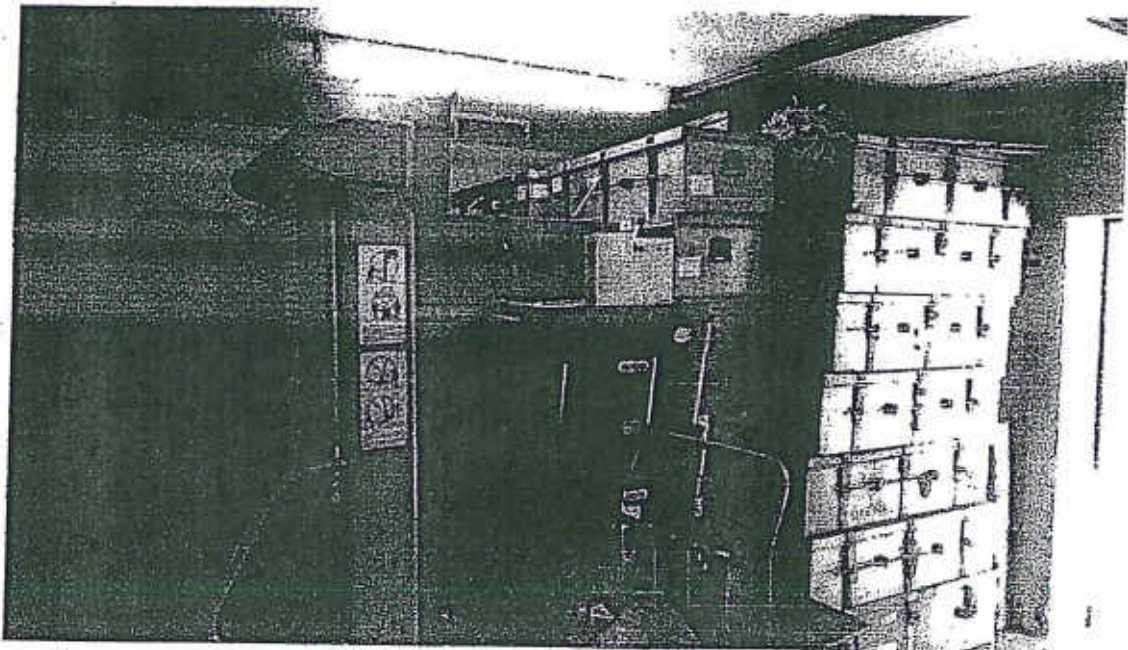
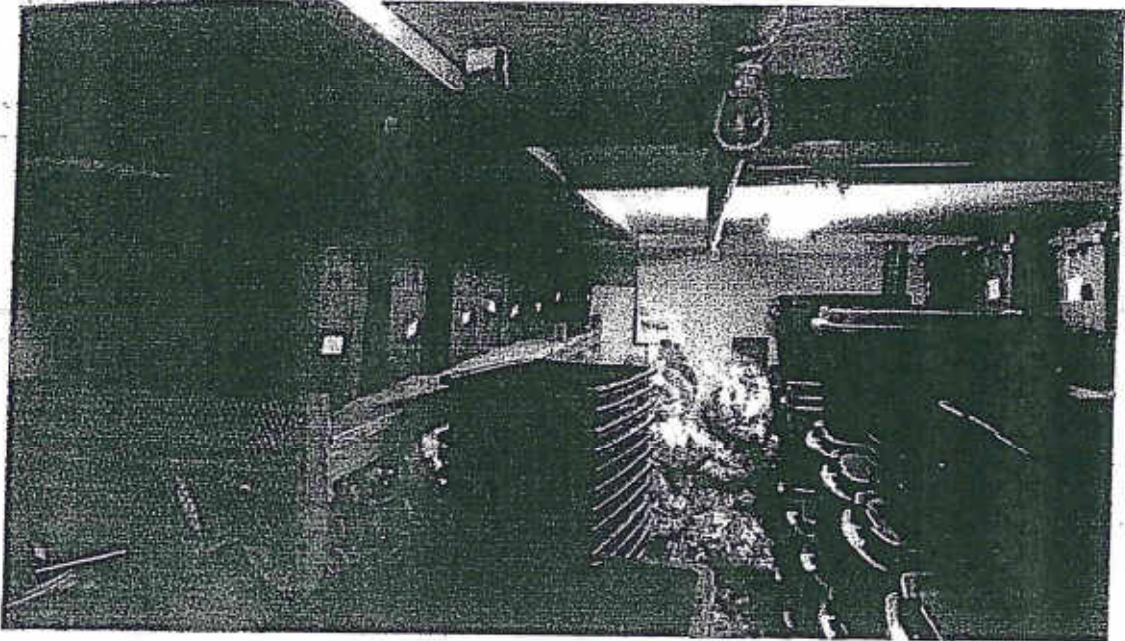
- 10.49 This safe is not ideally suited for the storage of exhibits and the space constraints make it difficult to conduct any type of audit or search for exhibits.

Archiving Safe (SCM)









10.50 Lt Col Shore is currently the Section Commander: Archiving and is the custodian of the keys to this safe. The archiving safe at SCM is used for the storage of exhibits received from the analysts post analysis and pending destruction. As can be seen from the photographs above space is a huge constraint.

**11. Human Resources: Disregard of organisational structure**

Introduction and background

- 11.1 It was alleged in the POPCRU letter that there are posts at the CRC that were filled disregarding the absence of the organisational structure. The new SAPS structure was under discussion at the SSSBC.

Summary of facts

- 11.2 This allegation, due to its vagueness required us to attempt to obtain clarity as to exactly what the purported irregularity alleged by POPCRU may entail. The issue was discussed on numerous occasions with POPCRU members and we were sent from pillar to post. Finally certain documentation was obtained with reference to SSSBC agreement number 3/2011 (see **Exhibit 113**) and a PSCBC resolution dated 31 July 2012, which document inter alia pended the implementation of certain salary adjustments and conditions of service to 1 April 2013 (see **Exhibit 114**). As a result of the lack of substance relevant to this allegation, we were unable to conclude any investigation or findings. As a matter of comment, it may be stated that in general, an employer is not prohibited from proceeding with internal appointment procedures whilst a restructuring process is under negotiation with a relevant bargaining council.
- 11.3 We sourced a document reflecting the new SAPS structure from the Office of the Nat Comm. This structure is reflected in an implementation manual dated 9 March 2011 and it reflects specifically the old and new job titles (see **Exhibit 115**). This document however did not further assist us with the POPCRU allegation.

**12. Reckless neglect of duties: CAS 350/09/2011**

Introduction and background

- 12.1 POPCRU made reference in their letter of an incident where an officer from Commercial Branch in Pretoria requested assistance with the services of a handwriting expert in case Soshanguve CAS 350/09/2012. More than a month later Col Mathebula responded in a letter dated 30 May 2012 that due to a shortage of senior analysts who were abroad at the time, it was impossible to urgently allocate the case to an expert.

Summary of facts

- 12.2 POPCRU alleged that there were 12 analysts who could do the analysis on the disputed handwriting document of which 7 were available in the country at the time of the request.
- 12.3 We proceeded to investigate the alleged misrepresentation by Col Mathebula to the SAPS and the Office of the Control Prosecutor that his unit was unable to attend to their urgent request to conduct handwriting analysis relating to Soshanguve CAS 350/09/2011.
- 12.4 We conducted interviews with various members of the QDU. According to Lt Col Ramolobe he became aware of the Soshanguve case on or about 30 May 2012 when he verified the so-called "red-flag" cases in the vault. He informed Brig Morapedi by email of the Soshanguve case that was in the vault for more than 15 days (see **Exhibit 116**). It appeared from the interview with him that Col Mathebula wrote a letter to the investigating officer regarding the availability of an expert (see **Exhibit 117**).

- 12.5 Col Mathebula was interviewed and stated that he was contacted by Ms Sekwakwa, the administration clerk at QDU informing him that the investigating officer from the Soshanguve case was enquiring as to the progress. He obtained the case file from room 29 in the safe area at the QDU around lunchtime on 30 May 2012. He thereupon contacted the investigating officer telephonically and requested a postponement of the case due to a lack of a qualified and experienced analyst. The investigation officer required a letter confirmed the conversation relevant to the availability of an expert. He enquired from Lt Col Mashabela, the Commander: Handwriting Analysis, as to why the case had not been allocated within the seven day time frames per procedure. Lt Col Mashabela thereupon informed him that the file was not in the safe. Upon inspection of the exhibit register, he noticed that the file was received (see **Exhibit 118**), but not signed for by an analyst (see **Exhibit 119**). He left the case file in the safe with the intention of allocating it on Monday 4 June 2012.
- 12.6 Ms Jansen van Vuuren, an administrative staff member, informed him that Lt Col Ramolobe conducted a vault inspection and enquired about the Soshanguve case. She gave him a copy of the letter drafted on request of the investigating officer. The case file was then allocated to Capt Bothma on 4 June 2012.
- 12.7 Col Mathebula stated that at the time of the allocation, the following senior analysts from the QDU were in office:
- Lt Col Mashabela
  - Major Dooka
  - Capt Bothma
  - Col Mathebula



- 12.8 According to Col Mathebula, Capt Bothma and Maj Dooka, the two Senior Analysts, were abroad from 20 May 2012 to 02 June 2012. Col Redher also a senior handwriting analyst, was the Section Commander: Facilitation and Development at the time. Col Mathebula did not allocate the Soshanguve case to Lt Col Mashabela or Lt Col Ramolobe, who was the Section Commander: Case Management and also a senior analyst since both were occupied with other allocated matters. Col Mathebula did not attend to the case himself as he is not supposed to conduct analysis.
- 12.9 Col Mathebula disputed the fact that he deliberately withheld the allocation of the case to an analyst. He was unaware of a letter written by a representative of the NPA at the time that he perused the case file, which he found in the vault.
- 12.10 Lt Col Mashabela, Section Commander: Handwriting, stated during an interview that he allocates cases to handwriting analysts on every Monday. Cases are categorised as urgent, high profile, second entries, and big cases in terms of size and other. He became aware of the Soshanguve matter on or about 24 May 2012. Col Mathebula instructed him on 28 May 2012 not to allocate the case file as the Branch Commander of the SCCU had known the case was urgent, but submitted same to the FSL too late. Lt Col Mashabela averred that he had volunteered to analyse the case, but Col Mathebula refused it. According to Lt Col Mashabela the following senior examiners were available at the time:
- Col Mathebula
  - Lt Col Ramolobe
  - Lt Col Serfontein

- Lt Col Esterhuizen
- Col M Rehder

- 12.11 Lt Col Mashabela averred that Col Mathebula had kept the case file with him. According to Lt Col Mashabela the time frame for cases to be analysed and reviewed was a total of 28 work days from the date it is received by the QDU (see **Exhibit 120**). He was unable to indicate when the case file was placed in the vault. He stated that the various Section Commanders are responsible for the allocation of their cases every Monday morning. He indicated that Col Mathebula was made aware of the Soshanguve case on 24 May 2012.
- 12.12 Capt Bothma was interviewed. She could not recall who had handed her the Soshanguve case for analysis.
- 12.13 Mr Ramabulana, an administration clerk at Case Reception at the QDU explained during an interview that the Soshanguve case was received on 9 May 2012. This was corroborated by the entry in the exhibit transfer record. He also referred to the first and second entries of exhibits in the records and explained that the second entry means that additional exhibits had been provided on the same case for analysis. He confirmed that the "*person designated for exhibit safe*" failed to sign for the exhibit and he was unable to provide an explanation for same. He could not recall if the exhibit had been left in his personal safe and could not confirm that the exhibit had been placed in the vault according to prescribed procedure.
- 12.14 Ms Jansen van Vuuren, an administration clerk at Case Reception explained during an interview the process relevant to the receipt, registration and allocation of cases. She confirmed that Lt Col Ramolobe is her direct supervisor and that he conducted weekly inspections of the vault. According her, she never

compared the cases in the vault to any list of cases which should be in the vault. If a case was not in the vault during an inspection of the vault, it would not be noticed. It was a common occurrence that cases would be left in the safe for extended periods of time for various reasons, including, but not limited to, the absence of analysts.

- 12.15 Ms Sekwakwa, an administration clerk in Case Registration stated during an interview that the investigating officer in the Soshanguve case frequently enquired about the progress of the case. She phoned Col Mathebula informing him about the enquiries and recalled that she contacted him on 30 May 2012 which was a Wednesday. Col Mathebula and she went to the vault where he withdrew the case file and examined it. He later discussed the case with Lt Col Mashabela in her presence.
- 12.16 We sourced copies of the relevant documentation including copies of the case docket, correspondence from the Office of the Control Prosecutor in Soshanguve and the signed letter of Col Mathebula dated 30 May 2012 (see **Exhibit 121**). Col Mathebula further provided us with copies of the email correspondence between Lt Col Ramolobe and Brig Morapedi. We also sourced a report from the QDU and addressed to the SCCU dated 11 June 2012 (see **Exhibit 122**).
- 12.17 We drafted a schedule hereunder reflecting a timeline of events from information obtained from the documents referred to above.

Description of Event	Date	FSL Work Flow - Days
Soshanguve CAS 350/09/2011 reported to SAPS Soshanguve	September 2011	
Third appearance in court	19 April 2012	

Covering letter drafted requesting assistance in analysing handwriting specimen	24 April 2012	
Covering letter and exhibits received by QDU	09 May 2012	1
Case registered at QDU and assigned Lab number 141715	10 May 2012	2
Case transferred from registration to exhibit safe	Unknown	Unknown
Letter drafted from NPA Soshanguve	26 March 2012	
Letter from NPA Soshanguve signed by Control Prosecutor	14 May 2012	
Letter from NPA Soshanguve received by QDU	15 May 2012	5
Mathebula is informed that I/O of the case is making frequent enquiries as to the progress of the case	30 May 2012	16
Mathebula examines the case file found in the exhibit vault	30 May 2012	
Jansen van Vuuren drafts letter on behalf of Mathebula addressed to the Commander Commercial Branch	30 May 2012 (10:35 am)	
Mathebula submits letter to the I/O	30 May 2012	
Ramolobe conducts an inspection of the exhibit vault	30 May 2012	

Ramolobe sends email to Morapedi with subject RED FLAG BACKLOG	30 May 2012 (12:34 pm)	
Morapedi sends email to Mathebula instructing him to allocate cases	30 May 2012 (08:27 pm)	
Mathebula respond by sending email to Ramolobe requesting a factual report	30 May 2012 (09:22 pm)	
Ramolobe responds making various allegations against Mathebula	31 May 2012 (07:01am)	
Fourth Court appearance	01 June 2012	18
Case assigned to Bothma	04 June 2012	19
Feedback letter from Redher to The Commander Commercial Crime Unit drafted	11 June 2012	24
Second entry received by QDU	14 June 2012	
Second entry assigned to Bothma	18 June 2012	
Affidavit signed by Mashabela	19 September 2012	

12.18 The date reflected on the letter of the Office of the Control Prosecutor, is 26 March 2012. However the Control Prosecutor only signed the letter on 14 May 2012 (see **Exhibit 121**). It was delivered by the investigating officer to the QDU on 15 May 2012.

12.19 The covering letter drafted by Brig Jonker, the Commander of Commercial Crime Unit and addressed to the Head of the QDU is dated 24 April 2012 (see **Exhibit**

**123).** This letter and the exhibits were only submitted to the QDU on 9 May 2012 as per the date stamp on the same letter.

12.20 Col Mathebula's response to the letter of the Office of the Control Prosecutor was dated 30 May 2012. The allegation by POPCRU that the response took more than a month, appears to be incorrect. A proper examination of the Control Prosecutor's letter and the fact that it was only delivered to the QDU on 15 May 2012, establishes that Col Mathebula's response was only 12 work days after the letter was received.

**13. Findings**

Decommissioning of Marshall RI (Reference Index) System (Allegation 1)

- 13.1 After careful consideration of the evidence contained in the investigation file, the opinion is held that the decision of the Deputy Director of Public Prosecution not to prosecute anybody in this matter is sound.
- 
- 13.2 No irregularity pertaining to the procurement of the services for the dismantling of the System could be found. The prescribed procedure was followed and adhered to by the SAPS members.
- 13.3 On the available evidence it cannot be said that the retention by Vertex of some of the System's components that could not be used by the FSL resulted in a financial loss for the SAPS. The majority of the components were of a specialised nature. This would probably have resulted in difficulties to sell it on an auction in terms of the SAPS's boarding procedures, or it would probably have sold for a pittance. The retention thereof by Vertex resulted in a saving of approximately R103 000.00.
- 13.4 The issue that remains to be addressed is whether the conduct of the FSL management to negotiate with Vertex for the reduced quotation in terms whereof Vertex could retain the components that were of no further use by the FSL, was irregular or not.
- 13.5 It might be that the arrangement to the effect that Vertex could keep certain components in lieu of a discount on the original quotation may be in conflict with

prescripts pertaining to the disposal of equipment on the State Property Account. If this is indeed so, the conduct of Brig Joubert in this regard was irregular, despite the allegation by him that the SAPS did not suffer any losses as a result thereof.

13.6 There are no evidence to substantiate any misconduct on the part of serving members of the SAPS.

13.7 Tested against the available evidence, POPCRU's allegations in this regard appear to be unfounded.

Presentation to Parliamentary Committee on backlog of cases at FSL (Allegation 2)

13.8 The remarks by Capt Kwakwa that during April 2012 he had confirmed to Lt-Col Ramolobe that the two SBV bags had been in the vault for a "very long" time and that sometime thereafter management applied for overtime payment in order that the backlog with regard to SBV cases could be addressed, give substance to the allegation that there were two SVB bags that, for some or other reason, were unattended to for quite some time.

13.9 Brig Morapedi confirmed the presence of the two bags during April 2012. The video footage was made on 23 April 2012. On face value alone this appears to be an unreasonable delay, especially in the light of the fact that the one bag was already received on 7 December 2011 and that no pertinent explanation regarding this particular time lapse could be given by anybody.



- 13.10 Brig Morapedi's indication that she did not regard the two bags as constituting a backlog, because it were not yet captured on the system for purposes of analyses, is open to criticism. This view does not take into consideration that statistics may be manipulated by not registering cases on the system and is, therefore, clearly incorrect. Lt Col Ramolobe's accusation that statistics can be manipulated in this way is, however, not without substance.
- 
- 13.11 No evidence could, however, be found to substantiate the allegation by POPCRU that the Div Comm's presentation to the Portfolio Committee during April 2012 regarding the backlog of 182 cases was "*fraudulent*". (Emphasis added). It could not be found that the intimation that the two bags were purposely not registered in order to avoid a negative performance indicator was proven on a preponderance of probabilities. The role players accused of such conduct deny that intent and the possibility that the so-called backlog in this regard could have been caused by other factors could not be excluded.
- 13.12 Considering the extent of cases received from the SBV per bag at any given time as explained by Brig Morapedi, it would be extremely difficult to apply the time line prescribed by Lt Genl Phahlane in so far as it relates to the registering of cases within two work days after receipt thereof. Brig Morapedi submitted a copy of the FSL Questioned Documents Section Quality Procedure Manual issued with effect from February 2013 and which approved by the Management of the QDU. This document, amongst others, provides to the following effect:
- In instances where multiple bags with large quantities of exhibits are received from the SBV, the supervisor must record the details of all the bags in the case register (QDU0019F). Thereafter one bag at a time must be opened and each case registered on the system. The next bag will only be

opened once the registration on the system of the contents of the previous bag has been completed. Depending on the number of cases that can be registered and the availability of registration personnel at a given time, it is possible that some bags may only be opened and registered on the system days after they have been received.

- 13.13 The above prescripts appear to be more accommodating in taking into account what is humanly possible. These prescripts, however, cannot exclude the possibility of the manipulation of backlog statistics by not registering cases within a reasonable time. It is submitted that whatever prescripts may be issued in this regard, it will eventually depend on the veracity of the personnel not to misuse the system.

Procurement irregularities: Goods not delivered at the CRC (Allegation 3)

- 13.14 The procurement process since the centralisation of the process by Lt Genl Phahlane during 2011 can be depicted as follows:

**Need Assessment  
Brig SH Diko**

- Needs assessment
- Requisition with motivation

**Recommendation of demand  
Maj Genl TJV Khunou**

- Recommendation of demand

**Ordering process**  
**Col E Honiball**  
**Section Commander: SCM**

- Verification of application:
  - P du Plessis (Admin clerk)
- Application perused & concurred:
  - Col E Honiball
- Application recommendation:
  - Brig DM Mmolawa
  - Brig L de Wit (Traut)
- Approval of request for purchase:
  - Lt Genl P K Phahlane
- Financial approval:
  - Capt M T Mamabolo
- Procurement authorisation:
  - Col E Honiball
- Order issued: Col E Honiball

**Delivery at CRC/LCRC**  
**Capt PM Zinserling**  
**CRC/LCRC STORE**  
**MANAGER**

- Delivery at CRC by supplier (delivery notes)
- Recording in register SAP 24
- Payment of invoices: Col E Honiball
- Requisitions from LCRC's
- Recording of withdrawals in register SAP 24
- Retrieval by supplier
- Delivery at LCRC's according to distribution lists compiled by Brig S H Diko

Payment of orders  
Col E Honiball  
Section Commander: SCM

- Receipt of delivery note and invoice
- Requisition for payment to Finance

Redelivery at LCRC's  
(92)

- Recording of stock in LCRC register SAP 24
- Delivery notes signed

13.15 Considering the facts summarised earlier, the following further findings are made:

- The allegation by POPCRU that approximately R30 million worth of items were paid for, but not delivered by the supplier is not substantiated by the document referred to as Annexure P of POPCRU's letter referred to above. All that Annexure P indicates is that at that stage an amount of R29 738 115.00 still had to be paid to the supplier. POPCRU's aforementioned allegation could not be substantiated by the financial investigation.
- The financial investigation that was done *prima facie* substantiate the following conclusions:

- The double payment that was made on invoice "...165" was rectified by the credit note in the amount of R838 625.00. However, it could not be ascertained whether value was indeed given to that effect or whether this relates to a book entry only. If this relates to a book entry only, it would mean that the SAPS suffered a loss in that amount.
- The record keeping of financial documents concerning the issues that were addressed is incomplete and is not conducive of proper control.
- The number of outstanding delivery notes is of great concern and should reconciliation with the various SAP 24 registers not prove that delivery did in fact take place in respect of those instances, the payments made should be regarded as losses, requiring the necessary investigation in accordance with the PFMA and Treasury Regulations.
- The drastic escalation of the expenditure, within a short period, for chemicals procured from the supplier is a concern that deserves further investigation. This must also be regarded together with the fact that shortly before the expiry of contract RT 152-2009 a markedly increase in procurement was notable.
- The quality of certain chemicals and canisters supplied by the supplier seems to be questionable.
- The needs assessments that were done by Brig Diko with regard to the orders requisitioned by him during 2011, which was recommended by Maj Genl Khunou and approved by Lt Genl Phahlane, did not comply with the prescripts contained in Standing Order (Stores) 2, Demand Management. Paragraph 2(a) of this order provides as follows:

*"In compiling a needs assessment, the chief user must take into consideration -*

*(a) The current and future needs of the users for the current financial year in view of strategic objectives, items currently available, condition of items, losses, disposals, items already ordered from a provisioning store, planned special projects, current personnel strength and expected increases in personnel strength;"*  
(Emphasis added).

- He did not consult or require inputs from the end users, to wit the LCRC's. He seemingly also arbitrarily compiled a distribution list according to which the supplier distributed items to the LCRC's. This caused overstocking of certain LCRC stores. The overstocking furthermore had the effect that some chemicals expired before it could be used, which caused the SAPS to suffer losses.
- Brig Diko's explanation to the effect that the short order in which procurement of chemicals took place during 2011 was due to the fact that it was necessary to rectify the depletion of chemicals during 2010 and that the orders were not for the same chemicals, does not appear to be entirely correct. A study of the relevant orders showed that they were largely for the same items.
- It is appreciated that Lt Genl Phahlane centralised the delivery of chemicals at the CRC stores in order to exercise better control over deliveries and payments, especially as it appears from information received from Col Honiball that the supplier's invoice system left much to be desired. However, **the procedure whereby the supplier, after**

delivery to the CRC, retrieves the items from the CRC to distribute created serious risks. These risks are as follows: After the items were delivered to the CRC stores, it became the property of the SAPS and all risks pertaining thereto went over unto the State. (This is in accordance with the law of contract principle that the risk with regard to damage or loss of movable property passes to the buyer when the contract becomes perfecta. The latter is considered to arise at the moment of delivery). When the supplier thereafter retrieves it, he or she is placed in possession of State property. Capt Zinserling's concerns in this regard, as pointed out earlier, appear to be justified. A further concern is that should the items be damaged or lost whilst it is in possession of the supplier for purposes of distribution, the SAPS would probably have no recourse in that respect. The contract in terms of which the supplier supplies the items also does not provide for such an arrangement. In terms of the SCC delivery must take place in accordance with what the orders specify. The orders specified delivery at the CRC stores.

- It appears that the supplier benefited from VAT inclusive prices without having been registered for VAT and without having paid such VAT over to SARS.
- On face value it appears that there may have been collusion between Crimotech Laboratories and Kriminalistik with regard to contract RT 152-2011. If it should be found that Kriminalistik, as it is now constituted, and Crimotech Laboratories both bid for RT 152-2013, collusion might also have taken place in that instance. The declarations of interests (SBD 4, paragraph 2.11) may then also be false.



Procurement irregularities: Eastern Cape information (Allegation 4)

13.16 Due to the lack of any information that could be investigated, no further investigation was conducted.

Human Resources: Fraud case (CAS 1519/03/2011) (Allegation 5)

13.17 From the outset, it became apparent that the entire process followed (complaint, opening of docket, re-taking of statements, arrest, sourcing of evidence) by the SAPS appears to be tainted.

13.18 The investigating division should have approached Brig Mmolawa as the Section Head at Forensic at the time when a decision was made to prosecute the matter. Protocol dictates that she should have been informed, even at the time when the Investigation Division initiated the taking of witness statements from personnel employed in her division.

13.19 It is further unreasonable to have expected Lt Genl Phahlane to make a decision relevant to the disciplinary action against the member. He was, although not implicated, directly involved as a potential witness in the matter. It is peculiar however that Lt Genl Phahlane did not appear to rely on this reason, but rather elected to execute a decision on the merits of the matter as to why not to institute any disciplinary action.

13.20 It is further apparent from the documentation in our possession that a higher authority such as Lt Genl Lebeya, the Deputy National Commissioner, did not brought forth a final decision to resolute the matter.

13.21 From our own observations it is clear that any further process relating to the institution of disciplinary action had become completely moot. The reason for the aforesaid relates not only to the time delay since the actual event, but also as a result of the resignation of one of the members in the interim, the fact that the investigation took almost two years to be completed and the judgement of the criminal court that had already addressed the merits of the case.

13.22 It is however evident from the documentation and information available to us that the correct procurement process was followed in order to secure the venue and to pay for the breakfast on 29 May 2009.

13.23 It is evident that three senior management members attended the court case of Lt Col Moorghia-Pillay and former Brig Malebe-Themba. It is apparent that the office of Div Comm had an official interest in the outcome of the criminal case. It is our view that the POPCRU allegation in this regard, is trivial in this regard.

Human Resources: Irregular payments (Allegation 6)

Mohlala

13.24 In light of the fact that this member appears not to have received any scare skills allowance, this matter is to be considered as unsubstantiated.

Nkgodi (referred to as Nkhodi)

13.25 If the provisions regulating the awarding of scare skills allowances as it was in 2006, were applicable during 2011 when the member entered into the agreement, the scare skills allowance granted to the member would have been

irregular. The two criteria relating to the qualifications and experience were not met.

Maj Genl Shezi

13.26 If it is established that the category under which Major Gen Shezi performed service at the time of the agreement, was not considered to be a recognised scare skills category, then an investigation should be conducted into the possibility of fruitless, wasteful and irregular expenditure in terms of the PFMA and Treasury Regulations.

13.27 If the above mentioned is indeed the case, cognisance should be taken that a wilful manipulation of policy may be deducted from the fact that the scare skills allowance certificate may have been manipulated.

(2) Mr Nhlapo

13.28 In light of the fact that this member appears not to have received any scare skills allowance, this matter is to be considered as unsubstantiated.

Human Resources: Irregular appointments (Allegation 7)

Col Daku

13.29 Based on the limited procedural information at our disposal, it cannot be said currently that the appointment and consequential promotion of Col Daku was contrary to policy prescripts having regard to the specific wording and applicability of NI 6/2005. It can therefore also not be excluded that the dispute

referral documentation and exhibits thereto, once obtained and evaluated, may yield factors that could be indicative of a potential unfair or irregular appointment process.

- 13.30 A detailed interview with the relevant person in Forensic Services Personnel Management will be required before a finding can be brought forth in this regard.

Col van der Hammen

- 13.31 POPCRU's allegation that Col van der Hammen was appointed in Kwazulu Natal is without substance as it appear that this was a lateral transfer.

Brig Morapedi

- 13.32 It is apparent that the appointment process of Brig Morapedi is irregular based on our findings relevant to the errors relating to her qualifications, her apparent disqualification, the incorrect procedure relevant to the absence of the panel member and the fact that the provisions of NI 4/2010 appeared to have been incorrectly applied (in relation to experience under the circumstances).

Lt Col Mashabela

- 13.33 Lt Col Mashabela did not apply for post 154/2011 and he confirmed instructions regarding his visit to KZN for purposes of attending to the setting up of the QDU. It became apparent that Lt Col Mashabela's grievance in this matter was not truly related to the filling of the post, but in fact related to a subsistence allowance which he claimed was not paid during his temporary employment in KZN.

13.34 The allegation relevant to an irregular appointment is therefore unfounded.

WO Nhlapo (Bafana)

13.35 POPCRU's allegation regarding the appointment of W/O Nhlapo is without substance as indicated in our report.

Brig Mmolawa

13.36 The allegation relevant to a sexual relationship between her and Lt Genl Phahlane, could not be substantiated on the currently available evidence.

13.37 The Nat Comm approved the appointment of Brig Mmolawa to her post as per the selection panel's recommendations, based on an equity consideration. At the time of applying for the position, she served approximately five years on the rank of Col and therefore appeared to have qualified technically with regards to the required years of experience on a preceding rank.

Brig de Wit

13.38 The allegation relevant to a sexual relationship between her and Lt Genl Phahlane, could not be substantiated on the currently available evidence.

13.39 She applied for the same position as Brig Mmolawa (post 10082172) and she was relieved for not being appointed. She worked directly under Lt Genl Phahlane for several years and followed him from Personnel Management to the FSL. She was surprised with the promotion to that of Brig.

13.40 Her appointment as reflected under IN 29/12 was concluded in terms of the process provided for in SAPS Employment Regulations: Regulation 45. In terms of paragraph 9 the Nat Comm may promote an employee into a post without advertising same and without following the selection process under certain specific circumstances.

13.41 Her appointment on IN 29/12 was declined by the Nat Comm relevant to post 10082172. She was promoted to a new post initially referred to as "The Section Head: Project Management and Strategic Planning: Division FS".

13.42 IN 23/05 was issued prior to obtaining the approval of the Job Evaluation Committee. Brig de Wit was appointed as Section Head: Project Management and Strategic Development at least 12 days before the panel considered the relevant newly created post.

13.43 Brig de Wit only served approximately two years in the rank of Col at the time of the IN 23/05 and her application for post 10082172. She should therefore not have qualified for the relevant promotion to the rank of Brig.

Theft of drugs and rhino horn from FSL (Allegation 8)

13.44 From 2007 to date, a total of fifteen cases of theft of drugs have been reported to the SAPS Silverton for investigation. Six of the fifteen cases are linked to Silverton CAS 203/12/2007 and were reported by the investigating officer upon instruction of the DPP to split the cases per incident of theft.

13.45 The NDPP declined to prosecute fourteen of the fifteen cases on 17 May 2011. Only Silverton CAS 631/06/2012 is currently still under investigation. The following two cases were registered unnecessarily since there was in fact no loss of goods and both cases were linked to CAS 203/12/2007:

- CAS 637/10/2010
- CAS 638/10/2010

13.46 The following two cases relate to exhibits which were believed to be lost, but were later recovered behind the drawer at the workstation of Maleke:

- CAS 142/11/2010
- CAS 487/11/2010

13.47 Silverton CAS 351/05/2009 relates to the theft of drugs and Mr Matjila was identified in the safe at Reception by Mr Chiloane who stated after viewing CCTV footage that Mr Matjila appeared to have removed exhibits from the drug bag and placed in his bag. Mr Matjila was convicted of the theft and given an imprisonment sentence.

13.48 The following two cases relate to the theft of exhibits reported by Sgt Chauke:

- CAS 210/09/2008
- CAS137/04/2009

13.49 In both instances referred to above Sgt Chauke was the last person to have seen the exhibits and when sought by the investigating officer to explain certain issues as per an instruction from the DPP, she could not be traced.

13.50 No arrests were made in the cases except for Mr Matjila. The investigations conducted in each of the cases appears to have been limited to gathering affidavits with no substantial investigation conducted into the individuals who had access to the areas from where the exhibits went missing at the time they went missing.

13.51 Only one case of theft of rhino horn from the FSL has been reported to Silverton SAPS for investigation. An employee of the SAU department within the FSL was convicted and sentenced to a prison term for the theft of rhino horn.

13.52 It is evident that not enough emphasis were placed on investigating when missing exhibits were reported. In all cases the negligence on the part of the members who handled the exhibits should be matters of concern.

Human Resources: Disregard of organisational structure (Allegation 9)

13.53 Due to a lack of information and documentation provided by POPCRU, no finding can be made.

Reckless neglect of duties: CAS 350/09/2011 (Allegation 10)

13.54 In the absence of any evidence to show otherwise, it is our finding that Col Mathebula only became aware of the Soshanguve case on 30 May 2012, two



working days prior to the next court date. At that point in time Col Mathebula's most experienced analysts assigned to the section Handwriting and Signatures were Major Dooka and Capt Bothma both of whom were in France and due to return 02 July 2012.

- 13.55 Mathebula had no choice but to request a postponement of the court date in order to allocate the case for analysis, as he could not at that late stage have had it analysed in time. Had the Soshanguve case been allocated procedurally correct by Lt Col Mashabela, he would have only been able to do so on 21 May 2012, the first allocation date after receipt by the QDU.
- 13.56 Col Mathebula had not been misleading in stating that there was a shortage of analysts who were abroad. The Soshanguve case was analysed within 24 work days, four days within the prescribed 28 work days. Lt Col Ramolobe's reply to Col Mathebula per email on 31 May 2012 and copied to Lt Gen Phalane, Major Gen Ngokha and Brig Morapedi appears to be a malicious attack on Col Mathebula and he seemed to have forgotten that he was in command of Case Management and that he should have identified the fact that the case was in the vault sooner.
- 13.57 The processes within the Reception area of the QDU, are inadequate.

#### 14. Recommendations

##### Decommissioning of Marshall RI (Reference Index) System (Allegation 1)

- 14.1 In the light of the fact that Brig Joubert is no longer in the service of the SAPS, it is suggested that it would serve no purpose to pursue this issue any further.

##### Presentation to Parliamentary Committee on backlog of cases at FSL (Allegation 2)

- 14.2 The system implemented during February 2013 by Brig Morapedi to address instances where multiple bags with large quantities of exhibits are received from the SBV or similar entities, is supported.

##### Procurement irregularities: Goods not delivered at the CRC (Allegation 3)

- 14.3 The following recommendations are made relevant:

- A detailed audit should be done with respect to the outstanding delivery notes, which should include a comparison of orders; invoices; delivery notes; payments and SAP 24 registers. Should losses or wasteful expenditure be identified, the prescribed investigations in terms of the PFMA and Treasury Regulations should be done. The audit should include specifically a determination whether or not the credit note that was issued by the supplier was converted into real value.
  
- A need assessment system in accordance with the prescripts contained in Standing Order (Stores) 2, Demand Management should be implemented. This system should include inputs from the provincial heads in collaboration with the various LCRC's.

- Where losses have occurred as a result of chemicals that have expired as a result of overstocking, the necessary investigations in terms of the PFMA and Treasury Regulations should be done.
- Proper independent scientific testing of samples of the chemicals at the CRC and LCRC stores should be done to ascertain whether inferior quality products had been supplied. The importance of this is obvious when taking into account the detrimental effect such products could have on the proper administration of justice. This whole issue appears in any event to merit further investigation and it is suggested that this should be considered.
- The issue regarding the *prima facie* VAT irregularities committed by the supplier should be reported to SARS for further investigation and any action they may deem meet.
- The possible collusion between Crimotech Laboratories and Kriminalistik, the *prima facie* misrepresentations by them and the irregularities committed with regard to VAT should be reported to the National Treasury for consideration.

Procurement irregularities: Eastern Cape Information (Allegation 4)

- 14.4 Despite the requests for information substantiating the allegation, none was forthcoming. It is recommended that the matter be regarded as finalised.

Human Resources: Fraud case (CAS 1519/03/2001) (Allegation 5)

14.5 Regarding the allegation that senior members attended the court case of Lt Col Moorghia-Pillay and former Brig Malebe-Themba, it is recommended that no action should be taken against the implicated members.

14.6 It is recommended that the allegation pertaining to the lack of disciplinary action against Lt Col Moorghia-Pillay has become mute and that no further action in this regard should be taken.

Human Resources: Irregular payments (Allegation 6)

Mohlala

14.7 No recommendation

Nkgodi (referred to as Nkhodi)

14.8 It is recommended that the SAPS initiate an investigation in terms of the PFMA and Treasury Regulations into possible fruitless, wasteful and irregular expenditure.

Maj Genl Shezi

14.9 It is recommended that this matter be investigated for potential fruitless, wasteful and irregular expenditure.

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WO Nhlapo

14.10 No recommendation

WO Ramalepe

14.11 No recommendation

Human Resources: Irregular appointments (Allegation 7)

Col Daku

14.12 It is recommended that a detailed interview with the relevant person in Forensic Services Personnel Management is required in order to find clarity on this issue. Alternatively, it is recommended that the findings of the SSSBC be awaited and once obtained considered.

Col van der Hammen

14.13 In the light of our finding that POPCRU's allegation is unfounded, it is recommended that the matter be regarded as finalised.

Brig Morapedi

14.14 It is recommended that the appointment of Brig Morapedi be reviewed on National Level.

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Lt Col Mashabela

14.15 No recommendation

WO Nhlapo

14.16 In the light of our finding that POPCRU's allegation is unfounded, it is recommended that the matter be regarded as finalised.

Brig Mmolawa

14.17 In the light of our finding that POPCRU's allegation relevant to the sexual relationship is unfounded, it is recommended that the matter be regarded as finalised.

14.18 The matter relevant to her appointment to Brig, should be regarded as finalised.

Brig de Wit

14.19 In the light of our finding that POPCRU's allegation relevant to the sexual relationship is unfounded, it is recommended that the matter be regarded as finalised.

14.20 In view of the further documentation received after our previous draft report, it is recommended that her appointment be reviewed on National Level.

Theft of narcotics and rhino horn from FSL (Allegation 8)

14.21 It is recommended an effective crime intelligence gathering project should be run on the FSL to identify the suspect/s involved in the theft of the drug exhibits. Due to the time lapse in this matter, it is recommended that no disciplinary action be instituted for the negligent conduct of the persons. →

14.22 It is evident from the photographs submitted that the storage facilities in use by the FSL are inadequate. The necessary high tech security requirements including but not limited to an adequate CCTV system and restrictive fingerprint, biometric access controls to all areas should be considered to ensure the safe receipt, storage and destruction of such exhibits. →

14.23 Human Resources: Disregard of organisational structure (Allegation 9)

No recommendation

14.24 Reckless neglect of duties: CAS 350/09/2011 (Allegation 10)

It is recommended that an audit of the policies and processes within the QDU should be conducted to identify and improve upon any weakness and risks within the QDU to enhance effective and efficient management.

It should be considered to streamline any overlap of duties relating to case management and case allocation.