

JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY,
POLITICAL INTERFERENCE AND CORRUPTION IN THE
CRIMINAL JUSTICE SYSTEM

HELD AT

BRIGITTE MABANDLA JUSTICE COLLEGE

5 MAY 2026

DAY 101



PROCEEDINGS HELD ON 5 MAY 2026

CHAIRPERSON: Good morning, Ms Sello.

ADV SELLO SC: Good morning, Chair. Good morning, Commissioners. Chair, to start off, from today, this week, we begin a new stream on the drug busts affected by law enforcement agencies and what subsequently happened to some of the busts that were conducted.

Before we deal with the witnesses, Chair, I would like to, with your leave, move an application that has
10 become necessary, notwithstanding our significant efforts to
lend at a different place, and that is an application for an
in-*camera* hearing. This really ...[intervenes].

CHAIRPERSON: That does not relate to this week.

ADV SELLO SC: No. This week, we intend to lead three witnesses. The first will start today in a public hearing, and so will the second. In the course of preparation, we encountered challenges with the third witness, and the third witness deals in particular with the Port Shepstone drug theft of the 541 kilogrammes of cocaine.

20 **CHAIRPERSON:** That witness is coming on when?

ADV SELLO SC: He is scheduled for Friday. We understand and we are persuaded that in the past 12 months, significant strides have been made in the investigations, and quite a lot of information has been unearthed relevant to the whole investigation.

Chair and Commissioners, you must not lose sight of the fact that this is an incident that arose in June 2021, and there had been the progress in regard to investigations was less than ideal until recently, well, not as – where recently means a year ago. And significant strides have been made.

There is a concern that public testimony regarding the Port Shepstone theft would jeopardise both the investigations, secondly, the identities of confidential
10 sources, potential witnesses for subsequent criminal prosecutions that will follow, and inadvertently disclosed potential suspects for prosecution.

In our engagement with the witnesses and the law enforcement agencies, we sought a *via media*, which was to have the witness testify in partial *camera*, which is off-site, but to be heard in the auditorium. That situation would constrain the witness, and that the witness will not be able to unpack in detail what the investigations have so far established, and we believe that would only serve to
20 prejudice the Commission because the Commission will not have a full appreciation of what happened and how it came to be.

We are now at a point where the witness is reluctant, has compelling us to move for a complete *in-camera* hearing, where he is willing to disclose everything

that the investigations have uncovered, but only if it is in *camera*. So the application we are moving before you, Chair, today, as the Commissioners would know, this week and next week, we are running the drug bust stream, and the witness for Friday is specifically for Port Shepstone, and we are requesting that this witness's testimony be held in *camera*, where he will make full disclosure based on the docket as it currently stands, starting with the actual seizure of the drugs at the Durban Harbour, and the
10 circumstances surrounding that.

The handling of the seized drugs and subsequent storage at the DPCI Port Shepstone offices, the subsequent actual theft of these drugs from the Port Shepstone offices, and what the investigations have uncovered thus far as regards to that theft. And the evidence of potential witnesses the investigators have obtained relating to all the above issues.

So it will be a complete and full disclosure to the Commissioners regarding these matters, except that it can
20 only happen if it is in *camera*. Having had consideration to the material and the full basis for the application, we as the Evidence Leaders are persuaded that it is appropriate to grant the application if the Commission is to be placed in a position where it can discharge its terms of reference on these matters.

CHAIRPERSON: This being an application brought by the Evidence Leaders, do you still have the 72 hours? As you know, you must give a notice, 72 hours' notice.

ADV SELLO SC: Admittedly, we do not. We do not, Chair. We are just shy of 72 hours.

CHAIRPERSON: So you are seeking condonation for ...[intervenes].

ADV SELLO SC: Firstly, seeking condonation. And in fact, my appearance today to move for the application was to
10 save, quote-unquote, the appearance of the witness, because it had come to a point where the witness was completely reluctant to appear.

So I am quite appreciative of the fact that we are shy of the requisite 72 hours, so therefore non-compliant, and it would be appropriate for the Commissioners to condone the non-compliance. But the case we make is that we, as Evidence Leaders, are persuaded that it is appropriate that it be granted.

CHAIRPERSON: Do we at this stage grant a final order, or
20 should it rather be in the form of a rule *nisi*, returnable on Friday morning?

ADV SELLO SC: It would be a final order.

CHAIRPERSON: Final?

ADV SELLO SC: It would be a final order that we are seeking.

CHAIRPERSON: The giving of notice is an arrangement that was made, at least with the two media houses that opposed the very first *in-camera* application, and the Evidence Leaders undertook that they would always give notice. If it is a final order right away, does that not breach the arrangement that was made?

ADV SELLO SC: Perhaps if I take a step back and we look at the circumstances that led to the moving of this application, we have been preparing with the witness. What
10 brought us to this point, I would say, is the extent to which the Evidence Leaders were insisting certain evidence be put to the Commissioners.

The witness would have been somewhat prepared to testify as to some facts, but it would have been a very superficial kind of testimony, and in order to do a proper job and give proper perspective, the Evidence Leaders, quote-unquote, drove the witness to disclose as much as possible, and I think to a point of discomfort for the witness.

So this was not a witness intended to go *in-camera*.
20 It is the facts surrounding his testimony that have forced this application, and hence it was not moved yesterday or Friday, and we take the opportunity of the start today to move it.

CHAIRPERSON: My inclination, but I have not had a discussion with my co-Commissioners, is to, one, grant the

condonation.

ADV SELLO SC: Thank you, Chair.

CHAIRPERSON: But I am loathe to deny the media the opportunity to at least respond. What prejudice, if any, would be suffered if a rule *nisi* is issued with the media to respond, not later than, I was thinking of Thursday, for example? In the event that we do grant the application eventually, so as not to prejudice you for purposes of Friday, the rule *nisi* is then retainable in the morning on
10 Friday, you will choose whether or not you want to reply. Maybe you will do so overnight on Thursday, if you want to reply. At least the media will have been given an opportunity to consider the application and, if need be, possibly respond to it. Would you suffer any prejudice?

ADV SELLO SC: No, not necessarily, Chair. I think the challenge would be whether we are likely to proceed on Friday, depending on the Commissioner's decision at the end.

CHAIRPERSON: Our experience, with the exception of the
20 odd application, our experience is that we finalise this within 45 minutes, give or take, so that in the end, the giving of testimony is not prejudiced. And is there legal representation for the Friday witness?

ADV SELLO SC: No.

CHAIRPERSON: That is likely to be a very short

application. Whichever way it goes in the end, but it is likely to be a very short application.

ADV SELLO SC: I was putting forward a potential consequence of the application of in *camera* not being granted. And that is why I did not consider perhaps a rule *nisi* to be appropriate in the circumstances where we would lend. And I do accept that the press should be granted the opportunity to express, to take a position regarding this issue ...[intervenes].

10 **CHAIRPERSON**: Especially because it was an undertaking that you, the Evidence Leaders, made right at the beginning.

ADV SELLO SC: And it is an undertaking we made in circumstances where, from the beginning, we considered the witness to be an in *camera* witness. That is not the case here. This witness was going to testify in public, but circumstances drastically changed. And no level of persuasion by the Evidence Leaders could reach a point where the witness would be persuaded to testify publicly.

20 The issue is the identity of the witness must be withheld, and so must the contents of his testimony. So I am thinking of a situation where the press is persuasive to the Commissioners and they are inclined to deny the in *camera* request. Then we are in a position where ...[intervenes].

CHAIRPERSON: All the more reason, then, if there is a possibility of a strong case being made, all the more reason that the press should be given ...[intervenes].

ADV SELLO SC: I am not considering there is a strong case to be made. I am taking into consideration the possibility of that, but I am looking at the potential outcome, which is then the witness is compelled to testify publicly. I do not know if the witness will still be available to the Commission in those circumstances. I just needed to put
10 that one before the Commissioners.

What could potentially cure the problem of the witness not appearing at all is by the time the press, if the Chair is granting the press until Thursday, by the time the press presents its case, the Commissioners will have the full bundle and statement of the witness and are able to make an objective call.

But I must state up front that the witness is particularly reluctant to testify in public and should the order for in *camera* not be granted, I do not know what the
20 situation will be by Friday. I will be in the Commissioners' hands.

CHAIRPERSON: What I will suggest, which I think has happened on the odd occasion, is have your witness ready, remote location, ready to testify remotely, fully – or rather, is the idea fully in *camera*?

ADV SELLO SC: Fully in *camera*.

CHAIRPERSON: Fully in *camera*.

ADV SELLO SC: Yes.

CHAIRPERSON: Have the witness ready to testify along those lines so that if the application is granted, we commence immediately with a fully in *camera* hearing.

ADV SELLO SC: No, that would be the case. The witness will be prepared for Friday.

CHAIRPERSON: Yes, yes, yes.

10 **ADV SELLO SC:** What I was considering is if the application is denied, whether or not I would still be able to persuade the witness to proceed with the testimony or whether the Commissioners would choose to have to compel him to do so and where that would potentially land all of us on Friday. So much as I accept the Chair's approach, I just wanted to caution that in the event that it is denied, there may possibly not be a witness for Friday.

CHAIRPERSON: At this stage, even though perhaps it is close to the end of the engagement, at this stage I am just
20 engaging you.

ADV SELLO SC: Yes, I do appreciate that.

CHAIRPERSON: Yes, yes.

ADV SELLO SC: But as I say then, the Evidence Leaders could potentially be open to a ruling that the press be granted until Thursday to express a view to the

Commissioners regarding this matter.

CHAIRPERSON: Yes.

ADV SELLO SC: And by then the Commissioners would have the benefit of the full statement and its annexures and then the rule *nisi* can then be disposed of come Friday morning.

CHAIRPERSON: Yes. I cannot even bring my – no, no, I am doing it deliberately. I cannot even bring my co-Commissioners close to me because I am not well and
10 feverish. I think we will just have to take a very brief adjournment and then we will keep our distances.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: The application must be served on the media by 14:00 today, 5 May 2026. The media must respond by 14:00 on 7 May 2026. The final order will be made on 7 May 2026 if there is no opposition. If there is opposition, a replying affidavit must be filed by 20:00 on 7
20 May 2026 and the application will be heard at 09:30 on 8

ADV SELLO SC: Thank you, Chair. Noted.

CHAIRPERSON: Thank you, Ms Sello. You are not involved in the leading?

ADV SELLO SC: I am.

CHAIRPERSON: You are? All right.

ADV SELLO SC: I am leading the stream.

CHAIRPERSON: I was just about to excuse you.

ADV SELLO SC: No.

CHAIRPERSON: Thank you.

ADV SELLO SC: Chair, as I indicated then, from today we start with drug busts. This week is dedicated specifically to Port Shepstone. Our first witness is ready and he will be led by Ms Lee Segeels-Ncube.

CHAIRPERSON: Good morning, Ms Segeels-Ncube.

10 **ADV SEGEELS-NCUBE:** Good morning, Chair. Chair, the witness is Maj-Gen Hendrik Frans Flynn and he will be sworn in.

CHAIRPERSON: Thank you, thank you. Good morning, General.

MAJ-GEN FLYNN: Good morning, Chairperson, and good morning to the Commissioners.

CHAIRPERSON: Please state your full names for the record.

MAJ-GEN FLYNN: Hendrik Frans Flynn, Commissioner.

20 **CHAIRPERSON:** Do you swear that the evidence you are going to give is the truth, the whole truth, nothing but the truth? If so, please raise your right hand and say, so help me God.

MAJ-GEN FLYNN: So help me God.

CHAIRPERSON: Thank you.

HENDRIK FRANS FLYNN: (duly sworn states)

ADV SEGEELS-NCUBE: Thank you, Chair. General, in front of you, you should have a file with two sections. The first section should contain a statement prepared by you for purposes of your evidence today. If I could ask you to go to that first section from page 1 to 26 and – my apologies, Chair.

CHAIRPERSON: I am very sorry to stop you mid-sentence, sorry about that, thank you.

10 **ADV SEGEELS-NCUBE**: General, your statement page 1 to 26, can you confirm the signature on page 26?

MAJ-GEN FLYNN: I confirm it, Commissioner.

ADV SEGEELS-NCUBE: And do you confirm that this is the statement that you prepared for purposes of your evidence before the Commission?

MAJ-GEN FLYNN: Indeed, Commissioners.

ADV SEGEELS-NCUBE: And do you confirm that it is accurate, the contents of the statement is accurate?

MAJ-GEN FLYNN: I confirm that, Commissioner.

20 **ADV SEGEELS-NCUBE**: And then insofar as the annexures, just to confirm the annexures to your statement, marked HFF1 to 4 is in the second section from page 1 to 128.

MAJ-GEN FLYNN: I confirm the annexures as well, Commissioner.

ADV SEGEELS-NCUBE: Thank you, General. General, can we start at page 1 of your statement? And if you could, we did have the discussion about how you want to deal with your evidence. And, Chair, given the nature of the evidence, the General had indicated that in some instances he will read into the record, but when it comes to the more intricate aspects of illicit drugs, illegal mining and that, he would want to explain and give the Commissioner some practical examples as well, with the use of some
10 photographs that he has provided to the Commission, but did not want it to be part of his statement, but will be included as exhibits later on. Thank you, Chair. General, you may then start on page 1, at paragraph 1, and please, if you want to read, you can read, and then where you want to explain, please do so, or elaborate.

MAJ-GEN FLYNN: Thank you, Commissioner:

20 “I am a Maj-Gen in the South African Police Service, attached to the Directorate for Priority Crime Investigation, known as the DPCI or Hawks, as the Component Head for Serious Organised Crime Investigation , based at the Head Office in Silverton, Pretoria.

In 1993, I obtained a national diploma in

police administration from Technicon SA. In 2007, I obtained a baccalaureus technologiae in forensic investigation, a magister technologiae MTech in forensic investigation from UNISA in 2010, and a postgraduate diploma in business management from the North West University Business School in 2023.

10 I joined SAPS on 1 January 1989. By then it was known as the South African Police Force. In September 1990, I was attached to the Diamond and Gold Branch in Klerksdorp, which later became known as the Precious Metals and Diamond Unit, where I performed duties as an investigator and later as a team leader. This unit was eventually incorporated into the South African Police Service Organised Crime Unit.

20 On 20 February 2009, the DPCI was established, incorporating the SAPS Organised Crime Unit. I have been with the DPCI since its inception. In October 2016, I was appointed Cluster Coordinator for the Detective Service in

Phokeng, managing and overseeing the detectives within that district. I held the rank of Colonel at the time.

This appointment was within the greater SAPS, so it was not within the DPCI. I was responsible for coordinating all investigations within the cluster, including inspections and attending to serious crime scenes.”

- 10 Commissioner, when I refer to serious crime scenes, it *inter alia* includes murder cases, serious robberies, house robberies, et cetera, that is happening on a regular basis within that space:

20 “On 1 January 2019, I was promoted to Brigadier and appointed as the Provincial Commander for Serious Organised Crime Investigation (SOCI) within the DPCI in the North West Province, and I was based in Klerksdorp. As the Provincial Commander, I was responsible for managing and overseeing the activities of the Serious Organised Crime Investigation units within the province. By then, it is now Lt-Gen Mbotho was the Provincial Head, responsible for all

components in the DPCI, so by then Lt-Gen Mbotho was a Maj-Gen.

On 1 September 2024, I was appointed to my current position as Component Head for Serious Organised Crime Investigation within the DPCI nationally. I currently report to Lt-Gen Mbotho, who is the DPCI Divisional Commissioner, National Priority Offences Operations.”

10 **ADV SEGEELS-NCUBE**: Sorry, General, just before you proceed with that, there was an aspect that I canvassed with you in preparation for your evidence which is not contained in your statement, but it may be relevant to deal with it here in reference to General Mbotho. You will recall, you say that you started on 1 September 2024. General Mbotho gave evidence before the Commission about a takedown operation that had been undertaken on 6 December 2024 at Mr Katiso Molefe's residence, and he said that you were one of the Component Heads that he had
20 enquired from as to whether your unit was conducting any operations in the Sandton area. I just want you to address that and confirm and give us your version of what you can recall if you did in fact have that discussion with General Mbotho.

MAJ-GEN FLYNN: Thank you, Commissioners. Yes,

indeed, I confirmed the enquiry that was made by General Mbotho. By then, on that specific date, we were at the Excellence Awards of the DPCI. I was approached by the General and he made enquiries with me, and I denied that any of my personnel are involved in any operation at Mr Molefe's residence.

ADV SEGEELS-NCUBE: And do you recall what General Mbotho had specifically asked you? Did he tell you why he was asking you if your troops were involved in an operation
10 in Sandton?

MAJ-GEN FLYNN: No, I did not receive any detail, Commissioners.

ADV SEGEELS-NCUBE: So you were not aware that it had related to an allegation that there were perhaps people that were imitating Hawks members at the residence, that that was the allegation? He did not tell you about that?

MAJ-GEN FLYNN: I cannot recall that per se, Commissioners, but what I know for a fact is by that time there was a number of incidents where members of the
20 public would impersonate them to be members of the DPCI and then take part in raids at premises, et cetera, and indicate that they are DPCI members. That I can confirm.

ADV SEGEELS-NCUBE: Okay. And then, just for my curiosity, it seems that you were reporting to General Mbotho in the North West and then when you moved in

September 2024 to head office, he either moved subsequent to that or just before that, if memory serves me right. Did he have any part in your moving to head office?

MAJ-GEN FLYNN: No, Commissioner. The General by then, when I got promoted to head office from the 1st of September 2024, the General Mbotho was by then still the Provincial Head of the DPCI North West, and so I arrived in head office before him.

ADV SEGEELS-NCUBE: Okay. Thank you for clarifying
10 that, General. You may then continue at paragraph 6 in addition, now dealing with the other components within the DPCI, operational components.

MAJ-GEN FLYNN: Thank you, Commissioners:

20 “In addition to the SOCI component headed by myself, the DPCI has the following operational components. It is the Serious Commercial Crime component, then we have the Serious Corruption Investigations, and then two operational support components. They do not carry dockets or execute arrests. They provide operational support to the operational components, the three major components. They are the Forensic Accounting Investigations, as well as the

Priority Crime Specialised
Investigations.”

And I have also mentioned in the statement who is the current acting component heads or appointed component heads within that space.

CHAIRPERSON: Both have the name, or as part of the name, Investigations. That seems to suggest that they would carry dockets. Why do they have Investigations in their name?

10 **MAJ-GEN FLYNN:** Well, although they are intimately involved with investigations, Commissioners, they do not carry the dockets. The dockets are being carried by either detectives within the Serious Organised Crime space, Serious Corruption space, or Serious Commercial Crime space. So they are rendering a support with, for instance, expert evidence that normal organised crime detectives are not capable of performing. So they assist us within that space.

ADV SEGEELS-NCUBE: Thank you, General. 6.4.

20 **MAJ-GEN FLYNN:** And then 6.4, Commissioners, it deals with:

“We also have the Tactical Operations Management Section, known as TOMS, which is not technically a component. They report directly to the Divisional Commissioner, and they are headed by Brigadier Mokoena.

ADV SEGEELS-NCUBE: Thank you, General. Just a question for clarification. It seems to me that you have Serious Commercial Crime, you have Serious Corruption Investigations, you have Serious Organised Crime. Is there ever an overlap in respect of one particular matter where all three are involved in a crime, for example? And how do you navigate that?

MAJ-GEN FLYNN: Indeed, Commissioners, the nature of the investigations that we are conducting tends towards
10 overlapping. Because organised crime can, for instance, never take place without corruption. So there is always that corruption element. And then in terms of subsequent money laundering activities, obviously, it goes hand in hand with fraud, and that then includes the commercial space. So there is always that overlap. And we address that by means of a multidisciplinary, multidimensional approach, where we rope in all the necessary resources to be effective within investigation.

ADV SEGEELS-NCUBE: General, you said something now
20 that organised crime never happens without corruption. Is that your opinion, or in your experience, that organised crime, there is always an element of corruption involved? And what do you specifically mean by corruption?

MAJ-GEN FLYNN: Commissioners, by the nature of organised crime, there needs to be an enabling factor that

allows organised crime to flourish. In order for that to happen, it is my experience that there is always an element of corruption involved in the perpetuating of these crimes.

ADV SEGEELS-NCUBE: And by that, you mean corruption within what? Government spheres? What kind of corruption?

MAJ-GEN FLYNN: Both private and public space, Commissioners.

ADV SEGEELS-NCUBE: Okay. Then, General, if we can
10 go to paragraph 7?

MAJ-GEN FLYNN:

“I consider myself to be a career
detective. Before my promotion to
Component Head, I had an active role in
investigating serious organised crime in
the North West. These days, my role is
more strategic than operational. I am
responsible for maintaining policy and
standards applicable to the SOCI
20 component nationally. I also monitor the
performance of Serious Organised Crime
Investigation Units nationally and guide
and oversee investigations within this
space.”

ADV SEGEELS-NCUBE: Can I just understand the oversee

investigations aspect of it? You have your investigator and you, the component head, nationally. So how do you oversee an investigation? For example, let us take the matter that you are going to be testifying about. What is your role in that? Because I am mindful of the fact that there could be elements of interference where, as a head, you may interfere in an investigation, but it is labelled overseeing. So I just want to understand, are there parameters, guidelines into how you exercise your oversight
10 role?

MAJ-GEN FLYNN: Commissioners, let me first indicate that within my space at the head office, I have investigating capacity within all four sections at the head office. So that enables my office to, for instance, take over certain investigations where there is problems, for instance, or where a province is not having the necessary capacity to deal with certain investigations.

So it is not something strange for my office to receive a directive to oversee or to take over in its totality
20 an investigation. In terms of the Port Shepstone matter, that investigation was taken over by my component shortly after the incident in 2021.

ADV SEGEELS-NCUBE: Your component, but at that time you were not the head in 2021.

MAJ-GEN FLYNN: That is correct, Commissioner. By then

Maj-Gen Khana was heading the Serious Organised Crime Investigation component.

ADV SEGEELS-NCUBE: You would have heard Advocate Sello saying that there had been some significant developments in the investigation over the past 12 or so months in this matter. So you are saying that this investigation started in 2021 after the theft, November 2021?

MAJ-GEN FLYNN: I confirm that, Commissioner.

10 **ADV SEGEELS-NCUBE**: And developments only, there was only real developments or significant developments, as she said, after your appointment as component head. Is that coincidental?

MAJ-GEN FLYNN: Well, Commissioner, I do not know if it is coincidental, but I can confirm that there is substantial progress on the investigation subsequent to my appointment. I can confirm that.

ADV SEGEELS-NCUBE: And can I ask, this investigation, you said it was taken over by your component. Where was
20 it before that, before it was taken over?

MAJ-GEN FLYNN: Commissioners, immediately after the housebreaking was detected, the burglary at the Port Shepstone Serious Organised Crime Investigation Unit, the matter was left with the detective service at Port Shepstone.

Shortly thereafter, the decision was taken by the then DPCI head, Lt-Gen Lebeya, to establish a team to investigate the matter. And then the responsibility to oversee that investigation or the investigation by then was placed on Maj-Gen Khana, who was overseeing it from then until he went on retirement by the end of August 2024, and I took up office on the 1st of September 2024.

ADV SEGEELS-NCUBE: Thank you, General. You may continue at paragraph 8.

10 **MAJ-GEN FLYNN**:

“The primary purpose of this statement is to give evidence regarding the November 2021 theft of cocaine from police custody in Port Shepstone. However, I will traverse other related topics to give the Commission the necessary context to understand the events that transpired in Port Shepstone.”

20 **ADV SEGEELS-NCUBE**: Okay, we then move on to a new topic, Serious Organised Crime Investigations. You may continue from paragraph 9.

MAJ-GEN FLYNN: Thank you, Commissioners:

“As stated earlier, I was the Provincial Commander for SOCI in Klerksdorp North West, and thereafter promoted to

Component Head for SOCI nationally. In order to understand what SOCI entails, it is important to understand what is considered a serious organised crime. Serious organised crime is coordinated, structured, and ongoing criminal conduct carried out by criminal groupings involving serious offences which, by reason of their scale, sophistication, or societal impact, fall within the category of national priority offences contemplated in section 17(d) of the South African Police Service Act, Act 68 of 1995. Serious organised crime is a subset of national priority crime referred to in section 17(d) of the SAPS Act.”

ADV SEGEELS-NCUBE: You may continue.

MAJ-GEN FLYNN:

“According to the DPCI's mandate, the SOCI component includes...”

And this is just examples, it is not an all-inclusive list,
Commissioner:

“...national priority violent crimes such as cash-in-transit robberies and trafficking in firearms or explosives, both

transnationally and nationally, by organised crime networks. Then the second section is the South African Narcotics Enforcement Bureau, commonly known as SANEB, which deals with all national and transnational drug trafficking offences, detection and dismantling of all clandestine drug laboratories, and other drug-related crimes. In the third section there is the Economic Protected Resources section, which investigates offences relating to transnational importing of non-ferrous metals and tampering with essential infrastructure in organised, complex, and sophisticated cases, transnational importing and exporting of precious metals, diamonds, and chrome, illegal mining committed in an organised fashion, wildlife trafficking, and then human trafficking linked to organised criminal groups or committed in an organised fashion by land, sea, or air.”

ADV SEGEELS-NCUBE: General, human trafficking falls under Economic Protected Resources. Why is that?

MAJ-GEN FLYNN: Commissioner, I do not want it to be misleading because it is as if it adds value economically, but it is all about the exploitation of the victims of trafficking in persons, whether it is for slave labour or for purposes of prostitution or other reasons. The reason why it is under Economic Protected Resources is because of the exploitation of the victims. Thank you, Commissioner.

ADV SEGEELS-NCUBE: Thank you, General. You may continue.

10 **MAJ-GEN FLYNN**: And then the fourth section within the component is the Crimes Against the State component, which investigates crimes like, for instance, high treason, terrorism, terror financing, et cetera.

ADV SEGEELS-NCUBE: Okay. Then at paragraph 12, you deal with the prevalence of these various crimes in the different provinces.

MAJ-GEN FLYNN:

20 “The order of prevalence of these crimes will differ from province to province. In the North West, illegal mining, illicit drugs, and firearm trafficking are the most prevalent. In Gauteng, illicit drugs, precious metals and diamonds, firearms and ammunition, and cash-in-transit heists are the most prevalent. In

KwaZulu-Natal, illicit drugs, CIT, and non-ferrous metals crimes are the most prevalent. And in the Western Cape, with specific reference to Cape Town, illicit drugs, marine life crimes, firearms and ammunition, and gangsterism-related offences are the most prevalent.

10 In an attempt to give the Commission context to how sophisticated organised crime can be, and given that I spent the majority of my career in the North West, the best way is to deal briefly with illegal mining in the North West Province. The police officials in the North West are faced with large-scale criminality by heavily armed criminal groupings conducting illegal mining activities at redundant mining sites or inadequately secured mineshafts. The illegal mining

20 activities are conducted under the control or direction of organised groups or networks who regulate access to mining sites, coordinate the extraction of material, and control its onwards movement.”

ADV SEGEELS-NCUBE: Sorry General, before you continue to the next paragraph, can you just give us examples of what you refer to as heavily armed?

MAJ-GEN FLYNN: Thank you, Commissioners. It happened that these illegal mining groupings that get illegal access to mineshafts, both underground and to protect it on surface, are armed with automatic rifles, with pistols, revolvers, and in some instances we even found hand grenades.

10 At some of the scenes we will recover in excess of 10 or more rifles from the perpetrators, as well as sufficient ammunition to continue a firefight for at least 24 hours. In one instance we recovered only AK-47 ammunition, 6 000 rounds of ammunition. It goes without saying that it shows us how well equipped these criminals are within the organised crime space.

 They have logistics supply chain streams that provide them with food, as well as gold refining paraphernalia that they use both underground and on
20 surface, and then there is always visible and available market to facilitate the onwards trafficking with subsequent money laundering that is taking place on a continuous and ongoing basis.

ADV SEGEELS-NCUBE: Thank you General. Paragraph 15?

MAJ-GEN FLYNN: 13?

ADV SEGEELS-NCUBE: 15, 1-5.

MAJ-GEN FLYNN:

10 “The extracted material is transported from the mining sites to informal or unlawful processing operations or introduced into legitimate processing streams. By this I mean the material is sold to a legitimate refining or processing company with a refining licence.”

I would like to make it clear, Commissioners, that this is not everybody within that industry or all the companies. There are unscrupulous licence holders, but there are also honest companies within that space:

20 “The material is sold through intermediaries and may ultimately be refined or exported. The proceeds generated from such activities are often handled in cash or through informal channels which obscures the origin of the material and the financial flows associated with it.

Gold is a high-value commodity that can be transported and concealed with relative ease. Once refined, it is

generally indistinguishable from lawfully mined gold which facilitates its integration into legitimate markets. This makes it difficult to trace the origin of the material. The continued demand for gold and other minerals, both locally and internationally, contributes to the persistence of illegal mining activities.

10 Refineries and processors could acquire the illegal material through intermediaries or suppliers who present such material as lawfully sourced. The illegally mined material may enter legitimate refining processes without its unlawful origin being apparent. This could occur if other role players in the supply chain misrepresent the origin of the material or the unlawfully mined material is mixed with lawful material

20 prior to refining.

The refining process itself renders the material indistinguishable from lawfully sourced product, thereby facilitating its integration into the formal market. The proceeds from the sale of the material

may then appear to be legitimate income.”

ADV SEGEELS-NCUBE: General, so here you dealt with an instance where the refinery, the legitimate refinery and processing company is not aware that the material that they are receiving are illegally mined. Are there instances where legitimate refineries and processing companies are aware that they are buying illegally mined material?

MAJ-GEN FLYNN: Indeed, Commissioners, there is a
10 number of such cases already being dealt with in our courts or that is currently before courts in South Africa.

ADV SEGEELS-NCUBE: Thank you, General. And then insofar as the refining licencing process itself is concerned, is there any involvement there in the organised crime aspect of it, in getting the licence issued? So licences that ought not to be issued are issued to companies.

MAJ-GEN FLYNN: I do not have any evidence to that effect, Commissioners.

ADV SEGEELS-NCUBE: Thank you. Then you say I now
20 turn to illicit drugs at paragraph 18.

MAJ-GEN FLYNN: Thank you, Commissioners:

“Illicit drugs, for purposes of my evidence, are substances that are prohibited by law. Illicit drugs may also be drugs that are lawfully possessed or

used under specific conditions, but which are then possessed, used or distributed unlawfully. My statement deals only with the former. There are essentially two categories of illicit drugs or narcotics, naturally derived drugs and synthetic drugs. Naturally derived drugs are, for instance, dagga, cocaine and heroin.”

And I would also like to include here methamphetamine that
10 is originating from Afghanistan:

“Cocaine is derived from leaves of the coca plant, which is cultivated mainly in South American countries such as Colombia. The leaves are harvested and then processed to extract a substance known as coca paste. This paste is further refined through chemical processes to produce cocaine hydrochloride, which is the form
20 commonly trafficked and sold as cocaine. Heroin is derived from the opium poppy plant, which is cultivated primarily in Afghanistan. The opium is extracted from the poppy plant and then processed to produce morphine, which is further

refined into heroin through additional chemical processes.

And this is where I also like to include then the plant-based methamphetamine that originates also from Afghanistan, Commissioners:

10 “Cocaine and heroin enter South Africa commonly through established transnational maritime routes involving multiple countries. Cocaine is typically transported from South Africa via West Africa.”

ADV SEGEELS-NCUBE: South America.

MAJ-GEN FLYNN: Apologies for that, Commissioners:

20 “...transported from South America via West Africa before reaching Southern Africa, while heroin is commonly transported from regions such as Afghanistan through East Africa like Mozambique and into South Africa. These substances are moved using a variety of methods, including air travel couriers, commercial maritime routes, and overland transport. South Africa functions both as a destination for local distribution and as a

transit point for further international trafficking. These activities are generally conducted by organised criminal networks operating across national borders. A common method used globally is called the rip-on-rip-off technique. It is essentially hiding drugs inside someone else's shipment in the container when retrieving them before the rightful owner ever knows. The illicit drugs are placed into a legitimately packed shipping container without the knowledge of the lawful consigner or consignee, and are later removed from that container at the port or transit point. This method makes use of legitimate cargo to conceal the transportation of drugs.

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The process requires the trafficking syndicate to identify a legitimate container with a legitimate consignment from a reputable company. Usually an employee or employees at the consigner would be targeted by the trafficking syndicate. The transaction also requires corrupt officials in the source port as well

20

as its final destination.

The officials load bulk consignments of contraband in backpacks, baggage, and boxes placed preferably at the back of the container. Sometimes a duplicate seal is left inside the container. Should the container be opened, it can be resealed without raising an alarm that the consignment has been tampered with.

10 The rip-off is normally done at its destination. Here again corrupt officials will break the seal, open the container, remove the contraband, and replace the ripped seal with the duplicate seal that has been placed in the container. In most cases the port of origin is the port of Santos in Brazil, which is a free port requiring no customs duties from companies using the port.

20 In my experience, in the majority of transactions the shipper, the forwarding agent, the clearing agent, and the transporter, such as a truck driver, are innocent parties and are unlikely to be aware of any contraband hidden in the

container. These parties rely on the information for the legitimate consignment contained in the shipping documents, such as the manifest document, the bill of lading, clearing, and transportation documents. Similarly, customs officers will peruse these documents to determine if the consignment is legitimate before releasing the container, none the wiser that illicit drugs have been smuggled into the container.”

I can perhaps also just here indicate Commissioners that SARS customs do some physical checks on these containers and then on some of it, obviously not all, and in some instances they do detect narcotics and then alert the DPCI to the matter for further investigation:

“I will deal in detail with seizures that occurred in 2020 to 2022, but I want to deal with one seizure to give the Commission a practical example of the method described above.”

ADV SEGEELS-NCUBE: Thank you, General. Just before you proceed, Commissioners, this is where we are going to flight some photographs just to demonstrate what the

General is indicating. Proceed, General.

MAJ-GEN FLYNN: Thank you:

“On 30 July 2021, a tonne of cocaine...”

It was in total 999 kilogramme bricks, Commissioners:

10 “...was seized in Durban at the LCS Freight Logistics Depot. The drugs were found at the back of a Scania shipping container containing truck parts. The container's port of origin was the port of Santos in Brazil. Scania was not aware of the cocaine in the container. The drugs were seized and taken to the Maydon Wharf Police Station. Prior to the DPCI arriving at the depot, members from Border Policing visited the company and placed a detention order on the container.”

ADV SEGEELS-NCUBE: At this stage, show photo one, so if you can just describe that photo, General.

20 **MAJ-GEN FLYNN**: The photo depicts containers, Commissioners, that is offloaded from vessels that docked in the harbour.

ADV SEGEELS-NCUBE: And then photo two?

MAJ-GEN FLYNN: Commissioners, that is a photo that depicts the consignment of cocaine, or by then suspected

cocaine, that was found in the back of the shipping container immediately upon opening the doors.

ADV BALOYI SC: You want to ask a question on this? General, can you just explain the role of Border Policing in exercises such as this? Here you say Border Policing arrived or got there before the DPCI. Would they have gotten there because of a tip-off or is this just part of the normal protocols?

MAJ-GEN FLYNN: Commissioner, in this specific case,
10 they also received information about the possible narcotics that was hidden in that container, and that is why they arranged for that detention order to be placed on it. So it was just a time lapse, a short time lapse. So obviously their primary responsibility is within the harbour precinct, and then to perform duties within their mandate as Border Policing.

ADV BALOYI SC: And in performing, in the normal course of performing that mandate, would they do the kind of inspection that you say, for example, customs randomly
20 does on shipments? I am just trying to understand practically what, on a day-to-day basis, do they have a role, either by protocol or just practice, that they could be part of the chain of discovering illegal narcotics, for example?

MAJ-GEN FLYNN: Commissioner, I do not have detailed knowledge about the arousal responsibilities within that

precinct, but it is my experience that whenever there is a search and seizure operation, they are part of the operation by virtue of the fact that they are placed in the harbour.

ADV BALOYI SC: Thank you.

MAJ-GEN FLYNN: Thank you, Commissioner.

ADV KHUMALO SC: Good morning, General.

MAJ-GEN FLYNN: Good morning, Commissioner.

ADV KHUMALO SC: Can I just get clarity on paragraph 25 of your statement? You say here on 30 July 2021, 100
10 kilogrammes of cocaine were seized in Durban.

ADV SEGEELS-NCUBE: It is a 1 000.

ADV KHUMALO SC: A 1 000. A 1 000 kilogrammes were seized in Durban. Now, are these the same drugs that were later stolen at Port Shepstone in November?

MAJ-GEN FLYNN: No, Commissioner, it is not the same drugs.

ADV KHUMALO SC: So I just needed that clarity.

MAJ-GEN FLYNN: No, it is a different seizure.

ADV KHUMALO SC: It is a different seizure, but
20 happening more or less around the same time?

MAJ-GEN FLYNN: That is correct, Commissioner. The cocaine that was stolen was seized on the 22nd of June 2021.

ADV KHUMALO SC: All right. So this is not the same one.

MAJ-GEN FLYNN: It is not the same.

ADV KHUMALO SC: All right.

MAJ-GEN FLYNN: Thank you. Thank you, Commissioner.

ADV SEGEELS-NCUBE: Thank you, General. Then if I could ask to just show photograph three.

MAJ-GEN FLYNN: Commissioner, the photo that is depicted there is of the blocks of cocaine with the logo W or M, depending on how you look at it. That was recovered from one of the bags after the wrapping of that bag was removed.

10 **ADV SEGEELS-NCUBE:** General, we are going to get to other seizures as well. If you could maybe at this stage just explain to the Commissioners the significance of the logos. So that W or I think it is a W.

MAJ-GEN FLYNN: Commissioners, there is different logos that has been found on all these seizures. And the explanation for that is that it is the unique mark of certain individuals or syndicate that is operating within the production space of the cocaine in, for instance, Colombia, that place their fingerprint or their identity to that brick of
20 cocaine. That if there is in future a problem at the final destination, for instance, with the quality, it is clear from where that brick of cocaine is originating.

ADV SEGEELS-NCUBE: Because I am sure they cannot have the fingerprints on it and they cannot exactly have a note that says I am the supplier.

MAJ-GEN FLYNN: Indeed, Commissioner, and that is why you will also find that there is perhaps multiple suppliers in one consignment that arrives in South Africa. And that is the reason why there will be multiple logos when such consignments are detected and seized.

ADV SEGEELS-NCUBE: Thank you, General. If we can go to photograph four, if you can just describe what we are looking at now?

MAJ-GEN FLYNN: Commissioners, it is just another photo
10 that depicts towards the bags of containing the cocaine in the back of the container. But I think what is also clear here is that it has handles. And the reason for that handle is to carry it easily. Because when criminals execute the rip-on-rip-off procedure, speed is of essence. You need to remove the exhibits with speed, obviously in the fear of being detected. And that is why it needs to be easy to carry these bags and place it in a vehicle or in a panel van, whatever mode of transport is being used, to then speed away with it undetected.

20 **ADV SEGEELS-NCUBE**: And then if I could just ask for you to zoom in on the orange item there? And if you could just explain the significance of that item?

MAJ-GEN FLYNN: Commissioners, this is, as I have explained, duplicate seals. So it shows you the criminal network is so sophisticated that they even make provision

for a duplicate seal to be placed once the narcotics is removed from the container. So once they have removed the cocaine from the container, they just close the doors and seal it with the duplicate seal. And when SARS customs or the port authorities verify the actual seals with the bill of Lading and other documentary evidence or documents that they have in their possession, there will be no suspicion that there was any contraband in that container.

10 **CHAIRPERSON**: Ms Segeels-Ncube, I see we are not marking these as exhibits, giving them exhibit numbers. You do not consider that necessary?

ADV SEGEELS-NCUBE: We will do so, Chair. As soon as I am done with all the photographs, then I will just get the exhibit number as it is now.

CHAIRPERSON: All right.

ADV SEGEELS-NCUBE: And then I will then place it on the record, Chair.

CHAIRPERSON: All right, all right.

20 **ADV SEGEELS-NCUBE**: Thank you.

CHAIRPERSON: Thank you.

ADV BALOYI SC: Can I just ask a question from this picture? At your paragraph 22, you do not need to go there, General. At the end of that paragraph, you say that on page 22 on page 8, you say that:

“The rip-off is normally done at destination. Here, again, corrupt officials will break the seal, open the container.”

And I think that is what this photograph is speaking to. Is it necessarily just the officials who can do this, or is there a harbour and that arrangement about which I know nothing, such that even private individuals who are part of this plan or scheme?

MAJ-GEN FLYNN: Indeed, Commissioners, that is why I
10 indicated that corruption takes place within both the public and private space. So when we refer here to officials, it does not necessarily mean that it is government officials. It can also include officials working in the harbour or at the depots where these containers get opened and unpacked in some instances or forwarded by means of road freight. So it goes for both sides.

ADV BALOYI SC: Okay, thank you.

MAJ-GEN FLYNN: Thank you, Commissioners.

ADV BALOYI SC: Thank you, Ms Segeels-Ncube.

20 **ADV SEGEELS-NCUBE**: Thank you. I am just going to go out of sequence just to show what a seal, an intact seal, looks like so that the Commissioners can see the significance of the duplicate. If I could ask you to just go to photo two of the 22 June photos? That would be the seal that you are referring to?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SEGEELS-NCUBE: And so that seal would be removed to gain access to the cocaine and then the duplicate seal that has been left inside is then used to replace that. Would that duplicate seal have the same barcoding and numbering as the original seal?

MAJ-GEN FLYNN: Exactly the same, Commissioner. Then that is the mode for them not to be detected because if the seal number differs, obviously when that container is
10 opened or before it has been opened, the final destination will detect that something went wrong and that the container was opened after it left the port of origin.

ADV SEGEELS-NCUBE: Thank you. Then if we can go back to your statement? I think we are on page 10, paragraph 26.

ADV KHUMALO SC: Before you go there, sorry to keep going back, General. What became of this cocaine bust on 30 July 2021? You see now I have become curious. I hope it did not go missing as well.

20 **ADV SEGEELS-NCUBE**: Commissioner Khumalo, can I ask that the General explain its significance later when he gets to the 22 June?

ADV KHUMALO SC: Okay.

ADV SEGEELS-NCUBE: Yes. There is a reason why he is referring to it because it is so close in time. Thank you.

Proceed, General.

MAJ-GEN FLYNN: Thank you.

ADV SEGEELS-NCUBE: Paragraph 26.

MAJ-GEN FLYNN: Thank you, Commissioner:

10 “Cocaine and heroin are smuggled into
the country primarily for the local market
but is also repackaged for onwards
trafficking to another country. In other
words, the criminal grouping in South
Africa would assist in repackaging the
drugs to make it easier for onwards
smuggling to another country, usually to
Europe. Port authorities are particularly
vigilant when vessels arrive from Port of
Santos because of the prevalence of drug
trafficking from that port. Successful
entry into Europe is more likely if the
consignment is rerouted to less
suspicious countries before onwards
20 movement to Europe.”

ADV SEGEELS-NCUBE: So, in this instance, would South
Africa be the less suspicious country or does it go
somewhere else from South Africa before it enters Europe?

MAJ-GEN FLYNN: Well, it depends on the route of the
vessel, Commissioners. That will dictate whether there will

be stops in between as well.

ADV SEGEELS-NCUBE: Thank you. Paragraph 27.

MAJ-GEN FLYNN:

10 “The main trafficking hubs in South Africa
are the Durban Harbour, OR Tambo
International Airport and the Lebombo
Port of Entry. Bulk imports are mainly
through the Durban Harbour. The
smuggling via OR Tambo International
Airport is primarily by way of people
referred to as drug mules who would
smuggle the drugs in their luggage or on
their person, such as in body cavities.
Bulk trafficking through shipping
containers is usually undertaken by
sophisticated syndicates.”

20 Commissioners, I can also just mention here that except for
these harbours, the Western Cape, Cape Town Harbour,
Saldanha Harbour, as well as harbours, smaller harbours
towards Port Elizabeth and so forth, are all being used to a
lesser extent, although for these smuggling and trafficking
activities.

ADV SEGEELS-NCUBE: Thank you, General. Then can
we move on to the next subtopic, which is the synthetic
illicit drugs?

MAJ-GEN FLYNN: Thank you, Commissioner:

10 “Synthetic drugs are manufactured through chemical processes rather than derived from natural plant sources. In many instances, since they are not classified as controlled substances in South Africa, the chemicals used to manufacture the drug are sourced through lawful supply chains but are then diverted or misused for unlawful purposes. Controlled substances are also imported illegally or smuggled into South Africa. The most prevalent synthetic drugs in the country are methamphetamine, known as crystal meth or *tik*, methaqualone, known as mandrax. Synthetic drugs are manufactured at what is referred to as clandestine drug laboratories or CDLs.

20 There are super labs and kitchen labs. Kitchen labs are found in businesses and residential areas and the equipment used to manufacture the drugs are the readily available equipment such as stoves and other kitchen equipment or appliances.”

ADV SEGEELS-NCUBE: Sorry, General, before you continue, can I just take you back to paragraph 28 and ask you about the controlled substances that are imported illegally?

MAJ-GEN FLYNN: Commissioners, when it comes to methamphetamine, the controlled substance used there is ephedrine. You get plant-based ephedrine from the ephedra tree in Afghanistan and then you get the chemicals. Obviously, that is man-made or laboratory-made and that is
10 then ephedrine as a liquid in a liquid form. And then the active ingredient of methaqualone, of mandrax, is methaqualone.

ADV SEGEELS-NCUBE: And so why is this ephedrine imported or smuggled into South Africa?

MAJ-GEN FLYNN: It is because it is a controlled substance within South Africa, Commissioner. So, you cannot go to any chemical shop and just procure it over the counter. If you need it, obviously there need to be a legitimate reason for that.

20 So, for instance, you are in the medicine manufacturing space and then obviously you will be able to procure such controlled substances. So it means that the only way to get it into the country is by means of either misrepresentations on the import documents or smuggling activities into South Africa.

ADV SEGEELS-NCUBE: Thank you, General. You were busy with the super labs.

MAJ-GEN FLYNN:

10 “Super labs are large-scale drug manufacturing operations using specialised equipment and producing drugs in significant quantities. They have extensive infrastructure with specially designed equipment, extraction fans, and reactor vessels. The special equipment is available in the country but is predominantly imported. Super labs are usually found in remote areas on farms and small holdings. These locations reduce the likelihood that activities such as unusual odours associated with manufacturing of large volumes of drugs, noise, or waste disposal will be observed.

20 Once the drugs have been manufactured, they are distributed or disseminated into the market via complex networks. A manufacturer who has a super lab and thereafter distributes the drugs within their own network is referred to as an

apex role player or syndicated leader.

In July 2024, the DPCI detected and successfully dismantled a super lab on a farm in Groblersdal, Limpopo Province, where methamphetamine was being produced. Methamphetamine to the value of approximately R2-billion was seized and five suspects were arrested.”

ADV SEGEELS-NCUBE: Before you continue, General, if I
10 could just then put up the photographs to demonstrate the Groblersdal super lab? And you can just tell us what we are seeing. Photo one.

MAJ-GEN FLYNN: Thank you, Commissioners. On that photo is depicted the grand scale activities that was taking place on that farm in Groblersdal. What you observe there, obviously, is the extraction fans. That is the silver equipment that you observe there.

Underneath that will be the reaction vessels. So that is where all these chemicals are poured into. It is
20 mixed according to a specific recipe. And then it is placed, obviously, on top of a burner, a gas burner, and that is why you would see that there is a number of acetylene cylinders on that photo visible. I can see at least two. And because obviously the reaction vessels need to be heated up over a period of time for the ingredients to come to the final

product, which is then methamphetamine or crystal meth.

ADV SEGEELS-NCUBE: Thank you. Photo two?

MAJ-GEN FLYNN: Commissioners, photo two depicts more acetylene cylinders. It shows us the extent of the activities that was taking place there. And it also depicts towards an efficient supply chain of equipment. So in addition to the actual manufacturing of the methamphetamine, the individuals involved there was properly prepared in terms of their logistics and the infrastructure that they need to
10 effectively continue with the manufacturing.

ADV SEGEELS-NCUBE: Thank you, General. And then photo three?

MAJ-GEN FLYNN: Commissioners, what is important here is not to focus on the person. It is not one of the accused. It is within that bucket, the blue drum, you can clearly see the crystals. And that is the final product, the methamphetamine, after it went through all the processes as depicted in the previous photos.

ADV SEGEELS-NCUBE: Photo four and then five?

20 **MAJ-GEN FLYNN**: Photo four is just more photos that direct towards the seizure from the crime scene, Commissioners. And there is more evidence of the methamphetamine seized from that super lab, Commissioners.

ADV SEGEELS-NCUBE: Thank you, General. And you say

it was R2-billion worth of methamphetamine that you refer to as crystal meth or *tik*.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SEGEELS-NCUBE: And the value of R2-billion, how does one get to that value?

MAJ-GEN FLYNN: Commissioners, there is international best practice within that space because this is transnational crimes in nature. So what we do is that experts within the space regularly also communicate to our counterparts
10 across the globe, and that is how it is determined based on current market prices, what is the value when it is sold off into the markets and into communities.

ADV SEGEELS-NCUBE: Thank you, General. Then I interrupted you at paragraph ...[intervenues].

ADV BALOYI SC: Before that, if you could just go back to photo one? Now, General, the equipment that is there, if it is not being used here for this kind of activities, is it easily obtainable? What is it ordinarily used for? And maybe a third part of it is, is it regulated? Who has access legally to
20 this kind of equipment?

MAJ-GEN FLYNN: Yes, Commissioners, indeed. For instance, the extractor fans are industrially used in a number of industries. For instance, the mining industry. The reason why extractor fans are, for instance, placed there is that the cooks or the individuals involved in this

process are not affected by the fumes that is generated by the reaction vessels. So the extractor fans, the burners, as well as the acetylene cylinders, is readily available.

What is not readily available, necessarily, is the reaction vessels because it needs to be a specific vessel that is scientifically developed that will enhance the processes that is being followed by these criminals. So that vessels need to be either manufactured in South Africa or illegally imported with misrepresentations of what it actually is that is being imported.

ADV BALOYI SC: If it is manufactured, that reaction vessel, if it is manufactured in South Africa, this is its sole purpose or it does get manufactured and it is used, it is usable legally? I guess what I am trying to ascertain is whether that can be stopped, whether any steps can be taken to make it illegal to manufacture that reaction vessel.

MAJ-GEN FLYNN: Commissioners, from my own knowledge, these reaction vessels are exclusively used for the illegal purposes. So I am not aware of any prohibitions to manufacture it, but that is the exclusive use of that portion of the apparatus to get to the final product.

ADV BALOYI SC: And are you, when I say are you, I mean the authorities, including the SAPS, aware of any manufacturers of these reaction units?

MAJ-GEN FLYNN: Not in South Africa, Commissioner, but

abroad indeed.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: Thank you, Chair. I see that it is 11 o'clock now. There are three paragraphs left of this topic, but I can deal with it when we return.

CHAIRPERSON: Let us adjourn and resume at 11:25. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

10 **CHAIRPERSON**: Yes, Ms Segeels-Ncube.

ADV SEGEELS-NCUBE: Thank you, thank you, Chair.

CHAIRPERSON: Thank you.

ADV SEGEELS-NCUBE: General, we were at paragraph 32 of your statement on page 11, and I had interrupted you when you were dealing with the five arrested suspects, if you can continue from there.

MAJ-GEN FLYNN: Thank you, Commissioner:

20 “Of the five suspects, three were Mexican Nationals and two were South African Nationals. I mention this because it is well known within the illicit drug manufacturing space that Mexican Nationals tend to be the best at manufacturing synthetic drugs or at being cooks within that space. Individuals who

are responsible for the preparation or manufacture of drugs, including the combining and processing of chemicals to produce the final substance, are referred to as cooks. They are the people making the drugs, not just handling or selling. Synthetic drugs are manufactured primarily for the local market but may also be sold to markets beyond the border. Since synthetic drugs can be made in the country with chemicals available in the country, it is very rare that synthetic drugs to be imported to the country. However, in February 2020, there was a seizure of 547 kilogrammes of Mandrax in Durban at the CHC depot. Manufacturers of synthetic drugs, super lab manufacturers, do not confine themselves to the synthetic drug trade. They are likely also involved in the trafficking of cocaine and heroin and other substances.”

ADV SEGEELS-NCUBE: General, if I could, because we are going to move on to a new topic. Can I just understand what is the relevance of the February 2020 bust of

Mandrax? You are saying that it is a rare occurrence for there to be Mandrax imported into the country because it can be made here. Is that the point that you are making?

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SEGEELS-NCUBE: And what happened to the 547 kilogrammes of Mandrax?

MAJ-GEN FLYNN: Well, the Mandrax was booked into the SAP13 at Isipingo Police Station. And the relevance of the referral to this, Commissioners, will be attended to later on
10 in my evidence.

ADV SEGEELS-NCUBE: Thank you, General. And then just clarity on paragraph 34. Essentially what you are saying is that the people that have super labs and that manufacture the synthetic drugs do not necessarily just stay within that lane. They can also be involved in the trafficking of cocaine, the distribution of cocaine and heroin. So, they could also be recipients of imported cocaine or heroin.

MAJ-GEN FLYNN: Indeed, Commissioners, these criminals
20 do not confine themselves just to one commodity. It depends on their market and their distribution networks and what is the need for or what is required by the market. It will obviously depend on what they keep themselves busy with.

ADV SEGEELS-NCUBE: And then insofar as the markets

are concerned, can you just tell us, when we are talking about the value of or how expensive the drugs are, what are we talking about? So, cocaine versus the synthetic drugs, for example.

MAJ-GEN FLYNN: Well, obviously cocaine is the most expensive drug of it all, Commissioners. And then these days the preferred drug, in addition to cocaine, is methamphetamine. To a lesser extent, but at a lower level, you will find extensive use of Mandrax, especially in poorer
10 communities, due to the fact that it is less expensive.

ADV SEGEELS-NCUBE: And the cocaine, are we just talking about pure cocaine or is there a process that is involved in the cocaine as well?

MAJ-GEN FLYNN: Well, Commissioners, obviously criminals will forever remain criminals. And there is no honour between thieves. So especially within the cocaine trade, when the cocaine arrives here, it is fairly pure in nature. But then the cocaine gets cut, so it gets mixed with other substances, so that they expand on the volume that
20 can be distributed into the market by still selling it off at the price that they intend to sell it off as being pure. So, it is less pure, but still cocaine.

ADV SEGEELS-NCUBE: Okay, thanks, General.

ADV BALOYI SC: Before you move on to the next setting, General, with synthetic drugs, how prevalent is local

production? And is there information that locates it per province where you could say we have a big problem of the super labs, let us say, in a particular geographic area in the country, and kitchen labs in a different part of the country?

MAJ-GEN FLYNN: Thank you, Commissioners. Yes, the kitchen labs are throughout. There is no specific province or area that is least or more affected than another. Because that is really for local distribution. When it comes to clandestine laboratories at the level of super labs, we
10 have found that specifically Gauteng, Limpopo, Northwest, and Mpumalanga to a large extent are mostly affected. I am not sure of the exact reasons for that, but I believe *inter alia* it speaks to the climate, and a more drier climate than coastal provinces, which will make it easier for manufacturing purposes.

ADV BALOYI SC: One assumes these are on the radar of law enforcement. And is that fight being won if they are on the radar of law enforcement?

MAJ-GEN FLYNN: Commissioner, indeed, it is a focus
20 area not just of the DPCI, but of SAPS in general, because we are together against crime. And obviously it is a whole-of-government and a whole-of-community approach, where everybody that can assist to dismantle clandestine laboratories, we appreciate such information and operationalise it without delay.

So, it is a massive focus area of the DPCI and SAPS in general. And it is always difficult to say whether we are winning the war, but because these crimes are committed in secrecy, and you can only count what you have dismantled, so that makes it difficult. But indeed, there is an increase in the need for synthetic drugs, and that is the reason for the influx of Mexican Nationals into South Africa.

ADV BALOYI SC: One hears in popular media, if you like, 10 in public spaces, allegations about the involvement of police, that these kinds of things carry on because there is protection from the police or involvement. Do you have any comment about that? What is your experience? And are you aware, you would be aware of these kinds of allegations, not to say they are correct or not, but do you have any comment about it?

MAJ-GEN FLYNN: Commissioners, I am not aware of police involvement in any of the matters that crossed my table. With specific reference to clandestine drug 20 laboratories. I am not aware of police involvement, but it is highly possible. I cannot exclude it.

ADV BALOYI SC: Let me be more specific. You, rightly or wrongly, there are parts in the country that are specifically mentioned to be hot spots. Some of them in Pretoria, some of them in Johannesburg. And the allegations in the public

space are, and these are more trading than anything, than labs, it seems. Supply of drugs, maybe, let me say. That that happens under protection of police officers, and that is why even communities are unable to win when they try and fight that. I am asking that kind of question.

MAJ-GEN FLYNN: Yes, Commissioner. I think it is very valid and a valid concern of community members. What I would plea is that if community members are aware of such, is to report that activities to higher levels within SAPS and
10 the DPCI, and we will definitely give the necessary attention to it. And by means of criminal investigations and disciplinary investigations, ensure that we get rid of that rotten apples that are actively participating then in criminality within the narcotic trade.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: Thank you, Commissioner. General, the Groblersdal super lab, was that the only super lab that you have been able to detect and dismantle?

MAJ-GEN FLYNN: No. No, by no means, Commissioners,
20 on an annual basis, clandestine laboratories of different size and nature are detected within South Africa approximately 20 per annum. And it shows us just the extent of the activities. But indeed, it is a continuous process. So, as we dismantle a clandestine laboratory, obviously there are more still in operation that we need to

identify and then dismantle without delay.

ADV SEGEELS-NCUBE: And the Groblersdal matter, where is it now within the criminal justice process?

MAJ-GEN FLYNN: Commissioners, it came to my knowledge this morning that the matter is still before court and there is a possibility of a plea and sentence agreement on the matter. It is postponed until later in May of this year for a decision on that matter.

ADV SEGEELS-NCUBE: Thank you, General. Can we
10 then move on to the next topic on page 12, which is Mandatory National Instructions and Protocol for the Seizure of Drugs? We can proceed from paragraph 35.

MAJ-GEN FLYNN: Thank you, Commissioners:

20 “The DPCI is mandated to address both CDLs, where synthetic drugs are manufactured, and the importing and exporting of drugs. Most seizures depend on intelligence either from informants or international law enforcement agencies or when it is stumbled upon by port authorities. During a seizure operation, preserving the crime scene for further investigation and the gathering of evidence is crucial. It requires the involvement of various

units, including members of the South African National Narcotic Enforcement Bureau, SANEB, detectives, crime intelligence, forensic experts from the Forensic Science Laboratory, Local Criminal Records Centre, and the protection team to cordon off the scene. Crime scenes must be processed in accordance with National Instruction 1 of 2015, Crime Scene Management, to ensure the integrity of the scene and preserve the integrity of the evidence collected at the crime scene. Failure to do so will inevitably lead to the contamination of the crime scene, to the destruction or non-gathering of evidence, which will ultimately defeat the objective of a seizure operation and compromise subsequent criminal prosecutions. The 2015 National Instruction is based on international best practise a copy is attached hereto and marked as HFF1.”

ADV SEGEELS-NCUBE: And we will get to it and deal with it in detail later, but you can continue to paragraph 37.

MAJ-GEN FLYNN:

“The most important aspects of crime scene management at the drug seizure crime scene, whether at the CDL or elsewhere, such as the...”

ADV KHUMALO SC: Sorry, just a moment. Can this not be shown on the screen, please? Paragraph 37. You can talk to it, but can you just please not show it on the screen? Thanks.

ADV SEGEELS-NCUBE: You can continue.

10 **MAJ-GEN FLYNN**: Okay:

“The most important aspects of crime scene management at the drug seizure crime scene, whether at the CDL or elsewhere, such as the harbour, are the following. The crime scene must be cordoned off to ensure that no unauthorised individuals gain access to the scene. Ensure that the necessary role players are present or on standby. In a container drug bust, this would be, at the minimum, be the DPCI investigators, K-9 dog, and LCRC to collect evidence, including taking photographs of exhibits and of the scene processing procedures undertaken. FSL

20

must be present at a CDL seizure but are not strictly required at any other drug bust unless the investigation team considers it necessary.”

ADV SEGEELS-NCUBE: Can you just explain that? Why would they not be FSL? What is FSL? What division do they fall under? And why would not they necessarily be at any other drug bust but CDL?

MAJ-GEN FLYNN: Commissioners, FSL is the Forensic
10 Science Laboratory, and the reason why they are specifically called out to clandestine drug laboratories is because of the sophistication involved with those processes that is taking place there. For instance, they are specialising in the dismantling of these clan labs and the gathering of the necessary evidence from those scenes.

It is very hazardous circumstances under which these drugs are manufactured. They have the necessary equipment to dismantle it, and then they must also take samples of an array of chemicals from those crime scenes,
20 so it is rather complicated crime scenes, and it requires experts within that space. That compared to a normal seizure of narcotics from, in this instance now, cocaine, from a container, you do not necessarily need that expertise. The local criminal records centre investigators are more than adequate to deal with those crime scenes.

ADV SEGEELS-NCUBE: And under what division does the FSL fall under?

MAJ-GEN FLYNN: FSL falls within the Detectives and Forensic Services under the Divisional Commissioner for that space. Currently, it is Maj-Gen Mogale is acting in the post, but the actual incumbent is Lt-Gen Senthumule, who is currently the Deputy National Commissioner, the acting Deputy National Commissioner for the Detective Service.

ADV SEGEELS-NCUBE: Thank you, General. Then on
10 page 14, 37.3.

MAJ-GEN FLYNN:

“The crime scene investigator must keep proper record of the crime scene by means of contemporaneous notes. Photographs must be taken to illustrate the scene and to allow the chronological sequence of events. All exhibits must be examined for fingerprints and touch DNA which are crucial in drug busts because
20 of the clandestine nature of drug trafficking. Where drugs are stored in a container with legitimate cargo, there is usually no direct evidence of who or how the drugs are placed in the container. Fingerprints and DNA may be the only

evidence that could ultimately link the drugs to the individuals who placed it in the container. All exhibits must be sealed in forensic seal bags with unique seal numbers before being removed from the crime scene. And once all these processes have been completed, the scene must be restored and handed back to the competent recipient. Exhibit management is equally important. Improper exhibit management...”

ADV KHUMALO SC: Thank you. Sorry. I think that is fine. I was just concerned that you are disclosing what you do at the actual scene of the crime and we just needed to be sensitive about that. But the process going forward I think you can display.

ADV SEGEELS-NCUBE: Thank you, Commissioner Khumalo. I think we will start when we deal with the new topic. It is fine. Thank you. You may proceed, General.

20 **MAJ-GEN FLYNN:** Thank you, Commissioners:

“Exhibit management is equally important. Improper exhibit management can be fatal to a successful prosecution. Exhibit management must be done in accordance with National Instruction 8 of

2017 and attached and marked as HFF2. Whilst all instructions are important, the most crucial in a drug seizure are the following. The exhibit must be handed in at the police station in the area where the exhibit was seized. All property and exhibits seized must be entered in the SAP13 register of the relevant police station where the crime was committed or
10 where the property was found and then transferred to the relevant unit and entered in the SAP13 of the relevant unit. The SAP13 registers of these units must be inspected regularly. All drugs, excluding dagga and Cat, must be forwarded to FSL with immediate effect but not later than 7 working days in exceptional circumstances for analysis and destruction irrespective of whether a
20 case docket has been registered or not. This includes all drugs found abandoned.”

ADV BALOYI SC: When you say all drugs, I know we are still going to be discussing the Port Shepstone but other big busts as well. Sampling, where does it fit in? It is not the

whole consignment that is taken to the laboratory but only a portion of it. What regulates that?

MAJ-GEN FLYNN: Commissioners, under normal circumstances, there is no need to obtain samples at the crime scene. What is being done during cocaine seizures is that there is a presumptive test that is being done. What that means is that the lead investigator or the crime scene manager would make a small hole in one of the bricks, obtain a small sample, then place that sample into a
10 chemical basis.

That is the presumptive test. If it colours blue, it means that indeed it is cocaine. That is the only sampling that needs to be done at that point in time. In order to maintain the credibility of the crime scene, it is important, after all the necessary tests were conducted by our experts, to seal the exhibits there and then. Because then you also maintain the chain of custody, effectively so.

So, you have done your counting, you have done your photographs, the investigation to perhaps lift
20 fingerprints or touch DNA from the exhibits. All those processes are completed. Then the exhibits must be sealed without delay on the crime scene. So, there is no real need for investigators to obtain samples there because in any event, the exhibits must be submitted to the forensic science laboratory.

ADV KHUMALO SC: So, General, what we see on TV where they test it with their tongue, that is not how it works in real life.

MAJ-GEN FLYNN: I will not advise that, Commissioner.

ADV SEGEELS-NCUBE: Thank you. General, why does it exclude dagga and Cat?

MAJ-GEN FLYNN: Commissioner, Cat is a plant that is originating from North Africa. Obviously, and that plant needs to be submitted to FSL within a specific period
10 because otherwise it becomes rotten. So only samples are taken and then submitted to FSL. That is the only sampling. With dagga, obviously, it means that when a cultivation facility is dismantled, you might sit with a whole warehouse full of dagga. So, it is just not practically possible to submit that whole consignment for analysis to the forensic science laboratory. So, it is all about practicality.

ADV SEGEELS-NCUBE: And the destruction process, how does that work, and how does one have certainty that there
20 has been destruction of the seized drugs?

MAJ-GEN FLYNN: Commissioners, I do not have intimate knowledge of that process. It lies within the forensic science laboratory space. But what I know is that upon completion of an investigation or a case docket, if it is finalised in court, we submit a document back to the

forensic science laboratory. It is called an SAP83A, where we indicate that the narcotics can be destructed. The same applies to an enquiry investigation that is been closed, that there are no further leads. We also submit that SAP83A, and then it is up to the forensic science laboratory to destroy the narcotics that was seized.

ADV SEGEELS-NCUBE: And generally, what is the period that we are talking about where you do not have a criminal prosecution that follows the seizure?

10 **MAJ-GEN FLYNN:** Commissioners, it is very difficult to answer that question because it is being dealt with on a case-by-case scenario. So, each case merits will determine how long it takes to complete the investigation. I think it goes back to proper command and control at unit level that will ensure that investigations are completed timeously so that it can be driven to its logical conclusion, whether it is towards a criminal matter or whether the enquiry is then closed.

ADV SEGEELS-NCUBE: Just explain the difference
20 between the criminal matter and the enquiry process. You seem to make a distinction between the two.

MAJ-GEN FLYNN: Commissioners, both methods are legitimate manners of investigation. Obviously, a case docket is not necessarily always court-ready, but in investigations that need further investigation before we will

move to arrest the accused and to prosecute them, it is better to investigate it in an enquiry and then complete the investigation, then convert it into a case docket and submit it for the seizure or to secure the arrests and place it before court.

ADV SEGEELS-NCUBE: Thank you, General. And then paragraph 39.

ADV BALOYI SC: Before you go to 39, typically what happens where there is a seizure but there is no identified
10 owners or recipients of that consignment, what happens? Is there an investigation, an enquiry? And in that process, what happens to the point where a decision is made to destroy those drugs?

MAJ-GEN FLYNN: Commissioners, in practise, those types of matters are dealt with predominantly under enquiries. The same processes need to be followed. The exhibits must still find its way to FSL. Where it is examined, you obtain your report from the experts. It is placed in the enquiry, obviously based on the merits, whether somebody
20 or the consignment can be attributed to a person or entity. Then it will be converted into a case docket and then arrests will follow.

Otherwise, if there are no further leads, then the matter will be closed down, and the notification be provided to the forensic science laboratory for destruction. What I

can perhaps also indicate is that it does not matter whether it is a case docket or an enquiry, but within this space, we are working hand-in-glove with the National Prosecuting Authority, and our investigations are prosecutor-guided. So, right from inception, the prosecution is assisting us. Obviously, we are working collaboratively so, to ensure that the detectives, for instance, do not miss an important link in an investigation.

ADV BALOYI SC: With that kind of explanation, would
10 therefore be a record of an enquiry, if you like, for relating to the 30 July 2021 1 000 kilogrammes seizure and the Port Shepstone, the ones that end up getting lost. It is two different things, but would there be a record that indicates an enquiry was commenced and whatever steps were taken?

MAJ-GEN FLYNN: That is correct, Commissioner. There is a unique reference number that is allocated to each enquiry and case docket investigation, and it is available, it is electronically system-driven, so it is available for forever.
20 And then after the enquiry is closed down, obviously it is archived, but still available.

ADV BALOYI SC: Thank you. And the drugs in that case would only be destroyed eventually when the enquiry is closed? Is that how it works?

MAJ-GEN FLYNN: That is correct, Commissioner.

Obviously, upon submission of the SAP83A, then the forensic science processes will kick in, in terms of the destruction of the exhibits.

ADV BALOYI SC: Thank you, General.

ADV SEGEELS-NCUBE: Thank you. General, we were at, I think it is paragraph 39.

MAJ-GEN FLYNN:

10 “In addition to the aforementioned
National Instructions, a protocol on the
search, seizure, handling, processing
and disposition of illicit drugs was
adopted in October 2016 that must be
complied with during the seizure of illicit
drugs and the processes thereafter. The
protocol is attached and marked as
HHF3. Importantly, the exhibit must be
photographed by the crime scene
examiner from LCRC or the forensic
examiner from FSL. The photograph of
20 the exhibit or item seized at the crime
scene must be provided with a report
issued by the crime scene examiner to
the responsible investigating officer.”

I will now deal with the November 2021 theft of cocaine seized in June 2021. Before dealing with the theft, it is

important to first deal with the seizure of the cocaine four months before the theft and highlight areas of serious concern that preceded the theft.

ADV SEGEELS-NCUBE: You may continue. So, the next topic, June 2021 seizure of cocaine in Durban. Before you deal with the factual matrix, can you just explain to us your involvement in this matter, in the Port Shepstone matter?

MAJ-GEN FLYNN: Commissioners, as I have testified earlier, I only became involved in this matter after my
10 appointment as the competent head for serious organised crime investigation at head office after the departure of Maj-Gen Khana. So, after I took up the position, obviously I engaged with the investigators on the matter and that is how I became privy to the facts of this matter.

ADV SEGEELS-NCUBE: Okay, thank you General. You may proceed.

MAJ-GEN FLYNN:

20 “Following intelligence received on 21 June 2021, a container that was at the CHC container depot in Isipingo, Prospecton, Durban had been identified as possibly containing illicit drugs. The depot was called in order to retrieve the container for inspection. On 22 June 2021, Lt-Col Gavin Jacob, he has been

subsequently promoted to Colonel and Warrant Officer Mpangase from DPCI serious organised crime investigation.”

Commissioners, I just want to make a correction there, in brackets it reflects border security at the time. That needs to be deleted, it is wrong. So that portion in brackets needs to be deleted please. So, both these colleagues, both Jacob and Mpangase, they were based at the DPCI in Durban:

10 “Were contacted and informed of the intelligence that had been received. They were requested to assist with conducting the inspection of the container which allegedly had 27 kilogrammes of cocaine at the time. It was not 27 kilogrammes it later emerged that it was 27 bags and not 27 kilogrammes. At approximately 09:20 on the same day, Colonel Jacob, Warrant
20 Officers Mpangase and KG Sibiya...”

By then Lt-Col Sibiya was a Warrant Officer, so he got promoted twice in the meantime.

ADV SEGEELS-NCUBE: Sorry, what is he now?

MAJ-GEN FLYNN:

“Lt-Col KG Sibiya and the Crime

Intelligence Officer Captain Justice Jabulani Duma went to the depot to conduct a search and seizure of the identified container. According to the official documentation obtained from the depot and the company, who had ordered the legitimate consignment in the container, the container contained animal bone meal from a supplier in Brazil. The officers proceeded to break the seal of the container in the presence of Captain Duma as well as the Warehouse Manager and Operational Response Services, ORS, Border Policing. According to the officers, prior to breaking the seal, a photo was taken to evidence that the seal was intact.”

ADV SEGEELS-NCUBE: Thank you, General. At this stage I am just going to flight photo 1 and if you can just describe to us what we are looking at there.

MAJ-GEN FLYNN: Commissioners, that is a container, as I explained in some of the previous photos.

ADV SEGEELS-NCUBE: That is the container that the officers took a photograph of.

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SEGEELS-NCUBE: And then photo 3. Before we get to photo 3, if we can do photo 2 first, because they mentioned the seal. At paragraph 42 of your statement, you say that:

“According to the officers, prior to breaking the seal, a photo was taken to evidence that the seal was intact.”

MAJ-GEN FLYNN: That is correct, Commissioners. That is the photo where the seal is clearly depicted.

10 **ADV SEGEELS-NCUBE**: And just remind us, what is the significance of the officers taking a photo of the seal before they are opening the container?

MAJ-GEN FLYNN: Commissioners, obviously it speaks to proper crime scene management but also the chain of custody of the exhibits. It might be that nothing is found in the container and then it needs to be resealed. So obviously you need to follow due processes to ensure that good governance also dictates at that possible crime scene because it is not a crime scene as yet when you are at the
20 brink of opening the container.

ADV SEGEELS-NCUBE: Okay. Paragraph 43.

MAJ-GEN FLYNN:

“When the container was opened, numerous canvas bags were observed at the entrance of the container. The bags

were inspected by the DPCI officers and 27 bags containing what was suspected to be bricks of cocaine were uncovered. The bricks were wrapped in black and yellow plastic with TikTok and Jaguar logos on the packaging. There were 541 bricks of cocaine weighing 1 kilogramme each with a street value of between 200 and R250 million.”

10 **ADV SEGEELS-NCUBE:** Thank you, General. Can we then put up photo 3 and you can just describe what it is that we are looking at?

MAJ-GEN FLYNN: Commissioners, that is a photo of the allegedly taken of the consignment that was found in the back of the container that also had the animal bone meal as part of the consignment.

ADV KHUMALO SC: And, General, do you know if South Africa was their final destination or if they were on route to somewhere else?

20 **MAJ-GEN FLYNN:** No, it was the final destination, Commissioner.

ADV KHUMALO SC: So, they were coming into our country?

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SEGEELS-NCUBE: And this information they

obtained from the consignee?

MAJ-GEN FLYNN: That is correct. It is the bill of lading, the consignee and all the paperwork associated to that, Commissioners.

ADV SEGEELS-NCUBE: And if you zoom into that photograph, the white bags are the animal bone meal.

MAJ-GEN FLYNN: That is correct, Commissioners. Commissioners, I think what is of importance here is that from the packaging where the cocaine is at the entrance to
10 the container, it is clear that this is also an example of a rip-on-rip-off methodology that would have been applied here. So, you need quick access to the drugs to remove it and obviously to get it away from the container as soon as possible.

ADV SEGEELS-NCUBE: And at paragraph 43 you then mentioned that it was wrapped in black and yellow plastic with TikTok and Jaguar logos. If we can show photo 4 and 5. Just zoom in a bit.

MAJ-GEN FLYNN: That is correct, Commissioners. As I
20 have testified earlier, this is a clear example where you can see the fingerprint or the identity of the supplier with the different logos fixed to the bricks of cocaine. Obviously wrapped with multiple layers of wrapping to protect the contents of the brick.

ADV SEGEELS-NCUBE: And there you see the TikTok and

the Jaguar.

MAJ-GEN FLYNN: That is correct. It is clearly visible, Commissioners.

ADV SEGEELS-NCUBE: Thank you, General. You may continue ...[intervenes]

ADV BALOYI SC: Sorry, sorry. General, presumably the law enforcement is able to identify or has identified who is Jaguar, who is TikTok, who does that W footprint or fingerprint belong to in terms of the owners of these drugs?

10 **MAJ-GEN FLYNN**: Commissioners, this is part of the evidence that I would prefer not to delve too deep into because this is transnational smuggling of narcotics in nature and this goes back to the origin of the cocaine that is been smuggled into South Africa. So, I would prefer, with your permission, not to go too deep into that because that forms part of bigger, obviously, transnational investigations that are continuing.

ADV BALOYI SC: I was not asking you to name them. I just wanted to find out the principle that law enforcement is
20 able to put their fingerprint to a particular group.

MAJ-GEN FLYNN: Indeed, Commissioner. Indeed, that is true.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: Thank you, General. Paragraph 44.

MAJ-GEN FLYNN:

10 “According to the officers at the crime scene, photographs of the seizure were taken by Lt-Col Jacob and Warrant Officer KG Sibiya. The officers decided to convey the suspected cocaine to the Isipingo Police Station for a detailed count. According to the officers, the crime scene was becoming busy with warehouse staff. Colonel Jacob, Warrant Officer Mpangase, KG Sibiya, and Sergeants Govender and Mkhize loaded the canvas bags into a marked police vehicle.”

ADV SEGEELS-NCUBE: General, Sergeants Govender and Mkhize, are they also within DPCI?

MAJ-GEN FLYNN: No, Commissioners. They were from Border Policing based in Durban Harbour.

20 **ADV SEGEELS-NCUBE:** Okay, thank you. You may proceed.

MAJ-GEN FLYNN:

“At the police station, Warrant Officer Mpangase entered the exhibits into the Isipingo SAP13. Warrant Officer Perumal of the Isipingo Police Station responsible

for the SAP13 register acknowledged that the exhibits were entered into the SAP13.”

ADV SEGEELS-NCUBE: General, can you just explain that process to us, the SAP13, how does it work? So, they have got 541 bricks, kilogrammes of cocaine. How are they entering it into the SAP13?

MAJ-GEN FLYNN: Well, Commissioners, the procedure is that the SAP13 or the exhibit register during normal or 24-
10 hour basis is kept in the community service centre or the charge office as it is known. So whenever exhibits need to be entered, the official like Warrant Officer Mpangase would then get hold of the register and then enter all the exhibits into that register and sign that he is handing that exhibits into the register.

So, he will have to give a full explanation of the exhibits that is being handed in, the exhibit seal numbers, the contents of the exhibits, *et cetera*. So, there is a whole array of aspects that need to be covered when exhibits are
20 entered into that register. Subsequent to that, the officer in command of the SAP13 or commonly known as the SAP13 clerk will then acknowledge the exhibits, so he will sign for the exhibits and then place it in safe custody within the walking safe at that specific police station.

ADV SEGEELS-NCUBE: You mentioned an exhibit seal

number. What is that?

MAJ-GEN FLYNN: Well, Commissioners, as I have explained a bit earlier, it is important to seal all exhibits as far as possible at the crime scene in order to preserve the integrity of the crime or obviously the investigation but also the chain of custody. So, it means that the exhibits, the bricks of cocaine, need to be placed in, they call it Intervoid or non-tamper evidence bags and then it gets sealed and each and every bag has a unique reference number. So, all
10 of that needs then to be entered into this register when the exhibits are deposited at the police station.

ADV SEGEELS-NCUBE: Now at the time when these officers entered the exhibits into the SAP13, did they have seal numbers, exhibit seal numbers?

MAJ-GEN FLYNN: No, Commissioners, because the exhibits was not sealed.

ADV SEGEELS-NCUBE: So, what would they have entered into the SAP13?

MAJ-GEN FLYNN: Commissioners, I can verify that from
20 the entries, but they have just given an explanation of the exhibits that is being entered.

ADV SEGEELS-NCUBE: So just a description of it?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SEGEELS-NCUBE: Without the number?

MAJ-GEN FLYNN: That is correct. There could have been

no seal numbers because the exhibits were not sealed.

ADV SEGEELS-NCUBE: Okay, thank you.

ADV BALOYI SC: General, does that mean then that - maybe let me ask my question differently. Is there a way, given what you have just said now, explaining they were not sealed and so there were no seal numbers at that point, is there a way of independently, that you would independently have been able to verify that indeed it was 551 bricks of cocaine that were found in that container? And I am talking
10 about what happens from the time that that container is opened up to this Warrant Officer Perumal, where they get to him and then ask for the SAP13 register.

MAJ-GEN FLYNN: Yes, indeed, Commissioners. If proper crime scene notes or contemporaneous notes were kept by the lead investigator, obviously during that counting process there it will be recorded, either in a pocketbook or on foolscap. That is the first safeguard. Then, obviously, it gets placed in exhibit seal bag, sealed, and upon handing in at the police station, the SAP13 clerk will obviously then
20 verify what he or she is accepting. And then the third safeguard, obviously, will then be when the exhibit is received at the Forensic Science Laboratory. It is opened by the analysts and then obviously counted again and that will be independent verification then for the initial claims by the investigators that it is 541 bricks.

ADV BALOYI SC: None of that happened here? Those steps that you are describing?

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV BALOYI SC: Thank you. Thank you, Ms Ncube.

ADV SEGEELS-NCUBE: Thank you, Commissioner. And then you mentioned non-tamper evidence bags. What is the purpose of it being non-tamper?

MAJ-GEN FLYNN: The importance of that, Commissioners, is that we preserve the integrity of the exhibits. So, it
10 means that whenever that exhibit arrives in that exhibit seal bag at FSL and it has been tampered with, it will be clearly visible. Whether the seal was, for instance, somebody tried to open it or somebody tried to cut the bag and then remove exhibits and then reseal it, that will be evident. So, there is scientific safeguards built into those exhibit bags that prevent tampering, obviously to the benefit of preserving the integrity of the exhibits.

ADV SEGEELS-NCUBE: Now, if the process is done correctly and it is in the non-tamper evidence bag, who is
20 authorised to open the bags?

MAJ-GEN FLYNN: Well, it depends on where in the value chain that exhibit is, Commissioner. But under normal circumstances, it will obviously be at the Forensic Science Laboratory where the analyst that the matter is assigned to will open the exhibit bag. I cannot see another reason for

reopening a bag and to remove exhibits from that without a good reason.

ADV SEGEELS-NCUBE: Assume that the process is followed correctly and you have the LCRC crime scene examiner bagging the evidence into these non-tamper bags at the crime scene. It goes to the police station, it is logged into the SAP13 register, and then it is stored. Can somebody from FSL request that the investigating officer or somebody from LCRC open the bag in order to get a
10 sample, for example?

MAJ-GEN FLYNN: Commissioners, if that happens, I will find it extremely strange because the exhibits, according to the protocol, needs to be submitted to the Forensic Science Laboratory for, obviously, the weighing of the exhibits, photographing, the actual analysis, because especially in a major drug bust it serves no purpose for an investigator who has perhaps no scientific background to obtain samples, because we do not even know if it will be randomly obtained. So, it makes no sense.

20 **ADV SEGEELS-NCUBE**: Thank you, General. So, we were at paragraph 45, and you were dealing with Warrant Officer Perumal acknowledged that the exhibits were entered into the SAP13 and you were at thereafter. It is the fourth line.

MAJ-GEN FLYNN:

“Thereafter the exhibits were immediately

signed out.”

So, it means that Warrant Officer Perumal did not keep the exhibits in his safe custody. It was booked out immediately.

ADV KHUMALO SC: What does that mean, immediately?

MAJ-GEN FLYNN: Well, they basically, Commissioner, they basically booked in the exhibits and then booked it out immediately. So, there is other columns in that register ...[intervenes]

ADV KHUMALO SC: Simultaneously.

10 **MAJ-GEN FLYNN:** Simultaneously.

ADV KHUMALO SC: No, because if you know anything about this Commission you will know that immediately can mean the following month.

MAJ-GEN FLYNN: No, immediately ...[intervenes]

ADV KHUMALO SC: On the same day.

MAJ-GEN FLYNN: On the same day, at the same time and place, Commissioner.

ADV SEGEELS-NCUBE: Thank you, General. So, it was immediately signed out and then according to the officers.

20 **MAJ-GEN FLYNN:**

“According to the officers, there was not sufficient space at the Isipingo SAPS to store the exhibits. According to Warrant Officer Perumal no enquiry was made with him regarding capacity to store the

exhibits in the armoury at Isipingo SAPS. According to Colonel Jacob, Brigadier Campbell Nyuswa gave an instruction to take the cocaine to Port Shepstone for storage after consulting Maj-Gen Senona Provincial Head of DPCI KZN.”

ADV SEGEELS-NCUBE: Before you proceed, General, who is Brigadier Campbell Nyuswa?

MAJ-GEN FLYNN: Brigadier Nyuswa is the Provincial
10 Commander for Serious Organised Crime within KZN DPCI, Commissioner.

ADV SEGEELS-NCUBE: That was a position that you held at North West before?

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SEGEELS-NCUBE: And he would be reporting to?

MAJ-GEN FLYNN: By then he would have been reporting to Maj-Gen Senona.

ADV SEGEELS-NCUBE: Okay. You may proceed.

MAJ-GEN FLYNN:
20 “The exhibits were transported to the DPCI Port Shepstone Serious Organised Crime Investigation Unit is premises for storage. Lt-Col Prinsloo, who was the Unit Commander of the DPCI SOCI, was informed of the arrangement and allowed

the strong room at the premises to be used to store the exhibits. General Senona took possession of the keys to the strong room after the exhibits were stored.”

ADV SEGEELS-NCUBE: Can you just explain Lt-Col Prinsloo, his position as, you said Unit Commander, but in preparation for your evidence you said he was the Acting Unit Commander. So, who would he have been reporting to
10 as the Unit Commander?

MAJ-GEN FLYNN: Commissioners, he would have been reporting to Brigadier Nyuswa as a direct line of command as the Brigadier was or is in command of Serious Organised Crime Investigation.

ADV SEGEELS-NCUBE: And then you say General Senona took possession of the keys to the strong room after the exhibits were stored. Can you just explain that process? How does it work? The keys, where are the keys ordinarily kept?

20 **MAJ-GEN FLYNN:** Commissioners, it is in fact a very simple process, but the key holder, obviously when you take over a SAP13 facility, you need to obviously conduct a proper audit of all the exhibits there. Under the circumstances here all the other exhibits or articles were removed from the safe, but there needs to be a proper

handing over of that facility then, obviously as well as the key or keys to the SAP13 or the vault.

ADV SEGEELS-NCUBE: And these keys are the keys to where the cocaine was going to be stored?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SEGEELS-NCUBE: And routinely who keeps that key? Is it because General Senona at that stage was the Provincial Head of DPCI? So, this seems to me to be an operational matter, the keeping of the keys.

10 **MAJ-GEN FLYNN:** Commissioners, in practise, it is the SAP13 custodian that will maintain the command and control over a SAP13 facility. By no means the Provincial Head.

ADV KHUMALO SC: That was my follow-up question. Who is actually responsible for the custody of this consignment of drugs? And at what point did it move from SAPS to DPCI? Because my understanding is that if it had been at the Isipingo SAPS, SAPS would have been responsible for that. So how does it work when it then moves to the Port
20 Shepstone warehouse of the DPCI? And who then becomes responsible? Is it still SAPS or is it now DPCI? Understanding that they are all part of SAPS, but they are just different units.

MAJ-GEN FLYNN: Commissioners, thank you for that question. Obviously if the exhibits were left at Isipingo

after it was booked in, it would have been the responsibility of the station commander and obviously the SAP13 clerk to ensure that the exhibits are kept behind lock and key. The moment the DPCI booked it in and booked it out immediately, they assumed responsibility for that exhibit.

ADV KHUMALO SC: But could DPCI do that?

MAJ-GEN FLYNN: That is correct, Commissioner. There are provisions in the National Instructions that the DPCI is having authority to have separate SAP13 facilities. By
10 nature of our work, obviously all exhibits cannot necessarily be immediately entered at the police station due to the sensitivity of investigations.

ADV KHUMALO SC: So, you are satisfied that these exhibits were lawfully removed from Isipingo SAPS?

MAJ-GEN FLYNN: It is lawfully removed indeed, Commissioner.

ADV KHUMALO SC: Thank you.

ADV BALOYI SC: General, as the, I think you call him the keyholder. In this case, General Senona became the
20 keyholder. Did I understand you correctly to say ordinarily a keyholder would have had to satisfy themselves about what is in that space for which they are holding a key. So, it is not simply a matter of it is sufficient to just take the key. You know there is that and you keep the key, but you have to be satisfied that what is in there is what they tell

you has been put in that room. Is that how it works?

MAJ-GEN FLYNN: That is correct, Commissioner. You understand me 100 percent correct. It means that the General was supposed to satisfy him of the contents that has been placed in that vault before he assumed responsibility for the content as well as for the keys.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: Thank you, Commissioner. General, do you know whether General Senona was present
10 when the drugs were put into the strong room?

MAJ-GEN FLYNN: That is correct, Commissioners. General Senona was present at Port Shepstone when the exhibits were placed in the SAP13 facility or the vault.

ADV SEGEELS-NCUBE: And can I just understand more about the possession of the keys? If you want to then access, if any of the investigating officers need to access the exhibits for whatever reason, how do they access it and would they have to inform the key holder that they want to gain access?

20 **MAJ-GEN FLYNN**: In practise, Commissioners, the SAP13 clerk or the custodian is the only person who is allowed to open that vault and to lock it again because that maintains, obviously, chain of custody and ensure that if anything goes wrong, there is, for instance, exhibits missing from that safe, that SAP13 responsible person will have to account

for it.

ADV SEGEELS-NCUBE: Thank you, General. Then at paragraph 47.

MAJ-GEN FLYNN:

“On 23 June 2021, the officers sealed the exhibits with the assistance of Port Shepstone personnel. On 24 June 2021, the officers retrieved samples from the exhibits in Port Shepstone and forwarded
10 the samples to FSL for analysis.”

So, the officers that is referred to here, Commissioners, is indeed Lt-Col Sibiya, Warrant Officer Mpangase, as well as other officials from Port Shepstone that assisted with the process.

ADV SEGEELS-NCUBE: Now, they accessed 23 and 24 June. How did they access it?

MAJ-GEN FLYNN: Commissioners, according to the statements and reports in the case docket, Maj-Gen Senona provided the key to Warrant Officer Mpangase to gain
20 access into the vault and to perform the duties to seal the exhibits and then to go back and obtain samples of it.

ADV SEGEELS-NCUBE: He gave the key he did not attend the premises to ensure that they are doing what they supposed or what they intended to do.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SEGEELS-NCUBE: Now, let us deal with the 23 June 2021, the sealing of the exhibits at the Port Shepstone premises. We know that it was already booked into the SAP13 at Isipingo and now you have the exhibits being sealed. What is the purpose of the sealing at that stage? What are they doing at that stage? Are they putting it into the non-tamper evidence bags?

MAJ-GEN FLYNN: That is correct, Commissioner. Basically, the exhibits are then placed in the bags and then
10 sealed. But it is *ex post facto*. It was supposed to be done at the crime scene.

ADV SEGEELS-NCUBE: And then on the ...[intervenes]

CHAIRPERSON: Sorry, and the opening and closing of the storage facility did that accord with what you told us not so long ago? You said only, you mentioned the job title.

MAJ-GEN FLYNN: The custodian of the SAP13, Commissioners.

CHAIRPERSON: Yes, yes. Only that person can open and close. And this time you say it was Officer Mpangase who
20 did.

MAJ-GEN FLYNN: That opened.

CHAIRPERSON: Yes, did that accord with the process or procedure you told us?

MAJ-GEN FLYNN: By no means, Chairperson.

CHAIRPERSON: Thank you.

ADV SEGEELS-NCUBE: Thank you, Chair.

ADV BALOYI SC: Ordinarily, would there be a record of the key being given to the custodian of the key opening? Mpangase getting in, whatever. And when I say Mpangase, it is just a placeholder. It could be anybody getting in, doing the sealing, then completing the job. Is all of that supposed to be recorded? And in this case, was it recorded?

MAJ-GEN FLYNN: Commissioners, the register makes
10 provision for, obviously, the booking in and booking out of exhibits. So here, obviously, the whole process was upside down, to say the least. And it was never supposed to happen like that. So, if General Senona had proper control over the key, he was supposed to open that safe and not provide the key to anybody under his command to go into that facility because he will never be able to account for what transpired there in his absence.

ADV SEGEELS-NCUBE: I think the question is also a
20 different one. In the normal course, would the custodian have a register of every person that had entered the strongroom or asked him for access to the key so that there is a record of who went into the strongroom?

MAJ-GEN FLYNN: Not necessarily, Commissioners, because the only reason why an investigator will go back to an SAP13 will be to book out the exhibits that was

previously booked in and to take it to the Forensic Science Laboratory and then, obviously, sign for it in the register. So, there is no specific provision for investigators to go into that type of facilities. There will be no proper explanation for that except for booking out exhibits.

ADV BALOYI SC: Unless an investigator let us say Mpangase he puts it in his diary or in his book where he says, I got in at this time, this is what I did, and that would be the record. Otherwise, there is no provision for him
10 getting in and doing the work that he ended up doing there.

MAJ-GEN FLYNN: That is correct, Commissioners. That was supposed to be recorded in a pocketbook.

ADV BALOYI SC: Thank you.

ADV SEGEELS-NCUBE: Then, General, can we deal with the other entry on paragraph 47, which is the 24th of June 2021, that the officers then retrieve samples of the exhibits and forward the samples to FSL? So, at this stage, the exhibits are in the non-tamper sealed evidence bags. They open the bags and they take a sample. What is your view
20 on that process?

MAJ-GEN FLYNN: Commissioners, first and foremost, there was no need to go and obtain samples of those bricks of cocaine because the whole consignment, as with all other previous consignments, was supposed to be sent to the Forensic Science Laboratory. There was no need to obtain

samples. As I have testified earlier, investigators are not scientists. We do not have knowledge about random sampling for that process to be correctly performed to enable Forensic Science to conduct their work effectively and efficiently so. So, it does not make sense to me why the colleagues went back to that facility to obtain samples.

ADV SEGEELS-NCUBE: And do you know whether they actually did obtain the samples and send it to FSL?

MAJ-GEN FLYNN: That is correct, Commissioners.

10 According to the evidence, indeed, there were samples taken and submitted to the Forensic Science Laboratory.

ADV SEGEELS-NCUBE: And was there any explanation given by FSL as to why the request was made for the samples? Because according to, it says that they forwarded the samples to FSL for analysis. So FSL presumably would have requested the sample, or are they doing it of their own initiative?

MAJ-GEN FLYNN: I am not sure of the details in relation to that, Commissioners, but I can follow up on that.

20 **ADV SEGEELS-NCUBE:** Now if the entire, all the exhibits were supposed to go to the FSL, can you think of any reason why samples would be taken beforehand, and a day, or actually two days after the seizure?

MAJ-GEN FLYNN: Commissioners, from all the other enquiries of similar seizures that I have read and perused,

this is the only matter where such samples were obtained. So, I find it extremely strange why it would have been done differently now. The only conclusion I can come to is that it was never the intention to take this whole batch of exhibits to the Forensic Science Laboratory.

ADV SEGEELS-NCUBE: In other words, it was never the intention for the 541 kilobytes?

MAJ-GEN FLYNN: The 541 bricks. I am referring to the totality of it, Commissioners.

10 **ADV SEGEELS-NCUBE:** Thank you, General. Then General, there is a subtopic, procedural failings during the search and seizure operation, paragraph 48.

MAJ-GEN FLYNN:

20 “In drug bust cases, the presence of drugs within a shipment does not in itself establish knowledge on the part of persons associated with that shipment. Thus, evidence collected at the crime scene is crucial, especially physical evidence in the form of fingerprints and DNA from the bricks and the container seal and the wrapping used to wrap the drugs. If this evidence is not collected or collected incorrectly, the already slim chance of identifying the perpetrators is

made all the more unlikely.”

ADV SEGEELS-NCUBE: General, can we just deal with the first part, the slim chance? How successful are you in actually finding the perpetrators of consignment, this kind of trafficking?

MAJ-GEN FLYNN: Commissioners, not that successful, especially in cases where the rip-on-rip-off method is being utilised due to the fact that these crimes are committed in secrecy and only the sender and the final destination
10 obviously know about this consignment. So, there is not necessarily objective evidence that will link these perpetrators to the Commission of this offence. Obviously, when circumstances differ depending on the available evidence, that will then dictate whether there is sufficient *prima facie* evidence to proceed with a criminal prosecution. But especially with rip-on-rip-off methodology, it is extremely difficult to get to a prosecution stage.

ADV SEGEELS-NCUBE: Thank you. General, paragraph
49.

20 **MAJ-GEN FLYNN:**

“The officers attending to the crime scene alleged that the crime scene became busy and therefore the decision was made to process the exhibits at the Isipingo SAPS. However, the officers

had to secure the integrity of the crime scene by cordoning it off. Since no photographs were taken of the location of the container and no sketch plan of the crime scene has been produced, it is difficult to verify that processing the crime scene could have been disturbed by the activity at the depot.”

ADV SEGEELS-NCUBE: And before you continue, let us
10 just understand, the crime scene we are talking about is the container?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SEGEELS-NCUBE: So, can you just comment on this explanation as to why there was not any processing done at the crime scene and what processing ought to have been done at the crime scene?

MAJ-GEN FLYNN: Commissioners, first and foremost, when you - logic dictate that when the door of the container is opened and you see these bags, that is not unfamiliar to
20 seasoned detectives because this is the *modus operandi* that is applied and visible on all the photos. If I was at that crime scene, I would have closed the doors of the container, properly cordoned off the scene, and then requested the LCRC to arrive at the scene.

Obviously also requested perhaps a K-9 dog for a

further search of the area and waited until they arrived before I proceeded with the scene. The preservation of the evidence at the crime scene is your only chance of being successful with the investigation and therefore it is critical to make optimal use of all the possible leads, forensic leads, that can be collected from that crime scene. Once that crime scene is disrupted, that possibility of gathering that evidence is gone and you will never get the opportunity to collect fingerprint or DNA evidence from such a crime scene again. So that would have been the process that I would have followed.

ADV SEGEELS-NCUBE: Thank you.

CHAIRPERSON: Did you ever get to know, General, what exactly they meant by the scene becoming busy? What was the detail in that regard?

MAJ-GEN FLYNN: Commissioner, there was not more detail to that explanation by the officers involved there, but it is clear that we need to manage a crime scene where it is. If there is a cash-in-transit heist in the CBD of Tshwane, I cannot shift that crime scene because it is becoming congested with perhaps onlookers. As a police officer, it is first and foremost my responsibility to ensure that the scene is cordoned off and to prevent access of bystanders and other individuals coming to that scene.

In any event, a depot is a controlled environment.

It is not as if it is in the streets. It is a controlled environment. So even if it got busy with perhaps employees arriving or trucks arriving to collect containers, it is not supposed to impede with the activities that are supposed to be conducted at that crime scene.

ADV BALOYI SC: You describe the crime scene in the way you describe it as the container itself. You would have closed up the container and put the work inside. But the explanation that has been given here suggests even outside
10 of the container itself. So perhaps if you would just, for our understanding, give a description of what would be the perimeter in this kind of case.

You are at the harbour, at a depot. There are other containers. There is this particular container. What is the perimeter of what you describe as a crime scene? And depending on the perimeter, is it open or at risk of people coming in and out if they are not part of the operation itself that has cordoned off the area?

MAJ-GEN FLYNN: Commissioners, obviously it will depend
20 from scene to scene what is the layout. But initially the scene is confined to the container. That per se implicates that you have the scene under control. And you can decide where to set the perimeter. Because we must remember that that scene is now transferred from the container to the outside of the container where the exhibits obviously will be

opened.

The LCRC personnel will conduct the necessary investigations. And you need to prepare that area to such an extent that it will enable you to perform your duties to the required standard. So, as I said, the scene will be taped. How big that area is that you will need. And then you need to cordon it off as such. Thank you, Commissioner.

ADV BALOYI SC: Thank you, General.

10 **ADV KHUMALO SC:** Just so we are clear, General. The scene is the container after it has been offloaded from the ship or whatever instrument it came in. So, it is not the ship itself. It is the individual container once it has been offloaded and you discover illicit drugs in it. Is that the scene?

MAJ-GEN FLYNN: That is correct, Commissioner. In these circumstances, obviously it is at the warehouse. So, after the container was offloaded from the vessel at the docks, it is then transported to a specific container
20 warehouse or a depot, and then from there it is disseminated further or unpacked. So that is the crime scene. It is at the warehouse, which is a controlled environment.

ADV KHUMALO SC: But the scene is not the warehouse itself. It is the container.

MAJ-GEN FLYNN: Indeed, initially, Commissioner, but then depending on the space that you need to effectively deal with crime scene management principles will dictate where you set the boundaries and cordon off the area where you restrict movement of individuals.

ADV KHUMALO SC: Thank you.

ADV SEGEELS-NCUBE: Thank you, General. We are now at paragraph 50.

MAJ-GEN FLYNN:

10 “According to the protocol and the
national instruction, the DPCI officer’s
ought to have contacted a crime scene
examiner from LCRC. As indicated
earlier, the FSL is contacted where the
crime scene is a clandestine drug
laboratory. In this instance, the LCRC
had to be contacted. According to the
version recorded in the factual report
prepared by Maj-Gen Senona on 9
20 November 2021, the DPCI officers stated
that they called FSL, Forensic Science
Laboratory, on the standby number in
order to attend the scene, but FSL stated
that they could not attend because it was
not a clan lab scenario.”

This is correct. FSL should not have been contacted:

“The factual report is attached to the information note prepared by Lt-Gen TC Mosikili in January 22, who was the Deputy National Head of the DPCI at the time. This information note with annexures is attached and marked as HFF4.”

ADV BALOYI SC: Who was in charge of this operation at
10 the dock when the bust was made?

MAJ-GEN FLYNN: It was Colonel Jacob, who was the most senior officer, so obviously he assumes responsibility and takes control and command of the scene Commissioner.

ADV BALOYI SC: And did he have experience in crime scene management? Was it the first bust that he was involved with, to your knowledge?

MAJ-GEN FLYNN: By no means, Commissioner. He was extremely experienced. The colleague by then was the team leader for the narcotics team or the SANEB team at
20 Durban Serious Organised Crime Investigation, and he subsequently became the commander, so he is very experienced.

ADV BALOYI SC: Thank you, General.

ADV SEGEELS-NCUBE: Thank you, Commissioner.
General, we will deal with the information note as well later.

Can we then deal with paragraph 51?

MAJ-GEN FLYNN:

10 “There is no explanation why LCRC was not contacted. The officers indicate that photographs were taken by them at the crime scene. The photographs must be taken by the LCRC crime scene examiner, who must prepare a report thereafter. No fingerprints were uplifted and no DNA collected. This would have had to be done by the LCRC crime scene examiner. Furthermore, the exhibits had to be sealed at the crime scene but was only done after the cocaine was transported and stored in Port Shepstone.”

20 **CHAIRPERSON:** General, based on your testimony as to how things ought to have unfolded, everything seems to have gone wrong here. Do you want to just tell us your knowledge of the expertise of the people that were involved here, the officers that were involved here? I am just trying to understand why everything would have gone wrong. I understand you may possibly have some reluctance to comment on the expertise or lack of it. Of your colleagues, but the reality is, based on your testimony, everything went

wrong. So, I am trying to understand in my mind why that is so or why that was so. So, do you have any views as to why everything went wrong?

MAJ-GEN FLYNN: Chairperson, what I can perhaps provide to assist the Commission is that, right from inception, when we start with our training in the college, we get exposure to how to deal with crime scenes. And whether it is a drug seizure, a major drug seizure, whether it is a murder case, whether it is a cash-in-robbery incident,
10 the principles remain the same.

So, whether you are experienced or inexperienced, obviously you can make mistakes as a junior member. But from the knowledge that I have is that the colleagues that were present at this crime scene under the supervision of Colonel Jacob were all experienced. There was no need for things to go wrong. And I believe, further in my evidence, I will also address some of these aspects, Commissioners.

ADV KHUMALO SC: Are you aware of any disciplinary steps, assuming there is no criminal conduct on the part of
20 the officers involved? Are you aware if, and let me not say disciplinary because that may be the wrong word, training, further training, steps to reinforce? And even that, Chair, I am reluctant to use. What I am really looking for is if there are processes in place and those processes were not followed.

Steps to either reinforce, in other words, train people to ensure that these things do not happen again. Or if it is serious enough, then consequence management either in the form of discipline or some other steps. Are you aware in this specific case, and we are only confining ourselves to the movement of the exhibits, not yet the storage, are you aware that any steps were taken?

MAJ-GEN FLYNN: According to my knowledge, no steps were initiated, Commissioners. And I am not aware of
10 follow-up workshopping or training that took place to empower colleagues within that space. But training and workshopping is ongoing processes. We have a programme in SAPS where colleagues of all ranks are exposed to different types of training, of which the most important perhaps for a detective is the resolving of crime or the rock course, where detectives are extensively exposed to the processes that need to be followed to ensure that the integrity of crime scenes and investigations are upheld.

ADV SEGEELS-NCUBE: Thank you, Commissioners.
20 General, can I just ask you to go back to page 16, paragraph 41. Page 16, paragraph 41, where you actually start out with the facts on the 21st of June 2021. It says:

“Following intelligence received on 21
June.”

And then it says:

“22 June, Lt-Col Jacob and Warrant Officer Mpangase were contacted.”

Who contacted them?

MAJ-GEN FLYNN: Well, via the provincial offices, Captain Duma requested specifically Colonel Jacob to be part of this operation, Commissioners.

ADV SEGEELS-NCUBE: And Captain Duma is from Crime Intelligence?

MAJ-GEN FLYNN: That is correct, Commissioners.

10 **ADV SEGEELS-NCUBE**: And Lt-Col Jacob and Warrant Officer Mpangase is from DPCI?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SEGEELS-NCUBE: So, he requested for Colonel Jacob to be specifically put on this?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SEGEELS-NCUBE: And where was Colonel Jacob at the time when this request was made?

MAJ-GEN FLYNN: He was on leave, Commissioners, so he returned from leave to attend to this operation.

20 **ADV SEGEELS-NCUBE**: And who instructed Colonel Jacob to attend?

MAJ-GEN FLYNN: Commissioners, I am not 100 percent sure of that. I can read up on it. But it was from the provincial office that he received the directive to proceed with that investigation.

ADV SEGEELS-NCUBE: So, Captain Duma from Crime Intelligence specifically asks for Colonel Jacob, but Colonel Jacob must be instructed by somebody within DPCI, of course. It cannot come from Captain Duma directly.

MAJ-GEN FLYNN: Yes, that is correct. Obviously for proper governance, that is the procedure to be followed. But a police officer can place yourself on duty at any time to attend to a crime scene.

ADV SEGEELS-NCUBE: So, you do not know whether
10 Captain Duma asked Colonel Jacob directly, or whether he went through somebody at DPCI and requested?

MAJ-GEN FLYNN: I do not know if he also spoke to Colonel Jacob in person, but the directive came from the provincial office.

ADV SEGEELS-NCUBE: And when you say the provincial office, who are you referring to?

MAJ-GEN FLYNN: Commissioners, that is what I said. I need to just check the records to make sure of that fact. I do not want to unintentionally mislead the Commission.

20 **ADV SEGEELS-NCUBE:** But who would Colonel Jacob's direct superior be at that time?

MAJ-GEN FLYNN: At that time, if he was the team leader for SANEB, then it would have been the unit commander. I do not know if there was a unit commander in Durban by then. And then obviously that follows up to the provincial

structures, who would be Brigadier Nyuswa as the provincial commander.

ADV SEGEELS-NCUBE: But between Brigadier Nyuswa and Colonel Jacob, there would be somebody in between, presumably?

MAJ-GEN FLYNN: As the unit commander, if Colonel Jacob by then was not perhaps acting as the unit commander, there would have been another layer in between.

10 **ADV SEGEELS-NCUBE:** Okay. Thank you. So then, General, if we can then go back to page 20 of your statement. Chair, moving on to another subtopic, perhaps this would be a convenient time to take the lunch adjournment.

CHAIRPERSON: Let us adjourn and resume at 2 pm.

ADV SEGEELS-NCUBE: Thank you, Chair.

CHAIRPERSON: Thank you.

INQUIRY ADJOURNS

INQUIRY RESUMES

20 **CHAIRPERSON:** Yes, Ms Segeels-Ncube.

ADV SEGEELS-NCUBE: Thank you, Chair. General, just before the lunch adjournment, we were on page 20, starting a new subtopic, questionable decision-making regarding storage of the seized cocaine. Before you deal with this topic, can I just ask you, why do you refer to it as

questionable decision-making?

MAJ-GEN FLYNN: Commissioners, as I have indicated earlier, the investigation as we speak is still continuing, proceeding. I have got my own strong views about what transpired there, but unfortunately I cannot speak to my views. Evidence and facts will dictate ultimately in relation to this matter.

ADV SEGEELS-NCUBE: Thank you. Thank you, General. Okay, we can then start with paragraph 52. At some point I
10 am going to refer you to HFF4 when we deal with some of the factual information, but you can proceed in the meantime.

MAJ-GEN FLYNN: Thank you, Commissioners.

20 “The exhibits had to be transported to the police station in the jurisdiction where the crime occurred, which was indeed Isipingo Police Station. According to the factual report by General Senona, Warrant Officer Perumal indicated that there was no space to store the exhibits at Isipingo. However, according to Warrant Officer Perumal, he was never asked to store the exhibits at Isipingo. It was also confirmed by Colonel Jacob that

Warrant Officer Perumal was never asked if there was capacity to store the exhibits at Isipingo. According to Colonel Jacob, Isipingo was not considered because it is well known that Isipingo is a smaller police station and is in a high-risk area.”

ADV KHUMALO SC: Sorry, can I just ask, in the first sentence, is that supposed to be to the jurisdiction? What
10 do you mean by they are transported in the jurisdiction?

MAJ-GEN FLYNN: Commissioner, it basically means that our Standing Orders dictate that if it is in that station precinct, the exhibits seized, it needs to go to that police station.

ADV KHUMALO SC: So it must go to?

MAJ-GEN FLYNN: It must go to that police station, that is correct.

ADV KHUMALO SC: Yes.

ADV SEGEELS-NCUBE: Thank you, General. Can I ask
20 you to go to HFF4, which is, starts on page 113 of the second section. And before I take you to the section that I want you to deal with, can you just identify this document for us?

MAJ-GEN FLYNN: Commissioners, this document is an information note that was prepared and submitted by the

then Deputy National Head of the DPCI, Lieutenant General Mosikili, to the National Head of the DPCI, Lieutenant General Lebeya.

ADV SEGEELS-NCUBE: And what was the purpose of the information note?

MAJ-GEN FLYNN: The purpose of the information note was to appraise the National Head on the feedback in relation to the burglary or housebreaking and theft of the 541 kilograms of cocaine from Port Shepstone Serious
10 Organized Crime Investigation Unit.

ADV SEGEELS-NCUBE: Okay. And on page 113 at paragraph 2.2, under the heading “Background”, you will see that General Mosikili refers to, it says that she travelled to KwaZulu-Natal and met with the Provincial Head, Major General Senona. Subsequently, the Provincial Head submitted a report regarding the incident, and it is summarized as follows. And then on the next page is a summary, according to General Mosikili, of what General Senona had reported about the incident, and he also starts
20 with the seizure of the drugs in June 2021. Now, we have dealt with some of the evidence that General Senona deals with in his factual report, but if I can then ask you to go to page 115, where he deals with what happens to the cocaine, and specifically referencing Warrant Officer Perumal. If I could ask you to read, without reading out the

SAP reference number in paragraph 2.2.5, if you could read that paragraph into the record.

MAJ-GEN FLYNN: Paragraph 2.2.5:

“The exhibits were counted by the members, and it was established that there were 541 bricks of cocaine, weighing approximately 1 kilogram.”

I think it was supposed to read 1 kilogram each.

10 “They were entered into Isipingo with a reference number. Warrant Officer Perumal of Isipingo SAPS indicated that they did not have space to store such volume of narcotics. A provincial office was notified of the lack of storage facility at the station and at FSL.”

ADV SEGEELS-NCUBE: Now, are you aware of where General Senona could have gotten the version that Warrant Officer Perumal said that there was not any space at
20 Isipingo to store the drugs?

MAJ-GEN FLYNN: Commissioners, I do not know for a fact, but it can only be from his subordinates that were either at the scene or overseeing, so, either within the provincial structure or from Colonel Jacob and his team.

ADV SEGEELS-NCUBE: I did refer you earlier on, well, in

your evidence that Colonel Jacob's version is, in fact, that he never engaged Warrant Officer Perumal about the capacity. If you look at what you say in 52, in fact, he says, Colonel Jacob says that he was, Warrant Officer Perumal was never asked if there was capacity to store the exhibits at Isipingo. According to Colonel Jacob, Isipingo was not considered, because it is well known that Isipingo is a smaller police station and is in a high-risk area.

10 So, on Colonel Jacob's own version, he never engaged with Warrant Officer Perumal about whether there was capacity or not. He is going off the basis that it is well known that Isipingo does not have capacity.

MAJ-GEN FLYNN: That is correct, Commissioners. He basically confirms what Perumal has said, that Perumal was not engaged.

ADV SEGEELS-NCUBE: And could you find any statement in the docket, which is obviously not before us for various reasons, but could you find any statement in the docket where Warrant Officer Perumal says that he said there was
20 no capacity?

MAJ-GEN FLYNN: There is no such statement, Commissioners.

ADV SEGEELS-NCUBE: Thank you. Thank you, General. And then at 2.2.6 on page 115, if you could just read that.

MAJ-GEN FLYNN: -:

“The Provincial Commander for Serious Organized Crime indicated that the DPCI Port Shepstone SOCI Unit premises can be utilized to store the said exhibits. This location has been used to store drug exhibits previously, and it has two strong rooms.”

ADV SEGEELS-NCUBE: And who would the Provincial Commander of SOCI be there in this?

10 **MAJ-GEN FLYNN:** It is Brigadier Nyuswa, Commissioners.

ADV SEGEELS-NCUBE: Okay, so Brigadier Nyuswa would have been the one that indicated that the DPCI Port Shepstone can be used?

MAJ-GEN FLYNN: That is correct.

ADV SEGEELS-NCUBE: And do you have any knowledge of whether that facility had been previously used to store drugs?

MAJ-GEN FLYNN: I do not have any such knowledge, Commissioners.

20 **ADV SEGEELS-NCUBE:** And can you describe ...[intervenes].

ADV BALOYI SC: Can I just understand, the answer, what does it mean? Is it that you personally are not aware, or you know it is never been used for that?

MAJ-GEN FLYNN: No, it is about my own personal

knowledge, Commissioners.

ADV BALOYI SC: Thank you, General.

ADV SEGEELS-NCUBE: Thank you, General. General, is there a difference between the strong rooms that is described here in this paragraph 2.2.6, where these drugs, one of the drugs was, the drugs was going to be stored in one of these strong rooms, is there a difference between that strong room and the safes that are used at police stations?

10 **MAJ-GEN FLYNN:** Well, I do not know what was the position in relation to the safe at Port Shepstone, or the walk in, the strong rooms as it is referred to, but in terms of at police stations, the walk in safes has to comply to certain standards, in terms of the thickness of the walls, for instance, how it is additionally safeguarded, as well as the doors, the quality of the door, the type of locks that is being used, etcetera. So there is specific standards to it, but I cannot comment to the standard of the strong rooms in Port Shepstone.

20 **ADV SEGEELS-NCUBE:** And in so far as security is concerned?

MAJ-GEN FLYNN: At Port Shepstone, indeed inferior to at the police station, because police stations are manned 24 hours per day. So there is, at all material times, armed police officers on duty at the police station, which was not

the case at Port Shepstone, at this facility.

ADV KHUMALO SC: But General, what do you do if what Colonel Jacobs says is correct, that the police station at Isipingo is a smaller police station and is in a high-risk area, would you still insist that this exhibits should have been stored there?

MAJ-GEN FLYNN: Commissioner, further in my evidence, I will prove why it was supposed to be kept at Isipingo, but if there was, for instance, a fear of perhaps theft at Isipingo,
10 there was other alternatives readily available.

ADV KHUMALO SC: Okay.

ADV SEGEELS-NCUBE: Thank you, General. Then at 2.2.7, could you read that?

MAJ-GEN FLYNN: -:

“The exhibits were then transported to Port Shepstone DPCI offices under armed escort from POP tracking team members who are seconded to Durban Serious Organized Crime Investigation.
20 The unit commander of the DPCI SOCI, Lieutenant-Colonel Prinsloo, was informed about the arrangement and allowed members to utilize a strong room to store the exhibits.”

ADV SEGEELS-NCUBE: General, this is, of course, a

record of what General Senona had reported to General Mosikili as the factual report.

MAJ-GEN FLYNN: Indeed.

ADV SEGEELS-NCUBE: Where did you get, because earlier on you gave evidence that General Senona was present when the drugs were stored. He does not mention this in this factual report of his, that he was present. There is only mention about the Unit Commander, Lieutenant-Colonel Prinsloo, was informed about the arrangement and
10 allowed the members to utilize the room. But we do not actually get anything as to whether General Senona was there. How do you know that he was there?

MAJ-GEN FLYNN: Commissioners, that information is sourced from the case docket.

ADV SEGEELS-NCUBE: So there are witnesses or a witness that says he was there?

MAJ-GEN FLYNN: Indeed, Commissioners.

ADV SEGEELS-NCUBE: And presumably those witnesses would be the people that were present, either, would be
20 police officers?

MAJ-GEN FLYNN: Indeed, Commissioners.

ADV SEGEELS-NCUBE: And then, if I could ask you to ...[intervenes].

CHAIRPERSON: Just before that. General, the drugs that had been stored at Isipingo 16 months previously, what

were those? What type of drugs were those? Just remind me. I know it is somewhere here.

MAJ-GEN FLYNN: The drugs that were stolen ...[intervenes].

CHAIRPERSON: Stored.

ADV SEGEELS-NCUBE: The 547 in February 2020.

CHAIRPERSON: The 547 ...[intervenes].

MAJ-GEN FLYNN: Oh, that was Mandrax, Commissioners.

CHAIRPERSON: Mandrax. I am asking ...[intervenes].

10 **MAJ-GEN FLYNN**: At Isipingo.

CHAIRPERSON: Yes. I am asking that because the kilograms may not necessarily be the determinant with regard to the space needed for storage. Take dagga for example, 547 or 541 kg's of dagga would take much, much more space than 541 kg's of cocaine. I am not an expert in cocaine, but I think that is the situation. I would be surprised if you were to say I am wrong on that. Do you get my drift?

20 **MAJ-GEN FLYNN**: Yes, your observation is spot on, Chairperson.

CHAIRPERSON: Yes, can you relate that then to Mandrax and cocaine?

MAJ-GEN FLYNN: Yes. Ja, Mandrax basically is tablets. So it is also compressed into tablets and then packaged predominantly in thousand tablets per package.

CHAIRPERSON: Yes.

MAJ-GEN FLYNN: Packages.

CHAIRPERSON: Oh, so – yes, yes.

MAJ-GEN FLYNN: So, I am of the view that, obviously depending on space, but it is more or less the same volume ...[intervenes].

CHAIRPERSON: All right, all right.

MAJ-GEN FLYNN: That it will take up, whether it is cocaine or Mandrax of more or less the same mass.

10 **CHAIRPERSON**: That answers my question. Thank you very much.

ADV SEGEELS-NCUBE: Thank you, Chair. Then, General, if you can read 2.2.9 into the record.

MAJ-GEN FLYNN: -:

“Samples were taken and forwarded to the FSL on 2021-07-05 for analysis. The analysis report is still awaited.”

20 **ADV SEGEELS-NCUBE**: Now, this report that the information note was 2021, November 2021, was prepared in November 2021, we are now in 2026, do you know if that analysis report is available now?

MAJ-GEN FLYNN: Commissioners, there was never a report issued by the Forensic Science Laboratory in Amanzimtoti due to flooding of the premises, where all the exhibits or some exhibits, inclusive of this exhibit, were

contaminated as a result of the flooding. So that basically nullified the prospects of obtaining a report there and no report was issued as such.

ADV SEGEELS-NCUBE: And when did that flood occur?

MAJ-GEN FLYNN: There was multiple floods over the years, Commissioners. I am not sure of the exact date of the flooding that caused this exhibits not to be in a position to be examined.

ADV SEGEELS-NCUBE: But do you know if by November
10 2021, when the theft occurred, there had, there was, the flood had already occurred then?

MAJ-GEN FLYNN: That is correct.

ADV SEGEELS-NCUBE: It had occurred already?

MAJ-GEN FLYNN: That is correct.

ADV SEGEELS-NCUBE: Okay. Then, if we can go back to your statement, paragraph 52. Sorry, we are done with 52. If we can go to 53.

ADV KHUMALO SC: I just checked, I think the floods were in May 2022.

20 **MAJ-GEN FLYNN**: Ja, Commissioner, that premises specifically was prone to flooding, even before that major flooding of 2022. I can recall that.

ADV KHUMALO SC: So it was a separate incident?

MAJ-GEN FLYNN: So, yes, there was separate incidents.

ADV SEGEELS-NCUBE: But you do not know which flood

it was that, it is presumably in the docket somewhere.

MAJ-GEN FLYNN: No, I do not have the detailed knowledge of that.

ADV SEGEELS-NCUBE: Okay, thank you. Paragraph 53, you are referring to Colonel Jacob's version that Isipingo was, it is well known that it is a smaller police station and is in a high-risk area.

MAJ-GEN FLYNN: That is correct.

ADV SEGEELS-NCUBE: So you can read 53.

10 **MAJ-GEN FLYNN**: -:

“I find this explanation quite strange.

The exhibits are supposed to be transferred to FSL within seven days from the date of storage if the protocol and national instructions are adhered to. In other words, capacity for 541 kilograms was limited to no more than seven days as intended by the protocol and national instructions. I referred

20 earlier to 547 kilograms of Mandrax seized in 2020. This seizure occurred on 5 February 2020 at CHC depot in Prospecton, Durban, where SARS Customs detected the consignment of suspected Mandrax. The exhibits, 547

10 kilograms, were booked in at Isipingo SAPS and kept in the armoury, the same police station that apparently is known not to have capacity. The exhibits were submitted to the Forensic Science Laboratory on 12 November 2021. If Isipingo SAPS could store 547 kilograms in February 2020, it is unclear why the 541 kilograms of cocaine could not be stored at Isipingo 16 months later.”

ADV SEGEELS-NCUBE: And then over the page paragraph 54.

MAJ-GEN FLYNN: -:

20 “If the concerns regarding Isipingo's capacity and risk profile were considerations in the decision to store the seized cocaine elsewhere, it is unclear why the cocaine was not stored at the police station closer to Isipingo. The four closest police stations to the Durban harbour are Isipingo, Maydon Wharf, Brighton Beach and Umbilo.”

And the reason why we refer to these four police stations, Commissioners, is because that is the police

stations where, from the list of enquiries that I have drawn, was the stations that were utilized to store the exhibits at.

ADV SEGEELS-NCUBE: General, we will get to those list of enquiries, because there is still more homework to be done on that from you, but can you just explain to the Commissioners how it came about that you drew that list of enquiries of other drug busts that occurred?

MAJ-GEN FLYNN: Commissioners, based on the facts that came to the fore in relation to the actual seizure of the 541
10 kilograms and subsequent burglary and theft of it, I took a decision, and all the irregularities that took place there, I took a decision to look at similar seizures from Durban harbour to determine whether that forms a pattern or if this was an exceptional case and that is the reason why I have requested a number of other enquiries, similar seizures at Durban harbour, for further analysis.

ADV SEGEELS-NCUBE: And one of those enquiries, was it the 30 July 2021, approximately 1,000 kilogram cocaine bust?

20 **MAJ-GEN FLYNN**: Indeed, Commissioners.

ADV SEGEELS-NCUBE: Okay, that we dealt with earlier.

MAJ-GEN FLYNN: That is correct.

ADV SEGEELS-NCUBE: Okay, then, so you, from those enquiries, you then looked at where those exhibits were stored after they were seized. These are the four police

stations that you had picked up. It was Isipingo, it was Maydon Wharf, Brighton Beach and Umbilo.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SEGEELS-NCUBE: Okay, you can then continue with paragraph 55.

MAJ-GEN FLYNN: -:

10 “The distance between Isipingo Police Station and Maydon Wharf Police Station is 20 kilometres. Brighton Beach, between now Isipingo and Brighton Beach Police Station is 13 kilometres. And between Isipingo and Umbilo is 17 kilometres. And then from Isipingo to Durban Central Police Station is 24 kilometres.”

ADV SEGEELS-NCUBE: You may continue with 56.

MAJ-GEN FLYNN: -:

20 “I do not know why none of these facilities were considered as alternatives. Instead, the Port Shepstone DPCI SOCI Unit premises, 100 kilometres from Isipingo Police Station, was considered appropriate.”

ADV SEGEELS-NCUBE: Continue.

MAJ-GEN FLYNN: -:

“Apart from the proximity to the Isipingo Police Station, I also considered whether these other police stations closer to Isipingo had capacity both in respect of security and space. I looked at seizures before and after the June 2021 cocaine drug bust. I have already dealt with the 547 kilogram Mandrax seizure, where the

10 Mandrax was stored at Isipingo. I referred earlier to the 1,000 kilogram cocaine bust on 50 July 2021. These exhibits were stored at Maydon Wharf, which is 20 kilometres from Isipingo Police Station. Another example relates to the seizure on 16 February 2022, where DPCI members of Durban Serious Organized Crime Investigation Unit, in conjunction with Crime

20 Intelligence, seized 530 kilograms of cocaine at Manuchar Warehouse. The cocaine was hidden in the cargo in a shipment container. The container originated from the Port of Santos in Brazil. The crime scene was properly

dealt with in terms of crime scene management principles. The exhibits were photographed and sealed in forensic evidence bags. The exhibits were booked in at Umbilo SAPS and submitted to the Forensic Science Laboratory on 24 February 2022.”

ADV SEGEELS-NCUBE: Thank you, General. Then, if we can move to the next topic, which is the theft of the seized
10 cocaine from DPCI Port Shepstone premises, paragraph ...[intervenes].

ADV BALOYI SC: Maybe before you do that. General, has there been instances where drugs that were seized were kept at the Port Shepstone offices?

MAJ-GEN FLYNN: Commissioner, as I testified, I am not aware of any such, except for what I have seen at the Commission over TV, that apparently there was consignments of, or a consignment, kept in that SAP13 facility. But from my own knowledge, I cannot confirm that.

20 **ADV BALOYI SC:** Thank you.

ADV KHUMALO SC: I think, General, when we asked General Senona why he considered this facility safe, he gave that evidence and said, because in the past they had stored drugs at the facility. Although I think there were two incidents in 2018 where there was theft or some other thing.

But he said, because in the three years prior, there had been no incident, he was satisfied that you know, the facility was safe to store these drugs.

MAJ-GEN FLYNN: Commissioners, I will still get to that point, but I do not agree with General Senona.

ADV KHUMALO SC: Before you go to the next section, in paragraphs 54, 55 and 57, you seem to be implying, without saying it, that there were improper motives for sending these drugs to the DPCI facility in Port Shepstone, because
10 you are suggesting that there were other more suitable facilities, so you do not know why these drugs were not stored there. But then you leave it like that. It is almost as if you are implying that there was an improper motive for sending them to this facility.

MAJ-GEN FLYNN: Commissioners, that is why I said at the inception of this portion of my evidence that I have my own strong views about what transpired here, but it need to be deduced to facts and evidence before I can reach conclusions. And that is why I keep it to the facts, because
20 the other options was available and there is proof that those facilities, there was similar or even bigger drug seizures from Durban Harbour kept at those facilities without any problems in the past.

ADV KHUMALO SC: So can we leave it at you have a suspicion, but because you do not have the facts you want

to leave it at that?

MAJ-GEN FLYNN: I would prefer that, Commissioners.

ADV KHUMALO SC: Thank you.

MAJ-GEN FLYNN: Thank you, sir.

CHAIRPERSON: General, I am going to refer to a few issues, one, two, three, four, five, six, seven, about seven or so, which raise in my mind the following issues or questions. Was it purely a comedy of errors that so many things went wrong? Or is it so that perhaps right from the
10 beginning, the idea was to eventually steal the drugs?

Let me raise this. The evidence has touched on them already, but I just want to put them together to show that it is quite difficult to believe that in one case there would have been such a comedy of errors. The scene right at the beginning, the crime scene, as you gave details, was handled improperly or not according to prescripts. That is number one.

Number two, although 16 months previously 547 kilograms of Mandrax had been stored at Isipingo, all of a
20 sudden 541 kg's of cocaine could not be stored there. Number three, as a result, the cocaine was taken to a DPCI storage in Port Shepstone. Number four, the cocaine was not stored at the Maydon Wharf, at Brighton Beach, at Umbilo, or at Durban Central, the furthest of which is Durban Central, is only 24 kilometres from Isipingo.

Fifth, there is no explanation why the Port Shepstone storage, which is 100 kilometres from Isipingo, was chosen. And sixth, on your evidence, General Senona did not follow the prescripts with regard to the handling of keys. Remember what you said about the custodian, so it is in that context that I say General Senona did not follow the prescripts with regard to the handling of keys.

That is a long line of steps right from the crime scene. The very first involvement of the police, they
10 handled the scene wrongly and from that point on, all the way to the storage in Port Shepstone, everything is going wrong and the culmination is the theft of the cocaine. Could this have merely been a comedy of errors, or was there something more? Please express a view if you can or you are willing to.

MAJ-GEN FLYNN: Commissioners, I am of the view that it is no coincidence and that the sequence of events is indeed, I just want to get the correct word, it is by design, I can perhaps word it as such.

20 **CHAIRPERSON**: In fact, I could even add no CCTV cameras, no 24-hour guards, and even if ordinarily they did not have those, but now that they have this much cocaine valued at the amount that it was, and perhaps the value did not matter much, this was a serious offence in and of itself. So that is seven and eight of the several factors. Please

continue, General.

ADV SEGEELS-NCUBE: General, do you still want to finalize your answer to the Chair? You said it is by design. There are, of course, further factors that will add to the Chair's list, so maybe you want to reserve.

MAJ-GEN FLYNN: No, I will maintain with that statement. Thank you, Commissioners.

ADV SEGEELS-NCUBE: He says that he believes that it was by design, Chair.

10 **MAJ-GEN FLYNN**: And that it was no coincidence.

CHAIRPERSON: Thank you. Thank you.

ADV SEGEELS-NCUBE: Thank you, General. So perhaps then let us add to the Chair's list. At paragraph 60, we deal with the theft.

MAJ-GEN FLYNN: -:

20 “During the period 6 to 8 November 2021, the 541 kilograms of cocaine seized on 22 June 2021 was stolen from the DPCI Port Shepstone strongroom with the use of a grinder to gain entry. It is unclear when the theft occurred because the alarm system that was fitted at the premises was not properly working. In addition, there was no armed response services

because the contract with the private security company was not renewed, having expired on 31 March 2020. The alarm was also not maintained.”

And what I mean with ...[intervenes].

CHAIRPERSON: In fact, General, we cannot even tell that the drugs were stolen after the metal gate or whatever had been cut. Who knows that a key was used to open, take out the drugs nicely, close, and then saw off just for the pretest
10 that there was that kind of break in. It is pure speculation. Maybe I should not bother you, but it is not beyond the realm of possibility, not with everything that happened here. Please continue, General.

MAJ-GEN FLYNN: Thank you, Commissioners.

ADV SEGEELS-NCUBE: General, do you just want to explain the part about the alarm was also not maintained?

MAJ-GEN FLYNN: Ja, the importance of that, Commissioners, is that during that time, we were suffering of load shedding. So, it meant that after a series of load
20 shedding, the alarm, when the electricity came back, would not automatically reset. It had to be done manually.

ADV SEGEELS-NCUBE: And what is the relevance of that insofar as the theft is concerned, that 6, 7, and 8? Was there load shedding?

MAJ-GEN FLYNN: There was indeed load shedding during

that period, Commissioners.

ADV SEGEELS-NCUBE: Thank you, General. General, then if you can deal with paragraph 61, which I think, 61 and 62, which you say is for you one of the very strong indicators of these events being by design. Can you just deal with 61?

MAJ-GEN FLYNN: -:

10 “It is of concern that four months after the seizure, the cocaine had not been transferred to FSL. As stated earlier, the exhibits must be transferred to FSL immediately, but not later than seven working days in exceptional circumstances. Colonel Jacob indicated that he was informed by FSL that there was no space for the exhibits. This seems to be a regular occurrence. In the other seizures referred to earlier, the reason for noncompliance with the seven-day period appears to also be that FSL has no capacity to receive the exhibits.”

20

ADV BALOYI SC: General, can I just take you back to that last sentence in paragraph 60, the alarm was also not maintained. I understood you to say because of load

shedding, whenever power came back on, it had to be reset.

MAJ-GEN FLYNN: Yes, it does not automatically reset, so it had to be reset. So it tells us, Commissioner, that even the battery backup systems were in all probability not fully functional anymore.

ADV BALOYI SC: And whose failing would it have been to make sure that that does not happen, that the alarm is reset, the battery is always functioning in that centre?

MAJ-GEN FLYNN: Well, Commissioner, I believe that the
10 problem emerged subsequent to the contract with a security company expiring on the 31st of March 2020, so it mean subsequent to that, there was no link between that alarm system and the security company. And also the equipment *per se* was not maintained. So new batteries was, for instance, not installed in case of load shedding.

ADV BALOYI SC: Okay, so absent the renewal of the contract, the station or the office could not do anything about this alarm situation?

MAJ-GEN FLYNN: No, those type of processes need to be
20 dealt with by supply chain management within the provincial office of the DPCI, or if it is depicted within a fashion that it is perhaps the responsibility of the owner of the building.

ADV BALOYI SC: Okay.

MAJ-GEN FLYNN: I do not know what was the case at Port Shepstone.

ADV BALOYI SC: Thank you. Thanks, General.

ADV SEGEELS-NCUBE: Thank you, General. And then paragraph 62 on page 23.

MAJ-GEN FLYNN: -:

10 “This may indeed be what FSL
communicated to the investigating
officers when requests were made to
FSL, but I wish to highlight the matter
that cast doubt on the veracity of this
version. On the 9th of July 2021, a few
weeks after the 541 kilogram cocaine
seizure, officials seized 700 kilograms
of cocaine in Aeroton, Johannesburg.
The Aeroton cocaine exhibits were
transferred to FSL on 19 July 2021 for
analysis and storage. If FSL had
capacity on 19 July 2021 to store 700
kilograms, it is unclear why it did not
have capacity for 541 kilograms three
20 weeks earlier or at any time before the
2021 theft in Port Shepstone.”

CHAIRPERSON: But does FSL have a dedicated space for drugs? I am just thinking, what if they had in storage something else altogether?

MAJ-GEN FLYNN: Commissioner, there ...[intervenes].

CHAIRPERSON: I am just thinking maybe focus now is just on drugs and you know, when last did you store drugs? You stored them on 19 July 2021, but that does not also answer the question, what else could have been stored during that period?

MAJ-GEN FLYNN: Commissioner, I do not have detailed knowledge about how forensic science are going about their business, but what I know for a fact is that there is different sections who has their own storing capabilities within that
10 sections. So I would then consider it that the narcotics section would have its own dedicated storage facilities because those analysts are dealing with narcotic cases only.

ADV KHUMALO SC: Sorry. General, in paragraph 62, one is in Johannesburg and one is in KZN. So I am a bit lost there. The FSL capacity you are referring to when you say it is unclear why they did not have capacity for 541 kilograms, are you saying the Aeroton bust, those drugs were stored in KZN?

20 **MAJ-GEN FLYNN:** No, by no means.

ADV KHUMALO SC: Are you suggesting that the ones that were found in KZN should have been brought to Johannesburg?

MAJ-GEN FLYNN: That is correct. That is correct, Commissioner. The ...[intervenes].

ADV SEGEELS-NCUBE: Sorry, General. In answering that question, can you just explain to the Commissioners again the anomaly here with the Amanzimtoti reference versus what happened with the other bust that you looked at and where they went?

MAJ-GEN FLYNN: Ja, all the other major seizures, Commissioners, were submitted to the main lab and that is in Silverton, Pretoria, Forensic Science Laboratory. Strange enough, with this matter, only the correspondence
10 took place between Colonel Jacob and the lab in Amanzimtoti, whilst everybody is privy to the fact that the major busts, all the exhibits, are transported to the main lab in Pretoria.

ADV SEGEELS-NCUBE: Thank you, Commissioners.

ADV BALOYI SC: Does Colonel Jacob say who at FSL Amanzimtoti he spoke to that said they do not have capacity?

MAJ-GEN FLYNN: There is evidence ...[intervenes].

ADV BALOYI SC: Do you have ...[intervenes].

20 **MAJ-GEN FLYNN:** There is evidence to that effect, Commissioner, indeed.

ADV BALOYI SC: Right. Can you perhaps ...[intervenes].

ADV SEGEELS-NCUBE: Commissioner Baloyi, it is at 64.

ADV BALOYI SC: Okay, thank you.

ADV SEGEELS-NCUBE: You may proceed, General. If we

can just, on 62, deal with FSL. In your experience, is it indeed the case that they regularly inform investigating officers who need to transfer exhibits to their facilities that they do not have capacity?

MAJ-GEN FLYNN: It happens, indeed, from time to time, Commissioner. Obviously, it depends on how much exhibits are delivered and whether they are stacked to capacity or not. So, indeed, it is happening. It is a practical problem. But, obviously, if there is massive seizures and you speak
10 to Commanders within that space, I believe you will be accommodated, if anyhow possible.

ADV SEGEELS-NCUBE: And then, General, if the exceptional circumstances scenario which says it must be done no later than seven working days, so now the seven days expire, what is the obligation on the investigating officer insofar as ensuring that FSL does at some point get the exhibits? Do they just leave it until they hear from FSL or do they have to do regular enquiries? How does it work?

20 **MAJ-GEN FLYNN:** No, there needs to be regular enquiries, Commissioners, but not just from the investigator. The investigator is operating at a low level, although they are performing a critical role within the system. This needs to go further. We have a process in place where we call a priority request.

So, under these circumstances, a Provincial Commander or a Unit Commander or the Provincial Head is at liberty to submit a request to the leadership of the Forensic Science Laboratory and request, obviously depending on the sensitivity and the urgency of completing an investigation, to prioritize this matter. And it is my experience from General Mulaudzi and his team that whenever we submit such requests, it is adhered to as a matter of urgency. So, there is provision for that.

10 We cannot expect FSL to follow up with the investigators. It is part of our responsibility as leaders and managers to ensure that we assist the investigators to get those exhibits to FSL as a matter of urgency.

ADV SEGEELS-NCUBE: And is a bust of 541 kilograms of cocaine considered to be significant?

MAJ-GEN FLYNN: Indeed, Commissioners. If we consider the only bigger seizure was the ton of cocaine, and then the 541 kilograms was the second biggest cocaine bust, although the Mandrax seizure was a bit more. But it is
20 indeed significant if we look at the black market value of these seizures.

ADV SEGEELS-NCUBE: And there is the 700 Aeroton, 700kg.

MAJ-GEN FLYNN: Ja, I have specifically referred to the KZN seizures, Commissioners.

ADV SEGEELS-NCUBE: Okay.

MAJ-GEN FLYNN: But indeed, the Johannesburg Aeroton seizure is also noteworthy.

ADV SEGEELS-NCUBE: Thank you, General. And, General, what happened with the 1,000 kg, because we have the 22 June 2021, which is the theft of the 541 kg. Then we have got the Aeroton, which is 9 July, which was 700. And then there is the 1,000 kg that is at the end of July. So, in the space of just over a month, there is three
10 big drug busts and out of the three, it is just the one in Port Shepstone that there is the theft. What happened to the 1,000 kg?

MAJ-GEN FLYNN: Those exhibits were successfully transferred to the Forensic Science Laboratory, Commissioners.

ADV SEGEELS-NCUBE: Then if we can deal with paragraph 63.

MAJ-GEN FLYNN: -:

20 “I referred earlier to the 2021 information note by General Mosikili regarding the theft of the cocaine at Port Shepstone. In this information note, reference is made to an attempted break-in at the premises in early October 2021, a few weeks

before the 2021 theft. According to the information note, attempts were made to finalize the investigation to mitigate the threat posed by storing exhibits at the premises.”

ADV SEGEELS-NCUBE: Can we then go to the information note, page 116. It is HFF4, and this is still the factual report from General Senona. So, if you can read 2.3 and then 2.3.1, the heading at 2.3.

10 **MAJ-GEN FLYNN**: -:

“2.3 The Provincial Head further reported that:

2.3.1. during early October 2021, the Provincial Commander informed the Investigating Officer, Lieutenant Colonel Jacob, of an attempted break-in at the Port Shepstone office. Upon further discussions with the provincial management, attempts were made to
20 finalize the investigation. This was done to mitigate the threat posed by having exhibits stored at Port Shepstone offices. The FSL was again approached by the IO on 27 October 2021 in order to expedite the analysis

report. However, Warrant Officer Setshedi indicated that he needed approximately 7 bricks of cocaine from the exhibits seized. He further reiterated that FSL does not have space to store the exhibits. The IO had arranged with FSL that additional bricks of cocaine from Port Shepstone could be obtained during the week of 15 November 2021.”

10

ADV SEGEELS-NCUBE: General, do you want to comment on that paragraph?

MAJ-GEN FLYNN: Well, Commissioners, I think it speaks for itself, but here again, Warrant Officer Setshedi is based at FSL in Amanzimtoti, but the consignment was supposed to be delivered in totality to the Forensic Science Laboratory in Silverton.

ADV SEGEELS-NCUBE: Thank you. General, can you then go to paragraph 64 of your report and read that, page 23, paragraph 64.

20

MAJ-GEN FLYNN: -:

“There is an allegation that FSL was again contacted on 27 October 2021 to expedite the analysis report. However, Warrant Officer Setshedi reiterated that

FSL did not have space to store the exhibits. This is after FSL had received 700 kilograms of cocaine seized in Aeroton in July 2021. Curiously, no attempts were made to increase security at the premises or to move the cocaine to a more secure location after the attempted break-in.”

ADV SEGEELS-NCUBE: What would have been a more
10 secure location if it could not go to FSL?

MAJ-GEN FLYNN: Any of the police stations’ SAP-13 facilities in the Durban area would have been more secure.

ADV SEGEELS-NCUBE: Then ...[intervenes].

ADV BALOYI SC: Can I, maybe back to my question? So we see that on the 27th of October a call is made and Setshedi said that they do not have storage at FSL. Was, I mean, my understanding of the evidence was that even earlier than the 27th of October there had been a request or at least an indication from FSL that they do not have
20 capacity to store that whole consignment. Am I correct in that understanding?

MAJ-GEN FLYNN: That is correct, Commissioner, but that request went to Amanzimtoti lab.

ADV BALOYI SC: Yes, I see.

MAJ-GEN FLYNN: And not to the main lab in Silverton.

ADV BALOYI SC: Yes, and the request to Amanzimtoti, and I think that is what I was asking about earlier, that first request to Amanzimtoti, is it accounted for? Who made the request, who did they make it to, who said they do not have space?

MAJ-GEN FLYNN: Commissioners, there is a proforma document that need to be completed that accompany the actual exhibits or the samples that was obtained now to FSL. So upon handing up or handing in the exhibits at FSL,
10 you submit that request of the necessary investigations that need to be performed by FSL with the exhibits and you receive an acknowledgement of receipt. So under normal circumstances, that letter will be under the signature of the Unit Commander to the Forensic Science Laboratory Commander, who then obviously disseminates the exhibits to the appropriate section for further handling.

ADV BALOYI SC: So if for some good reason a decision had been made not to transfer this consignment to Silverton, let us say there was a good reason and it was to
20 be taken to Amanzimtoti, you are saying that process would follow, there would be a completion of a proforma document that gets submitted, and would that be for the entire consignment?

MAJ-GEN FLYNN: No, Commissioner, obviously if the entire consignment was submitted, then that request would

have included then all the seal numbers of all the exhibits. So under these circumstances, the request would have only spoken to the samples that was submitted.

ADV BALOYI SC: The samples. Ja, so there was never a request to Amanzimtoti for the entire consignment to be taken to Amanzimtoti? At least there is no record of that.

MAJ-GEN FLYNN: There is no written records of that, Commissioner.

ADV BALOYI SC: Okay.

10 **MAJ-GEN FLYNN:** Although obviously there is a lot of indications that there was telephonic discussions between the detectives in KZN, the DPCI detectives, and FSL and it is substantiated with witness statements.

ADV BALOYI SC: Yes, I understand that part. I think what I am trying to clear is to distinguish a conversation about a sample ...[intervenes].

MAJ-GEN FLYNN: Yes.

ADV BALOYI SC: Between DPCI and FSL.

MAJ-GEN FLYNN: FSL.

20 **ADV BALOYI SC:** And a conversation between the same parties, FSL, Amanzimtoti, about the entire consignment.

MAJ-GEN FLYNN: That is correct.

ADV BALOYI SC: I am just trying to get clarity of mind that what was the discussion about. It was about the sample or about the entire consignment.

MAJ-GEN FLYNN: I think both, Commissioners. Obviously in writing was the request for the sampling or the analysis of the samples.

ADV BALOYI SC: Yes.

MAJ-GEN FLYNN: But according to the investigation team, they also made efforts to get the exhibits in totality deposited to Amanzimtoti. But it does not add up, because in all the other instances it was transferred successfully to FSL main lab in Silverton.

10 **ADV BALOYI SC**: Okay, thank you, General. Thank you, Ms Ncube.

ADV SEGEELS-NCUBE: Thank you, Commissioner. General, we are now at, General, just on the samples there, so now we have another version that there was then a request from FSL for presumably seven bricks. Is that usual for them to be requesting, to be making those kind of requests for samples, FSL?

MAJ-GEN FLYNN: Commissioners, I cannot account for the truth of that version, but it does not make sense to me,
20 and it goes back to my earlier argument that detectives are not scientists like the analysts or experts at FSL. We know nothing about random sampling, so how would they have decided to pick seven of the 541 bricks? In any event for Forensics to be in a position to bring out a report, they had to weigh all the exhibits on a calibrated scale, which is

provided for within the FSL space.

ADV SEGEELS-NCUBE: And do you know if the bricks were ever, the seven additional bricks were ever submitted to the FSL?

MAJ-GEN FLYNN: That never transpired, Commissioners.

ADV SEGEELS-NCUBE: So the seven bricks never went to FSL?

MAJ-GEN FLYNN: That is correct.

ADV KHUMALO SC: Ms Ncube, sorry to - I need to
10 complete my question. I think you asked it again, but the final leg of it was missing. The 1,000 kilogram bust, you said the exhibits were stored at Maydon Wharf. And then in the follow-up question by Ms Ncube, you said they were later transferred to FSL in Silverton. After how long was that? And I am trying to make sense of the Port Shepstone one. Was it after five months or was it in a short space of time?

MAJ-GEN FLYNN: Commissioners, if I can perhaps just be
20 referred to my statement, the correct paragraph, because there was a period that lapsed.

ADV KHUMALO SC: Ja, it is paragraph 58 and much earlier, I do not think in an earlier paragraph, that is when I asked the question.

MAJ-GEN FLYNN: Ja, the ...[intervenes].

ADV KHUMALO SC: Because I said we will come to it

later.

MAJ-GEN FLYNN: Yes, we ...[intervenes].

ADV KHUMALO SC: And where we dealt with it was ...[intervenes].

MAJ-GEN FLYNN: If my memory serves me correctly, that 1,000 kilogram seizure was submitted to FSL subsequent to the break-in at Port Shepstone, so it was early in December of 2021.

ADV KHUMALO SC: Ja. But then you cannot use that
10 example to say, well, if it happened in the 1,000 kilogram case, then the Port Shepstone one must also have been sent to FSL, because as you say, this 100 kilogram, 1,000 kilogram cocaine bust was only sent to FSL after November, which means after the Port Shepstone incident, which means it is possible that if the Port Shepstone incident had not happened, this bust would also not have been transferred to FSL.

MAJ-GEN FLYNN: Commissioner, yes, it is possible.

ADV KHUMALO SC: Ja.

20 **MAJ-GEN FLYNN**: But I do not know what is the reasons why it was not transferred, except for the explanation from the enquiry that the investigators indicated they made enquiries at FSL in Silverton and they were informed that there is no space to accommodate the 1,000 kilograms.

ADV KHUMALO SC: But was it a requirement that the 541

kilogram bust must go to FSL in Pretoria?

MAJ-GEN FLYNN: Indeed, everything must ultimately land up with the main lab in Pretoria, Commissioner, because after completion of the investigation and the SAP83A is completed, the exhibits, all the drugs, need to be destroyed by FSL. So all those, the major seizures, find its way to the main lab in Silverton.

ADV KHUMALO SC: You have already answered a question I was going to ask tomorrow, because my question
10 for tomorrow was going to be, once these drugs are at FSL, what happens to them, and you have now just answered it, so thank you. Fewer questions for tomorrow then.

ADV BALOYI SC: General, has, do you know if Warrant Officer Setshedi has confirmed this kind of conversation, that he said there was no storage in October?

MAJ-GEN FLYNN: Commissioners, I am aware of the fact that the Warrant did depose to a statement. I cannot from the top of my head remember the detail of the contents.

ADV BALOYI SC: All right, thank you.

20 **ADV SEGEELS-NCUBE**: Thank you, Commissioners. General, are you aware of whether a request was made in respect of the 1,000 kilograms, whether a priority request was made to FSL in July 2021 for them to take 1,000, because is that not the biggest bust at that point?

MAJ-GEN FLYNN: It was indeed the biggest seizure. I am

not aware of such priority requests, Commissioners.

ADV SEGEELS-NCUBE: And in respect of the 700 kilograms for Aeroton, there were, are you aware if there was a special request there because that movement was quite quick from 9 July, the seizure, to 19 July?

MAJ-GEN FLYNN: I am not aware if there was any interventions from the colleagues in Gauteng to facilitate the quick submission of those exhibits, Commissioners.

ADV SEGEELS-NCUBE: Thank you. Then, General, I
10 think we were at paragraph 65.

MAJ-GEN FLYNN: -:

“I say this especially because even
before the exhibits were stored at Port
Shepstone, the premises had not been
secured. In the information note,
General Mosikili refers to six break-ins
at the premises before June 2021, with
the most recent before the theft being
on 15 January 2021. Most importantly,
20 on 22 January 2020, Lieutenant
Colonel S R Singh, Acting Section
Commander for Counter Intelligence,
Crime Intelligence, KZN, submitted a
report to the Provincial Head of Crime
Intelligence KZN, Provincial Head of

DPCI KZN, Section Head Operations:
Crime Intelligence KZN, Section
Commander: UGU Cluster Crime
Intelligence KZN, and the National
Head Security Standard Counter
Intelligence to address the security
breach at the Port Shepstone premises
following the 20 January 2020 break-in.
The report is attached to General
10 Mosikili's information note.”

ADV SEGEELS-NCUBE: Chair, at this stage we seek your
indulgence for an early adjournment. We are about to deal
with the break-ins and General Mosikili's report and the
security shortcomings. There is some work that the General
needs to do following on some of the questioning that
occurred today and he also wants to have a look at some
more information in order to give more detail on this aspect
because it seems to have become more important than
initially anticipated. He was just supposed to set the scene
20 for the other witnesses to come. So if we could have an
early adjournment today to consult with the General and
perhaps draft a short supplementary statement where he
deals with these additional matters, we would be indebted
to you, Chair.

CHAIRPERSON: And we will resume at 9.30?

ADV SEGEELS-NCUBE: At 9.30, Chair.

CHAIRPERSON: Let us adjourn and resume at 9.30 tomorrow.

ADV SEGEELS-NCUBE: Thank you.

INQUIRY POSTPONED TO 6 MAY 2026

INQUIRY ADJOURNS
