

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

HELD AT

BRIGITTE MABANDLA JUSTICE COLLEGE

6 MAY 2026

DAY 102



PROCEEDINGS ON 6 MAY 2026

CHAIRPERSON: Good morning, Ms Sello. I cannot help but say that you are confusing me, because yesterday I was surprised to see you here. Now you are back where you usually are. Good morning. Good morning, General.

MAJ-GEN FLYNN: Good morning, Chairperson. Good morning, Commissioners.

CHAIRPERSON: Thank you.

ADV SELLO SC: Good morning, Chair. And I apologize
10 for the confusion I saw, but as the Commissioners, I am sure by now, are no doubt aware this is my preferred position. I am dictated to by others when I do not have control over where I sit. Good morning, Chair, good morning, Commissioners.

CHAIRPERSON: Good morning.

ADV SELLO SC: Chair and Commissioners, we proceed today with General Flynn, and I shall be holding fort today. Thank you.

CHAIRPERSON: That is in order.

20 **ADV SELLO SC:** Morning, General.

MAJ-GEN FLYNN: Good morning, Advocate Sello.

ADV SELLO SC: General, yesterday during your testimony, some issues arose, I think, from the Commissioners, and I thought it appropriate to perhaps provide fuller clarity on the questions you had, on the

answers you had provided to the questions posed. So I am going to, I suggest that before we deal with the remainder of your statement, we take a step back and we try and address the questions in full that arose, and thereafter we will get back to your statement. Would that be appropriate?

MAJ-GEN FLYNN: Indeed, Commissioners.

ADV SELLO SC: Before we do so then, Commissioners, you recall that yesterday General Flynn had indicated that he would be preparing a supplementary statement. That
10 statement has been prepared, and your files have been duly updated. It is the last item in your current files. Now, General, let us turn then to your supplementary statement and formally place it on record, where we will deal with the contents thereof in the fullness of time. Please turn to the last item in your file. There is a statement there marked “Supplementary statement of Henrik Frans Flynn”. It is a seven-page document, and if you go to page seven, it is dated even date, and it bears a signature. Do you confirm that is your signature?

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

ADV SELLO SC: And you confirm the correctness of this supplementary statement and you stand by its contents?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Thank you, General. Chair and Commissioners, if then it may be admitted. We will come

back to the issue of the supplementary. For the moment, let us go back to your original statement, your first statement and in this regard, I would like to draw your attention to, I suggest we first deal with paragraph 50. At paragraph 50, you point out that the FSL did not attend the scene on 22nd June 2022 at the harbour, and the reason advanced was that FSL declined to do so because it was not a “clan lab” scenario, meaning it was not a clandestine drug laboratory. My question is, that term seems to refer to
10 laboratory, and the scene as we had it at the harbour was not a laboratory case. Why then is the “clan lab” scenario of relevance to whether or not FSL could attend the scene?

MAJ-GEN FLYNN: Commissioners, it became relevant because Colonel Jacob indicated that he requested their presence at the scene and they denied it. So, there was no need to call them because even the protocol direct that LCRC, or the Local Criminal Records Centre, attend to normal drug seizures and not the Forensic Science Laboratory.

20 **ADV SELLO SC**: So, is it your testimony then that FSL in the circumstances was the wrong entity to make contact with?

MAJ-GEN FLYNN: Indeed, Commissioners.

ADV SELLO SC: And the entity that ought to have been made contact with is the LCRC?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: To your knowledge, do you know, to your knowledge was LCRC contacted by the investigators in this case on the day in question at the harbour?

MAJ-GEN FLYNN: I do not have knowledge of that, Commissioners.

ADV SELLO SC: Did you say knowledge or record?

MAJ-GEN FLYNN: I do not have knowledge of that.

ADV SELLO SC: Knowledge of that. Thank you. The
10 second issue is at your paragraph 51, and here, you are dealing with the question of the requirement that the exhibits be sealed at the crime scene and not after they have been transported to Port Shepstone. You see, it is your last sentence in paragraph 51. I am going to, and, Commissioners, we now have two SAP13's, and I think this would assist with the question posed by Commissioner Khumalo yesterday.

I will call the one the Isipingo SAP13 and then we have the Port Shepstone SAP13. Currently, they are
20 running prints and they will be uploading. In order for General Flynn to provide the requisite clarity on the issue, it is necessary that they be at hand. So, if you allow me, I will park this until those documents are at hand, then he can talk us through them, and then Commissioner Khumalo will have his response, I trust. Thank you.

In the meantime, then, I would invite us, General, to deal with the requirements in terms of the instruction notes and the legislation and so forth, as it is relevant on this matter, and then we will look at the SAP13's themselves to determine whether or not they complied. I would suggest for that purpose, then, we go to your Annexure HH2, is it HFF2, HFF2, and I am going to request your assistance to help us understand the requirements of HFF2. For the record, that is the National Instruction
 10 8/2017, titled "Property and Exhibit Management". I would like us to perhaps start at page 73. I do not know how you normally refer to whether - I am at 4. Is that a part 4? Is that a clause 4? Is that item 4? How do you normally refer to it?

MAJ-GEN FLYNN: Paragraph 4, Commissioners.

ADV SELLO SC: Paragraph 4, okay. Then let us start at your paragraph 4. Paragraph 4 speaks to, or regulates the completion of SAP13 registers when exhibits are handed in at the CSC. I think, firstly, let us understand what is the
 20 CSC, and please, in that explanation, contrast it with what we generally understand to be a police station, if there is a difference.

MAJ-GEN FLYNN: Commissioners, the CSC, as I explained yesterday, is a Community Service Centre or the charge office. And that is the ...[intervenes].

CHAIRPERSON: I sometimes wonder why these names have been changed, because they serve to confuse us.

MAJ-GEN FLYNN: And that is the heartbeat of the police station. That is where all the activities start and that is where the register is kept to enter exhibits into. So it is part of the police station, to answer Advocate Sello.

ADV SELLO SC: Oh, okay, so it is part of the police station. So if I say that SAP13 is found at a police station, that would be intrusive of the CSC?

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

ADV SELLO SC: And then paragraph 4, you said you call them paragraphs. Please read sub 4 into the record, 4, sub 4.

MAJ-GEN FLYNN: Paragraph – oh, sub 4.

ADV SELLO SC: Yes.

MAJ-GEN FLYNN: -:

20 “All property and exhibits seized must be entered in the SAP13 register of the relevant police station where the crime was committed or where the property was found and then transferred to the relevant unit and entered in the SAP13 of the relevant unit.”

ADV SELLO SC: A couple of questions from me on that. How should we understand the requirement that all property

and exhibits seized must be entered into the SAP13 register of the relevant police station where the crime was committed? Does that mean each and every item must be registered? Does that mean a generic description of the exhibit must be given? How should the Commission interpret that requirement?

MAJ-GEN FLYNN: Commissioners, it is expected of police officers entering exhibits into the SAP13 to be specific and complete. It means that exhibit seal numbers must, for
10 instance, be entered. If there is a serial number on exhibits, that needs to be entered. If it is cash that is being handed in, the serial numbers of the cash need to be entered. So it needs to be a very comprehensive and complete entry that is been made there.

ADV SELLO SC: And if we then take it to the second, what I will call the second SAP13 register, which is the receiving police station, must the same exercise be undertaken?

MAJ-GEN FLYNN: That is correct, Commissioners. That is when exhibits are transferred to another station.

20 **ADV SELLO SC**: Okay. Now then let us, I would like us to go to paragraph 7, as you are helping us understand.

ADV BALOYI SC: Maybe before you do that, Ms Sello.

ADV SELLO SC: Yes.

ADV BALOYI SC: Just to clear this. General, where it says to the relevant unit, in this case, the relevant unit

would have been the DPCI, in the case that we are dealing with?

MAJ-GEN FLYNN: That is correct, Commissioner.

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

ADV SELLO SC: Thank you, Commissioner Baloyi. To your response to Commissioner Baloyi's question, I would like you to flag it, because as we work through this document, we will have to revisit that answer for clarity, okay. But in the meantime, I would like us to then go to
10 paragraph 7 at page 74. And at paragraph 7, which is headed "Property in Temporary Storage Facilities in the CSC", I take it then police station, as you explained, and it requires that all property entered in the SAP13 must be locked in a temporary storage facility at CSC, where they must be kept safely until handed over to the Station Commander or exhibit official. In the case of the Port Shepstone seizure and the SAP entry at Isipingo, who would have at the time been the exhibit official?

MAJ-GEN FLYNN: Warrant Officer Perumal,
20 Commissioners.

ADV SELLO SC: So Warrant Officer Perumal is our exhibit official.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Then I invite us to paragraph 8. You had touched on this briefly. Paragraph 8 regulates the transfer

of exhibits from one police station to another. Part 1 or sub 1 of paragraph 8, it states that:

“The transfer document, SAP13(g) is completed by the SAP13 official in all instances where exhibits are transferred from one police station to another or between SAP13 stores.”

Would it be logical for us to expect to obtain an SAP13(g) from Isipingo Police Station in regard to the Port
10 Shepstone seizure?

MAJ-GEN FLYNN: That is correct, Commissioners, because it is a requirement.

ADV SELLO SC: And part 2 deals with the completion of their transfer document. Is this a separate document from the general, from the SAP13 book that is completed? Is it a standalone document, or is it part of the SAP13, I will call it a book, where various entries are made? What exactly is a transfer document?

MAJ-GEN FLYNN: Commissioners, it is a separate
20 document. It does not form part of the actual register where the exhibits are entered into.

ADV SELLO SC: So when we then turn to sub 3, sub 3, as I understand it, lists the information that must be provided in this separate document that is called a transfer document. Am I correct?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: And at sub 5, a similar requirement, but this time for the receiving station. So sub 3 regulates the requirement for a transfer document by the transferring station. In our instance, in this particular case, that would be Isipingo Police Station. Am I correct?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Sub 5 regulates the requirements for a transfer document by the receiving station. Is that correct?

10 **MAJ-GEN FLYNN:** That is correct, Commissioners.

ADV SELLO SC: So, and basically the requirements are the same. Have you, you said you have not seen a separate, this transfer document. Have you seen any document that provides the detail required in sub 3?

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

ADV SELLO SC: I am not calling it a transfer document for a moment, but any document that has captured the requirements of sub 3(a) to (i)?

20 **MAJ-GEN FLYNN:** No, I am not aware of any such documents, Commissioners.

ADV SELLO SC: And similarly then, am I correct to assume that you have not seen in respect of a document contemplated in sub 5(a) to (h)?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Are you able to express a view then as to

the correctness of the, or compliance of the transfer of these exhibits from Isipingo to Port Shepstone?

MAJ-GEN FLYNN: There was non-compliance, Commissioners.

ADV KHUMALO SC: Can I try to understand this. In sub 5, what would be the receiving station on the facts of what we are dealing with?

MAJ-GEN FLYNN: Commissioners, one of two, Port Shepstone Police Station or the DPCI SAP13 in Port
10 Shepstone.

ADV KHUMALO SC: But was there transfer to Port Shepstone Police Station?

MAJ-GEN FLYNN: I believe we are coming to that, Commissioners, but indeed it went to Port Shepstone Police Station and not to the SAP13 of the Serious Organized Crime Unit at Port Shepstone.

ADV KHUMALO SC: Thank you.

ADV SELLO SC: Thank you. Thank you, Commissioner. And perhaps while we are here, there is what is formally
20 called the Port Shepstone Police Station. Is that correct?

MAJ-GEN FLYNN: That is correct.

ADV SELLO SC: There is a police station in Port Shepstone.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: And that is different from the Port

Shepstone DPCI offices, is that not so?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: What we know happened here is that the “transfer”, was from Isipingo Police Station to Port Shepstone offices. That is, and that is where they were stored on the 22nd of June 2022.

MAJ-GEN FLYNN: Indeed, Commissioners.

ADV SELLO SC: Then, if I could invite us then to overleaf at page 60, at paragraph 9, this deals with “Property dealt
10 with by experts”, and I am interested in sub 1 of that paragraph. It reads:

“Specialized units.”

ADV KHUMALO SC: Sorry, you send him back to 60. 76.

ADV SELLO SC: 76. Did I say 60?

ADV KHUMALO SC: Yes, he was going back to 60.

ADV SELLO SC: Oh, I apologize. I guess I just saw the 6 and then added, 76, for the record, 76.

CHAIRPERSON: Just a very brief observation. At 8(5), is there no need for the description of the exhibits? I see no
20 reference to that there. Of course, you cannot change the form, but I am just asking out of interest. There is reference to that under 3, 83 H, description of exhibits. I would have thought that the person receiving should, there should be an entry that says, description of exhibits, again, to correspond with what the transferor says.

MAJ-GEN FLYNN: That is correct, Commissioner.

CHAIRPERSON: Yes, you might want to raise that with relevant sections of SAPS.

MAJ-GEN FLYNN: Thank you for that observation, Chairperson.

CHAIRPERSON: Thank you. Thank you.

ADV SELLO SC: Thank you, Chair. I had then directed us to page 76, and we are dealing with paragraph 9, the first subparagraph, sub 1, and it reads:

10 “Specialized units resorting under the
Directorate of Priority Crime
Investigations, DPCI, and the Division
Forensic Services may, with the
consent of the Divisional Commissioner
or Head, DPCI, keep separate SAP13
registers to record exhibits.”

Do you see where I am reading?

MAJ-GEN FLYNN: That is correct, Commissioners.

20 **ADV SELLO SC**: Is the Port Shepstone, are the Port
Shepstone DPCI offices an entity contemplated in sub 1, or
is that something completely different?

MAJ-GEN FLYNN: Commissioners, that will only be an
approved SAP13 if it was approved by the National Head of
the DPCI. I do not have knowledge on whether
...[intervenes].

ADV SELLO SC: Sorry, before you go further. I am trying to understand, I am trying to, before we get to the question of the SAP13, this subparagraph speaks of specialized units resorting under the Directorate of Priority Crime Investigations, DPCI, and the division Forensic Services. Now, my question is, Port Shepstone office, DPCI offices, are they the specialized service units that are referred to in this subparagraph?

MAJ-GEN FLYNN: Indeed, Commissioners.

10 **ADV SELLO SC:** And then, taking it further, that subparagraph tells us that the DPCI offices in Port Shepstone may keep a separate SAP register, 13 register, to record exhibits with the consent of the Divisional Head, the Divisional Commissioner or Divisional Head, DPCI. The Divisional Head would, in trying to understand the ranking, would that be the position, who is the Divisional Commissioner? Perhaps let me ask that.

MAJ-GEN FLYNN: Well, from my reading of this paragraph, Commissioners, the Divisional Commissioner
20 referred to here is the Divisional Commissioner for Forensic Services.

ADV SELLO SC: Yes.

MAJ-GEN FLYNN: And then, on the part of the DPCI, it is the National Head of the DPCI that can approve such a SAP13 facility or register to be kept.

ADV SELLO SC: So, in the absence of an approval such as contemplated in sub 1, Port Shepstone DPCI offices cannot retain a SAP13 register?

MAJ-GEN FLYNN: That is correct.

ADV SELLO SC: Is that not correct?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: To your knowledge, have the offices, and that is the Port Shepstone offices, ever been approved to retain such a register?

10 **MAJ-GEN FLYNN:** I do not have knowledge of that, Commissioners.

ADV SELLO SC: Now, you recall that Commissioner Khumalo asked you, I will take a step back to page 75, about the receiving station. And your response, I think it was Commissioner Baloyi, your response was that would have been Port Shepstone Police Station. Now, we know that the seized cargo was taken to Port Shepstone DPCI offices. You informed the Commissioners that you are not aware of the offices having been cleared or approved to
20 retain an SAP13 register. If that is where they went, why then do you conclude that the receiving station in this instance, in paragraph 8, sub 5, was Port Shepstone Police Station? These are two separate places.

MAJ-GEN FLYNN: Commissioners, after the exhibits was booked in and booked out at Isipingo on the 22nd of June

2021, the officers took the exhibits to the Serious Organized Crime Unit, Port Shepstone, stored it there in the walk-in safe. And then only on a later date, on the 24th of June, the exhibits were entered into the SAP13 at Port Shepstone SAPS, whilst it was still, until their burglary and theft, in the walk-in safe in Port Shepstone Organized Crime Unit.

ADV SELLO SC: So, if I understand you correctly, the exhibits were physically taken to Port Shepstone offices.

10 Two days later, they were entered into the Port Shepstone Police Station SAP13. Am I understanding you correctly?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: If Port Shepstone Police Station was intended as the receiving station, was it not required, therefore, to have taken control of the exhibits before they are entered into the SAP13 at the police station in Port Shepstone?

MAJ-GEN FLYNN: That is correct, Commissioners.

20 **ADV SELLO SC:** But we know that it happened, do you know whether there was ever a transfer, however temporary, from the DPCI Port Shepstone offices to the police station in Port Shepstone for, to complete the exercise, the SAP13 exercise, as the receiving station? Do you know?

MAJ-GEN FLYNN: I am not aware of such,

Commissioners.

ADV SELLO SC: Okay. Now, our SAP13's are now available. Commissioners, there are two documents that have been presented before you. These will be ...[intervenes].

CHAIRPERSON: Handwritten. Handwritten.

ADV SELLO SC: Handwritten, yes. They are actually completed forms. There are two of them. These are marked, paginated 193 and 194 as exhibits. They will be
10 Exhibit CJC193 and CJC194, respectively. The small one is 193 ...[intervenes].

ADV BALOYI SC: In which order? 193 ...[intervenes].

ADV SELLO SC: 193 is the smaller one.

ADV BALOYI SC: The smaller one.

ADV SELLO SC: For now, I will call them the small one until the General confirms what they are.

CHAIRPERSON: I always rely on the attorneys to sort that out for us.

ADV SELLO SC: Indeed.

20 **CHAIRPERSON:** Yes, thank you.

ADV SELLO SC: Yes, indeed, Chair, it shall be done. It was for purposes of the record. Yes, thank you. General, you have received the two documents that, they have just been distributed now referred to, correct?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: I would like us to turn our attention to the first. At the top right corner, it is written in manuscript A16. You see that document?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: What is, it is a two-page document. What is this document?

MAJ-GEN FLYNN: Commissioners, it is a copy of the SAP13 at Isipingo Police Station.

ADV SELLO SC: Now, we know from evidence tendered
10 thus far that this seizure was registered, was booked in and subsequently booked out at Isipingo Police Station. Is this the SAP13 that would have reflected that book-in, book-out process?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: If you look at the first page of that document, there is an entry 373 dated 22-06-2021, and in the second column it indicates a DPCI enquiry number, and then it provides a description. Do you know what that entry is?

20 **MAJ-GEN FLYNN:** Advocate Sello, do you refer to column 3, the entry, or column 2?

ADV SELLO SC: The second entry on the page. The first seems to be headed 323, item whatever, entry 372. The second is entry 373.

CHAIRPERSON: 373, obviously yes.

ADV SELLO SC: 373. I am rather dyslexic this morning. Apologies. Do you see where I am, General?

MAJ-GEN FLYNN: In column 2, Commissioners, that DPCI enquiry number, it refers to the enquiry file under which this investigation was conducted.

ADV SELLO SC: And that was as at the date reflected in the first column, 22-06-2021?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: I then want us to move to the third
10 column, and if you could read, if you can make out what is written there, if you could read what is written in this SAP13.

MAJ-GEN FLYNN: Commissioners, it is written a 1 and then a bracket, so it is for item 1, and it is just reflecting 541, and then in brackets 541, multiply one kilogram brick containing powder suspected to be Cocaine.

CHAIRPERSON: And again, as you made a correction yesterday, it should have been, there should have been each somewhere there because now this suggests that all of
20 this is one kilogram.

MAJ-GEN FLYNN: That is correct, Commissioner.

CHAIRPERSON: Yes.

ADV SELLO SC: Thank you, Chair. And I think you identified this as the Isipingo SAP13, this document.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: When one looks at this document, I do not see any further description as I think contemplated by the National Instruction 8/2017 that each exhibit must be individually identified in the receiving, no, in the first station where the crime is committed, when they enter into the SAP13. That is the totality of the description of the exhibit. It is inconsistent with the response you gave that each single piece of exhibit has to be individually listed in the SAP13.

10 **MAJ-GEN FLYNN:** And described.

ADV SELLO SC: And described.

MAJ-GEN FLYNN: Ja, you would, for instance, if it was properly done, you would have, I would have expected to see that there would have been multiple entries, Commissioners, first and foremost. Second to that, there would have been an indication to say one forensic exhibit seal back with seal number 12345 containing 20 suspected bricks of Cocaine, and that will complete that entry. And then the second and the third and the fourth. And then all
20 other additional exhibits that might have been seized from a crime scene.

ADV SELLO SC: And ...[intervenes].

ADV KHUMALO SC: Sorry. What about the description of the containers? I mean, you cannot just say a brick because how does that work? My understanding was that

they were in, they were wrapped in black or some other form of, because looking at this, it is so easy to swap it for something else and nobody would know that the exhibits have been swapped for something else. Should the description of the containers not also say, I am just looking at Chair's Constitution. Chair is a big fan of the Constitution. Its colour is black and so the photos that we saw yesterday, should that not be part of the description as well?

10 **MAJ-GEN FLYNN**: Indeed, Commissioners. That is why I say all other exhibits seized from the crime scene. And these are exhibits. The wrappings, the bags in which it was, the additional wrapping around that bags with the carry handles, all of those was then supposed to, after it was, the Cocaine was removed from those bags, to also form part of the list of exhibits.

ADV KHUMALO SC: I think, look at this ...[indistinct] [cross-talking] had in mind.

MAJ-GEN FLYNN: Yes.

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

MAJ-GEN FLYNN: So then in response to Commissioner Khumalo's question, each one of those bricks ought to have been listed in this Isipingo SAP13 and fully described.

MAJ-GEN FLYNN: Well, since almost all of them are similar, it is basically two types of packaging.

ADV SELLO SC: Yes.

MAJ-GEN FLYNN: Commissioners, that is why I indicated it gets, it is supposed to be packaged correctly at the crime scene and then you give an explanation of the exhibits that is handed in. So it serves no purpose to go and describe each and every block because it will be 541 of similar entries. It obviously needs to speak to the chain of custody and that is why it is important that the seal numbers in which 20 or 15 or 10 blocks are packaged are properly
10 reflected in the register as well as, and you can see there on the top left-hand side of the photo, that black bags. All of that, it is still exhibits and it needs to be also sealed and properly recorded in the applicable register.

ADV SELLO SC: And I think your testimony yesterday was, it is at this juncture, when they are entered into the SAP13, that they must be sealed in proper forensic evidence bags.

CHAIRPERSON: Before you deal with that ...[intervenes].

ADV SELLO SC: Yes, Chair.

20 **CHAIRPERSON:** Now that you have taken us back to the photographs, Ms Segeels-Ncube ...[intervenes].

ADV SELLO SC: Yes, Chair.

CHAIRPERSON: Promised to give these photographs and maybe something else as well, I am not sure now, to give them exhibit numbers. Please do not forget that.

ADV SELLO SC: No, indeed, I understand that that is underway.

CHAIRPERSON: Yes.

ADV SELLO SC: And the exhibit number, the two exhibit numbers we provided, CJC193, 194, have already taken the pictures into consideration.

CHAIRPERSON: Okay.

ADV SELLO SC: Yes, definitely, Chair.

CHAIRPERSON: All right, thank you, thank you.

10 **ADV SELLO SC:** Okay, I would say, General, yesterday I understood you to have testified that at the crime scene, the exhibits must be, and at the booking police station, they must be entered into the SAP13 register and placed at the same time in proper evidence bags, sealed and duly marked. Did I understand you correctly?

MAJ-GEN FLYNN: That is at the crime scene, if conditions permit, obviously, as per the directive, Commissioners.

ADV SELLO SC: At the crime scene?

MAJ-GEN FLYNN: At the crime scene.

20 **ADV SELLO SC:** So we know that it did not happen at the crime scene. Instead, they were taken to the Isipingo Police Station and that picture we looked at where the exhibits, as they were at the Isipingo Police Station, that is the time they were entered into the SAP13. Am I correct?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Now, I want to understand whether after their entry into the SAP13, is it at this juncture they must be placed in evidence bags and sealed?

MAJ-GEN FLYNN: No, this was already at the police station. So if they omitted to do it at the crime scene, at the container, at least there was a second bite at the cherry where they could have conducted still proper crime scene management, and even here, it was not done, Commissioners.

10 **ADV SELLO SC:** So ...[intervenes].

ADV BALOYI SC: Sorry.

ADV SELLO SC: Yes, Commissioner.

ADV BALOYI SC: General, are you saying even here at Isipingo, they should, having failed to do it at the crime scene, at this point now at the police station, they should have put them in bags?

MAJ-GEN FLYNN: Indeed, Commissioner, although on face value what I observed there is that the exhibits were already contaminated, unless the colleagues had gloves on.
20 But it could still have been photographed properly by LCRC, as well as properly sealed in exhibit seal bags and the exhibits could have been properly reflected in the SAP13 register. There was no need to just take the exhibits as it was in that state from Isipingo to Port Shepstone, because anything can happen along the way. Some of the exhibits

can go missing. And the chain of custody is really not at the required standard where we expect detectives to function at.

ADV SELLO SC: Thank you, General. So, at least we know from, and if the crime scene had been properly handled, then the exhibits in their respective evidence bags sealed, duly sealed and marked, would have then been entered into the SAP13 at Isipingo.

MAJ-GEN FLYNN: Indeed, Commissioner.

10 **ADV SELLO SC**: And now we know it did not happen here, at least if this SAP13 is to be believed.

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SELLO SC: Then, on the same document, if you go overleaf, there are some entries made there. I just want you to explain to me, I read the first column under 4 as a member who booked these exhibits at Isipingo and references the CHC container at 14 Avenue East. That is the Durban Harbour, correct?

MAJ-GEN FLYNN: That is correct, Commissioners.

20 **ADV SELLO SC**: And it is duly signed for. What I am interested in is the fifth column, the entry in the fifth column. You recall, we are having a conversation regarding the book-in, book-out process, that that requires a registration in the receiving, in the first police station, SAP13, and immediately booked out to another police

station where an SAP13 would be completed. Am I correct?

MAJ-GEN FLYNN: That is ...[intervenes].

ADV SELLO SC: That is the general process.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: And now we have dealt with the issue of the transfer documents to take account of that movement from the one police station to another police station. Am I correct?

MAJ-GEN FLYNN: That is correct, Commissioners.

10 **ADV SELLO SC**: Now, yesterday you referenced book-in, book-out. Must that strictly be from police station to police station, or can it be booked out for other purposes?

MAJ-GEN FLYNN: The exhibits can obviously and must be booked out to be submitted to the Forensic Science Laboratory, Commissioners. So that is also a legitimate reason.

ADV SELLO SC: Okay. And if we then look at column five, the entry there, the second one, I think the book sort of reads across, highlighted in green and yellow, that is the
20 continuation of the entry regarding these exhibits, you confirm?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Now, if I am reading this properly at column five, it reads:

“Items taken for analysis.”

And given the date 2021-06-2022. I read that to be the book-out process that you spoke of after the book-in.

MAJ-GEN FLYNN: That is correct, Commissioners. That is what column five is created for.

ADV SELLO SC: And I see that that happened, it confirms it happened on the 22nd of June 2021, which is the same day as the date of seizure.

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

ADV SELLO SC: Is that correct?

10 **MAJ-GEN FLYNN**: It reflects, obviously, taken for analysis and ...[intervenes].

ADV SELLO SC: I am interested in the date for the moment, General.

MAJ-GEN FLYNN: Yes, that is the date of the seizure.

ADV SELLO SC: Now, my challenge is, we know after the book-out they went to Port Shepstone, DPCI offices. This is marked, the reason provided here is "items taken for analysis". Was analysis to be done at the Port Shepstone DPCI offices or am I misreading what is here?

20 **MAJ-GEN FLYNN**: Commissioners, perhaps just two things that I need to comment on. First and foremost, this entry by one of the detectives that was part of the search and seizure operation referred to in column five, was supposed to be in column six, not in column five. Column five is for the Station Commander or the SAP13 clerk to acknowledge

receipt of the exhibits. That is the first aspect.

The second aspect is that clearly this entry is a false entry, because the exhibits was never taken for analysis on that date. It is completely misleading. Of course, the exhibits went from Isipingo to Port Shepstone and it was never submitted for analysis as depicted here.

CHAIRPERSON: Not on that date and not ever.

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SELLO SC: Thank you, General. Let us then turn to
10 the second document that was distributed today. That will
be CJC194 for the record, if you could briefly inform the
Commissioners what this document is.

MAJ-GEN FLYNN: Commissioners, the second document
on the top right-hand corner reflects as A3, ss a copy of the
SAP13 register of Port Shepstone SAPS, the police station.

ADV SELLO SC: And I think earlier you had indicated and
I think that the document bears you out, that these entries
were made two days after the seizure and after the cargo
had been locked up at the Port Shepstone offices. Did I
20 understand you correctly?

MAJ-GEN FLYNN: That is correct, Commissioners.
According to the document, column 1, it is reflected there
2021-06-24 and the reference number at Port Shepstone
was 883 for that specific calendar year.

ADV SELLO SC: Now, who would bear responsibility for

these entries in this document?

MAJ-GEN FLYNN: Commissioners, the exhibits was entered by Warrant Officer Mpangase.

ADV SELLO SC: But if I understood it, Warrant Officer Mpangase is one of the investigating officers. Should the SAP entry not be countersigned by the exhibit official, the official who is responsible for the exhibits at the police station?

MAJ-GEN FLYNN: Commissioners, if we can perhaps go to
10 the last page of this exhibit.

ADV SELLO SC: Yes.

MAJ-GEN FLYNN: In column 4 under paragraph 4.5, it indicates there “signature of community service centre member who receives exhibits or the property”, and there is a different signature affixed to that column under 4.5 after Warrant Officer Mpangase entered the exhibits into the register.

ADV SELLO SC: Indeed. So I am saying it is that signature, whoever it belongs to, it is that person who then
20 becomes the exhibit official and is responsible for these exhibits from that point.

MAJ-GEN FLYNN: That is correct, Commissioners. But here we have to also take into consideration again paragraph 6.1 where Warrant Officer Mpangase again on the 24th booked out the exhibits ...[intervenes].

ADV SELLO SC: Apologies, General, you are ahead of us. We will get to that point. Okay. You recall that we dealt with, in terms of the instruction notes, the transferring station and the receiving station requirements and the transfer documents. Now you explained that when they are registered in the receiving police station, that police station takes responsibility for the exhibits and they are entered into that police station's SAP13. And this is what this document purports to be, to be the Port Shepstone Police
10 Station SAP13. Am I correct?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: And my question therefore is if the Commissioners were to go to Port Shepstone Police Station to establish who was the official responsible for receiving these exhibits there has to be somebody identifiable to say I received them and I signed the SAP13 form. Am I correct? Is my understanding ...[intervenes].

MAJ-GEN FLYNN: That is correct, that is how it is supposed to be working.

20 **ADV SELLO SC:** Okay. Now from the document before us are we able to determine who the receiving official at the Port Shepstone Police Station was?

MAJ-GEN FLYNN: I cannot identify from this document, Commissioners.

ADV SELLO SC: And as you rightly say, at the end of that

document just under 4.5 is a signature with no name, no, is it a PERSAL, member number, no date ...[intervenes].

MAJ-GEN FLYNN: No rank.

ADV SELLO SC: No rank. Do you have any comments to what we are confronted with?

MAJ-GEN FLYNN: Well, Commissioners, from a reading of the document, it is clear that this was just an entry into the register at this police station to have a reference number for the exhibits that is been kept at Port Shepstone.

10 According to my knowledge the actual exhibits was not taken out of the walk-in safe at the unit, taken to Port Shepstone, booked in there, booked out and taken back again. This is just a paper exercise that was performed here and that is why Warrant Officer Mpangase immediately again, or directly after he entered it here, on the same date made the entry, apparently he made the entry under paragraph 6 that the exhibits is taken for investigation.

ADV KHUMALO SC: Taken from the Port Shepstone Police Station in 6.1?

20 **MAJ-GEN FLYNN**: Yes, it reflects items 3.1 to 3.31 taken for investigation, obviously then from the police station, because the entry is made at Port Shepstone Police Station. So it is incorrect, it is a false entry.

ADV SELLO SC: We will get to, you say it is Warrant Officer Mpangase's entries under 6.1. I am still interested

in what was happening to record these exhibits as received by Port Shepstone Police Station. As you sit there in the position that you are in, must somebody be held accountable for this entry besides Warrant Officer Mpangase who at least signs here as the person handing them in? Must the purported receiving person be held responsible and answerable to what exactly was happening here?

MAJ-GEN FLYNN: Commissioners, it is a difficult
10 question. I believe that if that individual can be identified, it will be prudent to perhaps get a version from that official in terms of what transpired here before I can comment on whether that person need to be held responsible. I do not know what transpired there.

ADV SELLO SC: I will put it differently. Somebody purported to have received these. You testified earlier that you know that they never left the DPCI offices in Port Shepstone. Is that a concern to you that you are confronted with an entry such as this in circumstances where
20 somebody in Port Shepstone Police Station purports to be receiving something that never left the DPCI offices in the first place?

MAJ-GEN FLYNN: Indeed, Commissioners, because it is a misrepresentation.

ADV SELLO SC: Now, that person would I be correct to

conclude that based on what is written here, this person confirms that these exhibits were in fact Cocaine. You remember when they left Isipingo, they are noted as suspected to be Cocaine. The receiving, if we go to the first document, the Isipingo SAP13 says 541, 541 x 1kg brick containing powder suspected to be Cocaine. You confirm that, right?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: And we know overleaf in that, the entry
10 was that these were taken for analysis.

MAJ-GEN FLYNN: That is correct.

ADV SELLO SC: And you testified that, to your knowledge, no analysis was conducted.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Two days later, now Port Shepstone Police Station accepts them as bricks of powder, oh, so, my apologies. It still says suspected to be Cocaine. I misread that. My question is, is there any evidence, objective independent evidence that the exhibits entered into Isipingo
20 SAP13 are the same that are now registered here at the Port Shepstone Police Station. Is there any independent evidence that the Commission can turn to? I think you said that Isipingo is more than 100km from Port Shepstone.

MAJ-GEN FLYNN: Port Shepstone, that is correct, Commissioners.

ADV SELLO SC: So what must we look to, to satisfy ourselves that what was taken, what was registered at Isipingo is indeed what is now registered at Port Shepstone Police Station?

MAJ-GEN FLYNN: There is no independent corroboration to come to the conclusion that what was entered in Isipingo is now entered at Port Shepstone, Commissioners.

ADV SELLO SC: Now are you in a position to express an opinion as now regards the conduct of Warrant Officer
10 Mpangase, who, as you indicated under column 6, states that these items were taken for investigation? Do you have a view to express on that?

MAJ-GEN FLYNN: Commissioner, even that is a misrepresentation. If it was booked out for investigation, there was no investigation to be done on the exhibits except for the work to be done by FSL. So it was supposed to read, taken then for submission to FSL. That is what I would have suspected, not for investigation, because as a
20 detective at Organized Crime the Warrant unfortunately cannot determine whether it is Cocaine or not. So that is a misrepresentation.

CHAIRPERSON: I am sure you meant expected and not suspected.

MAJ-GEN FLYNN: Expected.

CHAIRPERSON: Yes, yes.

MAJ-GEN FLYNN: Thank you, Commissioner.

ADV SELLO SC: Thank you, General. In both documents, the two SAP13's, the exhibits are said to relate to DPCI enquiry 28/06/2021. I think yesterday you touched on, you know, an enquiry number versus a CAS number, and if I understood you correctly, for all intents and purposes they are about the same. It is a registered enquiry.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: And this enquiry is registered at the
10 DPCI by the DPCI.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: I would take it then once registered, an investigation starts, investigations start, a file is created, I will not call it a docket, being an enquiry, a file is created that is then populated with whatever the investigations are able to yield. Is that a correct assumption on my part?

MAJ-GEN FLYNN: Ja, that is correct, Commissioners. What basically happens is that the enquiry gets registered. Then the person that opened it will obviously affix either a
20 statement or a document to the A part of the enquiry, make an entry into the SAP5, which is the investigation diary in the C clip of the enquiry, and then submit that enquiry immediately to an officer for a, and we refer to it as a 24 hour inspection, and then the enquiry is booked out to an investigating officer.

ADV SELLO SC: And from the same documents they are all in manuscript headed “Port Shepstone CAS 129/11/2021”, but that is the post-burglary or post-theft of the exhibit. That is a different CAS number, correct?

MAJ-GEN FLYNN: Yes, that is all the evidence that was gathered subsequent to the burglary and theft that is contained in the Port Shepstone docket, Commissioners.

ADV SELLO SC: I ask this because we have not come across a file containing any documentation you know, of the
10 type you describe or speaking to progress of investigations under that enquiry. Do you have a copy of that file, and this is prior to the theft of the drugs at Port Shepstone DPCI offices?

MAJ-GEN FLYNN: The investigating officer is having the original enquiry that was registered, Commissioners.

ADV SELLO SC: To your knowledge, are there any documents in that enquiry file predating the day of the theft?

MAJ-GEN FLYNN: Commissioners, I ...[intervenes].

20 **ADV SELLO SC:** To your recollection, if ...[indistinct] [cross-talking].

MAJ-GEN FLYNN: I do not have detail of what was contained in the enquiry file.

ADV SELLO SC: Okay. And you say the investigating officer will be able to shed light on that?

MAJ-GEN FLYNN: Indeed, Commissioners.

ADV SELLO SC: I am happy to leave it at that. Now, I think we can then pick up from where you left off at your statement.

ADV BALOYI SC: Maybe before ...[intervenes].

ADV SELLO SC: Yes, Commissioner.

ADV BALOYI SC: General, this CJC194, just to understand it, at the very last page, the entry there, it is the very last column on the extreme right, I think at the top it
10 says page 56, if you are aware.

MAJ-GEN FLYNN: That is correct, Commissioner, I observe it.

ADV BALOYI SC: So you have got that 6.1 entry there by Warrant Officer Mpangase, and then it says items 31, 3.1, rather, to 3.31 taken for investigation. Am I correct to understand it to mean that he conveys that he took the whole consignment out for investigation? Is that a correct understanding?

MAJ-GEN FLYNN: You are correct, Commissioner. If you,
20 for instance, look at the previous pages, the list of exhibits booked in by Warrant Officer Mpangase was from 3.1 until ...[intervenes].

ADV BALOYI SC: 31.

MAJ-GEN FLYNN: 3, let me just see the pages, up to 3.31.

ADV BALOYI SC: Yes. Okay, so he is ...[intervenes].

MAJ-GEN FLYNN: So, it means that ...[intervenes].

ADV BALOYI SC: Representing that he took everything.

MAJ-GEN FLYNN: Everything, that is correct, Commissioner.

ADV BALOYI SC: All right. And then still in that column, but the typewriting above where you have got those paragraph numbers, 6.4, above where you have got the typing, it says signature of deliverer. Now, if you look at the handwritten 6.4, it is a scribble, and I think Ms Sello
10 was saying we cannot tell who that is. Who is a receiver, where it says signature of deliverer? What is contemplated there?

MAJ-GEN FLYNN: The deliverer obviously will be, and on face value it seems to be the same person that signed under 4.5, will be then the Community Service Centre Commander, in all probability, if it was not the SAP13 clerk that affixed his or her signature to both columns.

ADV BALOYI SC: So they are a deliverer because what? They are the ones that hand over the ...[intervenes].

20 **MAJ-GEN FLYNN:** Handing out the exhibits.

ADV BALOYI SC: To Mpangase if things were done properly. Ordinarily, he would be handing over.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV BALOYI SC: Okay, all right. And then lastly, in CJC193, the smaller exhibit, the second page, and you

touched on this, where Warrant Officer Mpangase gives the reason why the items are being taken out of Isipingo, and he says:

“Items taken for analysis.”

Is it a correct understanding for me to understand this to mean these, as far as this is concerned, this document, these exhibits remained under the control of Isipingo. They were just taken out for analysis.

MAJ-GEN FLYNN: No.

10 **ADV BALOYI SC**: They were not being transferred to another police station.

MAJ-GEN FLYNN: No. No, it does not remain under the custodianship or command of the Isipingo Station Commander. Mpangase assumed full responsibility for the exhibits when he booked it out.

ADV BALOYI SC: Okay, maybe let me ask it differently. So let us say, forget that we have 194, CJC, forget about it. Imagine it is not there, and all I have is this 193, and I look there where it says “item taken for analysis”, it gives me
20 Mpangase and his force number. Should I expect that if I go to Isipingo, if this is all I am dealing with, if I go to Isipingo, I should find these exhibits there, because he says they have been taken out for analysis? Or does it mean taken out for analysis ordinarily would even include transferring them to a different station?

MAJ-GEN FLYNN: Well, Commissioner, it can only mean what he has said here, it is taken for analysis. So it is not supposed to be at Isipingo station further. The only place it can be will be at a different police station. But in terms of this entry, it is supposed to be at the Forensic Science Laboratory.

ADV BALOYI SC: Yes.

MAJ-GEN FLYNN: And at no other place.

ADV BALOYI SC: Okay, thank you.

10 **ADV KHUMALO SC**: Ms Sello, I want to ask a question, and please feel free to stop me if you are still coming to it, because I may be getting ahead of myself.

ADV SELLO SC: Thank you, Commissioner.

ADV KHUMALO SC: General, should there not be another document akin to CJC's 193 and 194 reflecting the arrival of these exhibits at the Port Shepstone DPCI offices, at their storage there? Should there not be a document that accounts for that process?

20 **MAJ-GEN FLYNN**: Commissioner, in the normal way of going about investigations, obviously there will be contemporaneous notes and statements filed to that effect. But here it is clear that there was no SAP13 register at the unit in Port Shepstone, and that is why, in order to obtain a reference number for the exhibits, that is why it was just booked in, the paper exercise, at Port Shepstone Police

Station.

ADV KHUMALO SC: But then how do we know that 551 bags actually arrived at the DPCI offices in Port Shepstone if there is no document recording the arrival of those exhibits in the form described in 193 to say it was 541 1kg bricks containing powder that looks like Cocaine? So how do we know that these bricks ever made their way to the warehouse or the office in Port Shepstone if there is no document that records that?

10 **MAJ-GEN FLYNN:** That is indeed true and it is a shortcoming, Commissioner, that you are identifying. But there are witness statements to that effect in the case docket and I would prefer not to elaborate more on that specific aspect at this point, please.

ADV KHUMALO SC: Thank you. Thank you, Ms Sello.

ADV SELLO SC: Thank you, Commissioner. But I think what the, if I understand the question correctly myself, maybe I just might be confusing, the question is slightly different. I understand and we are aware of the statements
20 that are in the docket. What I understood Commissioner Khumalo to try and establish from you is we have the SAP13 from Isipingo. That is a formal objective document that survives anyone's death, so to speak, right. We have the second, which is the SAP Port Shepstone Police Station document. Without having to resort to statements obtained

under certain circumstances, is there a document, an objective separate from everything else and not a statement obtained under, during investigations after the theft? Is there a Port Shepstone DPCI offices document that reflects that on this day, at this time, these exhibits were received?

MAJ-GEN FLYNN: I am not aware of such, Commissioners.

ADV SELLO SC: Thank you. Thank you, Commissioner. I want to – yes.

ADV BALOYI SC: And that seems to be what paragraph
10 9.1 contemplates, that there would have been an SAP13 register of the DPCI, which would then have recorded these exhibits.

MAJ-GEN FLYNN: That is how it was supposed to work, Commissioner.

ADV BALOYI SC: Thank you.

MAJ-GEN FLYNN: Indeed, your understanding is correct, Commissioner Baloyi.

ADV BALOYI SC: Thank you. Thanks, Ms Sello.

ADV SELLO SC: Thank you, Commissioner Baloyi. You
20 recall when we were dealing with CJC194, this is the Port Shepstone Police Station SAP13. I had started to make a particular comment, then I corrected myself and I said I misread the document, and that was in relation to the description of the exhibits. The first entry at 3.1 states that it is 1 FSL exhibit bag, and gives a number, containing 20

bricks of powder suspected to be Cocaine. We dealt with that. I then corrected myself that Port Shepstone Police Station does not deal with the exhibits as definitely Cocaine, but, you know, maintains the position assumed by Isipingo as well that it is powder suspected to be Cocaine.

On closer reflection, when I look at 3.2, it says 20 bricks, I do not know, of some word, Cocaine, sealed in exhibit. Because I do not know what is the word that precedes Cocaine, I will ...[intervenes].

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

ADV SELLO SC: Oh, drugs. Then if you look at 3.2 following, every other entry is described as drug Cocaine. It is no longer, what do I make of this? Only the first batch at 3.1 is suspected to be Cocaine and the rest are definitely Cocaine, or is it, must I read this document to mean that notwithstanding the wording of 3.2 to 3.31, they are still all suspected to be Cocaine? As a police officer, how would you advise we properly read that?

20 **MAJ-GEN FLYNN**: Ja, Commissioners, the entry reflected in 3.1 is indeed spot on. That is how it is supposed to be, because according to my knowledge, there was no presumptive test conducted at the crime scene or at Isipingo Police Station to indeed confirm that it was Cocaine. So, 3.1 is correct. From 3.2 onwards, if all speak about Cocaine, that will be inaccurate.

ADV SELLO SC: Thank you. Okay, I invited us then to go back to your statement, your original statement. And I think, based on where you concluded yesterday, we should pick it up from page 23, paragraph 65.

CHAIRPERSON: Not 64?

ADV SELLO SC: I was wondering whether it is 64 or 65. I had marked 65.

CHAIRPERSON: I actually ...[intervenes].

ADV SELLO SC: I am happy to go back to 64.

10 **CHAIRPERSON:** I actually have a mark against 64.

ADV SELLO SC: Ja, will do so, Chair. In fact, I will go a step back, perhaps to contextualize. At 63, you say:

“I referred earlier to the November 2021 information note by General Mosikili.”

Do you see where I am reading?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: And then we, as the Chair suggests, we then must pick it up from your paragraph 64, correct?

20 **MAJ-GEN FLYNN:** That is correct, Commissioners.

ADV SELLO SC: Can you deal then with the contents of paragraph 64?

MAJ-GEN FLYNN: Yes, Commissioners.

“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 SELLO SC: If you could continue then on to 65, then we will turn our attention to the information note you referenced.

MAJ-GEN FLYNN: -:

“I say this especially because even before the exhibits were stored at Port Shepstone, the premises had not been secure. 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, on 22 January 2020, Lieutenant Colonel SR Singh, Acting Section Commander, Counter Intelligence,

Crime Intelligence KZN, submitted a report to the Provincial Head of Crime Intelligence, KZN, Provincial Head of the DPCI, KZN, Section Head, Operations, Crime Intelligence, KZN, Section Commander, UGU Cluster, Crime Intelligence, KZN, and the National Head, Security Standards, 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 Mosikili's information note.”

ADV SELLO SC: Okay, there are two issues, particularly in this paragraph, that I think we should deal with sequentially. The first is you say this, the report references six previous break-ins at the premises before June 2021. General Mosikili's report or information note is your Annexure HFF4, starting at page 113. That is the document you referenced, correct?

MAJ-GEN FLYNN: It is correct, Commissioners.

ADV SELLO SC: Okay, now if you turn to page 118, the heading there is “The security aspect”, and are these the break-ins you referred to at your paragraph 65?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: I do not know if, because I have been particularly dyslexic this morning, whether I have it wrong. I count, excluding the last, which is the actual break-in at Port Shepstone in November 2021, resulting in the theft of the drugs, I count seven previous. You referenced six. Who is dyslexic this time, General, between you and I? But most important, are these the same break-ins you referred to at paragraph 65?

MAJ-GEN FLYNN: Commissioners, indeed, it is the same
10 break-ins and I accept responsibility for that error. It is indeed seven and not six.

ADV SELLO SC: Most importantly, it is for my own self-esteem because it confirms I am not particularly dyslexic. Thank you. So you say that would make it seven, according to that table, seven break-ins at the Port Shepstone DPCI offices from December 2011 to October 2021. And once again, I am discounting the last entry. Am I correct?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: In your experience, how secure would
20 you consider premises that have been broken into that many times over a 10-year period? I can make a call. I do not know if this is highly insecure, medium, or low. What would, what comment would you give to that?

MAJ-GEN FLYNN: Commissioners, I am of the view that there was, that it is almost not secured. It just shows us

that here is a lot of opportunities for prospective housebreakers or burglars to gain access to this premises. So the security measures at that office obviously was not at the required standard.

ADV SELLO SC: And in the same paragraph 65, you then deal with the communication by Lieutenant Colonel SR Singh. This is referred to at paragraph 4.2 of General Mosikili's report that we are considering, but I think best we go to the actual letter by Lieutenant Colonel Singh, and that
10 you'll find still under the same annexure number, HFF4 at page 121. Do you see that?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Now this is directed to five Heads of various units. I am particularly interested in the second addressee, the Provincial Head, Directorate for Priority Crimes Investigations, KwaZulu-Natal. Do you see where I am reading?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: If you go overleaf at 122, at the bottom,
20 you will see that this document is signed by Lieutenant Colonel Singh, and it is dated 2020, January 22. Do you see?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Do you know who was the Provincial Head, Directorate for Priority Crimes Investigations,

KwaZulu-Natal, as of that date?

MAJ-GEN FLYNN: Commissioners, if my memory serves me correct, by then, there was not a person appointed as the Provincial Head, so one of the Brigadiers within the province would have been acting. General Senona was only promoted and appointed later, during 2020, to the position of Provincial Head for the DPCI in KZN. So subsequent to this letter, he got promoted.

ADV SELLO SC: So, and it is a position that General
10 Senona continues to hold.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: So, based on your answer then, are you suggesting that General Senona would have “inherited” these issues?

MAJ-GEN FLYNN: Indeed, Commissioners.

ADV SELLO SC: Let us then look into the content of this letter, and in particular, I would like us to have regard to paragraphs 1, 3 and 4 for the moment. Can you read those into the record, please?

20 **MAJ-GEN FLYNN**: That is on page 121?

ADV SELLO SC: 121 of, and we are reading Lieutenant Colonel Singh's letter.

MAJ-GEN FLYNN: -:

“1. On 2020-01-20, a breach in security at the abovementioned offices

was reported via e-mail to this office as per attached correspondence from Captain L van Niekerk of the Provincial DPCI, SCM ...”

And that stands for Supply Chain Management.

“Head. The offices were visited by Captain L van Niekerk on 2020-01-20 in order to conduct a site inspection of the breach.”

10 On page 122.

ADV SELLO SC: Yes, please.

MAJ-GEN FLYNN: -:

“A case was opened at Port Shepstone SAPS vide CAS 268/01/2020.”

And then paragraph 4.

“A general inspection conducted by this office previously of the premises revealed the following terms of M.I.S.S.”

20 Now, M.I.S.S. stands for Minimum Information Security Standards.

“... security measures. No CCTV cameras are installed in and around the premises. There is no early warning alarm systems in place within

the office space, more specifically in
offices located on the ground floor.”

And then the third bullet is:

“No beam sensors located exterior to
the office accommodation.”

ADV SELLO SC: Thank you. Now, you recall when we
started with this document, you indicated that General
Senona is the current Provincial Head of the DPCI in KZN.
But to your knowledge and recollection, he was not holding
10 that position as at the date of issue of this letter.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Do you happen to know who was the
Provincial Commander of the DPCI in Port Shepstone at the
time?

MAJ-GEN FLYNN: The Provincial Commander for Serious
Organized Crime in the province based in Durban was and
still is Brigadier Nyuswa. The Unit Commander or the
Acting Unit Commander by then, 2020, I am not certain of
who that individual would have been who was the
20 Commander at Port Shepstone.

ADV SELLO SC: Yes. Then if I perhaps can ask you to
perhaps run ahead to page 124 of the same annexure. This
now for the record is the report by General Senona annexed
to General Mosikili's information note and the document
itself is dated 9th November 2021. I want to refer you to

page 124, paragraph 1.4 of General Senona's report, and I wonder if you can help clarify something for me. Have you, are you at 1.4?

MAJ-GEN FLYNN: Yes, I am, Commissioners.

ADV SELLO SC: Just for context, this document is about the seizure and storage and subsequent theft of the very drugs we are in conversation about. At 1.4, the last sentence reads thus - okay, the penultimate sentence.

10 “A request was made to arrange a
 suitable storage location.”

Do you see what I am reading? This is after they have been at Isipingo.

MAJ-GEN FLYNN: That is correct.

ADV SELLO SC: Do you see where I am reading? It continues:

20 “The Provincial Commander indicated
 that the DPCI, Port Shepstone, SOCI
 Unit, premises be utilized to store said
 exhibits. The location has been used
 to store drug exhibits previously as it
 has two strong rooms.”

My first question is do you know who was the Provincial Commander at this time?

MAJ-GEN FLYNN: It was still Brigadier Nyuswa, Commissioners.

ADV SELLO SC: So, would it then be correct to say the decision to store at the DPCI offices, Port Shepstone, was based on, is it Brigadier Nyuswa?

MAJ-GEN FLYNN: That is ...[intervenes].

ADV SELLO SC: Brigadier Nyuswa's advice?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Okay. Then I would like to invite your comment in the context of what Lieutenant Colonel Singh has said about the shortcomings in security measures of the premises, the absence of CCTV cameras, absence of warning system alarms, no beam sensors. I would like to invite your comment on the conclusion at paragraph 124 that this location has been used to store drug exhibits previously as it has two strong rooms. What does the fact that it has strong rooms, what impact does that have on the security arrangements that were in place at the time as expressed by Lieutenant Colonel Singh in his letter?

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MAJ-GEN FLYNN: Well, Commissioners, the mere fact that it is a strong room is no guarantee that the crime cannot be committed, for instance, a burglary as it happened here. You need additional layers of security measures to obviously make it difficult or impossible for individuals to breach that premises first and foremost and then to get access to the building and then to execute successfully the bridging of the vault and the removing of

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the exhibits. So additional security measures is critical. If that is not in place, I am of the view that it is extremely reckless and irresponsible to place exhibits in such a strong room or a vault. It would have been more safe at any other police station that is 24 hourly manned, because at least you have got a human element then at the police station and those police officers on duty in the charge office are armed. So at least that is an, at least an additional barrier that was completely absent here.

10 **ADV SELLO SC**: Thank you, General. Then, if we could go back then to General Mosikili's no, General, Lieutenant Colonel Singh's letter at page 121. He concludes that letter with certain comments and they sound more like recommendations regard being had to the wording. He concludes under comments:

“It is hereby recommended.”

Do you see what I am reading?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Could you please read those
20 recommendations into the record?

MAJ-GEN FLYNN: -:

“It is hereby recommended that the abovementioned office initiate processes in order to remedy the contributing factors that lead to the

physical security breach, which is:

- Installation of perimeter beam sensors around the ground floor of the office accommodation.
- Interior office accommodation infrared sensors.
- Engagement with the contracted armed response company to ensure efficient service in terms of timeous visits to the site.
- The upgrading and repairs of the perimeter lighting.”

10

ADV SELLO SC: Thank you. Do you know whether any of these recommendations were carried out?

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

ADV SELLO SC: So you are not in a position to comment whether or not any one of them was in place 18 months later when the theft took place?

20 **MAJ-GEN FLYNN:** That is correct, Commissioners.

ADV SELLO SC: Okay. Chair and Commissioners, I see it is 11. Might this be an appropriate ...[intervenes].

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

ADV SELLO SC: Thank you, Chair.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Sello.

ADV SELLO SC: Thank you, Chair. Chair, before I continue with General Flynn, may I request that we attend to a housekeeping matter that I had intended to bring up yesterday, but in the pressure to prepare an *in camera*, a full-blown *in camera* application, I overlooked it. For the record, the witnesses appearing this week do so are members of the SAPS that are appearing in response to
10 subpoenas received.

General Senona had been issued with a subpoena to appear on the 8th of May, which is Friday. On Monday, this past Monday, the 4th, at about 6 pm, we received a request from his attorneys for a postponement of his appearance from the 8th of May to a later date. I address you, Chair, to request that you grant that postponement to the 1st of June, so the subpoena stands to the 1st of June 2026.

Just for the record as well, and clarity, the
20 application to move one witness' testimony *in camera* is in respect of a different witness, and the outcome of that application, as you had indicated, is awaited tomorrow in the afternoon. You will determine whether that witness is proceeding *in camera* or in public, and that is still underway. So, I am moving a slightly different request,

specifically in respect of General Senona, that his appearance in terms of the subpoena issued be postponed to the 1st of June as they had requested. The request came through on Monday the 4th. Thank you, Chair.

CHAIRPERSON: And are sufficient reasons given by General Senona's attorneys for the request? On your assessment?

ADV SELLO SC: On my assessment? Well, I would not say all the reasons advanced are cogent, but one of the
10 issues he raises is that since his suspension, he does not have sufficient access to his computers and records held at the office, and it would require more time to attend to that. And I think perhaps that alone may be a sufficient ground to grant him the extension.

He raises other issues in his request for a postponement, and he references his ongoing labour matter with the SAPS, and I think he says he is scheduled for an appearance on the 7th of May. So, I would suggest that on the basis of those two reasons, there are other reasons
20 advanced, of course, but I think those two reasons would be sufficient to argue for a postponement, Chair.

CHAIRPERSON: Thank you.

ADV SELLO SC: And if I may say, I would believe that if he is postponed to the 1st of June 2026, that would be shy of 4 weeks, and that is a fair postponement.

CHAIRPERSON: The hearing of General Senona's evidence is postponed to 1 June 2026 at 09:30 am.

ADV SELLO SC: Most appreciated, and we shall communicate with him formally and so inform him, Chair.

CHAIRPERSON: And perhaps it is best to issue a subpoena seeing that day or extend the same one. You look into the practicalities, and I am suggesting that because the General is not here for us to direct him in his presence.

10 **ADV SELLO SC:** We still have to respond to the formal request made on Monday, so in the process of doing that we will bring the Chair's order to his attention, and we will determine whether it is necessary to re-issue now a subpoena for the 1st of June, or to extend the current subpoena to the 1st of June. We will look into those matters.

CHAIRPERSON: Thank you, Ms Sello.

ADV SELLO SC: Thank you, Chair.

CHAIRPERSON: Thank you. Yes, you may.

20 **ADV SELLO SC:** Thank you. Well, having disposed of that, then I think we are ready to proceed with General Flynn. General, before we adjourned for tea, you had confirmed that the recommendations, you had addressed the question of whether or not the recommendations made by Lieutenant Colonel Singh as regards the security of the

DPCI offices in Port Shepstone had been given effect to, and you had directed us to Captain Nyuswa, I have now the ranks. Brigadier Nyuswa ...[intervenes]

MAJ-GEN FLYNN: Brigadier Nuyswa ...[intervenes]

ADV SELLO SC: As the person you say was the Provincial Commander at the time.

MAJ-GEN FLYNN: That is correct.

ADV SELLO SC: Who according to General Senona's report attached to General Mosikili's information note is
10 said to be the one to have suggested that the Port Shepstone offices may be used, and you had commented about how appropriate that was if it was based only on the fact that the offices have two strong roots. So, it was just to locate us in the statement.

Staying then with General Mosikili's information note, and that is your Annexure HFF4, starting at page 113. I picked up something that I would require clarity on and perhaps guidance. At paragraph 3, at page 117 of that information note, General Mosikili quotes the National
20 Instruction 8 of 2017, and in particular paragraph 12, property dealt with by experts. Do you see that?

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SELLO SC: And then she quotes paragraphs 12(2)(a), and further down the page towards the bottom of the page she quotes paragraph 12(2). Now I would like you

to go back to your Annexure HFF2, as I have it on record that is the National Instruction 8 of 2017.

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SELLO SC: And it would appear to be the same document that General Mosikili is referring to here.

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SELLO SC: I flip in that actual document to paragraph 12, and paragraph 12 will be found at page 97 of that document, 97. And under paragraph 12 the heading is
10 different, it is vehicles. Do you see that?

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SELLO SC: General Mosikili quotes it as, paragraph 12, as property dealt with by experts. However, if I flip back to paragraph 9, and that is at page 76, I locate in the exact terms as quoted by General Mosikili, in paragraph 9(2), what General Mosikili references. So, the situation that we are confronted with is either you have put up a wrong document, or you have put up a correct document except there is perhaps a typographical error in General
20 Mosikili's statement. For example, if you read paragraph 9, it reads:

“All property and exhibits seized must be entered into the SAP13 register of the relevant police station where the crime was committed or where the property was

found and then transferred to the relevant unit and entered in the SAP13 of the relevant unit.”

It continues still under sub (2):

“The SAP13 registers of these units must be inspected regularly, and these instructions are applicable to those commanders.”

Do you see?

10 **MAJ-GEN FLYNN**: That is correct, Commissioner.

ADV SELLO SC: Now if we go back then to General Mosikili's report, these are the exact same words that are quoted here, except that they are said to be in terms of paragraph 12(2)(a) and paragraph 12(2). Now if you were to go back to the vehicles, there is in fact, paragraph 12 vehicles, there is no paragraph 12(2) for starters. How do we reconcile - how do you suggest we reconcile these seeming contradictions?

20 **MAJ-GEN FLYNN**: Commissioners, it is obvious that there was a typo in the report by General Mosikili where it is referred to 12. It is supposed to be paragraph 9(2) and as Advocate Sello indicated, there is no such 12(2). So, it is supposed to be in totality referring to paragraph 9(2).

ADV SELLO SC: And you maintain that the National Instruction 8 of 2017, that you have annexed as Annexure

HFF2, is the correct document?

MAJ-GEN FLYNN: That is the correct instruction, National Instruction Commissioners, that is correct.

ADV KHUMALO SC: Is it the one that was applicable when General Mosikili prepared her document?

ADV SELLO SC: I think ...[intervenes]

ADV KHUMALO SC: These things can undergo amendments and additions.

ADV SELLO SC: That would perhaps be a second question
10 because I would made the assumption that it was because General Mosikili quotes the actual name of the instruction note as National Instruction 8 of 2017.

ADV KHUMALO SC: Yes.

ADV SELLO SC: If she was looking at a different document, then we have a situation where we have two National Instruction 8 of 2017.

ADV KHUMALO SC: No, my question is slightly different. Is it possible that it is the same document, but because it is a living document, over time there were amendments made
20 to it, but it remained National Instruction of, but it underwent amendments so that by 2021, what you see as paragraph 9 was in fact now paragraph 12.

ADV SELLO SC: It is possible and perhaps General Flynn may cast some light on that. Did you understand the question?

MAJ-GEN FLYNN: I understand the question, Commissioners. I am not aware of any amendments that were made, so I think the detail reflected here is indeed correct, but it is supposed to be reflected under 9(2), as corrected.

ADV KHUMALO SC: All right.

ADV SELLO SC: And for completeness, Commissioner Khumalo, perhaps what we may do, we may request General Mosikili to clarify whether the Annexure HFF2 that General
10 Flynn has put up is the exact same document that she references here, or whether it was the, perhaps, unamended version of it of a prior date. We will look into that and revert. Thank you. Thank you, General. General Mosikili then considers both the report by General Senona and the letter by Lieutenant Colonel Singh in her information note. Do you confirm that?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: And she concludes the report by making certain recommendations, and these start at page 119 of
20 Annexure HFF1.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Now I would like you, I guess for the record, there are four recommendations made. If perhaps you could read them into the record, and then we will consider what is set out there in it. Thank you.

MAJ-GEN FLYNN:

[6.1] That the National Head appoint a senior functionary at the level of a Major General to lead an investigation in terms of SAPS Disciplinary Regulations 2016 to establish whether misconduct was committed in the handling and storage of the exhibits.

[6.2] That the senior functionary provides the outcome of the departmental investigation in terms of Regulation 8(1) of the SAPS Disciplinary Regulation 2016.

[6.3] That an audit be done at all DPCI buildings and offices to check compliance with minimum information security standards.

[6.4] That the Provincial Head KwaZulu-Natal provides a progress report on the Site Inspection Recommendations by Crime Intelligence during January 2020.

ADV SELLO SC: Thank you, General. Before we deal with other issues here, are you aware if any of these recommendations will be affected? My apologies. I will restate that. I think before we deal with the remainder of that document, I would like to find out whether you, based on the position you occupy within DPCI, are aware of whether or not any of these recommendations were given

effect to.

MAJ-GEN FLYNN: Commissioners, it is my understanding that no disciplinary steps were initiated against Major General Senona or any of his subordinates. So that speaks then to, obviously, Recommendations 6.1 and 6.2. I do not have knowledge in terms of the recommendations on 6.3 and 6.4, respectively, so I will not be in a position to respond to that, Commissioners.

ADV KHUMALO SC: What should we make of General
10 Lebeya's, because he does not approve the recommendations, he says, discuss paragraph 6?

ADV SELLO SC: That was the next step I was getting to. I just wanted to test with the General whether any of them were carried out. I do note the caution raised by General Lebeya. Now, as I read this document, if you go to 113, it is directed to the National Head Directorate for Priority Crime Investigation, and at the time, that was General Lebeya, correct?

MAJ-GEN FLYNN: That is correct, Commissioners.

20 **ADV SELLO SC:** And as Commissioner Khumalo has indicated, it is put to him to approve or not approve all of the four recommendations made. Do you see that?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Now, there is a note in manuscript there, discuss paragraph 6, thank you. Now, I accept, and it is

signed by Lieutenant General National Head Directorate for Priority Crime Investigation, SG Lebeya, and dated the 28th of January 2022. I accept that you would not know whether or not General Lebeya and General Mosikili did not discuss, as he had suggested.

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: I was more interested in whether or not, in your environment, you are aware of any of these recommendations having been carried out, and that you
10 have responded to that. So, I get General - Commissioner Khumalo, this is a matter that General Lebeya is better placed to shed light on. Thank you. I am particularly interested in Recommendation 6.3, the wording thereof, which suggested that an audit be done on all DPCI buildings and offices to check compliance with MISS, even outside the context of this document, which is where that is put up as a recommendation to General Lebeya. Are you aware of an audit of these buildings ever having been undertaken?

MAJ-GEN FLYNN: Commissioners, as I have stated, I
20 have no knowledge of Recommendation 6.3 and 6.4, respectively, and I will not be able to comment on that.

ADV SELLO SC: No, General, my question is slightly different. Are you aware of any audit since the break-in at Port Shepstone of DPCI buildings and offices to check for compliance with MISS? Are you aware of that exercise at

all?

MAJ-GEN FLYNN: I am not aware of any such exercise, Commissioners.

ADV SELLO SC: Thank you. Commissioners, I think, before I suggest wrongly, if we go back to your statement, that would then mean that we have covered, and I need you to confirm, your paragraph 66, 67, and 68. Do you confirm that we have covered what is raised in those paragraphs through the engagements we have had?

10 **MAJ-GEN FLYNN**: That is correct, Commissioners.

ADV SELLO SC: I know that after 68 you then make certain concluding remarks. I would invite you to deal with them, except I think that might be best done after you have dealt with your supplementary statement. So, if we could pause that part of your statement and turn our attention instead to your supplementary statement that was admitted into evidence this morning.

That should be located at the back of your file. And you indicate in this supplementary statement in
20 paragraph 1 that you prepared this statement to deal with the analysis that you conducted, where you compared the events that transpired relating to 541 kilogrammes of Cocaine seized since June 2021 and stolen from police custody in November 2021. And you do that comparison with other drug busts, seizures in Durban in the period 2020

to 2022. Correct?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: And that is the narrow view, perspective of this supplementary statement. That is its sole purpose. Am I correct?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Then if you could take us from paragraph 2 of your supplementary statement, which is where you deal with this analysis you conducted. Thank you.

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

“In January 2026, I called for the enquiry files in respect of identified drug busts in Durban during 2020 to 2022 to see whether the 22 June 2021 seizure is evidence of a worrying pattern of irregularities or whether it is an anomaly. Perhaps my audit would reveal that additional training was required because this is a pattern of noncompliance of prescripts during seizures and that there is an innocent explanation for the irregularities. However, the subsequent theft of the 541 kilogrammes of Cocaine made me very suspicious that the seizure irregularities were not the result of

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inadequate training. According to the DPCI's records, the following seizures occurred in Durban during the period 2020 to 2022.”

I am not referring to any clandestine drug laboratories, Commissioners.

ADV SELLO SC: That is then followed by a table listing a number of cases in which you say are seizures that occurred in Durban during the period 2020 to 2022. Below
10 that table, you then address each seizure in turn. As we get to then paragraph 3 in that table, before we deal with each seizure in turn, are there any comments you would like to make to this table?

MAJ-GEN FLYNN: Commissioners, it is explained in detail in the following paragraph, so I can perhaps deal with the incidents and then perhaps go back to the column if that is needed.

ADV SELLO SC: I am happy with that approach. So then, we will turn our attention to paragraph 4 of your statement
20 at page 2 and that is where you deal with the first seizure, correct?

MAJ-GEN FLYNN: That is correct, Commissioners:

“On the 5th of February 2020, members of the DPCI Durban Serious Organised Crime Investigation Unit were summoned

to a crime scene at the CHC depot in Prospect in Durban, where SARS Customs detected the consignment of suspected Mandrax. The suspected Mandrax was hidden in a container that was offloaded from a vessel that originated from China. The crime scene was properly dealt with in terms of crime scene management principles. The exhibits were photographed, weighed and sealed in forensic evidence bags. The mass of the suspected Mandrax was 547 kilogrammes. The exhibits were booked in at the Isipingo SAPS under a reference number. And then the exhibits were submitted to the Main Forensic Science Laboratory in Silverton on 12 November 2021. FSL confirmed that the exhibits were Mandrax and the case was investigated by Durban under a certain reference number.”

ADV SELLO SC: Before we proceed to the next case, do we know whether there has been an outcome on this matter or investigations are ongoing?

MAJ-GEN FLYNN: Up to date, there has been no

significant break from this matter, Commissioners, but we are looking into the matter again.

ADV SELLO SC: Thank you. Then I think you can turn to paragraph 5, which is ...[intervenes]

ADV BALOYI SC: Sorry, before you do that.

ADV SELLO SC: Yes.

ADV BALOYI SC: So, this is an operation in 2020. What would have happened to the drugs that were seized as at today? What happened?

10 **MAJ-GEN FLYNN:** Commissioner Baloyi, this is also the matter that I spoke to yesterday, the Mandrax seizure, the 547 that went to Isipingo. So, as I have indicated, upon closure of the enquiry, Forensic Science Laboratory are informed of the outcome of the investigation, and they then have the responsibility to dispose of the exhibits. So, the current status of the Mandrax, I do not have any knowledge of.

ADV BALOYI SC: But ordinarily, it would be where? If you say the investigation is still ongoing.

20 **MAJ-GEN FLYNN:** Obviously, after I summoned or requested these enquiries, we have looked into it, identified aspects that need further investigation. So, that is why we are continuing with the investigation part.

ADV BALOYI SC: Okay.

MAJ-GEN FLYNN: But once a narcotic specifically is

handed or submitted to the Forensic Science Laboratory, it is never returned to a SAP13 facility.

ADV BALOYI SC: Okay.

MAJ-GEN FLYNN: It is kept at Forensic Science Laboratory until the matter is finalised and then disposed of.

ADV BALOYI SC: All right, thank you. Thank you.

MAJ-GEN FLYNN: Thank you, Commissioner.

ADV SELLO SC: Thank you, Commissioner Baloyi and
10 General Flynn. So, would it be correct then to conclude, because you do not say otherwise, as to where the Mandrax is, is it a correct expectation that it should be with the FSL in Silverton where it was delivered on the 12th of November 2021?

MAJ-GEN FLYNN: If it is not already disposed of. It is supposed to be there, Commissioner.

ADV SELLO SC: And would I be correct to say that what becomes of the seized drugs is regulated in terms of your Annexure HFF3 from page 103? Would I be correct? And
20 in particular, I guess I am interested in page 111, paragraph 5.12, which deals with disposition/destruction of illicit drugs.

MAJ-GEN FLYNN: That is correct, Commissioners. This is the correct protocol that I have been referring to.

ADV SELLO SC: Okay. Thank you. So then we may move

on to your paragraph 5.

MAJ-GEN FLYNN:

“On 8 May 2020, members of the DPCI Durban Serious Organised Crime Investigation Unit followed up on information in relation to a container that was already offloaded from the vessel Polonia that originated from the Port of Santos in Brazil. Upon further investigation, 35 kilogramme bricks of suspected Cocaine were recovered from a container. The Cocaine had the logos Nautica, BMW, MTA, Z and H on the wrappings. 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 mass of the suspected Cocaine was 35 kilogrammes. The exhibits were booked in at Maydon Wharf SAP13 SAPS under a specific reference number. The exhibits were submitted to the Forensic Science Laboratory in Amanzimtoti on 21 May 2020. FSL confirmed that the exhibits

are Cocaine. The case was investigated under a reference number of Durban SOCI.”

Commissioners, perhaps at this point in time, I should indicate that in this list, there were three cases where the exhibits were submitted to FSL in Amanzimtoti. The reason for that is that you will observe that the mass of these exhibits is much lesser than the bulk seizures that were ultimately submitted to FSL in Silverton. So, it includes
10 these 35 kilogrammes as well as some of the seizures that is subsequently discussed.

ADV SELLO SC: Thank you, General. Before you move to the next seizure at paragraph 6, and I think this will be a theme that runs through each one of these as you deal with them. If we look at the first, at the bottom of that paragraph, paragraph 4, which is at page 3, similarly with the case you have just dealt with, the third line from the bottom of that paragraph, consistently you indicate FSL confirmed that the exhibits were Mandrax. That was the
20 case with the first one. Now with this seizure, you say at line 3 from the bottom of that paragraph, FSL confirmed that the exhibits are Cocaine. This confirmation that you consistently reference, it is safe to assume it is a written confirmation that would be filed with the investigating officer. Where does it go?

MAJ-GEN FLYNN: That is correct, Commissioners. Upon finalisation of the analysis by FSL, a section 212 statement or affidavit is prepared and submitted to the investigating officer of the matter. That then forms part of the case docket or the enquiry, as part of the bundle of evidence in that case docket or enquiry.

ADV SELLO SC: And do you recall that we briefly touched on the case referred to as the enquiry in respect of the Port Shepstone drug seizure? Would it be a correct assumption?

10 **ADV SELLO SC:** Firstly, was the section 212 statement an analysis report filed in respect of the Port Shepstone seizure?

MAJ-GEN FLYNN: No, Commissioners. There was never a report submitted or received from FSL.

ADV SELLO SC: Formally, therefore, we do not know whether what was seized at the harbour was in fact drugs. Is there a report that confirms that it was firstly drugs and secondly that in fact it was Cocaine?

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

20 **ADV SELLO SC:** Okay. And if such a report would have been filed, is it fair to assume that it would be filed in the enquiry docket opened by the DPCI?

MAJ-GEN FLYNN: Yes, it would have been filed in the enquiry docket, Commissioners, because that was the instrument used to investigate the matter under an enquiry.

ADV SELLO SC: Okay.

ADV KHUMALO SC: Can I just get clarity on that?

ADV SELLO SC: Yes.

ADV KHUMALO SC: How long does it usually take from the date when the drugs are seized to when such a report is produced, identifying what the substance is? Because in this case, I am thinking June, July, August, September, October until early November. It is over four months. Drugs are stored in a warehouse or in an office. No tests
10 are conducted until the drugs mysteriously disappear.

MAJ-GEN FLYNN: Commissioners, as I have testified yesterday, obviously it will depend on the storage capabilities at the Forensic Science Laboratory. If there is space and it is not bulk exhibits, for instance, they will accept it. But it has happened, and from my reading of the respective enquiries and case dockets, it is clear that there is multiple references to the fact that upon requests being made to FSL, they were informed that they do not have storage facilities available, obviously based on a heavy
20 workload. So, there is multiple cases before this matters that needs to be dealt with before these exhibits can be submitted. So obviously it prolongs the submission of the exhibits to the Forensic Science Laboratory.

ADV KHUMALO SC: But surely there has to be proof that there was a request, and that request was declined because

of the workload, or that you must wait in line. It will take about 6 months for us to get to your consignment and test it. Is there any paperwork that reflects that all of that was done?

MAJ-GEN FLYNN: In some instances, yes, Commissioners.

ADV KHUMALO SC: In this specific case?

MAJ-GEN FLYNN: But no. Predominantly, it is enquiries that was made telephonically, and then entries made in the
10 SAP5 in the investigation diary.

ADV SELLO SC: Thank you, Commissioner.

MAJ-GEN FLYNN: Commissioners, what I can perhaps also add to my statement here, in this matter specifically, due to the proper manner in which the investigation was conducted, the evidence collected in this case was lawfully transmitted to the United Kingdom upon their request, obviously by means of a mutual legal assistance application, and the UK authorities managed to prosecute an individual in the United Kingdom and obtained a
20 conviction on the matter relating to the facts of this narcotics. So, it is just proof of the transnational nature of these offences.

ADV KHUMALO SC: General, let me apologise to you and Advocate Sello. My questions related to the Port Shepstone drugs. But in your further response, it seems like you were

talking about what is in paragraph 5 of your supplementary statement.

MAJ-GEN FLYNN: Yes.

ADV KHUMALO SC: So, my questions were aimed at the Port Shepstone drugs that went missing. So sorry if I was not very clear.

ADV SELLO SC: Perhaps, General, at least for the sake of tomorrow's readers, so that there is no confusion of the transcript, the question Commissioner Khumalo had posed
10 was presumably any request to the FSL would be in writing. That was the first. And I think you confirmed that it is expected to be in writing and recorded somewhere. And where the FSL is not in a position to store the drugs from a recent seizure because of lack of space, they would equally indicate in writing. So, there is a record of the request and how the request was dealt with. Would that be correct or not necessarily?

MAJ-GEN FLYNN: Commissioners, I am not 100 percent sure in terms of the Port Shepstone matter. I was speaking
20 in general about my observations throughout the enquiries that I have analysed. And there it is my observation that predominantly it is being done telephonically. So, I am not 100 percent sure in terms of the Port Shepstone matter. But I believe we can clear that up.

ADV KHUMALO SC: Thank you for that.

ADV SELLO SC: Which then, your answer raises a question for me. To the question Commissioner Khumalo posed, it would not be reasonable of us to expect the request and the response to the request to follow a stated format, be in writing addressed to a specific unit head within the FSL and responded to in writing. That is not your experience and practise so we should not expect that to be the case in all, if not most of the cases. And I am relying on your experience here.

10 **MAJ-GEN FLYNN:** That is correct Commissioners. But as I said yesterday, when it is enquiry investigations and it is not for instance a court matter, there is not that pressure on the investigation team to get the investigation finalised like in a case docket that is currently before court. And I have indicated that there is a mechanism in place where we can request the Forensic Science Laboratory to prioritise an investigation. But I think it is neither here nor there. It is important that whenever there are such bulk seizures being made, that in any event, whether it is a case docket or an
20 enquiry, needs to be a priority. And requests need to be submitted then to the Forensic Science Laboratory for urgent submission.

ADV SELLO SC: Thanks, General. I think perhaps I was somewhat in articulating my question. We are trying to determine what is the general process in engaging with

FSL. Is there a prescribed process or manner in which a request to the FSL must be made? And does any protocol require that it be in writing? And that FSL respond to that request similarly in writing? Is there such a protocol or not?

MAJ-GEN FLYNN: But I am not aware of such protocol, Commissioner, but logic dictates that if it is in writing, it cannot be disputed, especially if there is proof of receipt.

ADV SELLO SC: Yes.

10 **ADV BALOYI SC**: Maybe General, if you look at page 110, let us see if that is the paragraph that you see. The heading is on 109, Submission of Illicit Drugs for Forensic Analysis. And then it seems the discussion you are having with Ms Sello is covered at paragraph 6, C rather, C and D, E even. And it seems that is all that regulates what should happen.

MAJ-GEN FLYNN: Yes, that is what I testified yesterday as well, Commissioner Baloyi, is that upon submission of the exhibits to the Forensic Science Laboratory, it needs to
20 be accompanied by this covering letter that is acknowledged then, so you get an acknowledgement of receipt on the date that it was submitted. So that is indeed being complied with.

ADV BALOYI SC: Okay, thank you.

ADV SELLO SC: Thank you, Commissioner Baloyi. I think,

and I am going to test this, I think perhaps I have come clear in my head. The section that Commissioner Baloyi just referred you to deals with the submission of the exhibits to the FSL. And it prescribes a process that must be followed.

MAJ-GEN FLYNN: That is correct.

ADV SELLO SC: And it does prescribe that there must be a written request and the like. The question I think General – why do I keep saying General? Commissioner Khumalo, I
10 do apologise, Commissioner. The question that Commissioner Khumalo and I, I think, were interested, the answer thereto, was relating to the request to FSL for storage where FSL responds that it does not have storage capacity.

So, it is not the actual submission of the exhibits to. So, then I will take a step back. You remember in the morning when we started, I pointed out to your section of your statement and I think General Mosikili also points out that when a request was made to FSL, it was rejected
20 because FSL indicated that it was not a clan lab scenario. Do you recall that conversation?

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SELLO SC: And your view was that that rejection on that basis was correct because they ought not to have called FSL. It is LCRC they ought to have called. Am I,

articulate your answer please for the record.

MAJ-GEN FLYNN: You are correct.

ADV SELLO SC: Okay. So, then we should not confuse ourselves by seeking to find a formal written request to FSL for purposes of storage in circumstances where the exhibits were not being handed over to FSL. Would I be correct in that?

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SELLO SC: I think I am clarified.

10 **ADV KHUMALO SC**: Advocate Sello, my concern, General, is looking at how the exhibits were stored and how they were recorded and the shortcomings that Chair listed yesterday. Remember he went up to 9. I think Advocate Sello added two more. From where I am sitting, and I could be wrong, but it looks to me like there was never an intention to submit these drugs to FSL.

There was never an intention to have them tested. Because of how they were handled throughout and how they were recorded, it raises concerns to me that it does not
20 seem like there was ever an intention that these drugs will go to storage in Pretoria or that they would be tested so that we can be 100 percent sure that it was Cocaine, 541 kilogrammes of it.

Because I cannot understand how there is no paperwork saying to FSL, at some point when you do have

capacity, we would like you to take these drugs. We would like for them to be tested so that we can ascertain that. This was indeed Cocaine. And if there is a need for people to be arrested and prosecuted, that can be done. What is your comment on my observation? I am not stating facts. I am just stating an observation.

MAJ-GEN FLYNN: Commissioner Khumalo, you are 100 percent correct. I also referred to that yesterday in the same manner as you have summarised it now. It is my
10 strong view that there was never an intention to submit it to FSL. And that is why I am reflecting now on all the other cases where predominantly the crime scenes were dealt with correctly and the exhibits found its way into an SAP13, remained in an SAP13 at the police station. It was never stolen or tampered with and then submitted to the FSL. Whether it was a year later, I think for purposes of this exercise, it is irrelevant. The fact of the matter is it was not stolen at the police stations, and it arrived at the Forensic Science Laboratory intact.

20 **ADV SELLO SC:** Thank you Commissioner Khumalo and General Flynn. I think you were dealing with the matter at your paragraph 5. That incident that you said, there was liaison with the British authorities and resulted in convictions in the UK. Are you in a position to comment about any prosecutions or convictions arising from that drug

seizure of 8th of May 2020 in South Africa? Is it a yes or no? If you do not want to unpack, you do not have to. I just want to know what progress South Africa has made.

MAJ-GEN FLYNN: There was no prosecution up to date in South Africa, Commissioners.

ADV SELLO SC: No prosecution to date. I will leave it there. I will not probe any further. Getting back to your statement, if we look at your table, I think we are now at the third item, the 2021-02-23 matter. When, under place and
10 commodity, you indicate Greenpoint. I am correct, right? Now actually, we should be dealing with the 2020 August 11. The Cocaine burst of 20 kg. That is our next matter.

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SELLO SC: And you unpacked that in your paragraph 6.

MAJ-GEN FLYNN: That is correct.

ADV SELLO SC: So, if you could take it from there.

MAJ-GEN FLYNN:

20 “On 11 August 2020, members of the DPCI Durban Serious Organised Crime Investigation Unit followed up on information in relation to a container that was on the vessel Polonia that originated from the Port of Santos in Brazil. The vessel was on anchorage before entering

Durban harbour. Upon further investigation, 20-kilogram bricks of suspected Cocaine were recovered from the container. The Cocaine had the Audi logo on the wrappings of 10 of the bricks. The other 10 bricks had no logo on. 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 mass of the suspected Cocaine was 20 kilograms. The exhibits were booked in a Durban Central SAPS under a reference number. Then the exhibits were submitted to FSL in Amanzimtoti on 1 September 2021. And then FSL confirmed that the exhibits were Cocaine. And then the case was investigated under a certain reference number.”

And here, Commissioner, there are two cases where LCRC did not attend to the crime scene. But the investigators, and it is not clear what was the reason for the two incidents. It is this case and the Manuchar case. LCRC did not attend to the scenes. But the investigators themselves

complied with directives by having contemporaneous notes, by taking photos of the exhibits, and properly securing it by sealing the exhibits there and then where it was recovered from the container.

ADV SELLO SC: Before you move off that point, is it your testimony that it is imperative at all these seizure scenes that the LCRC be present, or it is not necessarily a requirement? What is the actual position?

MAJ-GEN FLYNN: It is very important, Commissioners,
10 especially when it comes to the prospects of lifting fingerprints and touch DNA, which cannot be performed by an investigator. Although an investigator can take photos, compile it into a photo album, and ensure that the chain of custody is maintained and the integrity of the investigation is upheld by properly sealing the exhibits in exhibit bags, investigators are not capable of performing that two very important aspects.

ADV SELLO SC: And in this case, I think you specifically pointed out that the risk of non-attendants on the LCRC not
20 attending the scene was somehow ameliorated by the actions of the investigators themselves. Is that correct?

MAJ-GEN FLYNN: Yes, some of the tasks were performed, Commissioners, as I have indicated. But the reason why the investigators moved in here and conducted the investigations was that they had to beat the criminals to the

vessel, and specifically the container. So, there is an acceptable explanation for what transpired here. It is not clear in the Manuchar matter why Colonel Sibiya did not summon LCRC to that matter, but in this matter, and I have the detail of the matter, which I prefer not to disclose to the Commission, ...[intervenes]

ADV SELLO SC: No, please do not.

MAJ-GEN FLYNN: I am satisfied that there was no wrongdoing on the part of the investigators in relation to
10 this seizure of the 20 kilogrammes from the vessel.

ADV SELLO SC: Thank you. I do not know if the Commissioners have caught on the DPCI language. Is this case, is it Manuchar? Is that a Port Shepstone matter, the Durban seizure of 22 June 2022?

MAJ-GEN FLYNN: No, the Manuchar seizure is a complete separate and non-related matter, Commissioners.

ADV SELLO SC: Okay, I am clarified. Then my question is, in the Port Shepstone matter, the one that we have been dealing with, the LCRC did not attend the scene. Do you
20 have an understanding of why that happened? Why the LCRC did not attend the scene at the harbour during the seizure of the Port Shepstone?

MAJ-GEN FLYNN: It is because they were not summonsed, Commissioners.

ADV SELLO SC: They were simply not summonsed.

MAJ-GEN FLYNN: That is correct. Colonel Jacob indicated that he called Forensic Science Laboratory, but there was no indication that he ever requested the presence of the LCRC. And that was the important section, to be present at that incident.

ADV SELLO SC: And when you deal with this case, you do point out that LCRC as well did not attend, and you gave explanation for why that was the case. But you went further than to say the failure to call LCRC in this particular
10 incident was addressed by the steps that the investigators on the scene took. Do I understand you correctly?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: Now, if I contrast that with the Port Shepstone matter, were similar steps taken from the records that you have been able to go through, were similar steps taken by the investigators to cover for the absence of the LCRC on site?

MAJ-GEN FLYNN: By no means, Commissioners. There were just a few photos taken of the exhibits there at the
20 police station, at Isipingo, few photos of the exhibits in the container, and shoddy work, to say the least. It was as if the investigators were in a hurry.

ADV SELLO SC: And lastly, I think you made the comment that you understood why the LCRC was not called to the scene on the day, in respect of this seizure we are talking

about. And if I heard you correctly, you said they were trying to beat the criminals to the container. Did I understand you correctly?

MAJ-GEN FLYNN: That is correct, Commissioners.

ADV SELLO SC: So, there was a level of urgency in that case.

MAJ-GEN FLYNN: Indeed.

ADV SELLO SC: Did the same level of urgency attach to what I will call the Port Shepstone seizure?

10 **MAJ-GEN FLYNN**: No, Commissioners.

ADV SELLO SC: Thank you.

ADV BALOYI SC: I mean, at least you, it sounds like at best you would say that no urgency has been claimed for the absence of the LCRC in Port Shepstone.

MAJ-GEN FLYNN: Commissioners, as explained by Colonel Jacob, he indicated that the scene became busy with the perhaps individuals arriving at the warehouse yard. But I also explained that that is a controlled environment already, *per se*, as it is a warehouse. And it could have
20 been easily contained where an outside perimeter, an inside perimeter could have been deployed.

And they could have decided how big that perimeter needed to be in order for them to properly deal with the scene. I also said that there was no need to transfer the crime scene or the exhibit seized from the crime scene to

Isipingo before all the necessary investigations were done at the container.

ADV BALOYI SC: I guess, importantly really, the question is, has Colonel Jacob in any way stated or given a reason why the LCRC was not called? We know he called the FSL. That is what the records show, or what is alleged. But he has not said anything about, or has he said anything about why the LCRC was not called?

MAJ-GEN FLYNN: I am not aware of the detail in relation
10 to that aspect, Commissioner Baloyi.

ADV BALOYI SC: Thank you, General.

ADV SELLO SC: Thank you, Commissioner. General, I think then we are ready to turn to your case number 4, which you deal with from your paragraph 7.

MAJ-GEN FLYNN:

20 “On 23 February 2021, members of the DPCI Durban SOCI followed up on information in relation to a container that was at Green Africa Container Yard. SARS Customs detected narcotics during the search of the container with 495 packages, and it was in total 9.9 kilogramme. Containing Methamphetamine was seized from where it was hidden in the cargo in the

container. 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 Brighton Beach SAPS under a reference number, and the exhibits were submitted to FSL in Amanzimtoti on 19 April 2021. FSL confirmed that the exhibits were Methamphetamine. The case was investigated under a Durban reference number.”

ADV SELLO SC: Now, General is there anything you would like to highlight there in particular?

MAJ-GEN FLYNN: No, this is just the last matter, Commissioners, that was submitted to FSL in Amanzimtoti. As I said, that is the smaller seizures, the 9.9 kilogrammes. The 20 kilogrammes of Cocaine, the 35 kilogrammes of Cocaine were submitted to Amanzimtoti due to the capacity aspects.

ADV SELLO SC: And I note that on the point you just made, at your paragraphs 8 and 9, you deal with two other seizures, and these were submitted to a different FSL. Am I correct?

CHAIRPERSON: Just a quick, quick one. If I am not mistaken, General, you said that the referral to the FSL should be immediate. Am I correct? Or have I forgotten?

MAJ-GEN FLYNN: You are correct, Chairperson. According to the protocol, the exhibits must be submitted within 7 days.

CHAIRPERSON: Within 7 days.

MAJ-GEN FLYNN: Obviously ...[intervenes]

CHAIRPERSON: I am looking ...[intervenes]

10 **MAJ-GEN FLYNN**: Oh, yes, yes. No, no, sorry, sorry, Commissioner.

CHAIRPERSON: I am saying I am looking here at 23 February and a referral on the 19th of April, almost two months later.

MAJ-GEN FLYNN: Yes, indeed, it is noncompliance with the protocol, Commissioner, but I am not in a position to comment on the reasons for that.

CHAIRPERSON: All right, yes, all right.

20 **MAJ-GEN FLYNN**: But I think what is important, and that is the point that we want to drive home, is that ...[intervenes]

CHAIRPERSON: There was a referral ...[intervenes]

MAJ-GEN FLYNN: There was indeed a referral. Although it has fallen outside the 7-day period, but the exhibits arrived at FSL intact, accepted, analysed, and received a

report.

CHAIRPERSON: Except that perhaps the longer the period before the referral, the more the possibility of something going wrong with the exhibits. Either they are missing, being tampered with, or whatever else.

MAJ-GEN FLYNN: You are correct, Commissioner. The risk obviously reminds that there might be tampering with the exhibits is indeed true.

CHAIRPERSON: Thank you, General.

10 **ADV SELLO SC:** Thank you, Chair. Then, General, we turn our attention to your paragraph 8, at page 4.

MAJ-GEN FLYNN:

20 “On 30 July 2021, members of the DPCI Durban followed up on information relating to the possible smuggling of narcotics concealed in the shipping containers destined for a major truck assembly plant in Gauteng, Scania. When the container doors were opened, the officers noticed black bags inside the container. As the officers suspected it to be bags of Cocaine, they halted the process until LCRC arrived.”

This is the matter I spoke to yesterday as well, Commissioners:

“There was proper crime scene management as the scene was investigated for fingerprints, DNA and photographed. A duplicate seal was recovered from the container. 29 bags, each wrapped in black tape with carry handles exposed, were recovered. 999 bricks of Cocaine were recovered from the bags. The mass of the Cocaine was approximately 1 000 kilogrammes. The narcotics were transported to Maydon Wharf SAPS, where they were booked into the SAP13. It is alleged that the suspected Cocaine could not be submitted to FSL as they did not have enough space in their vaults. The exhibits were accepted by FSL in Pretoria on 12 November 2021, after the burglary and theft of the 541 kilogrammes of Cocaine at Port Shepstone.”

ADV SELLO SC: So, is your paragraph suggesting that some good came out of the theft of the Cocaine at Port Shepstone? Because then this seizure could be accommodated at FSL in Silverton.

MAJ-GEN FLYNN: Well, very shortly after the burglary was detected, Commissioner, I believe that my counterparts at Forensic Science made the means to accommodate this major seizure, and then it was submitted.

ADV SELLO SC: And this was 1 000 kilogrammes, about twice the size of the Port Shepstone seizure?

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SELLO SC: Thank you. You may proceed.

MAJ-GEN FLYNN:

10 “On 16 February 2022, members of the
DPCI Durban SOCI, in conjunction with
Crime Intelligence, followed up on
information in relation to a container that
was at Manuchar Warehouse, where 550
bricks, or 550 kilogrammes of suspected
Cocaine, were seized from where they
were hidden in the cargo in the container.
The container originated from the Port of
Santos in Brazil. The crime scene was
20 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 on a reference
number, and then the exhibits were

submitted to FSL in Silverton on 24 February 2022. FSL confirmed that the exhibits were Cocaine, and it was investigated under a Durban SOCI reference number.”

Commissioners, this is the other matter where LCRC did not attend the scene. It is not clear why Colonel Sibiya did not summon them, but from a study or an analysis of the enquiry, it is clear that these contemporaneous notes, the
10 exhibits were photographed and then properly sealed in the forensic bags before submission.

ADV BALOYI SC: But because LCRC was not there, you still miss the DNA evidence that you might have been able to pick up, DNA and fingerprint.

MAJ-GEN FLYNN: Indeed, Commissioner Baloyi, that is correct.

ADV BALOYI SC: Yes.

MAJ-GEN FLYNN: It is a shortcoming.

CHAIRPERSON: And the referral to FSL here was
20 relatively quick. The discovery is in February, and the referral is in February still. The one just before that, the one involving the truck assembly plant, that is about four months.

MAJ-GEN FLYNN: Indeed, Chairperson.

ADV SELLO SC: Thank you, Chair. Thank you,

Commissioner Baloyi. And did you, unless I missed it, did you indicate whether you are aware why LCRC was not called for this particular heist?

MAJ-GEN FLYNN: It was not established as yet. I have not consulted Colonel Sibiya on that matter, Commissioners.

ADV SELLO SC: Thank you. And so, Colonel Sibiya, would that be the investigating officer, or why the particular Colonel?

10 **MAJ-GEN FLYNN:** He was the senior member at the crime scene, and then also the investigator of that matter, Commissioners.

ADV SELLO SC: Thank you. Noted. You then deal with the last matter at your paragraph 10, overleaf at page 6.

MAJ-GEN FLYNN:

20 “On 28 November 2022, where members of the DPCI SOCI attended to a crime scene at R&D Port Operations, where 60 bricks, 60 kilogrammes of suspected Cocaine were seized from where it was hidden in the cargo in the 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, and then the exhibits were booked in at Brighton Beach SAPS under reference number Brighton Beach SAP13, and the exhibits were submitted to FSL in Silverton, and they confirmed that the exhibits were Cocaine. The matter was investigated under a Durbin reference number.”

10 **ADV SELLO SC:** And would we be reading your statement correctly, where you conclude on each case by referencing the investigation number, case number, but you say nothing further about that, that no convictions as yet have been obtained in respect of any of these cases. Would that be a fair conclusion?

MAJ-GEN FLYNN: That is correct, Commissioner.

ADV SELLO SC: I will not enquire into the reasons thereof. I just wanted to establish the status of prosecutions and convictions, if any.

20 **MAJ-GEN FLYNN:** No, there was no convictions or prosecutions in any of these matters, Commissioners.

ADV SELLO SC: But you consider them live and ongoing matters?

MAJ-GEN FLYNN: Well, that is part of the enquiries that I summonsed and retrieved from KZN, and there is ongoing

investigations, Commissioners.

ADV SELLO SC: Thank you. I am happy with that.

ADV BALOYI SC: General, is there a standard, a prescribed standard, for where to store seized narcotics in the same way that you have a standard about how to store firearms? You know, it has to be safe, as I understand, safe of a particular type. Is there such a standard which would inform, let us say, General, to use Port Shepstone, that would have informed General Senona that this is not an
10 appropriate place to store and rather go to, I think you say, let us say, Brighton Beach, because it meets the required standard for storing of narcotics. Is there anything like that?

MAJ-GEN FLYNN: Commissioners, I am not aware of such a standard, but that is why it is important. And if a specialised unit needs to establish its own SAP13, I believe that is part of the considerations that the National Head would have taken into consideration before approving or disapproving such an application for an SAP13 at the unit.
20 *Inter alia*, is it just a strong room, or is it a properly built-up walk-in safe with proper doors, for instance, locking systems, alarm systems, alarm systems not just in the safe but outside, perimeter fencing, beams, *et cetera*, all these considerations. So, I think that is the important part here, during that consideration phase, whether there is additional

safeguarding in place or not.

ADV SELLO SC: Thank you, Commissioner. Thank you, General. On that point, perhaps for completeness, it might be worth our while to refer to your Annexure HFF2. We have dealt with this before, and that is the National Instruction 8 of 2017. Commissioner Baloyi had asked whether there are protocols around dealing with seizures of this nature. I would like to refer you in particular to page 86 under sub (8), and I think that is the main paragraph
10 starts, if I can find my place, I think it is 12.

It is 11, it starts at 79, paragraph 11. At page 79 under the heading property, then it deals with various kinds of properties, and specifically at page 86(8), it deals with drugs. And it speaks to a protocol that must be adopted in the storage of the specific drugs as are listed there. And overleaf at Roman VII, which then would be paragraph 11(8)(b)(VII), would then deal with the issue of the sealing and forensic evidence bags and have to be marked with the SAP13 number. You are familiar with the protocol set out
20 here?

MAJ-GEN FLYNN: Yes, I am fully ofay with specifically 8(b), Commissioners. I think 8(a) is perhaps the most minimum requirements. I cannot think that it is exhaustive, and that is why I said I am not aware of a specific protocol in terms of requirements for an SAP13 facility, but it just

makes sense that they need to be additional safeguards to ensure that criminals cannot get to the actual exhibits that is placed in a walk-in safe.

ADV SELLO SC: Thank you. I just wanted you perhaps to comment on that as well, to add to the response you gave to Commissioner Baloyi. We then, I think we are now at your paragraph 11?

MAJ-GEN FLYNN: That is correct.

ADV SELLO SC: Of your statement at page 6, if you can
10 then take the Commissioners through that.

MAJ-GEN FLYNN:

20 “From the aforementioned, I was able to ascertain that unlike the June 2021 seizure, 11.1, LCRC was called to the scene to process the crime scene in respect of all the other seizures, except for the second Polonia vessel seizure and the Manuchar seizure, as I explained earlier. All the exhibits were sealed at the crime scene. No samples from the exhibits were submitted to FSL, whilst the exhibits were still in storage. There is no record that the sealed evidence bags were opened at any time before all the exhibits were submitted to FSL. And

then all the bulk exhibits were submitted to FSL in Silverton, except for the three exceptions that I have highlighted.”

ADV SELLO SC: Just two seconds, General.

ADV BALOYI SC: Just to clarify, at 11.3, you say no samples from the exhibits were submitted to FSL whilst the exhibits were still in storage. So, the booking, I thought the evidence we had involved that some 7 bricks were taken out supposedly for ...[incomplete].

10 **MAJ-GEN FLYNN:** Commissioners, this referred just to the cases that I have explained here now.

ADV BALOYI SC: I see, you are not speaking to Port Shepstone in particular.

MAJ-GEN FLYNN: It does not relate to the Port Shepstone matter where samples were taken and then submitted to FSL in Amanzimtoti.

ADV BALOYI SC: Okay, thank you for clarifying. Thanks for that clarification.

ADV SELLO SC: Thank you, thank you, Commissioner.

20 You may proceed, General.

MAJ-GEN FLYNN: And that is the end of this statement, Commissioners.

ADV SELLO SC: Is there anything you would like to add to your supplementary statement before we turn our attention back to your conclusion in your main statement?

MAJ-GEN FLYNN: No, Commissioners.

ADV SELLO SC: Unless there are further questions on the supplementary statement, Commissioners, I would invite General Flynn to go back to his original statement. And at paragraph 25, you then deal with the conclusion.

MAJ-GEN FLYNN: Page 25, paragraph 69.

ADV SELLO SC: Paragraph 69, page 25.

MAJ-GEN FLYNN: Thank you, Commissioners:

10 “The persistence of drug trafficking at an
organised crime level is often facilitated
by the complexity of modern supply
chains and the involvement of officials
who exploit positions of trust within
logistics, border control, law
enforcement, or commercial processes.
Trafficking networks or syndicates are
deliberately structured, which makes
detection more difficult. Efforts
to counter this form of organised crime
20 require coordinated intelligence-driven
action across multiple agencies and,
importantly, embracing technology.
While enforcement efforts continue to
disrupt operations, bringing the
perpetrators to account is difficult due to

the clandestine nature of the crime and the involvement of law enforcement officials and border control. In my opinion, the Cocaine seized in 2021 should never have been stored in Port Shepstone. The crime scene management failings compromised the integrity of the investigation, and the subsequent theft of the Cocaine was severely compromised our ability to find the traffickers. I trust that my evidence will be of assistance to the Commission.”

10

ADV SELLO SC: Thank you, General. Before I turn to the Commissioners, are there any other comments you would like to make, having then read out your conclusion?

MAJ-GEN FLYNN: No, Commissioners.

ADV SELLO SC: Chair and Commissioners, yes, please.

CHAIRPERSON: General, what I am going to ask you is unrelated to your testimony, but I hope you will be able to comment on it. What protocols exist with regard to the conduct of polygraph tests or what are colloquially referred to as lie detector tests? What protocols exist and who, when is that usually or ordinarily done, and who gets subjected to it?

20

MAJ-GEN FLYNN: Commissioners, in terms of our

legislation, I believe it is section 17(e) speaks to integrity testing. And as part of that process, polygraph tests are also part of the machinery that is deployed to determine deception or whether individuals were perhaps complicit in the Commissioning or taking part in any offence. And then it is upon the National Head to then direct who needs to be exposed to that process. So, then a list is then submitted to the identified officers who then needs to report for such polygraph testing.

10 **CHAIRPERSON:** And do you have any idea as to what the determinant factors are to decide on who should be subjected to the test?

MAJ-GEN FLYNN: I believe the merits of each matter, Commissioner, will determine whether an individual or individuals be exposed to the process. So, I do not think there is hard and fast rules associated to those decisions. It will be dependent on the specific facts that such a decision will be taken.

20 **CHAIRPERSON:** I was avoiding specificity so as to get an idea of the generally applicable prescripts, but perhaps I should be specific now. The facts here are that General Senona was involved in the decision to take the drugs, the Cocaine, to Port Shepstone. And in the end, he kept the key. I am just trying to establish in my own mind whether he ought not to have been subjected to a polygraph test. I

am asking this in the context of the fact that there were polygraph tests here. I assume that everybody who was involved in all of this saga was subjected to such tests, but he was not. Ought he have been subjected to the test, in your view?

MAJ-GEN FLYNN: In my opinion, Commissioner, indeed, he was supposed to be exposed to the process as he played an active role in the Port Shepstone matter. It is not as if he was just the provincial head sitting at a distance. He
10 was privy to the activities. He visited the Port Shepstone offices shortly after the seizure and took possession of the key. That is active participation. It is not as if he was at a distance and that he was not related to this matter. So, it is my strong opinion that he was supposed to be exposed to the process.

CHAIRPERSON: Thank you, General.

ADV KHUMALO SC: General, I wanted to follow up on Commissioner Baloyi's question and the answer you gave. More for clarification than anything else. Were 7 bricks
20 ever taken from Port Shepstone to the FSL lab for testing?

MAJ-GEN FLYNN: No.

ADV KHUMALO SC: They were not?

MAJ-GEN FLYNN: It was never submitted, Commissioners. Apparently, there was a request for 7 bricks of Cocaine to be submitted, but I clarified that point in terms of the

process that the investigators would have followed. But it was only the samples that the investigators obtained on the second day when they went back, on the 24th. So obviously opening the exhibits, obtaining that samples, sealing it, submitting it to FSL, that was the only samples that were submitted, Commissioners.

ADV KHUMALO SC: So, the 7 bricks were never taken?

MAJ-GEN FLYNN: That is correct. That is correct, Commissioners.

10 **ADV KHUMALO SC**: Thank you.

ADV BALOYI SC: General, we see here Warrant Officer Mpangase is quite the active person with this enquiry. If this were an investigation, I would have assumed he was an investigating officer. Does it mean he was in charge of the enquiry? Because remember we start off, you said yesterday that General Jacob was the person in charge of the operation, and then he went off. Then you have Mpangase, who seems to be very busy here. Would he have been, therefore, the owner of this enquiry?

20 **MAJ-GEN FLYNN**: Indeed, the owner of the enquiry, Commissioner Baloyi, in the sense that he is the investigating officer. But in terms of command and control, the responsibilities of the team leader, which will obviously be a Captain or at the level of Lieutenant Colonel, the Unit Commander, the Provincial Commander, as well as the

Provincial Head, under these circumstances where it is a major drug seizure, cannot be wiped out.

They have got certain responsibilities in terms of inspections and overseeing the investigation, obviously from a higher level. But to ensure that the investigation is properly conducted, all the possible leads are followed up, exhibits are submitted to FSL in time, or then assist if there is blockages in all these processes to ensure that there is a smooth transition of the exhibits from the SAP13 facility or
10 wherever it was kept to the Forensic Science Laboratory.

ADV BALOYI SC: Thank you, General.

ADV SELLO SC: Thank you, Commissioners. Thank you, Chair. Unless there are no further questions for General Flynn, that is the testimony of General Flynn. Thank you, Chair.

CHAIRPERSON: Thank you very much, General. You are excused. But perhaps you should wait for the formal adjournment.

NO FURTHER QUESTIONS

20 **ADV SELLO SC:** Yes, indeed, Chair. Insofar as the next step is concerned, General Flynn will then be excused, which means we finish at lunch. The next witness, unfortunately, is one who has to travel into Gauteng. And today is his travel date, time to date to Gauteng, and can only be presented tomorrow at 09:30 in the morning.

CHAIRPERSON: Is that because he could not travel earlier?

ADV SELLO SC: The arrangements that had been made already had been for him to travel today, to be present at 09:30 tomorrow morning. In light of the fact that there is no threat that he may overrun, we thought it was appropriate to retain the arrangements as were made, to cater both for his overnight stay in Johannesburg and travels, and to be presented in the normal hours tomorrow. So, we request
10 that perhaps with your leave we stand down at this juncture to 09:30 when we start with a new witness.

CHAIRPERSON: Thank you, Ms Sello. Let us adjourn until 09:30 tomorrow morning.

ADV SELLO SC: Thank you, Chair.

INQUIRY POSTPONED TO 7 MAY 2026
