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Department:
Independent Police Investigative Directorate
REPUBLIC OF SOUTH AFRICA

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Case Investigative Report

COMPLAINT IDENTIFICATION

CCN	2013030375
Incident Description Code	312
Type of Report	Criminal Recommendation to NDPP
Report Date	18 March 2014
Date of Last Report	18 March 2014
Complaint Category	Section 28(1) (f) and 28(1) (h)
Complainant	Shepard Tshuma and others
Date of Complaint	10 October 2012
SAPS CR/CAS Number	Diepsloot CAS 390/07/2012
Suspect Identification	Lt Col M Maluleke
Investigator	Task Team
Assignment	Investigations
Reporting Staff Member	Innocent Khuba

1. BACKGROUND

- 1.1 The Independent Police Investigative Directorate received a complaint of alleged renditions involving members of the DPCI headed by General Sibiya. The case was reported as result of parliamentary question by Cope Member of Parliament and an article by Sunday Times. The case was referred to the Independent Police Investigative Directorate by Civilian Secretariat for further investigation.

2. SUMMARY OF ALLEGATIONS

The following allegations were made:

- 2.1 It is alleged that between 04/11/2010 and 31/01/2011 Captain M L Maluleke, Warrant Officer Makoe and Constable Radebe, through the direction of General Sibiya and Lt General Dramat, conducted operations in Soweto and Diepsloot to trace Zimbabwean Nationals. The suspects were wanted in connection with the murder of a Zimbabwean police Colonel in Bulawayo. The members were accompanied by Zimbabwean Police. Five Zimbabweans were arrested in Diepsloot and detained at various stations as illegal immigrants and others for fictitious crimes. They were allegedly assaulted by SAPS members and Zimbabwean Police and transported to Beit Bridge where they were handed over to the Zimbabwean Authorities. Four of them were reported murdered in the hands of Zimbabwean Police.
- 2.2 According to the allegation, Major General Sibiya was also part of the operation.

3. CONSTITUTIONAL AND STATUTORY MANDATE

- 3.1 Section 206(6) of the Constitution of the Republic of South Africa provide that, on receipt of a complaint lodged by a Provincial Executive, an independent Complaints body established by the national legislation must investigate any alleged misconduct or offences allegedly committed by members of SAPS.
- 3.2 Section 28 (a) (h) of the Independent Police Investigative Directorate Act 1 of 2011 provides that the Directorate must investigate any matter referred to as a result of a decision of the Executive Director, or if so requested by the Minister, an MEC or the Secretary as the case maybe, in the prescribed manner.

4. AVAILABLE EVIDENCE

4.1 STATEMENTS OBTAINED FROM INDEPENDENT WITNESSES

The following witnesses were interviewed and statements obtained.

Shepard Chuma A1: He will state that on Friday 05/11/2010 at 20h00 he was at 6954 John Malatjie Street Diepsloot together with Nelson, Maqhawe and Witness standing when they were approached by two unknown Black males. One of them produced an appointment card and the other produced a firearm and ordered them to lie down. He will further state that one of the Police Officer then look out a paper and started reading names like Mthelisi Sibanda, Godi Dube, Prichard Chuma and John. He asked them whether they know such people but none of such names were known to them. The officer was wearing a cowboy hat and they heard other police officers calling him Cowboy. Few minutes later, Cowboy asked the other Police Officers about where to detain them. While they argued about the place to detain them, the other officer suggested that General Sibiya be consulted to provide direction in the matter. A short while later General Sibiya alighted from a Black BMW. He will state that they were assaulted and when they arrived at Orlando Police Station one of the Officers called "Leburu" took his R300 which was in a wallet in his back pocket. They were detained

and on 2010/11/06 at 12h00 the officer called "Cowboy" came and took the finger prints of his co-accused but his fingerprints were not taken. He was informed that his finger prints will be taken at Musina.

On Monday 2010/11/08 at 12H00 Cowboy came to collect them. They were taken into a marked vehicle of Orlando SAPS driven by the officer in uniform. They followed Cowboy who was driving a white Nissan D/C. They were taken to a certain place called Bronkhorspruit where they were moved into a Toyota being handcuffed. They were then taken to Musina and they arrived at 17h00. They took one officer at Musina whom Cowboy said he will make matters easy for them to cross the border. He will further state that at the border, Cowboy went to Home Affairs office and few minutes later came back. They were transported in a Nissan D/C and crossed the border with Cowboy using a wrong lane but they were never stopped. When they were on the other side Zimbabwean police came and placed handcuffs on top of other handcuffs and Cowboy came and removed his handcuffs. They were taken to a Zimbabwean police car. He will state that they were interrogated by the Zimbabwean Police Officers about a Zimbabwean police Colonel who was killed. They were placed in separate cells and after 11 days he was released. When he enquired about his friend he was told that he was killed by the Zimbabwean police.

Maghawe Sibanda A2: He will state that on 05/11/2010 at 20h00 he was at his residential place in Diepsloot when he was approached by two Black Males who identified themselves as Police Officers. They instructed them to lie down and they cooperated with them. Few minutes later there were many cars of Police Officers in civilian clothes and they started searching them. He will further state that they were assaulted and the police also took R500-00 which was in his pocket. There was another police officer wearing Cowboy hat reading names on the paper and asking them whether they knew the names of such people. He will state further that he saw General Sibiya coming out of a black BMW and gave instruction that they should be taken to Orlando SAPS.

Nelson Ndlovu A3: He will state that on 05/11/2010 at 20h00 he was at his younger brother's residential place in Diepsloot when he was approached by two Black Males who identified themselves as Police Officers. They ordered them to lie down and then started to assault them. He identified one of the Police Officer by the nickname Leburu. After their arrest the Police Officers argued about where they should detain them and one of them suggested Randburg. General Sibiya gave the instruction that they must be detained at Orlando SAPS. They were then taken to Orlando SAPS but Shepard Chuma and Witness went with the police to show them where John stays.

Bongani Henry Yende A4: He will state that he is a member of the South African Police Services attached to Crime Intelligence. During October 2010 he was nominated to be a member of Task Team called Tactical Operations Management Section (TOMS) which was led by General Sibiya. On 2010/11/05 he received a call from W/O Makoe of DPCI in Gauteng who was also part of TOMS informing him that General Sibiya wanted them to meet in order to look for four suspects who are wanted in connection with the murder of police Colonel in Zimbabwe. He then went to Fourways Shopping Center with Constable Desmond Campbell who was also part of TOMS to meet with W/O Makoe. On their arrival at the Shopping Center W/O Makoe also

introduced two Zimbabwean police to them. He will further state that he was informed by W/O Makoe that the two officers came through the office of General Dramat. At that time General Sibiya was seated in a navy blue BMW and he could not go and greet him. They went to Diepsloot together with Captain Maluleke (also known as Cowboy), W/O Jawuke and Constable Leburu Radebe to identify the house of the suspects.

Captain Maluleke came back and informed them that he left the two officers observing the movements of the suspects at their residence. On their arrival at the suspect's place of residence, Captain Maluleke searched the suspects and confiscated their passports. There were four men who were lying on the ground and the two Zimbabwean police said that the four men are wanted in connection with murder of a Zimbabwean police Colonel in Bulawayo. The suspects were taken to Orlando and detained as illegal immigrants. On 23/11/2010 he was briefed by W/O Makoe that the two suspects who were arrested were subsequently killed in Zimbabwe. He will further state that the suspect Prichard Chuma was detained in Alexandra Police station. He will further state that Captain Maluleke was reporting directly to General Sibiya and whenever torture of the suspects was to be carried out, he condoned it.

Petros Jawuke A5: He will state that during October 2010 he was nominated to be part of a Task Team Called "TOMS" in Gauteng Province and that the team operated under the command of General Sibiya. On 2010/11/05 in the evening he received a call from W/O Makoe that their Commander Gen. Sibiya wanted all TOMS members to meet in Fourways because there was a Colonel who was murdered. He will state that he collected W/O Ndobe and rushed to Fourways where they met with other members.

He will state that W/O Makoe instructed him to join Captain Cowboy Maluleke and Constable Leburu Radebe to identify the suspects address. On their arrival at the identified house they found a car standing outside but there was no one inside the car. He will state that four men came to the vehicle and that they arrested them and detained them at Orlando Police Station as illegal immigrants but not the Zimbabwe murder case as indicated at the beginning of the tracing process.

He will further state that on 2010/11/23 the second operation was arranged and that he got a call from W/O Makoe that their Commander General Sibiya wanted them to meet at Diepsloot Shoprite. General Sibiya was present in the second operation. They went to Diepsloot where an African Male Pritchard Chuma was found and arrested for murder of the Colonel in Zimbabwe.

Desmond Campbell A6: He will state that on 2010/11/05 General Sibiya arranged with W/O Makoe to call them for operation at Diepsloot for tracing wanted suspects in a murder case where a Colonel was killed. He received a call from Constable Radebe that they have already arrested the suspects.

He will further state that the suspects were assaulted since he heard screams but did not take part in the assault of the suspects. The suspects were arrested in connection with a murder of the police Colonel in Zimbabwe. He will state that the four suspects were then detained at Orlando Police Station as illegal immigrants and not on the Zimbabwe Murder case of the Colonel. On 22/11/2010 until the early hours of 23/11/2010 Prichard Chuma was arrested and detained in Alexandra. He never saw General Sibiya being involved in the operation but that there was a person who was

always seated in the black tinted BMW and W/O Makoe referred to the person as General Sibiya.

Alfred Ndobe A7: He will state that during October 2010 he was nominated to be part of Task Team called "TOMS" in Gauteng Province headed by General Sibiya. On 2010/11/05 Gen. Sibiya arranged with W/O Makoe to call them for operation at Diepsloot for tracing wanted suspects in a murder case where a Colonel was killed. He was not aware that the suspects that they were tracing were needed in a Zimbabwe case. He received a call from Constable Radebe that they have already arrested the suspects.

The suspects were assaulted by General Sibiya, Captain Cowboy and W/O Makoe. He will state that the four suspects were then detained at Orlando Police Station as illegal immigrants but not on the Zimbabwe murder case of the murdered Colonel.

Desmond Campbell A11-Additional statement: He will state that he was based at Johannesburg Central Crime Intelligence before receiving a call up instruction from Gauteng Provincial DPCI Head, Major General Sibiya to report at Gauteng TOMS office. On 22/11/2010 of which he cannot remember the exact time they detained Prichard Chuma whom he does not know whether is related to Shepard Chuma. He will further state that he witnessed an assault on 2010/11/05 on Zimbabwean Nationals carried out by Captain Maluleke, W/O Makoe and Constable Leburu. He will further state that on 2010/11/05 and 22 to 23/11/2010 when they carried out the operation, there would be a figure seated in a black BMW whom Warrant Officer Makoe referred as Major General Sibiya.

Andrew Mark Sampson A12: He will state that he is a White Male self employed as a Project Manager of House Constructions. He knew Maqhawe Sibanda as a sub-contractor on his building sites. He will state that Mr. Sibanda vanished for a week and resurfaced again. He was informed by Mr. Sibanda that his disappearance was as result of his arrest in connection with the alleged murder of a Zimbabwean Colonel. He was taken to Beit Bridge but released along the way and he had to find his way back because he did not have money and his cell phone was confiscated by the police. He will state that he was requested by Mr. Sibanda to call the said police Captain for his cell phone. He called the police Captain and he confirmed that the cell phone will be returned. He does not know whether such phone was finally returned to Mr. Sibanda.

Sibongile Mpofo A24: She will state that she is a neighbor of the deceased Johnson Nyoni. She will state that she witnessed a group of unknown Policemen assaulting the deceased who was lying down on the furrow of running water as it was raining. She will state that the deceased was assaulted by means of being kicked with booted feet. She will state that she cannot recall the exact date but it was during January 2011. She will state that the deceased was also pepper sprayed on his face and that he was having bloodied mucous coming out of his nostrils.

She will state that she was standing at the distance of about 20 meters when she witnessed the incident and that it was still in the morning around 10:00. She will state that she never saw what happened inside the shack. She will state that she learnt that the deceased was indeed murdered after a month from his younger brother. She will state that she may not be able to identify them if she can see them again.

Reasons Mhlawumbe Sibanda A20: He will state that on November 2010, on the date in which he cannot remember the date he visited his ex-girlfriend Brightness Nka Ncube who was staying with his distant sister Rachel Ncube. He slept over and in the middle of the night he was woken up by the police looking for John the boyfriend of Rachel. He was assaulted by a police whom he cannot identify, since it was in the dark. There was another Police Officer who was flashing a cellphone on their faces trying to identify them. He will further state that John was not there and they were freed when they indicated to the police that none of them was John.

Rachel Ncube A21: She will state that she is the wife of the deceased John Nyoni. It was on 26/01/2011 at 10h00 when she was in her shack with her husband Johnson Nyoni when police arrived and started assaulting him. The police entered the shack and said that they were looking for a firearm which they alleged that her husband used to kill a policeman in Zimbabwe. There were five (5) police vehicles, and her husband was taken away by the police and that was the last time she saw him. In February 2011 she received a call from Bikinis Nyoni, the brother of the deceased that Johnson Nyoni has died.

Brightness Nka Ncube A22: she will state that she is the sister-in-law of the late Johnson Nyoni. On the 5th or 6th of November while she was asleep she was woken up by the police who pretended to be Johnson Nyoni and later changed to indicate that they are in fact Police Officers. She will further state that she was assaulted by the police who were looking for Johnson Nyoni. The police freed them after they realized that Johnson was not amongst them. She learned later that Johnson Nyoni was murdered by the police in Zimbabwe.

Madala Bhekisisa Nyoni A23: He will state that he is the brother of late Johnson Nyoni and on 01 March 2011 he telephonically contacted his brother in law Orbed Ndlovu from Bulawayo in Zimbabwe who informed him that his brother Johnson Nyoni is late and was found at Central Mortuary in Bulawayo. He will further state that he then went to Bulawayo in Zimbabwe and at the mortuary he found the body of his brother. The body of Johnson Nyoni had a bullet wound on the collar (neck) just above the chest and it exited at the back. There was an information note attached to the body stating that Johnson Nyoni was involved in the crossfire at Gwanda in Zimbabwe. He will further state that he attended Johnson Nyoni's funeral which was held at Tsholotsho in Zimbabwe.

4.2 STATEMENTS OF MEMBERS AT ORLANDO POLICE STATION

The following statements were obtained from members of SAPS based at Orlando police station who are witnesses in the case.

Brigadier Mthokozelwa Zangwa A25: He will state that he is a Station Commander of Orlando Police Station. He became aware of the allegation of deportation of Zimbabwean foreign Nationals in 2012. He will state that as part of his own investigation he perused the registers to check if there were indeed Zimbabwean nationals detained at Orlando Police Station. According to OB 279/11/2010 the said Foreign Nationals were arrested by Captain M L Maluleke. He also discovered that the

Foreign Nationals were detained until 08/11/2010. The procedure is that when a person is arrested and is suspected to be illegal Immigrant, Home Affairs official is called to verify the status of the person before he or she is taken to Lindela for deportation. He does not know why the procedure was not followed by the police in this case. He will further state that Captain Maluleke confirmed that he indeed took the said Foreign Nationals to Beit Bridge.

Thomas Pixane Setagane A26: He is a member of SAPS stationed at Orlando. On 06/11/2010 Captain Maluleke came to the holding cells with four foreign national namely Dumisani Witness Ndeya, Nelson Ndlovu, Maqhabane Sibanda and Shepard Chuma. The four Foreign Nationals were registered on the OB and cell register. He will state that it was for the first time for him to experience a situation where a member of DPCI arrest and detain a person for being an illegal immigrant.

Padile Abrina Papo A27: She will state that she is a Constable and that during the time of incident she was still a trainee. On 2010/11/08 at 05h45 she reported on duty and she was posted at the cells. On the same day she was tasked by W/O Marule to write the Occurrence Book. She made entries as directed and not as she observed because she was a Trainee.

4.3 STATEMENTS OF HOME AFFAIRS OFFICIALS

Nolwandle Qaba 29: She will state that she is a Director responsible for Deportation. She will further state that the incident that took place in 2010 occurred before she joined the department but upon being informed of the facts of the case by her juniors, she realized that members of the SAPS did not comply with the procedure when they deported the four Zimbabwean Foreign Nationals. She stated that a member of SAPS is not allowed to deport any person without the involvement of Home Affairs. The person suspected to be illegal foreigner must be verified by the Immigration Officer and the High Commissioner or the Embassy must confirm that such person is their citizen.

Peter Ndwandwe A28: He will state that he is an Assistant Director with the Department of Home affairs in Soweto. He started knowing about the incident involving four Zimbabwean Foreign Nationals in 2012 when he was contacted by Mr. M Matthews who is a Chief Director at their Head Office. He will further state that the four Zimbabwean nationals were not supposed to be deported because from 20/09/2010 to 31/12/2010 there was DZP which is Dispensation for Zimbabwean Project initiated by the Minister to allow all Zimbabweans without legal documents to stay in the country for 90 days in order to apply for legal documents. There is no Zimbabwean who was supposed to be deported on the basis of illegal documents during that period.

He will also further state that in 2012, few days after receiving a call from Mr. M Matthews a Police Officer by the name of Maluleke visited his office and showed him Home Affairs documents with signature and asked him whether he could identify any signature on the documents. He told Mr. Maluleke that the signature does not belong to any of his people. The documents were copies and Mr. Maluleke left in a hurry without showing him the documents in full.

He will further state that no police officer is allowed to deport any person and any person suspected to be an illegal foreigner must be screen by Immigration Officer.

Job Jackson A33: He will state that he is an Acting Deputy Director responsible for the day to day running of Lindela Holding facility. In his statement he outlined the process involved in the deportation of a person from Lindela. He will further state that the incident took place before he was transferred to Lindela.

Potiswa Skosana A31: She will state that she is an Immigration Officer Station at Soweto. She will further state that the form Warrant of Detention of Illegal Foreigner (BI-1725) was discontinued in 2008 and that the Notification of Deportation Form must be accompanied by the fingerprints. She will further state that in all cases police call them to screen the illegal foreigners before such persons are taken to Lindela.

Johannes Lodewickus A30: He will state that he is a Deputy Director in the Department of Home Affairs at Soweto. He confirmed that the number on the Detention Warrant and Notification of Deportation form provided by the police does not belong to any Home Affairs official in Soweto.

Richard Peter Eiberg A37: He state that he is an Immigration Officer based at Beit Bridge. He will further state that when SAPS bring an illegal foreigner at Port of Entry they must hand in a Body Receipt form and not the Detention Warrant. The Warrant of Detention is not a deportation document and must not be produced or stamped at Port of Entry.

He will dismiss the allegation that the stamp used on the documents claimed to be Home Affairs documents by the police is a deportation stamp.

Kobela Margret Mohlahlo A39: She will state that she is an Immigration Officer based at Beit Bridge and she had been a custodian of Stamp 20 since 2010. She had been in control of stamp 20 and when she is not in the office the stamp would be locked in the safe. She is the only person in possession of the key. She will state that on the 7th and 8th of November 2010 she was off duty and the stamp was locked in the safe. She does not know how stamp 20 appears on the documents which the police claim to be deportation papers because on the day in which the documents were stamped she was off duty and the stamp was locked in the safe.

4.4 STATEMENTS OF MEMBERS OF SAPS IN LIMPOPO

Ndanduleni Richard Madilonga A51: He will state that he is a Police Officer in the South African Police Service holding a rank of Lieutenant Colonel stationed at Thohoyandou SAPS as a Commander of Crime Prevention.

He will further state that the statement is additional to the statement he signed with a member of the Hawks from Pretoria. He wants to clarify certain issues pertaining to his previous statement.

Before he was transferred to Thohoyandou SAPS, he was working at Beit Bridge Police Station as a Commander. His duties included Crime Prevention, liaison with the Immigration Officials and other police officials from other stations.

In 2010, two weeks before the 8th November, there was a convoy of vehicles from Zimbabwe entering into South Africa. As he was suspicious, he approached them. The convoy was approaching the Immigration Offices. When he approached them, one of them introduced himself to him as the leader of the group and he told him that he is

Superintendent Ncube from the Homicide Unit in Harare. He then requested him if they could not find a place to sit down and discuss.

Superintendent Ncube told him that he was going to Pretoria to meet General Dramat. He said to him that maybe he knew about the Chief Superintendent who had been murdered. He said that the suspects were in Gauteng and he had organized with General Dramat to assist them in tracing the suspects.

For the period of two weeks, he never heard anything from Superintendent Ncube and his group. After two weeks he received a call from Superintendent Ncube who told him that he was in town and he wanted to say goodbye. He went to town and met with them in front of Tops bottle store. They bought liquor and they left to the border. He did not escort them; they went to the border and crossed to Zimbabwe. They did not discuss anything about the operation they had in Gauteng with General Dramat.

The following day after the departure of Zimbabwean police, he received a call from Captain Maluleke who is also known as "Cowboy". It was on 08 November 2010 between 16 and 17:00, when he called and introduced himself as Cowboy and I asked as to who is Cowboy. He said that he is a Captain Maluleke and was with him at Paarl in Cape Town in 2005. When he said that he is Captain Maluleke, he remembered very well who he was. Captain Maluleke asked him where he was, and he said he had already crossed the checkpoint. He was told to stop and wait for him. After thirty minutes he arrived and was driving a Sedan which he thinks is a BMW. He was with a male person who was seated on the front passenger seat. He then entered into the vehicle after the passenger had moved to the back seat.

While they were driving he realized that there were other BMW cars which were following them and he knew that it was a convoy. Captain Maluleke told him that suspects are in the vehicle behind them. He said that there are two suspects and the third one is still not yet found. He will further state that he never stopped anywhere at the border and no documents were stamped for the purpose of deportation.

When they arrived at the Zimbabwean side the vehicle stopped and immediately all the vehicles were surrounded by Zimbabwean police. They then pulled the suspects from the back seat of the vehicle behind them. He knew that they were Police Officers because he had been working at the border for a long time and he knew them. He even saw the vehicles that crossed two weeks ago when Superintendent Ncube entered the country.

Thereafter one of the Zimbabwean police came and thanked them and said that they must not use the other gate but use the one they used when they entered.

Captain Maluleke told him that what happened is top secret and people must not know about it.

In 2012 of which he cannot remember the month and date, Captain Maluleke phoned and told him that there is a person from Head Office who will be coming for investigation and that he must cooperate with him.

Later a person came to Thohoyandou and he had a draft statement. He was told that there is a problem with the operation which was once done by the Hawks and they would like his statement to be in a particular format. He told him that the statement is for covering up and the parliament has some issues about the operation. He will further state that he read the statement and realize that it was to close the gaps and not a true reflection of what happened.

Brigadier Joseph Makushu A53: He will state that in 2010 he was the Head of Security and Protection Services responsible for eight Borders of which one of them is Beit Bridge. He will further state that Colonel Madilonga was one of his team members

posted at Beit Bridge reporting under Colonel Radzilani. He remembers receiving a call from Colonel Madilonga in 2010 requesting permission to allow Zimbabwean Police who were going to see Major General Dramat. He then instructed him to call General Dramat directly because he did not want to be involved in the operation which he was not previously informed about. He will further state that it was the last time he spoke to Colonel Madilonga about the Zimbabwean Police.

Colonel Dvohani Sharon Radzilani A54: She will state that in 2010 she was the direct supervisor of Colonel Madilonga at the Beit Bridge Port of entry. She will further state that in 2010 Colonel Madilonga informed her about the Zimbabwean Police who were about to enter the country to see Major General Dramat. She cannot remember whether he informed her telephonically or he came to her office. She will further state that she told Colonel Madilonga to speak with Brigadier Makushu about the issue.

4.5 **STATEMENTS OF TOMS MEMBERS IN GAUTENG AND PRETORIA**

Lt Col Neethling A55: He stated that he is a member of South African Police Services stationed at the Directorate of Priority Crimes, Provincial Office in Gauteng. In November 2010 of which he cannot remember the exact date, he received a request from Captain Maluleke to assist in arresting a suspect in the Fourways area. He met with Captain Maluleke at Diepsloot who then led him to the spot where the suspect was. Captain Maluleke walked towards him and briefed him, informing him that he is investigating a case of murder of a Zimbabwean police officer.

He did not ask any question because he knew Captain Maluleke to be working for "Cross Border Desk" at the Head Office of the Hawks. He also did not ask question because he knew that Captain Maluleke was representing the Head Office. He considers himself to be less knowledgeable in Cross Border crimes than Captain Maluleke. He discussed the tactical approach of the operation with his team since he considered the operation to be high risk. He positioned himself at the back of the vehicle convoy down a very narrow alley leading to an informal structure. There were three Police Officers whom later he discovered that they were Zimbabwean police. They were dressed in neat trousers, collar shirts and suits jackets.

After 15 minutes his members came out and informed him that they found the intended target and that Captain Maluleke had arrested him. They drove out of the settlement and stopped at the shopping center. Captain Maluleke informed him that they also have to arrest other suspects in Soweto. He was informed the next day that other two suspects were also arrested.

He also remember receiving a call from Captain Maluleke requesting escort of high risk suspects to Musina since he had to hand them over to Zimbabwean Authorities. He did provide a team to escort the suspects. He believes he must have reported such arrests to Major General Sibiya.

Captain Arnold Boonstra A60: He will state that in November 2010 (a date and time of which he cannot remember) he was requested by Lt Col Neethling to assist in tracing the suspects who were wanted by Captain Maluleke. He went to Diepsloot shopping Centre and waited for the members involved in the operation to come and fetch him. They came in a convoy and he followed. It was at night and he cannot

remember the exact time. He approached Lt Col Maluleke known as Cowboy to provide him with the case number or reference number. He gave him a reference number from the file he was holding. He also told him that the suspects were wanted in connection with murder of a Police Colonel in Zimbabwe. He also mentioned that the police Colonel was killed during the Shoprite robbery. He does not remember precisely whether he said Shoprite robbery took place in Zimbabwe or South Africa.

The operation moved to Soweto but he did not see people who were arrested. He did not witness any assault because he was not near the operation. He just heard Lt Col Maluleke saying that he will detain the suspects in Soweto.

Captain Ernest Nkosi A77: He will state that on 22/11/2013 after the operation which was carried out at Diepsloot he was requested by Lt Col Maluleke from DPCI Head office to take suspect Prichard Chuma to Alexandra Police station for detention but without the case number. He detained the suspect at Alexandra Police Station free of any injuries. He will further state that he wrote the cell number of Lt Col Maluleke in the Occurrence Book.

Warrant Officer PJD Selepe A56: He will state that he is employed by DPCI in Gauteng on a rank of a Warrant Officer. In November 2010 of which he cannot remember the exact date he received a call from his Commander Lt Col Neethling requesting him to assist Captain Maluleke in escorting a suspect. He told him that Captain Maluleke will provide details of the trip.

He then called Captain Maluleke who confirmed that he needed assistance to transport a suspect to Musina. He requested him to use his vehicle because it had a blue light. He was in possession of BMW 330 with registration number TJH588 GP. He cannot remember the details of the trip but he remembers arranging with Captain Maluleke to meet at Alexandra Police Station on 23/11/2010 as recorded in the Occurrence Book to book out the said suspect. Captain Maluleke arrived and was driving a Nissan Hard body Double Cab.

Captain Maluleke told the officer at the Service Centre the name of the suspect and the suspect by the name of Prichard Chuma was brought to him. Captain Maluleke handcuffed the suspect and took him to the BMW. He then drove the vehicle being escorted by Captain Maluleke. He did not know what the suspect was wanted for and that he was just carrying out the request of his commander. He was told by Captain Maluleke that the suspected should be taken to Silverton Police station. He drove the suspect to Silverton where he was booked in the cells. He does not remember whether he booked the suspect himself or Captain Maluleke did it. After booking the suspect Captain Maluleke told him that on 24/11/2010 he must assist in escorting the suspect to Musina.

On 24/11/2010 he went to Silverton DPCI's office as directed telephonically by Captain Maluleke. When he arrived the following day, he discovered that the suspect he transported the previous day was no longer in the cells in Silverton Police Station but with Captain Maluleke. He was then brought to his vehicle and after he sat down, Captain Maluleke placed iron legs on him. They then drove to Musina while Captain Maluleke was providing escort. Captain Maluleke was in the company of a female person not known to him.

On arrival at Musina Captain Maluleke signaled using the head lights that they have to proceed straight to the border. He then proceeded to the border and when they arrived, they found the entry gate having a long queue. He used the exit gate as entrance gate. The police stopped them before they proceeded any further but when he put the blue light of his vehicle on, they gave way. He stopped in front of the police station at Beit Bridge and Captain Maluleke came over to his car, released iron legs from the suspect and headed to the Community Service Centre. He then went back and slept over in Polokwane.

Warrant officer Giyani John Sambo A59: He will state that on 23/11/2010 he was officially on duty at Silverton Police station when Detective Warrant Officer Selepe brought a black male Prichard Chuma. The prisoner was booked in as a transit without body receipt. He will further state that W/O Selepe was with an unknown African male. On 24/11/2010 W/O Selepe came and book out the prisoner Prichard Chuma from Silverton Police station to Beit Bridge under Bulawayo Case number 1337/11/2010. The same prisoner was received by the African male who was with W/O Selepe the previous day and he signed the Occurrence Book as a Captain.

McIntosh Polela A76: He will state that in December 2010 to May 2013 he was employed by South African Police Services as a spokesperson for the DPCI. He was reporting directly to Lt General Dramat and Brigadier Mashigo. He will further state that he remember one time being introduced to the Zimbabwean Police who were having a meeting with General Dramat. He cannot remember when and how the meeting was conducted since he was not part of the meeting. In 2011 he received an inquiry from Mzilikazi wa Africa who wanted to be clarified of renditions of Zimbabwean nationals. A meeting was held between him and Lt General Dramat, Col Basi and Captain Maluleke to discuss the issue. During the meeting Captain Maluleke denied to have handed any person to Zimbabwean Authorities without the involvement of Home Affairs. Lt General Dramat also denied having known any renditions of the Zimbabwean nationals. He will further state that he telephonically contacted Major General Sibiyi to find out whether he knew about the renditions of Zimbabwean nationals and he denied having knowledge of such. He will further state that he does not remember an incident in which he moved from house number to house number three at the DPCI office and Lt General Dramat addressing the people about the arrest of the Zimbabwean nationals.

Masocha Rodgers Nthlamu A80: he will state that on 11/11/2011 he received an investigation from his commander Colonel Basi by giving him a copy of a newspaper article that reads "HAWKS AND SA POLICE ARRESTING SUSPECTS AND SENDING THEM OVER THE BORDER TO BE MURDERED". He will further state that he investigated the case by interviewing members of the Hawks Lt Col Maluleke who also gave him copies of warrants of detentions of the following individuals, Dumisai Witness Ndeya born 1987/05/10, Nelson Ndlovu born 1985/11/14, Maqhawe Sibanda born 1988/07/13 and Shepard Chuma born 1988/07/15. He also approached Interpol and checked whether the above suspects were on the list of wanted suspects. He obtained the statement of Lt Col Neethling, Major General Sibiyi, and Mr WCR Voster. He will further state that during the investigation he was unable to find the person who leaked the documents to the media.

4.6 STATEMENTS OF TRT MEMBERS WHO ASSISTED IN THE ARREST OF JOHNSON NYONI.

Avhashoni Desmond Takalani A62: He is employed by the South African Police Services in Gauteng stationed at Johannesburg Central Police station under the TRT unit. On 2011/01/12 at 11h00 in the morning he was on duty in a full uniform posted at Diepsloot for Crime Prevention purpose. While busy with his duties with other members of TRT unit from Johannesburg Central, they received a request from members of the Hawks (DPCI) TOMS who were at Diepsloot SAPS to provide backup in the arrest of wanted suspect. When they arrived at Diepsloot SAPS, he decided to remain outside while others were briefed inside the station. From the station the vehicles proceeded to the Squatter Camp. Along the way his co-workers informed him that there was a suspect who was being traced at the Squatter Camp.

When they arrived at the place where the suspect was, he remained inside the vehicle because it was raining and he did not have a rain coat. He saw the suspect when they brought him to the vehicle. After members of the Hawks and Crime Intelligence who were unknown to him arrested the suspect, they were requested to escort the suspect to Silverton DPCI offices. They escorted the suspect and at Silverton DPCI offices he saw Captain Maluleke who was wearing a Cowboy hat with two unknown African males who were travelling in a white BMW with Zimbabwean registration numbers. Captain Maluleke further said that they were Zimbabwean police who came to take the suspect, referring to the suspect whom they had just arrested at Diepsloot.

While they were with the suspect, he told them that some weeks back he was in Zimbabwe attending a funeral of some of the people he committed crime with and also knew they were after him. He was telling them when Captain Maluleke and Zimbabwean police were inside the offices.

They were requested to take the suspect to Pretoria Moot SAPS for detention. Before they went to Pretoria Moot SAPS, photos of all members involved in the operation were taken. When they arrived at Pretoria Moot Polices station, Captain Maluleke detained the suspect and they then knocked off.

Johannes Mpati Moatshi A61: He will state that in January 2011 he was on duty posted at Diepsloot as a result of xenophobic violence prevalent at the time. At 13h00 on that particular day, he received a call via two ways radio from his commander to go Diepsloot police station. When he arrived with his colleagues he found the commander of Diepsloot Police station who introduced them to Captain Maluleke who was with two males persons and a female. The two male persons and a female were introduced as members of Crime Intelligence. Captain Maluleke informed them that there is a person who has committed serious cases in Zimbabwe and he is very dangerous. Captain Maluleke further said that the suspect was with the informer and had to be arrested. He will further state that they went into Diepsloot where the suspect and the informer were pointed out. After the arrest of the suspect they went to a certain shack where members of Crime Intelligence conducted a search but nothing was found. They were told by Captain Maluleke to transport the suspect to DPCI offices in Silverton. At Silverton Captain Maluleke requested them to book the suspect at Moot Police with the instruction that no visitor is allowed for the suspect. He cannot remember the name of the suspect but he remembers taking photos with the officers from Zimbabwe.

Sello John Phaswana A64: His statement corroborates that of Avhashoni Desmond Takalani in all material aspects.

Tshatoa Jacob Seletela A63: His statement corroborates that of Avhashoni Desmond Takalani and that of Sello John Phaswana in all material aspects.

Matsobane Silas Mokoatlo A78: His statement corroborates that of Avhashoni Desmond Takalani and that of Sello John Phaswana as well that of Tshatoa Jacob Seletela.

Andries Nxumalo A65: will state that around 11 or 26 January 2011 he was working in Diepsloot as a result of xenophobic violence at that time. He heard over the radio that they were wanted at Diepsloot Police station. When he arrived at the station he found Captain Maluleke, two male officers and one female who were introduced to him as members of Crime Intelligence. He will further state that Captain Maluleke requested them to assist in the arrest of Zimbabwean National who committed serious crimes in Zimbabwe. Together with his colleagues they went to a section in Diepsloot where the suspect was said to reside. The suspect was arrested and taken to DPCI offices in Silverton; he participated in a photo shoot with members of Zimbabwean Police. After the photo shoot, they took the suspect to Moot Police station for detention.

Constable Hosea Tshabalala A83: He will state that on 26/11/2011 he was officially on duty posted at Diepsloot. While still on duty was requested together with his colleagues to assist them in tracing a suspect who was involved in the murder of Zimbabwean Colonel in Zimbabwe. Constable Rikhotso and his female co-worker briefed them that the suspect was with the informer. When they arrived at the exact place, they found the suspect standing in front of the tuck-shop. They arrested him and took him to his room where they found a woman with a small baby. Constable Rikhotso and his female colleague search the room. The suspect was taken to Silverton at the DPCI offices where they found two Zimbabwean police officers. He will further state that the suspect informed him that some few weeks while he was in Zimbabwe he attended the funeral of his colleague who was killed by the Zimbabwean police and the same Zimbabwean police will kill him when he arrive in Zimbabwe. He was requested to detain the suspect at Moot police but he cannot remember the person who made the request.

4.7. STATEMENTS OF CRIME INTELLIGENCE MEMBERS WHO TRACED AND ARRESTED GORDON DUBE AND JOHNSON NYONI.

Masingita Rikhotso A67: He will state that in January 2011 of which he cannot remember the exact date he went to Wierdabrug police station at the CIAC office which is responsible for profiling and identification of crime hot spots. When he arrived he found Constable Sombhane who was working at the CIAC office. Constable Sombhane gave him a list of wanted suspects and on top of the list was Gordon Dube who was wanted in connection with murder in Zimbabwe and robberies in South Africa. He came back to his office and organized with his contacts to look for Gordon Dube. It took two weeks for the contact to trace the suspect. He will further state that his contact informed him that he found Gordon Dube and together with his colleagues they went to Thembisa in order to apprehend the suspect. He was informed that the suspect will be

coming since he wanted to buy bullets from someone. He will further state that while they were in Thembisa and they managed to spot the suspect. When he moved they pursued him until they arrested him in Diepsloot. They found the suspect in possession of an unlicensed firearm. He saw the same firearm with Captain Maluleke at the Hawks offices after it was returned from the ballistics. The suspect was taken to Wierdabrug for detention. Again in January 2011 he received information from Captain Maluleke who requested him to look for John Nyoni. He then tasked his informer again to assist in the arrest of Nyoni. On 26/11/2011 he went to Diepsloot having organized with his Contact to arrest John Nyoni. When he arrived the Contact pointed out the suspect and he was arrested. After they arrested John Nyoni, his house was searched but nothing was found. They took the suspect to Silverton DPCI offices. They were assisted by members of TRT. He will further state that he participated in the photo shoot with the Zimbabwean police. He also heard Captain Maluleke requesting members of the TRT to take the suspect to Moot Police station.

Platinah Mokgobu A69: She will state that she is employed by the South African Police Services stationed at Crime Intelligence in Pretoria with a rank of Constable. On 12/01/2011 while in the office they received information from their Contact/Informer and he tipped them off about a crime that was going to take place at Diepsloot. They then proceeded there with a backup of members from Ivory Park Police Station where they effected an arrest on Gordon Dube at Diepsloot.

In January 2011 they received information from CIAC at Wierdeburch regarding the wanted suspect John Nyoni. The person they liaised with at CIAC was Constable Sombhane who also gave them the number of Captain Maluleke. She also spoke to Maluleke over the phone while they were there. They then drove to the Hawks offices to meet with Captain Maluleke who told them that the suspect has murdered a police officer in Zimbabwe.

They then tasked their Contact/Informer to look for the suspect, who did and the suspect was arrested. After the arrest of John Nyoni, they all proceeded to the Hawks offices where they gathered together for a photo shoot. Captain Maluleke exchanged the taking of photos with the Zimbabwean police. The photo of the suspect was also taken and the exhibit which is a firearm was also photographed. After the photo shoot she went to the shop, but when she came back she was told that General Dramat was with Colonel McIntosh and he had just addressed the people in her absence. She felt that she missed out on the speech of General Dramat but her colleagues told her that he was just congratulating them for a job well done.

Superintendent Ncube from Zimbabwe who was wearing a black shirt and spectacles told us that he will be sending us letters of congratulation from Zimbabwe. She still recalls that later they were called by Brigadier Britz from Crime Intelligence Provincial office, and he showed them an appreciation letter from the Zimbabwean government. He told them that they would be called by Provincial Commissioner Mzwandile Petros to meet with them as a result of their good work. She does not know what happened to John Nyoni thereafter.

Emmanuel Dinizulu Mkasibe A68: His statement corroborates that of Platinah Mokgobu in all material aspects. He will state further that shortly after the photos were taken, he saw General Dramat of the Hawks. General Dramat was with the spokesperson of the Hawks known to him as Colonel McIntosh Polelo. They then

gathered together and Captain Maluleke introduced General Dramat and the spokesperson. General Dramat addressed and thanked them for arresting the suspect. After he said that he left and Captain Maluleke told us that he was organizing a celebration braai. While they were busy enjoying themselves, a lady working at the Hawks offices with Captain Maluleke came and joined them. She wanted the meat to take home because there was too much meat. She was requested to download the photos from the camera by Captain Maluleke.

He will state further that he then decided to follow her to the office. When she downloaded the photos he requested her to print the photos for him. She agreed and printed many photos which he took home and still have them even now.

Constable Polelo Fortune Mngwenya A75: He will state under oath that on the 26/01/2011 he was called by his colleagues after the arrest of Johnson Nyoni to join them at DPCI offices in Silverton for a braai. He will further state that when he arrived he found Zimbabwean police and some of his colleagues participating in a photo shoot. Shortly after the photo shoot Lt General Dramat came and thanked them for the job well done.

Statement of Brigadier A G Britz of Crime Intelligence A79: He will state that During January and February 2011, Constable Rikholso and his female colleague visited his office and informed him that they arrested two Zimbabweans who were involved in a spate of arm robberies and recovered a firearm. He congratulated them without enquiring the details of the case. In March 2011 he received a letter which was addressed to Col Ntenti from CID Provincial Headquarters in Zimbabwe Bulawayo-Zimbabwe. A copy of the letter is attached to his statement. He then arranged with Col Ntenti to send the officers to the next Crime Intelligence Provincial Management meeting in order for them to be congratulated. After the management meeting he also wrote a letter to Lt General Toka's signature to the Provincial Commissioner in order for him to congratulate the members. On 15/07/2011 he received four letters from the Provincial Commissioner thanking members for good work. He will further state that he had no prior knowledge that the suspects arrested were wanted in connection with the murder of Zimbabwean police.

STATEMENTS OF DIEPSLOOT SAPS MEMBERS REGARDING GORDON DUBE

Avhasei Witness Rambuda A72: He will state that in January 2011 he was working Diepsloot as a Detective. There were three suspects who were arrested after they were involved in the shooting incident with the police. They recovered a firearm which was booked into SAPS 13 and received exhibit number SAPS 13/31/2011. He was involved in the charging of the suspects and they were attending court at Attridgeville.

After some few days he received a call from Captain Maluleke of the Hawks asking him to go to Ballistic Pretoria and collect the firearm as he had already made arrangement with them. He collected the firearm and handed it Captain Maluleke. Captain Maluleke told him that he has a case he is investigation against one of the suspects. He informed him that the firearm belongs to Zimbabwe. He typed a letter a letter on his computer acknowledging the firearm but he does not remember where he put the letter.

He will further state that Captain Maluleke told him that he had made an arrangement with the prosecutor at Atteridgeville to withdraw the case so that he could be able to transport the suspect and the firearm to Zimbabwe.

Warrant Officer Isaac Dlamini A70: He will state that in January 2011 docket Diepsloot Cas 93/01/2011 was assigned to him for further investigation. The docket had three suspect arrested for possession of unlicensed firearm and ammunition. The names of the suspects were Menzi Dube, God Dube and Sidingumunzi Dumani. He received a call from "Cowboy" Maluleke of the Hawks to hand the Case dockets Diepsloot Cas 93/01/2011 to his office in Silverton. He said the docket had to be investigated together with other dockets wherein God Dube is a suspect. He further said that the firearm which is an exhibit in his docket was used to kill a senior officer in Zimbabwe. Captain Maluleke took the docket and gave them acknowledgement of receipt.

He will further state that Captain Cowboy in the presence of Constable Rambuda told him that he will facilitate the release of the suspect from prison and he will talk to the Prosecutor to withdraw the case. After sometimes seeing that the docket was under his name, he opened a duplicate and sent it to the prosecutor. The prosecutor decided to decline to prosecute and the duplicate docket was filed.

Lean Meyer A73: He will state that he was investigating several cases wherein Godi Dube was a suspect. The cases were as follows, Wierdabrug Cas 531/12/2010, Wierdabrug Cas 220/02/2010, Wierdabrug Cas 147/11/2010, Wierdabrug Cas 1022/12/2010, Wierdabrug Cas 310/10/2010 and Diepsloot 93/01/2011. He was informed by Captain Maluleke from the Hawks that suspect Alfred Godi Dube was also wanted in Zimbabwe. According to Maluleke he was also wanted for murder as per Bulawayo CR 438/09/2010. He will further state that he booked out suspect Godi Dube and handed him to Captain Maluleke. Captain Maluleke informed him that suspect Gordon Dube will be handed over to the Zimbabwean government through Immigration channels.

Sindy Daisy Dorcus Sombhane A74: She will state that during 2010 and 2011 she was based at Wierdabrug attached to Crime Intelligence unit. During 2010 she gave Constable Rikhotso a list of wanted suspects in Wierdabrug. She also met Captain Maluleke at Wierdabrug who told her that he is looking for a suspect known as Godi Dube. She contacted Constable Rikhotso and informed him that Captain Maluleke was at Wierdabrug inquiring about Godi Dube. She gave him the contact numbers of Captain Maluleke.

She will further state that on the 11/01/2011 she saw the name of Godi Dube on the cell Register and decided to call Constable Rikhotso. Constable Rikhotso confirmed that he arrested Godi Dube the previous night (11/01/2011). She went to the cells and interviewed Godi Dube who said he would get a lawyer because the police assaulted him.

5. DOCUMENTARY EVIDENCE ACQUIRED FROM VARIOUS POLICE STATIONS

5.1.1. EXTRACTS FROM OCCURRENCE BOOKS & SAPS 14 REGISTERS

The investigation at Orlando Police Station uncovered the following:

Specific reference to OB 276 to 279 (A8): The entries made from 04h10 of 06/11/2010 to 12h00 of the 08/11/2010 confirm that Captain M L Maluleke of the DPCI with force number 0622729518 arrested Dumisani Witness Ndeya, Nelson Ndlovu, Maqhabane Sibanda and Shepard Chuma.

Specific Reference to OB 429 (A9): Entry made at 11h00 of 08/11/2010 confirm that that Captain M L Maluleke of the DPCI with cell number 0827729518 booked out Dumisani Witness Ndeya, Nelson Ndlovu, Maqhabane Sibanda and Shepard Chuma to Beit Bridge.

SAPS 14 (A10) : The cell register dated 2010/11/05 to 2010/11/08 indicates that the following suspects were charged and detained, Dumisani Witness Ndeya, Nelson Ndlovu, Maqhabane Sibanda, Shepard Chuma. The reason for detention of the suspects as per register is stated as 'illegal immigrants'. The entry was made by Sergeant Thomas Pixane Setage who also later confirmed this in a sworn statement.

The investigation at Alexandra Police Station uncovered the following:

OB entry 22/11/10 (A57/1): The entry made on 22/11/2010 shows the booking of Prichard Chuma by Captain Nkosi. However Nkosi wrote the name and contact numbers of Captain Maluleke as the person who is the Investigating Officer of the case.

OB entry 23/11/2010 (A57/2): The entry dated 23/08/2010 shows the booking out of Prichard Chuma by Warrant Officer Selepe.

The Investigation at Silverton Police Station uncovered the following:

OB entry 23/11/12 A58/1: Warrant Officer Selepe booked in Prichard Chuma at Silverton Police station with Bulawayo case number.

OB entry 24/11/2012 A58/2: Warrant officer Selepe booked out Chuma to Beit Bridge. However Captain Maluleke also signed, acknowledging the release of Prichard Chuma into his hands/custody.

The investigation at Pretoria Moot Police station uncovered the following:

OB entry 26/01/11 (A66/1): Warrant Officer Johannes Mpati Moalshi booked in Johnson Nyoni by the instruction of Captain Maluleke for Fraud.

OB entry 28/01/11 (A66/2): Captain Maluleke booked out Johnson Nyoni to Beit Bridge for Fraud.

SAPS 14: Captain Maluleke appended his signature on the entry and it shows that the release of Johnson Nyoni to Captain Maluleke was for extradition purpose.

The investigation at Wierdabrug Police Station uncovered the following:

OB entry 12/01/12 (A71/1): Gordon Dube, Andrew Dube, Dumani Stimusy were detained for possession of unlicensed firearm. The same firearm was found to belong to the murdered Zimbabwean Police Officer.

Body Receipts SAPS 216 (A71/2): They show that Gordon Dube, Andrew Dube and Dumani Stimusy were received from court on 14/01/2011 together but on 28/01/2011 Gordon Dube was not amongst the other suspects. Pretoria Prison records show that Dube was release on the 28th January 2013 to Constable Meyer of Wierdabrug Police station.

Copies of case dockets linking Gordon Dube, which were discontinued after Gordon Dube's deportation (B20).

Diepsloot Cas 93/01/2011:

The case docket was opened after Gordon Dube was found in possession of an unlicensed firearm. The original docket was handed to Captain Maluleke and a duplicate docket had to be constructed without some of the statements in the original docket. The suspect Gordon Dube was attending court in terms of admission detail report of Pretoria Central Correctional Services and the body receipt form both filed as per A84/1 and A84/2 respectively.

Wierdabrug Cas 531/12/2010:

The case docket was opened after Gordon Dube allegedly robbed a certain business at Olievenhoutbosch where a shot was fired. An empty cartridge was successfully linked with a firearm which Gordon Dube was found in possession off in Diepsloot Cas 93/01/2011. There is also a copy of a statement made by Captain Maluleke indicating that because of the seriousness of the cases committed by Gordon Dube in Zimbabwe, Dube was handed over to Zimbabwean Government and he was sentenced to life imprisonment.

Wierdabrug Cas 220/02/2010:

The case docket was opened after Gordon Dube allegedly murdered a person at Serebeli area. The projectile found in the body of the deceased was linked to the firearm recovered from Gordon Dube during his arrest as per Diepsloot Cas 93/01/2011. Gordon Dube was still attending court with the next court date set for 30/03/2011. Captain Maluleke also submitted a statement in which he indicated that because of the seriousness of the cases committed by Gordon Dube in Zimbabwe, Dube was handed over to Zimbabwean Government and he was sentenced to life imprisonment.

Wierdabrug Cas 43/10/2010:

This murder case docket links Gordon Dube through cell records and ballistic result. Captain Maluleke also submitted a statement in which he indicated that because of the seriousness of the cases committed by Gordon Dube in Zimbabwe, Dube was handed over to Zimbabwean Government and he was sentenced to life imprisonment.

Wierdabrug Cas 147/10/2010

This attempted murder docket links through ballistic result. Captain Maluleke also submitted a statement in which he indicated that because of the seriousness of the cases committed by Gordon Dube in Zimbabwe, Dube was handed over to Zimbabwean Government and he was sentenced to life imprisonment.

Wierdabrug Cas 1022/12/2010:

No docket or copies could be found regarding this case.

Wierdabrug Cas 310/10/2010:

This is house robbery case linked to Gordon.

5.2 DOCUMETARY EVIDENCE ACQUIRED FROM DPCI OFFICES.

Success report dated 04/02/2011 (A82/3): The report was addressed to General Dramat, General Hlatshwayo and General Toka with a heading that reads, "CONSOLIDATED SUCCESS REPORT: MOST WANTED FUGITIVE: WANTED FOR MURDER AND ROBBERY: DPCI TOMS REF: 3/12/2010: AND ZIMBABWE (BULAWAYO CR 348/09/2010): WITNESS DUMISANI NKOSI@NDEYA: ZIMBABWEAN NATIONALS AND OTHERS.

The report also covers the arrest of Gordon Dube and appreciation of TRT members and members of Crime Intelligence.

Success report dated 11/11/2013 (A82/1-82/2): The report bears reference number 26/02/1 and again addressed to Deputy National Commissioner DPCI. The person to whom enquiries must be directed is Captain Maluleke whereas the signatory is Col P J Selundu. The report further stated the arrest of Dumisani Witness Vundla @ Ndeya and Shepard Chuma.

Overtime and Itineraries of Captain Maluleke (B18): On 08/11/2010 went to Beit Bridge (Limpopo) for investigation and claimed overtime. On 24/11/2010 he went to Beit Bridge and also claimed overtime. On 28/01/2011 he went to Beit Bridge and also claimed overtime. All this dates corresponds with cellphone records and OB entries indicating the dates in which the suspects were booked out from the stations.

5.3 EVIDENCE ACQUIRED FROM CAPTAIN MALULEKE'S SEIZED LAPTOP (A87).

Success report ref: 26/2/11 and 14/02/01: They were generated in Captain Maluleke's laptop before being signed by Col L Verster and forwarded to General Dramat. The report recovered from the computer has a different reference number but same content. Report 14/02/01 has reference 0627239-8/5

Letter to Diepsloot Station Commander: The recovered letter states that the firearm which was found in Gordon Dube's possession and handed to Captain Maluleke after ballistic examination was taken to Zimbabwe permanently.

Emails by Captain Maluleke: He sent e-mails circulating more than 20 photos of both the suspects arrested and the members involved in the operation. He sent email to Zimbabwean police trying to find out how they travelled back home and that he is still tracing the remaining suspects..

Photos: More than 70 photos were found, the majority of them relate to the operation involving Zimbabwean Nationals. Zimbabwean police appear on the photos and the white BMW with clear Zimbabwean registration number.

Letter to Home Affairs dated 08/11/2010: The letter was addressed to home affairs requesting assistance in the Deportation of the Zimbabwean nationals involved in the murder of Zimbabwean police. Even though the letter is dated 08/11/2010, it was generated in November 2011, shortly after the news about illegal deportation of Zimbabwean nationals hit the media.

Letter to stakeholders dated 20/08/2012: The letter was generated the same day indicating the trip to Zimbabwe to discuss matters of cooperation on cross border crimes.

Documents regarding Bongani Moyo's case: This case is separate from the events that led to the arrest and deportation of the Zimbabwean Nationals into the hands of Zimbabwean authority. However it is a clear case of return of favor by Zimbabwean authorities to South Africa. In terms of the documents retrieved, Bongani Moyo escaped from Boksburg prison on 2011/03/28, a month and half after South Africa deported illegally the Zimbabwean nationals who were wanted by Zimbabwean authorities. An amount of R50 000 rewards was also provided for any information that could lead to the arrest of Moyo. Captain Maluleke stated that his informer told him that Moyo was on his way to cross the border in South Africa after being shot by Zimbabwean police. According to the formal statement of Captain Maluleke, he arrested Moyo on the 13/05/2011 after he was found in the vehicle that crossed the border into South Africa. The other information retrieved provides contrary account of what happened. In a letter he states that he went to Zimbabwe and conducted an operation with Zimbabwean police at Moyo's home village on 11/05/2011. Moyo was subsequently shot at transported to the border with the help of Zimbabwean police.

Statement of Bongani Moyo: he will state under oath that in May 2011 he was in Zimbabwe Bulawayo busy speaking over the cellphone when Zimbabwean police arrived at his house. After identifying him they assaulted him and handcuffed him. They put him in the bakkie and drove to the bush, where they ordered him to lie down. They

then shot him on both knees. He was then taken to Central Hospital in Zimbabwe where he was treated before released to the hands of the Zimbabwean Police. After being released he was transported to Beit Bridge by seven Zimbabwean police. He will further state that they were travelling in a white Toyota Fortuner and he was handed to the South African Police at Beit Bridge.

5.4 DOCUMENTARY EVIDENCE FROM HOME AFFAIRS

Warrant of Detention of Illegal Foreigners (BI-1725) – This document was produced by the SAPS as a proof that Shepard Chuma, Witness Ndeya and Nelson Ndlovu were detained for being illegal foreigners and they were seen by an Immigration Officer. However the signature that appears on the docket does not belong to any member of Home Affairs in Gauteng and the appointment number 037152 does not exist. It was also uncovered that the BI-1725 used was discontinued in 2008 according to Home Affairs and in 2010 it was no longer part of the official documents of Home Affairs. The stamp on both documents clearly shows that whosoever completed the document used the old form already completed and deleted affiliated information to put the information of the three foreign nationals. The handwriting expert in her findings has indicated that the signature in each document does not resemble the sampled signature provided by members of Home Affairs.

Notification of The Deportation of an Illegal Foreigner (DHA-1689) documents were produced by SAPS as proof that the Nelson Ndlovu, Shepard Chuma and Maqhawe Sibanda were deported through Beit Bridge Border. However the form has been wrongly stamped and does not have finger prints of the deportee as required. The stamp number 20 belonging to Beit Bridge was used and such stamp is not for that purpose. The stamp is individualized and belongs to Immigration Officer Kobelo Margret Mohlahlo who on the day in which the stamp was used was off duty and the stamp was locked in the safe, she is the only person in possession of the key to the safe.

Beit Bridge Duty Roster – This is a duty register used by Immigration Officers at Beit Bridge. The register confirms that Immigration Officer Kobelo Margret Mohlahlo was off duty on 7th and 8th of November 2010.

Beit Bridge Movement data: The data entails information pertaining to the entry and exit of people who were identified by Colonel Madilonga as members of Zimbabwean police who approached him with a request to see Lt General Dramat.

Expert report on the Home Affairs Documents A81/1 and A81/2: The documents which were handed by Col Basi which are Notification of the deportation of the Illegal Foreigner and Warrant of Detention were sent to the forensic laboratory for analysis.

5.5 EVIDENCE IN TERMS OF SECTION 205 OF THE CRIMINALPROCEDURE ACT.**CELLPHONE RECORD OF MAJOR GENERAL SIBIYA (0725953168) AND (0724798484)**

Reason for 205 application	Findings
<i>To test the version of the witnesses who alleged to have seen Major General Sibiya at the crime scene</i>	<i>Major General Sibiya was never at the crimes scenes or planning area as alleged by members of Crime Intelligence.</i>

CELLPHONE RECORD OF LT GENERAL DRAMAT (0825515311)

Reason for 205 application	Findings
<i>To verify whether he had interaction with the Zimbabwean Authority regarding the arrests of Zimbabwean Nationals. To clarify as alleged by the witnesses whether he received Zimbabwean police in relation to the murder case of a senior officer in Zimbabwe</i>	<i>The entire cellphone record of Lt General Dramat does show any interaction with the Zimbabwean counterparts. However the fact that Zimbabwean police might have entered the country is confirmed by photographs but there is no evidence that they were with Lt General Dramat. The photos show them with members of the TRT, Captain Maluleke and members of Crime Intelligence.</i>

CELLPHONE RECORD OF MAJOR GENERAL HLATSWAYO (0828051210)

Reason for 205 application	Findings
<i>To test the version that Captain Maluleke was reporting direct to Major General Hlatshwayo regarding cross border issues. During the interview with the said General she denied having known about the Zimbabwean police and requested us to do apply for 205 in order to clear her name.</i>	<i>Her interaction with Captain Maluleke confirms her version that she did not know anything about the arrest and deportations of Zimbabwean Nationals. She was never at the scene or at Fourways Shopping center where the alleged planning took place.</i>

CELLPHONE RECORD OF LT GENERAL LEBEYA (0825751899)

Reason for 205 application	Findings
<i>To verify the automated SMS send by Major General Sibiya and whether when he signed on one of the success report he had more information about the operation.</i>	<i>The evidence shows that he did not know anything about the operation that led to the arrest of the Zimbabwean Nationals.</i>

CELLPHONE RECORD OF CAPTAIN MALULEKE (082 7729518)

Reason for 205 application	Findings
<i>To test the version of the witnesses who alleged that Captain Maluleke led the operations that led to the arrest of Zimbabwean Nationals</i>	<i>There is prima facie case against Captain Maluleke.</i>

CELLPHONE RECORD OF CAPTAIN NKOSI, W/O MAKOE AND CONSTABLE RADEBE (0834373227), (0723050697), (0824198303) AND (0737313808).

Reason for 205 application	Findings
To test the version of the witnesses who alleged that they were at the crime scenes and they took money and assaulted the Zimbabwean Nationals.	The record confirms that they were at the scene even though the allegation of theft is not corroborated

CELLPHONE RECORD OF LT COL MADILONGA (078 520 9741) AND (0713550548)

Reason for 205 application	Findings
To test his version in which he alleged that he received a call from Captain Maluleke on 08/11/2010 regarding the deportation of Zimbabwean Nationals	Their interaction confirms the version of Madilonga.

5.6 STATEMENTS OF SENIOR MEMBERS OF SAPS AND SECRETARIAT

Lt General Mkhwanazi A99: He will state that in late 2011 when he was an acting National Commissioner of South African Police Services, he heard on the news when Minister Radebe was commenting about the alleged death of Zimbabwean Citizens as a result of being handed to the Zimbabwean Authorities by South African Police Services. He immediately contacted the Head of the DPCI Lt General Dramat and inquired about the issue. Lt General Dramat confirmed that members of his unit did transport the Zimbabwean Citizens but as illegal immigrants. He then summoned Lt General Dramat to his office. Lt General Dramat came with an officer who was introduced to him as "Cowboy". He was informed that Cowboy was in charge of the group that transported the Zimbabwean Citizens. Cowboy said that he was investigating a case of ATM bombing which led him to the Zimbabwean Citizens. After he realized they were not linked to the case he decided to transport them to Beit Bridge because they did not have valid documents. Cowboy further said that he got valid deportation documents from Home Affairs before he could transport them. He will further state that he could not understand why Cowboy did not hand over the immigrants to Home Affairs. When he asked whether it was necessary to transport illegal immigrants, Lt General Dramat could not offer any explanation.

Lt General Lebeza A97: He will state that when he commented on the success report regarding the Zimbabwean Nationals arrested, he only did it as a practice. He will further state that Major General Sibiyi has an automated messaging which includes his number wherein automated success report or information is sent. He cannot remember what all the messages were about, which he received on 05/11/2010.

Ms. Jennifer Irish-Qhobosheane A100: She will state that she is the Head of the Civilian Secretariat and the Secretary of Police. She became aware of the allegations

of renditions on 22/10/2011 when she saw an article in a Sunday Times newspaper entitled, "journey to death in an unmarked car". The Minister requested a detailed response from the DPCI to be submitted to him in writing. She received two official responses in a form of information notes to the Minister. Based on the different information supplied to the Minister of Police, the Minister felt that the matter needed further inquiry to establish whether there is any evidence that the SAPS might have violated international laws and procedures and/or South African laws.

Warning Statement of Lt General Dramat A94/1: He will state that he is the Deputy National Commissioner of the South African Police Services. He unequivocally point out that at no stage during his correct role as the National Head of the DPCI did he ever personally authorize the unlawful and intentional depriving of a person liberty, or movement, and/or his custodians of control on any basis whatsoever.

He will further state that never authorized anyone or sanctioned the kidnapping any of the Zimbabwean Nationals. He knows of no action that he took or authorize which was aimed at defeating the administration of Justice.

Warning Statement of Major General Sibiya A101: He will state that he was never appointed as the head of TOMS. However he received reports from his members regarding successes as routine. He was never part of the operation that arrested the Zimbabwean National who was wanted in connection with the murder of Zimbabwean Colonel in Zimbabwe.

Warning statement of Lt Col Mahlangu Maluleke A88: He exercised his right to remain silent.

5.7 STATEMENT ON HOW DIEPSLOOT Cas 390/07/2011 WAS INVESTIGATED

Innocent Humbulani Khuba A102: He will state that he is a member of Independent Police Investigative Directorate base in Limpopo. On 23 October 2012 he received a case docket from Mr. Sesoko and appointment letter to conduct investigation in all cases of alleged assault against Major General Sibiya. The docket received is Diepsloot Cas 390/07/2012. He also received a copy of the letter which was sent to Mr Sesoko by Major General Sibiya complaining about the conduct of North West Task Team which was tasked to investigate cases against him including Diepsloot Cas 390/07/2012. He was informed by Mr Sesoko who was the National head of IPID of investigation that the reason he was appointed to be the new Task Team Leader was that Major General Sibiya complained against the North West Task Team. He was advised to assemble a team that would assist me in the investigation of these cases. The team assembled comprised of the following individuals, Mr Kenneth Ratshitali, Mr. L Maphetho, Mr N Mulaudzi and Mr T Mashaphu who are all investigators from Limpopo Provincial office. They worked under his guidance and took instructions directly from him as the team leader.

Upon his perusal of Diepsloot Cas 390/07/2012 and other accompanying documents, he discovered that the Independent Police Investigative Directorate received a complaint of alleged renditions involving members of the DPCI headed by Lt General Dramat from Civilian Secretariat. The case was reported as result of parliamentary

question by Cope Member of Parliament and an article by Sunday Times. The docket had following statements obtained by members of South African Police Services, the statement of Shepard Chuma, Maqhawe Sibanda, Nelson Ndlovu, Bongani Henry Yende, Petros Jawuke, Desmond Campbell, Alfred Ndobe, Andrew Mark Sampson, Reason Mhlawumbe Sibanda, Rachael Ncube, Brightness Nka Ncube, Madala Bhekisisa Nyoni and Sibongile Mpofu. There were also copies of Occurrence Book and cell Registers from Orlando police station regarding the detention and booking out of the following individuals, Dumisani Witness Ndeya, Nelson Ndlovu, Maqhawe Sibanda and Shepard Tshuma. There were also four Detention Warrants, four Deportations Notifications and a copy of Witness Ndeya's death certificate.

He took over the case for further investigation in terms of Section 206(6) of the Constitution of the Republic of South Africa which provides that, on receipt of a complaint lodged by a Provincial Executive, an Independent Complaints body established by the national legislation must investigate any alleged misconduct or offences allegedly committed by members of SAPS. It was also in terms of Section 28 (1) (f) and (h) of the Independent Police Investigative Directorate Act 1 of 2011 that the decision to investigate the case was made.

On 13 November 2012, a letter requesting an interview with Home Affairs officials and documents regarding the movement of people at Musina Beit Bridge port of entry was e-mailed to Mr. Ndlovu of the Deportation section at Home Affairs Head Office in Pretoria. On 08/02/2013 the permission was granted after he had a meeting with Mr. M Mathews, the Chief Director responsible for deportation and mending of Ports of Entry. Prior to the interview with Home Affairs officials, he visited Orlando Police station on 10/01/2013 and interviewed Brigadier Zangwa and other members stationed at Orlando. He received copies of the Occurrence Book and cell registers include a color copy of the Sunday Newspaper regarding the incident.

On 15/02/2013 he went to Home Affairs Department in Pretoria and interview Peter Ndwandwe and Nolwandle Qaba about the incident and process involved in the deportation of undocumented persons or illegal immigrants. He received a copy of DZP policy from Mr Ndwandwe and the Immigration Act. On 21/02/2013 he went to Soweto and obtained the statements of the following individuals, Johannes L. Broodryk, Patiswa Skosana and Job Jackson. Job Jackson who is the Manager of Lindela Holding facility for illegal immigrants gave him a printout of all people who were deported during the DZP period which covers the time of the alleged deportation of the Zimbabwean Nationals. The list is filed as A34 in the docket.

On 25/02/2013 he went to Beit Bridge and obtained a statement of Peter Eiberg. He also gave him an example used copy of Notice of Deportation which is filed as A38 and Duty Rooster for the period 5 November 2010 to 13 November 2010 which is filed as per A40. On 26/02/2013 he went to Turfloop and obtained statement of Magret Mohlahlo, an immigration officer whose stamp was allegedly used in the documents that resulted in deportation of Zimbabwean Nationals.

During the investigation of the case he visited the office of Lt General Dramat on 07/03/2013 and a meeting was held between Lt General Dramat and him. He will further state that at that stage the investigation had not uncovered any evidence relating to the involvement of Lt General Dramat or any other senior officer of DPCI. The meeting was held at Lt General Dramat's office which is located at Silverton.

During the meeting, Lt General Dramat was informed about the allegation of kidnapping and assault leveled against members of DCPCI most especially Captain Maluleke who is now a Lt Colonel. He said that he had sanctioned internal investigation in the matter and the outcome of the investigation cleared Lt Colonel Maluleke of any wrong doing. When I asked him whether they were any Zimbabwean police who visited the DPCI offices, he said that there were no Zimbabwean police who came into the country regarding the alleged matter and that all Zimbabwean Nationals were deported through Home Affairs for being illegal immigrants. Lt General Dramat was requested to provide statement with regard to the formation of TOMS, his knowledge about the DZP, source documents that informed the internal investigation, his report to parliament and knowledge about the involvement of Zimbabwean police in the operation of TOMS. He informed me that the request should be forwarded to Col Basi and he would hand all the necessary documents including his sworn statement to him.

On 07/03/2013, shortly after the meeting he generated and emailed a letter to Col Basi. On 19/04/2013 he met with Col Basi in front of the Interpol building on Pretorius Street in Pretoria. He handed to him a brown envelope containing following documents, cell phone records of Captain Maluleke, Lt Col Neethling and Major General Sibiya. There were also copies of sworn statements of, Willem Carel Stephenus Vorster, Andree Neethling, Captain Maluleke, Vincent Selotole, Major General Sibiya, Warrant Officer Makoe, Ndanduleni Madilonga and Warrant Officer Rodgers Nthlamu. Attached to the copy of the statement of Warrant Officer Nthlamu were copies of the following documents, Warrant of Detention (BI-1725) for the following individuals, Dumisani Witness Ndeya, Shepard Tshuma, Nelson Ndlovu and Maqhawe Sibanda. There were also four Notifications of the Deportation of an Illegal Foreigner (DHA-1689) for the following individuals, Nelson Ndlovu, Shepherd Chuma, Maqhawe Sibanda and Witness Ndeya. The Warrant of Detention and Notification of the Deportation forms attached to Warrant Officer Nthlamu statement appeared to be similar to the one received from Secretariat which were already part of the docket. The Warrants of Detentions and Notifications of Deportation received from Warrant Officer Nthlamu were the one sent to the Forensic Lab for analysis on 10/06/2013 and 21/08/2013. The documents given to him by Col Basi also include search result report from Interpol indicating that Dumisani Witness Ndeya, Nelson Ndlovu, Maqhawe Sibanda and Shepard Tshuma were not in the wanted list. However there was no statement of Lt General Dramat in the envelope handed to him. The documents handed to him are filed in the docket as per A41-A50.

In April 2013 he called Constable Radebe and Warrant Officer Makoe for the purpose of obtaining their warning statements. He never compelled anyone to implicate Senior Members of the DPCI. However, he informed them that they can arrange a service of a lawyer in order for them to be guided during the process. Shortly after speaking with them he received a call from Lt Col Maluleke who told me that he was not supposed to request warning statements from his people because on the day he arrested Zimbabwean Nationals he was the lead man and Constable Radebe and Warrant Officer Makoe were taking instructions from him. He informed him that he cannot answer on their behalf and that when his turn comes he will be informed accordingly. He will further state that on the day set for interview none of the above members came for the interview.

On 08/04/2013 he interviewed Ndanduleni Madilonga and obtained his statement. On 15/04/2012 he went to Beit Bridge and interview Col Radzilani and obtained her statement. The following day he interviewed Brigadier Makushu in Polokwane and obtained his statement.

On 27/06/2013 he interviewed Lt Col Neethling in his office and obtained his statement. On 29/06/2013 he met with Warrant Officer Selepe at East gate in Johannesburg and obtained his statement. After being provided with information regarding the arrest and the transportation of Prichard Chuma to the boarder, Silverton and Alexander original SAPS 10 (occurrence books) were uplifted. Copies of the SAPS 10 are filled in the docket as per A57 and A58.

On 10/07/2013 he met with Ms. L Verster at Protea-Coin for the interview. She gave information regarding the success reports resulting from the arrest of Witness Ndeya and other Zimbabwean Nationals. She also assisted him by phoning Supply Chain of DPCI and obtained the serial number of Captain Maluleke's laptop which he used during 2010 and 2011. On the same day he generated a letter to Col Mabuyela who was assigned by Brigadier Kadwa to assist him with documents or items needed from the DPCI offices for the purpose of investigation. He hand-delivered the letter to Col Mabuyela on 11/07/2013, requesting the following things, Dell Laptop with serial number CNOJF242486436BL3424 which was assigned to Lt Col Maluleke, approved overtime claims for Lt Col Maluleke for the following period 01/11/2010-31/01/2011, approved trip itineraries' for Lt Col Maluleke for the period 01/11/2010-31/01/2011, Telkom call record for Lt Col Maluleke for the period 01/11/2010-31/03/2011, record regarding the disposal and if not yet disposed, the handset used by Lt Col Maluleke, record of successes of operations conducted between 01/11/2010-31/03/2011 and logbooks of vehicles used by Lt Col Maluleke for the period 01/11/2010-28/02/2011. On 12/07/2013 he went to meet with Col Mabuyela and he received success reports which are filed as per A82/1-A83/3.

The success report filed as per A82/3 contains names of officials who assisted in the arrest of Gordon Dube who are members of TRT and Crime Intelligence. On 16/07/2013 he went to Johannesburg Central Police Station and obtained the statements of members of TRT. One of the members by the name of Avhashoni Desmond Takalani (A62/2) had photos at home of Johnson Nyoni and Zimbabwean Police. He went to his house on the same day and collected the two photos which are filed as per A62/1. On 18/07/2013, he emailed a letter to the Commander of Crime Intelligent Pretoria Central, Col Ntenti requesting interview with his members who are mentioned in success report dated 04/02/2011 (A82/3). On 25/07/2013 he went to Crime Intelligence offices in Pretoria and obtained the statements of the members. The interview with the members also revealed that the arrest of Gordon Dube and Johnson Nyoni was also known by Brigadier Britz. On 16/07/2013 a letter was generated and emailed to Brigadier Britz requesting a meeting for the purpose of interview and obtaining statement. He interview Brigadier Britz on 26/07/2013 and after the interview Brigadier Britz promised to write his own statement. He collected Brigadier Britz statement from his office on 22/08/2013 which is situated at Old Stock Exchange building in Johannesburg. He also received Report number GO-D-004-D which is admission details of Gordon Dube from Correctional Services which is filed as per A84/3 and SAPS 206 (body receipts) filed as per A81-A82.

He also discovered that Gordon Dube was facing number of charges in South Africa including murder. Statements of Isaac Dlamini and Avhashoni Rambau were obtained

in connection with Diepsloot Cas 93/01/2011 which they were investigating (A70 and A72). Original SAP 10 (Occurrence Book) was uplifted from Wierdabrug Police Station and copies are filed as per A71. Statement of Constable Meyer from Wierdabrug was obtained in relation to cases he was investigating against Gordon Dube and how he booked him out of prison and handed him to Captain Maluleke to be transported to Beit Bridge. He also obtained copies of the following dockets which are cases against Gordon Dube Diepsloot Cas 93/01/2011, Wierdabrug Cas 147/11/2010, Wierdabrug Cas 310/10/2010, Wierdabrug Cas 431/10/2010 and Wierdabrug Cas 531/12/2010. All the copies of the docket are filed under B22 (arch file).

On 16/07/2013, he received a Dell Laptop from Col Mabuyela and Warrant Officer Danie bearing serial number CNJF24286436BL3424. The Laptop was handed to Precision Forensics on 31/07/2013 at 18h00. The report from Precision Forensic was received on 22/08/2013 and is filed as per A89 (arch file).

In October 2013 he approached the Head of DPCI accompanied by Mr. Sesoko who was an Acting Head of investigation for IPID requested his warning statement. He was advised to seek an assistance of a lawyer for the purpose of guiding him before the warning statements is obtained. He agreed and informed them that he will telephonically contact Mr. Khuba regarding the suitable date. He will further state that he received a call from a person who introduced himself to him as Adv. P Seleka representing Lt General Dramat. He requested questions in writing and summary of the allegation which was e-mailed to him. After he received the questions, he was informed via e-mail that Lt General Dramat is represented by a new company and they will continue to liaise with him. He emailed the questions and after two weeks he received a copy of his statement and is file as per A94.

On 22/10/2013 he called Lt General Lebeya and requested an interview with regarding Renditions as his name appears on one of the success reports. On 23/10/2013 he met with Lt General Lebeya and interviewed him about the deportation of Zimbabwean Nationals in connection with the death of senior officer in Zimbabwe. After the interview he requested that he send questions in writing and that he would be able to respond to them. The questions were drafted and emailed to him the same day. On 07/11/2013 he received a call from his office to collect his statement including accompanying documents. The following documents were attached on his statement, copy of e-mail regarding documents requested from DPCI, mandate of TOMS, unsigned success report regarding Witness Ndeya and other success reports not related to the Diepsloot Cas 390/07/2012.

In November 2013 he engaged Captain Boonstra to arrange for a meeting between him and the two officers, Constable Radebe and Warrant Officer Makoe. Captain Boonstra informed him telephonically that he informed Warrant Officer Makoe and that Constable Radebe was attending training at Hamanskraal. He tried to contact him on 0737313808 for a warning statement but he was not reachable. In late November 2013, he again requested Captain Boonstra to assist but he informed him that the members were informed and they do not want to cooperate.

On 02 December 2013 he requested Principal Investigator Mr Mdunge based at East London IPID office to obtain a statement of Bongani Moyo who is serving his sentence at Kokstad Correctional Services A98. On 21/12/2013 he requested Mandla Mahlangu who is a Principal Investigator based in Gauteng IPID office to obtain a statement of a former acting National Commissioner Lt General Mkhwanazi A99. On 17/02/2014 he obtained a statement of the Secretary of Police Ms J Irish-Qhobosheane and is filed as

per A100 with the attachments of her internal inquiry. I also obtained the results of Lt Col Madilonga's statement analysis from Precision Forensics.

During the investigation of the case no one was either intimidated or assaulted. He never requested or forced any witness to implicate any person.

6. ANALYSIS OF EVIDENCE AND FINDINGS.

The operation carried out by TOMS to arrest Zimbabwean foreign nationals in Diepsloot in connection with the murder of Zimbabwean police Colonel was led by Captain M L Maluleke also known as Cowboy.

Captain Maluleke was appointed as the head of cross border desk at the DPCI office to assist in the coordination and apprehending of cross border crimes fugitives. In this responsibility he mends the desk alone thereby forging very strong ties with the law enforcement agencies of the neighboring countries such as Zimbabwe and Mozambique. His unique role and the fact that he was based at DPCI head office gave him the respect that even officers at the ranks of colonels and captains carried out his request without questions. This is corroborated by Lt Colonel Neethling who stated that he was requested by Captain Maluleke to assist in both tracing of the Zimbabwean Nationals and providing escort for their transportation to Beit Bridge border. He further stated that he felt obligated to assist because Captain Maluleke was based at DPCI head office and responsible for Cross border desk. During the interview with Ms. Leonie Verster who was the direct commander of Captain Maluleke, she stated that Captain Maluleke carried out his responsibility on cross border desk without supervision from her and she did not know much of what was happening. Captain Boonstra who worked under the command of Lt Col Neethling also stated that the operation which led to the arrest of Zimbabwean Nationals was led by Captain Maluleke. He inquired about the case number which the Zimbabwean nationals were sought for and a Bulawayo case number was given to him. Captain Nkosi corroborates many of Gauteng TOMS members that his participation in the operation was as a result of Captain Maluleke's request.

However the important question to ask is whether a crime was committed in the arrest and deportation of Zimbabwean national. The documents sourced from Interpol clearly outline the procedures which are to be followed by any law enforcement agency of any country if they want suspect/s who are in another country. During the interview with Warrant Officer Kgomo of Interpol coupled with the search done on Interpol database, it was established that procedures were not followed since the Zimbabwean Nationals arrested were not on the list of wanted fugitives and no warrants were issued in their names. The following evidences were found and can be analyzed as follows,

- *The arrest of Dumisani Witness Ndeya, Nelson Ndlovu, Maghawe Sibanda and Shepard Tshuma on 05/11/2010.*

The operation that led to the arrest of Dumisani Witness Ndeya, Nelson Ndlovu, Maghawe Sibanda and Shepard Tshuma was led by Captain Maluleke with a backup of the Gauteng TOMS members and Crime Intelligence. None of the participants in the operation ever stated that a request was made by any senior official of the DPCI requesting them to assist Captain Maluleke. The statements of members of Crime Intelligence who participated in this operation corroborate each other in that the group firstly met at Fourways Shopping Centre. The TOMS AVL

also confirms, backed by the cellphone records of Captain Maluleke and Warrant Officer Makoe. However the claims made by Bongani Henry Yende (A4), Petros Jawuke (A5) and Desmond Campbell (A6) that Major General Sibiya was at the planning venue (Fourways Shopping Complex) could not be substantiated. The cellphone record of Major General Sibiya were analyzed by an expert and indicated that at the time of the alleged planning, Major General Sibiya was in Pretoria. None of the witnesses who claim that Major General Sibiya was at Fourways ever saw him in person but allude that they were informed by Warrant Officer Makoe that Major General Sibiya was in the blue BMW. This information highlights the depicting false picture that can be created by hearsay evidence. It is immaterial of how many people heard Warrant Officer Makoe saying that Major General Sibiya was in a blue BMW at Fourways Shopping Center but the evidence from the analysis of his cellphone records proves otherwise.

After planning at Fourways shopping Centre, Captain Maluleke went Diepsloot where two Zimbabwean Nationals were arrested. Other members who assisted Captain Maluleke in the arrest of Zimbabwean Nationals cannot be charged of any crime of kidnapping because they were rendering assistance to a normal police operation without any prior knowledge whether Captain Maluleke followed the procedures required in the arrest of a fugitive wanted by the law enforcement agency of another country. It also need to be proven that Captain Maluleke new that the Zimbabwean Nationals were wanted by the Zimbabwean police and deliberately arrested or requested assistance in their arrest without following the correct procedures as required in terms of the law.

Shepard Tshuma (1) stated that one of the officer known as 'Leburu' took his wallet which was in his back pocket and removed R300-00. Constable Radebe was identified by other members of Crime Intelligence as "Leburu" and together with Warrant Officer Makoe carried out assaults on Zimbabwean Nationals while they were lying down. There was nothing wrong for Constable Radebe known as 'Leburu' and Warrant Officer Makoe to provide assistance to a police operation but stealing money and carryout assault on anyone constitute both theft and assault. However it is important that the version of the victim be corroborated in order to sustain a prima facie case against Warrant Office Makoe and Constable Radebe. From the available evidence it is clear that there is corroboration that Zimbabwean nationals were assaulted, but there is no medical evidence to prove such. It is also noteworthy that members of the DPCI contradict members of Crime Intelligence who corroborates the victims. If the assault did take place, it could also have been witnessed by members of DPCI. If the members of Crime Intelligence witnessed the assault why did they not stop it, or even immediately report what they witnessed. Because they had legal duty to act, the credibility of their version becomes questionable.

There is also insufficient evidence to prove that Constable Radebe took money from Shepard Tshuma. In addition Maqhawe Sibanda (A2) claim that the police took his R500-00 but the identity of the officer who took the money is unknown.

Shepherd Tshuma (A1) stated that at the time of their arrest, Major General Sibiya alighted from the black BMW and came to where they were lying. This version is disapproved by the cellphone records of Major General Sibiya which shows that at the time of the arrest he was not at the scene. It is also inconsistent with the evidence provided by Petros Jawuke (A5) and Desmond Campbell (A6) who stated that they heard that General Sibiya was in a blue BMW and did not see him in person. Captain Boonstra and Lt Col Neethling corroborate each other in that

while they were aware of the presence of Zimbabwean police at the scene, Major General Sibiya was not at the scene. After the four Zimbabwean Nationals were arrested, they were taken to Orlando police station where they were detained. With specific reference to OB 276 to 279 (A8), entries made from 04h10 of 06/11/2010 to 12h00 of the 08/11/2010 confirm that Captain M L Maluleke of the DPCI with force number 0622729518 arrested Dumisani Witness Ndeya, Nelson Ndlovu, Maqhabane Sibanda and Shepard Chuma. Again with specific reference to OB 429 (A9), entry made at 11h00 of 08/11/2010 confirm that that Captain M L Maluleke of the DPCI with cell number 0827729518 booked out Dumisani Witness Ndeya, Nelson Ndlovu, Maqhabane Sibanda and Shepard Chuma to Beit Bridge. The telephone records of Captain Maluleke also show his movement from Orlando Police station until Beit Bridge in Musina. The statement of Lt Col Ndanduleni Madilonga and his cellphone records confirms that he received a call from Captain Maluleke when he was approaching Musina on 08/11/2010. According to Lt Colonel Madilonga (A51) he assisted Captain Maluleke to cross the border and the two Zimbabwean Nationals who were in the vehicles were handed to the Zimbabwean police.

The documents used in the deportation of the Zimbabwean Nationals were part of the internal investigation conducted by Warrant Officer Nthlamu (A80). In his statement he outlined the documents received from Captain Maluleke as four warrants of detentions and four notices of deportations. The documents which the Captain Maluleke claimed to be valid Home Affairs documents used in the deportation of the four Zimbabweans appear to have been forged as they have employee number that does not exist in the Home Affairs Department. The Warrant of Detention of Illegal Foreigner (BI-1725) document was produced by Captain Maluleke as a proof that Shepard Chuma, Witness Ndeya and Nelson Ndlovu and Maqhawe Sibanda were detained for being illegal foreigners and they were seen by an Immigration Officer. However the signature that appears on the documents does not belong to any member of Home Affairs in Gauteng and the appointment number 037152 does not exist.

Poliswa Skosana (A31) an Immigration Officer stated that BI-1725 used was discontinued in 2008 and in 2010 it was no longer part of the official documents of Home Affairs. The stamp on four documents according to the handwriting expert, shows that whosoever completed the documents used an old form already completed and deleted affiliated information to put the new information of the four foreign nationals. The Notification of the Deportation of an Illegal Foreigner (DHA-1689) documents were produced by Captain Maluleke as proof that Witness Ndeya, Nelson Ndlovu, Shepard Chuma and Maqhawe Sibanda were deported through Beit Bridge border. According to Peter Eiberg (A37) the forms were wrongly stamped and do not have fingerprints of the deportees as required.

The stamp number 20 belonging to Beit Bridge was used and such stamp is not for deportation purpose. According to Immigration Officer Kobelo Margret Mohlahlo (A39) the stamp is individualized and belong her and on 08/11/2010 she was off duty and the stamp was locked in the safe. This is confirmed by the duty roster which clearly shows that on the 7th and 8th of November 2010 Immigration Officer Kobelo Margret Mohlahlo was off duty. The stamp could have been easily duplicated.

The letter retrieved from Captain Maluleke's laptop provides a vital clue that his engagement in the operation did not receive the blessing of his superior. The letter was addressed to the Director General of Home Affairs requesting assistance in

the Deportation of the Zimbabwean nationals involved in the murder of Zimbabwean police. Protocol dictates that a letter to such a senior person in the Home Affairs department could not have been signed off by an officer at a rank of Captain but could have needed the head of the DPCI. However the letter retrieved clearly shows that Captain Maluleke was the author and he also wrote his name as an approving authority of the request. In addition when the renditions issue hit the media at the end 2011, acting National Commissioner of the South African Police Services Lt General Mkhwanazi (A99) called the head of DPCI Lt General Dramat to explain what happened. Lt General Dramat attended the meeting with Captain Maluleke and for the entire duration of the meeting, Captain Maluleke explained why he arrested Zimbabwean Nationals. If Lt General Dramat had full knowledge of the purpose of the arrest, he could have provided explanation or justification during the meeting thereby convincing the acting National Commissioner that the operation was both lawful and necessary. It is in the same breath that Captain Maluleke provided a report to Lt General Dramat which was used as a basis to respond to a parliamentary question.

- *The arrest of Prichard Chuma on 23/11/2010*

On 23/11/2010 and operation led by Captain Maluleke was carried out at Diepsloot and Soweto in search of Prichard Chuma who was wanted in connection with a murder of Zimbabwean police Colonel. The investigation did not gather much in relation to the arrest of Prichard Chuma. However the statement of Lt Col Neethling, Captain Nkosi and Warrant Officer Selepe are at the center of the arrest and deportation of Prichard Chuma. In this operation Desmond Campbell (A6) and Petros Jawuke claim that Major General Sibiya was involved. Desmond Campbell stated that he saw a person seated in a BMW whom Warrant Officer Makoe referred as Major General Sibiya. It is clear that members of Crime Intelligence had been trying hard to pull Major General Sibiya into the operation. This can be deduced from the following quotations in their statements, "I saw a figure in a BMW and Warrant Officer Makoe referred to him as General Sibiya" and "I heard that General Sibiya was in a blue BMW". These remarks justify the drawing of an inference that members of crime Intelligence tried hard to implicate Major General Sibiya, most especially because his cellphone records provide concrete alibi that he was not at the crime scene.

The involvement of Captain Maluleke in the arrest and transportation of Prichard Chuma provide for a prima facie case of kidnapping. With specific reference to an OB entry dated 22/11/10 (A57/1) made on 22/11/2010 Captain Nkosi booked in Prichard Chuma at Alexandra Police Station. However Nkosi wrote the name and contact numbers of Captain Maluleke as the person who is the Investigating Officer of the case. In his statement he stated that he was personally requested by Captain Maluleke to detain Prichard Chuma at Alexandra Police station.

With specific reference to OB entry dated 23/11/2010 (A57/2) Warrant Officer Selepe booked out Prichard Chuma from Alexandra Police station for a Bulawayo case. He confirmed in his statement that he was requested by Lt Col Neethling to assist Captain Maluleke. Lt Col Neethling corroborates Warrant Selepe in that he was requested by Captain Maluleke to provide assistance and requested one of his members. Warrant Officer Selepe stated that he transported Prichard Chuma with Captain Maluleke on 24/11/2010 to Beit Bridge. The version of Warrant Officer Selepe is corroborated by cellphone records and itineraries of Captain Maluleke.

• *The arrest of Gordon Dube and Johnson Nyoni on 11/01/2011 and 26/01/2011.*

The arrest of Gordon Dube and John Nyoni started when Constable Rikotso (A67) went to Wierdabrug police station at the CIAC office which is responsible for profiling and identification of crime hot spots. When he arrived, he found Constable Sombhane who gave him a list of wanted suspects and on top of the list was Gordon Dube who was wanted in connection with murder in Zimbabwe and robberies in South Africa. At that time the name of Captain Maluleke had not yet surfaced and members of Crime Intelligence were just carrying out the daily duties. Constable Rikotso is corroborated by Constable Sombhane and Constable Plantinah Mokgobu who stated that the information about the wanted Zimbabwean National initially surfaced when the visited CIAC office at Wierdabrug.

Gordon Dube was arrested on 11/01/2011 and was found in possession unlicensed firearm. Constable Rikotso later saw the same firearm with captain Maluleke at the Hawks offices after it was returned from ballistics. It is also clear that the suspect Gordon Dube was facing many charges in South Africa including murder and robbery. Most of the cases against Gordon Dube were investigated by Constable Meyer except Diepsloot Cas 93/01/2011 which was investigated by Warrant Officer Dlamini. According Constable Meyer the following cases were against Gordon Dube, Wierdabrug Cas 531/12/2010, Wierdabrug Cas 220/02/2010, Wierdabrug Cas 147/11/2010, Wierdabrug Cas 1022/12/2010, Wierdabrug Cas 310/10/2010 and Diepsloot 93/01/2011. He was informed by Captain Maluleke from the Hawks that suspect Alfred Gordon Dube was also wanted in Zimbabwe. According to Constable Meyer, Captain Maluleke informed him that Gordon Dube was also wanted for murder as per Bulawayo CR 438/09/2010. He stated that he booked out suspect Gordon Dube and handed him to Captain Maluleke. Captain Maluleke informed him that suspect Gordon Dube will be handed over to the Zimbabwean government through Immigration channels. The request that Captain Maluleke made to Constable Meyer, Detective Constable Rambuda, Warrant Officer Dlamini in connection with the Gordon Dube demonstrate the extent to which he was ready to go in order to handover the suspect to the Zimbabwean police. The suspects was awaiting trial prisoner who was connected in five cases including murder. Statements of Constable Rambuda and Constable Meyer provide valuable evidence that Captain Maluleke took Gordon Dube to Zimbabwe even though he was facing serious charges (five cases including murder) in South Africa. Statements provided to Constable Meyer by Captain Maluleke states that Gordon Dube was handed to Zimbabwean police and was sentenced to life imprisonment. He also acknowledges in a letter retrieved from the laptop that he handed back the firearm to Zimbabwean Police. In January 2011 members of Crime Intelligence received information from CIAC at Wierdeburg regarding the wanted suspect John Nyoni. The person they liaised with at CIAC was Constable Sombhane who also gave them the number of Captain Maluleke. She also spoke to Maluleke over the phone while they were there. They then drove to the Hawks offices to meet with Captain Maluleke who told them that the suspect murdered a police officer in Zimbabwe. The request to arrest John Nyoni was after a successful operation that led to the arrest of Gordon Dube. According to members of TRT, they received a call via two ways radio from the commander to go to Diepsloot police station. When they arrived they found the Station Commander of Diepsloot Police station who introduced them to Captain

Maluleke. Captain Maluleke was with two male persons and a female who were introduced as members of Crime Intelligence. Captain Maluleke informed them that there was a person who committed serious cases in Zimbabwe and he is very dangerous. After the arrest of Johnson Nyoni, he was taken to DPCI head office in Silverton. At the DPCI offices photos were taken and members of TRT and Crime Intelligence corroborate each other in that regard. However Constable Mkasibe stated that Lt General Dramat came to house number 3 from house number 1 and addressed them. There were six members of TRT and none of them ever mentioned the incident. If it is true that he addressed them, other people could have had a recollection of the incident more so because Lt General Dramat is the head of the DPCI. According to Constable Mkasibe and Constable Mugwenya, Lt General Dramat was with Colonel Polelo when he addressed them but Colonel Polelo cannot remember such event. It is clear that the version Mugwenya and Mkasibe are not corroborated and therefore do not provide basis for a prima facie case against Lt General Dramat.

However there is corroboration in that Captain Maluleke was the driver of the operation that led to the arrest of Johnson Nyoni. He met with members of Crime Intelligence and tasked them to look for Johnson Nyoni after they successfully traced and arrested Gordon Dube. The OB book at Moot Police station clearly shows that John Nyoni was booked in by a member of TRT and booked out by Captain Maluleke.

The Zimbabwean Nationals were arrested and detained during DZP period which gave the Zimbabwean grace period of 90 days to apply for valid documents. During the DZP which is Dispensation for Zimbabwean Projects, all Zimbabweans were given 90 days to stay in the country in order to apply for legal documents and surrender illegally obtained South African ID's without consequence. The project according to Home Affairs started on 20 September 2010 and ended in 31 December 2010 with extension which ultimately ended in July 2011. The letter retrieved from Captain Maluleke's laptop addressed to home affairs requesting assistance in the Deportation of the Zimbabwean nationals involved in the murder of Zimbabwean police (dated 08/11/2010) was generated on 08 November 2010 shortly before he booked out the Zimbabwean Nationals out of Orlando Police station. It is doubtful that the permission was acquired given the time at which the Zimbabwean Nationals were booked out. In addition, he cited the DZP as a challenge in the deportation of Zimbabwean Nationals and he wanted assistance from Home Affairs. This does not only show that he was aware of the Dispensation for Zimbabwean Projects which gave Zimbabwean nationals a grace period, but also that there was ulterior motive way above deportation on the basis of being illegal immigrants.

The e-mails retrieved from Captain Maluleke's laptop also show communication with Zimbabwean police where he asked them about the trip going back home and that he would continue to trace remaining suspects. He also exchanged photographs with them of the suspects and the team involved in the operation.

The overtime claim of Captain Maluleke corresponds with the dates on SAP 10's from various stations regarding the booking out of the Zimbabwean nationals. On 08/11/2010 he transported Zimbabwean Nationals to Beit Bridge. The Itinerary shows that on 08/11/2010 he went to Beit Bridge and came back on 10/11/2010 and claimed a total of R1845-00. On 24/11/2010 he went to Beit Bridge and came back 26/11/2010 and claimed a total of R1845-00. On 28/01/2011 he went to Beit Bridge and claimed a total of R552-00. The records also correspond with his cellphone movement as depicted by towers recordings.

7. FINDINGS

- The IPID investigation established that Captain Maluleke led the operation that resulted in the arrest of Zimbabwean nationals wanted in connection with the murder of a Zimbabwean senior police officer. The evidence gathered clearly shows that the Zimbabweans Nationals were not wanted in connection with ATM bombing as initially claimed and they were not deported for being illegal immigrants.
- There is overwhelming evidence that Captain Maluleke was not only the lead person but also used his position of being the only member of the "Cross Border Desk" to acquire cooperation in an operation he knew that it did not follow the legal procedure.
- It was found that the claim made by Shepard Tshuma that Constable Radebe took his R300-00 could not be corroborated. Maghawe Sibanda (A2) also made a claim that the police took his R500-00 but the identity of the officer who took the money is unknown.
- There are contradictions with regard to assault by Captain Maluleke, Captain Nkosi, Warrant Officer Makoe and Constable Radebe.
- It was also found that the senior members of DPCI could not have known that Captain Maluleke did not follow procedures as it is the duty of the officer in question to comply with the legal imperatives of the particular operation. He generated a letter to the Director General of Home Affairs and still put his name as an approving authority thereby confirming that he did not want his seniors to either know or become aware of his activities.
- The success report that claim that Lt General Dramat had a meeting with the Zimbabwean police lacks detail about the meeting itself. There is no indication of what was discussed and who was part of the meeting. It is on that basis that a prima facie case cannot be premised on speculation, but need corroborated facts.
- The evidence that suggest that Major General Sibiya was at the scene during the arrest of Zimbabwean nationals is contradicted by cell phone evidence that suggest he was nowhere near the scene. It is clear that members of Crime Intelligence had been trying hard to pull Major General Sibiya into the operation. This can be deduced from the following quotations in their statements, "I saw a figure in a BMW and Warrant Officer Makoe referred to him as General Sibiya" and "I heard that General Sibiya was in a blue BMW". The cellphone record of Major General Sibiya was acquired and analyzed by an expert, it was discovered that at the time the witnesses claim that he was at Fourways Shopping Centre, he was in Pretoria.
- There is no evidence for the involvement of Former General Mzwandile Petros. However he addressed a letter dated 31/05/2011 to Provincial Head of Crime Intelligence in Gauteng appreciating the good work that members of Crime Intelligence have done when they arrested Zimbabwean nationals involved in the murder of Senior Police Officer in Zimbabwe. The letter was as a result of a request made by Former General Toka of Crime Intelligence requesting General Mzwandile Petros to appreciate members of Crime Intelligence.
- There is also no evidence that suggest that Lt General Dramat, Lt General Toka, Lt General Lebeya and Major General Hlatshwayo were involved.

8. RECOMMENDATION

Based on the available evidence, the Independent Police Investigative Directorate recommends that no charges should be brought against Lt General Dramat and Major General Sibiya. The investigation established that there is no prima facie case against them. However with regard Lt Col M Matuleke, there is a prima facie case to sustain charges of kidnapping and defeating the ends of justice.

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Mr. HI KHUBA
ACTING PROVINCIAL HEAD
IPID: LIMPOPO

~~Recommended/not recommended~~

[Handwritten signature]
Mr. M SESOKO
ACTING CHIEF DIRECTOR- INVESTIGATIONS AND INFORMATION MANAGEMENT
IPID: NATIONAL OFFICE
DATE: 18/03/2014

~~Approved/Disapproved~~

[Handwritten signature]
MR. RJ MCBRIDE
EXECUTIVE DIRECTOR: IPID
DATE: 09/04/2014