

The Role and Impact of Forensic Investigations Unit in the Fight Against Fraud, Corruption, Irregularities, Financial Misconduct and Maladministration in the Public Sector of South Africa

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ABSTRACT

This article examines the role and impact of the Forensic Investigations Unit in the fight against fraud, corruption, irregularities, financial misconduct and maladministration in the public sector of South Africa. Section 85(b) of the Public Finance Management Act, 1 of 1999 (PFMA) requires the Minister of Finance to craft regulations stipulating matters relating to the investigations of allegations of financial misconduct. The study adopted a qualitative research approach. Eight (8) participants from the Forensic Investigations Units of various state departments/ institutions were interviewed using open-ended questions. The study followed a purposive sampling guide as a participant were purposively selected. The study found that the role of the Forensic Investigations Unit in the public sector is to investigate the allegations of common law offences such as fraud, corruption, maladministration and financial irregularities. This Unit's impact is to reduce fraud and corruption incidents within the public sector and promote ethical public service through its recommendations. This study recommends amendments to the Public Service Act 1994 (PSA) and Part Three of the Public Service Regulations 2016 (PSR). The amendment is to fulfil the role of the Forensic Investigations Unit as part of a multi-anti-corruption agency in government departments/agencies. It is hoped to resolve reported allegations of fraud, corruption, irregularities and maladministration in the South African public sector quickly and effectively.

Keywords: Public sector, fraud, corruption, irregularities, financial misconduct, maladministration.

ABSTRAK

Artikel ini mengkaji peran dan dampak Unit Investigasi Forensik dalam memerangi penipuan, korupsi, penyimpangan, kesalahan keuangan dan maladministrasi di sektor publik Afrika Selatan. Bagian 85(b) Undang-undang Manajemen Keuangan Publik, 1 tahun 1999 (PFMA) mewajibkan Menteri Keuangan untuk menyusun peraturan yang menetapkan hal-hal yang berkaitan dengan investigasi dugaan pelanggaran keuangan. Penelitian ini mengadopsi pendekatan penelitian kualitatif. Delapan (8) peserta dari unit Investigasi Forensik dari berbagai departemen/ lembaga negara diwawancarai menggunakan pertanyaan terbuka. Studi ini mengikuti panduan purposive sampling karena peserta dipilih secara purposive. Studi menemukan peran Unit Investigasi Forensik di sektor publik adalah untuk menyelidiki dugaan pelanggaran hukum umum seperti penipuan, korupsi, maladministrasi dan penyimpangan keuangan. Dampak Unit ini adalah untuk mengurangi insiden penipuan dan korupsi di sektor publik dan mempromosikan pelayanan publik yang etis melalui rekomendasinya. Studi ini merekomendasikan amandemen Undang-Undang Pelayanan Publik 1994 (PSA) dan Bagian Ketiga Peraturan Pelayanan Publik 2016 (PSR). Perubahan tersebut untuk memenuhi peran Unit Audit Investigasi Forensik sebagai bagian dari lembaga pemberantasan korupsi multisektoral di departemen/ lembaga pemerintah. Diharapkan untuk menyelesaikan dugaan penipuan, korupsi, penyimpangan dan maladministrasi yang dilaporkan di sektor publik Afrika Selatan dengan cepat dan efektif.

Kata kunci: sektor publik, kecurangan, korupsi, penyimpangan, kesalahan keuangan, maladministrasi.

INTRODUCTION

The Forensic Investigations Units are well known to be in existence in various government departments/ State Own Entities/ Enterprises (SOEs) in South Africa. The role of institutions such as the Special Investigating Unit (SIU), Public Protector South Africa (PPSA), Auditor-General of South Africa (AGSA), Investigating Directorate (ID) within the National Prosecuting Authority (NPA), Directorate of Priority Crime Investigations (DPCI) [commonly known as Hawks] and the Public Service Commission (PSC) are properly legislated. These institutions aim to combat fraud, corruption, irregularities, and maladministration/ malpractice in the public sector. Furthermore, performance results of these institutions are reported to the oversight committee in the Parliament of the South African Republic. Based on the researcher's observation, there is a lack of clear legislation which refers to the formation of Forensic Investigations Units in the public sector, except Section 95A of the Correctional Service Act, 111 of 1998 (CSA), which is contrary to the PSA, PSR and Public Administration Management Act, 11 of 2014 (PAMA). Section 15(5)(a) of the PAMA stipulates that when an institution discovers an act of corruption, such corruption must immediately be reported to the police for investigations in terms of any applicable law, including the Prevention and Combating of Corrupt Activities Act, 12 of 2004 (PRECCA). This interprets that when the government department/ institution discovers such an offence, the Forensic Investigations Unit must not institute investigations but rather report such offences to the SAPS. Contrary to Section 15(5)(b) of PAMA, which states that issues of misconduct emanating from criminal investigations must be reported to the Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit (PAEIDTAU) and the relevant head of the institution for initiation and institution of disciplinary proceedings.

Fraud, corruption, irregularities, financial misconduct and maladministration by public servants result in state losses of billions of rands year after year aimed at improving the lives of ordinary citizens, especially the poor, through delivering essential services such as clean water, roads, electricity and proper shelters. The results of these offences severely affect not only the poor but also the economy and government, as there will be less tax collection, leading to poor service delivery. Successfully addressing fraud and corruption requires coordinating and collaborating with multi-anti-corruption agencies across all the spheres of government, civil society organisations, businesspeople, the private sector and the communities (National Anti-Corruption Strategy, 2020-2030). The development of any legislative framework, including the behaviour of South African people, is governed by the 1996 Constitution of the Republic of South Africa as the supreme law of the land. Various pieces of legislation such as Treasury Regulations of 2001, PFMA, PAMA, PSR and strategies such as the National Anti-Corruption Strategy were crafted from the 1996 Constitution of South Africa as legislative tools to deal with corruption, mismanagement of public funds, maladministration, irregularities by public servants in the public sector. The DPCI was introduced to prevent, combat and investigate national priority crimes such as fraud, corruption and other serious organised and commercial crimes. The SIU investigates allegations ranging from unlawful and improper conduct, unlawful appropriation of public money or property, irregularities and offences referred to in Section 34 of PRECCA.

The following research objectives were used as a guide to this study: To establish the primary role of forensic investigations in the public sector of South Africa, to determine the impact of the Forensic Investigation Unit in the fight against fraud, corruption, irregularities, financial misconduct and maladministration in the public sector of South Africa; and, to establish whether Forensic Investigations

Units in South Africa are equipped enough to deal with the craft of fraud, corruption, irregularities, financial misconduct and maladministration in the public sector.

Literature Review

In August 2022, the AGSA pointed out that of the 41 National Government Departments, 21 departments were consistently reported to "incurred fruitless and wasteful expenditure in the past five financial years", meaning there were in contravention of the PFMA (Magubane, 2022).

One of the requirements of the Public Service Anti-Corruption Strategy is that departments must extensively deal with fraud, conflicts of interest, extortion, abuse of power, bribery, insider trading/ abuse of privileged information (i.e. collusion with suppliers/ or service providers), embezzlement of public funds and favouritism and nepotism in the public sector (Anti-Corruption Capacity Requirements, Sa.5).

In 1997, the South African government began its journey in the fight against corruption in the public sector. Two years later, the South African Government held its first National Anti-Corruption Summit, which led to the development of the Public Service Anti-Corruption Strategy in the year 2002 (Anti-Corruption Capacity Requirements, Sa.5). The aim of the National Anti-Corruption Strategy (2020-2030) is to encourage ethical leadership, competence, professional and accountable, public servants. Furthermore, the strategy seeks to discourage corruption within the public and private sectors by forming oversight bodies.

As part of the government's efforts to fight corruption, the Department of Public Service and Administrations (DPSA) is mandated to set "norms and standards on ethics, integrity and anti-corruption for the public servants". The DPSA must be a leading department in "coordinating South Africa's commitment to international treaties" to curbing corruption (National Anti-Corruption Strategy, 2020-2030:22).

The role of the Departmental Investigation Unit in the Department of Correctional Service is to investigate theft, fraud, corruption and maladministration committed by correctional service officials in terms of Section 95A of CSA. Section (7) of the National Prosecuting Authority Act, 32 of 1998 indicates that the Investigating Directorate is established in the office of the National Director to investigate offences or criminal or unlawful activities as set out in the proclamation signed by the President and gazetted in the Government Gazette.

The PPSA performs investigations through paragraph 7 of the Public Protector Act, 23 of 1994. The PSC conducts its investigations under Section 11 of the Public Service Commission Act, 46 of 1997.

The DPCI/ Hawks perform its investigations duties in terms of the South African Police Service Amendment Act, 57 of 2008. The establishment of DPCI was to improve the capacity of the SAPS to prevent, combat and investigate national priority crimes such as fraud and corruption as well as other serious organised and commercial crimes such as vehicle theft, drugs and minerals smuggling, including trade, money laundering and racketeering (Dramat, 2014). In contrast, the SIU conduct their investigations through Section 4 of the Special Investigating Unit and Special Tribunals Act, 74 of 1996.

The SIU is proclaimed to investigate allegations of, amongst others, serious maladministration in connection with the affairs of public institutions; improper or unlawful conduct by public institutions employees, officials or agents; unlawful appropriation of public money or property; unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon state property; intentional or negligent loss of public money or damage to public property; offences referred to in the PRECCA and unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof (South African Government News Agency, 2022).

Legal framework

Section 197(1) and (2) of the 1996 Constitution of the Republic of South Africa states that public service in the public administration must structure and function in terms of national legislations, for instance, national legislation such as PSA, PAMA and PFMA and the terms and conditions of employment must also be regulated by national legislation, for instance, regulations such as PSR.

Paragraph 22(c) of Part 3 of the 2016 PSR emphasise that the head of a department shall determine systems that encourage and allows employees and citizens to report allegations and other unethical behaviour, and such system shall provide (i) confidentiality of reporting; and (ii) the recording of all allegations of corruption and unethical conduct receive through the system(s).

The role of the Correctional Service Departmental Investigation Unit emanates from section 95A of the CSA. The role of Investigating Directorate of NPA emanates from Section (7) of Chapter 2 of the NPA Act. Section 11 (a) of the PSC Act requires the PSC to perform investigations, monitoring and evaluation of those matters to which section 196(4) of the 1996 Constitution of the Republic of South Africa relates, the procedure to be followed at any such investigations, the document to be submitted to the Commission in connection with such investigations, and how and the time within which the said documents shall be submitted. About the powers and function of the PSC, Section 196(4)(b) of the 1996 Constitution of the Republic of South Africa stipulates that the Commission have the powers to investigate, monitor and evaluate the organisation and administration and the personnel practices of the public service.

Section 6(4) of the Public Protector Act, 23 of 1994 indicates that the PPSA shall be competent to investigate, on his/her initiative or on receipt of a complaint, any alleged –

- (a) Maladministration in connection with the affairs of any institution in which the State is the majority or controlling shareholder or of any public entity as defined in section 1 of the Reporting by Public Entities Act, 93 of 1992;
- (b) Abuse or unjustifiable exercise of power or unfair, capricious, discourteous or other improper conduct or undue delay by a person performing function connected with their employment by institution or entity contemplated in paragraph (a);
- (c) Improper or unlawful enrichment or receipt of any improper advantage, or promise of such enrichment or advantage, by any person as a result of an act or omission in connection with the affairs of an institution or entity contemplated in paragraph (a); or
- (d) Act or omission by a person in the employed institution or entity contemplated in paragraph (a) results in unlawful or improper prejudice to any other person.

Section 15(5)(b) of PAMA stipulates that issues of misconduct emanating from criminal investigations must be reported to the PAEIDTAU and the relevant head of the institution for initiation and institution of disciplinary proceedings.

Chapter 14 of the NDP pronounces on promoting accountability and fighting corruption in the public sector. Despite those countries like China which have a successful fight against corruption through [a] single anti-corruption agency called Hong Kong's Independent Commission Against Crime (ICAC), commissioners of NDP argued that South Africa requires a diversity of anti-corruption agencies to fight corruption (National Planning Commission, 2011:403-404).

One of the reasons was that a single anti-corruption agency is likely to be compromised and captured by politicians and powerful businesspeople. So, fighting corruption in the South African context requires multi-anti-corruption agencies since the model is feasible to adopt. The commissioners further believe that multi-anti-corruption agencies will develop independent systems against political and

businesspeople interference and offer checks and balances in terms of the performance of these agencies towards fighting corruption (National Planning Commission, 2011:404).

Section 15 of the PAMA, which falls under the custodianship of the DPSA, set up the PAEIDTAU to address corruption issues within the public service.

However, Section 34 of PRECCA place an obligatory duty on officials in a position of authority, namely Director-Generals/ Heads of National and Provincial government departments, Municipal Managers, Directors of companies, Chief Executive Officers of State Own Entities, Vice-Chancellor and Principal/ Head of tertiary institution and but not limited to the Executive Director/ Manager of the banks to report corruption within their institutions to the police (SAPS).

Challenges to Forensic Investigations Unit in the Public Sector of South Africa

Chapter 14 of the NDP expresses the need for the State to have a diversity of anti-corruption agencies. In terms of the NDP, these agencies refer Asset Forfeiture Unit (AFU), the AGSA, the Independent Police Investigative Directorate (IPID), the PPSA, the PSC, the SIU and DPCI (National Planning Commission, 2011:403).

The researcher is of the view that in the absence of these agencies is the Forensic Investigations Unit, notwithstanding that this Unit exists within some of the government departments and entities such as the Department of Agriculture, Land Reform and Rural Development (DALRRD), Department of Justice and Constitutional Development (DoJ&CD), Department of Human Settlement (DHS), Department of Water and Sanitation (DWS), Department of Transport (DoT), Road Accident Funds (RAF), National Treasury, Eskom, etc.

The formation of the Forensic Investigations Unit in the public sector was to investigate fraud, corruption, maladministration, financial misconduct and irregularities committed by officials within the departments and entities. Suppose the Forensic Investigations Unit detects fraud and corruption during the investigations, the Unit, through the head of the Department (Director-General), makes a referral to the SAPS for DPIC, which specialises in priority crimes, to conduct further investigations and prosecution after that.

The Forensic Investigations Unit's findings against maladministration, mismanagement of public funds, fruitless, irregular and wasteful expenditure and other irregularities are referred to internal Labour/ Employee Relations for disciplinary processes and Legal Services for civil recovery.

The Impact of Anti-Corruption Agencies on Investigation of Commercial Crimes in South Africa

In a South African context, the SIU seemed to be effective and successful in their investigations of various crimes in the public sector through SIU proclamations signed by the President. Most of their investigations are referred to Special Tribunal Court for plea bargaining and civil recovery after that. Their findings about serious commercial crimes, such as fraud and corruption, are then referred to the SAPS for DPCI to perform further investigations and possible prosecution by NPA based on the evidence found.

Hlengwa (2019) reveals that as of 2013, 881 cases were referred to NPA for possible prosecution. Of the 881 cases, Hlengwa reported that "293 resulted in enrolled cases and of these 293 enrolled cases, 144 were still under investigation, 11 were brought before the courts, and only 9 cases finalised with 8 of them successful".

As of 06 July 2021, the NPA report based on SIU referrals cases indicates that "377 were under investigation or pending decision whether to prosecute or not, 23 were in court, 20 had resulted in a conviction, and 51 had been withdrawn" (Hlengwa, 2021). The DPCI report illustrates that they were pursuing 131 active cases coming from SIU referrals. Of the 131 referrals cases by SIU, the DPCI reported that "88 were still under investigation, 20 were on the court rolls, and 23 were awaiting a prosecutorial decision" (Hlengwa, 2021).

At the end of 2014, Dramat (2014) reported that 50 suspects were convicted for serious corruption involving an amount of R5,000,000.00. In the meantime, the Asset Forfeiture Unit (AFU) managed to get preservation and restraint orders for R1,381,000,000.00 by the end of March 2014.

RESEARCH METHOD

This article adopted a qualitative research approach. The qualitative researcher technique helps the researcher to provide insights into the role and impact of Forensic Investigations Unit in the fight against fraud, corruption, irregularities, financial misconduct and maladministration in the public sector of South Africa (Garcia & Gluesing, 2013:425). Data was collected through interviews using open-ended research questions. The secondary data to the study was also collected from various legislation prescripts, frameworks, reports, articles, media reports and other government documentation such as NDP. An open-ended interview was formulated as a guide to the study subject (Swift & Tischler, 2010:562).

In the qualitative study, research questions are clustered and constructed by the researcher to allow participants to provide their complete views and experience based on their forensic investigations of fraud, corruption, maladministration, financial misconduct and irregularities in the public sector. Of course, these research questions were open-ended. This is because the data collected through open-ended interviews remain comprehensive and independent (Chenail, 2011:255).

As part of applying the ethical standard in qualitative research, the researcher guaranteed the confidentiality of the selected participants (Surmiak, 2018). Since it is the responsibility of the researcher to ensure that participants are kept confidential, the collected data in this article was quoted verbatim using the letter "P" and a "Number" as a reference to participants' responses to the study (Coffelt, 2017:227-228).

The qualitative research technique relies on a small sample size of participants. The data was collected through semi-structured interviews where participants (public servants) who have experience in forensic investigations in the public sector answered pre-set of open-ended research questions (Jamshed, 2014:87). Eight (8) selected participants from selected government departments/ entities were interviewed in this study. In order to achieve data saturation in qualitative research, the number of participants interviewed ranges from as six (6) participants depending on the sample size of the government departments/ entities that had Forensic Investigations as a Unit (Fusch & Ness, 2015:1409). Thus, the researcher believes that the eight (8) sample participants will provide appropriate and valuable data for this study.

Purposive sampling using a semi-structured interview guide was adopted as a guide to provide valuable and complete data for this study. Purposive sampling was deemed appropriate to address the study topic (Jamshed, 2014:87). This is because reliable and quality results are achieved through purposive sampling when the researcher focuses on the study objectives, including following all ethical principles of the research (Saunders, Lewis & Thornhill, 2015). Purposive sampling was followed to determine the role and impact of the Forensic Investigations Unit as a multi-anti-corruption agency in

fighting fraud, corruption, maladministration, financial misconduct and irregularities in the public sector (Ames, Glenton & Lewin, 2019:6).

To measure and evaluate the reliability of the study findings and make a complete and conclusive finding, the term's validity remains central to this study (Middleton, 2019). However, the study's validity can be negatively affected if the researcher fails to reach data saturation (Fusch & Ness, 2015:1408). In a qualitative study, the term credibility and reliability aligned to the accuracy of the gained study results on the role and impact Forensic Investigations Unit as the multi-anti-corruption agency to fight fraud, corruption, maladministration, financial misconduct and irregularities in the public sector, not only from the researcher point of view but also on participants responses (Yilmaz, 2013:319). The Credibility and accuracy of the study's findings depend on quality (end product) of data received from selected participants (Spielman, 2014:117).

The study was carried out in the Tshwane area, Gauteng Province of South Africa, where the National Government Department and some SOEs are located. Data was gathered from participants from DALRRD, DoJCD, DHS, DWS, NPA, SAPS, RAF and Eskom in the field for forensic investigations using open-ended interviews. Participants were selected purposively based on their forensic investigation expertise and experience in the public service (Cleary, Horsfall & Hayter, 2014:473).

The advantage of open-ended interviews is that participants provide detailed and extensive answers based on their public service investigations experience without any limitations (Hawkins, 2018:497). Open-ended interviews allow the researcher to pose follow-up questions to participants based on their responses which were not clearly articulated, to gain a deep understanding of the study topic (Chenail, 2011:256). The disadvantage of open-ended interviews is that they are prolonged, and it becomes difficult for participants to avail themselves, discuss and respond to research topics that are not well structured or sensitive. Participants find it difficult to participate in open-ended interviews with researchers with limited interview skills (Affleck, Glass, & Macdonald, 2012:155). It is difficult to analyse, interpret and regroup the collected data as sometimes it may contain unwanted information (Wolf, 2021; & Adhabi & Anozie, 2017:6).

RESULTS AND DISCUSSIONS

The study participants provided data on the role and impact of the Forensic Investigation Unit in the fight against fraud, corruption, irregularities, financial misconduct and maladministration in the public sector of South Africa. The study results are presented verbatim and discussed below.

The primary role of the Forensic Investigations Unit in the public sector of South Africa

Participants were asked what the primary role of Forensic Investigations Unit in the public sector of South Africa is? Participants indicated that the role of the Forensic Investigations Unit is to investigate allegations of *fraud, corruption, maladministration, financial misconduct and irregularities* in the public sector of South Africa. Some of the participant's experiences in the role of the Forensic Investigations Unit in the public sector were expressed as follows using a thematic verbatim quote:

1. Forensic investigators primarily investigate fraud, corruption and other financial irregularities. Although their role may be perceived as reactive, they endeavour to be proactive when carrying out their investigative duties. Their roles are not only limited to the investigation of irregularities within the public service but also play a post-investigation role in that they are, from time to time, required to testify in disciplinary hearings and/ court proceedings. (P1)

2. It is to reduce incidents of fraud and corruption within the public sector and promote ethical public service. The Forensic Investigations Unit's role is to fight fraud and corruption in all forms and strengthen compliance, enforcement of regulatory mechanisms and accountability of public servants at all levels of public service and political bearers. To magnify the government's efforts against fraud and corruption in the public service, including how and where to report corruption and/ or any ethical misdemeanours. While the government's anti-corruption efforts must reach society as a whole, the strategic focus is on reducing and eliminating corruption within the public service. (P2)
3. The primary role of the Forensic Investigations Unit is to investigate allegations of fraud, corruption, financial misconduct and irregularities. These Forensic Investigations Units are established mainly to assist the Accounting Officer of the Departments/ CEOs of State Owned Entities (SOEs) to discharge their responsibilities in ensuring that they uphold clean governance, as espoused by the Public Finance Management Act. (P3)
4. The primary role of Forensic Investigations Unit in the public sector/ service of South Africa is to:
 - ✓ *Promote a culture of intolerance to fraud and corruption by employees and service providers;*
 - ✓ *Create, promote and support the implementation and maintenance of the fraud prevention strategy and its plan;*
 - ✓ *Investigate allegations and/ or incidents of fraud and corruption;*
 - ✓ *Provide support during disciplinary, criminal and civil processes against implicated officials and contractors in the acts of fraud, corruption and other misconducts;*
 - ✓ *Follow up on the implementation of recommendations by various stakeholders; and*
 - ✓ *Provide advisory services on Anti-Corruption activities, including fraud risks and detection reviews, to management. (P4)*
5. The Forensic Investigation's Unit primary role involves investigating any other form of commercial irregularities committed in the public sector either by public sector officials, business or service providers, or by other parties contracted with the public sector. Besides investigations of commercial crimes, they also deal with identifying the weakness of internal controls within the areas where these irregularities have taken place and recommend remedial action for improvement.

The primary role of Forensic Investigations in the public sector is both proactive and reactive. Proactive means preventing and detecting fraud and corruption, where the anti-fraud and corruption action plans are implemented and reactive is the investigations and resolution of fraud, corruption and any other form of maladministration, financial misconduct or irregularities.

According to the PSR, each Department or national or provincial Department must have an anti-fraud and corruption capacity to deal with the issues of unethical conduct in the public sector.

There are also chapter nine and ten of constitutional entities that are mandated to investigate the issues of fraud and corruption in the public sector, entities like the Office of the Public Protector, Auditor General, Public Service Commission and Special Investigations Unit, whose primary role is to investigate the issues of fraud and corruption or unethical conduct in a public sector.

NPA recently have a unit called Investigating Directorate, whose mandate is to investigate issues emanating from the state capture commission, Nugent Commission and PIC Commission of inquiry. Resolution involves the criminal case and prosecution part after the forensic investigations have been completed.

A Directorate of Priority Crimes Investigations deals with fraud, corruption and forgery, money laundering and racketeering after the investigations have been conducted and concluded either at the departmental level or by the entities mentioned above. (P5)

6. The role of Forensic Investigations Units is to fight against fraud, corruption, maladministration, financial misconduct and irregularities. To identify control weaknesses and opportunities that make it easier for employees and the public to engage in fraudulent activities, corruption, etc. To identify and recommend the recovery of any financial loss suffered by the government. (P6)
7. The role of Forensic Investigations Unit in the public sector includes, amongst other things, analysing documents, interviewing involved persons such as the complainants, witnesses and implicated personnel, and compiling a report regarding your findings. Based on the outcome of your findings, you either refer for criminal proceedings, civil recovery or disciplinary hearing. Later forensic investigators testify during departmental disciplinary hearings or criminal proceedings as expert witnesses and litigation proceedings. (P7)
8. Forensic investigation means court-aimed investigations. The whole investigation process can be regarded as part of the litigation process because it is aimed at gathering evidence that will stand the scrutiny of the court. The investigator plays a vital role in the process. It is their duty to gather the evidence using techniques that will be admissible in court, to liaise with the prosecutor, testifying and assist the prosecutor in presenting the evidence. (P8)

Based on the participant's responses, the researcher established that the primary role of the Forensic Investigations Unit in the public sector is to investigate the allegations of offences such as fraud, corruption, maladministration, financial misconduct and irregularities. Subsequently, the Forensic Investigations Unit provides advice and guidance to management about identified weak control measures during the investigations that create opportunities for employees and members of the public to engage in offence activities such as fraud, corruption, maladministration, financial misconduct and irregularities in the public sector. Section 95A of the CSA stipulates that the role of the Departmental Investigation Unit is to investigate theft, fraud, corruption and maladministration by correctional service officials. Regulation 22(e) of the PSR requires the Director-General/ Head of the Department to refer allegations of corruption to the relevant law enforcement agency (such as DPCI and SIU) and investigate whether disciplinary steps must be taken against any employee of the department and if so, institute such disciplinary action. Most of the Director's-General/ Heads of the Department refer these matters to SAPS for DPCI to investigate further after their internal Forensic Investigations Unit detected elements of fraud and corruption during their investigations.

The impact of the Forensic Investigations Unit in the fight against fraud, corruption, irregularities, financial misconduct and maladministration in the public sector of South Africa

Based on the interviews conducted and notes analysed, the Forensic Investigations Unit play a bigger role in investigations of irregularities, fraud, corruption, financial misconduct and maladministration in the public sector of South Africa. Unfortunately, their investigative results are not communicated to the media as their reports remain strictly confidential. The investigative results where misconduct and civil recovery are found, such results are dealt with by internal Labour Relations and Legal Services Units, respectively. Forensic Investigations results are sometimes not presented publicly in legislative committees such as the Standing Committee on Public Accounts (SCOPA), contrary to that of other multi-anti-corruption agencies such as NPA, SIU and DPCI (Hawks).

Unfortunately, sometimes the Forensic Investigations results and recommendations are not implemented, addressed or acted upon by senior management of the government departments/ SOEs. Begg (2022) points out that recommendations and findings of the comprehensive investigations conducted by internal Forensic Investigations and Quality Assurance Audits (*hereinafter Begg (2022) referred to as Forensic/ Risk Audit Unit*) of the Department of Water and Sanitation (DWS) into the allegations of corruption for 'Watergate' projects against senior officials of the Department were left unresolved.

At the time of writing this article, Begg's (2022) report suggests that no single implicated top brass of the department was disciplined for the past ten years regarding the "wrongful expenditure of more than R31-billion" incurred by DWS emanating from 'Watergate' projects, despite that a R36 million was spent by DWS internal Forensic/ Risk Audit Unit to thoroughly carry out these investigations into allegations of corruptions. Begg (2022) stressed that 65 senior officials of DWS were charged but not disciplined by Disciplinary Committee established by former Minister Lindiwe Sisulu for wrongful expenditure, negligent and possibly criminal acts for wrongful expenditure, negligent and possibly criminal acts from investigations reports emanating from internal Forensic/ Risk Audit Unit.

Forensic Investigations Units are equipped enough to deal with the craft of fraud, corruption, irregularities, financial misconduct and maladministration in the public sector

When participants were asked whether "the Forensic Investigations Units are equipped enough to deal with the craft of fraud, corruption, irregularities, financial misconduct and maladministration in the public sector? If Yes, elaborate", the Majority of the participants agreed that Forensic Investigations Units are equipped enough to deal with the craft of fraud, corruption, irregularities and maladministration in the public sector. Some of the participants' responses were verbatim quoted as follows:

1. No, the public sector's way of operation is far behind. Fraudsters are way too forward with their tools of committing fraud. The lack of advanced internal systems, particularly within the finance and supply chain departments, has exposed the public sector to fraud and corruption. Personnel easily manipulate the existing procedures to suit/ achieve their intended malicious acts. The public sector should embark on a project/ pilot study to see what best practices are available in the market to assist with the detection process. (P1)
2. Most public service institutions are equipped to deal with fraud and corruption in the public service. This includes the detection, prevention and combating of fraud and corruption with a referral of serious corruption and fraud cases to Special Investigating Unit and/ or agencies in collaboration with the criminal justice system.

Some Forensic Investigations Units are resourced with their own personnel (warm bodies) or outsource this function, performing fraud detection reviews, risk assessments, data mining and Digital Evidence Management. (P2)

3. To a certain extent, Yes. They are equipped especially as it relates to the activities or transactions of the particular department. The investigators are delegated/ authorised to have unfettered access to the transactions of the departments and to interview officials.

However, they mostly don't have the tools that are generally available to law enforcement agencies, such as the ability to compel the release of certain information through Section 205 of the CPA. (P3)

4. Yes, before anyone can be employed as part of the forensic investigation team, such a person must have relevant qualifications. Investigators often attend conferences, e.g. Association of Certified Fraud Examiner (ACFE) annual Africa conference and exhibition, and refresher courses whereby they are trained and equipped with current fraud and corruption trends and how they can be resolved and easily identified. In addition, the participant knew the following tools:
 - ✓ *Encase - for extracting information from a laptop;*
 - ✓ *XRY - for cellphones; and*
 - ✓ *Nexus and Experian for background checks.*

Forensic Investigation Unit uses these tools in the public sector to retrieve required investigation information. (P4)
5. No, the Forensic Investigations Units are not equipped enough. (P5)
6. According to Section 85 of the PFMA, the Minister must make regulations prescribing the manner, form and circumstances in which allegations and disciplinary and criminal charges of financial misconduct must be reported to the National Treasury, the relevant Provincial Treasury and the Auditor-General; and Section 13 of the Public Service Regulations discourages officials from conducting themselves in an unethical matter which includes accepting bribes, not favouring friends and family over other people, refraining from using or disclosing any official information for personal gain, etc. (P6)
7. Forensic Investigations is better equipped to deal with the craft of fraud, corruption, irregularities, financial misconduct and maladministration in the public sector, for instance:
 - ✓ *Members are capacitated continuously by their Department with bursaries and pieces of training made available for them.*
 - ✓ *Members are edged and encouraged to affiliate with Association bodies such as the Association of Certified Fraud Examiners (ACFE) to be able to attend workshops, conferences, webinars, short courses, etc.*
 - ✓ *Arrangements/ joint efforts are made with Institutions of Higher Learning to offer training to forensic investigators to improve their investigation skills and knowledge.*
 - ✓ *Forensic investigators are allowed to benchmark with their peers in the same field from other government departments to share new techniques. (P7)*
8. Yes, it is equipped. Society is now living in the fourth industrial revolutionary world where technology is advanced and zooms into aspects that a human being can bypass. Digital Forensic Investigation is greatly impacting fraud, corruption, irregularities and maladministration investigations, along with other investigating tools. The tools assist with the Identification, Preservation, Analysis, Documentation and Presentation of evidence collected. (P8)

The study established that some Forensic Investigations Units in the public sector might be equipped to deal with fraud, corruption, irregularities, financial misconduct and maladministration allegations. However, the legislation is unclear regarding their mandate to investigate these offences.

Section 12(5) of the Treasury Regulations of 2001 stipulates that when the State has suffered losses or damages through criminal acts or possible acts, the matter must be reported, in writing, to the Accounting Officer and the SAPS. In the cases of omissions, the matter must be reported in writing and the Accounting Officer must recover the value of loss or damage from the person responsible for such acts (South Africa, 2001).

Subsequently, Section 34 of PRECCA requires people in the position of authority to report corruption within their institutions to the SAPS. The act further stipulates that failure by these people to report corruption of more than R100,000.00 to the police constitutes an offence.

Despite that, Chapter 14 of the NDP provides light to multi-anti-corruption agencies such as SIU, DPCI, the PPSA, the PSC, and NPA to investigate allegations of fraud and corruption as part of the fight

against corruption in the public and private sector. However, the legal mandate reside with SAPS DPCI to investigate fraud and corruption as stated in Section 205(3) of the 1996 Constitution of the Republic of South Africa and Criminal Procedure Act, 51 of 1977 which emphasise that SAPS is the single police service task with an investigation of criminal offences.

Notwithstanding that it is not thoroughly articulated in the PSA, PFMA, PSR, PAMA, NDP and Treasury Regulations that the Forensic Investigations Unit is part of multi-anti-corruption agencies to fight corruption in the public sector; however, the undisputed fact is that employees within government department Forensic Investigations Unit are well trained, skilled and experienced to carry out investigations of fraud, corruption, irregularities, financial misconduct and maladministration in the public sector. Thus, one can certainly argue that in the absence of supportive legislation and resources for the Forensic Investigations Unit, the fight against corruption in the public sector remains a barrier to achieving.

CONCLUSION

Based on researcher observation, the Forensic Investigations Units were established to play an important role in providing the support to the Heads of Departments/ Director's-General and CEO's in their respective departments and SOEs. This is part of multi-anti-corruption agencies in fighting corruption, fraud, irregularities, financial misconduct and maladministration in the public sector. The impact of this Unit is to reduce incidents of fraud, corruption, irregularities or mismanagements of public funds and maladministration within the public sector and promote ethical public service through its recommendations for suitable control measures. In light of the statements above, the following Forensic Investigations Units were found to be established in various government departments and SOEs in support of CEOs and Directors-General, namely Forensic Audits (DoJ&CD), Forensic Investigations and Quality Assurance Audits (DWS), Departmental Investigations Unit (Department of Correctional Services), Specialised Audit Services (National Treasury), Forensic Investigations (DALRRD and DoT), Special Investigations Directorate (DHS), Investigative Directorate (NPA), Forensic Investigation Department (RAF), and Assurance and Forensic Department/ Unit (Eskom). These Investigations Units were formed to investigate fraud, corruption, irregularities, financial misconduct and maladministration. These Investigations Units were discovered to be in existence and operational in support of the CEO and Directors-General in the public sector. It is undisputed that Forensic Investigations Units play a vital role in certain government departments/ institutions and SOEs to minimise fraud, corruption, financial misconduct, irregularities and maladministration in the public sector. To instil fear towards corrupt public servants and discourage opportunities for fraud, corruption, irregularities, and maladministration require that these active Forensic Investigations Units in the public sector be equipped, including consequence management be implemented for the findings and recommendations drawn by Forensic Investigations Units as well as to the investigations executed by multi-anti-corruption agencies such as SIU, PPSA and AGSA. The absence of Forensic Investigations Units in the public sector creates a vacuum for cases of fraud, corruption, irregularities and maladministration not to be investigated, resulting in poor governance, which cripples service delivery.

Based on the study's findings, the article recommends that the role of the Forensic Investigations Units in the public sector must be clearly articulated in legislations such as the PSA, PSR and PAMA as part of multi-anti-corruption agencies to fight corruption in the public sector of South Africa. This translate that the PSA, PSR and PAMA must be amended and provide Forensic Investigations Unit in the public sector

with a clear investigative role similar to that contained in the SAPS Act, Public Protector Act, SIU and Special Tribunals Act and Section 95A of CSA. The study further recommends that the NDP be amended to accommodate Forensic Investigations Unit as part of multi-anti-corruption agencies in the fight against fraud, corruption, irregularities, financial misconduct and maladministration in the public sector. The NDP multi-anti-corruption agencies are limited to SIU, AFU, IPID, the PP, the PSC, and DPCI only, not internal Departmental Forensic Investigations Units. As a result, the study recommends that to promote good governance, minimise fraud, corruption, irregularities, financial misconduct and maladministration which will lead to the improvement of service delivery, all public sector institutions are required to establish Forensic Investigations Units.

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