

## Article

# The Re-Positioning of Forensic Investigations Units in the Public Sector of the Republic of South Africa

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**Received:** Jan 20, 2025; **Revised:** Feb 10, 2025; **Accepted:** Feb 10, 2025; **Published:** Sep 30, 2025

**Abstract:** This article explores the re-positioning of Forensic Investigations Units (FIUs) in the public sector of the Republic of South Africa (RSA) with a view to transforming it into an effective service that is strategically positioned. These FIUs are established and functioning within the state Departments, State-Owned Entities (SOEs) and Municipalities as well as performing more or less similar roles as those of other independent institutions such as the Public Protector South Africa (PPSA), Special Investigating Unit (SIU), etc. They may have different powers, however, the purpose is the same of investigating various offenses reported, referred and proclaimed within their respective institutions. The study adopted a qualitative research approach and ten (10) participants from various FIUs in the public sector of the RSA were interviewed using open-ended interview questions. Documents analysed and participants interviewed were selected purposively using purposive sampling. The study found that at the current set-up organogram of the Anti-Corruption Units across all the spheres of government in the RSA; the FIUs should be positioned in the Office of Director's-General (DGs), Head of Departments (HoDs), Chief Executive Officers (CEOs) and Municipal Managers (MMs) to independently exercise their mandate of investigating corruption, fraud and related offences without fear or favour.

**Keywords:** Corruption, Fraud, Forensic investigation, Irregularities, Maladministration, Public sector

## 1. Introduction

The criminal justice system is the cornerstone for ensuring that the rule of law functions in an effective and efficient way. For that reason, the Constitution of the RSA of 1996 places the primacy on the independence of various institutions such as the Public Protector South Africa (PPSA) (Republic of South Africa, 1996), Special Investigating Unit (SIU), Independent Police Investigative Directorate (IPID), Directorate for Priority Crime Investigation (thereinafter refers to as Hawks) and Investigative Directorate (ID) within the National Prosecuting Authority (NPA). Thus, there are different applicable legislation to the public sector of the RSA such as section 195(1) of the 1996 Constitution which states that Public Administration must be governed by the democratic values and principles as cherished in the Constitution. Some of the principles require public servants to adhere to higher standards of professional ethics including to respond to people's needs and services impartially, fairly, equitably and without bias.

Mokhomole (2023) highlights that as part of promoting accountability and strengthening the fight against corruption, fraud, irregularities, financial misconduct, maladministration and malpractices in the public sector of the RSA, the National Development Plan (NDP) advocate for the diversification of anti-corruption agencies to investigate the said offences in South Africa. The South African criminality score has worsened in the last two years according to the 2023 Global Organised Crime Index (GOCI) which shows that South Africa now ranks seventh in the world out of 193 countries and third in mafia style criminal networks and organised crime syndicates (GIATOC, 2023). Consequently, most of the government departments, SOEs, municipalities and other state institutions set-up the FIUs as part of complying with the National Anti-Corruption Strategy which requires the establishment of Anti-Corruption Units to address amongst other things the corruption, fraud and other related offences in the public sector of RSA.

The FIU roles and responsibilities are to prevent, detect, investigate various forms of reported allegations of offences ranging from corruption, fraud, financial misconduct, irregularities, maladministration and other related offences and to resolve all forms of reported crimes effectively and efficiently. Although its mandate is limited to the public sector, where fraud and corruption is revealed during the investigations, the institution makes referral to the SAPS to be investigated further by Hawks for possible criminal prosecution by NPA. Most of the FIUs are not empowered with necessary tools and resources to swiftly complete their investigations. The FIUs makes systemic recommendations about control measures as proactive prevention for future fraud and corruption, thus contributing to the public sector corporate governance.

The current set-up of the FIU and its independence is necessitated by the fact that from time to time, corruption is cited as the cancer which derails service delivery as well as the development of the state. South Africans have to brace themselves for poor service delivery due to the systematic rooted corruption, fraud, irregularities, incompetence and malpractices across all spheres of government in the RSA. Delivery of services such as the building of proper tar roads, access to clean water and sanitation, electricity and housing are negatively affected year in, year out as reported by Auditor-General of South Africa (AGSA) on their audit reports due to the graft of corruption, fraud, irregularities, financial misconduct, fruitless and wasteful expenditure, maladministration and malpractices. Consequently, the re-positioning of FIU to independently investigate these allegations is necessary as its current setup is compromised including being used by executives and other senior managers as a weapon to fight their internal battles and settle power dynamics within the various institutions in the public sector of the RSA.

## 2. Research Background

The study was informed by the compromised independence of FIUs across the three spheres of government including SOEs and other government institutions in the RSA. In most instances, the powers and functions are delegated differently, the appointments of new administrators, board members and executives come with a lot of administration changes of which FIUs are likely to be affected in terms of their function and reporting lines. Due to its Anti-Corruption strategical functionality, in other instances the FIUs are likely to be used as a weapon to fight political battles within the spheres of government rather than performing its mandatory purposes of fight against the corruption, fraud, irregularities, financial misconduct, maladministration and malpractices in the public sector of the RSA.

In the City of Johannesburg Metropolitan Municipality (CoJ), the Group Forensic and Investigation Services (GFIS) was established by a different administration and when time goes by and administration changes, the unit was often put under the spotlight citing that the corruption bust unit was abusing its power by conducting investigations against Councillors and Senior Managers illegally so. Though, there were different political administrations running the municipality, the Speaker of the Council at the time, Ms Collen Makhubele did acknowledge the importance of the GFIS unit in the fight against corruption, fraud, financial misconduct and irregularities, maladministration and malpractices in the city; but, argues that the powers and functions of the unit are still yet to be defined as stated by the different administration in relation to their role, crimes to be investigated and not to be investigated, etc. as per the legislation (eNCA, 2023). This may also change as the administration changes and the instability of the department sometimes affects the performance and staff morale.

Another challenge identified by the researcher is that of the Municipalities having to report on a quarterly basis to the Department of Cooperative Governance and Traditional Affairs (COGTA) while other departments only reporting internally to their respective executives and not having one oversight body to assess the capabilities required towards the impactful reduction of corruption and related offences.

The researcher believes that the decentralised approach in the supervision of these units may also increase the risk of other cases not being investigated because of the possible interference and other investigators linked to other politicians. Decision making on the functioning, naming of positions, salaries, etc. is also not the same which perhaps requires it to be regulated and aligned across the spheres of the government, SOEs and other state institutions.

It must be noted that the South Africans are relying on the forensic investigators to exercise their considerable power in tackling reported cases of corruption, fraud and other related offences. However, it emerges from time to time that some of the criminal cases are used to protect various individuals who are facing serious criminal allegations rather than public interest (Burger, 2016).

Section 196(4)(f)(i) of the 1996 Constitution of the Republic of South requires the Public Service Commission either of its own accord or on receipt of any complaint to investigate and evaluate the application of personnel and public administration practices, and to report to the relevant executive authority and legislature; (ii) to investigate grievances of employees in the public service concerning official acts or omissions, and recommend appropriate remedies and (iii) to monitor and investigate adherence to applicable procedures in the public service.

Mokhomole (2023a) highlights that section 106 of the Local Government Municipal Systems Act, 32 of 2000 (Republic of South Africa, 2000) requires the Member of the Executive Council (MEC) responsible for Cooperative Governance and Traditional Affairs (COGTA, 2021) “to institute investigations and/ or appoint an investigating team to investigate the allegations of corruption, fraud, malpractice, maladministration, or nepotism when they arise or reported within the municipalities.”

The Act suggests that the MEC has the authority to institute the forensic investigation and/ or appoint individual or forensic investigation team when he/she believe that there is a corruption, fraud, financial misconduct and irregularities, maladministration and malpractices within the municipalities or such allegations are reported to his/her office (Mokhomole, 2023b).

### 3. Research Design and Methodology

The study adopted the qualitative research approach. This is because the flexibility of qualitative research design allows the researcher to adjust research objectives and topics when new data emerge during the execution of the study. Moreover, this research design/ approach subjected the study results based of working experience of participants interviewed (forensic investigators and anti-corruption champions), documents that were analysed and operational organogram of Anti-Corruption of the selected government departments, SOEs and other state institutions across the spheres of government in the public sector of RSA (Creswell & Poth, 2016; Sileyew, 2019; Haven & Van Grootel, 2019).

Researcher developed few themes based on participants lived and work experience in the field of forensic investigations, existing organograms of FIUs and duties/ Key Result Areas (KRAs) and/ or Key Performance Indicators (KPIs) used to set goals and objectives as well as measuring employee's performance. These duties, KRAs and KPIs are stated mostly when Forensic Investigations and Anti-Corruption posts are advertised (Garcia & Gluesing, 2013).

Moreover, the identification and development of themes was supported by literature gathered and/ or documents (in the form of reports, strategies and frameworks, journal and articles) that were analysed by the researcher as they were deemed relevant to this study. The qualitative results from the gathered literature review and participants responses were analysed to reveal where gaps and misalignments are in terms of FIU operations including reporting line both functionality and administratively so that researcher can proposes, suggests and/ or recommends better structure in the public sector of the RSA where the FIUs can be re-position. Furthermore, "given the unique questions and situations confronted in various contexts", Garcia and Gluesing (2013) stressed that other forensic investigators and anti-corruption experts, and researcher can successful employ document analysis and qualitative approach to express their views based on their lived and work experience; the suitable structure to house and/ or place the FIU.

It was also argued that in the context of change in processes and organogram as part of interventions to the organisational or government challenges, for instance, in the case of this study, the challenges to assure the independency of the FIUs investigations and minimise more executive, administrative and political interference; qualitative research design and approach was deemed necessary to recommends or suggests a new structure that will assure the independency of FIUs similarly to that of SIU and account to an independent body like Parliament for efficiency purposes regarding their conducted investigations (Garcia & Gluesing, 2013).

Thus, the researcher considered a qualitative research design as an appropriate approach for this study to explore the re-positioning of FIU in the public sector of the RSA with a view to transforming it into an effective organogram and service that is strategically positioned to deal with various offenses committed by public servants when performing their duties. This is because qualitative research relies on a lesser number of research participants, often gathering data through individual interviews as well as analysis of documents (literature review) while taking into consideration participants' experience in the field of forensic investigations in the public sector of the RSA (Slavin, 2018).

The disadvantage of employing a qualitative researcher method is that it becomes more complex to interpret and analyse the collected data. Besides, it took a lot of time for the researcher to analyse and transcribe down data gathered from the interviews with participants as well as generalising the findings to represent the entire public sector of the RSA (Rahman, 2017).

Participants and secondary data from published literature were purposely selected to explore the re-positioning of FIUs in the public sector of the RSA. Interviews were conducted and data presented using the Capital letter 'P' and 'Number' as reference for participants' views and response.

Although this research was only exploring the re-positioning of FIUs in the public sector of the RSA, however, this study did not thoroughly cover all the operational organogram of Anti-Corruption Units existing in various government departments and institutions (Lolwana, 2016). However, it does provide an overview of the possible independent bodies that the FIUs can report to as part of assuring its independence from politically and administratively interference at the departmental or institutional level.

Thematic data analysis was employed in this study as it allowed the researcher to identify themes from the literature review gathered and interviews conducted. This is because thematic analysis helped the researcher to recognise the patterns of meaning from the collected data (Mkhwanazi & Khosa, 2021). The researcher followed inductive coding approach to thoroughly make observations (as a season Forensic Investigator) in that themes and patterns emerged from the data gathered to construct theory and meanings rather than relying steadily on existing theoretical framework. The researcher allows the data to speak for itself while developing new ideas and perceptions (Bingham & Witkowsky, 2022). Consequently, the researcher was interested in these patterns in order to formulate themes and emphasise the re-positioning of FIUs in the public sector of the RSA. As a result, three themes were formulated and discussed below under the subtitle "Identified Themes, Review of Literature and Study Results."

#### 4. Identified Themes, Review of Literature and Study Results

This section presents themes, reviewed literature and study results. For the purpose of this study, four themes were identified and presented below:

- The position of Forensic Investigations Units in the public sector of the RSA,
- The international best practices of Anti-Corruption Agencies,
- The current reporting line function of Forensic Investigations Units in the public sector of the RSA, and
- The mostly duties to be performed by the Forensic Investigations Units across the spheres of government in the RSA.

##### 4.1. *The Position of Forensic Investigations Units in the Public Sector of the RSA*

In terms of the Anti-Corruption Capacity Requirements (Department of Public Service and Administration, 2006), an Anti-Corruption Unit was set-up by various government departments and institutions (thereinafter refer the Unit as Forensic Investigations, Forensic Audit, Fraud Awareness and Investigations, Directorate: Investigations which fall under Counter Corruption & Security Services Branch, Departmental Investigation Unit, Integrity Unit, etc.) to investigate and fight corruption, fraud, irregularities and other related offences including to successfully bring about or restore good governance and effective service delivery in the public sector of the RSA. These investigation units were established to carry out Anti-Corruption Strategy to address their departmental and institutional Anti-Corruption objectives.

According to the National Anti-Corruption Strategy (2020), the aims of the Public Service Anti-Corruption Strategy is to fight and prevent corruption, fraud and other related offences “through a multiplicity of supportive actions.” More importantly, Mahamba (2024) point out that “the overall national anti-corruption strategy of law enforcement agencies is to strengthen the fight against corruption by pursuing both civil and criminal processes to ensure that impunity is no longer a given.” From the Departmental side, to pursue disciplinary action against implicated officials.

However, the Public Sector Integrity Management Framework (DPAS, n.d.:12) indicates that the Special Anti-Corruption Unit (SACU) was established to strengthen investigation in relation to matters of potential conflict of interest and disciplinary capacity to fastrack the backlog of disciplinary actions taken against officials who contravene provisions stated in this framework in the public sector of the RSA. The SACU was established to liaise with Ethics Officers appointed across the spheres of government. For efficiency purposes and to avoid political interference in carried out investigations, the SACU will report to the Minister of Public Service and Administration regarding the outcomes of investigations and disciplinary action conducted. However, the researcher believes that these investigation results can still be compromised as the Minister of the Public Service and Administration is a political head (an executive) who can shield his/her fellow implicated persons.

In early 2000, the Anti-Corruption Co-ordinating Committee (2004) emphasised that “the Department of Public Service and Administration (DPSA) and the Office of the Public Service Commission launched a joint initiative to audit the anti-corruption capabilities of departments”. The cause of this audit by DPSA and PSC was to measure the capabilities of Anti-Corruption Units within the government departments and suggest ways to improve their capabilities of fighting corruption, fraud and other related offences within their institutions. From the 85 departments that participated in the audit, it was revealed that 90% of the departments that had an Anti-Corruption Unit, had clear reporting lines. From the 90% departments that had the Unit, only 57% of the department had a dedicated Anti-Corruption Unit.

In addition, the audit revealed that of the department that had the Anti-Corruption Unit, 71% of the Line Managers had relevant experience in the field of Anti-Corruption, 18% did not have relevant experience while 8% of the Line Managers did not respond to the audit question. With regard to the effectiveness of the Unit, “8% rated the Units as completely effective, 61% rated the Units as mostly effective, 16% rated the Units as mostly ineffective whilst 4% rated the Units as completely ineffective” according to (Anti-Corruption Co-ordinating Committee, 2004). However, the researcher did not test nor establish whether the current status of the audit results still remain as the reporting lines of Anti-Corruption Units sometimes changes when the new administration takes over. Similarly, the leadership of the Units sometimes get affected when the new administration gets installed.

According to the Anti-Corruption Capacity Requirements (2006) indicates that the “responsibilities for the various functions to be fulfilled in anti-corruption strategy must be allocated to a specific organisational unit.” In case of this study, FIU will be one of the units designated with those responsibilities to carry out anti-corruption functions in the public sector of the RSA.

In addition to the assertion above, the approval of Minimum Anti-Corruption Capacity Requirements for the National and Provincial Department by Cabinet in 2003 was intended to address the rising number of corruption, fraud and other economic crimes in the public sector of RSA as well as its impact to the economy and public needs. Thus, the establishment of FIU across the spheres of government was to support investigating authorities such SIU, PPSA, Hawks and NPA, as they have extensive mandate to investigate, fraud, corruption, irregularities, mismanagement of public funds, maladministration, etc. including to subpoena witness



and documents from financial institutions contrary to that of the FIU (Pereira, Lehmann, Roth & Attisso, 2012:31). This translate that when fraud, corruption and other economic crimes are discovered during the forensic investigations instituted by FIUs, such cases are referred to Hawks for further investigations and arrest of perpetrators, NPA and SIU for recovery of the assets lost due to fraud and corruption, irregularities, mismanagement and maladministration.

Pereira et al (2012) emphasise that having investigation capacity as well as FIU in the institution is vital to prevent and fight against fraud, corruption, financial irregularities or any irregularities, mismanagement of public funds, maladministration, and any maleficent since the ultimate goal of any act of maleficent or corruption is to allow the corrupt public servant(s) or member(s) of the public “offering the bribe to benefit from an undue advantage.” However, it remains unclear to the public in terms of the impact the FIU have in the fight against corruption in the public sector as most of the unit referral cases to the SAPS, NPA and other institutions remain unresolved.

As part of re-positioning the FIUs at the Local Government, in 2021, the Minister of the Department of Co-operative Governance and Traditional Affairs published regulations for the local government, municipal staff regulations. These regulations have the standard competencies framework for mainstream occupation and career stream including the for FIU (COGTA, 2021). For the FIU, the Forensic Specialist Competency Framework indicates that for level 1 designation will be (Assistant Forensic Specialist), level 2 (Forensic Specialist), level 3 (Senior Forensic Specialist) and level 4 (Principal Forensic specialist).

These staff regulations are applicable only to the municipalities and not to other spheres of government and thus resulting in different names for the forensic investigators titles being used in other spheres of government. Furthermore, these regulations are not yet implemented as the names of positions used differ from the standard competencies framework.

Nevertheless, the Minimum Anti-Corruption Capacity (MACC) stressed that due to diverse organisational culture, organogram, size, risk profiles and levels in relations to decentralisation of decision making; thus, institutions may locate unit such as FIU within the Internal Audit, Employee or Labour Relations, Anti-Corruption units, Inspectorate units, Risk Management units or Integrity Management units.

#### 4.2. *The International Best Practices of Anti-Corruption Agencies*

Countries like China have a single anti-corruption agency known as Hong Kong’s Independent Commission Against Crime (ICAC) which is successfully winning a battle against corruption. However, in the South African case, Commissioners from the National Planning Commission (NPC) argued that the RSA needed a diversity of anti-corruption agencies to combat corruption contrary to a single anti-corruption agency of China. In their argument, they further emphasise that the multiplicity of anti-corruption agencies could be less likely captured and compromised by politicians, businesspeople and those in positions of power (National Planning Commission, 2011& Mokhomole, 2023).

Similarly, Botswana has an anti-corruption agency called the Directorate on Corruption and Economic Crime (DCEC), located in the Ministry of Justice, Defence and Security portfolio. The DCEC operates as an ‘autonomous’ structure which administratively reports to the DG who is assisted by Deputy Director-General (DDG) and other Assistant Directors thereof (Rudolph & Moeti-Lysson, 2011). According to the Government of Botswana (n.d.), the primary mandate of DCEC is “to investigate allegations of corruption and economic crime, educate the public on the effects of corruption and prevent corruption.”

The establishment of Botswana DCEC in 1994 was inspired by the success of the Hong Kong ICAC. Contrary to the FIU in the RSA, the mandate of DCEC has stretched to conscientise the public about the consequence of corruption and the benefit of preventing it. In most institutions or organs of state in the RSA, such a mandate is carried out by a different Directorate, not the FIU. The FIU mandate is mainly to investigate allegations of fraud, corruption, irregularities, misappropriation of funds, maladministration within their institutions and make recommendations to be implemented by DGs, HoDs, CEOs, MMs’ and/ or relevant line managers.

#### 4.3. *The Current Reporting Line Function of Forensic Investigations Units in the Public Sector of the RSA*

The researcher purposely sampled ten (10) institutions across the spheres of government and interviews were held with some senior forensic investigators (thereafter referred to as Participants and labelled as P with the number e.i attached to the letter P as 1). Below are some of the participants response based on their operational organogram of their departments/ institutions (Table 1).

**Table 1.** Participants response based on their operational organogram of their departments/ institutions.

| Institution  | Reporting Line in terms of Administration and Functionality   |
|--|---|
| Department of Justice and Constitutional Development (DoJCD)                     | In terms of the organogram structure of the department, the Forensic Audit unit falls within the Internal Audit/ Risk Management which reports directly to the DG (P1).   |
| Department of Water and Sanitation (DWS)   | From the working experience of (P3), the Forensic Investigations and Quality Assurance Unit in the department report to the Chief Directorate: Internal Audit which functionality reports to the Audit Committee and administratively to the DG.  |
| Department of Agriculture, Land Reform and Rural Development (DALRRD)            | (P4) emphasise that the Forensic Investigations Directorate in the department reports directly to the Chief Audit Executive (CAE) who is responsible for the Chief Directorate: Internal Audit. The CAE reports directly to the DG of the DALRRD. Their Forensic Investigations reports are also presented to the Audit Committee where the DG sits as part of strengthening corporate governance as well as safeguarding the independence of the unit.                             |
| Department of Forestry, Fisheries and the Environment (DFFE)                     | In terms of the structure of the department, (P10) pointed out that the Directorate: Fraud and Ethics Management reports to the Chief Director: Risk and Ethics Management which functionally accounts to the Risk and Ethics Committee and administratively to the DG.   |
| Gauteng Provincial Government (GPG, 2022)  | The Gauteng Provincial Forensic Audits Division administratively reports directly to the DG while functionally to the Audit Committee. Moreover, the Division also accounts and/or submit their quarterly investigation reports to the Gauteng Ethics Advisory Council (GEAC), Standing Committee on Public Accounts (SCOPA), Executive Council EXCO and other governance structures (Page 23). At some point, the Division used to report to the Gauteng Provincial Treasury (P8). |
| Department of Human Settlement (DHS)   | The Directorate Risk and Integrity Management reports directly to the DG while it oversees (oversight body) by the Risk Management Committee and Audit Committee (P7).  |
| City of Johannesburg (CoJ)   | According to (P2), the GFIS in the city has dual reporting lines. Functionally, it reports to the Group Audit Committee and administratively to the City Manager.   |
| Eskom State-Owned Company Limited (Eskom SOC Ltd)                                | Based on (P5), the Assurance and Forensic Department/ Unit at Eskom reports to the who then reports to the General Manager, who reports to the Chief Operating Officer (COO). The latter then reports to the Chief Executive Officer (CEO) of the Eskom SOC Ltd.  |
| Department of Public Works and Infrastructure (DPWI)                             | In accordance with (P6), the Fraud Awareness and Investigations in the department hold close sessions with the Audit Committee (meaning the unit account to the Audit Committee functionality) and administratively reports to the DDG: Governance Risk and Compliance.   |
| Compensation Fund, a Branch within the Department of Labour and Employment (DEL) | According to the organogram of the Compensation Fund, the Directorate Anti-Corruption and Integrity Management Unit reports to the Audit and Risk Management Committee for oversight purposes (functionality) and administratively to the Compensation Commissioner (P9).   |

Correlating some of the participants responses above with one of the set-up anti-corruption policy, the researcher emphasise that when the Anti-Corruption Capacity Requirements was developed, the Anti-Corruption organogram of the Department of Trade and Industry at the time was regarded as one of the “well-developed capacity that has taken shape over a number of years.” This Anti-Corruption Unit was led by the Chief Internal Auditor (CIA) who was responsible for forensic investigations into allegations of corruption, fraud, financial irregularities or any irregularities, mismanagement of public funds, maladministration, and/ or any maleficent also prepared reports that were presented to Audit Committee (Anti-Corruption Capacity Requirements, 2006).

However, according to the former Mayor of City of Johannesburg (Cllr Thapelo Amad), the GFIS reports directly to the City Manager (meaning the results of GFIS investigations are reported to the City Manager as the Accounting Officer of the City). Moreover, he pointed out that all the investigations carried out by the GFIS must be tabled before the Council that will determine and/ or pronounce whether the City Council authorise or not authorise such investigations (News24Wire, 2023). However, the researcher holds the view that it cannot be the Council that determines which investigation to be carried out and not to be carried out. This is because such responsibility should lie with the Unit that will determine through their assessment processes, of course, guided by their mandate, methodology, charter, policy, framework, etc. as to which offences and officials to investigate and what not to investigate.

Moreover, the Anti-Corruption Capacity Requirements (Department of Public Service and Administration, 2006) emphasise that the Department of Correctional Services tasked the Deputy Commissioner: Legal and Special Operations who is responsible for Legal Services, Departmental Investigations Unit (DIU) and Code Enforcement Unit (CEU) to monitor the effectiveness of all these three (3) Units in implementing and championing the Departmental Anti-Corruption framework. These three (3) Units are all based in Pretoria where is the Head Office of the Department, yet, they investigate and/ or carry out their investigations and anti-

corruption duties all over the Correctional Services Centres in the RSA. The centralisation of anti-corruption Units in the Department was to avoid these Anti-Corruption personnel to be closer to the sources of information including minimising the possibilities of them being intimidated and influenced when executing their duties because of their close relationship with officials that have to be the subject of investigations.

Besides, the DIU was also well resourced to champion and drive the Anti-Corruption framework of the Department of Correctional Services. They have been equipped to have systems in place such as Hotline which was later replaced by National Anti-Corruption Hotline (NACH), telephone, emails and fax facilities where people can report occurrences of corruption, fraud, irregularities, maladministration and any other related offences. Consequently, the management of Correctional Services was also requested to fully support these Units and any non-corporation will be viewed in serious light (Department of Public Service and Administration Anti-Corruption Capacity Requirements, S.a:16–18).

In terms of the audit report compiled by the Anti-Corruption Co-ordinating Committee (2004), it was revealed that 90% of the departments that had an Anti-Corruption Unit; also had clear reporting lines. Moreover, of the 90% of the departments that had the Unit, only 57% of the departments had a dedicated Anti-Corruption Unit.

However, the researcher did not test nor establish whether the current status of the audit results still remain as the reporting lines of Anti-Corruption Units sometimes change when the new administration takes over. Similarly, the leadership of the Units sometimes get affected when the new administration gets installed. Nevertheless, the majority of responses received from the participants interviewed suggest that FIUs in the public sector of the RSA administratively report to the DGs, HoDs, CEOs and MMs and functionally to the Audit, Risk and Integrity Committees. These functional lines of reporting are perceived to be preferred by the public sector institutions and municipalities including affirming the independence of FIUs and promoting higher standards of corporate governance and professional ethics of public servants.

#### *4.4. The Mostly Duties to Be Performed by the Forensic Investigations Units Across the Spheres of Government in the RSA*

The FIU across the spheres of government is tasked to execute or carry out the following duties:

- To execute the planning phase of the investigations (which details the resources that will be required to carry out the investigations including outlining the time frame to complete the investigations).
- To investigate the allegations or complaints of corruption, fraud, financial misconduct, irregularities and other related offences, and/ or any act or omission committed by an employee which constitutes any irregularities, malpractices or maladministration within their respective government institutions or departments; of which such act or omission resulted in prejudicing the public or member of the public and the state.
- To perform Investigation on complex, basic and provisional matters involving violation or contraventions employer's contract, regulations such as Senior Management Services (SMS) Handbook, Public Service Act (PSA) of 1994, Public Service Regulations of 2016 (PSR), Public Administration Management Act, 11 of 2014 (PAMA), Public Finance Management Act, 1 of 1999, Treasury Regulations of 2001, The Constitution of the RSA Act, 108 of 1996, Code of Conduct for the Public Service, Disciplinary Code and Procedure of the Public Service; and any prescripts regulates the conduct of the public servant(s) in the public sector of the RSA.
- Identify and analyse prescripts and documentary evidence relevant to the complaints or allegations. Request the identify prescripts and documentary evidence from the relevant authorities and respective departments or branches and analyse.
- Identify people of interests (witnesses, suspects, third parties, etc.) for the investigations, schedule interview meetings (through an email and telephone) and Interview the identified people of interests to gather information on the allegations reported.
- Makes recommendation in relations to the review and development of policies, procedures, systems, practices and procedures aim to prevent, analyse and counter corruption, fraud, financial misconduct and irregularities, any act or omission committed by an employee which constitutes any irregularities, malpractices or maladministration within their respective government institutions or departments (DPSA, 2022).
- Present forensic investigations reports to oversight committees such as Audit Committee, Audit and Risk Committee and/ or Risk and Ethics Committee depending on how the oversight of that particular institution is structured.
- Compile investigations report relating to investigations carried out within their government institutions or departments to be approved by the DGs, HoDs, CEOs, MMs) and monitor the implementation of recommendations made for corrective actions (DPSA, 2023).
- Assist Labour Relations, Legal Practitioners and SAPS with recommendations made which require for disciplinary, civil and criminal actions including required documents for further investigations (South African Reserve Bank, 2024).

- Follow-up with relevant stakeholders regarding the progress made in relations to the implementation of investigations recommendations made as part of corrective measure.

To sum-it up, notwithstanding that the FIU primary responsibility is to conduct forensic investigations and produce reports with recommendations, the FIU is further required monitor the processes of implementing the recommendations by relevant Units or stakeholders on a monthly or quarterly basis and also assists departments with instituting disciplinary and civil action as well as opening criminal cases with the SAPS on matters investigated internally or outsourced (Gauteng Ethics and Anti-Corruption, 2022). Moreover, the FIU is part of the Anti-Corruption Unit aimed to improve corporate governance as well as strengthening departmental and institutional policy of zero tolerance towards corruption, fraud and related offences.

Over and above, the role of FIUs within the anti-corruption framework and their potential contribution is significant to the public, more specifical the public servants so that they actively strive to carry out their duties through the ethical norms and standards as outline in the Batho Pele principles with the goal to improve good governance in the public sector of the RSA.

## 5. Recommendations

From the data presented, analysed and interpreted for this study, the study recommends that at the current organogram set-up of the Anti-Corruption Unit across all the spheres of government in the RSA, the FIUs should be positioned in the office of DGs, HoDs, CEOs and MMs to independently exercises their mandate without fear or favour. This is because the DGs, HODs, CEOs and MMs have authority or administrative power over the institutions they manage. Moreover, if the status core remains; the Audit, Risk and Integrity Committees (ACs), Office of Public Service Commission (PSC) and Parliament as well as other relevant bodies have to be tasked with oversight responsibility of all the FIUs within their respective institutions to guarantee the independency of the unit from the executive, board and administration of the government departments, institutions, municipalities and SOEs as well as minimising political interference. The study further recommends that in future the FIU should be centralised into one Department and have a formal Memorandum of Understanding with other independent institutions for a meaningful impact. To build a capable, ethical and developmental state including promoting corporate governance, ethics and discipline within the public sector; the DPSA as custodian of the public sector in South Africa must lead the process of re-positioning the FIU as they did with the establishment of Public Administration Ethics, Integrity and Disciplinary Technical Assistance Unit (PAEIDTAU) and the implementation thereof. Thus, if the FIU is positioned in the DGs, HoDs, CEOs and MMs' offices, the DPSA through the PSC should facilitate and drive the implementation in the public sector of the RSA. Alternatively and for efficiency purposes, the FIU becomes an autonomous structure similar to that of the IPID and SIU and accountable to Parliament regarding the outcomes of their conducted investigations. This is to assure the independence of their investigations and minimise more executive and political interference. This is because Parliament is one of the arms of state, which plays an oversight role over multiplicity of state organs. The researcher believes that an independent body like Parliament can be a fit and proper Arm of State to oversee investigations carried out by the FIU without being compromised including holding those found in the wrong side of the law accountable.

## 6. Conclusions

Performing forensic investigations into the allegations of corruption, fraud, irregularities, financial misconduct, maladministration, malpractices and other related offenses in the public sector of the RSA is key, but remains incomplete if the outcomes of these investigations are not implemented effectively. Lack of implementations to the recommendations of FIU and other investigative institutions such as PPSA, Hawks, AGSA and SIU in the public sector of the RSA can lead to distrust by members of the public and stakeholders. Bringing those who breaks the law to book, recovering assets gained in a dishonest or illegal way including taking appropriate disciplinary actions against those who committed misconduct or contravene certain prescripts perhaps can regain the confidence of society including encouraging them to reports wrongdoing and act of criminality in the public sector of the RSA. Based on the presented and analysed data including the results of the study, it suggested that the FIU in the public sector of the RSA be centralised into one department and oversee by an independent body like Parliament so that its independence can make a meaningfully impact and evade interference by the executive as well as politicians. This is to ensure that the reporting lines of FIUs as Anti-Corruption Unit is not affected when the new administration is installed. Similarly, the leadership of these Units will not get affected when the new administration gets installed. More importantly, researcher like emphasise that the overall purpose of National Anti-Corruption Strategy; Public Service Anti-Corruption Strategy and Local Government Anti-Corruption Strategy is to prevent, detect, investigate and fight corruption, fraud and other related offences through a wide-range of programmes (such as Anti-Corruption Training and Awareness) and components (such as FIU, Fraud Prevention and Awareness, Integrity Management Unit, etc.) across the public sector and municipalities of the RSA. Moreover, these strategies were intended to strengthen good governance and effective service delivery in the municipalities and public sector of the RSA.



**Funding:** The author received no financial support for this research, authorship, and/or publication of this manuscript.

**Data Availability Statement:** The data of this study is available from the author upon reasonable request or readers, researchers and/ or scholars can easily make use of sources listed on the Reference section of this manuscript or article.

**Acknowledgments:** The author would like to thank Ms Manku Lizzie Ramogale for her contribution to the study and the anonymous reviewers for their comments.

**Conflicts of Interest:** The author declares no conflict of interest.

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