

Whistleblowers Protection Act 2001
**Investigation into the handling of drug exhibits
at the Victoria Police Forensic Services Centre**

December 2009

Ordered to be printed
Victorian government printer
Session 2006-09
P.P. No. 265

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LETTER TO THE LEGISLATIVE COUNCIL AND THE LEGISLATIVE ASSEMBLY

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to section 103 of the *Whistleblowers Protection Act 2001*, I present to the Parliament the report of an investigation into the handling of drug exhibits at the Victoria Police Forensic Services Centre.



G E Brouwer

OMBUDSMAN

9 December 2009

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ABBREVIATIONS

CDI	Chemical Drug Intelligence
CMRD	Corporate Management Review Division
FCM	Forensic Case Management
FO2	Forensic Officer Grade 2
FSD	Forensic Services Department
FEMU	Forensic Exhibit Management Unit
IT	Information Technology
NATA	National Association of Testing Authorities
OH&S	Occupational Health and Safety
SOP	Standard Operating Procedures
VFSC	Victoria Forensic Services Centre
VPFSC	Victoria Police Forensic Services Centre

1. SECTION 22A OF THE WHISTLEBLOWERS PROTECTION ACT

1. This report is made pursuant to section 103 of the *Whistleblowers Protection Act 2001* and the names of the two persons against whom protected disclosures were made have been included.
2. Section 22A of the Whistleblowers Protection Act provides I may disclose, in a report referred to in section 103 of that Act, particulars likely to lead to the identification of a person against whom a protected disclosure has been made if I determine it is in the public interest to do so and if I set out in the report the reasons why I have reached that determination.
3. Having considered the four matters referred to in section 22A(2), I have determined that it is in the public interest to identify two of the subjects of a protected disclosure in this matter by disclosing the following particulars: the name, occupation and personal details of those subjects. I have made this determination for a number of reasons.
4. I consider that it is in the public interest for the subject of a protected disclosure to be identified in a report to Parliament when the report and the disclosure concern allegations of improper conduct and inadequate management by persons performing functions and roles of significance in the public sector, such as senior staff in a sensitive area of Victoria Police. This is particularly so when the report indicates that there is merit in the allegations against those persons.
5. This public interest is derived from the nature of the functions and roles performed by those persons and, in this instance, from:
 - the significance to the system of justice in the State of the performance of those roles and functions, and
 - the potential damage to that system by poor performance and improper conduct.
6. I do not consider that the public interest identified above can be satisfied by any means other than by identifying particular subjects of the disclosure. In this matter, I consider that confidentiality is not appropriate as it runs counter to the public interest.
7. I also consider that it is in the public interest for Parliament and the public to be informed of the result of an investigation into allegations of serious mismanagement of drug exhibits. This is particularly so when the investigation confirms those allegations.

8. While this public interest may not, in all instances, require the identification of a subject of a disclosure, in relation to the two individuals to be named in this report it would not be possible to serve this public interest if the report did not disclose the identity of those individuals. This is because any discussion in the report which refers to the functions, activities and actions of those two officers in a de-identified manner – such as by using their position titles or descriptions – would be sufficient, given the significance of their roles and the specialised nature of the part of the public body in which they are or were employed, to allow the identity of the two persons to be easily determined.
9. The only way to avoid such identification would be to omit from any report to Parliament any information relating to the practices undertaken by those subjects. In my view, this would mean that I would not be able to make any form of meaningful report to Parliament on the investigation of those subjects. I consider this would clearly be contrary to the public interest and that confidentiality in such circumstances would be inappropriate.

2. EXECUTIVE SUMMARY

10. In 2008 I received a disclosure under the provisions of the *Whistleblowers Protection Act 2001* (the Act) regarding the manner in which drug exhibits were being managed at the Victoria Police Forensic Services Centre.
11. I received a further disclosure that detrimental action had been taken against the whistleblower for having made a protected disclosure. I was satisfied that the disclosure showed that a public body or public officer had taken, was taking or proposed to take detrimental action in contravention of section 18 of the Act.
12. As the whistleblower provided credible evidence relating to serious issues about the integrity and accountability of drug exhibits and the mistreatment of the whistleblower, I determined that the disclosures were public interest disclosures. Given the nature of the allegations in the two disclosures I decided to investigate them.
13. This report deals with my investigation of the first allegation which I have substantiated.
14. Restrictions are imposed on me by section 22 of the Act, requiring that I must not in any report or recommendation under the Act disclose particulars likely to lead to the identification of a person who made a protected disclosure. My investigation into detrimental action has been finalised and to publicly report on that would reveal the identity of the person who made the protected disclosure. I have therefore decided to deal direct with the Chief Commissioner of Police in relation to that matter.
15. My investigators interviewed forensic officers and other staff at the Victoria Police Forensic Services Centre, and police officers both internal and external to the centre. They also examined extensive documentation, made site visits, and received advice from police officers and forensic analysts in other jurisdictions.
16. The events of the past three years have been challenging for many of the staff at the Victoria Police Forensic Services Centre. I am encouraged that despite this staff were willing to share their experiences and insights into the management of drug exhibits at the centre.
17. It became apparent during my investigation that many of the issues brought to my attention were not new. It was evident that over the past 16 years concerns had been raised regarding drug exhibit management at the Victoria Police Forensic Services Centre which had not been addressed.
18. There are two areas that have responsibility for the management of drug exhibits. While the Forensic Exhibit Management Unit is the repository for all powder drug exhibits, the Drug and Alcohol Branch is responsible for sampling and analysing powder drugs, volatile chemicals and precursors, and associated clandestine laboratory exhibits. It is also responsible for storing and destroying hazardous clandestine laboratory exhibits.

Over the past 16 years concerns had been raised regarding drug exhibit management at the Victoria Police Forensic Services Centre which had not been addressed.

19. Ongoing tension between staff in the Drug and Alcohol Branch and the Forensic Exhibit Management Unit has culminated in industrial action by members of the Drug and Alcohol Branch, including work bans. These work bans have had several results:
- Bulk quantities of drugs are not being forwarded from the Drug and Alcohol Branch to the Forensic Exhibit Management Unit for storage. This ban is contrary to the procedures outlined in the Drug and Alcohol Branch procedures manual.
 - Large quantities of drugs are being retained by the Drug and Alcohol Branch.
 - Forensic officers in the Drug and Alcohol Branch are not returning drug exhibits that had a court order or officer's authority authorising destruction, to the Forensic Exhibit Management Unit for auditing and destruction. This ban is contrary to the procedures outlined in the Victoria Police Forensic Services Centre manual and the Drug and Alcohol Branch procedures manual. This action also contravenes court orders which provide that exhibits should be held for a defined period and then destroyed, not stored indefinitely.
20. Victoria Police indicated it would undertake a separate review of the technical processes associated with drug laboratory practices and procedures. Dr Terry Spencer was appointed by Victoria Police to undertake that review and as indicated in this report, I am in general agreement with Dr Spencer's recommendations, a summary of which is at Chapter 14.
21. My investigation identified many internal control systems and other issues that require attention, in particular:
- storage of exhibits
 - accountability for exhibits
 - auditing and quality assurance
 - business processes
 - management of the Victoria Police Forensic Services Centre
 - industrial dispute
 - drug destruction.

Storage of exhibits

22. There are significant issues regarding the security and storage of drug exhibits. Contributing factors include difficulties in:
- retaining drug exhibits, particularly the chemical drug intelligence exhibits, for extended periods of time
 - obtaining authorisations to dispose of drug exhibits

Ongoing tension between staff in the Drug and Alcohol Branch and the Forensic Exhibit Management Unit has culminated in industrial action by members of the Drug and Alcohol Branch, including work bans.

There are significant issues regarding the security and storage of drug exhibits.

My major concern is the lack of processes and records to determine who is accountable for drug exhibits at any given time.

The forensic case management system was found to lack the rigour and flexibility required to track drug exhibits. Electronic records were found to be inaccurate and therefore could not be relied on.

- providing sufficient secure storage space within the Forensic Exhibit Management Unit and the Drug and Alcohol Branch
- ensuring adequate security for drug exhibits due to
 - i. insufficient vault space in the Forensic Exhibit Management Unit for the storage of bulk drugs
 - ii. few auditable security systems within the Forensic Exhibit Management Unit and the Drug and Alcohol Branch
 - iii. inappropriate exhibit bags and containers that lack adequate security and audit features
 - iv. the increased volume of drug exhibits and further demand on storage.

23. During my investigation I noted that the manner in which exhibits were being stored was less than optimal and the then Deputy Commissioner was advised of my concerns about the security of exhibits seized from clandestine laboratories. Exhibits were being stored on pallets in an open work space in open boxes without seals or evidence tape. As a consequence the Victoria Police Forensic Services Centre agreed to install lockable cages to secure exhibits awaiting processing in the sampling and transfer station. This has improved the security arrangements for items seized from illicit clandestine laboratories.
24. The Victoria Police Forensic Services Centre has addressed some of the weaknesses identified above, however, there is still a great deal more to be done to improve security. I have brought my specific concerns to the attention of the Chief Commissioner and he has accepted all my recommendations. For security reasons the information and specific details of my recommendations relating to these matters will not be publicly disclosed.

Accountability for exhibits

25. My major concern is the lack of processes and records to determine who is accountable for drug exhibits at any given time.
26. There are a number of systems by which the movement or access to drugs is recorded. These include the electronic forensic case management system, case notes of forensic officers, labelling of drug exhibits and contemporaneous notes by investigating officers.
27. The forensic case management system was found to lack the rigour and flexibility required to track drug exhibits. Electronic records were found to be inaccurate and therefore could not be relied on. I have serious concerns when the design of a system prevents administrators from tracking changes made by users. This makes the system vulnerable to abuse.

28. My investigators were informed that many of the inaccuracies relating to the historical drug exhibits can be traced back to the transfer of data to the forensic case management system from its predecessor, the Prime system, which was in use until 2003. Other deficiencies relate to the inflexibility of the current exhibit tracking system. For example samples cannot be identified as a sub-item of a particular case and this presents difficulties with tracking these items. It is unsatisfactory that records of the drug holdings cannot be relied on.
29. As part of my investigation I also examined whether the internal processes and systems used by the Drug and Alcohol Branch could account for the location of drugs during and post-analysis. I identified a number of deficiencies in the accountability arrangements for drug items. For example:
- there is no requirement to record the method of disposal for samples which are not fully expended during analysis
 - it is not specified what quantity should be taken as a sample from the drug exhibit to be used for analysis.
30. Drugs to be analysed can be broadly divided into two categories: as evidence in a contested case or as information for intelligence purposes.
31. A number of forensic officers advocated that the case notes provide evidence of the chain of continuity for the drug exhibits. Neither the Assistant Director of the Chemistry Division nor the evidence gained during my investigation supported this position. Reliance on case notes, as a way to establish the chain of custody of drugs, was demonstrated to be unsatisfactory.
32. I am concerned that drugs being analysed for intelligence purposes are not allocated on the forensic case management system to the forensic officer who has the physical possession of the item. My investigation revealed that drugs in this category are allocated on the electronic exhibit tracking system to the Manager of the Drug and Alcohol Branch, even though the manager does not take physical possession of the drugs. This practice should cease immediately; the forensic case management system should record who has actual possession of the exhibits.

Auditing and quality assurance

33. My investigation found that the Victoria Police Forensic Service Centre does not have a rigorous program of auditing for drug exhibits held by the Drug and Alcohol Branch and the Forensic Exhibit Management Unit.

I identified a number of deficiencies in the accountability arrangements for drug items.

Drugs being analysed for intelligence purposes are not allocated on the forensic case management system to the forensic officer who has the physical possession of the item. This practice should cease immediately; the forensic case management system should record who has actual possession of the exhibits.

The Victoria Police Forensic Service Centre does not have a rigorous program of auditing for drug exhibits held by the Drug and Alcohol Branch and the Forensic Exhibit Management Unit.

For at least 15 years there has been no full independent audit of drug holdings at the Victoria Police Forensic Services Centre.

The assurance given by the Corporate Management Review Division auditors to the Ethical Standards Department in 2006 that all drug exhibits had been accounted for clearly cannot be relied on.

I do not have confidence that all drug exhibits held by the Victoria Police Forensic Service Centre have been accounted for until a full external audit has been undertaken.

34. For at least 15 years there has been no full independent audit of drug holdings at the Victoria Police Forensic Services Centre. To verify compliance and integrity of exhibits, reliance has been placed on an audit undertaken in 2006 by the Corporate Management Review Division, *ad hoc* internal audits initiated by the Assistant Director of the Chemistry Division, and individual self auditing.
35. The number of drug exhibits held at the Victoria Police Forensic Services Centre is a contributing factor that makes auditing time consuming and resource intensive. However an effective governance framework requires a robust auditing program. To date this has not occurred with all drug exhibits.
36. The Corporate Management Review Division plays an important role in the auditing of drug holdings. Information provided by two auditors in the Corporate Management Review Division to the Ethical Standards Department indicated that a full audit of drug holdings in the Drug and Alcohol Branch had been conducted in 2006. When questioned by my investigators they admitted that only selective auditing had occurred. The assurance given by those Corporate Management Review Division auditors to the Ethical Standards Department in 2006 that all drug exhibits had been accounted for clearly cannot be relied on.
37. While I am critical of the Corporate Management Review Division, their reports on exhibits at the Victoria Police Forensic Services Centre identified many issues that required attention. My concern is that there has been reluctance by some senior managers within the Drug and Alcohol Branch to improve processes and procedures.
38. I do not have confidence that all drug exhibits held by the Victoria Police Forensic Service Centre have been accounted for until a full external audit has been undertaken. If discrepancies are identified then appropriate investigations are required.
39. There were different views between senior police officers about the role of the Corporate Management Review Division in the audit process. Some officers believed the process required a random inspection against records. Others thought the audit role should be more inquisitorial with the investigation of underlying issues identified during the audit.
40. Some auditors within the Corporate Management Review Division perceived that the Officer-in-Charge of that division had a conflict of interest because of the various roles he performed in relation to the Victoria Police Forensic Services Centre.
41. It is evident that Victoria Police needs to review the role of the Corporate Management Review Division and to provide clear guidelines about the scope of its various functions.

Business processes

42. My investigation identified that business processes relating to drug exhibit management needed improvement. For example manuals were out of date and needed revision.
43. I identified a lack of corporate cohesiveness on issues relating to quality control between the Chemistry Division and the Business and Strategic Services Division.
44. While the Quality and Assurance Manager for the Chemistry Division maintained that only the drug destruction process required attention, the Business and Strategic Services Division raised significant concerns in relation to the management of drug exhibits.
45. There is a view within the Drug and Alcohol Branch that, in terms of accountability, all that is required is to meet the National Association of Testing Authorities' accreditation standards. There appears to be no focus on continuous improvement or a desire to address the criticism by the Victorian courts and the Victoria Police Drug Task Force about the delays in completing certificates of analysis required for criminal prosecutions.
46. There is considerable criticism by the New South Wales Police Drug Squad and the Victoria Police Drug Task Force of the two-year delay in processing chemical drug intelligence exhibits and preparing data trend reports. I consider that a review is required to determine whether the current chemical drug analysis arrangements should continue or if there would be greater benefit in allocating the resources from this activity to the analysis of evidential cases.
47. It was brought to my attention that there are significant delays in analysing drugs for evidential purposes. Forensic officers attribute this to a lack of resources. I am concerned about the impact these delays have on investigations and court cases.

Management of the Victoria Police Forensic Services Centre

48. In recent years, it is clear that senior management within the Victoria Police Forensic Services Centre has failed to provide the appropriate leadership and direction needed to identify and address the underlying problems with managing drug exhibits.
49. My investigators interviewed many staff including senior executives at the Victoria Police Forensic Services Centre on the effectiveness of the management team in addressing the problems and deficiencies identified with exhibit management. This took into account the conflict that was and still is occurring between a number of staff within the Drug and Alcohol Branch and the Forensic Exhibit Management Unit.

There appears to be no focus on continuous improvement or a desire to address the criticism by the Victorian courts and the Victoria Police Drug Task Force about the delays in completing certificates of analysis required for criminal prosecutions.

There are significant delays in analysing drugs for evidential purposes. I am concerned about the impact these delays have on investigations and court cases.

Senior management failed to take decisive action and did not ensure decisions that were made were followed by staff. It is not satisfactory for senior executives to allow staff to ignore decisions made at senior management level. For these matters to escalate to grievances, occupational health and safety complaints, and Federal Court action reflects poorly on the management of the Victoria Police Forensic Services Centre.

Some witnesses expressed a view that improvements were not required as there should be a high level of trust in the activities undertaken by the forensic officers. Trust or professionalism is not the issue in my view. Rather it is a matter of ensuring accountability and appropriate procedures are adhered to.

50. From the evidence presented to me, I have concluded that senior management failed to take decisive action and did not ensure decisions that were made were followed by staff. It is not satisfactory for senior executives to allow staff to ignore decisions made at senior management level. For these matters to escalate to grievances, occupational health and safety complaints, and Federal Court action reflects poorly on the management of the Victoria Police Forensic Services Centre.

51. I am concerned that the members of the Senior Management Team are overly focused on their own areas of responsibility rather than the major operational and policy issues concerning the Victoria Police Forensic Services Centre as a whole. I have recommended the executive structure of the Victoria Police Forensic Services Centre be reviewed to determine the appropriateness of the current model.

52. In response to this criticism, some members of the Senior Management Team (SMT) expressed a range of views.

The Assistant Director of the Chemistry Division stated:

I believe your concern is justified. I felt we did not deal with this issue within a consistent governance framework and this created a fragmented and inconsistent approach to dealing with this issue.

He also agreed 'that there was the potential for corruption and lack of accountability to sit together'.

The Assistant Director of the Business and Strategic Services Division stated:

There may well be room for improvement and I do not purport that SMT [Senior Management Team] has no capacity for growth, change or development – though this must be commensurately reflected in the middle management team also, to realise optimum organisational outcomes and change.

53. Some witnesses expressed a view that improvements were not required as there should be a high level of trust in the activities undertaken by the forensic officers. Trust or professionalism is not the issue in my view. Rather it is a matter of ensuring accountability and appropriate procedures are adhered to. It is also to ensure that the courts and the Victorian community can have confidence in the integrity of the processes used for the management of drug exhibits at the Victoria Police Forensic Services Centre.

54. Given the risks associated with working constantly with drugs I have recommended that consideration be given to staff in defined areas of the Victoria Police Forensic Services Centre undergoing random drug testing. This would assist in identifying occupational health and safety issues and act as a deterrent for the unlawful use of drugs. I note that this will require amendments to the *Public Administration Act 2004*.

Industrial dispute

55. As part of a program of industrial action, members of the Drug and Alcohol Branch are currently refusing to return to the Forensic Exhibit Management Unit drug exhibits for which court destruction orders have been issued. As of 31 July 2009, the Forensic Exhibit Management Unit had court orders for 424 drug items that had not been actioned because of the work bans.
56. By not returning drugs to the Forensic Exhibit Management Unit for storage and by retaining drugs in a less secure environment, the Drug and Alcohol Branch increases the risk to the Victoria Police in terms of its reputation and integrity. This should not continue and the drugs should be forwarded to the Forensic Exhibit Management Unit as a matter of priority.
57. The tensions surrounding the internal workplace issues between the Drug and Alcohol Branch and the Forensic Exhibit Management Unit should be addressed promptly by:
- providing strong managerial leadership that ensures decisive and consistent decision-making
 - ensuring accountability through clear lines of responsibility, compliance with internal procedures, and a robust auditing system
 - promoting a culture that emphasises collaboration and teamwork between the two units
 - committing to a consultative process that ensures legitimate quality issues affecting both areas are addressed in a timely manner.
58. I consider that it is in the public interest to end the preoccupation with internal matters which has created mistrust between some employees in the Drug and Alcohol Branch and the Forensic Exhibit Management Unit.
59. I am also of the view that to reduce the delay in providing forensic evidence to Victorian courts, Victoria Police should consider outsourcing some aspects of the analysis of drug exhibits.

Drug destruction

60. There is considerable opportunity to improve the arrangements for sampling and disposing of drug exhibits. Adopting best practice onsite sampling (for clandestine laboratory items) and legislative changes to provide for pre-trial disposal of evidential exhibits (as used in some other jurisdictions) would significantly reduce the quantity of drug exhibits retained at the Victoria Police Forensic Services Centre and reduce their storage time.

As part of a program of industrial action, members of the Drug and Alcohol Branch are currently refusing to return to the Forensic Exhibit Management Unit drug exhibits for which court destruction orders have been issued.

By not returning drugs to the Forensic Exhibit Management Unit for storage and by retaining drugs in a less secure environment, the Drug and Alcohol Branch increases the risk to the Victoria Police in terms of its reputation and integrity.

Elements of the drug destruction process have not been adhered to, in particular re-analysis of randomly selected cases.

Evidence was given that forensic officers were combining samples that were not fully expended in analysis into one exhibit bag which was then sent for destruction. This arrangement is incapable of being audited.

The number of store areas where drug exhibits are held at the Victoria Police Forensic Services Centre should be rationalised and security significantly improved.

61. My investigation identified that elements of the drug destruction process have not been adhered to, in particular re-analysis of randomly selected cases. That process is an important part of the accountability framework for verifying the integrity of the larger high risk cases prior to destruction and verification of the original analysis.
62. Evidence was given that forensic officers were combining samples that were not fully expended in analysis into one exhibit bag which was then sent for destruction. This arrangement is incapable of being audited. In my view this practice should cease.
63. Destruction arrangements for drugs are complicated and contribute to the delay in processing drug exhibits. A strategy to dispose of the large backlog is required and necessitates changes to existing legislation to allow for the early destruction of bulk drugs.

Next steps

64. Significant changes are required to strengthen the governance and accountability arrangements for drug exhibits at the Victoria Police Forensic Services Centre.
65. After reviewing the way exhibits are received, recorded, stored and destroyed, I am of the opinion that while there can be more than one gateway for receiving drug exhibits at the Victoria Police Forensic Services Centre, only one unit should be responsible for the remaining tasks. I consider the Forensic Exhibit Management Unit should have that responsibility. The responsibility for managing the exhibits held in the other drug storage areas (DS1A and the transfer and sampling station) within the Victoria Police Forensic Services Centre should also be transferred to the Forensic Exhibit Management Unit.
66. The number of store areas where drug exhibits are held at the Victoria Police Forensic Services Centre should be rationalised and security significantly improved, particularly the Forensic Exhibit Management Unit drug vault and drug store room.
67. Mismanagement and lack of accountability create an environment in which corruption may occur and go unnoticed. Managing drug exhibits involves high risks, which makes an effective governance and auditing framework essential. My investigation has substantiated the whistleblower's allegation that these arrangements at the Victoria Police Forensic Services Centre were ineffective.
68. This case highlights the important contribution that public officers can make by bringing forward serious administrative matters. When this occurs, management must carefully assess the information presented, take steps to address the issues identified and ensure the whistleblower is supported and protected from reprisals.
69. I have made a number of recommendations, including that Victoria Police:
 - review procedures to improve accountability for chemical drug intelligence exhibits

- ensure the continuity of drug exhibits is recorded in case notes and on the electronic forensic case management system so that the actual holder of the drug exhibit is identified at all stages of processing
- introduce a secure tamper-proof exhibit bag and containers for drugs and chemicals as a matter of priority
- consider rationalising the number of stores holding drug exhibits within the Victoria Police Forensic Services Centre
- introduce a rolling audit program for drug exhibits
- upgrade the level of security in the drug storage areas of the Victoria Police Forensic Services Centre
- undertake a cost/benefit review to determine if it would be more beneficial to allocate the chemical drug intelligence resources to evidential cases to reduce the time delays with presenting certificates of analysis to the courts
- ensure the person undertaking the cost/benefit review consult with all interested stakeholders including the Victoria Police Drug Task Force and the Crime Task Force on the value of the drug data reports and the drug seizure database.

70. Victoria Police has accepted all of the recommendations in this report. Mr Simon Overland, Chief Commissioner of Police, stated that 'the introduction of the new forensic IT system will be accompanied by improved work practices following a work practice review'.

71. In response to my preliminary findings, Mr Alastair Ross the former Director of the Victoria Police Forensic Services Centre stated:

It should be noted that when the Victoria Police Forensic Services Centre (VPFSC) assumed responsibility for the destruction of all drugs seized in Victoria additional resources were guaranteed to meet the extra workload. Those additional resources never eventuated. It should also be noted that during the five years that I was Director of the VPFSC with the support of the VPFSC staff, police and government an additional \$60 million in resources were secured. However, we were working from a very low base following 15 years of neglect. The additional funding was in recognition of the chronic and acute resource shortages and the pressure that this put on staff. However, it still did not deliver the level of resources required. A forensic science funding model developed by VPFSC in conjunction with the Department of Justice and a consultancy firm, again with a view to obtaining appropriate levels of resources indicates that VPFSC was still understaffed by over 60 people. Within a current staff of 320 people this represents significant levels of under resourcing. Many but not all of the issues identified can be attributed to prolonged under funding of forensic science as a whole and in this particular instance the Drug and Alcohol Branch and the impact this had on the working environment.

Managing drug exhibits involves high risks, which makes an effective governance and auditing framework essential.

3. INVESTIGATION

72. My investigation commenced as a result of a disclosure under the Whistleblowers Protection Act that alleged:
- Ineffective governance and auditing arrangements in the Victoria Police Forensic Services Centre have resulted in significant mismanagement of the handling of drug exhibits at the Victoria Police Forensic Services Centre at Macleod by some unsworn staff.
 - As a result of making a protected disclosure, the whistleblower was subjected to detrimental action.
73. As the whistleblower provided credible evidence relating to serious issues about the integrity and accountability of drug exhibits and the mistreatment of the whistleblower, I determined that the disclosures were public interest disclosures. This report deals with my investigation of the first allegation which I have substantiated. With respect to the alleged detrimental action I propose to raise that matter direct with the Police Commissioner.
74. There are high risks associated with the management of drug exhibits including:
- Drugs including certain types of chemical precursors have an intrinsic value above and beyond their value as evidence in court cases. On the street or black market they are often worth millions of dollars.
 - Exhibits that are misplaced or unable to be located may adversely impact on any associated legal proceedings.
 - Potential for corruption through theft or misuse by staff.
 - Drugs and drug related materials are some of the most potentially hazardous substances that the Victoria Police Forensic Services Centre handles and stores.
75. In view of these risks and the allegations brought to my attention by the whistleblower, it was agreed with the then Deputy Commissioner that an independent expert, Dr Terry Spencer, would be appointed by Victoria Police to review drug laboratory practices and procedures. The focus of my investigation was on the allegations raised by the whistleblower.
76. My officers interviewed over 50 individuals and examined documents provided by Victoria Police and other agencies. During the investigation they reviewed the practices associated with the handling and storage of drug exhibits by other Australian police services, including the New South Wales Police.

77. My officers also visited two forensic laboratories in Sydney. These laboratories examine drug exhibits for the New South Wales Police, the Australian Federal Police and the Australian Customs Service. My officers also inspected the Australian Federal Police exhibit management centre in Melbourne.
78. A number of standards, guidelines, procedural manuals and legislation relevant to the issues under investigation were also reviewed during my investigation.
79. Early in my investigation, I raised with the then Deputy Commissioner my initial concerns about the inadequate security arrangements for the storage of some drug exhibits at the Victoria Police Forensic Services Centre. As a result, a number of improvements to internal exhibit security were made. However, my investigation concluded that there is still a great deal more to be done to ensure Victoria has an efficient and secure drug exhibit management process.
80. I acknowledge the co-operation, frankness and assistance provided by staff and management at the Victoria Police Forensic Services Centre and police members during the investigation undertaken by my office.

Industrial action

81. I was aware of considerable tension between a number of staff in both the Forensic Exhibit Management Unit and the Drug and Alcohol Branch that resulted in a breakdown in the working relationship between the two units. This culminated in an occupational health and safety investigation, a Federal Court action and a failed mediation process. After negotiations by Victoria Police, further action on the interpersonal workplace issues was suspended, in part pending the completion of my investigation.
82. Industrial action initiated by forensic officers impacted on work practices which have raised potential occupational health and safety risks and security issues. I will comment in more detail on these issues later in my report.
83. Industrial action taken by staff of the Drug and Alcohol Branch involved the following work bans contrary to procedures and court orders:
 - As from June 2008 drug exhibits (both bulk stocks and samples) for contested cases would not be returned to the Forensic Exhibit Management Unit for secure storage but retained in store areas under the control of the Drug and Alcohol Branch.

Industrial action taken by staff of the Drug and Alcohol Branch involved work bans contrary to procedures and court orders.

- As from December 2008 drug exhibits that have a court order or officer's authority authorising destruction would not be returned to the Forensic Exhibit Management Unit for auditing and destruction but retained in store areas under the control of the Drug and Alcohol Branch.

84. In response to my preliminary concerns outlined in my draft report, the Manager of the Drug and Alcohol Branch, Ms Cate Quinn, stated:

...

There has recently been a significant breakdown in working relationships resulting from inappropriate communication and behaviours toward the Drug Branch by other sections of the organisation but this dispute is not a reluctance to resolve but rather a direct result of senior management's inability to provide appropriate due process for the clarification and resolution of issues.

...

... the inability to act due to no available resources and or a lack of clear management direction and appropriate support should not be considered as reluctance on my part. [Ms Quinn's emphasis]

...

... This dispute is nothing short of the inevitable clash of cultures; scientific and policing and the inability of senior management to recognise these differences and manage solutions accordingly. It is only reasonable for me as a Branch Manager, with local area responsibilities, to expect and receive appropriate corporate engagement and due process for the clarification and resolution of issues when these enter the corporate framework. This has never been provided despite my ongoing requests and the Forensic Centre operating in a framework of quality processes.

...

... It is not surprising then that compliance or governance frameworks at branch level are driven from the scientific culture and not policing and Victoria Police procedure does not dominate our approach or culture.

...

Unfortunately industrial action resulted but only two work bans were ever introduced – the refusal to sign completed reports and provide evidence (attend) in court. Such action was considered necessary for protection of staff, given

management's lack of engagement and control of the situation. ... Such an action (ban) in reality was of minimal impact for Victoria Police, as all the work was to continue as normal but some disruption to a small number of court cases may have occurred.

...

... I am unaware of any other scientific drug manager, nationally or internationally who has to manage and without assistance the full storage and destruction of associated and often high risk property from clandestine laboratory seizures. There is an immediate and obvious conflict of interest particularly when that manager is also still required as a primarily operational caseworker. [Ms Quinn's emphasis] ...

I find it most unfair that I am being so severely criticised for property management in particular for not auditing property, firstly when I repeatedly said I was unable to manage this task without some assistance and secondly if I had managed to audit, there would have been no independence in the process which is key to appropriate auditing. I find this especially disturbing that the criticism comes for [sic] an area such as CMRD who are supposed to be the experts on governance requirements and should have been insisting I didn't carry out such an audit without independent assistance.

...

I am well aware of the procedural and practical ('housekeeping') problems that were present within the sampling and transfer station and to some extent the DS1A, which was not under my supervision until late 2007. I am also well aware that management and CMRD knew of these problems but did nothing to provide 'real' assistance in management of these risks over at least a seven year period. [Ms Quinn's emphasis]

...

The coordination of [the] necessary governance group falls to the centre's Director and or other key senior police persons who have the higher responsibility to oversee organisational governance and compliance. If such a system was in place and functional then I believe any anomalies and deficiencies would have been identified including the necessity for forensic scientific officers to (being forced to) become full time property managers would never have been allowed – surely this is a major conflict of interest for analysts and central to our compliance issues.

4. BACKGROUND

85. The supply and use of illicit drugs in Victoria is of concern to the government, the police and the community. In 2007-08 the Victoria Police reported that 14,178 alleged offenders were processed for drug related offences.
86. The Australian Crime Commission reported that 'the large and well entrenched Australian illicit drug market is the primary criminal market that criminal groups operate in'.¹ Statistics show the production and supply of amphetamines are the most common activities undertaken by organised crime groups. For example in 2007-08 there were 356 illicit clandestine laboratories detected in Australia.²
87. Forensic science plays an important and growing part in the justice system. It helps to solve drug crimes and to identify suspects. It also assists police in eliminating a suspect from an investigation which saves considerable time and police resources.
88. Forensic science commences out in the field at a crime scene where physical evidence is identified, recorded and collected. It continues at the Victoria Police Forensic Services Centre when the evidence is received, packaged, sampled, analysed, stored and finally disposed of. It is essential to the overall process and to the final analysis that the integrity of evidence collected is maintained and evidence is professionally handled and accounted for at various stages of processing.

It is essential to the overall process and to the final analysis that the integrity of evidence collected is maintained and evidence is professionally handled and accounted for at various stages of processing.

The significant risks associated with storing drug exhibits in a facility that is not secure and properly monitored were highlighted when drug exhibits became the subject of police corruption charges in 1996.

History of the Victoria Police Forensic Services Centre

89. The Victoria Police Forensic Services Centre was built in 1985 and has gradually expanded since then. Recent additions include the sampling and transfer station for exhibits connected with illicit drug laboratories and the chemistry wing which houses the laboratories for the analysis of drug exhibits.
90. When the centre was built in 1985, the management of all bulk drug exhibits was the responsibility of the Drug Squad. The exhibits were held with little security in shipping containers at a Victoria Police site and at a commercial hazardous chemical storage site.
91. The significant risks associated with storing drug exhibits in a facility that is not secure and properly monitored were highlighted when drug exhibits became the subject of police corruption charges in 1996. Former Detective Senior Constable Kevin Hicks, the Officer-in-Charge of the Drug Squad's storage facility, was alleged to have assisted members of a drug syndicate to obtain drugs from the shipping containers at a Victoria Police site. Hicks subsequently pleaded guilty to burglary, bribery and drug trafficking charges. He was sentenced to six years imprisonment.

1 Australian Crime Commission, Organised Crime in Australia 2009 Report, page 7.

2 Australian Crime Commission, Illicit Drug Data Report 2007-08 (June 2009), page 30.

92. In 1999 the Victoria Police decided that all drug exhibits would thereafter be in secure storage areas at the Victoria Police Forensic Services Centre.
93. The rationale for the Victoria Police Forensic Services Centre taking responsibility for the storage and destruction of all illicit drugs on behalf of Victoria Police was two-fold:
 - to ensure a secure, streamlined, transparent, and readily auditable process for the storage and destruction of all drugs coming into the possession of Victoria Police
 - to have in place the best possible systems to guard against the loss or theft of all drugs coming into the possession of Victoria Police and where any such loss or theft does occur, to identify this occurrence as quickly as possible.

Role of the Victoria Police Forensic Services Centre

94. The Victoria Police Forensic Services Centre plays a crucial role in assisting in the investigation and prosecution of crime through the scientific examination of physical evidence.
95. The key responsibilities of the Victoria Police Forensic Services Centre are the storage, analysis and destruction of illicit drugs seized by the Victoria Police and other law enforcement agencies in Victoria. Its functions are to:
 - apply the various sciences to forensic purposes in the interests of justice
 - provide scientific experts where formal training and professional impartiality will assist in law enforcement and the administration of justice
 - continually monitor scientific and technological advances and oversee the provision of education and research programs in forensic science for criminal justice purposes
 - continuously improve the quality and timeliness of service
 - be totally committed to understanding and satisfying customer needs.

Reviews of arrangements for processing, managing and destroying drug exhibits

96. There have been consistent problems identified with the management of drug exhibits at the Victoria Police Forensic Services Centre dating back to 1993. Since 2003 the Corporate Management Review Division of Victoria Police has undertaken a review, an audit and two post-implementation reviews relating to the receipt, storage, analysis and destruction of drugs by the Victoria Police Forensic Services Centre.

There have been consistent problems identified with the management of drug exhibits at the Victoria Police Forensic Services Centre dating back to 1993. Since 2003 the Corporate Management Review Division of Victoria Police has undertaken a review, an audit and two post-implementation reviews relating to the receipt, storage, analysis and destruction of drugs by Victoria Police Forensic Services Centre.

97. The resultant reports have made recommendations to improve the management of drug exhibits and commented on the failure by management at the Victoria Police Forensic Services Centre to implement a number of the recommendations from previous reports. For example, some of the significant findings in these reports since 2003 have been:

2003

- No system of periodic reporting, no audits for at least eleven years. Ineffective exhibit storage and disposal, a lack of training and adequate occupational health and safety inspections, culminating in a significant risk to the integrity and professionalism of the Forensic Services Centre and Victoria Police.
- Poor and ineffective management over many years has exposed the Forensic Services Centre, and therefore Victoria Police, to risk through possible exhibit loss or theft.
- Failure to implement previous recommendations (from reports in relation to similar issues identified within the Forensic Services Centre in 1993, 1995 and 2000) has contributed to the risks being predominantly left unaddressed.

2006

- If the risks are not addressed they will harm the reputation of the Victoria Police Forensic Services Centre and Victoria Police and could include, but would not be limited to, evidence being misplaced or unable to be located, evidence being contaminated, loss of credibility in court with far-reaching ramifications including the loss of cases, potential for corruption and an increased occupational health and safety hazard.

2008

- Many of the deficiencies and anomalies with the management of drug exhibits can only be attributed to:
 - i. an ongoing pattern of systemic mismanagement
 - ii. corruption or
 - iii. a combination of (i) and (ii).

98. An assessment of the issues raised by these reports revealed common themes, including:

- no apparent audit or consistent audit of drug exhibits for an extended period of time
- substantial stockpiling of drug exhibits awaiting analysis and/or destruction
- inefficient and/or ineffective policies and practices regarding storage, transfer, analysis and destruction of drugs and drug related exhibits

- a disproportionate focus on National Association of Testing Authorities technical requirements at the expense of procedures outlined in the Victoria Police manual, particularly relating to audit activity and functions
 - dysfunctional lines of communication between and within some divisions, particularly at senior management level
 - a workforce that is potentially overwhelmed by demand, particularly within the Clandestine Laboratories Unit
 - some drug exhibits not being accounted for
 - potential for significant breaches of occupational health and safety legislation
 - an inadequate exhibit tracking forensic case management information technology system.
99. The last report prepared by the Corporate Management Review Division in May 2008 was a post-implementation review of the progress made in implementing the recommendations arising from an audit of drug holdings in 2006. Based on that report and since the initiation of my investigation, progress has been made in addressing some of the outstanding matters (for example internal audits have been introduced). However, I note that in other areas there has been a backward trend (for example, the significant backlog in analysing drug exhibits and disposing of drug items).
100. The Corporate Management Review Division team was of the view that 15 recommendations had been actioned, eight remained ongoing, seven remained outstanding, one was no longer applicable, and one related to the Corporate Management Review Division post-implementation review. Some of the outstanding recommendations are as follows:
- The responsibilities of the Quality and Assurance Manager, Chemistry Division include accountability for conducting audits on areas of risk external to the National Association of Testing Authorities accreditation requirements, and more specifically inspection and active oversight of Chemistry Division exhibits.
 - The Drug and Alcohol Branch introduce an inspection and audit regime (notwithstanding the National Association of Testing Authorities Charter) that interrogates holdings of individual forensic officers and separate storage areas on a regular basis.
 - The Assistant Director of the Chemistry Division review the Branch Managers' roles and responsibilities within the Chemistry Division to ensure actual work activity takes into consideration their management role.

My officers were advised that there is a difference of opinion between the Victoria Police Forensic Services Centre, the Corporate Management Review Division review team and the Commander about the status of the progress made against the recommendations contained in the 2006 Corporate Management Review Division report.

- As a priority the Assistant Directors of the Chemistry, Biology and Crime Scene Divisions cause a proactive interrogation to be conducted of forensic case management data to identify and cull superfluous data on the exhibit tracking system.
- A forum of key internal stakeholders be established to review the operation of the existing information technology system, with a view to identifying improvements which can be implemented in the short term on a cost neutral basis, pending the replacement forensic information management system roll-out.

101. In May 2008 the Officer-in-Charge of the Corporate Management Review Division, Commander Terry Purton, directed the review team to discontinue the review and cease all contact with representatives at the Victoria Police Forensic Services Centre. Commander Purton took over responsibility for the review and on 12 November 2008 sent a memorandum to the then Deputy Commissioner Victoria Police indicating that only four recommendations remained outstanding.

102. My officers were advised that there is a difference of opinion between the Victoria Police Forensic Services Centre, the Corporate Management Review Division review team and Commander Purton about the status of the progress made against the recommendations contained in the 2006 Corporate Management Review Division report.

103. Mr Ross, the former Director of the Centre, stated:

With respect to the 2006 review, responses resulting in comprehensive documentation (extending to a number of level arch files) and relating to all recommendations were provided to CMRD. At the time I left VPFSC (November 2008) there had been no acknowledgement or feedback in relation to those responses.

The response included a comprehensive audit of the major drug holdings (over 3,900 items) with the finding that of the order of 1% (43) could not be accounted for and of these, all were considered to be of low risk (e.g. washings from seized apparatus).

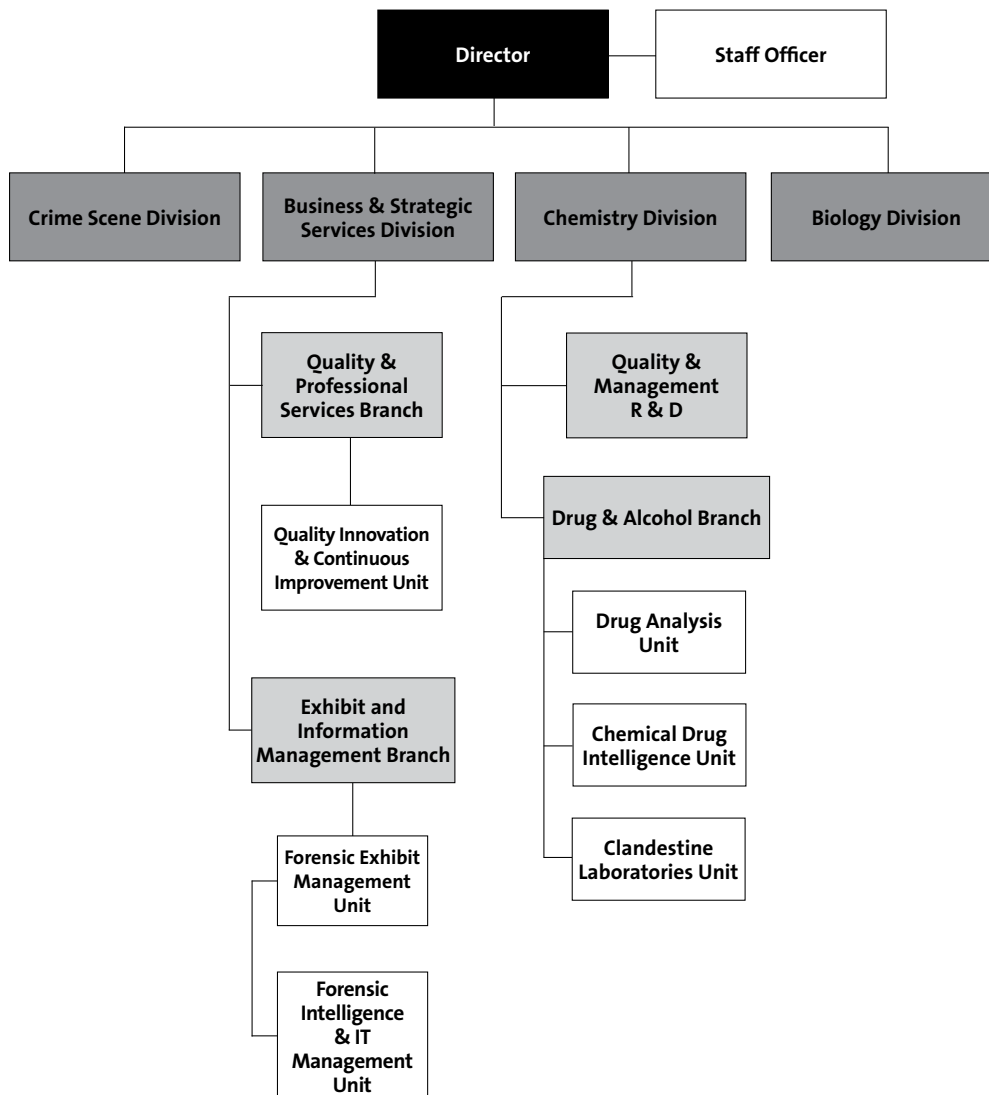
104. I note that a number of the outstanding issues identified in the report of the post-implementation review team remain unaddressed.

Work units responsible for drug exhibits

105. As illustrated in Diagram 1, there are four divisions within the Victoria Police Forensic Services Centre. Only two divisions, the Chemistry Division and the Business and Strategic Services Division, are involved with drug exhibits other than cannabis.³

³ Cannabis exhibits are the responsibility of the Biology Division.

Diagram 1: Abridged organisational chart of the Victoria Police Forensic Services Centre



106. The Chemistry Division provides diverse chemical-based scientific services used in the forensic investigation of crime. The division has three branches, but only the Drug and Alcohol Branch is relevant to this investigation. The Drug and Alcohol Branch consists of the following three units:

- Drug Analysis Unit – analyses drug exhibits required for court/prosecutorial actions
- Chemical Drug Intelligence Unit – analyses drug exhibits for intelligence purposes
- Clandestine Laboratories Unit – provides a scene and laboratory-based forensic service in relation to the scientific investigation of clandestine laboratories. This unit also co-ordinates the authorised destruction of pre-cursors⁴ and hazardous materials and manages the sampling and transfer station.

⁴ Precursor chemicals mean a substance that may be used in the preparation of a drug of dependence, whether or not the substance is contained in, or mixed with, another substance. For example pseudoephedrine and ephedrine are precursor chemicals used in the manufacture of methamphetamine (commonly known as speed or as ice in pure form).

107. The Business and Strategic Services Division provides a range of support services for the three scientific divisions including the Drug and Alcohol Branch of the Chemistry Division and its three units. For the purpose of this investigation the following two branches of the Business and Strategic Services Division are relevant:

- Quality and Professional Services Branch
- Exhibit and Information Management Branch – includes the Forensic Exhibit Management Unit which is responsible for recording, handling, storing, issuing and destroying almost all exhibits connected to the forensic work performed at the Victoria Police Forensic Services Centre. This unit is staffed by both sworn and unsworn officers.

Processing of drug exhibits

108. Drug exhibits are received at the Victoria Police Forensic Services Centre through three pathways:

1. Drugs, hazardous chemicals and associated items seized from illegal clandestine laboratories. Some of these exhibits require analysis prior to court proceedings.
2. Drugs which are the subject of a plea of guilty. These drugs are lodged as Chemical Drug Intelligence seizures.
3. Powder drugs requiring analysis prior to court proceedings.

109. There are different procedures for the three categories of drug exhibits that involve both the Forensic Exhibit Management Unit and the Drug and Alcohol Branch at various stages in the continuity process.

110. During my investigation my officers were informed that there were more than 17,000 drug exhibits at various stages of processing at the Victoria Police Forensic Services Centre. Each year the number increases as more drug cases are investigated and more exhibits are collected for forensic testing. This is partly due to the significant increase in the number of clandestine laboratories detected in Victoria.

111. The Manager of the Drug and Alcohol Branch, Ms Quinn, has since stated:

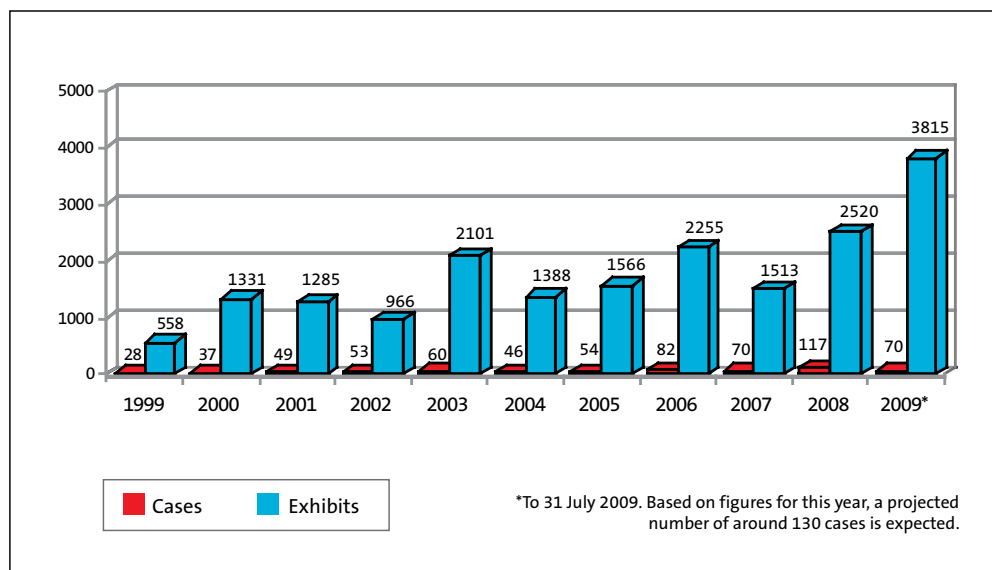
The inability to defeat existing or rising backlogs is not due to a lack of focus on continuous improvement by the Drug Branch but rather the lack of modern flexible resource plans and maintenance of appropriate staffing levels, such issues are not under the control of the Drug Branch we can only ask. ... NO additional staff was provided until 2006 (1 person) and 2008 (7 persons) – too late!! [Ms Quinn's emphasis]

My officers were informed that there were more than 17,000 drug exhibits at various stages of processing at the Victoria Police Forensic Services Centre.

Clandestine laboratory exhibits

112. The Clandestine Laboratories Unit provides advice on the following services relating to the investigation of clandestine drug laboratories:
- evidence collection and scene attendance
 - safe handling of hazardous substances
 - evidential analysis and presentation of expert evidence in court
 - training and intelligence support.
113. Clandestine laboratories illegally produce drugs such as amphetamines (speed) and ecstasy. The laboratories range from small to large scale commercial enterprises producing many kilograms of drugs of significant value on the black market.
114. Statistics provided by the Drug and Alcohol Branch indicate that the number of clandestine laboratories seized by police is dramatically increasing each year. In 2008, 117 clandestine laboratories were seized and the projected number for 2009 is 130.

Table 1: Victoria: Number of clandestine laboratories – cases and exhibits
1999 to July 2009



115. When Victoria Police attend a clandestine laboratory crime scene there is a requirement for forensic officers from the Drug and Alcohol Branch to attend. Typically two forensic officers attend: one to provide forensic support to police and the other to manage safety procedures associated with potentially hazardous chemicals.

116. All tablets and powder drugs are retained by the police investigator who will later attend at the Drug and Alcohol Branch shopfront for these drugs to be tested (i.e. spot tested and a sample taken).⁵ Hazardous chemicals, other substances and/or manufacturing equipment are sent for processing to the sampling and transfer station.
117. When the forensic officers and the investigating officer return to the transfer station with drug exhibits from a crime scene, limited information is recorded on the forensic case management system at that time. A case number is allocated and the number of items seized (for example items 1 to 20) is recorded. Exhibits are itemised, sampled and analysed at a much later stage.
118. According to Ms Quinn, not all clandestine laboratory exhibits are analysed. She said:

At present approximately 40-45 per cent of the total number of clan lab items seized undergo a laboratory analysis. The remaining items may be commented upon following a visual inspection or listed as not examined for committal proceedings.

Chemical drug intelligence exhibits

119. The Chemical Drug Intelligence Unit provides drug intelligence via a database containing information from Victorian drug seizures over the past decade.
120. The unit was established as a result of criticism in the Penington report⁶ about the lack of comprehensive drug data for the purposes of intelligence, strategic assessment, and research and policy development. The original mandate for this unit was to provide both historical data and then migrate to real time analysis. The Manager of the Drug and Alcohol Branch advised my officers that the longer term focus for the project was to expand to more tactical intelligence data.
121. Ms Quinn further stated:

As with other areas of the drug branch, resources for the intelligence services have not been provided, therefore project development and backlogs have struggled to match the growth in workload.

5 A small amount of the substance is placed in the well of the spot plate and one or more chemical reagents is added. A lack of reaction is interpreted as an absence of the drug being tested for; a positive reaction, usually a colour change, is an indication that the substance may be the drug in question.

6 Health Outcomes International Pty Ltd for the Department of Premier and Cabinet, Evaluation of Turning the Tide (Final Report, April 2000) pages 3-12.

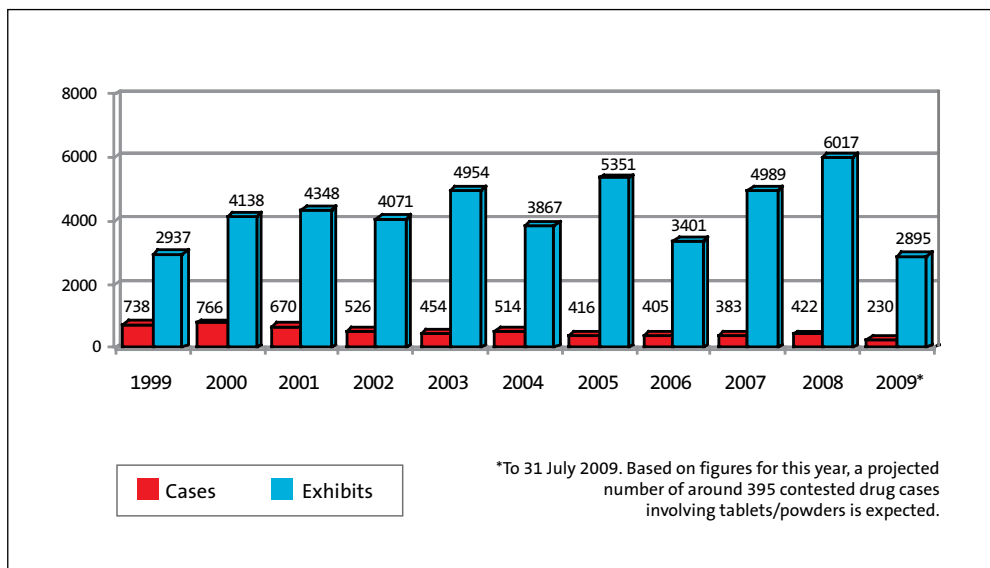
122. All illicit drugs other than cannabis held at police stations must be lodged at the Victoria Police Forensic Services Centre for disposal once the related case is completed, including cases where the offender has been cautioned or pleaded guilty and no analysis of the drug exhibit is required. These drugs make up the bulk of drugs received and stored by the Forensic Exhibit Management Unit.

Drug exhibits – contested cases

123. The Drug Analysis Unit provides a shopfront for the receipt of all illicit solid drugs (such as tablets and powders) that are seized and these cases are likely to be contested in the courts.

124. As Table 2 demonstrates, it is anticipated that there will be a small reduction in the number of contested drug cases involving tablets and powders that require analysis.

Table 2: Victoria: Number of drug cases analysed 1999 to July 2009



125. The greatest change has been an increase in exhibit numbers. Drug analysis has intensified since the shift in the dominant drug market in 2000 from powders like heroin to complex chemicals such as amphetamines and ecstasy. The more complex the chemicals – the more difficult the analysis.

126. Police officers are required to make a booking for drugs to be analysed or spot tested to confirm drug type or purity, or where large and valuable quantities of powder drugs are seized, immediate lodgement is desirable. Urgent cases are prioritised.

127. Generally it takes between one and three weeks to get an appointment depending on the size and complexity of the case. If required, provision is made for urgent spot testing of drugs.

128. The police investigator delivering the drugs is required to remain at the shopfront while the drugs are processed in order to provide advice to the forensic officer and to ensure continuity. The Assistant Director of the Chemistry Division advised that for 83 per cent of all cases this will involve a wait of more than one hour. I note that this arrangement is in contrast to the procedures followed for the processing of clandestine laboratory items and chemical drug intelligence items which do not require the police to be in attendance while the forensic officer processes the exhibits.
129. In March 2007 Victoria Police formalised a project aimed at expediting evidentiary procedure and analysis in summary and indictable matters. A steering committee, headed by the then Deputy Commissioner, with three working groups was established to identify new procedures to expedite evidentiary procedure in relation to drug analysis, DNA analysis and transcriptions. According to the Chief Commissioner:
- The ongoing discussions of Phase 2 initiatives from the project, including case conferencing, transcriptions, spot testing, evidence by video conferencing, return of exhibits not analysed and other related matters, continued until March 2009. The most important initiative arising from the expediting evidentiary procedures and analysis project was the establishment of case conferencing of cases at the Forensic Centre with participation by the OPP, Crime Department and staff of the Forensic Centre, to minimise the testing and analysis of drugs to that necessary for criminal prosecutions, in an effort to reduce delay.
130. The reduction in the number of drug items requiring analysis is directed at the committal level proceedings where a significant number of issues are resolved regarding the evidence to be presented.
131. For example in 2008, 129,385 items were presented at the drug shopfront, but only 6,017 were sent to the Drug and Alcohol Branch for analysis. Despite efficiencies introduced through case conferencing and other factors the shopfront service only operates for three days a week as the work of analysing and reporting on drug exhibits is undertaken by the same pool of forensic officers.
132. At the time of lodgement, a forensic officer records on the forensic case management system a case number and allocates an item number to each exhibit. A sample is then taken from each exhibit. The weight of the sample is not specified in the Drug and Alcohol Branch procedures manual. The case number, item number, a brief description of the item (for example a bag of powder or 500 tablets) and individual item bar code are printed on a label which is then attached to the inside of the plastic bag containing the exhibit and signed by the investigator and the forensic officer.

133. The label does not contain information on the type of drug or the weight of the item. These details together with the results of the spot test are included in the forensic officers' handwritten case notes. These case notes record analytical procedures and the results. This information is the basis for the certificate of analysis used as evidence in court proceedings. However the case notes are not stored with the exhibit. An auditor, for example, would not know the quantity of a powder drug by looking at the label on the exhibit bag.
134. Samples taken for analysis undergo various laboratory testing processes which can take from 12 to 16 weeks. On completion the results are verified by a reporting officer, generally a senior forensic officer. A contributing factor to the delays is that there are only four reporting officers to verify the technical and administrative results. At 31 July 2009 there was a backlog of 81 cases with a delay of approximately eight months before the certificate of analysis was prepared.

My investigation identified considerable risks arising from processes that undermine accountability for drug exhibits.

The issues relating to these risks have been known for some time. Yet as my investigation uncovered, limited action has been taken by management at the Victoria Police Forensic Services Centre to address these matters.

5. ACCOUNTABILITY FOR DRUG EXHIBITS

135. My investigation identified considerable risks arising from processes that undermine accountability for drug exhibits.
136. On-site inspections and evidence taken from witnesses identified that the arrangements for the receipt, recording, sampling, storage and destruction of exhibits involve risks and there are weaknesses in the current internal control systems, particularly with clandestine laboratory exhibits and chemical drug intelligence exhibits. The risks relate to:
- chain of custody
 - allocation of chemical drug intelligence exhibits
 - the electronic forensic case management system
 - disposal of samples
 - consolidation of samples
 - exhibit bags.
137. The issues relating to these risks have been known for some time. Yet as my investigation uncovered, limited action has been taken by management at the Victoria Police Forensic Services Centre to address these matters.
138. In response to my comments, the former Director of the centre, Mr Ross, stated:

The limitations of the current [electronic forensic case management system] are acknowledged.

The issue about the [disposal of samples] is also acknowledged and again relates to the lack of appropriate resources and the fact that for long periods of time there was no active facility in Victoria where the drugs could be destroyed. This exacerbated the backlog problem.

Chain of custody

139. Chain of custody is an important component of proving ownership in criminal prosecutions. It provides evidence that the drug exhibit, which is allegedly seized from an accused person, is the same material for which a certificate of analysis is later provided.⁷ Prosecutions in drug cases have been challenged successfully when a clear chain of custody is not available.
140. Establishing a chain of custody is achieved by evidence being given by the various persons who handled the drugs as to whom the drugs were passed to.

⁷ R v Joseph Daniels (unreported, USC, Phillips CJ, 11 May 1992).

141. The chain of custody may not be clear when, for example, entries in evidence-tracking systems, both electronic and paper-based, are incorrect or questionable.
142. Based on a decision made in 2006 by Ms Quinn, the Manager of the Drug and Alcohol Branch, it has become the practice for staff of the Drug and Alcohol Branch to transfer samples and exhibits without recording the transfer on the forensic exhibit-tracking system. For example, drug exhibits that are signed out from the Forensic Exhibit Management Unit to the Drug and Alcohol Branch are sometimes signed back in by different forensic officers. An example is shown on the Item Transactions Sheet at Attachment 1.
143. In this example, the item transaction record does not reflect the movement history of the drugs. In this instance a drug item was received by the forensic officer, in the presence of a police officer in October 2008. The record shows that the exhibit was stored in the location, 'shop'.⁸ The next recorded movement of the drugs was by the Assistant Director of the Chemistry Division and the Team Leader of the Drug Analysis Unit to the DS1A storage facility in January 2009. There is no electronic record of the transfer of the drugs from the forensic officer to the Assistant Director of the Chemistry Division or to the Team Leader of the Drug Analysis Unit. Neither is there any history to show who had access to the drugs in the intervening period. I note that this information may be included in the case notes.
144. My officers were informed that this example is representative of the methodology used for recording in the forensic case management system the movement of drug exhibits received at the shopfront.
145. The item transactions record provides very limited information about the forensic officers who have been involved with the processing of the exhibits. For example it usually records only the name of one forensic officer that has had any involvement with the exhibit. More detailed information is contained in the case notes that can reveal that several officers have been involved in the analysis of the exhibit.
146. The Assistant Director of the Chemistry Division agreed that the case notes could be improved by containing a summary. This would be particularly useful for complex cases involving a large number of exhibits when it is not always clear which forensic officers have been involved at each stage in the analysis of the exhibits.
147. The Assistant Director of the Chemistry Division has since advised 'that a summary sheet had recently been implemented for current drug cases. As the cases discussed [with my investigators] were generally of significant age, this was not reflected in the case folders discussed'.

Based on a decision made in 2006 by Ms Quinn, the Manager of the Drug and Alcohol Branch, it has become the practice for staff of the Drug and Alcohol Branch to transfer samples and exhibits without recording the transfer on the forensic exhibit-tracking system.

⁸ In this context, the shop is the Drug and Alcohol Branch shopfront storage safe. Exhibits are temporarily stored in this safe pending transfer to more secure drug stores. See paragraph 218 for further comments about the retention of exhibits in the shopfront safe.

148. The case notes do not always indicate when tablets have been transformed into powder. This issue was raised with the Assistant Director of the Chemistry Division in respect of a particular case, and he indicated:

[Be]cause people will say they record transference, but for the life of me, I can't work out who transferred what to what – whom. And then – and then you say, 'Well, are you recording it?', 'Oh, no'.

149. In relation to these comments he further explained 'the case was very complex and old, for someone not routinely 'on the bench' my initial quote stands'.

150. I note that the procedures manual for the Victoria Police Forensic Services Centre states:

5.8.11 Exhibit Storage

Except when items are in long term store, they are in the possession of a caseworker. If items are transferred from one caseworker to another, this must be noted in FCM. This must be done by the original caseworker. The only exception is in the case of unforeseen unavailability (eg illness) of the original caseworker in which case the items may be moved by the appropriate Unit Leader, Branch Manager or Assistant Director.

151. The Assistant Director of the Business and Strategic Services Division expressed concern that:

We don't have full traceability and continuity of where the exhibit is at any point in time so that we can categorically say that is where it is.

152. The Director's staff officer, who has been involved in the auditing of the sampling and transfer station, told my officers that there is a different attitude between sworn and unsworn officers towards being accountable for drug exhibits:

I've been involved in the auditing of the sampling and transfer station and the S1A store and I don't think there's a smoking gun here, I don't see any corruption at all. I see that probably processes were let slip and I think that police have a different view of property than I think the unsworn people do. I mean it's really entrenched in our training and upbringing as a young constable that property is very important, all types of property, including drugs but particularly drugs, you must manage it properly otherwise you leave yourself exposed.

...

In terms of the unsworn, I don't say they don't place importance on the management of it but they're very much

focused on case work, getting results for court and for informants and that's admirable and its very important but I think sometimes they lose focus on the things that might bring you undone and get you into trouble and that is the housekeeping side of drug management and I think that's where the impasse has come from.

Allocation of chemical drug intelligence exhibits

153. Another area of concern is the handling of chemical drug intelligence exhibits.
154. Chemical drug intelligence exhibits are presented to the Victoria Police Forensic Services Centre to be analysed for intelligence purposes. They are not processed through the Drug and Alcohol Branch's shopfront as is the case with evidential drugs. Instead these drugs are received direct at the Forensic Exhibit Management Unit counter, together with a copy of the police station property book receipt and a court order for destruction. On average 300 chemical drug intelligence exhibits are lodged each month. These exhibits range from a few tablets to large exhibits containing kilograms of tablets or powder drugs.
155. In the majority of cases, the Forensic Exhibit Management Unit receives chemical drug intelligence exhibits in tamper-proof exhibit bags from various police stations and other places. The tamper-proof bag is opened by the Chemical Drug Intelligence Unit and a sample is taken.
156. The sampling and analysis of chemical drug intelligence exhibits is usually undertaken by forensic officers level 2 under the supervision of an experienced forensic officer. However, Ms Quinn, the Manager of the Drug and Alcohol Branch requires all chemical drug intelligence exhibits to be allocated to her on the forensic case management information management system.
157. Ms Quinn was asked why the chemical drug intelligence exhibits were not recorded on the forensic case management system as issued to the forensic officers who collected the items from the Forensic Exhibit Management Unit. She said:

I would not give 500 cases to an FO2 [Forensic Officer Grade 2] who is a base level position.

158. Asked why that was, Ms Quinn said:

It's not in their duty statement to hold that level of responsibility, and they're not going to be responsible for the report of the technical quality of that work. ... Now, I could issue [the drugs] to them, and you know what I would say [to the Leading Senior Constable FEMU] you have to issue these two at a time, and we can only do an analysis two at a time, because it's not fair for me to make an FO2 hold this level of quantity of cases, and be responsible for it.

Another area of concern is the handling of chemical drug intelligence exhibits.

159. In reality, forensic officers level 2 have possession of the drug exhibits for several months while they sample and then analyse the items.

160. Ms Quinn outlined the process:

Possession is taken ... during the period in which sampling (few hours) is performed (in pairs) again the cases and the sampling persons are recorded, after which the case is resealed and returned to the locked cage within the drug store. Note at no time during these actual 'possessions' is the FO2 alone; all processes are done with at least two persons present. So individual possession and sole responsibility for the cases does not occur for an FO2.

161. Ms Quinn further stated:

It is fair to say these cases were not secured separate to the overall drug store security but as such this is consistent with other stores within the FSD, where access is only permitted to the store by authorised persons and sealed cases are not further secured inside these stores, so consideration of this as a non-compliance was not seen.

This process has now been improved and cases are placed in an individual locker which is locked and controlled by the case manager not the FO2 and cases under the control of the FO2 during sampling and analysis are recorded.

162. One forensic officer said that there were accountability issues with these exhibits and samples:

A: They're transferred not into our name but into our branch manager's name because our rank are not allowed to have that many drugs in our name, so they're allocated to our branch manager's – they're in her name.

Q: Are they always in Cate's name?

A: Unless she's not there, then they might go into [the name of the Team Leader of the Drug Analysis Unit]. And then we look after them.

Q: Now they're bulk stocks ... [that] have come from the police stations and they're in their tamper-proof bags?

A: That's right. Most of the time.

Q: How would I know who has had the control of those exhibits?

A: ... you would just have to ask one of us because we all share the same cupboard.

... It's not documented anywhere who's in control of what, we just know it. Like, I know what the other [officers] are analysing at the moment.

... I think ... that sort of thing can probably be improved as far as, like you say, you know, nobody knows that I'm looking after April apart from all of us.

... I mean we could probably come up with some sort of documentation to go with that, but ideally it would be better if they were all issued into our names from the start.

... if somebody comes in and says, 'Where's this drug item?' any of the four of us could easily locate it because we all know how we operate and we all know where things are and whatever. But, you know ...

Q: ... If something couldn't be found, that'd be a problem, wouldn't it?

A: ... I have no doubt that everything's there that's supposed to be there.

Q: ... I have no doubt about that too.

A: ... But yeah, you're right, there's no sort of tracking of who had it ...

163. While the forensic officers' case notes record the officer who sampled and analysed the exhibit, those notes are destroyed after the data trend report is completed. Consequently there is no long term record of the exhibit retained for accountability purposes. This could leave the forensic officers and Victoria Police Forensic Services Centre open to allegations of impropriety. I also consider that this process is open to the risk of tampering with exhibits, including the unlawful diversion of drugs.

164. In response to these comments, Ms Quinn said:

All sampling procedures are undertaken in pairs and not always the same pair; this provides the significant reduction in risk to the tampering with exhibits.

The improved processes ... include greater recording and all these records are retained indefinitely and will allow a greater ease and transparency for exhibit inspection or auditing.

While the forensic officers' case notes record the officer who sampled and analysed the [chemical drug intelligence] exhibit, those notes are destroyed after the data trend report is completed. Consequently there is no long term record of the exhibit retained for accountability purposes. This could leave the forensic officers and Victoria Police Forensic Services Centre open to allegations of impropriety. I also consider that this process is open to the risk of tampering with exhibits, including the unlawful diversion of drugs.

Electronic forensic case management system

165. Many problems with the accountability for drug exhibits can be attributed to the deficiencies with the forensic case management system.⁹ For example:
- Any user can move any exhibit from any location, regardless of whether they possess it or have access to it within a store for which they are a store officer.
 - A store officer from another store in the Victoria Police Forensic Services Centre or Victoria Police can mark an exhibit as destroyed on the system although they do not physically possess or have physical access to the item.
 - System administrators cannot track changes made by users within the system meaning there is no audit trail.
 - There is no security around viewing data within the system; any user can view what exhibits are stored where, regardless of how sensitive the items are.
166. While I understand that the new forensic case management system to be introduced in February 2010 may rectify some of these problems, each individual store within the Victoria Police Forensic Services Centre will determine what information it will include on the system. This may lead to inconsistencies.
167. I consider that it is essential the Forensic Exhibit Management Unit and the Drug and Alcohol Branch have standardised information about drug exhibits on the new forensic case management system. For example, samples should be tracked and the weight of the exhibit and the sample recorded on the system. In addition, when the form of the drug exhibit changes, for example from 500 tablets to powder, this should also be recorded.

Disposal of samples

168. Another area of concern that relates to accountability for drug exhibits is the disposal of samples taken from chemical drug intelligence exhibits. Section B1.5 Destruction of Drug Samples in the Chemistry Division procedures manual states:

The sample is generally destroyed by flushing down the sink with adequate quantities of water.

169. This section also states:

If an alternative method of destruction is deemed appropriate, this should be agreed between the person destroying the sample and the witness. The method need not be recorded.

Another area of concern is the disposal of samples taken from chemical drug intelligence exhibits.

⁹ The FCM IT system contains a large amount of spurious data that relates to old exhibits. As a result it is difficult to get accurate lists of drug holdings. In February 2010 the Victoria Police Forensic Services Centre will commence migrating data from the forensic case management system to the new PaLM system which will track all exhibits.

170. I have concerns about the lack of accountability for samples dealt with either way, particularly when the manual does not specify the quantity to be taken as a sample. It has been estimated by the Assistant Director of the Chemistry Division that the trainee forensic officers who analyse the chemical drug intelligence exhibits would have several hundred samples in their personal holdings. Given the type of drugs involved and their intrinsic value, this presents a significant risk to Victoria Police.
171. One of the forensic officers confirmed that there were in the vicinity of 1,200 samples:

A: What happens is, because we got a fair way behind and FEMU had an issue with having all the drugs there, so we ended up getting almost all of the drugs that were back-logged given to us. So we ended up with a lot – a lot of samples and – just to catch up, just so that they could start destroying things. So we probably have about 12 to 15 months of samples in our cupboards at the moment and so what we're doing is just every – each of us is given a different rack of – like different month.

...

I could estimate maybe – there's 90 samples in a rack and I'd probably estimate there to be perhaps 15 to 20 racks of samples in there at the moment. Give or take.

Q: So you – give or take, somewhere between 1,200 and ...

A: Well not all the racks are full, but ...

Q: So about 1,200?

A: Something like that, yeah.

172. Enquiries undertaken in other jurisdictions reveal that samples of all drug exhibits have to be accounted for and any material that has not been expended during examination must be returned in an exhibit bag for auditing prior to destruction.

Consolidation of samples

173. Accountability for drug exhibits is similarly undermined by the consolidation of samples. When chemical drug intelligence samples are returned to the Forensic Exhibit Management Unit, they can be consolidated into a single exhibit bag and either not identified with any particular case number or they are identified with a long list of case numbers. The then internal auditor of the Chemistry Division told my officers that from an auditing perspective it is impossible to track a consolidated sample back to the original exhibit.

I have concerns about the lack of accountability for samples ... particularly when the manual does not specify the quantity to be taken as a sample.

Accountability for drug exhibits is similarly undermined by the consolidation of samples. The then internal auditor of the Chemistry Division told my officers that from an auditing perspective it is impossible to track a consolidated sample back to the original exhibit.

Photograph 1: Exhibit bag containing consolidated chemical drugs analysis samples



Exhibit bags

174. Law enforcement agencies throughout Australia use exhibit bags that are designed to be tamper-proof and provide for an audit capability. The Victoria Police manual provides that all drugs received – whether to be held as an exhibit or not – should be bagged, sealed and labelled at the time of the finding or seizure in a tamper-evident audit bag.
175. While sworn members of the Victoria Police generally use secure, auditable exhibit bags for seized drugs, the Drug and Alcohol Branch uses exhibit bags which I consider fall short of the standard required to properly account for seized drugs.
176. The Drug and Alcohol Branch procedures manual does not provide detailed direction on the use of exhibit bags. The procedure that my officers observed after a sample was removed for analysis is as follows:
 - Place the drug exhibit in a clear plastic bag (approximately 250mm long by 200mm wide) after the exhibit has been sampled and weighed.
 - Heat-seal the plastic exhibit bag approximately 100mm from the open end, leaving the balance unsealed.

- Police investigator and forensic officer sign the pre-printed exhibit label (approximately 70mm by 100mm).
 - Insert the pre-printed, signed exhibit label to the inside of the unsealed part of the plastic bag.
 - Heat-seal the plastic exhibit bag 20mm from the open end.
177. The plastic bags are generic in nature and are not over-printed with a Victoria Police logo or other identifying mark. Also, labels appear to be generic stock, are not tamper-proof and do not use a strong adhesive. According to an external expert, Dr Terry Spencer, the label could be easily removed from the plastic bag without tearing it.

Photograph 2: Example of a drug exhibit in non-tamper-proof packaging



178. Dr Spencer was also critical of the plastic bag system used by the Drug and Alcohol Branch:

... the plastic bag system as currently employed for drug seizures is not ideal. It does not provide for a basic control in forensic evidence handling, the ability to determine if the material has been tampered with. In a worse case scenario, material could also be removed and/or substituted.

179. Dr Spencer demonstrated to my officers that exhibits in the bags used by the Drug and Alcohol Branch could be accessed without giving an indication of any tampering.

180. Ms Quinn confirmed the bags are not tamper-proof. She said:

A: But can you tamper with that bag. Yes. Can you tamper with this label? Probably in our current system. I suppose the issue here is that you could open this, do something with it and well ...

Q: But you can produce two labels at the same time.

A: Yes, you can ... that's an FCM flaw ... it's a flaw that's been detected that will be fixed. So, yes ... we should improve that ...

181. The internal auditor for the Chemistry Division also outlined how the exhibit bag could be tampered with:

... In practice it's not tamper-proof, no.

... if I wanted to tamper with something, and the bag wasn't tight enough – well, there's a couple of things you might be able to do. One is – certainly I could cut the bottom of the bag open and then re-heat seal it.

... if you cut the top open, you may be able to ... peel the actual label off successfully. I'm pretty sure you ...

182. This issue has been known to the Victoria Police Forensic Services Centre for some time, yet no action has been taken to address the deficiencies. The types of tamper-proof bags that are available are well known to Victoria Police.

183. In response Ms Quinn stated:

Nothing is truly 'tamper proof' but rather tamper evident. Exhibits have been received by the Drug Branch in the designated 'tamper proof' bags which are clearly not fully secure.

The FSD process could be improved via a tamper evident label.

184. My officers raised the issue of exhibit bags with representatives of the National Association of Testing Authorities and the centre's then Quality Manager. The 17025 international standard states that:

... Heat-sealed packages are to have initials or other identification across the seal.

185. At the time my officers were taking evidence, the Victoria Police Forensic Services Centre did not include this identification across the primary heat seal.

This issue has been known to the Victoria Police Forensic Services Centre for some time, yet no action has been taken to address the deficiencies.

186. The Manager of the National Association of Testing Authorities Forensic Science Laboratory Accreditation Program was shown an example of the exhibit bag used for drug exhibits at the Victoria Police Forensic Services Centre. In response she outlined what the National Association of Testing Authorities' expectations were in relation to tamper-proof packaging. She said:

I would be looking at that, and trying to evaluate whether or not there is a possibility of being able to access that bag without knowing that somebody's had access to it. If its heat-sealed there should be signatures across the heat seal, so that you would know if the heat seal has been accessed, there would be deformities in the actual signature ...

Some jurisdictions will have actual tamper evident tape that they will tape over the heat seal and sign across and date.

Other jurisdictions will place them into heat seal bags like this ... With a permanent texta colour sign across the seal. Others will have some sort of labelling that is actually trapped inside of the heat seal, and it depends which one you pick up, the laboratories themselves have to prove to us that it is tamper evident, and we would sit down and talk to them about that.

As it sits there, I would certainly ask the question, how does one actually determine ... if somebody had access to that, how would you know?

187. Since this issue was raised with the National Association of Testing Authorities on 16 December 2008, the State Manager for the National Association of Testing Authorities wrote to the Victoria Police Forensic Services Centre advising that changes are required:

The receiving officer must ensure that when exhibits are placed in plastic bags a signature (or initials) appears across the heat seal identifying the individual responsible for providing tamper evident packaging. This does not apply to exhibits already packaged in a tamper evident manner.

188. The Acting Director of the Victoria Police Forensic Services Centre responded that the centre did not support changing the current system:

Victoria Police Forensic Services Department has considered this requirement in detail and consulted with our stakeholders ... We have advice from the stakeholders that there is no concern or issue regarding the legality of the current system for heat-sealing our exhibits, and believe that the continuity and integrity is maintained through the whole procedure. It is our opinion that to change the current system would decrease our confidence in continuity and therefore introduce a greater risk to the organisation.

Currently we are defining the 'seal' on plastic bags as consisting of the upper and lower heat seals and the label with the signature held between this 'double seal'. We believe that this meets the requirement that the signature must be across the seal, as we designate the seal as the whole system, rather than one part.

Should the current system still be deemed as not compliant we would like to seek review and clarification of the requirements by the Forensic Science Accreditation Advisory Committee, as we believe that changing our current system would only introduce a greater risk to confidence in the continuity and integrity of the heat-sealing of exhibits at FSD.

The practice of not recording who has actual possession of drug exhibits and the movement of those drugs has serious implications for the chain of custody.

189. The National Association of Testing Authorities advised the Victoria Police Forensic Services Centre that the issue was considered by the Forensic Science Accreditation Advisory Committee on 27 March 2009 and it was agreed the policy as outlined in the accreditation requirements must be adhered to and heat-sealed packages are to have initials or other identification across the seal.
190. The Acting Director of the Victoria Police Forensic Services Centre has now advised that 'following discussion with NATA a new procedure has been developed and is now operational'.
191. In response to my comments that the process has taken some time to be resolved, the Acting Director stated:

This process is one of natural justice and may take some time depending on the availability of NATA to assess and ratify options. ... I am of the view, that all things considered, the 'condition' was resolved in a timely manner.

Conclusions

I consider that the current arrangements for chemical drug intelligence exhibits are also a high risk because the internal control procedures for them do not provide the appropriate level of accountability.

192. The practice of not recording who has actual possession of drug exhibits and the movement of those drugs has serious implications for the chain of custody. Recording only limited information on the forensic case management system in my view is a high risk area for Victoria Police and could potentially lead to challenges in the courts about a break in the chain of custody.
193. I consider that the current arrangements for chemical drug intelligence exhibits are also a high risk because the internal control procedures for them do not provide the appropriate level of accountability.
194. The forensic case management system should record the names of the forensic officers who have possession of chemical drug intelligence exhibits and it should record the transfer of the exhibits from other forensic officers. In addition, when exhibits are fully expended through the sampling or analysis process then this information must also be recorded on the forensic tracking system.

195. Chemical drug intelligence samples that are not expended should be returned to the Forensic Exhibit Management Unit for destruction. Each sample should be returned individually in a tamper-proof exhibit bag that includes a label indicating it is a sub-item number and linking it back to the original case number.
196. After reviewing developments with exhibit bags in some other jurisdictions, I consider that the exhibit bag for drug items used by the Victoria Police Forensic Services Centre needs to be more secure. In particular, so that tampering with the exhibit bag would be obvious.
197. I reject the argument put forward by the Victoria Police Forensic Services Centre that changing the current system would only introduce a greater risk to confidence in the continuity and integrity of the heat-sealing of the exhibit bags at the centre. I consider that not changing the system would introduce a far greater risk that items could be tampered with without any evidence that this had occurred.
198. I am concerned that it took five months after the National Association of Testing Authorities raised the issue with the Victoria Police Forensic Services Centre for the matter to be partly resolved. The attitude demonstrated by the leadership of the Victoria Police Forensic Services Centre to this issue reinforces the point made by the then Director of the Victoria Police Forensic Services Centre, Mr Ross, in his evidence that there were some elements within the Victoria Police Forensic Services Centre reluctant to improve processes.
199. I consider that improving the exhibit bag used for drugs should be addressed by the Chief Commissioner of Police as a priority.

Recommendations

I recommend that Victoria Police:

Recommendation 1

Ensure the continuity of drug exhibits is recorded in case notes and on the forensic case management information technology system so that the actual holder of the drug exhibit is identified at all stages of processing.

Recommendation 2

Review the procedures to ensure accountability for chemical drug intelligence exhibits is improved, in particular that:

- a) the forensic case management system records the name(s) of the officer(s) who have possession of the exhibits
- b) a sub-item number relating to the case number is allocated for each sample and be recorded on the new forensic case management system to be introduced in February 2010.

I reject the argument put forward by the Victoria Police Forensic Services Centre that changing the current system would only introduce a greater risk to confidence in the continuity and integrity of the heat-sealing of the exhibit bags at the centre.

The attitude demonstrated by the leadership of the Victoria Police Forensic Services Centre to this issue reinforces the point made by the then Director of the Victoria Police Forensic Services Centre in his evidence that there were some elements within the Victoria Police Forensic Services Centre reluctant to improve processes.

Recommendation 3

Ensure each sample not expended during analysis is returned in an exhibit tamper-proof bag to the Forensic Exhibit Management Unit for destruction.

Recommendation 4

Introduce a secure tamper-proof exhibit bag and containers for drugs and chemicals as a matter of priority.

Recommendation 5

Develop a data cleansing strategy to ensure data integrity before migration to the new forensic case management information technology system (PaLM).

Recommendation 6

Adopt a consistent approach as to what details about drug exhibits will be recorded on the new forensic case management information technology system (PaLM) regardless of which store (the Forensic Exhibit Management Unit or the Drug and Alcohol Branch) holds particular drug exhibits.

Victoria Police response

Recommendations accepted.

6. SECURITY OF DRUG EXHIBITS

200. An aspect of the handling of drug exhibits that carries a high degree of risk is the security of drug exhibits and, in particular, the security of storage arrangements.
201. The Victoria Police and Victoria Police Forensic Services Centre manuals specify, among other things, the processes to be followed for secure storage of drug exhibits. These procedures involve both the Forensic Exhibit Management Unit and the Drug and Alcohol Branch at various points. For example, the manuals direct that all drugs, with the exception of samples awaiting analysis, are to be stored in the Forensic Exhibit Management Unit.

An aspect of the handling of drug exhibits that carries a high degree of risk is the security of drug exhibits and, in particular, the security of storage arrangements.

Impact of industrial bans on security arrangements

202. During my investigation, I identified that practices for the storage of drugs have, over the course of the past year, varied significantly from the arrangements specified in the various procedures manuals.
203. In response the Manager of the Drug and Alcohol Branch, Ms Quinn, stated that 'current procedures are a direct result of the workplace relation issues and not the normal or long term preferred practices of the Branch'.
204. The failure to adhere to the processes outlined in the manuals for the storage of drug exhibits was partly due to a breakdown in the working relationship between the Drug and Alcohol Branch and the Forensic Exhibit Management Unit. As part of a course of industrial action, the Drug and Alcohol Branch applied the following work bans:
- (a) As from 11 June 2008 drug exhibits (both bulk stocks and samples) for contested cases would not be returned to the Forensic Exhibit Management Unit for secure storage but retained in store areas under the control of the Drug and Alcohol Branch.
 - (b) As from December 2008 drug exhibits that have a court order or officer's authority authorising destruction would not be returned to the Forensic Exhibit Management Unit for auditing and destruction but retained in store areas under the control of the Drug and Alcohol Branch.
205. Ms Quinn has since stated that 'management is still yet to engage in the necessary communication essential for the progress and resolution of outstanding workplace issues'.
206. The first ban is contrary to the procedures outlined in the Drug and Alcohol Branch procedures manual.

I identified that practices for the storage of drugs have, over the course of the past year, varied significantly from the arrangements specified in the various procedures manuals.

The failure to adhere to the processes outlined in the manuals in the storage of drug exhibits was partly due to a breakdown in the working relationship between the Drug and Alcohol Branch and the Forensic Exhibit Management Unit.

207. The second ban is also contrary to the procedures outlined in the Victoria Police Forensic Services Centre manual and the Drug and Alcohol Branch procedures manual. This action prevents the Chief Commissioner complying with the requirement that if the exhibit is not going to be tested and/or analysed then it must be destroyed, not stored indefinitely.¹⁰ This may amount to contempt of court.

Assessment of drug storage facilities

208. My investigation established that the increase in the number of drug seizures in recent times has put considerable pressure on drug storage facilities at the Victoria Police Forensic Services Centre. An inspection of these facilities revealed security deficiencies and risks. For example:

- overcrowded drug storage areas with some exhibits stored on the floor (see photograph 3)
- inadequate security and monitoring.

Photograph 3: Drug exhibits in the Forensic Exhibit Management Unit storage room



¹⁰ Magistrates' Court orders for destruction of drugs state: 'Order all Drugs/Instruments seized be forfeited and destroyed'. County Court orders for destruction of drugs state: '... and I further direct that it be placed in the custody of the Chief Commissioner of Police and be held by him until 28 days from this date or the conclusion of any appeal proceedings where it may be tested and/or analysed and then destroyed'.

209. My concerns about the individual storage areas have been brought to the attention of the Chief Commissioner and for security reasons the specific information relating to these matters will not be publicly disclosed.
210. For a number of years, Victoria Police has been aware of the inadequate storage facilities for drug exhibits at the centre. This is an area that requires urgent attention by Victoria Police and the management of the Victoria Police Forensic Services Centre. The Chief Commissioner has accepted my specific recommendations in relation to storage issues. However, some general aspects of drug storage do warrant comment.
211. As an example of my concern about security issues, I have included details of the shipping container used for the storage of all types of illicit powder drugs, hashish and precursor chemicals that have been cleared for destruction and are awaiting transport to the destruction facility. It is 6.1 metres long and located in the grounds of the Victoria Police Forensic Services Centre site. It contains extensive holdings of drugs estimated to be worth millions of dollars on the black market.

Photograph 4: Shipping container used for the storage of illicit powder drugs, hashish and precursor chemicals pending destruction



Photograph 5: Drug exhibits held in the shipping container at the Victoria Police Forensic Services Centre pending destruction



Some forensic officers hold significant quantities of evidence samples in their personal lockers for long periods, in some instances for many years after the close of the relevant court case.

212. I understand that the shipping container is similar to the container that was the subject of the investigation regarding former Detective Senior Constable Kevin Hicks, referred to earlier in this report.

Storage of drug samples

213. Some forensic officers hold significant quantities of evidence samples in their personal lockers for long periods, in some instances for many years after the close of the relevant court case.
214. The then internal auditor of the Chemistry Division said many of the long term exhibits are held by senior forensic officers. He said:

The three individuals – [two] have been there in excess of 20 years. [One has] been in excess of 30 years. It's not surprising that they would have the bulk of these – if you like – problem exhibits. And having been a case worker myself for a long time, you know, it's not surprising that you will occasionally... have samples that you – you know, that you might have in the back of a cupboard, and you know, with all the pressure of, 'Get on to the next exhibit, got to go to the next crime' – no one's calling for a little sample. Unless they call for it to be destroyed, clearly you're not going to necessarily worry about it.

215. For example, a recent audit of the personal holdings of several forensic officers revealed three officers held 501 items.
216. Ms Quinn acknowledged that this was an issue. She said 'yes, the housekeeping of this could have been better but the persons concerned are the busiest of all staff and this becomes the lower of their priorities since the items are secured in their locker'.
217. From a security perspective drug samples should not be retained indefinitely by the forensic officers after they have been analysed.

Drug and Alcohol Branch shopfront drug safe

218. The Drug and Alcohol Branch provides a shopfront where drugs needing analysis are sampled. After drugs are sampled the remaining quantity, known as the 'bulk', is stored temporarily in a safe in the shopfront. Exhibits that are brought to the shopfront are involved in contested cases and can amount to a kilogram or more.
219. Furthermore, drugs stored in the safe are not recorded against the name of a forensic officer on the forensic case management system. This follows a decision made by Ms Quinn that the drugs are shown on the forensic case management system as being located in the shopfront.
220. Although assurances were given that these exhibits are removed each working day, Dr Spencer reported that bulk material is sometimes held in the shopfront safe for up to two weeks.

The sampling and transfer station

221. The sampling and transfer station is a stand-alone building that was constructed in 2000 in response to health and safety concerns about storing hazardous and volatile chemicals in the main building.
222. Hazardous and volatile chemicals are received and initially stored within the receipt area of the station. They are then transferred to a central area where they are examined and sampled for forensic analysis. After a sample has been taken, the bulk of the liquids, powders and solids are then transferred to a separate area of the sampling and transfer station to await destruction.
223. Due to the increase in the number of exhibits seized from clandestine laboratories and the delay in destroying the exhibits, the storage area in the sampling and transfer station is close to full capacity.
224. The majority of exhibits in the sampling and transfer station relate to recent cases. However there are some exhibits that have been retained for many years, with the oldest exhibit dating from 2001. I note that New South Wales and Queensland have legislation that allows long term exhibits to be disposed of without jeopardising evidentiary requirements, but Victoria does not.

A recent audit of the personal holdings of several forensic officers revealed three officers held 501 items.

From a security perspective drug samples should not be retained indefinitely by the forensic officers after they have been analysed.

Few exhibits in the sampling and transfer station were in tamper-proof containers and the majority, including glass containers and bulk chemicals, were stored in open boxes without any seals or evidence tape that would assist with identifying whether an exhibit had been tampered with. In addition, bulk liquid chemicals were stored in unsealed containers.

225. During a site visit to the sampling and transfer station in December 2008 my officers noted that clandestine laboratory exhibits and materials used to create illegal drugs, were stored on pallets in the receipt area of the transfer station while awaiting processing. My officers were informed that it can take up to three weeks before sampling of an exhibit occurs and itemised details of the exhibit are recorded on the forensic case management system. It is not until the exhibit is sampled and its details recorded that it is weighed and its details recorded in the forensic officers' case notes.
226. It was noted that few exhibits in the sampling and transfer station were in tamper-proof containers and the majority, including glass containers and bulk chemicals, were stored in open boxes without any seals or evidence tape that would assist with identifying whether an exhibit had been tampered with. In addition, bulk liquid chemicals were stored in unsealed containers.
227. Given that the sampling and transfer station is an active workplace where doors are open on a regular basis and a number of staff and visitors access the building either to lodge exhibits, to undertake fingerprinting or to go about their work, I considered that these arrangements posed a security risk.
228. During my investigation, the Deputy Ombudsman raised this security risk with the then Deputy Commissioner of Police as a matter warranting urgent attention. As a result, the Victoria Police Forensic Services Centre took steps to install double-locked metal cages in the sampling and transfer station to accommodate the exhibits in a more secure environment prior to them being processed and transferred to secure storage. The cages were installed in January 2009.
229. The Clandestine Laboratories Unit Property Officer advised my officers that to improve security he had prepared new procedures to ensure consistent approaches were adopted by the forensic officers regarding security. The procedures were provided to the Manager of the Drug and Alcohol Branch for approval on 22 October 2008.
230. On 15 January 2009, this matter was followed up with the Manager of the Drug and Alcohol Branch who advised that she expected to approve the new procedures by the end of that month.
231. Ms Quinn has since advised 'the relevant procedures 'Security' and 'Exhibit Receipt and Recording' are now finalised and approved'.
232. On another visit to the sampling and transfer station, in March 2009, my officers observed that some cages containing clandestine laboratory exhibits were left unlocked even though there were a number of personnel apart from the Clandestine Laboratories Unit forensic officers working in the transfer station.

233. The Assistant Director of the Chemistry Division advised my officers in June 2009 that there was resistance to locking the metal cages from the forensic officers in the Clandestine Laboratories Unit of the Drug and Alcohol Branch. He said:

... And there's a bit of resistance there, so I got [the quality and training co-ordinator of the Drug and Alcohol Branch] up and I said, 'What's going on here?', ... apparently the procedure had been held up on Cate's desk, and I said, 'Well, get it off Cate's desk and I'll look at it, because you know, I gave a commitment to the Ombudsman's office that that's the process we'd have, and we'll have it'. So I've been told that they had now locked it, but they're having argy bargy over – they don't want someone else to have access to the – until they've sampled it. And I said, 'No, the property manager will have access to the key as well'. So we're having those ongoing discussions and so on ...

234. At the time of finalising this report the new procedures for the sampling and transfer station had still not been approved. In addition, the Property Officer advised that the Assistant Director of the Chemistry Division had approved the double-locking arrangements for the metal cages. On 17 June 2009, the Assistant Director of the Chemistry Division directed the forensic officers to lock the cages.

235. The Assistant Director of the Chemistry Division has since advised that 'the resistance to the new cages has significantly dissipated, and is no longer a source of great concern to me. Further the Property Manager and the Drug and Alcohol Branch Manager have agreed to oversight appropriate accountability and process practices in relation to same'.

236. I am aware that there are a number of other procedures that have been awaiting approval by the Manager of the Drug and Alcohol Branch for some time. These include:

- clandestine laboratories security at the Victoria Police Forensic Services Centre
- clandestine laboratories audits
- the Environmental, Health and Safety manual.

Conclusions

237. Many of the current storage arrangements for drug exhibits are the result of *ad hoc* decisions, operational differences, and disputes between the Forensic Exhibit Management Unit and the Drug and Alcohol Branch. From a security perspective the large number of storage facilities for drug exhibits within the Victoria Police Forensic Services Centre presents a high risk, particularly as many of these areas do not provide an optimum secure environment for drug storage. It is also a concern that documented procedures are not being followed.

Many of the current storage arrangements for drug exhibits are the result of ad hoc decisions, operational differences, and disputes between the Forensic Exhibit Management Unit and the Drug and Alcohol Branch.

There appears to be no logical reason why the Drug and Alcohol Branch is involved in the storage and management of bulk drug exhibits.

I also consider that the security arrangements for the shipping container are inadequate. Given that thousands of exhibits are held in the shipping container for up to three or four months pending destruction, it is essential that the security for the shipping container and the area surrounding it be upgraded.

The quantities of exhibits stored in the sampling and transfer station is also a concern. A strategy should be developed to address how the long term exhibits can be disposed of without jeopardising evidentiary requirements.

238. There appears to be no logical reason why the Drug and Alcohol Branch is involved in the storage and management of bulk drug exhibits. The underlying rationale for separating the analysis process from the management and security of exhibits is to protect the forensic officers from allegations of theft or tampering, as well as to minimise occupational health and safety issues.
239. The management and storage of drug exhibits is a core responsibility of the Forensic Exhibit Management Unit and accordingly the management of all drug exhibits, with the exception of samples awaiting analysis, should be immediately transferred from the Drug and Alcohol Branch to the Forensic Exhibit Management Unit.
240. I also consider that the security arrangements for the shipping container are inadequate. Given that thousands of exhibits are held in the shipping container for up to three or four months pending destruction, it is essential that the security for the shipping container and the area surrounding it be upgraded.
241. Significant improvements need to be made to security in all of the areas where drug exhibits are stored within the Victoria Police Forensic Services Centre.
242. The use of the Drug and Alcohol Branch's shopfront safe to store exhibits after they have been sampled is a most unsatisfactory arrangement. The security of those exhibits urgently needs to be upgraded.
243. All powder drug holdings should be transferred to more secure storage within the Forensic Exhibit Management Unit. Consideration should be given to relocating the Drug and Alcohol Branch shopfront to a more secure area. I note that Dr Spencer has made a similar recommendation in his report.
244. The quantities of exhibits stored in the sampling and transfer station is also a concern, particularly given that the sampling and transfer station is operating close to capacity and many of the exhibits held there are several years old. A strategy should be developed to address how the long term exhibits can be disposed of without jeopardising evidentiary requirements.
245. It takes approximately three weeks to process and identify whether clandestine laboratory items contain controlled substances or chemicals of significant monetary value. This creates a risk that these exhibits could be tampered with or some of the contents removed or mislaid. It is essential that the period between actual seizure, the items being placed in an accountable, tamper-proof exhibit container and the details itemised on the forensic case management system be reduced. This would help to ensure the integrity of the exhibit is maintained along with continuity of the chain of evidence.

246. During my investigation the Victoria Police Forensic Services Centre addressed some of the weaknesses identified above by improving perimeter security and introducing other security measures. However, I consider there is a lot more work to be done in this area.

Recommendations

I recommend that Victoria Police:

Recommendation 7

Conduct a review of the security of the Forensic Exhibit Management Unit.¹¹

Recommendation 8

Ensure the use of the shipping container as a storage area for drugs is reviewed.¹²

Recommendation 9

Upgrade the security of the various drug storage rooms and areas specified in my draft report.¹³

Recommendation 10

Relocate the Drug and Alcohol Branch shopfront to a more secure area within the Victoria Police Forensic Services Centre.

Recommendation 11

Give the Forensic Exhibit Management Unit responsibility for managing exhibits in the DS1A store and the sampling and transfer station.

Recommendation 12

Rationalise the number of stores holding drug exhibits at the Victoria Police Forensic Services Centre.

Recommendation 13

Improve security for exhibits seized from illicit clandestine laboratories.¹⁴

11 The details of my recommendations relating to security matters were provided to and accepted by the Chief Commissioner of Police. For security reasons I have not reproduced the full text of these recommendations in this report.

12 Ibid.

13 Ibid.

14 Ibid.

Recommendation 14

Reduce the time for the processing and recording of exhibits from clandestine laboratories on the forensic case management information technology system.

Recommendation 15

Specify in the procedures manual for the Clandestine Laboratories Unit that, wherever possible, exhibits seized from clandestine laboratories are securely stored in double-locked cages pending processing.

Victoria Police response

Recommendations accepted.

7. DESTRUCTION OF DRUGS AND RELATED MATERIAL

247. The Victoria Police manual instruction 114-6.1 'Drugs in police possession' sets out four processes by which the destruction of drugs and drug related material may occur:
- obtain an order for disposal when applying for a Finding of Fact
 - make an application for a disposal order under section 77-78 of the *Confiscation Act 1997*
 - seek approval from an Officer under regulation 51 Drugs, Poisons and Controlled Substances Regulations
 - have the property certified as a health or safety risk to enable immediate disposal or destruction.
248. The process followed in each instance depends on whether the drug or related material relates to a contested case, a non-contested case, a clandestine laboratory exhibit or an analytical sample.
249. In all instances, the destruction of drugs and drug related material involves multiple parties, often an investigating police officer and a station manager, and sometimes more senior officers. It can also involve consultation with staff of the Drug and Alcohol Branch to obtain advice to initiate disposal under section 81(3)(e) or section 91 of the *Drugs, Poisons and Controlled Substances Act 1981*.

Pre-trial destruction of drugs based on health and safety issues

250. In the event that a chemical is dangerous, an application can be made by a forensic officer under section 120 of the *Drugs, Poisons and Controlled Substances Act* for the drug to be destroyed or disposed of. Evidence indicates that on average it is taking over 12 months for the section 81(3)(e) certificates to be generated by the forensic officer. When an investigating officer is involved it can be a further six months before authorisation is received to dispose/destroy the item.
251. The intention of section 81(3)(e) is for the immediate destruction of the chemicals because they are a health and safety risk. The delay in using this mechanism to authorise the destruction of a drug raises the issue about whether it is appropriate to be using this legislative procedure to authorise the destruction of drugs that may have been held for several years.

Destruction of non-contested drug case exhibits

252. Non-contested drug case exhibits arrive at the laboratory with a court order for immediate destruction. Once these exhibits have been sampled, they are stored in the Forensic Exhibit Management Unit drug storage room for auditing. After they have been audited, they are transferred to the Forensic Exhibit Management Unit shipping container awaiting destruction.

Destruction of exhibits from contested cases

253. The destruction of exhibits relating to contested cases, and the destruction of a proportion of exhibits received under 'sub-section 3.19 Destruction of clandestine laboratory materials', requires authorisation either under a relevant court order (Finding of Fact) or through section 81(3)(e) provisions.
254. Contested drug case exhibits waiting to enter the drug destruction stream are stored in the Forensic Exhibit Management Unit drug vault or drug storage room.
255. After authorisation is given and a pre-disposal audit has been conducted, they are transferred to the Forensic Exhibit Management Unit's shipping container because there is insufficient storage space in the Victoria Police Forensic Services Centre for them to remain there.

Pre-trial destruction of drugs

256. Drugs received at the Victoria Police Forensic Services Centre are sampled for analysis and the remaining stocks are held in storage pending the outcome of court cases and the receipt of court orders authorising destruction. Because this process is often protracted and can extend over several years, a stockpile of drug items awaiting destruction has developed.
257. Presently there are 17,898 drug items held at the Victoria Police Forensic Services Centre, some dating back more than ten years. The storage of these drug items for an extended period of time is a considerable health and security risk. It also has cost implications and makes auditing difficult.
258. A number of other police forces in Australia, for example the New South Wales Police, the Australian Federal Police and the Northern Territory Police, have adopted a system that permits the destruction of bulk drugs pre-trial. The system entails:
- taking either two or three samples of the drug exhibit with sufficient quantity to allow analysis
 - giving at least 35-days notice (by post or otherwise) to a person who has been charged or will be charged that it is intended to destroy or dispose of the bulk drug item and that he or she has the right to have the sample independently analysed

Presently there are 17,898 drug items held at the Victoria Police Forensic Services Centre, some dating back more than ten years. The storage of these drug items for an extended period of time is a considerable health and security risk. It also has cost implications and makes auditing difficult.

- if consent is given, destroying the bulk drugs within two months of the date of the pre-trial destruction order and for chemicals within six months of seizure
- retaining the samples until all appeal processes are completed
- presenting the forensic officer's certificate of analysis as prima facie evidence of the results of the analysis and the identity and quantity of the drug.

Impact of industrial action

259. As part of a program of industrial action, members of the Drug and Alcohol Branch are currently refusing to return to the Forensic Exhibit Management Unit drug exhibits for which court destruction orders have been issued. As of 31 July 2009, the Forensic Exhibit Management Unit had court orders for 424 drug items that had not been actioned because of the work bans.
260. In response Ms Quinn said that 'senior management have refused to discuss or entertain a change and or resolve the workplace issues, so in reality they have imposed a 'ban' on the progress of this work'. [Ms Quinn's emphasis]

Destruction of clandestine laboratory materials

261. Dismantled laboratories and chemicals seized from clandestine laboratories are transported to the sampling and transfer station at Victoria Police Forensic Services Centre for processing. This allows samples to be taken, including fingerprints and DNA, prior to the items being destroyed.
262. The Drug and Alcohol Branch has set a target for the receipt and sampling of clandestine laboratory items to be completed within three weeks of seizure. My officers were advised that target is achieved in around 75-80 per cent of cases.
263. In response to these comments, Ms Quinn stated:
- As the new staff complete training requirements the achievement of this target should be generally achieved, except in the circumstances of significantly high seizure rates, greater than two per week, limited availability of fingerprint experts or in the event of illness of key staff.
264. The Drug and Alcohol Branch's target for the destruction of clandestine laboratory items is within 12 weeks of lodgement in the sampling and transfer station. Ms Quinn stated that 'if the older cases are excluded, this is being achieved in approximately 65-70 per cent of the time'.

As part of a program of industrial action, members of the Drug and Alcohol Branch are currently refusing to return to the Forensic Exhibit Management Unit drug exhibits for which court destruction orders have been issued. As of 31 July 2009, the Forensic Exhibit Management Unit had court orders for 424 drug items that had not been actioned because of the work bans.

265. Ms Quinn has since stated:

The Property Manager Clan Labs was well on target until the recent expansion of his role to audit management which has placed considerable drain on his time to manage all his duties. I have raised concerns with the Assistant Director Chemistry and the Acting Director of the VPFSC that it is essential that additional resources are provided to the branch for training and allocation to assist [the Property Manager] if we are to meet this target.

266. Materials seized from clandestine laboratories come under the following three categories for destruction:

- bulk exhibits to be stored in DS1A pending destruction
- samples to be allocated to forensic officers and subject to a court order ('Finding of Fact')
- samples subject to section 81(3)(e) and section 91 orders.

267. Authority for destruction of clandestine laboratory materials can be issued under section 81(3) or section 91 of the Drugs, Poisons and Controlled Substances Act. The procedures to be followed for the destruction of materials from clandestine laboratories under these provisions are set out in section B3.7 Destruction of Exhibits of the Drug and Alcohol Branch procedures manual. The manual states:

B3.7.1 Prior to Court

Where exhibits are seized under a Warrant issued in accord with Section 81(1) of the Drugs Poisons and Controlled Substances Act 1981, an analyst (within the meaning of Section 120 of the Act) can certify in writing to the member executing the warrant that destruction or disposal of the exhibit is required in the interests of health and safety, using the 'Certification of Requirement for Destruction or Disposal (Section 81(3)(e))'. A signed report must be obtained from that member prior to any materials being destroyed or disposed of under section 81(3)(e).

In the case where exhibits are not seized under a Warrant issued as above, an analyst can certify in writing to the informant that destruction or disposal of the exhibit is required in the interests of health and safety, using the 'Certification of Requirement for Destruction or Disposal (Section 91)'. The certificate must be signed by a delegated police officer (under Section 92 of the Act) prior to any materials being destroyed or disposed of under Section 91. Once the exhibits have been destroyed or disposed of, the delegated police officer is to be advised. The FSD Planning Department must also be advised as part of the monthly statistical reporting.

Two authorised unit members must be involved in all the preparations for destruction and disposals.

All items are to be sampled, where practicable, prior to any destruction or disposal under Sections 81(3)(e) or 91.

268. The Drug and Alcohol Branch procedures manual is silent regarding whether a pre-destruction audit is to be carried out on materials seized from clandestine laboratories and who might undertake such an audit.
269. To ensure Victoria Police complies with all key legislation and regulations governing the management of hazardous materials, the collection, screening and destruction process of items from clandestine laboratories must be completed within three months. My investigation identified that this target is not being met.
270. In response Ms Quinn stated that:
- ... problems still exist due to insufficient resources and or fully trained resources.
- Best efforts continue to be made and training is progressing. However additional resources for the functions of the Property Manager's role are critical if we are to have long term achievement.
- New screening methods are under development and the implementation of new instrumentation has recently been completed which should assist in improving the associated screening processes.
271. To reduce the quantity of chemicals and other materials that are submitted for processing, the South Australia Police and the New South Wales Police have adopted a practice of sampling chemicals immediately at the scene of the clandestine laboratory. They then transport bulk material directly to a commercial waste company for destruction. Only the samples are returned to the forensic laboratories for analysis and reporting.
272. In New South Wales, destruction of the material sent to the chemical waste company generally occurs within 30 days. In Victoria the destruction of similar material usually takes a minimum of four months.
273. If the practice of sampling at the scene of clandestine laboratories was adopted in Victoria the chemicals would need to be stored at a waste company until the substance was identified and the appropriate destruction process decided. This is a legislative requirement for disposal of hazardous chemicals. Furthermore issues regarding secure storage and integrity management of these black market valuable items would need to be resolved.

To ensure Victoria Police complies with all key legislation and regulations governing the management of hazardous materials, the collection, screening and destruction process of items from clandestine laboratories must be completed within three months. My investigation identified that this target is not being met.

Destruction of analytical samples

274. For analytical samples, a form titled 'Drug and Alcohol Branch DA132' is used to authorise destruction. The form must be signed by a forensic officer and a witness, usually another forensic officer. The form does not provide for the identification of either the forensic officer or the witness; any auditor would need to be familiar with the signatures of the forensic officer and the witness to establish their identities. The procedures and the form are both silent regarding who it is who would be 'destroying the sample' through its use in analytical procedures. It is not clear whether it is the forensic officer who received the sample at the shopfront and who presumably stored it in his or her personal drug locker, or another forensic officer of the same team.

Pre-destruction process

275. At present, the quantity of drug and drug related material awaiting destruction or in the drug destruction stream at the Victoria Police Forensic Services Centre cannot readily be determined.¹⁵ What is known is the number and description of exhibits and the cases associated with those exhibits which is required by the officers involved in the pre-destruction audit process.
276. The Victoria Police manual instruction 114-6 requires that the officers involved in the pre-destruction audit process be independent of the Victoria Police Forensic Services Centre. According to the Director's staff officer, who oversees destruction of drug exhibits, the requirement for an independent officer has created problems in organising the appropriate personnel. He said during interview:

... in terms of the destruction process, the manual ... doesn't say much about it ... I was more than happy to take on the role of being that independent person that's going to say, 'Yes, we've got the authority there, this is the drug, that's fine, we'll take it and destroy it'. I'm not sure how this came up but I had a discussion from someone at Corporate Management Review Division and they – it might have been [Superintendent CMRD] and they then said, 'Look, no, our interpretation is that there must be two officers, two inspectors or above, that's what it means'. So as a result of that I've now sort of realigned the way I do business out there and that's a problem because I haven't got the ability to just get someone to come in at the drop of a hat to say, 'Look, we've got this class of drug out here, we want to tip that into a big container to consolidate it to take it for destruction, can you come out and witness it?'

At present, the quantity of drug and drug related material awaiting destruction or in the drug destruction stream at the Victoria Police Forensic Services Centre cannot readily be determined.

¹⁵ The weight of each exhibit is not recorded on the label affixed to each exhibit item and the FCM IT system does not include this detail. The Acting Director explained that 'the quantity of drug and drug related material can be sourced via the individual case notes. Some items held by the VPFSD may not in fact be analysed and are simply awaiting destruction. In such cases the quantity of drug or indeed whether any drug at all is present in the bag cannot be determined.'

I'm wasting my time. It's almost impossible to try to get someone to come out to undertake that process so what I've decided with [the Property Officer of the Clandestine Laboratories Unit] now is to actually stockpile those so we can get an inspector to come in in one hit to watch all of it happen, the two of us can then sign off on it. So that's where the manual – I don't say the manual's wrong, I – it just doesn't help in terms of my process to get destructions done when I've got to constantly arrange for someone independent to come in and help me.

Approval for destruction

277. Another factor contributing to the failure to meet drug destruction targets is the delay in the investigating police officer providing the authorisation for the disposal/destruction of drug items after the conclusion of their involvement in the case. As at 31 July 2009 there were 11,447 items¹⁶ awaiting authorisation for destruction. This is an issue that needs to be addressed by Victoria Police so that priority is given to processing the necessary paperwork within a reasonable timeframe of the resolution of the case.

Conclusions

278. The practices of the Victoria Police Forensic Services Centre for the destruction of drugs and related items involve considerable risks.
279. The destruction arrangement for analytical samples is a high risk area because of the inadequacy of the details recorded on the drug destruction form as it results in limited accountability and therefore should be reviewed.
280. Destruction of materials from clandestine laboratories is currently not efficient. In view of the increase in the number of clandestine laboratories and the associated exhibits, and the delay in processing, sampling, analysing and destruction of these materials, all of which involve a cost, there would appear to be a number of benefits in sampling at the scene and holding the bulk material at a private storage site prior to destruction. This would:
- reduce the amount of routine processing work that forensic officers are currently undertaking and enable them to focus on their core function
 - reduce the holdings of chemicals and non-essential items in the sampling and transfer station
 - assist with the earlier processing of forensic officers' reports for the courts.

The practices of the Victoria Police Forensic Services Centre for the destruction of drugs and related items involve considerable risks.

The destruction arrangement for analytical samples is a high risk area because of the inadequacy of the details recorded on the drug destruction form as it results in limited accountability and therefore should be reviewed.

Destruction of materials from clandestine laboratories is currently not efficient.

¹⁶ This figure does not include the items in the Drug and Alcohol Branch drug store and items on issue to Drug and Alcohol Branch staff.

Retention of drugs indefinitely by the Drug and Alcohol Branch poses an unacceptable risk and contravenes the intent of the legislation which provides the drugs should be destroyed 28 days after the issue of the destruction order or the conclusion of any appeal proceedings.

281. Similarly, the pre-trial destruction of bulk drug exhibits would assist in controlling the security risks associated with the storage of large quantities of drugs at the Victoria Police Forensic Services Centre. A defendant would continue to receive procedural fairness because they have the right to independently analyse the sample. It would also be an effective anti-corruption measure and reduce the demand for storage.
282. Retention of drugs indefinitely by the Drug and Alcohol Branch poses an unacceptable risk and contravenes the intent of the legislation which provides the drugs should be destroyed 28 days after the issue of the destruction order or the conclusion of any appeal proceedings. The senior management of the Victoria Police Forensic Services Centre and the Victoria Police should take immediate action to ensure that the drug items ordered for destruction are returned to the Forensic Exhibit Management Unit for processing.
283. In response to these comments Ms Quinn stated:

The Drug Branch has no desire to hold these items indefinitely; we simply await the appropriate resolution of the workplace issues which presently prevent the return of exhibits to FEMU. As there is no legislative need for exhibits to pass through FEMU, this is only a local procedural requirement, management could alter this internal process to facilitate the immediate destruction and or introduce new procedures to progress the destruction of items held by the Drug Branch.

Recommendations

I recommend that Victoria Police:

Recommendation 16

Review the documentation associated with the destruction of analytical samples.

Recommendation 17

Ensure the Drug and Alcohol Branch promptly return to the Forensic Exhibit Management Unit those drug exhibits which are subject to destruction orders.

Recommendation 18

Review the destruction of drug procedures to ensure consistency, accountability and clarification of legal requirements in relation to timelines.

Recommendation 19

Engage an independent expert consultant to review the handling of items seized from clandestine laboratories to determine the viability of on-site assessment and sampling of chemicals and an accredited contractor undertaking the destruction of the bulk chemicals and associated materials within 30 days.

Recommendation 20

Introduce a process whereby the bulk drug exhibits for contested and non-contested matters are destroyed before court proceedings and after the appropriate sampling has been conducted.

Recommendation 21

Minimise drug holdings at the Victoria Police Forensic Services Centre by developing a strategy to ensure destruction orders and officers' authority for the destruction of drug items are actioned promptly.

Recommendation 22

Issue an instruction that will ensure destruction orders and officers' authority for the destruction of drug items are received within a set timeframe.

Recommendation 23

Seek clarification about the application of section 81(3)(e) of the Drugs, Poisons and Controlled Substances Act to destroy drugs after the items have been held for several years at the Victoria Police Forensic Services Centre.

Victoria Police response

Recommendations accepted.

My investigation found many problems with the audit regimes relating to the management of drug exhibits. Many of these problems had been identified in earlier reports and reviews, but little action had been taken to address them.

There has been no full external audit of drug exhibits at the Victoria Police Forensic Services Centre for at least 15 years.

8. AUDITING

284. My investigation found many problems with the audit regimes relating to the management of drug exhibits. Many of these problems had been identified in earlier reports and reviews, but little action had been taken to address them.

Requirements for audit

285. Until 2007, there was very little auditing of drug exhibits at the Victoria Police Forensic Services Centre. This is in sharp contrast to the auditing practices of police stations which are required to undertake monthly audits of all drugs in police possession. It is also apparent that there has been no full external audit of drug exhibits at the Victoria Police Forensic Services Centre for at least 15 years.
286. The Drug and Alcohol Branch procedures manual makes no reference to auditing of drug exhibits. The Forensic Exhibit Management Unit's procedures manual provides for a rolling system of audits, but no timeframe is specified.
287. My officers raised the issue of auditing of exhibits with representatives of the National Association of Testing Authorities who advised that the Association's only requirement is a technical audit of how testing is undertaken.
288. The *Australian/New Zealand Standard for Handling and Destruction of Drugs AS/NZS 4757:2002* provides the following guidance on the auditing arrangements:

Internal Auditing

Agencies shall have policies and procedures for the conduct of internal audits of records, practices and holdings relating to drugs seizure handling, storage, disposal and destruction. Internal audits should be carried out at least annually. Persons who are independent of the investigations of the drug seizure, the act of seizure and storage of the seized materials, shall conduct the audits.

Areas to be audited

Audit procedures shall include the following aspects:

- Traceability
- Continuity records
- Integrity of containers
- Storage access records

- Storage
- Handling procedures
- Disposal or destruction of drug seizures
- Health and safety
- Training
- Supervision
- Follow-up of previous recommendations and corrective actions.

External Auditing

Drugs seizure, handling, storage and disposal or destruction procedures used by an agency should be audited by an appropriate external auditor at least every 5 years.¹⁷

Current audit practices

289. I note that the Australian/New Zealand Standard for the Handling and Destruction of Drugs requires internal auditing of drugs to be undertaken by officers not involved with the investigation of the drug seizure, the act of seizure or the storage of the seized materials.¹⁸
290. Also, I note that a better practice guide states that internal audit should:
- be operationally independent: that is, internal audit is independent from the activities subject to audit
 - have well defined roles and responsibilities
 - adhere to professional standards.¹⁹
291. Currently the internal auditing of drug exhibits in the Forensic Exhibit Management Unit and the Drug and Alcohol Branch is undertaken by officers involved in the management of the exhibits. While these officers should have a role in self-assessment audits, the internal audit process must be independent.
292. The Assistant Director of the Chemistry Division advised that most of the auditing work undertaken by the Drug and Alcohol Branch since 2007 has concentrated on reconciling the outstanding items that were identified during the 2006 Corporate Management Review Division audit of drug holdings at the Victoria Police Forensic Services Centre and investigating any discrepancies. As outlined in the following section, 'Reconciliation of outstanding drug items' has been a 'work in progress'.

The internal auditing of drug exhibits in the Forensic Exhibit Management Unit and the Drug and Alcohol Branch is undertaken by officers involved in the management of the exhibits. While these officers should have a role in self-assessment audits, the internal audit process must be independent.

¹⁷ Standards Australia Australian/New Zealand Standard Handling and Destruction of Drugs AS/NZS 4757:2002, page 16.

¹⁸ Ibid.

¹⁹ Australian National Audit Office Public Sector Internal Audit – An investment in assurance and business improvement, Better Practice Guide (September 2007) page 1.

The Assistant Director of the Chemistry Division indicated that there was some resistance by staff to introducing a rolling audit program until all outstanding exhibits had been reconciled.

Since making that statement the Assistant Director of the Chemistry Division advised 'that recently there has [been] a distinct change in attitude (for the better). The full audit was scheduled to commence 12 October 2009 and will cover all drug holdings of the Drug and Alcohol Branch'.

293. He further commented that:

... because some of our recommended reconciliation actions in relation to the 2006 CMRD Audit Report have not been signed off, the same cases/items would come up again and again on the audit lists (as no approval to update the FCM records has been received). This would take us a significant amount of time to reconcile the same items and add significant time to separate these from any new items. Further to this continual 'glitches' with the FCM (IT) system created significant additional reconciliation work.

294. The Assistant Director of the Chemistry Division indicated that there was some resistance by staff to introducing a rolling audit program until all outstanding exhibits had been reconciled. However, he was committed to improving the compliance arrangements around the management of drug exhibits and intended to undertake a full audit of the all drug exhibits in the Drug and Alcohol Branch during 2009. He said:

People have said, 'no point doing further audits now because we haven't dealt with this. I said 'No, ... we've got to get people used to audits for a start and that's just the reality of a full property audit throughout 2009'.

295. Since making that statement the Assistant Director of the Chemistry Division advised 'that recently there has [been] a distinct change in attitude (for the better). The full audit was scheduled to commence 12 October 2009 and will cover all drug holdings'.

296. Both the then Quality Officer of the Victoria Police Forensic Services Centre and the Assistant Director of the Chemistry Division said they were keen to improve the internal auditing arrangements. Both indicated the need for a more robust system given the high risk involved with drug exhibits.

297. The Assistant Director of the Chemistry Division also said 'that robustness should include increased external (to VicPol) scrutiny'.

298. He pointed out a number of improvements that could be included in the auditing program:

I'd like the weights put on the IT for a start because it was a bummer auditing and not having that initial weight for a start.

... I think there needs to be more scientific auditing and ... this should be done externally. What I mean by that is that we do property auditing, which is saying this bag and that bag and this bag and that bag, but we should get an external group ... to come in and say 'we'd like to look at case 6, case 7, case 24. We'd like to look at your notes in relation to what you've got, how much you used and all that sort of stuff and then we'll go and do our assessment'.

We're trying to do everything in forensic. We're trying to ... scrutinise ourselves. To me ... the public good will be serviced by external scrutiny in terms of this process.

299. He further commented that including information about the weight of the exhibit 'would assist the auditor to get a quicker idea what size of item they are looking for rather than having to reference the case notes'.

300. The Assistant Director of the Chemistry Division was also supportive of self-auditing of all exhibits, including samples. He said:

Now, I include in this samples because I think samples are a risk in terms of that. Because with backlogs your samples increase, your storage of samples increase.

301. The Assistant Director of the Chemistry Division further stated that he is:

supportive of self-auditing as only part of an holistic auditing process. This framework must include regular functional audits (by line managers) and external audits (by auditors at least not assigned to the Drug and Alcohol Branch). [Assistant Director's emphasis]

302. There are also a number of other improvements that would strengthen the governance arrangements around drug exhibits. These include:

- adopting a consistent approach to the auditing of drug exhibits held by the Drug and Alcohol Branch and the Forensic Exhibit Management Unit
- allocating a sub-item number for each sample taken from a drug exhibit so it can be accountable in the auditing program
- indicating the weight of the item on the label of the exhibit bag
- adopting a rolling audit program for drug exhibits that involves undertaking
 - o self audits quarterly
 - o internal audits annually by trained auditors appointed by the Victoria Police Forensic Services Centre's Quality Innovation and Continuous Improvement Unit
 - o external audits by trained auditors every three years.

303. My officers were advised that at least one major drug laboratory in New South Wales has been using mass-based auditing on all drug samples for some years. Without this system in place, the New South Wales laboratory may not have known that one of its forensic officers was substituting other materials for drug samples.

The management of drugs exhibits constitutes a high risk to the credibility, integrity and organisational reputation of the Victoria Police. Yet a number of the issues relating to auditing identified by the Corporate Management Review Division remain unresolved.

The Assistant Director of the Chemistry Division was requested to provide a report on the status of unreconciled items from the 2006 Corporate Management Review Division audit. He advised that 63 items had not been reconciled, of which nine items were classified by the internal auditor as medium or high risk (powders or precursors catalysts).

Reconciliation of outstanding drug items

304. The management of drugs exhibits constitutes a high risk to the credibility, integrity and organisational reputation of Victoria Police. Yet a number of the issues relating to auditing identified by the Corporate Management Review Division during the 2006 drug holdings audit, the 2003 review and the 2005 and 2007 post-implementation reviews remain unresolved.
305. In 2006 a report was prepared entitled *Drug handling and destruction issues within the Victoria Police Forensic Services Centre*. The report raised concerns about the failure to conduct a full audit of drugs within the Drug and Alcohol Branch and the Forensic Exhibit Management Unit to reconcile differences between what is recorded on the forensic case management system and what is actually held by staff and in the drug storage areas.
306. During my investigation my officers sought advice from the Victoria Police Forensic Services Centre about the progress made in reconciling those exhibits identified during the 2006 drug holdings audit that:
- were not located
 - were located but were not recorded on the forensic case management system.
307. The Assistant Director of the Chemistry Division was requested to provide a report on the status of unreconciled items from the 2006 Corporate Management Review Division audit. He advised that 63 items had not been reconciled, of which nine items were classified by the internal auditor as medium or high risk (powders or precursors catalysts) and the remaining 54 identified as relatively low risk (residues, washings, documents, etc).
308. Internal auditing during 2007 and 2008 of 12,036 items reconciled 11,833 leaving 203 items subject to further investigation.

Auditing of controlled substances held by the Drug and Alcohol Branch

309. In the performance of the work undertaken by the Drug and Alcohol Branch a quantity of controlled substances are retained for use by the forensic officers for research, training and analysis. These substances are identified in the Drugs, Poisons and Controlled Substances Act as schedule 8 poisons and schedule 11 drugs of dependence.
310. The Drug and Alcohol Branch procedures manual provides that a Curator of Standards should be appointed to oversee all activity concerning these poisons and drugs.

311. My officers were advised that the duties of the Curator are shared between the Manager of the Drug and Alcohol Branch and the Team Leader of the Drug Analysis Unit.

312. The procedures manual states as follows that random audits should be undertaken on the usage of these substances:

It is the responsibility of the Curator [of standards] to perform random audits on the usage of schedule 8 and 11 substances. The audit will involve the checking of calculations (running totals) of substances, an assessment of the pattern of usage and the checking of bottle / content mass with respect to the documented mass. The State Health Department may also randomly audit storage and record documentation of schedule 8 & 11 substances.

313. The Assistant Director of the Chemistry Division told my officers that these substances are audited each time they are used:

This audit involves a 'balance check' this process checks that the quantity said to be in the standard bottle is correct [and] the process is carried out by whomever requires the standard, so a range of senior persons is involved, obviously the identity and or purity (where relevant) are checked in the subsequent analysis and variances or issues are reported to the Curator and or Assistant Curator.

314. As both Ms Quinn and the Team Leader of the Drug Analysis Unit are involved in day-to-day operations which require, either directly or indirectly, access to these schedule 8 and 11 substances, I am of the view there is a conflict of interest with either of these officers undertaking a random audit of these items. I consider that the audit of these substances should be undertaken by an independent officer.

315. In response to these comments, the Team Leader of the Drug Analysis Unit stated:

I don't formally audit the drug reference standards. In my role as an 'Assistant Curator of Standards' I am responsible for the day-to-day management and maintenance of the drug reference standards, which include both schedule 8 and 11 substances for the Curator (Ms Quinn). In this role I examine records to check proper documentation of usage and investigate any discrepancies between actual mass and documented mass. These records and any corrections made by me are auditable by Ms Quinn.

I believe the separation between the Curator of Standards (who has the auditing responsibility) and the Assistant Curators (who are involved with the day-to-day operations) minimises any conflict of interest.

Internal auditing during 2007 and 2008 of 12,036 items reconciled 11,833 leaving 203 items subject to further investigation.

Auditing of drug exhibits prior to destruction

316. Section 7 Disposal and Destruction and Section 8 Auditing of AS/NZS 4757:2002 standard contain several references to the need for security, transparency and accountability in the arrangements for the destruction of drugs. Although the procedures of the Drug and Alcohol Branch appear to be in keeping with the intent of this standard there are some areas of concern.
317. The current pre-destruction audit is based on verification of the case number and item number and on absence of tampering. It assumes an intact exhibit bag is sufficient to confirm the contents are intact.
318. In addition, there is no procedure to determine whether a portion of the analytical sample has been removed or tampered with while in the laboratory or storage facility. This situation is exacerbated by the fact that several samples of an exhibit may be taken for specialised analysis. These samples are not routinely recorded or weighed and therefore it would be difficult if not impossible to undertake a quantitative audit of an individual forensic officer's drug holdings.

Re-analysis of illicit drug case work

319. Section B0.3 'Re-analysis of illicit drug casework' of the Drug and Alcohol Branch procedures manual contains a requirement for a sample of cases to be submitted for re-analysis prior to destruction. This section states its objective is 'to monitor/verify the security/integrity of illicit drug cases submitted to the VPFSC for quantification'.
320. The procedure goes on to say that this involves re-analysis of ten per cent of eligible cases²⁰ on a regular basis or after a period.
321. The procedure does not specify what constitutes a regular basis or period.
322. I note that the procedures manual specifies that:
 - each re-analysis is to be given priority status
 - the cases selected must be subject to the purity analysis procedure
 - the re-analysis cases are subject to technical and administrative review
 - on completion of the reviews, the Manager Drug and Alcohol Branch is to provide the Assistant Director of the Chemistry Division with the documentation for all analyses and re-analyses for each case.
323. Evidence received during my investigation indicates that the last round of re-analysis was undertaken in May 2005. An explanation was sought from the Assistant Director of the Chemistry Division about why the re-analysis procedure had ceased.

²⁰ Two criteria are listed as being used to select samples: a previous quantitative analysis has been undertaken and the case has at least one item which contains a drug greater than 5g or 100 LSD doses.

He stated that:

This issue (et al) was part of my ongoing frustration and subsequent discussions with the (then) Director as to my concern that Ms Quinn was too busy doing other roles (not under my control) to undertake these important requirements even after many reminders.

324. The Assistant Director of the Chemistry Division indicated that he had directed the program be recommenced. He gave an assurance that as from 18 August 2009 the requirements would be complied with.
325. The Assistant Director of the Chemistry Division further commented that 'the Assistant Director of the Business and Strategic Services Division and I have modified the previous procedure (to increase accountability) and advised both relevant FEMU and Drug and Alcohol Branch members of these requirements'.
326. This situation highlights the importance of the Manager of the Drug and Alcohol Branch giving sufficient attention to the managerial and oversighting responsibilities involved with the management of drug exhibits.
327. In response to these comments the Assistant Director of the Chemistry Division stated that he 'agreed'.
328. In response Ms Quinn stated:

I can only agree, my ability to undertake the full and extensive responsibilities of my managerial role is severely restricted in particular by regular involvement in routine clandestine laboratory casework and previous roles I now refuse to undertake such as the centre OH&S officer.

Conclusions

329. The volume of drug exhibits held at the Victoria Police Forensic Services Centre is a contributing factor that makes auditing time consuming and resource intensive. However, an effective governance framework requires a robust auditing program. The Victoria Police Forensic Services Centre does not currently have such a program.
330. There has been no formal audit process in place at the Victoria Police Forensic Services Centre for at least 15 years. What has occurred has been *ad hoc* and inconsistent across the two divisions at the Victoria Police Forensic Services Centre that manage drug exhibits. There is an urgent need to adopt a consistent auditing program that applies to all areas involved with managing these high risk items.
331. It is of concern how long it has taken to reconcile the outstanding issues arising from the Corporate Management Review Division 2006 drug holdings audit and the follow-up audits undertaken by the Drug and Alcohol Branch.

The volume of drug exhibits held at the Victoria Police Forensic Services Centre is a contributing factor that makes auditing time consuming and resource intensive. However, an effective governance framework requires a robust auditing program. The Victoria Police Forensic Services Centre does not currently have such a program.

I cannot have confidence that all drugs have been accounted for until a full external audit has been undertaken. If discrepancies are identified then appropriate investigations are required.

332. I consider it essential that a regular program of auditing is undertaken by the Forensic Exhibit Management Unit and the Drug and Alcohol Branch to ensure compliance and to identify any systemic problems that need to be addressed.
333. I cannot have confidence that all drugs have been accounted for until a full external audit has been undertaken. If discrepancies are identified then appropriate investigations are required.
334. I consider that a more comprehensive auditing process should be introduced prior to the destruction of drug exhibits. In my view, a number of exhibits should be selected by the auditor for spot testing and weighing prior to destruction. This would give an assurance that an exhibit has not been tampered with for example through the removal of some of the content.
335. The auditing of schedule 8 and 11 substances held by the Drug and Alcohol Branch should be undertaken by an independent officer.

Recommendations

I recommend that Victoria Police:

Recommendation 24

Ensure the Forensic Exhibit Management Unit and the Drug and Alcohol Branch adopt a consistent approach to the auditing of drug exhibits.

Recommendation 25

Ensure all samples taken from drug exhibits are allocated a sub-item number and thereby made accountable in the auditing program.

Recommendation 26

Record the weight of the drug item on the label attached to the exhibit bag.

Recommendation 27

Adopt a rolling audit program for drug exhibits involving:

- a) quarterly self audits
- b) annual internal audits undertaken by trained auditors appointed by the Quality Innovation and Continuous Improvement Unit
- c) external audits undertaken by trained auditors every three years.

Recommendation 28

Ensure the auditing program is based on regular mass-based audits of all drug holdings.

Recommendation 29

Review the Drug and Alcohol Branch procedures manual and the Forensic Exhibit Management Unit procedures manual to ensure that the section relating to the auditing of drugs reflects the principles as identified in the AS/NZS 4757:2002 standard.

Recommendation 30

Ensure that prior to any powder drugs being destroyed the officers having responsibility for the pre-destruction audit randomly select a sample of the exhibits for spot testing and weighing. The forensic officers who were initially involved in the analysis of these exhibits should not have a role in this verification process.

Recommendation 31

Ensure the re-analysis of illicit drug case work is undertaken on a regular basis and in accordance with the Drug and Alcohol Branch procedures manual.

Victoria Police response

Recommendations accepted.

9. QUALITY ASSURANCE

336. The quality of the analysis undertaken by the forensic officers has significant implications for the justice system. The judiciary, police, prosecutors and defence lawyers need results that are:
- reliable
 - valid
 - based on standard procedures
 - compatible with results in other laboratories
 - complying with evidentiary standards.
337. There are a number of standards that are relevant to drug testing in laboratories.²¹
338. To ensure the Victoria Police Forensic Services Centre meets the National Association of Testing Authorities' accreditation requirements, each division of the centre has a quality officer who reports to the manager of his or her division. The centre's Quality Manager has a pivotal role in achieving quality and continuous improvement in the work of the Victoria Police Forensic Services Centre. This officer reports to the Assistant Director of the Business and Strategic Services Division.
339. My investigation identified that this reporting arrangement presents a number of difficulties in relation to quality management:
- The Victoria Police Forensic Services Centre's Quality Manager has no direct control over the work of the divisional quality officers.
 - The Victoria Police Forensic Services Centre's Quality Manager and the divisional quality managers are the same grade level and this can present difficulties.
 - The Chemistry Division's Quality and Assurance Manager has a heavy workload that involves a number of different roles: he is the Chemistry Division's Quality Officer and Research and Development Manager; an active forensic officer in the Clandestine Laboratories Unit; a reporting officer who reviews the technical and administrative results of analysis undertaken by other forensic officers in the Drug and Alcohol Branch; and is responsible for conducting audits on risks external to the National Association of Testing Authorities requirements, including inspection and active oversight of the Chemistry Division's drug exhibits.

²¹ See ISO 17025 the international quality standard for testing and calibration laboratories and ISO 9001:2008 quality manuals and quality procedures.

340. In response to these quality issues, the Acting Director of the Victoria Police Forensic Services Centre said:

The reporting line for the departmental Quality Manager [QM] has now been resolved. The departmental QM at the time of the recent accreditation inspection reported directly to the Director on quality issues and the Assistant Director (Business and Strategic Services Division) on other matters. The departmental QM (at the time of accreditation) has since resigned and the position description altered to have the QM reporting directly to the Assistant Director on all matters. The departmental QM has a regular agenda item on the Senior Management Team meetings to report on quality issues. The reporting lines of the divisional QM have been re-affirmed so that regular meetings are held with the departmental QM who also chairs the meetings. The accountability for all quality matters now rest with the departmental QM. In this way the departmental QM has the authority to deal with and direct the divisional QMs on quality issues. The grade level of the departmental QM and the divisional QMs is irrelevant if the authority is in place. Any issues arising that cannot be overcome would be referred to the Assistant Director and potentially SMT for action.

341. In relation to how he manages all these different roles, the Chemistry Division's Quality and Assurance Manager said:

I don't do any of them as well as I probably should. Theoretically my clan lab time is supposed to be about 10 per cent. It probably averages more like 50 per cent because of the numbers that we have doing that job.

...

Quality management is fairly reactive rather than proactive because of the issues with other demands on my time. And the Clan Lab investigations gets some priority because they are usually driven by court requirements and/or safety requirements.

342. He further commented that 'I am quite sure that I could perform any of these roles better, if it was my only responsibility'.
343. I note the Manager of the Drug and Alcohol Branch, Ms Quinn, told the Chair of the Corporate Management Review Division Audit Steering Committee that once the training is completed for the seven new forensic officers within the clandestine laboratories team, the proportion of the Quality and Assurance Manager's time spent in supporting the clandestine laboratories unit should be reduced to 5-10 per cent.

344. Other quality issues identified during my investigation included:
- It was noted that a number of the manuals relating to exhibit security, exhibit handling, and exhibit management did not reflect actual practice.
 - Some of the procedures followed by the Drug and Alcohol Branch did not reflect best practice. For example, the Clandestine Laboratories Unit Property Officer is involved in receiving some exhibits, processing some of the chemicals, managing the security of the chemicals, auditing and arranging the disposal of some exhibits. This is contrary to best practice that provides that the person involved in the destruction of drug items should not be involved in any of the other activities.
345. The Clandestine Laboratories Property Officer agreed 'that the manuals should be updated as soon as any process or procedure change and it should not take such a long time'.
346. The Quality and Assurance Manager for the Chemistry Division was asked about whether any improvements were required with the packaging, security and continuity of drug exhibits. He indicated that he did not have any issues with them. He said that he did, however, consider that the time taken to process the destruction procedures needed improvement.
347. The then Quality Manager at the Victoria Police Forensic Services Centre said that there was a need for the people undertaking the internal auditing to be trained:

I've even thought just recently maybe for a period of time – not that there is the money ... to get some external auditing outsourced in [because] until I get the training right for them to understand how it all fits in, they're auditing each other.

So there's a lot of training to be done and I'll get NATA to do an internal audit course but I'm also mindful that ... it will be incremental in bringing them up to a new place.

Focus on compliance rather than best practice

348. Although it is not a legal requirement, those agencies that have authority to handle drugs are expected to adhere to the Australia New Zealand Standard – Handling and destruction of drugs. The objectives of this standard are:
- to establish an Australian and New Zealand Standard for the seizure, handling, storage, disposal and destruction of drugs and drug-related materials
 - to ensure the transparency and integrity of the process followed by the relevant authorities on seizure, handling, storage, disposal and destruction of drugs and drug-related materials

- to provide a procedure for handling and destruction of drugs for the use of law enforcement agencies and regulatory agencies including Federal, State and Territory police services of Australia, the Australian Customs Service, and forensic laboratories of Australia.

349. This standard provides general guidance on procedures that should be adopted. However, information provided to my officers indicated that it is open to interpretation how the procedures are applied as it depends on the risk and threat assessments made by each agency.
350. In evidence taken from the Head of the National Association of Testing Authorities' office in Melbourne it was confirmed that the standards provide general guidance on procedures and do not necessarily represent best practice.
351. The then Director Victoria Police Forensic Services Centre, Mr Ross, indicated that in relation to drug exhibits there had been considerable resistance from the Drug and Alcohol Branch to adopt suggestions from the National Association of Testing Authorities for improvements. He said:

A: ... it really struck me that as a group we were unbelievably adversarial about the recommendations and the discussion that were had with people that were coming in from outside. ... during the assessment week you can have up to 17 scientists from outside our lab looking at what we were doing. Now, to me that's an unbelievable learning experience to have those people coming in looking at your policies and procedures and what you're doing and making suggestions about how we might do things differently. And we were just so adversarial about it. You know, we just challenged things that they said and, you know, I found that really disappointing and I've stressed to the people that it's not a punitive thing. ... You know, it's just a phenomenal opportunity to learn. And I'm not saying everybody is the same, but I think we've got a lot of people that have been there for a long time that kind of think, 'well, this is the way we've always done it'.

Q: Would you say that's indicative of the attitude that pervades the Drug and Alcohol Branch?

A: Yeah, I would.

352. In response to these comments, Ms Quinn stated:

This is a typical response for Mr Ross, who has no desire to be involved or resolve issue[s] where a conflict or unhappiness may exist. He blames the adversarial behaviour on the parties seeking to find support or answers from his position of leadership, as the Director, and then does everything he can to make a third party responsible for the decisions he has to make and the understanding of issues he must achieve.

353. In response to a question from my officers' about what level the National Association of Testing Authorities accreditation is at – best practice or minimum requirements, the centre's Quality Manager, said that it was aimed at establishing basic foundations with a focus on improving internal systems:

I think it's getting some basic foundations of where ... forensic labs should be. And you hear phrases like, 'oh well, you know, it's the way you interpret it'. But NATA does say that every time they come they'll raise the bar that little bit to help us improve. So depending on where they go as to what they find. But holistically they should be able to come in and help improve – as our own internal system ... should do that as well.

354. The centre's Quality Manager at that time acknowledged that the National Association of Testing Authorities' review process had some limitations which highlighted the need for a robust internal auditing system to assist with driving continuous improvement. She said:

At some stage I'd need to get something a bit more robust than what you've got at the moment. NATA is just coming along and sort of saying, 'well look, OK, you ... nominate some case files we'll have a look at'. So it's like us when we do our file audits. You know, you always put your best files forward rather than someone coming and picking them up, and sort of saying, 'well, OK let's have a look at how you're dealing with the whole process'. And they don't do a whole range of areas in the level of detail that you probably do need, and that's why you need your auditing processes ... to really be pretty sharp.

355. The then Director, Mr Ross, indicated that there was a reluctance to change. He said:

I think there's also an attitude with accreditation that says, well, all we need to do is comply. You know, if they come in and we've got a few things to correct, let's just do that and then we'll get on with business ... But accreditation is not about that. It's not just about compliance but it's about continuous improvement.

And if you don't learn from the people coming in, you know, it's just a golden opportunity that's slipped. Now, have I been successful in changing the culture? I think in some areas I have, but not across the board.

356. In response, Ms Quinn stated:

It is true that perhaps some of these changes could provide some incremental improvement and I am not opposed to this but one has to weigh up the potential incremental improvement and the slide backwards while we investigate, develop and implement such changes.

Random drug testing of staff

357. The nature of the work of the Drug and Alcohol Branch and the Forensic Exhibit Management Unit makes it highly vulnerable for staff in relation to occupational health and safety issues and the potential for a breach of security through the diversion of drugs. There are significant risks involved for the standing of the Victoria Police Forensic Services Centre, the staff of the Drug and Alcohol Branch and the reputation of Victoria Police. Given the pivotal role that the Drug and Alcohol Branch play in assisting with determining a suspect's guilt or innocence, a single incident involving the chain of custody, tampering with, or theft of an exhibit, or a flaw in analysis, could undermine the integrity of the process. The introduction of random drug testing of staff may assist with minimising these risks.
358. The Manager of the Drug and Alcohol Branch, Ms Quinn, said that there have been two incidents over the past 20 years where staff members of the Drug and Alcohol Branch have been dismissed.
359. In June 2009 the Assistant Director of the Chemistry Division advised my office that an officer working in the Drug and Alcohol Branch, who had a close relationship with someone using drugs, did not have their contract extended due to the high risks involved.
360. Also in response to a question about the drug testing of staff, the Assistant Director of the Chemistry Division raised an issue about some of the occupational health and safety issues that could be involved:

I think ... people should be tested because it's a high risk area.

361. Ms Quinn said:

I don't care if you drug test me. I really don't. I think the only thing I would say is that what has to be looked at is when we're handling large bulk of drug, is there a possibility that we're ingesting that anyway?

362. In response to my preliminary comments about this matter, Ms Quinn stated:

I am not concern[ed] about the principle of testing in that I am confident of myself and my staff behaviours but this does not mean there are suitable and applicable programs as no baseline studies or appropriate legal frameworks upon which to [sic] and judge such a system are in place, to my knowledge.

Training for forensic officers

363. I have been informed that it takes between 8-12 months for a forensic officer to be competent enough to prepare a certificate of analysis and to give evidence in court on drug analysis issues. Ms Quinn informed my officers that obtaining the competencies within that timeframe depends on the abilities of the individual. She also explained progress is dependent on the availability of senior officers to assist them with their training.

364. She stated that for clandestine laboratories it usually takes two years before a trainee forensic officer is able to independently undertake scene work. She said that overall it takes two to three years before trainee forensic officers are able to report on the range of cases dealt with by the Drug and Alcohol Branch.
365. In response to a question about whether the scientific training is similar to that provided in other Australian jurisdictions, Ms Quinn indicated the training and procedures were similar, however the Drug and Alcohol Branch had other obligations such as destruction and exhibit responsibilities that forensic officers in other jurisdictions did not have. She said:

Many of those labs, a little sample arrives on their desk and they do an analysis, and they never see the original, and they never have to deal with all that other hoo-ha that sits around it. So Vic Pol is very critical of the service [we] deliver, but we're not just a forensic service in the sense of you bring me your analysis and we'll do it. We've got a front end and back end that other jurisdictions don't have at all. That's not resourced, and it's really not seen by Vic Pol at all, because if they want to say that my transfer station – believe me, I don't want to call it my transfer station, it's just another thing I have to do, I really want to be able to drop my exhibits off and go and pick them up when I need them, I don't want to have all that other bit. But it is currently part of that role, and that's fine, and it fits well ...

366. This issue was raised during the recent staff survey at the Drug and Alcohol Branch that indicated some of the training was protracted. One response was:

Training is provided in a professional manner, and is very comprehensive but the process is extremely slow. It often takes over six months to complete phases 1, 2 and 3 of the induction process for new staff. (Stage 3 not for a year sometimes).

367. In response Ms Quinn 'agreed that the recent training has been a little slower than planned'.
368. I understand that in New South Wales it generally takes six months before a trainee forensic officer has sufficient experience to work independently on all evidential exhibits. I consider there would be a benefit in reviewing arrangements for training forensic officers involved in drug exhibits to see if there are opportunities for improvements to be made to the current training arrangements.

Conclusions

369. The training program for trainee forensic officers in the Drug and Alcohol Branch needs to be reviewed with the aim to deliver the program in a more structured manner so trainees are able to undertake evidential work earlier.

370. The role of the Quality and Assurance Manager of the Chemistry Division also warrants attention. In view of the significant role that this officer has in ensuring standards are met and in introducing improvements to work practices within the Drug and Alcohol Branch, it is essential that this officer is able to devote the time needed to his responsibilities in relation to quality management and continuous improvement. A priority should be the updating of the Drug and Alcohol Branch procedures manual to reflect current practice. I also consider that the current work responsibilities of that officer are potentially in conflict and need to be rationalised.

371. The Quality and Assurance Manager in his response to these comments agreed that some rationalisation of his role would be advantageous:

not only with respect to my role in the Quality Management of the Drug Branch, but also to allow greater opportunity to devote time to the Quality Management of the other Branches (Chemical Evidence and Document & Digital Evidence), as well as my R & D responsibilities across the Division.

With regard to the updating of Drug Branch procedures, I acknowledge that some of the procedures do need updating to reflect not only current practice, but also identified improvements. This does not ... invalidate or place in question, current practice.

372. I consider that a workplace drug testing regime that incorporates a pre-employment drug screen and then random testing would also be warranted at the Victoria Police Forensic Services Centre. In particular the program should focus on preventive measures that would:

- minimise the chances of substance users gaining employment in the Drug and Alcohol Branch or the Forensic Exhibit Management Unit
- deter staff from substance misuse because detection is a real possibility
- encourage those with a substance misuse problem to identify themselves so that they could be supported in seeking treatment
- detect staff who may have health or safety issues arising from working with hazardous chemicals and other illicit drugs
- minimise any risk of the integrity of the work being prejudiced by the impaired judgement of a forensic officer
- protect staff from being vulnerable to allegations of substance misuse.

I consider that a workplace drug testing regime that incorporates a pre-employment drug screen and then random testing would also be warranted at the Victoria Police Forensic Services Centre.

In response to this issue the Chief Commissioner of Police informed me that at this time Victoria Police is unable to drug test public service employees.

373. In response to this issue the Chief Commissioner of Police informed me that at this time Victoria Police is unable to drug test public service employees. He stated:

For this to be possible legislative reform would need to occur that would involve amendments to the Public Administration Act.

We are exploring other possible options to implement drug testing based on the recommendations in this report.

Recommendations

I recommend that Victoria Police:

Recommendation 32

Review the training programs provided to forensic officers involved in the analysis of illicit drugs in other jurisdictions to determine if there are improvements that can enhance the training provided to trainee forensic officers in the Drug and Alcohol Branch.

Recommendation 33

Ensure the Victoria Police Forensic Services Centre's Quality Manager develops a process to resolve differences between branches about quality procedures and that process be reflected in the Victoria Police Forensic Services Centre's manual.

Recommendation 34

Update the Drug and Alcohol Branch procedures manual to reflect current practice.

Recommendation 35

Review the position of Quality and Assurance Manager for the Chemistry Division to ensure the quality management and continuous improvement functions have a priority and there is no potential conflict between the various functions undertaken by that officer.

Recommendation 36

Undertake an external review to determine if there are opportunities to fast track the development of trainee forensic officers so they can work on evidential cases.

Recommendation 37

Consider introducing compulsory workplace drug testing consisting of pre-employment drug screening and random drug testing for all staff involved with drug exhibits at the Victoria Police Forensic Services Centre.

Victoria Police response

Recommendations accepted.

10. EXHIBITS USED FOR DRUG INTELLIGENCE

374. The exhibits used for profiling seizures and collecting intelligence data are kept in month lots in the Forensic Exhibit Management Unit drug vault, pending advice from the Chemical Drug Intelligence Unit that they are ready to commence sampling. The Forensic Exhibit Management Unit is currently holding 1,411 exhibits from May to July 2009 that are awaiting sampling.
375. Court orders normally provide that drugs must be held by the Chief Commissioner and then destroyed, once 28 days have elapsed since the date of the order or the conclusion of any appeal. Advice had been provided on a number of occasions to the Victoria Police Forensic Services Centre from the Victorian Government Solicitor's Office that these orders meant that there was an obligation on the Chief Commissioner to destroy the drugs once the 28-day period had expired, as failure to do so would constitute contempt of court. As one of the advices succinctly stated, 'the Chief Commissioner cannot ignore the direction'.
376. However, that practice was not followed. The Victoria Police Forensic Services Centre obtained advice from the then Director of Public Prosecutions in 2007 'that it was appropriate for the Forensic Services Department (FSD) to retain drug items for the purposes of sampling and analysis prior to their ultimate destruction without risk of legal consequences'. This advice was provided to remove any concern that the Victoria Police Forensic Services Centre staff may have had regarding tests done on the drugs once the 28 days had expired, given the backlog of drugs in the centre.
377. My office sought clarification about this issue with the Director of Public Prosecutions, Mr Jeremy Rapke, QC, who provided the following advice:

There can be no question that a court order requiring the forfeiture of drugs to the State and their destruction would not entitle the Victoria Police Forensic Services Centre (VPFSC) to retain the drugs beyond the ordered date of destruction for any purpose, no matter how meritorious that purpose may be.

I agree with the essence of the advice contained in the letter from the Victorian Government Solicitor's office dated 11 October 2006 to Assistant Director (Chemistry) Forensic Services Department, that it would be possible to draft an order for forfeiture and disposal that permitted testing for research purposes by the VPFSC.

It is likely that the reference by the former Director of Public Prosecutions to FSD being able to retain drug items for the purpose of sampling and analysis 'without risk of legal consequence', was intended as an indication by him that he would not prosecute a staff member of FSD for breach of the Confiscation Act 1997, or breach of a court order, if the breach occurred solely as part of an authorised research program. In other words, it is open to read the Director's words as amounting to an unofficial indemnity for prosecution rather than a legal opinion on the right of staff at the FSD to ignore the provisions of the Confiscation Act or the terms of a forfeiture and disposal order.

Any other interpretation of the Director's words appear inconsistent with the plain meaning of the Confiscation Act and the likely wording of orders obtained under s.78 of that Act.

378. Ms Quinn stated:

... I do not believe the requirements to destroy are ignored from an FSD perspective. However, the ability to undertake the task has been extremely hindered over a long period of time (10 years). Insufficient staff being one issue, no appropriate commercial incinerator another, delays caused by related services, the ability to get cases in from the various stations across the state in a timely manner and so on.

The system could definitely be improved but would require a whole of Victoria Police solution; in addition a new approach could improve the other related issues relating the timeliness of intelligence data.

379. The Assistant Director of the Chemistry Division stated that limited staffing in the Chemical Drug Intelligence Unit has contributed to considerable delays, sometimes many months, before samples are taken from these exhibits.

380. These drugs create a major storage and destruction concern. This is primarily because of the limited size of the Forensic Exhibit Management Unit drug vault and the large backlog of exhibits awaiting sampling. At 31 July 2009, there were 3,778 items awaiting sampling and destruction.

381. The difficulties in storing these exhibits in the limited secure areas in the Forensic Exhibit Management Unit are shown in the following photographs.

Photograph 6: Drug vault in the Forensic Exhibit Management Unit



Photograph 7: Contents of the drug vault in the Forensic Exhibit Management Unit



382. According to the Victoria Police manual the bulk stocks should then be returned to the Forensic Exhibit Management Unit for destruction. However, this can take several months. For example the chemical drug intelligence exhibits for the months of March and April 2009 (1,000 items) were, as of 10 August 2009, in the process of being sampled and had not been returned to the Forensic Exhibit Management Unit.
383. In addition, some exhibits may be retained indefinitely by staff of the Chemical Drug Intelligence Unit for research and training purposes.
384. A random selection of ten cases (see Attachment 2) highlights the long delays between receipt of chemical drug intelligence items at the Forensic Exhibit Management Unit and the destruction date. In the majority of cases it is taking over 30 months before the drugs are destroyed.
385. According to Ms Quinn, sampling of chemical drug intelligence exhibits is given a priority due to storage pressures in the Forensic Exhibit Management Unit. The target storage number is 1,200-1,500 cases which equates to a 4-5 month backlog.
386. This action has had consequences for the timeframe for analysis of the samples. The strategy has worked backwards from the most current samples to the oldest completing analysis and database entries. The analysis backlog for these samples is currently 11 months. Ms Quinn has acknowledged that this is correct.
387. The Assistant Director of the Chemistry Division said that the aim is to keep the backlog at approximately six months. He was also of the view that this can only be achieved with extra resourcing or through an extensive overtime project. I note there are samples from February to June 2005 that are still awaiting analysis.
388. I also note that the number of chemical drug intelligence exhibits are increasing each year and without additional resources being allocated to this work the backlog will increase and the turnaround time will extend further. This in turn will exacerbate the storage problems that the Forensic Exhibit Management Unit has with the retention of these drugs.
389. Both the Victoria Police Drug Task Force and the New South Wales Police Drug Squad were critical of the delays in obtaining the data trend reports from the Chemical Drug Intelligence Unit. They emphasised that they require timely tactical intelligence data that can be used to reduce the manufacture, trafficking and use of illicit drugs.

390. This view was also reflected in one of the key findings of the Commonwealth Attorney-General's Department report into Australia's illicit drug forensic capacity. I understand that the Intergovernmental Committee on Drugs is developing a business case to provide for the Australian Federal Police to fund a forensic officer position in each state laboratory to profile seizures and provide more up-to-date intelligence. At the time of preparing this report, the matter was still under consideration.
391. The Forensic Exhibit Management Unit is concerned that these drugs are an occupational health and safety hazard, not only because of the unknown nature/content of the items within the exhibits and the large quantities being stored in non-suitable storage areas but because there have been incidents where some of these exhibits leach through their containers over a period of time and chemical spills have occurred. It is clear that the Forensic Exhibit Management Unit do not have sufficient suitable storage space to hold this quantity of drugs safely.
392. The Unit Manager of the Forensic Exhibit Management Unit expressed concern about the delays in processing and destroying the chemical drug intelligence exhibits.

Conclusions

393. Despite the Chemical Drug Intelligence Unit requiring considerable overtime over several years to tackle the backlog with analysing chemical drug intelligence samples little progress has been made in reducing the delay.
394. In view of the long delays in processing the chemical drug intelligence exhibits and providing strategic information that would assist with drug law enforcement, I consider that a review should be undertaken to determine whether the Chemical Drug Intelligence Unit should continue to produce intelligence data that appears to be of limited assistance to law enforcement agencies or whether those forensic officers involved in the sampling and analysis of chemical drug intelligence exhibits need to be allocated to evidential drug cases.
395. The Victorian Government Solicitor, in consultation with the Director of Public Prosecutions, should be requested to draft a model court order for the Magistrates' Court authorising the Chief Commissioner to hold drugs for such time as is necessary to allow those drugs to be sampled and analysed for research purposes before being destroyed.

Recommendation

I recommend that Victoria Police:

Recommendation 38

Undertake a cost/benefit review to determine if it would be more beneficial to allocate the chemical drug intelligence resources to evidential cases to reduce the time delays with presenting certificates of analysis to the courts. The person undertaking the review to consult with all interested stakeholders including the Drug Task Force and the Crime Task Force on the value of the drug data reports and the drug seizure database.

Victoria Police response

Recommendation accepted.

11. CORPORATE MANAGEMENT REVIEW DIVISION AND THE ETHICAL STANDARDS DEPARTMENT

396. The Corporate Management Review Division and the Ethical Standards Department have key roles in ensuring good governance in Victoria Police.
397. The internal audit unit of the Corporate Management Review Division undertakes audits, reviews and evaluations and provides independent advice to the Victoria Police Audit Committee about the effectiveness of risk management, internal control systems and governance processes in Victoria Police. It also makes recommendations for improvements.
398. The Ethical Standards Department's role involves detecting and preventing criminal and corrupt conduct in Victoria Police. It also deals with serious allegations of misconduct by both sworn and unsworn officers of Victoria Police.
399. As much of the work of the Corporate Management Review Division and the Ethical Standards Department involves sensitive and high risk issues, there can, on occasions, be some lack of clarity about their respective roles and responsibilities when concurrent work is undertaken on similar issues.
400. The former Commander of the Corporate Management Review Division stated that although some audits revealed the need for an investigation the Ethical Standards Department was on occasions reluctant to investigate issues. As a consequence, the Corporate Management Review Division occasionally took on issues that were beyond its internal audit function.
401. The former Commander explained the relationship between the Corporate Management Review Division and the Ethical Standards Department (ESD). He said:

We just did audits. If there was an issue we would refer them off for investigation but I know on a number of the recent reviews we actually went to ESD on ... another file and they really didn't take it up. So ... in the end you've got experienced people there so they probably went a little further in terms of what the audit requirement is but I think there is a boundary and at times yes, whilst you might have that investigative experience, I think the audit should stay in the audit and I said to Terry [Purton], you know, the danger is I think at times you've really got to pull them back to stay in their realm of audit, in terms of you know there is a distinction and you know we've got a [department] that looks at issues of corruption or complaints and I said they should go over there [ESD].

402. The former Commander emphasised that the role of the Corporate Management Review Division was one of inspection and its focus was on opportunities for improvement. He said:

They'll look at ... whether there are some systemic breakdowns in the system and they should be suggesting recommendations to improve it, which is part of an audit process they'll go through and say look, this is a policy, are they complying with how it's done.

403. Evidence taken during my investigation confirms that it was customary for the Ethical Standards Department and the Corporate Management Review Division to liaise on issues of interest to their respective areas.

404. The Officer-in-Charge of the Ethical Standards Department confirmed there is a divide between the respective functions of each division. He said:

... on occasion CMRD might receive notice of a shortcoming and administrative practice and typically CMRD will remain seized with that matter; or indeed if we in ESD identify an issue, which looks more like an administrative or a procedural matter, then I'll talk to Commander Purton about whether or not it's more appropriately dealt with by way of an audit to be undertaken by CMRD. ... then CMRD might undertake an audit and then reach a point where they believe they may have identified breaches of discipline or, worse, alleged criminal conduct and in those instances the matter might be referred to us for investigation. But one of the things that I'm careful to do is [ensure] the divide between the audit function and the investigative function is clearly thought through...

Investigation undertaken by the Ethical Standards Department

405. In 2006, when Ms Quinn failed to return drug exhibits that were subject to court destruction orders, the Ethical Standards Department decided to address the issues through an investigation that would focus on the [then] two outstanding drug exhibits. In addition the Corporate Management Review Division would look at the management of drug exhibits at the Victoria Police Forensic Services Centre initially by undertaking an audit.

406. In response to these comments, Ms Quinn stated:

I did not give the return of these exhibits the priority of action that FEMU desired due to the many more pressing things on hand ...

407. While the 2006 Corporate Management Review Division drug holdings audit was underway, an inspector from the Ethical Standards Department commenced his investigation into Ms Quinn's delay in returning exhibits.
408. The superintendent responsible for overseeing the investigation stated that throughout the investigation he briefed the Assistant Commissioner Ethical Standards Department and on occasions discussed issues with the Commander of the Corporate Management Review Division.
409. The superintendent stated the focus of the investigation did not consider the broader issues about the processes and procedures for ensuring accountability for drug exhibits.
410. The Ethical Standards Department investigation was undertaken from 1 September 2006 to 3 October 2007. On 6 November 2006 two of the auditors undertaking the Corporate Management Review Division audit met with the investigation officer and advised him that the audit at the Victoria Police Forensic Services Centre had been completed and no issues were identified. They said a copy of their report would be provided at a later time.
411. The report on the outcome of the 2006 drug holdings audit was not finalised until May 2007.
412. Although peripheral to the main allegation considered by the Ethical Standards Department investigation, included in the investigation officer's report were the following comments that indicated the Corporate Management Review Division audit had accounted for all drug exhibits at the Victoria Police Forensic Services Centre:

Corporate Management & Review Division conducted a full audit of the drug exhibits held at the Victoria Police Forensic Services Centre. This audit accounted for all exhibits within the Drug Branch. That audit did identify a number of exhibit management issues and made a number of recommendations to the Director Victoria Police Forensic Services Centre. CMRD will be monitoring the implementation of those recommendations.

413. In response to a question about how he knew that all exhibits had been accounted for, the investigating officer stated that Corporate Management Review Division had told him:

What I was told came from the CMRD. Now I find out that that's not right ...

414. A review of the Ethical Standards Department file identified the following file record from the investigating officer indicating that the Corporate Management Review Division auditors advised him the audit of the drug holdings at the Victoria Police Forensic Services Centre had been completed and no issues identified:

[two CMRD auditors] conference at ESD. Audit of VFSC completed. Nil issues identified. Report to follow.

415. The investigating officer told my officers that he cannot recall seeing the CMRD 2006 report before finalising his report.
416. The superintendent overseeing the investigation acknowledged that he did not see the Corporate Management Review Division report before signing off on the recommendations contained in the investigation report. He said that he had discussed issues with the Commander of the Corporate Management Review Division.
417. On 3 October 2007 the investigating officer submitted his report to the superintendent overseeing the investigation.
418. The investigating officer was asked by my officers about his findings. He said:

Look, clearly there has been an issue with management of exhibits out there for a long time. ... this ... Cate Quinn doesn't ... seem to understand the gravity of the implications of that and the unprofessionalism attached to that.

...

I do not understand why after being belted over the head by CMRD time and time again she refuses to come to heel and follow proper practice. I know she's under the pump and they've got a heavy workload out there but if her and her team are totally discredited because of her management of exhibit practices then it's all for nothing anyway.

... and it gets to the point now where the whole area's integrity is being ... questioned openly in the press and surely a prudent and smart person in charge of that area would think well, hang on a minute, if I don't get this right this is going to impact on me and my team. So ... I just can't fathom why she is so reluctant to follow proper practice.

419. In response to these matters, Ms Quinn stated:

Until 2006, I was not of the opinion or of the belief that anyone else was of the opinion, that procedures were inappropriate. We had passed NATA accreditation inspections and I had no knowledge of any outstanding CMRD disapprovals or major failings for which I had direct and sole responsibility.

...

I have two senior managers above me and neither of them has provided me over the years [with] any clarification of these improper practices nor any official documentation to review and or reply to with respect to a failure to comply with appropriate governance.

Audit undertaken by Corporate Management Review Division

420. The superintendent, who had responsibility for overseeing the Ethical Standards Department investigation, forwarded a memorandum (dated 1 September 2006) to the investigating officer advising him that the then Assistant Commissioner from the Corporate Management Review Division had agreed to conduct a full audit of drugs stored at the Drug and Alcohol Branch.

421. In 2006 a Corporate Management Review Division audit team was tasked to undertake a drug holdings audit of the Victoria Police Forensic Services Centre.

422. One member of the audit team advised that 'I was initially in charge of the audit for about the first six weeks and was then transferred to other duties within the Corporate Management Review Division and had no further involvement in the audit'.

423. The objective of this audit was:

To establish the level of compliance for the correct receipt, handling, storage, security and disposal of all drug holdings, excluding cannabis, within the VPFSC.

424. Attached to the audit report were a number of appendices that outline the findings from the audit of the exhibits held in the transfer station, drug store S1A and individual holdings of some forensic officers in the Drug and Alcohol Branch.

425. A review of their report and evidence taken from the three auditors revealed that a full audit of all drug exhibits held at the Victoria Police Forensic Services Centre did not occur. What occurred was:

A review of the CMRD report and evidence taken from the three auditors revealed that a full audit of all drug exhibits held at the Victoria Police Forensic Services Centre did not occur.

- Only a third of the cases (22) were inspected in the sampling and transfer station. A significant number of those items could not be located.
- The store room DS1A store was audited and the audit team identified 250 issues
 - o 36 issues of concern regarding items sighted during the audit
 - o 75 items were not located
 - o 62 items were located that were not recorded on the forensic case management system list
 - o 77 items were not properly sealed.
- Only seven (less than a third) of the forensic officers were audited against their personal holdings. Although the 2006 Corporate Management Review Division report includes a list of Ms Quinn's holdings there is no evidence that an audit or inspection of her holdings was actually undertaken.

426. Also I note that:

- few of the 5,000 chemical drug intelligence items were audited
- only a random audit, based on approximately 20 per cent of the items in the Forensic Exhibit Management Unit drug store room, was undertaken
- all items in the Forensic Exhibit Management Unit drug vault were audited
- the lists generated from the forensic case management system for the audit were flawed and did not present an accurate picture of the drug holdings held at the Victoria Police Forensic Services Centre.

427. According to one of the auditors it was never intended to be a complete audit as the focus was on systemic problems rather than auditing every drug item:

I mean from my perspective and from the outset it wasn't our role to go in and absolutely audit top to bottom it was to identify whether on previous audits whether systemic problems had been rectified ...

428. The superintendent in charge of the investigation undertaken by the Ethical Standards Department expressed surprise when my officers advised him that a full audit was not undertaken:

I expected it to be a thorough audit because it is a high risk area.

429. In response to these comments, another auditor said:

While the original intent of the audit may well have been to conduct a FULL audit, the issues that confronted the auditors in terms of initial findings, OH&S concerns and the sheer volume of exhibits, clearly necessitated a change of audit objectives/ scope. My understanding of recognized audit practice, is that such a shift or deviation from intended objectives/ scope due to unforeseen developments is neither unusual nor unacceptable. [Auditor's emphasis]

The fact that a full audit was not undertaken does not necessarily infer that the audit that was conducted was not thorough. [Auditor's emphasis]

The audit revealed inter alia internal management issues, poor audit programs (in some sections), substandard/ ineffective IT records and bickering among staff to such an extent that it affected the effective operations of some VPFSC units. The audit team reported on these and other issues both during the course of the audit and in the final audit report.

430. In evidence to my investigation, the former Commander of the Corporate Management Review Division confirmed that it was his expectation that a full audit would be undertaken.

431. The superintendent who supervised the Corporate Management Review Division audit, understood that all exhibits were to be audited. Commander Purton, the Officer-in-Charge of the Corporate Management Review Division, also acknowledged that a full audit was not undertaken:

... and I think it's a shame that when, even today, after all the problems we had with the drug exhibits, we have not done a complete audit of all the drug exhibits out there.

432. I also note that there was a potential conflict of interest with one of the officers who had been appointed to undertake the audit. This auditor was on secondment to the Corporate Management Review Division from the Victoria Police Forensic Services Centre. He personally knew and had worked with a number of the forensic officers whose drug exhibits were to be audited. This auditor told my officers that he had worked for 18 years at the Victoria Police Forensic Services Centre and outlined the nature of his association with the people working in the Drug and Alcohol Branch as follows:

Clearly in that period of time I've worked alongside of them on many occasions. When I initially was asked to do the job I certainly considered whether there was some conflict of interest in any respect during the audit, but I was assured that my skills were required and that I'd be looked after in that respect.

I also note that there was a potential conflict of interest with one of the officers who had been appointed to undertake the audit. This auditor was on secondment to the Corporate Management Review Division from the Victoria Police Forensic Services Centre. He personally knew and had worked with a number of the forensic officers whose drug exhibits were to be audited.

433. In response, another member of the audit team stated:

It is arguable that his involvement actually assisted the activities of the audit team in as much as he was able to obtain the co-operation and confidence of the forensic staff involved, as well as provide aspects of 'local knowledge' regarding the inner workings of the VPFSC.

Follow-up action taken in response to the Corporate Management Review Division 2006 audit report

434. In response to the 2006 Corporate Management Review Division audit report two steering committees were set up to oversight the implementation of the recommendations. The main steering committee consisted of the then Deputy Commissioner, the then Director of the Victoria Police Forensic Services Centre Mr Ross, the Assistant Director of the Chemistry Division and the Superintendent and Officer-in-Charge of the Corporate Management Review Division, Commander Purton.

435. At the Victoria Police Forensic Services Centre another steering committee was established consisting of the then Director of the Victoria Police Forensic Services Centre, the Assistant Director of the Chemistry Division, the staff officer to the Director of the Victoria Police Forensic Services Centre and the Assistant Director of the Business and Strategic Services Division. Commander Purton said that he volunteered to assist and joined this committee.

436. At that time Commander Purton also held a number of other positions, including being a member of the Forensic Services Advisory Board, a member of Victoria Police Audit Committee, and various other corporate committees within Victoria Police.

437. Commander Purton told my officers that he had a long association with the Victoria Police Forensic Services Centre that extended over 18 years. He said that due to his long working relationship with the Drug Squad, he had known Ms Quinn for many years.

438. In response to a question about whether he should be on the steering committee because he was in effect auditing part of his own processes, Commander Purton responded:

Because I always run into conflicts with all the roles and jobs that I do, there's like a conflict of interest with me sort of saying to them – but the last time I met with them I said 'this is what has to be done to satisfy these recommendations. If you don't do it you're not going to get a tick. You won't get green.'

... it doesn't matter which way I turn, there's going to be a conflict. But I don't think the fact that there is a conflict matters. It's how you manage the conflict. I went out there and sat on that committee not as the Commander CMRD, I sat on that committee as a high ranking officer to provide advice and to assist them with, you know, writing off all these outstanding entries, because someone had to do something. And I said, well – and if you like, I was independent of the lab. Took off my CMRD hat and I was just a senior officer of Victoria Police.

439. Part of this role involved the Commander signing-off on the acquittal of non-accountable drug items that related to the personal holdings of some forensic officers. The superintendent of the Corporate Management Review Division stated that the Commander undertook this task not in his capacity as Commander Corporate Management Review Division but as a member of the Crime Board (one of the corporate standing committees of Victoria Police).
440. As a result of issues arising from the 2006 audit, Commander Purton signed off on 504 unaccounted items from four senior forensic officers after an investigation was undertaken by the then internal auditor employed by the Chemistry Division, including 174 items for Ms Quinn.
441. These items were then recorded as 'disposed' on the forensic case management information technology system. Many of these items were washings from samples or small quantities of drugs.
442. The former Commander Corporate Management Review Division said that in terms of compliance oversight, he was not sure that this was the role of the Commander. He stressed the need for the Commander of the Corporate Management Review Division to be able to give an independent assessment to the Victoria Police Audit Committee.
443. In response to a question whether there was a conflict if the Commander of Corporate Management Review Division signed-off on the acquittal of non-accountable drug items that had arisen from the 2006 drug holdings audit, the Assistant Commissioner Ethical Standards Department thought that there was some logic in the head of Corporate Management Review Division having that authority:

There would be a conflict if the accountable manager was able to do that so there would be conflict if you had the director of VPFSC having the authority to sign off on it and so ... there is some logic in the head of CMRD having that authority ...

... it makes a lot of sense given the points that I've been making about the fact that ... CMRD ... is the actual key independent body for accounting for an auditing risk and the effectiveness of control measures in place to address risk.

444. In response, Commander Purton stated:

There is no evidence to suggest that these entries should not have been signed off. I was satisfied with the explanations given. A decision had to be made. The entries could not be left open ad infinitum.

445. One of the major principles of internal audit is independence. The Standing Directions of the Minister for Finance under the *Financial Management Act 1994* states that:

Public Sector Agencies are required to establish, maintain and resource an internal audit function. The work is to be carried out by suitably qualified staff, **independent** of management and free of operational duties [emphasis added].

446. I note that a better practice guide states that internal audit should:

- be operationally independent: that is, internal audit is independent from the activities subject to audit
- have well defined roles and responsibilities
- adhere to professional standards.²²

447. A major responsibility of the Commander Corporate Management Review Division is to provide impartial advice to the Victoria Police Audit Committee and the Chief Commissioner about how effective internal controls are across Victoria Police in addressing risks.

Post-implementation review of the 2006 Corporate Management Review Division drug holdings report

448. The 2006 audit report included a recommendation that the Corporate Management Review Division conduct a post-implementation review. In accordance with that recommendation a post-implementation review team was established in the Corporate Management Review Division consisting of two police inspectors. This team reported to the superintendent of the Corporate Management Review Division.

449. The superintendent said that he told the team that the review of the progress made with implementing the recommendations was to be evidentiary based. The review commenced on 12 November 2007 at a meeting attended by representatives from the Victoria Police Forensic Services Centre and the post-implementation review team.

450. While Commander Purton was of the view that he could handle any conflict of interest, the perception of others was different. The review team was concerned that the Commander was too close to the operational issues at the Victoria Police Forensic Services Centre through his involvement with the Forensic Services Board and through his participation in the work of the steering committees.

While Commander Purton was of the view that he could handle any conflict of interest, the perception of others was different. The review team was concerned that the Commander was too close to the operational issues at the Victoria Police Forensic Services Centre through his involvement with the Forensic Services Board and through his participation in the work of the steering committees.

²² Australian National Audit Office Public Sector Internal Audit – An investment in assurance and business improvement, Better Practice Guide (September 2007) page 1.

451. Commander Purton acknowledged that he had a conflict of interest and that was the perception of the auditors involved in the post-implementation review. He stated:

I think they thought that was a conflict of interest with me being on that. But in my role, I counted up the other day, I counted eight conflicts of interest in two minutes, in all the different jobs I have to do. But I was there, looked at what was happening and got feedback. But all I could do was listen to what I was told and provide them with advice of what needed to be done.

452. The post-implementation review team was also concerned about the issues raised by some staff at the Victoria Police Forensic Services Centre that many of the recommendations raised in previous reports of the Corporate Management Review Division had still not been addressed.

453. The superintendent of the Corporate Management Review Division suggested that the review team widen the review of the post-implementation of the 2006 drug holdings report to include the progress made with implementing recommendations contained in the 2003 and 2005 Corporate Management Review Division reports.

454. The commander said that he was unaware that the focus of the review had expanded. He also said that the review:

... was designed to blacken the character of Cate Quinn. And to me that was highly improper because both of those investigations were not substantiated against her by CEJA and by ESD.

455. In response to a question about whether there was any compelling evidence that drug exhibits were being mismanaged, Commander Purton stated:

Nothing, nothing at all. I think, when you've been out there, and seen it, you know there aren't a lot of drugs [in the clan lab]. But this problem has been around for a long time; its been around for more than a decade.

Sure there's a lot of drugs out there, sure there's exhibits all over the place. But you know the vast majority of them have all been accounted for. There's nothing of any substance missing out of the, I don't know, 10 or 11,000 exhibits that were examined.

456. It is difficult to understand how Commander Purton could make such a definitive statement as this given there has been no external full audit undertaken of all drug exhibits for at least 15 years. In addition, the Drug and Alcohol Branch has only recently reconciled the discrepancies identified from the partial audit undertaken by CMRD in 2006, but to date these have not been signed off. I also understand

that there are continuing problems with getting an accurate list from the forensic case management information technology system of the drug holdings for each forensic officer and the various drug storage areas. I am also aware that more recent limited audits have identified further issues.

457. In response to these comments, Commander Purton acknowledged that 'CMRD must accept some of the blame for the problems at FSD. The audits conducted over the years were unsatisfactory'.
458. On 26 May 2008, Commander Purton met with the two members of the review team and the superintendent of the Corporate Management Review Division to discuss a draft report prepared by them that reviewed a range of Victoria Police documentation relating to the Victoria Police Forensic Services Centre and the Drug and Alcohol Branch dating back to the late 1990s. I note that the following statement is included in that report:

CMRD's intent in undertaking this work has been to provide the reader with a comparatively succinct insight into the common threads that have been identified within these documents in relation to the issues and deficiencies within the Drug and Alcohol Branch, and to present this information in a way that demonstrates the consequent problems that have developed within the business practices of the VPFSC.

459. The draft report included an examination of a number of actions of Ms Quinn in relation to other investigations. A comment was made in the draft report:

CMRD is of the view that if an objective assessment is made of the above detailed undisputed facts in terms of the expectations that could rightly be had of a manager of Ms Quinn's knowledge and experience undertaking the responsibilities of the role of Branch Manager Drug and Alcohol Branch, the actions of Ms Quinn fall well short of what would be reasonably expected of a person undertaking that role.

460. On 6 August 2008 the report prepared by the review team and the superintendent of the Corporate Management Review Division was forwarded by Commander Purton to the Assistant Commissioner of the Ethical Standards Department. In the covering memorandum attached to that report the Commander indicated that he had met with the then Acting Assistant Commissioner Ethical Standards Department, who had also oversighted the investigation undertaken by that office, and raised his concerns:

In my view there is insufficient evidence available to justify an investigation by ESD however I requested ESD to review the file.

461. In response to these comments, the superintendent from the Ethical Standards Department stated:

I met Commander Purton when I was the Acting A/C ESD. He raised the report but in his view it (the report) contained no new evidence and was largely historical. He was of the view that the report did not disclose any evidence of criminality.

I told Commander Purton however that ESD would be prepared to review the report from CMRD through the ESD Tasking and Coordination process. I suggested that I could have an independent experienced Detective Inspector review the report.

The report was not referred to ESD.

462. Commander Purton then took over responsibility for the post-implementation review. A copy of the original report prepared by the review team together with the Commander's comments was forwarded to the then Deputy Commissioner on 12 November 2008. I note that the second report prepared by the Corporate Management Review Division review team was not included.

Conclusions

463. My investigation into the audit and investigation undertaken by the Corporate Management Review Division and the Ethical Standards Department in relation to the Victoria Police Forensic Services Centre revealed that there were problems with communications between the two work units and this may have impacted on the outcome. I consider that when the Ethical Standards Department and the Corporate Management Review Division has overlapping investigations or audits, their respective roles should be clarified. This could be achieved by a protocol which clearly specifies their respective roles and responsibilities and the process for communications.
464. Despite an expectation that a full audit of the drug holdings at the Victoria Police Forensic Services Centre would be undertaken by the Corporate Management Review Division in 2006 this did not occur. I have been unable to establish why the focus of the audit changed to a random inspection of some exhibits.
465. I am concerned that the random audit process was not wide enough to pick up all the issues which needed to be addressed. In particular, the time delay between the receipt of destruction orders and the return of drug exhibits by the forensic officers, which was not examined in the 2006 Corporate Management Review Division report on the drug holdings at the Victoria Police Forensic Services Centre.

Despite an expectation that a full audit of the drug holdings at the Victoria Police Forensic Services Centre would be undertaken by the Corporate Management Review Division in 2006 this did not occur.

466. In response to these comments, Commander Purton stated:

I am unable to indicate why a full audit was not conducted. A full audit would have taken many months to complete and it was probably not done for the reasons outlined previously.

467. I also consider that the police officer who was on secondment from the Victoria Police Forensic Services Centre should not have been part of the Corporate Management Review Division audit team because of his previous and on going working relationship with members of the Drug and Alcohol Branch. This was a clear conflict of interest.

468. Given that the commander of the Corporate Management Review Division is required to give an objective assessment to the Victoria Police Audit Committee about the findings and recommendations contained in Corporate Management Review Division reports and to report on the status of implementing recommendations, I consider that there was a conflict of interest in the Commander being involved with the steering committees while also a member of the Forensic Services Advisory Board. An internal auditor should be independent of the activities required to be audited.

469. In response to these comments, Commander Purton said:

The FSD drug audit was never discussed in my presence at the Forensic Services Advisory Board (FSAB).

470. I consider that there is a conflict in representatives of the Victoria Police Forensic Services Centre serving on the Corporate Management Review Division Audit Steering Committee as well as being charged with the day-to-day implementation of such recommendations.

471. Commander Purton over many years has been actively involved with the work of the Victoria Police Forensic Services Centre. He has had a long professional association with many of the people that work there. It is clear that there was a perception by some of the Corporate Management Review Division staff that Commander Purton had become conflicted through his other roles and was not sufficiently removed from the operational impacts of the Victoria Police Forensic Services Centre's steering committee to objectively give advice to the Victoria Police Audit Committee and the Chief Commissioner about the risks and problems associated with drug exhibits at the Victoria Police Forensic Services Centre.

472. In response to my comments, Commander Purton stated:

I refute this suggestion.

473. I note Commander Purton's view that the investigation undertaken by his officers of reports and reviews involving drug exhibits at the centre was really intended to blacken the character of Ms Quinn. This has not been borne out by the evidence.

Given that the commander of the Corporate Management Review Division is required to give an objective assessment to the Victoria Police Audit Committee about the findings and recommendations contained in Corporate Management Review Division reports and to report on the status of implementing recommendations, I consider that there was a conflict of interest in the Commander being involved with the steering committees while also a member of the Forensic Services Advisory Board.

There is a conflict in representatives of the Victoria Police Forensic Services Centre serving on the Corporate Management Review Division Audit Steering Committee as well as being charged with the day-to-day implementation of such recommendations.

474. In response to my preliminary conclusions, Commander Purton stated:

There is evidence of poor management practices in relation to the handling of drugs exhibits however this has existed for many years and there are many underlying causes – lack of staff, workload, lack of support from informants, the lack of a destruction facility, failure to get findings of fact and the list goes on.

475. Whilst I am critical of the Corporate Management Review Division, their reports on exhibits at the Victoria Police Forensic Services Centre identified many issues that required attention. My concern is that there has been reluctance by some senior officers within the Drug and Alcohol Branch, including Ms Quinn, to improve processes and procedures.

476. In response Ms Quinn stated:

There is no reluctance to change or improve procedure ...

The inability for the two key areas Drug Branch and FEMU to work together on resolving key shared processes is the direct result of the unprofessional manner and behaviour of certain FEMU staff and the over riding inability of senior management to control an emerging workplace dispute.

Reluctance should not be confused with the request for appropriate treatment and resolution of issues as is the right of all Victoria Police persons in accordance with OH&S legislation, policy and procedures.

477. I do not have confidence that all drug exhibits at the Victoria Police Forensic Service Centre have been accounted for until a full external audit has been undertaken. If discrepancies are identified then appropriate investigations are required.

Recommendations

I recommend that Victoria Police:

Recommendation 39

Ensure the Corporate Management Review Division and the Ethical Standards Department develop a protocol that clearly specifies their respective roles and responsibilities and the process for communication when simultaneous investigations/audits are undertaken.

Recommendation 40

Conduct a full external audit of all drug holdings at the Victoria Police Forensic Services Centre as a matter of urgency.

Recommendation 41

Review its policy to ensure the Commander of the Corporate Management Review Division does not serve as a member of the Victoria Police Forensic Services Centre steering committee.

Recommendation 42

Develop guidelines for high risk and sensitive audits including any potential conflict of interest issues relating to the composition of the audit team.

Recommendation 43

Ensure an audit team is drawn from members that are operationally independent of the area to be audited.

Victoria Police response

Recommendations accepted.

12. IMPACT OF FORENSIC DELAYS

478. During the past five years there has been criticism from the courts about the delay in processing forensic evidence relating to drug cases. In 2008 the Chief Magistrate wrote to the Chief Commissioner of Police asking what action would be taken to expedite the processing of drug exhibits, as follows:

Delays in drug analysis for prosecutions in the committal stream remain a significant issue and magistrates continue to raise it on the bench in appropriate cases. I understand that the issue has again been discussed recently by the Court's executive committee.

The Court is adjourning contested hearings which require analysis by VPFSC for up to nine months. At the present time, I understand that the aim is to provide scientific analysis and a report for the hand-up brief within six months from date of prosecution case conference, depending upon the size of the laboratory seized.

In relation to the drug analysis affecting normal drug seizures (powders, tablets etc) on the provision of a certificate of analysis, has a delay of approximately eight months from date of lodgement of the drugs at the Forensic Services Centre.

In relation to cannabis, there is little delay and there is no problem.

Given the effective work done by the Department of Justice, Victoria Police and the Courts on the overall reduction of delays in the criminal justice system, and the ongoing work to that end, delays in drug analysis and the consequent delays in hearings remain a problematic anomaly.

479. The Chief Magistrate also mentioned 'that in 2008 Victoria Police was required to pay costs due to a delay in forensic testing of some drug exhibits in a court case'.

480. Commander Purton advised that this is becoming a regular occurrence:

Last week at Crime, with another clan lab, we got \$4,400 costs awarded against us because it was going to take 15 to 18 months to get the drugs analysed. And that's a regular occurrence where we're shelling out large amounts of money because we can't get the results through.

481. The Officer-in-Charge of the New South Wales Police Drug Squad expressed concern that delays in forensic testing in Victoria had resulted in some defendants being released on bail and then absconding to New South Wales and setting up a drug operation there.

482. The Victoria Police Drug Task Force investigates large illegal commercial drug trafficking operations. The Officer-in-Charge expressed some frustration about the delays in obtaining the certificate of analysis from the Drug and Alcohol Branch and the consequences when he said:

... there's a number of different areas where we have delays probably at least our equal worst if not solely by itself would be delays with our analysis of drugs.

...

We have experienced inordinate delays in getting full analysis. As a result of that I'm talking six, eight, 12 months to get our certificates of analysis. What stems from that is serious drug traffickers routinely released on bail. The question is asked at court 'How long is your analysis going to take?' and the advice that we get from VPFSC would be ... eight to 12 months, so its ... unjust to keep someone on remand so long so they routinely get bailed, which is a problem not just for us but to society.

Now, I'm aware that this isn't a problem faced throughout Australia with various chemist and forensic services. This issue has got that bad that quite recently we had a special mention at the committals hearing just to do with what the delays are in relation to a particular job. One of the senior chemists was ...brought along to give evidence and the comments were pretty much made, that's how long it's going to take. The Drug Task Force got about \$5,000 costs awarded for their 11 defendants because of that delay. Now – and this is something that's now been going on for several years where the delay seems to be getting longer.

483. A member of the Drug Task Force specified the consequences arising from the delays. He said:

A: I can specifically talk about one operation that we did earlier this year and there ... about nine offenders. They're remanded initially and then through argument at the bail application and only one goes up initially, ... it was basically agreed to that it couldn't proceed at court for trial until the end of 2011 or into 2012. And then once one of them get bail then they all just follow suit, and then the flow on effect from that is if they're in custody the matters get brought before the court quicker but once they're out on bail the people in custody get precedence over the trials. So the delay is there ...

Q: And is that directly attributed to the analysis?

A: It's all analysis.

A survey of other forensic laboratories in Australia revealed that it takes more time to prepare a certificate of analysis in Victoria than anywhere else in Australia.

484. By necessity the Victoria Police Drug Task Force is a regular user of the services of the Drug and Alcohol Branch. The Officer-in-Charge said that in the context of the problems that have beset this area for some time Ms Quinn had demonstrated 'blatant disregard for the delays and the ramifications for investigations'. Also, he stated that Ms Quinn was 'not supportive of finding a remedy'.

485. In response, Ms Quinn stated:

It seems a little too easy and off handed for a senior person ... after one short meeting to make such a statement.

486. A member of the Drug Task Force stated that the problems have been on going for sometime:

I probably actually defend her a little bit in the fact that Cate's been in that area for a very very long time and these issues have been a very very big problem for a very very long time as well.

487. A survey of other forensic laboratories in Australia revealed that it takes more time to prepare a certificate of analysis in Victoria (approximately five months for drug analysis matters and 15 months for clandestine laboratory matters) than anywhere else in Australia. The differences are quite significant in similar jurisdictions. For example, in New South Wales it only takes approximately two months and in Queensland approximately four months.

Conclusions

488. There is substantial risk in having a backlog in analysing drug exhibits, because delays in reporting can lead to:

- persons charged with a drug related offence being released on bail and then committing other offences
- follow-up investigations becoming problematic as time elapses from the offence because the offender may be more difficult to locate, witnesses' recollections can fade and corroborative evidence may be lost
- storage problems compounded by a large number of exhibits/samples and the associated risks.

489. To ensure accountability and transparency in the management of drug exhibits, it is a fundamental principle and best practice that there should be a separation of roles. The forensic officers should only be involved with analysing the sample and preparing the certificate of analysis for the courts. All other activities should be the responsibility of the Forensic Exhibit Management Unit.

490. If the forensic officers focused on their core responsibility – the analysis of drug exhibits – there would be a reduction in the backlog of work. Also to reduce the delay in providing forensic evidence to Victorian courts, Victoria Police should consider outsourcing some aspects of the analysis of drug exhibits.

Recommendation

I recommend that Victoria Police:

Recommendation 44

Review the processes for sampling and analysing drug and chemical exhibits by the Drug and Alcohol Branch so the certificate of analysis is finalised promptly.

Victoria Police response

Recommendation accepted.

13. GOVERNANCE AND LEADERSHIP

491. The delivery of forensic services is a high risk area for Victoria Police, as it is:

- tightly prescribed by legislation; the National Association of Testing Authorities' accreditation requirements; ISO standards; and by procedures and policy outlined in the Victoria Police manual and Victoria Police Forensic Services Centre manuals
- of high interest to the media, particularly when suspects are released on bail due to delays in forensic testing
- part of a wider national and international context
- clearly related to the identification of offenders who are often involved with organised criminal networks that have significant resources
- a crucial part of criminal investigations that provides evidence that can assist in securing convictions; it is also a key component of the government's strategy to reduce crime
- vulnerable to allegations of impropriety, if not appropriately managed.

492. The Victoria Police Fraud Control Management Framework 2007-10 identifies a series of warning signs that are defined as 'organisational indicators of fraud or corruption risk'. The framework advises that the presence of these types of indicators 'underline the need for further investigation and/or the need for the implementation of tighter control measures'.

493. Key warning signs or indicators include:

Cultural issues

- failure of management to make a clear commitment to implementing a sound framework of internal control and demonstrating this at all times.

Management issues

- poor management attitude – absence of controls and audit trails
- management failing, on a timely basis, to correct known weaknesses in internal controls
- suspicions raised by staff not being acted upon by management
- subordinates bypassing managers
- managers who feel exempt from accountability because of their position

The Victoria Police Fraud Control Management Framework 2007-10 identifies a series of warning signs that are defined as 'organisational indicators of fraud or corruption risk'.

- process issues
- lack of job segregation and independent checking of key transactions
- poor management accountability and reporting systems
- poor access controls to physical assets (being drugs and drug related items) and information technology security systems (as they relate to drugs and drug related items).

Workplace issues

- contempt for and/or lack of adherence to policies and procedures
- lack of segregation of duties
- establishing personal rules or practices
- secretive and/or non-conformist to Victoria Police practices
- statements that they or their areas are 'special' or need no regulation
- unauthorised changes to systems
- refusals, evasions or delays in producing records
- attempts to postpone audits and/or reviews, attempts to restrict the areas being audited.²³

494. My investigation identified that a significant number of these warning signs or indicators were present in the management of drug exhibits at the Victoria Police Forensic Services Centre over the past ten years. My investigation also revealed that little, if any, action has been taken to address them.

495. In response, the Acting Director of the Victoria Police Forensic Services Centre explained that:

Any complaints or issues that are raised within the department are in the first instance referred to the Divisional managers for resolution. Failing that process issues can be raised at ... the Professional Development Committee (PDC). PDCs now operate across Victoria Police and have a defined charter in which they work. Part of their function is dispute resolution and discipline. Alternatively, the VPFS has an innovation committee where alternative views on SOPs (for example) can be lodged and considered. This committee is made up of members at various work levels across the department. Issues can be accepted and then referred to SMT for endorsement or rejected. It is expected that with the introduction of both these committees dispute resolution and innovation (procedural change) can be managed more effectively.

My investigation identified that a significant number of these warning signs or indicators were present in the management of drug exhibits at the Victoria Police Forensic Services Centre over the past ten years.

²³ Victoria Police Fraud Control Management Framework, pages 29-30 and 45-46.

Governance arrangements

496. To address the risks and deficiencies identified during my investigation it is essential the Victoria Police Forensic Services Centre's governance arrangements contain the following elements:
- a strong management framework that can provide the direction, vision, leadership and commitment to achieve the Victoria Police Forensic Services Centre's objectives
 - a culture that promotes collaboration and teamwork so managers, supervisors and staff from different organisational units can work together on common issues and problems and have a commitment to integrity and professionalism
 - managers that can maintain high morale, professional standards and respect for authority and ensure that policies and procedures are adhered to
 - an effective accountability system to ensure that the checks and balances are commensurate with the high level of risk involved with the management of drug exhibits
 - a performance management system that incorporates personal accountability requirements
 - a quality framework that accommodates the National Association of Testing Authorities' requirements but aims for best practice procedures for exhibit management and also includes an internal and external auditing program.
497. A major deficiency identified was that the then Director of the Victoria Police Forensic Services Centre, Mr Ross, was reluctant to take a firm stand against unilateral decisions made by Ms Quinn, Manager of the Drug and Alcohol Branch, and some other members of the Drug and Alcohol Branch.
498. The Senior Management Team is structured around divisional responsibilities with limited opportunity for senior managers to influence corporate decisions relating to the management of exhibits. This has been compounded by the fact that the former Director of the Victoria Police Forensic Services Centre, Mr Ross, on several occasions overturned important governance decisions made by the Senior Management Team after he received representations from Ms Quinn and some other members of the Drug and Alcohol Branch. For example:
- The Senior Management Team resolved that forensic officers in the Drug and Alcohol Branch would be required to adopt the same accountability processes as other work units and therefore to record on the forensic case management system the evidential and chemical drug intelligence exhibits issued to them. Mr Ross overturned this decision in response to an approach from Ms Quinn.

A major deficiency identified was that the then Director of the Victoria Police Forensic Services Centre, Mr Ross, was reluctant to take a firm stand against unilateral decisions made by Ms Quinn, Manager of the Drug and Alcohol Branch, and some other members of the Drug and Alcohol Branch.

- Forensic officers have chosen not to comply with the requirement of the Victoria Police manual that contested drug exhibits are returned to the Forensic Exhibit Management Unit for secure storage and auditing prior to destruction.
- The Director authorised the destruction of exhibits held in drug store room S1A without an audit or any reconciliation of missing exhibits, thereby overturning recommendations made by the Corporate Management Review Division and agreed to by the centre that an audit and reconciliation process occur before drug exhibits are destroyed.
- The Director gave a written direction that although the Unit Manager of the Forensic Exhibit Management Unit held the key to the DS1A store he was not responsible for its holdings.

499. In response to these issues:

Ms Quinn stated:

These comments are central to the issues and eventual dispute within the centre, with all due respect the major deficiency was with the Senior Management Team who made unilateral decisions without consultation which overturned existing procedures and practices within the Drug Branch. [Ms Quinn's emphasis]

...

... This cloak and dagger, attack and retreat management style only compounded the issues as I am still awaiting an appropriate opportunity to have the issues clarified ...

Mr Ross stated:

I recognised the 'siloed' nature of the four Divisions and in discussions with the Senior Management Team introduced cross-organisational portfolios so that there was an organisational oversight for Assistant Directors in addition to the divisional oversight.

The situation between the Drug and Alcohol Branch and the [Forensic] Exhibit Management Unit was such that on occasions neither would give any ground on issues in dispute. This required continual negotiation and at times compromise which I determined was appropriate for the time. On one, at most two occasions this resulted in me overturning previous decisions made by the Senior Management Team. As Director I felt that I had the responsibility to do that in the interest of securing the best outcome for the situation.

500. Despite several reviews by the Corporate Management Review Division that were highly critical of the lack of internal control procedures, Ms Quinn has demonstrated a lack of commitment to improving the accountability arrangements relating to the management of drug exhibits. Examples include:
- the decision to discontinue random re-analysis of selected drug cases prior to destruction. This process is intended to provide an assurance about the integrity of the higher risk exhibits and verification of the original analysis
 - the delay in approving new procedures that provide for
 - o a regular audit program in the Drug and Alcohol Branch
 - o more timely disposal of hazardous chemicals and related substances.

501. In response to these issues, Ms Quinn stated:

I have provided input on all CMRD issues asked of me via the Director and am not aware of my response being insufficient. I am unaware of 'not actioning' any improvements when required, except the auditing of the sampling and transfer station which was well beyond my available resources and ability to undertake, and in reality this was an inappropriate request for my area to undertake due to a conflict of interest and lack of independent oversight.

...

I would suggest the cessation of the re-analysis program has more to do with the workplace dispute ...

...

I have been provided [with] a draft inspection/audit program and some procedures ... The finalisation of this program and the associated inspection/audit procedures are currently being undertaken.

502. Ms Quinn also stated:

... I have never been afforded a full professional debrief with CMRD which clearly articulated any direct failures of mine, a formal copy of a report and or a copy of any final reply made by the centre.

503. Many witnesses indicated that had senior management at the Victoria Police Forensic Services Centre taken a firm approach to the many problems that have surrounded the management of drug exhibits over the past few years then the issues would not have arisen or would have been resolved much earlier.

Many witnesses indicated that had senior management at the Victoria Police Forensic Services Centre taken a firm approach to the many problems that have surrounded the management of drug exhibits over the past few years then the issues would not have arisen or would have been resolved much earlier.

504. For example, the Acting Director of the Victoria Police Forensic Services Centre said:

The issue to me goes back three and a half years and this is when they came – when both parties came to this table and they asked for a decision to be made on what policy would surround a particular procedural approach and the decision was made, it was then allowed to be continued to be discussed and continued to be debated and it should have been stopped then and there. And if it meant that we had to go to the IRC to get a ruling to say ‘No’ the fundamental issues of management are deciding who is going to do what and how they’re going to do it. Let management deal with it and you’re being asked to do something that’s quite lawful, so just get on with it. And if that was the fight we had to have then, then that’s the fight we should have had, because this has just gone on and it’s just got messier and messier and messier.

505. The Assistant Director of the Business and Strategic Services Division, who is also a member of the Senior Management Team, stated:

... in my view, there was never a firm hand of management put over this two and a half years ago where the members of the drug branch were told – because they outright refused to put certain drug exhibits on issue to themselves so that the trail of continuity would show indeed that they had them in their possession.

...

... I spoke to Alastair [Ross] in SMT [Senior Management Team] meetings and privately and said, ‘You know, consultation isn’t intended to be that everybody gets their way because somebody in this ... is not going to get their way’.

... it seemed to me that everybody was being told, ‘OK, just keep doing what you’re doing,’ but that was putting these two groups in direct conflict from a leadership and a management level.

506. The Assistant Director of the Chemistry Division, another member of the Senior Management Team, was of the same view. He said:

... it should’ve been dealt with much earlier. And I’ve said to Alastair strategically, you know, that’s the wrong decision. We should have dealt with it straight away. We tried to placate too many people in the process and it didn’t solve anything. Sometimes you’ve just got to make a decision and then you say, ‘That’s my decision, that’s our decision and that’s it’. And that’s what I’ve learnt from this harrowing two years in terms of that.

507. The Assistant Director of the Crime Scene Division, also a member of the Senior Management Team, reinforced these views. He said:

Someone's got to at some stage tell people what to do. You can't allow everyone to continue to do what they want to do.

Organisational arrangements

508. There are different models within each state and territory for providing forensic services relating to drugs. For example, Queensland has a mixed model governed by both police and health. In Queensland, forensic science services are provided by two large agencies, Queensland Health and Queensland Police, each with defined areas of responsibility.
509. New South Wales has a Forensic Science Division within the New South Wales Police. Most of the forensic services relating to drugs are provided by the Division of Analytical Laboratories which is part of the New South Wales Department of Health and some services are purchased from the National Measurement Institute.
510. South Australia has Forensic Sciences South Australia, which is part of the South Australian Department of Administrative and Information Services. Its primary clients are the South Australia Police, the Coroner and the Director of Public Prosecutions.
511. Both Victoria and the Australian Federal Police have a police-governed model. Victoria has the Victorian Institute of Forensic Medicine attached to the Coroner and the Forensic Services Centre attached to the Victoria Police. The Australian Federal Police has the Forensic and Technical Services area as part of its operation and it purchases analytical services from the National Measurement Institute. The Australian Federal Police also provides forensic science services to the Australian Capital Territory Police via a Service Level Agreement.
512. The Australian Capital Territory uses the ACT Government Analytical Laboratory as well as purchasing services from the Australian Federal Police.
513. Traditionally, the head of the Victorian Police Forensic Services Centre is a scientist but this position is currently vacant. Mr Ross, the former Director, transferred to the position of Director National Institute Forensic Science Australia and New Zealand Policing Advisory Agency on 18 May 2009. Another scientist has been acting in the position for some time.
514. A survey of forensic laboratories in other Australian jurisdictions revealed that in most cases the leadership position is usually held by either a scientist or a senior police officer. This is illustrated in the following table.

Table 3: Leadership of Forensic Laboratories involved with police exhibits

Area	Director	Senior Management Team
Australian Federal Police	Scientists with extensive forensic experience.	Deputies with discipline experts and extensive forensic experience.
New South Wales	Assistant Commissioner for Police Services with limited forensic experience/exposure. Scientist for scientific services with limited forensic experience/exposure (more health services). Division of Analytical Laboratories Forensic Science and National Measurement Institute.	Both streams with deputies who are discipline experts with extensive forensic experience.
New Zealand	Scientist with extensive forensic experience.	Deputies who are discipline experts with extensive forensic experience.
Northern Territory	Civilian with extensive forensic experience (ex South Australia Police Superintendent). Previously scientist with extensive forensic experience.	Deputies who are discipline experts with extensive forensic experience.
Queensland	Superintendent for Police Services. Scientist for scientific services (Health Department focus).	Both streams with deputies who are discipline experts with extensive forensic experience.
South Australia	Superintendent for Police Services with extensive forensic experience.	Both streams with deputies who are discipline experts with extensive forensic experience.
Tasmania	Scientist with extensive forensic experience.	Deputies who are discipline experts with extensive forensic experience.
Victoria	Scientist with extensive forensic experience.	Deputies who are discipline experts with extensive forensic experience.
Western Australia	Superintendent for Police Services. Scientist with extensive forensic experience for both PathWest (biology) and Chemistry Centre.	Deputies who are discipline experts with extensive forensic experience.

Management issues relating to the Drug and Alcohol Branch

515. During the course of this investigation my officers interviewed a number of forensic officers about issues relating to the management of drug exhibits. Not surprisingly there were similar views within the group. For example that forensic officers:

- do not want to put certain drug items on issue to themselves
- could not understand why it was necessary to strengthen the security arrangements in the drug storage rooms
- should be trusted rather than strengthening internal accountability arrangements. A number said:

- o So if you think that weighing it at every point shows what has been accounted for, if I was going to skim off that, I would just say I did more tests, and I can create more tests, so it doesn't actually add any more validity, it just adds a whole lot of extra stuff in there, that adds no more transparency or no more protection. But what it says is – well, we're not sure that we can really trust you, and that's I think a very bad move in the process.
- o And at some point there's got to be trust in the integrity of the people working there. So, and that's certainly where we've been for about the last 10 years...
- o ... But at some point there has to be a level of trust because it doesn't matter what procedures go in there, there's ways of getting around it if we wanted to ...
- o You know, at the end of the day you have to realise that we're seriously back-logged, both us and the case workers, and you know, you can have [the staff officer to the Director] sitting there for four days while we destroy cases, but that's just a waste of everybody's time. I'm sorry, I do understand what you're saying, that there are procedures in place to cover us, but you know, there has to be some level of trust there.

There has to be. Because, you know, it's just – we're dealing with illicit substances day in, day out. The thing is, you know, from the outside it might look like people are cutting corners and whatever, but that's not the way it goes, it's just ... when we're dealing with 350 samples in one month, we're not cutting corners, we're not doing anything dodgy. There's probably things that could be improved, but ... you know, at the end of the day we're dealing with drugs and ... they're just powders to me and to everybody else there. They're not drugs. You know. We deal with them all day.

516. The Acting Director Victoria Police Forensic Services Centre assessed the situation as:

At the end of the day ... we can't allow a work unit to hold the organisation to ransom when you're faced with a situation where if we do allow that, the whole situation becomes dysfunctional. And that's fundamentally where we were heading. And it was pretty obvious after the first three meetings that's where we were heading. Because they just weren't listening and they were not accepting of what decisions were being made.

Now as you know that's when it was all taken out of SMT's hands and it was placed in the hands of one person and that person, Alastair, tried to do the right thing, as Alastair does. ... But he shouldn't have, in my view he should not have taken that on himself and he should have left it with the decision making body and we should have stuck to our guns and we should have said to them look, we've heard everything you've had to say but this is where we're going with this. And we've got legal opinion to say we can do it, so let's just get on with it.

517. The Acting Director further clarified his comments about the actions taken by the then Director, Mr Ross:

Mr Ross' management style is one of conciliation and discussion in the hope that all parties will agree that there is a better way forward.

...

I stand by my view that the Department can not be held to ransom by an individual or a group that refuses to comply with mandated SOPs.

518. The Assistant Director of the Business and Strategic Services Division explained that the other business areas within the Victoria Police Forensic Services Centre did not have a problem with the Forensic Exhibit Management Unit:

Exhibit management in any of the other functional areas of the department isn't an issue. So any issues that need to be put on the table all relate to the non-adherence of the drug and alcohol branch. We don't have issues with biology, we don't have issues with crime scene, we don't have issues with other parts of the chemistry division such as pharmacology, toxicology, document examination, chemical trace evidence, fires and explosives. It's only the drug and alcohol branch so of course as soon as an issue comes up everybody just takes a deep breath I think and, 'Oh God, here we go again'.

519. The Assistant Director of the Chemistry Division provided his view of the situation:

I've described to Alastair as a fiefdom and I said we have a problem in that a fiefdom has advantages in that I know I only have to talk to one person and I'll get something done.

But if they don't want to do something, then it's very hard. And I'm not talking about corruption, I'm talking about ... the power dynamics in terms of that. And if we are to do a public service, we have to break that down.

520. As outlined earlier in this report, if procedures and processes for drug exhibits are not followed then it leaves Victoria Police, the Victoria Police Forensic Services Centre, the Drug and Alcohol Branch and individual forensic officers open to allegations of impropriety. This is clearly illustrated in a number of investigations in which Ms Quinn's actions with particular drug exhibits have been examined.
521. Over the past six years there have been three investigations that have involved Ms Quinn. It is my understanding that no evidence of corrupt behaviour by Ms Quinn was found and the allegations against her were found to be 'not substantiated'. Those matters related to:
- the supply of a substantial quantity of a chemical to a Drug Squad detective allegedly to be used for a police operation in South Australia²⁴
 - tardiness in returning exhibits that had been used in the stims project²⁵
 - spurious records created on the forensic case management system for training purposes.
522. An examination of those investigations identified two common and related themes: poor record-keeping by Ms Quinn and a failure to adhere to procedures that ensure accountability and transparency in the management of drug exhibits.
523. In response to my comments Ms Quinn responded:
- As indicated **no** evidence of corruption has been substantiated from the three investigations.
- However, ... two common themes; poor record-keeping and failure to adhere to procedures was [*sic*] identified. If so why have I **not** been notified of these failings, why have I **not** been given the opportunity to improve, why was I **not** provided any additional training or instruction, why was I allowed to continue on with the view that there was no issue or problem with my performance? [Ms Quinn's emphasis]
524. In relation to the provision of the chemicals to the Drug Squad detective it is noted that Ms Quinn confirmed to the Ethical Standards Department investigator that initially there was very little accountability for chemicals retrieved from the Drug and Alcohol Branch by members of the Drug Squad.

24 The drug squad detective and another drug squad officer sold the chemical to a criminal identity and were subsequently convicted and sentenced to a term of imprisonment.

25 Stims is a training aid used to stimulate the senses of dogs to detect drug odours.

525. In response, Ms Quinn stated:

... the centre was directed to hold any chemicals managed by the drug squad for their 'investigative' purposes as storage of these materials in their workplace was an unacceptable health risk. The preference of the officer responsible S/Sgt Strawhorn was to drop these out to us and just have us place them in then [sic] shipping containers we used for storage and he would send detectives out to collect as required – this practice is the little accountability to which I refer.

I refused to do this practice and insisted the items were entered and exited via the exhibit tracking system and that some note taking be made of these transactions. Thereby placing some accountability into the system – this was not well received by the drug squad/crime dept, and the then Director [name] had to insist this would occur.

526. The safe-keeping of chemicals was given to the Victoria Police Forensic Services Centre due to the Drug Squad's inability to store hazardous chemicals. There was no requirement for the Drug Squad to record the reason for lodging or removing chemicals.
527. The investigation by police into the activities of the corrupt police detective determined that the systems and processes in place at the Victoria Police Forensic Services Centre for the recording of these types of transactions were deficient.
528. A further example related to the delay in returning drugs attributed to the stims project. I have been advised that Ms Quinn received these drugs from the Forensic Evidence Management Unit and retained them for nearly six years.
529. This issue was investigated by an inspector from the Ethical Standards Department who made a decision that given the delay in Ms Quinn's returning the drugs it was necessary to determine if they were the same drugs as initially seized.
530. During the investigation, the police investigator identified a discrepancy in the stims register. The police investigator made comment that 'it would seem consistent with a less than satisfactory management culture that appears to have existed in the drug branch'.
531. I also note that despite correspondence between the Dog Squad and Ms Quinn about the need to maintain accurate records with specified details and a requirement to return any drugs held to the Drug and Alcohol Branch on a weekly basis for audit purposes, neither of these practices was maintained for any period of time.

532. In response to these matters, Ms Quinn stated:

... Our ability to maintain a weekly audit became operationally impossible for both my branch and the dog squad, this could have perhaps been more appropriately documented. As for the discrepancy, errors do occur in any record-keeping. This discrepancy may have been noted and dealt with in a timely manner if these records were oversighted by someone other than those involved.

Could improvements have been made, in hindsight yes, was I provided any feedback or senior support in these processes, no.

533. The final investigation related to a record created on the forensic case management system for training purposes. This entry was created on the Prime database by Ms Quinn and was discovered during an audit of drug holdings. The discovery of this entry resulted in an investigation by the Victoria Police Forensic Services Centre.

534. According to Ms Quinn the entry was generated as a test entry as part of a training exercise. At that time the forensic case management system did not have a training environment therefore any training exercises required the creation of actual live entries on the system. As the system only recognised persons employed by Victoria Police, the creation of an entry required the use of names from various members of forensic staff in a 'dummy' sense. The general practice was to use the names of officers not usually working on drug matters.

535. The investigation could not identify that the items recorded ever existed. Also the persons listed as the investigating officer and courier had no involvement with the items recorded as being received. It was also established that there were other spurious entries on the case management system that had been generated for training purposes.

536. Ms Quinn said in response:

When the Drug Branch practice of using training entries was raised as a concern (2006/7) and issues clarified as to what would be a preferred approach, practices within the branch were immediately altered and documented. Prior to this no one had questioned this training process or raised a concern in any training related audits.

The workload of the forensic officers in the Drug and Alcohol Branch

537. There is evidence that the workload of the Drug and Alcohol Branch has significantly increased over the past decade and until recently when an additional seven positions were allocated to the Clandestine Laboratories Unit, the branch had struggled to cope with its workload.

538. Ms Quinn indicated that she was only spending approximately 30 per cent of her time as a manager with the remaining time devoted to case work. She continued to work at clandestine laboratory crime scenes and consequently had a heavy workload. This focus on case management has been to the detriment of her management responsibilities.

539. In response, Ms Quinn said:

If there is a question on my performance there should be a greater question on why no governance oversight saw my being stretch [sic] to the limit as a high risk both for my career, my well-being and for Victoria Police.

540. A recent survey of forensic officers in the Chemistry and Biology Divisions revealed that 40 per cent of their working time is devoted to non-forensic work.

541. Currently forensic officers are undertaking many of the duties normally associated with the Forensic Exhibit Management Unit, for example recording details of the exhibit on the forensic case management information technology system, managing the storage of the drugs and undertaking audits of those items.

Conclusions

542. I consider that the management at the Victoria Police Forensic Services Centre did not take decisive action to ensure staff of the Drug and Alcohol Branch adhered to policies and procedures that were intended to provide an effective governance framework for the management of drug exhibits.

543. It is not satisfactory for senior executives to allow staff to ignore decisions made at senior management level. It is clearly in the interests of Victoria Police and the justice system that all work bans are lifted as soon as possible. If forensic officers continue to either refuse to return the exhibits to the Forensic Exhibit Management Unit or process exhibits for destruction then Victoria Police should consider this to be the possible basis for disciplinary action regarding the officers concerned.

544. The investigations of the allegations against Ms Quinn have revealed two common themes: poor record-keeping by Ms Quinn and a failure to adhere to procedures that ensure accountability and transparency in the management of drug exhibits. These raise concerns about the lack of judgement of Ms Quinn.

545. In response to these criticisms, Ms Quinn stated:

If I am guilty of a lack of judgment then it is in allowing myself to be given (dumped on) too many tasks and not taken the firm action that senior persons (even those outside the FSD) should have when it was obvious we were in trouble.

I consider that the management at the Victoria Police Forensic Services Centre did not take decisive action to ensure staff of the Drug and Alcohol Branch adhered to policies and procedures that were intended to provide an effective governance framework for the management of drug exhibits.

The investigations of the allegations against Ms Quinn have revealed two common themes: poor record-keeping by Ms Quinn and a failure to adhere to procedures that ensure accountability and transparency in the management of drug exhibits.

546. Over a number of years Ms Quinn has demonstrated a less than professional attitude towards the governance framework for drug exhibit management. This has been commented on by various Corporate Management Review Division reviews.

547. In response to this criticism Ms Quinn stated:

I am offended that there is a belief that my attitude is less than professional, I [am] probably a little cynical and extremely exasperated by the continual difficulties faced that never seem to be resolved and often lie beyond my sphere of control, I can not:

- o Reduce a backlog without the right resources
- o Fulfil my managerial role when I have too many other key deliverables
- o Hands on manage such a complex property store with a significant service growth rate without adequate specialist resources
- o Undertake auditing and compliance in an area I actively perform significant amounts of casework in
- o Find time to review and plan new strategies when my key staff are also swamped with more than one role
- o Make improvements when issues are not professionally table[d] for discussion and resolution
- o Be effective if everyone has an unfair opinion 'behind my back' about my failings but never appropriately informs me.

Also during the recent 2006 CMRD follow-up review the workplace relationship difficulties were in full flight and naturally my attitude was one of anger and exasperation over the criticisms launched at my branch and myself. When an area is subjected to the abuse and unprofessional actions, as we were it becomes difficult to clearly see the issues and much of the event becomes emotion driven.

I have never been reluctant to review and if determined appropriate change procedures. I have been resistant of a forced direction to change long standing documented procedure or practices without being afforded appropriate review especially when the change is encased by accusations of corruption, negligence or impropriety on my behalf or that of my staff. I have never had an 'I don't care attitude' and the actual expression of 'I can't do what you require without assistance...' should not be confused.

548. Because of the nature of the work of the Drug and Alcohol Branch, it is a high risk environment. Therefore it is essential that Victoria Police ensures the Manager of the Drug and Alcohol Branch sets an example for staff in complying with the procedures and policies that are intended to protect the integrity of the branch, the Victoria Police Forensic Services Centre and Victoria Police in managing drug exhibits.

549. In response Ms Quinn stated:

I agree that drug exhibits are high risk and require effective governance and auditing frameworks and add to this that there has been no intentional mismanagement within the Drug Branch.

550. Ms Quinn also stated:

If we are deficient in compliance then it is not the intention of our procedures within the branch, it maybe we need to improve these, it maybe the inter-relationship of other procedures. It may also be clash of cultures; science versus policing ...

551. What has been highlighted during my investigation is the urgent need to improve a number of the accountability arrangements for drug exhibits and to strengthen the auditing regime for these items. It has also identified the need to review the duties of those involved in the management of the Drug and Alcohol Branch to ensure that adequate attention is being given to their managerial responsibilities.

552. Ms Quinn indicated she would 'welcome the opportunity for appropriate review and resolution of such matters'.

Recommendations

I recommend that Victoria Police:

Recommendation 45

Review the Senior Management Team structure at the Victoria Police Forensic Services Centre in light of the issues raised in my report.

Recommendation 46

Give consideration to appointing a sworn member at the rank of Assistant Commissioner to manage the Victoria Police Forensic Services Centre.

Because of the nature of the work of the Drug and Alcohol Branch, it is a high risk environment. Therefore it is essential that Victoria Police ensures that the Manager of the Drug and Alcohol Branch sets an example for staff in complying with the procedures and policies that are intended to protect the integrity of the branch, the Victoria Police Forensic Services Centre and Victoria Police in managing drug exhibits.

Recommendation 47

Undertake an external review of the Drug and Alcohol Branch to:

- a) examine the roles, responsibilities and reporting arrangements of the senior managers, particularly the role of the Manager of the Drug and Alcohol Branch
- b) determine if additional resources should be allocated to the Drug and Alcohol Branch.

Victoria Police response

Recommendations accepted.

14. THE SPENCER REPORT

553. Once my investigation commenced, it was clear that expert advice was urgently required to address the shortcomings initially identified at the Victoria Police Forensic Services Centre. It was agreed that Victoria Police would employ an external consultant to examine the forensic procedures used by the Drug and Alcohol Branch.
554. Dr Terry Spencer was engaged. Dr Spencer has had 25 years experience in managing a variety of laboratories including chemical analysis of illicit drugs. He has also had 15 years experience as a laboratory accreditation assessor (ISO 17025) with the National Association of Testing Authorities and is a past member of the National Association of Testing Authorities Council and Board.
555. Dr Spencer benchmarked the findings from his review of procedures and practices at the Victoria Police Forensic Services Centre against national best practice. He defined best practice as an assessment against relevant standards, guidelines, reviews and reports produced by recognised authorities such as Standards Australia, government agencies, other police jurisdictions and subject matter experts.
556. Dr Spencer's review concentrated on laboratory procedures and methods including the handling of high risk material in laboratories. A summary of the key recommendations under five classifications are as follows:

1. Information technology

- Take steps to ensure that PaLM [the replacement forensic case management information technology system] can record relevant masses of seized drugs, their precise location (room, shelf, etc) within the Victoria Police Forensic Services Centre and the person who is accountable day-to-day for each exhibit, sample and sub-sample.
- Review the functions, operations and procedures associated with the chemical drug analysis database to ensure that the system is compliant with CLEDS standards and consistent with Victoria Police data integrity and information technology procedures.
- Advise Drug and Alcohol Branch staff that sharing of logons and passwords is a breach of Victoria Police Regulations and will not be tolerated.
- Develop procedures and/or systems (for example biometrics) for minimising inappropriate use of system/application logons/passwords with the new information technology system PaLM.

2. Procedures relating to sampling methods, recording and manuals to support those processes

- Update the Drug and Alcohol Branch procedures manual to reflect the actual procedures that are used when sampling and spot testing of drugs. This update to include full cross referencing to outside procedures, insertion of unequivocal sentences to remove any ambiguities, structure check, grammatical check and spelling check.
- Develop a more direct measurement method (mass of container including sample minus the mass of the empty container).
- Review the sampling protocols and assumptions contained in the Drug and Alcohol Branch procedures manual and method DAU.1 'sampling of exhibits for drug analysis' by a suitably qualified expert (metrologist and/or statistician) with a view to simplifying sampling procedures without compromising the validity of statements provided to court.
- Incorporate in a clear manner the procedures for sampling and spot testing seizures from non-contested drug matters into the Drug and Alcohol Branch procedures manual.
- Review the procedures for sampling and spot testing seizures from non-contested drug matters in the Drug and Alcohol Branch procedures manual.
- Review procedures in order to ascertain best practice in similar laboratories including non-forensic laboratories, for example use of a ball mill or similar as a means of decreasing the time required to homogenise drug exhibits (tablets and powders).
- Source alternative sample containers that are more robust and self standing to replace test tube sample storage containers.
- Record the mass of material used during testing procedures so that the mass of drug samples entering the laboratory can be reconciled with the mass of drug samples destroyed.
- Record sub-samples that are removed from a drug sample container on the sample containers and in the case notes pending the implementation of a more robust recording process.
- Review the Drug and Alcohol Branch procedures manual for completeness and correctness, specifically sections relating to the destruction of drugs and auditing of drugs. This review to incorporate appropriate cross references to other procedures and methods, both within the Drug and Alcohol Branch and outside the Drug and Alcohol Branch (Victoria Police Forensic Services Centre, Victoria Police etc).

- Develop and implement in the Drug and Alcohol Branch and, if deemed appropriate, in the Forensic Exhibit Management Unit a program of regular mass-based audits of all drug holdings based on risk management principles.
- Modify the procedure for acceptance of drug and drug related material exhibits to require measurement and transparency recording of the gross mass of the exhibit (contents and packaging).
- Modify the pre-destruction auditing of seizures of drugs and drug related material to include measurement and comparison with recorded gross mass.
- Assess the utility of having a common form for internal authorisation of destruction.
- Ensure that staff are aware of their security related responsibilities that drug handling and destruction is undertaken in a manner that does not compromise their positions as trusted employees and does not impinge on the integrity of the Victoria Police Forensic Services Centre and Victoria Police.

3. Staffing issues

- Investigate the feasibility of training select Forensic Exhibit Management Unit staff to undertake certain procedures associated with the sampling and/or spot testing of drug seizures.
- Review job descriptions and roles to determine if higher levels of security (protected or highly protected) are warranted for certain positions within the Drug and Alcohol Branch and the Forensic Exhibit Management Unit.

4. Auditing

- Introduce regular auditing of drug holdings based on risk management principles.
- Modify the pre-destruction auditing of seizures of drugs and drug related material to include measurement and comparison with recorded gross mass.
- Improve the process for the pre-destruction that includes allowance for selective auditing of drugs and drug related material.

5. Drug storage areas

- Rationalise a number of the drug storage areas. This should include decommissioning of the Drug and Alcohol Branch shopfront storage safe and the removal of bulk drug material from the Drug and Alcohol Branch storage rooms.

- Investigate the feasibility of physically incorporating the current Drug and Alcohol Branch shopfront functionality within an appropriate area of the Forensic Exhibit Management Unit. That responsibility for drug exhibit receipt be transferred to the Forensic Exhibit Management Unit.

557. I am in general agreement with Dr Spencer's conclusions and recommendations. In particular I consider there would be substantial benefit in moving the Drug and Alcohol Branch shopfront into the Forensic Exhibit Management Unit area and exploring the option of suitably trained Forensic Exhibit Management Unit staff undertaking spot testing of exhibits. I note that in many overseas law enforcement agencies, either a police officer or a technical forensic officer undertake this task.

558. Dr Spencer in his report also included comments and recommendations on several issues that my investigation considered. These areas include:

- handling of drugs
- storage of drugs
- destruction of drugs
- physical security
- data security
- record-keeping.

559. I agree with his views on these matters.

560. Although Dr Spencer's review was undertaken independently of my office, he met with my officers and shared his professional opinion about why so many issues affecting the management of drug exhibits have not been addressed over the years as follows:

I think if you want to use one of the clichés there's been a lot of work in the business and not on the business and that's because I'd suggest there's been too many bushfires possibly of their own making because they overheated the situation, I don't know, there may be a little of that and whatever reasons therefore people haven't been able to step back and look at the totality in a holistic manner. I suspect that's probably the reason.

561. He also provided a valuable insight into the culture underpinning the Drug and Alcohol Branch. It may explain the attitude they have adopted towards management's attempts to resolve the ongoing workplace issues when he said:

... the grape vines are very, very efficient in laboratories because people are brought together. They are together in their own laboratory then they go off to morning tea because for obvious reasons you can't eat in the lab and drink there so they're all together there so things spread there, then come back again at lunch time and spread things back there, back for afternoon tea so things spread there. So it's a very interesting sort [of environment]. Scientists aren't driven by money, they're driven by autonomy, that's a large driver ...

15. SUMMARY OF RECOMMENDATIONS

I recommend that Victoria Police:

Recommendation 1

Ensure the continuity of drug exhibits is recorded in case notes and on the forensic case management information technology system so that the actual holder of the drug exhibit is identified at all stages of processing.

Recommendation 2

Review the procedures to ensure accountability for chemical drug intelligence exhibits is improved, in particular that:

- a) the forensic case management system records the name(s) of the officer(s) who have possession of the exhibits
- b) a sub-item number relating to the case number is allocated for each sample and be recorded on the new forensic case management system to be introduced in February 2010.

Recommendation 3

Ensure each sample not expended during analysis is returned in an exhibit tamper-proof bag to the Forensic Exhibit Management Unit for destruction.

Recommendation 4

Introduce a secure tamper-proof exhibit bag and containers for drugs and chemicals as a matter of priority.

Recommendation 5

Develop a data cleansing strategy to ensure data integrity before migration to the new forensic case management information technology system (PaLM).

Recommendation 6

Adopt a consistent approach as to what details about drug exhibits will be recorded on the new forensic case management information technology system (PaLM) regardless of which store (the Forensic Exhibit Management Unit or the Drug and Alcohol Branch) holds particular drug exhibits.

Recommendation 7

Conduct a review of the security of the Forensic Exhibit Management Unit.²⁶

Recommendation 8

Ensure the use of the shipping container as a storage area for drugs is reviewed.²⁷

Recommendation 9

Upgrade the security of the various drug storage rooms and areas specified in my draft report.²⁸

Recommendation 10

Relocate the Drug and Alcohol Branch shopfront to a more secure area within the Victoria Police Forensic Services Centre.

Recommendation 11

Give the Forensic Exhibit Management Unit responsibility for managing exhibits in the DS1A store and the sampling and transfer station.

Recommendation 12

Rationalise the number of stores holding drug exhibits at the Victoria Police Forensic Services Centre.

Recommendation 13

Improve security for exhibits seized from illicit clandestine laboratories.²⁹

Recommendation 14

Reduce the time for the processing and recording of exhibits from clandestine laboratories on the forensic case management information technology system.

Recommendation 15

Specify in the procedures manual for the Clandestine Laboratories Unit that, wherever possible, exhibits seized from clandestine laboratories are securely stored in double-locked cages pending processing.

²⁶ The details of my recommendations relating to security matters were provided to and accepted by the Chief Commissioner of Police. For security reasons I have not reproduced the full text of these recommendations in this report.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

Recommendation 16

Review the documentation associated with the destruction of analytical samples.

Recommendation 17

Ensure the Drug and Alcohol Branch promptly return to the Forensic Exhibit Management Unit those drug exhibits which are subject to destruction orders.

Recommendation 18

Review the destruction of drug procedures to ensure consistency, accountability and clarification of legal requirements in relation to timelines.

Recommendation 19

Engage an independent expert consultant to review the handling of items seized from clandestine laboratories to determine the viability of on-site assessment and sampling of chemicals and an accredited contractor undertaking the destruction of the bulk chemicals and associated materials within 30 days.

Recommendation 20

Introduce a process whereby the bulk drug exhibits for contested and non-contested matters are destroyed before court proceedings and after the appropriate sampling has been conducted.

Recommendation 21

Minimise drug holdings at the Victoria Police Forensic Services Centre by developing a strategy to ensure destruction orders and officers' authority for the destruction of drug items are actioned promptly.

Recommendation 22

Issue an instruction that will ensure destruction orders and officers' authority for the destruction of drug items are received within a set timeframe.

Recommendation 23

Seek clarification about the application of section 81(3)(e) of the Drugs, Poisons and Controlled Substances Act to destroy drugs after the items have been held for several years at the Victoria Police Forensic Services Centre.

Recommendation 24

Ensure the Forensic Exhibit Management Unit and the Drug and Alcohol Branch adopt a consistent approach to the auditing of drug exhibits.

Recommendation 25

Ensure all samples taken from drug exhibits are allocated a sub-item number and thereby made accountable in the auditing program.

Recommendation 26

Record the weight of the drug item on the label attached to the exhibit bag.

Recommendation 27

Adopt a rolling audit program for drug exhibits involving:

- a) quarterly self-audits
- b) annual internal audits undertaken by trained auditors appointed by the Quality Innovation and Continuous Improvement Unit
- c) external audits undertaken by trained auditors every three years.

Recommendation 28

Ensure the auditing program is based on regular mass-based audits of all drug holdings.

Recommendation 29

Review the Drug and Alcohol Branch procedures manual and the Forensic Exhibit Management Unit procedures manual to ensure that the section relating to the auditing of drugs reflects the principles as identified in the AS/NZS 4757:2002 standard.

Recommendation 30

Ensure that prior to any powder drugs being destroyed the officers having responsibility for the pre-destruction audit randomly select a sample of the exhibits for spot testing and weighing. The forensic officers who were initially involved in the analysis of these exhibits should not have a role in this verification process.

Recommendation 31

Ensure the re-analysis of illicit drug case work is undertaken on a regular basis and in accordance with the Drug and Alcohol Branch procedures manual.

Recommendation 32

Review the training programs provided to forensic officers involved in the analysis of illicit drugs in other jurisdictions to determine if there are improvements that can enhance the training provided to trainee forensic officers in the Drug and Alcohol Branch.

Recommendation 33

Ensure the Victoria Police Forensic Services Centre's Quality Manager develops a process to resolve differences between branches about quality procedures and that process be reflected in the Victoria Police Forensic Services Centre's manual.

Recommendation 34

Update the Drug and Alcohol Branch procedures manual to reflect current practice.

Recommendation 35

Review the position of Quality and Assurance Manager for the Chemistry Division to ensure the quality management and continuous improvement functions have a priority and there is no potential conflict between the various functions undertaken by that officer.

Recommendation 36

Undertake an external review to determine if there are opportunities to fast track the development of trainee forensic officers so they can work on evidential cases.

Recommendation 37

Consider introducing compulsory workplace drug testing consisting of pre-employment drug screening and random drug testing for all staff involved with drug exhibits at the Victoria Police Forensic Services Centre.

Recommendation 38

Undertake a cost/benefit review to determine if it would be more beneficial to allocate the chemical drug intelligence resources to evidential cases to reduce the time delays with presenting certificates of analysis to the courts. The person undertaking the review to consult with all interested stakeholders including the Drug Task Force and the Crime Task Force on the value of the drug data reports and the drug seizure database.

Recommendation 39

Ensure the Corporate Management Review Division and the Ethical Standards Department develop a protocol that clearly specifies their respective roles and responsibilities and the process for communication when simultaneous investigations/audits are undertaken.

Recommendation 40

Conduct a full external audit of all drug holdings at the Victoria Police Forensic Services Centre as a matter of urgency.

Recommendation 41

Review its policy to ensure the Commander of the Corporate Management Review Division does not serve as a member of the Victoria Police Forensic Services Centre steering committee.

Recommendation 42

Develop guidelines for high risk and sensitive audits including any potential conflict of interest issues relating to the composition of the audit team.

Recommendation 43

Ensure an audit team is drawn from members that are operationally independent of the area to be audited.

Recommendation 44

Review the processes for sampling and analysing drug and chemical exhibits by the Drug and Alcohol Branch so the certificate of analysis is finalised promptly.

Recommendation 45

Review the Senior Management Team structure at the Victoria Police Forensic Services Centre in light of the issues raised in my report.

Recommendation 46

Give consideration to appointing a sworn member at the rank of Assistant Commissioner to manage the Victoria Police Forensic Services Centre.


Recommendation 47

Undertake an external review of the Drug and Alcohol Branch to:

- a) examine the roles, responsibilities and reporting arrangements of the senior managers, particularly the role of the Manager of the Drug and Alcohol Branch
- b) determine if additional resources should be allocated to the Drug and Alcohol Branch.

Victoria Police has accepted all of my recommendations.

Attachment 1: Item transactions sheet³⁰



VICTORIA POLICE

Parent Item Id Receipt No.
Original Item Id Trx No.

Item Transactions

Case No.	Item #	Item Description	Exhibit Description	Type	Adj. Qty	Trx status	Reason	Store Location	Store Officer	Action Officer	Parent Item Id	Receipt No.	Original Item Id	Trx No.
XXX	5	Pb cont compressed powder ex 29xpbs/pb		Drugs		RECEIVE	RN	SHOP	FORENSIC OFFICER					V
ETS	XXX	Pb cont compressed powder ex 29xpbs/pb		Drugs	1	28/10/2008 03:12 PM			POLICE INFORMANT					
XXX	5	Pb cont compressed powder ex 29xpbs/pb		Drugs		TRANSFER		DS1A1	ASST DIRECTOR CHEMISTRY					V
ETS	XXX	Pb cont compressed powder ex 29xpbs/pb		Drugs	1	13/01/2009 12:15 PM			TEAM LEADER	DRUG ANALYSIS UNIT				V

³⁰ For security reasons some details have been modified.

Attachment 2: Chemical Drug Intelligence – Timelines for processing exhibits³¹

Date received FEMU	Case number	Seizure date	Date issued to CDI Unit	Action taken	Court Order / Authority	Date returned to FEMU	Date destroyed	Delay from receipt by FEMU to destruction	Date data trend report forwarded to Drug Squad
TTT February 05 (15/2/05)	xxx (1 exhibit)	21/11/2003	2/01/08	Sampled but not yet analysed	Court Order	19/3/08	23/05/08	39 months	N/A
TTT March 05 (9/3/05)	xxx (2 exhibits)	21/11/2003	2/01/08	"	Court Order	27/02/08	23/05/08	38 months	N/A
TTT April 05 (7/4/05)	xxx (1 exhibit)	13/03/2003	2/01/08	"	Court Order	27/02/08	23/05/08	37 months	N/A
TTT May 05 Item 1 (21/7/04)	xxx (2 exhibits)	30/01/2004	7/04/05	"	Court Order	25/05/05	10/04/06	11 months	N/A
TTT June 05 (15/6/05)	xxx (1 exhibit)	14/08/2003	2/01/08	Heroin – insufficient for further testing	Court Order	9/04/08	23/05/08	35 months	N/A
TTT July 05 (20/7/05)	xxx (1 exhibit)	1/07/2004	2/01/08	Sampled but not yet analysed	Court Order	27/02/08	23/05/08	34 months	N/A
TTT August 05 (11/8/05)	xxx (1 exhibit)	12/05/2003	2/01/08	No drugs detected	Court Order	9/04/08	23/05/08	33 months	N/A
TTT November 05 (17/11/05)	xxx (1 exhibit)	11/03/2004	2/01/08	Amphetamines – insufficient for further testing	Court Order	18/03/08	23/05/08	30 months	N/A
TTT April 06 (21/4/06)	xxx (1 exhibit)	20/09/2004	8/05/06	Heroin – insufficient for further testing	Court Order	1/06/06	13/02/07	10 months	N/A
TTT May 06 (26/5/06)	xxx (1 exhibit)	4/05/2004	23/06/06	Heroin	Court Order	19/07/06	7/09/06	3.5 months	N/A

31 For security reasons some details have been modified.

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- 2009**
Own motion investigation into the Department of Human Services – Child Protection Program
November 2009
- Own motion investigation into the tendering and contracting of information and technology services within Victoria Police
November 2009
- Brookland Greens Estate – Investigation into methane gas leaks
October 2009
- A report of investigations into the City of Port Phillip
August 2009
- An investigation into the Transport Accident Commission's and the Victorian WorkCover Authority's administrative processes for medical practitioner billing
July 2009
- Whistleblowers Protection Act 2001*
Conflict of Interest and Abuse of Power by a Building Inspector at Brimbank City Council
June 2009
- Whistleblowers Protection Act 2001*
Investigation into the alleged improper conduct of councillors at Brimbank City Council
May 2009
- Investigation into Corporate Governance at Moorabool Shire Council
April 2009
- Crime statistics and police numbers
March 2009
- 2008**
Whistleblowers Protection Act 2001
Report of an investigation into issues at Bayside Health
October 2008
- Probity controls in public hospitals for the procurement of non-clinical goods and services
August 2008
- Investigation into contraband entering a prison and related issues
June 2008
- Conflict of interest in local government
March 2008
- Conflict of interest in the public sector
March 2008
- 2007**
Investigation into VicRoads driver licensing arrangements
December 2007
- Investigation into the disclosure of electronic communications addressed to the Member for Evelyn and related matters
November 2007
- Investigation into the use of excessive force at the Melbourne Custody Centre
November 2007
- Investigation into the Office of Housing's tender process for the Cleaning and Gardening Maintenance Contract - CNG 2007
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- Investigation into a disclosure about WorkSafe and Victoria Police handling of a bullying and harassment complaint
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- Own motion investigation into the policies and procedures of the planning department at the City of Greater Geelong
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- 2006**
Conditions for persons in custody
July 2006
- Review of the Freedom of Information Act
June 2006
- Investigation into parking infringement notices issued by Melbourne City Council
April 2006
- Improving responses to allegations involving sexual assault
March 2006
- 2005**
Investigation into the handling, storage and transfer of prisoner property in Victorian prisons
December 2005
- Whistleblowers Protection Act: Ombudsman's Guidelines
October 2005
- Own motion investigation into VicRoads registration practices
June 2005
- Complaint handling guide for the Victorian Public Sector 2005
May 2005
- Review of the Freedom of Information Act: discussion paper
May 2005
- Review of complaint handling in Victorian universities
May 2005
- Investigation into the conduct of council officers in the administration of the Shire of Melton
March 2005
- Discussion paper on improving responses to sexual abuse allegations
February 2005
- 2004**
Essendon Rental Housing Co-operative (ERHC)
December 2004
- Complaint about the Medical Practitioners Board of Victoria
December 2004
- Ceja task force drug related corruption - second interim report of Ombudsman Victoria
June 2004