



REPUBLIC OF SOUTH AFRICA

**JUSTICE CRIME PREVENTION AND SECURITY  
(JCPS) CLUSTER PROTOCOL IN RESPECT OF  
THE ANALYSIS OF BLOOD FOR ALCOHOL  
AND DRUGS BY THE FORENSIC CHEMISTRY  
LABORATORIES OF THE NATIONAL  
DEPARTMENT OF HEALTH  
("A & D PROTOCOL")**



**PARTIES TO THIS AGREEMENT**

**THE NATIONAL DEPARTMENT OF HEALTH**

(Represented by Dr K S Chetty, Acting Director-General)

AND

**THE SOUTH AFRICAN POLICE SERVICE**

(Represented by General B Cele, National Commissioner)

AND

**THE NATIONAL PROSECUTING AUTHORITY**

(Represented by Adv M Simelane, National Director of Public Prosecutions)

AND

**THE DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

(Represented by Ms N Sindane, Director-General)

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## Foreword

### Background & Persons Consulted

This protocol is one of two documents dealing with operational matters within this field of endeavour. The protocol in respect of toxicology is the tandem partner to this protocol and it has a dedicated focus on discovery forensics. The analysis in respect of alcohol is a defined process and as such requires less exploratory forensic techniques.

The following were consulted in person, by the circulation of documentation and through the medium of a private internet based discussion forum.

#### NDOH

- Prof M Freeman (Cluster Manager: Non-communicable Diseases and Chair: National Forensic Pathology Services Committee - also discussed in Committee meeting)
- Ms P Netshidzivhani (new Project Manager: FCLs and mortuaries) JHB and CT
- Lab Heads (Ms J van Rooyen (acting at JHB) and Mrs Schillack)
- FCL PTA - all staff
- Prof S Naidoo (Chair: Academic Sub-Committee of the National Forensic Pathology Services Committee)
- Ms V Thompson (Director: Forensic Pathology Service, Western Cape)
- Prof J Vellema (Chief Specialist & Head of Department, Forensic Pathology Service: Johannesburg)

#### SAPS

- Lt. Col MS Louw (Commander: Community Service Centres and Courts, Division: Visible Policing, SAPS National Head Office)
- Col. A Lamprecht (Section Head: General Investigations: Investigation Support, SAPS National Head Office)

#### NPA

- Adv. B Smith (Deputy Director of Public Prosecutions, National Prosecuting Authority of South Africa)

#### DoJ&CD

- Adv. P du Rand (Chief Director: Court Services, Department of Justice and Constitutional Development)

The two protocols referred to above are to be signed by the National Departments who shall follow established channels for the implementation thereof at provincial levels.

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**WHEREAS** Cabinet, on 7 November 2007, approved, in terms of the Review of the Criminal Justice System (CJS Review), a package of seven fundamental and far-reaching transformative changes (“the CJS Seven-Point-Plan”) that must be adopted and implemented in an integrated and holistic manner to achieve a new dynamic and coordinated Criminal Justice System;

**AND WHEREAS** the CJS Seven-Point-Plan adopted by Cabinet provides that practical short term solutions to improve the performance and effectiveness of the overall CJS must be developed and actions initiated to implement these solutions;

**ACKNOWLEDGING** that the Forensic Chemistry Laboratories administered by the National Department of Health perform a vital function with regard to the forensic analysis and adducing of evidence in a number of criminal cases;

**AND NOTING** that the Forensic Chemistry Laboratories have over a considerable period experienced considerable capacity challenges and significant backlogs;

**AND IN ORDER TO ENSURE** that the services of the Forensic Chemistry Laboratories are optimally utilised with regard to the analysis of evidentiary material in criminal cases and that minimum service requirements are adhered to;

**THE PARTIES HEREBY AGREE AS FOLLOWS:**

### ARTICLE 1

#### INTERPRETATION

1. In this A & D Protocol, unless the context otherwise requires—
  - (a) “**Department of Justice**” means the Department of Justice and Constitutional Development;
  - (b) “**FCL**” means a Forensic Chemistry Laboratory of the National Department of Health;
  - (c) “**Investigation Officer**” means a member of the South African Police Service responsible for the investigation of any offence or any member acting under his or her command;

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- (d) **“Law enforcement agency”** means any law enforcement agency that, in the course of the performance of its official functions, is competent or required to take and/or submit samples to the FCLs for scientific analysis, including samples covered by this A & D Protocol or by other protocols etc including ante- and post-mortem blood for alcohol analysis and biological samples such as blood;
- (e) **“NDOH”** means the National Department of Health;
- (f) **“OCJSR”** means Office for Criminal Justice System Reform, which is responsible for the Review of the Criminal Justice System, presently being undertaken by the Cabinet and which shall undertake the duties prescribed for the OWR until such time as the OWR is duly constituted;
- (g) **“Police official”** means any member of the South African Police Service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995);
- (h) **“OWR”** means the Operational War Room established to oversee the implementation and monitor this Protocol;
- (i) **“NPA”** means the National Prosecuting Authority established by section 179 of the Constitution and referred to in section 2 of the National Prosecuting Authority Act, 1998;
- (j) **“Sample”** means any substance intended for scientific analysis by a FCL;
- (jk) **“SAPS”** means the South African Police Service established by section 5(1) of the South African Police Service Act, 1995.

2. This Protocol may be cited as the “A & D Protocol”.

### ARTICLE 2

#### OBJECTIVES

The objectives of this A & D Protocol are to promote, facilitate and regulate cooperation between the FCLs, the SAPS, the NPA and the Department of Justice in order to ensure the optimal utilisation of the FCLs in the criminal justice system and to agree upon minimum service delivery requirements.

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## **ARTICLE 3**

### **SERVICE LEVEL GUIDELINES AND OPERATIONAL DIRECTIVES FOR FCLs**

1. The Operational Directives contained in the Schedules and in the Annexure to this agreement must be used to inform the formulation of Departmental Standing Operational Instructions, Directives or the equivalent thereof, instituted by each signatory to this A & D Protocol.
2. The Operational Directives may from time to time be amended by the signatories to this A & D Protocol or their delegates, in the manner determined by those signatories.
3. The successful implementation of the Operational Directives is dependent on the full cooperation of all role players.
4. The relevant Operational Directives shall be reflected within the Departmental Standing Operational Instructions, Directives or the equivalent thereof, by each signatory to this A & D Protocol.
5. The reports detailed in Schedule B must be used to measure the performance of the individual FCLs.
6. Officials designated by the signatories to this A & D Protocol must report to each of the signatories to this agreement and to the Operational War Room (OWR) when service levels fall below those specified in this A & D Protocol and once such notice is given the responsible official must issue an update on corrective measures being taken in each succeeding calendar month until the specified service levels are achieved.

## **ARTICLE 4**

### **ARRANGEMENTS FOR IMPLEMENTATION AND MONITORING**

1. The OCJSR must, until such time as the OWR in the OCJSR is established, oversee the implementation of this A & D Protocol and until such time as the OWR is established the roles, responsibilities and duties of the OWR must be undertaken by the OCJSR.



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2. The Operational War Room is responsible for the following—
  - (a) overseeing the application of this A & D Protocol;
  - (b) making recommendations to the signatories to this A & D Protocol and other relevant role players;
  - (c) providing assistance or advice to any relevant role player regarding the application of this A & D Protocol;
  - (d) reviewing and reporting upon the implications of any report covering service levels issued in terms of Article 3 point 6 of this A & D Protocol to the signatories to this A & D Protocol; and
  - (e) recommending amendments to the A & D Protocol to the signatories to this A & D Protocol.
  
3. In fulfilling the functions set out in paragraph 2, the OWR must, where appropriate, make use of relevant national, provincial and local structures within the Criminal Justice System.

### ARTICLE 5

#### ENTRY INTO FORCE

This A & D Protocol shall enter into force on the \_\_\_\_ day of \_\_\_\_\_ 2010

### ARTICLE 6

#### COMPLIANCE

This A & D Protocol is binding on all employees within the Government Departments that are signatories to the A & D Protocol.

**ARTICLE 7**

**ENDORSEMENT AND ADOPTION**

This A & D Protocol was endorsed and adopted by the JCPS Cluster on the \_\_\_\_\_day of \_\_\_\_\_ 2011. The JCPS Cluster regards the provisions of this A & D Protocol to be binding and the violation of any aspect thereof should lend itself to the institution of disciplinary proceedings.

**IN WITNESS WHEREOF, WE** the undersigned representatives have signed this A & D Protocol.

\_\_\_\_\_  
**Dr K S Chetty**  
**Director-General, Department of Health**  
**Date:** \_\_\_\_\_

\_\_\_\_\_  
**General B Cele**  
**National Commissioner, South African Police Service**  
**Date:** \_\_\_\_\_

\_\_\_\_\_  
**Adv M Simelane**  
**National Director of Public Prosecutions**  
**Date:** \_\_\_\_\_

\_\_\_\_\_  
**Ms N Sindane**  
**Director-General, Department of Justice and Constitutional Development**  
**Date:** \_\_\_\_\_

**SCHEDULE A**

**SERVICE LEVEL GUIDELINES AND OPERATIONAL DIRECTIVES FOR FCLS**

**A1. OVERVIEW**

**a. INTRODUCTION**

Each FCL shall, by the 14<sup>th</sup> of each month, forward to each of the signatories to this A & D Protocol and to the OWR a schedule of services delivered as more fully described in Schedule B.

Sampling, packaging, sealing, storing and transporting of samples is a critically important service delivery enabler as these matters impact on the chain of custody, as well as the scientific integrity of the samples tested. Non-compliance with guidelines contained in this agreement place the analyses performed at risk of not meeting requirements for admissibility as evidence in a court of law.

This A & D Protocol requires the signatories to this agreement to minimise any unnecessary analyst attendance at court proceedings. Certificates issued by FCLs should be sufficient for court purposes. Where an analyst is subpoenaed to testify regarding the analyses, the analyst shall attend court notwithstanding the issue of a certificate that meets the defined requirements. The subpoena of analysts should be the exception and not the rule, and should adhere to the guideline detailed in Annexure E regarding the time needed by an analyst to prepare for the court case and to arrange air or road transport.

This A & D Protocol serves as a binding agreement upon all stakeholders. It (and the Annexure associated with it) outlines, in detail, the performance expectations of the stakeholders. It also specifies the documentation needed with the submission of samples to the FCLs, which sampling containers to use and in what timeframe samples must be delivered to the FCLs. Contact details of offices where specific problems must be reported form part of this A & D Protocol, for example, unsealed samples received at the Johannesburg FCL from the SAPS must be reported to the office of the Provincial Commissioner of the SAPS.

### **b. BLOOD ALCOHOL AND DRUG ANALYSES**

This is the analyses of ante-mortem and post-mortem blood for the presence of alcohol (ethanol) or drugs.

Law enforcement agencies may make use of breathalysers for prosecution of offenders relating to driving under the influence of alcohol. Where such equipment is not available or if additional evidence is required, blood may be drawn from the driver of a vehicle, and the sample taken transported to an FCL for blood alcohol analyses.

The result of the analysis is utilised by the pathologist when determining the cause of death (post-mortem blood alcohol and drug analyses) or by the Court to decide whether or not a person was under the influence of alcohol or drugs whilst driving (ante-mortem blood alcohol and drug analyses).

The blood is taken by a doctor or nurse at a clinic or hospital in the case of a person apprehended for suspected driving under the influence of alcohol or drugs, or by a pathologist at a Forensic Pathology Services mortuary in the case of a fatality. Samples are collected and sealed in a prescribed way (Annexure A: Sampling, sampling kits, sealing of samples and documentation required). The blood is transported (Annexure B: Sample storage and transportation) to the relevant FCL for analyses. Receipt is acknowledged and the samples are registered on the Laboratory Information Management System (LIMS) after which a laboratory reference number is issued (Annexure D: Rejected samples, sample receipt, storage and analyses at FSL's).

At the FSL, blood samples are kept in cold storage in an access-controlled environment. The samples are allocated to an analyst who analyses the samples. The result is reported on in the form of a certificate in terms of Section 212 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). These certificates are available only to the Forensic Pathology Services mortuaries, SAPS and Court officials. Duplicate reports (certified copies or copies) are available on written request as per the procedure described in Annexure C: Enquiries. No insurance companies or next of kin are provided with case related information or duplicate reports.

A Forensic Pathology analysis may be prioritised, upon written request from the SAPS or the NPA where this is required e.g. a pending court date involving foreigners, minors etc. The procedure for asking for prioritisation of samples is detailed in Annexure C.

**A2. SCOPE OF FCL SERVICES**

**a. INCLUSIONS**

The FCLs analyze post and ante mortem blood samples for the presence of alcohol or drugs in instances of suspected driving under the influence of alcohol or drugs if requested in terms of the National Road Traffic Act, 1995 (Act No. 16 of 1995). These test results can be used as evidence in a Court of Law.

The FCLs analyze samples for the presence of alcohol or drugs in instances of suspected crimes committed under the influence of alcohol or drugs. These test results can be used as evidence in a Court of Law.

Post mortem blood is tested for the presence of carbon monoxide in order to assist the pathologists to conclude on the cause of death.

**b. EXCLUSIONS**

No tests are performed by the FCLs for insulin, DNA testing, HIV testing, weapons and ammunition, snake or spider poison, drugs or suspected drugs confiscated at ports of entry, made in illegal factories (clandestine laboratories) or found on people (possession of drugs), blood or urine of suspected drug dealers, or random drug testing at schools.

Dog-poisoning case samples are also not analyzed by the FCLs.

**A3. ROLES AND RESPONSIBILITIES**

**a. SAPS**

The SAPS is responsible for ensuring that blood samples are taken when persons are apprehended for suspected driving under the influence of alcohol, or where a crime has occurred and it is suspected that alcohol intoxication played a role. These suspects are taken to hospitals or clinics where a doctor or nurse withdraws blood for blood alcohol analyses. These samples need to be kept in circumstances where their integrity is protected, in other words, a chain of custody needs to be maintained, and the samples need to be kept in a refrigerator. These samples are hand-delivered to the relevant FCL for analysis within 30 calendar days after sampling. In circumstances where this is not practical the guideline issued in terms of para 3.5 below for the preservation of such samples shall be followed.

The SAPS are responsible for maintaining the integrity of samples in terms of Annexure B Sample storage and transportation.

### **b. MUNICIPAL AND METRO POLICE DEPARTMENTS**

Suspects apprehended by Municipal and Metro Police Departments for allegedly driving under the influence of alcohol or driving under the influence of drugs with a narcotic effect must be taken to the nearest SAPS station in order to open a case docket and to obtain a case number. The suspect must then be taken to a hospital or clinic where a doctor or nurse withdraws blood for blood alcohol or drug analyses. This sample, together with the suspect, must be handed over to the SAPS station where the case was originally opened. The SAPS then delivers the sample to the relevant FCL for analyses (see para 1 above).

### **c. MILITARY POLICE**

Blood samples taken from members of the National Defence Force suspected to be under the influence of alcohol or drugs with a narcotic effect whilst driving a vehicle are obtained by the Military Police much in the same way as described above and must be hand-delivered at the relevant FCL.

Biological samples must be maintained in terms of Annexure B.

### **d. FORENSIC PATHOLOGY SERVICES MORTUARIES**

Pathologists are responsible for performing the autopsy, removing samples for analysis and for determining the cause of death. Biological samples taken in the case of an unnatural death in order to determine the presence or absence of drugs, poisons or other harmful substances are handed over to the SAPS contact/liasion person at the mortuary to facilitate the receipt and distribution of the samples and correspondence between the stakeholders. The appointed SAPS contact persons at mortuaries must document the forwarding, by the SAPS, of samples sent for analysis.

A schedule of SAPS contact/liasion persons at each mortuary and NDOH contact persons at each FCL shall be provided to each signatory to this A & D Protocol and to the OWR within 30 days of this FCL coming into force and it shall be updated each month by the seventh of the month in the event of a change in any appointment. This schedule shall detail the name and

rank of the person so appointed, a contact email address and telephone number for that person.

**e. FCLs**

The FCLs are responsible for analysing samples of persons suspected to have been driving under the influence of drugs or alcohol, or if a crime has been committed and it is suspected that alcohol or drug intoxication played a role.

The FCLs are responsible for preserving the integrity of samples received and shall take the steps necessary to do so, which shall include electrical backup arrangements to guard against a power failure that may otherwise affect the preservation of samples.

It shall be the duty of each FCL to make arrangements to ensure the availability of resources required to perform analysis. A backup emergency supply of critical compounds such as nitrogen must be carried at all times on or off site by contracted suppliers and in circumstances of non-compliance, appropriate penalty provisions contained in contractual appointments must be enforced.

A contact/liason person shall be appointed at each FCL and a schedule thereof shall be notified to each signatory to this A & D Protocol and to the OWR within 30 days of this FCL coming into force and it shall be updated each month by the seventh of the month in the event of a change in any appointment. This schedule shall detail the name and position of the person so appointed, a contact email address and telephone number for that person.

Service hours and availability are specified in Annexure G.

**f. NATIONAL PROSECUTING AUTHORITY**

Evidence gathered by the SAPS and scientific evidence obtained by the FCLs are used in the prosecution of a suspect.

In order that certificates and affidavits issued by FCLs are sufficient for court purposes the NPA shall advise the FCLs from time to time of the minimum requirements for the issue of such certificates.

**SCHEDULE B**

**MONTHLY FCL SERVICE DELIVERY REPORTS**

Detailed below is a sample report. The data and notes are for illustrative purposes only

**B1: Production Report**

FCL Cape Town	FCL Johannesburg	FCL Pretoria
<b>Staffing Capacity</b>	<b>Staffing Capacity</b>	<b>Staffing Capacity</b>
No of working staff	No of working staff	No of working staff
No of posts with No of vacancies	No of posts with No of vacancies	No of posts with No of vacancies
Equivalent Analyst Capacity: No	Equivalent Analyst Capacity: No	Equivalent Analyst Capacity: No
<b>Measured Output / Production Per Month</b>	<b>Measured Output / Production Per Month</b>	<b>Measured Output / Production Per Month</b>
No of Drunken Driving	No of Drunken Driving	No of Drunken Driving
No of PM Drunken Driving	No of PM Drunken Driving	No of PM Drunken Driving
<b>Production average per equivalent analyst (Hrs/std hrs pm per analyst)</b>	<b>Production average per equivalent analyst</b>	<b>Production average per equivalent analyst</b>
No of Drunken Driving	No of Drunken Driving	No of Drunken Driving
No of PM Drunken Driving	No of PM Drunken Driving	No of PM Drunken Driving
<b>Finalised Reports not collected</b>	<b>Finalised Reports not collected</b>	<b>Finalised Reports not collected</b>
No	No	No

**Notes on Non- Personnel Matters etc:**

Detail here other matters e.g. The JHB FCL is in the process of being refurbished and staff have limited access to the laboratories. Nitrogen availability. Equipment downtime, etc.



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## B2: Capacity Report

Post level	Total posts	Vacant posts	Filled posts	Analysis staff	Analysis staff theoretical capacity	Diverted time to court etc	Total analysis time	BA analysis time	Equivalent BA analysts
12									
10									
9									
8									
6									
5									
4									
3									
2									
<b>Total</b>									

**Notes:**

Analysis capacity pm: No of hrs =

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### B3: Volumes and Backlogs Report

#### Volumes and Backlogs Report

<b>Volumes and sample aging (per sample category: BA DD &amp; BA PM)</b>					
E.g. BA: DD	FCL Cape Town	FCL Johannesburg	FCL Pretoria	OWR Advisory	
Opening Balance					
Received					
Production					
<b>Closing Balance</b>					
<b>Sample Aging – This section to be repeated for each sample category</b>					
O/S Prioritised < 1 Mth > 1 < 2 Mths > 2 < 3 Mths > 3 < 4 Mths > 4 < 5 Mths > 5 < 6 Mths > 6 Mths < 1 Yr > 1 < 2 Yrs to be continued per year thereafter					
Total Aged Samples					
Closing Balance					
<b>Backlogs</b>					
From sample receipt to competed report	FCL Cape Town	FCL Johannesburg	FCL Pretoria	OWR - Advisory	
BA: DD - Weeks					
BA: PM -Weeks					
Food - Weeks					
<b>Prioritized listing per individual case</b>					
FCL Lab Number	CAS Number	Category	Date prioritisation requested	Turnaround weeks	
<b>Prioritized listing per individual case</b>					
FCL LAB No Notes:	CAS Pretoria North	BA category	Date prioritisation requested	Turnaround weeks	Reason Category e.g. Foreigner Court date Child etc
Notes:					FIFA Foreigner

**B4: Outlook and Recommendations**

Details to be provided by each FCL.

## **Annexure A: Sampling, sampling kits, sealing of samples and documentation required**

### **A1. Toxicology**

#### **A1.1 At the Forensic Pathology Services mortuary**

##### **A1.1.1 Sampling: The autopsy**

At least 5ml of blood.

##### **A1.1.2 Kits to use:**

Only the prescribed toxicology kit and the post-mortem blood alcohol kit must be used. Kits must be procured by the individual Forensic Pathology Services mortuaries from the National Tender: NDOH 34/2008-2009 (Toxicology kit) or NDOH 11/2009-2010 (post-mortem blood alcohol). Thebe Medical can be contacted at 011 699 2700 to place orders for these kits.

**The Toxicology Kit** is to be used for multiple samples from a single body for toxicology analysis and includes:

- an outer tub, sealed in a poly-bag by the manufacturer;
- one permanent marker, one glass McCartney bottle containing sodium Fluoride and Potassium Oxalate and labelled “Blood”, two tamper evident seals with serial number reflected by the barcode for re-sealing after sampling, instruction leaflet “FCL002”, and a Post Mortem Toxicology Referral Form “FCL001”(to be completed by the pathologist), all packaged in a poly bag.

**The Post-mortem Blood Alcohol Kit** is to be used for single samples of biological fluid for ethanol, drugs and/or carbon monoxide analyses and consists of:

- a polystyrene container with bar-coded tamper proof strip seals;
- the container will contain two strip seals for re-sealing, a McCartney bottle containing sodium Fluoride and Potassium Oxalate, instruction leaflet and a request for the analysis of sample: blood/ eye fluid form “FCL003”(to be completed and signed by the pathologist).

\*Note: Please check the expiry date on each individual kit. No expired kits will be accepted.

**A.1.1.3 How to seal:**

**Post-mortem blood alcohol kit** – The Forensic Pathology Officer should use the two strip seals in the kit for re-sealing. Push the seal through the holes and plastic tube on the side of the container and through the hole in the seal, and pull closed. Secure the seals firmly without damaging the polystyrene.

**A.1.1.4 Documentation required:**

New documents that have been implemented will replace the old SAPS 387 (a) & (b) forms. The documents include a form for the submission of blood samples for alcohol (ethanol), drugs and carbon monoxide testing (FCL003), completed and signed by the pathologist. ONE FCL003 form must be completed PER SAMPLE submitted. No FCL003 forms on which multiple specimens are recorded will be accepted by the Laboratory. The documents must be completed in full and in duplicate, signed and stamped prior to submission to the laboratory. A copy of the document (not packaged within the kit) must be submitted when delivering the kit to the Laboratory.

The Forensic Pathology Services mortuary is responsible for making its own copies of the completed original documentation (FCL001 and FCL003), as the original documentation must be handed in at the laboratory with the kit. The laboratory will provide the SAPS official responsible for sample delivery with a unique bar-coded sticker on the copy after receiving the sample. Relevant accompanying documentation must not be sealed in the container that contains the sample. If the accompanying documentation is sealed in the container with the specimens, it will be rejected at the laboratory. (The original FCL001 must be inserted into the pouch provided for it on the outside of the Toxicology kit.)

**A.1.2 At the SAPS**

**Additional/ Physical Exhibits:** non-biological samples collected on a death scene for analyses for the presence of drugs, poisons or other harmful substances.

**A1.2.1 Sampling of additional exhibits**

Additional exhibits include all drug paraphernalia such as syringes or pure drugs, or bottles or containers containing substances and empty containers found on the death or incident scene. These exhibits must not be separated from the biological samples submitted to the Forensic Chemistry Laboratories, as the physical exhibits

are analysed by the analyst first in order to get an indication of what compound to test for in the biological material.

**A.1.2.2 Kits to use:**

SAPS FSL exhibit sealing bags must be used for packaging of additional Toxicology exhibits.

**A.1.2.3 How to package and seal exhibits:**

Physical exhibits packaged in envelopes or small boxes can be sealed using SAPS FSL exhibit sealing bags. Ensure, however, that all containers are appropriately labelled (take care to include the SAPS 13 No., Station and CAS number), and that the correct documentation (SAPS 384) is packaged separately from the exhibit. Multiple exhibits related to the same case must still, however, be sealed individually.

**A.1.2.4 Documentation required:**

The SAPS 384 form must be completed in duplicate for each individual exhibit. The SAPS 13 No., Station and CAS number, as well as the seal number needs to be reflected on the SAPS 384. The analysis required should also be specified on the SAPS 384.

**A.1.2.5 Attending the Autopsy**

The investigating officer, or the detective on stand-by who attended to the unnatural death if an investigating officer has not been allocated at the time, must attend the autopsy (SAPS directive 3/1/5/1/148 dated 2007-01-19 has relevance).

**A.1.2.6 Documentation required for biological samples sampled at the Autopsy:**

See A.1.1.4 above.

**A.2 Ante-mortem Drunk Driving Analyses**

**A.2.1 At the SAPS**

**A.2.1.1 Sampling:**

The doctor or nurse is responsible for sampling. Please note that no methylated spirits or any other alcohol containing liquid must be used to clean the area where the blood will be sampled. The blood has to be drawn within two hours of the accused being apprehended in order to stay within the requirements of Article 65(3) of the Road Traffic Act, 1996 (Act No. 93 of 1996).

### **A.2.1.2 Kits to use:**

The SAPS official provides kits to the doctor or nurse at the roadblock, hospital or clinic. All stations are responsible for obtaining their own kits for drunken driving cases (ICN 6550180027818). National SAPS Logistics procures the kits from Thebe Medical. Contact the SAPS National Logistics at 012 841 7634 should any problems be experienced regarding obtaining the kits for the sampling of blood for blood alcohol analysis.

### **A.2.1.3 How to seal:**

Use the two strip seals in the kit for re-sealing. Push the seal through the holes and plastic tube on the side of the container and through the hole in the seal, and pull closed. Secure the seals firmly without damaging the polystyrene. **The SAPS official must not accept the sample from the medical official if it is unsealed or not sealed correctly.** Ensure that all containers are appropriately labelled with the spaces provided for the SAPS 13 No., Station and CAS number completed correctly, and that the correct documentation (SAPS 384) is packaged separately from the exhibit.

### **A.2.1.4 Documentation required:**

The SAPS 384 document must be completed in duplicate, date stamped and delivered to the laboratory together with each specimen. One form must be completed per specimen. No other document will be accepted with the specimen. The SAPS 384 form must accompany all blood specimens submitted for alcohol analysis. The following information must be included:

- The SAPS 13 No., Station and CAS number must be provided on the form.
- A clear indication of what test is required i.e. Alcohol. This must clearly be indicated on the SAPS 384.
- The origin of the blood sample i.e. from a suspect caught driving under the influence of liquor.
- An official SAPS station stamp.
- The complete details of the officer delivering the sample to the laboratory (this must include rank, name, surname and persal number) must be clearly written and visible.

The laboratory will provide the SAPS official with a unique bar-coded sticker on their copy after receiving the sample. Relevant accompanying documentation must not be sealed in the container that contains the sample. If the accompanying

documentation is sealed in the container with the specimens, it will be rejected at the laboratory.

### **A.2.2 At the Municipal and Metro Police Departments:**

#### **A.2.2.1 Sampling:**

1. The Municipal or Metro Police Department (MPD) official makes the arrest.
2. The MPD official takes the arrestee to a SAPS station.
3. The MPD official submits a sworn statement (A1 statement).
4. The MPD official or an SAPS member opens a docket.
5. The docket is registered on the Crime Administration System (CAS) and a CAS-number is obtained.
6. The arrestee is detained as a suspect [Entries are made in Occurrence Book (SAPS 10) and Custody Register (SAPS 14)].
7. The arrestee/suspect is taken with a Blood Alcohol Kit to a doctor/clinic by the MPD official or a SAPS member (depending on the instruction of the Station Commander).
8. The doctor/nurse at the hospital/clinic draws blood within two hours of the suspected offence and certifies the arrestee/suspect in writing.
9. The arrestee/suspect is taken back to the SAPS station.
10. The Blood Alcohol Kit is booked into the Property Register (SAPS 13) and placed in a fridge in a safe.
11. The statement of the SAPS member or MPD official, as well as the certificate obtained from the doctor/clinic are entered in the docket.

For more details on sampling see A.2.1.1 above.

#### **A.2.2.2 Sampling Kits:**

The arrestee/suspect is taken with a Blood Alcohol Kit, obtained from the SAPS station (**see A.2.1.2 above**), to a doctor/ clinic by the Metro member or an SAPS member (depending on the instruction of the Station Commander). The ante-mortem blood alcohol kit (procured from the National SAPS Tender:) is to be used for samples of blood of live people for alcohol or drug analysis in terms of the Road Traffic Act, and consists of:

- A polystyrene container with bar-coded tamper proof strip seals;
- The container will contain two strip seals for re-sealing, a McCartney bottle containing sodium Fluoride and Potassium Oxalate, instruction leaflet and a request for the analysis of sample: blood/ eye fluid form “FCL003”(to be completed by the doctor or nurse).



**A.2.2.3 How to seal:**

See A.2.1.3 above.

**A.2.2.4 Documentation required:**

See A.2.1.4 above.

**A.3 Post-mortem Drunk Driving analyses**

**A3.1 The Forensic Pathology Services mortuary**

**A.3.1.1 Sampling:**

At least 5ml blood, from the femoral or axillary vessels, or at least 2ml eye-fluid, if blood is not available, must be sampled by the pathologist.

**A.3.1.2 Kits to use:**

The post-mortem blood alcohol kit (procured from the National Tender: NDOH 11/2009-2010) is to be used for post-mortem samples of blood for alcohol, drugs and carbon monoxide analysis. If enough blood cannot be obtained for separate samples for each substance requested, one sample can be submitted. Eye-fluid for alcohol analysis can be submitted only if blood cannot be obtained. The post-mortem kit consists of:

- A polystyrene container with bar-coded tamper proof strip seals;
- The container will contain two strip seals for re-sealing, a McCartney bottle containing sodium Fluoride and Potassium Oxalate, instruction leaflet and a request for the analysis of sample: blood/ eye fluid form “FCL003”(to be completed by the pathologist).

**A.3.1.3 How to seal:**

See A.2.1.3 above.

**A.3.1.4 Documentation required:**

The form for the submission of blood samples for alcohol (ethanol), drugs and carbon monoxide testing (FCL003) as described in A.1.1.4 above.

## **Annexure B: Sample storage and transportation**

### **B1. At the SAPS**

#### **B.1.1 How to store:**

All samples must be recorded in the property register (SAPS 13) of the Community Service Centre (CSC) in accordance with SO(G) 333.1.3. When recorded in the Property or Exhibit Register, the Commander in the CSC must check that the entry has been made correctly, and that the sample has been sealed and marked properly and sign in column 4.5 of the SAPS 13 Register as proof that he/she has checked the seal and markings (SO(G) 334.3.4 and 334.5). The Commander must also ensure that these samples are kept safely until the SAPS13 official takes receipt thereof (SO(G) 335.1, 335.2, 335.6 and 335.7). The samples (additional exhibits as defined in A.1.2) must be kept in a fridge in the SAPS 13 store for no longer than one month at 0 to 4 °C before delivery. The seal number and CAS number must be recorded in SAPS 13 register - these are the only acceptable numbers to use.

#### **B.1.2 How to transport:**

The SAPS official/investigating officer is responsible for ensuring the transporting of the biological, as well as the non-biological samples to the laboratory. Samples will be taken to nodal points that have been identified in each province. Staff members specifically assigned by the respective Provincial Commissioners will transport the samples to the various FCLs. See B.1.1 above for more details on the transport of samples.

### **B.2. Ante-mortem Drunk Driving analyses**

#### **B.2.1 At the SAPS**

##### **B.2.1.1 How to store:**

For the storage of ante-mortem blood samples, see B.1.1 above.

##### **B.2.1.2 How to transport:**

See B.1.2 above for more details on the transport of samples.

#### **B2.2 At the Municipal and Metro Police Departments**

##### **B.2.2.1 How to store:**

Ante-mortem blood samples are not to be stored at the Metro Police Department. For storage see B.1.1 above.

**B.2.2.2 How to transport:**

Ante-mortem blood samples are not to be transported to the FCLs by the Metro Police Department. For transport of samples see B.1.2 above.

**B3. Post-mortem Drunk Driving analyses**

**B3.1 Forensic Pathology Services mortuary**

**B.3.1.1 How to store samples:**

See B.1.1 above.

**B.3.1.2 How to transport:**

See B.1.2 above.

## **Annexure C: Enquiries**

### **C.1 Ante-mortem Drunk Driving analyses**

#### **C.1.1 SAPS**

1. All queries must be in writing.
2. Should a test result be outstanding and the court date pending, or a duplicate report needed, the Laboratory Head must be requested in writing to prioritise the relevant sample or to provide a copy of the relevant report.
3. The letter must be on a SAPS letterhead, signed by the Station or Detective Commander, and contain details pertaining the ante-mortem drunk driving kit [the six-digit seal number (old kits) or cable tie seal/strip seals number (post-mortem blood alcohol kits)], station and CAS number.
4. This letter must be accompanied by an affidavit written by the requesting official if he/she is a SAPS official.
5. This letter and affidavit, where applicable, can be posted, hand delivered or faxed to the laboratory.
6. No reports will be copied or faxed to anyone else than the investigating officer or prosecutor.
7. Reports are to be fetched from the laboratory by hand by a designated SAPS official. No reports will be posted.

#### **C.1.2 Municipal and Metro Police Departments**

1. All queries must be in writing and must be routed via the SAPS station that carries the relevant docket, as described above.
2. Reports are fetched from the laboratory by hand by a designated SAPS official.
3. No reports will be posted.

**Annexure D: Rejection of samples, sample receipt, storage and analyses at FCLs**

**D.1 Provinces served by the FCLs**

All samples from the SAPS stations and Forensic Pathology Services mortuaries in the North West, Free State and Southern Gauteng province will be dealt with exclusively by the Johannesburg laboratory. All samples that need to be tested that are originating from the Mpumalanga, Limpopo, Kwa Zulu-Natal and Northern Gauteng provinces, will be dealt with by the Pretoria laboratory. The Cape Town Forensic Chemistry Laboratory deals with samples from the SAPS stations and Forensic Pathology Services mortuaries in the Northern Cape, Western Cape and Eastern Cape.

**D.2 Method of sample rejection**

1. Upon receiving the ante-mortem drunk driving blood alcohol kit at the laboratory's case reception, the administrative official will carry out standard checks to decide whether the sample will be accepted or rejected for analysis.
2. Compliance with Annexure A will be a determining factor in determining if samples should be rejected.
3. An official form with all the sample details, reason for rejection, investigation officer details, the details of the official's commander and comment by the laboratory head, is given to the SAPS official.
4. All rejected samples are reported to the relevant Provincial Commissioners/nodal points on a monthly basis.
5. Samples that are meant for another institution will be handed back to the official who delivered the sample at the laboratory.

**D.3 Ante-mortem Drunk Driving analyses**

Alcohol (ethanol) analysis in drunken driving cases is performed on blood only.

**D.3.1 Ante-mortem drunk driving samples rejected for analysis**

See D2 above

**D.3.2 Receipt of Ante-mortem drunk driving samples**

See D1 above.

**D.3.3 Analysis of samples**

1. Upon opening the ante-mortem samples the analyst checks all seals and markings against the documentation and database information. The final report issued will eventually contain the information as per individual sample label and seal.

2. If an analyst reports the sample as being sealed, it obviously indicates that nowhere during the whole process did anyone tamper with the seal, and that the chain is thus intact. It would then defeat the purpose to subpoena the administrative official, lab assistant and analysts to testify in Court about the chain of that specific sample.
3. The annexure at the back of each report describes the calibration and alcohol analysis procedures, as well as the fluoride analysis relevant to blood alcohol analysis in the case of toxicology samples.
4. Results are issued in the form of Section 212 certificates in terms of the Criminal Procedure, 1977 (Act No. 51 of 1977).

#### **D.4 Post-mortem Drunk Driving analyses**

Alcohol (ethanol) analysis in post-mortem drunken driving cases is performed on blood and in extreme cases where blood cannot be sampled, eye-fluid.

##### **D.4.1 Post-mortem drunk driving samples rejected for analysis**

See D2 above.

##### **D.4.2 Receipt of Post-mortem drunk driving samples**

See D1 above.

##### **D.4.3 Analysis of samples**

1. Upon opening the post-mortem samples the analyst checks all seals and markings against the documentation and database information. The report will eventually contain the information as per individual sample label and seal.
2. If an analyst reports the sample as being sealed, it obviously indicates that nowhere during the whole process did anyone tamper with the seal, and that the chain is thus intact. It would then defeat the purpose to subpoena the administrative official, lab assistant and analysts to testify in Court about the chain of that specific sample.
3. The annexure at the back of each report describes the calibration and alcohol analysis procedures, as well as the fluoride analysis relevant to blood alcohol analysis.
4. Analysis reports are issued in the form of an affidavit.

**Annexure E: Handling of Subpoenas**

**E.1 Ante-mortem Drunk Driving analyses, Post-mortem Drunk Driving analyses**

1. Analysts should, where possible, be subpoenaed at least 10 working days before the date of trial to allow time for preparation, obtaining relevant documentation if stored off-site and to finalize transport arrangements.
2. Hand-delivered and faxed subpoenas must contain the laboratory reference number or the seal number in order for the analyst to obtain the correct documentation for preparation for the court case, as well as the contact details (including the fax number for acknowledging of receipt of a faxed subpoena) of the relevant court and/or prosecutor.
3. Analysts should, where possible, be informed at least one day before the court date if they are no longer needed to testify, or if the case will not proceed.

**Annexure F: Line of communication – reporting of problems**

**F.1 Un-sealed samples received by the FCLs**

Any un-sealed or obviously tampered with samples must be reported to the Provincial Commissioners (contact details below). The next level of command will be The Divisional Commissioner: Detective Service.

<b>Province</b>	<b>Telephone Number Provincial Commissioner</b>	<b>Fax Number Provincial Commissioner</b>
Eastern Cape	040 608 8413	040 608 8416
Free State	051 507 6562	051 507 6500
Gauteng	011 274 7859	011 274 7312
KZN	031 325 4825	031 325 4746
Limpopo	015 290 6163	015 290 6162
Mpumalanga	013 249 1024/5	013 249 1026
Northern Cape	053 839 2841/0	053 833 1275
North West	018 299 7001	018 299 7002
Western Cape	021 417 7149/100	021 417 7336 / 445

**F.2 Reports not collected monthly**

Any reports not being collected at least monthly, must be reported to the Provincial Commissioners (contact details above). The next level of reporting will be the General.

**F.3 Problems with court testimony and subpoenas**

Any problems experienced by analysts regarding court appearance and subpoenas can be reported to the relevant Directors of Public Prosecutions:

<b>Province</b>	<b>Telephone Number DPP</b>	<b>Fax Number <u>DPP</u></b>
Eastern Cape (excluding former Transkei)	046 602 3001	046 602 3061
Eastern Cape (former Transkei region)	047 501 2600	047 501 2653
Free State	051 410 6000	051 448 2671
Gauteng North	012 351 6700	012 323 0866
Gauteng South	011 220 4000	011 333 0402



## “A & D PROTOCOL”

KZN	033 845 4400	033 394 8884
Limpopo	012 351 6700	012 323 0866
Mpumalanga	012 351 6700	012 323 0866
Northern Cape	053 807 4500	053 832 9434
North West	018 381 9000	018 381 903
Western Cape	021 487 7000	021 424 7825

#### F.4 Problems regarding long outstanding reports from the FCLs

Any problems regarding long outstanding reports (ante- and post-mortem drunken driving reports outstanding for longer than 90 days, from the FCLs can be reported as follows:

FORENSIC CHEMISTRY LABORATORY	TYPES OF ANALYSIS	PROVINCES DEALT WITH
<b>Cape Town</b> HEAD – Mrs. Annetjie Schillack (Deputy Director) 120 Albert Street, Woodstock, Cape Town Contact numbers – 021 442 8940, 021 447 2397 (f) <a href="mailto:SchilA@health.gov.za">SchilA@health.gov.za</a>	Drunken driving blood alcohol, Post-mortem blood alcohol and Carbon monoxide	Eastern Cape Northern Cape Western Cape
<b>Johannesburg</b> ACTING HEAD – Mr. K Xaba 110 Joubert Street Extension, Braamfontein, Johannesburg Contact numbers – 011 242 9700, 011 725 4731 (f) <a href="mailto:fenyvi@health.gov.za">fenyvi@health.gov.za</a>	Drunken driving and Post- mortem blood alcohol and Carbon monoxide analysis.	Southern Gauteng North West Free State
<b>Pretoria</b> ACTING HEAD - Mrs. C Deysel 271 Visagie Street, Burgerspark, Pretoria Contact numbers 012 322 6600 (t), 012 320 6385 (f) <a href="mailto:deysec@health.gov.za">deysec@health.gov.za</a>	Drunken driving blood alcohol, Post-mortem blood alcohol and Carbon monoxide	Biological fluid and diverse exhibit analysis: Northern Gauteng Limpopo Mpumalanga KZN

**Annexure G: General**

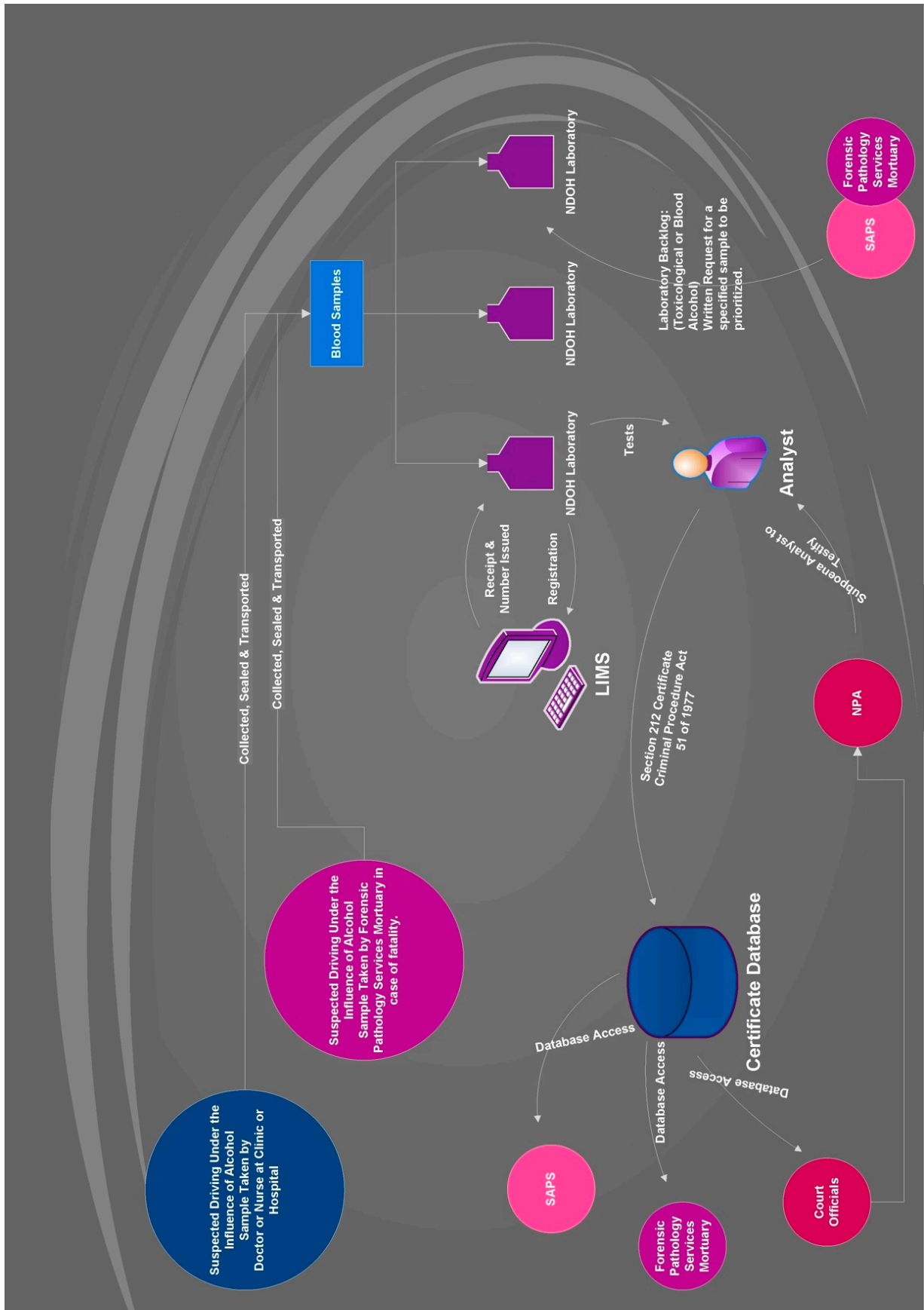
- G.1 The Johannesburg and Pretoria FCLs are in the process of applying for South African Accreditation Systems (SANAS) accreditation received by the Cape Town FCL (see below) for their blood alcohol sections.
- G.2 Analysts in all three the FCLs are also taking part in international proficiency testing schemes regarding blood alcohol, carbon monoxide and drug analysis in biological material.
- G.3 Any rejected samples will be kept at the laboratory and will be destroyed within one month of the date of rejection (excluding samples that were meant for another laboratory that have been returned to the official that delivered it).
- G.4 The blood alcohol section of the Cape Town FCL has obtained FCL (F0002) SANAS accreditation in terms of ISO 17025.
- G.5 The FCLs are open for sample receipt during the following weekday hours:

FCL Cape Town	:	07:30 – 12:30, 13:30 – 15:30
FCL Johannesburg	:	07:30 – 12:00, 13:00 – 15:30
FCL Pretoria	:	07:30 – 12:00, 13:00 – 15:30

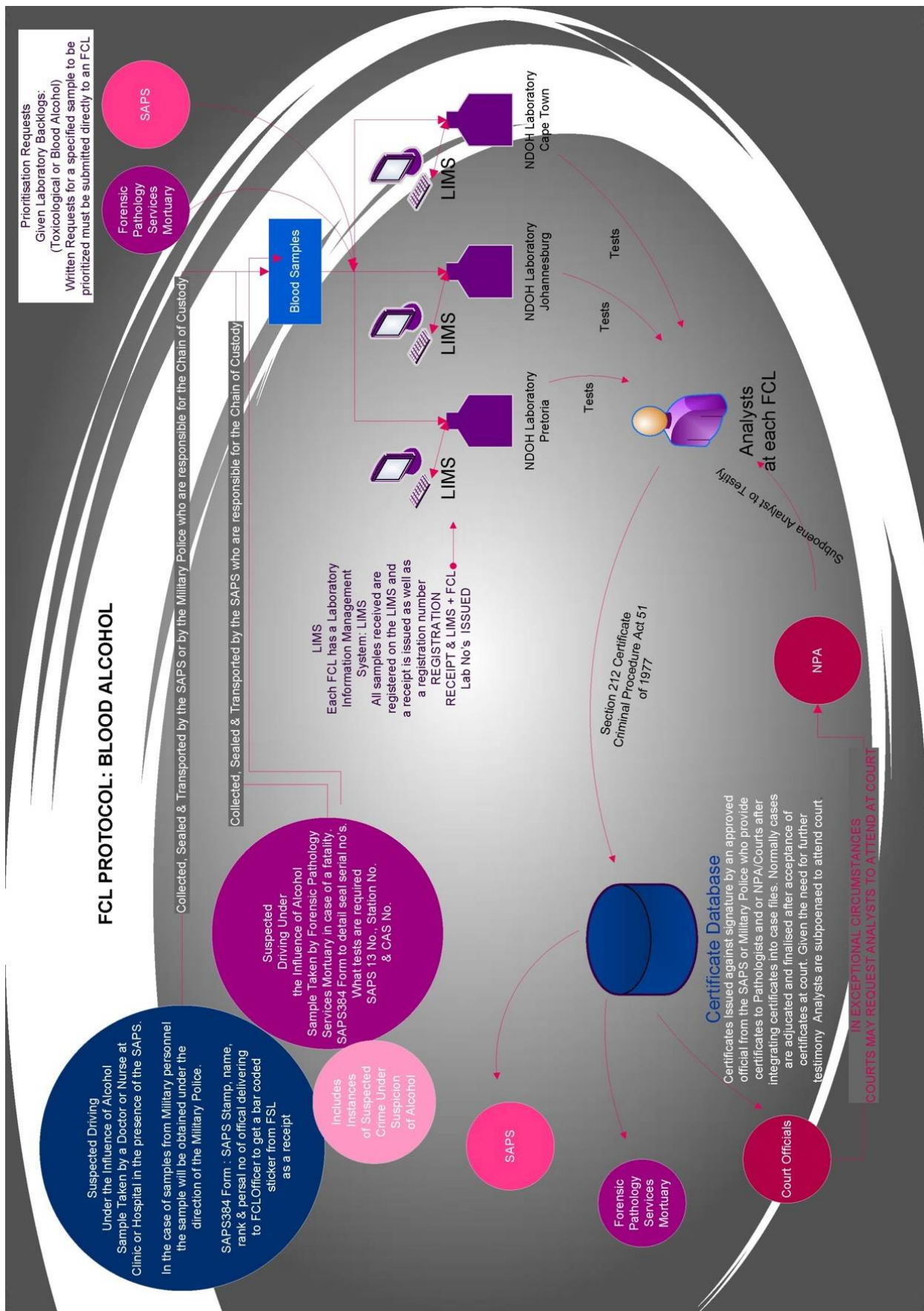
**Annexure H: Evidence**

H1: Evidence – CPA 212 proof of fact (6 pages)

Table 1: A & D Protocol – Chain of Custody



**Table 2: A & D Protocol – Blood Alcohol**



# "A & D PROTOCOL"

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**Form: FCL003**

## FORENSIC PATHOLOGY SERVICES

(To be completed in full and in duplicate by the pathologist, or make a copy)

**This form is to be used to request for the analysis of blood for the presence of ethanol, drugs and/or carboxyhaemoglobin or the analysis of eye-fluid for the presence of drugs or ethanol**

**Address of mortuary:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Police Station:** \_\_\_\_\_ **CAS number:** \_\_\_\_\_

**Reference:** DR/PM \_\_\_\_\_ or WC/ \_\_\_\_\_ / \_\_\_\_\_

Contact person:	
Contact number:	Fax number:
Expiry date of kit:	Original seal number of kit:

1. A sample container containing a **blood/ eye fluid** sample with identifying marking DR/PM \_\_\_\_\_ or WC/ \_\_\_\_\_ / \_\_\_\_\_ and re-sealed with seal number \_\_\_\_\_ is being handed in at the Forensic Chemistry Laboratory, Cape Town/ Johannesburg/ Pretoria by \_\_\_\_\_.

2. The sample is to be analysed for the presence of:

Ethanol		Carboxyhaemoglobin		Drugs (please specify):	
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Signature of Pathologist: \_\_\_\_\_ Date: \_\_\_\_\_

Laboratory reference number:	Signature Laboratory official:
Date received:	

Or bar-coded label if issued.

**Version: Revision 02 Effective date: 01 December 2009**

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**Form: FCL004**

**DIRECTIONS FOR THE COLLECTION OF POST MORTEM BLOOD SAMPLES FOR ALCOHOL DETERMINATION**

1. Remove glass bottle and tap the cap to shake away white powder (sodium fluoride and potassium oxalate) which may adhere to the cap, back into the bottle.
2. Collect 15 ml liquid cadaver blood from a peripheral vascular source.
3. Replace the cap firmly.
4. Immediately after filling the bottle, mix the contents by gently inverting the bottle at least ten times.
5. Complete the main label. Remove the self-adhesive main label and fix it to the outside top of the container.
6. Put the capped bottle back into the polystyrene container. Ensure that the bottle be placed in the position that it was found.
7. Place broken first seals back into the polystyrene container. Reseal the polystyrene container with un-used seals found in the kit.
8. Complete FCL003 Revision 02 and submit in duplicate with the sample.
9. Secure the seals firmly without damaging the polystyrene, whilst ensuring that the plastic tubes remain in the holes that the seals are pushed through. Ensure that the seals are secured to such an extent that it does not allow for the lid to be opened wide enough to interfere with the contents.
10. Store the sample in a refrigerator until it can be submitted to the laboratory for analysis.