

JOINT INTER-DEPARTMENTAL INFORMATION SHARING SESSIONS

NON-FERROUS METALS AND ESSENTIAL INFRASTRUCTURE RELATED CRIME



“TOGETHER – MOVING FORWARD”

*Welcome at the Joint Inter-
Departmental Information
Sharing Session*

OVERVIEW OF PROGRAMME



TIME	TOPIC	PRESENTER
08:00 - 09:00	Registration and administration	All attendees
09:00 - 09:15	Opening and welcoming	SAPS/BACSA
	Purpose of session	SAPS
SESSION 1		
09:10 - 10:40	Second-Hand Goods (SHG) Act	SAPS
SESSION 2		
11:00 - 12:00	Criminal Matters Amendment (CMA) Act	SAPS/NPA
SESSION 3		
12:00 - 12:45	Identification of non-ferrous metals	ICF/Local SOE's/SAPS
SESSION 4		
13:30 - 14:30	Proactive/combating measures to address non-ferrous metal and essential infrastructure related crime, investigation of cases and prosecution	SAPS (Proactive Policing/ Second-Hand Goods Services)/Detectives/DPCI)/NPA
SESSION 5		
14:30 - 15:15	Role of ITAC in the import and export of non-ferrous metals	ITAC
SESSION 6		
15:30 - 16:30	Organised Crime and Asset Forfeiture	NPA/DPCI

10:40 - 11:00 COFFEE/TEA BREAK

12:45 - 13:30 LUNCH

15:15 - 15:30 COFFEE/TEA BREAK



PURPOSE OF INFORMATION SESSION





- Enhance collaboration and create relations between the South African Police Service (SAPS), other Government Departments and the private sector in the fight against non-ferrous metal and essential infrastructure related crime;
- Create a common understanding in addressing non-ferrous metal and essential infrastructure related crime;
- Enhance the implementation and enforcement of the Second-Hand Goods (SHG) Act, 2009 (Act No 6 of 2009) and the Criminal Matters Amendment (CMA) Act, 2015 (Act No 18 of 2015);
- Improve investigations and prosecutions of NFM related crimes; and
- Create an awareness in respect of the application of the SHG and CMA Acts (not only copper theft but also essential infrastructure related crimes).

CONTENT OVERVIEW (1)

- ▶ PURPOSE OF INFORMATION SESSION:
 - Objectives of the session
- ▶ SESSION 1: SECOND-HAND GOODS (SHG) ACT, 2009 (ACT NO. 6 OF 2009)
 - Broad Overview of the SHG Act and Procedures.
 - Police Actions in terms of the SHG Act.
- ▶ SESSION 2: CRIMINAL MATTERS AMENDMENT (CMA) ACT, 2015 (ACT NO. 18 OF 2015)
 - Broad overview of the CMA Act.
 - New offences created in terms of the CMA Act
 - Statement taking

"THE THEFT OF FERROUS AND NON-FERROUS METAL ARE A GLOBAL ECONOMIC THREAT WHICH REQUIRE IMMEDIATE INTERVENTION BY ALL STEAKEHOLDERS CONCERNED IN AN INTEGRATED AND COHERENT MANNER"

CONTENT OVERVIEW (2)

- Reporting/registration of cases in respect of CMA Act
- Granting of Bail
- Charges/|Charge Sheets

▶ SESSION 3: IDENTIFICATION OF NON-FERROUS METALS

- Identification of Non-Ferrous Metals

▶ SESSION 4: PROACTIVE/COMBATING MEASURES, INVESTIGATION OF CASES AND PROSECUTION

- Non-Ferrous Metals Illicit Value Chain
- Implementation of pro-active measures to address theft of non-ferrous metals and related crimes, including essential infrastructure related crimes
- Crime Scene Management

"THE THEFT OF FERROUS AND NON-FERROUS METAL ARE A GLOBAL ECONOMIC THREAT WHICH REQUIRE IMMEDIATE INTERVENTION BY ALL STEAKEHOLDERS CONCERNED IN AN INTEGRATED AND COHERENT MANNER"

CONTENT OVERVIEW (3)

- Exhibit management
- Reporting and registration of non-ferrous metal related crimes
- Operational Planning and Monitoring (OPAM) System
- Investigation responsibilities
- Role of NPA in prosecution
- Coordinating Mechanisms

▶ SESSION 5: IMPORT AND EXPORT OF NON-FERROUS METALS

- Role of ITAC in import and export of non-ferrous metals

▶ SESSION 6: ORGANISED CRIME AND ASSET FORFEITURE

- Overview of the POCA Act
- Role of Asset Forfeiture Unit

"THE THEFT OF FERROUS AND NON-FERROUS METAL ARE A GLOBAL ECONOMIC THREAT WHICH REQUIRE IMMEDIATE INTERVENTION BY ALL STEAKEHOLDERS CONCERNED IN AN INTEGRATED AND COHERENT MANNER"



SESSION 1:

SECOND-HAND GOODS ACT 6 OF 2009





- **BROAD OVERVIEW OF THE SECOND-HAND GOODS ACT AND PROCEDURES**
 - INTRODUCTION
 - LEGISLATIVE FRAMEWORK
 - REGISTRATION OF SECOND-HAND GOODS DEALERS / RECYCLERS
 - SUMMARY OF ALL SECOND-HAND GOODS PROCESSES
- **POLICE ACTIONS IN TERMS OF THE SECOND-HAND GOODS ACT**
 - COMPLIANCE INSPECTIONS vs OPERATIONS
 - REPORTING BY SHG DEALERS/RECYCLERS

Introduction

Broad overview of the Second-Hand Goods Act and Procedures



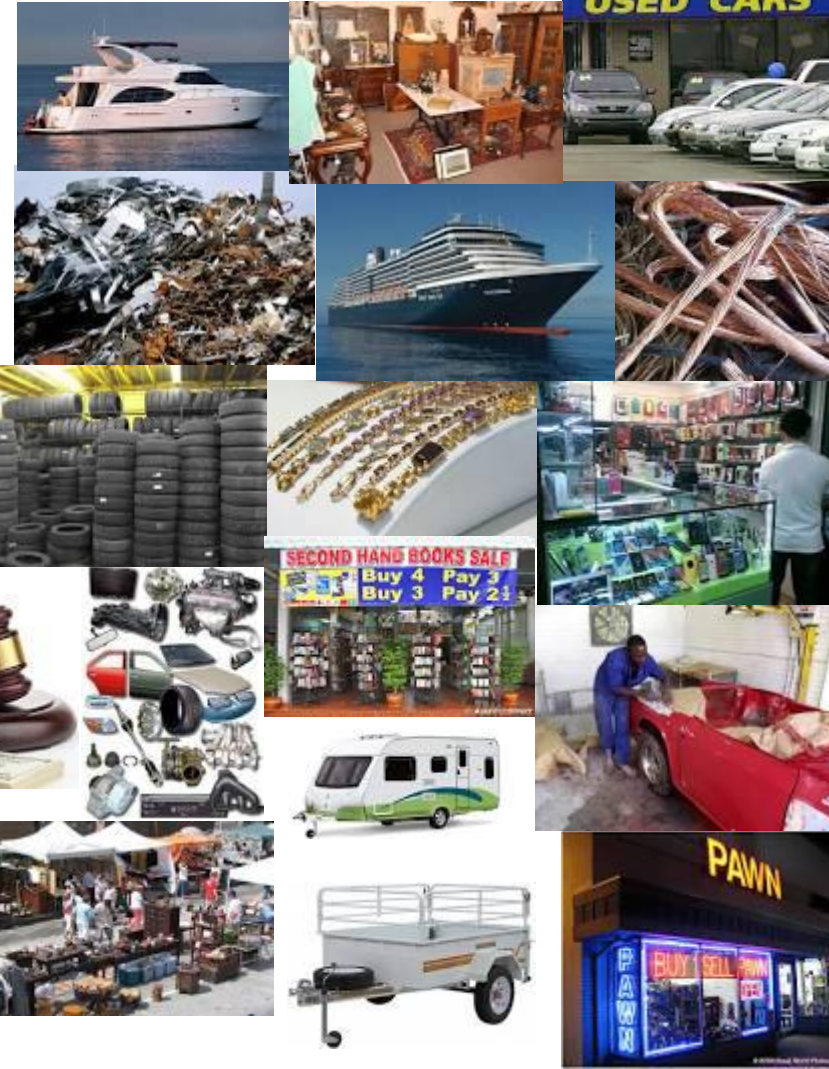
- ❑ **SECOND-HAND GOODS ACT, NO 6 OF 2009**
 - Implemented on 30 April 2012
 - Replaced outdated SHG Act, No 23 of 1955
 - Harsher sentences (R10 000 / 10 years)
 - 3 Month Transitional Period (ended July 2012)
 - Registration is valid for 5 years – Renewal
- ❑ **Regulations for the Accreditation of Second-Hand Goods Dealers' Associations, 2011**
- ❑ **Regulations for Dealers and Recyclers, 2012**
- ❑ **National Instruction 2 of 2016: SHG Dealers and Recyclers**
- ❑ **Delegation of Power, 2016: Second-Hand Goods Act**
- ❑ **Standard Operating Procedures, SHG Dealers and Recyclers**
- ❑ **Divisional Instructions (1 of 2012, 1 of 2015 and 1 of 2017)**

INTRODUCTION (2)



SECOND-HAND GOODS ENVIRONMENT

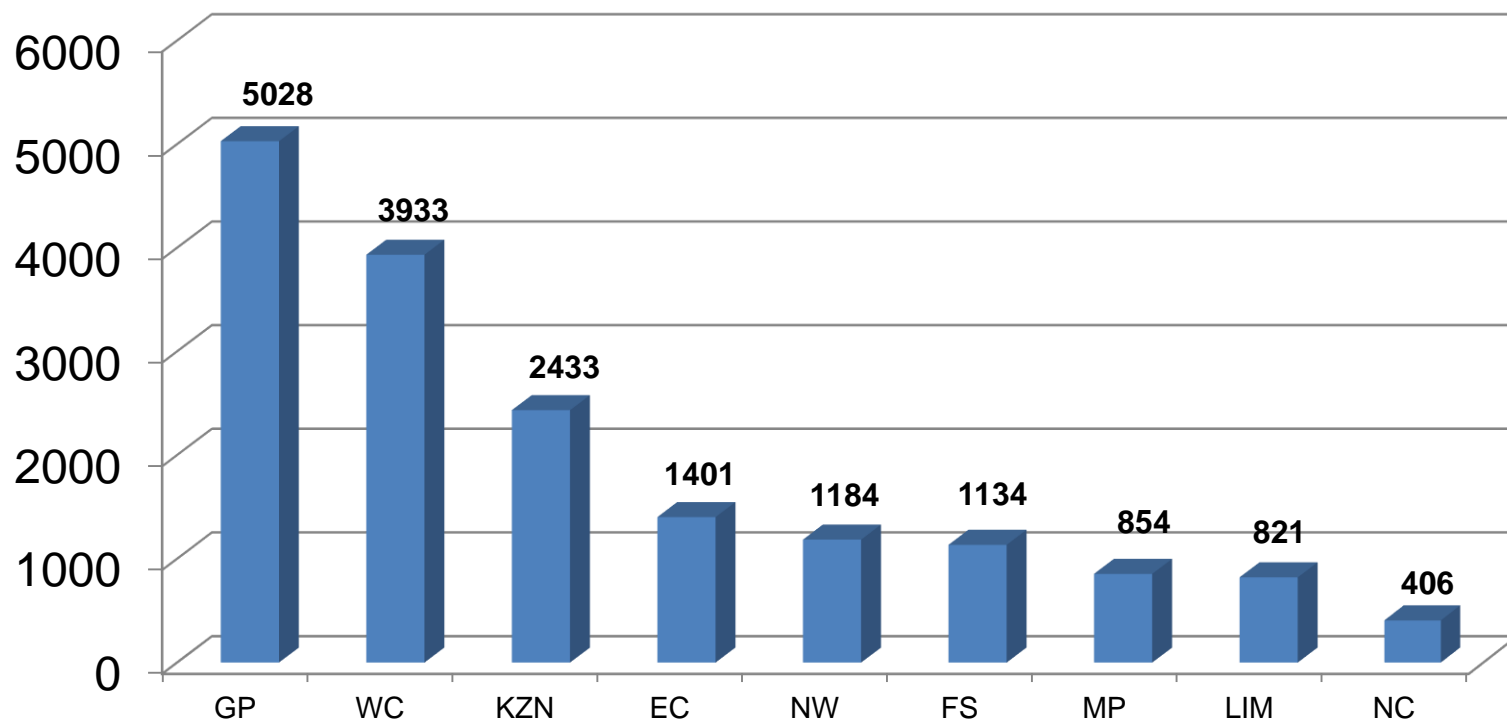
- Who are the SHG Dealers?
 - General Dealer
 - Pawn Broker
 - Book Dealer
 - Communications Equipment Dealer (eg. Cell Phones)
 - Antique Dealer
 - Charity Organizations
 - Flea Markets
 - Electronic Repairs
 - Users of E-Platforms (eg. OLX, Bid-or-Buy, Gumtree)
 - Auctioneer
 - Jeweler
 - Motor Vehicle Dealer
 - Tyre Dealer
 - Motor Vehicle Parts and Accessories Dealer
 - Panel Beater
 - Vehicle Dealer
 - Vehicle Parts and Accessories Dealer
 - Scrap Metal Dealer
 - Recycler





TOTAL REGISTERED SHG DEALERS PER PROVINCE

17 194 (as on 2017-03-31)

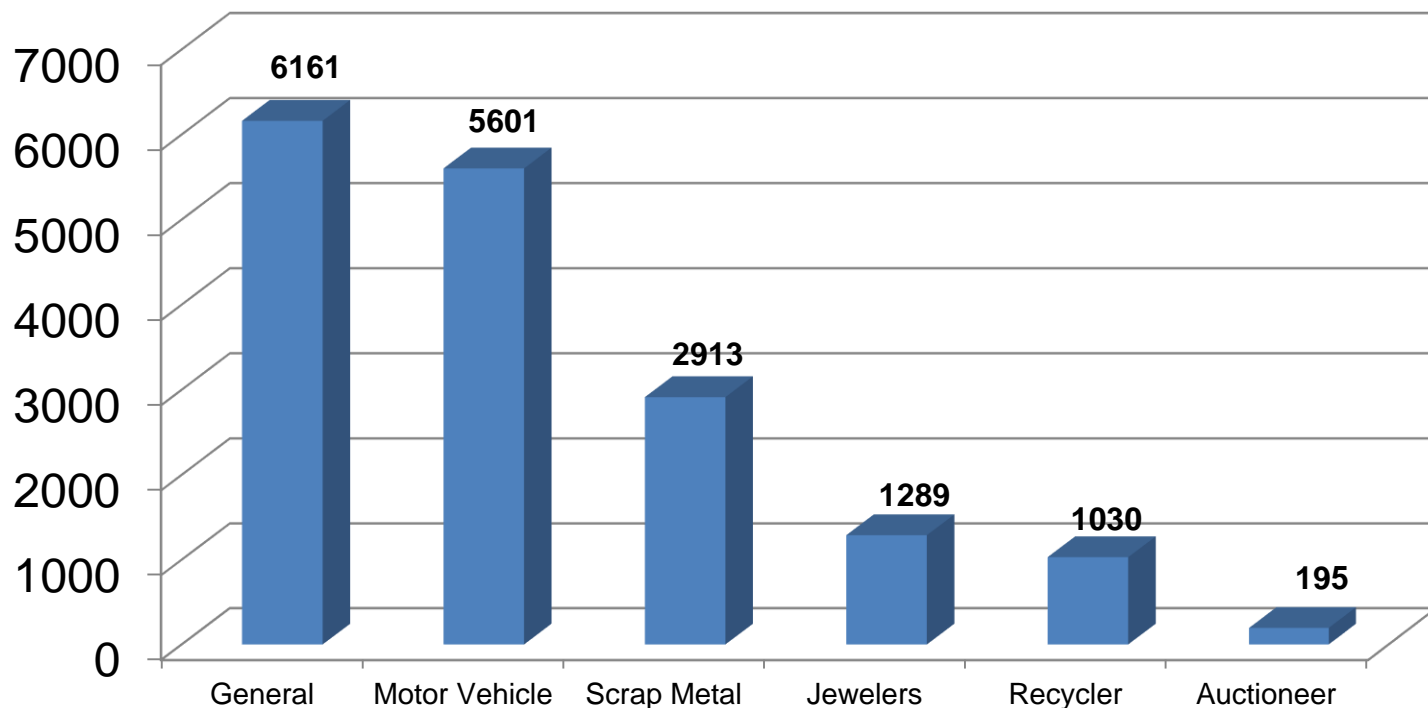


■ Total Registered Dealers: 17 194



TOTAL REGISTERED SHG DEALERS PER CATEGORY

17 194 (as on 2017-03-31)



Legislative Framework

Broad overview of the Second-Hand Goods Act and Procedures



OBJECTIVES OF THE SECOND-HAND GOODS ACT, 2009 (ACT NO 6 OF 2009)

1

- To regulate dealers and recyclers (**what**).
 - Register Dealers (**how**)

2

- To combat the trade in stolen goods (**what**).
 - Inspections / Operations / Investigations (**how**).

3

- To promote ethical standards in the second-hand goods trade (**what**).
 - Accreditation of SHG Dealers' Associations / Establishment of Forums (**how**).



- **WHO MUST REGISTER AS A SECOND-HAND GOODS DEALER?**
 - **Section 2(1):**
“Every person who carries on a business as a dealer must be registered”
- **The Act does not give the SAPS the power to decide *who* may be a second-hand goods dealer.**
 - **Constitution (freedom to choose trade freely)**
 - **Intention of SHG Act (to regulate the manner in which dealers practice their trade)**
- **The Act assigns two main functions to the SAPS:**
 - **SAPS must register SHG dealers and recyclers; and**
 - **SAPS must monitor SHG dealers and recyclers.**

LEGISLATIVE FRAMEWORK (3)



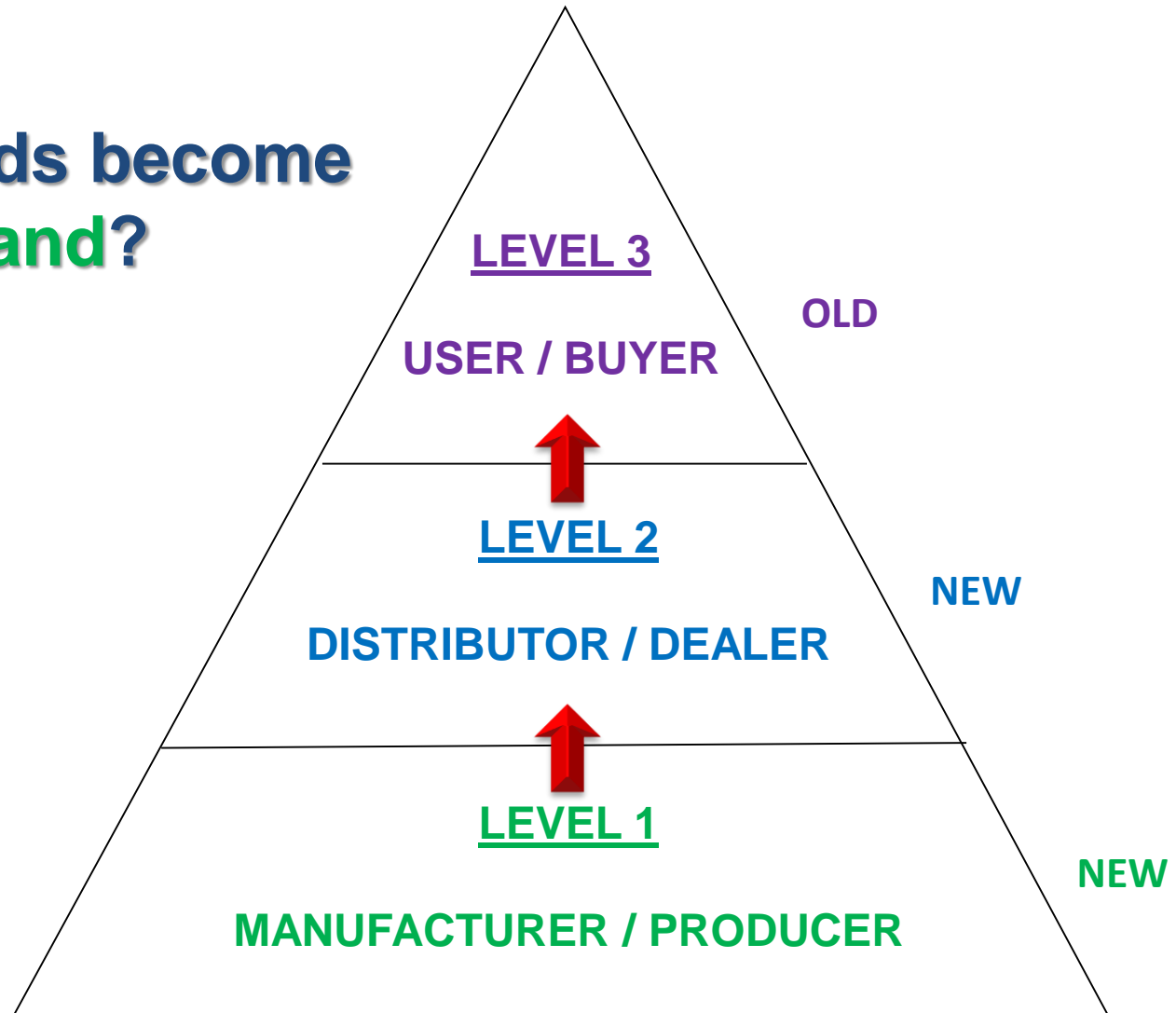
- To determine whether a business must be registered or not, it is necessary to break down the definition of “Dealer”-

*“dealer means a person who **carries on a business** of **dealing in second-hand goods**, and includes a scrap metal dealer and a pawnbroker”*

- The dealer must **carry on a business**:
 - To carry on a business requires that the person acquires (buys/receives) goods, keep it in stock and dispose (sell) of it, for a profit.
- The business must **deal in (trade) second-hand goods**:
 - The Act defines “deal in” by stating it is the “*acquiring and disposing of goods*” (by any means).
- The business must deal in (trade) “**second-hand**” goods:
 - means goods which have been in use by a person other than the manufacturer or producer thereof or a person dealing therewith for such manufacturer or producer in the course of business, **but does not** include goods with a value of less than R100 (the value is determined by the selling price / market related).
- The business must deal in (trade) second-hand “**goods**”:
 - means any of the goods specified in Schedule 1 and 2, but does not include firearms or ammunition as defined in the Firearms Control Act, 2000 (Act No. 60 of 2000), clothing, livestock or produce.



When does goods become
second-hand?



LEGISLATIVE FRAMEWORK (5)



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➤ SCHEDULE 1 – Goods

Jewellery, agricultural implements, bicycles and bicycle parts, household and office equipment (such as furniture, television sets, computers, music centres etc.), factory equipment, tyres, cell phones and other electronic communication equipment, cameras and photographic equipment, controlled metal, antiques, motor vehicles, vehicles (boats, trailers etc.) sporting equipment, valuables.



➤ SCHEDULE 2 – Controlled Metal

Copper, aluminium, zinc, chrome, lead, white metal, nickel, tungsten, tin, ferrovanadium, ferrosilicon, ferrochrome, brass, bronze, cobalt and precious metals as defined in the Precious Metals Act, 2005 (Act No. 27 of 2005), or any article consisting wholly or principally of any of those metals.

PLEASE NOTE: Silver is not included.



TYPE OF DEALER

CELL PHONE
REPAIRER

VENDOR

TYRE
DEALER

1. Carry on a Business



2. Dealing In



3. Second-Hand



4. Goods (Schedule 1)



SHOULD DEALER BE REGISTERED?

YES

NO

Cell Phone Repairer



Vendor



Tyre Dealer



Requirements for Registration

Broad overview of the Second-Hand Goods Act and Procedures

REQUIREMENTS FOR REGISTRATION (1)



PLEASE NOTE

No payment required for a SHG Registration Application or any other requirements contained in the legislation (eg. Fingerprints, Translation Services etc.)

➤ REQUIREMENTS FOR REGISTRATION:

- **Sect 2(1)** - **Obligation to Register**
- **Reg 2(1)** - **Application Form (SAPS 601)**
- **Sect 3(1)(a)** - **Prescribed documents**
- **Reg 3** - **List of prescribed documents (checklist – SAPS web page www.saps.gov.za)**
- **Reg 2(3)** - **Application must be lodged with the DPO**
- **Sect 34** - **Application lodged with DPO at police station in which precinct the business premises resorts**
- **Sect 3(2)** - **More than one premises or storage facility must be registered separately (incl Mobile Dealers)**
- **Sect 25(1)** - **Recyclers must be registered separately, additional to being registered as a Dealer**

Summary of all SHG Processes

Broad overview of the Second-Hand Goods Act and Procedures

SUMMARY OF ALL SHG PROCESSES (1)



ALL SECOND-HAND GOODS PROCESSES FOLLOW THE SAME BASIC “**RHYTHM**”, NAMELY:

- **RECEIVING**



- **VERIFYING**



- **RECOMMENDING**



- **CONSIDERING**



SUMMARY OF ALL SHG PROCESSES (2)



➤ RECEIVING:

- Receive SAPS 601 Form (new application)
- Record in SAPS 603 Register
- Issue a SAPS 601(c) Form (acknowledgement of receipt)
- Allocate Registration Number (Opening of Z20 Dealer / Recycler File)
 - **Page 1** – Front Page
 - **Page 2** – Floor Plan (Annexure “B”)
 - **Page 3** – SAPS 601 & Annexures (Annexure “C”, “D”, “E” etc.)
 - **Page 4** – Certified Copy of ID and Photo (Annexure “A”)
 - **Page 5** – SAPS 5 Investigation Diary

SUMMARY OF ALL SHG PROCESSES (3)



► **VERIFYING (“PPD”):**

- **Person**
 - ✓ Fingerprints
 - ✓ CRIM check
 - ✓ Disqualification (Section 14)
 - Previous convictions (5 / 10 years)
 - Under 18
 - Unrehabilitated Insolvent
 - Not residing in the Republic of SA permanently
 - By virtue of any other legislation
- **Place**
 - ✓ Address
 - ✓ Precinct
 - ✓ Floor Plan
- **Document**
 - ✓ SAPS 601 - Completion Instructions
 - ✓ Additional Documentation - Checklist (www.saps.gov.za)

SUMMARY OF ALL SHG PROCESSES (4)



► RECOMMENDING:

- DSO to make a written recommendation
- Application **MUST** be recommended, unless:
 - ❖ Disqualified (Section 14)
 - ❖ Incomplete
 - ❖ Not returned

► CONSIDERING:

- ONLY 10 WORKING DAYS TO FINALIZE APPLICATION!!
- Deciding Authority (Station Commander) OR Acting Station Commander (appointed in writing)
- Sign and date stamp SAPS 601 Application
- Sign and date stamp SAPS 601(a) and/or (b) and/or (d) Registration Certificate
 - ✓ Ensure that date stamp and starting date is the same
- Issue Registration Certificate (SAPS 603)

SUMMARY OF ALL SHG PROCESSES (5)



- **Issuing/Re-Issuing of Registration Certificate Process**
 - **Types of Registration Certificates**
 - ❖ SAPS 601 (a) – Dealer
 - ❖ SAPS 601 (b) – Recycler
 - ❖ SAPS 601 (d) – Temporary
 - **Registration Certificate completed in triplicate**
 - ❖ Original Issued to Applicant
 - ❖ 1st Copy filed in Z20 Dealers File
 - ❖ 2nd Copy remain in Registration Certificate Book
 - **Re-Issuing of Registration Certificates**
 - ❖ Amendment of Information of Dealer/Recycler – SAPS 604
 - ❖ Limitation/Variation of Dealer/Recycler Conditions – SAPS 601(a) or (b) or (d)
 - ❖ Lost, Stolen and/or Defaced Registration Certificates – SAPS 605
- NOTE: When re-issuing a Registration Certificate it must have the same expiry date as the original Registration Certificate**

SUMMARY OF ALL SHG PROCESSES (6)



- **Dealer/Recycler Registration Certificates**
 - **Imposing Conditions Process**
(General Conditions must appear on ALL Registration Certificates)
 - **General Conditions -**
 - ✓ Goods or classes of goods
 - ✓ Business Hours
 - ✓ Acquiring and/or Disposal of goods to registered Dealers/Recyclers
 - ✓ Keeping separate dealer registers
 - ✓ No trading from storage facility
 - **Additional Conditions -**
 - ✓ Crime Trend
 - ✓ Type of Additional Conditions
 - ✓ Written Representations by Dealer
 - ✓ Letter of Outcome
 - ✓ Appeal

SUMMARY OF ALL SHG PROCESSES (7)



► **Renewal Process:**

- SAPS 601(e)
- Must renew not more than 180 days but not less than 90 days before expiry of Registration Certificate
- Did not renew: Automatic Termination of Registration
- Applied within the last 90 days before expiry date: Will be regarded as late application, issue dealer with Notification of Intention to Cancel Registration with the option to apply for Extension of Time
- Applied in time: Current Registration Certificate remains valid until such time as SAPS issues the new one (proof of application – SAPS 601(c))

► **Refusal Process:**

- NEVER EVER a first time refusal.
- Notice of INTENTION to Refuse Letter
- 30 Days to hand in Written Representations
- Deciding Authority to duly consider Written Representations
- Final Refusal - Letter
- SAPS 606 – Return of Service

► **Temporary Registration Process**

- New Application (SAPS 601)
- Temporary Registration with Limitations (SAPS 601(f))

SUMMARY OF ALL SHG PROCESSES (8)



► REPRESENTATIONS (4 Types):

○ Written Representations Process:

- ✓ SAPS 608(b)
- ✓ Outstanding Information or Documentation
- ✓ Legal Opinion (optional)
- ✓ Finalized on Station Level (Station Commander)

○ Condonation Process:

- ✓ SAPS 608(c)
- ✓ Disqualification
- ✓ DSO to draft Information Note with background and recommendation by the Deciding Authority
- ✓ Forward to National SHG Office
- ✓ Finalized on National level (FLASH)

SUMMARY OF ALL SHG PROCESSES (9)



- **Extension of Time Process:**
 - ✓ SAPS 608(c)
 - ✓ Late Renewal/Any other time-frame mentioned in the Act
 - ✓ DSO make recommendation / Deciding Authority makes comment.
 - ✓ Forward to Provincial SHG Office
 - ✓ Finalized on Provincial level (FLASH)
- **Appeal Process:**
 - ✓ SAPS 608(a)
 - ✓ Applicant to provide statement
 - ✓ 30 Days
 - ✓ DSO draft Information Note of background
 - ✓ Deciding Authority makes Recommendation
 - ✓ Forward to National SHG Office
 - ✓ Finalized on Ministerial level

SUMMARY OF ALL SHG PROCESSES (10)



- ▶ **Cancellation of Registration Process (Sect 10):**
 - Deciding Authority **MAY** Cancel Registration if:
 - Dealer/Recycler fails to comply with any Conditions of Registration
 - Any of the provisions of the SHG Act
 - Deciding Authority **MUST** Cancel Registration if:
 - Dealer/Recycler is registered on the basis of incorrect or false information
 - Is convicted of an offence of which dishonesty is an element
 - Deciding Authority to provide Dealer/Recycler with:
 - Notice of Intention to Cancel
 - 30 days for Written Representations
 - Duly consider any Representations

Compliance Inspections vs. Operations

Police Actions in terms of the Second-Hand Goods Act

COMPLIANCE INSPECTIONS vs. OPERATIONS (1)



➤ Compliance Inspections

- Compliance (Routine) inspections is -
 - administration focussed;
 - does not require a police officer to obtain a warrant; and
 - can be carried out by one police officer.
- The Act requires that a DSO conduct at least one comprehensive Annual Routine inspection at all Registered SHG Dealer/Recycler Premises (excludes normal weekly/bi-weekly compliance inspections)
- Purpose of a Routine / Compliance Inspection:
 - To see if the Dealer/Recycler complies with the SHG Act
 - To see if the Accredited SHG Dealers' Association inspects its members
 - To initiate investigations where applicable

➤ Operations

- Operations is –
 - Intelligence driven;
 - Pre-planned (Operational Plan);
 - Various role-players are involved; and
 - Requires a warrant issued i.t.o the Criminal Procedure Act, 1977 (newest J51).

COMPLIANCE INSPECTIONS vs. OPERATIONS (2)



- **Inspecting the Registers and Records of Dealers/Recyclers**
 - **DSO to inspect –**
 - **Registration Certificate**
 - **Dealer / Recycler Register, records, book, data base or any other document**
 - **Goods found in or on premises**
 - **Any entry or absence of any entry**
 - **Regulation 8 – Provides for Electronic Registers**
 - **DSO to complete SAPS 607 – Visitation Register**
 - **DSO to compile an inspection report for the comprehensive annual routine inspection and present it to the Station Commander for signature. File on Z20 Dealers File.**

Reporting by SHG Dealers/Recyclers

Police Actions in terms of the Second-Hand Goods Act

REPORTING BY SHG DEALERS/RECYCLERS (1)



➤ FALSE INFORMATION/SUSPECTED STOLEN GOODS

- Section 22(1) of the SHG Act requires a SHG Dealer to report the following to the SAPS immediately:
 - Where the SHG Dealer suspects that –
 - False information was provided to him/her (name, address or document);
 - Goods presented to him/her are stolen goods; and/or
 - The appearance of goods have been tampered with or altered to conceal the identity of the item.
 - The report must be made to any police officer on duty in the (CSC).
 - An SAPS 10 entry must be made and the SAPS 10 number provided to the SHG Dealer as a reference number.
 - The CSC must inform the DSO of report as soon as possible.
 - DSO must obtain a copy of the SAPS 10 entry and file it in the relevant Z20 Dealer File.
 - The DSO must conduct a physical inspection at the Dealer premises in order to follow-up on the report and make a decision regarding the items (whether to confiscate for further investigation or not).
 - The DSO must make the relevant entries in the Dealer Registers and the SAPS 607 Register, and where necessary issue the Dealer with a SAPS 13(b) or SAPS 299.

REPORTING BY SHG DEALERS/RECYCLERS (2)



➤ BURNED CABLE

Cable is defined as: “Conducting wire with insulation consisting of a cover of plastic or rubber”

- Section 25(4) of the SHG Act states the following:
 - No person may –
 - be in possession of equipment that recycles controlled metal unless he/she is registered as a recycler and in the case of a jeweller, registered under the Precious Metals Act, 2005 (refiner).
 - No person may acquire or dispose of cable consisting of controlled metal of which the cover has been burnt -
 - ✓ unless there is a reasonable explanation and
 - ✓ only after the matter was reported to SAPS
 - No person may be in possession of any cable consisting of controlled metal of which the cover has been burnt –
 - ✓ unless such person can provide a reasonable explanation (a reasonable explanation is an explanation that can be backed up with proof)
 - The same process regarding reporting and police action should be followed as with Section 22 on the previous slide.



SESSION 2:

CRIMINAL MATTERS AMENDMENT ACT 18 OF 2015





➤ **BROAD OVERVIEW OF THE CRIMINAL MATTERS AMENDMENT ACT**

- INTRODUCTION
- NEW OFFENCES CREATED IN TERMS OF THE CMA ACT
- GRANTING OF BAIL
- MINIMUM SENTENCES
- STATEMENT TAKING
- REPORTING/REGISTRATION OF CMA ACT CASES
- CHARGES/CHARGE SHEETS
- PENALTIES

Introduction

Broad overview of the Criminal Matters Amendment Act

INTRODUCTION (1)



- **The Criminal Matters Amendment Act, 2015 (Act No 18 of 2015) (“CMA Act”) came into operation on 1 June 2016. The purpose of the CMA Act is to create a new dispensation for essential infrastructure-related offences.**
- **These offences are becoming increasingly organised as armed and dangerous gangs are involved and it doesn’t stop with cable theft only.**
- **The basis of the CMA Act is the interference with a basic service to the public.**
- **It would be important to link the result of the crime with the CMA Act, especially where services provided to the public are impacted. Examples of this is as follows:**
 - **No communication (Cellphone Network/Telkom cables/batteries stolen/damaged);**
 - **No Internet-banking, e-mails, business deals etc.**
 - **No electricity (Cable theft or substation blasted or City Power lines stolen/damaged);**
 - **Trains/Gautrain not operating. (Cable theft/theft of railtracks and/or overhead conductors)**



OBJECTIVES OF THE CMA ACT (ACT NO 18 OF 2015)

1

- create a new offence relating to essential infrastructure;

2

- regulate bail in respect of essential infrastructure-related offences; and

3

- regulate minimum sentences in the case of essential infrastructure-related offences.

New offences created i.t.o the CMA Act

Broad overview of the Criminal Matters Amendment Act

NEW OFFENCES CREATED I.T.O. THE CMA ACT (1)



➤ Section 3 of the CMA Act reads as follows:

“3. (1) Any person who unlawfully and intentionally—

- a) tampers with, damages or destroys essential infrastructure; or*
- b) colludes with or assists another person in the commission, performance or carrying out of an activity referred to in paragraph (a), and who knows or ought reasonably to have known or suspected that it is essential infrastructure, is guilty of an offence...”*

NEW OFFENCES CREATED I.T.O. THE CMA ACT (2)



➤ DEFINITIONS:

- “**essential infrastructure**” means any installation, structure, facility or system, whether publicly or privately owned, the loss or damage of, or the tampering with, which may interfere with the provision or distribution of a basic service to the public;
- “**basic service**” means a service, provided by the public or private sector, relating to energy, transport, water, sanitation and communication, the interference with which may prejudice the livelihood, well-being, daily operations or economic activity of the public;
- “**tamper**” includes to alter, cut, disturb, interfere with, interrupt, manipulate, obstruct, remove or uproot by any means, method or device; and
- “**tampering**” shall be construed accordingly.

NEW OFFENCES CREATED I.T.O. THE CMA ACT (3)



➤ PUTTING IT IN PRACTICE:

- It is obvious that cable theft falls under the provision of the CMA Act, but it is also clear that the CMA Act deals with those services provided to the public that enables the country to function on a day-to-day basis. Examples of these basic services are –
 - Electricity, water and waste disposal provided by a municipality or utility companies, such as Eskom or Rand Water;
 - Services related to road, air or rail transport such as PRASA, Transnet or Gautrain; and
 - Provision of telephone or other communication services by companies such as Telkom, Vodacom and MTN.
- Take note that not all instances of metal theft (ferrous or non-ferrous metals) necessarily constitute an offence in terms of the CMA Act.
Only offences which may interfere with the provision of a basic service relating to energy, transport, water, sanitation and communication are covered under the act.

NEW OFFENCES CREATED I.T.O. THE CMA ACT (4)



➤ **PUTTING IT IN PRACTICE:**

- As an example the following will not be regarded as essential infrastructure related offences, unless specific circumstances indicate otherwise, and will be dealt with as theft under the common law:
 - Theft of manhole covers
 - Theft of cables in storage facilities
 - Theft of bridge railings
 - Theft of Brass taps
- These offences should however still be considered as serious offences which require thorough investigation and heavy sentences.

NEW OFFENCES CREATED I.T.O. THE CMA ACT (5)



- **Section 3(2) provides that a person ought reasonably to have known or suspected such fact if –**
 - the conclusions that he or she ought to have reached are those which would have been reached by a reasonably diligent and vigilant person having both –
 - the general knowledge, skill, training and experience that may reasonably be expected of a person in his position; and
 - the general knowledge, skill, training and experience that he in fact has.

In practice this means that:

An adult with the general knowledge of the average person in regard to the fact that communication services are reliant upon telephone cable, for instance, will not be able to argue that he or she had not known that the theft of cable, will affect the supply of communication services to the public. Such a person does not have to be an expert on the subject, he or she needs only to know what the average person with his or her general knowledge, training and experience, should have known or suspected. This conclusion will be reached even easier if the suspect is not a first offender of non-ferrous related offences or, for instance, a scrap metal dealer.

Granting of Bail

Broad overview of the Criminal Matters Amendment Act

GRANTING OF BAIL (1)



- The CMA Act adds several offences to Schedule 5 of the Criminal Procedure Act which influences the granting of bail to an offender. In essence, this means that an accused person may only be released on bail in accordance with section 60 of the Criminal Procedure Act No. 51 of 1977 (“the Criminal Procedure Act”) and will have to satisfy the court that his or her release is in the interests of justice.
- This effectively means that neither a police official nor a prosecutor may grant bail to an arrested suspect for these types of offences and that bail may therefore only be granted by a court in terms of section 60 of the Criminal Procedure Act.

GRANTING OF BAIL (2)



- The offences listed in Schedule 5 of the Criminal Procedure Act, are relevant in the consideration of the granting of bail by the court in terms of sections 58, 60(11) and 60(11A). Schedule 5 contains a list of serious offences which must be taken into account by the court before bail is granted to an offender.
- These offences are inclusive of offences committed in terms of:
 - *Any offence referred to in section 2, 4, 5, 6 or 9 of the Prevention of Organised Crime Act No. 121 of 1998 (“POCA”)*
 - *Any offence referred to in section 54(1) of the International Trade Administration Act No. 71 of 2002 (“ITA Act”)*
 - *Any offence referred to in section 32(1)(a), (b), (c), (d), (k)*, (l), (m) or (o) of the Second-hand Goods Act No. 6 of 2009 (“SHGA”);*
 - *Any offence referred to in section 36 or 37 of the General Law Amendment Act No. 62 of 1955, if it is alleged that ferrous or non-ferrous metal which formed part of essential infrastructure*

Minimum Sentences

Broad overview of the Criminal Matters Amendment Act

MINIMUM SENTENCES (1)



MINIMUM SENTENCES: SECTION 51(2) OF THE GENERAL LAW AMENDMENT ACT, 1997 (ACT NO. 105 OF 1997)

OFFENCE	First Offender	Second Offender	Third Offender
SCHEDULE 2 PART II			
Any offence referred to in section 2, 4, 5 or 6 of the Prevention of Organised Crime Act (POCA), 1998 (Act No. 121 of 1998) , which relates to an offence involving ferrous or non-ferrous metal which formed part of essential infrastructure, as defined in section 1 of the Criminal Matters Amendment Act, 2015.	15 years	20 years	25 years
Theft of ferrous or non-ferrous metal which formed part of essential infrastructure , as defined in section 1 of the Criminal Matters Amendment (CMA) Act, 2015 (Act No. 18 of 2015) — (a) if it caused — (i) interference with or disruption of any basic service , as defined in section 1 of the aforementioned Act, to the public; or (ii) damage to such essential infrastructure; or (b) if the offence was committed by or with the collusion or assistance of— (i) a law enforcement officer as defined in section 51(8); (ii) a security officer , as defined in section 1 of the Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001), who was required to protect or safeguard such essential infrastructure; (iii) an employee of, or contractor appointed by, the owner or the person in charge of such essential infrastructure; or (iv) a group of persons , syndicate or any enterprise acting in the execution or furtherance of a common purpose or conspiracy.	15 years	20 years	25 years
An offence referred to in section 3 of the Criminal Matters Amendment (CMA) Act, 2015 (Act No. 18 of 2015) .	15 years	20 years	25 years

MINIMUM SENTENCES (2)



MINIMUM SENTENCES: SECTION 51(2) OF THE GENERAL LAW AMENDMENT ACT, 1997 (ACT NO. 105 OF 1997)

OFFENCE	First Offender	Second Offender	Third Offender
SCHEDULE 2 PART IV			
Any offence referred to in— (a) section 54(1) of the International Trade Administration (ITA) Act, 2002 (Act No. 71 of 2002) ; or	5 years	7 years	10 years
Any offence referred to in— (b) section 32(1)(a), (b), (c), (d), (k)*, (l), (m) or (o) of the Second-Hand Goods (SHG) Act, 2009 (Act No. 6 of 2009), involving ferrous or non-ferrous metal which formed part of essential infrastructure , as defined in section 1 of the Criminal Matters Amendment Act, 2015. *[in so far as paragraph (k) relates to section 21(1)]	5 years	7 years	10 years
SCHEDULE 2 PART IV			
Any offence referred to in section 36 or 37 of the General Law Amendment (GLA) Act, 1955 (Act No. 62 of 1955), involving ferrous or non-ferrous metal which formed part of essential infrastructure , as defined in section 1 of the Criminal Matters Amendment Act, 2015.	3 years	5 years	7 years
Theft, involving ferrous or non-ferrous metal which formed part of essential infrastructure , as defined in section 1 of the Criminal Matters Amendment (CMA) Act, 2015, (Act No. 18 of 2015) which is not covered in Part II of this Schedule.	3 years	5 years	7 years

Statement Taking

Broad overview of the Criminal Matters Amendment Act



- **SAPS members, especially DSO's, Detectives and DPCI must take note that it is important that any investigation and prosecution of offenders of ferrous and non-ferrous metal related offences, must focus on the effect and impact of the offence on basic services to the public due to the fact that the metal in question formed part of an essential infrastructure.**

- **The following must therefore appear in the A1 statement of a utility complainant (eg. Telkom, Eskom, Transnet):**
 - **How the suspect tampered with, damaged or destroyed the essential infrastructure in question;**
 - **What basic service the essential infrastructure in question renders to the public (energy, transport, water, sanitation and communication);**
 - **What the effect of the tampering, damage or destruction has or could have on the rendering of basic services by that essential infrastructure;**
 - **Why the suspect knew or should reasonably have known that the essential infrastructure in question is, in fact, essential infrastructure;**
 - **what the actual value of the items stolen, destroyed, tampered with or damaged, is; and**
 - **what the cost of replacement of the items will be (including all incidental costs to the complainant).**

Reporting/Registration of CMA Act Cases

Broad overview of the Criminal Matters Amendment Act

REPORTING/REGISTRATION OF CMA ACT CASES (2)



REGISTRATION OF A CASE DOCKET

CRIME CODE / MISDAADKODE	SECTION / ARTIKEL	DESCRIPTION OF OFFENCE / BESKRYWING VAN MISDRYF	KEY WORDS / SLEUTELWOORDE
3200	3(1)(a)	<u>English:</u> Tampers with, damages or destroys essential infrastructure	<ul style="list-style-type: none"> • Criminal Matters Amendment Act • Tamper • Damage • Destroy • Essential infrastructure
		<u>Afrikaans:</u> Peuter met, beskadig of vernietiging van noodsaaklike infrastruktuur	<ul style="list-style-type: none"> • Wysigingswet op Strafregtelike Aangeleenthede • Peuter • Beskadig • Vernietig • Noodsaaklike infrastruktuur
3200	3(1)(b)	<u>English:</u> Collude with or assist another to tamper with, damage or destroy essential infrastructure	<ul style="list-style-type: none"> • Criminal Matters Amendment Act • Collude with • Assist • Tamper • Damage • Destroy • Essential infrastructure
		<u>Afrikaans:</u> Saamsweer met of iemand help om met noodsaaklike infrastruktuur te peuter, of dit te beskadig of vernietig	<ul style="list-style-type: none"> • Wysigingswet op Strafregtelike Aangeleenthede • Saamsweer • Help • Peuter • Beskadig • Vernietig • Noodsaaklike infrastruktuur

Charges / Charge Sheets

Broad overview of the Criminal Matters Amendment Act



- When drafting the charge sheets relating to essential infrastructure, consideration must be given to include other charges e.g, public violence, malicious injury to property / possession of stolen goods and theft general. The consideration to add charges is made easier after interviewing of witnesses.
- Practical example: During a service delivery protest, a basic service is interrupted at Johannesburg Station. Trains are set alight, railway lines are blocked with objects to prohibit the movement of the trains OR interference with water pumps/reservoirs which supplies water to the public. The suspects should be charged with public violence, contravention of section 3 of the CMA Act, trespassing and malicious injury to property.



SESSION 3:

IDENTIFICATION OF NON-FERROUS METALS



- **INTRODUCTION TO DIFFERENT TYPES OF METALS**
- **INTRODUCTION TO SCRAP METAL**
- **MATERIALS TARGETED IN THE -**
 - ESKOM ENVIRONMENT
 - TELKOM ENVIRONMENT
 - TRANSNET ENVIRONMENT

Introduction to different types of metals

Identification of Non-Ferrous Metals

Metals



Potentially Stolen Metal

- **Unmarked:**
 - Very hard to identify
 - Ask questions:
 - Who did you buy from?
 - Register?
 - If burnt. Reported to SAPS?
 - Reasonable explanation and any docs?
- **Marked:**
 - Check marks
 - Call experts

Introduction to scrap metal

Identification of Non-Ferrous Metals

Shiny Bright Copper

- ▶ **International name:** Millberry
- ▶ **Other Names:** SB Copper, Shiny, SB Cu
- ▶ **Some Origins:** Cable from mines, cable manufacturers, old machines, demolition of old buildings, revamping of buildings, household renovations & Offcuts from electrical contractors.



Copper Buss Bar

- ▶ **International name:** Candy
- ▶ **Other Names:** Buss Bar, Copper 1A Solid
- ▶ **Some Origins:** Old electrical cabinets from machinery, Old distribution boards from buildings that are being demolished or renovated & Offcuts from manufacturers of electrical boards.



Copper 1A Wire



- ▶ **International name:** Berry
- ▶ **Other Names:** 1A Wire, Copper 1A, Cu 1AW
- ▶ **Some Origins:** Earthing, Oxidised cable, large electrical motors



Mixed Copper

- ▶ **International name:** Birch Cliff
- ▶ **Other Names:** Copper 1 & 2, Mix Cu, Cu Mix
- ▶ **Some Origins:** Wiring from machinery, copper from small motors, armatures, wiring from vehicles, network cabling, household wiring, offcuts from electrical contractors, Copper piping from old air conditioners, copper piping from households and renovations



Copper transformer tape

- ▶ **International name:** Berry
- ▶ **Other Names:** Transformer tape
- ▶ **Some Origins:** Old transformers, old welding machines



Tinned Copper



- **International name:** Tinned Copper
- **Other Names:** Tin Cu
- **Some Origins:** Old electrical panels and distribution boards, old cable originating from mines. Network cabling



Copper Brazieri

- **International name:** Dream
- **Other Names:** Brazieri, Cu Braz
- **Some Origins:** Water pipes with soldering, air conditioner pipes with soldering



Copper Granules

- ▶ **International name:** Clove
- ▶ **Other Names:** Granules, Cu Granules
- ▶ **Some Origins:** Copper cable and wiring that has been granulated to recover copper



Burnt Mix Copper cable

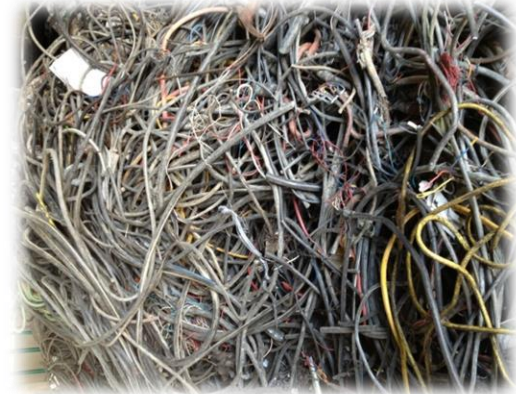
- **International name:** Birch Cliff
- **Other Names:** Mix Cu, Burnt Mix
- **Some Origins:** Copper cable, network cabling and wiring that has been burnt to recover the copper or has been burnt in a vehicle, building, house or machine that has caught alight



Copper cable

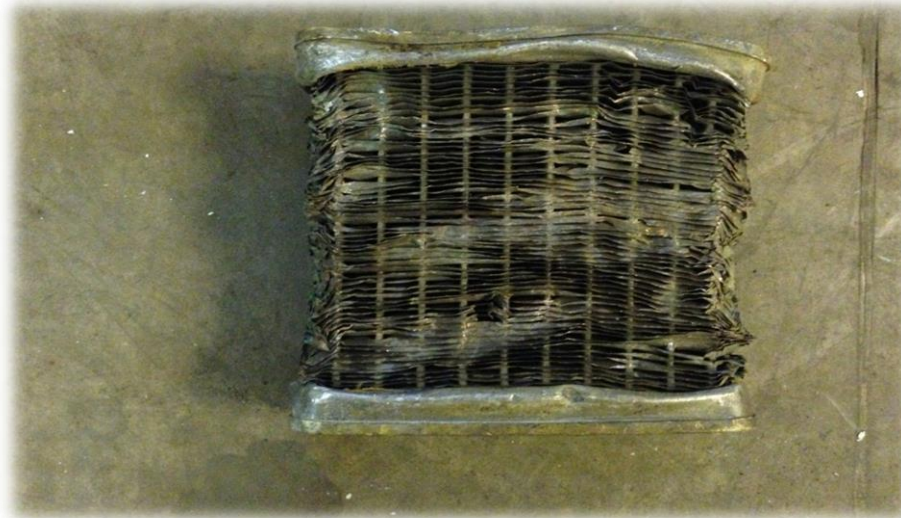


- **International name:** Copper cable
- **Other Names:** PVC cable, cable
- **Some Origins:** Old cars, electrical cables for old household goods, network cables, wiring from renovated or demolished buildings, offcuts from electrical contractors, rejects from cable manufacturers, obsolete cable from mines and cable from old machinery



Copper Radiators

- ▶ **International name:** Ocean
- ▶ **Other Names:** Copper Rad, Cu. Rads
- ▶ **Some Origins:** Vehicles and Machinery



Bronze

- **International name:** Ebony
- **Other Names:** Gun Metal, G.M
- **Some Origins:** Bushes and bearings from machines, generally originating from mines and heavy equipment.



Bronze Shavings

- ▶ **International name:** Enerv
- ▶ **Other Names:** G.M. Shaving, Gun Metal Shavings
- ▶ **Some Origins:** Machining of parts from engineering firms.



Heavy Brass



- **International name:** Honey
- **Other Names:** H.B., H. Brass
- **Some Origins:** Old taps, locks and valves used for both household and commercial purposes.

Brass Shavings

- **International name:** Night
- **Other Names:** Swarf, Brass Shave, B. Shave
- **Some Origins:** Machining of Brass parts by engineering firms.



Brass Cartridge Cases

- ▶ **International name:** Lace
- ▶ **Other Names:** C.C., Cartridge Cases
- ▶ **Some Origins:** Spent cartridges generally recovered from shooting ranges.



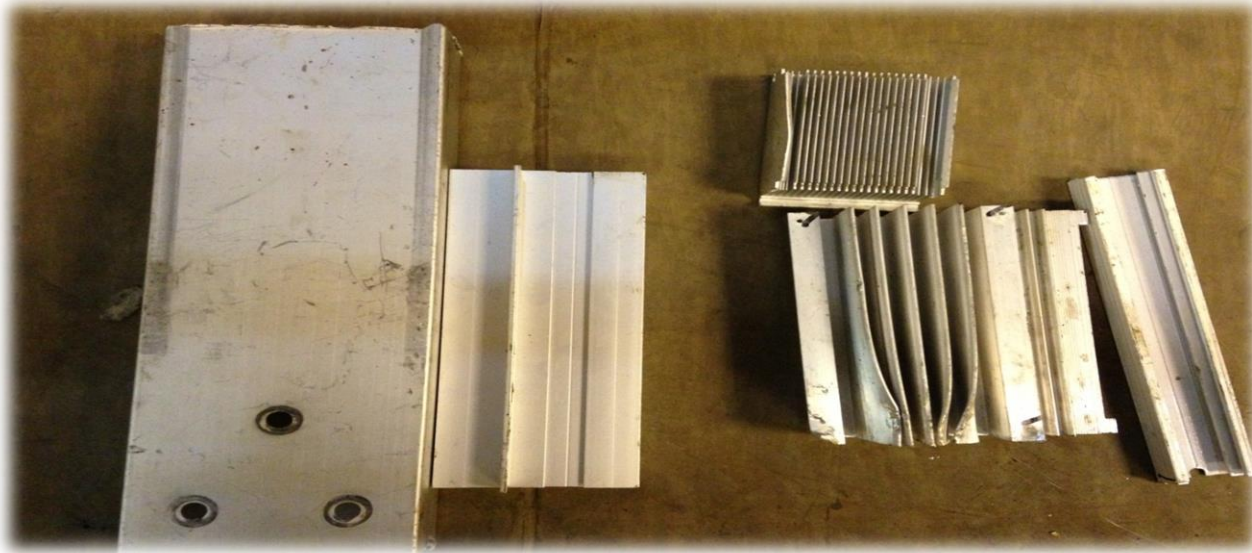
Aluminium Wire

- **International name:** Talon
- **Other Names:** A. Wire, Alu. Wire
- **Some Origins:** Industrial electrical cabling used to replace Copper, as it is cheaper.



Aluminium Extrusion

- ▶ **International name:** Alum Ext
- ▶ **Other Names:** Alu. Extrusion, Extrusion, Alu. Ext
- ▶ **Some Origins:** Door frames, cooling components, window frames, office partitioning.



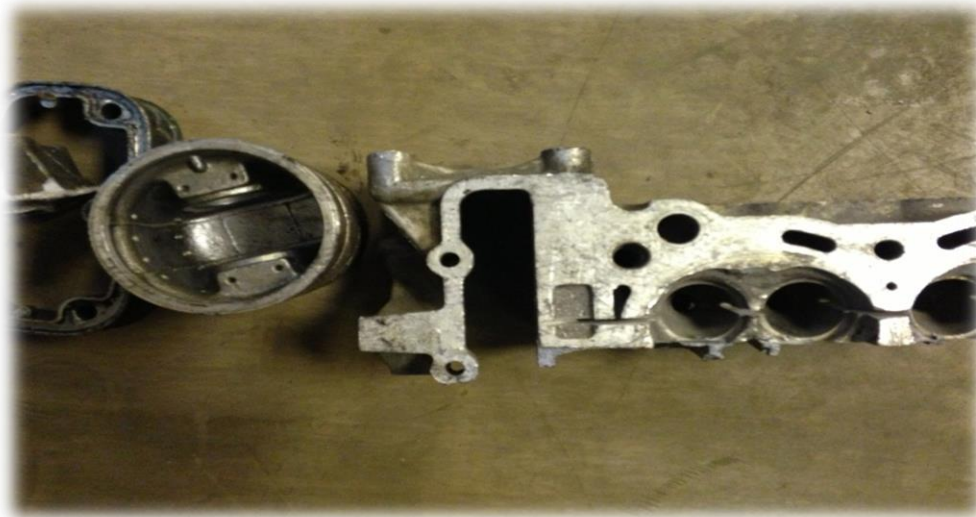
Aluminium Rims

- **International name:** Alum Rims
- **Other Names:** Rims, Alu. Rims, Wheel Rims.
- **Some Origins:** Damaged and or old vehicle and truck rims.



Aluminium Cast

- ▶ **International name:** Tense
- ▶ **Other Names:** Alu. Cast, Cast
- ▶ **Some Origins:** Old vehicle and machine parts.



Aluminium Old Rolled

- **International name:** Taint-Tabor
- **Other Names:** Alu. OR, Old Rolled.
- **Some Origins:** Deodorant cans, old pots, pipes and many others



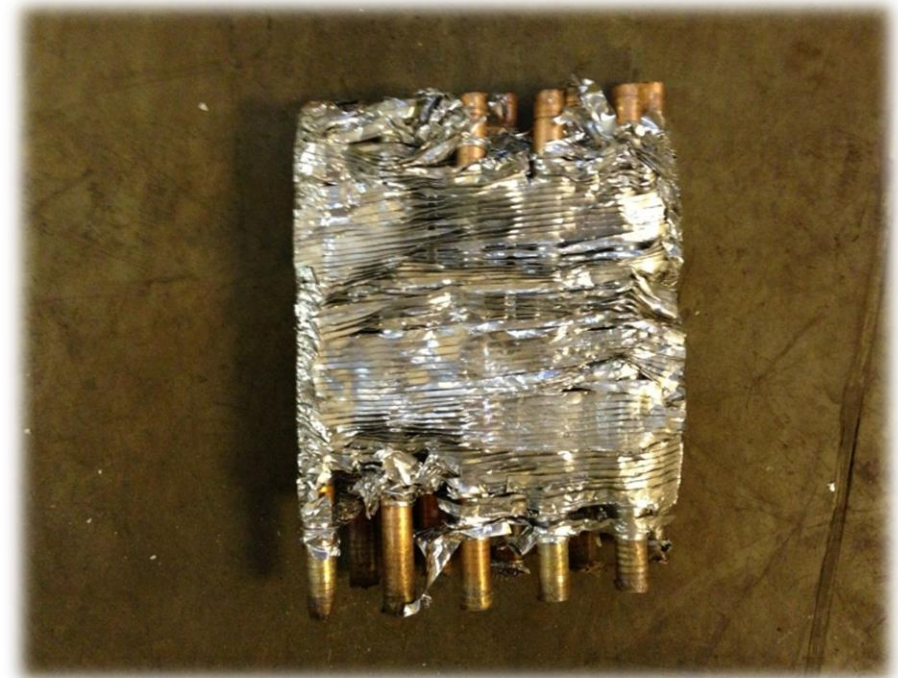
Aluminium Radiators

- ▶ **International name:** Alu Rads
- ▶ **Other Names:** Alu. Rads, A.Rads, Alu. Radiators
- ▶ **Some Origins:** Vehicle and machine radiators



Aluminium Copper Radiators

- **International name:** Talk
- **Other Names:** ACR, Alu. Cu Rads
- **Some Origins:** Machine radiators



Aluminium Cans

- ▶ International name: Talap
- ▶ Other Names: UBC, Alu. Cans
- ▶ Some Origins: Beverage cans.



Stainless Steel

- **International name:** Sabot
- **Other Names:** SS, Stainless, SS Solids
- **Some Origins:** Pipes and plate offcuts from manufacturers or used commercial equipment.



Lead

- ▶ **International name:** Radio
- ▶ **Other Names:** Lead
- ▶ **Some Origins:** Wheel weights, old pipes.



Batteries

- International name: Rains
- Other Names: Batt.
- Some Origins: Vehicles, machines and back up power.



Zinc

- ▶ **International name:** Saves
- ▶ **Other Names:** Zn
- ▶ **Some Origins:** Door handles, old carburettors.



Materials targeted in the Eskom environment

Identification of Non-Ferrous Metals

MATERIALS TARGETED IN THE ESKOM ENVIRONMENT (2)

Transformers



→ COPPER COILS IN TRANSFORMER

PHASE	3	AMPERES
IMPEDANCE	4.82 %	WINDINGS H
FREQUENCY	50	COOLING
SERIAL NO.	32323/11/24/1	YEAR OF MA
ORDER NO.	4500123008/1	CORE & WIN
CUSTOMER	ESKOM WITBANK	TOTAL MASS
STOCK NO.	6000-70-101-1-2	OF
VENTILATE TANK INTERIOR BEFORE REMOVING WELDED CO		

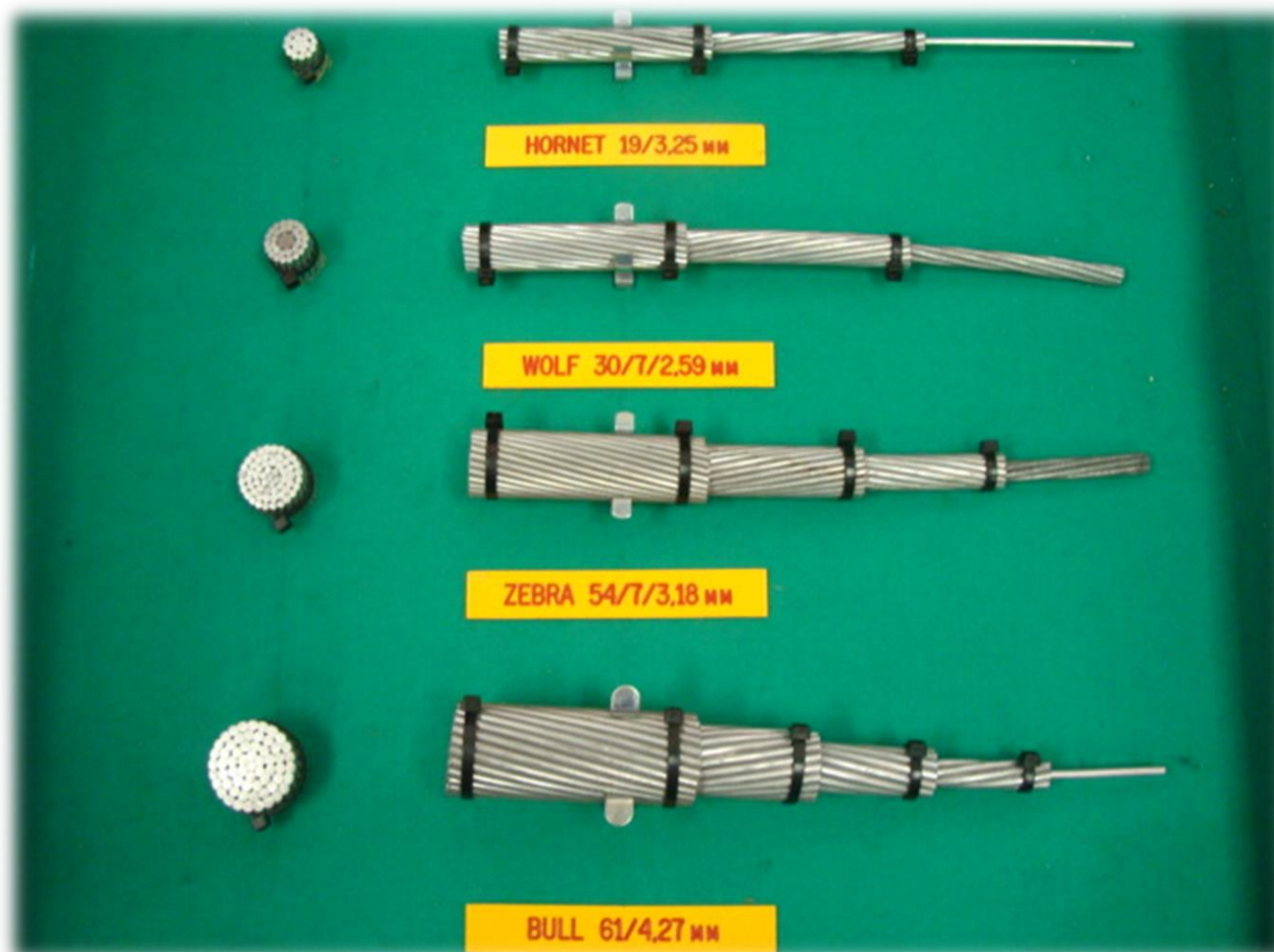
Identifying Marks: Serial Number

Fuse link & meter box

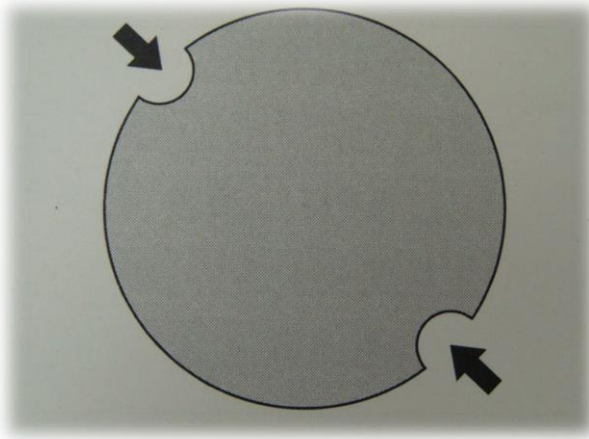


Identifying Marks: None

Conductors

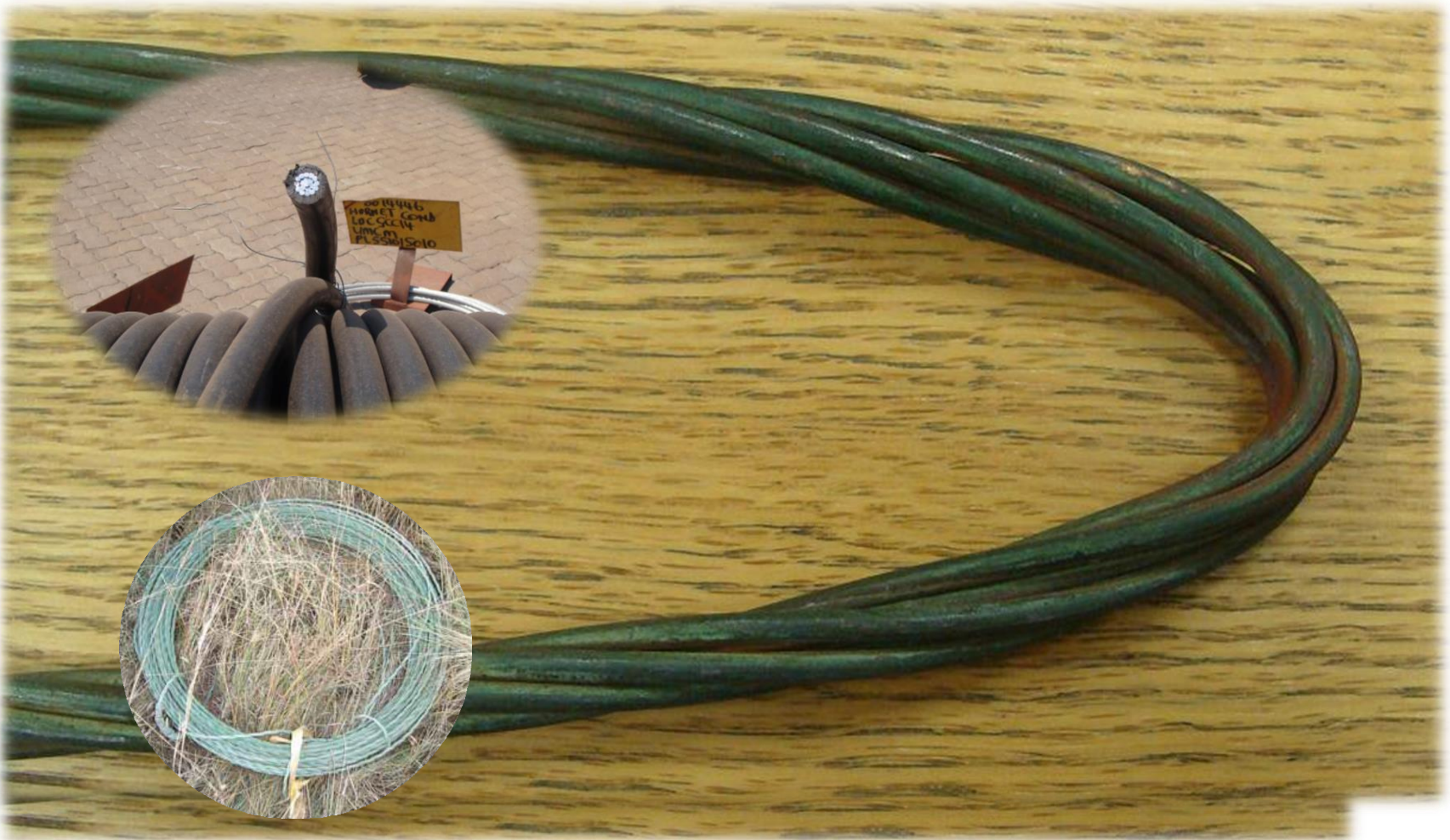


Unique identifier



MATERIALS TARGETED IN THE ESKOM ENVIRONMENT (6)

Covered conductor & copper



Identifying Marks: None

Pylon lattices



Identifying Marks: ESKOM stamp



Copper earthing



Identifying Marks: None

Airdec & aerial bundle



Identifying Marks: ESKOM stamp

Materials targeted in the Telkom environment

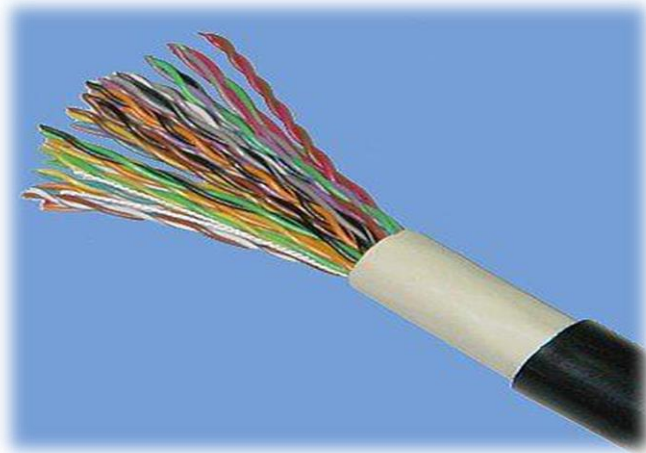
Identification of Non-Ferrous Metals

MATERIALS TARGETED IN THE TELKOM ENVIRONMENT (1)



TELKOM material targeted by thieves

Un-burnt Telkom cable



Identifying Marks: TELKOM Stamp

Burnt Telkom cable



Identifying Marks: None

Materials targeted in the Transnet environment

Identification of Non-Ferrous Metals

All Contact Wire

Function: Provide power to the train

Consequences if tampered with stolen: Damage to pantographs (hook ups), damage to infrastructure, injuries to personnel, Injury on Duty, electrocutions, train delays, theft of goods, dissatisfied clients, claims.



Identifying Marks: SPOORNET stamp

MATERIALS TARGETED IN THE TRANSNET ENVIRONMENT (2)



All Catenary Wire

Function: Provide power to the train

Consequences if tampered with stolen: Damage to pantographs (hook ups), damage to infrastructure, injuries to personnel, Injury on Duty, electrocutions, train delays, theft of goods, dissatisfied clients, claims.

80mm²



Catenary Wire 80mm²: Unit made from copper

100mm²



Catenary Wire 100mm²: Unit made from copper

160mm²



162mm²



Identifying Marks: None

Fish Plate



Function: Rail connector

Consequences if tampered with stolen:

The joining point will weaken, train could derail, injuries to persons and damage to assets/goods.

Identifying Marks: None

Knuckle



Function: To couple wagons in order to form a train

Consequences if tampered with stolen: Unable to connect trucks, coaches and wagons to the locomotive.

Identifying Marks: None

MATERIALS TARGETED IN THE TRANSNET ENVIRONMENT (5)



Pendrol Spring (A), Rail Line (B) and First Clip (C)

(A) Pendrol Spring

Function: Holds rail and sleep in position

Consequences if tampered with stolen: The joining point will weaken, train could derail, injuries to persons and damage to assets/goods.

(B) Rail Line

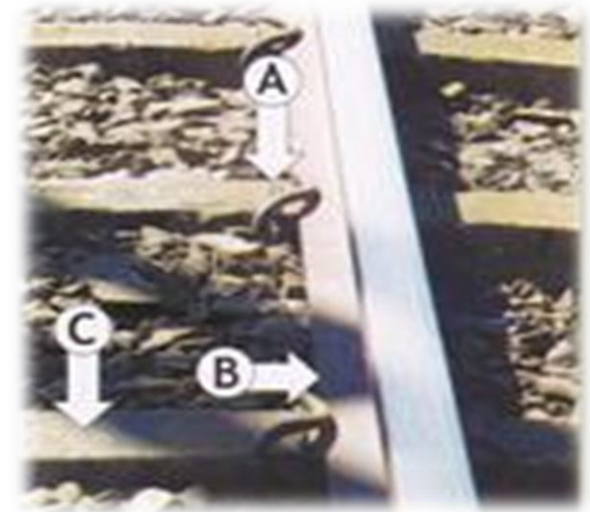
Function: Path for the train

Consequences if tampered with stolen: Derailments, spillages from trucks, loss of lives, dissatisfied clients, claims.

(C) First Clip

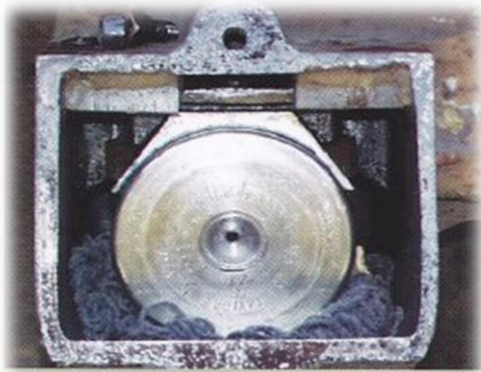
Function: Holds rail and sleeper in position

Consequences if tampered with stolen: Rail not being parallel, derailments, spillages from trucks, loss of lives, dissatisfied clients, claims.



Identifying Marks: None

White Metal Bearing



Function: To avoid friction to the axle during movement

Consequences if tampered with stolen: The axle can heat up due to friction. The wheels and other property can get damaged. A hot axle can lead to derailment and runaway veld-fire once it has broken off and come into contact flammable materials.



Identifying Marks: TRANSNET stamp



SESSION 4:

PROACTIVE/COMBATING MEASURES, INVESTIGATION OF CASES AND PROSECUTION



- NON-FERROUS METALS ILLICIT VALUE CHAIN
- IMPLEMENTATION OF PROACTIVE/COMBATING MEASURES TO ADDRESS THE THEFT ON NON-FERROUS METALS AND RELATED CRIMES, INCLUDING ESSENTIAL INFRASTRUCTURE RELATED CRIMES
- REPORTING AND REGISTRATION OF NON-FERROUS METAL RELATED CRIMES
- CRIME SCENE MANAGEMENT
- PROPERTY AND EXHIBIT MANAGEMENT
- OPERATIONAL PLANNING AND MONITORING (OPAM) SYSTEM
- INVESTIGATION RESPONSIBILITIES
- ROLE OF NPA IN PROSECUTION
- COORDINATING MECHANISMS

Addressing Non-ferrous metals and essential infrastructure related offences/crimes

Pro-active/combating measures, investigation of cases and prosecution





- The **high incidents of non-ferrous metals and essential infrastructure related crime** in South Africa poses a risk to public safety and further results in huge financial losses for the country. Copper cable theft costs the South African economy an estimated R5 billion per year.
- To address this unacceptable situation an **integrated and collaborative approach amongst all stake holders** are required.
- Non-ferrous related crimes and the targeting of copper cables in particular, impact on various industries including local government, energy, transport and mining which are critical aspects of South Africa's economy and stability.
- This is evidenced by the following key developments as recorded by the media:
 - Gautrain disrupted by cable theft
 - Eskom rebuilds collapsed pylons
 - Soweto power tower collapses
 - Cable theft disrupts East Rand trains
 - Cable theft leaves Centurion powerless
 - Cable theft causes substation explosion
 - OR Tambo cable theft causes lengthy delays



Non-Ferrous Metal Illicit Value Chain



Local – Station Dimension

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National -
Transnational Scope



Perpetrators

Individual perpetrators
Organised syndicates and gangs

Product

Non-ferrous metals
Primarily copper and aluminium
Essential infrastructure

Scrap Metal Market

Enforcement of compliance to the Second-Hand Goods Act, 2009 (Act No 6 of 2009) and Criminal Matters Amendment Act, 2015 (Act No 18 of 2015)
Approximately 2 913 registered scrap metal dealers and 1 030 recyclers



- The key drivers of non-ferrous related crime particularly copper cable theft include:
 - Socio-economic factors, such as poverty
 - Unemployment
 - The growing scrap metal and recycling market, including the fact that the price of copper has increased steadily in recent years.
- The indirect cost of cable theft also includes the loss of income, the disruption of essential services, labour costs to repair the affected networks as well as security costs.
- Non-ferrous metal theft has become a serious problem within the mining sector. The theft of copper occurs both on surface and within the underground workings and has significantly increased over the past few years.
- Criminals currently target operational areas such as transformers, fridge plants and compressor houses.

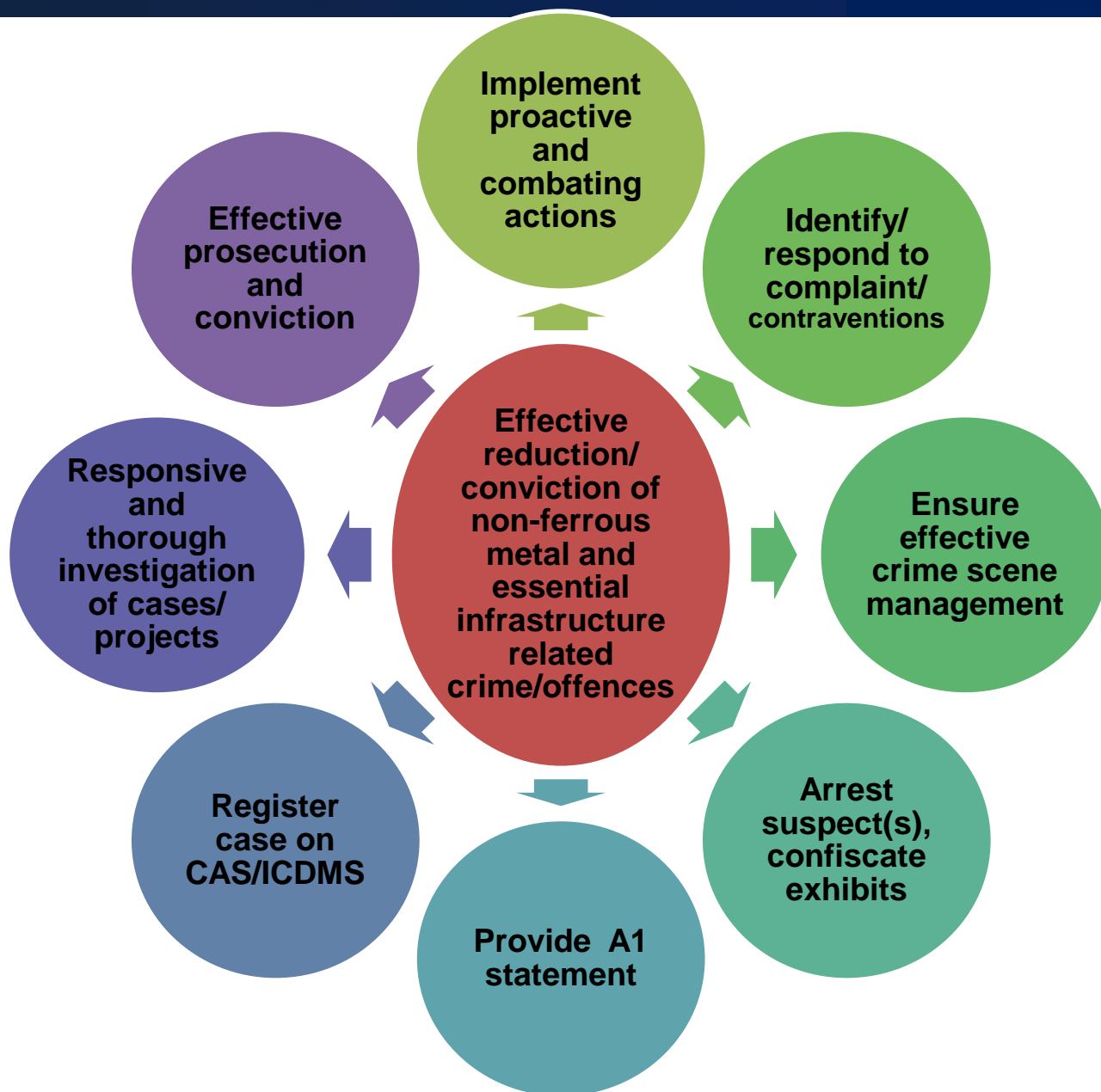


- The mining industry suffers direct losses in production targets as result of the theft of copper cable. The fact that underground operations are not policed by security gives the criminal a head start in committing these crimes.
- The cost of replacing stolen cable is insignificant when compared with the major financial impact resulting from power failure, production losses and overtime costs paid during repairs.
- Corruption is a major facilitator of copper cable theft as corrupt individuals involved are privy to the security measures in place at the depots or locations where they are working. Within the mining industry 75% of thefts are committed by own staff and contractors and 35% by external people.



Addressing Non-ferrous metal and essential infrastructure related crimes/offences

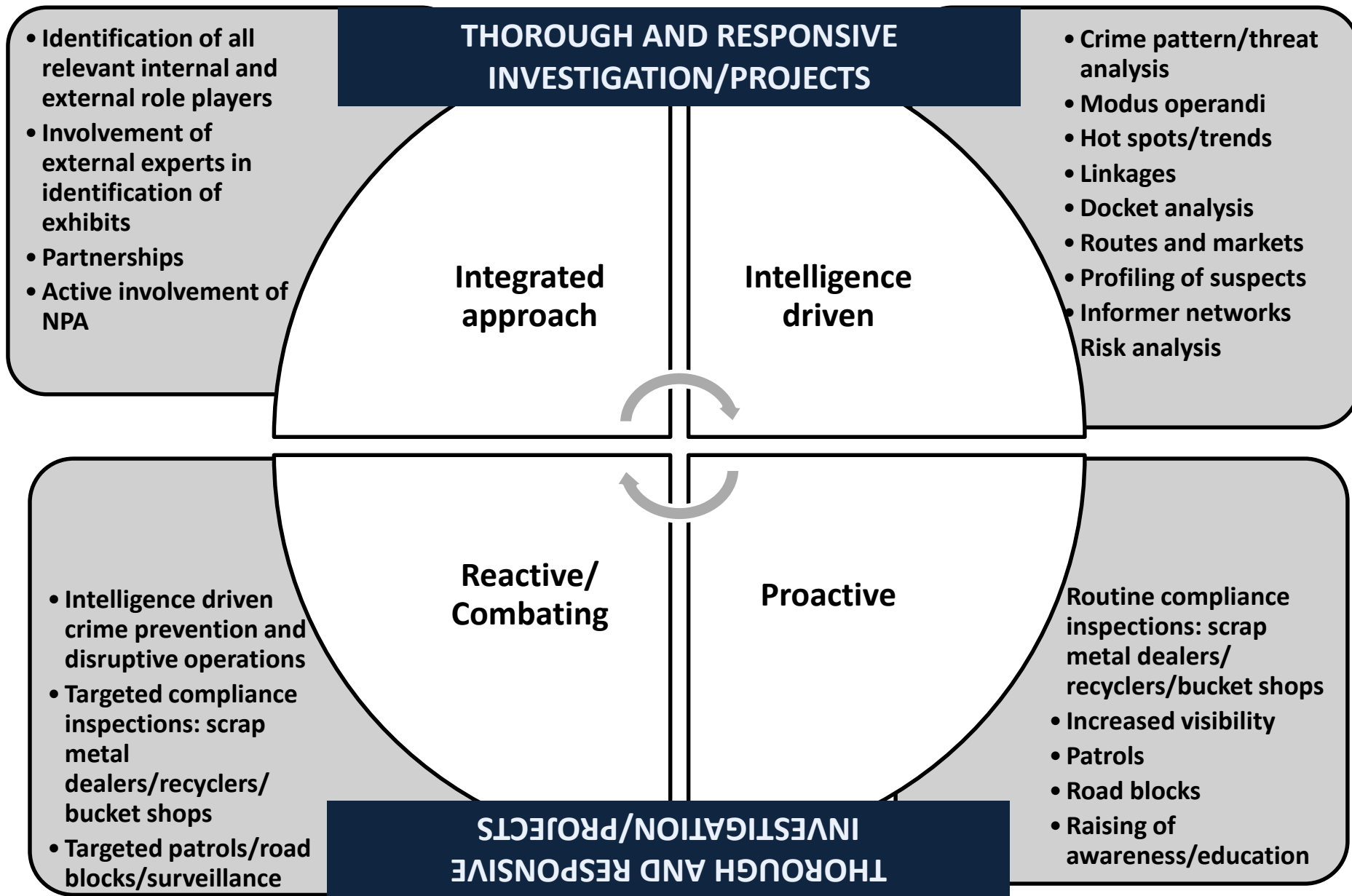
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Proactive and combating actions: Non-ferrous metal and essential infrastructure related crime/offences

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Proactive and Combating Actions

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Non-Ferrous Metal Hot Spot Police Stations

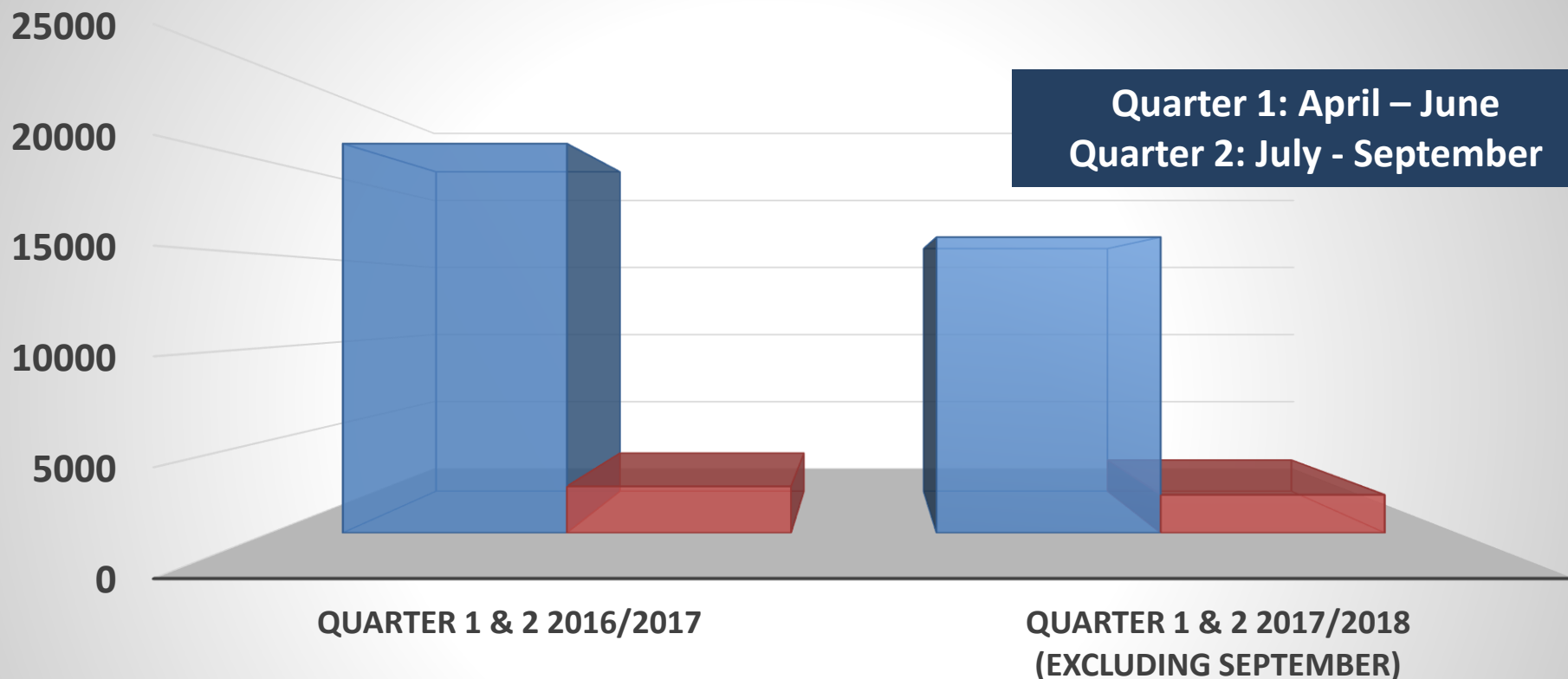
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PROVINCE	POLICE STATIONS				
Eastern Cape	Mount Road	Algoapark	Grahamstown	Joubertina	Gelvendale
Free State	Welkom	Theunissen	Virginia	Henneman	Kroonstad
Gauteng	Temba	Villieria	Germiston	Brakpan	Springs
KwaZulu-Natal	Pinetown	Umkomaas	Hillcrest	Empangeni	Kwadakuza
Limpopo	Matlala	Seshego	Zebediela	Mahwelereng	Letsitele
Mpumalanga	Witbank	Middelburg	Blinkpan	Nelspruit	Standerton
Northern Cape	Kimberley	De Aar	Barkly West	Danielskuil	Kathu
North West	Mooiooi	Brits	Klerksdorp	Koster	Stilfontein
Western Cape	Worcester	Kraaifontein	Bishop Lavis	Paarl	Stellenbosch



National total of Incidents and Arrests: Non-Ferrous Metals: Comparison Quarter 1 & 2: 2016/2017 and 2017/2018

Reported Incidents and Arrests: Non-Ferrous Metals



	Quarter 1 & 2 2016/2017	Quarter 1 & 2 2017/2018 (Excluding September)
Reported Incidents	20994	15949
Arrests ¹³¹	2506	2052



Reported Incidents and Arrests: Non-Ferrous Metals: Comparison Quarter 1 & 2: 2016/2017 and 2017/2018

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PROVINCE	Quarter 1 & 2: 2016/2017		Quarter 1 & 2: 2017/2018	
	1 April – 30 September 2016		1 April – 31 August 2017	
	NUMBER OF INCIDENTS	ARRESTS	NUMBER OF INCIDENTS	ARRESTS
Gauteng	5 157	843	4 460	652
Western Cape	3 925	465	3 034	377
KwaZulu-Natal	3 202	274	2 542	270
Limpopo	2 620	139	1 731	131
Mpumalanga	1 658	198	1 222	167
North West	2 005	219	1 142	162
Eastern Cape	1 144	144	837	107
Free State	935	154	694	131
Northern Cape	348	70	287	55
TOTAL	20 994	2 506	15 949	2 052

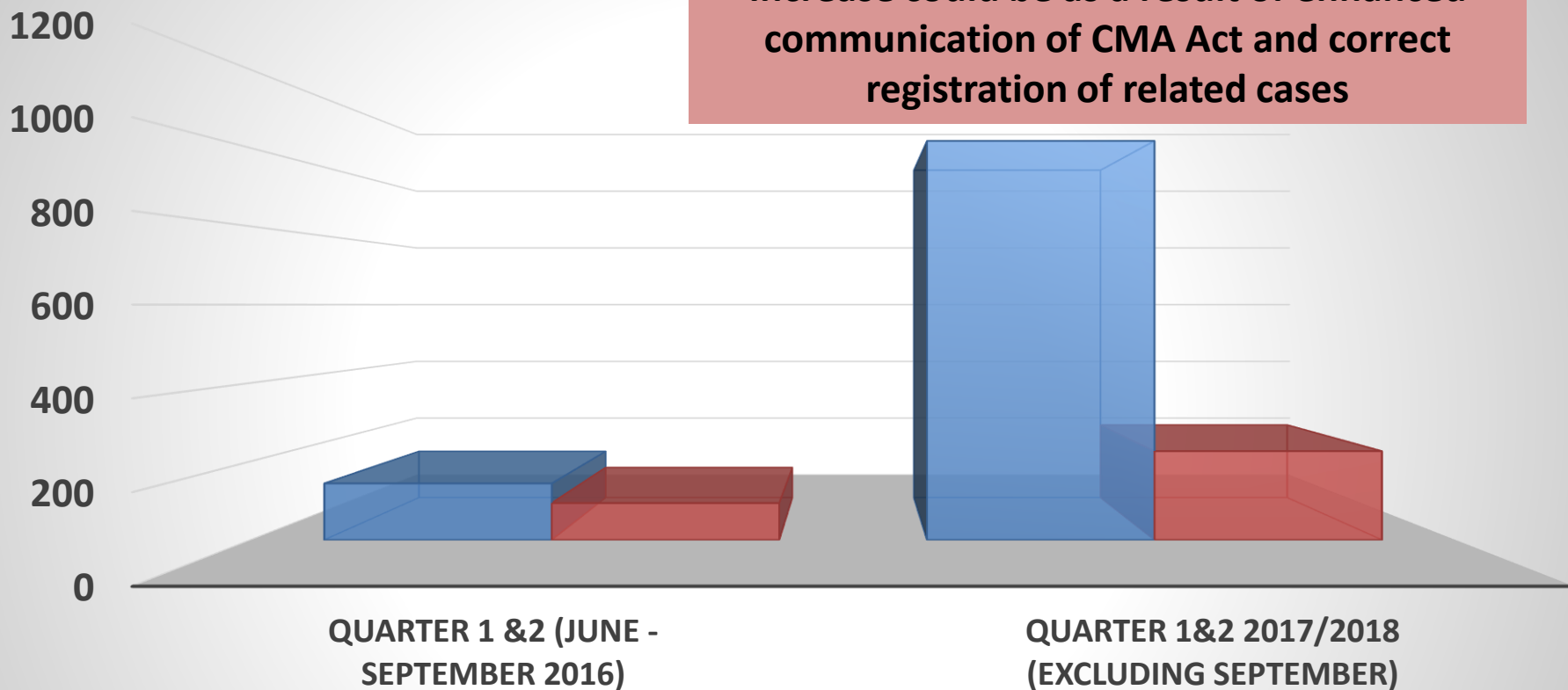


Reported Incidents and Arrests: Essential Infrastructure Crime: Comparison Quarter 1 & 2: 2016/2017 and 2017/2018

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Reported Incidents and Arrests: Essential Infrastructure

Increase could be as a result of enhanced communication of CMA Act and correct registration of related cases



	Quarter 1 & 2 (June - September 2016)	Quarter 1&2 2017/2018 (Excluding September)
Reported Incidents	144	1018
Arrests	94	226



Reported Incidents and Arrests: Essential Infrastructure Crime: Comparison Quarter 1 & 2: 2016/2017 and 2017/2018

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PROVINCE	Quarter 1 & 2: 2016/2017		Quarter 1 & 2: 2017/2018	
	1 April – 30 September 2016		1 April – 31 August 2017	
	NUMBER OF INCIDENTS	ARRESTS	NUMBER OF INCIDENTS	ARRESTS
Eastern Cape	10	38	37	56
Free State	0	0	46	6
Gauteng	24	14	232	37
KwaZulu-Natal	3	2	129	12
Limpopo	1	1	12	1
Mpumalanga	2	0	8	1
North West	102	33	467	83
Northern Cape	0	0	2	0
Western Cape	2	6	85	30
TOTAL	144	94	1018	226



Impact essential infrastructure crime/copper cable theft

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Introduction: Crime Scene Management

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- The scene of crime is the starting point of an investigation as this is the place where direct or indirect proof of the commission of a crime exists and the place where evidence can be found to solve it.
- The proper collection of evidence can only be done if the handling of a scene of crime occurs in an organised and objective manner.
- The first responder to crime scenes must know what is expected of him/her and be familiar with the advantages of correct conduct and the disadvantages of incorrect conduct. Clues, which are destroyed or damaged, can never be replaced.



- Crime scene management means the process of planning and implementation of measures to-
 - take control and secure the crime scene
 - ensure the integrity, preservation and the originality of evidence and exhibits
 - investigate and process the crime scene thoroughly without the crime scene being altered or contaminated;
 - co-ordinate and optimize the collection of exhibits
 - utilize the investigation support resources optimally;
 - record facts and events properly; and
 - ensure that the crime scene remain under police protection.





NATIONAL INSTRUCTION 1/2015: CRIME SCENE MANAGEMENT

PHASE	PHASES IN HANDLING A CRIME SCENE	ACTIONS REQUIRED	COMMENTS/EXAPMLES/APPLICATION
1	REPORTING PAR 8 Member to whom crime was reported <ul style="list-style-type: none">○ 10111 Centre (call taker/ dispatcher)○ CSC members○ Operational Command Centres (OCC)	<ul style="list-style-type: none">• Obtain necessary information and record	Commodity involved: copper [cable, transformer tape, buz bar, wire, granules, radiators], brass, bronze batteries, aluminium, steel, lead, lattices, pylons Area where occurred: railway line, residential suburb, business area, mine Suspects: total, on scene of crime, description, direction of flight Nature of incident
2	ACTIVATION PAR 9	<ul style="list-style-type: none">• Activate first responder and provide relevant information• Activate backup/experts• Monitor situation and render support, if requested	Forensic Services: (Photographer, fingerprint expert) State Owned Enterprise (SOE) concerned [Transnet, Telkom, Eskom, Prasa] to assist in identification Operational Response Services (POP's)



PHASE	PHASES IN HANDLING A CRIME SCENE	ACTIONS REQUIRED
3	RESPONDING PAR 10 SAPS first responder	<ul style="list-style-type: none">• Approach crime scene with due consideration of safety and preservation of crime scene• Assess situation• Arrest suspect(s), if required• Remove unauthorised persons
4	CONTROLLING PAR 11 SAPS first responder	<ul style="list-style-type: none">• Take control, evaluate and protect crime scene• Identify nature of incident• Provide feedback to dispatcher• Arrange for removal of arrested suspect(s)• Assist injured and record associated information (particulars of injured, nature of injuries, where injured was found)• Request support, if required• Establish inner and outer cordon• Protect exhibit(s) from contamination/elements• Exercise and protect access and departure routes• Restrict media and refrain from releasing information• Establish command centre• Identify witnesses, obtain information and update dispatcher (description of suspect(s), direction of flight)



PHASE	PHASES IN HANDLING A CRIME SCENE	ACTIONS REQUIRED
5	HANDOVER PAR 12 SAPS First Responder Detective/ Crime Scene Manager CCC	<ul style="list-style-type: none">• SAPS first responder hand cordoned area to the Detective/Crime Scene Manager and activities beyond the outer cordon to the Command Centre, brief the Detective/Crime Scene Manager and update dispatcher following handover• Detective/Crime Scene Manager assume absolute control and assigns Detective/Crime Scene Manager Command Centre Commander (CCC) and investigating official• CCC document all requests and resulting activities, and control access to crime scene
6	PLANNING PAR 13 Detective/ Crime Scene Manager Forensic expert Investigating official	<ul style="list-style-type: none">• Detective/Crime Scene Manager/forensic expert and investigating official evaluate situation (walk through) and determine investigation goals, utilisation of resources and investigation methods• Forensic Services assigns forensic expert who will further evaluate situation, identify, note and protect physical evidence, as well as determine resources for processing of the scene and method to be used



PHASE	PHASES IN HANDLING A CRIME SCENE	ACTIONS REQUIRED
7	INVESTIGATION AND PROCESSING PAR 14 Detective/Crime Scene Manager Forensic expert Investigating official	<ul style="list-style-type: none">• Gather evidence and information• Detective/Crime Scene Manager coordinate communication of information, identify and protect witnesses• Forensic expert record crime scene to provide visual presentation (before alteration, in original position and after conclusion of the process)• Forensic expert coordinate processing of the scene for physical evidence and gathering of information• Investigation official obtain required documentation to open, maintain and register docket
8	DEBRIEFING PAR 15 Detective/Crime Scene Manager Forensic expert Investigating official	<ul style="list-style-type: none">• Detective/Crime Scene Manager conduct final survey and ensure all reports are completed, collected and handed over to the investigating official• Forensic expert decide on procedure to be followed in respect of gathered evidence after initial investigation• Investigating official deal with assigned exhibits



PHASE	PHASES IN HANDLING A CRIME SCENE	ACTIONS REQUIRED
9	RESTORING PAR 16 Detective/Crime Scene Manager	<ul style="list-style-type: none">Ensure all equipment used is removed, photographs are taken and all documents, statements and material are handed to investigating official
10	RELEASING PAR 17 Detective/Crime Scene Manager	Authorise release of crime scene to whom crime scene must be released
11	EVALUATION PAR 18 Detective/Crime Scene Manager	Arrange meeting with all role players after incident to evaluate process followed in respect of the correct processing of the scene and whether the evidence collected will assist in the investigation of the case, as well as make recommendations for improvement



Summary: Roles and Responsibilities

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First Responder

- Receive briefing from complainant/owner/ authorised person/security official
- Comb the scene and preserve clues
- Interview potential witnesses/ suspects
- Maintain the cordon off area
- Preserve evidence;
- Detain suspect(s)
- Assign tasking to observe the vicinity
- Make notes
- Interview the complainant/ owner/authorised person/security official
- Conduct thorough preliminary investigation
- Hand over to the Detective
- Obtain acknowledgement of receipt in pocket book

Detective

- Receive the scene from the first responder
- Interview the person from whom the scene is taken over
- Make the necessary notes
- Comb the scene for further clues
- Assign further tasking
- Conduct search of the crime scene, using various methods to ensure that no clues are left behind
- Preserve all evidence that may be used in court
- Summon the experts if circumstances so require
- Hand the scene to the forensic experts.
- Obtain acknowledgement receipt in your pocket book or diary

Forensic Expert

- Take control of scene for forensic investigation to strengthen investigation (such as, photographs, fingerprints)

- Never rely on your memory – make notes of everything you observe in your pocket book
- Know your definitions and elements of crimes/offences
- Give immediate attention to complaints.
- Visit the crime scene, secure, protect and investigate
- Courteously request the media/community to remain outside the outer cordon of the crime scene
- Refer the media to the Media Liaison Officer
- Never hesitate to ask for help and use the experts



Protection of Crime Scene: Complainant (Owner/Authorised Person)

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1 - Control

- Take charge of the scene
- Call the SAPS
- Cordon off the crime scene
- Protect the clues
- Preserve evidence and mark evidence where practical
- Observe and identify possible suspects and witnesses
- Make notes for reference
- If practically possible effect arrests
- Assemble all potential witnesses who agree to make statements at a safe place
- Never leave the crime scene unattended
- Never allow anyone to enter the cordoned off area
- Take detailed notes of what you observe

2 – Hand Over

- Hand crime scene to a SAPS member
- Brief SAPS member
- Share information contained in the notes you made
- Introduce witnesses / suspects to the SAPS members
- Get the SAPS member to sign and acknowledge the notes and condition in which the scene was handed over



Elements of a crime/offence

Must include all the elements of a crime/offence to ensure conviction.

Elements of crime are as follows:

- Act
- Unlawful
- Intention
- Punishable

FOR EXAMPLE:

- Second-Hand Goods Act, 2009 (Act No 6 of 2009)
- Criminal Matters Amendment Act, 2015 (Act No 18 of 2015) – Section 3
- Theft
- Malicious injury to property

Content

What happened?

Where did it happen?

When did it happen?

Who is the offender?

Why did it happen?

How did it happen?



National Instruction 8 of 2017: Property and Exhibit Management

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SAPS 13 Property Register

- Members in CSC must **descriptively enter** non-ferrous metals and indicate weight, [for example 4kg copper cables] (first four columns of the SAPS 13Property Register must be completed)
- **Record SAPS 13 reference number** in applicable space on page 1 of docket/relevant part of page 6 of docket
- **PARAGRAPH 4**

Disposal of non-ferrous metals (For example copper, aluminium)

- **Return to lawful owner** if able to identify: may only be handed over to a duly authorised representative through official letter of authority from the relevant company (For example: [ESKOM/TRANSNET](#))
- **Unidentified non-ferrous metals: must be sold** to a registered scrap metal dealer through an informal tender process ([SO\(S\)15](#))
- **Complete 136** (Indemnity Form)
- **PARAGRAPH 11(5)**

TAKE NOTE

- Dispose of identifiable cables as prescribed in Section 34 & 35 of the CPA Act
- Ensure exhibits are not tampered with.
- Package exhibits properly without tampering with evidence and seal correctly in a marked exhibit bag.
- Case number plus SAP 13 number, must reflect on the exhibit bag.
- Obtain acknowledgement of receipt from FSL.
- Obtain chain statements from all who handled the exhibit.

ENSURE ALL GOODS CONFISCATED AND ENTERED INTO THE SAPS 13 PROPERTY REGISTER IS CAPTURED ON THE OPAM SYSTEM



Exhibit Management: Requirements when Non-Ferrous Metals are Seized

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- A **SAPS 13(b) must be issued** to the dealer/recycler when non-ferrous metals are seized
 - The original **SAPS13 (b) receipt must be handed to the person** from whom the article was seized and **must be signed** by such person
 - Acknowledge that the seized property was **fully and correctly recorded** on the SAPS 13(b) receipt; and
 - A SAPS 13(b) was **received**.
- The **Property Acknowledgment of Receipt Register (SAPS 13(b)) must further be completed**
- Where seized goods were recorded in a Dealer or Recycler Register, such goods must be **booked out of the Dealer or Recycler Register** by the SAPS member who seized the goods and the SAPS member must sign therefor in the prescribed manner.
- If the person from whom the article was seized is not on the premises when the article was seized, the original SAPS 13(b) receipt must be handed to the person in charge of the premises
- If the person in charge of the premises is not available, the original SAPS 13(b) receipt must be left at a prominent place on the premises
 - The member must in such a case make an entry in his/her diary/pocket book that nobody was present and mention the place where the receipt was left
 - A witness must co-sign the members' diary/pocket book in such a case

PARAGRAPH 4(4) & 8 NATIONAL INSTRUCTION 2/2016: SHG: DEALERS AND RECYCLERS



Labelling of items handed in at SAPS 13 Stores

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- All items must as far as possible be handed in at the SAPS 13 store **labelled with a SAPS 13(a) label** endorsed with the following information:
 - Station's name.
 - CR/ CAS number.
 - SAPS13 number.
 - SAPS 43 number (Only when exhibit is forwarded to Court).
 - Accused name.
 - Investigating Officer's name.
 - Telephone number of the Investigating Officer.
 - The Property Transfer Register (PTR) number and index number



Registration of non-ferrous metal and essential infrastructure related crimes: CAS/ICDMS

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For example:

CRIME/OFFENCE	CRIME CODE	COMMENTS
Tampers with, damages or destroys essential infrastructure (Section 3(1)(a) – CMA Act)	3200	Tampering with, damaging or destruction of essential infrastructure (such as an installation, structure, facility or system) which may interfere with the provision of basic services (transport, energy, water, sanitation and communication) to the public
Collude with or assist another to tamper with, damage or destroy essential infrastructure (Section 3(1)(b) – CMA Act)	3200	Always charge for most serious charge and consider alternative charges
Theft	57304	Please ensure that the property description (electrical/telephone cable/copper cable) as well as the property text description (ESKOM cables[quantity/weight]) is completed
Malicious damage to property	66508	
Trespassing	505010	
Possession of stolen goods	60534	



Non-Ferrous Metals: OPAM System: Compliance Inspections

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- ENSURE THAT ALL ACTIONS EXECUTED AND SUCCESSES ACHIEVED ARE CAPTURED ON THE OPERATIONAL PLANNING AND MONITORING (OPAM) SYSTEM (VERIFY TO ENSURE VALID AND RELIABLE INFORMATION AGAINST SUCCESS CAPTURING REPORT (SAPS 594) AND RELEVANT OFFICIAL SAPS REGISTERS [SAPS 13, SAPS 14, SAPS 607])**

Compliance Inspections	Day to day	Operations	Total
Compliance Inspections	1766	545	2311
Second-Hand Goods Dealers	296	156	452
Antique Dealer	7	7	14
Auctioneer	2	0	2
Charity Organisations	0	0	0
Communication Equipment Dealer	75	16	91
Electronic Equipment Repairer	3	8	11
General Dealer	76	34	110
Household Goods Repair Dealer	2	0	2
Motor Vehicle Dealer	24	18	42
Motor Vehicle Parts/Accessories Dealer	2	4	6
Motor Vehicle Repairer	6	0	6
Panel Beater	8	2	10
Pawnbroker	4	7	11
Recycler	6	15	21
Scrap Metal Dealer	66	29	95
Second-Hand Book Dealer	4	0	4
Tyre Dealer	4	9	13
Vehicle Dealer	5	2	7
Vehicle Parts/Accessories Dealer	2	5	7
Vehicle Repairer	0	0	0



Non-Ferrous Metals: OPAM System: Arrests

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Arrests	Day to day	Operations	Total
Arrests	3726	1562	5288
Illegal Dealing In Second-Hand Goods	3726	1562	5288
Confiscation: Non-Ferrous Metals			
Aluminium (Grams)			
Brass (Grams)			
Bronze (Grams)			
Chrome (Grams)			
Cobalt (Grams)			
Copper (Grams)			
Ferrochrome (Grams)			
Ferrosilicon (Grams)			
Ferrovandium (Grams)			
Lead (Grams)			
Nickel (Grams)			
Tin (Grams)			
Tungsten (Grams)			
White Metal (Grams)			
Zinc (Grams)			



Governance

**National
Instruction 13 of
2016:
Duties of Station
Commanders**

Action required

**Ensure compliance/
adherence to Policies,
National Instructions,
Standing Orders**

(Paragraph 3 (2)(i))

**Ensure that first and second
level inspections are
conducted**

(Paragraph 17)

**Ensure that necessary steps
to address irregularities are
taken to rectify such and
provide further guidance
and training**

(Paragraph 18)

Application

**Criminal Matters
Amendment Act, 2015
(Act No 18 of 2015)**

**Second-Hand Goods
Act, 2009 (Act No 6 of
2009)**

**Regulations for the
Accreditation of
Second-Hand Goods
Dealers' Associations,
2011**

**Regulations for
Dealers and Recyclers,
2012**

**National Instruction 2
of 2016: SHG Dealers
and Recyclers**



Governance

**Standing Order
(General) 256**

**Duties of Relief
Operational/
Client Service
Centre
Commanders**

Action required

Conducting first level inspections
on all registers and books in the
CSC during each shift

Paragraph 5 (g)

Check all case dockets for
correctness before it is registered
on the Crime Administration
System (CAS)

Paragraph 7 (d)

Check all statements to ensure
that it is correct and of a proper
quality, monitor relevant
functions on the CAS and ensure
that all CAS faults are rectified
immediately

Paragraph 4 (2) (g) and (i)

Application

**Delegation of Powers,
2016**

**Standard Operating
Procedures, SHG
Dealers and
Recyclers**

**Divisional
Instructions (1 of
2012, 1 of 2015 and 1
of 2015)**

**Divisional Directives
Second-Hand Goods
Registers and forms**

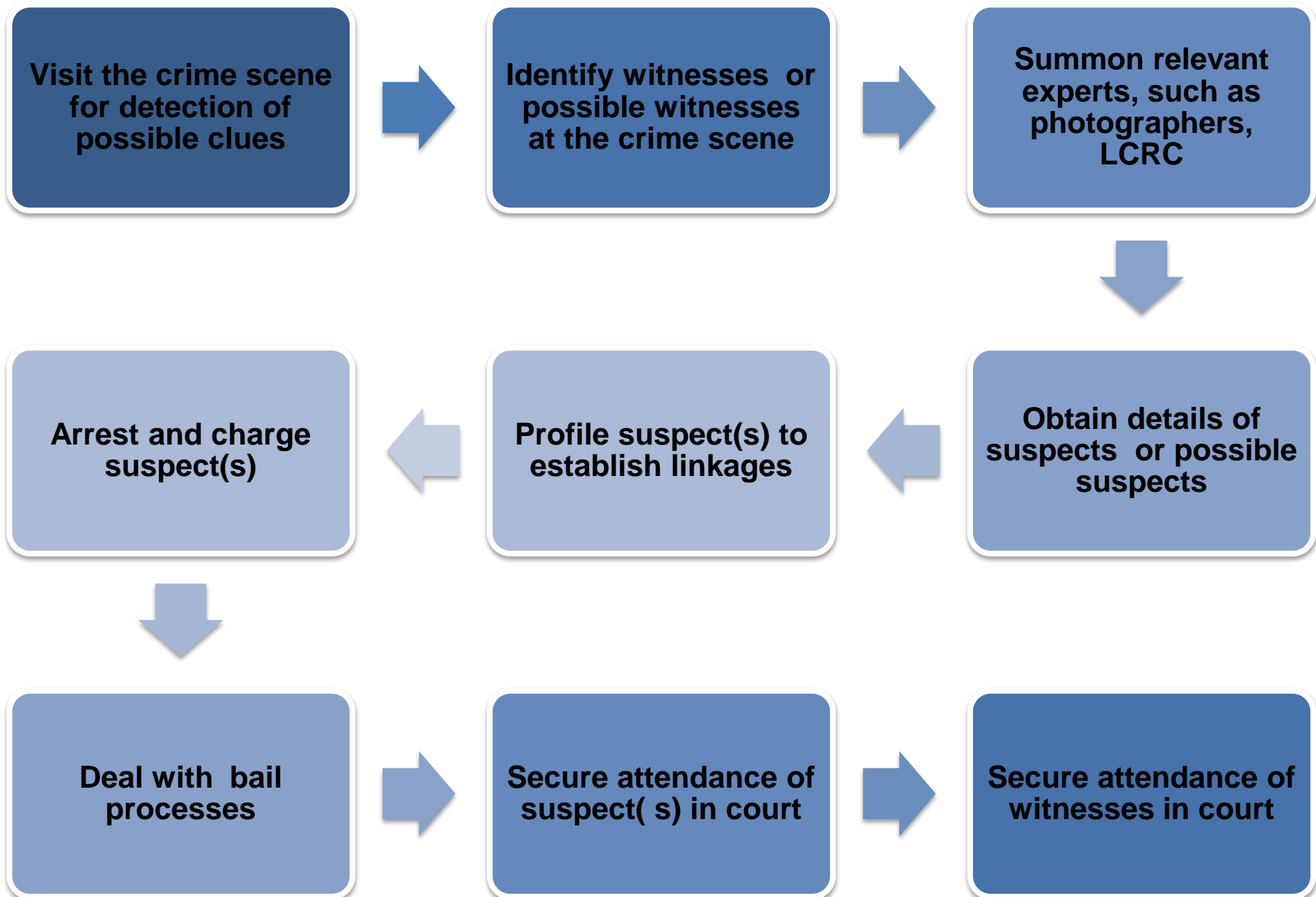
CAS/ICDMS

Detectives/CIO must ensure that cases in respect of non-ferrous metals and essential infrastructure related crimes are correctly registered on CAS/ICDMS during SCCF meetings



Detective Responsibilities: Investigation of the Offence/Crime

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NPA REQUIREMENTS

- Provide the correct bail opposing statement referring to the Criminal Matters Amendment Act, 2015 (Act No 18 of 2015)
- Clear description of items tampered with or stolen (see A1 – statement taking)
- Weight and identification of the goods
- Statement from complainant (owner or authorised representative) identifying goods as their property
- The result/impact of the tampering or theft of the essential infrastructure
- Obtain an expert statement
- Investigate the possibility of syndicate involvement
- Determine end destination of stolen goods

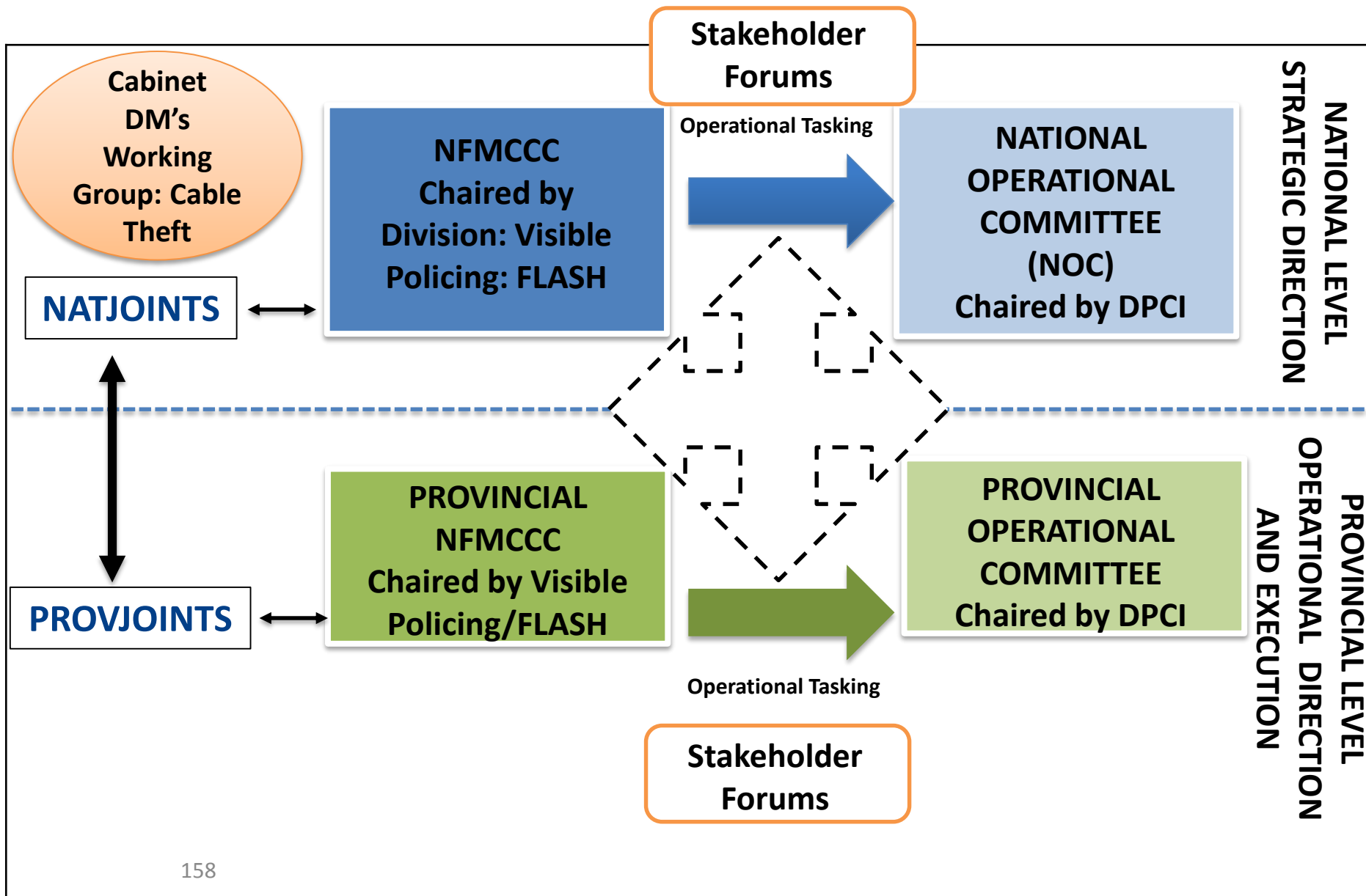
SAPS RESPONSIBILITY

- **Before a suspect is awarded bail in court, the following must be taken into consideration:**
 - Permanent address (confirm)
 - Is suspect a flight risk?
 - Does suspect possess a passport?
 - Will suspect interfere/ intimidate witnesses?
 - Similar offences/convictions
 - Seriousness of the offence



Coordinating Mechanisms: Non-Ferrous Metals

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SESSION 5:

IMPORT AND EXPORT OF NON-FERROUS METALS



- **ROLE OF ITAC IN THE IMPORT AND EXPORT OF NON-FERROUS METALS**

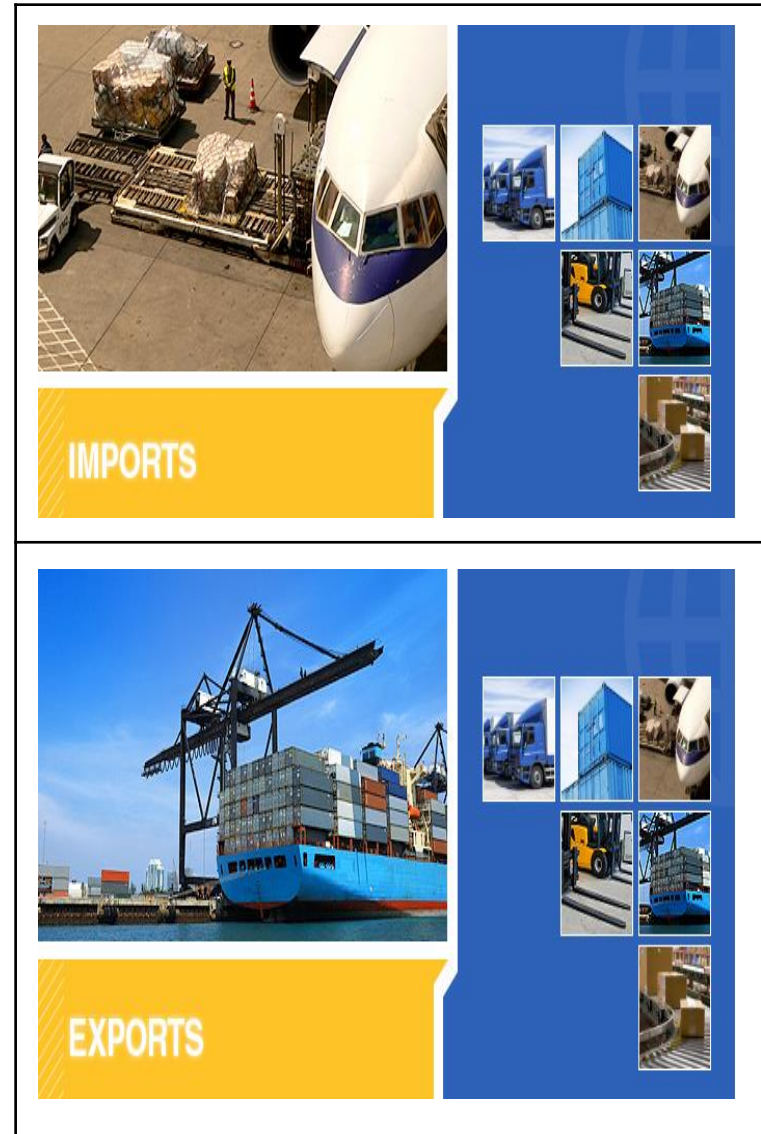
Role of international Trade Administration Commission of South Africa (ITAC) in import and export of non-ferrous metals

- ITAC was established through the International **Trade Administration Act, 2002 (Act No. 71 of 2002)**, which came into force on 1 June 2003.
- ITAC is part of the **Ministry of Economic Development**.
- The Import and Export Control regime, are administered by ITAC in terms of:
 - Section 6 of the International Trade Administration Act, 2002 (Act No. 71 of 2002), that regulates the movement of specific goods across the borders of South Africa for the purpose of:
 - complying with international agreements such as, inter alia, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention regulating the cross border movement of hazardous waste, The 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

- The aim of ITAC, as stated in the Act, is to
 - foster economic growth and development in order to raise incomes; and
 - promote investment and employment in South Africa

Background (2)

- Import and Export Control measures are also applied to enforce *environmental, health, safety and technical standards* in terms international agreements and domestic law.
- The exportation of certain goods such as ferrous and non-ferrous waste as well as scrap is also controlled in an endeavour to assist domestic foundries and mills in providing information pertaining to scrap metal destined for export.



- In the administration of the regulatory regime it is imperative for
- ITAC to have formal as well as informal relationships with
- Other Departments and agencies such as the:
 - South African Police Service
 - Environmental Affairs
 - Mineral Resources
 - Agriculture, Forestry and Fisheries
 - South African Revenue Service (SARS Customs)
 - SABS & the National Regulator for Compulsory Specifications
 - the Cross Border Road Transport Agency
 - National Prosecuting Authority



Import and Export Control Unit

Enforcement activities are conducted in terms of **Section 41 of the International Trade Administration Act, 2002 (Act No. 71 of 2002)**.

Enforcement is crucial in detecting contraventions of the Act and the import and export control Regulations, and to ensure that there is **compliance** to conditions and terms reflected in import and rebate permits.

Enforcement activities are made up of scheduled **inspections**, unscheduled or surprise inspections, and investigations

Price Preference System (PPS)



The Minister of Economic Development issued a policy directive aimed at enabling affordable access to quality scrap metal by the consuming industry prior to the exportation of such scrap metal.

Since ITAC administered such a system for the first time, the focus has been on ensuring its effective administration and on managing litigation.

**This intervention is only applicable for a five year period,
from Sep 2013 to Sep 2018**

The issuing of export permits for COPPER SCRAP drastically decreased since the introduction of the PPS

➤ 4 investigators appointed to:

- ensure **compliance** across South Africa
- **verify the availability and the quality** of scrap metal
- **support** compliance with **Second-Hand Goods Act**
- consider the **issuing of export permits** for COPPER

➤ **CONCERNS:**

- What is in the export container may not be what is being declared to SARS Customs on the export documentation
- Increased number of copper scrap melting facilities
- Increased cutting / shredding of copper scrap to circumvent export control measures



SESSION 6:

ORGANIZED CRIME AND ASSET FORFEITURE



- OVERVIEW OF THE POCA ACT
- ROLE OF ASSET FORFEITURE

Overview of the POCA Act

Organized Crime and Asset Forfeiture

- **The Prevention of Organized Crime Act, 1998 (Act No. 121 of 1998) – hereafter POCA – was instituted for the following reasons:**
 - Organised crime, money laundering and criminal gang activities, both individually and collectively, present a danger to public order and safety and economic stability, and have the potential to inflict social damage.
 - The South African common law and statutory law fail to deal effectively with organised crime, money laundering and criminal gang activities, and also fail to keep pace with international measures aimed at dealing effectively with organised crime, money laundering and criminal gang activities;
- **POCA can be used where syndicates are the target of investigations. All the different instances of these crimes (eg Racketeering or Money Laundering) can be prosecuted under the POCA with severe sentences.**
- **When one or more act of damaging essential infrastructure is brought under your attention, the DPCI and Organised Crime prosecutors must be contacted. In order to charge a syndicate under the POCA Act, the National Director of Public Prosecutions must issue a certificate.**
- **Please look at accused who are arrested on a frequent basis. These dockets can be collected at submitted to the DPCI for investigations on Levels 3 to 5 of the Non-Ferrous Metals Illicit Value Chain.**

Role of Asset Forfeiture

Organized Crime and Asset Forfeiture



- Provision is made for the forfeiture/confiscation of proceeds of crime. On arrest where an accused is found with a lot of cash/expensive cars/luxury houses and he can be linked to the investigation of crimes the DPCI AFU officer must be contacted.
- Secondly the AFU process can be used to confiscate items used for transporting/manufacturing items where a crime if essential infrastructure is involved.
- On arrest, where a vehicle/truck/machinery etc are being used to transport the stolen copper/metals the item must be confiscated and booked into the SAP13. Thereafter contact DPCI to take over the process.

Thank You!

*"TOGETHER – MOVING
FORWARD"*

