

5. Information On Predetermined Objectives

Key Strategic objectives in the ENE

The NPA identified the following organisational measurable objectives for the ENE:

- Improve prosecutorial efficiency by increasing the number of cases finalised.
- Increase the use of alternative ways of delivering justice by increasing the number of cases finalised (including alternative dispute resolution mechanisms (ADRM)).
- Improve prosecutorial efficiency in dealing with specific crime focus areas including complex commercial crime by increasing the number of cases finalised by the Specialised Commercial Crime Unit.
- Maintain the conviction rates in the High Courts, Regional Courts, District Courts, Sexual Offences Courts and Specialised Commercial Crime Courts.
- Improve justice services for the victims of sexual offences by establishing additional TCCs.
- Protect and support vulnerable and intimidated witnesses by ensuring that no witnesses are harmed or threatened while on the witness protection programme.
- Reduce the percentage witnesses that walk off the witness protection programme.
- Contribute to reducing the incentive for crime through removing its proceeds from the control of criminals by maintaining the value of freezing orders (court orders to freeze individuals' assets).
- Increase the number of new completed forfeiture cases.
- Maintain the number of new freezing orders.
- Maintain the overall success rate in the Asset Forfeiture Unit.

5.1 Overall Performance

5.1.1 Voted Funds

Table 1: Voted Funds for the NPA

Appropriation	Main Appropriation R'000	Adjusted Appropriation R'000	Final Appropriation R'000	Actual Amount Spent R'000	(Over)/Under Expenditure R'000
National Prosecuting Authority	2 439 624	2 684 263	2,508,534	2,495,272	13,262
Public Prosecutions	1 748 206	1 972 671	1,873,157	1,861,392	11,765
Office for Witness Protection	127 835	130 745	127,977	127,977	-
Asset Forfeiture Unit(AFU)	81 795	106 589	156,956	156,956	-
Support Services	481 788	474 258	350,444	348,947	1,497
Responsible Minister	Minister of Justice and Constitutional Development				
Administering Department	Department of Justice and Constitutional Development				
Accounting Officer	Director-General of Justice and Constitutional Development				

5.1.2 Aim of the Vote

The NPA provides a coordinated prosecuting service that protects certain witnesses, and removes the profit from crime.

5.1.3 Summary of Programmes

Programme 4: National Prosecuting Authority (NPA)

There are four sub-programmes:

- The sub-programme: **Public Prosecutions** includes general prosecutions and several specialist prosecution units, such as those for priority crimes litigation, sexual offences and community affairs, and specialised commercial crime.
- The sub-programme: **Witness Protection** provides protection, support and related services to vulnerable witnesses and related persons in judicial proceedings.



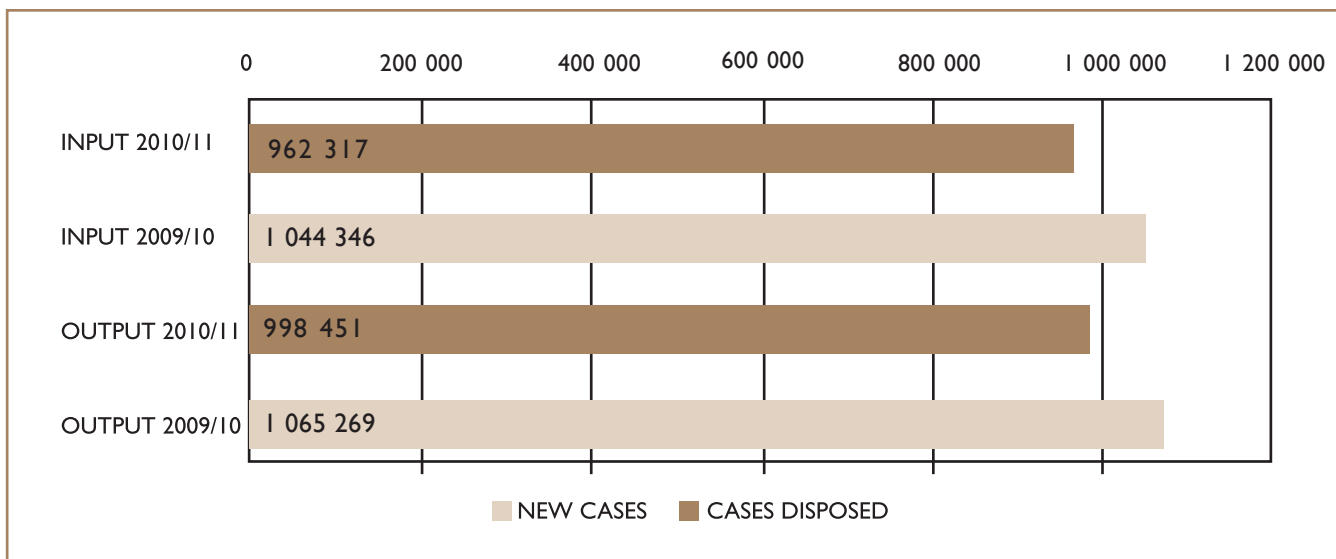
- The sub-programme: **Asset Forfeiture** seizes assets that are the proceeds of crime or have been part of an offence through a criminal or civil process.
- The sub-programme: **Support Services** provides the NPA and its several components with a wide range of administrative, managerial and support services.

5.1.4 Key strategic objectives achievements

Highlights of achievements

Notwithstanding the challenges during this financial year, the Lower and High Courts still managed to attain a positive clearance ratio of 2.7%. A total of 962 317 new cases were enrolled and 988 451 cases disposed. A total of 26 134 more cases were therefore disposed than received.

Figure 2: Case Management by all Courts



Two major events (2010 FIFA World Cup™ and Public Service Strike action) impacted negatively on the attainment of all strategic objectives during 2010/11. An average of 1 673 High and Lower Courts finalised 331 045 cases with a verdict, with a conviction rate of 88.7%. This is a 5.7% reduction from the total of 350 910 verdict cases finalised during 2009/10.

An increased use of delivering justice by means of alternative ways was achieved by increasing the number of cases finalised by means of alternative dispute resolution methods (ADRM) with 9.5% from 118 631 in 2009/10 to 129 846 in 2010/11. ADRM include diversions after enrolment, matters diverted in terms of the Child Justice Act (CJA) and informal mediations.

The total number of cases finalised including ADRM at the end of 2010/11 was 460 891, which is only 1.8% less than the total of 469 541 finalised during the previous financial year.

The High and Lower Courts maintained high conviction rates. The District Courts maintained a 90.7% conviction rate. The Regional Courts achieved a rate of 73.4% and the High Courts achieved a conviction rate of 87.8%.

The disposal rates of the courts are also indicative of their performance. A total of 962 317 cases were enrolled of which 535 429 were removed from the roll. 42% of the cases removed from the court roll were as a result of them being withdrawn. Warrants for arrest were issued in 31.4% and 9.2% of the cases were transferred externally while 17.3% were struck from the roll. The number of cases withdrawn was reduced by 7.1% compared to the previous year. This reduction could be ascribed to the implementation of improved screening processes, proper preparation of cases and internal measures monitored on a monthly basis.



5.1.5 Overview of the service delivery environment for 2010/11

JCPS Delivery Agreement

The NPA has included the JCPS targets in its strategic plan and monitored performance in respect thereof. The targets in respect of output 2 are aligned to the NPA Estimated National Expenditure (ENE) targets and performance is discussed in detail below. In respect of output 5, the AFU has made significant progress in identifying and successfully restraining assets of at least R5m per accused for corruption. A corruption task team has been established with the SAPS and other stakeholders, and a number of cases have been identified that comply with the requirements of the agreement. Progress has been made in developing a reporting template for JCPS corruption matters and a database is being established.

Serious crime is a focus area and performance information is being gathered in these areas as well. The report contains more detail on the prosecution of trio crimes and sexual offences specifically. Although no targets were set in respect of the prosecution of corruption in the JCPS, the NPA collected performance information in respect of the number of cases finalised and the value of assets frozen. There were 29 convictions of JCPS officials for corruption and R4,8m assets were frozen. The table below reflects progress made in achieving the targets of the JCPS Delivery Agreement.

Table 2: Progress on delivering on the JCPS Delivery Agreement

JCPS Indicator	Indicator	Target	Actual	Deviation
Output 2: Effectiveness of the CJS which is integrated and dispenses swift and fair justice	Number of cases finalised	357 928	331 045	-7.5%
	Number of Case backlogs	38 563	37 034	-4.0%
	Cases finalised through diversion and (ADRM).	124 563	129 846	4.2%
Output 4: Promote trust in the CJS by improving support to victims of crime and increasing engagement with the community on security awareness and crime prevention	Number of operational Thuthuzela Care centres.	25	27	8%
Output 5: Investor perception, trust and willingness to invest in South Africa is improved by taking legal criminal actions against a defined number of highly visible corruption cases	Number of people convicted for corruption who obtained assets of more than R5m through illicit means.	5	0	-100%
	Restraint orders for at least R5m regarding corruption matters	5	16	220%

The main services provided by the NPA are: prosecution of cases, witness protection services and removing the profit from crime through the use of the Prevention of Organised Crime Act (POCA) legislation. The table above sets out the achievements of the NPA in regard to the prosecution of cases and asset forfeiture. In respect of witness protection there has been a marked increase in the number of witnesses and related persons under protection. For the ninth year in a row no witness has been harmed or threatened by those that they were protected from while on the protection programme.

The main indicator for the demand in the NPA is the number of cases referred to the NPA for prosecution. The South African Police Service (SAPS) is mainly responsible for this. There has, however, been an insignificant change in this demand over the past five years. However, in the last financial year a significant 7.9% decrease is noted which is due to the better screening of cases before enrolment. This is corroborated by an increase in decision dockets received.

The ability of the CJS to finalise cases is another indicator of the demand as the new cases coupled with existing court rolls will result in a growing outstanding court-roll (work in progress) if the NPA cannot finish more cases than it receives.

The availability of diversion programmes provides an option of diverting suitable cases from the mainstream prosecution thereby alleviating the trial demands on the courts. However, in most jurisdictions the CJS has been unable to cope with this demand adding to the overburdened court rolls.



Crime types affect the provisioning of services as certain crime types require a dedicated and focussed approach due to either the complexity or the nature of the offence. The NPA is dependent on the role players within the JCPS to deliver on its mandate. Successful partnerships with key stakeholders and effective service delivery of all are required. In this respect a lack of joint targets with the judiciary and the quality of investigations in some cases, negatively impact on the NPA's ability to deliver. Furthermore, a shortage of Legal Aid South Africa (LASA) practitioners and case flow related problems negatively impact on prosecutions.

The general inefficiency of the CJS also affects the NPA. The NPA also depends on the public to report crime and give evidence. Confidence in the CJS is required. Correct media reporting also enhances public confidence.

No material variances are reflected in Programme 4: National Prosecuting Authority after virement. However, the following should be noted:

The original budget in respect of Compensation of Employees was reduced with an amount of R133,855m during the virement process. This saving was as a result of the over-estimate in the cost of implementing Phase II of the OSD for the Legally Qualified Personnel within the NPA. The funded vacancies within the NPA also contributed to this underspending.

5.1.6 Overview of the organisational environment for 2010/11

The top structure of the NPA is complete with the NDPPs and four DNDPPs. The significance of the recent appointment of two new DNDPPs by the President is the addition of women at the highest level of the organisation. Their responsibilities are as follows:

DNDPP: Strategy and Operations Management is responsible for the development and implementation of the NPA Strategic Plan and NPA Annual Plan. The office is also responsible for monitoring delivery in the NPA in line with the said plans as well as the regional annual plans. To enable efficient strategic planning, a research and monitoring and evaluation capacity is also required. These services are also allocated in this office.

DNDPP: Legal Affairs provides legal advice and renders assistance to the NDPP on:

- Legislative issues that may have a bearing on the functioning of the NPA;
- Issues that have a bearing on the institution of criminal proceedings and functions incidental thereto, including appeals, international cooperation (mutual legal assistance and extradition), and civil litigation;
- The Prosecution Policy and Policy Directives; and
- The component will also deal with complaints and representations, court preparation and advocacy.

The responsibilities of the other DNDPPs remained the same – NSSD and AFU, respectively.

Vacancies at a high level include three DPPs (South Gauteng, Free State and Mthatha), one Special Director and the CEO's position. These will be filled in the course of the new financial year.

A lack of budget in the Lower Courts to keep up with the resourcing needs associated with the growth in establishment impedes the ability to deliver a quality service. The lack of ICT systems to alleviate the burden of collecting and collating performance information manually impacts on the workload of the already over-burdened prosecutors. The NPA also has a challenge to recruit suitably qualified legal staff that can immediately function independently as prosecutors.

5.1.7 Key policy developments and legislative changes

National Prosecuting Authority Amendment Bill

Currently, the Constitution and the provisions of the NPA Act guarantee the independence of the prosecuting authority in so far as it relates to the institution of criminal proceedings. Furthermore, the independence of the prosecuting authority has been confirmed by the Supreme Court of Appeal and the Constitutional Court.

However, at present section 36 of the NPA Act states that the DoJ&CD must, in consultation with the NDPP, prepare the necessary estimates of revenue and expenditure of the NPA. It also provides that the Director-General is, subject to the PFMA, the accounting officer of the NPA.



The above-mentioned arrangement gives rise to certain practical challenges and has also been seen by some critics as a factor that may jeopardize the independence of the prosecuting authority. The view is held that both financial and administrative independence are required for the effective performance of the functions of the prosecuting authority. Accordingly, in the beginning of this year the Minister of Justice and Constitutional Development requested the DoJ&CD to prepare draft amendments to the NPA Act so as to provide for an independent administration of the prosecuting authority; to further regulate the executive authority of the prosecuting authority; and to provide for the appointment of a Chief Executive Officer (CEO) as accounting officer for the NPA.

The DoJ&CD is in the process of preparing a draft Amendment Bill. The Bill will be submitted to the Minister and Cabinet as soon as the consultation process with the relevant interested parties has been finalised. If approved, the amended Bill will further enhance the independence of the prosecuting authority.

5.1.8 Departmental revenue, expenditure, and other specific topics

Collection of departmental revenue

The revenue received by the NPA during the financial year relates to non-tax revenue and financial transactions i.e. recoveries from previous year's expenditure. Generally, there is a decrease in the total revenue received during 2010/11 and this is mainly as a result of fewer corrections of expenditure allocations in respect of prior financial years.

Table 3: Collection of Departmental Revenue in the NPA

	2007/08 Actual	2008/09 Actual	2009/10 Actual	2010/11 Target	2010/11 Actual	% deviation from target
Total Non-tax revenue	2 904	1 494	1 773	1 872	1 206	-55 %
Interest	544	296	253	267	349	23%
Sales by market establishments	374	513	114	65	-	-100%
Other Sales	578	664	1 000	1 111	857	-29%
Transfers received: Local & Foreign	1 408	21	406	429	-	-100%
Financial transactions (Recovery of loans and advances)	1 678	2 770	9 384	9 910	1 551	-539%
TOTAL DEPARTMENTAL RECEIPTS	4 582	4 264	11 157	11 782	2 757	-327%

5.1.9 Departmental expenditure

Before virement, the NPA showed a significant saving on compensation of employees (R133,885m) and goods and services (R41,706m). These savings are as a result of the delay in fillings of vacancies and the lower than anticipated expenditure relating to the implementation of the OSD Phase II for legally qualified personnel.

Table 4: Departmental Expenditure

Details per sub-programme	Main Appropriation 2010/11 R'000	Roll-overs and adjustments R'000	Shifting of Funds R'000	Virement R'000	Final Appropriation R'000	Actual Amount Spent R'000	(Over)/ Under Expenditure R'000
Public Prosecution	1 748 206	224 465	979	-100 493	1 873 157	1 861 392	11 765
Office for Witness Protection	127 835	2 910	-2 768	-	127 977	127 977	-
Asset Forfeiture Unit	81 795	24 794	50 367	-	156 956	156 956	-
Support Services	481 788	-7 530	-48 578	-75 236	350 444	348 947	1 497
TOTAL	2 439 624	244 639	-	-175 729	2 508 534	2 495 272	13 262



5.1.10 Transfer payments

The NPA transferred R 1.8m to the Safety and Security Sector Education and Training Authority (SASSETA). SASSETA is responsible for the development of an integrated education and training authority for the safety and security sector. Transfer of funds to SASSETA will be subject to conditions and it is required to establish and implement effective, efficient, and transparent financial management and internal control systems.

5.1.11 Conditional grants and earmarked funds

Conditional grants are not applicable to the NPA. The NPA has received additional funding from National Treasury that was earmarked for the reduction of case backlogs (R 108m for 2009/10; R 114m for 2010/11; R 121m for 2011/12 and R 127m for 2012/13). The NPA received an additional allocation of R 198m in 2010/11 for the implementation of OSD Phase II.

5.1.12 Capital investment, maintenance and asset management plan

The Department of Justice and Constitutional Development (DoJ&CD) reports on this under Programme 2 of the Vote.





5.2 Programme Performance

Performance in respect of ENE indicators

The NPA performance in respect of the ENE indicators is set out in the table below. In respect of many of the indicators the NPA did not achieve its targets. There are a number of contributing factors as set out in the report.

The NPA commissioned research to determine whether the performance information for the “dedicated sexual offences courts” related only to sexual offences cases. The research indicated that most courts were not solely dealing with sexual offences matters. The NPA therefore took a decision not to report any further on this data until a reliable reporting mechanism has been put in place regarding sexual offences. Data will be provided from 2011/12 onwards.

Table 5: Performance against ENE selected performance indicators

Sub-Programme	Indicator as published in the ENE	2006/07	2007/08	2008/09	2009/10	2010/11 Target	Actual	Deviation from target	Notes
Public Prosecutions	Number of cases finalised: including ADRM	379 034	388 634	431 601	469 541	482 491	460 891	-4.5%	Public Service Strike
	Number of cases finalised: excluding ADRM	334 551	298 656	311 825	350 910	357 928	331 045	-7.5%	Public Service Strike
	Number of complex commercial crime cases finalised	1 463	1 159	1 319	1 095	1 465	742	-49.4%	The opening figure for 2009/10 was overstated in the estimates, on which targets for 2010/11 were determined. In the AENE process, NT was requested to adjust the actual 2009/10 performance, but this was not published
	Conviction rate: High Courts	87.8%	85.0%	86.0%	87.0%	87.0%	87.8%	0.8%	Achieved
	Conviction rate: Regional Courts	72.0%	73.0%	73.0%	74.0%	74.0%	73.4%	-0.6%	Not achieved
	Conviction rate: Sexual Offences Courts	65.0%	66.0%	66.7%	67.0%	66%	n/a		See discussion above
	Conviction rate: District Courts	87.4%	87.0%	88.1%	87.0%	87.0%	90.7%	3.7%	Achieved



Sub-Programme	Indicator as published in the ENE	2006/07	2007/08	2008/09	2009/10	2010/11 Target	Actual	Deviation from target	Notes
	Number of TCCs	10	9	17	20	25	27	8.0%	Exceeded target
Witness Protection	Percentage of walk-offs	3%	24%	16.9%	28%	32%	5%	27%	Definition of walk-off was amended
	Number of witnesses harmed or threatened	0	0	0	0	0	0	0	No person harmed for 9 yrs in succession
Asset Forfeiture	Number of new completed forfeiture cases	242	223	277	275	300	320	6.7%	Best ever achieved
	Number of new freezing orders	252	226	275	280	310	333	7.4%	Best ever achieved
	Value of new freezing orders (Rm)	R1.3bn	R394m	R320m	R491m	R450m	R549.2m	22.0%	Exceeded target
	Success rate	88.0%	88.0%	86.5%	92.4%	90%	95.70%	5.7%	Exceeded target

Performance in respect of additional NPA indicators as per the Strategic Plan

In an attempt to step up service delivery, additional indicators were developed. Many of these were new indicators which needed to be defined and measuring mechanisms were put in place. The NPA did not manage to collect performance information in respect of all the areas as indicated in the table below.

Most of the targets set were not achieved. As these were new indicators target setting was done without baseline information. The performance indicates that the target setting should be adjusted and this was affected in the 2011/12 Annual Plan.

Table 6: Average cases diverted with children in conflict with the law

Indicator	2006/07	2007/08	2008/09	2009/10	2010/11 Target	Deviation from target	Notes	
Average number of cases diverted with children in conflict with the law	n/a	n/a	n/a	n/a	1372	1338	2.5%	Focussed approach on the new process in respect to CJA



Table 7: Additional NPA internal indicators included in the NPA Strategic Plan

ADDITIONAL NPA SERVICE DELIVERY PERFORMANCE INDICATORS - 2010/11						ANNUAL PROGRESS
DIVISION	INDICATOR	MEASUREMENT	FORUM	ANNUAL TARGET	ACTUAL TOTAL	Deviation from Target
PUBLIC PROSECUTIONS	Finalisation Rate	Number of cases finalised including ADRM	District Court	3 cases pc pd	2.3	-23.8%
			Regional Court	0.7 cases pc pd	0.5	-21.8%
			High Court	0.2 cases pc pd	0.11	-43.2%
	ADRM	Number of cases diverted per month with children in conflict with the law	All Courts	16 056	16 462	1.9%
			All Courts	36 672	37 034	1.0%
	% Backlog Cases	Reduction in the number of cases older than indicated period	District Court	90% not older than 6 months	88% not older than 6 months	-2.0%
			Regional Court	75% not older 9 months	68% not older than 9 months	-7.0%
			High Court	75% not older 12 months	68.8% not older than 12 months	-6.2%
	Decision Dockets	Positive Clearance Ratio on Decision dockets received within a month	District Court	100%	98.50%	-1.5%
			Regional Court	100%	98.30%	-1.7%
High Court			100%	87.00%	-13.0%	
LEGAL SERVICES	Representations	% of Formal Representations dealt with	DPP Offices	85%	65.90%	-19.1%
			ONDPP	85%	100.00%	15.0%
	Skills Development	Number of persons trained on Legal drafting/ indictments/ charge sheets per month	Nationally	360	0	-100%
			Nationally	120	0	-100%
	Mutual Legal Assistance Extraditions	Finalisation rate of MLA matters of Extradition applications	ONDPP	85%	No data	
			ONDPP	85%	No data	
CCC	Charge sheets / Indictments	Number of complex commercial crime prosecutions instituted	DPP Offices	50	No data	

