

KHASHO

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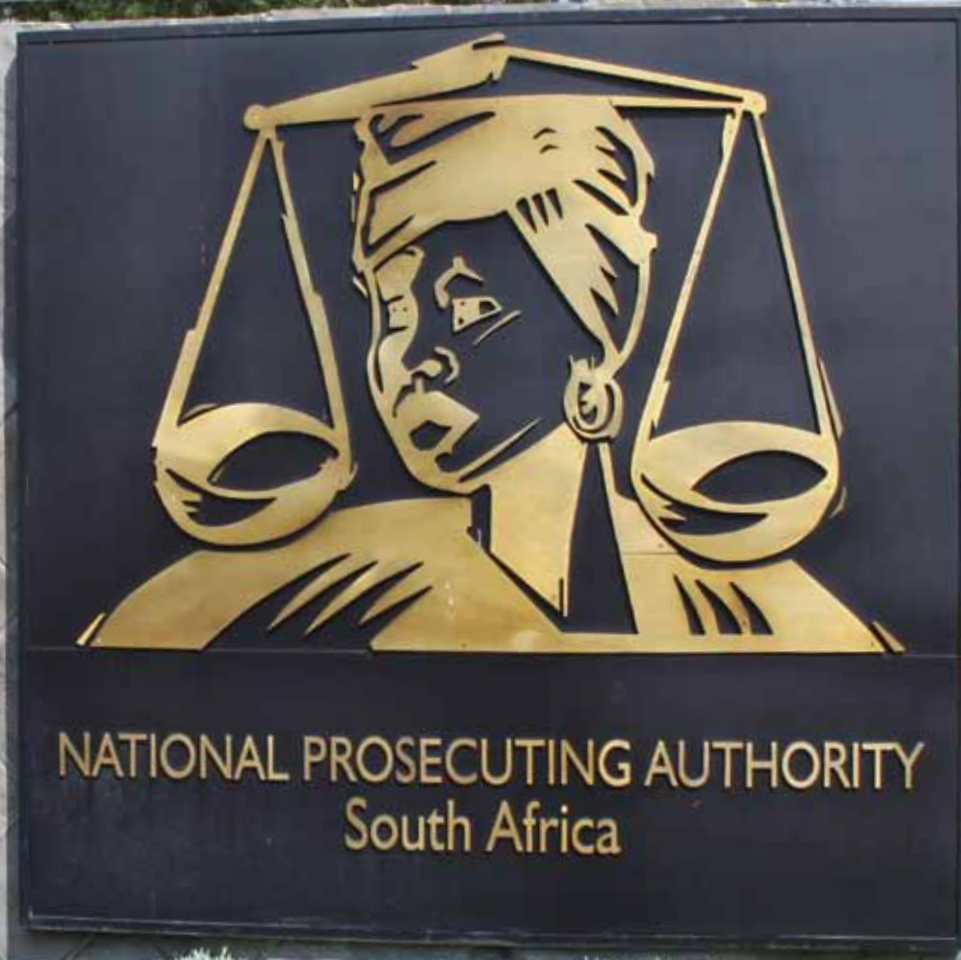


Reflections on the State of the Nation Address

Advocate
Retha Meintjes
Receives
Honorary
IAP Recognition

Brutal
murderers
getting life
sentences

Rhino
poaching
under
spotlight



ENSURING PROSECUTIONS WITHOUT FEAR, FAVOUR OR PREJUDICE



MESSAGE FROM THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

As we now fast approach the end of this financial year, we all need to reflect on whether we have achieved what we had set out to achieve in our strategic plans, and identify areas where we need to improve.

In his State of the Nation Address, the President acknowledged that there are some positive indications that crime statistics are showing a decline. This means that the NPA, together with all the partners in the JCPS cluster, must intensify our efforts against crime because they are starting to bear fruit.

We cannot afford to have too many ordinary people across South Africa suffering at the hands of murderers and rapists, robbers and child abusers. We understand the implications that crime has for quality of life. We understand the implications that it has for the social fabric and for the health of our communities. It is for this reason that Government has re-inforced its commitment to take the fight against crime to higher levels, and the NPA will remain an important partner in that battle. Let me remind you again what our 6 strategic objectives for 2011 are:

- To increase the successful prosecution of serious reported crime;
- to improve our collaboration with our partners in the Justice, Crime Prevention and Security cluster (JCPS);
- to improve the prosecution of JCPS officials charged with corruption;
- to improve justice services for the victims of crime;
- to increase successful prosecutions of serious corruption; and
- to increase prosecution of cyber crime.

As you can see, the above are all externally focussed, but we also need to look at how the NPA functions internally.



Advocate Menzi Simelane, National Director of Public Prosecutions

We cannot, for example, continue repeating the same mistakes of the past, such as those reflected in previous audit findings. I know I have said this before, but I need to say it again that the level of governance within the organisation needs to be improved. Although we have a dedicated team working on addressing these audit findings, all of us have a responsibility to contribute positively to the organisation's corporate governance framework.

As part of the urgent interventions required to turn the tide against repeat findings on assets, I support the policy decision to include asset management in everyone's performance agreement in the next financial year.

We have policies and procedures in place which clearly guide us on how we should conduct our business, and those who do not comply will be made to account.

In conclusion, I urge all of you to make 2011 a year of accountability and responsibility, and ultimately a year of success for the NPA.

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THE NPA HOTLINE **0800 212 580**

BUILDING A CULTURE OF REPORTING UNETHICAL AND UNLAWFUL PRACTICES, PROMOTING AND ENABLING WHISTLE-BLOWING.

LETTER FROM THE EDITOR

Welcome to this first edition of Khasho 2011. It took us longer than we anticipated to finalise the procurement and contracting processes for new publishers after the old contract expired last year. We are in the process of exploring minor changes to Khasho to ensure that it is a relevant news and information source about the work of and about people who work for the NPA.

As part of these changes we have given Khasho a face lift in terms of the design and layout of the cover and inside pages. The content will also focus more on communicating about the NPA's performance against the strategic plan which contributes to the achievement of the Justice, Crime Prevention and Security (JCPS) cluster's delivery commitments.

We noted with appreciation the positive response and subsequent high turnout to the NDPP's staff engagement session held on 19 January. In his address, he gave a firm spring board from which to discharge our duties in the new financial year. He highlighted a need to implement the programmes of the JCPS cluster that arise from the cluster's Delivery Agreement. Our challenge as an organisation is to maintain balance in the implementation process whilst we focus on the core business of the NPA of ensuring prosecutions without fear, favour or prejudice.

We hope to bring you more valuable sessions where the Executive Committee (EXCO), led by the NDPP, will interact with staff and share information about NPA performance and strategic decisions.

I am aware that all business units are in the process of finalising their annual performance plans for 2011-12. As part of the communication unit's plan we make a commitment to positively reflect to the public through various communication channels internally and externally, about the NPA's efforts to contribute to the cluster's outcome (Outcome 3) – that "All people in South Africa are and feel safe". Please help us to deliver on this commitment by keeping us informed of all good work that you do at the DPP offices and clusters, in our courts and at all other service delivery points. I emphasise, as a member of the Management Committee (MANCO) which is led by the CEO, the commitment that all Corporate Services staff are making to enhance the administrative support they provide to the organisation.

I also remind all Corporate Services members that the Director-General, Ms Nonkululeko Sindane has confirmed and reported to the Audit-Committee that the matter of integration into the Department of Justice and Constitutional Development is no longer under consideration. This should go a long way to allaying fears that some may have had about the uncertainty that was brought about by that proposal. The DG will communicate officially to all NPA staff when all processes are concluded with respect to the NPA having its own accounting officer. However, until we receive further information from the DG and the CEO, the DG continues to fulfil the role of accounting officer for the NPA. I trust that this reminder will improve the morale of our working environment and remove some of the confusion that seemed to reign in some working areas.

Let me take this opportunity to reinforce the NPA values to everybody in the NPA. Let us strive to live by them and let our work be guided by them at all times.

Bulelwa Makeke
Executive Manager: Communications



Bulelwa Makeke
Executive Manager: Communications

THE FIGHT AGAINST CRIME CONTINUES – 2011

Reflections from State of the Nation Address

By Tebogo Seate

On 10 February 2011, President Jacob Zuma delivered the State of the Nation Address in which he made a number of promises, such as speeding up service delivery, reducing the levels of poverty and unemployment and addressing the issue of HIV / AIDS.

Some of the key promises that emerged from his address were issues relating to justice and crime prevention. To start with, he reported that the crime statistics showed a decrease in most crimes, particularly armed robberies, housebreakings and business robberies as well as contact crimes. The murder rate, he said, declined by 8.6% in 2010.

However, in the effort to improve the service delivery environment, the President announced a number of measures that are being taken to strengthen inroads made in the area of crime prevention. Top of the list is the improvement of capacity and effectiveness of the South African Police Service (SAPS), particularly in the areas of detective services, forensic analysts and crime intelligence.

The President further highlighted that government will focus its attention on the following:

- Increasing visible policing and patrols in identified crime hotspots;
- reducing the proliferation of illegal and legal firearms;
- reducing the backlog at both district and regional courts;
- prioritising crimes against women and children, and providing support through the Thuthuzela Care Centres; and
- addressing the issue of drug peddling and drug abuse which are tearing some communities apart and dealing decisively with offenders who sell drugs to children.

The President also re-iterated government commitment to fighting corruption. For example, a Special Anti-Corruption Unit has been established in the Department of Public Service and

Administration (DPSA) to handle corruption-related disciplinary cases involving public servants. The Special Investigating Unit (SIU) has also been mandated to probe alleged maladministration or corruption in various government departments, municipalities and institutions.

In his response to the commitment made by the President, the Minister of Justice and Constitutional Development, Mr Jeff Radebe, promised that 2011 was going to be a year of “Zero Tolerance to Crime”.

Mr Radebe said the JCPS cluster has adopted an integrated and coordinated, holistic approach in the fight against crime, and will continue to improve prevention, detection, investigation and prosecution, through integrated policies and frameworks and increased capacity.

On the issue of high collar crime, he said there were already 19 people in the courts who were facing various charges and almost half a billion rand worth of assets had been restrained by the NPA in the drive to make sure that no one benefitted from the proceeds of crime.

He said, “We have always repeatedly said that it doesn’t matter whether a person is in the public sector or in the private sector. As long as this corruption raises its ugly head, we will pursue them so that people should never ever think of living in a grand style out of the proceeds of crime”.

A number of stakeholders such as Business Against Crime South Africa (BACSA) welcomed the progress made by the President. In its statement, BACSA said: “We support the commitment made by the President in his State of the Nation Address to ensure that the fight against crime and corruption remains a national priority in the coming year. Furthermore, we endorse the increased focus on job



President Jacob Zuma briefing media on key points of the State of the Nation Address

creation and improving service delivery at local level as this will go a long way towards reducing crime in the longer term. Over the past year BACSA has witnessed the systematic improvement in capacity within the Justice, Crime Prevention and Security (JCPS) cluster (JCPS) and the systematic establishment of the necessary platforms and capabilities to deal more effectively with crime. The reduction in most of the serious crimes announced by the President yesterday evening is welcomed, particularly as it suggests that the current strategies of the JCPS are reaping rewards and that the leadership is effective”.

BACSA further committed itself to working together with government and all stakeholders to fight the scourge of crime, violence and corruption, said its CEO, Graham Wright.

It is indeed encouraging to see that our efforts are bearing fruit and not going unnoticed, and that we have powerful stakeholders like BACSA who are behind us.

Therefore, the fight against crime will continue to intensify even in 2011. As Minister Radebe said, the JCPS cluster is better prepared than ever before to detect and deal with serious crime and corruption.

ADVOCATE MEINTJES HONOURED BY THE IAP

Adv Retha Meintjes SC, Deputy Director of Public Prosecutions for North Gauteng, was awarded honorary membership of the International Association of Prosecutors (IAP).

This happened at the IAP's 15th Annual Conference which took place at The Hague late last year. Honorary membership of the IAP is given to members who have made an outstanding contribution to the work of the Association.

The International Association of Prosecutors is an international body representing individual prosecutors, associations of prosecutors and prosecution services.

It was established in June 1995 to promote co-operation amongst prosecutors worldwide, to share expertise and knowledge, to promote human rights and the rule of law, and to ensure effective prosecution services every where. In addition, it aims to promote the professional interest of prosecutors and to enhance recognition

of their crucial role in achieving criminal justice. It is an international body and its membership represents more than 100 countries and approximately 1000 individual prosecutors.

At its inception, Adv Meintjes was the Chairperson of the Society of State Advocates of South Africa (SSASA), and SSASA thus became a founding member of the IAP.

It does not come as a surprise that Adv Meintjes has received this prestigious accolade, because she has served in the IAP's Executive Committee since its formation in 1995. She was also its Vice

President for the past nine years until she stepped down in September 2010.

Commenting on her award, Adv Meintjes said: "I am delighted and feel very honoured to have received such an award. It has been a privilege to serve on the executive committee of the IAP, and to learn from and become acquainted with prosecutors from all over the world".

Adv Meintjes is not new to receiving accolades from the IAP. In 2000 she was awarded a Certificate of Merit for her

role in chairing a committee that developed the Professional Standards and Rights of prosecutors in 1999, which were later adopted by the United Nations in a resolution that recommended the standards to all countries.

In 2000, Mr Nelson Mandela

was awarded the Medal of Honour by the IAP in recognition of his role in promoting human rights and the rule of law. Upon receiving that medal, Mr Mandela said: "The challenge for the modern prosecutor is to become a lawyer for the people. It is your duty to build an effective relationship with the community and to ensure that the rights of victims are protected. It is your duty to build a prosecution service that is an effective deterrent to crime and is known to demonstrate great compassion and sensitivity to the people it serves". Adv Meintjes believes that although these words were uttered 11 years ago, they will always remain relevant for prosecutors.



Adv Retha Meintjes, SC

" THE CHALLENGE FOR THE MODERN PROSECUTOR IS TO BECOME A LAWYER FOR THE PEOPLE. IT IS YOUR DUTY TO BUILD AN EFFECTIVE RELATIONSHIP WITH THE COMMUNITY AND TO ENSURE THAT THE RIGHTS OF VICTIMS ARE PROTECTED. "

Mr Nelson Mandela

Adv Meintjes is proud to have been associated with the IAP during the past 15 years. "The IAP has done much over the years to promote the rights and interests of prosecutors generally...I am proud of my association with the IAP. I urge all prosecutors to become actively involved in the business and affairs of the association. It serves, essentially, to enhance the noble profession of prosecutors, everywhere and at all levels", she said.

She urges all prosecutors to become members of IAP not for the sake of having membership certificates, but because it will certainly enhance their careers as prosecutors. "There is so much we can learn from each other", she said. Finally, she would like to thank SSASA and IAP for the financial assistance they have provided her with over the years, which enabled her attendance of the IAP executive committee meetings.

Another NPA stalwart who has been elected to the IAP's Executive Committee is Adv Billy Downer SC, Deputy Director of Public Prosecutions in the Western Cape. We wish Adv Downer all the best in being an Executive Member of such a dynamic association!

AFU RETURNS R4.7 MILLION TO ITS RIGHTFUL OWNER

By Medupe Simasiku

In August 2010, over R5m was fraudulently transferred from the FNB bank account of the Maluti-a-Phofung Municipality in Phuthaditjhaba, Free State, into 105 various accounts of the same bank. After discovering this, the municipality approached the South African Police Service in the Free State for assistance. They did not delay to inform the DPP's office for back-up by the Asset Forfeiture Unit.



DPP Free State handing over a cheque to the municipality

Swift action by the Bloemfontein office of the Asset Forfeiture Unit led to the freezing of the various accounts into which the municipality's money was transferred, and an application was lodged with the Bloemfontein High Court, in which the State informed the court that the payments into the various bank accounts were unauthorised and fraudulent and that the municipality was a victim in the matter. The court was also told that the frozen accounts were proceeds of unlawful activities and were thus subject to a forfeiture order in terms of Section 48 of the Prevention of Organised Crime Act.

As a result, the AFU successfully obtained a High Court Order for the forfeiture of R4.7m, because R810 326 had already been withdrawn from some of the accounts within three days of the fraudulent transfer of the cash into those bank accounts.

The criminal investigations are currently underway, and in order not to jeopardise the case, the NPA cannot reveal much at this stage because the matter is still in court. However, one person, Ms Funeka Ntombizini Maphumulo, was arrested in Johannesburg while withdrawing some of the money, and she is still in custody.

On 1 February 2011, a ceremony was held to hand over a cheque for the full amount forfeited back to its rightful owner, the Maluti-A-Phofung Municipality in Phuthaditjhaba. The ceremony was attended by, amongst others, the local Executive Mayor, Dr Balekile Mzangwa; the acting Director of Public Prosecutions in the Free State, Advocate Andre du Toit SC; and Regional Head of the Asset Forfeiture Unit, Advocate Chris Ndzengu.

During that ceremony, Advocate Du Toit promised that the NPA would aggressively clamp down on cyber crime in the next financial year, by way of ensuring successful prosecutions as well as utilizing asset forfeiture as one of the prosecution tools. Adv Du Toit said the advancement of modern technology created a platform for criminals to commit

all forms of crime using the computer, such as identity theft and invasion of privacy; internet fraud; ATM fraud; child pornography; hacking and various forms of commercial crimes.

He said the evolution of this form of crime called for increased and sophisticated efforts by law enforcement agencies to combat it effectively. "Cyber crime involves specific expertise and therefore prosecutors involved in these matters should have the required knowledge and expertise", he said.

Adv Du Toit said although South Africa did not have a coordinated approach to fighting cybercrime, output 8 of the Justice, Crime Prevention and Security (JCPS) agreement made provision for the development and implementation of a Cyber Security Policy and for the development of capacity to combat cyber crime.

The Executive Mayor of the Maluti-a-Phofung Local Municipality, Dr Balekile Mzangwa, could not contain his joy when he received the cheque on behalf of the municipality. "This must never ever happen again. Let us bring the culprits to book and put into action the notion that crime does not pay. As the municipality, we are dealing with public funds and have to account for them. We have had many questions from community members, who want to know what happened with their money. We have had to bear with all sorts of aspersion, slander, allegations and malicious rumours cast on us, but today brings us joy to have the huge slice of our money back and we are confident that the law will still take its course", he said.

Medupe Simasiku is the Regional Communications Manager: DPP Free State

CALVINIA TWO GET LIFE IMPRISONMENT FOR MURDER OF A BREADWINNER

By Phaladi Shuping

Two men from Calvinia were each sentenced to life imprisonment for murder by the Northern Cape High Court.

Pieter Leukes, 36 and Raymond August, 26, were each sentenced to life in jail for the murder of Gert Klaaste in October last year. They stabbed him 27 times with okapi knives in an attempt to rob him of his money which was in his socks.

Judge BM Pakati sentenced the accused to life imprisonment each for murder and seven years each for attempted robbery. Leukes got a further one year imprisonment for attempted assault with intent to do grievous bodily harm after charging at Constable Francois Van Wyk with a knife when he was arresting him. The sentences will run concurrently.

It is stated that on the day of the incident the deceased ran away from the accused when he realized that they wanted to rob him of his money. They chased and overpowered him before stabbing him to death.

Judge Pakati said that the accused did not show any remorse and maintained their innocence throughout the court proceedings. She further stated that they were proud of the fact that they chose a life of gangsterism.

Arguing in aggravation of sentence, State Advocate Joyleen Mabaso said that Klaaste was a husband, father and a breadwinner and was literally chopped up by the accused for his own money.

“The killing was gruesome by any stretch of the imagination. On all accounts, it was a senseless killing,” said Advocate Mabaso.

Judge Pakati said that there was no evidence that the deceased provoked the accused. “They attacked him with knives. He was running away from them. They had already searched his jacket for money. They chased him, demanding money and saying they would stab him to death. He was still running away from them until he collapsed. The deceased was old enough to be the father of the accused. Their actions were inhuman,” she concluded.

COMMENTARY BY ADVOCATE JOYLEEN MABASO

The State case was based on circumstantial evidence. The biggest challenge was to deal with other adverse inferences to be drawn to the State’s case.



Adv Joyleen Mabaso

The highlight of the case was managing to establish reliable facts from which the court drew inferences that the accused were culprits.

Having to deal with the witnesses who contradicted themselves was very problematic for our case. However, it was argued that the contradictions were immaterial.

In dealing with this case, I learned that even though the witnesses contradict each other, you do not have to give up on your case. You have to believe in your case to convince the court to decide in your favour.

Furthermore, it is also important to work closely with the investigating officer to be able to present a formidable case.

Phaladi Shuping is the Regional Communications Manager: DPP Northern Cape

STATE vs MALGAS

By Charlene Labuschagne

Velaphi Phillip Malgas (27 years) was sentenced by Judge Nathan Jacobs in the South Gauteng High Court to life in prison for the murder of a Roman Catholic priest, Father Lionel Sham. He was also sentenced to 15 years for robbery with aggravating circumstances and five years for kidnapping. The court refused leave to appeal against the conviction and sentence.

Sham was abducted from his parish in Mohlakeng on 6 March 2009. His body was discovered a day later in an open field at De Deur, near Orange Farm. His face was wrapped in multiple layers of sticky tape, which made it impossible for him to breathe. He was severely assaulted and died of subdural haemorrhage and suffocation.

Malgas was apprehended after he and his brother-in-law, who was a co-perpetrator, were involved in an accident. His brother-in-law died in the accident.

After his arrest Malgas made a confession before magistrate Tefo Myambo, in which he claimed that they planned the robbery of the priest and later decided to kill him as the deceased knew Malgas well, and would be able to identify him.

Later during the trial Malgas blamed his dead brother-in-law for the crimes and insisted that his confession was not made freely and voluntarily. He claimed that the investigating officer assaulted him, forced him to make a confession and told him what to say to the magistrate.

After leading the testimony of 29 witnesses, the state closed its case. Malgas testified in his own defence. During cross-examination Zaais van Zyl, SC asked accused Malgas to refer to a specific exhibit to explain to the court how the deceased had sustained a huge cut on his head. Malgas opened the evidence file and when he looked at the photograph, he quickly closed the file and said he did not know how the deceased had been injured. Malgas callously and without showing any emotion said: “I can’t stand the sight of the pictures. I can’t look at them”.

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COMMENTARY BY THE PROSECUTORS ADV NERISSA MULLER AND ADV ZAAIS VAN ZYL

The legal challenge to the prosecution centred on the fact that the accused had often visited the deceased. His fingerprints and DNA on the crime scene and in the robbed vehicle were therefore of no real consequence. He furthermore reported to the magistrate taking down the confession that he had been assaulted and injured to make the confession, which obviously complicated proving the confession. The accused was conveniently blaming his co-perpetrator for the commission of the crimes.

A last difficulty was caused by the lack of co-operation between the various forensic investigators from different provinces. This resulted in the bloodstained dagger, crime scene photos and even the tape with which the deceased was bound, to be irretrievably lost. What should have been a walk in the park from a prosecutorial perspective thus became a somewhat bumpy ride.

The deceased had literally been defaced. His eyes, nose and mouth had been obliterated by multiple layers of sticky tape, now mimicking an ancient mummy. No one deserves to die like this. This is why we are prosecutors.



Adv Nerissa Muller and Adv Zaais van Zyl

*Charlene Labuschagne is the Regional Communications Manager:
DPP South Gauteng*

“NOT GOOD ENOUGH” SAID ADV MAHLATHI

By Malherbe Marais

Three men appeared in the East London High Court on charges of murder, robbery and rape for attacking a couple in their car and wanting to rape the woman. When her boyfriend dared to intervene, he was repeatedly stabbed and put in the boot of her vehicle whilst they were driving around with the woman to find a secluded spot to rape her. Thereafter all three not only raped the woman but also robbed her of personal belongings. They could hear the boyfriend knocking in the boot for help. He eventually died in the boot.

One of them pleaded guilty in the hope of getting a lighter sentence. Although the State called for life, the presiding Judge argued that the guilty plea demonstrated sufficient remorse to constitute substantial and compelling circumstances, justifying a lesser sentence than life on both the rape and the murder. He was given 25 years.

The State faced a dilemma when the other two accused had to go on trial before a second Judge who in the event of a conviction could have been influenced to also impose a lesser sentence than life. “Not good enough” said Adv Lungi Mahlathi, DPP Grahamstown. He adopted a clever strategy and he instructed the prosecutor to immediately bring an application before the first Judge for leave to appeal the sentence.

The other two accused also opted for a guilty plea before the 2nd Judge, hoping for a similar sentence. Unfortunately for them, the Judge stood his ground and gave them each two life sentences.

The final chapter for accused number one was written in Bloemfontein in the Supreme Court of Appeal. Adv Glenn Turner’s argument against the sentence was well received. The Appeal Judges took the unusual step of changing the batting order and called upon counsel for the accused to address them first. That is always a good sign for the appellant which, in this instance, was the State. Accordingly it did not come as a surprise when the Appeal Judges overturned the sentence of 25 years and substituted it with two sentences of imprisonment for Life (life for the rape and life for the murder).

HARSH SENTENCES FOR MQANDULI POLICE STATION ATTACKERS

By Luxolo Tyali

Four men convicted of the callous killing of three people during a brazen attack of Mqanduli Police Station were each given effective sentences that are not less than 30 years by the Mthatha High Court.

One of the men, 31 year-old Luyanda Daniso, who had escaped from prison while serving a life sentence for murder, armed robbery and highjacking when he took part in the police station attack, was sentenced to three life terms for the murder of Sergeant Mzuvukile Siwahla, Truck driver Sifiso Fezile and security guard Bidekile Fanele.

He was further sentenced to another 75 years for three counts of attempted murder, two counts of robbery with aggravating circumstances, illegal possession of firearms, illegal possession of ammunition and malicious damage to property.

Daniso's partners in crime, Sanele Gcolotela, Ncedo Wopela and Siyabulela Njenge, who were respectively 17, 19 and 20 years old during the commission of the crime, also did not escape the wrath of justice.

They were each sentenced to a total of 145 years for the similar counts to those of Daniso, all running concurrently. Sentencing the men, Judge Fatima Dawood stressed that a clear message need to be sent out that people who have the audacity to attack an institution meant to protect the public do not have a place in the society.

The four criminals were part of the group of seven armed assailants who attacked the Mqanduli Police station in the early hours of the morning of the 6th of April 2006. They were travelling in a car they had earlier hijacked in Mthatha.

They disarmed the police officer on duty and demanded the safe's keys from where they stole four R5 assault rifles, one shotgun, one 9mm pistol, two bullet-proof vests and ammunition. They then went on a rampage and sprayed the inside of the police station with bullets.

They shot and killed a security officer who had come to open a case, killed a policeman who was getting out of his car to report for an operation at the police station and as if that was not enough,

they proceeded to a truck parked next to the police station, and killed the driver and seriously injured the passenger leaving him paralysed.

On the same morning, they came across a bakery truck that was delivering bread at a general dealer in a Mthatha township. They demanded money from the owner of the general dealer at gunpoint and shot him dead.

Three of the original gang of seven have since died in confrontations with the police. Two of them, Luthando Msuthu and Olwethu Bunguzana were shot by police during a shootout near Tsolo. They were on their way to rob a supermarket, a day after attacking Mqanduli police station.

One of the assailants, Siyabonga Kholwane was also shot dead when he tried to escape from police custody. The conviction and consequent sentencing came as a result of hard work and determination from Senior State Advocate Mariana Brits, whose 17 years experience in prosecutions came in handy.

COMMENTARY BY ADVOCATE M.J. BRITS

Even though the offence was committed in April 2006 and the perpetrators were arrested shortly after, the trial only commenced in September 2008 because the accused escaped from police custody. They were rearrested after eight months. A total of 28 court days were spent during the trial amounting to 140 court hours with an average of five hours per day and 36 state witnesses testified during this trial.

Some of the challenges experienced during this trial included threats received by the prosecutor and the investigating officer, the publicity of the trial by the media and the fact that the accused were perceived as being extremely dangerous. During the court session in December



Adv M.J Brits

2008 Accused Number One Siyabonga Kholwane tried to escape for the second time from police custody on the way to the High Court and was subsequently shot and killed by the police.

Four trial-within-a-trials were held since there were pointing-out as well as confessions involved and all accused denied making statements freely or voluntarily and alleged they were intimidated and assaulted by the police. One of the accused, Sanele Gcolotela was 17 years old at the time the offence was committed and his counsel challenged the validity of his arrest, the pointing-out and the 48-hour period before appearing in court, leading to different applications being brought to court.

The sentencing of these criminals sends a strong message that the courts will not tolerate attacks on institutions that are supposed to protect society and any similar crimes.

I thank the Investigating Officer Captain Nodlabi, attached to the Detective Unit in Mthatha – previously to the Serious and Violent Crimes Unit in Mthatha, for his diligence and effectiveness. Not only did he investigate and follow up, but he also helped oversee the security at court as well as the safety of the accused and court personnel on a daily basis.

Luxolo Tyali is the Regional Communications Manager: DPP Mthatha

RHINO POACHING UNDER THE SPOTLIGHT

– AN INTERVIEW WITH ADV JOHAN KRUGER, COORDINATOR: ORGANISED CRIME UNIT

By Nomilo Mpondo

A joint operation has been established to fight the scourge of rhino poaching in South Africa. Adv Johan Kruger who is a coordinator of the Organised Crime Unit in the NPA attends monthly meetings that are held to discuss progress in relation to rhino poaching matters. Khasho speaks to him to find out more about NPA's involvement in the joint operation.

There is a dedicated unit tasked with fighting rhino poaching that started operating recently. Is the NPA part of the unit?

The SAPS has established a National Team headed by Colonel Johan Jooste, from the Hawks. Co-ordinators representing each province to co-ordinate and monitor rhino poaching cases have also been appointed. I attend monthly meetings with all the national co-ordinators to discuss progress as well as challenges experienced during the investigations or prosecution of these matters. More recently a joint operation

guide and prosecute these matters. As such, in each DPP office, the Organised Crime co-ordinator appointed a dedicated prosecutor to deal with all rhino poaching related cases, which resulted in co-operation between the police, the prosecutors and officials from the various National Parks and the Department of Environmental Affairs. This co-ordinated effort has led to numerous successful prosecutions. Prosecutors are now made aware of cases before the accused could appear in court, and are therefore in a much better position to monitor the cases, to oppose bail and to allocate appropriate prosecutors to deal with these matters.

Most of them come from China and Vietnam and some from Mozambique and Zimbabwe.

Do we have a tight law that we can successfully use to prosecute rhino poachers?

The Biodiversity Act as well as the National and Provincial Ordinances make provision for the prosecution of dealing, trading and possession of rhino horn. The accused are either charged with a contravention of laws, trespassing and possession of fire arms, if they cannot be linked to a poaching incident. Recently we are focusing on investigating these cases with a view to charge them with Racketeering and Money laundering.

What other tools do you have at your disposal as prosecutors to use in courts in a bid to put the poachers behind bars for a long time?

Currently our main objective is to charge them in terms of the Prevention of Organised Crime Act (POCA) legislation, racketeering, money laundering, fraud, corruption, contravention of the Aviation Act as well as the Drug Trafficking Act (darting of rhino by veterinarians), and tax evasion and to involve the Asset Forfeiture Unit. POCA legislation's main aim is to deal with syndicates which commit crime in an organised fashion. The penalty clause for racketeering is R 1000 million or life imprisonment. The development of DNA evidence as well as the micro chipping of rhino horns are also tools which will be used in future prosecutions. This will lead to prosecutions based on poaching charges rather than mere possession of the horn, as we will be able to link a specific horn found, to a specific carcass.

Typically, who is involved in the rhino poaching trade?

At the Rhino Summit it was concluded that the majority of rhino poaching cases, if not all, are committed in an organised crime fashion, by a formal or informal syndicate. Highly trained and skilled persons are mostly involved in this trade, such as veterinarians, professional hunters and pilots. There are also instances where these crimes are not committed in an organised fashion, for example, cases of possession of rhino horns.

To date, how many rhino poaching cases are in the courts?

Currently there are 28 cases relating to poaching and illegal hunting of rhinos on the court rolls, nationally. The latest sentence imposed for illegal possession of rhino horns was 10 years imprisonment without the option of a fine, and leave of appeal was refused.

You have apprehended even foreign nationals, what countries do they come from?

was also established between various role players to fight the commission of this crime as a multi-disciplinary team, which the NPA is part of.

What is the NPA's mandate on the National Wildlife Crime Reaction Unit?

Each Director of Public Prosecutions (DPP) office has an Organised Crime Division which is mandated to monitor,

Adv Johan Kruger: Coordinator:
Organised Crime Unit

ADVOCATE RETIRES AFTER A LONG AND EVENTFUL SERVICE - DEC 2010

By Natasha Ramkisson

Advocate Ross Stuart (SC) has served both the Attorney General's Office and the NPA. Khasho caught up with this gentleman to talk about his experiences and plans for retirement.



Adv Ross Stuart

1. What motivated you to become a prosecutor?

As a student I obtained a public service bursary which required me to work for the Public Service for a period of two years after obtaining my LLB. I did not know what a prosecutor was and applied to join Foreign Affairs. But, in 1974, I was appointed as a prosecutor in Durban, whether I liked it or not. It was not my first choice. The rest, as they say, is history...

2. Describe the changes that you experienced as the organisation evolved?

When I joined the Attorney General's office in Pietermaritzburg there was one Deputy, two Senior State Advocates and eight State Advocates with an Admin Staff complement of four. We now occupy three buildings and have seven Deputies and who knows how many advocates and admin staff. The old order was not amenable to change and it was difficult to implement any change. The newer order was open to change and at times, I felt, wished to bring about change for the sake of change and to get rid of the past. Unfortunately, some of the good things that had developed over time and were tried and tested were also scrapped for the sake of change. When I received my first computer (a donation to the office), I never, for a moment, envisaged a time when we would all depend on computers to do our work and look where we are now.

3. Share some highlights of your career with us.

Every difficult case which results in a successful conclusion is a highlight. I recently entered into plea bargains with illegal developers in the iSimangaliso World Heritage Site in terms of which the accused were required to rehabilitate the sites they had developed. It was most satisfying to stand on the ground where the development had stood and to realise that I had played a part in protecting the unique environment involved.

In *State v Harper* and another, which lasted 56 court days, the directors of an estate agency had defrauded people, including pensioners, of their savings. The main accused was a chartered accountant and I had to cross examine him on his books having had no previous bookkeeping or accounting background. To have him convicted and sentenced to 14 years imprisonment was a highlight. There are many others where the appreciation of victims and relatives turned successful prosecutions into highlights.

4. Which is your most memorable case?

Probably the trial of Andrew Zondo, where a highly talented young man, with a very promising future, planted a bomb at a shopping centre just before Christmas and destroyed his own life and those of several fellow South Africans of different races, ages and backgrounds. This was in retaliation for a raid on a dwelling in Lesotho in which people were killed by South African Security Forces. The suffering of the victims and their families and the suffering of the family of the accused was such that it was difficult to not become personally involved, which a prosecutor is somehow expected to do. The futility of all the violence left an indelible mark.

5. You've made some headway in terms of Wildlife crimes and prosecutions in KZN. Please share some achievements with us.

In KZN we have, what I believe is a unique working relationship with SAPS and Ezemvelo KZN Wildlife in the form of the KZN Wildlife Working Group and by working very closely with these partners; we are making inroads into the area of Wildlife and Environmental Crime. The illegal development matters mentioned above were a direct result of this teamwork. We have now established cluster groups in five clusters, to tackle this area of crime at grassroots level and there have been some notable successes.

6. What do you think the future holds for the NPA?

I do not have a crystal ball, but there are sufficient talented people in the organisation with the necessary commitment to succeed, that if they are allowed to get on with the job, rather than having to write endless reports, the NPA should be able to make a difference towards its object of achieving safety and security for all.

7. What do you look forward to most in your retirement?

Not having to go to work in the morning! Also, being able to travel overseas and see my grandchildren, without having to get permission.

8. Any parting shot?

Our population is made up of people from different backgrounds and cultures and for some reason there appears to be a sense of distrust and an unwillingness to join hands. This I find very sad and I wish that the sense of unity which we all experienced on 11th June 2010 could become permanent.

Natasha Ramkisson is the Regional Communications Manager: DPP KZN

VOX POP

We realise that employees have a number of issues that they would like to see being addressed by the leadership team. Khasho spoke to a few people from a number of regions, asking them the question:

What issues would you like the NDPP and the leadership team to address and cover in their engagement session with the staff?

Below is how they responded:

Patricia Marobe – Principal Typist (DPP North West - Mmabatho Office)

I am concerned about the salaries of data typists in the NPA. I wish the leadership could really review the salaries of those on the lowest ranks. It is my genuine concern but if it is a matter beyond the powers of the NDPP, let him at least approve the transfer of officials who wish to work closer to their homes.



Gcina Mngomezulu – Assistant Analyst (DPP KwaZulu Natal, Durban Office)

I would like to see the NPA conducting an organization work study in the regions to determine the number of staff requirements per section. I would also like to see the revival of the national Employment Equity Forum and inclusion of the provincial representatives in such a forum. A job evaluation exercise of posts must also be conducted to ensure that people performing the same jobs are on the same salary level.

Joshua Mashao – Advanced Regional Prosecutor (DPP Northern Gauteng, Pretoria Magistrate’s Office)

I would like to see the conditions of service being properly addressed, especially the Occupation Specific Dispensation, which has not been implemented appropriately. I also feel that we are not being paid appropriately, because we are over- worked and underpaid. Qualifications should be taken into consideration and not experience only.



Advocate Mzwamadoda Mnyani – Senior State Advocate (DPP Port Elizabeth)

I would like the leadership team to address the issue of timeous filling of vacant posts with regard to prosecutors. I have noticed that whenever a person leaves the NPA, especially prosecutors, it takes longer for the organisation to fill the vacancy, thereby increasing the workload of remaining staff and leading to case backlogs. In my view we cannot win the battle against crime if we do not have enough and skilled workforce to combat it. The recruitment process must therefore be seriously revisited in order to address this concern.

Phumelele Sali - Advanced Deputy Manager: General (DPP Northern Cape)

Regional offices were so excited to learn that the Directors of Public Prosecutions (DPPs) have the authority to approve legal staff appointments. One was hoping that since the delegation is stipulated in the Act, the NPA should comply immediately, also considering that we have been in the Auditor-General’s bad books for a long time. This will assist the regions in developing realistic resource plans and budget at the beginning of each year. I would therefore like to see the leadership addressing the current problem regarding recruitment and selection to ensure that appointments are initiated and finalized in the regions.



On the issue of representation I notice that there are still few females, particularly Africans, at MMS and SMS levels. How is the NDPP and his leadership team dealing with this shortcoming?



Advocate Vuyisile Calaza, Senior State Advocate (DPP Mthatha)

I would like the NDPP and the leadership team to extensively discuss alternatives to the reliance on confessions, made to either the police officer or the magistrate, in trials. This is due to the problems that are created by the use of confessions which lead to trial-within-a-trial situations that cause delays and affect statistics, as well as the hideous history of how confessions were obtained in the past.

SUGAR CANE KILLER GETS LIFETIME BEHIND BARS

By Natasha Ramkisson

Thozamile Taki, the notorious ‘sugar cane killer’ was sentenced in the Durban High Court early this year.

From February to September 2007, he pretended to be a recruiter for major brands such as Nestle, Toyota and Hulleths; and lured his victims with the promise of better jobs. His victims were aged between 20 and 35 years and he would trick them into going with him to either the Shayamoya Sugar cane fields in Umzinto or the Majola Tea Plantations in Port St. Johns in KZN, where he killed them. Since the victims’ bodies were found in various stages of decomposition the cause of death could not be ascertained.

However, Taki was linked to the victims by being in possession of their personal items such as clothing and cell phones. Also, he was identified by several people including relatives of the deceased and one would-be victim (Dudu Ntetha) who declined to go with Taki after she suspected that something was wrong.

The trial which started in July 2009 was eventually concluded in January 2011. There was great noise and drama at the Durban High Court as family members of the victims experienced mixed emotions. Members of the ANC Women’s League chanted songs of victory and justice, the media clicking away at every opportunity. And Thozamile Taki just sat there, unfazed, with a smug look on his face as he was sentenced to 13 life sentences (for the 13 women that he killed) and 208 years for robbery with aggravating circumstances.

His co-accused Hlengiwe Nene was acquitted in December 2010.

Khusho asked Adv. Dube some questions about this high-profiled case

How do you feel now that the matter has been finalised?

I feel great. I can concentrate on other work I have on my desk. I am also satisfied with the outcome.



Adv Tokwana Dube



Dudu Ntetha: Survivor

What was it like during the trial?

It’s been a very long trial and the defence put everything in dispute, the State ended up calling 112 witnesses.

Were you intimidated by the accused?

Not at all.

Was this case unusual from others that you have done?

It was very traumatizing to hear all the stories from the next of kin. Stories of how their children left their homes believing it was for greener pastures. The reality is that had those young women been employed with better conditions they would not have been victims of Mr. Taki.

Is there anything that you have learnt here that will help you in future prosecutions?

I learnt a lot. This was my first case where I led cellphone evidence; it was an eye opener for me. How important it is to be involved in a case from the initial stages and direct investigations from the beginning. It made my work much easier during trial. I had a great team of investigators and cellphone experts. Team work, hard work and co-operation gave out this outcome.

Acting Director of Public Prosecutions in KZN, Adv. Simphiwe Mlotshwa commended Adv. Dube as well as the investigation team for a job well done.

Adv. Dube was also contacted by a representative of the Presidency, conveying President Zuma’s congratulations!

Natasha Ramkisson is the Regional Communications Manager: DPP KZN

LABOUR RELATIONS-

The Misunderstood Strategic Element

By Tebogo Seate

How much do we really know about the function of Labour Relations within the organisation? I am sure most of us immediately form images of someone going through an ugly disciplinary process before a panel of unsmiling retributionists, being given a letter of dismissal and finally escorted out of the premises - also by unsmiling security personnel.

But this is not what Labour Relations (LR) is all about. Most people misconstrue what LR does and hence miss out on the services offered by this section.

Khasho spoke to Ronnie Pather, the Senior Manager for Employee Relations about exactly what's happening in this section:

Can you briefly tell us about the role of Labour Relations in the NPA?

The role of LR is to advise line managers on disciplinary issues and grievances. Most importantly, our key role is to create an environment conducive to improved working relationships that will ensure better productivity and enhance efficiency in the workplace.

Unfortunately most managers tend to see disciplinary process as punishment and overlook the corrective element of it, namely, to correct behaviour or conduct.

Do you think managers are well equipped to deal with Labour Relations (LR) issues within the organisation?

My assessment of the current environment is that there seems to be a tendency by some line managers to abdicate their responsibility to others so that they can still continue to be in employees' good books. However, the role of LR is to ensure that whatever managers do is fair and consistent and is done in the spirit of promoting and supporting sound and constructive working relationships.

In the next financial year we are going to train all employees within the NPA, both supervisors and their sub-ordinates, to ensure common understanding is achieved about what Labour Relations is all about. In the past we have trained only chairpersons of disciplinary enquiries and employee representatives, but the next phase will be an inclusive training process.

Do you often find that managers "dump" issues on you that they should actually deal with?

In most cases, this seems to be the trend, hence we spend a lot of time and energy analysing information and solving problems that could have easily been solved at unit level, by managers themselves. There seems to be a reluctance to take responsibility.

What Acts, Policies and Procedures should managers familiarise themselves with?

We have compiled a Labour Relations Guide which is available on the intranet under "Policies, Procedures and Standards". I urge everybody to familiarise themselves with it and contact us if they need any further clarification.

What kind of issues should managers definitely not escalate to LR?

They should definitely not come to us with issues relating to performance, unless poor performance advice is required. Complaints about operational issues such as lack of tools or relationship problems should also be dealt with at operational level.

What kind of issues should managers definitely escalate to LR?

LR should be alerted where there is possible misconduct. Genuine grievances by employees should also be escalated to us, as well as issues which impact on service delivery.

If managers do not promptly attend to such problems, it could lead to even more serious problems and create the impression amongst employees that the NPA is lenient on taking action against offenders or even condoning such wrong behaviour.

What mistakes do NPA managers typically make when it comes to LR matters?

Most managers do not understand that failure to report and deal with misconduct can lead to serious consequences. Sometimes they report misconduct very late, such that by the time it reaches LR it is even a much bigger problem. Managers also fail to consult with LR to find out how similar cases were dealt with before.

There is also a wrong perception that by escalating misconduct to LR and initiating disciplinary action against the offender, it would ultimately lead to a dismissal. Wrong. The purpose of disciplinary enquiry is not to punish but to correct behaviour.

How would you assess the current LR climate within the NPA?

There are serious organisational problems within the NPA. The two most common problems that we deal with are racism and salary discrepancy issues. Managers tend to "bury their heads in the sand" hoping that these would ultimately go away. Unfortunately this has led to the creation of an environment of mistrust between supervisors and their sub-ordinates.

What cases do you typically deal with?

Our trend analysis shows that on average we deal with 7 kinds of issues, namely:

- The most common grievances we deal with are results of performance assessments, which should really be dealt with via the NPA's Performance Management Policy. In most cases, however, we find that some grievances are without merit or caused by procedural flaws.
- Incapacity leave – when applications are declined because of failure by applicants to provide all the necessary information to make an informed decision.
- OSD and salary increases – the complaint is that the NPA takes too long to implement the salary increases.
- Dissatisfaction with the results of internal recruitment and selection processes
- Dissatisfaction with post levels and the results of job evaluations.
- Misconduct - the most common types being corruption and fraud, dereliction of duty and negligence.
- Amongst managers, it is failure to comply with the organisation's Policies and Procedures.

How is LR structured within the NPA?

We have a Senior Manager heading the function, assisted by three Senior Consultants based in head office. However, we also have consultants allocated to the regions. People can therefore never be without service – they must feel free to contact their consultants whenever they need assistance.

NPA EVENTS

PCLU Does it again

Basetsana Motlhamme

The Priority Crimes Litigation Unit (PCLU) has helped yet another family to find closure on their missing brother.

On 30 November 2010, the PCLU team exhumed the remains of Vuyisile Tshabalala, known as V, who died in 1987 and was secretly buried in Thembisa's Emfihlweni Cemetery without the knowledge his family members. The circumstances surrounding Vuyisile's death, who was a member of uMkhonto we Sizwe, are still unclear.

After 23 years his remains were finally exhumed, much to the delight of his family who were eager to close the chapter of his death. The family was given the opportunity to perform their rituals on the remains. Although the PCLU team is convinced that the remains belong to Vuyisile, the Argentine Forensic Anthropology team took the remains for forensic analysis and identification, to confirm that the remains are indeed those of Vuyisile. Once confirmed, the family will be given an opportunity to re-bury him.

His only surviving sister, Disebo Khoebane thanked the NPA for the great job they had done in reconnecting her with her brother. She said, "I almost lost hope of ever finding my brother, but finally I have been reconnected with him. At least I'll be able to visit his grave whenever I feel like doing so".

The exhumation ceremony was also attended by the municipal Mayor of Ekurhuleni, Mondli Gungubele, who described the exhumation as a healing process for the family. He also thanked the NPA for helping the Tshabalala family to re-connect with their beloved son.

NPA takes anti-corruption message to the Winterveldt Community

Sibongile Mogale

The 9th of December every year has been declared by the United Nations as International Anti-Corruption Day, aimed at raising public awareness of corruption and what people can do to fight it. The NPA has always supported this noble cause, and on 9 December 2010, took the event to the community of Winterveldt, about 60km north of Pretoria.

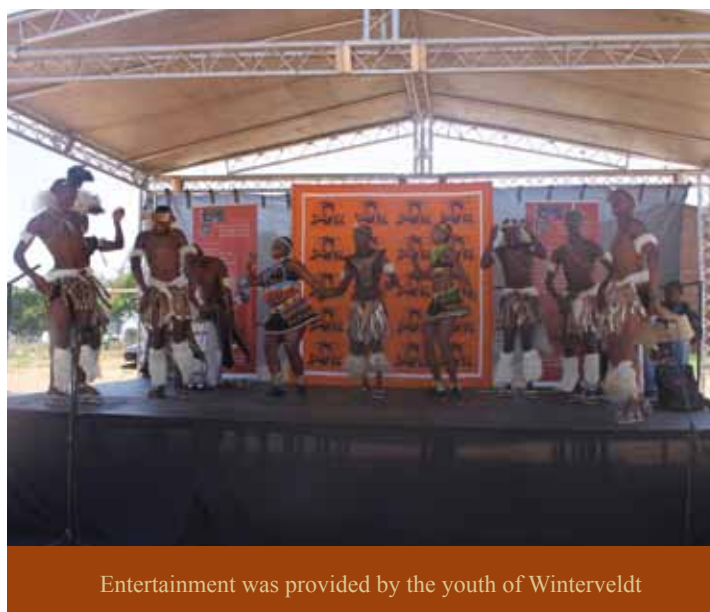
The purpose was to educate communities about corruption in general and how it affects service delivery. Hence a number of stakeholders were also invited to become part of the event in order to give the community of Winterveldt a broad overview of what corruption entailed.

The NPA shared the platform with the South African Police Service (SAPS), Special Investigating Unit (SIU), KPMG, Pillar-to-Post, and the Hawks. The SAPS, for example, encouraged the community to report corrupt police officers so that they could be dealt with, while the NPA encouraged the community to report all forms of corruption amongst prosecutors.

Adv Lawrence Mrwebi, from the DPP Northern Gauteng, said the NPA was a very important institution in the country, and people expected high levels of integrity from it due to the prosecutorial nature of its work. However, sometimes cases were being compromised because of a few corrupt prosecutors who were accepting bribes from those who have committed crimes.

He said, "In the process, the integrity of the institution is being compromised. In order for our country to grow and develop, we need societies that are free of crime and corruption. That is why it is important to report any form of corruption committed by our own prosecutors, and we need the assistance of communities in this regard".

Adv Mrwebi urged the community to be brave enough to even testify in a court of law. He said their assistance will go a long way in stepping up the fight against crime and corruption.



Entertainment was provided by the youth of Winterveldt

ASSET MANAGEMENT

My responsibility, your responsibility, our responsibility

By Tebogo Seate

In terms of the Public Finance Management Act (PFMA), asset management is the responsibility of the Accounting Officer of the organisation, who, in turn, can delegate this responsibility to Asset Managers.

Simply put, asset management is the professional management of all assets under your control to ensure their effective use, such as furniture and equipment allocated to us, and all the tools we need to perform our jobs efficiently.

A wrong perception has therefore always existed among most staff members that asset management is not their responsibility. However, in terms of Section 45(E) of the PFMA, all officials are responsible for all assets under their control, irrespective of their levels within the organisation.

Jacques Du Toit, the Acting Senior Manager for Fleet and Facilities, said the NPA was taking the issue of asset management very seriously. "From the new financial year, asset management will



be included in employees' performance contracts", he said. Disciplinary action will be taken against defaulters and they will not be considered for performance awards. "However, I believe that we do not have to reach that stage, only if people could change their mindsets and take responsibility for assets under their control. We urge every official in the organisation to play their part. It is the right thing to do because it will make our lives easier", he said.

Mr Du Toit said the NPA received a qualification from the Auditor-General (AG), which showed that the organisation was lacking on four things, namely:

- our assets register is incomplete;
- most of the time we don't know where our assets are located;
- the data on our assets register is incorrect; and
- we do not know the rand value of our assets.

Some of the reasons that led to the current state of affairs are: historically, we have not been good at the NPA with asset management since inception, and the quarterly information received from the various business units has not always been complete and accurate. However, this does not mean we cannot turn things around.

Above all, the AG also found that the NPA did not have an asset management strategy and planning, and no standards were in place.



NPA asset controllers verifying assets

To fully address the current gaps, Mr Du Toit said the Fleet and Facilities section was busy developing appropriate organisation-wide standards, policies and strategy on how assets should be handled within the NPA from now on.

Mr Du Toit urged all employees to approach their Asset Controllers and Corporate Managers to ensure that their units and offices complied. He said, "If we all make assets management our responsibility, we can easily turn things around and get a clean audit in the forthcoming Auditor-General's report – and it is something which is easily attainable".

For further information, please refer to Circular 2 of 2011. Enquiries can also be forwarded to assets@npa.gov.za

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