



Justice in our society so that people can live in freedom and security

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THE WORK OF THE NATIONAL PROSECUTIONS SERVICE

Programme Director, I have all along assumed that the work of an important and highly regarded institution of government such as the NPA and its constituent units, need no introduction to South Africans, let alone our stakeholders, who are seriously concerned about the scourge of crime in this country. We need not debate the merit of my assumption. The reality is, however, that the organisation needs some serious introduction on the nature and extent of its work to the South African public. There is a frequently asked question posed to me in meetings with various, and often senior, stakeholder and government officials when introducing myself as *Deputy National Director of Public Prosecutions*: NPS: “What is the NPS and exactly what do you guys do”? “Are you also the Scorpions?”

Programme Director, I am asked questions like these because no one has until today devoted 10 minutes of his/her time to inform our stakeholders in and outside government about the work of this important unit. I would personally do so (in respect of the NPS) - not because I am eminently suited for this task but because we can only successfully take the war to the criminals if we in the NPS, together with our stakeholders in the Criminal Justice System, share a common understanding of the roles and responsibilities of our respective organisations to which we belong.

THE PROSECUTORIAL PROCESS

The National Prosecuting Authority's core function is the institution of criminal proceedings on behalf of the State. This is a constitutional mandate in terms of section 179 of the Constitution of the Republic of South Africa which provides for the establishment of a single national prosecuting authority. The NPS, a component of the NPA, is responsible for this core function.

Programme Director, section 20 of the NPA Act, 32 of 1998 (which repeals the old Attorney-General Act 92 of 1992), empowers prosecutors to institute and conduct criminal proceedings. Additionally, prosecutors have the power to carry out any necessary functions incidental to the instituting and conducting of such criminal proceedings and even the power to discontinue such proceedings. A prosecutor's aforementioned powers are delegated powers which actually vest on the National Director of Public Prosecutions to whom I am answerable as the head of the unit. The various Directors of Public Prosecutors have been designated by the National Director to delegate the aforesaid powers to prosecutors in their respective divisions.

In accordance with sections 179(5)(b) and 21(1)(b) of the Constitution and NPA Act respectively, the National Director issued directives that regulate the professional duties of prosecutors. These directives are contained in an important document called the NPA Policy Manual. This is a public policy document setting out the way in which the NPA and individual prosecutors are to perform their statutory functions and conduct themselves. The challenge that faces the unit is to implement the policy directives in a manner that will increase the sense of security of our people.

The process to prosecute starts after the SAPS have investigated a case and presented a docket to a prosecutor. The prosecutor would study the docket and

decide either to prosecute or not to do so. A prosecutor would take a matter to court for trial if there is, in his or her opinion, sufficient evidence against the accused and, therefore, reasonable prospect of a successful prosecution exist. Co-operation between a prosecutor, the investigating officer and members of the correctional services who bring prisoners to court is essential for an efficient prosecution. The duty to co-operate extends to international investigating agencies and foreign countries, particularly for purposes of extraditions of fugitives from justice.

I can safely say all our prosecutors, irrespective of experience and level, are the drivers of our prosecution processes. We are to carry out our prosecution work in a fair, transparent and consistent manner. In line with this important directive, members of the public are allowed to direct representations to the various Directors of Public Prosecutions regarding their individual cases or those of their relatives. So are our stakeholders. Directors (and my office in the event of a discontent stemming from the Director's decision) may, therefore, intervene in the prosecution process when policy directives are not complied with by our prosecutors. An Anti-Corruption Hotline established in partnership with the Department of Justice is available to the general public for them to report acts of corruption by any of our prosecutors in the performance of their work.

The NPS is made up of nine regional offices situated in the provincial seats of the High Courts and each headed by a Director of Public Prosecutions. Each Director is supported by Senior Managers, namely, Deputy Directors of Public Prosecution, Chief Prosecutors and Corporate Managers. To ensure good governance, the various magisterial districts have been divided into 35 clusters, each cluster headed by a Chief Prosecutor who is assisted by Senior Prosecutors. Our lower courts, being the District and Regional Courts, are served by prosecutors [who are 2 187 in number]. Our High Courts are served by highly regarded State advocates. My office oversees the management and monitoring of the performance of our prosecutors and courts. I am strategically, Programme Director, seated at Head Office in Silverton, Pretoria in the VGM building which houses the office of the National Director (Adv. Vusi Pikoli), our human resources department and all other unit heads.

Key objectives the unit has set for itself in the current financial year 2007/2008 towards the realisation of our long term NPA Strategy 2020, are to:

- Ensure good governance of the NPS
- Contribute to crime prevention and community justice
- Contribute to better crime investigation
- Ensure effective and efficient management of cases
- Ensure that the NPA becomes an employer of choice, is well-managed and builds toward optimal resourcing
- Ensure that we continue to transform ourselves.

These objectives underpin our undertaking to provide efficient, effective and credible prosecution to the people of South Africa irrespective of colour, race, religion or creed.

While our primary duty as prosecutors is to prosecute criminals in court after the necessary investigations have been carried out by members of the SAPS, it is also our responsibility to ensure that the standards of our prosecutions are the highest so as to enable us to realise the unit's objectives and deliver justice to the victims of crime. The unit, thus, engages itself in training activities of its prosecutors on an ongoing basis, on various aspects of the law through the Justice College's various training initiatives and multi-sectoral training within divisions. Serious cases such as murder, rape and armed robberies are justiciable in the Regional and High Courts where most of our more experienced prosecutors are. This helps to enhance the public's confidence that their cases will be dealt with diligently. I do not for a moment, however, suggest that our prosecutors in the lower courts where less serious cases are heard, are inexperienced and not equal to their task. Prosecutions in our lower courts, where the majority of our people receive services, are in fact efficient and effective. There is, of course, always room for improvement.

The unit continues to provide for the Aspirant Prosecutors Programme that allows for the training and assessment of law graduates who aspire to enter the profession as prosecutors. The programme prepares the beginner prosecutors to appear in the lower courts. The presence of experienced Control Prosecutors who run the district courts under the supervision of even more experienced Senior Prosecutors, mitigate the lack of experience of these rookie prosecutors who benefit from the guidance and

on-the-job training with the more experienced colleagues and other stakeholders that they interact with in the prosecution process.

The unit has participated in the establishment of dedicated or specialised courts as a reaction to the emergence of specific crimes that have become problematic in our respective communities and often committed in an organised fashion. Specialised hijacking courts, sexual offences courts, drug trafficking courts, environmental courts, community courts, all of which have been a huge success, were established. The concept of community prosecution has been introduced for the first time in our criminal justice system and embraced by all stakeholders. Community courts are being rolled out to improve the quality of life of communities in the target areas, increase confidence in prosecution and the criminal justice system and also increase levels of civic morality. These and other efforts by the unit, such as the establishment of an organised crime task team, ensure the capability to help address the growing public dissatisfaction over the high levels of crime we hear all over country.

While the performance of our prosecutors has generally been impressive despite the limited resources at their disposal, we certainly need to beef up our prosecuting capacity to ensure an even better service to our people. Some of the noteworthy performance has been in the area of finalised cases, 313 702 in all courts, with the lower courts finalising 311 623 as at January 2007. Diversions also show an improvement, as at January 2007 a total 37 225 cases have been diverted which is 24% of cases compared to 2005/2006. Experience has shown that diversion process is very effective a method to deal with first time offenders in less serious matters. The Vaal Rand has been able to develop an excellent relationship- with stakeholders enabling them to extend the programme. Success is also shown in plea bargaining whereby the finalisation of cases is expedited. Between April 2006 and January 2007 a total of 937 cases were finalised. In Wynberg magistrates court a dedicated prosecutor is used to identify and fast track these cases thus reducing the case backlog. The Radcliff case in KZN is the best example. In KZN the prosecutors in conjunction with magistrates and police opened courts during December 2006 holidays

In response to the increase in sexual offences, dedicated courts are in place. A total of 60 Regional courts on average per month are dedicated to sexual offences. In

2006/07 a total of 5240 cases translating into 65% conviction is recorded. To ensure customer satisfaction in these courts a total of 78 court preparation officers have been appointed. Today's criminal is a sophisticated man or woman. We need an even more sophisticated prosecution system than ever before.

CHALLENGES FACING THE NATIONAL PROSECUTIONS SERVICE

The NPA, together with all stakeholders within the Criminal Justice cluster, is currently faced with an overwhelming challenge of reversing people's perceptions of the effectiveness of the Criminal Justice System. A need for all of us to work closely together and look at ways to improve our overall strategies, functioning and co-ordination cannot be over emphasized more than it should be right now.

It is indisputable that the Criminal Justice System as a whole is faced with a reality of having to do more with minimal resources. Be it human resources or finances. The development of new crime types such as trafficking in persons, cyber crimes and organised crime syndicates pose a major challenge for the NPS and other agencies to respond timely and deliver an efficient service. To take on the challenges of the future, we constantly have to seek out new and innovative ways to deal with crime and to equip ourselves with modern crime fighting methods. Strategic and operational alignment with the priorities of partners and key stakeholders is critical in this regard. Some of the challenges facing our organisation are:

- The NPS' ability to deal with the increased demand for services.
- Lack of skills and experience amongst stakeholders and partners to provide service
- Lack of confidence in the CJS, resulting in complainants and witnesses not coming to court
- Lack of sufficient Legal Aid practitioners to provide a service in the courts
- Accused absent in court (bail/warnings)
- Number of young offenders in custody and / or awaiting trial
- Restructuring of key partners and stakeholders that impact on the NPS
- Delays caused by the minimum sentences process
- Delays with the establishment of dedicated courts in conjunction with DOJ
- Completion of investigations by SAPS officials in shorter time frames

- High level of crime, especially violent crime (all categories) and gender based violence
- General low level of skills in the CJS.

In an attempt to meet some of these challenges, the leadership of the NPA embarked on a Transformation Process, which is aimed at ensuring that the NPA achieves its objectives. Through this process, we have geared ourselves to undertaking a number of initiatives that we, together with our partners in the criminal justice cluster, have been charged with by the President of our country. Included amongst some of these initiatives are:

- Addressing the public's fear of crime and public safety i.e. dealing with those crimes that make people feel unsafe
- Addressing serious crimes through special joint teams – focussed approach in conjunction with SAPS
- Strengthening co-operation and relations between law enforcement agencies

We believe that as part of the broader constitutional dispensation, the transformation process will assist us in successfully contributing to reshaping the notion of justice in our society so that people can live in freedom and security. The NPA wants to be part of a criminal Justice System that is not only responsive to the needs of the public, but in which all people can take pride.

RESOLUTIONS

In line with this sentiment, the NPS adopted the following resolutions towards proper and committed contribution to the fight against crime at its management conference held earlier this year:

- Find innovative solutions with our communities and partners, in our respective regions, to make an impact in the war against crime;
- Marshal all our people and resources to ensure that we efficiently and effectively combat crime;
- Ensure that our efforts to reduce the incidents of crime remains our first priority; and

- Ensure that we continue to develop our skills knowledge to empower ourselves to deal effectively with the prosecution of crime and in particular organised crime;
- Commit ourselves to enhance our leadership capabilities;
- Participate in the peer assessment program of the NPA;
- Identify the gaps in our own leadership abilities;
- Commit ourselves to grow as leaders and maintain the confidence and trust of our staff.
- Continue to vigorously implement the NPS annual plan and the regional plans in line with the NPA Strategy 2020.

I do not, for a moment, want to under-estimate the importance of civil society's participation in mobilising and sustaining crime initiatives. Consultations with civil society around crime prevention should be ongoing, as part of the responsibility for crime prevention rest with the public at large. Let us mobilise society and community to work with us to address crime and at the same time promote a shared understanding and common vision of how we, as a nation are going to tackle crime.

Thank you