



Quarterly Performance Overview Report of Public Prosecutions

QUARTER 2 – 2011/12

This report is based on data available on the date of this report.

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DOCUMENT MANAGEMENT

Document title	Quarterly Performance Information Report		
Creation date	18 October 2011		
Effective date	18 October 2011		
Status	Final		
Version	V1.0		
Owner title, name and contact details	Adv. Nomgcobo Jiba 012 845 6222 (w)		
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Distribution	To all NPA Staff on approval		
Security classification	Open Source		
Revision frequency:			

GENERAL INFORMATION

Submission of the Second Quarter Performance Report to the Executive Authority

I have the honour of submitting the 2011/12 Quarter Two Performance Information Report for the National Prosecuting Authority (NPA) in terms of the National Treasury Guidelines.

Adv. M. Simelane

National Director of Public Prosecutions

Date:

INTRODUCTION

An inspiring improvement is noted in the overall performance of the courts during the second quarter which is known to be the best performance period in a year. The commitment and dedication of the prosecutorial component is clearly visible in all performance areas. Continuous stakeholder engagement is reaping benefits and all regions are committed to addressing issues of concern in order to improve the performance of the courts. There are ongoing efforts to maintain the momentum but the approaching holiday season will have a negative impact in the third quarter.

PART A: STRATEGIC OVERVIEW

PERFORMANCE DELIVERY ENVIRONMENT

The legal environment is constantly changing with the introduction of new legislation and the delivery of court decisions. These changes may impact on the productivity of prosecutors as prosecutors need to be withdrawn from court to attend training and refresher courses. The same challenge is experienced where members of the judiciary and LASA are withdrawn to attend training. Better coordination of training initiatives between the NPA and our partners in the Criminal Justice System (CJS) can alleviate this problem.

The additional civil jurisdiction of the Regional Courts has a negative impact on criminal court performance as the Regional Court magistrates have to share available court time between civil and criminal duties.

The JCPS Delivery Agreement is expected to bring partners together and to ensure that the cluster role players work together to achieve joint targets. However, members of the judiciary are not signatories to the agreement and do not have a structure for accounting for service delivery to the Portfolio Committee. Without a shared responsibility to increase court hours, improve case flow management and to finalise more trials, it will be impossible to increase the finalization rate of cases. Similar challenges arise with regard to increasing the rate of cases disposed of through alternative dispute resolution mechanisms (ADRM), with an uneven spread of services and diversion options across provinces and districts.

The NPA continues to engage with key partners and stakeholders to improve co-operation and service delivery in a structured manner.

ORGANISATIONAL ENVIRONMENT

The implementation of the Occupation Specific Dispensation (OSD) has made the NPA more attractive to prosecutors and those who aspire to be prosecutors. However, accommodation in many of the Lower Courts is inadequate and presents a constraint on the recruitment of additional prosecutors. Efforts to reduce the prosecutorial vacancy rate and to spend the compensation of employees' budget allocation are hampered by space constraints. The prosecutorial vacancy rate has been reduced to 11.47%.

Serious attention will have to be given to the provisioning of IT equipment to prosecutors at regional level. Inadequate resourcing in the lower courts remains a challenge.

Vacancies at the level of DPP at the three offices, namely South Gauteng, Mthatha and Free State have been filled. The position of the head of the Witness Protection unit is also in the process of being filled.

Although the overall staff turnover in respect of prosecutors is low, the challenge remains to address the vacancy rate as internal candidates are preferred in promotional posts. An approach has been adopted to increase the numbers of the aspirant prosecutors to act as a feeder to the organisation. This approach will in the long run ensure the NPA is staffed with competent and committed prosecutors.

REVISION TO LEGISLATION AND OTHER MANDATES

For the reporting period, there was no approved revision to legislation and other mandates.

OVERVIEW OF THE 2011 BUDGET AND MTEF ESTIMATES

EXPENDITURE ESTIMATES

The table below reflects the percentage of the allocated budget per economic classification that was spent by 30 September 2011.

Table 1: Expenditure against Voted Funds as at 30 September 2011

Economic Classification	Actual Expenditure as at 30 September 2011	ENE Approved Budget	Budget Available	% Spent
Compensation of Employees	1,043,133,255	2,030,828,000	987,694,745	51%
Departmental Agencies & Accounts	0	1,553,000	1,553,000	0%
Goods and Services	174,900,981	534,436,000	359,535,019	33%
Households	4,318,194	8,895,000	4,576,806	49%

Economic Classification	Actual Expenditure as at 30 September 2011	ENE Approved Budget	Budget Available	% Spent
Machinery and Equipment	12,741,677	43,611,000	30,869,323	29%
Interest and Rent on Land	5,020,870	4,660,000	-360,870	108%
Buildings & Other Fix Structures	7,433,080	15,793,000	8,359,920	47%
Payments for Financial Assets	194,852	482,000	287,148	40%
Grand Total	1,247,742,909	2,640,258,000	1,392,515,091	47%

RELATING EXPENDITURE TRENDS TO STRATEGIC OUTCOME ORIENTED GOALS

The NPA has an overall spending of 47% of the allocated ENE budget of R2, 640,258,000 which is a linear under spending of 3%. The expenditure on Compensation of Employees is 51% due to the back pay paid to officials in relation to the implementation of OSD Phase 2 and back dated notch increments. No addition funding was allocated to the NPA for the higher than anticipated Cost of Living Adjustment. A request was submitted to National Treasury to virement R 30 million from Goods and Services to Compensation of Employees in order to cater for this expenditure. The spending on Goods and Services is at 33% but it is anticipated that this will increase due to contractual commitments and the payment of the Imperial Court Settlement.

The high spending on Interest and Rent on Land is due to insufficient budget allocation for the capital / interest split iro finance leases. A request to virement R10 million to this item was submitted to National Treasury as part of the Adjusted Estimates of National Expenditure process.

PERFORMANCE AGAINST ENE TARGETS

The Court performance in respect of the ENE indicators is set out in the table below. A significant improvement is noted in the Quarter 2 performance although some targets were still not achieved.

Table 2: Progress on ENE Indicators

Sub-Programme	Indicator as published in the ENE	ENE Annual Target	ENE Quarterly Target	2011/12				
				Q1 Actual	% Target Deviation	Q2 Actual	% Target Deviation	Change over period
1. Public Prosecutions	Number of criminal court cases finalised per year excl ADRM	365 087	91 272	77 089	-15.5%	84 169	-7.8%	9.2%
	Number of criminal court cases finalised per year through ADRM	131 117	32 779	28 509	-13.0%	32 274	-1.5%	13.2%
	Conviction rate: High Courts	87% 1 127	87% 282	83.9% 239	-3.1%	86.7% 260	-0.3%	2.8%
	Conviction rate: Regional Courts	74% 29773	74.0% 7443	73.5% 6 798	-0.5%	74.2% 8 311	0.2%	0.7%
	Conviction rate: District Courts	87% 292 654	87.0% 73 164	90.0% 60816	3.0%	90.5% 65 787	3.5%	0.5%
2. Asset Forfeiture	Number of new completed forfeiture cases	310	71, 83	61	-14%	76	-8.4%	24.6%
	Number of new freezing orders	330	76 88	77	1.8%	71	-19.6%	-7.8%
	Value of new freezing orders (R million)	R550m	R114.6m R133.8m	R 285.5m	149.2%	R 34.8m	-74.0%	-87.8%
	Success rate	90%	90%	96.7% (60)	6.5%	97.5% (81)	7.5%	0.8%
3. Sexual offences and Community Affairs Unit	Total number of Thuthuzela care centres	30	27	27	3.8%	27	0	0.0%
4. Witness Protection Unit	Number of witnesses harmed or threatened	0	0	0	0	0	0	0.0%

The conviction rate for District Courts is 3.5% above the set target of 87% with 90.5% conviction rate at the end of Q2.

The conviction rate for Regional Courts at the end of Q2 is 74.2% representing a marginal increase of 0.7% compared to the rate achieved during Q1.

At the end of Quarter 2, the conviction rate for High Courts is 86.7% which is 2.8% improvement on the rate achieved at the end of Q1.

Although the target at the end of Q2 was still not achieved, a remarkable improvement of 9.2% is noted in the total cases finalised excluding ADRM during Q2 compared to that finalised during Q1. The number of cases finalised through ADRM has also improved with 13.2% during the second quarter

The Asset Forfeiture unit has performed satisfactorily. The value of new freezing orders is 29% above target, with R320.3m worth of freezing orders against a year to date target of R248.3m. This is 14.7% less than the last financial year. During the second quarter the value of new freezing orders was R34.8m compared to R285.5m during the first quarter.

The overall AFU success rate is 97.2% (year to date), against a target of 90%. This is 7.2% above target and 1.5% higher than the last financial year.

148 freezing orders were obtained during the first 6 months of the year. This is 9.7% below the target of 164, and 18.2% below the last financial year.

In the first 6 months of the financial year there were 137 new completed forfeiture cases. This is 11% below the target of 154, and 0.7% below the last financial year.

The total number of Thuthuzela Care Centers is 27, 100% within the quarterly target. SOCA is well on track to ensure that the annual target is achieved.

The Witness Protection Unit continues to work tirelessly to ensure that no witnesses are harmed or threatened whilst of the witness protection unit. During the period under review, no witness has been harmed or threatened while on the witness protection programme.

PART B: PROGRAMME AND SUB-PROGRAMME PLANS

AIM OF THE VOTE

Public Prosecutions provides for general prosecutions and several specialist prosecution units, such as those for priority crimes litigation, sexual offences and community affairs, and specialist commercial crime¹.

¹ The purpose will be revised to be aligned to the current structure in the adjusted ENE process.

PROGRAMME 4: NATIONAL PROSECUTING AUTHORITY

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.

The primary responsibility of the NPA is carried out by public prosecutions through the various Directors of Public Prosecutions (DPP). Since the formation of the NPA several business units have been added: the Priority Crimes Litigation Unit (PCLU), the Sexual Offences and Community Affairs Unit (SOCA), the Office for Witness Protection (OWP), and the Asset Forfeiture Unit (AFU). The support services component, Corporate Services (CS), deals with a wide range of aspects including communications, information management, human resources, security, etc.

STRATEGIC OBJECTIVES ANNUAL TARGETS FOR 2011

The NPA actively participates in the JCPS cluster and the JCPS targets forms part of NPA Strategic Plan. There are six high level strategic objectives enunciated in the NPA Annual Plan for 2011/12. The objectives and the progress achieved thus far are indicated in the tables below:

NPA Strategic Objective 1: Increased successful prosecution of serious reported crime

Table 3: Progress on Strategic Objective 1: Increased successful prosecution of serious reported crime

	Strategic Objective	Annual Target	Quarterly Target	Performance Against Target				
				Q1 Actual	% Target Deviation	Q2 Actual	% Target Deviation	Change over period
1	Number of criminal court cases in which a sentence of 10 years or more of direct imprisonment without the option of a fine is imposed	baseline	baseline	1382	n/a	2803	n/a	102.8%
2	Convictions in criminal court cases measured against the number of new cases enrolled in the Regional and High Courts (serious crime)	39%	39%	35.6% 7037	-3.4%	62.1% 12818	23.1%	26.5%

The commitment of the courts to address serious crime is evident from the progress on this new strategic objective. The number of direct imprisonment has doubled and more convictions have also been achieved in both Regional and High Courts which are mainly due to proper screening processes to ensure trial ready matters are enrolled.

Table 4: Progress on Quarterly Targets Relating to Strategic Objective 1: Increased successful prosecution of serious reported crime

	Programme performance indicators	Annual Target	Quarterly Target	Performance Against Target				
				Q1 Actual	% Target Deviation	Q2 Actual	% Target Deviation	Change over period
1	Conviction rate on Complex Commercial Crime	92.0%	92.0%	90.90%	-1.1%	92.1%	0.1%	1.2%
2	Conviction rates on trio crimes	85.0%	85.0%	86.0%	1.0%	87.0%	2.0%	1.0%
3	Conviction rate of organised crime	85.0%	85.0%	87.0%	2.0%	91.0%	6.0%	4.0%
4	Conviction rate in sexual offences	48.0%	45.0%	65.0%	20.0%	66.0%	21.0%	0.8%
5	Number of Complex Commercial Crime Cases finalised	1067	262	175	-33.2%	266	1.5%	52.0%
6	Number of trio crimes finalised	408	102	476	366.7%	1005 ²	392.6%	111.1%

² Cumulative figure for both Q1 and Q2 in accordance with Annual Plan

	Programme performance indicators	Annual Target	Quarterly Target	Performance Against Target				
				Q1 Actual	% Target Deviation	Q2 Actual	% Target Deviation	Change over period
7	Number of sexual offences cases finalised	11 142	2785	1447	-48.0%	3506 ³	-37.1%	142.3%
8	Number of organized crime cases finalised	21	Baseline	63	n/a	35	n/a	-44.4%
9	Number of backlogs in the Regional and High Courts	15 609	15835	18175	14.8%	17550	10.8%	-3.4%

- The dedicated commercial crimes courts have shown an overall improvement as more cases were finalised and the conviction rate target was exceeded during Q2.
- The criminal courts have further managed to finalise more trio crimes compared to Q1 and high conviction rates were maintained in these matters.
- The cases finalised by Organised Crime include two convictions on money laundering and one on racketeering. The conviction rate exceeded the target by 4%.
- 598 more sexual offence matters were finalised during Q2 compared to the previous quarter although the target was not achieved. Relative high conviction rates were maintained and during both quarters the target was exceeded. Challenges affecting the speedy finalisation of these cases include:
 - Disbanding of specialised SAPS investigating units.
 - Discontinuation of dedicated courts to deal with these offences.
 - Delays in obtaining forensic reports
 - Shortage of Intermediaries; and
 - CCTVs are not working and no technicians readily available.
- A decline of 3.4% is noted in the backlog cases of the High and Regional Courts but the target was still not achieved due to the high number of partly heard matters which contributed to the delayed finalisation of cases.

³ See footnote 1

NPA Strategic Objective 2: Improved collaboration with JCPS partners

Table 5: Progress on Strategic Objective 2: Improved collaboration with JCPS partners

Strategic Objective	Annual Target	Quarterly Target	Performance Against Target				
			Q1 Actual	% Deviation	Q2 Actual	% Deviation	Progress over period
Overall conviction rate	88.0% 436 659	88.0% 109 165	88.0% 67 853	0.0%	88.3% 74 358	0.3%	0.3%
Number of criminal court cases finalised including ADRM	496 203	124 051	105 629	-15.0%	116 443	-6.1%	10.2%

All courts maintained high conviction rates and exceeded the conviction rate target during the second quarter. A significant improvement of 10.2% is noted in the finalisation of cases including matters finalised through alternative dispute resolution methods. The courts have actively focused on ways to improve performance and as such more cases were diverted from the criminal justice system and more plea agreements were concluded, where applicable. During Quarter 1 only 64 plea agreements were concluded with an increase during the current quarter to 167 agreements. A total of 231 plea and sentence agreements was concluded during this financial year.

Table 6: Progress on Quarterly Targets relating to Strategic Objective 2: Improved collaboration with JCPS partners

	Programme performance indicators	Annual Target	Quarterly Target	Performance Against Target				
				Q1 Actual	% Deviation	Q2 Actual	% Deviation	Progress over period
1	Number of cases finalised through ADRM	131 117	32 779	28 540	-12.9%	32 274	-1.5%	13.1%
2	Number of criminal Court cases with verdict	365 087	91 272	77 089	-15.5%	84 169	-7.8%	9.2%
3	Conviction rate in High Courts	87.0%	87.0%	83.9%	-3.1%	86.7%	-0.3%	2.8%
4	Conviction rate in Regional Courts	74.0%	74.0%	73.5%	-0.5%	74.2%	0.2%	0.7%
5	Conviction rate in District Courts	87.0%	87.0%	90.0%	3.0%	90.5%	3.5%	0.5%

	Programme performance indicators	Annual Target	Quarterly Target	Performance Against Target				
				Q1 Actual	% Deviation	Q2 Actual	% Deviation	Progress over period
6	Number of Case Backlogs	37 796	37 796	38 585	2.1%	34 765	-8.0%	-9.9%
7	Number of appeals finalised in the High Court	1673	418	415	-0.7%	397	-5.0%	-4.3%
8	Number of appeal backlogs	269	269	260	-3.3%	343	27.5%	31.9%
9	Clearance ratio on decision dockets received	100.0%	100.0%	96.3%	-3.7%	97.7%	-2.3%	1.4%
10	% of formal representations received finalised within 30 days	70.0%	70.0%	56.0%	-14.0%	46.4%	-23.6%	-9.6%
11	Prosecutorial vacancy rate	12%	12%	12.9%	0.9%	11.5%	0.5%	1.4%
12	Number of witnesses harmed or threatened while on the witness protection programme	0	0	0	0	0	0	0
13	% of witnesses that walk off the witness protection programme	6%	6%	1.5%	4.5%	1.0%	5.0%	-0.5%
14	Number of completed AFU matters	310	71 & 83	61	-14%	76	-8.4%	24.6%
15	Number of new freezing orders	330	76 & 88	77	1.8%	71	-19.6%	-7.8%
16	Time to completion of trial in cases where assets are restrained	5% Improvement	5% Improvement	Not measured	Not measured	Not measured	n/a	n/a
17	Value of completed AFU matters (Rm)	R225m	R52m & R61m	R59m	13.6%	R59m	-2.8%	0.0%
18	Value of new freezing orders (Rm)	R500m	R115m & R134m	R286m	149.2%	R35m	-74%	-87.8%
19	Success rate overall for AFU cases	90%	90%	96.7%	6.7%	97.5%	7.5%	0.8%

- On average 1 610 Lower courts have increased the number of cases finalised through alternative dispute resolution methods with 13.1%. The target was, however, not achieved due various case flow related challenges experienced by the regions.
- On average 1689 courts (including High courts) finalised 9.2% more cases with a verdict compared to the total finalised during Quarter 1. An improved performance is also noted in both the High and Regional Courts compared to the achievements in the corresponding period of the previous year see table below:

Table 7: Finalisation per forum

FORUM	Q2 2010/11	% of National	Q2 2011/12	% of National	Progress
HIGH COURT	248	0.3%	260	0.3%	4.8%
REGIONAL COURT	6948	9.3%	8311	11.1%	19.6%
DISTRICT COURT	67864	90.4%	65787	88.5%	-3.1%
ALL	75060	100.0%	74358	100.0%	-0.9%

The set target was, however, not achieved due to various case flow related challenges experienced by the regions and action plans have already been implemented to address the areas of concern. Postponements for judgments, accused requesting postponements, the non-availability of interpreters, waiting for DNA results, unavailability of magistrates, illness of magistrates, unavailability of legal aid, non-availability of witnesses, further investigation, electricity failings and the finalisation of legal representation, were some of the reasons contributing to the delayed finalisation of cases during the reporting period.

- High conviction rates were maintained and both the Regional and District Courts achieved the set targets. The High Courts have not been able to attain the target but an improvement during Quarter 2 is noted. A matter of concern is the inexperienced investigators entrusted with extremely serious cases which exacerbate the burden on prosecutors to ensure that the cases taken to court are fully investigated and trial ready.
- A remarkable improvement is noted in backlog cases recorded at the end of this reporting period. The courts have not only managed to reduce the backlog cases with 9.9% compared to Q1 but have further more exceeded the set target with 8.0%. All courts should be commended for their commitment to prioritise and reduce the backlog of cases whilst striving to enhance the speedy finalisation of criminal matters.

- The number of appeals finalised is below target as the recess terms negatively impact on the finalization – during April 2011 and July 2011, only 119 appeals were finalised during recess compared to the 199 during August 2011. The low finalisation has impacted on the number of backlog appeals which increased. A matter of concern to be addressed is the number of appeals in which the records are incomplete and that has risen from 31 to 96.
- The number of representations finalised within 30 days of receipt needs to be addressed and has not improved during the second Quarter. It appears that the target might not be realistic and needs to be revisited in the next financial year.
- As a result of prioritizing the filling of vacancies for prosecutors, the vacancy rate was reduced to 11.47% year to date this is 0.53% below the target of 12%.
- The total number of witnesses on the witness protection programme is 184 with 215 dependants. Only one witness voluntarily left the programme year to date. The Witness Protection Unit continues to work tirelessly to ensure that no witnesses or dependants are harmed while on the programme.
- In relation to the value of freezing orders and completed cases, as well as the success rate, the AFU is well on target and should meet the annual targets, although the value of cases can fluctuate considerably.
- The AFU has completed AFU 137 cases in the year to date. This is 11% below a target of 154 and 0.7% below the previous year. Measures are being put in place and management is confident that the annual targets will be met by the end of the year.

NPA Strategic Objective 3: Improved prosecution of JCPS officials charged with corruption

Table 8: Progress on Strategic Objective 3: Improved prosecution of JCPS officials charged with corruption

	Strategic Objective	Annual Target	Quarterly Target	Performance Against Target				
				Q1 Actual	% Deviation	Q2 Actual	% Deviation	Progress over period
1	Number of JCPS Personnel convicted of corruption	77.0% 60	77.0% 15	82% 33	120.0%	71% 53	253.3%	-11.0%
2	Value of assets linked to corruption/fraud frozen	R2m	R1m	0	-100%	0	-100%	Few cases referred to AFU

The number of JCPS officials convicted of corruption was under estimated especially due to the Departments measured as being part of the JCPS Cluster e.g. Department of Education, Department of Communication, etc which were all signatories to the JCPS Delivery Agreement. Year to date, a total of 38 officials from SAPS (21), Legal-Aid (1), Correctional Services (1), NPA (6), DOJCD (7) and the Judiciary (2) have been convicted of corruption.

Table 9: Progress on Quarterly targets relating to Strategic Objective 3: Improved prosecution of JCPS officials charged with corruption

	Programme performance indicators	Annual Target	Quarterly Target	Performance Against Target				
				Q1 Actual	% Deviation	Q2 Actual	% Deviation	Progress over period
1	Time to finalise a JCPS corruption prosecution	9 months	9 months	13m	44.4%	6m	-33.3%	-76.9%
2	Number of freezing orders for JCPS officials	5	1 & 1	0	-100.0%	0	-100.0%	0.0%
3	Value of freezing orders for JCPS Officials	R2m	R0.4m & R0.4m	R0.00m	-100.0%	R0.00m	-100.0%	0.0%
4	Number of completed AFU cases re JCPS prosecutions for corrupt activities	2	0 & 1	1	100.0%	0	-100.0%	-100.0%
4	Value of completed cases re JCPS prosecutions for corrupt activities	R2m	R0m & R1m	R1 200	100%	R0m	-100%	-100.0%
5	% of SMS members that are vetted	73%	73%	46.0%	-19.0%	35.0%	-38.0%	-11.0%

The period to finalize the corruption cases vary although 75% of the cases have been finalized within the target of 9 months.

The value and number cases in which assets linked to corruption or fraud are frozen is still low as few cases were referred to the AFU thus far. Thus far, only 1 matter relating to JCPS prosecution for corrupt activities has been completed. There are several larger matters in progress and there is a good chance that targets will be met by the end of the financial year. Vetting of SMS members is 39% below a target of 67% as the NPA relies on the SSA and has no control over the process.

NPA Strategic Objective 4: To improve justice services for the victims of crime

Table 10: Progress on Quarterly targets relating to Strategic Objective 4: To improve justice services for the victims of crime

	Programme performance indicators	Annual Target	Quarterly Target	Performance Against Target				
				Q1 Actual	% Deviation	Q2 Actual	% Deviation	Progress over period
1	Payments to victims of crime	R50m	R11.5m & R13.4m	R13.5m	17.4%	R16.0m	19.4%	18.7%
2	Conviction rates in the prosecution of sexual offences reported at TCCs	63%	63%	60%	-3%	64.6%	1.56%	4.6%
3	% of cases reported at TCCs that are referred to court for prosecution.	28%	26%	20.5%	-4.5%	20.8%	5.2%	0.3%
4	Number of magistrates Courts /high Courts where CPO services are provided	68	66	65	0.0%	66	0.0%	0.1%
5	Number of awareness and education interventions to manage the perception of crime and the effectiveness of the CJS	108	35	758	910%	219	192%	718.7%
6	Strategic media communications re the performance of the NPA etc.	Quarterly	Quarterly	Quarterly	100%	Quarterly	100%	0

The NPA continues to tirelessly educate the public in order to manage the perception of crime and the effectiveness of the CJS. 947 education and awareness campaigns were conducted year to date. There has been a progressive improvement in the CPO services in the courts, from 17 347 witnesses assisted in the first quarter, to 16 124 in the first 2 months of the second quarter. Out of 1 158 cases that were reported at TCCs, 993 were referred to court for prosecution, and of these, 213 were finalised.

During Q2, 400 compensation orders were granted to the victims of crime to the value of R3 974 689.36. Victim Empowerment Days were furthermore held in certain regions to promote the Victim's Charter and to provide information to all the victims of crime.

The target for number of operational TCCs has been reached with 27 TCCs operational year to date. The planning sessions are underway for the establishment of additional TCCs.

NPA Strategic Objective 5: Increased successful prosecutions of serious corruption.

Table 11: Progress on Strategic Objective 5: Increased successful prosecutions of serious corruption

Programme performance indicators	Target 2011/12 Annual Target	Year To Date Target	Year To Date actual	Year To Date deviation	Performance Against Targets		
					Quarter 1 Actual	Quarter 2 Actual	Reasons for deviations
Number of convictions where there is at least R5m assets restrained	15	20	0	-100%	0	0	The target set were very ambitious and cannot be reached
Number of freezing orders with at least R5m assets restrained	40	15	0	-100%	0	0	The target set were very ambitious and cannot be reached

The inflow of cases and the pace of criminal and financial investigations of AFU related matters is slower than anticipated which is also affected by capacity constraints.

No trials of corruption were finalised in which there is at least R5m worth of assets frozen during this period. However, it needs to be noted that due to the nature of these cases, the NPA will not achieve the overall target set.

NPA Strategic Objective 6: Increased prosecution of cyber crime

Table 12: Progress on Quarterly targets relating to Strategic Objective 6: Increased prosecution of cyber crime

	Programme performance indicators	Annual Target	Quarterly Target	Performance Against Targets				
				Q1 Actual	% Deviation	Q2 Actual	% Deviation	Progress over period
1	Number of cybercrime prosecutions finalised	Baseline	Baseline	44	n/a	54	n/a	22.7%
2	Conviction rate in cybercrime prosecutions	74%	74%	90.9%	16.9%	88.9%	14.9%	-2.0%
3	Number of prosecutors trained in cybercrime prosecution	191	48	63	28.6%	42	14.3%	-14.3%

A total of 98 cybercrime matters were finalised during this financial year. It appears that the majority of cases involve unlawful electronic fund transfers where the password of the complainant was obtained or cloned cards being used.

CHALLENGES EXPERIENCED:

Public Prosecutions is part of the service delivery chain of JCPS and depend on our partners in order to perform optimally. There are severe challenges around cooperation between partners which are being addressed through management engagements with relevant partners.

Resourcing of the lower court prosecutors remains a serious challenge which may be addressed by the delinking of the NPA administration and resourcing from DoJ&CD. Serious attention will have to be given to the provisioning of IT equipment as prosecutors have not been equipped with the basic needs.

Vacancies and the slow pace of appointments remains the key challenge.

CONCLUSION

The Prosecutorial component is committed to delivering on its core function and striving to attain the targets set by the President in the JCPS Delivery Agreement.

Improvement can be noticed in various areas. Meetings, guidance and assessment are being done to minimize factors impacting negatively on the performance. A reduction in court utilization and fewer court days caused a decline in the productivity of the courts.

It is still evident that the performance of the courts is not on par with the achievements expected in order to reach all the targets and progress will be closely monitored.

PART A: KEY CONCEPTS

Case

In the NPA a case includes criminal court cases and civil court cases. These concepts are defined as:

Criminal Court Case

A criminal court case is a matter that has been enrolled in a criminal court of South Africa regardless of the forum. At present, excluded from criminal court cases are traffic matters not contained in a police docket, domestic violence matters as far as they do not form part of a police docket, maintenance inquiries, appeals, civil motions, inquests, decision dockets, reviews and *ex parte* applications. A criminal court case may have multiple counts and/or accused and can involve multiple police dockets. A single docket may result in multiple court cases.

Civil Court Case

A civil court case is a civil matter that has been enrolled in a court of South Africa regardless of the forum. This includes *ex parte* applications or applications on Notice. It includes motion and trial proceedings. Examples are restraint, preservation, forfeiture and confiscation applications. It also includes interlocutory applications relating to living and legal expenses and curators in civil matters.

Alternative Dispute Resolution Methods (ADRM)

Alternative dispute resolution encompasses the following methods for the resolution of disputes between the parties. Within the NPS this includes Diversion and Informal Mediation:

2.1 Diversion

Diversion is one of the alternative ways of delivering justice. It is the process of electing, in suitable and deserving criminal court cases, a manner of disposing of a criminal court case other than through normal court proceedings. (It usually includes the withdrawal of the charges against the accused person, after the accused person has participated in particular certified programmes.) After the offender has completed the diversion programme, the social worker submits a report to the prosecutor. If it is clear that the offender has cooperated and benefited from the programme, the matter is withdrawn and recorded as a diverted case on the daily statistics. These figures are totaled on the last court date of each calendar month.

Separate statistics are recorded for children (persons younger than 18 years) and adult diversions.

2.2 *Informal mediation*

It is the process by which a prosecutor, duly authorised thereto and within the ambit of the restorative justice guidelines, while acting as a mediator between the victim and offender, resolves the conflict which resulted in the criminal court case or addresses the harm caused in a manner that does not require formal justice but seeks to deliver justice. The matter is withdrawn.

JCPS Officials

All the signatories to the JCPS Delivery Agreement and includes persons employed in the following departments:

- Arts and Culture
- Basic Education (DBE)
- Department of Correctional Services
- Defense and Military Veterans (DOD)
- Finance
- Government Communication and Information Service
- Department of Health
- Home Affairs
- Human Settlements (DHS)
- International Relations and Co-operation (DIRCO)
- Justice and Constitutional Development (including such entities such as: Legal Aid South Africa, Judicial Services Commission etc.)
- National Intelligence Agency
- National Prosecuting Authority
- Department of Social Development
- National Treasury
- Office of the Public Service Commission
- Provincial and Local Government
- Public Enterprises
- Public Service and Administration
- NICOC
- Safety and Security
- South African Police Service

- South African Revenue Service (including Customs)
- Special Investigating Unit
- State Security (SSA)
- Statistics South Africa (STATS SA)

Corruption

Corruption is the misuse of public or private office or position or resources with a corrupt intent, and may include acts of bribery, nepotism, extortion, fraud and theft.

Serious crime

Serious is regarded as all criminal court cases prosecuted in the regional and high courts.

Dedicated prosecutor

A dedicated prosecutor is a prosecutor with specialised skill and experience that has been assigned to deal primarily with the prosecution of certain crime type.

Successful prosecution

A successful prosecution of a corruption matter for purposes of outputs 3 and 5 is a prosecution that has resulted in a conviction.

Cyber crime

Any crime that is facilitated by the use of information technology

Complex commercial crime case

Complex commercial crime matters are those commercial crime matters which, require specialised prosecution due to their intricate nature, or have a high impact on the community.

Complex tax prosecutions

Complex tax prosecutions are those tax matters which, require specialised prosecution due to their intricate nature, or have a high impact on the community particularly those matters linked to the commission of organised crime.

Decision dockets

In the NPA decision cases include all criminal matters presented to the NPA to consider the institution of a prosecution recording in a decision register. These exclude dockets recorded

in the Inquest Register and matters directly enrolled. It also includes all matters referred to the AFU to consider whether to initiate civil litigation (regardless of whether the matter has been enrolled for a criminal trial or not).

Indicator Title	Criminal court cases finalised (including ADRM)
Short definition	Number of criminal court cases finalised in the reporting period by verdict, or through the use of alternatives such as diversion or informal mediation, irrespective of the date of enrolment.
Purpose/importance	Tracks the ability of the NPA to deal with the demand for services for the purpose of measuring productivity
Source/collection of data	Lower courts: NPA Daily Court Return High courts: NPA Daily Court Return
Method of calculation	The criminal court case is measured as finalised on the date on which the verdict of not guilty given (including stopping of prosecution in terms of section 6(b) of Act 51 of 1977) is given or sentence is imposed in the case of a guilty verdict and includes cases dealt with in terms of section 57A of the CPA. Should there be multiple accused, the case is only counted upon conclusion of the case against all accused.
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	DC: 3 cases per court per day; RC: 0.7 cases per court per day; HC: 0.2 cases per court per day
Indicator responsibility	DNDPP: Strategy and Operations Management
Indicator Title	Criminal court cases finalised with verdict
Short definition	Number of criminal court cases finalised in the reporting period irrespective of the date of enrolment, by verdict.
Purpose/importance	Measures the ability to deal with the demand for trial cases.
Source/collection of data	Lower courts: NPA Daily Court Return High courts: NPA Daily Court Return
Method of calculation	Cases finalised with a verdict are measured on the date that the verdict of not guilty is given or sentence is imposed in the case of a guilty verdict, and includes cases dealt with in terms of section 57A of CPA. Should there be multiple accused, the case is only counted upon conclusion of the case of the case against all accused.
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	DC: 1 case per court per day; RC: 0.7 cases per court per day; HC: 0.2 cases per court per day
Indicator responsibility	DNDPP: Strategy and Operations Management
Indicator Title	Conviction rate
Short definition	Percentage of cases finalised with a guilty verdict (including Sec 57A) divided by the number of cases finalised with a verdict (i.e. excluding diversions).
Purpose/importance	Internationally viewed as an indicator of the success of the prosecution. Also regarded by South African public as such. Not a correct indicator for the quality of the prosecution though.

Source/collection of data	None – combined figure derived from other KPI's
Method of calculation	Conviction rate is measured at the date of sentencing or verdict of not-guilty irrespective of the date when the plea was entered.
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	RC: 74%, HC 87%, DC: 87%
Indicator responsibility	DNDPP: Strategy and Operations Management
Indicator Title	Backlog case
Short definition	Number of cases on the outstanding court roll in which the duration from the date of enrolment in that forum exceeds 6 months in a District Court case, 9 months in a Regional Court case and 12 months in a High Court case.
Purpose/importance	The measure is used to ensure that cases are finalised within acceptable timeframes
Source/collection of data	Lower courts: NPA Daily Court Return High courts: NPA Daily Court Return
Method of calculation	The number of backlog cases divided by the number of outstanding cases as at the last day of the reporting period
Data limitations	Manual system
Type of indicator	Output indicator
Calculation type	As at a specific day
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	DC: 90% not longer than 6months on court roll RC: 75% not longer than 9 months on court roll HC: 75% not longer than 12 months on court roll
Indicator responsibility	DNDPP: Strategy and Operations Management
Indicator Title	Clearance ratio on decision dockets received
Short definition	Number of decision cases received and dealt with in the reporting period.
Purpose/importance	Measures the ability of the NPA to make speedy decisions
Source/collection of data	Decision docket register for lower courts Docket register in High Courts
Method of calculation	Number of decision dockets dealt with divided by the number of new decision dockets plus the number of decision dockets on hand at the beginning of the reporting period.
Data limitations	Manual system
Type of indicator	Output indicator
Calculation type	Measured as at the last day of the reporting period
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	100%
Indicator responsibility	DNDPP: Strategy and Operations Management
Indicator Title	% of formal representations received finalised within 30 days
Short definition	This is the percentage of new written representations received during the period in question (monthly, quarterly or annually) which have been finalised. Only representations entered into the register for representations are being calculated. "Dealt with" includes the initial correspondence to the sender and the DPP, SAPS or whatever Department, body or organisation as may be relevant.
Purpose/importance	Measures the ability of the NPA to speedily respond to customer complaints
Source/collection of data	Representation register
Method of calculation	The first date is calculated as the date of entry into the register. The second date being the date recorded in the register as the correspondence having being sent. The matter is not counted again should there be further correspondence or

	communication regarding the matter.
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	The target turn-around time for this correspondence is five (5) days for acknowledgement of receipt and 100% compliance is required. 70% of the representations must be finalised within 30days.
Indicator responsibility	DNDPP: Strategy and Operations Management
Indicator Title	Value of assets frozen (restrained or preserved)
Short definition	Total value of assets frozen by court orders obtained in the reporting period, reported in Rands and estimated on the best available evidence on the date when the order is obtained.
Purpose/importance	It provides the first indication of the actual value of property that was seized (the court order refers to what the AFU is entitled to seize). It measures the amount of proceeds removed from the control of criminals and provides an indication of the depth of the impact made by the AFU, i.e. in dealing with those who have accumulated significant wealth from crime.
Source/collection of data	The information is based on an estimate from the financial investigation done by the AFU financial investigator and advocate submitted on a case report form and is captured on the ECMS and a central data sheet
Method of calculation	The sum of the value of assets frozen as defined above. This does not refer to the value of the freezing order obtained, but to the estimated value of the actual assets frozen. The values of orders that are refused are not counted. Where an order was initially granted and later reversed, it is not counted as a negative value for the reporting period in which it was reversed.
Data limitations	The data reflects an estimate and may not be accurate
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	To increase the target of R450 million in 2010/11 by about 10% per year.
Indicator responsibility	DNDPP: AFU
Indicator Title	Overall AFU success rate
Short definition	Number of enrolled cases finally won as a percentage of all cases which were finally won or lost. Cases are finally won or lost when a final order is obtained in favour of or against the AFU, i.e. after all appeal processes have been finalised. It is measured at the date when the case was finally won or lost irrespective of the date when the matter was enrolled. Cases finally lost include cases abandoned after an order was obtained. Cases re-done will be taken into account separately.
Purpose/importance	It provides an overall indication of the ability of the AFU and its CJS partners to deal with and litigate AFU matters successfully,
Source/collection of data	The information is based on a manual list of all cases finally won or lost prepared for CARA audit purposes
Method of calculation	Divide all cases finally won by the total number of cases finally won or lost
Data limitations	The data may occasionally be received late when there is a delay in receiving a judgement after it is made
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	90% success rate
Indicator responsibility	DNDPP: AFU

Indicator Title	Payment to victims of crime
Short definition	Amount paid or ordered to be paid to the victims of crime during the reporting period resulting from orders or agreements obtained by the NPA, stated in Rand. This includes compensation orders in terms of sec 300 of the Criminal Procedure Act or orders in terms of POCA where a person has suffered damage to or loss of property or injury as a result of an offence or related criminal activity (sec 30 of POCA) or the exclusion of property from a forfeiture order to pay a victim (sec 52 of POCA). It also includes agreements facilitated by the NPA to repay money to a victim and also includes formal court orders in terms of section 300 and section 297 of the Criminal Procedure Act.
Purpose/importance	It provides an indication of the ability of the NPA to assist victims who have suffered financial loss due to crime.
Source/collection of data	The information is based on NPA daily court returns and the ECMS and central data sheet of AFU.
Method of calculation	The sum of the amounts paid or ordered to be paid
Data limitations	Manual system. The data reflects the amount of the court orders and these amounts may not be paid by the accused.
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	To increase the target of R50 million in 2010/11 by 10% per year
Indicator responsibility	DNDPP: AFU and all DPPs
Indicator Title	Number of operational TCCs
Short definition	The number of one stop centres for rape care in which all steps all steps to the project plan relating to the establishment of the centre has been completed and all role-players are represented at the centre. The launch of the centre does not imply that the centre is fully operational.
Purpose/importance	To measure the availability of these services
Source/collection of data	TCC returns
Method of calculation	The total TCC as at the end of the reporting period
Data limitations	Manual system and operational measure
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	Fully operational after full implementation
Indicator responsibility	SDPP: SOCA
Indicator Title	Number of prosecutors trained in cyber crime prosecution
Short definition	Number of prosecutors that have successfully undergone training in the prosecution of cyber crime offences or offences in which cyber crime was used as a method to perpetrate the crime
Purpose/importance	To ensure that there is sufficient expertise in the NPA to deal with the demand for these services
Source/collection of data	Training attendance and pass records
Method of calculation	Adding up the numbers as reported
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No

Desired performance (standard)	All prosecutors should have basic training
Indicator responsibility	DNDPP: Strategy and Operations Management
Indicator Title	New freezing orders
Short definition	Number of cases enrolled in which freezing orders were obtained in the reporting period. An order is counted only once for each case, at the time when the initial order was obtained or refused. Return dates and appeals are therefore not counted (they are counted as other orders). When an obtained order is reversed on the return date or on appeal, this is not counted as a negative order for the reporting period in which it occurred. It is reflected in the AFU success rate.
Purpose/importance	It measures the number of cases in which the AFU acted and provides an indication of the width of the impact made by the AFU, i.e. in how many cases it has been seen to be acting.
Source/collection of data	The data is submitted by and AFU advocate on a case report form and is captured on the ECMS and a central data sheet
Method of calculation	The sum of all freezing orders as defined above
Data limitations	None
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	To increase the target of 310 in 2010/11 by about 6% per year.
Indicator responsibility	DNDPP: AFU
Indicator Title	Value of assets in completed cases
Short definition	Value of assets ordered by court to be forfeited or agreements in completed confiscation or forfeiture cases in the reporting period. It excludes cases where the order was refused. It is reported in Rand and estimated on the best available evidence on the date when the order is obtained.
Purpose/importance	It measures the amount of proceeds finally removed from the possession of criminals and provides an indication of the depth of the impact made by the AFU, i.e. in dealing with those who have accumulated significant wealth from crime.
Source/collection of data	The data is submitted by and AFU advocate on a case report form and is captured on the ECMS and a central data sheet
Method of calculation	The sum of the value of assets as defined above.
Data limitations	None
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	To increase the target of R175 million in 2010/11 by about 6% per year.
Indicator responsibility	DNDPP: AFU
Indicator Title	Completed forfeiture cases
Short definition	Number of asset forfeiture cases enrolled in which a final order has been obtained or the court refused to make an order in the reporting period regardless of when the matter was enrolled.
Purpose/importance	It measures the number of cases in which the AFU acted and provides an indication of the width of the impact made by the AFU, i.e. in how many cases it has been seen to be acting.
Source/collection of data	The data is submitted by and AFU advocate on a case report form and is captured on the ECMS and a central data sheet
Method of calculation	The sum of all cases as defined above
Data limitations	None

Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	To increase the target of 300 in 2010/11 by about 5% per year.
Indicator responsibility	DNDPP: AFU
Indicator Title	Appeals finalised
Short definition	Number of appeals finalised through a judgment by a court of appeal or withdrawal of an appeal by the Appellant or any other reason that entitles the file to be closed.
Purpose/importance	Measures the ability of the NPA to speedily resolve appeals
Source/collection of data	Appeal register
Method of calculation	Number of cases in which either of the parties appeals the order/judgment and or sentence measured at the time that the record is received by the Registrar and or Director of Public Prosecutions.
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	80% of all appeals received must be finalised within 12 months of receipt by the High Court.
Indicator responsibility	DNDPP: Strategy and Operations Management
Indicator Title	Number of centres where court preparation services are offered
Short definition	The number of magistrate's courts or high court centres where the NPA provides court preparation services through court preparation officers employed by the NPA.
Purpose/importance	Measures whether the service offering is being provided at more centres in line with the strategic decision to provide these services.
Source/collection of data	Daily court returns
Method of calculation	The number of court centres where the services are provided is added up.
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	All court centres should have these services available to witnesses.
Indicator responsibility	DNDPP: Strategy and Operations Management
Indicator Title	Witnesses harmed or threatened
Short definition	Number of witnesses that were harmed or threatened during the reporting period by a person or persons from whom they were protected either directly or through an agent, while on the Witness Protection Programme.
Purpose/importance	Measures the effectiveness of the Witness Protection Programme
Source/collection of data	Electronic datasheet
Method of calculation	The number of persons harmed or threatened is counted. It is not expressed as a percentage it is expressed as a number.
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the reporting period

Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	No witnesses must be harmed or threatened
Indicator responsibility	DNDPP: NSSD
Indicator Title	Percentage walk-offs
Short definition	Percentage of witnesses that walked off the programme against the average number of witnesses on the programme.
Purpose/importance	Measures the ability of the programme to ensure that witnesses are available to testify in court proceedings where applicable.
Source/collection of data	Electronic Datasheet.
Method of calculation	Measured daily and consolidated for the reporting period. The average number of witnesses is calculated by adding the total number of witnesses on the programme each day of the reporting period and dividing it by the total number of days in the reporting period.
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the reporting period
Reporting cycle	Monthly
New indicator	No
Desired performance (standard)	5%
Indicator responsibility	DNDPP: NSSD

Glossary

ADRM	Alternative Dispute Resolution Mechanism
AFU	Asset Forfeiture Unit
CARA	Criminal Assets Recovery Account
CJS	Criminal Justice System
CPO	Court Preparation Officer
DoH	Department of Health
DoJ&CD	Department of Justice and Constitutional Development
DSD	Department of Social Development
ENE	Estimates of National Expenditure
JCPS	Justice, Crime Prevention and Security
MTEF	Medium Term Expenditure Framework
NDPP	National Director of Public Prosecutions
NPA	National Prosecuting Authority
OWP	Office for Witness Protection
SAPS	South African Police Service
SCCU	Specialised Commercial Crimes Unit
SMS	Senior Management Service
SSA	State Security Agency
TCC	Thuthuzela Care Centre