

ANNUAL REPORT

NATIONAL DIRECTOR OF
PUBLIC PROSECUTIONS
2015/16

IN TERMS OF THE NPA ACT 32 of 1998



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List of Abbreviations /Acronyms

ACTT	Anti-Corruption Task Team
ADRM	Alternative Dispute Resolution Mechanism
AFU	Asset Forfeiture Unit
APA	Africa Prosecutors Association
APP	Annual Performance Plan
CARA	Criminal Assets Recovery Account
CJA	Child Justice Act
CJS	Criminal Justice System
CPO	Court Preparation Officer
DCS	Department of Correctional Services
DEA	Department of Environmental Affairs
DHA	Department of Home Affairs
DDPP	Deputy Director of Public Prosecutions
DNDPP	Deputy National Director of Public Prosecutions
DoD	Department of Defence
DoH	Department of Health
DoJ&CD	Department of Justice and Constitutional Development
DPCI	Directorate for Priority Crime Investigation
DPME	Department of Planning, Monitoring and Evaluation
DPP	Director of Public Prosecutions
DSD	Department of Social Development
ECTA	Electronic Communications and Transactions Act
EE	Employment Equity
ENE	Estimates of National Expenditure
FAFI	Financial and Asset Forfeiture Investigations
FATF	Financial Action Task Force
IAP	International Association of Prosecutors
ICT	Information Communications Technology
IJS	Integrated Justice System
IPID	Independent Police Investigative Directorate
JCPS	Justice, Crime Prevention and Security
LAD	Legal Affairs Division
LGBTI	Lesbian, Gay, Bisexual, Transsexual and Intersexual
MLA	Mutual Legal Assistance
MOU	Memorandum of Understanding
MPTT	Missing Persons Task Team
MTEF	Medium Term Expenditure Framework
MTSF	Medium Term Strategic Framework

NCA	National Crime Agency
NCPF	National Cyber Security Policy Framework
NDP	National Development Plan
NDPP	National Director of Public Prosecutions
NEEC	National Efficiency Enhancement Committee
NPA	National Prosecuting Authority
NPS	National Prosecutions Service
NSPS	National Specialised Prosecutions Services
OCJ	Office of the Chief Justice
OECD	Organisation for Economic Cooperation & Development
OHS	Occupational Health and Safety
OWP	Office for Witness Protection
PCLU	Priority Crimes Litigation Unit
PEEC	Provincial Effectiveness Enhancement Committees
PFMA	Public Finance Management Act
PGI	Prosecutor Guided Investigations
PI	Preliminary Inquiry
POCA	Prevention of Organised Crime Act
SAPS	South African Police Service
SARS	South African Revenue Service
SCA	Supreme Court of Appeal
SCCU	Specialised Commercial Crimes Unit
SCOPA	Standing Committee on Public Accounts
SDPP	Special Director of Public Prosecutions
SLA	Service Level Agreement
SMS	Security Management Services
SOCA	Sexual Offences and Community Affairs
SORMA	Sexual Offences and Related Matters Act
SIU	Special Investigating Unit
SS	Support Services
SSA	State Security Agency
TCC	Thuthuzela Care Centre
TIP	Trafficking in Persons
UNCAC	United Nations Convention Against Corruption
UNODC	United Nations Office on Drugs and Crime
USA	United States of America
VIS	Victim Impact Statement

PART A: FOREWORD BY THE NATIONAL DIRECTOR



PART A: FOREWORD BY THE NATIONAL DIRECTOR

I am extremely honoured to present the National Prosecuting Authority (NPA) Annual Report in terms of Section 35(2), read with section 22(4)(g), of the NPA Act, 1998 (Act No. 32 of 1998). On 18 June 2015 I was entrusted with the opportunity and responsibility of leading this all important institution in the Justice and Crime Prevention Security (JCPS) cluster in changing the face of justice for the betterment of the diverse people of our young democracy.

The period since has not been without its challenges, many of which predate my appointment. This I embraced and as I have come to learn, none of these challenges have proved to be insurmountable.

The new financial year marks the 20th Anniversary of our Constitution and the 22nd Anniversary of our democracy. We must forge ahead with every endeavour to eradicate injustices in pursuit of a better, peaceful and united democratic South Africa.

Since the birth of our democracy there has been an unambiguous clarion fortification that the rule of law is paramount to our constitutional democracy. This is a value to which I ascribe wholeheartedly to and commit the NPA thereto under my leadership.

Prosecutors are enjoined by the Constitution and the rule of law to deliver a service to society without fear, favour or prejudice. I have on numerous occasions emphasised the significance of prosecutorial powers and discretion which has the ability to not only change the lives of both alleged perpetrators of crime and victims of crime, but that of the very societies within which we live and work. I cannot sufficiently overstate that such powers and discretion must be exercised with the greatest degree of responsibility with due cognisance of the rule of law, constitutional values and the integrity and responsibility of the very noble office prosecutors hold.

The NPA, in executing its mandate, is critically positioned to act in the interest of all people, but more particularly, victims of crime, and to, as far as possible, remove the perpetrators of crime from society. To this end, it is no secret that I advocate a very victim-centric approach in delivering justice to society. The NPA cannot achieve the long-term vision of the JCPS Delivery Agreement, by ensuring that all people in South Africa are safe and feel safe, independently,

and is largely reliant on the support and synergy of its key stakeholders in the Criminal Justice System ('CJS') in the execution of its mandate and responsibilities, and in realising Governments objectives as envisioned in the National Development Plan.

Although the NPA executes its constitutional mandate independently, legislative prescripts position it within the Department of Justice and Constitutional Development. To this end, it remains my conviction to also pursue administrative and financial independence.

I am tremendously pleased to report on the operations and activities of the NPA, coming off the back of an extremely difficult period in the history of the institution. The performance outcomes are indicative of the tenacity and commitment of NPA officials in their dogmatic pursuit for justice within the confines of the rule of law and under immensely difficult circumstances. Their individual and cumulative contributions cannot be overstated. Whilst acknowledging increased performance of the NPA in some areas, I equally acknowledge that there are areas of underperformance that require serious attention and in which we can drastically improve. Having said that the NPA is but one of the contributors to the criminal justice value chain.

Our performance depends largely on our stakeholders, especially the police and the judiciary. The successful prosecution of any case depends on the evidence gathered during the investigative stage. Equally, the speedy finalisation of cases depends largely on the leadership of the courts which vests with the judiciary. The judiciary is in charge of determining the number of cases which are put on the daily court roll. As the NPA we continue to participate in all structures that seek to improve court performance, i.e. the Case Flow Management (CFM) forums, the National Efficiency Enhancement Committee (NEEC) and the Provincial Efficiency Enhancement Committee (PEEC), which are all subject to the control and leadership of the judiciary. The decline in the hours spent in dealing with criminal court cases and the few cases that are put on the roll continues to hamper our performance immensely. However, we are hopeful that these structures as indicated above will resolve these challenges. Both over-achievement and under-achievement are reflected openly and transparently herein.

I am most pleased to report that through the National Prosecutions Service (NPS) a total number of 289 245

guilty verdicts were obtained in all courts, with a remarkable overall conviction rate of 93%, indicative of the NPA successfully maintaining the focus placed on high quality prosecutions in delivering justice to our people.

In the high courts, prosecutors maintained a conviction rate of 89.9% with 910 guilty verdicts, exceeding the target by 2.9%. Prosecutors in the regional courts attained a conviction rate of 78.4%, representing the highest conviction rate in this forum in the past decade, with 24 958 guilty verdicts. In the district courts, prosecutors achieved a conviction rate of 94.7%, exceeding the target by 6.7% with 263 377 guilty verdicts.

The Specialist Commercial Crime Unit (SCCU) and the Sexual Offences and Community Affairs Unit (SOCA) achieved remarkable results in improving the prosecution of cases that require specialised prosecution and do deserve special mention.

The SCCU maintained a high conviction rate of 94.1% by obtaining guilty verdicts in 951 cases against a target of 93% and 928 cases. In order to improve investor perception and in line with government's priority focus of dealing with corrupt government officials, the SCCU outstandingly increased the number of convictions of government officials on charges of corruption to 104 as compared to 47 during the previous year, with an increase of 121.3%.

In respect of matters investigated by the Anti-Corruption Task Team (ACTT), which is a Presidential initiative in which the NPA participates, the SCCU exceeded its target of convicting 20 persons of corruption where the amount benefited is more than R5 million, by obtaining 25 convictions.

A high conviction rate of 96.8% (i.e. 180 cases) was also obtained in respect of the prosecution of cybercrime cases against a target of 74%.

The NPA achieved a conviction rate of 70.1% in respect of sexual offences cases with 7 098 cases being finalised. This is the highest conviction rate in relation to sexual offences over the last 16 years. In 2000, SOCA commissioned an



Adv. Shaun K. Abrahams: National Director of Public Prosecutions

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independent research study by the Monitor Group, at which stage the conviction rate for sexual offences was 48%. With interventions and initiatives implemented by SOCA, NPS and all relevant stakeholders the conviction rate has improved considerably over a period of 16 years.

The conviction rate with regard to cases referred to the Thuthuzela Care Centres (TCCs) is measured separately

in order to assess their effectiveness in managing sexual offences cases. The conviction rate achieved with regard to such cases is 71.8% (compared to 68.4% in the previous year), with 2 340 cases being finalised in respect of matters reported to TCCs. The number of life imprisonment sentences recorded in respect of matters reported to TCCs also increased by 13% from 209 to 236 cases, as well as the number of sentences to a period of imprisonment between 20 – 25 years by 10.4% from 154 to 170 cases and sentences to a period of imprisonment between 10 – 19 years by 16% from 616 to 715 cases. SOCA

increased its TCC sites in the country by 25% from 44 to 55, with the last sight being launched in Atlantis together with the opening of the Sexual Offences Court with the Department of Justice and Constitutional Development during a community public awareness event in December 2015.

The Priority Crimes Litigation Unit (PCLU) continued with the execution of its mandate by managing investigations and prosecutions of crimes that impact on the security of the Republic, nationally and internationally. The Missing Persons Task Team (MPTT), a project of the PCLU, continued with research and investigations into the identification, tracing and exhumations of the mortal remains of persons who disappeared during the period covered by the Truth and Reconciliation Commission (TRC).

The Office for Witness Protection (OWP) ensured that no witnesses were harmed, threatened or killed while on the program, for the 15th consecutive year. OWP has also remarkably achieved a special clean audit for the 14th year in a row. 250 witnesses in the care of OWP attended judicial proceedings and contributed to 61 persons being convicted of serious crimes which resulted in 44 life sentences and 1 854 sentences of direct imprisonment being imposed.

The Asset Forfeiture Unit (AFU) completed 389 forfeiture cases to the value of R349.5m and obtained freezing orders to the value of R778.9m from 326 freezing orders. AFU also obtained freezing orders to the value of R238.6m in relation to corruption where the amount involved was in excess of R5 million and recovered R136.8m where the amount benefited is more than R5m. In addition, the AFU recovered R13m in relation to government officials convicted of corruption. AFU further recovered R442.2m in terms of the Prevention of Organised Crime Act, 1998 (Act No 121 of 1998), exceeding its target of R150m by R19.5m. An amount of R390.2m was paid to victims of crime.

The NPA hosted a workshop on Organised Crime in March 2016, which was necessitated by the increase and the continuous threat of domestic and transnational organised crime as well as corruption in undermining the sovereignty and constitutional democracy of the Republic of South Africa, along with the threat to the security of the country and its fiscus. The purpose for the workshop was to consolidate the significant gains made in the fight against organised crime, while at the same time seeking to forge and renew ties with the JCPS partners to take the fight

forward to an even higher level. Through the workshop resolutions which will lead to the signing of a protocol that will bring about synergy in the fight against organised crime were adopted. These include, *inter alia*, joint training initiatives, joint target setting, identified focus areas and many others.

To further enhance efficiency in the CJS a number of protocols have been entered into between the NPA and stakeholders, namely:

- The Electronic Monitoring Protocol, which deals with the placing of remand detainees under the supervision of correctional officials subject to the detainees being fitted with an electronic tagging devices as condition of release. This permits the monitoring of the movements of the remand detainee by correctional officials and provides a further option for release of persons awaiting trial. The protocol further details the category of remand detainees who can be considered for release and the conditions of release, as well as the procedure where violations occur.
- The Mental Observation Protocol, which deals with the procedure to be followed in the case of conducting forensic psychiatric observations into the mental health of accused persons in terms of sections 77, 78 and 79 of the Criminal Procedure Act (Act No 51 of 1977). It is aimed at addressing backlogs with regard to the observation of accused persons, as well as to reduce delays, unnecessary detention and the impact on accused persons. It sets out the responsibilities of each of the parties, as well as the particular forms and information required when dealing with applications for observation.
- The State Patients Protocol, which is aimed at addressing challenges with regard to state patients and sets out the procedures and practices that must be followed to improve efficiency and address backlogs with regard to the admission of state patients to psychiatric hospitals.
- The Audio Visual Remand (AVR) Protocol, which deals with the procedure to be followed in dealing with the remand of cases through audio visual link between a designated court and a correctional facility in terms of section 159A to 159D of the Criminal Procedure Act (Act No 51 of 1977). The

protocol sets out in detail the roles of the various participants in ensuring that cases are identified for remand through such a link, and the procedures to be followed should the connection be faulty. The protocol should ensure the optimal use of the system and serve to streamline processes. Effective utilisation of audio visual remands should also reduce the risks of escapes and save costs related to the processing and transport of remand detainees between correctional facilities and courts.

Enhanced initiatives by government to provide access to justice to all has led to the rationalisation of courts. The building and establishment of the high courts in Polokwane and Nelspruit have gone a long way to giving effect thereto and will make a significant difference in the lives of those communities as well as to members of the legal fraternity.

Significantly, the Polokwane High Court, when proclaimed on 25 January 2016, became the first high court to be established since the birth of our democracy. In support thereof, the President of the Republic, in his wisdom, appointed Adv Ivy Thenga as the Director of Public Prosecutions for Limpopo. Adv Thenga is a child from the soil of Limpopo. The President, has given the people of Limpopo one of their very own to deliver justice to them without fear, favour or prejudice.

I extend sincere gratitude to the Minister of Justice and Correctional Services, as well as the Deputy Minister of Justice and Constitutional Development, for the very professional and cordial manner in which the Minister has exercised final responsibility over the NPA in terms of section 33 of the NPA Act, read with section 179(6) of the Constitution. I am also grateful to the former Director-General, Justice and Constitutional Development, in her role as the accounting officer of the NPA.

My deepest gratitude goes to my Deputy National Directors, Directors of Public Prosecutions and Special Directors for their leadership in their respective areas of responsibility, their support and contribution to the successes of the NPA and for their unwavering commitment to take the institution to the next level for the betterment of the people of this country.

I would also like to thank every other member of the NPA, including the administrative staff, whom I particularly regard as essential support to the execution of our core responsibilities, for their fervent contribution under difficult circumstances in serving the people of this country.

Former President Nelson Rolihlahla Mandela once famously stated:

'There is no past or future, just the present. It is what we do in the present that will right the past and make the future.'

Allow me to conclude by reminding you that individually and collectively we have been entrusted with the opportunity to change the face of justice in this country. It is not only an opportunity, but a responsibility to do so. Let us embrace this onerous

opportunity and responsibility for the betterment of the people of our democracy.

POLOKWANE HIGH COURT,
WHEN PROCLAIMED ON
25 JANUARY 2016, BECAME
THE FIRST HIGH COURT
TO BE ESTABLISHED
SINCE THE BIRTH OF OUR
DEMOCRACY.



Adv. Shaun K. Abrahams

National Director of Public Prosecutions

Date: 31 May 2016

PART B: STRATEGIC OVERVIEW



PART B: STRATEGIC OVERVIEW

VISION

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

MISSION

Guided by the Constitution, we in the National Prosecuting Authority, ensure justice to the victims of crime by prosecuting without fear, favour or prejudice, and by working with our partners and the public to solve and prevent crime.

VALUES

- Integrity which is displayed through ethical conduct, high moral standards, honesty, moral principles and values, no corruption or fraud – zero tolerance, keeping promises, truthfulness and being beyond reproach.
- Accountability which is depicted by being responsible and answerable for our actions.
- Service excellence which is found in providing first class customer service and complying with the Batho Pele principles.
- Professionalism which can be seen through commitment/dedication, punctuality, competence, and professional conduct in and out of court.
- Credibility which is depicted in the following behaviour: consistency and the ability to inspire belief or trust.

CONSTITUTIONAL MANDATE

The NPA derives its mandate from section 179 of the Constitution. Section 179(2) expressly empowers the NPA to institute criminal proceedings on behalf of the state, and to carry out any necessary functions incidental thereto. Furthermore, section 179(4) requires that the NPA must exercise its functions without fear, favour or prejudice.

The National Director of Public Prosecutions (National Director), as head of the NPA, and Directors of Public Prosecutions (DPPs), as the NPA heads at various seats of the high courts, and Special Directors who are assigned specific powers, are responsible for ensuring performance of the NPA's constitutional obligations. In terms of section 179(5) of the Constitution, the National Director must determine prosecution policy and issue policy directives, which must be observed in the prosecution process. The prosecution policy is determined with the concurrence of the Minister responsible for the administration of justice and after consultation with the DPPs. Furthermore, in terms of section 179(6) of the Constitution, the Minister exercises final responsibility over the prosecuting authority, and may request reports from the National Director regarding the functioning of the prosecuting authority.

LEGISLATIVE MANDATES

The NPA, as the sole entity seized with the responsibility of instituting prosecutions on behalf of the state, is legally bound by various pieces of legislation. Below is a short discussion of key legislation.

National Prosecuting Authority Act, 1998 (Act No. 32 of 1998) (NPA Act)

In terms of section 20(1) of the NPA Act, the power vests in the prosecuting authority to—

- (a) institute and conduct criminal proceedings on behalf of the state;
- (b) carry out any necessary functions incidental to instituting and conducting such criminal proceedings; and
- (c) discontinue criminal proceedings.

In terms of section 11 of the NPA Act, the President may, after consultation with the Minister and National Director,

appoint not more than four persons as Deputy National Directors of Public Prosecutions (DNDPPs). The DNDPPs' powers and functions are exercised subject to the control and direction of the National Director. The National Director may also assign certain specific functions to a DNDPP.

Under section 13(1) of the NPA Act, the President may, after consultation with the Minister and the National Director, also appoint DPPs at the respective seats of the high courts [section 13(1)(a)] as well as appoint Special DPP to exercise certain powers, carry out certain duties and perform certain functions conferred or imposed on or assigned to him or her by the President by proclamation in the Gazette [section 13(1)(c)]. A DPP appointed in terms of section 13(1)(a) of the NPA Act has original prosecutorial powers in respect of any offence committed in his or her area of jurisdiction but not in the area of jurisdiction of another DPP. A Special DPP appointed in terms of section 13(1)(c) of the NPA Act also has original prosecutorial powers in respect of those offences identified in his or her Presidential Proclamation in any area of jurisdiction, but subject to the concurrence of the first-mentioned DPP of the area of jurisdiction concerned.

A Deputy Director of Public Prosecutions (DDPP) appointed by the Minister under section 15(1)(b) of the NPA Act to the office of a DPP also has original prosecutorial powers in respect of the area of jurisdiction concerned. However, such DDPP must exercise such powers subject to the control and directions of the DDP concerned and only in the area of jurisdiction for which he or she has been appointed and only in respect of such offences and in such courts as he or she has been authorised in writing by the National Director or a person designated by the National Director.

Prosecutors are appointed in terms of section 16(1) of the NPA Act. A prosecutor may be appointed to the office of the National Director, the office of a DPP, or any lower court in the Republic. A prosecutor does not possess original prosecutorial powers contemplated in section 20(1) of the NPA Act. He or she may only exercise and perform such prosecutorial powers and functions if authorised to do so by the National Director or a person designated to do so by the National Director.

Section 28 of the NPA Act should be read with Chapter 6A (sections 17A to 17L) of the South African Police Service Act, 1995 (Act No. 68 of 1995) (SAPS Act). The last-

mentioned provisions provide for the establishment of a separate division in the South African Police Service (SAPS), namely, the Directorate for Priority Crime Investigation (DPCI). These provisions, among others, ensure a multi-disciplinary and integrated approach in the prevention, combating and investigation of the priority crimes, including corruption offences. In terms of section 17D(3) of the SAPS Act, the National Head of the DPCI may, if he or she has reason to suspect that a national priority offence has or is being committed, request the National Director to designate a DPP to exercise the powers of section 28 of the NPA Act. In terms of section 17F(4) of the SAPS Act, the National Director must ensure that a dedicated component of prosecutors is available to assist and cooperate with members of the DPCI in conducting its investigations.

Criminal Procedure Act, 1977 (Act No. 51 of 1977)

This Act regulates matters relating to criminal proceedings in a court of law and contains various provisions relating to the powers, duties and functions of members of the prosecuting authority. These include provisions relating to the power to withdraw a charge and stop a prosecution, the attendance of witnesses in court, the issuing of summonses, admission of guilt, bail, the release of an accused person, summary trials, the charge, the plea, jurisdiction, preparatory examinations, trial before different courts, conduct of proceedings, witnesses, evidence, competent verdicts, previous convictions, sentence, reviews and appeals, and compensation.

Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998)

The Prevention of Organised Crime Act, 1998 (POCA) provides measures for law enforcement agencies and the NPA to combat organised crime and money laundering. The primary feature of the POCA is to provide for the recovery of the proceeds of unlawful activity. Chapter 5 provides for the freezing and confiscation of the value of benefit derived from crime in cases where the accused is convicted of an offence. Chapter 6 focuses on property that has been used either to commit an offence or which constitutes proceeds of crime. It provides for freezing and forfeiture of proceeds and instrumentalities of crime through a process that is not dependent on a prosecution. In addition, section 71

of the POCA empowers the National Director to request information from government departments and statutory bodies in respect of investigations relevant to this Act without having to issue subpoenas.

Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act No. 27 of 2002)

The Priority Crimes Litigation Unit (PCLU), situated in the office of the National Director, is mandated to manage and direct the investigation and prosecution of the crimes of genocide, crimes against humanity and war crimes as contemplated in the abovementioned Act. This Act makes provision for extraterritorial application in its implementation in certain circumstances.

Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004)

The Priority Crimes Litigation Unit (PCLU) is also mandated to manage and direct the investigation and prosecution of terrorism, terror financing and related offences as contemplated in this Act. This Act also makes provision for extraterritorial jurisdiction in respect of specific offences as contemplated in the Act.

Witness Protection Act, 1998 (Act No. 112 of 1998)

The Office for Witness Protection (OWP) is established in terms of this Act and provides a support service for the criminal justice system and judicial proceedings, providing temporary protection, protection, support and related services to vulnerable and intimidated witnesses and related persons, enabling such witnesses to testify without intimidation, fear or danger. The OWP is established in the Department of Justice and Constitutional Development (DoJ&CD) with the Director-General as the accounting officer, but is administered by the NPA.

Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004)

Much of South Africa's anti-corruption legislation has been consolidated in the above Act. The Act provides, among others, for the strengthening of measures to prevent and

combat corruption and corrupt activities, for the offence of corruption and offences relating to corrupt activities, for investigative measures in respect of corruption and related corrupt activities, for the establishment and endorsement of a register in order to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts, for placing a duty on certain persons holding a position of authority to report certain corrupt transactions, and for extraterritorial jurisdiction in respect of the offence of corruption and offences relating to corrupt activities.

Criminal Law (Sexual Offences and Related Matters) Act, 2007 (Act No. 32 of 2007) (Sexual Offences Act)

The Act comprehensively and extensively amends all aspects and implementation of the laws relating to sexual offences, and deals with all legal aspects of, or relating to, sexual offences in a single statute. The Act, *inter alia*, repeals various common law offences and replaces them with statutory offences that are gender neutral and applicable to all forms of sexual penetration and sexual violation committed without consent. It also creates new offences for certain compelled acts of penetration or violation, and enacts comprehensive provisions for new or amended offences against children and persons who are mentally disabled.

Child Justice Act, 2008 (Act No. 75 of 2008)

The Act establishes a child justice system for children in conflict with the law.¹ This Act seeks to ensure that child justice matters are managed in a rights-based manner and assists children suspected of committing crime to become productive members of society by engaging with them in restorative justice processes, diversions and other alternative sentencing options.

Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013)

The Act gives effect to South Africa's obligations in respect of the trafficking of persons in terms of international

agreements. The Act provides for an offence of trafficking in persons, penalties that may be imposed in respect of such offences, measures to protect victims, as well as the prevention and combating of the trafficking in persons within or across the borders of the Republic.

State Attorneys Amendment Act, 2014 (Act No. 13 of 2014)

The Act may have an impact on the mandate of the Legal Affairs Division (LAD) in particular; and the NPA as a whole. Therefore, the NPA will have to liaise with the DOJ&CD regarding the envisaged policy to be determined by the Minister, in terms of the Act.

POLICY MANDATES

National Development Plan 2030 (NDP)

The NDP 2030 sets out a long-term vision for government to ensure that, by 2030, all people in South Africa should feel and be safe. This vision can only be achieved if there is a well-functioning criminal justice system in which the police, the judiciary, the correctional services and the NPA work together to ensure that suspects are caught, securely detained where appropriate, prosecuted, convicted if guilty, appropriately punished and rehabilitated. The NDP also provides the parameters for the 2014-2019 Medium Term Strategic Framework (MTSF) and supporting delivery agreements.

Medium Term Strategic Framework (MTSF)

The MTSF introduces sub-outcomes towards achieving the goals set out in the NDP 2030 for the Justice, Crime Prevention and Security (JCPS) cluster. The 2014-2019 strategic framework sub-outcomes will support the primary outcome of all people in South Africa feeling and being safe. The MTSF requires the cluster to focus on seven expected sub-outcomes to achieve this vision (only outcomes relevant to the NPA are discussed in this document). All seven sub-outcomes are defined and underpinned by activities and timelines that are managed and monitored at the highest executive levels within the JCPS.

The NPA contributes to the achievement of the following sub-outcomes:

- I: Reduced levels of contact crime

¹ Refers to children under the age of 18, who are suspected to have committed crime. They will not be dealt with in terms of the normal criminal court procedure which is used for adults, but the child justice process will be followed.

- 2: An efficient and effective criminal justice system
- 4: Secure cyberspace
- 5: Ensure domestic stability
- 7: Corruption in the public and the private sectors reduced

These sub-outcomes are further refined and specific activities and measures are identified for each. In respect of the NPA the following require priority:

- Focusing on the prosecution of serious and priority crimes, which includes corruption and contact crimes (especially sexual offences and the trio crimes²)
- Participating in the implementation of the Criminal Justice Review 7-point plan
- Contributing to increasing the finalisation of criminal cases, both through trials and alternative dispute resolution mechanisms, and reducing the case backlogs
- Contributing to cybersecurity through the successful prosecution of cybercrimes
- Contributing to domestic stability through the successful prosecution of criminal and violent conduct in public protests
- Convicting persons for corruption or offences related to corruption where the amount benefitted per case is more than R5 million, freezing of assets and the recovery of losses and proceeds of crime
- Contributing to the reducing of corruption of government officials through the conviction of persons and recovery of proceeds and government losses

- Address national security threats in cyberspace
- Combat cyber warfare, cybercrime and other cyber ills
- Develop, review and update existing substantive and procedural laws to ensure alignment
- Build confidence and trust in the secure use of information and communication technologies

National Cyber Security Policy Framework

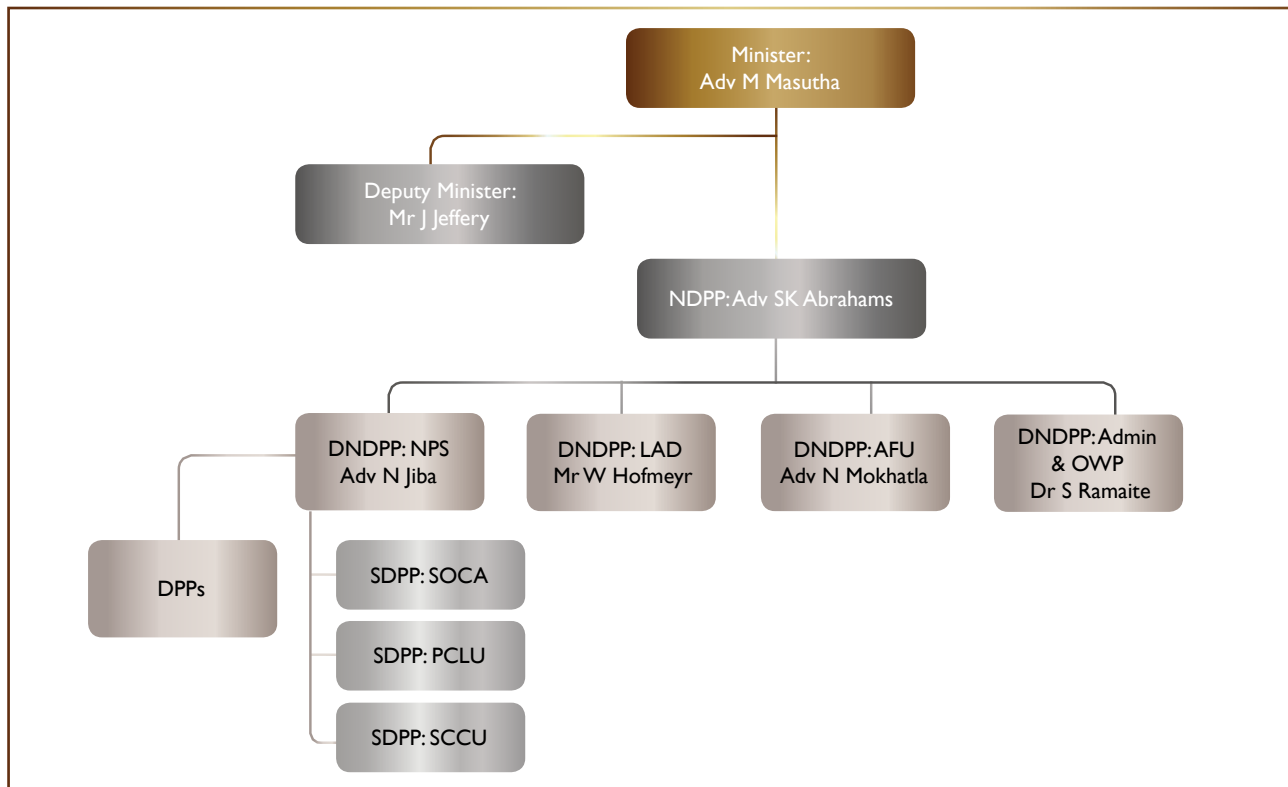
The fight against cybercrime remains one of the key priorities for the JCPS cluster in particular and government in general. In its effort to fight cybercrime, the JCPS cluster has developed the National Cyber Security Policy Framework which was approved by Cabinet in March 2012. The framework provides for policy positions intending to:

² Trio crimes consists of robbery at residential premises, robbery at business premises and vehicle robbery / car hijacking (MTSF)

OVERVIEW OF THE NPA

Organisational Structure

Figure 1: High Level Organisational Structure of the NPA



Strategic Objectives

The NPA has four strategic objectives:

- Increased successful prosecution
- Improved prosecution of matters that require specialised prosecution
- Ensure that the profit is removed from crime
- Ensure threatened witnesses and related persons are successfully protected

The National Prosecutions Service (NPS) is primarily responsible for general and specialised prosecutions and the appeals that might follow. This includes resolving criminal matters outside of the formal trial process through alternative dispute resolution mechanisms, settling admissions of guilt for minor offences and considering dockets brought by the police where persons have not been charged. The Sexual Offences and Community Affairs Unit (SOCA) and the Specialised Commercial Crime Unit (SCCU) within the NPS focus on specialised prosecution services related to sexual

offences and complex commercial crimes, respectively.

The Priority Crimes Litigation Unit (PCLU) in the office of the National Director is a small specialist prosecutions unit that manages investigations and prosecutes crimes that impact on state security, nationally and internationally.

The Asset Forfeiture Unit (AFU) seizes assets that are the proceeds of crime or have been part of an offence through a criminal or civil process.

The Office for Witness Protection (OWP) provides for temporary protection, support and related services to vulnerable and intimidated witnesses and related persons in the judicial proceedings in terms of the Witness Protection Act, 1998.

The Director-General of the DoJ&CD, as the accounting officer of the NPA, has prepared a full report that incorporates NPA information on its performance against pre-determined objectives and financial statements, as Programme 4 of the Department.

Organisational Environment

The National Director, Adv. Shaun Kevin Abrahams, was appointed by the President of the Republic on 18 June 2015. He was officially introduced and welcomed to his position by the Honourable Minister of Justice and Correctional Services, Adv. Michael Masutha, MP. As the first career prosecutor to be appointed as National Director since the establishment of the NPA, his leadership outlook is significantly emboldened from having come up the prosecutorial ranks in the organisation and having 'done the hard yards'.

The National Director re-established the top leadership structure and re-allocated responsibilities of the Deputy National Directors of Public Prosecutions (DNDPPs), in the interests of transforming the institution and also to infuse renewed thinking at the executive level. The following table reflects a summary of the changes in roles and responsibilities of the DNDPPs effected as from August 2015.

Act 38/2005 (deliberate neglect of children). The accused was referred for observation, but was found to be fit to stand trial.

Table 1: Summary of changes to DNDPP roles and responsibilities

Sub-programme / Function	DNDPP	Amended roles and responsibilities
1. National Prosecutions Service	Adv. Nomgcobo Jiba	The two sub-programmes were merged into one during the year, to reflect single focus on successful prosecutions in general and specialised prosecutions
2. National Specialised Prosecutions Service	Adv. Nomgcobo Jiba	
3. Asset Forfeiture Unit	Adv. Nomvula Mokhatla	Adv. Mokhatla was previously responsible for the National Specialised Prosecutions Service.
4. Office for Witness Protection	Dr Silas Ramaite	Support Services resorts in the office of the National Director, under the leadership of a DNDPP. The DNDPP performs certain administrative functions with delegated powers derived from the Director-General who is the Accounting Officer. OWP was removed from oversight of prosecutions leadership to sufficiently insulate it from prosecutions, in line with the Witness Protection Act.
5. Support Services	Dr Silas Ramaite	
6. Legal Affairs Division	Mr Willie Hofmeyr	While not a sub-programme of the NPA, the Legal Affairs Division (LAD) manages civil litigation matters and provides critical legal advisory services to the NPA and the National Director.

PART C:
OVERVIEW OF THE
OPERATIONS AND
PERFORMANCE



PART C: OVERVIEW OF THE OPERATIONS AND PERFORMANCE

National Prosecutions Service

The growth of the economy is key to the creation of employment and to address inequalities across society in order to achieve the outcomes of the NDP 2030. The MTSF requires of the NPA to focus on the prosecution of serious and priority crimes, as well as corruption. The NPA has been able to make a significant contribution towards successfully prosecuting serious commercial crime, including corruption and cybercrime, which undermines economic development. The SCCU which prosecutes complex commercial crime matters, as well as most serious corruption and cybercrime cases has performed exceptionally well this year, exceeding all of the targets set for the unit.

Another priority in ensuring that people are and feel safe, is dealing with offences against women and children, particularly sexual offences. The Thuthuzela Care Centres (TCCs) are an important part of the effort to reduce secondary victimisation and increase conviction rates in sexual offences. The Sexual Offences and Community Affairs Unit (SOCA) is responsible in driving the establishment of such TCCs. This has contributed to a continued increase in the conviction rate for sexual offences.

Within prosecutions falling under the DPPs, areas of priority include organised and environmental crime, while a special focus is placed on trio crimes, as well as prosecutions resulting from violent protests and industrial action which undermines the stability of the country. The maintaining of high conviction rates in the district, regional and high courts is a key indicator of the successes achieved in prosecutions. Most importantly, the NPA has been providing, with limited resources, direct support to victims and witnesses through its court preparation program, which has shown a significant growth in the number of witnesses assisted by court preparation officers, as well as victim impact statements produced.

Specialised Commercial Crime Unit (SCCU)

The SCCU, headed by a Special DPP, deals with complex

commercial crimes and has offices in all nine provinces. The unit provided a sterling service by maintaining a high conviction rate of 94.1% in 951 cases against a target of 93% in 928 cases and achieved all seven of its performance targets. The SCCU's methodology of prosecutor guided investigation greatly contributes to the high conviction rate, in that the SAPS and the prosecution work as a team to ensure the effective and efficient investigation and prosecution of cases. The thorough screening of cases prevents cases that have no reasonable prospect of success being placed on the court rolls. SCCU prosecutors are in general experienced and highly skilled in the area of commercial crime due to the principle of dedication to commercial crime. The system of co-location with the police and courts also plays an important role in the expeditious finalisation of cases.

For victims of such crimes compensation orders to the value of R94.4m were obtained.

In line with the MTSF, a special focus was placed on the prosecution of corruption to improve investor perception and trust to invest in South Africa. In line with the priority focus of government on dealing with corrupt government officials, the SCCU increased the number of convictions of government officials facing charges to 104 compared to 47 during the previous year. This is an increase of 121.3%.

The NPA participates in the Anti-Corruption Task Team (ACTT) which was set up to focus on fast tracking the investigation and prosecution of serious corruption cases and to increase the success in fighting and preventing corruption in South Africa. The target to convict at least 20 people of corruption where the amount benefitted is more than R5 million was exceeded and 25 convictions were achieved. Integrated case plans were developed for all priority cases and prosecutors are part of the multi-disciplinary operational teams from the start.

A special focus was placed on the prosecution of cybercrime cases in order to curb this growing international phenomenon. Although new technologies create new criminal opportunities rather than new crime types, cybercrime is an extension of an ordinary crime committed within cyber space where information and communication technologies are used as an instrumentality, targets or as a means of perpetuating further crimes. These cases are very complex in nature and encompass a high level of technical evidence. The majority of matters (54.3%) are therefore dealt with by the SCCU. The SCCU performed

exceptionally well in the area of cybercrime and maintained a high conviction rate of 96.8% against a target of 74%, with convictions in 180 cases.

In an effort to improve service delivery to victims of commercial crime the SCCU embarked on a service delivery improvement project, in terms of which mentors were appointed to train the NPS prosecutors in commercial crime. This should ensure the current performance levels continue to increase.

However, the SCCU continued to experience a number of challenges which lead to an increase in a number of backlog cases. The challenges include, amongst others, lack of dedicated courts, inadequate staff in some of the SCCU regional offices (Kimberley, Mthatha, East London and Mmabatho), inadequate prosecutorial and/or supporting capacity, lengthy trials and changes of Magistrates.

The SCCU represents the NPA in the Financial Action Task Force (FATF) and the Organisation for Economic Cooperation and Development (OECD). The FATF is an inter-governmental body established by the Ministers of its member jurisdictions. The mandate of the FATF is to set standards and to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and the financing of proliferation, and other related threats to the integrity of the international financial system.

As a member of FATF, South Africa's anti money laundering (AML) or counter financing of terrorism (CFT) regime will be assessed as part of a peer review mutual evaluation process based on FATF recommendations and methodology. In order to assess technical compliance and effectiveness of a country's AML/CFT regime, the mutual evaluation assessment process examines a country's adherence to the FATF recommendations.

The OECD Working Group on Bribery in International Business Transactions is responsible for monitoring the implementation and enforcement of the OECD Anti-Bribery Convention, the 2009 Recommendation and related instruments. The Working Group is made up of representatives from the States Parties to the Convention, including South Africa, and meets regularly.

The OECD Anti-Bribery Convention establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective.

The role and function of the SCCU, in representing the NPA in the FATF and in the OECD, together with the South African Police Service, being operational authorities, is providing information on specific cases involving the particular area under assessment. Information that is required for this purpose includes:

- Updates on investigation and prosecution of cases related to the OECD and FATF;
- Estimated amounts of proceeds of crime based on information on the predicate offence;
- Relevant statistics on foreign bribery (or other charges related thereto), money laundering or terrorist financing investigations, prosecutions, and convictions;
- International cooperation requests made and assistance rendered;
- Criminal modus operandi obtained during the course of an investigation.

With the view to managing its deliverables related to the FATF and OECD, the SCCU, together with the SAPS, have undertaken to, amongst others, the following:

- Develop strategies for the effective investigations and prosecutions of the cases;
- Ensure that there are sufficient resources for the cases
- Build expertise, especially for foreign bribery cases
- Develop systems to improve detection and reporting of the cases.

Noteworthy Cases

The SCCU had considerable success in prosecuting serious commercial crime. The following cases are noteworthy in respect of the convictions and/or sentences imposed:

S v Hinzelman: The charges against the accused were that during the period July 2008 to September 2011, while he was employed at Martin and East CC (trading as Tiffany Construction) as contracts manager and CEO, he awarded contracts in the total amount of R10m to various subcontractors (who had been convicted and sentenced previously) in terms of a corrupt relationship, whereby he

received gratification in the total amount of R4.6m, thereby perpetrating 198 counts of corruption and 1 count of money laundering in respect of the above amount of R4.6m. The accused was found guilty as charged and received a sentence of 18 years imprisonment, of which 8 years was conditionally suspended for 5 years for corruption and 10 years imprisonment for money laundering, to run concurrently with the aforementioned.

S v Ndude: The accused was a member of COPE and was a National Treasurer and a co-signatory to a Cope FNB account which was for constituency funds derived from Parliament. The accused fraudulently transferred funds from this account to her personal account with ABSA. She was convicted of 11 counts of fraud and 5 counts of money-laundering and sentenced on 11 counts of fraud in terms of section 276(1) (b) of the CPA to 8 years, which was wholly and conditionally suspended for 5 years. On the 5 counts of money-laundering she was sentenced to undergo 5 years imprisonment, which was wholly and conditionally suspended. All the counts were treated as one for purposes of sentence. In terms of section 18 of POCA a confiscatory order of R1 521 234.92 was issued.

S v Matatu and 4 others: The long drawn out trial was finalised with the accused who were all SASSA officials charged with one count of corruption and eight counts of fraud involving a total loss of approximately R70 000. The State proved the links to the suspects who created false beneficiaries on the IT system by leading the evidence of a cyber forensic expert. The accused were found guilty on all counts and sentenced to an effective 7 years imprisonment.

S v Leonard Nagel: The accused was employed as a Manager: New Business Development at Tongaat Hulett. The accused substituted the employer's bank account number with his personal bank account number when dealing with the employer's creditors and debtors. He defrauded the company of R3.3m. The accused was charged with 15 counts of fraud, pleaded guilty and was sentenced to 12 years imprisonment on 26 October 2015.

S v Koogan Sundram Padayachee: The accused was charged with 45 counts of fraud. The accused was employed at Motheo Construction East (Pty) Ltd, the complainant, for a lengthy period of time and held 15% shareholding in the company in the period during which the offences had been committed. The accused's duties,

inter alia, included the loading of all payments on the Absa Bank Cash Focus online banking system of Motheo, as well as procurement, tendering and accounting functions.

During the period September 2005 to September 2008 the accused, in 45 separate transactions amounting to over R4,5m, misrepresented to the company that amounts were due, owing and payable to its sub-contractors. The accused loaded the bank account details of three bank accounts, resulting in actual prejudice to Motheo. The accused pleaded guilty and was convicted of 45 counts of fraud on 6 February 2014. He thereafter absconded for a period of approximately 13 months and was arrested on 17 May 2015 and kept in custody pending his sentencing. The accused was sentenced effectively to 18 years imprisonment on 3 December 2015.

S v Jason Cloete was a case of theft from employer involving R387 391.02. The accused was sentenced to 9 years imprisonment, of which 3 years were suspended for a period of 5 years on certain conditions.

S v Nozinzi Dyonase was another successful conviction. The accused was employed at the Department of Home Affairs where she committed fraud and corruption. She was convicted of 1 count of fraud and 1 count of corruption and was sentenced to an effective 8 years imprisonment.

In **S v Danielle Norman and Jason Hendricks**, accused 1 was convicted of fraud (1 count) and money laundering (1 count of contravention of Section 4 of POCA) and accused 2 of money laundering (1 count of contravention of Section 4 of POCA), involving R16 429 756.28 (accused 1) and R10 845 885.28 (accused 2). Accused 1 was sentenced to an effective 15 years imprisonment and Accused 2 to 7 years imprisonment.

In **S v Zanoxolo Mankayi**, the accused was convicted of 70 counts of contravening section 86(3) of the Electronic Communications and Transactions Act 25 of 2002 (ECTA) and 3 counts of fraud, involving R13 800.00. The accused was sentenced to an effective term of imprisonment of 4 years and 6 months.

S v Berriman: A 33 year old Eastern Cape woman was sentenced to 10 years direct imprisonment for stealing more than R1.5 million from a group of Grahamstown advocates. Berriman was a signatory to the bank account

and was also in possession of a debit card linked to the account. In terms of a plea and sentence agreement with the state she admitted making unauthorised payments of more than R1.5 million from the bank accounts of the advocates practising at Equity House in Grahamstown where she had worked as a secretary and receptionist. The thefts took place between 2006 and 2014.

The accused in **S v Bacar & Others** were members of a cloned card syndicate. Each of the three accused persons was sentenced to 7 years imprisonment. **S v Benson Okundu** involved cloned cards. He was sentenced to 8 years imprisonment.

S v Zolani Xego and Another involved life insurance fraud. Accused 1 received a sentence of 15 years imprisonment.

S v Obafemi was a cybercrime case which involved an online dating scam whereby the victim was groomed to part with his monies and defrauded for the amount of R329 000. The accused was sentenced to 9 years imprisonment. The matter received widespread media coverage. It also is one of the first convictions in the country for this type of offence which required the identification of the suspect through cyber tracing.

S v Sylvia Yon: The accused was the ex-sheriff of the Khayelitsha area. The accused was convicted of theft of R490 000 trust monies and sentenced to 6 years imprisonment of which half was suspended on certain conditions.

S v Elizabeth Hewitt: The accused was employed as a financial manager. She substituted her employer's creditor bank account details with her own and transferred creditor payments totalling R1.5m to her own account on 310 occasions. She was sentenced to 10 years' imprisonment.

S v Jenny Ganas: The accused is a 56 year old woman who worked for the Diners Club International as a cashbook clerk. Her duties included, inter alia, the transfer of funds to various service providers who have rendered services to the company. The accused took advantage of her position and would create fictitious service providers on the payment system and would pay them various amounts. The fictitious companies were linked with the accused's bank

account numbers. She then caused the transfer of various amounts of money totalling over R2 million over a period of a year. She was charged with 259 counts of fraud. She pleaded guilty to all the counts and asked for a suspended sentence. The State argued for a custodial sentence. All counts were taken together for purposes of sentence and the accused was sentenced to 10 years' imprisonment.

S v Johan Wharl: The accused was convicted of 224 counts of theft involving R2.4m from his employer where he was issued with a fleet card as fleet manager. The accused pleaded guilty to the charges and was sentenced to 15 years' imprisonment.

Sexual Offences and Community Affairs (SOCA) Unit

The broad outcomes that SOCA, headed by a Special DPP, seeks to achieve are to:

- Improve the conviction rate in gender-based crimes and crimes against children
- Actively protect vulnerable groups from abuse and violence
- Ensure access to maintenance support
- Systematically reduce secondary victimisation

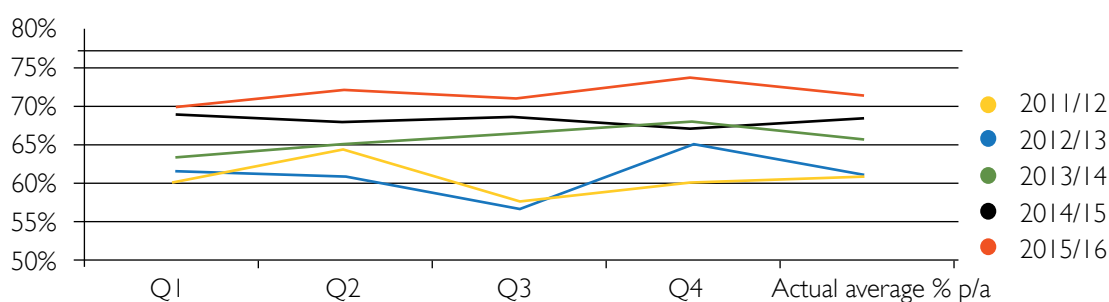
To achieve the aforementioned the Unit focus its activities & interventions in 5 sections, namely; sexual offences, child justice, domestic violence, maintenance, and trafficking in persons.

Sexual Offences

The **Thuthuzela Care Centre (TCC) model** specifically focussing on survivors of sexual offences is regarded as an international best practise model in successfully addressing rape care management. The Unit increased the number of operational TCC-sites providing services in line with verification criteria from 44 in the previous year to 55. The number of matters reported at the TCCs increased by 2 384 (+7.8%), from 30 402 to 32 786. The average actual conviction rate for TCC-reported cases improved to 71.8% from 68.4% in the previous year. This is also the best conviction rate for TCC-cases over the past 5 years as illustrated in the following table:

Table 2: Progress on conviction rate

FY	Q1	Q2	Q3	Q4	Total number of cases finalised and average conviction rate
2011/12	563 / 60%	638 / 64.6%	464 / 58%	515 / 60.2%	2 180 / 60.7%
2012/13	577 / 61.7%	614 / 60.6%	542 / 56.8%	515 / 65.2%	2 243 / 61.03%
2013/14	580 / 63.8%	702 / 65.8%	513 / 66.3%	562 / 68%	2 357 / 65.9%
2014/15	521 / 69.1%	605 / 68.4%	600 / 68.6%	559 / 67.3%	2 285 / 68.4%
2015/16	610 / 69.8%	711 / 72.2%	540 / 71.5%	480 / 74%	2 340 / 71.8%



When victims / survivors report these matters at TCCs they receive support services by victim assistance officers and are also referred for trauma containment counselling. Once police dockets are registered the dockets are submitted to TCC case managers for prosecutor guided investigations. When these cases are trial-and-court-ready they are referred for prosecution, either by the case managers or by prosecutors that have received specialised and sensitized training in sexual offences. It must be noted that in approximately 30% of matters reported by adults, the victims only required the TCC-services and opted not to proceed with registering a police docket for investigation.

During this year a total of 6 854 cases reported at TCCs were referred to court for prosecution. We have noticed a considerable increase in the number of non-arrest dockets and "stranger rapes" reported at a number of TCC-sites, which evidently resulted in fewer cases being referred for prosecution due to these cases not being trial and court ready.

In December 2015, SOCA launched the Atlantis TCC and the Sexual Offences Court with the Department of Justice during a community public awareness event.

The unit provided submissions towards the drafting of the Judicial Matters Second Amendment Act (Act No. 43 of 2013) and also participated in Parliament during debate sessions. With reference to the Constitutional Court judgment in *Teddy Bear Clinic v Minister of Justice* which ruled that sections 15 & 16 of the Sexual Offences Act are unconstitutional for infringing on the rights of children between 12 and 16 years old, the Legislature was tasked by the Constitutional Court to amend the Act accordingly. SOCA compiled and submitted comprehensive inputs for the amendment in relation to sections 15 and 16 and also the suggested amendment towards the National Register of Sex Offenders (chapter 6 of the Sexual Offences Act). Subsequent thereto, amendments were made to the sexual offences directives accordingly, which were forwarded to the NPS and relevant government departments for their inputs, in line with section 66(2)(a) of the Sexual Offences Act. The updated version has already been included in training sessions.

SOCA was invited by the Presidency to participate at a roundtable discussion with the United Nations representative on Gender Based Violence during December 2015. SOCA officials presented a comprehensive update on the legal framework, initiatives, cases and related projects that the NPA has implemented.

SOCA facilitated comprehensive inputs to the South African Law Reform Commission (SALRC) Issue Paper Project 107, "Sexual offences: Pornography and children", which document was submitted to the SALRC. The aim of this issue paper is to serve as a basis for Commission deliberations on the topic of pornography and children, particularly the exposure of children to pornography through mass media and the use of technology to groom and exploit children.

The recruitment process for sexual offences prosecutors at the Sexual Offences Courts, was completed and 30 prosecutors were appointed at the advertised sites (phase 1). Phase 2, which is the remaining 21 posts at these sites will commence in the new financial year. The 6 posts not filled in phase 1 will also be re-advertised.

Noteworthy Cases

Herewith, a breakdown of a number of noteworthy cases reported at TCCs, managed (prosecutor guided investigations) or prosecuted by SOCA case managers / SPPs.

S v Bredendam, Klerksdorp TCC, NW. The trial of the second accused in this case was assigned to a case manager after the first accused was convicted and sentenced to various life imprisonments. The charges against the second accused varied between six charges of rape, compelled rape, sexual assault & compelled sexual assault, sexual grooming and seven charges of section 305(3)(a) of Act 38/2005 (deliberate neglect of children). The accused was referred for observation, but was found to be fit to stand trial.

S v K, George TCC, WC. There are numerous charges which include possession and creation of child pornography, rape of 7 victims, section 18 and Section 20. The victims are girls between the ages of 11 and 12. The facts are that they slept over at the home of the accused and were friends with his daughter. Accused then drugged them and committed these offences whilst they were asleep and created child pornography that was discovered on his cellular phone. The accused was convicted and sentenced to 38 life imprisonment sentences in March 2016, and received an additional 10 years imprisonment (section 20, Act 32/2007). Psychological evaluation and victim impact reports were submitted for purposes of sentencing.

S v Zakhele Derrick Cele, Phoenix TCC, KZN.

The accused was a serial rapist who is HIV positive. He raped children in the neighbourhood. The TCC case manager guided the investigations and transferred the case to the high court. The accused claimed to be mentally unstable and therefore lacked criminal intention to commit the offence. He was sent for mental observation and was found to be fit to stand trial. The accused was convicted for 4 counts of rape and was sentenced to 25 years imprisonment for each count, to run concurrently.

S v Emmanuel Uche Odii and 2 others, Edendale TCC, KZN.

The accused were sentenced in the Durban Regional Court following their conviction on charges relating to trafficking in persons for sexual exploitation. The two complainants were offered job opportunities but were then taken to the flat of the accused, drugged and kept hostage. Accused 1 was convicted of eight counts, namely: two counts of trafficking in persons, two counts of kidnapping, one count of sexual assault, one count of rape, one count of assault GBH and one count of keeping a brothel. He was sentenced to an effective 30 years imprisonment. Accused 2 was convicted of two counts of trafficking in persons and sentenced to 5 years imprisonment for each count. The presiding officer ordered that the sentences run concurrently. Accused 3 was convicted of one count of kidnapping and was sentenced to 2 years imprisonment, wholly suspended for 5 years on condition that he is not convicted of kidnapping or attempted kidnapping during this time.

S v Xolani Mfeka, Stanger TCC, KZN.

The accused was a serial rapist case with additional related charges where the *modus operandi* was similar in each of his matters. The accused had attacked his victims on a pathway whilst on their way home. He was in possession of a firearm which he used to threaten the victims to engage in sexual acts with him. The accused had pleaded not guilty and had disputed the chain evidence, despite the fact that there was a positive DNA link. The high court had centralised all his matters and he was charged in other matters involving robbery with aggravating circumstances from other areas. He was convicted and sentenced to 15 years imprisonment each on five counts of robbery with aggravating circumstances, to run concurrently. On the three rape counts he was convicted and sentenced to 10 years imprisonment per count, whilst on two further rape counts he was convicted and sentenced to life imprisonment to run concurrently.

S v Buti Soma, Klerksdorp TC, NW The victim in this case of rape was older than 80 years and she passed away from a stroke two months after the incident. The prosecutor withdrew the matter initially, but the provincial manager requested the case to be placed back on the roll due to DNA linked evidence that emerged. The case manager advised the prosecutor to admit the deceased victim's statement in terms of section 3 of the Law of Evidence Amendment Act 45 of 1998. The accused pleaded guilty and he was convicted and sentenced to 15 years imprisonment.

Child Justice

SOCA participated in the DOJ&CD committee to critically analyse the existence of the current age of criminal capacity, currently 10 years, in terms of section 7 of the Child Justice Act (CJA). The purpose thereof is to enable the committee to provide a comprehensive report to Parliament, in line with section 96(4) of the CJA, based on the review of the current minimum age of criminal capacity. SOCA also facilitated inputs from colleagues nationally regarding the report to be submitted to Parliament by the DOJ&CD. The said report was tabled in Parliament.

Detailed analysis reports of diversions on the CJA are done on a quarterly basis, with a comparison of the two previous financial years once the final diversions stats per quarter are available. Possible reasons for deviations in the provinces are also determined to guide future planning and address challenges identified.

During the year, SOCA attended and participated in the Child Justice Dialogue at Parliament, organised by the Select Committee on Security and Justice. The purpose of the dialogue was to discuss with the members of the Committee about the Child Justice Act, its focus, implementation and current progress.

Domestic Violence:

As part of its mandate, SOCA facilitated nine public awareness sessions on gender based violence matters, through the Ndabezitha Project. Awareness sessions conducted include:

- 16 October 2015 - Thabo Mbeki Community Hall, Thabo Mbeki Town, Limpopo.
- 2 December 2015 - Ebhodini Community Hall, Qhumanco Engcobo, Eastern Cape
- 8 December 2015 - Barolong Boo Seleka Traditional Council, Phuthaditjhaba, Free State.

Regarding LGBTI-initiatives, SOCA participated at the launch of the Serve Equally Campaign in Atteridgeville Community Hall. The event was aimed at alerting the community of the services available for the LGBTI community and the organisations that are rendering those services together with government.

Maintenance

Senior maintenance prosecutors are responsible for, inter alia, the overall management of maintenance matters in the provinces. They provide support to maintenance officers and prosecutors and also deal with contentious maintenance matters. A total of 205 325 formal and informal maintenance enquiries were processed, of which 131 754 (64.2%) were finalised.

The number of civil attachments section 26 of the Maintenance Act, 1998 (Act No. 99 of 1998)] finalised and facilitated was 20 330.

Trafficking in Persons (TIP)

As previously reported, SOCA initiated the establishment of a National and Provincial Task Teams on Trafficking in Persons in preparation of the Act being passed, regarding obligations on the NPA (clause 44(8) and (10) of the Bill). The Act was gazetted for implementation during August 2015. A comprehensive training manual was developed and directives were compiled and submitted to the Minister for approval and submission to Parliament.

The focus of these task teams is to holistically discuss TIP matters / cases / investigations / prosecutions / trends and or initiatives implemented in successfully addressing TIP in the affected or related areas. This process is essential to ultimately ensure stakeholder cooperation and mutual understanding re the scope of TIP in these provinces.

SOCA attended the SADC Trafficking in Persons conference during March 2016 in Durban. An official provided a presentation on trafficking in persons and the Act with specific reference to the case of S v Madlala, in which the accused advertised the sale of her baby on Gumtree. The accused was accordingly charged and convicted in line with the TIP Act, and the matter is currently postponed for sentence.

Public Awareness Campaigns

SOCA facilitated or participated in several public awareness

and community projects on gender based violence, human trafficking and relevant legislation by the TCC-personnel and SOCA provincial officials nationally in line with the "365 National Action Plan of no violence against women and children". The TCCs in the provinces participated in several events focussing on relevant topics including: the essence and reporting of gender based violence, TCC-services, the influence of drugs at schools, child pornography, LGBTI-cases, sexual violence at schools and tertiary institutions, ukuthwala practices and human trafficking specifically for sexual exploitation.

Skills development and training on SOCA mandate

SOCA developed comprehensive training manuals for all 5 sections including an integrated training program for TCC-stakeholders and staff. A breakdown of training delivered by SOCA during this year is as follows:

- Sexual Offences: 8 sessions, attended by 145 prosecutors.
- Child Justice: 8 sessions, attended by 132 prosecutors.
- Domestic Violence: 6 sessions, attended by 120 prosecutors.
- Maintenance: 4 sessions, attended by 87 prosecutors.
- Trafficking in Persons: 7 sessions, attended by 146 prosecutors.
- Integrated training for stakeholders at TCCs: 25 sessions, attended by 711 delegates from various stakeholders including prosecutors.

The total number of sessions delivered by SOCA is 58, attended by 1 341 delegates.

Offices of the Directors of Public Prosecutions

The conviction rate is regarded globally as a measure of quality prosecutions. A total of 289 245 convictions were obtained by prosecutors across all courts, with a remarkable overall 93% conviction rate. Not only was the respective target set for each forum achieved but prosecutors in all three fora managed to exceed and some even improved on the performance of the previous year. Prosecutors in the high courts maintained an 89.9% conviction rate with 910 convictions and exceeded the target with 2.9%. In the regional courts a rate of 78.4% was achieved, which represents the highest rate in the past decade, with convictions in 24 958 cases. Prosecutors in the district

courts achieved a conviction rate of 94.7% with 263 377 convictions, exceeding the target with 6.7%. Against this backdrop, it is evident that the NPA has successfully upheld the focus placed on quality prosecutions.

A total of 1 901 plea and sentence agreements were successfully concluded comprising of 7 066 counts. The counts involved in these matters would have taken up valuable court time should trials have been conducted. In 15 of the cases, the counts involved more than 100 counts per case.

An improvement in delivering justice by means of alternative dispute resolution methods (ADRM) was achieved. Within the prosecutorial environment this includes diversion and informal mediation. The NPA excelled by finalising a total of 166 952 cases, which represents 14 764 (9.7%) more cases finalised through ADRM than the target of 152 188 set for the reporting period. ADRM has a benefit both for the victim and for the accused, particularly from a restorative justice perspective. Victims are often compensated for their loss or injury, and have the benefit of possible court proceedings to ensure that the accused persons honour their undertaking. The accused person avoids a previous conviction and is given an opportunity to correct the wrong, often also attending a diversion programme designed to address the particular life skill gap that resulted in the offence. The opportunity for rehabilitation is enhanced. The state also benefits in that the burden associated with the short term imprisonment which may be imposed for such minor offences is reduced.

Better screening processes resulted in a reduction of 17.7% (23 146) in the number of cases withdrawn. The number of withdrawals declined in all three forums. The high courts managed a 20.6% reduction, the regional courts a 14.9% reduction and 18.1% for the district courts. Improved screening processes further contributed to the enrolment of mostly trial ready matters.

The enhanced focus of the courts on serious crime, in line with the priorities set by the MTSF, resulted in an improved conviction rate in such categories of crime. The conviction rate in sexual offences cases increased with 14.7%, from 61.1% in 2003/04 to a conviction rate of 70.1% with 4 938 convictions in the current reporting period. The focused approach by the courts on the growing international phenomenon of cybercrime has reaped results as the courts managed to maintain a remarkable 95.7% conviction rate. Recording of other specialised crime categories, only available from 2011/12, indicated that the conviction rate in organised crime was continuously maintained at a rate above 87% and with regard to trio crimes at a rate above

80%, which is well above the minimum norm (74%) for other serious crimes heard in regional courts. Political and/or domestic instability is a serious challenge that, if left unabated, will undermine our democracy, rule of law and development trajectory. During this reporting period, 73 convictions were obtained in cases related to violent protests and industrial actions with a conviction rate of 68.2%.

In addition to the 477 802 cases finalised, the prosecutors also finalised a total of 81 894 court and criminal matters which include a range of additional functions, such as formal bail applications that take up valuable court time without the credit of a case finalised, as defined.

The NPA also deals with decision dockets that include all criminal matters presented to the NPA to consider the institution of a prosecution. These exclude dockets in cases enrolled. During this reporting period 10.3% (80 150) more dockets were received for decision. The prosecutors have excelled by dealing with this additional burden coupled with the dockets carried forward from the previous year to the extent that a total of 862 552 dockets were dealt with during the reporting period. Only 4 302 dockets carried forward to the new financial year, reflecting a rapid turnaround time on decision dockets.

In line with the priority focus of the MTSF on dealing with corrupt government officials, the DPP divisions increased the number of government officials convicted from 83 during 2014/15 to 118. Together with the SCCU totals referred to above the NPA increased the number of convictions to 206 compared to 130 in the previous year.

An increase of 12.9% in the number of appeals finalised was achieved. The number of appeals finalised in the high courts have increased from 2 233 during 2014/15 to 2 520 during 2015/16.

The achievements during 2015/16 confirmed not only that NPA is committed to delivering on its core but that the NPA does not work in isolation in realising its achievements. With better cooperation between all partners in the criminal justice value chain, the attainment of all strategic objectives could be realised in pursuit of justice and better service delivery to the community.

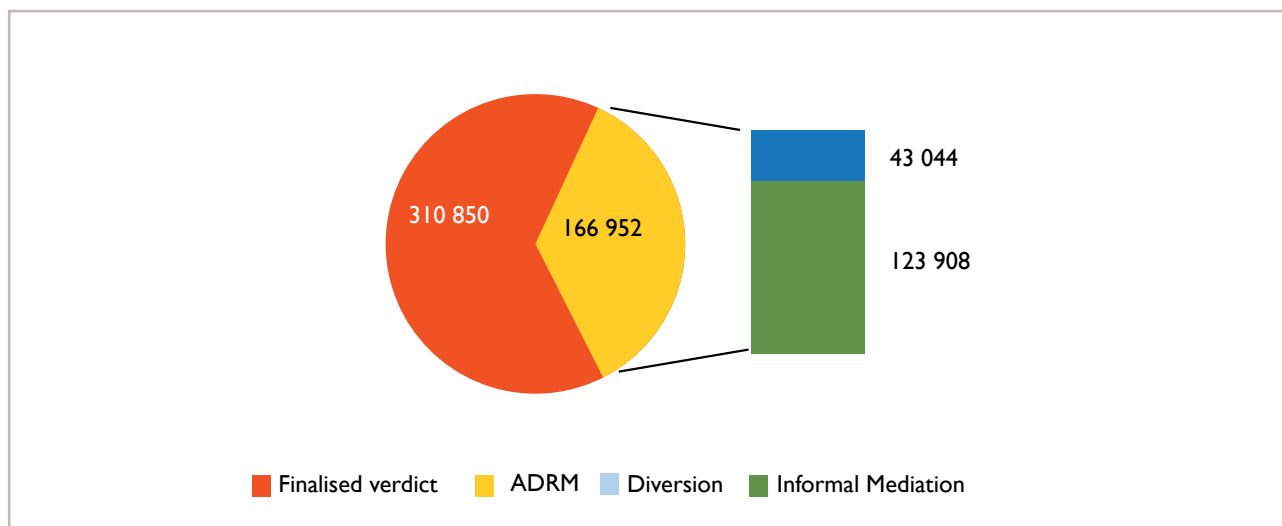
From this point forward, the performance of all court forums is included to provide a holistic view of the performance of the NPA.

Number of criminal court cases finalised including ADRM

All courts have excelled by finalising 477 802 cases comprising of 310 850 (65%) verdict cases and 166 952 (35%) cases finalised through alternative dispute resolution methods (ADRM). A positive ratio between verdict cases and ADRM cases was therefore maintained as the majority of cases were finalised with a verdict. In addition the court also managed to focus on quality prosecutions by maintaining high conviction rates.

A breakdown of cases finalised including ADRM per forum is indicated in the table below and compared to the performance during the previous financial year. The progress per forum is evident from this comparison.

Figure 2: Progress on criminal court cases finalised including ADRM



A breakdown of cases finalised including ADRM per forum is indicated in the table below and compared to

the performance during the previous financial year. The progress per forum is evident from this comparison.

Table 3: Progress on criminal court cases finalised including ADRM

FORUM	2014/15	% of National	2015/16	% of National	Progress
HIGH COURT	978	0,20%	1012	0,2%	3,5%
REGIONAL COURT	36 554	7,35%	34 419	7,2%	-5,8%
DISTRICT COURT	460 049	92,46%	442 371	92,6%	-3,8%
ALL COURTS	497 581	100,0%	477 802	100,0%	-4,0%

A decline in finalisation is noted in all lower court forums compared to the previous year. The regional courts finalised 2 135 (5.8%) fewer cases and the district courts 17 678 (3.8%). The high courts managed to finalise 34 more cases during this period which represents an improvement of 3.5% compared to the corresponding period during the previous year. The declining number of cases finalised is a particular challenge for the NPA as growth in these numbers requires the cooperation of all the role players within the criminal justice system, particularly the judiciary who are responsible for case flow management.

An analysis of the court time spent on criminal matters in court was conducted. More court days are being utilised as shown by the increase of 3.5%. However, the efficient use of those increased days is not reflected in the actual court hours used for criminal cases which impedes all attempts to ensure speedy justice. The average court hours fell by 7.0% from an average of 3h31 maintained during 2014/15 to 3h16 during 2015/16. A total of 32 863:49 hours were lost compared to the previous reporting period.

Table 4: Progress on criminal court hours

FORUM	AVE HOURS 2014/15	Total Court Hours	AVE HOURS 2015/16	Total Court Hours	Progress
HIGH COURT	03:04	25798:15	02:48	26976:20	-8,7%
REGIONAL COURT	03:38	260785:48	03:26	254333:54	-5,2%
DISTRICT COURT	03:29	590284:31	03:13	562694:30	-7,7%
ALL	03:31	876868:34	03:16	844 004:44	-7.0%

Another factor impacting on the achievement of this indicator is the inflow of cases. The number of cases finalised is also reliant on the inflow of new cases enrolled.

During 2015/16, a reduced inflow of cases was recorded in all forums as indicated in the table below.

Table 5: Progress on new cases enrolled

FORUM	2014/15	% of National	2015/16	% of National	Progress
HIGH COURT	874	0,1%	832	0,1%	-4,8%
REGIONAL COURT	61 540	6,8%	56 475	6,5%	-8,2%
DISTRICT COURT	845 950	93,1%	806 969	93,4%	-4,6%
ALL	908 364	100,0%	864 276	100,0%	-4,9%

The analysis of this indicator should be done holistically by taking into account the additional duties allocated to all prosecutors. In addition to the 477 802 cases finalised, the prosecutors also finalised a total of 81 894 court and criminal matters, which include a range of additional functions that take up valuable court time.

From the list below it is evident that formal bail applications (70.7%) utilised a significant amount of court time. A total of 57 928 formal bail applications were dealt with during this reporting period. All matters finalised (excluding verdict cases) are listed in the table below:

Table 6: Progress on court/criminal matters finalised

COURT/CRIMINAL MATTERS FINALISED	TOTAL	% OF TOTAL
FORMAL INQUESTS	293	0,4%
COMMITTAL TO MENTAL INSTITUTION	782	1,0%
CONVERSION OF MAINTENANCE TRIAL TO ENQUIRY	882	1,1%
APPLICATION FOR LEAVE TO APPEAL	2 800	3,4%
CONVERSION OF SENTENCE	3 518	4,3%
SUSPENDED SENTENCES	6 114	7,5%
CJA: PRELIM INQUIRIES	9 576	11,7%
FORMAL BAIL APPLICATIONS	57 928	70,7%
TOTAL MATTERS FINALISED	81 894	100%

Finally, the NPA also deals with decision dockets that include all criminal matters presented to the NPA to consider the institution of a prosecution. These exclude dockets in cases enrolled. During this reporting period 10,3% (80 068) more dockets were received for decision. The prosecutors excelled by dealing with this additional burden coupled with the dockets carried forward from the

previous year to the extent that a total of 861 797 dockets were dealt with during 2015/16. This resulted in only 4 975 dockets carried forward to the new financial year. The rapid turnaround time on decision dockets is further more an indication that prosecutors are advancing to higher levels of service delivery.

Table 7: Progress on new decision dockets received

FORUM	NEW DOCKETS 2014/15	% of National	NEW DOCKETS 2015/16	% of National	Progress
HIGH COURT	15 378	2,0%	15 459	1,8%	0,5%
LOWER COURTS	765 534	98,0%	845 521	98,2%	10,4%
ALL	780 912	100,0%	860 980	100,0%	10,3%

Number of criminal court cases finalised with verdict

The courts finalised 310 850 verdict cases with a conviction rate of 93% (289 245 convictions). Compared to the previous year, 8 299 (2.6%) fewer cases were finalised with a verdict. The high conviction rate illustrates the focus on

high quality prosecutions, notwithstanding the reduction in cases finalised. The progress per forum during 2015/16 is indicated in the table on the following page.

Table 8: Progress on cases finalised with a verdict

FORUM	2014/15	% of National	2015/16	% of National	Progress
HIGH COURT	978	0,3%	1012	0,3%	3,5%
REGIONAL COURT	33 430	10,5%	31 832	10,2%	-4,8%
DISTRICT COURT	284 741	89,2%	278 006	89,4%	-2,4%
ALL	319 149	100,0%	310 850	100,0%	-2,6%

A decline in performance is noted in both lower court forums compared to the previous year. The regional courts finalised 1 598 (4.8%) fewer cases and the district courts 6 735 (2.4%). The high courts managed to finalise 34 more cases during this period, which represents an improvement of 3.5% compared to the corresponding period during the previous year.

Noteworthy is the year-on-year decline in the achievements of this indicator. A comparative analysis with the achievements during previous years indicates a gradual decline of 11.4% from 2009/10 in the number of cases finalised with a verdict. The decline may be correlated with a similar decline of 17.2% in the influx of new cases and a 12.8% reduction in court hours.

In order to save valuable court time and speed up the finalisation of cases without impeding on the quality of prosecutions, a total of 1 901 plea and sentence

agreements were successfully concluded, comprising of 7 066 counts. This represents an increase of 8.2% compared to 1 757 agreements concluded last year. Even though the number of agreements concluded does not appear to be significant if compared to the total number of finalised cases, the counts involved in these matters would have taken up valuable court time had trials been conducted. In 15 of the cases, the counts involved more than 100 counts per case.

Enhanced screening processes may impact on the number of new cases as prosecutors ensure, as far as possible, to enrol only trial ready matters. In order to curb the notion that prosecutors are selective with cases dealt with, the number of withdrawals is also measured to ensure quality prosecutions and a just outcome in all cases. The comparison below indicates a positive reduction of 17.7% in the number of cases withdrawn in all courts.

Table 9: Progress on cases withdrawn

FORUM	2014/15	% of National	2015/16	% of National	Progress
HIGH COURT	68	0,1%	54	0,1%	-20,6%
REGIONAL COURT	14 374	11,0%	12 228	11,4%	-14,9%
DISTRICT COURT	116 105	88,9%	95 119	88,6%	-18,1%
ALL	130 547	100,0%	107 401	100,0%	-17,7%

The effective performance of the NPA is directly linked to the effective performance of the other role players within the criminal justice system. Ensuring that cases proceed when they are set down for trial remains a primary challenge that the system has not adequately addressed. The implementation of pre-trial hearings identified by the NPA, Legal Aid South Africa and the Office of the Chief Justice as one of the solutions to prevent remands of trial ready cases has been slow in gaining traction, particularly in the lower courts. This has been compounded by the placing of too few trial cases on the court rolls, resulting

in wasted court hours. The norms and standards issued by the Chief Justice have not yet led to increased court hours. Inadequacies of role-players in the system remain a concern as they impact on the finalisation of case. However, these are monitored and reported at the PEEC meetings.

Declining experience levels within the detective service and inadequate training have resulted in a greater burden on prosecutors to guide investigations by providing specific instructions to investigating officers. There has been a focus on screening of cases, with experienced prosecutors

responsible for the review and screening of cases. Case review teams have been established at some centres and more focus will be placed on the establishment of such teams in all offices during the next year. Declining experience levels within the prosecutorial component is actively addressed with various training sessions and one-on-one mentoring.

The Department of Correctional Services (DCS) is also under pressure with regard to accommodating remand detainees and sentenced offenders. The allocation of dedicated remand detention centres has resulted in

offenders being transported over long distances between courts and places of detention. This impacts on court productivity in that remand detainees arrive late and places further pressure on courts to finalise cases earlier in the day so as to facilitate their return to the correctional facility before the changing of shifts..

The Department of Health continues to face challenges to cope with the number of persons being referred for psychiatric observation, with long delays being experienced in most provinces with panel observations.

Number of criminal court cases finalised through ADRM

The NPA excelled by finalising a total of 166 952 cases which represents 14 764 (9.7%) more cases finalised through ADRM than the target of 152 188 set for 2015/16. However, a focused approach on quality prosecutions especially on cases suitable to be resolved through ADRM resulted in 17 362 (9.4%) fewer cases resolved through

ADRM than the 184 314 cases recorded during 2014/15. This comparison is indicated per forum in the table below – noteworthy are the reduction of 9.2% by the district courts and the 19.7% reduction by the regional courts. The majority of ADRM matters, 98.5%, are still dealt with by the district courts.

Table 10: Progress on criminal court cases finalised through ADRM

FORUM	2014/15	% of National	2015/16	% of National	Progress
REGIONAL COURT	3 221	1,7%	2 587	1,5%	-19,7%
DISTRICT COURT	181 093	98,3%	164 365	98,5%	-9,2%
ALL LOWER COURTS	184 314	100,0%	166 952	100,0%	-9,4%

During 2015/16 a total of 37 516 cases were diverted after enrolment, a total of 5 528 cases were diverted before enrolment in terms of the Child Justice Act and 123 908 cases were successfully mediated on an informal basis.

Compared to the previous year, an overall decline of 9.4% is noted in all three alternative methods. The table below illustrate the progress per alternative method.

Table 11: Progress on ADRM matters per indicator

FORUM	2014/15	% of National	2015/16	% of National	Progress
DIVERSION AFTER ENROLLMENT	41 126	22,3%	37 516	22,5%	-8,8%
DIVERSION CJA	5 882	3,2%	5 528	3,3%	-6,0%
INFORMAL MEDIATION	137 306	74,5%	123 908	74,2%	-9,8%
TOTAL	184 314	100%	166 952	100%	-9,4%

Diversions in terms of the Child Justice Act, 2008 (Act No.75 of 2008)

The CJA came into operation on 1st of April 2010 and created a new procedural framework for dealing with

children who were in conflict with the law. This Act seeks to ensure children's accountability and respect for the

fundamental freedoms of others, and to prevent crime and promote public safety through the use of diversions, alternative sentencing and restorative justice.

During 2015/16, a total of 8 121 children were diverted comprising of 5 528 children diverted in term of CJA and 2 593 children diverted after they were referred for trial in a criminal court. Compared to the previous year, the number of Section 41 diversions was reduced by 9.9% from 1 539 during 2014/15 to 1 386 in 2015/16. The number of preliminary enquiry diversions increased with 2% from

3 866 during the previous year to 3 945 during 2015/16.

Noteworthy is the increase of 38.7% in the number of Schedule 3 diversions. The latter comprised schedule 3 offences known to be more serious transgressions where the Director of Public Prosecutions may, if exceptional circumstances exist, authorise such a diversion. Schedule 3 diversions were increased from 142 last year to 197 in the reporting period.

A breakdown of the CJA diversions is illustrated below:

Table 12: Breakdown of the manner in which children in conflict with the law were dealt with

	2014/15	2015/16	Progress
Sec 9 Referrals: 2014/15	335	Not recorded	N/a
Sec 41 Diversions:	1 539	1 386	-9,9%
PI DIVERSIONS: 2014/15	3 866	3 945	2,0%
Schedule 3 Diversions: 2014/15	142	197	38,7%
	5 882	5 528	-6,0%

Conviction rate and progress of high courts

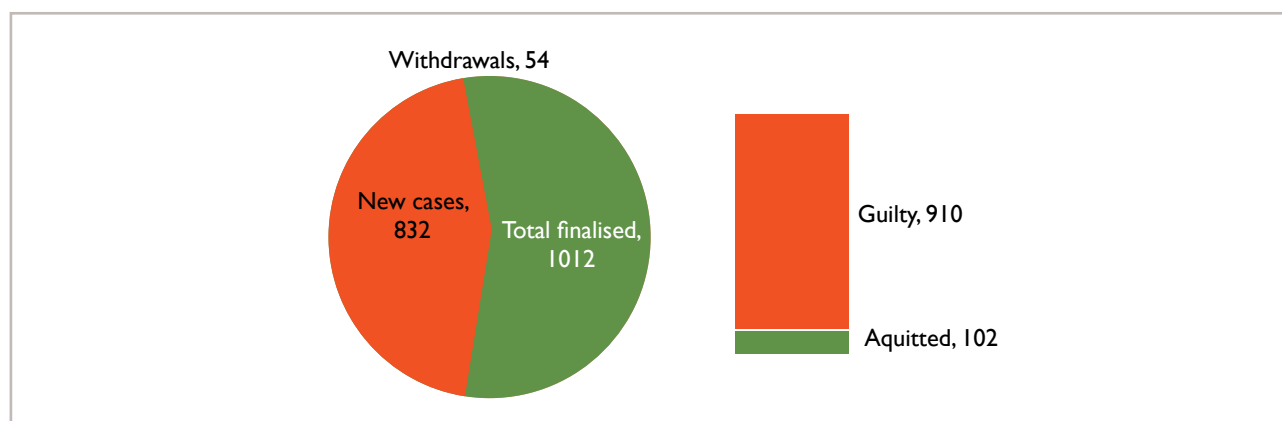
The high courts received a total of 832 new cases and finalised a total of 1 012 cases. The number of cases finalised increased by 3.5% from the previous year. The increase number of trials finalised in the high court had

a positive impact on the reduction of percentage backlog cases, from 26.4% during 2014/15 to 21.3% in 2015/16. In addition thereto the courts maintained a high conviction rate of 89.9%.

Table 13: Progress on high court cases finalised

FORUM	2014/15	2015/16	Progress
VERDICT CASES	978	1 012	3.5%
CONVICTION RATE	91.0%	89.9%	-0.1%
CONVICTIONS	890	910	2.2%

Figure 3: Cases finalised by high courts:



Appeals:

The high court also deals with appeals and motion applications emanating from criminal cases. There has been an increase in the number of appeals received and finalised

as indicated in the Table below. Appeals “unsuccessfully” finalised have also increased and only reflects appeals by accused as appellants which were rejected *in toto*.

Table 14: Criminal appeals dealt with

Financial Year	Newly Received Appeals	Finalised	Appeals Unsuccessful	% Unsuccessful
2011/12	1 328	1 922	645	33,6%
2012/13	2 249	2 418	791	32,7%
2013/14	2 762	2 422	878	36,3%
2014/15	2 651	2 423	899	37,1%
2015/16	3 065	2 520	944	37,5%

Conviction rate and progress of regional courts

The regional courts enrolled a total of 56 475 cases which is 5 065 (8,2%) less than the total of 61 540 new cases enrolled during 2014/15. The courts finalised 34 419 cases comprising 31 832 verdict cases (92% of the total finalised cases) with a conviction rate of 78,4% and 2 587 ADRM cases (8% of the total finalised cases). This represents a

finalisation rate of 0,6 cases per court per day. The reduced inflow of cases coupled with a reduction in court utilisation resulted in a reduced case finalisation that represents a 6,1% (2 232) decline in cases finalised compared to the previous financial year.

Table 15: Cases finalised by regional courts:

FORUM	2014/15	% of National	2015/16	% of National	Progress
VERDICT	33 430	91,21%	31 832	92,5%	-4,8%
ADRM - DIVERSIONS	335	0,91%	252	0,7%	-24,8%
ADRM - INFORMAL MEDIATION	2 886	7,87%	2 335	6,8%	-19,1%
ALL	36 651	100,0%	34 419	100,0%	-6,1%

In addition to the cases finalised including ADRM, the prosecutors in the regional courts finalised 8 885 criminal and court matters. From the list below it is evident that formal bail applications (39,1%) coupled with both

conversion of sentence (25,9%) and application for leave to appeal (25,6%) utilised the most court time. During this reporting period a total of 3 476 formal bail applications were dealt with.

Table 16: Progress on court/criminal matters finalised

COURT/CRIMINAL MATTERS FINALISED	TOTAL	% OF TOTAL
FORMAL INQUESTS	1	0,0%
CJA: PRELIM INQUIRIES	10	0,1%

COURT/CRIMINAL MATTERS FINALISED	TOTAL	% OF TOTAL
CONVERSION OF MAINTENANCE TRIAL TO ENQUIRY	19	0,2%
COMMITTAL TO MENTAL INSTITUTION	237	2,7%
SUSPENDED SENTENCES	565	6,4%
APPLICATION FOR LEAVE TO APPEAL	2 279	25,6%
CONVERSION OF SENTENCE	2 298	25,9%
FORMAL BAIL APPLICATIONS	3 476	39,1%
TOTAL MATTERS FINALISED	8 885	100,0%

Enhanced screening processes implemented throughout the regions yielded positive results as 14.9% (2 146) fewer

cases were withdrawn by the regional courts.

Conviction rate and progress of district courts

The district courts enrolled 806 969 new cases, which is 4.6% (38 981) fewer than the 845 950 new cases the previous year. The courts finalised 442 371 cases comprising of 278 006 verdict cases (62.8% of the total finalised cases) and 164 365 ADRM cases (37.2% of the total finalised

cases). This represents a finalisation rate of 3.5 cases per court, per day. High conviction rates were maintained during this reporting period and a conviction rate of 94.7% was ultimately maintained by all district courts.

Table 17: Cases finalised by district courts

FORUM	2014/15	% of National	2015/16	% of National	Progress
VERDICT	284741	61,12%	278006	62,8%	-2,4%
ADRM - DIVERSIONS	46673	10,02%	42792	9,7%	-8,3%
ADRM - INFORMAL MEDIATION	134420	28,86%	121573	27,5%	-9,6%
ALL	465834	100,0%	442371	100,0%	-5,0%

In addition to the cases finalised including ADRM, the prosecutors in the district courts have finalised 72 811 criminal and court matters which include a range of additional functions that takes up valuable court time

without the credit of a case finalised as defined. From the list below it is evident that formal bail applications (74.7%) utilised the most court time. During this reporting period a total of 54 526 formal bail applications were dealt with.

Table 18: Progress on court/criminal matters finalised

COURT/CRIMINAL MATTERS FINALISED	TOTAL	% OF TOTAL
FORMAL INQUESTS	292	0,4%
APPLICATION FOR LEAVE TO APPEAL	355	0,5%
COMMITTAL TO MENTAL INSTITUTION	543	0,7%
CONVERSION OF MAINTENANCE TRIAL TO ENQUIRY	863	1,2%

COURT/CRIMINAL MATTERS FINALISED	TOTAL	% OF TOTAL
CONVERSION OF SENTENCE	1 218	1,7%
SUSPENDED SENTENCES	5 549	7,6%
CJA: PRELIM INQUIRIES	9 565	13,1%
FORMAL BAIL APPLICATIONS	54 426	74,7%
TOTAL MATTERS FINALISED	72 811	100,0%

Enhanced screening processes implemented throughout the regions have again yield positive results as 18.1% (20 986)

fewer cases were withdrawn by the district courts.

Conviction rates of organised crimes:

The NPA has focused in particular on organised crime and achieved a high conviction rate of 88.9%, which is slightly lower than the conviction rate of 92.2% achieved during the previous year. A total of 359 cases were finalised by

the dedicated personnel dealing with organised crime. A comparison of the conviction rate and number of cases finalised can be seen from the table below:

Table 19: Comparison of organised crime cases finalised

Financial Year	Guilty & Sentence	Conviction Rate	Cases Finalised with Verdict
2012/2013	273	90,7%	299
2013/2014	394	88,9%	442
2014/2015	474	92,2%	510
2015/2016	359	88,9%	398

A concerted effort was made during the past year to identify the constraints and definition related to organised crime. Particular focus was centralised around various areas such as illegal precious metal including copper, rhino related offences, drug dealings, illicit mining and tax matters. The latter was already incorporated on regional level. The NPA finalised 275 specialised tax prosecutions by means of trials with an exceptional conviction rate of 94.2%. This is an increase from the 244 cases finalised during the previous financial year as well as on the conviction rate that increased from 91% to 94.2%.

Conviction rates on environmental crimes:

The number of environmental crime cases finalised with a verdict increased from the previous year by 41.5% - from 265 to 375 cases. An increase of 116.4% in the number of convictions (from 165 to 357) since 2013/14 indicates

the rapid increase in environmental crime. The conviction rate also increased by 0.5% - from 94.7% to 95.2%. Specific attention on the illegal hunting, dealing and possession of rhino and rhino horns, ivory, abalone, cycads, waste and pollution cases are amongst the prioritised focus areas that impact on the environment.

Copper theft

Theft of copper increased dramatically and cause severe interruptions such as traffic congestions, stranded commuters, delayed housing projects, electrocutions, financial losses, etc. The NPA embarked with other role players on a special focus to clamp down on these offences by introducing a target at regional level on the conviction rate of copper theft. Although only 191 convictions were achieved, a very high conviction rate of 95.5% was maintained during the year. During December 2015 the

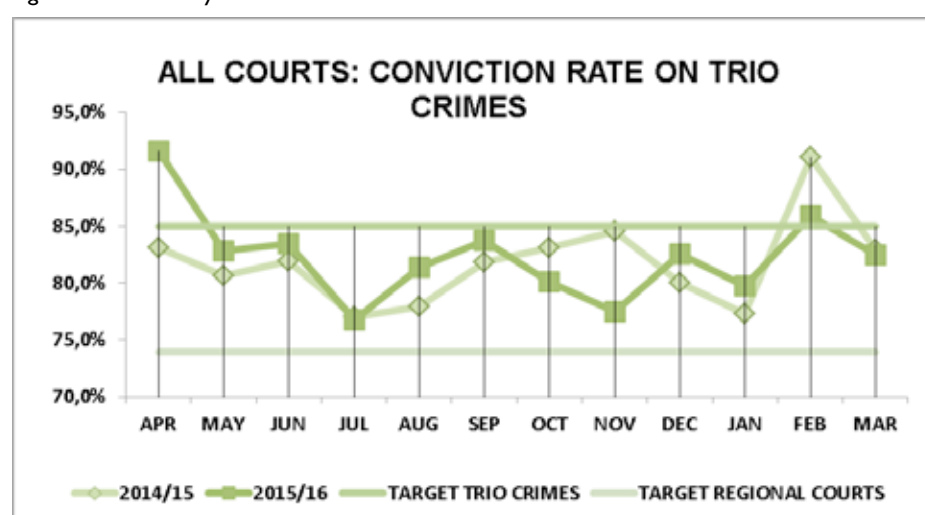
Criminal Law Amendment Act, 18 of 2015 came into operation to regulate the imposition of discretionary minimum sentences for essential infrastructure related offences which would also contribute to the fight against copper theft.

Conviction rates in trio crimes

Pursuant to the reduction in the levels of trio crimes as one of the MTSF priorities for 2015/16, the NPA contributes

by mainly focusing on the prosecution of these matters. A total of 1 692 cases were finalised with a conviction rate of 82.2% (1 391 convictions). The target of 85% was therefore not achieved. A gradual improvement is noted at the end of the financial year which indicates that the integrated approach between all roll players are starting to gain momentum.

Figure 4: Trend analysis in trio crime conviction rate:



A breakdown of the categories compared to the previous year indicates a reduction in house robbery and hi-jacking convictions compared to the previous year. A significant

increase was however achieved in the convictions of business robberies.

Table 20: Breakdown of trio crime convictions

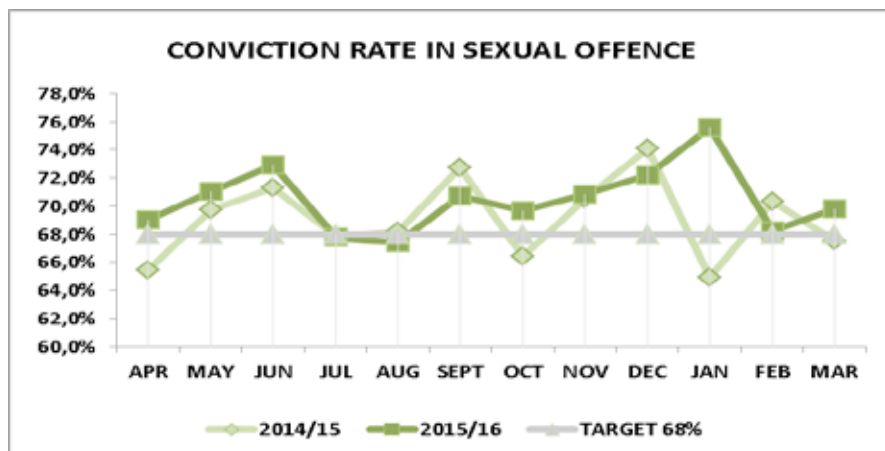
FINANCIAL YEAR	HOUSE ROBBERIES CONVICTIONS	BUSINESS ROBBERIES CONVICTIONS	HI-JACKING CONVICTIONS
2014/2015 Total	850	355	248
2015/2016 Total	734	415	242
Progress	-13.6%	16.9%	-2.4%

Conviction rates in sexual offences:

In accordance with the Presidential directives to enhance the focus on sexual offence matters through the establishment of dedicated courts, the courts managed to exceed the

conviction rate on sexual offence cases, albeit with current stretched resources. The upward trend is indicated in the following figure:

Figure 5: Trend analysis in sexual offences conviction rate:



All courts achieved a conviction rate of 70.1% in 2015/16 by finalising 7 098 sexual offences crime cases with 4 978 convictions. The target of 68% was therefore exceeded with 2.1%. Noteworthy is the high conviction rate of 75.6% achieved during January 2016. A multi-disciplinary approach

followed by newly established provincial structures with stakeholders from the DOJ&CD, LASA, SAPS, DOH and NPA seems to have contributed to the improvements on sexual offence cases.

Number of case backlogs

The target on the number of backlog cases in the Lower courts falls within the ambit of DOJ&CD annual plan whilst the target on the backlog cases of the high courts were assigned to the OCJ. Since prosecutors have an important role to play in the speedy finalisation of cases, the number

of backlog cases is still monitored and measured within the lower level annual plans.

The high courts managed a reduction of 12% but an increase is noted in both lower court forums. The overall progress is indicated in the following table:

Table 21: Progress on case backlogs

FORUM	2014/15	% of National	2015/16	% of National	Progress
HIGH COURT	216	0,8%	190	0,7%	-12,0%
REGIONAL COURT	14 106	52,5%	14 485	48,9%	2,7%
DISTRICT COURT	12 572	46,7%	14 924	50,4%	18,7%
ALL	26 894	100,0%	29 599	100,0%	10,1%

A corresponding increase of 7.9% is noted in the number of outstanding cases carried forward to the next financial year. However, notwithstanding the reduction in backlog cases the number of outstanding cases increased in the

high courts. An increase of 11.6% is also noted in the district courts. The regional courts indicated a reduction in outstanding roll.

Table 22: Progress on outstanding cases

FORUM	2014/15	% of National	2015/16	% of National	Progress
HIGH COURT	817	0,5%	892	0,5%	9,2%
REGIONAL COURT	41 895	24,4%	40 291	21,8%	-3,8%
DISTRICT COURT	128 996	75,1%	144 019	77,8%	11,6%
ALL	171 708	100,0%	185 202	100,0%	7,9%

Case backlogs and backlog project

The Justice, Crime Prevention and Security Cluster (JCPS) departments have introduced various interventions to deal with the case backlogs. In this regard a specific Case Backlog Reduction Project was implemented in November 2006 with the regional courts as the main focus area. Backlog cases are viewed as all those cases longer than 6 months on the district court roll, 9 months on the regional court roll and 12 months on the High Court roll. The Case Backlog Reduction Project assists regional and district court centres in identified priority areas country-wide that require focused attention. The project's aim is to ensure that the inflow of new cases is balanced by the number of matters concluded and that matters are finalised more speedily.

This intervention led to the establishment of more than 50 additional regional backlog courts, through the appointment of additional regional court magistrates, clerks, prosecutors, interpreters and legal aid lawyers on contract. The number has fluctuated since then as courts were closed or shifted to other areas once the backlog was dealt with. After an

investigation into the performance of the district courts, several high priority district backlog courts were also established since April 2010 and these courts have made a tremendous contribution to the overall success of the project.

The Department of Justice and Constitutional Development has consequently converted some backlog courts to permanent courts. The remaining courts will continue until they are converted, closed or shifted to another area.

During 2015/16, there were 27 approved regional and 25 district backlog courts. The district backlog courts excelled during 2015/16 by finalising a total of 14 711 cases comprising 10 525 verdict cases with a conviction rate of 95.3% and 4 186 ADRM cases. This represents a finalisation rate of 3.8 cases per court, per day. The regional backlog courts finalised a total of 2 421 cases comprising 2 363 verdict cases with a conviction rate of 75.2% and 58 ADRM cases. This represents a finalisation rate of 0.6 cases per court, per day.

Clearance ratio on decision dockets received

As indicated, NPA also deals with decision dockets that include all criminal matters presented to the NPA to consider the institution of a prosecution. These exclude dockets in cases enrolled. During this reporting period 10.3% (80 068) more dockets were received for decision. The prosecutors have excelled by dealing with this additional burden coupled with the dockets carried forward from the

previous year to the extent that a total of 861 797 dockets were dealt with during 2015/16. This resulted in only 4 975 dockets carried forward to the new financial year. The rapid turnaround time on decision dockets is further more an indication that prosecutors are advancing to higher levels of service delivery.

Table 23: Progress on new decision dockets received

FORUM	NEW DOCKETS 2014/15	% of National	NEW DOCKETS 2015/16	% of National	Progress
HIGH COURT	15 378	2,0%	15 459	1,8%	0,5%
LOWER COURTS	765 534	98,0%	845 521	98,2%	10,4%
ALL	780 912	100,0%	860 980	100,0%	10,3%

Number of VIS completed

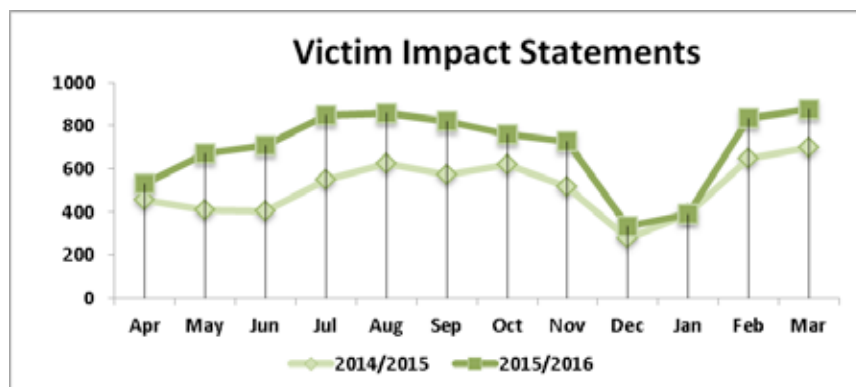
Victim Impact Statements (VIS) is a written voluntary statement by a victim and/or their family member or someone authorised by the victim with regard to the emotional, physical and financial effect a crime has had on the victim's life. The VIS is admitted by the prosecution as evidence and utilised at sentencing. Victim impact statements are often the victims' only opportunity to participate in the criminal justice process or to confront the offenders who have harmed them. Hence, VIS aims to improve service delivery to all victims and indirectly assists the victim to deal with the trauma related to crime.

The office identified and initiated an intensive drive to improve the facilitation of VIS by CPOs and the use thereof by prosecutors. This entailed additional training interventions for both prosecutors and CPOs

and in addition thereto Peer Review sessions for VIS were also initiated to ensure quality VIS. A VIS register was implemented and additional training on report writing skills if there is need for the CPO to compile an affidavit which may be requested by the court. This was implemented with success and a number of CPO has submitted affidavits.

During this reporting period, all court preparation officers excelled by completing 8 362 victim impact statements. Not only did they exceed the target by 43.4%, but they also managed to improve from the previous year by finalising 2 203 more victim impact statements. A total of 2 047 statements were used by the prosecutors in court. This improved performance is clearly illustrated in the trend analysis below:

Figure 6: Trend analysis in victim impact statements completed



Number of witnesses assisted by CPOs

The court preparation officers deliver a valuable service to the criminal justice process. They empower victims, complainants, witnesses and the vulnerable by treating them dignity and respect. Through their assistance they enhance the victims' experience of the criminal justice system, promote service standards whilst ensuring that secondary victimisation is eliminated. Overall results have indicated that improved customer satisfaction is achieved. The officers provide an important service to sexual offences courts, and they provide comprehensive inputs towards the drafting of the regulations for the sexual offences courts, in line with the relevant legislation.

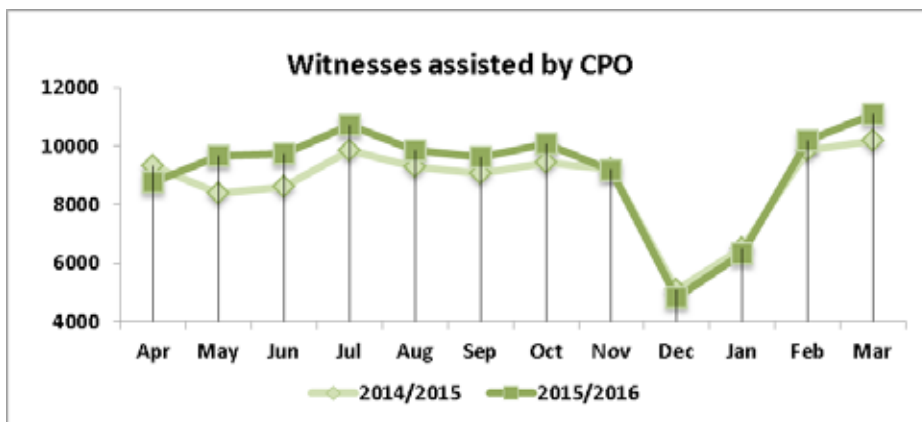
Pursuant to the priority identified by the Minister of Justice and Correctional Services, the CPO's embarked on a drive

to assist witnesses with disabilities. Specialised training was provided in partnership with University of Pretoria and Cape Mental Health. Numerous high profile matters were assisted through inter regional cooperation such as the Betty Ketani matter. This is an important initiative by the component as it contributes to a positive image of the NPA and enhances customer satisfaction.

The success of the Ke Bona Lesedi court preparation programme started to yield results through the commitment of dedicated court preparation officers. The target of 102 764 was exceeded by 7.1% as 4 967 more witnesses were assisted.

A total of 17 training interventions were conducted with 240 attendees. The improved performance is clearly illustrated in the following trend analysis:

Figure 7: Trend analysis in witnesses assisted by CPO



Notwithstanding these successes, a shortage of CPO's severely impacts on the efficient and effective provision of service in certain regions. Stakeholder engagement within the Justice Cluster is quintessential for victims of crime and to ensure their continuum of care. Interdepartmental cooperation is a high priority for the component.

Conviction rate in violent protests and industrial actions prosecuted

Particular focus was placed on prosecuting violent protest and industrial action, as it poses a serious challenge to political and/or domestic instability if not actively combatted and prevented. The target on conviction rate (74%) was not met as only 68.2% of the cases finalised resulted in convictions. However, the conviction rate increased towards the end of the financial year as all partners engaged in a more strategic focus and better technology was incorporated to obtain evidence for court. The conviction rate during the last five months of the year rose to 78%, as 32 convictions were obtained from the 41 trials conducted.

Number of persons convicted of corruption or offences related to corruption where the amount benefited is more than R5 million

The ACTT was mandated to fast track the investigation and prosecution of serious corruption cases and to increase the success in fighting and preventing corruption in South Africa. The NPA participates in the ACTT. Operational Team Meetings are held involving the core operational stakeholders, the SAPS DPCI, NPA (SCCU and AFU) and the SIU. Integrated case plans were developed for all priority cases and prosecutors are part of the multi-disciplinary operational teams from initiation.

During 2015/16 a total of 25 persons were convicted for corruption or related offences where the amounts benefited is more than R5m. Many more cases of corruption were handled, but there were few that fit the category of amounts that exceed R5m. By their very nature, these matters are complicated and take a long time to finalise in both the investigation and prosecution phases.

The number of government officials convicted of corruption

In line with MTSF, a special focus was placed on the prosecution of corruption to improve investor perception and trust to invest in South Africa. The total number of government officials convicted of corruption during the current year has increased from 130 the previous year to 206 officials in the current year which represents a 58.5% increase. Against this backdrop it is evident that a collective approach between all partners in the criminal justice values chain has ensured a heightened focus on crime and corruption throughout this reporting period.

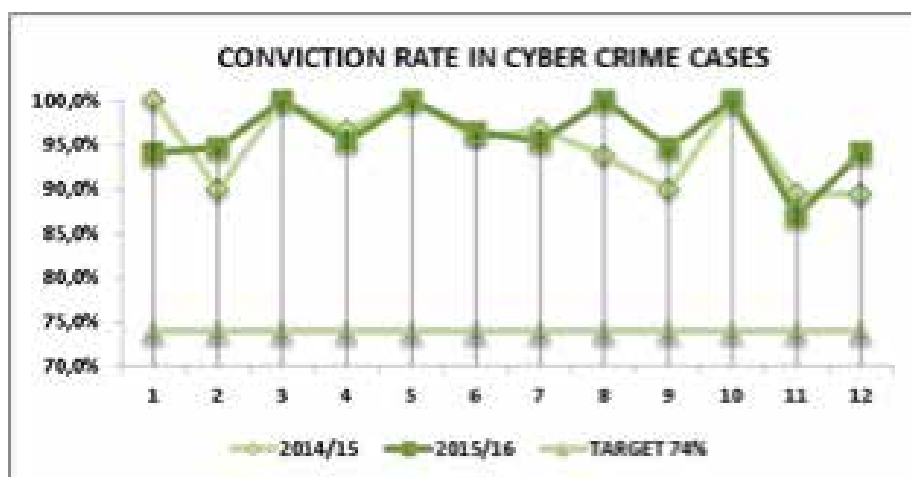
Conviction rate in cybercrime prosecutions:

In line with the priorities set by the Medium Term Strategic Framework (MTSF), a special focus was again placed on the prosecution of cybercrime cases to curb this growing international phenomenon. Although new technologies create new criminal opportunities rather than new crime types, cybercrime is an extension of an ordinary crime committed within cyber space where information and communication technologies are used as an instrumentality, target or a means for perpetuating further crimes. These cases are very complex of nature and encompass a high level of technical evidence. The majority of matters (54.1%) are therefore dealt with by the SCCU.

The Lower courts excelled by finalising 255 cases with 244 convictions whilst ensuring quality prosecutions by maintaining a remarkable conviction rate of 95.7%. The target was not only exceeded by 21.7% but a marginal

improvement of 0.6% is even noted compared to 95.1% achieved during the previous year. The trend analysis below reflects the courts focused approach and indicated the high conviction rate maintained by the lower courts.

Figure 8: Trend analysis in cybercrime matters:



ORGANISED CRIME MATTERS

Environmental Crimes

Cabinet approved the hosting of the 17th meeting of the Conference of Parties to the Convention of International Trade in Endangered Species to be hosted in 2016 in Gauteng. The NPA is represented on the Local Steering Committee (LOC) established by the Department of Environmental Affairs, which is responsible to facilitate the proper coordination of logistics and security preparations for the event. The NPA's main responsibility is to ensure timeous prosecutions where foreign dignitaries and international attendees are victims of crime and criminal prosecutions must be dealt with swiftly and speedily.

The NPA also attended a conference set up to consider the feasibility of the establishment of a Wildlife Forensic Academy for Africa at the Southern African Wildlife College. This academy is intended to focus on wildlife crime forensic training for all the various stakeholders involved, right from the collection of crime scene samples to the prosecution of these cases. The goal of the conference was to establish the viability of such an academy, as well as the content of the training. The initiative is a collaboration between the European Commission and the Netherlands Forensic Institute. A group of key experts will evaluate the information obtained during the conference and based on the outcome of this information a project plan will be delivered to the European Commission.

As part of the DNA Bar Coding project, the NPA participated in training the experts responsible for sampling so as to ensure adherence to the legal / evidentiary requirements and the development of a sampling kit to cater for the specific needs in relation to the project.

Illicit Mining

The NPA is represented on the National Co-ordinating Strategic Management Task Team (NCSMT), which is a task team established as a subcommittee of the JCPS DG Cluster to exclusively focus on the matter of illicit mining to deal with the priority in a co-ordinated manner and report to government on its outcomes. Monthly meetings are attended and statistics are kept pertaining to the finalisation of prosecutions. The NPA also uses the forum to liaise with other stakeholders pertaining to challenges experienced during prosecutions.

Two racketeering prosecutions pertaining to illicit mining were approved by the National Director and both are currently on trial in the High Court in the Free State.

The NSCMT established a sub-legislative committee on which the NPA was represented. The committee's mandate was to propose reforms pertaining to the legislation that governs the field of illicit mining.

The South African government tabled a resolution at the UNODC Commission on Crime Prevention and Criminal

Justice (CCPCJ), which mandated the United Nations Interregional Crime Research Institute (UNICRI) to conduct a global study on the links between transnational organised crime and trafficking in precious metals.

This was done in pursuit of an international regulatory framework that will help address the international markets of illicit precious metals. In resolution 2013/28 the Economic and Social Council called on NICRO to conduct a comprehensive study on the possible links between transnational organised crime, other criminal activities and illicit trafficking in precious metals. The NPA attended the second meeting in the assessment phase of the study, where the NPA made a presentation pertaining to the challenges the prosecution is faced with when dealing with this crime phenomenon. The outcome of this study will determine the extent, threat and character of this criminal activity and whether or not there is a need for an international strategy to combat this socio-economic ill for example, an UN resolution to this effect.

Noteworthy Cases

S v Ditlhakanyane and others: Accused 1 recruited employees from the Post Office to assist him in stealing money from accounts held with the Post Office. An amount of R9 million was involved. The accused specifically targeted accounts registered in the names of pensioners who had their life savings deposited into the accounts. Accused 2 -11 were employees attached to the Post Office who assisted Accused 1 and 12 in withdrawing money from the accounts of the victims. Accused 1 was convicted of 76 charges and sentenced to a total of 541 years imprisonment, with an effective sentence of 50 years. Accused 12 was convicted on 47 charges and received a total sentence of 283 years, with an effective sentence of 30 years. The remaining accused were all sentenced to an effective period of between 28 and 30 years imprisonment.

S v Mafu: On 2 February 2014, the G4 security truck was at the Ziyabuya Shopping Mall at Kwa-Dwesi in Port Elizabeth to collect cash from Shoprite. The crew member was robbed of the cash box containing R280 000 and his 38 Special Revolver with six rounds. The accused was sentenced on 5 April 2016, by the Port Elizabeth Regional Court to 10 years direct imprisonment for robbery with aggravating circumstances, 10 years direct imprisonment for attempted murder, 5 years direct imprisonment for theft, 5 years direct imprisonment for possession of firearm and 5 years direct imprisonment for possession of ammunition – a total of 35 years imprisonment.

S v Rethlangu and four others: During March/April 2013 two rhinoceros were shot at Tambotie Floodlands in the Naboomspruit area. The one rhino was not killed and they managed to save its life. The other rhinoceros was killed and both its horns were removed. Betuel Rethlangu (accused 1) was sentenced to 12 years for the illegal hunting of rhinoceros, 8 years for the illegal possession of a prohibited firearm, 4 years for the use and possession of the proceeds of crime. The effective term of imprisonment is 20 years. John Rihlapfu (accused 3) was sentenced to 6 years for the illegal selling and trading in rhino horns, 6 years for the use and possession of the proceeds of crime. Jafta Shitlango (accused 4) was sentenced to 6 years for the use and possession of the proceeds of crime. Simon Simango (accused 5) was sentenced to 8 years for the illegal possession of a prohibited firearm, 6 years for the illegal selling and trading in rhino horns, 6 years for the use and possession of the proceeds of crime. The effective term of imprisonment is 14 years.

S v Wessels and another: A Cape Town business man was sentenced to seven years direct imprisonment on Friday, 05 February 2016 while the director of his company was sentenced to two years wholly suspended on conditions that she is not convicted of any offence relating to tax evasion. Johannes Tobias Wessels (47) the owner of ATC Development and Management was convicted on fifteen counts of Vat fraud and fraud relating to documents which were unlawfully used to substantiate the refunds fraudulently claimed. Cheryl Serfontein (53) who was the director of the company, was convicted on four counts of Contravention of Section 59(1) (a) of the Vat Act and a count of fraud relating to the false submission in respect of her personal income tax return. As a result of the two's fraudulent actions, R3 045 268 was the amount of VAT which was claimed on the fraudulent returns. The actual loss to SARS was R2,2million.

S v Aicher: A 38 year-old Zimbabwean man has been ordered to pay R 738 000 to the state and forfeit the Safari Tour Truck he was driving and 40 460 packets of illicit cigarettes. Sebastian Aicher was sentenced on 30 September 2015 at the Blue Downs Regional Court after he was convicted on a single charge of possession of illicit goods. Aicher claims that he was approached by a man in Zimbabwe who offered him R30 000 to drive a Safari Tour Truck from Zimbabwe to Cape Town. Illicit cigarettes had been loaded in a secret compartment of the truck which was closed and concealed. He entered South African through the Ramatlabana border post but did not disclose to the customs officials that he was transporting the cigarettes. He drove the tour truck to a storage unit

at Unit 10 Silver Park, Brackenfell Industrial Area on 15 July 2015 where he was arrested. The court sentenced him to a fine of R138 000 or 24 months imprisonment. In addition, Aicher was sentenced to direct imprisonment of 3 years which is wholly suspended for a period of 3 years on condition that he is not convicted for possession of illicit goods which is committed during the period of suspension and that he must pay R600 000 into the Criminal Assets Recovery Account (CARA) held at the South African Reserve Bank. In addition to this, the illicit cigarettes and the Safari Tour Truck in which the goods were transported were forfeited to the state.

S v Siwendu: Serial rapist Thokozani Siwendu (25) was sentenced to two life terms and an additional 27 years by the Butterworth Regional Court after he was convicted on three counts of rape, abduction, robbery with aggravating circumstances and house breaking with intent to commit a crime. Two of the victims were minors, ages 16 and 13 years old respectively. The latter was repeatedly raped for three days. A third victim was 28 years old and threatened with a knife before being raped three times after which the accused fled with her cell phone. The victim reported the matter to the police the following day and DNA samples taken from the victim positively linked accused to the crime.

S v Olivier and another: Olivier, the Beaufort West Municipal Superintendent of Waste Management, fraudulently paid Simpson who was a service provider to the municipality for work that was not done or that was done by employees of the municipality. Over the period between 19 January 2009 and 30 August 2010, Olivier authorised payments to Simpson to the amount of R283 070 for work that was 'done' by the service provider. The Beaufort West Regional Court sentenced Charlton Ruben Olivier and Roberto Hector Simpson to six years imprisonment after the duo was convicted for fraud on 16 March 2016. The court ordered that two years of their sentences be suspended for five years on condition the accused are not convicted and sentenced for similar crimes during that period.

S v Malinga and four others: On Tuesday, 15 March 2016 the Mthatha regional court sentenced a gang of five for their involvement in the forging of credit cards and defrauding of the cards' lawful holders. Ntombizodwa Malinga (29), Nonceba Mathe (22), Sithabiso Dlodlo (42) and Lindokuhle Jili (31) were sentenced to seven years direct imprisonment. Their accomplice Sharon Ngobese (19) escaped with a lighter sentence of five years imprisonment because of her age and the fact that she was a first time offender. During their sentencing, it transpired that Malinga, Mathe and Jili had suspended sentences passed against

them in the last three years for fraud, and the suspended sentences were subsequently brought into operation.

S v Matambo and 3 Others: They were arrested by Jansenville police late at night on 3 July 2014 with a load of 12 cycads of the Lehmani species. All four accused were convicted on all three counts: 1) Theft; 2) Contravening section 62(1) of Cape Nature and Environmental Ordinance, 19 of 1974 in respect of uprooting, transporting and possession of the cycads and 3) and Trespassing. Accused Khumalo received a 10 year direct jail imprisonment sentence and the other accused were each sentenced to 5 years' direct imprisonment on count 2. All four received an additional 5 years' imprisonment in respect of the theft charge and were cautioned and discharged in respect of trespassing. In addition, the vehicle of Matambo was forfeited to the State.

S v Jose Maria Aurell Cardona and Maria Jose Gonzalez Puigcarbo: On 14 July 2015, the pair was caught by Cape Nature officials near the Knersvlakte Nature Reserve with succulents in their possession without the necessary permits allowing them to be in possession of the flora. 14 boxes containing more plants were discovered at the guest cottage where they were staying. In total 2248 plants, which they collected throughout the Northern Cape, Southern Namibia and the northern parts of the Western Cape. The accused were charged in terms of the Ordinance 19 of 1974: 1) picking of indigenous flora in a nature reserve (sec 14 (b); 2) possession of endangered flora (sec 62(1); 3) picking of flora without a permit (sec 63(1)(b)(i); 3) picking without the land owners permission (sec 63(1)(c); 4. Possession of flora without a permit (sec 42(1)). The accused were sentenced on 30/7/15 as follows: count 1 & 2: 10 years direct imprisonment suspended for a period of 5 years and on count 3 to 5: 2 years direct imprisonment suspended for a period of 5 years. An order in terms of section 18 of Act 121 of 1998 was effected and an amount of R 2m was confiscated. It is noteworthy that the accused were sentenced to the maximum penalty and highest confiscation amount imposed for the contraventions in respect of fauna.

S vs Bosveld Phosphate (Pty) Ltd duly represented by Ms. Carien Lambert. The accused, a corporation, was charged with the following offences:

- That Bosveld Phosphate unlawfully and intentionally or negligently commits any act or omission which causes significant pollution

or degradation or is likely to cause significant pollution or degradation of environment – a contravention of section 49(1)(e) of the National Environmental Management Act 107 of 1998.

- Failed to comply with any condition attached to a permitted water use - contravention of section 151(1)(c) of the National Water Act 36 of 1998.

The accused was engaged in the production water soluble chemicals phosphate for the agricultural sector. Following excessive rainfall events in Phalaborwa area during December 2013 and again in March 2014 some of the water management facilities at the accused's premises reached their peak limits and water containing polluted substances was released to the environment. Polluted substances were split into the Selati River and large numbers of fish died during the spill. The accused was sentenced on 30/07/15: Count 1, the accused was fined to pay R1m (One million rand) suspended for three years. Count 2, the accused was fined to pay R100 000 suspended for 3 years on condition that the accused is not convicted of section 151(1)(c) of Act 36 of 1998. In terms of section 34 (3)(b) of Act 107 of 1998 the accused was ordered to pay as a remedial measures an amount of R1.45m (One million four hundred and fifty thousand rand) within fourteen days to the Department of Environmental Affairs for the purpose of the proper execution of their enforcement duties, environmental rehabilitation and enforcement training.

S v Devon Chauhan: the accused was convicted of 4 counts of possession of precious metals (a contravention of section 4(1) of the Precious Metals Act, 37 of 2005). The accused sold precious metals to a police agent during an operation. The sentence imposed was a fine of R 1m (one million rand) or 10 years imprisonment.

S v P Sithole and 4 others. The prosecution of Zama Zama's rarely result in direct imprisonment. In this case the accused were found underground at level 41 at Kloof mine on 21 Aug 2015. Nothing was found in their possession. They were convicted on a charge of attempted theft and being illegal immigrants. On 29/09/2015 all 5 accused found guilty of attempted theft and sentenced to 2 years imprisonment.

S v Capt. Letsie, W/O Macala and Const. Dhlamini: they were police officials who were found guilty on 18 September 2015 in relation to Project Spoc on the following charges: Theft; Possession of unwrought gold; Transporting unwrought gold; Defeating the administration of justice; Extortion and Money laundering and were sentenced on each count as follows: 1) 15 years imprisonment, 2) 12 months' imprisonment, 3) 5 years

imprisonment, 4) 15 years imprisonment and count 5) 2 years imprisonment of which they must effectively serve 15 years.

S v Job and others (Makhado, Louis Trichard):

On Wednesday 23 July 2014 a carcass of a white rhino bull was found with both horns removed on the farm "Den Staat" adjacent to Mapungubwe National Park. The rhino was the property of SANParks and it walked into the farm Den Staat where it was poached. Two bullet points were found in the brain of the animal. The buyer of the rhino horns was identified in KwaMhlanga near Pretoria as Mr Job Basi Tlou (Accused 1). Mr Tlou took the investigation team to Mookgophong where he pointed out a person who he indicated as the person who brought him the horns from Alldays. This transpired to be a lie. Further investigation led to the arrest of Percy Manengena (acc 2) from Alldays who received the rhino horns from the poachers on the farm Den Staat and who took it to Job Tlou in KwaMhlanga. The investigation team went to the farm Den Staat where the person Sematla who shot the rhino, as well as his son who assisted during the incident were arrested. A licenced 3006 calibre rifle belonging to Accused 3 was confiscated. Percy Manengena (acc 2) conducted a pointing out of the rhino carcass on Saturday 16 August 2014. Acc 5 (the son of acc 3) drove the other accused to the place where the rhino was so that that it could be dehorned.

Mr Joe Sematla (acc 3) is the brother of Mr Michael Sematla, a former SANParks employee from Mapungubwe National Park who was arrested by ECI Pretoria during January 2014 for conducting an illegal hunting operation from Mapungubwe National Park and the farm Den Staat. 12 white hunters who illegally hunted with Mr Michael Sematla were also arrested by ECI Pretoria. The hunters all appeared in court and paid admission of guilt fines.

The six accused in this case were convicted on 11 March 2016 as follows:

Five of the accused were convicted of illegal hunting and the other was convicted of dealing in rhino horn. The five were each sentenced to 15 years imprisonment and the last one was sentenced to 10 years imprisonment. The rifle that was used to kill the rhino was forfeited to the State. Accused 3 who shot the rhino was declared unfit to possess a fire-arm.

S v Betuel Rethlangu, David Rebese, John Rihlapfu @ Josef, Jafta Shitlango, Simon Simango @ Samson (Mokopane, Potgietersrus)

During March/April 2013 two rhinoceros were shot at

Tambotie Floodlands in the Naboomspruit area. The one rhino was not killed and they managed to save its life. The other rhinoceros was killed and both its horns were removed. Several cartridges were collected at the scene by the SAPS. The same evening the carcass was found, SAPS and an official from SANPARKS received information of the whereabouts of the suspects, which led to their arrest. A firearm that was found at one of the suspects' residence was later linked to some of the cartridges found on the scene. Over R16 000 and a jacket with rhinoceros blood on were also discovered in his house. This court found this money to be part of the proceeds from the sale of the rhino horns.

One accused later took the SAPS to the residences of the other accused, all in Soshanguve. Money was also found in their houses which the court later found was the proceeds from the sale of the rhino horns. They were convicted and sentenced as follows:

Accused 1: The illegal hunting of rhinoceros: 12 years; illegal possession of a prohibited firearm: 8 years; the use & possession of the proceeds of crime: 4 years.

Accused 3: The illegal selling & trading in rhino horns: 6 years; the use & possession of the proceeds of crime: 6 years (an effective 12 years imprisonment)

Accused 4: The use & possession of the proceeds of crime: 6 years

Accused 5: The illegal possession of a prohibited firearm: 8 years; the illegal selling & trading in rhino horns: 6 years; the use & possession of the proceeds of crime: 6 years (The court ordered that parts of the sentences be served concurrently, so the effective term of imprisonment is 14 years imprisonment.)

Priority Crimes Litigation Unit (PCLU)

The PCLU is a specialist prosecuting unit in the Office of the National Director, with specific expertise in the prosecution of complex litigation falling within its mandate, as per proclamation issued by the President, and coordinates the prosecution of matters within its mandate in consultation with the relevant DPPs.

The PCLU continued to execute its mandate in managing investigations and prosecuting serious national and international crimes, along with functions assigned to it by the National Director.

The unit achieved a conviction rate of 60% (three out of five) on cases prosecuted by the PCLU. The unit finalised more than double the decisions against the target of 21 decisions in these type of cases (250%) finalising 54 matters falling within its mandate. All requests for legal opinions were finalised within 14 days of receiving the request. This is in line with the performance of the previous financial year.

Missing Persons Task Team (MPTT)

The MPTT, a separate project within the PCLU, is mandated to identify and trace the remains of persons who disappeared during the period covered by the Truth and Reconciliation Commission (TRC). The MPTT continued with research and investigations into the identification, tracing and exhumations of the mortal remains of persons who disappeared during the aforementioned period of conflict. The MPTT closed 30 cases in line with its annual target.

Noteworthy Cases

Gallows Exhumation Project: On 23 March 2016 the Minister of Justice and Correctional Services held a public launch of the Gallows Exhumation Project, also attended by the National Director. The project entails the exhumation and identification of the bodies of at least 83 political prisoners who were hanged for political offences in the period from 1960 to 1990. Their bodies remained the property of the state once hanged and the families were denied permission to bury them. The MPTT has traced their burial sites in pauper graves around Tshwane, and has conducted research and analysis of their prisoner files to obtain information regarding their biological profile. Some family groups in the Eastern Cape were also briefed on the forthcoming exhumations.

Odirile Maponya: Odirile Maponya (MK Mainstay Chibuku) was killed in a limpet mine explosion in Pretoria in April 1988. Throughout 2015 the MPTT conducted extensive excavations in the pauper (unmarked) section of Mamelodi cemetery where investigations indicate that his remains were buried. The MPTT has examined the remains of over fifty paupers buried there. One individual was located who matched the biological and injury profile of Mr Maponya and DNA samples were taken from the deceased. DNA results are pending.

Consultations with former security police personnel

The MPTT had limited access to former Vlakplaas commander Eugene de Kock following his parole in 2015. In the second half of 2015 contact was restored and Mr de Kock continued to render assistance where possible under his parole conditions. The MPTT also provided assistance and input in respect of a Victim-Offender Dialogue (VOD) held between Mr de Kock and members of the family of Phemelo Ntehelang who was killed at Vlakplaas in 1989 and was buried at a private farm in Zeerust. Mr Ntehelang's remains were recovered by the MPTT in 2014.

The MPTT continued to trace and approach other former members of the security forces including former *askaris* for assistance in establishing the fate of certain missing people.

Such individuals are however reluctant to disclose information regarding the fate and whereabouts of missing persons without some guarantee of non-prosecution. This remains the central obstacle for the MPTT in making progress on some fifty cases of individuals last seen in the custody of the security forces.

Exhumations and excavations conducted

The MPTT exhumed the remains of Norman Petersen from an unmarked grave in Paarl in the Western Cape. Mr Petersen, an MK member known as Billy Holiday, was shot dead in March 1987 in Cape Town. The MPTT found numerous gunshot pellets in his chest that matched the description of his injuries in his post-mortem. Mr Petersen's remains are now ready for handover and reburial.

The remains of a young male with gunshot injuries were exhumed from a grave in Soweto. While the MPTT has a hypothesis as to his identity this is still being verified through DNA tests.

Extensive excavations were also conducted at Nebo and other nearby sites in Limpopo as well as Soweto and Mamelodi in Gauteng in respect of certain cases. No remains were exhumed although numerous DNA samples were taken from the deceased for matching against family members.

The MPTT also conducted excavations at Glenroy Farm in Dududu in KwaZulu Natal following allegations of mass prisoner burials at the site. The MPTT determined through

excavations down to rock bed level that no burials had been conducted at the identified site.

DNA identifications

Positive DNA matches were obtained in the case of exhumed remains believed to be those of missing MK member Carlton Nengudza. His remains were handed to his family for reburial.

Closing of cases

The MPTT conducted an end-of-year progress review of cases and closed 30 cases for the year 2015/16.

Handover of remains

The MPTT participated in the handover of the remains of ten individuals at Freedom Park in Tshwane on 24 July 2015, which was attended by the Minister of Justice and Correctional Services, the Deputy Minister of Military Veterans and other government officials. The MPTT members facilitated the viewing of the remains by families and provided them with an overview of fatal injuries. The ten remains handed over were those of Mzwakhe Phato, Archie Lethoko, Bheki Cyprian Hlatshwayo, Phemelo Moses Ntehelang, Lolo Corlett Sono, Siboniso Shabalala, Japie Jacob Phadi, Mojau Teme, Tebogo Leon Tume and Charles Sandile Ngqobe.

The MPTT thereafter participated in the reburials of the above individuals, barring Mr Hlatshwayo, in Soweto, Kagiso, Kimberley, and Kuruman.

The remains of Carlton Nengudza were handed to his family at an official ceremony in Ngulumbi village in Limpopo province. The MPTT facilitated the viewing of his remains with an explanation of his injuries and the successful DNA test. He was reburied thereafter.

Referral for spiritual repatriations

The MPTT refers cases for spiritual repatriation ceremonies where no remains can be recovered due to the nature of their disposal. Several cases were referred for such ceremonies. The MPTT conducted various site confirmations in the Komatipoort area in Mpumalanga province in respect of the cases of Sizwe Kondile, Selby Mavuso, Peter Dlamini, Stanza Bopape and Johannes Sweet Sambo so that families can conduct such ceremonies at the appropriate site. Planning for the spiritual repatriations is underway in partnership with the TRC Unit and officials from Mpumalanga province.

ASSET FORFEITURE UNIT (AFU)

Litigation success rate

The Litigation success rate of AFU has continued to be around 90%, despite a dire need for resources. For 2015/16 the success rate is 95.6%. The unit met six and exceeded six of its nine targets with an average of 548.4%.

Number of completed forfeiture cases

During the year under review, the AFU completed 389 forfeiture cases. A significant number of the said cases were opposed high value complex cases that were carried over from the previous year. Even though 74 less cases were finalised in comparison to the previous year's performance, a significant number of those cases could only be enrolled and set down for finalisation on dates beyond the reporting period. The non-achievement of the target was due the

high number of cases that were protracted and postponed to the new financial year for finalisation.

Value of freezing orders relating to corruption or offences related to corruption where the amount benefited is more than R5 million

During the year under review, freezing orders to the value of R238.6 million were obtained, which was below the target of R800 million. This decline is attributed to fewer cases of large value being finalized.

Number of freezing orders

The AFU continued to implement its corrective measures to increase productivity and resolve inhibiting factors with its partners. As a result, 326 freezing orders were obtained, exceeding the set target of 321 orders.

Table 24: Annual comparison of number of freezing orders

Indicator	2011/12	2012/13	2013/14	2014/15	2015/16
Number of Freezing Orders	318	276	363	342	326
Target	318	324	281	281	321

Value of completed forfeiture cases

The AFU obtained forfeiture and confiscation orders to the value of R349.5 million against a target of R210 million. The continued focus on high value cases, improved investigations

of such cases at ACTT level, and the increased use of non-conviction based forfeiture contributed to the excellent performance.

Table 25: Annual comparison of value of completed forfeiture cases

Indicator	2011/12	2012/13	2013/14	2014/15	2015/16
Value of completed forfeiture cases	R164m	R119m	R296.4m	R1.940bn	R349.5m
Target	R224m	R167m	170m	R180m	R210m

Value of recoveries in terms of POCA

Recoveries in terms of POCA to the value of R444.2 million were obtained, significantly exceeding the target of

R150 million. The table below reflects the performance of the AFU from 2011/12 to 2015/16.

Table 25: Value of recoveries over five years

	2011/12	2012/13	2013/14	2014/15	2015/16	Cumulative
Payments to Victims	R93.8m	R28.6m	R84.4m	R1 658m	R390.2m	R2 326m
Payments into CARA	R37.3m	R34.8m	R98.5m	R58.2m	R54.2m	R283m
Value of Recoveries into POCA (Victims + CARA)	R131.1m	R63.4m	R182.9m	R1 716.2m	R444.2m	R2 537.8m

Success rate

A success rate of 95.6% was achieved, exceeding the target of 93% by 2.6%. The target was achieved by an internal focus to improve on quality assurance, especially in big cases.

Value of recoveries in relation to corruption where the amount benefited is more than R5 million (proceeds of crime and government losses)

Recoveries of R136.8 million relating to corruption where the amount benefited is more than R5m were obtained. This is mainly as a result of strategies focusing on high value cases, improved investigation of high value cases by DPCI, SIU at the ACTT and increased use of non-conviction based forfeiture to speed up cases.

Value of recoveries from government officials convicted of corruption and other related offences (proceeds of crime and government)

Recoveries of R13 million relating to government officials convicted of corruption and related offences were made. This excellent performance was due to several big recoveries of more than R500 000 in cases being finalised, which relates to 11 cases and 12 government officials convicted of corruption.

Noteworthy Cases

NDPP v Prinsloo and Another: A restraint of property order to the value of R1, 6 million was obtained against the assets of a senior police official who was involved in the theft of 2 000 firearms and sold them to a criminal gangster syndicate operating in the Western Cape and Gauteng, respectively.

NDPP v Joyce Komane: A final forfeiture order to the value of R6 million was obtained against a drug dealer

and kingpin of a drug dealing syndicate in Pietermaritzburg. This was a result of a long protracted legal battle which resulted in Komane being convicted and subsequently being acquitted upon appealing the conviction and sentencing. Despite the acquittal, AFU successfully obtained a forfeiture of all her property.

NDPP v Ndaba: A final forfeiture order was granted against a 10 000 hectare farm to the value of R3million. This was a result of police investigations that established the farm had been used since 2009 as an illegal drug lab used for the manufacture of mandrax tablets.

NDPP v Asane: A preservation of property was granted in respect of a cash amount of R76 million and a Toyota Hilux bakkie at the Lebombo border post. The said order was granted pursuant the arrest of two foreign Nationals who had crossed the border. Investigations revealed that the said persons were part of an international syndicate involved in smuggling large amounts of cash in and out of RSA. The said cash was hidden in a false compartment of the vehicle.

NDPP v Bradley Freeman: A restraint order in the amount of R4 million was granted in respect of property (luxury vehicles including a Mercedes Benz worth R1,4 million, Ford Ranger bakkie and two VW Polos, BMWi 335 worth R600 000, bank accounts and certain immovable property (two houses worth R1,2 million and R800 000). The property belonged to Bradley Freeman, former North West University accountant who had defrauded and stole R17,8 million from the NWU. He has been charged for theft, fraud and money laundering.

NDPP v Rampersahd: A forfeiture order was granted in respect of an amount of R68 000 belonging to one Suraj Rampersahd. The amount was initially seized by police during a police investigation into the illegal activities of a certain rhino poaching syndicate operating in KwaZulu

Natal and Gauteng Provinces. Rampersahd was previously an attorney and he was struck of the role. After his arrest and upon being released on bail, he absconded, resulting in his bail also being forfeited to the state.

NDPP v Trispen and Tsepo

The Department of Health in Limpopo embarked on a significant multi-year program to implement a Provincial Health Information System (PHIS) across the entire province. During April 2006, a tender was awarded to LHC Health Solutions. Around July 2009, the Department requested the State Information Technology Agency to assist in appointing a service provider to conduct a forensic audit into the implementation of PHIS and acquisition of CNS. There was a request that there should be a deviation from the tender in respect of the forensic audit into the implementation of PHIS and the acquisition of CNS. The reasons why it was necessary to deviate from the prescribed tender process in respect of the acquisition of CNS was not given and/or mentioned. The audit contract in respect of the PHIS was awarded to Tsepo Technology Consulting (Pty) Ltd, to the value of R8,8 million. The audit contract in respect of CNS was awarded to the Trispen Solutions (Pty) Ltd to the value of R7,5 million. Investigations revealed that the awarding of the contracts was irregular, and that Trispen and Tsepo are linked to the personal attorney of the Merriam Keneiloe Segabutla, the former MEC. It was also established that Trispen and Tsepo had paid gratifications of varying amounts on behalf of or in favour of Segabutla, who influenced the awarding of the contracts. A restraint order was obtained, inclusive of an order against Segabutla.

Limpopo Provincial Department of Health and Social Development

Ernst and Young was engaged by the Department to conduct a forensic investigation into contracts awarded during the period between April 2006 and June 2009 at the Nursing College. Officials, who were employed at the finance section of the department were in the course of their employment also appointed as members of the Bid Adjudication Committee (BAC) of the Nursing College. The forensic investigation into the awarding of contracts at the Nursing College revealed a number of irregularities including fraudulent misrepresentations made to the Nursing College and the Department by these officials as well as collusion that led to the awarding of the said contracts. It is further alleged that they, as members of the Nursing College's Bid Adjudication Committee, fraudulently awarded tenders to companies in which they themselves and/or their close family members had interests and had

failed to disclose their interests in those entities. As a result of their actions, their companies and those of their close family members and relatives were awarded contracts valued at over R12 million during the period of April 2006 and June 2009. A restraint order was obtained against the officials.

South African Reserve Bank

Brooklyn CAS 713/11/2015 was registered by members of the DPCI Anti-Corruption Investigations into alleged fraud and corruption by Tian Tian Wang. A large amount of money belonging to Wang was blocked by the South African Reserve Bank, as it raised suspicion of illegal dealings. Wang attempted to pay a bribe of R5 million to a SARB official for the release of the blocked amount. A trap was set by members of the DPCI and Wang was arrested and charged for contravening the provisions of POCA and the crimes relating to contraventions of the Exchange Control Regulations promulgated under the Currency and Exchanges Act. The amount of R5 million was preserved on the basis that it was an instrumentality. The forfeiture application is pending.

NDPP v Alex Khoza (Environmental crime)

A forfeiture order was granted in respect of a Toyota Hilux bakkie that was used to transport a carcass of a dead rhino. Four men, including the owner of the bakkie was arrested after a high speed chase by the Tzaneen police, where rhino legs were discovered in the bakkie. The owner did not oppose the granting of the order.

International Cooperation

The United Nations Convention against Corruption (UNCAC) entered into force on 14 December 2005. The United Nations Convention against Corruption (UNCAC) entered into force on 14 December 2005. South Africa ratified the UNCAC in November 2004 and became a State Party to the Convention. The Convention against Corruption put the international community in the advantageous position of taking stock of workable solutions in the adoption of Resolutions of Asset Recovery.

The Sixth Session of the Conference of the State Parties to the UNCAC held at St Petersburg in the Russian Federation on 9 - 13 November 2015, provided an opportunity to explore the experience of existing joint efforts toward innovative solutions to address problems such as the transfer of funds of illicit origin and their return. One of the most important results of the session was the adoption of

the two resolutions on Asset Recovery. As the Resolutions are at the cutting edge of anti-corruption initiatives, this represents a new fundamental principle in international cooperation in the return of funds of illicit origin to the country of origin.

The Asset Recovery Inter-Agency Network of Southern Africa (ARINSA) is a joint initiative between the UNODC and the NPA. ARINSA seeks to improve the co-operation between law enforcement and judicial authorities in the field of asset seizure by exchanging best practices and case studies of member countries in the Southern African Region. Since November 2014, ARINSA has managed to train over 500 judges, magistrates, prosecutors and investigators from various African nations. The ARINSA Prosecutor Placement Programme hosted by the NPA trained over 50 prosecutors from member countries on civil and criminal forfeiture proceeding in the last 3 years.

In cooperation with Thailand, Mr. Jumlong was convicted and sentenced to 40 years imprisonment in South Africa for trafficking rhino horns from South Africa. The Thai authorities met with their African counterparts and in January 2015 the Thai Transaction Committee considered a request to freeze assets linked to Mr. Jumlong. The property included seven bank accounts under his name and his wife, with a total amount of 2.2 Million Thai Baht (approximately 70,000 USD) and a house valued at 5 million Thai Baht.

OFFICE FOR WITNESS PROTECTION (OWP)

The Office for Witness Protection (OWP) provides temporary protection, protection, support and related services to vulnerable and intimidated witnesses and related persons in judicial proceedings in terms of the Witness Protection Act (1998).

Performance Highlights

OWP achieved all its targets (5 out of 5) in the reporting period. It is particularly notable that OWP achieved its key performance indicator of no witnesses or related persons harmed, threatened or killed by a person / persons from whom they were protected either directly or through an agent / associate whilst on the witness protection programme, for 15 years in a row.

Special audit by AG

Since 2001, OWP has been subjected to a special audit by the office of the Auditor General and has continued to receive a clean audit with minor housekeeping issues for 14 years in a row. It is noteworthy that the OWP received a clean audit outcome in respect of its administration, financial management and operations, for this reporting period. This is the best audit outcome that the OWP has received since its existence, as it not only maintained its clean audit status but excelled in that there were no matters of emphasis raised.

Witnesses and related persons handled for the reporting period

In the period under review there were 181 new admissions into the programme, bringing the total number of witnesses managed to 355. This number exceeded the target of 300 witnesses in the programme.

There were also 307 related persons in the programme, 132 of which were new admissions during the year. 149 witnesses and related persons were successfully discharged and resettled.

Despite all efforts to ensure witnesses and related persons remain on the programme, sometimes witnesses are unable to adjust to a new area / place of safety when moved from their homes which have turned to danger areas. Their removal from their comfort zones with all support structures causes trauma. Further, once in the programme some witnesses are unable to adjust to the strict witness protection agreement rules. Witness and their related persons voluntarily agree to be admitted into WPP. The moment a witness or his/her related person is detected as having walked off, it is reported to the Investigating Officer and prosecutor. 99% witnesses who walk off the programme still end up testifying.

Percentage of witnesses that attended judicial proceedings.

250 witnesses attended judicial proceedings in the reporting period. While this target is out of the control of witness protections, OWP works very closely with the role players in the criminal justice system to fast track OWP cases. This co-operation improved prosecutions and the performance of the criminal justice system.

Collaboration with partners and stakeholders

OWP has maintained excellent partnerships and stakeholder relations guided by Section 41 of the Constitution, where inter-sectoral collaboration between government departments is a constitutional imperative. The collaborative approach adopted by OWP is further embodied in the Victim Empowerment Programme and has as its goal, the provision of a seamless suite of services to victims of crime.

OWP developed a special project to deal with ACTT cases, supported by CARA funding. The CARA-funds are now depleted and motivation was presented to the NPA that OWP be included in the NPA submission for additional CARA funds.

OWP's role in protecting key witnesses in judicial proceedings for 2015/2016 has contributed to protected witnesses ensuring the following outcome, convictions and sentences:

- 44 life sentences.
- 1 854 jail terms.
- 61 Accused were found guilty.

The above outcome is a result of excellent work by investigators, prosecutors and OWP.

International co-operation

OWP's 24/7 operating model is internationally acclaimed and sought after. The Director has served as the South African representative on the EUROPOL Witness Protection Heads of Experts Forum from 2003, to date. OWP continues to play a key role in the development of Witness Protection in Africa and the world through the Africa Prosecutors Association. OWP has provided 3 high-level training/capacity building for Kenyan Witness Protection in South Africa.

LEGAL AFFAIRS DIVISION (LAD)

The LAD was established in 2010, 11 years after the establishment of the NPA.

Mandate

LAD is mandated to, *inter alia*:

- monitor and manage civil litigation matters, and to conduct to a limited extent, some civil matters.
- vet contracts and service level agreements entered into between the NPA and various external parties.
- develop skills in these areas

Goal of LAD

LAD's goal is to provide sound legal advisory services to the National Director; and it contributes to the following NPA strategic objectives:

- Increased successful prosecution.
- Improved prosecution of cases that require specialised prosecution.
- Remove profit from crime.

As a relatively new division and with an understanding of the manner in which civil matters are dealt with by the NPA, the LAD will continue to engage with its stakeholders and colleagues from other business units in order to ensure that they understand its mandate.

Table 27: Civil litigation performance overview for 2015/16

Legal Affairs Division					
Performance Against Target					
Indicator	Actual Achievement 2014/15	Planned Target 2015/16	Actual achievement 2015/16	% deviation from planned target to actual achievement 2015/16	Comment on deviations
% of civil actions received and dealt with within 5 days	100% (847/847)	100%	100% (1 109/1 109)	0%	Target reached
% of civil applications received and dealt with within 5 days	100% (258/258)	100%	100% (253/253)	0%	Target reached
% of civil actions conducted	0% (0/847)	5%	0% (0/1 109)	-5.0%	Large number of cases meant staff did not have time to prepare properly to conduct trials
% of civil applications conducted	0% (0/258)	5%	0.4% (1/253)	-4.6%	Large number of cases meant staff did not have time to prepare properly to conduct cases
% of vetted legal agreements provided to the NPA within 10 days	100% (80/80)	100%	100% (51/51)	0%	Target achieved (average turnaround 2.4 days)

Civil claims

1 109 civil actions were received in 2015/16 compared to 847 in 2014/15, a huge increase of 30.9%. Civil actions have more than doubled from 509 in 2012/13 to 1 109 in 2015/16, increasing at an average rate of about 30% per year.

It is very likely that this trend will continue for the foreseeable future and it is therefore vital that additional resources be made available to deal effectively with this influx of cases. It is remarkable that the LAD was able to meet its turnaround time targets despite the big increase in cases.

Applications

253 applications were received and dealt, with compared to 258 in the previous year, a slight decrease of 1.9%.

Despite the decrease in the current year, it should be noted that the number of applications has also increased at about 30% per year, and in 3 years has more than doubled from 122 in 2012/13 to 253 last year.

It is important to note that LAD operated with relatively few lawyers as a number had resigned for various reasons over the past few years, putting increasing strain on remaining staff.

Legal agreements

51 agreements were vetted in 2015/16 compared to 80 in 2014/15, a significant decrease of 36.3%. The number of agreements varies from year to year depending on the needs of the NPA.

Capacity of LAD

The capacity of LAD is not growing at nearly the same pace as the work. The consequence is that staff members are increasingly not able to make meaningful input into cases. They essentially have to focus on ensuring that processes run smoothly. They are not able to take any active part in litigation. This is a matter that will receive better attention in the new financial year, to ensure better alignment between capacity and the organisation's needs.

Noteworthy Cases – applications relating to the constitutionality of legislation

National SPCA v Min of Justice and the NDPP

The SCA judgment was delivered in December 2015 and it confirmed the decision of the High Court that section 7(1)(a) of the Criminal Procedure Act is constitutional. Private prosecutions in terms of section 7 are only permitted on grounds of a direct infringement of human dignity, thus excluding juristic persons other than those permitted in section 8 to institute private prosecutions. An appeal was lodged at the Constitutional Court and it will be heard on 23 August 2016. The essence of the appeal is that there is no rational basis for distinguishing between natural and juristic persons. Corruption Watch has applied to be joined as *amicus curiae*.

Robert James Stransham-Ford

The matter concerns the right to life and the freedom to end it, i.e. assisted suicide or active euthanasia. The applicant had sought the services of his physician for 'assisted suicide', on account of his terminal illness and need to die with dignity. The NPA involved the SA Law Reform Commission and the DoJ&CD, and the matter was handled jointly between all relevant government departments, including DoH and DoJ&CD. Judgement was granted in favour of the applicant who passed on the morning before the judgment. Leave to appeal has been granted.

De Vos N.O. and Others v Minister of Justice and Constitutional Development and Others 9/2/5/3-43/14

This matter relates to an application for confirmation of a declaration of constitutional invalidity of section 77(6)(a)(i) and (ii) of the Criminal Procedure Act, 1977. A presiding officer is required to institutionalise, imprison or place a mentally ill or an intellectually disabled accused person in a psychiatric hospital.

Griesel J, in the Western Cape Division of the High Court, held that the impugned section is peremptory and thus inconsistent with the Constitution in that it infringes a mentally ill or an intellectually disabled person's right to freedom and security, as well as children's rights. One of the provisions concerns serious offences and the other concerns minor offences and cases where it is found that no criminal act has been committed by an accused at all. The constitutionality of these provisions was challenged separately by the respective *curators ad litem* of two persons charged with criminal conduct. The cases were subsequently consolidated in the Western Cape Division of the High Court, Cape Town. The High Court concluded that the provisions unjustifiably violate the constitutional rights to freedom and security of the person and the rights of children, as they do not provide a presiding officer with the necessary discretion to craft an appropriate remedy for an accused person with a mental illness or intellectual disability.

In the Constitutional Court, the applicants argued that the section infringes or threatens an accused person's constitutional rights to equality, dignity, freedom and security and the rights of children. They submitted that, since there is no evaluation as to whether the accused poses a threat to himself or to society, and because the provision allows for no discretion, the deprivation envisaged is far-reaching, arbitrary and without just cause. The respondents maintained that the matter was not ripe for hearing. They also argued that the provisions are consistent with the Constitution and South Africa's international law obligations. They submitted that the provisions protect broader society and ensure the proper treatment and care of persons with mental illness or intellectual disabilities and are therefore rational. The Cape Mental Health, who made submissions as *amicus curiae*, argued that mental illness is complex, the mentally ill are not necessarily violent and

individual capacity for violence should be assessed before a court orders hospitalisation or institutionalisation. They specifically asked the Court to rule that imprisonment is always inappropriate as the purposes of the provisions are never to punish an accused. In a unanimous judgment written by Leeuw AJ, the Constitutional Court found the provision dealing with serious offences to be inconsistent with the Constitution and invalid to the extent that it provides for compulsory imprisonment of all accused persons and compulsory hospitalisation of children. The Court found that the mandatory hospitalisation of adult accused persons is rational as a precautionary measure to guarantee the care of the accused and the safety of society. The Court held further that the second provision is constitutionally invalid as it prescribes that an accused person who has committed no act or a minor offence be institutionalised, regardless of whether they are likely to inflict harm to themselves or others and do not require care, treatment and rehabilitation in an institution which violates their freedom and security of the person.

The Court suspended the order of invalidity in respect of the compulsory imprisonment of adults and the compulsory hospitalisation and imprisonment of children for a period of 24 months to allow Parliament to remedy the defects. The order does not operate retrospectively.

The case was handled by the Western Cape DPP office, whose representative acted as junior to the SC appointed on behalf of the Department of Justice and Constitutional Development.

Centre for Child Law and 4 others / Media 24 Ltd and 13 others – protection of identity of minors

An application was brought to protect the identity of a 17 year old child who had been stolen by her “mother” when she was a baby. The applicants also sought a declaratory order that section 154(3) of the Criminal Procedure Act can be read to extend to victims of crime and to not only apply to the accused and witnesses, in the alternative that the provision be declared unconstitutional. The National Director abided the decision of the court.

Justice Project South Africa and two others v Minister of Transport, Minister of Justice and Correctional Services and the NDPP – unequal implementation of AARTO

The application relates to the prosecution of road traffic offences under the Criminal Procedure Act, 51 of 1977 (CPA) in jurisdictions where the Administrative Adjudication of Road Traffic Offences Act, 46 of 1998 (AARTO) is not being applied. They seek a declaratory order against the National Director that the inequality created thereby is inconsistent with the Constitution and therefore invalid. The applicants further seek an order to discontinue all prosecutions of road traffic offences alleged to have been committed in all jurisdictions in the Republic, which fall outside the current jurisdiction of the AARTO Act.

The applicants contend that the partial implementation of the AARTO Act has resulted in unintended unequal treatment of road traffic offenders. The applicants submit further that the AARTO Act provides an alternative method of adjudication of traffic offences which is mainly administrative in nature, whereas offences in terms of the National Road Traffic Act, of 1996 (NRT Act) are enforced in terms of the Criminal Procedure Act. Therefore, under the AARTO Act an offender may simply walk away with a fine, and at worst a demerit, while under the NRT Act another offender guilty of the same offence in an area where AARTO is not operational, may end up with a conviction and a criminal record.

It is also submitted that following an instruction (or notice) by the Judicial Quality Assurance Office of the Magistrate's Court, dated 27 December 2012, some of the notices issued by traffic enforcement officers state that an admission of guilt fine will result in a conviction and a criminal record. It is alleged that this endorsement is not uniform (i.e. it does not appear in all the traffic offence notices issued to offenders).

The NPA is opposing the matter on the basis that the prosecution of a traffic offence is only effected by the enrolment of a particular notice in the criminal court. In practice, it is only where the traffic offence is related to the opening of a docket and fingerprints are taken that

there is the possibility of having a traffic offence recorded as a previous conviction. The NPA has filed its answering affidavit.

S v Xhegwana - single evidence of a confession

The applicant has brought an application to challenge the constitutionality of section 209 of the CPA. It stipulates that an accused may be convicted of any offence on the single evidence of a confession by such accused that he committed the offence in question, if such confession is confirmed in a material respect or, where the confession is not so confirmed, if the offence is proved by evidence, other than such confession, to have been actually committed. The applicant alleges that that this section is unconstitutional to the extent that it leaves a vacuum and provides no guidelines on what will constitute a confirmation in a material respect. The applicant further alleges that the presence of a police official when making confession brings some fear to an accused person and compromises his right to remain silent. The respondents will oppose the matter on the basis that the courts have developed the meaning of material respect and that section 217 has built-in safeguards in respect of confessions made to peace officers, in that such confessions shall not be admissible in evidence unless confirmed and reduced to writing in the presence of a Magistrate or Justice of Peace.

Boswell John Mhlongo and the State and Alfred Disco Nkosi and the State - admissibility of *ex curiae* confessions against co-accused

The Constitutional Court confirmed the position held in the similar *Litako* 2014, ZASCA 54 judgment concerning the inadmissibility of *ex curiae* confessions against co-accused. The court per Theron, AJ, unanimously found that admissibility would violate the rights to equality and a fair trial. The common law position was restored, and prosecutors can no longer rely on the exception to the admissibility of hearsay in terms of section 3(1)(c) of the Evidence Amendment Act to have such evidence admitted. Adv Carpenter of DPP North West argued the matter on behalf of the NPA.

Other Applications

Thembisile Phumelele Nkadimeng in re Nokuthula Simelane

The applicant brought an application to compel the National Director to have a judge appointed to hold

a formal inquest in the matter of Nokuthula Simelane, a former MK operative. The application to compel an inquest is kept in abeyance as the National Director decided to institute a prosecution and the issue became moot.

Mfundo Vaphi and 43 others

This urgent application related to the #FeesMustFall campaign. The matter was dealt by the DOJ&CD and the Cape Town State Attorney. Amongst other relief sought, the applicants wanted bail conditions to be amended and to gain access to the Cape Peninsula University of Technology.

Arthur Bengis / Hout Bay Fishing

This is an application for an order to declare that the action of the South African Government and the National Director to receive a restitution amount of about US\$ 22.4 million from the United States was unlawful and unconstitutional. Mr Bengis and others also asked for an order to compel the South African Government and three former NPA employees to pay an amount of \$11.3m damages being costs they incurred in defending criminal proceedings instituted against them by the United States.

The court delivered judgement on 24 February 2016 in favour of NPA and the State. It dismissed the claim for damages as frivolous and vexatious, and found that Bengis and others could have challenged the participation of former NPA officials in the restitution proceedings in the United States. The importance of this ruling for NPA is plea and sentence that agreements concluded by NPA prosecutors are not binding on other countries who wish to institute criminal proceedings against the same accused and on the same facts and in terms of their own laws.

DA v NDPP (Zuma matter)

The DA brought an application to review the decision of Adv Mpshe, the then Acting National Director, to discontinue the prosecution of Mr Zuma. The review application was heard from 1 until 3 March 2016 before a full bench of the North Gauteng High Court. The judgment was delivered on 29 April 2016, after the end of the financial year.

Mail and Guardian Centre for Investigative Journalism

The matter concerns an application by a newspaper to have access to evidence obtained pursuant to s28 of the NPA

Act. Judgment has been reserved in the review application. The applicants are MANDG, the M and G Media Limited and Stephen Sam Sole. The National Director is the first respondent, Mr Mac Maharaj is the second respondent and his wife, Ms Zarina Maharaj is the third respondent.

In 2011, the applicants made a request to the NPA in terms of section 41(6)(c) of the NPA Act for permission to publish a report prepared from evidence given at the investigation of the NPA in terms of section 28(1) of the NPA Act. The interview was conducted by the former Directorate of Special Operations with the second and third respondents in terms of section 28 of the NPA Act ("the decision") on 19 June 2003.

The Acting National Director considered the request for permission to disclose the information concerned and, in particular, took into account the applicants' contention that the essence of what they wished to publish was already in the public domain and was in the public interest. The Acting National Director further considered the impact of the NPA's policy in relation to section 28 investigations, the UN Guidelines on the role of prosecutors, the NPA prosecution policy, the NPA Act and the Constitution. After these considerations, she declined to permit the applicants to disclose the record of the said interview on 4 January 2012. The applicants then brought an application to review and set aside the decision not to grant them access to the report.

The basis for opposing the matter is that prior to the request by the applicants, criminal charges had been laid against the applicants by the second and third respondents, alleging a contravention of section 41(6) of the NPA Act. While these charges are pending, the disclosure of this information may well be seen as an attempt to condone the alleged commission of a criminal offence. It is also not the policy of the NPA to disclose the record of evidence given at an investigation as contemplated in section 28(1) of the NPA Act. This is necessary to encourage and preserve confidence and trust in the NPA. Legislative provisions restricting disclosure are necessary for the combatting of crime and corruption. Any limitation that these provisions have on the rights of freedom of expression and those of the media, are justifiable. The importance of non-disclosure has been emphasised by the NPA Act that imposes a significant penalty of imprisonment for a contravention of section 41(6).

There is a criminal investigation underway relating to the disclosure of the information that the applicants now seek permission to disclose. The granting of permission to disclose this information will no doubt affect an incomplete investigation. There is no basis for the argument that the information is already in the public domain through the actions of the second and third respondents. The NPA Act requires that permission be sought from the National Director and the conduct of the subject of the investigation does not change this. Although, it is acknowledged that there is a significant public interest in the person of the second respondent, the interests of the public also extend to ensuring that legitimate institutions and mechanisms established by Government effectively serve their intended purposes. This is particularly so in the current environment where the combatting of crime and corruption is considered by the general public to be one of the highest priorities.

In considering a request for permission to disclose evidence, attention must be given to more than just the interests of a particular witness. The interests of other persons must also be taken into account. These would include people who are referred to both by the witness in evidence and in questions that may be put to the witness during the inquiry. Consideration also needs to be given to the entire investigation, all the persons who testified, had documents seized or who were referred to in the investigation. All the facts and circumstances must be considered. In summary, the Acting National Director found that the construction of the relevant provisions of the NPA Act, compelling considerations of policy, the effective functioning of the administration of justice and the balancing of different interests involved, taking into account constitutional rights and values, support the non-disclosure of the record of evidence given at the investigation.

Themba Michael Masinga

The LAD monitored the progress in this matter which had been referred to the DPP to deal with in the ordinary course. The prosecutor instituted a prosecution against a magistrate with a verbal authorisation of the DPP and not a written one, as is required in terms of the NPA policy directives, but rather the verbal authorisation of the DPP. The court found this to have been an irregularity but declined to grant the relief sought to set the proceedings aside, as the applicant was not prejudiced by the irregularity.

Noteworthy Cases - Damages Claimed

CN Patel

The former Judge President of KZN brought a civil claim against the NPA based on malicious prosecution after he was prosecuted and charges against him were later withdrawn. A recommendation was made on the handling of the matter. Members of LAD and its former head consulted with the DPP KZN who has been cited. The matter is under consideration.

The Marikana claims of Vayeke Sivuka and 274 others

The case was evaluated and a recommendation was made to defend. The suspects were arrested when between 3 000 and 5 000 protesters clashed with the police on 16 August 2012 at the Marikana Platinum Mine. The DPP of the North West decided to add murder and attempted murder charges against the accused persons. Evidence was produced in court for purposes of the bail application. The opinion was held that the claim can be defended as—

- a) the common law doctrine of common purpose is well-recognised and applicable in our criminal law and constitutional dispensation;
- b) the doctrine of common purpose fits well into the context of the Marikana case
- c) the reasoning of the DPP: North West in taking the decision to charge the accused persons for murder and attempted murder was based on sound legal principles.

Pleas have been filed in respect of all the claims and further developments are awaited.

PART D: OVERVIEW OF NPA INTERVENTIONS



PART D: OVERVIEW OF NPA INTERVENTIONS

Centralisation authorisations

A total of 29 applications were received during the reporting period, as summarised in the table below.

Table 28: Summary of the number of centralisation authorisations per DPP Office.

DPP's office	Number of centralisation applications
Western Cape	1
South Gauteng	8
North Gauteng	8
Northern Cape	1
North West	3
KwaZulu-Natal	2
Free State	3
Eastern Cape: Grahamstown	2
Eastern Cape: Mthatha	0
SCCU	1

Table 29: Matters in which centralisation was authorised

State versus	Area of jurisdiction from which application emanated	Charges	Area of jurisdiction in which charges were committed	Date of authorisation by the National Director
Sunataran Govender	Western Cape	Rape Sexual grooming of a child Sexual Assault	South Gauteng	17 April 2015
Patson Mbegani Munyai	South Gauteng	Kidnapping Rape Assault	North Gauteng	08 April 2015
Simphiwe Dennis Manana	North Gauteng (SCCU)	Fraud Theft	Free State	12 May 2015
Thabo Java Baloyi	North West	Murder Armed robbery Kidnapping Unlawful possession of firearm Unlawful possession of ammunition	North Gauteng	29 July 2015
Dawie De Villiers	South Gauteng	Sexual Assault Crimen Injuria Sexual grooming of a child Fraud	North Gauteng	8 May 2015

State versus	Area of jurisdiction from which application emanated	Charges	Area of jurisdiction in which charges were committed	Date of authorisation by the National Director
Eugene Thapelo Lebona	North Gauteng	Theft of motor vehicles	Free State	13 May 2015
Frans Jacobus Jooste	North Gauteng	Fraud Theft	Free State	01 July 2015
M Sadik and Another	South Gauteng	Dealing in Drugs	North Gauteng	03 June 2015
Peter Dashboy Khosa	South Gauteng	Theft Assault Kidnapping Rape	North Gauteng	29 June 2015
Mpumelelo Hlungwani	North Gauteng	Kidnapping Robbery Assault Rape	South Gauteng	14 July 2015
Michael Vusi Sibozza and 4 Others	Free State	Unlawful possession of ammunition Defeating the administration of justice	North Gauteng	22 July 2015
Americo Njango and 4 Others	Free State	Theft Contravention of Section 9(2)(a) of the POCA.	North Gauteng	24 July 2015
Zwelihle Richard Mkhize and 2 Others	North West	Unlawful possession of firearms Unlawful possession of ammunition	KwaZulu-Natal	22 July 2015
Thomas Gerhardus Potgieter	North Gauteng	Theft	South Gauteng KwaZulu-Natal	19 Augustus 2015
Ernest Chauke and 4 Others	Free State	Theft Contravention of Section 9(2)(a) of the POCA	Eastern Cape -Grahamstown	5 February 2016
Mkhuthazi Excellent Gxaleka	Eastern Cape -Grahamstown	Intimidation Extortion Attempted extortion	Eastern Cape - Mthatha	12 October 2015
Lwandiso Jevu and 4 Others	Kwa- Zulu Natal	Trafficking in persons Rape Assault	Eastern Cape - Mthatha	01 December 2015
Basemane Owen Serero	South Gauteng	Robbery Kidnapping	North Gauteng	05 November 2015

State versus	Area of jurisdiction from which application emanated	Charges	Area of jurisdiction in which charges were committed	Date of authorisation by the National Director
Cornelius Christopher Julies	Northern Cape	Rape	North West	2 March 2016
Curlvin Donovan McCarthy and 3 Others	North Gauteng	Kidnapping	South Gauteng	01 December 2015
Mthobisi Mncube	South Gauteng	Murder	North Gauteng	30 November 2015
Thankgod Onoh	South Gauteng	Dealing in drugs	North Gauteng	30 November 2015
Thapelo Motseki	South Gauteng	Rape Kidnapping Murder	North West	17 December 2015
Juan Meyer and 2 Others	North West	Contravention of Section 4(1) of the Precious Metals Act Contravention of Section 6 of the POCA	North Gauteng	2 March 2016
Berthold Friedrich Eggers	Kwa-Zulu Natal	Attempted murder Kidnapping	North Gauteng	Pending
Siyabonga Zizi Mgushane	North Gauteng	Rape	Free State	8 April 2016
Andile Jamani	Eastern Cape Grahamstown	Rape Robbery Housebreaking with the intent to rape	Bhisho	24 March 2016
Lesley Maluleke and 2 Others	North Gauteng	Contravention of Section 49 of the Immigration Act Contravention of the Riotous Assemblies Act	South Gauteng	31 March 2016

Representations

The component at the NPS national office responsible for representations comprises of four prosecutors and an administrative assistant. The majority of the representations received during the performance year were requests to reconsider decisions in criminal matters. The policy directives require that the remedy of recourse to the

relevant DPP be exhausted before the National Director will review the decision of the DPP. The review process to be followed by the National Director is prescribed in Section 22(2)(c) of the NPA Act and is adhered to.

Representations at the national office are received either directly from representors or via the office of the National

Director. The NPA also provides for representations to be submitted via email to communication@npa.gov.za. A significant percentage of representations were received through this channel in the year under review.

The NPS component has implemented an electronic system to ensure that accurate statistics are kept and that information can quickly be accessed. A total of 521 files pertaining to representations were received. 384 files were finalised reflecting a clearance ratio of 73.70%. 121 of the finalised files were matters placed before the National Director as review decisions.

Mutual legal assistance (MLA) and Extraditions

The NPA deals with incoming formal requests for MLA wherein the Minister of Justice and Correctional Services has issued a notification in terms of section 7 of the International Co-operation in Criminal Matters Act, Act 75 of 1996. These matters are coordinated in the Office of the National Director and the necessary assistance in the execution of the request is rendered in conjunction with the offices of the Directors of Public Prosecutions.

In the case of incoming requests for extradition the NPA renders the necessary assistance once the Minister has issued a notification in terms of section 5 of the Extradition Act, (Act 67 of 1962).

During the reporting period, the NPA finalised 37 out of 107 requests for mutual legal assistance (both incoming and outgoing). 31 of these requests were received from foreign states and 27 were initiated by South Africa to foreign states. The NPA also dealt with 92 requests for extradition, of which 19 were finalised.

Treaty negotiations and ensuring efficiency in international relations

The NPA participated in the negotiation of a Treaty on Mutual Legal Assistance between the Republic of South Africa and the United Kingdom (negotiated in May 2015), relating to international co-operation in criminal matters. This treaty as well as the Treaty on Mutual Legal Assistance between the Republic of South Africa and the Republic of Botswana, which was negotiated in February 2015, were successfully concluded and are currently undergoing internal constitutional processes to give effect for their coming into operation.

The NPA worked extensively on the request by the Department of Labour in addressing the comments of the International Labour Organisation (ILO) Committee of Experts on the application of the ratified Conventions and Recommendations (CEACR). This request came in the light of the operationalising of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act 7 of 2013). The Act has a bearing on child labour and related matters, hence the need for the NPA's role. The said comments were duly addressed and the NDPP signed the communication to the DG: Labour outlining the NPA work relating to the matters raised.

The NPA was also represented at the NEDLAC workshop on International Labour Standards in Johannesburg in September 2015. The workshop consisted of presentations on several ILO Conventions ratified by the South African Government and sought to consolidate inputs from all relevant stakeholders. The NPA made a presentation on addressing the comments of the CEACR on human trafficking.

The Office of the National Director has been participating in the Inter-Departmental meetings coordinated by the Department of International Relations and Co-operation (DIRCO) regarding engagements relating to the SA-UK Bilateral Strategy and Consultation.

Training aimed at enhancing international cooperation in criminal matters

The international cooperation component is actively participating in the Trafficking in Persons (TiP) Task Team and has conducted training to five groups of prosecutors during related training workshops. International cooperation training was conducted to prosecutors in conjunction with Justice College in Cape Town (SCCU), Durban and Pretoria (Organised Crime). A workshop on mutual legal assistance and extradition was conducted for prosecutors in Mpumalanga.

Africa Prosecutors Association (APA)

As it celebrates its 10th year of existence, the APA released its first ever handbook and training manual on counter-terrorism which was drafted by the National Director, Adv. Shaun Abrahams. The first formal training on the manual was provided in Angola to 12 Attorneys-General and

prosecutors of Angola's Attorney-General office, for which the NPA provided the key trainers

The APA held its annual conference in Livingstone, Zambia in July 2015. This conference brought Heads of Prosecution Services from around the African continent together in a bid to increase the capacity of prosecutors in Africa guided by APA Conferences Declarations. The aim of the conference was to illustrate good practices across the continent and internationally. The NPA continues to play a pivotal role in the APA, with the National Director being executive member and two senior DPPs (Adv. Sibongile Mzinyathi and Adv. Xolisile Khanyile) serve on the Strategic Committee and EXCO.

International Association of Prosecutors (IAP)

The IAP conference with the theme 'Combatting Terrorism and Violent Extremism', was hosted by the Prosecutor-General of the Russian Federation in Sochi, Russia. Adv. Nomgcobo Jiba (DNDPP) and Mr. Dawood Adam (Special Advisor to the National Director) attended the conference and Mr. Adam presented a paper on behalf of the National Director, titled 'National Experiences of Prosecutors: Activities in Combatting Terrorism and Violent Extremism'.

A special invitation was received from the Prosecutor-General of Russia, for BRICS member states Prosecutors-General to attend a special meeting in Sochi at the same time of the IAP Conference. The aim and objective of the BRICS meeting was to set the foundation to enhance co-operation and capacity building among the BRICS member states. A further special meeting to formalise Memoranda of Understanding between Prosecutors-General of BRICS member states will be held in China in December 2016.

PART E: HUMAN CAPACITY AND FINANCIAL RESOURCES



PART E: HUMAN CAPACITY AND FINANCIAL RESOURCES

FINANCIAL OVERVIEW

The NPA spent 100% of its budget allocation after virement during the year under review. This was achieved by closely monitoring expenditure and centralising the budget towards the end of the financial year. The NPA is not a revenue generating department, and does not charge tariffs for services rendered. Neither does the NPA provide free services that would have yielded revenue had a tariff been charged.

As from the 2014/15 financial year the NPA incorporated its annual financial statements and annual report against pre-determined objectives into the Department of Justice's, as Programme 4 of the Department's Budget Vote. The Office of the Auditor-General did not express a separate audit opinion on the NPA but on the overall departmental budget vote.

Table 30: Expenditure report

Sub-programme name	2015/16			2014/15		
	Final appropriation	Actual Expenditure	(Over)/under expenditure	Final appropriation	Actual Expenditure	(Over)/under expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
National Prosecutions Service	2 326 444	2 326 444	-	2 144 150	2 144 150	-
National Specialised Prosecutions Services	299 038	299 038	-	269 485	269 485	-
Asset Forfeiture Unit	133 138	133 138	-	133 568	133 568	-
Office for Witness Protection	183 689	183 689	-	160 737	160 737	-
Support Services	432 037	432 037	-	546 183	546 183	-
Total	3 374 346	3 374 346	-	3 254 123	3 254 123	-

Budget allocation as it relates to the core business of prosecution and related services is divided into five sub-programmes, as follows:

Table 31: Budget allocation per economic classification

Sub-Programme	National Prosecutions Service	National Specialised Prosecutions Services	Asset Forfeiture Unit	Office for Witness Protection	Support Services
Compensation of employees	2 231 465	253 709	98 185	83 870	168 737
Goods & services	83 366	26 958	34 459	96 915	221 245
Payment of capital assets	3 045	467	10	390	34 419
Other	8 568	17 904	484	2 514	7 636
Total	2 326 444	299 038	133 138	183 689	432 037

Financial year 2015/16 will be the last year that the NPA reports on five sub-programmes. As from 2016/17, the National Specialised Prosecutions Services sub-programme will form part of the National Prosecutions Service.

Expenditure on compensation of employees before virement, was at 100.52% (R2.8 billion) which resulted in a overspending of R14.5 million. This overspending was due to the implementation of cost of living adjustment including increase in the housing allowances during the financial year. The underspending within goods & services expenditure was used to defray this overspending in conjunction with virement within DoJ&CD.

Goods and services was underspent by 4.35% (R21 million) before virement, as at the end of the financial year. This underspend was used to defray the overspending within compensation of employees.

Transfers and Subsidies (Households) was overspent with 11.28% (R3 million) before virement, due to the payment of the previous National Director's settlement agreement.

Payment of capital expenditure was underspent with 29.42% (R 15.9 million) due to delays in tender processes for the procurement of laptops for prosecutors, as well as outstanding invoices for fleet services.

PERSONNEL POSITION OF THE NPA

The overall human capacity of the organisation declined from 2014/15 to 2015/16. However, the overall decline in numbers was accompanied by an increase of 3.94% in the head count for prosecutorial and legal capacity. This signifies a steady increase of 18.9% of capacity in the core business over a period of five years.

The organisation is currently conducting a work study project which seeks to review the effectiveness of the current organisational design as well as evaluate the optimal capacity for the organisation to obtain maximum benefit from the existing resources. The project will extend into the new financial year although the completion of the project

coincides with a period where the NPA is experiencing the worst financial constraints where the current establishment is not fully funded.

Due to insufficient funding of the establishment, the NPA will have to report 0% vacancy rate although the real vacancy rate was 15.1% at the end of the financial year. It is expected that the real vacancy rate will rise above 15% as more posts will become unfunded when they become vacant due to the budget cuts effected by National Treasury on compensation of employees.

The NPA employed 3 147 prosecutors in permanent positions as at 31 March 2016

As at 31 March 2016, the NPA employed a total of 3 572 prosecutors across the country.

Table 32: Breakdown of permanent prosecutors employed in the NPA

Provinces	African	White	Indian	Coloured	Total
KwaZulu-Natal	355	63	118	16	552
Gauteng	622	33	50	309	1 014
Limpopo	182	16	0	3	201
Mpumalanga	113	4	4	41	162
North West	119	17	1	6	143
Free State	131	86	6	8	231
Northern Cape	73	25	1	21	120
Eastern Cape	283	101	10	49	442
Western Cape	117	134	27	222	500
TOTAL	1 995	479	217	675	3 366

Number of prosecutors on contract:

Table 33: Breakdown of prosecutors on contract per geographical province

Provinces	African	White	Indian	Coloured	Totals
KwaZulu-Natal	4	0	0	0	4
Gauteng	63	10	10	1	84
Limpopo	39	0	0	0	39
Mpumalanga	4	0	0	0	4
North West	0	0	0	0	0
Free State	16	4	0	0	20
Northern Cape	0	0	0	1	1
Eastern Cape	31	7	1	7	46
Western Cape	2	1	0	2	5
TOTAL	163	22	11	10	206

The following table reflects the human resource capacity in each of the key sub-programmes:

Table 34: Breakdown of human resource capacity per sub-programme

	National Prosecutions Service	National Specialised Prosecution Services	Asset Forfeiture Unit	Office for Witness Protection
Legal Personnel	3 048	202	71	94 (Protectors)
Admin Personnel	658	147	83	58

Employment equity profile for prosecutors

The tables that follow provide the employment equity distribution of human resources per office / jurisdictional division

Table 35: Status of employment equity at Head Office

	MALE					FEMALE					TOTAL
OCCUPATIONAL LEVELS	A	C	I	W	SUB	A	C	I	W	SUB	
TOP MANAGEMENT	2	1	0	1	4	2	0	0	0	2	6
SENIOR MANAGEMENT	3	1	0	6	10	4	0	1	3	8	18
PROFESSIONALLY QUALIFIED	35	3	1	8	47	19	3	3	28	53	100
TOTAL PERMANENT	40	5	1	15	61	25	3	4	31	63	124
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	40	5	1	15	61	25	3	4	31	63	124
TOTAL PERMANENT	40	5	1	15	61	25	3	4	31	63	124
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	40	5	1	15	61	25	3	4	31	63	124

Table 36: Status of employment equity in the KwaZulu-Natal

	MALE					FEMALE					TOTAL
OCCUPATIONAL LEVELS	A	C	I	W	SUB	A	C	I	W	SUB	
TOP MANAGEMENT	0	0	0	0	0	1	0	0	0	1	1
SENIOR MANAGEMENT	2	0	4	1	7	3	0	3	2	8	15
PROFESSIONALLY QUALIFIED	189	8	36	30	263	160	8	75	30	273	536
TOTAL PERMANENT	191	8	40	31	270	164	8	78	32	282	552
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	191	8	40	31	270	164	8	78	32	282	552
TOTAL PERMANENT	191	8	40	31	270	164	8	78	32	282	552
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	191	8	40	31	270	164	8	78	32	282	552

Table 37: Status of employment equity in North Gauteng

	MALE					FEMALE					TOTAL
OCCUPATIONAL LEVELS	A	C	I	W	SUB	A	C	I	W	SUB	
TOP MANAGEMENT	1	0	0	0	1	0	0	0	0	0	1
SENIOR MANAGEMENT	7	1	0	8	16	1	0	2	6	9	25
PROFESSIONALLY QUALIFIED	142	3	3	51	199	89	4	5	70	168	367
TOTAL PERMANENT	150	4	3	59	216	90	4	7	76	177	393
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	150	4	3	59	216	90	4	7	76	177	393
TOTAL PERMANENT	150	4	3	59	216	90	4	7	76	177	393
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	150	4	3	59	216	90	4	7	76	177	393

Table 38: Status of employment equity in South Gauteng

	MALE					FEMALE					TOTAL
OCCUPATIONAL LEVELS	A	C	I	W	SUB	A	C	I	W	SUB	
TOP MANAGEMENT	1	0	0	0	1	0	0	0	0	0	1
SENIOR MANAGEMENT	6	0	1	9	16	5	0	2	3	10	26
PROFESSIONALLY QUALIFIED	206	5	7	36	254	99	12	25	80	216	470
TOTAL PERMANENT	213	5	8	45	271	104	12	27	83	226	497
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	213	5	8	45	271	104	12	27	83	226	497
TOTAL PERMANENT	213	5	8	45	271	104	12	27	83	226	497
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	213	5	8	45	271	104	12	27	83	226	497

Table 39: Status of employment equity in Limpopo

	MALE					FEMALE					TOTAL
OCCUPATIONAL LEVELS	A	C	I	W	SUB	A	C	I	W	SUB	
TOP MANAGEMENT	0	0	0	0	0	1	0	0	0	1	1
SENIOR MANAGEMENT	4	0	0	1	5	1	0	0	0	1	6

PROFESSIONALLY QUALIFIED	105	0	0	9	114	71	3	0	6	80	194
TOTAL PERMANENT	109	0	0	10	119	73	3	0	6	82	201
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	109	0	0	10	119	73	3	0	6	82	201

Table 40: Status of employment equity in Mpumalanga

	MALE					FEMALE					TOTAL
OCCUPATIONAL LEVELS	A	C	I	W	SUB	A	C	I	W	SUB	
TOP MANAGEMENT	0	0	0	0	0	0	0	0	0	0	0
SENIOR MANAGEMENT	0	0	0	1	1	1	0	1	2	4	5
PROFESSIONALLY QUALIFIED	70	2	1	15	88	42	2	2	23	69	157
TOTAL PERMANENT	70	2	1	16	89	43	2	3	25	73	162
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	70	2	1	16	89	43	2	3	25	73	162

Table 41: Status of employment equity in North West

	MALE					FEMALE					TOTAL
OCCUPATIONAL LEVELS	A	C	I	W	SUB	A	C	I	W	SUB	
TOP MANAGEMENT	0	0	0	1	1	0	0	0	0	0	1
SENIOR MANAGEMENT	1	0	0	1	2	3	0	0	1	4	6
PROFESSIONALLY QUALIFIED	71	2	0	12	85	43	1	1	5	50	135
TOTAL PERMANENT	72	2	0	14	89	46	1	1	6	54	143
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	72	2	0	14	89	46	1	1	6	54	143

Table 42: Status of employment equity in Free State

	MALE					FEMALE					TOTAL
OCCUPATIONAL LEVELS	A	C	I	W	SUB	A	C	I	W	SUB	
TOP MANAGEMENT	0	0	0	0	0	1	0	0	0	1	1
SENIOR MANAGEMENT	2	0	0	2	4	0	0	1	2	3	7
PROFESSIONALLY QUALIFIED	81	4	3	30	118	47	4	2	52	105	223
TOTAL PERMANENT	83	4	3	32	122	48	4	3	54	109	231
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	83	4	3	32	122	48	4	3	54	109	231

Table 43: Status of employment equity in Northern Cape

	MALE					FEMALE					TOTAL
OCCUPATIONAL LEVELS	A	C	I	W	SUB	A	C	I	W	SUB	
TOP MANAGEMENT	0	0	0	0	0	0	0	0	0	0	0
SENIOR MANAGEMENT	1	1	0	2	4	0	1	0	0	1	5
PROFESSIONALLY QUALIFIED	50	12	0	10	72	22	7	1	13	43	115
TOTAL PERMANENT	51	13	0	12	76	22	8	1	13	44	120
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	51	13	0	12	76	22	8	1	13	44	120

Table 44: Status of employment equity in Eastern Cape

	MALE					FEMALE					TOTAL
OCCUPATIONAL LEVELS	A	C	I	W	SUB	A	C	I	W	SUB	
TOP MANAGEMENT	1	0	0	0	1	0	0	0	0	0	1
SENIOR MANAGEMENT	1	0	1	8	10	1	1	2	0	4	14
PROFESSIONALLY QUALIFIED	79	18	4	44	145	23	25	1	45	94	239
TOTAL PERMANENT	81	18	5	52	156	24	26	3	45	98	254
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	81	18	5	52	156	24	26	3	45	98	254

Table 45: Status of employment equity in Mthatha

	MALE					FEMALE					TOTAL
OCCUPATIONAL LEVELS	A	C	I	W	SUB	A	C	I	W	SUB	
TOP MANAGEMENT	1	0	0	0	1	0	0	0	0	0	1
SENIOR MANAGEMENT	4	0	0	0	4	0	0	0	0	0	4
PROFESSIONALLY QUALIFIED	96	3	0	1	100	76	2	2	3	83	183
TOTAL PERMANENT	101	3	0	1	105	76	2	2	3	83	188
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	101	3	0	1	105	76	2	2	3	83	188

Table 46: Status of employment equity in Western Cape

	MALE					FEMALE					TOTAL
OCCUPATIONAL LEVELS	A	C	I	W	SUB	A	C	I	W	SUB	
TOP MANAGEMENT	0	1	0	0	1	0	0	0	0	0	1
SENIOR MANAGEMENT	3	6	0	4	13	0	3	1	2	6	19
PROFESSIONALLY QUALIFIED	75	89	8	56	228	39	123	18	72	252	480
TOTAL PERMANENT	78	96	8	60	242	39	126	19	74	258	500
TEMPORARY EMPLOYEES	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	78	96	8	60	242	39	126	19	74	258	500

Information relating to training programmes for prosecutors

Below is the information relating to training programmes undertaken specifically to further capacitate prosecutors and improve their prosecutorial skills.

Table 47: Training programmes for prosecutors

Name of the Courses	2015/16 No
Admissibility of evidence : statements (JC)	186
Advanced Court Preparation : Expert Witness	57
Advanced Trial Advocacy (JC)	76
Advocacy and Ethics Awareness	320
AFU Policy workshop and specific matters	13
AFU week	7
Anti-corruption and fraud awareness training programme (IMU)	37
Asset forfeiture awareness	1

Name of the Courses	2015/16
	No
Asset forfeiture course	4
Certified fraud examination (session 1)	8
Child justice	9
Child Justice (SOCA)	23
Civil applications	64
Code of Conduct for Prosecutors	4
Compilation of daily stats: Witbank Magistrate Court	7
Conflict and Diversity Management	15
Corruption and fraud	121
Criminal Liability (JC)	38
Customs and exercise act 91 of 1964	11
Domestic Violence (SOCA)	18
Effective Business and Report Writing	22
Emotional intelligence	18
Enforcement training	7
Environmental crimes	7
EQ Insights Managers Coaching	1
EQ: insights journey	4
Ethics and integrity	1
Forensic Awareness Campaign (Kimberley)	9
Forensic Experts Workshop	169
Forensic Master class (SCCU)	5
Fraud and Corruption (JC)	28
Government budgeting (including SCOA)	7
Human Trafficking Workshop (SOCA)	43
Insurance fraud	36
Integrated sexual offences	1
Integrity @ Work	63
Investigation and management of cyber and electronic crimes	25
Justice College - professional ethics seminar	24
Justice college - professional ethics seminar	1
Justice college integrity management workshop	1
Legal drafting, compiling of charge sheets and indictments	129
Life coach: Evander Magistrate Court	15
Maintenance training	8
Maintenance training programme (in-house)	5
Management & leadership for SMS	75
Mediation and alternative dispute resolution mechanisms	84
Microsoft word beginner: DPP Cape Town	13
Motions	5
MS Excel (Intermediate)	25

MS PowerPoint (Advanced)	13
MS PowerPoint (Beginner)	15
MS PowerPoint (Intermediate)	10
MS Word (Advanced)	12
Ms word beginner: DPP Cape Town	8
Multi - disciplinary training for TCC'S	4
Mutual legal assistance and extraditions	14
Organised Crime, Basic (JC)	50
Professional ethics seminar	22
Prosecutors code of conduct - Klerksdorp	12
Prosecutors code of conduct -Potchefstroom	3
Protection of personal information act	20
Psychiatry/ psychology and law	35
Psychology and the Law (JC)	60
Road Traffic Offences (JC)	37
Second hand goods	4
Section 18	41
Sexual Offences Workshop (JC)	57
Stock theft and related offences	28
Theft Of Trust Fund Seminar	1
Training Workshop On Counter Terrorism, International Criminal & Responding To Translation Threats	12
Trial advocacy (in-house)	14
Trio and other serious crimes (JC)	133
Victim impact statement	36
Video conference session	20

The table below reflects a summary of the report on complaints or any alleged improper conduct which has resulted in any impropriety or prejudice on the part of a member of the NPA

Table 48: Exposition of labour matters related to misconduct and related outcomes

Types of misconduct	Number of Prosecutors	Outcome
Unprofessional conduct	4	1x Not guilty 1x Closed 2x verbal warning
Defying a reasonable instruction	1	1x Not guilty
Improper conduct	3	2x Closed 1 X 5 days without pay
Bringing the NPA into disrepute	2	1 x Final written warning 1x 3 months suspension without pay
Misuse of state vehicle	11	2 x 1 month suspension without pay 8x Written warning
Disclosure of confidential information	1	1 X Final written warning
Gross insubordination / insubordination	2	1X Final written warning 1x Written warning

Types of misconduct	Number of Prosecutors	Outcome
Dereliction of duty	1	1 x written warning
Negligence	10	7x written warning 2 x verbal warning 1x Demotion
Insolent behaviour	1	1 x final written warning
Assault	2	1x Dismissal 1x Demotion
Dishonesty	3	2 x Final written warning 1x not guilty
Absenteeism	5	1x Dismissal 1x 1 month suspension without pay 1x verbal warning 1x written warning 1x Final written warning
Failure to comply with NPA Policy	18	17 X Written warning 1 X Final written warning
Misappropriation / Theft of NPA property	1	1 Closed.
Misrepresentation	1	1x Written warning
Abscondment	1	1X Dismissal.
Abuse of power	1	1x 3 months suspension without pay.
Total	68	

The Integrity Management Unit (IMU) of the NPA is responsible for the investigation of cases of possible integrity breaches by NPA staff. During the year they received a total of 61 cases. 40 cases were reported to them directly and 21 were reported via a hotline established to protect the identify of whistle blowers.

Table 49: Reported cases of integrity breaches

Type of integrity breach	Number of reported cases
Unethical conduct/misconduct	23
Corruption	25
Conflict of interest	5
Prosecutorial discretion	4
Defeating the ends of justice	3
Irregular appointment	1

Table 50: Status of cases ethical breach matters that were dealt with in the period

Status of the case	Number in the state
Cases Finalised	32
Case unsubstantiated	5
Cases referred	15
Pending	9

The IMU is responsible for managing the Code of Conduct for prosecutors on behalf of the National Director of Public Prosecutions. During the period no amendments were made to the Code of Conduct.

Annexure: Technical indicators and descriptions

Indicator Title	Number of criminal court cases finalised including ADRM
Short definition	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	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 [including stopping of prosecution in terms of section 6(b) of the Criminal Procedure Act 1977, (CPA)] 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 on conclusion of the case against all accused
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	491 397 by 2017/18
Indicator responsibility	DNDPP: NPS

Indicator Title	Conviction rate
Short definition	The percentage of cases finalised with a verdict in which a guilty verdict was obtained
Purpose/importance	Internationally viewed as an indicator of the success of the prosecution. Also regarded by South African public as such
Source/collection of data	High courts, regional court, district courts and SCCU central data sheets
Method of calculation	The percentage of cases finalised with a guilty verdict (including Sec 57A of the CPA) divided by the number of cases finalised with a verdict. Conviction rate is measured at the date of sentencing or verdict of not-guilty irrespective of the date when the plea was entered Only cases dealt with by the organised crime prosecutors are measured
Data limitations	Manual system
Type of indicator	Output
Calculation type	Percentage based on cumulative verdict cases for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance	HC 87%, RC: 74%, DC: 88% Cybercrime: 74%, Complex commercial crime: 93%, Organised crime: 90%, Sexual offences: 69% and Trio crime: 85%, Violent protest and industrial action: 74%, PCLU: 80% by 2017/18
Indicator responsibility	DNDPP: NPS

Indicator Title	Number of operational TCCs
Short definition	The number of operational TCCs
Purpose/importance	To measure the availability of the services provided at a TCC
Source/collection of data	TCC operational status verification document

Method of calculation	The total number of TCCs which meet the requirements of an operational TCC on the last date of the reporting period
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance	65 by 2017/18
Indicator responsibility	DNDPP: NPS
Indicator Title	Number of completed forfeiture cases
Short definition	Number of forfeiture or confiscation orders obtained
Purpose/importance	It measures the reach of the impact that the AFU has by indicating how many cases were dealt with
Source/collection of data	Case report form that is captured on a central data sheet
Method of calculation	The total number of cases in which a forfeiture or confiscation order was obtained in the reporting period
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance	440 by 2017/18
Indicator responsibility	DNDPP: AFU

Indicator Title	Value of freezing orders
Short definition	Value of assets frozen in freezing orders obtained in the reporting period
Purpose/importance	It measures the total value of the proceeds or instrumentalities of crime removed from the control of criminals and provides an indication of the depth of the impact of the AFU
Source/collection of data	Case report form that is captured in a central data sheet
Method of calculation	The total estimated net market value of assets frozen by orders obtained in the reporting period. The value is estimated and counted at the time when the initial order is obtained
Data limitations	The estimate of the value is made at the time when not all the information is available
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	R1.2 billion by 2017/18
Indicator responsibility	DNDPP: AFU

Indicator Title	Number of witnesses and related persons harmed, threatened or killed whilst on the witness protection programme
Short definition	Witnesses and related persons harmed, threatened or killed whilst on the witness protection programme
Purpose/importance	Measures the effectiveness of the witness protection programme
Source/collection of data	Central datasheet
Method of calculation	The total number of witnesses and related persons that were harmed, threatened or killed during the reporting period by a person or persons from whom they were protected either directly or through an agent, while on the NPA witness protection programme

Data limitations	Manual system
Type of indicator	Output
Calculation type	Non-cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	No witnesses or related person must be harmed, killed or threatened
Indicator responsibility	DNDPP: Administration and OWP

Indicator Title	Criminal court cases finalised with verdict in the lower courts
Short definition	Number of criminal court cases finalised with verdict in the reporting period (irrespective of the date of enrolment) in the lower courts
Purpose/importance	Measures the ability to deal with the demand for trial cases
Source/collection of data	NPA daily court return
Method of calculation	Criminal court 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 the Criminal Procedure Act 1977, Act No. 51 of 1977. 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
Reporting cycle	Quarterly
New indicator	No
Desired performance	333 060 for 2017/18
Indicator responsibility	DNDPP: NPS

Indicator Title	Number of criminal court cases finalised in the lower courts through ADRM
Short definition	Number of cases finalised in the reporting period through the use of alternative dispute resolution mechanisms such as diversion and informal mediation, irrespective of the date of enrolment in the lower courts
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	NPA daily court return and diversion register
Method of calculation	The case is measured as finalised on the date on which the case is withdrawn from the criminal court roll or the matter is removed from child justice court roll (whichever applicable). In the case of a diversion this is done after the certificate for the successful completion of the diversion programme is received and in the case of an informal mediation after the case was successfully mediated
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	158 337 by 2017/18
Indicator responsibility	DNDPP: NPS

Indicator Title	Number of persons convicted of corruption or offences related to corruption where the amount benefited per case is more than R5 million
Short definition	Conviction of persons for the offence of corruption and/or offences relating to corruption where the amount benefitted exceeds R5 million per case. The total amount benefited in the case is measured i.e. amounts benefited by all accused in case are added up
Purpose/importance	To measure whether serious corruption is being successfully dealt with by the JCPS
Source/collection of data	Corruption Register
Method of calculation	Number of persons convicted of corruption in the reporting period, where the amount benefited exceeds R5 million per case
Data limitations	Information is provided manually
Type of indicator	Outcome
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	100 by 2017/18 (cumulative)
Indicator responsibility	DNDPP: NPS

Indicator Title	Number of government officials convicted for corruption or offences related to corruption
Short definition	Conviction of government officials that committed offences relating to corruption
Purpose/importance	To measure whether serious corruption is being successfully dealt with inside the government sphere
Source/collection of data	NPA Daily Court return
Method of calculation	The total number of government officials convicted of corruption in the reporting period
Data limitations	Information is provided manually
Type of indicator	Outcome
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	1000 by 2017/18 (cumulative)
Indicator responsibility	DNDPP: NPS

Indicator title	Percentage of cases reported at a TCC that is referred to court for prosecution
Short definition	Percentage of matters reported at a TCC that is referred to court for prosecution where TCC case managers are appointed
Purpose/importance	To reflect the volume of cases which resulted in a prosecution that case managers are responsible for in line with TCC model and performance contract
Source/collection of data	Site coordinators register and the case manager's register
Method of calculation	The number of sexual offences TCC case dockets referred to court by the case management for prosecution divided by the total number of matters reported at the TCCs (which resulted in a police docket)
Data limitations	Manual system
Type of indicator	Output
Calculation type	Non-cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	52% by 2017/18
Indicator responsibility	DNDPP: NPS

Indicator Title	Number of freezing orders
Short definition	Total number of freezing orders obtained in the reporting period
Purpose/importance	It measures the reach of the impact of the AFU, and indicates in how many cases alleged criminals were affected by its actions
Source/collection of data	Case report form is captured on a central data sheet
Method of calculation	The total number of cases 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. In complex cases with several legs the head of the AFU may approve in writing that the separate legs be counted separately. Any other orders are 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 but will be reflected in the AFU success rate. If an order is refused after litigation, it is counted as finally lost. If it is redone, the new order granted will be counted (see also definition of success rate)
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	327 in 2017/18
Indicator responsibility	DNDPP: AFU

Indicator Title	Value of completed forfeiture cases (Rm)
Short definition	Estimated value of the assets of which the persons subject to the order is likely to be deprived as a result of confiscation or forfeiture orders obtained
Purpose/importance	It measures the amount of proceeds likely to be finally removed from the possession of criminals and provides an indication of the depth of the impact made by the AFU
Source/collection of data	Case report form is captured on a central data sheet
Method of calculation	The total estimated net market value of all property of which persons are to be deprived as a result of confiscation or forfeiture orders obtained in the reporting period. The value is estimated and counted on the date when the order is obtained. It includes the value of property returned by a person by an agreement reached as a result of the litigation in terms of POCA
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	R260 million by 2017/18
Indicator responsibility	DNDPP: AFU

Indicator Title	Value of freezing orders relating to corruption where the amount benefited per case is more than R5m
Short definition	Value of the freezing orders relating to the offence of corruption and/or offences related to corruption where the amount benefited exceeds R5 million per case
Purpose/importance	To measure whether serious corruption is being successfully dealt with by the JCPS
Source/collection of data	Monthly office report is captured on the serious corruption register
Method of calculation	The total estimated net market value of assets frozen in the reporting period, relating to cases involving the offence of corruption and/or offences relating to corruption where the amount benefited exceeds R5 million. The value is estimated and counted at the time when the initial order is obtained

Indicator Title	Indicator Title
Data limitations	Information is provided manually
Type of indicator	Outcome
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	R1 billion by 2017/18 (cumulative R4.866 billion) ¹
Indicator responsibility	DNDPP: AFU

Indicator Title	Value of recoveries in terms of POCA
Short definition	The amount of recoveries including payments paid to CARA or victims of crime in terms of court orders in terms of the Prevention of Organised Crime Act (POCA)
Purpose/importance	It provides an indication of the total value of cash or property recovered by the NPA which is paid either identified victims who have suffered financial loss due to crime, or to CARA.
Source/collection of data	The proof of payment is reflected on the case report form and captured on the central data sheet. CARA payments are obtained from the CARA bank statements.
Method of calculation	The total amount paid or the net market value of property transferred to the victims of crime or CARA during the reporting period resulting from orders or agreements obtained. This refers to orders obtained as a result of litigation in terms of POCA. It is measured only when the proof of payment is received
Data limitations	Confirmation of payment may be received late from the victims
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	Yes
Desired performance	R190 million by 2017/18
Indicator responsibility	DNDPP: AFU

Indicator Title	Success rate
Short definition	The percentage of cases litigated by the AFU in which it was ultimately successful
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	Combined figure derived from registers of cases finally won and cases finally lost
Method of calculation	The total number of cases finally won divided by 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 NPA, ie after all appeal or other legal processes have been finalised. It is counted at the date when the case became finally won or lost. Cases finally lost include all cases abandoned after an order was obtained. If a lost case is redone it is not finally lost and the new order will not be counted again
Data limitations	The data may occasionally be received late when there is a delay in receiving a judgment after it is made
Type of indicator	Output
Calculation type	Non-cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	93% in 2017/18
Indicator responsibility	DNDPP: AFU

Indicator title	Value of recoveries relating to corruption where the amount benefited is more than R5 million (proceeds of crime and government losses)
Short definition	The amount of recoveries in cases relating to corruption where the amount benefited exceeds R5 million per case
Purpose/importance	To measure whether very serious cases of corruption is being dealt with successfully by the JCPS
Source/collection of data	Monthly office reports are captured on the serious corruption register
Method of calculation	The total amount paid or the net market value of property transferred to the victims of crime or CARA during the reporting period resulting from orders or agreements obtained in respect of corruption or related offences where the amount benefitted is more than R5m per case. This refers to orders obtained as a result of litigation in terms of POCA. It is measured only when the proof of payment is received
Data limitations	Information is provided manually
Type of indicator	Outcome
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	R60m in 2017/18 R180m cumulative
Indicator responsibility	DNDPP: AFU

Indicator title	Value of recoveries for government officials convicted of corruption and other related offences (proceeds of crime and government losses)
Short definition	The amount of AFU recoveries in cases from all government officials in offence of corruption and/or offences related to corruption.
Purpose/importance	To measure whether the state is successful in recovering the proceeds of corruption from government officials in cases dealt with by the JCPS
Source/collection of data	Monthly office reports are captured on the serious corruption register
Method of calculation	The total amount paid or the net market value of property transferred to the victims of crime or CARA during the reporting period resulting from orders or agreements obtained in respect of corruption or related offences by government officials. This refers to orders obtained as a result of litigation in terms of POCA. It is measured only when the proof of payment is received
Data limitations	Information is provided manually
Type of indicator	Outcome
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	R400 000 2017/18, cumulative R1m
Indicator responsibility	DNDPP: AFU

Indicator Title	Percentage of witnesses and related persons that walked off the witness protection programme
Short definition	Witnesses and related persons that walked off the programme without prior notification
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	The number of witnesses and related persons that walk off the programme in the reporting period divided by the total number of witnesses and related persons on the programme
Data limitations	Manual system
Type of indicator	Output
Calculation type	Non-cumulative
Reporting cycle	Monthly
New indicator	No
Desired performance	1.5% or less in 2017/18
Indicator responsibility	DNDPP: Administration and OWP

JUSTICE IN SOCIETY SO
THAT PEOPLE CAN LIVE IN
FREEDOM AND SECURITY



Victoria & Griffiths Mxenge Building,
123 Westlake Avenue, Weavind Park
Silverton, Pretoria, 0001
Private Bag X752, Pretoria, 0001
Head Office: 012 845 6000
Email: communication@npa.gov.za
www.npa.gov.za

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