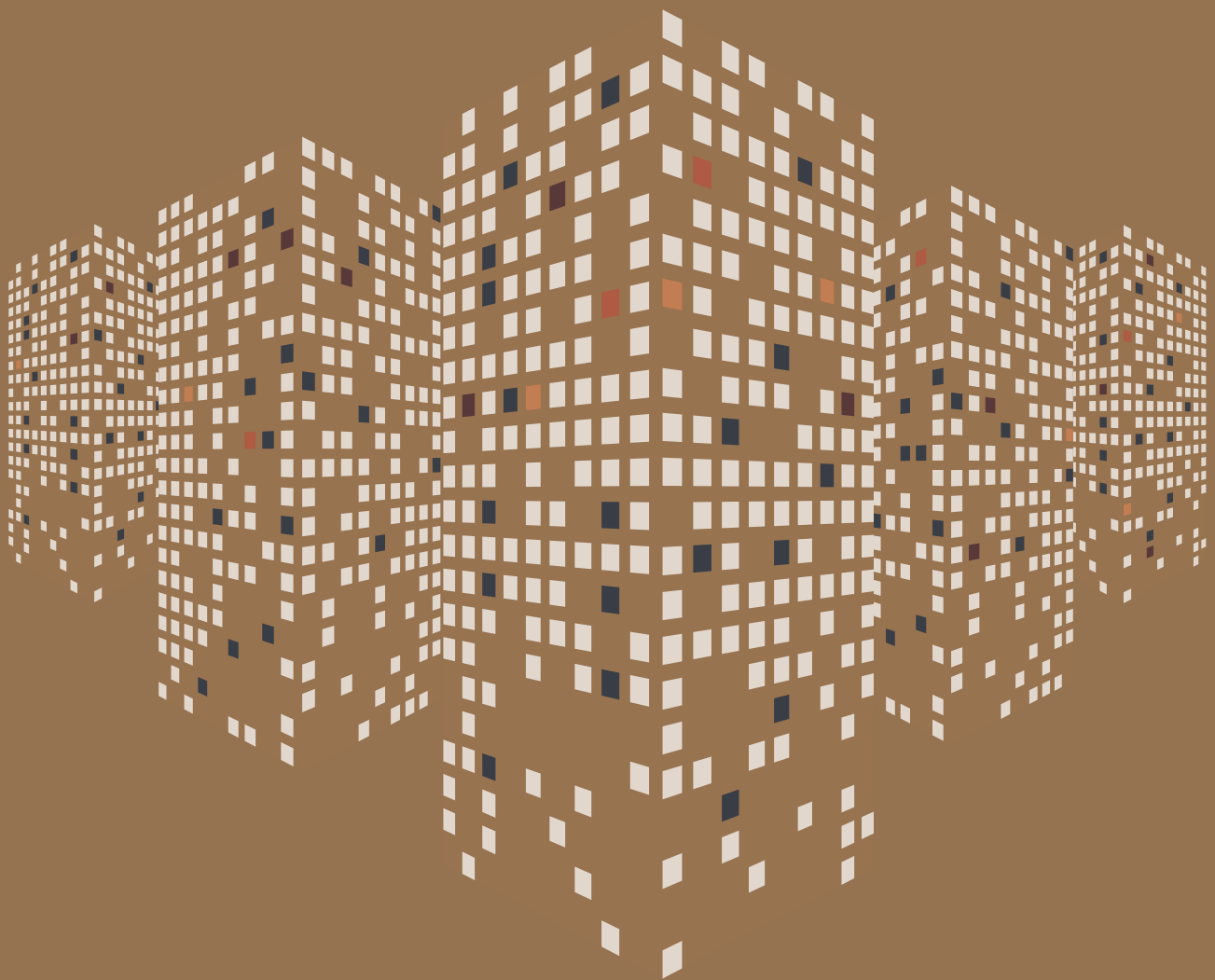


ANNUAL **REPORT**

NATIONAL PROSECUTING AUTHORITY

2019/20



Rebuilding an Independent, Professional, Accountable and Credible NPA



NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS'
REPORT ON THE OPERATIONS OF THE NATIONAL
PROSECUTING AUTHORITY IN TERMS OF SECTION
22(4)(g), READ WITH SECTION 35(2)(a), OF THE
NATIONAL PROSECUTING AUTHORITY ACT 32 OF 1998

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List of Abbreviations/Acronyms

<i>4IR</i>	Fourth Industrial Revolution
<i>ACFP</i>	Advanced Certificate: Forensic Practitioner South Africa
<i>ACTT</i>	Anti-Corruption Task Team
<i>ADRM</i>	Alternative Dispute Resolution Mechanisms
<i>AENE</i>	Adjusted Estimates of National Expenditure
<i>AFU</i>	Asset Forfeiture Unit
<i>AG</i>	Auditor-General
<i>APP</i>	Annual Performance Plan
<i>AU</i>	African Union
<i>BRICS</i>	Brazil, Russia, India, China and South Africa
<i>CARA</i>	Criminal Assets Recovery Account
<i>CCM</i>	Coordinating Committee Meetings
<i>CCPCJ</i>	Commission on Crime Prevention and Criminal Justice
<i>CFE</i>	Certified Fraud Examiner
<i>CFO</i>	Chief Financial Officer
<i>CI</i>	Crime Intelligence
<i>CITES</i>	Convention on International Trade in Endangered Species
<i>CJA</i>	Child Justice Act
<i>CJS</i>	Criminal Justice System
<i>ConCourt</i>	Constitutional Court
<i>COP</i>	Community of Practice
<i>CPO</i>	Court Preparation Officer
<i>COSP8</i>	Conference of State Parties to the United Nations Against Corruption
<i>CPS</i>	Crown Prosecution Service
<i>CTED</i>	Counter-Terrorism Executive Directorate
<i>CTFC</i>	Counter-Terrorism Functional Committee
<i>DDPP</i>	Deputy Director of Public Prosecutions
<i>DEFF</i>	Department of Environment Forestry and Fisheries
<i>DG</i>	Director-General
<i>DHA</i>	Department of Home Affairs
<i>DIRCO</i>	Department of International Relations and Cooperation
<i>DNDPP</i>	Deputy National Director of Public Prosecutions
<i>DoJ&CD</i>	Department of Justice and Constitutional Development
<i>DPCI</i>	Directorate for Priority Crime Investigation
<i>DPE</i>	Department of Public Enterprises
<i>DPP</i>	Director of Public Prosecutions
<i>DPSA</i>	Department of Public Service and Administration
<i>ECMS</i>	Electronic Case Management System
<i>ENE</i>	Estimates of National Expenditure
<i>ERAP</i>	Emergency Response Plan
<i>EWP</i>	Employee Wellness Programme

<i>FATF</i>	Financial Action Task Force
<i>FBI</i>	Federal Bureau of Investigation
<i>FIC</i>	Financial Intelligence Centre
<i>FLASH</i>	Firearms, Liquor and Second-Hand Goods Control
<i>GBV</i>	Gender-Based Violence
<i>GBVF</i>	Gender-Based Violence and Femicide
<i>HRM&D</i>	Human Resource Management and Development
<i>HSBC PLC</i>	Hongkong and Shanghai Banking Corporation Limited
<i>ICRC</i>	International Committee of the Red Cross
<i>ICT</i>	Information and Communication Technology
<i>ID</i>	Investigating Directorate
<i>IJS</i>	Integrated Justice System
<i>IMF</i>	International Monetary Fund
<i>IMU</i>	Integrity Management Unit
<i>INTERPOL</i>	International Criminal Police Organisation
<i>IO</i>	Investigating Officer
<i>IOT</i>	Internet of Things
<i>IPID</i>	Independent Police Investigative Directorate
<i>IPSO</i>	Innovation and Policy Support Office
<i>ISIL</i>	Islamic State of Iraq and the Levant
<i>ISM</i>	Information System Management
<i>JCPS</i>	Justice, Crime Prevention and Security Cluster
<i>KZN</i>	KwaZulu-Natal
<i>LAD</i>	Legal Affairs Division
<i>LPC</i>	Legal Practice Council
<i>MLA</i>	Mutual Legal Assistance
<i>MoU</i>	Memorandum of Understanding
<i>MPTT</i>	Missing Persons Task Team
<i>MTEF</i>	Medium-Term Expenditure Framework
<i>MTSF</i>	Medium Term Strategic Framework
<i>NACS</i>	National Anti-Corruption Strategy
<i>NATJOINTS</i>	National Joint Operational and Intelligence Structure
<i>NBIF</i>	National Biodiversity Investigators Forum
<i>NCSMT</i>	National Coordinating Strategic Management Team
<i>NDP</i>	National Development Plan
<i>NDPP</i>	National Director of Public Prosecutions
<i>NGO</i>	Non-Governmental Organisation
<i>NISCWT</i>	National Integrated Strategy to Combat Wildlife Trafficking
<i>NPA</i>	National Prosecuting Authority
<i>NPA Act</i>	National Prosecuting Authority Act
<i>NPC</i>	National Project Committee

<i>NPS</i>	National Prosecutions Service
<i>NSP</i>	National Strategy Plan
<i>NT</i>	National Treasury
<i>OECD</i>	Organisation for Economic Cooperation and Development
<i>ONDPP</i>	Office of the National Director of Public Prosecutions
<i>OWP</i>	Office for Witness Protection
<i>PAYE</i>	Pay as you earn
<i>PFMA</i>	Public Finance Management Act
<i>PRASA</i>	Passenger Rail Agency of South Africa
<i>POCA</i>	Prevention of Organised Crime Act
<i>PCLU</i>	Priority Crimes Litigation Unit
<i>PP</i>	Public Protector
<i>SAN</i>	Storage Area Network
<i>SANDF</i>	South African National Defence Force
<i>SAPS</i>	South African Police Service
<i>SARB</i>	South African Reserve Bank
<i>SARS</i>	South African Revenue Services
<i>SASSETA</i>	Safety and Security Sector Education and Training Authority
<i>SITA</i>	State Information Technology Agency
<i>SCA</i>	Supreme Court of Appeal
<i>SCCU</i>	Specialised Commercial Crime Unit
<i>SDL</i>	Skills Development Levy
<i>SDPP</i>	Special Director of Public Prosecutions
<i>SIU</i>	Special Investigating Unit
<i>SLA</i>	Service Level Agreement
<i>SOCA</i>	Sexual Offences and Community Affairs
<i>SOE</i>	State-Owned Enterprises
<i>SOP</i>	Standard Operating Procedure
<i>SORMA</i>	Sexual Offences and Related Matters Act
<i>SSA</i>	State Security Agency
<i>STC</i>	Specialised Tax Component
<i>STU</i>	Specialised Tax Unit
<i>TCC</i>	Thuthuzela Care Centre
<i>TIP</i>	Trafficking in Persons
<i>TRC</i>	Truth and Reconciliation Commission
<i>T&S</i>	Travel and Subsistence
<i>UAE</i>	United Arab Emirates
<i>UCT</i>	University of Cape Town
<i>UIF</i>	Unemployment Insurance Fund
<i>UK</i>	United Kingdom
<i>UN</i>	United Nations

<i>UNCAC</i>	United Nations Convention Against Corruption
<i>UNODC</i>	United Nations Office on Drugs and Crime
<i>UNSCR</i>	United Nations Security Council Resolutions
<i>UNTOC</i>	United Nations Convention against Transnational Organised Crime
<i>USA</i>	United States of America
<i>UWC</i>	University of Western Cape
<i>VAT</i>	Value-Added Tax
<i>VIS</i>	Victim Impact Statement
<i>WPP</i>	Witness Protection Programme

NATIONAL DIRECTOR'S **FOREWORD**

Annual Report 2019/20





Adv S Batohi

NATIONAL DIRECTOR'S FOREWORD

Annual Report 2019/20

During my first briefing before the Parliament's Portfolio Committee on Justice and Correctional Services, after taking up the position as National Director of Public Prosecutions in February 2019, the Committee members asked me for a turnaround plan for the NPA.

Prior to accepting this immense responsibility, I had a sense of the gravity of the challenges and the nature of threats that the organisation was facing. The National prosecuting Authority (NPA) was in crisis. The words I used during my interview for the position were 'the NPA is akin to a house on fire'.

As I became immersed in the inner workings of the NPA and began to understand the challenges the NPA faced, it became clearer that the crisis was deeper than I had anticipated. The NPA's reputation was in tatters and it was accused of political meddling in prosecutorial decision making.

The focus for the year under review was to understand, explore, plan and implement a viable turnaround strategy. Important aspects of the extensive organisational groundwork that we have engaged in, are reflected in this annual report. This includes implementing immediate turnaround measures that were within our organisational control. Through the establishment of an Innovation and Policy Support Office (IPSO), I created an incubation space where innovative and creative ideas can be developed to allow the NPA to rebuild its structures and reputation.

During my first internal address after my appointment, I expressed my commitment to visit all the Director of Public Prosecutions' (DPP) divisions and lower court clusters across the country, to listen to, understand and engage with staff at different levels. From these engagements, and from a staff survey,

various priorities were identified and have been or are in the process of being addressed. An inadequate budget was one of the most notable challenges. Moreover, it became evident that staff morale was at an all-time low, due to lack of capacity and resources.

With the support of National Treasury (NT) and the Department of Justice and Constitutional Development (DoJ&CD), we engaged in a rigorous budget advocacy process. During the Adjusted Estimates of National Expenditure (AENE) process, these efforts led to additional budget allocations to the NPA. Thanks to this critical budget injection, we were able to commit to implementing game-changing resourcing interventions. After recruitment had not taken place for over four years, the NPA embarked on a massive recruitment drive. To date, more than 900 posts have been advertised and are in various stages of the appointment process. We procured more than 4 000 laptops for prosecutors and support staff to ensure that they have the necessary tools for their jobs. After a four-year moratorium, we also revived the Aspirant Prosecutor Programme with the assistance and support of the DoJ&CD. After an initial internal intake of 98 candidates, a much larger intake was advertised a few months later.

Despite the challenges relating to insufficient budget allocations, the NPA has continued to deliver services to the people of South Africa. This was made possible by the resilience and commitment of NPA staff. Having anticipated the effect this might have on employees' well-being, the Employee Wellness Programme became a focal point despite resource constraints. Going forward, the EWP will need to be up-scaled to further support the emotional, mental and physical wellbeing of staff.

We convened two national conferences for senior and middle management respectively. Here, staff were given an opportunity to engage in a new vision and approach for the NPA. My vision for the NPA is ambitious – to rebuild and lead an effective prosecution service that

ensures justice for all South Africans through independent, professional and victim-centric service delivery. As a collective in the NPA, we resolved that we would work together to build an organisation that is independent, professional, accountable and credible.

At a time when our country is engulfed in one of the most pressing challenges facing the economy – corruption – we were found wanting. We did not have adequate capacity and skills to deal with the highest levels of corruption. When corruption flourishes, there can be no meaningful economic growth, sustainable development, significant investment and effective service delivery. As a result, all South Africans suffer, especially the poor, who rely on state services for their wellbeing and survival. For too long, corrupt politicians, government employees and business leaders have acted with impunity to plunder the country's scarce resources. They have done so in plain sight in the most brazen ways imaginable. In some instances, allegations of complicity, aiding and abetting the corruption and State Capture within the law enforcement agencies, and indeed within the NPA, were exposed.

The Investigating Directorate (ID) was proclaimed by Presidential Proclamation on 4 April 2019; the Investigating Director was appointed a month later. Established in the Office of the National Director, in terms of Section 7 of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998) (NPA Act), the ID was given a specific mandate to focus on State Capture-related corruption that emerged from the various commissions of enquiry, including the State Capture Commission led by the Deputy Chief Justice, Judge Raymond Zondo.

As a temporary intervention, the ID has had its share of systematic challenges and obstacles in its establishment, and operations, an expected impact of an intervention of this nature. The ID was not established as a silver bullet to deal with corruption, but as an urgent and focused

intervention in addition to other long-term corruption-fighting measures. It is therefore important for us to strengthen the capacity and skills in the Specialised Commercial Crime Unit (SCCU) and the Asset Forfeiture Unit (AFU), which deal with corruption. We started with this process in earnest in the period under review.

Furthermore, we have been in intensive engagements with our partners in the Justice, Crime Prevention and Security (JCPS) Cluster. During an Anti-Corruption workshop held last year, comprehensive plans were drafted to strengthen collaboration and cooperation that will direct our corruption-fighting capacity on a more emboldened path going forward. We have made a concerted effort to ensure that the NPA continues to participate actively in the JCPS structures, and to work collectively to fix our broken Criminal Justice System (CJS) so that it is in a better position to serve the victims of crime.

When I assumed the position of NDPP, I indicated that part of fostering the desired change to restore credibility for the NPA would be to make changes right at the top and introduce fresh new, dynamic leadership. For various reasons, this was not quick or easy to effect, but important progress is being made in this regard with the appointment of the Director of Public Prosecutions in KwaZulu-Natal, the Deputy National Directors of Public Prosecution for NPS and AFU, and the Special Advisor in my office.

The seeds of the many interventions that were planted over the past year will start to bear fruit in the following financial year, as well as over the medium and long term. This is reflected in the comprehensive strategies and plans that have been laid out in the NPA's Strategic Plan 2020-2025 and the Annual Performance Plan (APP) 2020/21.

The introduction of the global COVID-19 pandemic to South Africa's already ailing economy will have a negative bearing on the government's budget as a whole. As the NPA is a purely service-driven organisation, over 80% of the budget is allocated to employee compensation. As such, the budgetary strain will remain. However, a new normal is being created with new ways of working and use of technology is being explored to ensure quality service delivery.

Acknowledgements

The past year was one of trying to revive the passion of staff, rebuilding a reputable organisation staffed by highly skilled individuals and working towards fulfilling the NPA's vision of an independent, professional, accountable and credible organisation. Like all roads worth travelling, it was challenging, exciting and rewarding. The leadership team, management at all levels and staff in the NPA have shown resilience under pressure and a commitment to work towards an organisation that we can all be proud of once again.

I am grateful for the leadership and support from the Minister of Justice and Correctional Services, Mr Ronald Lamola, as the executive authority over the NPA. The NPA's mandate and operational space is outside of politics. It is therefore reassuring that Minister Lamola always shows commitment to provide the necessary support while observing his constitutional obligations on the NPA's independence. This appreciation is also extended to the Deputy Minister, Mr John Jeffery, and the Acting Director-General (DG) of Justice, Mr JB Skosana.

A handwritten signature in black ink, appearing to read 'Shamila Batohi', with a stylized, cursive script.

Shamila Batohi

National Director of Public Prosecutions



NATIONAL PROSECUTING AUTHORITY

MANDATE AND STRUCTURE

Annual Report 2019/20

The National Prosecuting Authority (NPA) derives its mandate from Section 179 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996). 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) of the Constitution requires the NPA to exercise its functions without fear, favour or prejudice.

As head of the NPA, the National Director of Public Prosecutions (NDPP) is responsible for ensuring that the NPA delivers on its constitutional obligations. To fulfil this mandate, the NDPP is supported by four Deputy National Directors of Public Prosecutions (DNDPPs), 11 Directors of Public Prosecutions (DPPs) as the NPA heads at various seats of the high courts, the Investigating Director, and five Special Directors of Public Prosecutions (SDPPs).

In the year under review, the NPA operated with one permanently appointed DNDPP; the remainder of the DNDPPs served in an acting capacity. Five out of 11 DPPs and all the SDPPs served in an acting capacity.

To deliver on this mandate, the NPA has structured itself as seen on the following page.



National Director of Public Prosecutions
Adv S Batohi



Deputy National Director of
Public Prosecutions:
National Prosecutions Service
Adv RJ De Kock



Deputy National Director of
Public Prosecutions:
Asset Forfeiture Unit
Adv O Rabaji-Rasethaba



Deputy National Director of
Public Prosecutions:
Legal Affairs Division
Adv N Mokhatla



ADPP
Mpumalanga
Adv M Luphondo



DPP
Gauteng Pretoria
Adv S Mzinyathi



DPP
Gauteng Johannesburg
Adv A Chauke



DPP
North West
Adv M Noko



ADPP
Free State
Adv N Somaru



ADPP
Northern Cape
Adv AJ Botha



ADPP
Eastern Cape
(Grahamstown)
Adv L Sakata



DPP
Eastern Cape
(Mthatha)
Adv B Madolo



DPP
KwaZulu-Natal
Adv E Zungu



ADPP
Western Cape
Adv N Bell



DPP
Limpopo
Adv I Thenga



Special Advisor
Adv MC Mhaga



Acting Special Director
of Public Prosecutions:
Asset Forfeiture Unit
Adv P Biseswar



Acting Head of
Administration &
Special Director
of Public Prosecutions
Adv KH van Rensburg



Director of Public
Prosecutions:
Investigating
Directorate
Adv HT Cronje



Acting Special Director
of Public Prosecutions:
Priority Crimes
Litigation Unit
Adv C Macadam



Acting Special Director
of Public Prosecutions:
Sexual Offences and
Community Affairs
Adv P Smith



Special Director
of Public Prosecutions:
Specialised Commercial
Crime Unit
Vacant

Legislative and Policy Mandates

The NPA is the sole entity responsible for the institution of prosecutions on behalf of the state, and is legally bound by various pieces of legislation. The following key legislation relates to the NPA's activities:

- National Prosecuting Authority Act, 1998 (Act No. 32 of 1998) (NPA Act);
- Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- Criminal Law (Sexual Offences and Related Matters) Act, 2007 (Act No. 32 of 2007) (SORMA) (Sexual Offences Act);
- Child Justice Act, 2008 (Act No. 75 of 2008);
- Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act No. 27 of 2002);
- Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004);
- Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998) (POCA);
- Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013);
- Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004; (Act No. 33 of 2004); and
- Witness Protection Act, 1998 (Act No. 112 of 1998).

The National Development Plan (NDP): 2030 sets the long-term strategic vision for South Africa. The Medium-Term Strategic Framework (MTSF): 2014-2019 outlines sub-outcomes towards achieving the goals outlined in the NDP: 2030. For the JCPS Cluster, the 2014-2019 sub-outcomes support the primary outcome of 'all people in South Africa are and feel safe'. The sub-outcomes relevant to the NPA include reduced levels of contact crime, an efficient and CJS, secure cyberspace, ensuring domestic stability and reduced corruption in the public and private sectors. These are discussed in the NPA Annual Performance Plan (APP) for 2019/20.

The NPA APP has the following three strategic objectives:



Objective 1

Ensure successful prosecution



Objective 2

Ensure that profit is removed from crime

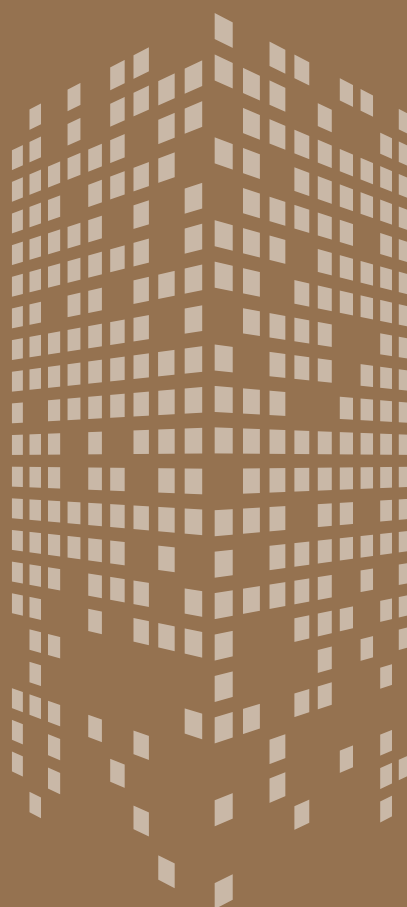


Objective 3

Ensure vulnerable and intimidated witnesses are successfully protected

EXECUTIVE SUMMARY

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Investigating Directorate

The Investigating Directorate (ID) was proclaimed by the president on 4 April 2019. The Investigating Director, Adv Hermione Cronje, was appointed by the president with effect from 20 May 2019, for a period of five years.

The ID is a temporary operational intervention established to deal with the immediate crisis caused by the corruption and compromise (also referred to as the 'capture') of state institutions, such as the security cluster (including the criminal justice sector and the intelligence agencies), State-Owned Enterprises (SOEs) (such as Eskom and Transnet) and other key government departments and agencies.

Authorisations signed by the Investigating Director were informed by referrals in terms of Section 27 of the NPA Act and testimonies before commissions of inquiry, such as the State Capture Commission. These investigations merge various reported cases (currently more than 70 case dockets) to ensure the effective focus and prioritisation of investigations.

The ID has categorised its key focus areas – the security sector, SOEs and high-level public and private corruption. This report reflects on key investigations and court appearances under each focus area in the year under review.

National Prosecutions Service

The function of the National Prosecutions Service (NPS) constitutes the very core of the business of the National Prosecuting Authority (NPA) and bears the responsibility for general prosecutions and the appeals that may follow. This role is fulfilled in all of the different levels of courts throughout the country, ranging from the Magistrates courts to the Constitutional Court. The NPS is also responsible for resolving criminal matters outside of the formal trial process through alternative dispute resolution mechanisms (ADRM), setting admission of guilt fines for offences and considering dockets provided by the police where persons have not been charged. Whilst the current reporting period commenced with challenges relating to budgetary constraints and a high vacancy rate, an additional budget was allocated in the course of the year allowing for the filling of a number of vacant posts. Since the additional allocation in the Adjusted Estimates of National Expenditure (AENE) was received late in the financial year, it was not possible to fill all vacant posts in time to make an impact on the performance of the NPS.

A general trend evident from the NPS performance data is the reduction in numbers of cases referred to the unit. The NPS does not function in isolation, and is highly dependent on service providers external to the NPA to fulfil its mandate. A reduction in cases referred from the South African Police Service (SAPS) therefore has a direct impact on the number of cases available for finalisation. In order to mitigate this, the NPS will improve on stakeholder engagements to foster stronger relationships with all stakeholders. This will culminate in initiatives such as joint prioritisation of corruption matters between the NPS and the Directorate of Priority Crime Investigation (DPCI), amongst others.

Cases and Appeals Finalised in the High Courts

Over the year under review, the high courts received 830 new cases and finalised 860 cases, compared to the 1 064 cases during the previous financial year. The decline in cases finalised in the high courts is as a result of a decrease in staff dealing with these cases. However, the number of appeals finalised in the high courts, which includes appeals to the Supreme Court of Appeal (SCA) and the Constitutional Court, increased by 20% (from 1 722 to 2 071) compared to the previous financial year.

Cases Finalised in the Regional Courts

The regional court prosecutors enrolled 50 967 new cases during the reporting period, which is a decline of 1.1% (584 cases) from the previous financial year. Despite this decline, the regional court prosecutors still made a positive impact on serious crime by obtaining an 82.5% conviction rate. The prosecutors finalised 27 971 cases and obtained 21 246 convictions from 25 744 verdict cases. A total of 2 227 cases were resolved through ADRM.

Cases Finalised in the District Courts

The district court prosecutors deal with the majority of cases (93% of the caseload) and have direct contact with the community, and are thus seen as the face of the NPA. During the reporting period, the district court prosecutors enrolled 662 807 new cases, 77 691 (10.5%) fewer cases compared to the 740 498 new cases enrolled during the previous financial year. Despite this decline, the regional court prosecutors still made a positive impact by finalising 339 488 cases, comprising of 205 121 verdict cases (60% of the total number of cases) and 134 367 cases through ADRM (40% of the total number of cases).

Vulnerable Victims of Crime

The rights and needs of vulnerable victims of crime were advanced through initiatives such as the Thuthuzela Care Centres (TCCs) and the Court Preparation Programme. The success of the TCCs is grounded in the services delivered to victims of crime. Notably, the TCCs assisted 35 469 victims during the current reporting period. This represents 911 more victims than the 34 558 victims assisted in the previous financial year, an increase of 2.6%. A 74.9% conviction rate was achieved in TCC reported cases, which is a 1.4% improvement compared to the previous financial year.

The NPA participates in the Emergency Response Action Plan (ERAP), and the National Strategy Plan (NSP), which emanated from this initiative, as part of the presidential focus to address the scourge of violence against women and children. During the third quarter, several pertinent initiatives regarding the investigation and prosecution of cases were implemented with relevant stakeholders. As a result, an improved conviction rate was achieved. Further to this, more severe sentences were imposed by the courts in the TCC reported cases prosecuted, not like that in the APP.

Sexual Offences

A focus on the victims of sexual crimes helps combat and prevent further violence against women and children. As a result of this increased focus, and the establishment of dedicated courts, the conviction rate in sexual offence cases increased, despite the staffing constraints experienced in the first part of the financial year. During the current reporting period, 5 451 sexual offence cases were finalised with a verdict, and 4 098 convictions were obtained. The 75.2% conviction rate represents the highest number of successfully prosecuted cases achieved in the past five years.

Environmental Crime

Environmental crime is an emerging crime with links to transnational organised crime, which necessitated that it remains a key focus area for the NPS. During the financial year a 97.1% conviction rate in environmental crime cases was obtained, by finalising 883 cases with a verdict and obtaining 857 convictions. The dedicated focus on rhino poaching and related matters resulted in a 100% conviction rate, by finalising 41 verdict cases with 59 accused.

Money Laundering

Prosecutors achieved a 98.6% conviction rate, with 72 convictions in the 73 cases in which a verdict was rendered.

Cybercrime

A special focus was placed on the prosecution of cybercrime cases in order to curb this growing international phenomenon. Prosecutors continued to maintain a high conviction rate by 320 convictions in 325 cases finalised with a verdict. This represents a conviction rate of 98.5%.

Violent Protests and Industrial Action

In this focus area, the NPS managed to secure 93 convictions in 100 cases finalised, with a 77.5% conviction rate. This represents an improvement in both the conviction rate and finalisation rate compared to the previous financial year.

Corruption

The fight against corruption was intensified systematically during the year under review, with several short- and long-term initiatives being implemented. This resulted in an increase of 17.8% in the number of persons convicted of either public and/or private sector corruption. During the current reporting period, a 94% conviction rate was obtained through the finalisation of 422 cases with a verdict, and the conviction of 416 persons.

Asset Forfeiture Unit

The Asset Forfeiture Unit (AFU) depends on the NPA and other role-players to proceed with asset forfeiture applications. This also holds true for Chapter 6 applications in terms of the Prevention of Organised Crime Act (POCA), so-called civil forfeiture, as the AFU is still required to show criminality in its applications when it is targeting the proceeds or instrumentalities of the crimes.

The 2019/20 financial year was a challenging year for the AFU, with a high vacancy rate for advocates at 30%, and for financial investigators and analysts in excess of 50%. The primary function of these investigators is to identify and trace assets, a central function enabling the AFU to confiscate or forfeit assets. This situation has had a major impact on the AFU's ability to meet its targets.

During the year under review, the AFU completed 417 forfeiture cases against an ambitious target of 510. The AFU obtained forfeiture and confiscation orders to the value of R455 million against a target of R2.5 billion. The value of completed forfeiture cases in the 2018/19 financial year was R3.13 billion due

to two finalised high-value cases. Notably, the amount of confiscated/forfeited goods was, save for the exceptional cases in the previous financial year, the highest the AFU has obtained since the 2013/14 financial year.

The unit obtained 326 freezing orders to the value of R1.95 billion. The positive result can be attributed to a focus on Chapter 6 preservation. This resulted in exceeding targets by 329% compared to the value of R455 million frozen in 2018/19. However, in this period, with the vacancy rate of 30% and the continuous re-allocation of work to existing staff, the AFU reached a stage where it was not sustainable. As stated above, the other factor contributing to the situation is the time required to finalise serious corruption and State Capture matters.

Office for Witness Protection

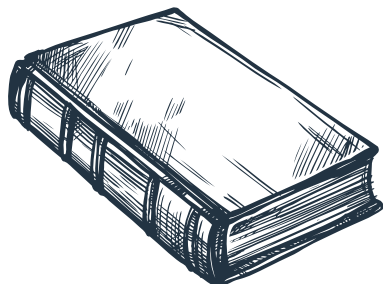
The Office for Witness Protection (OWP) is established in the Department of Justice and Constitutional Development (DoJ&CD), with the Director-General (DG) as the accounting officer, but is administered by the NPA. The OWP is an independent covert office and all its functions are classified as secret to ensure the integrity of the programme and the safety of witnesses.

The OWP maintained its 18-year record of no witness or related person threatened, harmed or killed while on the programme, with a 100% successful discharge and resettlement rate. The OWP continues to make a critical contribution to serious cases emanating from the Anti-Corruption Task Team (ACTT), NPS, South African Police Service (SAPS), Special Investigating Unit (SIU) and Priority Crimes Litigation Unit (PCLU).

ACTIVITIES IN THE OFFICE OF **THE NATIONAL DIRECTOR**

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ACTIVITIES IN THE OFFICE OF THE NATIONAL DIRECTOR

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In recent years, the NPA has suffered serious reputational damage, as well as a loss of trust and credibility. Like many other state organs, the organisation became a weakened state institution. A submission to the Zondo Commission of Inquiry posits that criminal justice agencies, including the NPA, were improperly manipulated and influenced to entrench State Capture.¹ This view of the manipulation of criminal justice agencies was echoed by the Mokgoro Enquiry, which found that: 'over the years, the NPA has been beleaguered by allegations of malfeasance and political interference.'² The Mokgoro Enquiry appealed to the NPA to free itself from all external pressures that threaten prosecutorial independence and the rule of law, the very foundation of the country's constitutional democracy.

The NPA's reputation was tarnished when outside influence and interference came into

play, by seemingly compromising prosecutorial independence. A series of court decisions³ noted the improper conduct of certain NPA officials, especially at the highest echelons of leadership. It is crucial to restore the NPA's credibility, and the integrity of prosecutors is central to upholding constitutional values.⁴

The Innovation and Policy Support Office

The Innovation and Policy Support Office (IPSO) works in collaboration with existing NPA structures, and partners with academic institutions, civil society and private sector organisations, to identify national and international good practices to address key challenges facing the NPA.

With a small, multidisciplinary team of internal and external specialists, IPSO fosters

innovation and operational excellence through experimentation, assessment, research and learning from within and outside of the NPA. Innovation focuses on building effective solutions that add value for the people affected – the NPA’s staff, victims of crime, court users, the NPA’s partners and the public at large. The NPA has a memorandum of understanding (MoU) with the Institute for Security Studies and the Open Society Justice Initiative to provide technical assistance in terms of the establishment of the IPSO, as well as to initiate activities to drive the work streams and special projects indicated below.

IPSO serves as a key vehicle to drive the following outcomes within the NPA:

- Policy, strategy and operations in the NPA that are supported by evidence from research, data analysis, international good practices, and expanding new, creative efforts developed by the NPA’s staff.
 - A culture of innovation that permeates the organisation and that actively influences greater organisational efficiency, effectiveness and integrity.
 - The NPA becomes an institution whose leadership and actions are forward-looking in mapping out strategy and operations to embrace new challenges and opportunities in a proactive manner.
 - The NPA is an evidence-driven organisation that is able to meet its established output and outcome targets, together with its CJS partners.
- IPSO works primarily through the NPA’s business units, which lead the implementation of change efforts. It also provides a strategic support function to the NDPP and senior leadership of the NPA. Activities include the following work streams:
- Office of Complaints and Ethics: Supporting the establishment of this new structure.
 - NPA autonomy: Considering options through research and discussions with other independent government entities.
 - Professional development and training for prosecutors: Establishing a new, future-focused strategy that builds skills, independence and ethical conduct, as well as increasing the use of digital technology and experiential learning methodologies.
 - Communications: Establishing a new communications strategy and approach so that all levels of the NPA communicate effectively with their key stakeholders – including crime victims, the public, the media, and civil society organisations.
 - Performance measurement and management: Supporting the NPA in designing systems to gather, analyse and utilise data to improve organisational performance.
 - A donor coordination and oversight mechanism: Establishing a mechanism to coordinate the NPA’s needs with funding offers and in-kind support from external sources. Also, establishing an independent oversight system to eliminate the potential for external interference in the independence of the NPA and its prosecutors.
 - Victim-centred prosecution services: Supporting the NPA in understanding international best practices and strengthening the TCCs, the NPA’s own flagship project that serves the victims of sexual and gender-based violence.
 - Budget advocacy: Supporting the NPA in retaining and expanding its government funding under challenging fiscal conditions, as well as assisting the NPA in demonstrating the value of government investments in its services.
 - Fund-raising and donor liaison: Linking donor interests with units in the NPA that can benefit from external support.
 - COVID-19: Helping the NPA to understand how the epidemic affects its environment and services, developing action plans to ameliorate related effects of these, as well as contributing to the government’s Economic Recovery Plan.

i. Senior Management Strategic Planning Conference, May 2019

The NPA senior leadership gathered in Pretoria from 27 to 29 May 2019 to engage on the NPA's five-year strategic plan to fulfil its constitutional mandate and societal responsibilities. In addition the event provided an opportunity for the senior leadership to reflect on the past and rally behind the new vision for the NPA to revitalise and rebuild the organisation.

The Strategic Planning Conference hosted NPA staff, representatives from a range of other criminal justice government departments and agencies, as well external subject specialists. The Conference aimed to motivate and empower senior NPA officials, as well as to identify how the NPA will respond to its challenges and opportunities. The event looked at current and anticipated changes in the NPA's operating environment. It also presented an opportunity to engage with key partners, understand their concerns and their own plans, and seek opportunities for collaboration.

The conference followed a troubled decade during which the NPA had six different NDPPs three of whom were acting in the post. This discontinuity in leadership, public controversy and uncertainty, and critical funding and staff shortfalls, undermined the NPA's long-term strategic planning amidst widespread allegations of corruption in the CJS, however, the NPA is now firmly on a path to renewal.

Numerous well-documented⁵ operational factors affect the performance of the CJS, including that of the NPA. Poor collaboration and cooperation between the CJS role-players is one of the key factors that undermining the CJS's performance. This is evidenced by the following non-exhaustive list of observations made by some of the NPA stakeholders at the Strategic Planning

Conference⁶:

- Ineffective case-flow management meetings;
- Delays in finalising investigations, and the unavailability of dockets and witnesses in courts;
- A slow turnaround time on cases submitted to AFU and NPS prosecutors for decisions; and
- A lack of skills transfer and/or knowledge sharing from AFU advocates to investigators regarding complicated and high-profile cases, which has a negative impact on the investigations of these types of cases.

The NPA's analysis of performance trends⁷ found that, while the organisation has consistently maintained good conviction rates (over time), it is performing less satisfactorily in terms of the actual number of convictions attained.

A key factor that has had an adverse effect on the NPA's performance has been the high vacancy rate due to a fiscally induced freeze on recruitment since 2015. Moreover, the Aspirant Prosecutor Programme⁸ was suspended. As at 31 March 2019, the NPA vacancy rate was at 21% (1 142 out of 5 550)⁹, almost a quarter of the total establishment.

ii. Regional Strategic Planning Roll-outs

At the end of the first Strategic Conference, it was decided that the similar sessions will be rolled out to all eleven NPA divisions. The aim of the rollouts was to engage a far broader range of NPA staff through regional conferences, to motivate staff and get the entire organisation to rally around the same goals. The regional conferences focused on encouraging staff to share their innovations and good practices in the context of the severe resource limitations faced by the NPA. Furthermore, the aim was to improve communications by establishing permanent systems through which staff

can communicate their innovations and good practices, as well as their challenges and concerns to the provincial and national offices. The NPA divisions and their DPPs were given ownership of the regional conferences, and allowed to run each in terms of their own needs, in line with the direction set by the NPA Head Office. The provincial rollouts conducted between September to December 2019, were a huge success.

iii. Innovation Teams

Through the 11 conferences noted above, the NPA's divisions established Innovation Teams. These multi-disciplinary teams will document local innovations in their divisions, which will be shared across the NPA. The key aim is to address local problems through innovative thinking and operations. Innovations training will be provided to these teams in the next financial year.

iv. Anti-corruption Workshop

The NPA leadership held an Anti-corruption Workshop from 9 to 10 September 2019. The workshop's main aim was to improve coordination among a range of units and divisions, including the new capacities provided by the Investigating Directorate (ID) and the planned Office of Complaints and Ethics. This discussion mapped out the NPA's approach to addressing corruption and the inter-linkages between the different structures that are responsible for these prosecutions. Structural and capacity difficulties were also documented.

v. NPA Strategic Planning Workshop

The final event of 2019 was the Strategic Planning Workshop held from 28 October to 1 November. This planning meeting focused on developing the NPA's draft five-year strategic plan developing a consensus around the strategic pillars that underpin the NPA's vision, namely Independence, Professionalism, Accountability and

Credibility, and accommodating these key elements in the strategic plan. During this event the leadership pursued an approach that focused on measuring impact and quality to get to "10X thinking and 10X impact" in order to serve the victims of crime in the way they deserve.

vi. Lower Courts Management Conference

This conference, held in March 2020, was organised by the NPS. IPSO provided support by commissioning research and presentations by Jean Redpath of the University of the Western Cape (UWC) on the performance of the CJS at the lower court level, and Miguel La Rota, an international expert who established a similar unit to IPSO in his home country, Colombia. La Rota's presentation focused on Colombia's approach to the development and implementation of a prosecutorial prioritisation policy.

vii. Study Trip to the United Kingdom (UK)

In December 2019, IPSO led a team of eight senior staff members from the NPA on a five-day study trip to the UK. The trip was organised in collaboration with the UK's Foreign and Commonwealth Office in South Africa. As the first of a set of planned study trips, it was selected particularly for similarities in mandates and legal systems between the NPA and the Crown Prosecution Service (CPS). The CPS hosted NPA staff for three days, during which several aspects of its work were profiled, including specialised prosecutions, training, communications, and oversight. The week also included visits to the UK's National Crime Agency, as well as presentations from the UK's police oversight structure and the CPS Inspectorate. NPA staff compiled a joint report highlighting what they had learned and made recommendations for the NPA based on the experience.

viii. Ethical Leadership and Public Administration Training

This training was provided by the Nelson Mandela School of Public Governance at the university of Cape Town (UCT). Financial support in the form of a donation from the UK was secured to implement and test this four-day course for the NPA senior managers.

ix. Fund-raising and Donor Coordination

IPSO as part of the Office of the National Director of Public Prosecutions, matched donor funding with internal NPA needs, to draft funding proposals and donor reporting, and to report in-kind donations to the DoJ&CD for declaration in the Annual Financial Statements.

Technology and Digitisation of the NPA

The uptake of technology to support business processes and strategic decision-making remains a challenge in the NPA and the broader CJS. This is reflected in prosecutors' limited utilisation of the Electronic Case Management System (ECMS).¹⁰ There are various reasons for this, including the following:

- Non-registration as ECMS users;
- A lack of time due to a high workload;
- A lack of training;
- Inadequate, unreliable/unstable network connections; and
- Hardware and software issues.

This must change and the NPA is determined to resolve the barriers to ensure the optimal use of technology in the organisation. There are concrete plans in place in the NPS as well as it regards the IJS with the intent to modernise the CJS.

Procurement of a Business Intelligence Tool

The Business Intelligence Tool is a platform that aims to streamline and improve methods of providing dashboards and data extraction for analysis. Procurement of the tool is in progress. This tool will support the evidenced-based decision-making in the organisation and will serve to improve management information overall in the NPA.

Information and Communication Technology (ICT) Infrastructure

The uptake of mobile device usage and remote-working collaboration within the NPA has further added to the demand for cybersecurity preventative measures. These include, but are not limited to, protecting the organisation from cyber threats, unauthorised access and unsolicited intrusions (hacking). In this context, the Information System Management (ISM) service centre has focused its core initiatives on prevention and protection, mobility, and ease of usage of ICT services. Digitisation and automation of manual processes also remain a key priority for the NPA in its effort towards the Fourth Industrial Revolution (4IR).

- **ICT security:** The prevention and protection measures implemented and upgraded over the 2019/20 financial year ranged from unauthorised intrusion detection and blocking of unsolicited data, to information loss prevention measures (encryption). Recovery of data is pivotal, and the ISM has upgraded its enterprise-wide backup management and data recovery management systems which compliment overall risk management processes.
- **Upgrade of ICT infrastructure:** The networks were fully upgraded to meet optimal business requirements, except

for the TCC sites. In this regard, a State Information Technology Agency (SITA) proposal is awaited. Furthermore, infrastructure platforms were upgraded, and legacy equipment was decommissioned.

- **User authentication software upgrade:** Microsoft Active Directory is a platform used for creating, authenticating and authorising users and workstations on the network, and enforcing security policies. The platform was successfully upgraded.
- **Procurement of Storage Area Network (SAN):** Procurement was concluded and equipment delivered. The SAN is used for data repository, and has reached the end of its life-cycle. Therefore, an upgrading project is underway.
- **End-user equipment refresh project:** New user workstations and printers were procured to replace the current ageing ones. The deployment of laptops to prosecutors received specific focus.
- **Collaborative tools:** The adoption of collaborative tools, namely video conferencing and Microsoft Teams systems, increased sharply and assisted in reducing travel costs.
- **Internet of Things (IoT):** Mobility and portability are on the rise in business. Smart devices/phones are used widely for daily operations, such as retrieving e-mails and meeting collaborations. The constant emergence of new technologies and the adoption of IoT has added to the demand for proficient ICT infrastructures. Cloud-based technologies for collaboration and storage was deployed in the 2019/20 financial year. In the foreseeable future, the common transactional 'physical' infrastructure will be supplemented with virtual platforms for electronic case management.
- **Implementation of e-books:** The following copies of e-books were implemented:

Hiemstra's Criminal Law, Litigation Skills for SA Lawyers by Marnewick, Criminal Law (6th ed) by CR Snyman, and SA Law of Evidence by Zeffert.

National Prosecuting Authority Staff survey

In February 2019, the NPA commissioned a staff survey to give all staff the opportunity to express their views on a range of issues, including job satisfaction, operational experiences, and expectations of the new NDPP, etc.¹¹. The survey made the following key findings:

- i. The shortage of staff and/or high vacancy rates were identified as the number one factor undermining the effectiveness of the NPA, followed by inadequate budgets and poor collaboration, respectively;
- ii. There is a low staff morale within the NPA, mainly due to the lack of credibility and the consequences of the budget constraints;
- iii. The appointment and promotion of staff were identified as the first priority for the NDPP to improve staff morale, followed by the recognition of hard work and the improvement of salaries;
- iv. 91% of the staff who participated in the survey indicated that the NDPP needs to act firmly to revitalise the NPA, even if this means not having a 'business-as-usual' approach to managing the NPA; and
- v. 95% of the staff who participated in the survey indicated that the NDPP should adopt a zero-tolerance approach in respect of unethical and corrupt behaviour by any member of the NPA.

These findings, in congruence with external commentary and management views, suggests that the NPA needs to:

- i. Restore its damaged reputation, thereby rebuilding public trust and confidence;
- ii. Place high importance on ethical conduct and integrity, and deal decisively with allegations of corruption;

Work with other CJS role-players to address the inefficiencies within the organisation as well as in the CJS in general;

- iii. Enhance collaboration with civil society; and
- iv. Change from a 'business-as-usual' mind-set.

The NDPP has therefore identified a number of interventions aimed at addressing the state of the NPA, and in response to the findings of the staff survey. These interventions commenced in the financial year under review, but will continue for the remainder of the current MTSF period. These include:

a. Restoring the NPA's credibility:

Addressing the NPA's leadership gaps is central to restoring the NPA's reputation. Senior appointments were made in the new financial year, which will bring much needed stability and lead the process of revitalising the organisation. In the year under review, there was an enhanced focus on the quality of service delivery, transparency and accountability, which is critical to operationalise the NPA's values in the daily practices and routines of all its employees. During the period under review, planning began towards the establishment of a new public complaints and ethics structure for the NPA, as required in section 22(5) of the NPA Act.

b. Enhancing organisational capacity:

Building organisational capacity requires a dedicated focus on internal business processes and systems for efficient and effective service delivery. Systems and processes will be reviewed to ensure operational effectiveness. The NPA successfully advocated for funding to fill critical vacancies. Unfortunately, the additional allocation in the AENE process was received late in the financial year, and the NPA was unable to spend the full allocation. However, significant progress was made in recruiting capacity for specifically the ID, AFU and the Specialised Commercial Crime Unit (SCCU). Together

with the DoJ&CD and National Treasury (NT), the NPA will ensure that the management of donor funding in the NPA is transparent, and in line with NT prescripts. A structure will be set up and procedures put in place to ensure that there is proper oversight of donor funding, as well as to address the issue of perceptions of attempts to unduly influence the NPA.

c. Strengthening organisational performance through skills development:

The NPA's capacity to deliver depends largely on its ability to develop and retain its talent pool of employees. The NPA has various programmes in place to help develop its talent and build on the current complement of staff skills. With resource constraints and austerity measures impeding these initiatives, innovation is required to develop skills – especially in the areas of mentoring and career pathing. There will be a new strategic approach emphasising the use of technology and experiential learning which will help steer the NPA into a new era of professional development.

d. Promoting sound workplace relations and employee well-being:

The well-being of employees, the NPA's most valued resource, remains a priority – especially given the harsh realities to which many prosecutors are subjected to in the courts while executing their duties. The implementation of the Employee Wellness Programme (EWP), which includes emotional, mental and physical well-being, continued to gain momentum with the onset of COVID-19. The strengthening of this capacity will be a priority for the NPA.

e. Strengthening the NPA's communications strategy:

The NPA is in the process of developing a new, holistic and proactive internal and external communications strategy. The revised NPA communications approach

will address proactive and responsive communication with key audiences. Interventions include, engagement with staff on a regular basis, conducting staff surveys on a regular basis, as well as reviewing and updating communications infrastructure, such as the NPA website and intranet. To build public trust and credibility, emphasis will be placed on NPA staff members' face-to-face engagements with victims of crime and members of the public.

f. NPA complaints and ethics mechanism:

The NPA's founding legislation provides for an internal NPA complaints mechanism. Drawing on international good practices *vis-à-vis* prosecutorial complaints mechanisms and the imperative that staff in the NPA adhere to the highest standards of ethical behaviour, the NPA will establish such a mechanism.

g. NPA autonomy:

The NPA will engage with the Minister of Justice and Correctional Services to strengthen its constitutional mandate and take steps to become an independent entity within the South African Government, detaching from the DoJ&CD's administrative and budget processes. This involves a thorough analysis of the legal framework and proposals for the necessary amendments to give effect to this. A key aspect of this work will be assessing the financial and practical implications, and the management thereof.

h. Community prosecutions:

The level of crime in South Africa continues to be high, notwithstanding the CJS's efforts to combat it. It is increasingly apparent that the traditional prosecution approach, on its own, is not sufficient to deter criminals from committing crime and to improve public confidence in the CJS. As a result, the NPA has resolved to broaden its mandate beyond its traditional prosecution-centred strategy, to also focus on developing a

more long-term community-oriented problem-solving approach to crime problems. Hereby, prosecutors work with respective communities and other stakeholders to identify the predisposing factors of specific crimes, and to devise community-oriented solutions to resolve such crimes¹². Commonly known as 'community prosecutions', the concept helps to mitigate pressures on the courts. This is done by reducing and preventing crime through various activities, such as public education and outreach, partnership activities with government departments to improve service delivery, and facilitating collaboration between those concerned with crime at community level, among others. Towards the end of the financial year, the NPA resolved to formalise the concept of community prosecution and implementation will start from the 2020/21 financial year.

i. Implementation of the ECMS:

The Integrated Justice System project has largely failed to address the needs of the CJS. Proper governance structures need to be put in place to ensure its successful development and implementation across the CJS.

The ECMS system was rolled out in the lower courts to deal with first-appearance cases. Further modules dealing with decision dockets, child justice matters, non-police matters, electronic investigating diaries and case plans for complex cases are in the process of being developed. The ISM has embarked on training prosecutors on the use of the system. To date, 300 lower prosecutors have been trained. The following modules were developed during the year, and are undergoing integration testing at Integrated Justice System (IJS): Decision Dockets, Investigating Officers' (I/O) Diary, Non-SAPS cases, SCCU and PCLU modules.

A case management system for the TCCs was developed and implemented. The system allows for the capturing of victim and incident details in sexual offences matters. The objective is to ensure that case managers can keep victims up to date on the progress of the case until a court outcome. The system is integrated with ECMS criminal cases.

Challenge: The TCC sites have a limited bandwidth size, which has resulted in a slow response rate. A proposal request has been sent to SITA to upgrade all TCC links and we are awaiting feedback in this regard.

International and Regional Cooperation in Criminal Matters

The NPA coordinates and renders the necessary assistance in executing incoming formal requests for mutual legal assistance (MLA) where the Minister of Justice has, in terms of section 7 of the International Cooperation in Criminal Matters Act, 1996 (Act No. 75 of 1996), approved the request. Upon receipt from the Central Authority (DG: Justice), these matters are coordinated by the ONDPP.

Execution of requests is rendered by the Offices of the DPPs in whose respective jurisdictions the evidence sought is located. The ONDPP also receives informal MLAs in the form of enquiries from the Central Authority and the NPA assists by providing the necessary information. The NPA dealt with seven enquiries during the period under review.

In cases of incoming requests for extradition, the NPA renders the necessary assistance once the Minister has issued a notification in terms of Section 5(1) of the Extradition Act, 1962 (Act No. 67 of 1962) and the Central Authority has referred the matter to the NDPP, unless the formal request for extradition is preceded by a request for provisional arrest. The Office of the DPP to whose area of jurisdiction the fugitive is traced, works with the International Criminal

Police Organisation (INTERPOL) officers to ensure that an extradition enquiry to determine the extradition ability of the subject is held before a magistrate. The concurrent request for the extradition of Mr Manuel Chang, the former Minister of Finance of the Republic of Mozambique, is one example of this type of provisional arrest request. This request for extradition by Mozambique and the USA has been finalised. However, Mr Chang's surrender to the requesting State has been delayed due to the post-extradition hearing litigation.

The outgoing requests for MLA and extradition in cases where South Africa is the requesting state are initiated by the relevant Office of the DPP, and are submitted to the ONDPP for consideration and approval by the NDPP. The transmittal of requests for MLA is necessitated by the fact that material evidence is often located beyond the borders of the Republic and it is sought for successful prosecution. Moreover, when perpetrators of crime and convicted persons are not found within the Republic's borders transmittal of outgoing requests for extradition are needed.

The international and regional component dealing with such matters started the reporting period with 117 pending files on MLA and extradition requests. The NPA received 92 new requests for mutual legal assistance. Of these requests, 86 were received from foreign states, and six were initiated by South Africa and transmitted to foreign states. The Office also received 26 new requests for extradition; 14 of these were received from foreign states and 12 were initiated by South Africa. A total of 42 requests for mutual legal assistance and six requests for extradition were finalised in this period.

Challenge: The outgoing requests for MLA and extraditions are highly challenging in nature due to the complexities and delays involved in the execution and/or processing of such MLA and extradition requests. The NPA is effecting several interventions to aid and fast-track these requests.

Ensuring Efficiency in International Relations, Treaty Negotiations and Related Matters

Work on the conclusion of a MoU with the Federal Prosecuting Authority of Brazil has commenced and is still ongoing. This is as a way of strengthening relations and enhancing cooperation in the fight against transnational crimes. The NPA assisted the DoJ&CD with concluding MLA and Extradition Treaties between South Africa and the Peoples Republic of Bangladesh. Furthermore, the NPA has been working closely with the Chief Directorate: International Legal Relations of the DoJ&CD, as well as the Department of International Relations and Cooperation (DIRCO), to conclude MLA and Extradition Treaties with the Governments of the Republic of Mozambique and the Federal Republic of Brazil. The process of finalising the Extradition Treaties is at an advanced stage.

The international and regional cooperation component participates in the NPA Anti-Trafficking in Persons Task Team. This process ensures that the relevant legislation is implemented and that prosecutors are trained on the all relevant aspects, including the transnational nature of trafficking-related offences and international cooperation. The component has reviewed the *Training Manual for Prosecutors Relating to International Cooperation*. The NPA has participated in the inter-departmental meetings coordinated by DIRCO on international engagements. To this end, the NPA has inter alia participated in the 8th Session of the Conference of State Parties to the United Nations Convention Against Corruption (CoSP8 of the UNCAC) held in December 2019 in Abu Dhabi. The NPA held a number of bilateral meetings with other countries and entities on the margins of the CoSP8 to deal with issues relating to undue delays and/or non-execution of requests for international cooperation. South Africa has transmitted 14 requests for MLA on State Capture matters to eight countries. To date, evidence has been received from the Netherlands.

Memoranda of Understanding with Partners

The following MoUs were concluded during the 2019/20 financial year:

- **Financial Intelligence Centre (FIC) and the NPA:** The purpose of this MoU is to regulate, strengthen and formalise matters of mutual cooperation, collaboration, assistance and exchange of information between the parties, in the fulfilment of their respective legal responsibilities and obligations as prescribed by the governing legislation.

In addition, the MoU made provision for the establishment of a Tactical Operations Group and a Monitoring Review Committee, as well as a Consultative Committee. All of these were established and are operational.

- **South Africa Revenue Service (SARS) and NPA:** On 12 September 2019, the NDPP and Mr EC Kieswetter, the Commissioner of the SARS signed a revised MoU between the two parties. This MoU embodies an understanding between the parties to establish a working methodology in connection with the investigation and prosecution of tax-related criminal cases reported to the SAPS to ensure that the matters are dealt with as effectively as possible.

To ensure the effective and efficient implementation of the principles enshrined in the MoU, it was agreed that an NPA/SARS National Coordinating Committee and the Specialised Tax Unit (STU) /SARS Working Committee be established. The Working Committee has already met several times and it is envisaged that the Coordinating Committee will meet soon.

Various task teams are currently working on MoUs to be signed between with the following entities: The South African Reserve Bank (SARB), the SIU, Directorate for Priority Crime Investigation (DPCI) and the Auditor-General (AG).

Representations and Complaints

The NDPP has delegated the powers, duties or functions as envisaged in Section 22 (2)(c) of the NPA Act, to the DNDPP: Head of NPS. Only sensitive or contentious matters, are reviewed by the NDPP.

A total of 1 208 representations files were opened during the reporting period; 606 files were finalised, while 602 files were pending as at 31 March 2020. A total of 91 matters falling in the general stream of prosecutions were formally reviewed. The NDPP reviewed seven of these matters, while the remaining 84 were reviewed by the delegated DNDPP. In five instances, the DPP's decision was overturned or not confirmed.

The NDPP issued 33 directions in terms of Section 22(3) of the Act, for offences committed as a whole or partially within the area of jurisdiction of one DPP to be investigated and tried within the area of jurisdiction of another DPP, where this was in the interest of the administration of justice.

High-profile Cases Reviewed by the National Director of Public Prosecutions

When the NDPP joined the NPA, there were 'controversial' cases that required her immediate attention. Based on the representations submitted by the accused, it was pivotal to determine whether or not there was a case against them after her predecessors had taken the decision to charge them. Their representations were to the effect that the cases against the accused were instituted for political expediency, a charge that held a sceptre over the independence and credibility of the NPA with respect to the prosecutorial decisions taken. These following matters refer:

Cato Manor Matter

The NDPP decided to withdraw the racketeering charges against General Johan Booysen and others in the so-called Cato Manor matter. General Booysen and the other accused had launched a High Court application to have the decisions of former acting NDPPs, Adv Nomgcobo Jiba and Adv Shaun Abrahams, to issue authorisations on racketeering offences in terms of Section 2(4) of POCA, on 17 August 2012 and 16 February 2016 respectively, set aside.

In considering the position of the NPA in the matter, she needed to ensure that the previous decisions were valid. The NDPP appointed a panel to review the decisions and to provide her with an opinion and recommendations. The panel consisted of two DPPs, a Deputy Director of Public Prosecutions (DDPP) and two Senior State Advocates. Notably, the State Advocates were part of the organised crime component of the NPA, with particular expertise in racketeering prosecutions.

With regard to the authorisations, the panel's unanimous conclusion was that a proper case was not made out on the papers presented and thus recommended that the authorisations of both previous NDPPs, in terms of Section 2(4) of the POCA, were invalid. After careful consideration of the report and other relevant material, as well as a discussion with the panel, the NDPP concluded that the said authorisations were invalid.

With respect to the rest of the offences, which include charges of murder, housebreaking, theft and defeating the ends of justice, the NDPP referred the dockets back to the DPP in KwaZulu-Natal (KZN) to re-assess the evidence in each case to decide whether or not to proceed with the prosecution against the individuals who may be implicated in those matters. The DPP KZN was also asked to contact the family of the deceased to explain the implications of this decision. It is important

for the families in question to know that where there is evidence that there has been unlawful action by the SAPS that resulted in the death of their loved ones, and that those responsible will be held accountable, so that the victims of those crimes receive justice. These matters are still under consideration by the DPP KZN.

South African Revenue Services 'Rogue Unit' Matter

The NDPP decided in February 2020 to withdraw charges against Ivan Pillay, Andries Janse van Rensburg and Johan van Loggerenberg, who were accused in the so-called 'Rogue Unit' case.

Pillay and Van Rensburg were charged with the alleged contravention of Section 49(1) of the Regulation of Interception of Communication and Provision of Communication Related Information Act, 2002 (Act No. 70 of 2002) (Count 1). Furthermore, Pillay and Van Loggerenberg were charged with the alleged contravention of Section 10 of the Prevention and Combatting of Corrupt Activities Act, 2004 (Act No. 12 of 2004) (Count 2). They were alternatively charged with contravening Section 3 of the said Act. The defence submitted representations to the NDPP in support of a request to have the decision to prosecute reviewed, whereafter the NDPP appointed a review panel to consider the matter, and to provide her with an opinion and recommendations. The panel comprised two DPPs and a DDPP.

After careful assessment of the evidence and other relevant material, the unanimous conclusion of the panel in respect of all counts was that there were no reasonable prospects of a successful prosecution. Thus, it was recommended that all charges against the accused be withdrawn.

The NDPP agreed with the panel that there were no reasonable prospects of a successful prosecution in this matter. It was thus decided to withdraw charges against all the accused.

The NDPP subsequently received correspondence from a political party, asking for reasons for the withdrawal and indicating their intention to challenge the decision in court. The NDPP welcomes such action and keenly awaits the court outcome in this regard.

Investigating Directorate

The ID was proclaimed by the President of South Africa on 4 April 2019. The Investigating Director, Adv Hermione Cronje, was thereafter appointed by the president with effect from 20 May 2019, for a period of five years.



Adv HT Cronje

The ID is a temporary operational intervention established to deal with the immediate crisis caused by the corruption and compromise (also referred to as the 'capture') of state institutions. Focus areas include the security cluster (including the criminal justice sector and intelligence agencies), state-owned enterprises (SOEs) (such as Eskom and Transnet) and other key government departments and agencies. The ID is not intended to be a long-term solution, as noted by the President in his February 2019 State of the Nation Address. The criminal justice entities with the legal mandate to address corruption retain the responsibility to investigate, prosecute and recover the proceeds of corruption.

The following section provides a high-level account of the progress made in operationalising the ID to deliver on its mandate.

Authorisations by the Investigating Director

The authorisations were informed by referrals in terms of Section 27 of the NPA Act and testimonies before the commissions of inquiry, such as the State Capture Commission. These investigations merge various reported cases (currently more than 70 case dockets) to enable the effective focus and prioritisation of investigations.

The ID has categorised its key focus areas, namely the security sector; high-level public and private corruption and SOEs.

Security Sector

This area includes investigations into serious, high-profile or complex corruption matters involving high-ranking SAPS officials, with a special focus

on individuals who are still employed in the service and have on-going contracts. With the support of the National Commissioner, the ID focused on the following matters:

- On 20 November 2019, Major General Solomon Lazarus, the Chief Financial Officer (CFO) of Crime Intelligence (CI), was convicted of corruption and receiving undue gratification. Outstanding issues of declassification were resolved with the National Commissioner of Police and the ID is in a position to enrol a prosecution of further high-ranking officials responsible for looting from the CI Secret Fund.
- On 17 December 2019, the ID arrested a lieutenant general in charge of the SAPS Technology Management Services. The matter was postponed to 29 June 2020. The final indictment in this matter will then serve before court.
- A former acting national commissioner, a former provincial commissioner, four more generals and a brigadier are scheduled to appear before court on 15 June 2020. This is based on their alleged involvement in awarding a corrupt tender in which SAPS paid R65 million for assets worth no more than R12 million (partly due to COVID-19-related problems).
- The ID finalised a racketeering charge sheet that arose out of fraud and corruption committed during the 2010 World Cup procurement in KZN.
- The head of the ID authorised investigations into serious, high-profile or complex corruption within the NPA, in terms of Section 28(1) of the NPA Act.

High-Level Public and Private Corruption

- **Estina:** Investigations into serious, high-profile or complex fraud and money laundering pertaining to awarding tenders and/or contracts as part of public private partnerships between the Free State Provincial Government and the Estina Company (Pty) (Ltd) from 2008-2018. A final forensic report was received in November 2019, which comprehensively addressed the flow of funds between the department and accounts within South Africa. A charge sheet that addresses the criminal activities that arose from this report was prepared. After intervention by the executive authority, the ID received cooperation from its counterparts in the United Arab Emirates (UAE). This gave the ID renewed hope that it would receive the requested evidence to broaden the net of accused persons. This cooperation has unfortunately been hampered by the worldwide lockdown.
- **Bosasa Group:** Investigations into serious, high-profile or complex corruption involving the Bosasa Group and its affiliated entities. The docket was disclosed to the accused and the matter will be before court on 29 July 2020. The corporation has been liquidated and hearings are currently underway by liquidators that will likely impact on further prosecutions of the corporation. The ID is in the process of enrolling prosecutions that flow from the testimony led at the State Capture Commission. Warning statements have already been taken from two of the major suspects. The ID is working closely with counterparts in law

enforcement, the SIU, the FIC and SARS to recover the proceeds of crime.

State-Owned Enterprises

- **Eskom:** Investigations into serious, high profile or complex corruption within Eskom. The ID is working closely with the SIU, the FIC, SARS and the SARB on a number of key corruption-related matters under investigation at Eskom.
- ***Prosecutions arising from the Eskom build project:*** S v Hlakudi and others was enrolled in December 2019 and postponed to 24 May 2020. The extradition of one of the accused from the UK was impacted by COVID-19 restrictions. Charges in relation to tax offences have since been preferred against the key accused. Three more prosecutions arising from this project will be dealt with during the 2020/21 financial year.
- ***The prosecution of a service provider and a high-ranking official:*** By February 2018, ten contracts totalling R370 million were concluded with Eskom. The corrupt procurement processes took place over a four-year period. The investigation has, however, been delayed due to the need to obtain authenticated private e-mail evidence from abroad.
- ***Prosecution of officials involved in the awarding of a contract to a multi-national company:*** The contract was awarded in an allegedly corrupt manner on condition that certain sub-contractors linked to or proposed by Eskom officials (sub-contractors acted as conduits of funds to Eskom employees) be appointed. The ID is also awaiting information from our foreign counterparts. The ID is working jointly with the SIU to recover in excess of R1 billion without further disrupting electricity supply.
- ***Investigation into a number of coal supply contracts:*** The ID is awaiting the finalisation of a forensic report.

- **Transnet:** Investigations are ongoing relating to serious, high profile or complex corruption within Transnet. The ID obtained a freezing order of R1.6 billion for Regiments and related entities on the basis that the Gupta brothers used the entity as primary vehicle to extract value from Transnet. The ID executed a search warrant obtained in November 2019. Once the analysis of the seized material has been concluded, the accused will be arrested.
- **Department of Public Enterprises (DPE):** Investigations are ongoing into serious, high-profile or complex corruption within the DPE.

Administration and Human Resources

After the ID director's appointment on 20 May 2019, a secretary and director: administration were appointed in support of the director. The unit started with a small permanent establishment consisting of eight people. However, by the end of March 2020, a major recruitment drive had yielded many more resources, as discussed further below.

A decision was taken that the ID would rely on the NPA's administration component (human resource management, budgeting and procurement) to meet its corporate support needs. This arrangement has had its challenges, as the support required to resource the ID differs substantially from the NPA head office component.

Prosecutors

The ID advertised internally within the NPA for prosecutors to join the ID on a reassignment basis, i.e. a lateral transfer with no additional remuneration. All applicants for reassignment were screened. After enhanced integrity measures, a few prosecutors were selected to work at the ID in Pretoria.

After the director authorised a number of investigations on 31 July 2019, a further 11 prosecutors were requested to join the ID

on a reassignment basis because of their background knowledge of the cases authorised for investigation. To date, 18 prosecutors have been re-assigned from other NPA offices throughout the country to work with the ID in Pretoria.

After assessing the prosecution requirements of each authorised investigation, it became clear that additional personnel were needed. The ID requested approval from the Department of Public Service and Administration (DPSA) to appoint additional personnel on a three-year contract. The approval was granted in October 2019.

Criminal Investigators

The ID sourced 22 criminal investigators from the Independent Police Investigative Directorate (IPID) (6), DPCI (14) and SAPS (2) between August and October 2019. Most of these investigators were placed on duty arrangements to the ID, rather than formal secondments. As a result, many of the investigators still report to their commanders in the police on dockets they still carry that are unrelated to the work of the ID. This arrangement is not ideal.

The human resource gap analysis completed in March 2020 indicated the need for more criminal investigators to service the current caseload within the ID. Due to skills and personnel shortages in the DPCI and SAPS, as well as the IPID's case load, it was decided to appoint investigators to the ID on contract. Appointing investigators to an organisation that has not appointed investigators for over 12 years calls for the implementation of job descriptions, standard operating procedures and tools of the trade (fire-arms and docket administration support, policies and procedures, for conducting search and seizure operations and conducting section 28 interviews). The ID is in discussions with the national commissioner and the head of the DPCI to resolve some of these challenges.

Financial Investigators/Forensic Accountants

An advertisement was published for four chief financial investigators, eight senior financial investigators and 16 financial investigators. These posts require a qualification in forensic investigation and forensic auditing, such as a certified fraud examiner (CFE), Advanced Certificate: Forensic Practitioner South Africa (ACFPSA) accreditations or criminal financial investigation experience. A significant number of applications with the specified qualifications and experience requirements for the posts were received and appointments were finalised by the end of March 2020.

The ID has relied on forensic accounting firms appointed by NT prior to the establishment of the ID to finalise forensic investigations on matters it has prioritised. Many of these contracts are now at an end, although the work has not been completed. The ID is negotiating with NT on the extension or adoption of the contracts by the ID. The procurement deviation referred to below will greatly assist this process.

One forensic accountant was seconded by SARS to the ID, with effect from 9 December 2019. The ID is in discussions with the SIU, SARS and the Reserve Bank for additional secondments. The human resource gap analysis completed in March 2020, indicates that eight forensic accountants are required for the current caseload within the ID.

e-Discovery and Data Analysts

The NPA does not employ e-discovery, data analysts or risk evaluators/case in-take analysts. However, given the volume of data generated in high-level international corruption investigations, these are critical skills required by the ID. The human resource gap analysis completed in March 2020 determined that a number of e-discovery, data analysts and case in-take analysts were required.

Given the progress with secondments from within the public sector, the ID decided to procure its own capacity. Job descriptions were compiled, and contract positions were advertised to capacitate the unit.

Public and Private Sector Secondments

In terms of Section 7(4) of the NPA Act, the primary mechanism for capacitating the ID is secondments from within government and from the private sector. As secondments are proving to be challenging, the NPA and DPSA are preparing a plan to resolve some of the more pressing concerns.

In terms of external legal personnel, four senior and one junior counsel were initially appointed to provide legal support to the ID on an urgent basis. They were appointed through an NT deviation. Their skills have been called upon as and when the need arises. Going forward, the ID will need to procure the services of additional legal counsel. This will be done on an *ad hoc* basis through the office for state attorneys to attend to specific matters that are being litigated in the various forums.

Challenges with Human Resource Capacity

The ID is working closely with the various partners and stakeholders in the criminal justice system value chain, in particular the DPCI, SARS, the FIC, the SIU, the SARB, and the private sector, to address its skill and capacity requirements. It has been difficult to conclude secondment contracts from other government departments, primarily because of resource and capacity constraints within these organisations.

In addition, it has been challenging to attract personnel on secondment, given their concerns about matters such as promotions and the payment of travel and subsistence (T&S), tax and other matters. However, these challenges are being assessed and are in the process of being resolved.

The ID operates in an environment where public and private secondments require a carefully designed governance framework to ensure that risks relating to information security and infiltration by those with ulterior motives are addressed. While the ID has received numerous offers to second staff from Non-Governmental Organisations (NGOs) to enhance the rule of law, the ID will not take on board such personnel to work on cases until a satisfactory risk mitigation model is in place. The governance framework will be finalised by the end of April 2020. Private sector secondments of personnel skilled in specialist areas, such as digital forensic specialists, can then be taken on board in investigations.

Budget and Procurement

The NPA received R38 million during the AENE process. An additional MTEF allocation of R372 million (R155 million – 2020/21, R126 million – 2021/22 and R130 million – 2022/23) was appropriated to the ID.

Challenges

There is a need for the speedy appointment of service providers for services such as digital forensic analysis capability in case-related matters. The ID has requested that NT approve a deviation from standard procurement processes in terms of Section 79 of the Public Finance Management Act, 1999 (Act No.

1 of 1999) (PFMA). This request was submitted during November 2019. NT has requested a meeting to ensure that the procurement process remains compliant with basic minimum standards. The procurement of scarce skills that are not readily available in the ID is also required. The same Section 79 deviation will assist the ID. In the interim, *ad hoc* deviation requests are processed where the current processes cannot accommodate the needs of the ID.

Information Technology

The current NPA Information Technology (IT) infrastructure systems and software available to support investigations, does not meet the needs of the ID. The ID requires the type of systems and software that are being used by the State Capture Commission. That is, an agile system to deal with large data volumes with data analytics capabilities. As outsourcing is currently taking place at great expense to the ID, it will be more cost-effective if the NPA is given access to the State Capture Commission's capability. This should be done within a carefully designed governance framework. The ID has requested the assistance of the acting Director-General of the DoJ to convene a discussion with the State Capture Commission, NT personnel and the ID to assess the feasibility of this proposal.

Due to the sensitive nature of the ID's work, it is pivotal to create a secure IT, communication and data infrastructure system. The ID is exploring the best measures to procure a report on the security of the IT infrastructure, communication and data hosting provided by the NPA to the ID.

The report of the independent information systems auditor will address the security of IT infrastructure, ID data hosting, e-mail communication and telephonic communication. The report will inform further steps to secure the ID's operations.

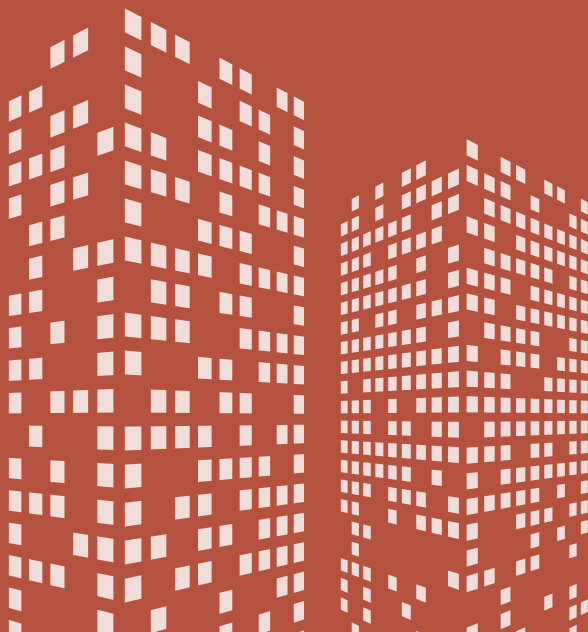
Security Managed Services/Integrity Testing

All staff appointed, seconded and re-assigned to the ID are currently being vetted by the NPA security management services. Screening and vetting for ID staff consists of:

- **Personnel suitability checks:** Deeds, credit checks, directorships, associated companies, Department of Home Affairs, qualification verification and criminal record checks.
- **Integrity Management Unit (IMU):** Analysis of the annual financial disclosure forms, conflict of interest registers and labour relations reports (misconduct and grievances).
- **Layered Voice Analysis:** SIU voice stress analysis.
- **Full vetting:** Secret and/or top secret vetting by the State Security Agency (SSA), depending on the portfolio, which may include a polygraph examination.

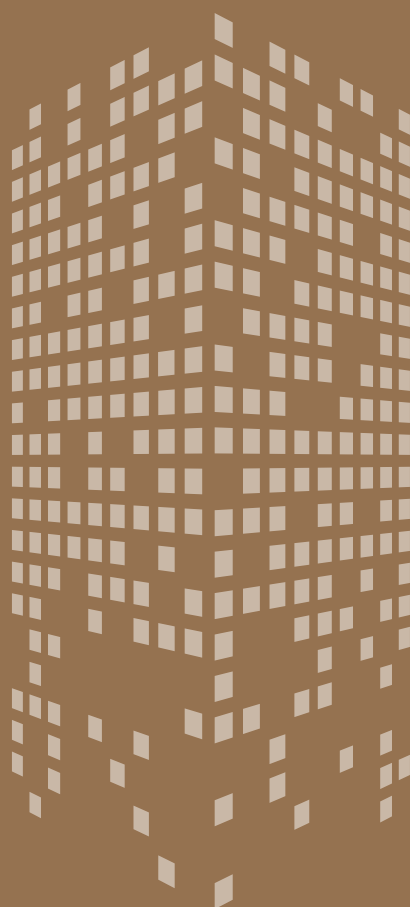
State Capture Case

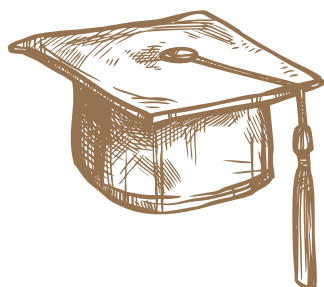
NDPP vs Regiments Capital (ID): Management in Transnet colluded with Regiments Capital to re-invest the Transnet Employees' Pension Fund. The pension fund was looted and the money used to buy stock and other assets. The Investigative Directorate secured a restraint on Capitec shares held by the perpetrators. The value of the shares at the time of the restraint amounted to R1.1 billion.



ACTIVITIES OF
**THE DEPUTY NATIONAL
DIRECTORS**

Annual Report 2019/20





ACTIVITIES OF THE DEPUTY NATIONAL DIRECTORS

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National Prosecutions Service

Introduction

The NPS performs the core function of the NPA. As such the NPS is the primary contributor to the achievement of the constitutional mandate of the NPA. The NPS institutes criminal prosecutions on behalf of the State and performs all required functions incidental thereto. The unit further deals with appeals and reviews that may emanate from the institution of criminal prosecutions. The NPS has representation at all levels of courts in South Africa, ranging from the institution of prosecutions in the district, regional and high courts, to dealing with appeals and referrals in the high courts, highest Court of Appeal and the Constitutional Court. The NPS is further responsible for resolving criminal matters outside the formal trial process through ADRMs, setting admission of guilt for offences

and considering police dockets where persons have not been charged. The NPS also focuses on advancing the rights of victims through initiatives such as the TCCs and the services offered by the court preparation officers.

The NPS is headed by a Deputy National Director of Public Prosecutions (DNDPP). The general prosecutions stream (as opposed to specialised units dealt with below) consists of 11 DPPs, who head up their respective divisions in the provinces. The DPPs are supported by public prosecutors and state advocates in the district, regional and high courts.

In addition to the general prosecutions, there are a number of specialised units within the NPS structure. These specialised units are the PCLU, SCCU and SOCA.



Adv RJ De Kock

The prosecutors in the lower courts form the core of the NPS. They prosecute more than 90% of cases in the district courts and in so doing, touch the lives of many individuals daily.

Prosecutors do not perform their mandate in isolation. There are a large number of role-players, both external to the NPS and external to the NPA, required to perform the function of prosecutions. As *dominus litis*, prosecutors have to engage with many stakeholders to ensure that the NPA fulfils its mandate. This fact introduces a number of unique challenges that prosecutors are required to deal with on a daily basis in order to perform their function.

Besides the institution of prosecutions there are a myriad of functions, mostly administrative and managerial, that also have to be performed. The NPS is also key in complying with international obligations and participates in international initiatives aimed at crime types such as, *inter alia*, money laundering, human trafficking, illicit mining, transnational organised and other crimes, as well as illicit financial flows.

There are a large number of stated government priorities that have to receive adequate focussed attention with the current stretched resources, such as gender-based violence (GBV), environmental crime, drug-related crimes, human trafficking, money laundering, corruption, organised crime, damage to critical infrastructure, illicit financial flows, health sector corruption, outcomes from State Capture and various other commissions, precious metals and stones, as well as a number of *ad hoc* priorities.

In the course of the year, the NPA had to embark on a number of initiatives and interventions to ensure that the NPA can function at the agreed to and expected levels of performance.

One of the key challenges faced during previous financial years, as well as in the first half of the current reporting period, was a shortage of resources,



Adv C Macadam (PCLU)



Adv P Smith (SOCA)

with unfilled vacant posts being one of the most critical constraints experienced by the NPS. As a result of the unwavering commitment by the NDPP to secure additional funding, the NPS received an additional budget allocation. This allowed the NPS to implement a few initiatives.

A recruitment drive was embarked on with immediate effect. The vacancies were advertised in October 2019. A project management plan was developed and followed. By the end of December 2019, 106 posts (out of the 586 advertised) were filled. The filling of vacancies at the 23 'one-man' stations were expedited which prevented further negative impact on the operations and service delivery at these offices.

The SCCU also advertised 56 posts, of which 14 (25%) were filled. An additional 20 prosecutors were appointed on contract to assist this specialised unit. The recruitment process was unfortunately hampered by late receipt of the additional funding. The recruitment process will therefore continue into the new financial year.

Another important initiative, closely linked to the recruitment drive is the reinstitution of the Aspirant Prosecutor Programme. The programme was initially suspended due to budgetary constraints but the additional funding allowed the unit to revive the initiative. This is a critical initiative within the NPA, since it is key to replenishing the normal attrition of prosecutors with staff who are able to contribute to the achievement of the objectives of the NPS from their date of appointment.

To maximise the limited funding during the reporting period, the recruitment of potential candidates for the programme was focused on LLB graduates who were already employed in both the DoJ&CD and the NPA. By the end of the financial year the recruitment process was already at an advanced stage. The special intervention saw the intake of just under 100 aspirant prosecutors recruited from employees who had



Adv M Luphondo (Mpumalanga)



Adv S Mzinyathi (Gauteng Pretoria)



Adv A Chauke (Gauteng Johannesburg)



Adv M Noko (North West)



Adv N Somaru (Free State)



Adv AJ Botha (Northern Cape)



*Adv L Sakata (Eastern Cape –
Grahamstown)*



*Adv B Madolo (Eastern Cape –
Mthatha)*



Adv E Zungu (KwaZulu-Natal)



Adv N Bell (Western Cape)



Adv I Thenga (Limpopo)

obtained their LLB degrees, but were not being utilised in positions requiring these qualifications. The aspirant prosecutors will conclude their training in August 2020, and after successful completion of the programme will be fully qualified as prosecutors. Further cost-saving measures implemented were to decentralise training and the retention of these officials on their current establishments. This means that the aspirant prosecutors are still remunerated by their respective departments whilst undergoing training. Additional funding was also allocated by NT for the aspirant programme for the 2020/21 and 2021/22 financial years, thus ensuring continuity.

In recognition of the fact that prosecutors do not perform their work in isolation, another key initiative was the joint prioritisation of cases, most notably corruption cases, with the SAPS/ DPCI and the AFU. A list of jointly prioritised cases was developed through this initiative, which is closely monitored by both institutions.

A task team was also appointed to investigate and follow up on the impact of the Legal Practice Act, 2014 (Act No. 28 of 2014). Although Parts 1 and 2 of Chapter 10 came into operation on 1 February 2015, Chapter 2 only came into operation on 31 October 2018 and various other sections on 1 November 2018. The Legal Practice Council (LPC) expects that all practicing attorneys and legally qualified persons including prosecutors pay annual fees. Moreover, there is a LPC code of conduct applicable to all legally qualified persons that includes provisions incompatible with the prescripts applicable to prosecutors. These are but two of the contentious aspects the NPA task team has to address. Meetings and deliberations will, however, proceed into the new financial year.

Highlights Achieved

Below are some of the main highlights that the NPS achieved in the period under review. These areas of achievement will be discussed in more detail later in the report.

Specialised Crime: Corruption

During the current reporting period, the fight against corruption was systematically intensified through several short- and long-term initiatives. The most important achievements to highlight include:

- The number of persons convicted for corruption in the public and private sector has increased by 17.8%, with the NPS securing the convictions of 416 persons in the current financial year as opposed to 353 persons in the previous financial year. These convictions were obtained from 442 cases finalised with a verdict with a conviction rate of 94%.
- The enrolment of important, high-profile and long outstanding corruption cases, including some cases against various high-ranking officials from municipalities and the health sector.
- The NPS has identified priority cases to be closely monitored and to be collectively pursued, in collaboration with the DPCI, in order to restore the credibility of these institutions. At the end of March 2020, only five months after the identification of 86 priority corruption cases, 16 were already enrolled of which 14 involve corruption committed at municipalities.
- The NPS has strengthened its cooperation with other bodies involved in the investigating and prosecuting of corruption. These include:
 - The DPCI as earlier alluded to in terms of the process of joint prioritisation of corruption cases;
 - The Public Protector (PP), whose office accepts complaints of corruption and maladministration involving government departments, agencies or officials who violate their ethical codes or codes of conduct;
 - The Auditor General (AG), who is the external auditor to all government departments and state institutions to oversee whether accounting and performance standards are being adhered to and to monitor if budgets

are being effectively used.

- The Independent Police Investigating Directorate (IPID), which investigates complaints of misconduct and criminality, including corruption against members of the SAPS and Metro Police services.
- The Special Investigative Unit (SIU) in terms of the investigation of corruption and maladministration in government.
- The ACTT, that fast-tracks high-priority corruption investigations and prosecutions and coordinates all government anti-corruption agencies and initiatives.

Specialised Crime: Violent and Organised Crime

The commitment to curb violent crimes and address the impact of these crimes on the community have also shown some inspiring and significant results. During the 2019/20 financial year, the prosecutors committed themselves to pursue high conviction rates in specific priority crime categories:

- Conviction rate for sexual offences: The target (70%) on the conviction rate for sexual offences cases was exceeded by 5.2% (75.2%) and even improved, compared to the previous year by 0.8%. A total of 4 098 convictions were obtained from 5 451 cases finalised with a verdict.
- Murder prosecutions: A high conviction rate of 80.1% was maintained, exceeding the target of 75% by 5.1%. A total of 3 193 convictions were obtained from 3 987 cases finalised with a verdict.
- Organised crime: A conviction rate of 95.3% was obtained, exceeding the target by 5.3%. This also represents a 0.5% increase over the previous financial year. A total of 242 convictions were obtained from 254 cases finalised with a verdict.

Organised crime is also prevalent in the following other crime categories that require a special focus:

- Complex commercial crime: The SCCU

obtained 599 convictions from the 649 cases finalised with a verdict. This represents a conviction rate of 92.3%. This achievement should be viewed against the very high workload of the SCCU prosecutors and the high incidence of well-funded accused with legal representation.

- Environmental crime: The prosecutors obtained 857 convictions from 883 cases finalised with a verdict. This represents a remarkable 97.1% conviction rate. The dedicated focus on rhino poaching and related matters resulted in the achievement of a 100% conviction rate following the finalisation of 41 cases with a verdict.
- Copper theft and essential infrastructure prosecutions: Whilst a conviction rate of 86.2% does not appear to be significant, when viewed in isolation, it is nonetheless important to note that the NPS obtained 544 convictions from 631 cases finalised with a verdict.
- Money laundering: The prosecutors achieved a 98.6% conviction rate, with 72 convictions from 73 cases finalised with a verdict.
- Cybercrime prosecutions: A high conviction rate of 98.5% was obtained through the finalisation of 325 cases with a verdict and obtaining 320 convictions.

Effective Prosecutions

At the end of the 2019/20 financial year, the NPS committed to focus on activities aimed at ensuring the successful prosecution of accused persons and in maintaining high conviction rates. Prosecutors across all criminal courts obtained 217 467 convictions, with a conviction rate of 93.8%. The prosecutors in the high courts maintained a 90.9% conviction rate, with 782 convictions. The prosecutors in the regional courts maintained a conviction rate of 82.5%, with 21 246 convictions. The prosecutors in the district courts obtained a 95.3% conviction rate with 195 439 convictions at a conviction rate of 95.3%, the highest achievement in the last five years.

CORRUPTION

State versus Sigasa and two others: Corruption



Senior State Advocate Patrick Nkuna

On Friday, 27 September 2019, the Nelspruit Regional Court sentenced Musawenkosi Sigasa, Thabang Nathaniel Gaakarekoe and Jabulile Gladys Gaakarekoe to various sentences of imprisonment after they were found guilty of defrauding the Mpumalanga Department of Education in 2009.

The accused were co-directors of the Gauwe Waste Management and Projects Clonis, Homes and Maintenance. They hacked into the department's financial system and defrauded it under the guise of being a service provider. Various payments were paid to Nedbank and Absa accounts totalling an amount of R5.5 million. The department later discovered that there were certain suspicious transactions that were effected from its financial and supply chain management systems.

The trio was linked to the offences by their close corporations registration, bank account statements, withdrawal slips and cell phone records, including the evidence of a technical expert. During the trial, the trio pleaded not guilty to the allegations levelled against them. The state, led by Senior State Advocate Patrick Nkuna of the Specialised Commercial Crime Unit, relied on documentary and expert witnesses to establish the guilt of the accused. The presiding officer, Magistrate Andre Geldenhuys, found that: 'the money that was stolen from the Department of Education was not recovered and there were other unknown people involved in this crime. This type of crime is prevalent and therefore, it is the duty of the court to impose a suitable sentence to deter other future offenders'. He sentenced Musawenkosi Sigasa to 12 years' direct imprisonment, Thabang Gaarekoe to ten years' direct imprisonment and Jabulile Gladys, who is 80 years of age, to ten years' imprisonment wholly suspended for five years.

RACKETEERING, MONEY LAUNDERING, FRAUD AND CORRUPTION

***State versus Luis Filipe Duarte D'Alemeida
Fernandes and Nazmien Warner: Racketeering,
money laundering, fraud and corruption***



State Advocate Freek Geyser

The Western Cape High Court sentenced two Cape Town executives to 17 and 16 years' direct imprisonment after convicting them on 487 charges of racketeering, money laundering, fraud and corruption.

Luis Filipe Duarte D'Alemeida Fernandes and Nazmien Warner ran a VAT fraud scheme for seven years that resulted in a loss to SARS of more than a hundred million rand.

They entered into a plea and sentencing agreement. As part of the agreement, Warner agreed to the confiscation of nine properties and a further R900 000 in cash. Both accused agreed to testify in the trial of their co-accused, Charles Kamies, whose case was postponed for a pre-trial proceeding. State Advocate Freek Geyser, who prosecuted the matter, hopes that the sentence sends a clear message that the NPA, SARS and the SAPS are committed to addressing complex tax offences.

To address the harm caused to victims by crime, prosecutors have obtained 842 compensation orders to the value of R103 930 591.20.

Vulnerable Persons

The rights and needs of the victims of crime, and particularly vulnerable persons, were advanced through initiatives such as the TCCs and court preparation services. The success of the TCCs is founded in the services delivered to victims of sexual offences and related crimes. It is significant to note that 35 469 victims were assisted at the TCCs during the 2019/20 financial year, of which 31 807 (89.7%) were victims of sexual offences.

With reference to the presidential focus on addressing the scourge of violence against women and children, the NPA participated in the ERAP and the subsequent NSP. Several initiatives stemmed from this intervention in conjunction with relevant stakeholders involved in the investigation and prosecution of these cases. The initiatives implemented from Q3 of the period under review have resulted in the NPS collectively achieving an improved conviction rate in these cases. Further to this, severe sentences were imposed by the courts in TCC reported and -prosecuted cases.

The Court Preparation Officers (CPOs), within the NPS, play a pivotal role in the NPA adopting a more victim-centric approach. During the year under review, 97 671 witnesses were assisted by the CPOs. The CPOs not only attend to the needs of victims of crime, but also ensure that victims are given a larger role in the process of achieving justice in the following ways:

- Victims are given the right to participate through the compilation of a victim impact statements (VIS). The CPOs assisted in the preparation of 8 351 VISs, and 2 926 VISs were used during court proceedings during the year under review.
- When victims are negatively affected by the decision to prosecute, an opportunity is provided to resolve the matter through ADRM.

- Victims are assisted by CPOs when required to give evidence before the court, ensuring that they have a greater role in the process of achieving justice.

At the end of the year under review, 842 compensation orders to the value of R103 930 591.20 were obtained for the victims of crime.

Decision Dockets

In addition to their court work, prosecutors also have to deal with dockets submitted to them for possible prosecution. All criminal matters are thus referred to prosecutors to provide guidance in the investigation of matter, and to decide on the merits and prospects of a successful prosecution, i.e. decision dockets. During the year under review, the prosecutors received 883 611 decision dockets, and dealt with 883 470, which represents a clearance rate of 92.8%. The rapid turnaround time on decision dockets is an indication that prosecutors are committed to a high level of service delivery to all victims of crime.

Performance Against Strategic Objectives and Programme Indicators

Conviction Rate in High Courts

There are currently nine provincial divisions of the high court, with a number of local seats and circuit court sessions. The staff in the DPP offices conduct criminal trials in the high courts, and attend to criminal appeals, reviews from the lower courts and civil or motion applications. Cases that are generally considered suitable for trial in the high court are the cases where:

- the circumstances may justify a sentence outside the jurisdiction of the regional court;
- the complexity of a case requires the attention of the high court; or
- the interests of the community or the administration of justice require that the trial be heard in the high court.

This will be inclusive of all serious cases of murder, rape and robbery, as well as serious or complicated cases involving commercial or organised crime.

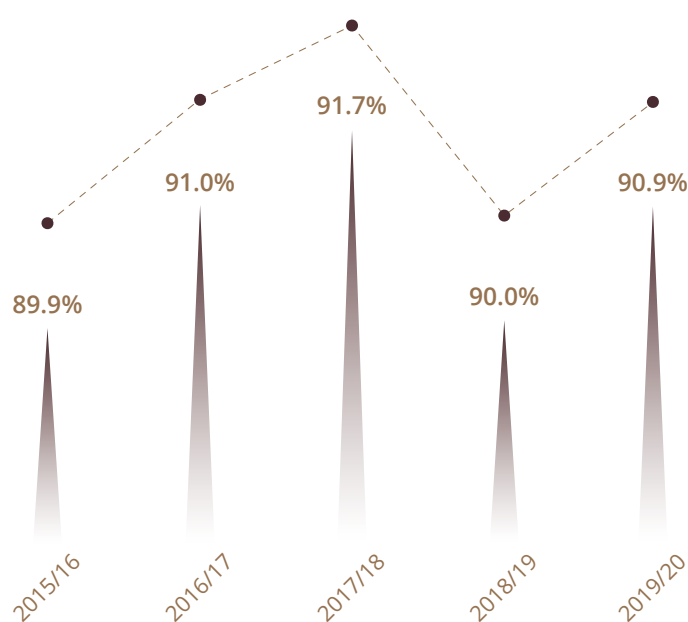
The advocates in the DPP offices also deal with the guiding of investigations and prosecutions of offences committed within the area of jurisdiction of a specific DPP, as well as the review of the findings of inquests. One of the key functions of advocates in the DPP offices is to deal with appeals that predominantly emanate from the lower courts.

Specialised prosecutor streams in each DPP office include organised crime, specialised commercial crime, complex tax, sexual offences, gender-based violence and femicide (GBVF) and priority crime sections. Sections dealing with governance and administration, operations, management, representations, extraditions and MLAs, as well as training and development, form part of the work conducted in the DPP offices.

The high courts received 830 new criminal cases and finalised 860 cases during the year under review. The conviction rate slightly increased from 90% to 90.9%, whilst the number of cases finalised decreased by 10% compared to the previous year.

The following graph indicates the fluctuation in the conviction rates since the 2015/16 financial year.

Figure 1: Conviction rate by high courts over a five-year period



MURDER

State versus Jabulane Vusi Mhaule: Murder



Advocate Derrick Mashego

The Mpumalanga Division of the High Court sentenced a 29-year-old KaBokweni man in the District of Nsikazi to 20 years' direct imprisonment after he pleaded guilty to murdering the mother of his four-year-old child in June 2018.

The accused, Jabulane Vusi Mhaule, told the court that he and the deceased were in a love relationship and had lived together with their child for seven years. After experiencing problems in their relationship, the deceased took a decision to end the relationship, and moved out of the home they were sharing with the accused.

The prosecutor, Advocate Derrick Mashego, asked for the prescribed minimum sentence to be imposed. The court sentenced Mhaule to 20 years' direct imprisonment for the murder of his girlfriend and mother of his child, and further declared him unfit to possess a firearm.

RAPE

State versus Bongani Nzuza and Sbusiso Sifiso Nzuza: Rape



State Advocate Jenisha Sewbaran

The Ntuzuma Regional Court sentenced Bongani Nzuza and his cousin Sbusiso Sifiso Nzuza to life imprisonment for rape, and ten years for the attempted murder of a 34-year-old woman.

State Advocate Jenisha Sewbaran led the testimonies of the complainant and her sister, as well as the doctor who examined the complainant after the incident. In aggravation of sentence, Advocate Sewbaran submitted a Victim Impact Statement compiled by the complainant and facilitated by Court Preparation Officer Xolile Mzobe. In her statement, the complainant said that she suffered severe emotional, psychological and physical trauma after the incident, and lived in constant fear. The community also humiliated her by labelling her as a raped person.

RAPE OF A MINOR

State versus Nicholas Ninow: Rape of a minor



Prosecutor Sasabona Dorah Ngobeni

The accused, Nicholas Andrew Ninow, was convicted and sentenced to life imprisonment for the rape of a minor, five years' imprisonment for the unlawful possession of drugs, and five years' imprisonment for defeating the ends of justice. An application for leave to appeal against both conviction and sentence was dismissed.

The accused raped a 7-year-old girl in a toilet cubicle at the Dros Restaurant in Silverton, Pretoria. When the accused was caught red handed, he immediately flushed the girl's panties down the toilet and tried to assault the people who apprehended him with his belt. The accused pleaded guilty to two counts of rape, citing that he acted impulsively, as well as to unlawful possession of drugs and defeating the ends of justice. The South African criminal justice system generally accepts a plea of guilty as a sign of remorse, as this not only saves the court's time, but also saves the victim from testifying (especially in sexual offence cases). A guilty plea thus becomes a mitigating factor during the sentencing stage.

Prosecutor Sasabona Dorah Ngobeni did not accept the guilty plea on the rape counts because Ninow's plea did not correspond with the available evidence, and was contrary to what the victim told her during consultation. This rejection of the guilty plea triggered a hostile response, with members of the community raising concerns that this would cause unnecessary trauma to the child victim, who would have to relive the experience when she was called to testify. However, this perception was misinformed, as the intention was to call the victim to testify only to the chronological sequence of events during the incident. Her testimony was aimed at proving that the plea tendered was not one of genuine remorse, but of regret. The decision not to accept the guilty plea was discussed and supported by Adv. H van Jaarsveld, the Deputy Director of Public Prosecutions.

When the child victim and her mother were called to testify, the Investigating Officer ensured their privacy and safe arrival outside of the glare of the media and the public. Although the victim was nervous at first, she testified very well and thanked the prosecutor for helping her. The accused did not take the stand to dispute her evidence.

Had the prosecution accepted the accused's guilty plea, it would have been difficult to convince the court to impose a life sentence for the rape counts, and a dismissal of the leave to appeal application would have been very difficult to achieve.

INTIMATE FEMICIDE

State versus Thabani Mzolo: Intimate femicide



Senior State Advocate Nadira Moosa

Thabani Mzolo was sentenced to life imprisonment in the KwaZulu-Natal High Court in Durban, having been found guilty of murdering his girlfriend, Zolile Khumalo. Mzolo was sentenced to an additional 28 years for the possession of an illegal firearm and three live rounds of ammunition.

Mzolo and Khumalo, both students at the Mangosuthu University of Technology, were in a relationship that ended in April 2018. Mzolo was angered by this and, on 1 May 2018, he entered Khumalo's student residence armed with a semi-automatic firearm. He confronted Khumalo in her room, reprimanded her for making a fool out of him, and shot her in the head and chest.

Mzolo's defence in court was that the firearm went off during a struggle with Khumalo. However, Senior State Advocate Nadira Moosa led the testimony of two witnesses who were in the room when the shooting occurred, and voice recordings on Mzolo's cellphone from shortly after the shooting contained a confession that he had killed Khumalo.

In mitigation of sentence, Mzolo's lawyer, Advocate Bonokwakhe Dlamini, said he was remorseful and had apologised to Khumalo's family. Moosa refuted this, saying the apology only came 18 months after the crime was committed, and that Mzolo had believed he had a right to take Khumalo's life because she had the audacity to end their relationship. Moosa argued that the evidence revealed the accused to be a ruthless and cold-hearted killer, who had calmly and unemotionally reported the crime to his friends on Facebook while her body lay metres away from him. Moosa argued further that in a crime of this nature, which was planned and calculated, the focus ought to be on retribution and punitive punishment.

In handing down sentence, Judge Nompumelelo Radebe said:

"Violence by men towards women in South Africa is escalating at alarming proportions. This calls for harsh sentences to be imposed."

MURDER AND RAPE

State versus Tsalau: Murder and rape



Advocate Moipone Moroka

A 30-year-old man from Itumeleng Location in Jagersfontein was sentenced by the Free State High Court to four life terms and an additional nine years after he pleaded guilty to charges of murder, rape, attempted rape, housebreaking with the intent to rape, and theft. These offences were committed while the accused was out on parole, having served time for housebreaking and rape.

Tsalau committed the first crime on 2 December 2017 when he broke into the house of an 81-year-old woman. He raped and murdered her. The victim was staying alone, and the neighbours became worried when they did not see her. They went to her house and realised that a window was broken. The police were called, who forced entry into the house and discovered her half-naked body in her bedroom. On 3 August 2018, the accused broke into the

house of a 79-year-old woman with the intent of raping her. The woman fought back, stabbing the accused with a knife. The accused took blankets, pots and food. He also took the elderly woman's clothes, as he did not want to leave his blood on the scene.

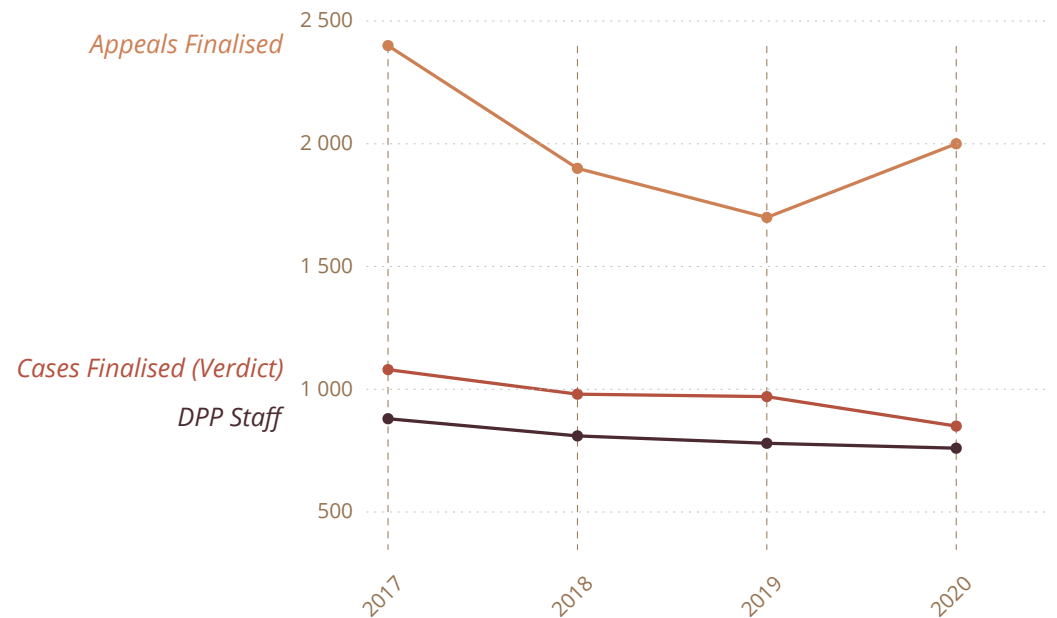
Two weeks later, the accused broke into the house of a 70-year-old woman who was also staying alone. He raped and murdered the elderly woman. Her body was discovered on 23 August 2018 when her neighbour raised an alarm after not seeing her for five days. She was found half-naked. Her face was bruised and her body covered with blood.

The accused was arrested on 2 November 2018 after some of the bloodstained items he took from one of the victims were found in his house. In aggravation of sentence, State Prosecutor Advocate Moipone Moroka argued that the accused was not a first time offender, and his previous convictions and the fact that he was out on parole would not deter him from committing further crimes.

The decline in cases finalised in the high courts can be ascribed to the decrease in staff dealing with these cases; with the number of advocates in the DPP offices decreasing by 12.5% since 2017. However, there are also other factors influencing on the decline in case finalisation, such as the decline in the numbers of cases referred for prosecution. It is, however, imperative to note that whilst the number of cases finalised with a verdict declined, the number of court appearances did not.

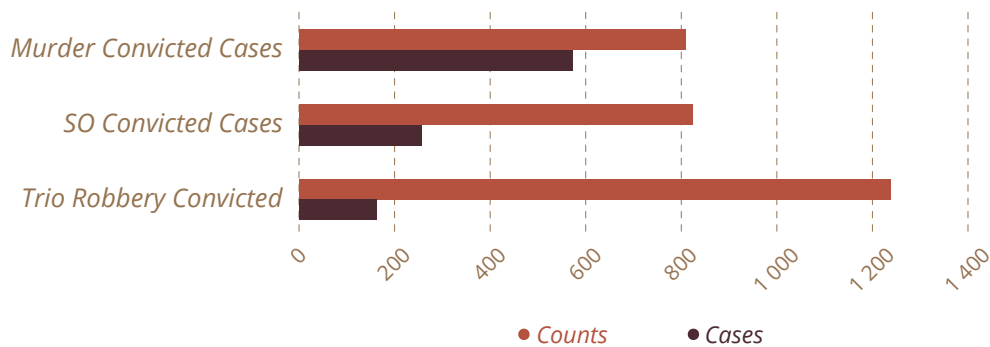
A good indication of the commitment of the advocates is the number of appeals finalised in the high courts, including appeals to the SCA and Constitutional Court, which increased from 1 722 in the previous financial year to 2 071 in the current reporting year. This represents an increase of 20%, achieved despite the decline in the number of employees.

Figure 2: Cases finalised by high courts in relation to the staff compliment



As alluded to earlier in the discussion, the high courts deal with various specialised crime cases. Most serious violent crime cases heard in the high courts involve murder, sexual offences or robbery cases, as depicted in the graph below. Whilst most of the cases enrolled involve murder cases, the cases with the most counts of charges are in terms of trio crimes. The second most counts are in relation to sexual offences convictions.

Figure 3: High court: Serious violent crime



Conviction Rate in Regional Courts

In the lower courts, the regional courts deal with more serious cases than those enrolled in the district courts, because of the penal jurisdiction of the regional courts. In terms of the Criminal Law (Sentencing) Amendment Act, 2007 (Act No. 38 of 2007), a regional court can sentence an offender, who is found guilty of offences that include murder or rape, to imprisonment for life. The court can also sentence offenders who have been found guilty of offences such as armed robbery or motor vehicle theft, to imprisonment for a period up to 20 years, while a maximum fine of R300 000 may be imposed.

During the year under review, a total of 50 967 new cases were enrolled in the regional courts, 584 (1.1%) fewer cases compared to the previous financial year. Despite the decline in new cases, the prosecutors in the regional courts still managed to make an impact on serious crime by finalising 27 971 cases and obtaining 21 246 convictions from 25 744 cases finalised with a verdict. This represents a conviction rate 82.5% and a finalisation rate of 0.6 cases per court per day. Further to this, 2 227 cases were resolved through ADRM.

MURDER

State versus Steyn and others: Murder



*Advocate Gerrit Roberts SC and
Advocate Paul Schutte*

Zak Valentine (34), Cecilia Steyn (38) and Marcel Steyn (22) faced 32 counts relating to 11 charges of murder, five charges of fraud, racketeering, and five counts of robbery with aggravating circumstances relating to the killing of 11 people in the Krugersdorp area by members of the Electus per Deus Cult between 2012 and 2016.

Zac Valentine was sentenced to eight life sentences and 93 years' imprisonment, Cecilia Steyn received 13 life sentences and 155 years' imprisonment, and Marcel Steyn, was sentenced to seven life sentences and 144 years' imprisonment. The trio had pleaded not guilty to all the charges, and are all first time offenders. Three other people are also serving lengthy jail terms in connection with the killing spree, including Marcel's mother, Marinda Steyn, who also received 11 life sentences.

State prosecutor Advocate Gerrit Roberts SC, assisted by Adv Paul Schutte during the proceedings, recommended life sentences for all the accused despite their personal circumstances.

MURDER

State versus Moeletsi Tsoho: Murder



Senior State Advocate Luvuyo Pomolo

The Mthatha High Court, sitting in Ntabankulu, sentenced former taxi owner Moeletsi Tsoho (59) to life imprisonment after convicting him of the murder of a taxi driver, whose taxi he subsequently sold in Lesotho. The court also sentenced him to eleven years on a count of robbery with aggravating circumstances. The sentences were ordered to run concurrently.

The court heard that in May 2016 that Tsoho, of Tsolobeng village in the district of Mount Fletcher, went to the neighbouring country to sell a Toyota Quantum minibus. The minibus belonged to another taxi operator who was unable to pay the instalments, and the bank was about to repossess it. Following the sale, Tsoho got “orders” from his cousin, who is a Lesotho national, for more vehicles.



Advocate Nozizwe Molepo

A month later, on 13 June, Tsoho lured the deceased, a minibus driver, to his house where he plied him with alcohol and offered him a bedroom to sleep in. When the deceased was deep in his alcohol-induced sleep, Tsoho bludgeoned him to death with a knobkerrie. He later got an accomplice to assist him with disposing the body of the deceased in a culvert at the Coldstream farm in Maclear, more than 50 kilometres away, where it was discovered days later, and sold the minibus in Lesotho.

Figure 4: Cases finalised by regional courts

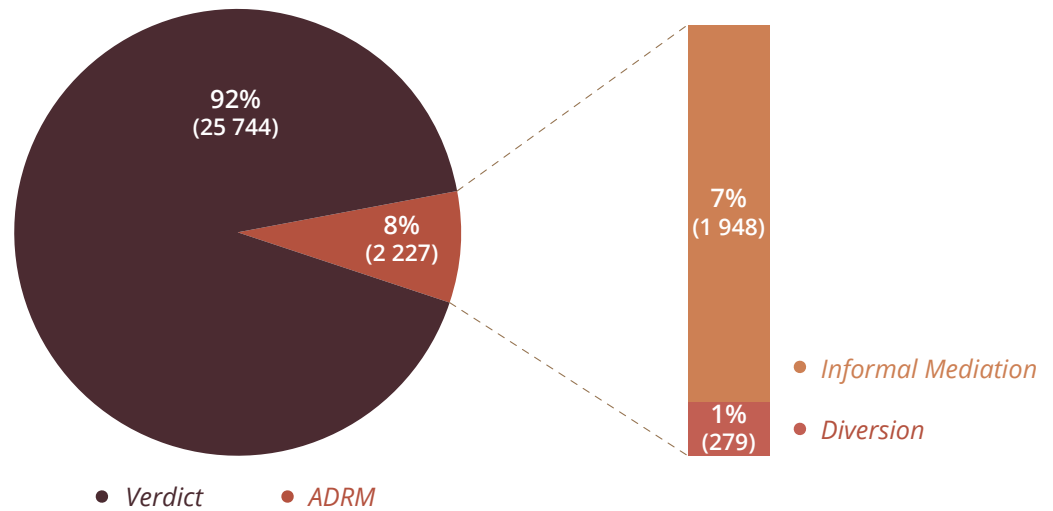
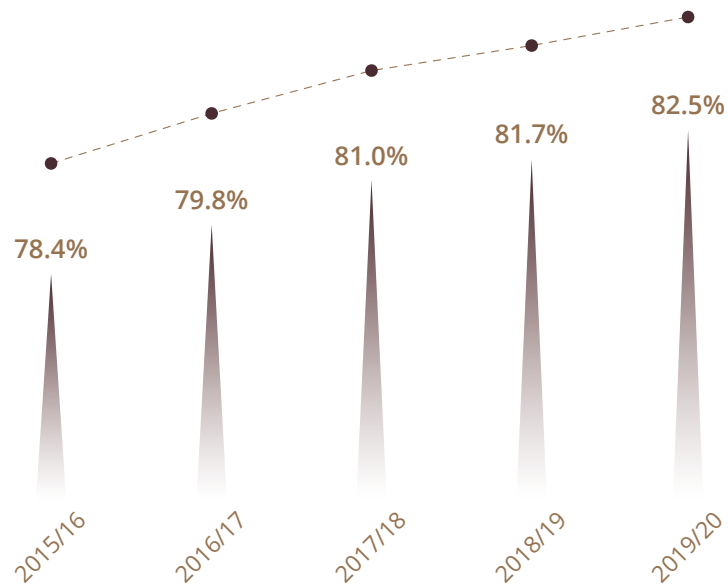


Figure 5: Conviction rate in regional courts



A comparative analysis with previous years indicates a year-on-year improvement in the conviction rates achieved by regional court prosecutors, which confirms their efforts to improve the level of service to the victims of serious crime. Effective stakeholder engagement, combined with the dedication of the prosecutors, contributed to the improved performance.

In addition to all the cases finalised, the prosecutors in the regional courts also dealt with 5 835 court and criminal related matters which is inclusive of various additional functions that occupy valuable court time (as depicted in the table below). Formal bail applications and applications for leave to appeal constitute 91.2% of the additional functions performed.

Table 1: Additional court/prosecution related functions performed

Types of functions	Total	% of Total
Suspended sentences	220	3.8%
Conversion of maintenance trial to enquiry	2	0.03%
Application for leave to appeal	1 266	21.7%
Committal to mental institution	201	3.4%
Conversion of sentences	73	1.3%
Formal inquests	1	0.01%
CJA: Preliminary inquiries	19	0.3%
Formal bail applications	4 053	69.5%
<i>Total functions finalised</i>	<i>5 835</i>	<i>100.0%</i>

The victims of serious crime are further served through quality decision-making taking place outside the court arena. A total of 125 331 new decision dockets were received by regional court prosecutors during the current reporting year, 16% fewer decision dockets compared to the previous financial year. Notwithstanding this decline in the inflow of dockets, the prosecutors still finalised 51 731 dockets whilst maintaining a positive clearance rate by dealing with 125 541 dockets. The latter includes dockets returned for further investigation before a decision can be taken.

Notably, more cases were withdrawn during the year under review, with 11 417 cases withdrawn as opposed to the 10 762 withdrawals during the previous financial year. This represents a 6.1% increase in matters withdrawn. There are a number of contributing factors to the increase in the number of withdrawals, such as poorer quality of criminal investigations or the high vacancy rate that negatively impacted on the screening processes.

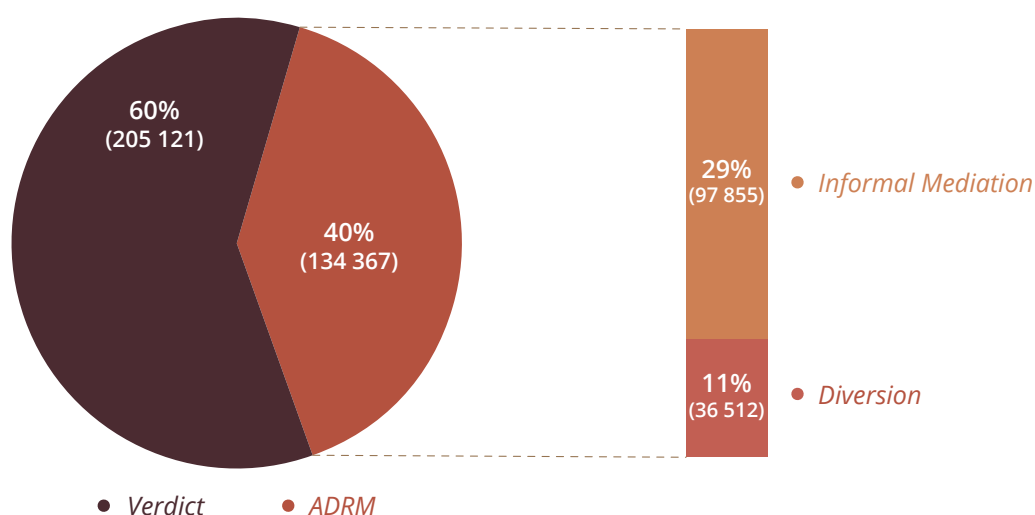
Conviction Rate in the District Courts

The district courts deal with less serious cases than the regional courts. The sentence jurisdiction in the district courts are imprisonment to a maximum of three years and/or the imposition of a fine not exceeding R100 000.

The trend of fewer cases being referred to the court system was also noted in the district courts. The district court prosecutors enrolled 662 807 new cases, 77 691 fewer cases than the 740 498 new cases enrolled during the previous financial year. This represents a decline of 10.5%. One of the most apparent factors contributing to the decline in new cases was that fewer arrests were made subsequent to the Constitutional Court judgment decriminalising the personal use of cannabis. The declaration of the COVID-19 lockdown during March 2020 would also have had an, albeit a minor, impact on the number of new cases referred to the district court prosecutors.

Since 93% of all criminal cases are heard in the district courts, the district court prosecutors deal the most with the members of communities, and this is also the area in which the biggest direct impact can be experienced by the community. During the year under review, the district court prosecutors finalised 339 488 cases, comprising of 205 121 cases finalised with a verdict and 134 367 cases finalised by making use of ADRM. This represents a finalisation rate of 3.1 cases per court per day.

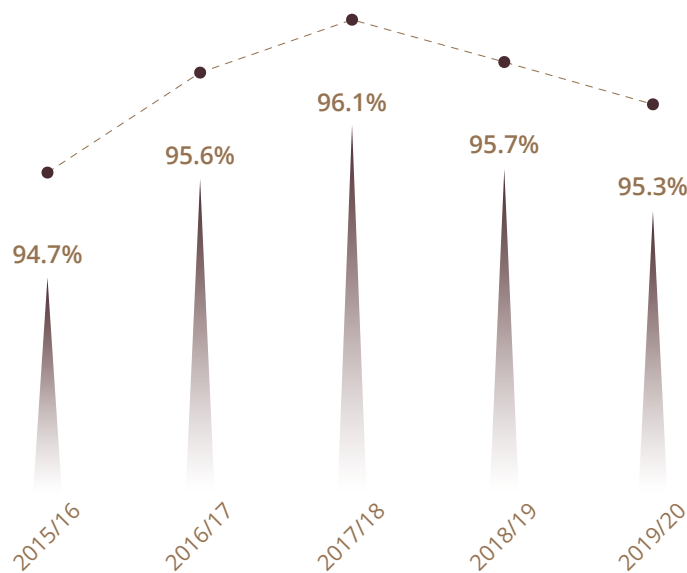
Figure 6: Cases finalised by district courts



The district court prosecutors maintained a high conviction rate of 95.3% through effective stakeholder engagement and a focus on ensuring successful prosecutions, obtaining 195 439 convictions. The conviction rate target of 88% was thus exceeded by a significant margin. The high conviction rate achieved by the prosecutors reflects the dedication and commitment of prosecutors in ensuring justice to the victims of crime.

It is, however, important to note that a comparative analysis of the achievements during the previous two financial years illustrates a slight downward trend of the conviction rate in the district courts.

Figure 7: Conviction rate in district courts



In addition to all cases finalised the district court prosecutors also dealt with 65 519 other court and criminal related matters, which includes various additional functions that take up valuable court time. The next table highlights that formal bail applications (81.4%) and preliminary inquiries in terms of the Child Justice Act, 2008 (Act No. 75 of 2008) (12%) comprised the most court time of the additional matters.

Table 2: Additional court and prosecution related functions

Types of matters	Total	% of Total
Suspended sentences	2 681	4.1%
Conversion of maintenance trial to enquiry	481	0.7%
Application for leave to appeal	273	0.4%
Committal to mental institution	488	0.7%
Conversion of sentences	167	0.3%
Formal inquests	177	0.3%
CJA: Preliminary inquiries	7 946	12.1%
Formal bail applications	53 306	81.4%
<i>Total matters finalised</i>	<i>65 519</i>	<i>100.0%</i>

Victims of crime are further served through quality decision-making outside the court. A total of 754 407 new dockets were received for decision by the district court prosecutors, 5% fewer compared to the previous year. Despite this decline in the inflow of dockets, the prosecutors managed to finalise 424 826 decision dockets whilst maintaining a positive clearance rate by dealing with 753 847 dockets, including dockets returned for further investigation.

A total of 98 747 cases were withdrawn in the district courts, 5 817 (6.3%) more compared to the 92 930 withdrawals during the previous financial year. The high conviction rate indicates that the primary reason for the increase in the withdrawal of matters was better screening practices.

Number of Criminal Matters Finalised

This indicator measures the prosecutors' efforts regarding tasks allocated inside the formal court process. It provides a holistic picture of the prosecutors' workload, and output, and compares performance against the previous financial year, providing an indication of progress made. Service delivered to the community is closely linked to this indicator as it shows the efforts of prosecutors to serve the community. This discussion is a detailed report and analysis of the figures regarding the finalisation of cases presented in the preceding three sections.

A total of 972 698 criminal matters were finalised during the 2019/20 financial year. The decline compared to the previous year can be ascribed to external factors that impacted negatively on the performance of the courts. These factors are discussed in detail under the respective indicators. The table below illustrates the progress of this indicator and its sub-categories.

Table 3: Progress on criminal matters finalised

Types of criminal matters finalised	2018/19	2019/20	Progress
Cases finalised with a verdict	276 309	231 725	-16.1%
Cases finalised through ADRM	149 469	136 594	-8.6%
Dockets finalised	510 856	472 199	-7.6%
Admission of guilt payments	3 039	2 532	-16.7%
Criminal/court matters finalised	72 533	71 593	-1.3%
Appeals finalised	1 722	2 071	20.3%
<i>Total criminal matters finalised</i>	<i>1 013 928</i>	<i>916 714</i>	<i>-9.6%</i>

Number of Criminal Court Cases Finalised with a Verdict

The prosecutors finalised 231 725 cases where a verdict was rendered. Despite the prosecutors' dedication and commitment to increase successful prosecutions, 44 584 (16.1%) fewer cases were finalised compared to the 276 309 successful prosecutions during the previous financial year. This decline should be viewed against internal factors such as resource constraints that were experienced during the first half of the financial year within the prosecutorial component, as well as against external factors, such as a decline in court utilisation and a decline in the inflow of new cases.

Table 4: Comparison of criminal court cases finalised with a verdict

Forum	2018/19	% of National	2019/20	% of National	Progress
High Court	966	0.3%	860	0.4%	-11.0%
Regional Court	28 001	10.1%	25 744	11.1%	-8.1%
District Court	247 342	89.5%	205 121	88.5%	-17.1%
<i>All Courts</i>	<i>276 309</i>	<i>100.0%</i>	<i>231 725</i>	<i>100.0%</i>	<i>-16.1%</i>

The district courts (who are responsible for 92% of the total cases) finalised 17.1% fewer cases with a verdict compared to the previous year. Further to this, an 8.1% and 11% decline is noted in the number of serious criminal cases finalised in the regional and high courts respectively. External factors, such as a decline in court utilisation, a decline in the inflow of new cases and the declaration of the National State of Disaster during March 2020 (to a very limited extent) impacted on the performance of the courts.

Court utilisation entails both the number of court days and the court time utilised to finalise and resolve enrolled cases. It is well known that when a criminal court makes efficient use of available court days, that it has a positive impact on the output of the court. This includes the efficient use of available court days as well as the number of court hours available per court day.

Court Days

A marginal decline in the number of court days utilised is again noted in both district and high court forums, while more court days were utilised in regional courts. This progress is indicated in the table below.

Table 5: Comparison of court days utilised

Forum	2018/19	% of National	2019/20	% of National	Progress
High Court	9 232	3.7%	8 806	3.5%	-4.6%
Regional Court	70 438	27.9%	71 823	28.5%	2.0%
District Court	172 396	68.4%	171 147	68.0%	-0.7%
<i>All Courts</i>	<i>252 066</i>	<i>100.0%</i>	<i>251 776</i>	<i>100.0%</i>	<i>-0.1%</i>

Court Hours

A decline in the actual court hours utilised to deal with criminal cases is also noted. The criminal courts were in session for an average of 2 hours and 57 minutes per day. This is a 3.7% decline from the average of 3 hours and 4 minutes maintained during the previous financial year.

The optimum use of court hours through effective case flow management is a critical success factor in the speedy finalisation of cases. The expected norm for court hours per day, as determined by the Chief Justice in norms and standards for all courts, 4 hours and 30 minutes. All forums achieved hours below the norm. A significant decline is noted in both the district and regional courts. The number of average court hours per day per forum is indicated in the table below.

Table 6: Comparison of average court hours utilised

Forum	2018/19	2019/20	Progress
High Court	02:50	02:46	-2.1%
Regional Court	03:16	03:05	-5.5%
District Court	02:59	02:54	-3.0%
<i>All Courts</i>	<i>03:04</i>	<i>02:57</i>	<i>-3.7%</i>

Plea and Sentence Agreements

The number of plea and sentence agreements concluded in terms of Section 105A of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) decreased from 2 898 to 2 166 agreements. The 2 166 agreements include 7 091 counts. One of the cases settled through plea and sentence agreements was a fraud case involving 2 346 counts. The plea agreements saved valuable court time, as lengthy trials were prevented, more specifically in the regional courts, dedicated commercial crime courts and the high courts.

Table 7: Number of plea and sentence agreements

Forum	No of Agreements	10 + years	% Sentences 10 + years imprisonment	No of offence(s) pleaded on
High Court	25	15	60%	164
Regional Court	1 179	194	16%	2 795
District Court	937	1	0.1%	1 253
RC SCCU	25	3	12%	2 879
<i>All</i>	<i>2 166</i>	<i>213</i>	<i>10%</i>	<i>7 091</i>

In one matter the plea and sentence agreement reached resulted in the imposition of life imprisonment. In the high courts 60% of sentences with plea and sentence agreements resulted in direct imprisonment for a term of ten years or longer, while in the regional courts and commercial crime courts, a similar result was achieved for 16% and 12% of sentences, respectively. In the commercial crime courts, 25 plea and sentence agreements concluded involved 2 879 counts. A significant number of witnesses were therefore not required to testify, also saving valuable court time.

Outstanding Cases

Whilst there was a lower inflow of cases, it is important to note that there was an increase in the number of cases enrolled, involving multiple accused and charges. This increase caused bottlenecks in many courts, negatively impacting on the finalisation of cases, which in turn negatively affected the outstanding court roll and backlogs. The impact of the reduced finalisation rate is reflected in the increased outstanding roll, as indicated in the table below.

Table 8: Number of outstanding cases

Forum	2018/19	% of National	2019/20	% of National	Progress
High Court	971	0.5%	961	0.5%	-1.0%
Regional Court	42 683	23.5%	47 063	24.2%	10.3%
District Court	138 258	76.0%	146 201	75.3%	5.7%
<i>All Courts</i>	<i>181 912</i>	<i>100.0%</i>	<i>194 225</i>	<i>100.0%</i>	<i>6.8%</i>

The number of outstanding cases increased from 181 912 at the end of the previous financial year, to 194 225 at the end of the year under review. The number of outstanding cases increased by 12 313, an increase of 6.8% from the 2018/19 financial year. The decline in the utilisation of court hours, together with the decrease in the finalisation of cases in the lower courts, resulted in a growing outstanding caseload. The regional courts had an increase of 4 380 outstanding cases at the end of the reporting period, whilst the district had an increase of 7 943 outstanding cases. The high courts, however, managed to reduce the outstanding case load by ten cases.

Backlogs

The reduced finalisation of cases translated into a growing backlog. Overall, the backlog figure increased by 5 106 cases. This represents a 15% increase. The backlog in the regional courts increased by 1 497 (8.8%) cases, whilst the backlogs in the district courts increased by 3 571 (23.1%) cases.

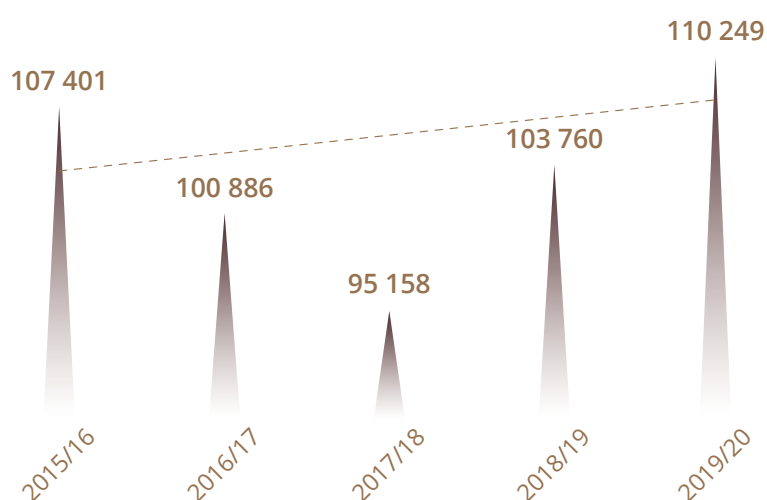
Table 9: Number of backlog cases

Forum	2018/19	% of National	2019/20	% of National	Progress
High Court	237	0.7%	275	0.7%	16.0%
Regional Court	17 097	50.2%	18 594	47.5%	8.8%
District Court	16 746	49.1%	20 317	51.8%	21.3%
<i>All Courts</i>	<i>34 080</i>	<i>100.0%</i>	<i>39 186</i>	<i>100.0%</i>	<i>15.0%</i>

Number of Criminal Cases Withdrawn After Enrolment

Whilst it is acceptable that a small percentage of cases will be withdrawn after enrolment, prosecutors have implemented improved quality-screening processes over the past number of years. This was done to ensure the successful prosecution of cases. As previously alluded to, the NPS experienced severe resource constraints during the beginning of the financial year. Vacancies at a managerial level complicated management functions in certain regions, and resulted in weaknesses in internal control mechanisms and insufficient monitoring by senior prosecutors. The screening teams and/or control prosecutors, who are responsible for screening dockets and cases before enrolment, were assisting in the courts to prevent operations from being interrupted. This caused a situation where proper screening processes were not adequately enforced. The decline in the adequacy of screening processes resulted in an increase in the number of cases withdrawn after enrolment. As a result, there was an increase in the number of withdrawals of enrolled matters during the previous financial year.

Figure 8: Number of enrolled cases withdrawn



The five-year comparison, as depicted in Figure 8 above, reflects an upward trend during the past two years. This upward trend correlates with the aforementioned resource constraints.

During the year under review, 6 489 (6.3%) more enrolled cases were withdrawn compared to the previous year. Despite the decline, prosecutors in the regional courts still withdrew 811 fewer cases than in the 2015/16 financial year.

Number of Criminal Cases Finalised Through ADRM

Using restorative justice processes, the NPA also resolves matters through ADRM. ADRM encompasses several methods, other than prosecution in court, for the resolution of disputes between the parties. This process still happens within the ambit of the CJS, and includes diversion and informal mediation.

The majority of ADRM matters (98.4%) are dealt with by the district court prosecutors, mainly because of the nature of crimes that are heard in the district courts. The remaining 1.6% are dealt with by prosecutors in the regional courts. During the year under review the lower court prosecutors finalised 136 594 cases through ADRM. The table below illustrates the comparison of criminal court cases finalised through ADRM in the lower courts, over the last two years.

Table 10: Comparison of criminal court cases finalised through ADRM

Forum	2018/19	% of National	2019/20	% of National	Progress
Regional Court	2 476	1.7%	2 227	1.6%	-10.1%
District Court	146 993	98.3%	134 367	98.4%	-8.6%
<i>All</i>	<i>149 469</i>	<i>100.0%</i>	<i>136 594</i>	<i>100.0%</i>	<i>-8.6%</i>

As with cases finalised with a verdict, a downward trend was displayed, mainly due to the reduction in the inflow of cases. The prosecutors finalised 136 594 cases through ADRM in the period under review, an 8.6% decline compared to the 49 469 cases finalised through ADRM in the previous financial year.

During the year under review, 33 574 cases were diverted after enrolment, 3 217 cases were diverted before enrolment in terms of the Child Justice Act, 2008 (Act No. 75 of 2008) (CJA) and 99 803 cases were mediated successfully. In total 12 875 fewer cases were diverted/mediated compared to the previous financial year. This represents a decline of 8.6%. Diversions in terms of the CJA were reduced by 1 217 (27.4%), diversions after enrolment decreased by 5 466 (14%), whilst 6 192 (5.8%) fewer matters were found suitable for informal mediation.

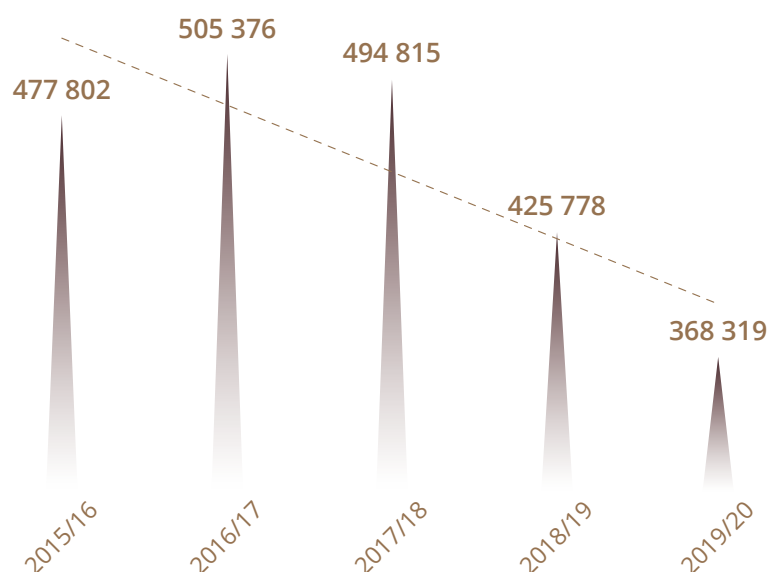
Table 11: Comparison of ADRM cases per indicator

Indicator	2018/19	% of National	2019/20	% of National	Progress
Diversions after enrolment	39 040	26.1%	33 574	24.6%	-14.0%
Diversions in terms of CJA	4 434	3.0%	3 217	2.3%	-27.4%
Informal mediation	105 995	70.9%	99 803	73.1%	-5.8%
<i>Total</i>	<i>149 469</i>	<i>100.0%</i>	<i>136 594</i>	<i>100.0%</i>	<i>-8.6%</i>

Number of Cases Finalised, Including ADRM

The NPS set high targets for its prosecutors in the 2019/20 financial year. Despite the efforts by prosecutors to increase successful prosecutions, and the achievement in maintaining high conviction rates, the overall number of cases finalised, declined from the previous financial year. Initial resource constraints and external factors, such as fewer cases being referred for prosecution, impacted on the performance of the prosecutors. This explains the decline in the number of all cases, including ADRM cases which were finalised, as illustrated in Figure 9.

Figure 9: Trend analysis of criminal cases finalised including ADRM



The prosecutors finalised 368 319 cases, including ADRM cases, which constitutes 57 459 (13.5%) fewer cases, compared to the total of 425 778 cases finalised during the previous year. All three fora showed a reduction in output. The high courts finalised 106 (11%) fewer cases, the regional courts finalised 2 506 (8.2%) fewer cases, whilst a substantial reduction of 54 847 (13.9%) is noted in the district courts.

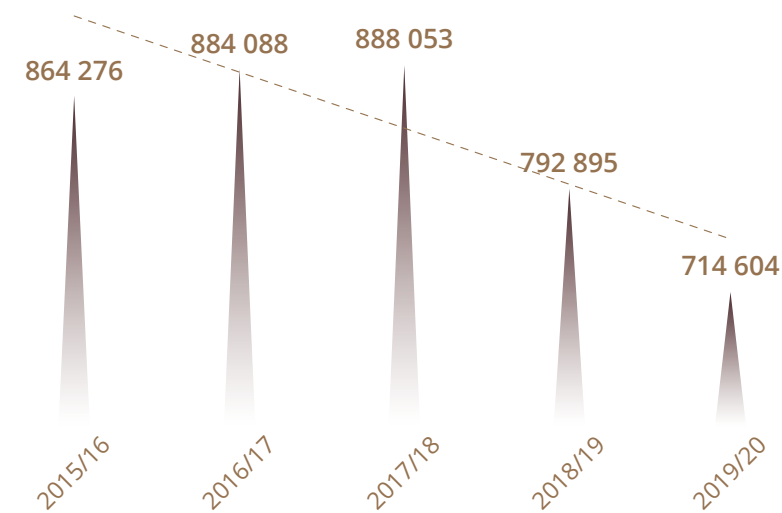
Table 12: Comparison of criminal court cases finalised including ADRM

Forum	2018/19	% of National	2019/20	% of National	Progress
High Court	966	0.2%	860	0.2%	-11.0%
Regional Court	30 477	7.2%	27 971	7.6%	-8.2%
District Court	394 335	92.6%	339 488	92.2%	-13.9%
<i>All Courts</i>	<i>425 778</i>	<i>100.0%</i>	<i>368 319</i>	<i>100.0%</i>	<i>-13.5%</i>

It is important to note that the NPA does not work in a silo, but is highly dependent on the cooperation and performance of other stakeholders. The level and quality of performance, or a decline in the productivity of stakeholders, will accordingly have a negative impact on the performance of the NPS, translating into a subsequent impact on the achievement of the targets set. As alluded to earlier in the report, the initial severe resource constraints, a decline in the utilisation of courts, the reduced inflow of cases, and poor quality of investigations received from the SAPS were the main factors that hampered the performance of the NPS during the year under review.

A trend analysis of new cases received indicates a downward trend in the inflow of new cases over the past two financial years. As a direct relationship exists between the number of new cases received and the number of finalised cases, the declined inflow contributed to the decline in the number of cases finalised during the 2019/20 financial year.

Figure 10: Inflow of new cases



Compared to the previous financial year, 78 291 (9.9%) fewer new cases were enrolled in the courts. In the district courts 77 691 (10.5%) fewer cases were enrolled, whilst a marginal decline of 584 (1.1%) and 16 (1.9%) fewer new criminal cases were enrolled in the regional and high courts, respectively. The total decline of 600 cases in the high and regional courts combined is a concern. Should the volumes of new cases continue to decline, it will become increasingly difficult for the prosecutors to achieve the targets set for the successful finalisation of prosecutions of serious crimes.

Table 13: Comparison of new cases received

Forum	2018/19	% of National	2019/20	% of National	Progress
High Court	846	0.1%	830	0.1%	-1.9%
Regional Court	51 551	6.5%	50 967	7.1%	-1.1%
District Court	740 498	93.4%	662 807	92.8%	-10.5%
<i>All Courts</i>	<i>792 895</i>	<i>100.0%</i>	<i>714 604</i>	<i>100.0%</i>	<i>-9.9%</i>

Number of Criminal and Court Related Matters Finalised

In addition to court cases finalised, prosecutors also deal with other criminal and court related matters as part of their core function and service to the community. A total of 71 593 matters were finalised, with a 17.1% increase in the number of formal inquests dealt with, a 68.9% increase in conversions of maintenance trials to enquiries, and a 2.7% increase in terms of formal bail applications. The progress per indicator is indicated in the table below.

Table 14: Progress on criminal and court matters finalised

Type of court/criminal matters	2018/19	% of National	2019/20	% of Total	Progress
Formal inquests	152	0.2%	178	0.2%	17.1%
Committal to a mental institution	763	1.1%	692	1.0%	-9.3%
Conversion of maintenance trial to enquiry	286	0.3%	483	0.7%	68.9%
Application for leave to appeal	2 042	2.8%	1 770	2.5%	-13.3%
Conversion of sentence	566	0.8%	243	0.3%	-57.1%
Suspended sentences	3 476	4.8%	2 901	4.1%	-16.5%
CJA: Prelim inquiries	9 406	13.0%	7 965	11.1%	-15.3%
Formal bail applications	55 842	77.0%	57 361	80.1%	2.7%
<i>Total matters finalised</i>	<i>72 533</i>	<i>100.0%</i>	<i>71 593</i>	<i>100.0%</i>	<i>-1.3%</i>

The overall decline of 1.3% in criminal and court related matters in the period under review compared to the previous financial year can also be ascribed to a decline in the productivity of the courts.

Appeals Finalised

State Advocates in the offices of the DPPs also deal with appeals and motion applications, emanating from criminal cases in the lower courts. These matters are dealt with in the higher courts. SCA decisions are binding on all lower-order courts, while the decisions of high courts are binding on magistrate courts within the divisions' respective areas of jurisdiction. The successful pursuit of appeals thus has a great impact on other courts, and is important in the jurisprudence of the country.

During the period under review, 2 071 appeals were finalised, which is a substantial increase of 20% compared the 1 722 appeals finalised in the previous financial year. At the end of the 2019/20 financial year, there were 2 384 criminal appeals outstanding as opposed to the 1 434 in the previous year. This means that despite the marked increase in the number of appeals finalised there are still 66.2% more cases outstanding than at the end of the previous financial year. Judgement was reserved in 126 appeals.

Table 15: Criminal appeals dealt with

Financial Year	Newly Received Appeals	Finalised	Appeals Unsuccessful	% Unsuccessful
2011/2012	1 328	1 922	645	33.6%
2012/2013	2 249	2 418	791	32.7%
2013/2014	2 762	2 422	878	36.3%
2014/2015	2 651	2 423	899	37.1%
2015/2016	3 065	2 520	944	37.5%
2016/2017	2 520	2 439	941	38.6%
2017/2018	2 495	2 225	781	35.1%
2018/2019	2 507	1 722	679	39.4%
2019/2020	2 480	2 071	593	28.6%

NPS Programme Performance Indicators

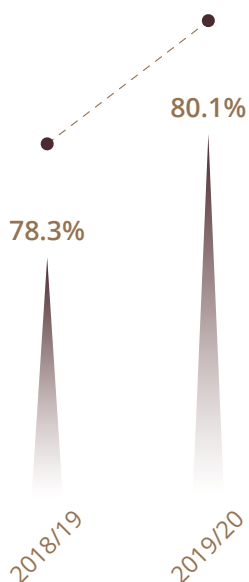
Conviction Rate in Murder Prosecutions

The conviction rate in murder prosecutions mainly aims to show the impact of prosecutions in curbing the increasing violence in South Africa. Murder is defined as the intentional, unlawful killing of another human being. In order to enable accurate reporting, all competent verdicts on a charge of murder in terms of Section 258 of the CPA are also included.

The prosecutors are passionate about curbing the increasing rate of violence, which is evident in the 3 987 cases finalised with a verdict, and 3 193 convictions obtained. This represents a conviction rate of 80.1%, which is well above the norm of 74%. It is interesting to note that the 3 987 murder cases finalised with a verdict relate to 4 225 counts of murder, thus more than one count of murder per murder case on average.

Compared to the previous financial year, a slight decline (471) is noted in the number of murder cases finalised with a verdict. Despite this decline, the dedication and commitment of the prosecutors are clearly reflected in the improvement in the conviction rate on all murder-related prosecutions.

Figure 11: Progress of murder conviction rates



Murder: Intimate-Partner Femicide

Violence against women (often referred to as GBV) is a common crime type. It is, however, serious and takes on many forms. The murder of an intimate-partner is the most extreme consequence of GBV. Due to the prevalence of intimate-partner violence against women, the NPA renewed its commitment to prioritise its resources in order to address the surge in gender-based violence, and to monitor the results of this intervention.

A total of 87 cases were finalised during the current reporting year, with only two acquittals. This represents a conviction rate of 97.7%.

Conviction Rate in Trio Crimes

Trio crimes encompass three categories of crime which impact directly on the perception of safety within the community, i.e. house robberies, business robberies and vehicle robberies/hi-jacking. In line with the Medium-Term Expenditure Framework (MTEF) priorities, a special focus was placed on the successful prosecution of all trio crimes. The aim was to ensure that the NPA fulfils its mandate to promote safety and security in South African society. The prosecutors finalised 1 649 trio cases with a verdict, while 1 355 convictions were obtained. This represents a conviction rate of 82.2%, 3% below the target of 85%. The 1 649 cases finalised with a verdict show a decline of 255 cases (13.4%) when compared to the total of 1 904 trio cases finalised with a verdict during the previous financial year.

Various measures were implemented in the regions to increase performance in all trio crimes. This includes continuous stakeholder engagement with the SAPS management at provincial levels, which was aimed at requesting SAPS to adequately resource trio crime investigations, and to ensure that the quality of the investigations are of a high standard. There was also a focus on the early identification of trio cases to ensure proper prosecutor-guided investigations from the first appearance. The intention was to fast-track these cases through the court system, and to ensure accurate reporting of these cases. The downward trend in the conviction rate is depicted in the figure below.

ATTEMPTED MURDER

***State versus Cui Rongli and six others
(Chinese Nationals): Attempted murder***



Acting Regional Court Prosecutor Vishalan Moodley

The Durban Magistrate's Court sentenced seven Chinese nationals, Cui Rongli, Lin Xinyong, Zou Yongxian, Tan Yian, Xie Wenbin, Xu Kun and Mu Yong, to hefty fines after they pleaded guilty to the attempted murder of two Tanzanian nationals.

The master of the ship, Cui Rongli, also pleaded guilty to contravention of the provisions of section 174(1)(a) and section 317 (4) of the Merchant Shipping Act, 1951 (Act No. 57 of 1951). These relate to misconduct (endangering life or causing injury) and failure to report stowaways.

These men were part of the crew of a shipping vessel, Top Grace, that left the port of Durban on 26 March 2020. The following day they discovered two Tanzanian men on board. Accused two to seven then constructed a raft

with plastic drums and plywood. They provided the men with lifejackets and water, and forced them to leave the ship on the raft. The two men later washed ashore at Zinkwazi Beach near KwaDukuza.

The crew of the vessel was asked to proceed to the Port of Richards Bay.

Cui Rongli received a fine of R100 000 or four years' imprisonment for the charges of attempted murder relating to putting the men adrift at sea. For failing to report the stowaways, he was sentenced to a fine of R10 000 or three months imprisonment, suspended for five years on condition that he is not convicted of the same offence during the period of suspension. He was sentenced to a fine of R50 000 or 12 months imprisonment for misconduct. This sentence was suspended for five years on condition that he is not convicted of the same offence during the period of suspension. Each of the other accused were sentenced to a fine of R50 000 or two years' imprisonment for their role. They were handed over to Immigration officials after paying their fines. This matter was successfully finalised by Acting Regional Court Prosecutor Vishalan Moodley.

APPEALS

State versus Daveyton members: Appeals



Advocate Grace Mosetlha

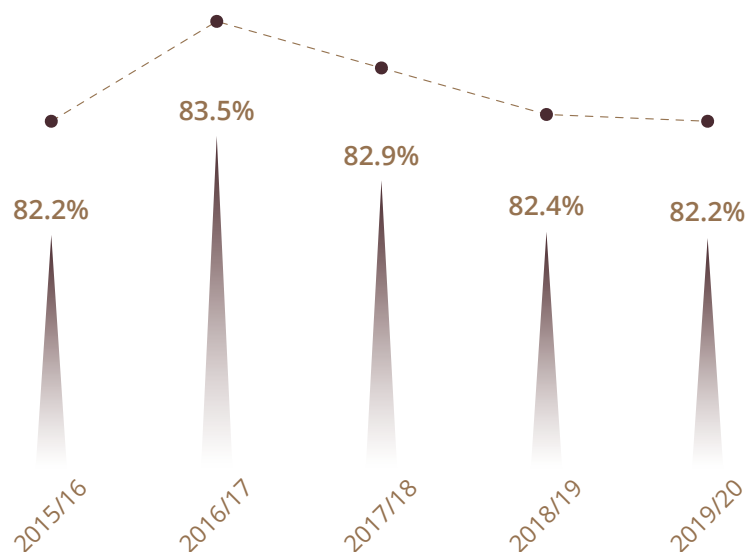
A unanimous decision by a full bench (three Judges) of the Pretoria High Court upheld the ruling that found eight Daveyton members of the South African Police Service guilty of murdering Mido Macia (the deceased) on 26 February 2013.

Mishack Malele, Thamsanqa Ngema, Percy Jonathan Mnisi, Bongani Mdluli, Sipho Sidwell Ngobeni, Lungisa Gwabada, Bongani Kolisi and Linda Sololo were convicted by the Pretoria High Court on 25 August 2015 and sentenced to 15 years' imprisonment each for their collaboration in dragging the deceased from a moving police vehicle in full view of the public, resulting in his death. Subsequent to their sentencing, all police officers brought an application for leave to appeal with the Pretoria High Court, which was dismissed. They later petitioned the Supreme Court of Appeal which granted them leave to appeal on conviction, and directed that the matter be heard by a full bench.

In dismissing the appellant's application on Monday 17 February 2020, the full bench ruled that there was no justification for interference on its part, since the trial court was not misdirected in finding that all officers were present at the scene of crime, they intended to make common cause when they jointly conducted themselves in a manner that amounted to a criminal offence in that, they handcuffed the deceased to a bench at the back of a moving police vehicle on a tarred road with his body hanging outside the vehicle, foresaw that the deceased might sustain injuries that could result in his death, yet reconciled themselves with the danger that might ensue and failed to prevent it. Furthermore, that upon arrival at the police station, though being alive to the fact that the deceased had sustained visible injuries, they failed to summon medical help, but instead continued to detain him in that state, and subjected him to further assaults at the holding cells. A post mortem report submitted to the trial court indicated that the deceased died as a result of extensive soft tissue injuries and hypoxia. These injuries were found by the trial court to have been inflicted by the accused persons.

The full bench therefore concurred with the trial court that the state discharged the onus of proving beyond any reasonable doubt that all accused are guilty of murder under the principle of *dolus eventualis*.

Figure 12: Progress in trio crime conviction rate



However, a positive impact on trio crimes was made if the three categories of crime are analysed separately. A total of 1 781 convictions was obtained, related to 2 216 counts of trio crimes. If measured against the total number of trio counts finalised with a verdict, this represents a conviction rate of 80.4%. The 1 781 convicted counts included 875 counts of conviction for house robbery, 539 counts for business robbery, and 367 counts for vehicle robbery/hijacking. Further analysis indicates that a conviction rate of 85.9% was achieved in house robberies. The target was not achieved in the categories of business robberies, where a conviction rate of 81.5% was achieved, and in vehicle robbery/hi-jacking, where a conviction rate of 68.5% was achieved.

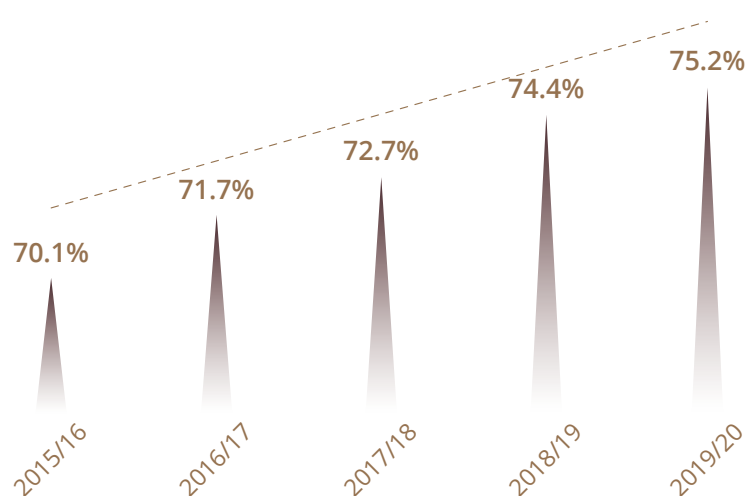
Table 16: Trio counts overview

2019/20	Convictions	Acquittals	Conviction rate
House robberies	875	144	85.9%
Business robberies	539	122	81.5%
Vehicle robberies/hi-jacking	367	169	68.5%
<i>Total</i>	<i>1 781</i>	<i>435</i>	<i>80.4%</i>

Conviction Rate in Sexual Offences

A focus on the victims of sexual crimes helps combat and prevent further violence against women and children. Accordingly, the prosecutors managed to increase the conviction rate in sexual offence cases, despite their initial challenge experienced with a lack of resources. A total of 5 451 sexual offence cases were finalised with a verdict and 4 098 convictions were obtained. This represents a conviction rate of 75.2%; the highest conviction rate achieved in the past five years. This upward trend in the conviction rate is illustrated in Figure 13 below.

Figure 13: Overview of sexual offences conviction rate



Conviction Rate in Violent Protests and Industrial Action

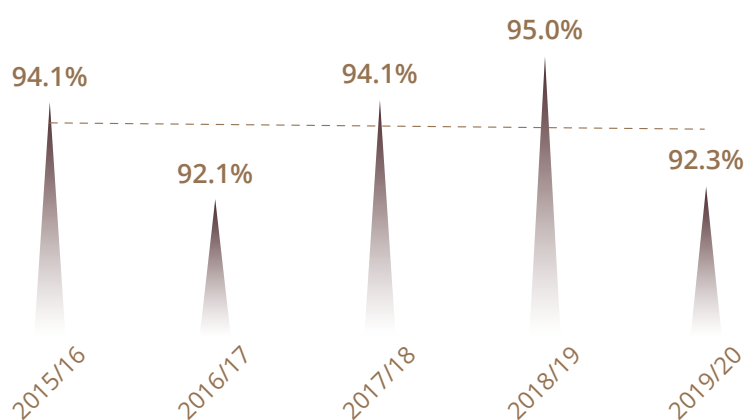
A special focus was placed on violent protest and industrial action prosecutions, since this crime type poses a serious threat to domestic stability if not actively combatted and prevented. It is therefore imperative to prevent and combat the violent crime that accompanies what is otherwise legitimate industrial and protest action. The conviction rate target of 74% was exceeded by 4%, since 77.5% of the cases finalised with a verdict resulted in convictions. The conviction rate also marginally increased by 0.1% when compared to the previous financial year. The number of convictions however decreased year-on-year by 2.1%, from 95 to 93 convictions.

Prosecutors in these cases were also assisted by advocates from the DPP offices and other experienced prosecutors, who monitored progress and provided guidance. Factors that influenced the conviction rates included the reluctance of witnesses to testify, the challenges experienced in the identification of perpetrators, and discrepancies between the evidence of state witnesses. This is not entirely surprising, as such events are extremely fluid and chaotic, with many perpetrators involved.

Conviction Rate in Complex Commercial Crime

The SCCU maintained a high conviction rate during the financial year under review. The impact on serious economic crime is evident, as the advocates finalised 649 cases with a verdict and obtained 599 convictions. This represents a conviction rate of 92.3%, 3% below the 95% conviction rate obtained during the previous financial year. This achievement should be viewed against initial serious resource constraints experienced in many offices.

Figure 14: SCCU conviction rate



Number of Persons Convicted of Corruption of More Than R5 million

The SCCU participates in the ACTT, which was set up to focus on fast-tracking the investigation and prosecution of serious corruption cases, and to help fight and prevent corruption in South Africa. Members of the SCCU were instrumental in crafting the draft strategic plan for the ACTT, and are actively involved in the ACTT secretariat.

The SCCU represented the NPA in the FATF Country Evaluation and the Organisation for Economic Cooperation and Development (OECD) review. The SCCU significantly contributed to the finalisation of money laundering cases and the co-ordination of enforcement action in the form of the prosecutions instituted and finalised.

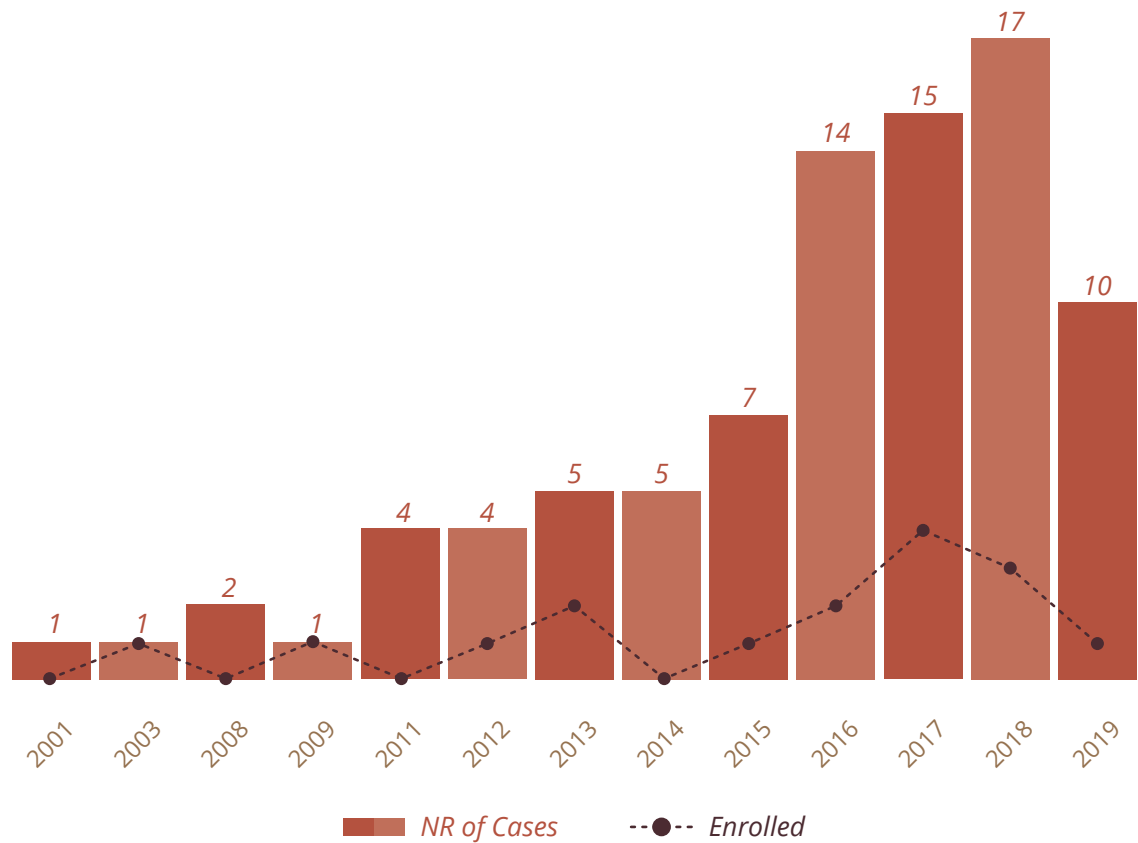
Towards the middle of the year, the NPS identified that the serious corruption target would not be reached. Consequently, an anti-corruption workshop was arranged where all issues relating to serious corruption were identified, and pro-active steps were formulated to enhance the fight against corruption. Several steps and resolutions were taken to address serious corruption, including obtaining additional funding from NT to appoint more staff at the various offices of the SCCU. The unit was thus filling the current critical vacancies, as well as establishing additional SCCU capacity to support the establishment of commercial crime courts in Limpopo, North-West,

Mpumalanga and the Northern Cape where no such special courts were established.

Although the NPA has not met the target of convicting 30 persons of corruption where the amount exceeded R5 million, the definition limited the counting of cases, as it required that a case be registered with the ACTT. In addition to the seven convictions registered by the ACTT, another three convictions were obtained where the amounts involved were more than R5 million.

Each DPP division identified priority corruption cases for fast-tracking and monitoring, which amounted to 33 cases. After consultation between the heads of the DPCI and the NPS, the 33 priority cases identified by the NPA were merged with the DPCI's priority cases. At the end of the financial year, the full list included 86 cases identified for close monitoring between the two departments. Figure 15 below indicates that, of the 86 identified priority corruption cases, 16 cases were already enrolled. This is significant progress for a six-month period. It is important to note that the priority list was not limited to new cases as some of these cases, were reported as far back as 2001.

Figure 15: Progress on prioritised corruption cases



The 86 identified priority corruption cases include 14 cases involving municipalities. The 14 municipality cases account for just over R202 million in value. It is interesting to note that during 2011 and 2016, corruption cases were reported involving significant amounts of money.

A close working relationship between the NPA and the DPCI included frequent discussions and monitoring of the priority corruption cases, monthly reporting to the heads of both institutions from their respective regions, as well establishing a central database for collaborative monitoring and joint identification of mechanisms to resolve problem areas.

Delays caused by forensic reports were identified as one of the critical areas to be addressed. The NPA and DPCI are working together to address these bottlenecks.

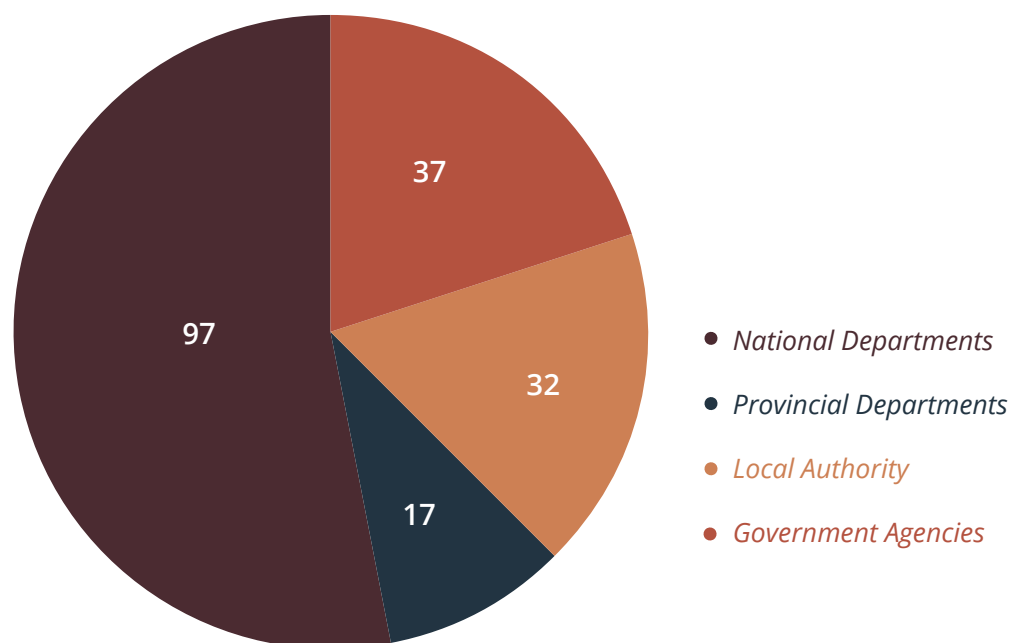
The operational effectiveness of existing structures within the various provinces also form part of the discussions to improve inter-departmental cooperation.

Number of Government Officials Convicted for Corruption or Offences Related to Corruption

In line with the MTSF and the NDP, a special focus was placed on the prosecution of corruption-related cases to improve investors' perceptions and trust in South Africa in order to encourage investment. The NPA participated in the development of the National Anti-Corruption Strategy (NACS), where a national implementation plan for the monitoring, evaluation and a reporting framework for corruption, is being developed.

During the year under review 183 government officials were convicted of corruption, 9.4% below the target of 202 officials. The number of convictions is also a 12.9% decline compared to the previous financial year, during which 210 officials were convicted. It is however encouraging to note that serious sentences are imposed by all divisions when convictions are obtained. The figure on the next page indicates the number of accused convicted from the various government sectors.

Figure 16: Government officials convicted of corruption



Number of Persons Convicted of Private Sector Corruption

A specific focus was placed on individuals involved in corruption in the private sector. The number of individuals convicted of corruption thus increased by 62.9%, from 143 to 233 accused.

The media often reports on corruption within the public sector. However, corruption in the private sector also has an important impact on society and the economy of the country. Private sector corruption may occur between an individual and the public sector, between two or more private individuals, or between a private individual and one or more companies. In terms of the definition of corruption used by the NPA, and in line with the Prevention and Combating of Corrupt Activities Act, 2004, a person commits corruption if they directly or indirectly accepts gratification offers from another person, or gives or agrees to give gratification to any other person for their or another person's benefit where, such giving or receiving is done to induce the other party to act in an improper manner whilst performing their duties.

Some of the sections in the Prevention and Combatting of Corrupt Activities Act, 2004, relating to corruption-related offences of private individuals or companies, include corrupt activities surrounding contracts, procuring and withdrawing tenders, auctions, sporting events, gambling games or games of chance, and unacceptable conduct relating to witnesses. Various international agreements and conventions to which South Africa is a signatory and development guidelines for multinational enterprises, oblige South Africa to address corruption and bribery in both the public and private sector.

MONEY LAUNDERING

State versus Wilmot: Money laundering



Advocate Tjaart van Zyl

The Port Elizabeth Specialised Commercial Crime Court sentenced David Wilmot (47) to fifteen years' imprisonment after convicting him on a string of charges relating to the swindling of unsuspecting investors of more than R23 million.

Wilmot, of Jeffrey's Bay, pleaded guilty to 153 counts of fraud, one count of contravening the Exchange Control Act, one count of contravening the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), and one count of money laundering. The accused, after pretending to be very successful in making large profits for and on behalf of investors who invested through him, fraudulently led the complainants to believe that he would invest their money on the FOREX markets.

In aggravation of sentence the prosecutor, Advocate Tjaart van Zyl, called three witnesses. Chris Arnold, a local attorney, testified that Wilmot lied in the insolvency hearing about the fact that there were millions of dollars in overseas accounts which belonged to the investors. The liquidators were not able to trace any funds. The Regional Magistrate, JJ Claassen, convicted Wilmot to an effective term of 15 years' imprisonment. He found that there were no substantial and compelling circumstances present for him to deviate from the prescribed minimum sentence.

TAX PROSECUTIONS

State versus Norman Frederick Delpport and two others: Tax prosecutions



Advocate Dickson Sampisi

A family consisting of a 68-year-old father, a 59-year-old mother and son aged 37 were prosecuted for defrauding SARS of R60.3 million between 2009 and 2015.

The father and mother were trustees of two trusts and directors/members of two legal entities used to defraud SARS, and the son was a beneficiary of the trusts and public representative of the entities, responsible for all the entities' tax affairs. Between 2009 and 2015 the accused claimed VAT refunds from SARS by inflating their expenditure and deflating their income on VAT 201 returns. VAT refunds of up to R60.3 Million were paid into the various accounts of the entities.

The accused, Norman Frederick Delpport, Johanna Catherina Delpport and Marius Delpport, were arraigned on 136 counts of Fraud, alternatively contravention of the provisions of section 235(1)(e) of the Tax Administration Act, 2011 (Act No. 28 of 2011). Accused 1 pleaded guilty on the alternative charges, Accused 3 pleaded guilty on all fraud charges, and all charges were withdrawn against Accused 2 (the mother).

Accused 1 was sentenced to five years' imprisonment for each of the 136 counts ($5 \times 136 = 680$ years), wholly suspended for five years on certain conditions, as he was a trustee and a director of the company, but was not actively involved in the commission of the offences. Accused 3 was sentenced to 15 years' imprisonment for each count of fraud ($15 \times 136 = 2040$ years), the sentences running concurrently. Only R1.2 million could be recovered from the assets of the accused.

Conviction Rate in Money Laundering Cases

South Africa is a member of FATF in which money laundering is one of three key indicators. In general, there is a strong focus on money laundering and the prosecution of money laundering cases. A conviction rate target of 75% was set for money laundering cases, which was exceeded by 23.6%. A total of 72 convictions were obtained. The high conviction rate can be ascribed to an increased focus on money laundering which was a consequence of the previous (2009) FATF report.

In 2019, FATF indicated that the investigation and prosecution of money laundering activities are partly consistent with South Africa's risk profile. Most money-laundering cases relating to fraud were investigated and prosecuted. There were fewer money-laundering prosecutions relating to other high-risk areas, such as corruption, narcotics and tax offending. To date, money-laundering cases relating to State Capture have not been pursued sufficiently, and cases referred to the NPA by the SIU have not been dealt with expeditiously. Thus, it is not our general prosecution of money-laundering cases which is problematic but rather a lack of focus in the following areas which occasioned the finding of the FATF: Stand-alone money laundering, SIU cases referred to the NPA, State Capture cases and cases where foreign predicate offences are involved. Another issue was that no prosecutions were instituted or finalised for third-party money laundering. The stand-alone money laundering and foreign money laundering aspects were included as areas of focus in the new financial year.

The units involved in organised crime collectively provided information to the FATF on approximately 60 successful prosecutions in which money-laundering convictions were obtained and significant periods of imprisonment of up to 20 years were imposed. Organised crime generates massive amounts of proceeds. However, the money-laundering charges mostly relate to assets and money directly linked to the predicate offences.

The NPA obtained six convictions for money laundering where illicit mining is involved in terms of Section 6 of POCA, under 'Possession of proceeds of unlawful activities'. One accused was sentenced to direct imprisonment.

- **Tanki Ngatane:** An employee was arrested at Phakisa Mine with R15 000 and sentenced to a fine of R 20 000 or four months' imprisonment.
- **Sithembile Mboyane:** The accused was arrested at Phakisa Mine with R5 000 and sentenced to a fine of R2 000 or six months' imprisonment suspended for five years.
- **Godfrey Mesa:** The accused was arrested at Tsepong Mine with R10 100 and sentenced to six months' imprisonment suspended for three years.
- **Johannes Mantso:** The accused was arrested at Phakisa Mine with R1 600 and sentenced to a fine of R2 000 or six months' imprisonment of which half was suspended for three years.

- **Theddeus Chibuike Ikwe:** The accused was arrested at Phakisa Mine with R6 000 and sentenced to a fine of R2 000 or four months' imprisonment.
- **Tsibiso Lekhera:** The accused was found underground in Tshepong Mine in possession of R3 000 and sentenced to six months' imprisonment.

Specialised Tax Component

The NPA entered into a MoU with SARS in terms of which it committed to the establishment of a specialist tax prosecution capacity within the NPA, in the form of a specialist tax component (STC). The role and exclusive mandate of the STC is to prosecute serious and complex tax offences. The STC is responsible for the prosecution of tax crime, specifically where such incidences are linked to the commission of organised crime.

The MoU was updated during the year under review. The following are examples of the type of crimes committed and the investigations involved in the cases (almost all cases investigated are racketeering matters):

- Value-added tax (VAT) fraud;
- IT fraud;
- Customs fraud;
- Ghost exports;
- Money laundering;
- Exchange control regulations; and
- Cross-border crimes.

Regular coordinating committee meetings (CCM) with SARS are important, as SARS has its own investigating component. Extensive time and effort went into supporting the SARS National Outstanding return project. SARS is currently under-collecting on its revenue targets. A major contributor to the under-collection relates to legal entities and individual taxpayers who are not submitting their tax returns for income tax, pay as you earn (PAYE), unemployment insurance fund (UIF), the skills development levy (SDL) or value-added tax (VAT). SARS is unable to raise assessments or collect the outstanding taxes until the returns are submitted by the taxpayer and the outstanding taxes can be determined. Failure to submit tax returns therefore, has a serious impact on the SARS revenue-collection efforts. The setting of admission of guilt fines and civil penalties have clearly not brought about the required levels of compliance expected from taxpayers.

The STU therefore decided not to set admission of guilt fines for so-called 'problem taxpayers' who clearly have a history of non-compliance, and these taxpayers were required to appear in court. Further to this, it was expected that evidence in aggravation of sentence must be led in court, and that the court must receive individual information relating to 'problem taxpayers'. These strengthened measures are in place, and the process is ongoing.

Reducing Organised Crime

The NPS focused on activities aimed at ensuring the successful prosecution of accused persons, and in maintaining a high conviction rate.

Conviction Rate in Organised Crime

Members of the organised crime division participated in several fundamental stakeholder engagements, where they contributed to meaningful discussions. They also dealt with and processed a number of applications that were authorised by the NDPP, such as racketeering, plea and sentence agreements and the interception of communications. The members have various specialised portfolios, such as drug-related offences, essential infrastructure, illegal mining, wildlife crime, trafficking in persons, robberies/cash-in-transit heists and money laundering.

Members of the organised crime division represent the NPA on the National Project Committee (NPC) which was established by the DPCI to nationally evaluate projects. During these sessions, the investigation teams present project-driven investigations and the NPS provides input and guidance to ensure that the investigations and prosecutions are successful. The goal of these project-driven investigations is to dismantle the syndicates and associated structures involved in criminal activities through arrest and successful prosecution. The AFU plays a role in the recovery, restraint, preservation and forfeiture of the criminal assets of syndicate members.

The NPA also uses the NPC to identify potential racketeering and money-laundering cases and to advise on how these investigations can be improved. If investigation teams raise challenges experienced in their investigations due to the decisions or conduct of prosecutors, those concerns are channelled to the relevant DPP offices to resolve. This ensures better coordination and cooperation between the NPA and the DPCI.

The majority of investigations are, however, focused on drug syndicates involved in the manufacturing, distribution and dealing of dangerous dependence-producing or undesirable dependence-producing substances.

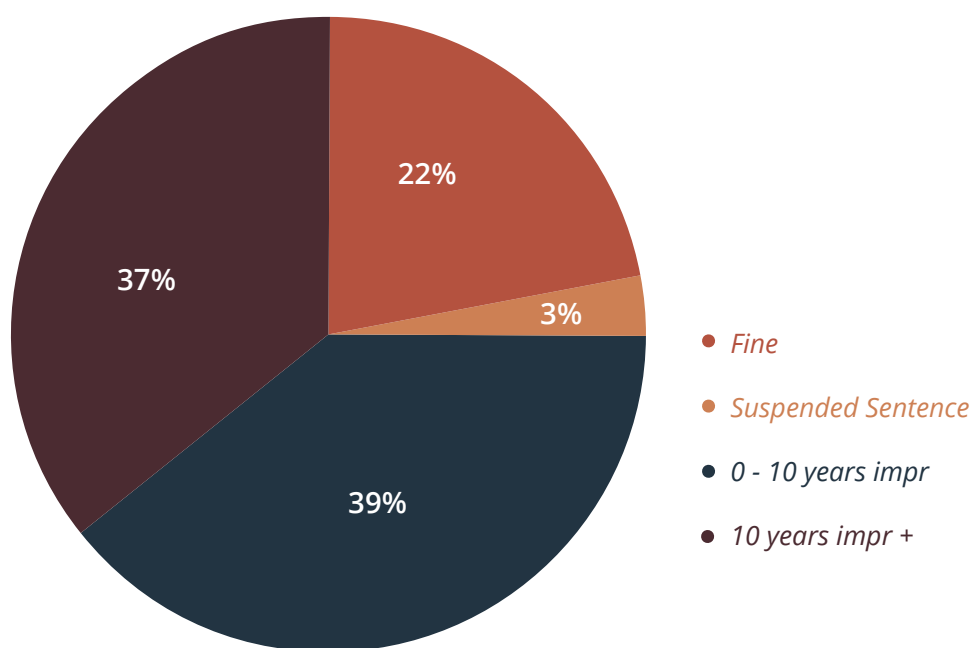
Another national priority crime is the smuggling of abalone which has a large impact on the South African economy and tourism industry. This crime type is most prevalent in the Western Cape and Eastern Cape, with national as well as international links. Aside from abalone poaching, it is evident from the investigations that these syndicates are also involved in other crimes.

Other national priority crimes that form part of the project-driven investigations are corruption, cash-in-transit heists, housebreaking, trafficking in persons and illicit mining. Illicit mining, which usually involves an element of violence, is driven by organised criminal syndicates that have control over illegal miners, colloquially known as Zama Zamas.

During the year under review a conviction rate of 95.3% was achieved in organised crime matters, exceeding the target of 90% by 5.3%. The number of convictions, however, decreased by 17.7%, from 294 to 242 convictions.

Organised crime cases mostly consist of complicated cases involving evidence of an intricate nature. As such these cases take longer to finalise than the average regional or high court case. Various cases are also part-heard cases, which remain long on the court roll. In KZN, for example, four of the part-heard cases involve racketeering charges. These cases have been on the court roll since 2010 and 2011. Another part-heard matter involving charges of money laundering has been on the court roll since 2011. During the past year, the organised crime unit finalised cases involving 12 counts of racketeering and 25 counts of money laundering. Most of the sentences imposed on the organised crime cases were for lengthy imprisonment periods, as reflected in the figure below.

Figure 17: Comparison of organised crime sentences imposed



The POCA provides measures to combat organised crime by investigating and prosecuting racketeering, money laundering and criminal gang activities. A racketeering prosecution allows for all members of a syndicate to be placed before a single court, instead of instituting several separate trials.

The organised crime unit provided information to the FATF on approximately 60 successful prosecutions in which money laundering convictions were obtained and significant periods of imprisonment of between five and 20 years were imposed from 2014 to 2019. Organised crime generates immense amounts of proceeds. The money-laundering charges mostly relate to assets and money directly linked to the predicate offences. There are, however, limited investigations and prosecutions in relation to the financial activities of money laundering enablers.

Illicit Mining

The NPA contributed to regional and international cooperation to address transnational organised crime in relation to precious metals. A resolution under the heading 'Combatting transnational organised crime and its links to illicit trafficking of precious metals and illegal mining, including by enhancing the security of the supply chains of precious metals' was adopted by the Commission on Crime Prevention and Criminal Justice (CCPCJ) in May 2019. The lack of legislation and border control in non-producing countries hamper the transnational organised crime investigations of false or under-declaration during export of precious metals and stones in South Africa.

A progress report relating to the implementation of the resolution had to be provided at the 14th United Nations CCPCJ. The NPA assisted to provide content for the South African report in relation to illicit mining, and assisted in drafting the national statement to promote the resolution, which will be delivered by a minister. Further to this, the resolution is still to be presented at the CCPCJ conference in May 2020, and the United Nations Convention against Transnational Organised Crime (UNTOC) Community of Practice (COP) in October 2020.

ILLCIT MINING

State versus Thomas Tivane and eight others: Illicit mining



Senior State Advocate Lwazi Ngodwana

Nine men were each sentenced to life imprisonment by the Johannesburg High Court for a spate of offences they committed. Thomas Tivane, Makamu Mapeddje, Alex Mabuya, Boavida Chilengue, Gito Maguele, Jordan Bila, Antonio Timbe, George Mabunda and Jeremias Sithole were convicted of 53 offences ranging from the contravention of POCA, gang rape, kidnapping, one count of murder, and inciting or abetting another to commit the crime of rape.

The accused terrorised residents of Tshepisong (Mogale City Municipality) by wielding pangas, knives, knobkerries and what resembled firearms, to kidnap, rob and rape unsuspecting women. These heinous crimes resulted in the loss of Mathapelo Baloyi's life, who succumbed to injuries after being raped and stoned by three of the assailants.

The accused were arrested following information provided by an informer. They were later pointed out by complainants at an identification parade, and were further linked to the offences through DNA samples. Senior State Advocate Lwazi Ngodwana led evidence of the deceased's husband, Joseph Baloyi, who testified in aggravation of sentence, detailing the impact of the crime and the death of his wife on their entire family. Adv Ngodwana argued that there were no substantial and compelling circumstances to deviate from the minimum prescribed sentence of life imprisonment.

In February 2020, the NPA participated in a meeting with the United Nations Office on Drugs and Crime (UNODC). The resolution will be dealt with under the existing convention of the UNTOC. The purpose of the meeting was to brief the UNODC on challenges relating to illicit mining in South Africa, and to assist them in advancing the implementation of the resolution. A South African working group will be established for this purpose, of which the NPA will be a member.

Illicit mining was one of the areas of concern during the recent FATF country assessment in relation to how effectively South Africa deals with money laundering. FATF made no adverse findings or recommendations relating to illicit mining. This can be attributed to the existence of the national coordinating strategic management team (NCSMT) and the successes achieved as a result of the NCSTM. The NPA presented three organised crime cases and a few lower court cases in which convictions were achieved, amongst others on charges of money laundering. The FATF utilised these case studies in its report. Focussed attention on money laundering relating to illicit mining is crucial during the next financial year. Illicit mining will continue to be a prominent focus area of both the government, through the NCSMT, as well as internationally, through the CCPCJ and the UNODC as an emerging transnational organised crime phenomenon.

Conviction Rate in Environmental Crime

South Africa is known to be an extremely biodiverse country, and is endowed with various plant and animal species not found anywhere else in the world. It is therefore imperative to ensure that these unique species are protected for future generations, as well as to ensure a continued healthy environment. As part of the prioritised focus areas that impact on the environment, the NPA has dedicated prosecutors to more specifically focus on illegal hunting, the dealing and possession of rhino and rhino horns, ivory, abalone and cycads, as well as waste and pollution cases.

As part of the focused attention to successfully address environmental crime, the NPA is collaborating and cooperating with various stakeholders and is part of several committees. The management inspectorate of the Department of Environment, Forestry and Fisheries (DEFF) has close working relations with the SAPS, DoJ&CD, NPA, SARS and the FIC. Various forums and committees enable this coordination. This includes the national-level priority committee on wildlife trafficking, which falls under the National Joint Operational and Intelligence Structure (NATJOINTS), the provincial joints structures within the nine provinces, as well as the National Biodiversity Investigators Forum (NBIF), where wildlife and police investigators meet to discuss specific investigations and targets.

A high conviction rate of 97.1% was achieved during the year under review, which can be ascribed to the organised crime component actively participating in the National Integrated Strategy to Combat Wildlife Trafficking (NISCWT). It is, however, important to note that the NPA must enhance its prosecution capacity in order to play a coordinating and prosecution-guided investigation role in inter-provincial and transnational cases.

As an emerging crime, environmental crime has links to transnational organised crime. The NPA therefore provides reports to various international organisations where South Africa is either a member, or has ratified international agreements, such as the Convention on International Trade in Endangered Species (CITES), UNTOC and the Commission on Crime Prevention and Criminal Justice (CCPCJ). Training on environmental law is being conducted through the Justice College as well as *ad hoc* advanced training by the NPA in collaboration with the DEFF.

The first successful private prosecution was reported with regard to waste and pollution prosecutions. Since then, the NPA received two notifications of intention to institute private prosecutions. It is easier for private persons to initiate private prosecutions due to the absence of requirement for a *nolle prosequi* certificate before instituting an action and therefore it is anticipated that such cases may increase.

The environmental legislation provides for the prosecution of state organs transgressing the law in relation to the management of waste processing facilities and water-related crimes. Prosecutors find it difficult to deal with these matters, as there is no precedent and the only prosecution resulted in an acquittal. The NPA is, however, in the process of determining the correct legal position in this regard.

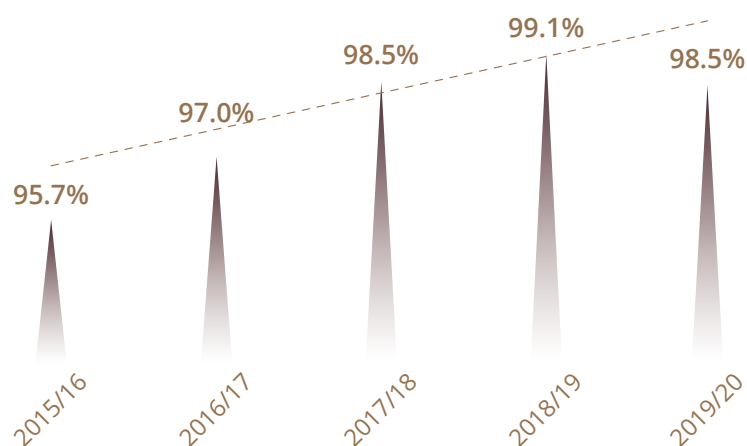
Rhino poaching continues to be a national priority. The NPA performs a pivotal role in combatting rhino poaching by not only rendering prosecution services, but also by participating in Operation Rhino 8, as well as the national priority committee on wildlife trafficking, a coordinating multi-stakeholder committee that addresses challenges relating to anti-poaching operations, investigations and prosecutions. The illegal wildlife trade has become a lucrative transnational crime worth billions, and threatens international security, national sovereignty, impoverished rural communities and countless animals. During the year under review, a special focus was placed on the prosecution of rhino and related matters to curb this growing transnational phenomenon. The enhanced focus resulted in a significant increase in the number of cases finalised with a verdict and convictions. A total of 41 cases with a verdict, in which 59 accused were charged, was finalised with a 100% conviction rate.

Conviction Rate in Cybercrime Prosecutions

A special focus was also placed on the prosecution of cybercrime cases to curb this growing international phenomenon. New technologies create new criminal opportunities rather than new crime types. In fact, cybercrime is an extension of an ordinary crime committed within cyberspace, where information and communication technologies are used as an instrumentality, target or a means for perpetuating further crimes. These cases are complex and encompass a high level of technical evidence.

The prosecutors and advocates of the SCCU finalised 325 cases with a verdict, and obtained 320 convictions, representing a conviction rate of 98.5%. The high conviction rates maintained show a clear commitment and dedication to curb this growing international phenomenon.

Figure 18: Conviction rate in cybercrime



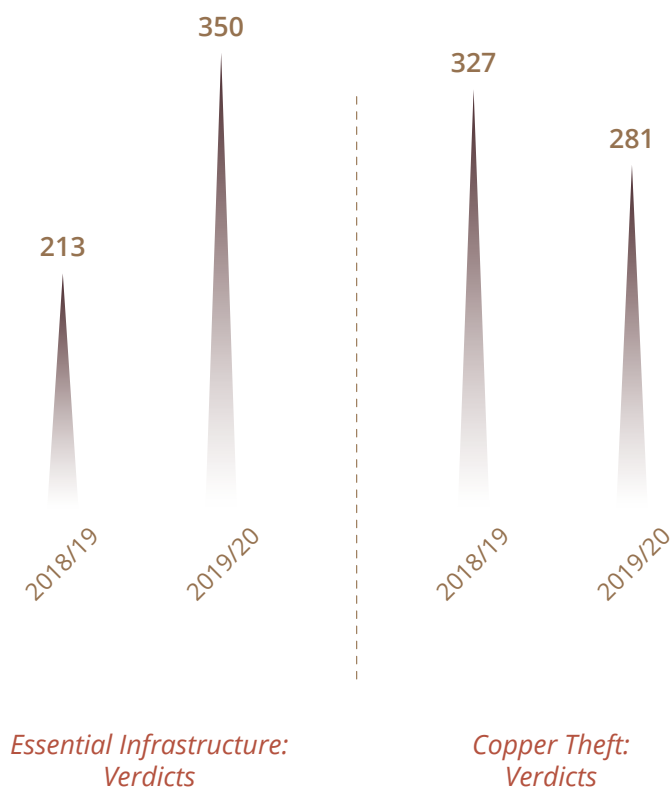
Conviction Rate in Copper Theft

Damage to essential infrastructure, as described in the Criminal Matters Amendment Act, 2015 (Act No. 18 of 2015) increased dramatically by 64% from the last financial year. This has caused severe interruptions, such as traffic congestion, stranded commuters, delayed housing projects, electrocutions, financial losses and problems with telecommunications.

During the year under review 213 cases of damage to essential infrastructure were finalised with a verdict, 137 fewer cases compared to the previous financial year, during which 350 cases were completed. There was also a slight decline (0.5%) in the conviction rate, from 83.1% to 82.6% in the new reporting year.

A 14% decrease was also noted in cases related to copper theft that were finalised with a verdict, from 327 cases finalised in the previous financial year to 281 in the current reporting year. The conviction rate, however, increased by 3.5% to 90.7%, compared to the 87.2% conviction rate obtained in the previous financial year. It is important to note that several copper theft cases also involve the damage of essential infrastructure.

Figure 19: Copper theft and damage to essential infrastructure verdicts



A new trend observed during the current reporting year, is the theft and damaging of cell phone tower batteries. These batteries are stolen and smuggled over the borders to neighbouring countries for personal use in households. The NPA is working daily with telecommunications investigators to monitor related investigations and to assist with bail procedures. There were successes in the finalisation of cases where long-term imprisonment was imposed.

Another new and very concerning trend is the theft of fuel from pipelines. An increase was observed during the period under review. Millions of rands worth of fuel was stolen by opening and damaging pipelines. These cases are also being prosecuted under the Criminal Matters Amendment Act, related to critical infrastructure. Illegal immigrants and South African citizens collaborate to tap the fuel from the Passenger Rail Agency of South Africa (PRASA) pipelines which is then removed and sold to registered fuel suppliers. Since syndicates are involved, this emerging crime was brought under the attention of the DPCI at a high level, and who is monitoring all reported cases.

The NPA continued to participate in the training of prosecutors and investigators in small groups, and provided individual training to prosecutors and other stakeholders where necessary. The drafting of a standard operating procedure (SOP) was also initiated. This SOP will provide guidance to all

investigating officers and first responders on how to handle cases registered under the Criminal Matters Amendment Act.

The NPA, in collaboration with the SAPS Firearms, Liquor and Second-Hand Goods Control (FLASH) component, has commenced with a verification process on the CAS system. All cases registered under the Criminal Matters Amendment Act, from 1 June 2016 to September 2019, were verified and are regularly being updated. A database of all sentences imposed for convictions relating to these crimes was developed in order to track trends in the type of sentences handed down for purposes of reporting.

Ad Hoc National Responsibility: Drug and Related Matters

During the year under review, 12 101 cases relating to the dealing and possession of drugs were finalised with a verdict. The prosecutors managed to achieve a high conviction rate of 99.3% by obtaining 12 014 convictions. The progress is indicated in the table below.

Table 17: Progress in dealing in drugs and related matters

	2018/19 Convictions	2018/19 Verdict	Conviction Rate	2019/20 Convictions	2019/20 Verdict	Conviction Rate	Progress on Conviction Rate	Progress on Verdict
Dealing in drugs	2 162	2 494	86.7%	952	979	97.2%	10.6%	-55%
Possession or use of drugs	39 242	44 382	88.4%	12 618	12 679	99.5%	11.1%	-68%
<i>Total</i>	<i>41 404</i>	<i>46 876</i>	<i>88.3%</i>	<i>13 570</i>	<i>13 658</i>	<i>99.4%</i>	<i>11.0%</i>	<i>-67%</i>

In addition to the number of cases finalised by a verdict, 219 cases were finalised through ADRM. However, 15 182 cases were withdrawn. The number of cannabis-related arrests by the SAPS declined after the constitutional decriminalisation of possession of cannabis by an adult for private use. This had an impact on the number of cases finalised by the courts. Factors that also hampered the speedy finalisation of these matters include delays in obtaining the forensic reports from the SAPS laboratories and the unavailability of foreign language practitioners. The regions continue to play an active role in curbing the increase in drug and related crime.

DRUGS

State versus Nkosi and three others: Drugs



OR Tambo International Airport
© Wikimedia Commons

The former police woman who aided a syndicate to smuggle drugs through OR Tambo International Airport was sentenced to 15 years' imprisonment by the Johannesburg High Court.

The accused, Buyisile Nkosi (42), and her three co-accused were found guilty on multiple charges relating to racketeering and dealing in drugs between 2007 and 2009, when she was a sergeant stationed at the airport. The enterprise manufactured drugs from a rented house in Sandton. The drugs ranged from cocaine, heroin, dagga, tik, methcathinone (cat) to methamphetamine (ice), worth millions of rands. They sold them to members of the public within and outside of the country. The accused had access to the stored exhibits impounded by the police at the airport, which she would tamper with by substituting the cocaine with flour. On many occasions, she would assist drug-lords to import drugs from other countries without being detected by the police. She also sold drugs to other agents throughout South Africa.

DEPORTATION

State versus Byungsu Kim and Young IL Sunwoo (Korean Nationals): Deportation



Valley of Fan Aloes - Western Cape
© Wikimedia Commons

Two South Korean men, who stole rare and critically rare plants in the Western Cape, were sentenced to six years' direct imprisonment, wholly suspended for five years, and declared undesirable persons in South Africa. One has been deported to his country, while his co-accused is in the process of being extradited to the United States of America for similar crimes. Millions of rands were also confiscated from them.

The accused arrived in South Africa last year with a plan to search for and collect flora. They were in the process of arranging for the flora to be exported from a nursery in the Western Cape when they were arrested. It emerged that the pair did not have permits to pick or possess, or permission from the landowners, to pick the

flora. They were found with plants listed as rare and critically rare in the SANBI Red List of South African plants.

The Cape Town Regional Court convicted Byungsu Kim, 44, and Young IL Sunwoo, 71, on three counts, which included possession of flora without documentation, picking of protected flora without a permit, and picking of flora without written permission of the landowner and possession.

The court attached R2.476 million in cash from Kim, and R2.405 million from Sunwoo. The money was divided between the Criminal Assets Recovery Account (CARA), the Western Cape Nature Conservation Board and the South African National Biodiversity Institute. Kim was re-arrested on an Interpol warrant, and his case was postponed for an extradition to California, where he faces charges similar to the crimes he committed in South Africa. Sunwoo has been deported back to South Korea.

Ad Hoc National Responsibility: Deaths Due to Initiations

Due to the increasing number of initiation-related deaths, some initiation schools in the Eastern Cape suspended operations during December 2020. In other provinces initiation schools resolved to suspend the 2020 initiation schools until further notice. This was mainly due to the COVID-19 outbreak and lockdown. Initiation schools were subsequently prohibited under the COVID-19 regulations.

No cases were finalised during this reporting period, although some pending matters were reported by the regions. In the Eastern Cape, there are 14 pending matters on the court rolls. There are also a number of inquest dockets pertaining to deaths due to initiations, of which the outcomes are still pending.

Ad Hoc National Responsibility: Taxi Violence

The South African taxi industry has grown tremendously over the past 30 years. Currently, 15 million South Africans rely on taxis for their daily commute. Taxi violence is therefore a fundamental challenge in South Africa. The most worrying aspect of taxi violence is the prevalence of innocent passengers, including children, who become victims.

All regions reported that dedicated staff are allocated to taxi violence matters. Close cooperation with stakeholders is also maintained. The regional clusters and organised crime component maintain databases of all taxi violence cases, and consult with the investigating officers. They also guide and monitor investigations. During the period under review, five cases were finalised, with a 100% conviction rate. Life imprisonment was imposed in all cases.

Gangsterism

Although gangsterism is seen as a global phenomenon, South Africa has seen a surge in gang-related incidents during the year under review. Gangsterism is, however, regarded as a symptom of a more extensive youth and socio-economic problem. Gangsterism in South African townships is a common phenomenon due to poverty, inequality and unemployment. This phenomenon is well established in the Eastern Cape, KZN and Western Cape and poses a serious threat to society. The NDP is a blueprint on how our country can eliminate poverty and reduce inequality, amongst others, by the year 2030. The interventions within the NDP require the removal of barriers so that citizens can journey towards achieving their dreams with confidence and dignity.

To address this phenomenon, the regions have continuous engagements with all relevant stakeholders, and dedicated teams are also assigned to these priority cases. During the period under review, seven cases were finalised with a verdict, whilst six convictions were obtained, representing a conviction rate of 86%.

Combatting gang-related violence, especially that emanating from the northern areas of Port Elizabeth, was identified as a regional priority for the Eastern Cape. Three dedicated advocates at the office of the DDPP: Port Elizabeth, and one dedicated regional court prosecutor at the magistrate's court were tasked to attend to gang-related cases. At present, this team is dealing with 150 cases, of which 90 matters are already enrolled and in various stages of finalisation.

Prosecutors in the Western Cape strictly adhere to prosecution-guided investigations, as this adherence leads to more efficient investigations and quicker enrolment for plea agreements or trials. As a result, witnesses do not lose interest, and are prepared to testify. Informal training on Section 9 of the POCA was provided to prosecutors, members of the anti-gang unit, and police officers at station level (including SAPS visual policing members) on investigations, bail opposition statements and data collection for expert gang statements. This training is supplemented by training on asset forfeiture. Most gang related matters are withdrawn or struck off the roll due to lack of cooperation from witnesses (who are usually from rival gangs), or incomplete investigations, and training initiatives are aimed at increasing the success in such cases.

Trafficking in Persons

To fulfil South Africa's obligation to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013) was introduced. The Act deals comprehensively with trafficking in persons (TIP) in all its various forms, and in particular provides for the protection of and assistance to trafficking victims. Persons convicted of trafficking are liable to severe sentences, including a fine or imprisonment, imprisonment without the option of a fine, and even imprisonment for life. TIP is a serious crime, and a severe violation of human rights. Every year thousands of men, women and children fall into the hands of traffickers, in their own countries and abroad. To curb this growing phenomenon, the regions assigned dedicated prosecutors to deal with human trafficking, and to ensure the sharing of best practices in successful prosecutions.

A representative from the Western Cape Division showcased the methodologies applied by the Western Cape task team during the KZN action plan review workshop, held in January 2020. Through this sharing of experiences and lessons learnt, synergies were created to effectively prosecute TIP cases whilst assisting trafficking victims.

Victim-Centric Services Enhanced

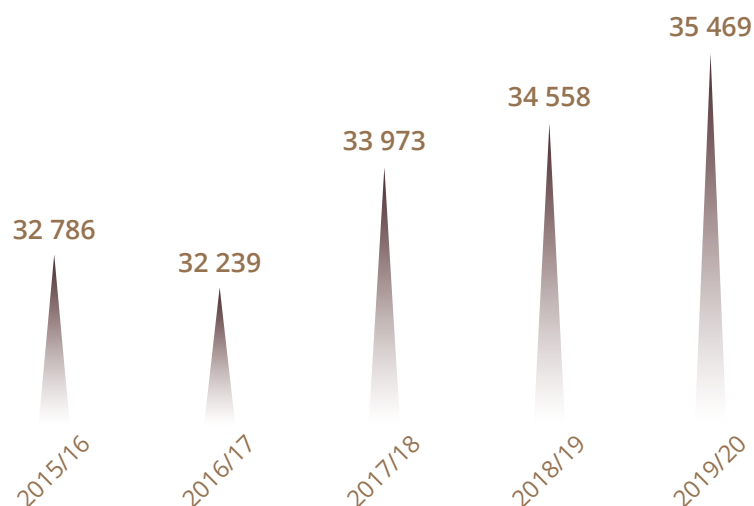
The NPA undertook to advance the rights of victims through initiatives such as the TCCs and court preparation services. The upward trends in the achievements of the TCCs (as managed by the SOCA unit) reflect the victim focussed approach prioritised by the NPS. In the period under review, there were 55 operational TCC sites. However, with the Criminal Assets Recovery Account (CARA) funding allocated to the NPA, the SOCA unit is in the process of establishing an additional six sites over a three-year period.

Number of Victims Assisted at TCC Sites

The success of the TCCs is founded in the services delivered to the victims of crime. Therefore, the core function of the TCC model is victim-centred and court-directed (to minimise secondary victimisation), with prosecutor-guided investigations and stakeholder cooperation (to continually strive to improve conviction rates). The trend analysis below indicates an upward trend in the number of victims assisted from 2015/16 until the 2019/20 financial year. A total of 35 469 victims were assisted at TCCs, of which 31 807 (89.7%) were victims of reported sexual offences.

The SOCA unit excelled during the year under review, and exceeded the TCC target of assisting 29 860 victims by 18.8%, with 5 609 more victims assisted than expected.

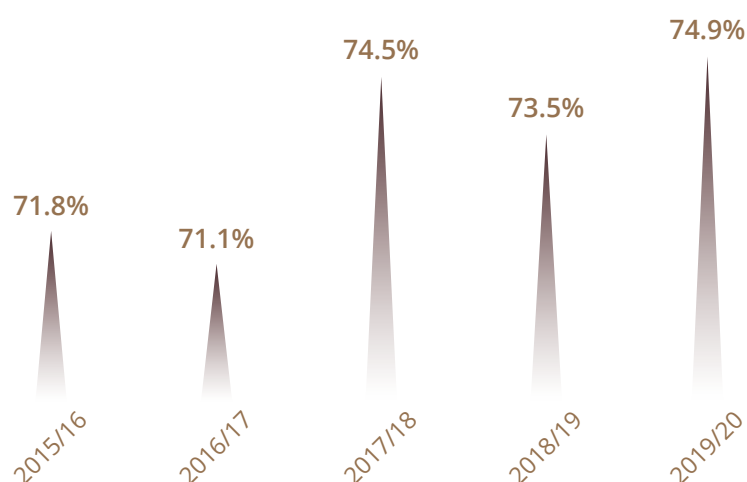
Figure 20: Number of victims assisted at TCC sites



Conviction Rate of TCC Reported Cases

Compared to the previous year, a conviction rate of 74.9% was achieved in TCC reported cases, an improvement of 1.4%. The graph below reflects the upward trend over the past five years.

Figure 21: Conviction rate of TCC Reported cases



With reference to the presidential focus to address the scourge of violence against women and children, the NPA participated in the ERAP and the subsequent NSP. Due to several pertinent and related initiatives with relevant stakeholders on the investigation and prosecution of these cases, implemented from the Q3-period, the conviction rate target was achieved, and even improved on. More severe sentences were also imposed by the courts, specifically regarding TCC reported and prosecuted cases. The imposition of life imprisonment and long-term sentences ranging from 20–25 years increased from an average of 22.9% in Q1 and Q2 to 36.2% in Q3 and Q4, representing an increase of 13.3% during the year under review.

From July 2019 to March 2020, the Sexual Offences and Community Affairs (SOCA) unit collated information regarding convictions and sentences on GBVF cases reported by the divisions. The collated information reflects the following:

- In finalised cases, 98 of the accused received 166 life imprisonment sentences, while 20 accused also received lengthy imprisonment sentences.
- The charges were predominantly rape (163), and murder (30), including children, elderly and femicide matters (12 charges of which eight were for intimate partner femicide).
- Two cases of patricide and filicide were reported, respectively.

The SOCA unit reviewed and amended existing training manuals for all five sections, as well as the integrated training manual on TCC stakeholders, to ensure they align with the latest developments in law and related legislation. The unit also delivered 24 decentralised training sessions during this financial year. These sessions covered intensive training for prosecutors on sexual offences, domestic violence, child justice, maintenance and trafficking in persons.

Victims of Crime

In its efforts to serve the community, the organisation has embarked on victim-centric initiatives. Apart from testimony, victims are provided the opportunity to contribute at sentencing through VIS, and, where appropriate to resolve a matter through ADRM. Central to this approach are the court preparation officers who not only attend to the needs of crime victims, but also ensure that they are given a larger role in the process of achieving justice.

The NPA has the mandate for Court Preparation Services and VIS, which is housed within the NPS. The purpose of the NPA's Ke Bona Lesedi Court Preparation component is to prepare victims (witnesses and their family) for testimony. They work with the most vulnerable individuals: *inter alia*, women, children, the elderly and those with special needs such as a disability or medical condition, empowering them to testify. This process is prosecutor-guided.

During this reporting period, the component contributed to the draft regulation in terms of the Sexual Offences Act to include the role of court preparation officials in assisting victims. These regulations were gazetted on 7 February 2020. Court Preparation Services are now embedded in the mandate of government. In addition, court support workers from the community must apply to the NPA to be accredited in order to provide court preparation services for victims. An accreditation desk was established to process any queries and requests: CourtPreparation@npa.gov.za. In order to ensure continuous skills development, the court preparation component, in collaboration with Human Resource Management and Development (HRM&D) and the Safety and Security Sector Education and Training Authority (SASSETA), participated in the development of an occupationally directed qualification for CPOs.

During the year under review, a total of 97 671 witnesses were assisted by the CPOs, while 8 351 VISs were facilitated. Compared to the previous year, 12 860 (11.6%) fewer witnesses were assisted, and 2 224 (21%) fewer VISs were completed. This is mainly due to initial severe staff constraints coupled with the unavailability of witnesses. The latter also impacted on the number of VISs used, as 1 193 (32.5%) fewer VISs were used during this reporting period.

Table 18: CPO performance

Financial year	2018/19	2019/20	Progress
NO. of VIS completed	10 575	8 351	-21.0%
Total witnesses	110 531	97 671	-11.6%
No. of VIS used by prosecutor	3 674	2 481	-32.5%
% VIS used	35%	30%	-50%

In addition to the VISs facilitated by CPOs, the prosecutors recorded a total of 2 926 VISs used during court proceedings. Further to this, to address the harm caused by crime, the prosecutors obtained 842 compensation orders valued at R103 930 591.20, to be paid to victims of crime.

Clearance Ratio on Decision Dockets

A total of 883 470 dockets were received during this financial year. A positive clearance ratio was once again maintained by all lower and high court prosecutors as they managed to deal with 883 611 dockets, achieving a clearance rate of 92.8%. This high clearance rate confirms the commitment from prosecutors to deliver a high level of service to the community they serve. The progress compared to the previous year is indicated in the table below.

Table 19: Progress on decision dockets

Decision dockets	2018/19	2019/20	Progress
New dockets received	966 474	883 470	-8.6%
Dockets dealt with	964 897	883 611	-8.4%
Dockets finalised	510 856	472 199	-7.6%

Fewer dockets were received for decision and there was a decline of 83 004 (8.6%) when compared to the 966 474 dockets received during the previous financial year. This impacted on the number of dockets finalised and a decline of 38 657 (7.6%) was noted.

National State of Disaster: COVID-19

On Sunday 15 March 2020, the president of South Africa declared a national state of disaster following the outbreak of COVID-19. The president announced the lockdown of all non-essential services and restrictions on movement of all individuals on 23 March 2020. The lockdown commenced from 27 March to 16 April 2020, but was extended for a period of six weeks, from 17 April 2020 to 30 May 2020. The main aim of the lockdown was to contain and prevent the spread of COVID-19.

Subsequent to the announcement of the lockdown, the Minister of Justice and Correctional Services issued directions regulating how courts and the administration should operate during the period of the lockdown. The directions indicated that courts and other justice service points should deal only with urgent and essential criminal cases.

In addition to essential and urgent matters, the courts handled 2 088 first-appearance cases related to COVID-19, with 2 574 arrested accused during the first five days (27 to 31 March 2020) of the Level 5 hard lockdown period. The status of the accused per province is illustrated in the table below. Of all the accused, 49.6% were released on warning, 16.5% were released on bail, and 16.6% remained in custody. The cases of the 17.3% remaining accused were disposed. Over this period, the contravention of Regulation 11B(1)(a)(i) – failure to confine to residence – took precedence over other contraventions of the regulations.

Table 20: Case and accused status: COVID-19 first appearances

Date	No. of CAS	No. of persons arrested	Accused released:		Accused status:		Accused status:	Accused status:	Accused status:	Accused status:
			No.	%	No.	%				
			Case disposed	Disposed	On warning	% OW	Bail	% O/B	In custody	% I/C
27/03/2020	27	39	8	20.5%	15	38.5%	5	12.8%	11	28.2%
30/03/2020	1 646	1 987	349	17.6%	1 041	52.4%	304	15.3%	293	14.7%
31/03/2020	415	548	90	16.4%	221	40.3%	115	21.0%	122	22.3%
<i>National</i>										
<i>Total</i>	2 088	2 574	447	17.4%	1 277	49.6%	424	16.5%	426	16.6%

Challenges

The following factors negatively impacted the performance of the prosecutors and courts during the year under review:

- The unavailability of key stakeholders was a major concern that was raised at various stakeholder forums.
- Poor criminal investigations, delays in the finalisation of investigations and unavailability of dockets and witnesses in courts.
- A shortage of proper accommodation and resources/facilities/equipment impacted the optimum performance of some regions.
- Vacancies at the managerial level complicated management functions in some regions, which resulted in inadequate monitoring by senior prosecutors.
- Critical staff shortages in some regions and specialised units, such as the SCCU and STU, impacted the productivity and quick turnaround of cases.
- Some newly demarcated areas were not allocated the necessary resources (personnel, infrastructure).
- A shortage of foreign language interpreters and outstanding probation and pre-sentence reports negatively impacted on the prompt finalisation of cases.
- Contract magistrates did not adequately deal with cases (postponements and partly heard matters, etc.).
- Increased cycle times of cases due to poor court roll management by presiding officers impacted the prompt finalisation of cases.
- Inadequate funding for transcription of records.
- A noted decline in the numbers of cases referred to the NPS for prosecution.
- A decline in the effective use of court days and court hours.
- An increase in the number of cases enrolled, involving multiple accused and charges caused bottlenecks in many courts.
- Shortages of CPOs to assist victims of crime.
- The declaration of the state of disaster in March 2020 also had a minor impact on the productivity of the courts during a month that is known for high productivity.

Priority Crimes Litigation Unit

The PCLU is mandated to manage and direct the investigation and prosecution of terrorism, terror financing and related offences as stated in the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004). This act also makes provision for extraterritorial jurisdiction with respect to specific offences as outlined in the act.

The PCLU is a special directorate in the ONDPP mandated to manage and direct investigations and prosecutions specified in its Presidential Proclamation and the NPA's Policy Directives dated 1 June 2015.

Key crimes dealt with by the PCLU include international crimes, terrorism, non-proliferation and cases arising from the Truth and Reconciliation Commission (TRC) process. As a sub-component, the Missing Persons

Task Team (MPTT) is responsible for tracing the remains of persons who disappeared during the period covered by the TRC and completing other assignments given by the Minister of Justice and Correctional Services.

The PCLU underwent fundamental restructuring at the beginning of the period under review, and Adv Chris Macadam was appointed acting head of the unit. After an audit of the PCLU's workload, the organisation decided to adopt a decentralised model whereby prosecutions are conducted by prosecutors in the areas where the crimes were committed, with the PCLU performing a managerial or support role. The NPA has reaffirmed the original mandate of the PCLU, and all matters falling outside of the mandate were returned to the DPP offices with jurisdiction.

The adoption of a decentralised model required that the DPPs appoint nodal points to manage the PCLU matters in their divisions. The nodal points were trained to enable them to properly manage PCLU cases, and a monthly reporting system was installed. The PCLU remained concerned with representing the NPA in high-level national interdepartmental work groups, attending to matters that cannot be referred to the regions and supporting prosecutors with regional cases. The MPTT continued to operate with the same staff component and operating model as the previous year. Two members of the MPTT who had previously worked as researchers for the TRC were required to assist the PCLU with research into TRC cases.

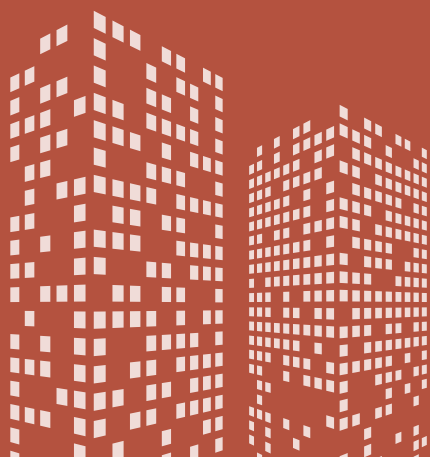
Noteworthy Cases

Henry Okah: The accused, a Nigerian terrorist leader, was convicted on a number of terrorism charges related to his role in orchestrating bombings in Nigeria. After the Constitutional Court (ConCourt) upheld his convictions, he instituted an application in the Pretoria High Court seeking to have the terrorism law declared unconstitutional and a declaratory order to the effect that his conduct was protected under the Geneva Conventions. The application was dismissed on the principle of *res judicata*. The Court made an order of costs in favour of the NPA due to the complex work which had been rendered. The acting head of the unit personally dealt with this matter.

BL Morris: The accused, a member of an intelligence agency, entered into a plea-and-sentence agreement with the State on a charge under the Protection of Information Act, 1982 (Act No. 84 of 1982) related to his failure to secure classified documents in his possession. Because he was retired at the time of his trial, he received a fine and a suspended sentence.

S v Knoesen and Three Others: The PCLU was approached, with short notice, by the intelligence agencies with information that a right-wing group was planning a terrorist attack on Black Friday (i.e. 29 November 2019). The PCLU drafted numerous affidavits and search warrants for addresses located in different provinces, as well as a warrant for arrest for the ringleader. The PCLU played a key role in coordinating the operations, leading to the arrest of the ringleader and three accomplices. The accused were arraigned in the Middelburg Regional Court on a charge of terrorism. Bail was successfully opposed, and the matter remains under investigation.

Prior to the year under review, prosecutions had been instituted in two TRC cases, namely **S v Rodrigues** (alleged murder of detainee Ahmed Timol) and **S v Coetzee and Others** (alleged murder of Nokuthula Simelane). In the Rodrigues case, the accused brought an application for a stay of prosecution, which was dismissed. He then applied for leave to appeal, and the decision of the Supreme Court of Appeal (SCA) is outstanding. In Coetzee's case, the accused brought various legal challenges, which were dismissed, but a new trial date could only be secured in October 2020. The reopened Aggett inquest proceeded in court, but has since been postponed indefinitely after the judge was admitted to hospital. No new date has been set.



Decisions

As a result of the decentralised model, the backlog in decisions was addressed. The majority of these decisions related to complaints made by the arms control and non-proliferation bodies dealing with regulatory non-compliance. A series of meetings were held with the arms control body resulting in closer cooperation.

Legal Opinions

The PCLU provided DIRCO with a number of opinions related to terrorism and violations of United Nations Security Council Resolutions (UNSCRs). These opinions often had to be provided on short notice and were well received by DIRCO. An opinion was provided to DIRCO on a BRICS counter-terrorism strategy proposed by the Russian Federation.

Technical Assistance

The PCLU gives technical advice to agencies dealing with complex issues on an *ad hoc* basis. Examples include:

- Advice on the regulations to address COVID-19 provided to DoJ&CD and SAPS;
- Advice to DIRCO in responding to issues raised by the panels of experts monitoring the implementation of UNSCRs;
- Advice given to the arms control body on regulatory issues;
- Advice to SSA's Counter-Terrorism Functional Committee (CTFC) on complex terrorism matters;
- Advice to DIRCO and Department of Home Affairs (DHA) related to the deportation of a South African convicted of terrorism abroad;
- Advice to the SAPS Secretariat on the amendment of the terrorism law;
- Advice to the ID regarding corruption in cases which could fall within its mandate; and
- Advice to the Federal Bureau of Investigation (FBI) regarding South Africa's incitement and conspiracy laws to enable the FBI to assess whether certain social media posts amounted to criminal activity.

Training

Training was provided on the following:

- Bioterrorism, to investigators, prosecutors, intelligence agents and others in collaboration with the United States Government;
- Terror financing, to African prosecutors at a workshop hosted by the United Nations Office on Drugs and Crime (UNODC) and the African Union (AU);
- War crimes, to the South African National Defence Force (SANDF);
- Terrorism investigations, to Crime Intelligence;
- An SSA pilot counterterrorism training course; and
- The terrorism law and laws applicable to armed conflicts, to SSA's Counter-Terrorism Functional Committee (CTFC).

Reporting Obligations to National and International Bodies

During the previous financial year, South Africa was assessed by the Counter-Terrorism Executive Directorate (CTED), which assists the United Nations (UN) Counter-Terrorism Committee in monitoring States' compliance with the Security Council Counter-Terrorism measures. During the current reporting period, the PCLU assisted DIRCO, in responding to follow-up questions directed by CTED. At the request of DIRCO the PCLU completed a questionnaire issued by the CTED, relating to the disruption of terror financing.

The PCLU played a key role in making presentations to the UN's Islamic State of Iraq and the Levant (ISIL) {Da'esh} and Al-Qaida Sanctions Committee (1267 Committee), which visited South Africa in November 2019 to assess the country's compliance with its directives. The committee took the unusual step of commending South Africa for the comprehensive presentations made.

South Africa was assessed by the Financial Action Task Force (FATF) and International Monetary Fund (IMF) in October and

November 2019. The PCLU was actively involved, and contributed significantly to this process, including providing comprehensive presentations to the FATF assessors on virtual assets, mutual legal assistance, and terrorism and proliferation financing.

Missing Persons Task Team

The MPTT continued in its mandate to establish the fate and whereabouts of those who disappeared in political circumstances between 1960 and 1994 (the period covered by the TRC), and to recover their remains if possible. The task team also focused on other cases referred by Government. Members of the MPTT participated in numerous foreign and local workshops relating to its mandate.

The MPTT continued to make progress with the 2016 initiated **Gallows Exhumation Project**. Political prisoners who were executed during the apartheid era were secretly buried, and their remains never returned to their families. During the current reporting period, nine bodies of persons executed as a result of their involvement in the **Cato Manor Uprising** were exhumed and returned to their families. Currently, 13 more sets of remains have yet to be recovered.

In dealing with the TRC matters, the MPTT continued to search for the remains of the missing activists kidnapped and murdered by the Northern Transvaal Security Police (the **Mamelodi 10** case) who are believed to be buried at the Winterveld cemetery. Using innovative drone technology, the gravesite of one of the deceased was located, and his body exhumed. The search for the other four missing activists continues.

An exhumation was conducted at the Ntuzuma cemetery, resulting in the remains of one person being exhumed. Although identity still has to be confirmed, it is believed that he was one of two members of the ANC's armed wing, killed in a 1982 incident. The search continues

for the second person killed in the same incident.

The MPTT also recovered the remains of **Patrick Sandile Mvundla** from Gaborone, Botswana. He was killed in a 1988 South African Defence Force (SADF) raid. His identity was determined through a complex investigation. In conjunction with the Eastern Cape Provincial Government, the remains of **Dr AB Xuma** were exhumed so that he could be buried in his home area.

In his 2020 State of the Nation Address, the president announced that the burial site of **Basil February**, who was killed in Zimbabwe in the 1960s, had been located. This was due to the MPTT working with military historians and death certificates. It is anticipated that his body will be exhumed.

The MPTT participated in a two-day seminar on 'Unfinished Business of the TRC' hosted by the Foundation for Human Rights in Johannesburg. A presentation was given concerning the work of the MPTT. The MPTT also participated in a series of workshops and seminars organised by the International Committee of the Red Cross (ICRC) in Jordan ('The Search for Missing Persons, Including Victims of Enforced Disappearance'), Cyprus ('Mechanisms for Missing Persons – Clarifying the Fate and Supporting Families') and Portugal ('Forensic Best Practices and Principles for Preventing and Resolving the Missing').

Two members of the MPTT attended an ICRC conference in Tbilisi, Georgia on 'Forensic Programs for the Clarification of the Fate and Whereabouts of the Missing and Persistent Problem of Unidentified Human Remains'. The MPTT gave a presentation on its methodology and cases. The head of the MPTT participated in a reference panel convened by the Department of Arts and Culture, and MPTT members participated in workshops on the policy regarding repatriation of remains. Two lectures were given at the UCT Summer School on the

work of the MPTT. The head of the MPTT gave a presentation on the use of TRC records in the work of the MPTT at the public launch of the TRC electronic database hosted by the South African History Archives at Constitution Hill in Johannesburg.

General

In the **S v Rodrigues** TRC matter, the court found that the NPA had acted in breach of its duty in not resisting political interference by other departments and the executive. The NDPP was directed to investigate these matters further, and this investigation is still ongoing.

It must be emphasised that the primary issue lies with the investigation of these matters, which is a responsibility of the DPCI. Due to the nature of the cases, it is difficult to access all the relevant information needed to make informed decisions. The PCLU has undertaken a number of initiatives to prioritise cases. This includes commencing with a review of all the death in detention cases from 1963-1990, reviewing certain decisions not to prosecute and grouping cases to establish the existence of a *modus operandi*.

There was an increase in terrorism activity involving both domestic groups and South Africans involved with international terrorist organisations. The investigation of these matters is becoming increasingly complex due to the use of social media platforms to which law enforcement lack access.

A matter of concern is that three separate Security Council Sanctions Committees have provided information alleging that South African entities are contravening arms embargoes, and in one instance, foreign-designated entities have concealed their assets in South Africa. The investigations into these matters are proving to be challenging due to the fact that the countries in question are in states of armed conflict.

Efforts are being made to establish a research capacity to retrieve all historical information required for the proper investigation of TRC cases. Initiatives to increase efficiency of the nodal points were interrupted by the COVID-19 crisis, which is preventing the holding of workshops, training seminars and other meetings.



Adv O Rabaji-Rasethaba

Asset Forfeiture Unit

The AFU is headed by a DNDPP, supported by a SDPP, regional heads and other officials in the office of the AFU. The AFU's operations are governed by the POCA.

Prevention of Organised Crime Act

The POCA provides measures for law enforcement agencies and the NPA to combat organised crime and money laundering. A 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 benefits derived from crime in cases where the accused is convicted of an offence. Chapter 6 focuses on property that was used either to commit an offence, or that constitutes the proceeds of crime, and provides for the freezing and forfeiture of proceeds and instrumentalities of crime through a process that is not dependent on a prosecution. Further to this, Section 71 of the POCA empowers the NDPP to request information from government departments and statutory bodies with respect to investigations relevant to the POCA, without having to issue subpoenas.

Service Delivery Environment

Similar to other business units in the NPA the AFU finds itself in a service delivery environment where it is dependent on external role-players in order to proceed with asset forfeiture applications. This holds true even for Chapter 6 applications in terms of the POCA, or so-called civil forfeiture, as the AFU is still required to show criminality in its applications when targeting the proceeds or instrumentalities of the crimes concerned.

A criminal investigation must be at an advanced stage to enable the AFU to meet the standards of proof (balance of probabilities) for preservation and forfeiture applications. In Chapter 5 on conviction-based forfeiture, the AFU is not only dependent on a criminal investigation being completed but also on a charge sheet being drafted before a restraint order can be obtained. A confiscation enquiry can only be launched on conviction of the accused. This means that any delays in the criminal investigation, drafting of charge sheets, or during the criminal trial directly impact on the time it takes to complete AFU matters.

The primary challenge impacting the AFU is the fact that there are a number of serious corruption matters, State Capture, and other complex cases involving high values under investigation. Due to the complexity of these complex cases, and the sheer volumes of potential evidence to be studied and considered, they can take an extremely long time to finalise. Delays in the finalisation of criminal investigations and the drafting of charge sheets have had a significant impact on the AFU's ability to meet its performance targets.

Organisational Environment

The 2019/20 financial year was a challenging year for the AFU. The vacancy rate in the AFU was 30%, and for financial investigators and analysts the vacancy rate was in excess of 50%. The primary function of the investigators is to identify and trace assets, which is a fundamental function that enables the AFU to confiscate or forfeit assets. This high vacancy rate has had a major impact on the AFU's ability to meet its targets.

The target setting for the unit was informed by the possibility of obtaining orders in high value State Capture and other corruption cases, which are in the process of being investigated. The complexity of the cases resulted in the investigations taking much longer than was initially anticipated. Consequently, the targets set, whilst being lower than for the previous financial year, proved to be unattainable and, in retrospect, unrealistic.

Most of the AFU employees that worked on the highly complex and high value State Capture cases were transferred to the ID during the course of the year, which impacted negatively on the regional offices. Cases that the AFU had already commenced working on were subsequently drawn into the ID. Since the high value State Capture cases and serious corruption matters require a huge amount of time to finalise as they are highly complex and voluminous, it contributed to delays in the investigation of these matters, which also translated into delays in attaining asset forfeiture orders. Based on historic information it is apparent that the aforementioned cases are severely contested, which means that an above-average effort is required to ensure that the applications and orders are complete and beyond reproach. The risk of setting a negative precedent is also greater, hence the additional caution in completing the applications. All of these factors further negatively impacted on the finalisation of complex State Capture and other serious corruption matters.

One of the initiatives the AFU has adopted to mitigate some of the challenges was to focus on Chapter 6 proceedings, where there is no need to wait for a conviction or for the institution of a criminal prosecution to proceed. This means that as long as there are instrumentalities or proceeds of crime, the investigation is sufficiently advanced, and criminality can be shown, then the AFU can more quickly secure the proceeds of crime.

Performance Against Predetermined Objectives

Number of Completed Forfeiture Cases

During the year under review, the AFU completed 417 forfeiture cases against a target of 510. This is a decrease compared to the 495 forfeiture cases completed in the previous financial year, and the 563 in the 2018/19 financial year. This is somewhat of a concern as it emphasises the inability of the unit to maintain previous performance levels given the prevailing situation of vacant posts over the past few years.

Table 21: Annual comparison of the number of completed forfeiture cases

Indicator	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Number of completed forfeiture cases	390	466	418	569	563	495	417
<i>Target</i>	<i>320</i>	<i>340</i>	<i>420</i>	<i>430</i>	<i>366</i>	<i>500</i>	<i>510</i>

Value of Completed Forfeiture Cases

The AFU obtained forfeiture and confiscation orders to the value of R455 million against a target of R2.5 billion. The value of completed forfeiture cases in the 2018/19 financial year was R3.13 billion. However, it should be noted that the exceptionally high value achieved in the previous financial year was due to two high value cases being finalised.

Table 22: Annual comparison of the value of completed forfeiture cases

Indicator	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Value of completed forfeiture cases	R296.4m	R1.94bn	R349.6m	R423.6m	R350.95m	R3.13bn	R455m
<i>Target</i>	<i>R170m</i>	<i>R180m</i>	<i>R210m</i>	<i>R230m</i>	<i>R600m</i>	<i>R6bn</i>	<i>R2.5bn</i>

Number of Freezing Orders Obtained

The AFU obtained 326 freezing orders against a target of 300, exceeding the target by 9%. The positive result can be attributed to an increased focus on Chapter 6 preservation. The orders obtained exceeded the 273 orders obtained in the 2018/19 financial year by 19%.

Table 23: Annual comparison of the number of freezing orders obtained

Indicator	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Number of freezing orders	363	342	326	377	324	273	326
Target	281	281	321	324	261	264	300

Value of Freezing Orders

The unit obtained freezing orders to the value of R1.95 billion, 71% below the target of R6.8 billion. The value obtained did, however, significantly exceed the R455 million obtained in the 2018/19 financial year by 329%. The reasons for the negative deviation are two-fold. The AFU was functioning with a 30% vacancy rate, and the continuous reallocation of work to existing staff was not sustainable. In addition to this, the time required to finalise high value corruption and State Capture matters was longer than anticipated.

Table 24: Annual comparison of the value of freezing orders

Indicator	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Value of freezing orders	R701.5m	R275.6m	R778.9m	R1.194bn	R4.4bn	R455m	R1.95bn
Target	R710m	R755m	R1.1bn	R1.1bn	R1.2bn	R10bn	R6.8bn

Value of Freezing Orders Obtained Relating to Corruption, Where the Amount Involved is More than R5 Million

During the year under review, freezing orders valued at R1.6 billion were obtained against a target of R4.7 billion. This achievement was possible due to freezing orders being obtained in five large cases, of which one contributed R1.01 billion of the R1.6 billion. This aforementioned matter is the Regiments Capital case, in which the Transnet pension fund was plundered. The investigation was completed, and a charge sheet was drafted, enabling the bringing of a restraint order in terms of Chapter 5 of the POCA.

Value of Recoveries in Terms of the POCA

Recoveries in terms of POCA valued at R190 million were obtained against a target of R2.2 billion. The table below reflects the performance of the AFU from 2013/14 to 2019/20. In the previous financial year, the AFU managed to achieve recoveries worth R3.05 billion. The high amount was due to recoveries in two high-value cases that were finalised.

Table 25: Value of recoveries in terms of POCA

Indicator	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Payments to Victims	R84.4m	R1 658m	R390.2m	R149.4m	R195.8m	R2.88bn	R190m
Payments into CARA	R98.5m	R58.2m	R54.2m	R69.1m	R107m	R166m	R30m
Value of Recoveries to POCA (Victims + CARA)	R182.9m	R1 716.2m	R444.2m	R219m	R308.8m	R3.05bn	R160m

Success rate

A success rate of 98% was achieved, exceeding the target of 93% by 5%. The result can be attributed to the AFU's cautious approach in case selection in large complex cases being handled in terms of Chapter 5, as well as a more aggressive approach in pursuing cases using Chapter 6. The unit also achieved a success rate of 98% in the previous financial year.

Value of Recoveries Relating to Corruption, Where the Amount Involved is More than R5 Million

Recoveries to the value of R3 million were obtained, 99% below the target of R1.6 billion. The under-achievement of the target was as a result of only three recoveries being finalised in the course of the year. The complex and high value cases the AFU is currently involved in are taking longer to finalise than anticipated.

Value of Recoveries in Respect of Government Officials Convicted of Corruption and Other Related Offences

During the 2019/20 financial year, recoveries to the value of R200 000 were obtained against a target of R600 million as a result of very few convictions being obtained in matters where there was a potential of forfeiting assets. Despite the underachievement of the current financial year, it still exceeded the performance of the 2018/19 financial year of R172 000 by 16%.

Strategies to Overcome Areas of Underperformance

The AFU prioritised the creation of new posts and the filling of existing vacant posts following the allocation of additional budget during the AENE. This was set in motion through a recruitment process that started in late 2019. This recruitment process will be prioritised in the next financial year.

Officials at various levels participated in training initiatives aimed at improving performance, including:

- Ethical leadership and public accountability;
- Conferences for certified fraud examiners to retain accreditation;
- Organised crime (racketeering, money laundering and asset forfeiture);
- Civil proceedings in asset forfeiture, a joint initiative between the AFU and University of KZN which resulted in a comprehensive chapter on this subject in the AFU manual that will form the basis of practical training in civil advocacy;
- Cryptocurrency, organised crime and cybercrime investigations;
- Subpoena of Facebook information (through the USA Secret Service);
- Combatting money laundering and corruption in wildlife trade (UNODC);
- Extradition training; and
- Section 18 training rollout to lower court prosecutors. The Section 18 training initiative will contribute to increasing the number of completed AFU matters, particularly confiscations, in the lower courts. In the Western Cape this initiative has shown a significant increase in the numbers of confiscation orders obtained.

Noteworthy Cases

As part of its endeavour to continue making an impact on several crime types, the AFU achieved success in the following cases:

Drug-related Activities

NDPP v Smit and Others: The SAPS followed up on information they received, and uncovered a hydroponic lab used to cultivate cannabis, as well as cannabis worth an estimated R10 million on the farm. The AFU obtained a restraint in the amount of R22.8 million in the matter. The prosecution is ongoing.

Tierhoek Boerdery: The SAPS searched a farm and found narcotics, foreign currency and Kruger rands. The AFU obtained a confiscation in the amount of R3.5 million on 6 September 2019. To date, R1.25 million has been recovered and paid to victims.

Corruption

Robert Abbu and Others: This matter relates to allegations against the ex-mayor of the eThekweni municipality, Zandile Gumede; the Chairman of the Human Settlements and Infrastructure Committee, Councillor Mondli Mthembu; the Chairman of eThekweni's Bid Adjudication Committee (BAC), Sandile Ngcobo; and the Deputy Head of Strategic and New Developments at DSW, Robert Abbu, who acted in concert with four corporate entities to circumvent the outcome of the supply chain management (SCM) protocols of eThekweni. As a result of being awarded the unlawful contracts the aforementioned four corporate entities were paid R230.5 million.

On 4 October 2019, the AFU obtained a restraint order in the amount of R51.2 million. These assets include *inter alia*, immovable property located in Zimbali and Umhlanga Rocks, luxury vehicles, assets hidden in trusts and companies, and cash in bank accounts. The court appointed *curator bonis* has been ordered to locate property valued at R230.5 million. The criminal matter is ongoing.

Mlonzi Matter: Employees of the Amathole district municipality colluded with a paint supplier to commit tender fraud. The AFU obtained a restraint in the amount of R23.6 million, and the criminal trial is ongoing.

NDPP v Siyenza 2: The matter entails the collusion between municipal employees and a service provider to build toilets in rural areas for the amount of R406 million. The AFU obtained a further restraint to the value of R81 million in the ongoing case against the accused, after having already forfeited a house in this matter in the previous financial year.

Environmental Crimes

NDPP v Mudau: A vehicle was confiscated as an instrument in the smuggling of a pangolin. The vehicle was forfeited to the State on 18 June 2019.

Byugshu Kim: The accused was found in possession of endangered flora and protected plants. The AFU obtained a confiscation order in the amount of R2.5 million against the defendant on 28 January 2020. To date, R976 746 has been recovered and was paid into the CARA on 24 February 2020. Further recovery is ongoing.

Project Rambo: The SAPS Western Cape launched a project called Rambo targeting a syndicate involved in the poaching and smuggling of abalone. The AFU obtained six separate preservation orders against proceeds held by the perpetrators. The total value declared forfeit was R1.7 million.

Liao Wen Chen: The AFU obtained a preservation order against Liao Wen Chen and Daxiong Wen Chen for the illegal possession and smuggling of abalone. A preservation order was obtained on 7 June 2019 for R2.13 million. The matter is ongoing.

Addressing Money Laundering and Illicit Money Flow

NDPP v WU: The matter entails the contravention of exchange control regulations. The South African Reserve Bank investigated the dealings of Ultra Gain Trading CC and its sole member Li Yu and found clear contraventions of the regulations. The AFU obtained a preservation order on 30 April 2019 in the amount of R30.1 million. A forfeiture order was obtained on 6 February 2020 in the amount of R31.7 million. The recovery is in process.

F Mohamed Matter: The respondent attempted to smuggle cash in the amount of R18 million to Dubai whilst travelling from OR Tambo International. He was found in possession of \$1.26 million and £4 520. The Johannesburg office of the AFU obtained a forfeiture order in the amount of R18.58 million on 11 September 2019. Furthermore, R25.8 million was recovered and paid into CARA on 17 December 2019. The increase in value is due to the weakening of the rand.

PEC Matter: The PEC matter involves money obtained by means of an illegal pyramid scheme. The AFU obtained a forfeiture order in the amount of R137.5 million in this matter on 20 February 2020. The money is in the process of being recovered and will be paid to the victims.

Aikpehae Matter: Police acted on information and searched the premises of the suspect. They found a large amount of undeclared foreign currency. The suspect was arrested for possession of suspected stolen goods, foreign currency and attempted bribery after he offered all the money found there as a bribe not to be arrested. The AFU obtained a confiscation in the amount of R9.53 million on 16 July 2019.

Makda Matter: The accused was involved in the bulk smuggling of cash from the ORTIA. The AFU obtained a forfeiture order in the amount

of R7.46 million on 10 June 2019 and the full amount was paid into CARA by 8 July 2019.

Addressing Fraud and Economic Crimes

NDPP v Umnotho: The AFU obtained a preservation for proceeds of tender fraud committed in the Eastern Cape valued at R18 million.

Bobroff Matter: The matter entailed a father and son, both of whom were practising attorneys, and the overcharging of clients they represented in Road Accident Fund claims. The perpetrators tried to conceal the origins of the monies, and transferred a substantial amount to Israel. The AFU Pretoria Office obtained a forfeiture for the monies held in Israel on 21 August 2019 in the amount of R103.6 million. The order is currently under appeal.

Pamela Pillay Matter: The AFU obtained two forfeiture orders to the value of R27.6 million and R12.6 million with respect to an inheritance that was stolen using a fraudulent will. The recovery of the proceeds is ongoing.

Thatha Zonke (Mbemba) Matter: The accused were involved in the illicit smuggling of cigarettes across the border. The AFU obtained a confiscation order in the amount of R11 million on 15 August 2019.

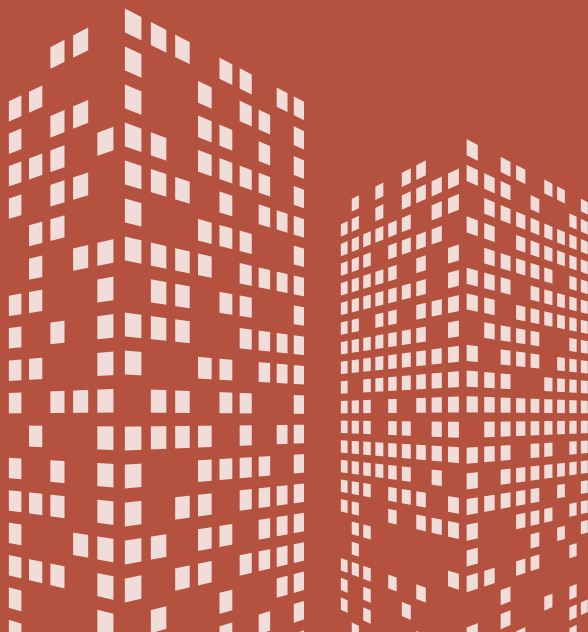
Fernandes and Others: The accused committed VAT fraud in the amount of R110 million in VAT claims. The perpetrators were assisted by a SARS employee. The AFU confiscated an amount of R8.3 million on 21 February 2020. The recovery is in process.

Bengis Matter: In May 2001, South African authorities seized a container containing unlawfully harvested West Coast Rock Lobster from Arnold Bengis and his company Hout Bay Industries (Pty Limited). The said harvest was designated for the USA for distribution through Hout Bay's US associates.

Arnold Bengis, Jeffrey Noll and David Bengis were prosecuted and convicted in the USA for federal charges of violating the Lacey Act (importation of fish and wildlife in violation of a foreign law), and contravening US Customs laws. On 19 July 2017, the United States District Court for the Southern District of New York made a forfeiture order against Arnold Maurice Bengis in the amount of \$37.2 million ('the forfeiture order').

South Africa, being a victim of the underlying crimes and having registered its claim in respect of the proceeds of the offences, was a party to the proceedings. With the cooperation of the US government and the New Jersey government, the monies were repatriated to South Africa. A total of R99 million was paid into CARA on 22 July 2019.

NDPP v Nasser and Others: The accused was caught in a trap whilst buying unpolished diamonds from an undercover SAPS agent. Two recoveries were made following a confiscation order obtained in the previous financial year. On 23 May 2019, R2.3 million was paid into CARA, and an additional R1.9 million was paid into CARA on 15 August 2019.



International Recognition for Environmental Crimes Prosecutor

Adv Heeramun was awarded the **United States' Fish and Wildlife Service Award** in July 2020 for her successful prosecution and conviction of an international poacher, and facilitating his extradition to the United States. Byungsu Kim, a South Korean national, had been wanted in the US for international plant trafficking from protected areas.

Advocate Heeramun prosecuted Kim and Young Sunwoo for violations of South Africa's environmental laws, including for the possession of flora without documentation and picking protected flora without a permit. They were found with plants listed as rare and critically rare in the South African National Biodiversity Institute (SANBI) Red List of South African plants. She obtained convictions against both perpetrators, who received suspended jail sentences of six years. Importantly, based on these convictions, the court attached almost R5 million from the two convicted persons.

She told the court that the accused were part of at least twelve groups apprehended with illegally collected succulents in the Western Cape and Northern Cape in the past five months. She noted that the illegal trade in wild flora and fauna is one of the five largest illegal activities in the world, along with illegal drug trade, illegal weapons smuggling and human trafficking. She argued, "Most importantly, the collection of these plants is an ecological tragedy. A rough estimation conservatively estimates the cumulative age of the 2 018 collected plants to be at least 44 000 years. When one puts it in these terms, the severity, tragedy and brutality of this crime against nature are clear. South Africa has both national as well as an international obligation to address wildlife trafficking..."

Her work has enabled the recovered funds are to be divided between the government's Criminal Assets Recovery Accounts (CARA), the



Adv Aradhana Heeramun

Western Cape Nature Conservation Board, and the SANBI.

The case was heralded as example of successful collaboration between the US and South African officials. US Ambassador to South Africa, Lana Marks, said:

"Advocate Heeramun embraced a cooperative working relationship with her colleagues in the United States and this led to justice truly being served. Most importantly, it sends a very strong message to all transnational criminals that the United States and South Africa are allies in the fight against crime and that together we make a united and formidable adversary for those who would destroy our environment for profit or otherwise disobey the rule of law."

In April 2020, Adv Heeramun also successfully prosecuted US citizen, Kalman Kaminar, for illegal possession of protected and endangered succulent plants. Kaminar was sentenced to two years' imprisonment suspended for five years. Following a confiscation order overseen by the Asset Forfeiture Unit, the court ordered the accused to pay R500 000 to CARA, and R250 000 to the Western Cape Nature Conservation Board. Adv Heeramun successfully argued for the court to declare Kaminar an undesirable person and ban him from entering SA.

Adv Heeramun joined the NPA in 1999, as part of the Aspirant Prosecutor Programme, and worked on sexual offences matters after the completion of her training. She was appointed to the Organised Crime Component in the DPPs office in the Western Cape, in her current position as a Junior State Advocate.

Legal Affairs Division

Overview of the Unit

The Legal Affairs Division (LAD) contributes to the following NPA strategic objective: 'Deliver a speedy, quality prosecution within the prescripts of the law'. The NDPP, as head of the NPA is generally liable for the acts and omissions of prosecutors acting in the course and scope of their employment with the NDPP or NPA. The LAD is responsible for dealing with civil actions and applications against the NPA arising from prosecutorial decisions and matters incidental thereto, as well as those applications not dealt with by the NDPP. It also provides legal advice and legal opinions, including on international cooperation in criminal matters (MLA's and extraditions) and labour-related matters and damages claims. Therefore, it is critical that the unit's work is efficient and of a consistently high standard. Other services provided by the LAD include vetting of draft service level agreements (SLAs) for the NPA.

The significant increase in the number of civil claims for damages filed against the NPA is cause for concern, mainly because of the resulting burden on resources required to defend the claims. In the year under review, the LAD saved the organisation an amount of R78.7 million out of a total of R82.9 million claimed.

The head of the LAD has the financial delegation to authorise instructions to the state attorney, the briefing of counsel with respect to delictual claims emanating from prosecutions and is responsible for the overall management of such civil claims in the NPA. If the cause of action relates to prosecutorial conduct, the NPA deals with the matter even if only the Minister has been cited as a defendant. The NPA may be joined later as a defendant. It also appears that amendments to the State Liability Act, 1957 (Act No. 20 of 1957), have resulted in the Minister now being vicariously liable for the delicts of prosecutors.

The main causes of action for civil claims against the NPA are malicious prosecution, unlawful detention, failure to adhere to the duty of care and defamation. The NPA Prosecution Policy requires that prosecutors assess whether there is sufficient and admissible evidence to provide a reasonable prospect of a successful prosecution against an accused. In the absence of a reasonable prospect of a conviction, the prosecution should not be commenced or continued.

In order for a plaintiff to succeed with a claim for malicious prosecution, they must, among other things, allege and prove that the prosecution instituted the proceedings and acted without reasonable and probable cause, with 'malice', and that the prosecution failed. Malice or *animus injuriandi*, is present if the defendant intended to injure (either *dolus directus* or *indirectus* will suffice), but negligence is insufficient.

A prosecutor as an employee of the State has a public law duty to protect the constitutional rights of citizens. A breach of this duty can lead to an award for damages.

In South African common law, every interference with physical liberty is *prima facie* unlawful. Once the claimant establishes that interference has occurred, the burden falls upon the person causing that interference to establish a ground of justification. There can be no doubt that this reasoning applies with equal, if not greater, force under the Constitution.

Prosecutors can be held liable for unlawful detention if they contribute to the decision to detain in breach of their public law duty to protect the constitutional rights of citizens. Section 12(1)(a) of the Constitution guarantees the right not to be deprived of freedom arbitrarily, or without just cause. This right requires that the encroachment on physical freedom be substantively justified by acceptable reasons. In light of section 12(1)(a) of the



Adv N Mokhatla

Constitution, once it is established that the detention is not justified by acceptable reasons, and is without just cause, the detention is rendered unlawful for purposes of a delictual claim for damages.

The Constitution imposes a public law duty on the State not to perform any act that infringes one's entrenched rights, such as the right to freedom. Prosecutors have a public law duty not to violate the right to freedom by way of placing all relevant information before the magistrate. A breach of the public law duty can give rise to a private law breach of a plaintiff's right not to be unlawfully detained without acceptable reasons.

A claim may only be settled with the approval of the head of the LAD, the accounting officer or someone authorised by them. Where a claim is settled, or where an order for damages is made against the Minister, NPA or a member of the NPA, as a result of a member's conduct in their official capacity, a determination of liability is conducted by the Department or Accounting Officer in terms of the relevant Treasury Regulations (i.e. Regulation 12.2 of Public Finance Management Act, 1999 (Act No. 1 of 1999)).

One explicit focus of the LAD was to promote training and education to prevent a repetition of any mistake which led to damages claims being awarded against the State. Managers are required to take a keen interest in claims emanating from their areas of jurisdiction for review purposes, and for identifying individual and general training needs and deficiencies in the case flow processes. The knowledge gained by studying these matters assists in preventing a recurrence of the circumstances which led to a claim for damages. In some instances, chief prosecutors take disciplinary steps against prosecutors where relevant.

Noteworthy Cases

Cato Manor

The nodal point in KZN recommended a single LAD resource to handle all the anticipated claims emanating from the Cato Manor racketeering prosecution. The head of LAD initially allocated the anticipated Cato Manor claims, including that of General Johan Booysen 10/3/4/1-217/15, to a team of senior advocates in LAD. There were 30 accused who were prosecuted over seven years. The dockets were reviewed, and the finding was that no prospect exists of a successful prosecution on a charge of racketeering. The dockets had to be returned to IPID, as there will have to be inquests.

Nokulunga Sonti and Another CCT178/18

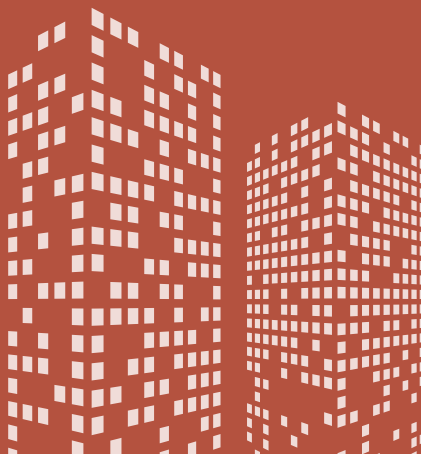
Section 1(2) of the Intimidation Act, Act 72 of 1982 is declared invalid. The section relates to the onus of proof for prosecution under section 1. The order for invalidity is retrospective. It operates in trials or pending appeals where the onus was based on the said section. The Minister of Police was ordered to pay the cost.

Mcebo Freedom Dlamini 10/3/4/2-441/16

The application for a stay of the prosecution by the #FeesMustFall detainee, Mcebo Freedom Dlamini, became moot, as he pleaded guilty to a count of public violence and a count of contravening Section 49(1)(a) of the Immigration Act, Act 13 of 2002.

Minister of Police v Ruvern Muller 9/2/16-732/14

The SCA judgment circulated relates to the case of Minister of Police v Ruvern Muller (29 November 2019), where the SCA somewhat tempers the De Klerk Judgment 2019 ZACC 32 CC by deeming the exercise of proper judicial discretion a sufficient intervening act to break the chain of causation, resulting in the police not being liable for detention after such discretion.



Office for Witness Protection

Witness Protection Act, 1998

The Office for Witness Protection (OWP) is established in terms of the Witness Protection Act, 1998 (Act No. 112 of 1998), and provides a support service to the CJS and judicial proceedings. The act provides for temporary protection, pending placement under protection, as well as support and related services, to vulnerable and intimidated witnesses and their relatives, thereby enabling such witnesses to testify without intimidation, fear or danger. The OWP is established in the DoJ&CD, with the DG as the accounting officer but is administered by the NPA. The OWP is an independent covert office and all its functions are classified as secret to ensure the integrity of the programme and the safety of witnesses.

Overview of the Performance Delivery Environment

Operational Highlights

- For the past 18 years, no witnesses or related persons were threatened, harmed or killed while on the programme.
- For the past 17 years, the OWP obtained a clean audit from the AG.
- The OWP continues to play a critical role in providing effective and efficient services to partners and stakeholders in CJS and in judicial proceedings.
- The response time of the OWP is immediate, and witnesses are removed from the danger area within one hour.
- The unit continues to make a critical contribution to serious cases emanating from the ACTT, NPS, SAPS, SIU and PCLU.
- The OWP continues to achieve excellent turnaround times due to its internationally acclaimed 24/7 operating model.

Challenges

The OWP is struggling with a shortage of staff and budget, as is the general position throughout the NPA. Several of the regions

are functioning without a regional head. With the establishment of the ID and the State Capture Commission, it is envisaged that many more whistleblowers and witnesses will come forward, and the OWP will be severely overextended.

OWP Strategic Objective

The OWP contributes to the NPA Strategic Objective 3: Ensure vulnerable and intimidated witnesses and related persons are successfully protected. In this regard, no incidents were recorded of witnesses being harmed, threatened or killed while on the Witness Protection Programme (WPP).

Percentage of Witnesses and Related Persons who Walked off the Witness Protection Programme

During the 2019/2020 period, seven witnesses and two related persons, i.e. 1.2% of the 713 witnesses and related persons managed, walked off the programme. Witnesses are not kept under 24-hour guard; they are put in safe places so that they may reintegrate into society. Witnesses and related persons must voluntarily agree to be admitted. Walk-off witnesses do not inform the OWP that they are leaving or have left. In 99.9% of the cases, witnesses who walked off do testify. The OWP immediately informs the investigating officer and prosecutor. There are a number of interrelated reasons for 'walk-offs', namely:

- Strict conditions of the Protection Agreement and the rules of WPP;
- Removal from danger area or historical homes;
- Removal from family support, community support and comfort zone;
- Trauma;
- Profiling of witness (e.g. Section 204); and
- Family pressure – related persons on programme, spouse, partner, and children.

In high-profile cases where there is a walk-off, the OWP re-admits the witness should it be in the best interest of the witness to do so.

Percentage of Witnesses and Related Persons Successfully Discharged and Resettled

During the year under review, 201 witnesses and 160 related persons joined the programme. A total of 713 witnesses and related persons were managed in the WPP during the period under review. This includes witnesses and related persons carried over from the 2018/19 financial year. Guided by the intention of the Witness Protection Act, and the values and ethos of the Constitution, 76 witnesses and 61 related persons were successfully discharged and resettled. However, 20 witnesses returned to the area of danger.

At the end of the financial year 96 witnesses and 58 related persons signed-off the WPP before testimony, while 33 witnesses and 15 related persons signed-off after they had testified. No formal grievances were laid. 35 criminal prosecutions were finalised, with 55 life sentences and a total of 1 033 years of direct imprisonment imposed in cases in which witnesses on the WPP testified.

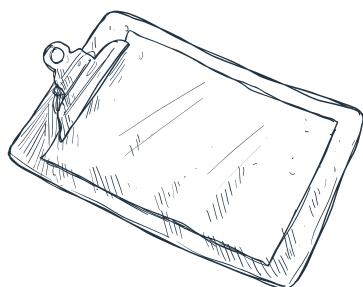
The Average Costs for the Protection of Witnesses

The average cost per month to protect a witness and related persons is R143 190 per person. This amount excludes the salaries, overtime (24/7 operating model) and subsistence and travel expenditure of protectors and support personnel, the use of official vehicles and operational accommodation and special hired vehicles.

THE HUMAN RESOURCES **OF THE NPA**

Annual Report 2019/20





THE HUMAN RESOURCES OF THE NPA

Annual Report 2019/20

The tables below outline the employment status in the NPA as at 31 March 2020.

Table 26: Breakdown of total employment in the NPA per office

Office / Division	Filled	Vacant	Total	Vacancy Rate
DPP: Eastern Cape	322	90	412	22%
DPP: Free State	235	57	292	20%
DPP: KwaZulu-Natal	564	170	734	23%
DPP: Limpopo	253	86	339	25%
DPP: Mpumalanga	186	81	267	30%

Office / Division	Filled	Vacant	Total	Vacancy Rate
DPP: Mthatha	139	67	206	33%
DPP: North Gauteng	335	103	438	24%
DPP: North West	162	41	203	20%
DPP: Northern Cape	382	43	485	21%
DPP: South Gauteng	427	118	545	22%
DPP: Western Cape	494	148	642	23%
Administrative Support H/O	283	198	481	41%
National Office				
NDPP (NPS, LAD, PCLU)	66	36	102	35%
AFU	114	96	210	46%
SOCA	156	97	253	38%
SCCU	154	77	231	33%
OWP	141	23	164	14%
Grand Total	4 214	1 531	5 755	27%

As indicated in the preceding table, the AFU has the highest vacancy rate at 46%. This is mainly due to the Investigator posts that were not filled, even prior to the budget cuts, since these posts had to be redefined in line with the needs of the unit. Administrative support recorded the second highest vacancy rate (41%). Administration funds were utilised for the filling of prosecution vacancies.

Table 27: Breakdown of employment status per core responsibilities

Functional Responsibilities	Total	Filled	Vacant & Unfunded	Vacancy Rate
Prosecutions	3 861	2 975	886	23%
Legal Administration Support (AFU Investigators, CPO & VAO, etc)	209	156	53	25%
Administrative Support	1 521	952	569	37%
Office of Witness Protection (incl. administration)	164	141	23	14%
Total	5 755	4 224	1 531	27%

(3 Contracts)

Employment Equity Profile per Office or Division

During the financial year under review, the NPA employed 2 215 females and 2 009 males.

Table 28: Status of employment equity per office

Office / Division	A	C	I	W	Total Female	A	C	I	W	Total Male	Grand Total
Office of the NDPP	12	1	2	3	18	8	1	0	2	11	29
	1	0	0	2	3	0	0	0	0	0	3
	6	2	1	10	19	6	1	0	8	15	34
DPP: North Gauteng	36	4	0	4	44	14	0	0	2	16	60
	12	0	0	0	12	0	1	0	0	1	13
	73	4	5	65	147	121	2	1	38	162	309
DPP: South Gauteng	34	3	0	0	37	17	0	0	0	17	54
	13	0	0	0	13	0	1	0	0	1	14
	78	7	25	57	167	154	1	3	34	192	359

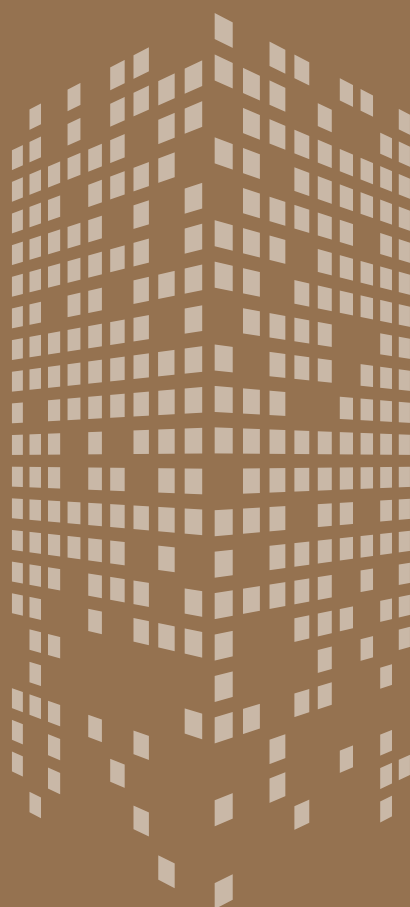
Office / Division	A	C	I	W	Total Female	A	C	I	W	Total Male	Grand Total
DPP: Eastern Cape Division	32	5	2	4	43	14	3	0	2	19	62
	6	0	0	1	7	1	0	0	0	1	8
	56	25	4	41	126	88	15	5	28	136	262
DPP: Mthatha	21	1	1	0	23	7	0	0	0	7	30
	4	0	0	0	4	2	0	0	0	2	6
	32	1	1	2	36	68	0	0	0	67	103
DPP: Mmabatho	15	1	0	2	18	10	0	0	1	11	29
	7	0	0	0	7	1	0	0	0	1	8
	41	1	0	5	47	68	0	0	10	78	125
DPP: Free State	11	7	0	1	19	7	3	0	2	12	31
	9	0	0	0	9	2	0	0	0	2	11
	47	3	2	44	96	67	3	0	27	97	193
DPP: Mpumalanga	10	1	0	2	13	10	0	0	0	10	23
	4	0	0	0	4	1	0	0	0	1	5
	43	3	2	28	76	65	1	1	15	82	158
DPP: Limpopo	21	0	0	0	21	16	0	0	0	16	37
	11	0	0	0	11	1	0	0	0	1	12
	70	2	0	5	77	118	0	0	9	127	204
DPP: KwaZulu-Natal	30	9	11	7	57	18	0	3	0	21	78
	17	0	0	2	19	2	0	0	0	2	21
	135	4	68	24	231	168	7	35	24	234	465

Office / Division	A	C	I	W	Total Female	A	C	I	W	Total Male	Grand Total
DPP: Northern Cape	12	6	0	2	20	8	0	0	0	8	28
	2	2	0	0	4	1	0	0	0	1	5
	16	6	0	11	33	45	15	0	10	70	103
DPP: Western Cape	14	25	1	2	42	6	5	1	1	13	55
	11	7	0	0	18	2	0	0	0	2	20
	30	119	14	68	231	52	79	4	53	188	419
Asset Forfeiture Unit	9	5	0	5	19	7	2	1	0	10	29
	4	2	2	5	13	8	3	1	6	18	31
	6	1	6	5	18	18	3	5	10	36	54
Specialised Commercial Crimes Unit	18	2	0	1	21	6	2	0	0	8	29
	0	0	0	0	0	0	0	0	0	0	0
	22	4	9	17	52	45	6	2	20	73	125
Sexual Offences and Community Affairs	63	3	1	1	68	24	0	0	0	24	92
	0	3	0	0	3	0	0	0	0	0	3
	17	3	3	14	37	19	2	0	3	24	61
Office of Witness Protection	46	2	5	13	66	35	8	3	29	75	141
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0
Administrative Support	133	10	3	20	166	91	12	4	10	117	283
	0	0	0	0	0	0	0	0	0	0	0
	0	0	0	0	0	0	0	0	0	0	0

Total: 4 224

FINANCIAL IMPLICATIONS
REGARDING THE
**ADMINISTRATION AND
OPERATIONS OF THE NPA**

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FINANCIAL IMPLICATIONS REGARDING THE **ADMINISTRATION AND OPERATIONS OF THE NPA**

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The NPA received additional funding of R102.4 million through the AENE process to establish the ID, capacitate the AFU and the SCCU, and to increase safety, security and witness protection services with respect to the prosecution of corruption matters for the NPA.

The AENE process ensured an additional budget allocation of R1.248 billion over the Medium-Term Expenditure Framework (MTEF) period for the continuation of the aforementioned initiatives, as well as for the filling of 158 critical prosecutorial posts, and the re-establishment of the Aspirant Prosecutor Programme. The additional funding will also assist with specialised protection to prosecutors dealing with high-risk cases, and the provision of witness protection to vulnerable and intimidated witnesses and their related persons in judicial proceedings.

The ID received R377.3 million over the MTEF period (R115.2 million for the 2020/21 financial year; R126.6 million for the 2021/22 financial year, and R135.5 million for the 2022/23 financial year) which forms part of the total budget allocation of the NPS Sub-Programme.

The NPA was unable to fill any vacancies, and therefore did not spend the additional funding in respect of the Compensation of Employees section of the budget, which resulted in an underspending of R62.6 million at the end of the year under review. As a result of the NPA experiencing budget challenges in terms of the Goods and Services section of the budget, the DoJ&CD viremented R21.5 million to the NPA to defray the overspending.

The DoJ&CD allocated an additional R90 million to the NPA for the replacement of outdated

laptops for prosecutors during the year under review. The outbreak of COVID-19 prohibited the delivery of these laptops before the end of the financial year, and resulted in an underspending of R62.8 million with respect to the payment of capital assets. The NPA is not a revenue-generating department and does not charge tariffs for services rendered, nor does the NPA provide free services that would yield revenue if a tariff was charged. Budget allocation, as it relates to the core business of prosecution and support services, is divided into the following four sub-programmes:

Table 29: Expenditure report

	2019/20			2018/19		
Sub-programme name	Final appropriation R'000	Actual expenditure R'000	(Over)/under expenditure R'000	Final appropriation R'000	Actual expenditure R'000	(Over)/under expenditure R'000
National Prosecutions Service	3 221 113	3 215 781	5 332	3 058 753	3 058 753	-
Asset Forfeiture Unit	153 146	126 861	26 285	127 794	127 794	-
Office for Witness Protection	192 770	192 770	-	193 539	193 539	-
Support Services	567 621	473 785	93 836	419 590	419 309	281
<i>Total</i>	<i>4 134 650</i>	<i>4 009 197</i>	<i>125 453</i>	<i>3 799 676</i>	<i>3 799 395</i>	<i>281</i>

Table 30: Final Budget allocation per economic classification

Sub-programme name	National Prosecutions Service	Asset Forfeiture Unit	Office for Witness Protection	Support Services
Compensation of Employees	3 043 072	143 596	104 302	213 622
Goods & Services	156 763	9 003	86 620	235 893
Payment of Capital Assets	6 035	31	330	104 187
Other	15 243	516	1 518	13 919
<i>Total</i>	<i>3 221 113</i>	<i>153 146</i>	<i>192 770</i>	<i>567 621</i>

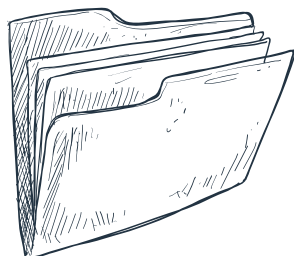
Expenditure on Compensation of Employees was at 98% (R3.442 billion) with an underspending of R62.6 million. The underspending was due to the recruitment process not being finalised within the year under review. The expenditure on Goods and Services before the final virement was at 104.6% (R488 million), which resulted in an overspending of R21.5 million due to the payment of contractual obligations.

The primary focus of the NPA is public prosecutions, and therefore 80.2% of the total allocation was spent on the NPS. Support services provides centralised services, such as security, fleet & facilities, IT services and accounts, on which 11.8% of the total budget allocation was spent. The NPA's expenditure increased by 5.5% from R3.799 billion in the 2018/19 financial year to R4.009 billion in year under review.

TRAINING PROGRAMMES **FOR PROSECUTORS**

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TRAINING PROGRAMMES FOR PROSECUTORS

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The skills development programme was scaled down due to budget constraints, with only a limited number of training interventions conducted. The table below lists the training programmes with the number of beneficiaries that attended each training.

Table 31: Breakdown of training programmes by number of beneficiaries

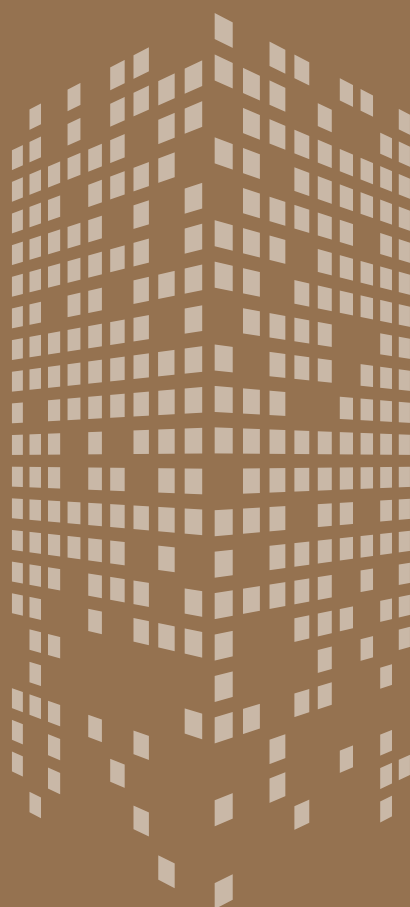
Type of Training	Beneficiaries	Type of Training	Beneficiaries
Advocacy and Ethics Management	30	Housing Consumers Protection	
Annual Shooting Exercises	70	Measured Act 95 of 1998	22
		Identity Parade	16
Aspirant Prosecutors Programme	18 (NPA members)	Joint Intervention between NPA	
Capacity Building Program for Training		Integrity Management Unit and	
Committee Members	61	Security Services Unit	22
		Road Accident Fund South African	
		Police Service Cases	13

Type of Training	Beneficiaries	Type of Training	Beneficiaries
Child Justice	26	Minimum Sentence Act (Correctional Supervision)	11
Compulsory Induction Programme (e-learning)	405	Motions Proceedings in Court	17
Child Pornography and Online Sexual Exploitation	27	Organisation Development	8
Code of Conduct for Prosecutors	9	Pointing Outs and Confessions	3
Confessions, Admissions and Pointing Out	19	Possession of Dagga (Directives and Media Queries)	22
Corruption and Fraud	27	Proactive Practical Retirement	12
Crypto Asset Training	8	Prosecution of Counterfeit Goods	25
Cybercrime	14	Prosecution of Drug Related Cases	10
Cybercrime and Digital Forensic Seminar	4	Prosecution of Initiation Related Cases	12
Domestic Violence	50	Section 18 (Confiscation Order)	108
Electronic Case Management System	134	Court Rolls Statistics	7
Ethical Leadership and Public Accountability	26	Stress Management and Resilience	13
Executive Leadership and Major Case Management	1	Maintenance	43
Expert Witnesses: DNA Evidence	20	Moderator Skills Programme	1
Financial Investigations Pertaining to Violent Extremism	1	Occupation Directed: Education, Training and Development Practitioners Qualification	20
First Aid Level 1-2	52	Occupation Health and Safety Capacity	16
High Court Bridging Course	15	Immigration and Refugee	20

Type of Training	Beneficiaries	Type of Training	Beneficiaries
Human Trafficking	23	Psychiatry and the Law	16
Integrity Management Awareness Sessions	61	Public Administration Qualification (Learnership) NQF Level 6	38
Assets Forfeiture Fraud	41	Sexual Offences	29
Appeals: Serious and Complex Crime	22	Social Media Evidence	52
Cellular Phone Records	23	Stock Theft	22
Concepts of Counterfeit/Illicit Goods	19	Strategic Planning, Integrated with Budgeting and Financial Management	47
Commercial Crime Training	109	Systems Approach to Decision-making	16
Digital Cybercrime	21	Child as a Witness	11
Digest Discussions	32	Trafficking in Persons	18
DNA in Prosecution Matters	7	Trio Crimes and Related Matters	26
Fingerprint Evidence	7	Violent Protest and Industrial Actions	22
<i>Total Number of Programmes</i>	64		
<i>Total Number of Beneficiaries</i>	2 100		

GLOSSARY AND TECHNICAL INDICATORS

Annual Report 2019/20



Glossary of Terms

Admission of Guilt Payments (AOG)

Payments in terms of a summons (J175) issued where the accused paid the admission of guilt in terms of section 57 of the CPA, Act 51 of 1977 without appearing in court on a criminal court case. These figures are totalled on the last court date of each calendar month with due regard to section 57(7) of the CPA, Act 51 of 1977.

Alternative Dispute Resolution Methods (ADRM)

Alternative dispute resolution encompasses several methods for the resolution of disputes between the parties. Within the NPA this includes diversion and informal mediation:

Diversion

Diversion is one of the alternative ways of delivering justice. It is the process of electing, in suitable and deserving criminal court cases, a manner of disposing of a criminal court case other than through normal court proceedings. It usually includes the withdrawal of the charges against the accused person, after the accused person has participated in a particular certified programme. After the offender has completed the diversion programme, the social worker submits a report to the prosecutor. If it is clear that the offender has cooperated and benefited from the programme, the matter is withdrawn and recorded as a diverted case on the daily statistics. These figures are totalled on the last court date of each calendar month. Separate statistics are recorded for children (persons younger than 18 years) and adult diversions. Diversions in terms of the Child Justice Act, 75 of 2008 are also included, and are totalled on the last court date of each calendar month.

Informal mediation

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

Appeals finalised

A case finalised through a judgement by the Court of Appeal inclusive of Rule 53 matters, motion applications, ex parte applications, petitions, bail appeals or withdrawal of Appeal by the appellant or any other reason that entitles the file to be closed.

Applications for leave to appeal

The number of cases in which the court considered an application for leave to appeal against a judgment, or order made by the trial court and heard during the reporting period regardless of the outcome of the application.

CARA

A special fund used to fight crime or assist victims of crime.

Case

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

- Criminal court case is a matter that has been enrolled in a criminal court regardless of the forum, including traffic cases and non-docket cases where accused appear in a court. Any civil applications, enquiries and *ex parte* applications are excluded. A criminal court case may have multiple counts and/or accused, and can involve multiple police dockets. A single docket may result in multiple court cases.
- Civil court case is a civil matter that has been enrolled in a court of South Africa regardless of the forum. This includes *ex parte* applications or applications on notice. It includes motion and trial proceedings. Examples are restraint, preservation, forfeiture and confiscation applications. It also includes interlocutory applications relating to living and legal expenses and curators in civil matters.

Commercial crime

Commercial crimes may involve fraud [cheque fraud, credit card fraud, mortgage fraud, medical fraud, corporate fraud, securities fraud (including insider trading), bank fraud, payment (point of sale) fraud, health care fraud], theft, scams or confidence tricks, tax evasion, bribery, embezzlement, identity theft, money laundering, and forgery and counterfeiting, including the production of counterfeit money and consumer goods.

Contact crime

Contact crimes are defined as crimes against a person such as murder, attempted murder, rape (including attempted rape), indecent assault, assault with the intent to inflict grievous bodily harm, common assault, robbery with aggravating circumstances and common robbery.

Complex commercial crime cases

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

Complex tax prosecutions

Those cases involving tax charges which require specialised prosecution due to their intricate nature, or have a high impact on the community, particularly but not exclusively, those matters linked to the commission of organised crime.

Conversion of sentence

Cases in which a court considers an application for an imposed sentence to be converted into a different sentence, and irrespective of whether the sentence is converted or not, the case is remitted to a trial court by order of an appeal or review court.

Conviction

A conviction is a finding of guilty, and includes payment made in terms of section 57A of the CPA, 51 of 1977.

Copper theft prosecutions

Criminal court cases that arise from any crime related to any theft of copper in whatever form (cabling, electrical wiring, plates, etc.), and includes possession or receiving of stolen copper as well as any other competent verdicts on theft and essential infrastructure related prosecutions in terms of the Criminal Matters Amendment Act, 18 of 2015.

Corruption

Corruption should be understood as the misuse of public and private office or position or resources with a corrupt intent, and may include acts of bribery, nepotism, extortion, fraud and theft, and any offence committed in terms of the Prevention and Combating of Corrupt Activities Act, 12 of 2004, either as the main charge or as the alternative charge.

Court preparation officer

Any officer appointed by the NPA to familiarise a witness with the court environment, legal processes, and legal terms at the appropriate level to address their fears and concerns regarding testimony in court, thus contributing towards successful prosecutions and customer satisfaction.

Criminal matters finalised

Criminal matters finalised include decision dockets which resulted in a decision not to prosecute (*Nolle Prosequi*), cases finalised through verdict, cases finalised through ADRM (informal mediation, diversions etc.), matters where admission of guilt was determined by the prosecutor and it was paid prior to enrolment, appeals finalised in the High courts, representations finalised as well as criminal/court matters finalised.

Criminal/court matters finalised

Criminal/court matters finalised include the putting of suspended sentences into operation, the conversions of maintenance trials to an enquiry, applications for leave to appeal, committal to a mental institution, conversion of sentences, formal inquests, preliminary inquiries in terms of the Child Justice Act, 75 of 2008 and formal bail applications.

Cyber crime

Any crime that is facilitated by the use of information technology.

Decision dockets

Decision dockets include all criminal matters presented to the NPA to consider the institution of a prosecution. These exclude dockets in cases enrolled.

District court

A court created by the Minister of Justice for a district in terms of Section 2 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944).

Diversions in terms of the Child Justice Act

- **Diversion by prosecutor before preliminary inquiry in terms of Section 41 of the Child Justice Act, 75 of 2008**

Matters diverted by a prosecutor in which a child was alleged to have committed an offence referred to in Schedule 1 and may, for this purpose, select any Level 1 diversion option set out in section 53(3), or any combination thereof.

- **Preliminary inquiry diversions**

Matters diverted in terms of section 52(1) or 52(2) of the Child Justice Act, 75 of 2008.

- **Schedule 3 diversions**

Matters diverted in terms of section 52(3) of the Child Justice Act, 75 of 2008, where the Director of Public Prosecutions having jurisdiction indicated, in the case of an offence referred to in Schedule 3, in writing, that the matter be diverted.

Essential infrastructure

Any installation, structure, facility or system, whether publicly or privately owned, the loss or damage of, or the tampering with, which may interfere with the provision or distribution of a basic service to the public, as defined in Section 1 of the Criminal Matters Amendment Act, 18 of 2015.

Environmental crime cases

Any criminal court cases relating to the importing, exporting, hunting, catching, capturing, killing, gathering, collecting, translocation, selling or trading of any wild animals, birds, plant, fish and marine life and insects, and the pollution of water, air, soil, emission of poisonous gasses and dumping of waste, inclusive of offences relating to environmental permits and illicit mining.

Femicide

Femicide is the killing of a female person (or perceived female person on the basis of gender identity) due to the specific gender of the person, whether committed within the domestic relationship, interpersonal relationship or by any other person.

Femicide: murder intimate partner femicide

Murder intimate partner femicide is femicide committed by a current or former husband (divorced or separated), boyfriend (dating or cohabitating), ex-boyfriend, or rejected would-be lover.

Formal bail applications

The number of cases in which the court considered evidence, whether viva voce or written statements, to consider the release of accused on bail during the reporting period, whether bail is granted or not, and includes inquiries in terms of section 49G of the Correctional Services Act, 111 of 1998.

Formal inquests

Inquiries into the causes of and/or circumstances surrounding the death of a person in which the court considered viva voce evidence of witnesses and made a finding.

Government official

Includes all persons employed by a state institution, as well as persons who were employed by a state institution at the time of commission of the offence. A state institution includes all three tiers of government departments (national, provincial and local), public entities listed in Schedules 2 and 3 of the Public Management Finance Act, 1 of 1999 (PFMA), constitutional institutions listed in Schedule 1 of the PFMA, parliament and the provincial legislatures subject to section 3(2) of the PFMA.

High court

High court means the High Court of South Africa and its respective divisions referred to in section 6(1) of the Superior Courts Act, 2013 (Act No. 10 of 2013).

Illicit mining

The prospecting, mining, removal, possession, refining, dealing, importing and exporting of unwrought precious metals and gold, uncut diamonds without a licence or permit, surface and underground trespassing on ownerless, active and derelict mines.

Money laundering

Money laundering refers to any crimes committed in terms of Section 4 of the Prevention of Organised Crime Act, 121 of 1998 (POCA).

Murder prosecutions

Cases where the accused person/persons are prosecuted on a charge of murder. Murder is defined as the intentional, unlawful killing of another human being. Competent verdicts in terms of Section 258 of the CPA, 51 of 1977 are included as guilty verdicts.

Operational Thuthuzela Care Centre (TCC)

A TCC is regarded as operational when all of the following criteria are met:

- A victim friendly designated space, with waiting area, counselling room, examination room, ablution facilities and statement-taking room exists. A TCC is located on the premises of the Department of Health (DOH), either in the hospital building or in a park home facility.
- One of the three posts (site coordinator, victim assistance officer and

a case manager) for which the NPA is responsible are filled either on contract or permanent appointment.

- All services are rendered including police, health, psychological and prosecutorial, whether in house or on call. This includes a referral system for 24/7 care and management.
- Protocols between the NPA, SAPS and DOH are in place.
- Training for relevant stakeholders, including induction for SOCA-staff at the TCC-site, has been conducted.
- Essential equipment and furniture as per SOCA TCC list have been provided.

Organised crime

Crime or crimes committed by a person, group of persons or syndicate acting in an organised fashion which could result in substantial financial gain for the person, group or persons or syndicate involved. Specialised prosecutors deal with these cases.

Preliminary inquiry

The number of preliminary inquiries in terms of Section 43 of the Child Justice Act, 75 of 2008, where an informal pre-trial inquiry is held.

Priority corruption case

A priority corruption case is a case identified by each DPP for fast-tracking, as well as cases identified by the Anti-Corruption Task Team (ACTT) to be dealt with in accordance with the Terms of Reference of the ACTT.

Prosecuting authority

The Prosecuting Authority is the National Prosecuting Authority, which consists of the National Director; Deputy National Directors of Public Prosecutions; Directors of Public Prosecutions, Deputy Directors of Public Prosecutions, prosecutors and support staff.

Review concluded

In the TRC matters, a review is concluded by a decision to either institute criminal prosecution, decline to prosecute or request the opening or re-opening of an inquest.

Rhino prosecutions

Rhino cases relate to the killing or attempted killing or injuring of a rhino in order to dehorn it or the possession, transportation, dealing in (trading) and importing or exporting of rhino horn without a legitimate permit. It also includes all incidents where accused are found to be trespassing where rhinos are being kept whilst being in possession of any instrument capable of removing a horn, under circumstances where the only reasonable inference to be drawn is the death or injury of the rhino in order to obtain its horn and it forms part of environmental crime.

Sexual offences

Any offences committed in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 32 of 2007, and may include common law rape or indecent assault.

Specialised prosecutor

A prosecutor with a particular skill set and experience who has been assigned to deal primarily with the prosecution of certain crime types.

Suspended sentence

The number of cases where an application was made to put a previously suspended sentence into operation, irrespective of whether the suspended sentence was put into operation or not.

TCC

Thuthuzela (“comfort” in Xhosa) care centres (TCC) are 24 hour one-stop service centres where victims have access to services including police, counselling, doctors, court preparation and a prosecutor for victims. These centres are aimed at turning victims into survivors, and providing comprehensive therapy. These multi-disciplinary centres have been established to streamline the process of reporting, care-giving, investigation of cases and the subsequent prosecution of the case. The main objectives for these centres are to eliminate secondary victimisation, reduce case cycle time, and to increase convictions.

Terrorist

The term terrorist refers to any natural person who: (i) commits, or attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and wilfully; (ii) participates as an accomplice in terrorist acts; (iii) organises or directs others to commit terrorist acts; or (iv) contributes to the commission of terrorist acts by a group of persons acting with a common purpose, where the contribution is made intentionally and with the aim of furthering the terrorist act, or with the knowledge of the intention of the group to commit a terrorist act.

Terrorist act

A terrorist act includes:

- a. an act which constitutes an offence within the scope of, and as defined in one of the following treaties: (i) Convention for the Suppression of Unlawful Seizure of Aircraft (1970); (ii) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971); (iii) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973); (iv) International Convention against the Taking of Hostages (1979); (v) Convention on the Physical Protection of Nuclear Material (1980); (vi) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988); (vii) Convention

for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005); (viii) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf (2005); (ix) International Convention for the Suppression of Terrorist Bombings (1997); and (x) International Convention for the Suppression of the Financing of Terrorism (1999).

- b. any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organisation to do or to abstain from doing any act.

Terrorist financing

Terrorist financing is the financing of terrorist acts, and of terrorists and terrorist organisations.

TRC cases

Cases to be considered for the prosecution of apartheid crimes, where alleged perpetrators were denied amnesty by the Truth and Reconciliation Commission; including deaths in detention of detained persons due to political motives, and interference in the NPA being able to do its work with regard to prosecuting certain individuals in these cases.

Trio crimes

Trio crimes refer to robbery at residential premises, robbery at business premises and carjacking.

Verdict

The judgment given by a court after the conclusion of the court proceedings. In criminal cases, it can only follow after an accused person has pleaded to the charges, and is a verdict either of guilty or not guilty.

Victim impact statement

A Victim Impact Statement (VIS) is a written voluntary statement by a victim and/or their family (caregiver) member, or someone authorised by the victim with regard to the emotional, physical and financial effect the crime has had on the victim's life. The VIS is admitted by prosecution as evidence and utilised at sentencing.

Violent protests and industrial actions

Any crime stemming from or related to violent public protests or industrial actions, irrespective of the legitimacy of such protests or actions.

Victim impact statements used in court

The utilisation of a VIS in any court proceedings including handing in of the VIS via the victim, tendering oral evidence during sentencing on the impact of the crime, and the prosecutor addressing the court for sentencing purposes from the VIS as base document, as well as providing the VIS to court.

Witness

Any person who is or may be required to give evidence, or who has given evidence in any judicial proceedings.

Witnesses assisted by CPOs

Witnesses prepared for court through the use of an age appropriate court preparation programme (Ke Bona Lesedi) by a Court Preparation Officer (CPO), the Victims Charter, Victim Impact Statements, and education and awareness programmes within the reporting period.

Technical indicators and descriptions

<i>Indicator Title</i>	Clearance ratio on decision dockets received
<i>Short definition</i>	Percentage of decision case dockets received dealt with in the reporting period
<i>Method of calculation</i>	Number of decision case dockets dealt during the reporting period

<i>Indicator Title</i>	Conviction rate
<i>Short definition</i>	The percentage of cases finalised with a verdict in which a guilty verdict was obtained
<i>Method of calculation</i>	The total number of cases finalised with a guilty verdict (including Sec 57A) divided by the total number of cases finalised with a verdict reflected as a percentage. Convictions are recorded at the date of sentencing after a guilty verdict, or a verdict of not guilty. One case may result in conviction of more than one focus area

<i>Indicator Title</i>	Number of persons convicted of private sector corruption
<i>Short definition</i>	Conviction of private sector persons who committed offences relating to corruption
<i>Method of calculation</i>	Simple count of persons/companies convicted of private sector corruption

<i>Indicator Title</i>	Number of completed forfeiture cases
<i>Short definition</i>	Total number of forfeiture orders completed
<i>Method of calculation</i>	Simple count of forfeiture cases completed

<i>Indicator Title</i>	Number of criminal matters finalised
<i>Short definition</i>	Number of criminal matters finalised in the reporting period. This includes decision dockets which resulted in a decision not to prosecute (Nolle Prosequi), matters where admission of guilt was determined by the prosecutor and it was paid (did not result in a court case); cases finalised through ADR (informal mediation, diversions, etc.), cases finalised through verdict, and appeals finalised in the High courts
<i>Method of calculation</i>	A decision of Nolle Prosequi is counted within the period that the decision was made (as recorded in the register). An admission of guilt paid is included after confirmation of the conviction has been confirmed by a magistrate. A criminal court case is measured as finalised on the date on which the verdict of not guilty is given (including stopping of prosecution in terms of section 6(b) of Act 51 of 1977) or sentence is imposed in the case of a guilty verdict, and includes cases dealt with in terms of section 57A of the CPA. Should there be multiple accused, the case is only counted upon conclusion of the case against all accused. An appeal is counted after judgement in the appeal has been handed down

<i>Indicator Title</i>	Value of completed forfeiture cases
<i>Short definition</i>	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
<i>Method of calculation</i>	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 litigation in terms of POCA

<i>Indicator Title</i>	Number of witnesses and related persons harmed, threatened or killed whilst on the witness protection programme
<i>Short definition</i>	Witnesses and related persons harmed, threatened or killed whilst on the witness protection programme
<i>Method of calculation</i>	The total number of witnesses and related persons who 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

<i>Indicator Title</i>	Number of persons convicted of corruption or offences related to corruption where the amount involved per case is more than R5 million
<i>Short definition</i>	Conviction of persons for the offence of corruption and/or offences relating to corruption where the amount involved exceeds R5 million per case. The total amount involved in the case is measured
<i>Method of calculation</i>	Simple counts of persons convicted of corruption in the reporting period, where the amount involved exceeds R5 million per case

<i>Indicator Title</i>	Number of government officials convicted for corruption or offences related to corruption
<i>Short definition</i>	Conviction of government officials who committed offences relating to corruption
<i>Method of calculation</i>	The total number of government officials convicted of corruption in the reporting period

<i>Indicator Title</i>	Number of victims assisted at TCC sites
<i>Short definition</i>	The number of victims who received integrated services at the current 55 TCC sites
<i>Method of calculation</i>	Manual calculations of the number of victims who accessed TCC services at the 55 sites on a monthly basis

<i>Indicator Title</i>	Number of freezing orders obtained
<i>Short definition</i>	Total number of freezing orders obtained in the reporting period
<i>Method of calculation</i>	Simple count of freezing orders obtained

<i>Indicator Title</i>	Value of freezing orders
<i>Short definition</i>	Value of assets frozen in freezing orders obtained in the reporting period
<i>Method of calculation</i>	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

<i>Indicator Title</i>	Value of freezing orders obtained relating to corruption where the amount involved is more than R5 million
<i>Short definition</i>	Value of the freezing orders relating to the offence of corruption and/or offences related to corruption where the amount involved exceeds R5 million per case
<i>Method of calculation</i>	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 involved exceeds R5 million. The value is estimated and counted at the time when the initial order is obtained

<i>Indicator Title</i>	Value of recoveries in terms of POCA
<i>Short definition</i>	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)
<i>Method of calculation</i>	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 because of litigation in terms of POCA. It is measured only when the proof of payment is received

<i>Indicator Title</i>	Success rate of litigated cases
<i>Short definition</i>	The percentage of cases litigated by the AFU in which it was ultimately successful
<i>Method of calculation</i>	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, i.e. 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

<i>Indicator title</i>	Value of recoveries relating to corruption where the amount involved is more than R5 million (proceeds of crime and government losses)
<i>Short definition</i>	The amount of recoveries in cases relating to corruption where the amount involved exceeds R5 million per case
<i>Method of calculation</i>	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 because of litigation in terms of POCA. It is measured only when the proof of payment is received

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

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 because of litigation in terms of POCA. It is measured only when the proof of payment is received

Indicator Title

Percentage of witnesses and related persons who walked off the witness protection programme

Short definition

Witnesses and related persons who walked off the programme without prior notification

Method of calculation

The number of witnesses and related persons who walk off the programme in the reporting period divided by the total number of witnesses and related persons on the programme

<i>Indicator Title</i>	Percentage of witnesses and related persons successfully discharged and resettled (Aftercare)
<i>Short definition</i>	Comprehensive support or aftercare provided to witnesses and related persons leaving the witness protection programme
<i>Method of calculation</i>	The total number of witnesses and related persons discharged and resettled divided by the total number of witnesses and related persons on witness protection programme, calculated as percentage

1. Institute for Security Studies & Corruption Watch. (2019). State Capture and the political manipulation of criminal justice agencies: A joint submission to the Judicial Commission of Inquiry into Allegations of State Capture. Accessed from: <https://issafrica.s3.amazonaws.com/site/uploads/2019-06-20-other-zondo-commission-submission.pdf>. Dated 15 September 2019.
2. The Mokgoro Enquiry, in terms of section Section 12(6) of the National Prosecuting Authority Act 32 of 1998, into the fitness of NPA staff to hold office - p.137.
3. Enquiry in terms of Section 12(6) of the National Prosecuting Authority Act 32 of 1998. Accessed from: [https://www.saflii.org/images/section12\(6\)enquiryreport.pdf](https://www.saflii.org/images/section12(6)enquiryreport.pdf). Dated 1 April 2020.
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5. National Prosecuting Authority. (2019). Trend Analysis for Business Improvement. Strategic Planning Conference, 27 – 29 May 2019; PowerPoint Presentation by Lieutenant General (Dr/Adv) SG Lebeya, National Head of Directorate for Priority Crime Investigation, presented at the NPA Strategic Planning Conference, 27 – 29 May 2019. PowerPoint Presentation by Lieutenant General TC Mosikili, Divisional Commissioner: Detective Service, presented at the NPA Strategic Planning Conference, 27 – 29 May 2019.
6. Ibid.
7. NPA performance trend analysis was conducted by a joint team of the NPA Strategy Management Office and the National Prosecutions Services Operations Management Office.
8. Refers to a programme where law graduates are recruited and trained for the purpose of creating a pool from which the NPA could appoint permanent entry-level prosecutors – a lifeblood supply of fresh talent from universities into the entry levels of the organisation. National Prosecuting Authority. (2019). National Director of Public Prosecutions Annual Report (2018/19) in terms of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998).
9. National Prosecuting Authority. (2019). National Director of Public Prosecutions Annual Report (2018/19) in terms of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998).
10. See page 21, on the Strategies and Initiatives: Focus Areas, paragraph 3.2.
11. Lancaster, L., Roberts, M. & Mbanyele, S. (2019). NPA Staff survey Report.
12. Griggs, R.A. (2007). An evaluation of nine pilot sites to propose a South African model of community prosecution. Unpublished document.

NOTES

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This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

[illegible]

This image shows a full page of blank, lined paper. It features approximately 28 horizontal grey lines spaced evenly apart, typical of notebook paper. The lines extend across the entire width of the page, leaving small margins at the top and bottom. There are no vertical lines, text, or other markings on the page.



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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