

KHASHO



MAR/APR 2017

PROSECUTING WITHOUT FEAR, FAVOUR OR PREJUDICE



**Legislation
Watch**

**Cousins
Sentenced for
Rape**

**Father and
Son
Sentenced**

**Focus on
Social Media**

**Legal
Update**

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Letter From The Managing Editor



Ms Bulelwa Makeke
Chief Director: Communications

We thank you for your patience and understanding during the time when your favourite newsletter was not in circulation. We will now continue in earnest from where we left off with the new publishers.

As you all know, we use Khasho to strengthen our internal communication for effective organisational information flow, with the aim to reach the entire NPA readership.

Articles about court cases are a common feature in all our editions so that we can share with you experiences and perspectives of our hard working prosecutors, to reflect their passion for their work and to highlight some of the challenges they encounter in prosecuting cases. We continue on that track, and encourage even more prosecutors to share their good work with us.

The month of March is very important in the South African calendar, as we commemorate Human Rights Day. The story of Victoria and Griffiths Mxenge forms part of the tapestry and history of the fight for human rights in our country. In recognition of that history and the Mxenges' contribution thereto, the NPA's head office building is named in their honour. We were therefore honoured to be joined by their children at the VGM building on 31 March 2017, and in this issue we share a bit about that event as we reflected on their parents' contribution, as part of our Human Rights Day commemoration.

Since financial year end is mostly associated with reporting on finances and performance against pre-determined objectives, we had a conversation with Dr Ramaite, the DNDPP responsible for Administration and OWP, to provide us with an overview of our financial position in 2016/17.

Truly speaking, this financial year has been characterized by a mixture of challenges and achievements for the organisation. Experience has taught us to remain true to our mandate and constitutional duties regardless of both the political and social environment in which we operate.

We will continue on this track as we ready ourselves to tackle the new financial year, and we look forward to sharing more news about the organisation with you on this platform.

I appreciate you taking the time to read our newsletter. We continue to value your feedback and contributions which are the ones that have made Khasho the cutting edge newsletter that it is, which positions the work of the NPA and its people. As a reminder, our e-mail address is khasho@npa.gov.za

Best wishes!

A View from the DNDPP: Administration & OWP

Khasho caught up with the head of Administration, Dr Silas Ramaite as the relevant person who would give a bird's eye view of the pertinent issues that can make or break the NPA and this is what he had to say:

We are coming from a very hard financial year that was mostly characterised by financial constraints. How bad was it and what is the impact of that to the new financial year? I'm sure there are spill over effects.

It was quite bad but we still managed to stay within the budget. The people in Finance played a significant role in assisting with the management of our spending amid an extremely challenging financial climate. Their efforts in supporting the leadership to get additional funding from the Department of Justice and National Treasury yielded a bit of a reprieve for us, when National Treasury gave us a once off approval to roll up some of our operational budget to Compensation of Employees (CoE). Through this intervention we managed to meet our commitments in terms of the CoE budget, particularly in relation to the payment of performance rewards, which had to be delayed while these interventions were being negotiated.

All of this will obviously have a carry on impact on the current financial year because there is no change in terms of the funding. We are not expecting any significant additional funding – for instance the MTEF allocation for 2017 / 18 for the NPA is estimated to be only 3.56% on last year's allocation, compared to over 5% growth in previous years. This means that much as we did in the previous financial year we will just have to manage our resources closely.

How dire is our financial situation in respect to the operational work that the NPA must still perform? How prepared are we to perform with less?

The good thing is the NPA over the years has always managed to perform quite well despite all the many challenges it has faced. We will therefore manage to overcome all the challenges that are brought on by the financial constraints we are currently facing. I must also commend the Strategy Office for their role in assisting the organisation with proper performance monitoring and management tools, making sure that we stay within our plans. As a result, we have not seen any of the challenges significantly impacting on our performance.

During the current performance planning cycle, we had to ensure that our performance targets are set in a manner that ensures that we continue to deliver a quality prosecution service amid our capacity challenges, due to the financial constraints. For instance, there are new courts in Polokwane and Mpumalanga that must be adequately resourced, but on the other hand we do not have any more funded posts. This means we must try and do more with much less resources. As posts become vacated, they become unfunded which means our ability to recruit more personnel is significantly reduced. This has an impact on the wellbeing of prosecutors. There have been instances where we received more applications for leave because people are tired and overstretched. We have had to involve Employee Wellness Programme in some cases for their intervention. As



Head of Administration, Dr Silas Ramaite

a result of this pressure, we now have to make sure that we also manage the wellbeing of our prosecutors which is actually another challenge that has emerged.

The National Director has however given an instruction for critical posts to be filled so as not to compromise the delivery of justice, and the organisation is in the process of considering ways to bring that instruction to effect.

I must convey the leadership's deep appreciation to the people who do the work; the prosecutors in particular and the people in administration - that despite all the challenges they still deliver as expected.

Speaking of the well-being of prosecutors - there is a matter that seems to be brewing at the moment, that of the security of prosecutors. How is this matter being dealt with?

That is also another area of concern. We are aware of the challenges in the system. We have had discussions with the National Director, and we have engaged Security Management Services (SMS) around that. Some SMS members have just recently undergone training but the problem requires a more structured solution. I think we need to have some form of uniformity in terms of provision of security to our prosecutors, because quite often it depends from area to area. In some areas we have excellent security but then in other areas we have security that is not good. Now we've got to try and identify those areas where we need to improve but I think in the long term we need a more structured approach to the provision of security to prosecutors.

We have temporarily suspended our flagship Aspirant Prosecutor Programme. What are the consequences of this turn of events?

The consequences are not pleasant at all. We have discussed this issue and we have also raised the concerns of not having

this programme before the Portfolio Committee in Parliament. We continuously have these discussions with the NDPP and other relevant people; particularly exploring alternative funding mechanisms for the programme and making sure that it comes back. The Aspirant Prosecutor Programme is a way of pumping new blood into the organisation and ensuring that there is always a pool of young prosecutors that are well trained and available to be recruited to the district courts. It is therefore obviously not sustainable that we have gone for two years without any new intake. However, during this period the NDPP has started a process of reviewing the curriculum for the Aspirant Programme to ensure that it covers other areas in the scope of the work of the NPA, such as asset forfeiture and other emerging crime types.

It's a question of time, once we have established the sources of alternative funding; definitely we will have the programme back. Coincidentally this morning before you came I got a call from a young man I know, who qualified almost three years ago as a Law graduate. He phones me from time to time and he was asking me about the programme. So there is still a lot of interest in the programme. So, while we are currently under severe financial strain, discussions are underway on plans to have the programme back.

You were in Parliament at the end of March to present the 2017/18 Annual Performance Plan. What were the key highlights of that engagement - is there a change in the direction of the organisation in terms of its strategy?

There are no significant changes in our APP, although there are some minor amendments to some indicators to clarify them and improve their measurability. For instance, the AFU's indicator for Success Rate has been expanded to read as Litigation Success Rate, and OWP's strategic objective Ensure that threatened witnesses and related persons are successfully protected has been revised to Ensure that vulnerable and intimidated witnesses and related persons are successfully protected.

The portfolio committee received our presentation well, with full appreciation and understanding of our current circumstances. The committee however made it clear that they would take a dim view to reduced performance targets because of reduced capacity, but lauding achievement against the lower targets as successes. In this regard, they proposed that the targets must at least remain the same or be slightly increased, but the reasons for under-achievement be clearly illustrated where they are as a result of the reduced capacity. They also re-emphasised the importance of reflecting performance in terms of numbers instead of percentages to reflect impact, as well as providing year-on-year comparative information to reflect on progress - a practice that the NPA continues to observe in its reporting.

The committee congratulated the organisation for the continued stability at the leadership ranks.

As long as I can remember there have always been murmurs about NPA/DoJ integration. Can you take us into your confidence as far as integration is concerned? What is the situation now, is it happening or not?

It is not in the interest of the NPA and furthermore it is not

consistent with the whole scheme of the Act that established the National Prosecuting Authority. The NPA Act specifically makes provision for an administration function within the NPA. So we have discussed that issue from that point of view. There are proposals which were discussed with the Director General and the National Director and further tabled in writing to the Minister. All that is now left is for the Minister to consider all the inputs tabled and finalise the issue.

So this matter has not been closed yet?

It has not yet been closed. I know that there are different views around this. There are those who think that the integration of administration functions should happen. Remember that the DG of the Department of Justice is being held to the terms of the current institutional arrangements by the Auditor-General, i.e. the NPA is a programme of the DoJ&CD and that the DG is the accounting officer. However, our own view as management is that this does not necessarily infer that the administration within the NPA should resort in the DoJ&CD. With respect to compliance with National Treasury's financial reporting prescripts, the NPA's financial statements and report on performance against predetermined objectives are incorporated in the DoJ&CD's annual report, but we believe that is the full extent of our compliance with the prescripts.

I have had extensive discussion around this with the National Director, and we share the same view based on the structure of the NPA Act. There have been a number of views around this issue that have been expressed, for example in the Ginwala Commission. The unfortunate thing is that despite our assurances that the status quo remains, people keep on raising this question from time to time, so it is critical that this matter should be finalised in writing between the Minister and the National Director as soon as possible. There has to be administration support for the core business. In fact, we are currently battling in providing administrative support for prosecutors in lower courts.

Going forward, what is the message that you would want to pass to NPA officials?

I sincerely believe that the financial constraints and the situation that we find ourselves in is a short term thing. I don't believe that it will be with us for a very long time. We just have to do our work and try to weather the storm. When we have overcome, it would have proven our resilience as the NPA. It would be bad if at the end of this short term period we don't come out of it stronger. It may very well be a pain that we have to endure, but I can assure people that it is not going to be a long term pain.

Anything that you want to say that I did not ask you Doc?

There isn't really anything else, except that, in terms of the management of our financial resources, I think we have learnt great lessons from the previous years. With the start of the new financial year, we have to manage our finances very tightly and start with interventions to curb expenditure right from the beginning of the year and assess the effectiveness of these interventions on a quarterly basis.

Eric Ntabazalila

Adrian Hendricks denied his involvement in the crimes he committed, particularly the murder of Warrant Officer Petrus Holtz, a member of the elite police unit, the Hawks. He only relented during cross examination by Advocate Marésa Engelbrecht, while addressing the court in mitigation and aggravation of sentence.

"Only after the accused was convicted and addressing the judge on sentence, did he admit that he stabbed the deceased. He said he thought he was going to get away with it. More like he realised that he was on his way to jail for a very long time. That is not remorse," Advocate Engelbrecht summed up his ploy.

The 22 year-old Macassar man was arrested on 29 July 2015 after a swift response from the Macassar Police Station, following reports that Warrant Officer Holtz had been attacked on the stretch of the highway.

Several incidents of crime have taken place on the N2 highway, particularly, on the stretch between Somerset West and the Athlone turn off. This has forced the City of Cape Town's traffic services to deploy vehicles along the highway, provide constant messaging, warning motorists that it was dangerous to stop on the highway which serves as an economic link between the Western Cape and rest of the country. It is also the same highway that leads to the Cape Town International Airport and used by tourists visiting the Garden Route.

Hendricks was arrested and charged with five counts which included murder, two counts of malicious damage to property, robbery with aggravating circumstances and attempted robbery with aggravating circumstances. In court, Advocate Engelbrecht placed on record that on 17 July 2015, the accused placed stones on the N2 highway, resulting in a flat tyre of Jacques Loots' vehicle. Loots was forced to stop his vehicle and changed the tyre. Hendricks attacked him with a knife which penetrated and disconnected his left collarbone, a few inches away from his jugular vein.

On 25 July 2015, Hendricks used the same modus operandi and the victim this time was a member of the Hawks, Warrant Officer Petrus Holtz. He was stabbed a few times on his right hand as he attempted to ward off his attacker. He succumbed after he sustained an injury to his femoral artery.

The accused pleaded not guilty to all of the charges but got convicted in the end. Judge Robert Henney of the Western Cape High Court sentenced him to life imprisonment and 25 years for all the charges and ordered that sentences imposed in respect on the incident of 17 July 2015 as well as of 29 July 2015 be served concurrently. He further declared the accused unfit to possess a firearm.

Murderer sentenced to life



Advocate Marésa Engelbrecht

Insights from Advocate Marésa Engelbrecht

I am very happy with the outcome, particularly for the deceased's family. I am pleased that the sentence we asked for, we received which was life imprisonment. Throughout the trial I maintained contact with the deceased's wife and kept her informed of what transpired in court every day when I got home at night. She sat in on judgement and sentence and was very pleased.

My main concern is always the family of the deceased and to make the process as easy as possible for them. I therefore always keep contact with them and explain court procedure to them. I am happy when they have a smile on their faces at the end of the case and they feel that justice was done and get closure. We are the people's lawyers and we must be there for the people. I am very passionate about what I do and it is nice when justice has prevailed.

I am also pleased for the community of Helderberg who were stressed out by the danger they knew existed, traveling on the N2. After this incident, there were no more robberies where rocks were placed on the road and people being robbed. ■

"I am happy when they have a smile on their faces at the end of the case and they feel that justice was done and get closure."

Ethics in Action

Improving Organizational Integrity

Building organizational integrity is not an easy task. One needs to first acknowledge that there is no one-size-fits-all programme to building and maintaining an ideal organisational culture. As with the private sector, public sector institutions also have unique individual operating cultures; each with its own dynamics and operating philosophies.

A starting point would be to ascertain the organisation's state of vulnerability or ethical risk which they may face; a simple benchmark exercise to establish their existing moral base. Most organisations are vulnerable to unethical practices, while at the same time also susceptible to the systematic corrupt and fraudulent practices which may already exist in the organisation.

Therefore to improve organisational integrity, we need to advocate for a comprehensive and integrated approach to manage and maintain integrity, so that it gets realised in our day-

to-day activities. We can start by incorporating the language of ethics and ethical decision-making into everything we do, both at work and in our personal lives. As an organisation, we can assist by creating the structural support mechanisms including revising current processes and procedures, which can help to enhance ethical decision-making at all levels. As leaders, we can create appropriate vehicles through which our officials can have a clear channel to air and discuss problems, escalate issues, and explore grey areas of compliance, like an independent reporting mechanism or advisory desk.

Ultimately our objective should be to develop a culture of openness, honesty, responsibility, accountability and professionalism. With this understanding of integrity in mind, a number of specific practices can be integrated to improve long term integrity across our organisations. ■

DPP Free State Hosts Stakeholders To Build Relations In The Province

Phaladi Shuping



DDPP Advocate Elsa Smith, DPP Advocate Xolisile Khanyile and Chief Prosecutor, Advocate Navilla Somaru at the event

The DPP Office in the Free State hosted a stakeholder function to build relations with all the stakeholders involved in the criminal justice system in the province. Representatives from legal institutions such as judges, magistrates from district and regional courts, Department of Justice, SAPS, Roads and Transport, Legal Aid South Africa converged at Windmill Casino.

The function was an opportunity for all the stakeholders to engage on a social level to talk about their strengths and weaknesses as well as challenges that they encounter regularly in their working environment.

Welkom Cluster Chief Prosecutor, Advocate Navilla Somaru stated that the objective of the function is to engage the stakeholders in an informal setting where all parties present are given an opportunity to raise their concerns and any other issue that they may have with the NPA.

"People are often more open about issues when we engage in an informal setting because once we engage in a formal setting, people tend to focus more on the mandate of the institution

they are representing," says advocate Somaru

The idea, says Advocate Somaru, is not only to congratulate the stakeholders for their cooperation, but also to talk about our provincial performance and matters of common interest.

Judge President of the Free State High Court, Judge Mahube Molemela applauded the office of the DPP for coming up with such an initiative. "Informal engagements have been proven to be effective because the mood is relaxed and the gowns and robes are off, which makes it easy for us to engage without consideration of anyone's position."

The Director of Public Prosecutions in the province, Advocate Xolisile Khanyile welcomed the idea of all the relevant stakeholders engaging on a social level to strengthen relationships. "This kind of engagement affords us an opportunity of being friends despite being from different camps. It is the kind of engagement that makes us realise that despite having different mandates, we are all striving for justice for the communities that we serve," she said. ■

Cousins Sentenced To Nine Life Terms

Mashudu Malabi

The Limpopo High Court sentenced Johannes Morobi Moropane (39) and Klaas Lucas Sekgobela (39) to nine life terms of imprisonment for raping nine women two years ago. In addition to the life imprisonment, both were sentenced to 99 years on charges of robberies and 41 years on kidnapping charges respectively.

According to the evidence presented in court, during the day of 28 January 2014, both accused were travelling in a green Toyota Corolla and offered the first victim a lift to Podungwane. While travelling towards her destination, the accused's motor vehicle suddenly stopped. The victim tried to flee from the scene but the accused caught her then raped and robbed her cell phone at knife point.

Both accused used to kidnap women between the ages of 19 and 33 years who were hitch-hiking to Lebowakgomo, Ga-Mphahlele, Stanplaas and Polokwane. They threatened the ladies with a knife and screw driver. They would then take turns to rape their victims. Both accused robbed the victims of their belongings such as cell phones, clothes, camera, groceries, credit cards, bank cards, money, license cards and Identity documents.

The last victim was kidnapped while walking in the street to a nearby shop to buy airtime. One of the accused pointed a firearm at her and ordered her to leave with them. They led her to the bush and took turns raping her. The victim managed to assist the police officers with the registration number of the vehicle and they were arrested later that day.

During trial, they both pleaded not guilty, claiming that the victims were prostitutes and they bought sex with R70-00. However, Advocate Calvin Chauke led evidence of all the victim's companions. The acting judge Maanda Madima found their versions to be highly improbable and found them guilty as charged.



Advocate Calvin Chauke

The accused raised the defense of consent in the nine counts of rape. During cross examination the two accused changed their version and alleged that they had sex with all complainants in exchange of payment of R70.00. I argued that their version is improbable and the court agreed with me and convicted the accused on nine counts of rape, nine counts of robbery and nine counts of kidnapping. They were sentenced to nine life imprisonments and a total of 140 years.

Justice was served and the sentence will bring hope to the justice system and will send a message to other would-be rapists who prey on defenseless women. ■

Insights from Advocate Calvin Chauke

Sexual offences cases are sensitive matters that require patience, perseverance and thorough preparation prior and during trial. I was dealing with nine victims and 39 other witnesses.

As a male person the challenge I had was to build trust with the victims. I had to work on getting them to trust and be open to me.

Most of the victims cried during consultations which made the cases difficult to handle. Despite this challenge, I persevered and all complainants testified thoroughly without breaking down in court. I also managed to get the defense counsel admit certain issues such as J88, ID parade records and DNA test results. This case was scheduled for three (3) weeks but it was finalized in six days. As a result I ended up calling 23 witnesses out of 48.



Legislation Watch

Communal Property Bill Gets The Nod

Cabinet approved the Home Loan and Mortgage Disclosure Amendment Bill, 2016 to be published for public comment. The Bill amends the Home Loan and Mortgage Disclosure Act, 2000 (Act No. 63 of 2000).

The Bill addresses human settlements challenges identified in the National Development Plan. This includes: dysfunctional settlement patterns across the country; challenges facing towns and cities; weak spatial planning and governance capabilities.

The Bill seeks to provide for housing finance which is in line with section 26 of the Constitution, which stipulates that “everyone has a right to adequate housing”. It further empowers the Office of Disclosure to receive and investigate complaints regarding home loans. This will encourage compliance by financial institutions and will contribute to improved lending patterns and trends of financial institutions regarding home loans. ■

Father and Son Sentenced to 42 Years Effectively for Murder

Frank Lesenyego



Advocate Ditaba Rantsane

A North West farmer, Mathys Johannes Cloete and his son, Daniel Nicolaas Hendrick Cloete were sentenced to a combined sentence of 42 years for the murder of Bakang Moleko by the North West High Court sitting in Vryburg. The 72 year-old farmer and his son, killed Bakang Moleko on 3 September 2012 near Boshhoek in the district of Vryburg. The charges were ranged from murder, kidnapping, assault, robbery and pointing of a firearm, amongst others. Bakang Moleko was an employee of the accused Mathys Johannes Cloete and Daniel Nicolaas Hendrick Cloete at the farm.

Both Mathys Johannes Cloete and Daniel Nicolaas Hendrick Cloete allegedly realised that there were some tyres that were missing at their farm. They then followed tracks of the vehicle which was moving from their farm and eventually met one of the complainants, Stone Melomi whose vehicle had a puncture. The accused pointed a gun at him when he tried to run away. His vehicle was taken by Mathys Johannes Cloete and Daniel Nicolaas Hendrick Cloete and never returned to him. Stone Melomi was taken to the farm where the deceased and Shadrack Anderson were taken to the storeroom by the accused who alleged that they had stolen and sold the items to Stone Melomi.

He was assaulted and threatened. One of the complainants, Stone Melomi tried to warn the accused against using electricity but he was hit with an iron rod and his arm was broken.

During the trial, there was collusion between the state and defence pathologist which resulted in a joint affidavit that was submitted for bail application which described the cause of death as aspiration of stomach contents due to acute intoxication. The affidavit excluded the cause of death as electrocution in no uncertain terms. The second state pathologist was introduced who indicated that it is difficult to describe electricity as a cause of death due to its nature but indicated that it cannot be excluded. Interference to the smooth investigation of the case went deeper than the post mortem debacle. Be that as it may, the decision was that this matter deserved the audience from the court and circumstantial evidence was used to prove the cause of death. The trial proceeded and upon its conclusion, the court found both accused guilty of murder and the other charges.

The court convicted both the accused on one count of murder, three of kidnapping, one of intimidation, one of attempted murder, two of pointing a firearm, two of assault with grievously bodily harm and robbery. Mathys Johannes Cloete was sentenced to 18 years while Daniel Nicolaas Hendrick Cloete to 24 years direct imprisonment. Their application for leave to appeal was dismissed. Soon after the North West High Court dismissed their leave to appeal, they further lodged their leave to appeal in the Supreme Court in Bloemfontein. The Supreme Court ordered that the application be dismissed on the grounds that there were no reasonable prospects of success and there is no other compelling reason why an appeal should be heard. ■



Insights from Advocate Ditaba Rantsane

There was a bit of mixed feelings among members of the community in Vryburg regarding the ill-treatment of employees by farmers. These mixed feelings were fuelled by rumours that perpetrators would not be punished for their wrongdoings. The community was convinced the matter would end-up in vain. This was indeed a test to the administration of justice and we passed it with distinction. I am happy that my efforts won the trust and restored the confidence in the criminal justice system and for NPA to prosecute without fear, favour or prejudice.

I would say I was an underdog. I went to court without being certain about the cause of death of my client. I had to build a case of death from circumstantial evidence and eventually build a case. The trial entered the most complex stage regarding post-mortem findings. They had a defence pathologist who intended to prove that their version was reasonable and possibly true. Furthermore, their expert electrician confirmed that the farm in question complied with safety measures and therefore a person could die as a result of electricution. What made matters worse was the fact that the state expert from

the forensic laboratory who went to the scene shortly after the incident, resigned without leaving any trace of what he discovered at the scene. The same expert who resigned from the state, testified on behalf of defence regarding the alcohol level. He testified that the alcohol found in the blood of the deceased might support the possibility of acute intoxication. To overcome all these challenges, there was a need for intense research and consultation with experts which made me feel like an expert myself, after trial and the state case eventually emerged victoriously against defence. I will conclude by saying the journey was a bumpy one and what is written above is not even close to providing a clear picture of how challenging it was to prosecute this matter.

Never say you have seen them all because what might land on your table the next moment might just label you a liar. You never regard yourself as an expert, you leave that to others to conclude. Always regard yourself as work in progress and always be hungry to learn new things from every case because there is always something to learn, no matter how simple the case is. Always search for something that will put you in a better position than you were before you dealt with the case. ■

Social Media Focus

These are some of the topics and comments from the NPA Facebook page. On this issue, we are focusing on NPA activities that took place in February and March 2017, which were shared on the page.

Rhodes Park Prosecution

Adv Monde Mbaqa successfully prosecuted some of the murderers and rapists of Rhodespark in the South Gauteng High Court. The three men, who were part of a group who raped two women and killed their husbands, were each sentenced to four life terms on 31 March 2017.

Unathi Mbaqa Nathy, "Well done my brother, keep up the good work. The community is proud of you."

Liezie Diedericks, "GREAT JOB Adv Monde Mbaqa! Thank you for making a difference!"

NPA School outreach in Mpumalanga

On 2 March 2017, NPA staff members visited the Tikhuni Secondary School in Mpumalanga to educate learners and create awareness about the work of the NPA.

Makhosonke Simon Nkosi, "Congratulation' knowledge is power for our justice an prosecutorial activities"

NPA seizes assets of two government officials: Limpopo

Ofentse Mnisi, "Even if government has the most wonderful Acts and legal rules, it will fail in its endeavour to create a just and prosperous dispensation for its citizens if CORRUPTION reigns."

Makhosonke Simon Nkosi, "Well done to my team in Limpopo. Business must be conducted with due care of our Constitution and PFMA at all times viva AFU viva #CorruptionMustFall."

NPA West Rand School outreach and programme

On 2 February 2017, the NPA partnered with Safer South Africa to reach out to 80 learners from George Khoza Secondary School in Dobsonville and Ikusasaletu Secondary School in Braamfischer.

Akhosonke Simon Nkosi, "Education is the key, thanks to my leaders in prosecutorial services for such power presentation at CPPs office courts and schools."

Tinyiko Tresley Ndobe, "Well done colleagues, I see you Grace Leketi keep it up."

Nildesparandum Myeza Senwamadi, "I really love this."

Heart to Heart with CPOs

Natasha Kara

In an attempt to get insight into the work done by the Court Preparation Officers (CPOs), I recently met with the KwaZulu-Natal (KZN) group and chatted to them. I posed the following questions and from the answers I got a clear indication that being a CPO is a calling and their work is definitely not for the faint hearted!

What do you enjoy most about being a Court Preparation Officer?

We take pride and enjoy being CPOs because it gives us the opportunity to bridge the gap between the justice system and people who have not had exposure to the courts. They are often apprehensive because of the negative perceptions people have about the justice system.

Our job allows us to show the NPA customers the basic processes and general procedures within the criminal justice system. We instil a seed of hope in them. Being a CPO, gives us a chance to empower the people we meet and show them just how important they are. Watching our victims' transition from being fearful and shaking to being strong and empowered is truly worth it.

Connecting with our witnesses is enjoyable and watching them with friendly faces they meet in an intimidating situation is heart-warming. Also, we are able to have a positive impact on someone's life, with something as little as a smile.

Which/what are the most trying cases?

There are too many cases to mention individually, some cases more frightening than others. It is humbling as CPOs to see the real people behind the case numbers and case references; and to see how the victims have survived both physically and emotionally. Some of the most difficult cases have been serial rape, family murders, farm attacks and incest matters. These cases are traumatic for the victims and their families. In these matters, emotions run high and as a CPO you need to help the victim and family members contain their emotions. We have seen victims' families physically attacking the accused and the defence attorneys out of anger and frustration. The rape of very young children is also trying but in the event of a conviction, we too celebrate along with our families after a road long travelled.

Going through the process of completing a Victim Impact Statement with a victim or family member of a victim is very emotional, but it is most rewarding when their voice resonates at the sentencing stage of the case.

How does your job affect you personally?

It affects us knowing that we are living in a harsh society with cruel individuals who harm and abuse children, woman, men and the elderly.

It is, however, a privilege to take victims through this process. We are blessed to do this work but at times the victims' pain feels like our pain. The work can be mentally tiring, especially in highly emotional matters. These cases stay with you for a while until you process them. Debriefing always helps and the constant encouragement by our manager is definitely a plus. Knowing and understanding your own emotions ensures that you can pick up tell-tale signs of compassionate fatigue and rest accordingly. The NPA makes adequate provisions for



KZN Court Preparation Officers

us as CPOs and we use the Employee Wellness Programme (EWP) services with absolute necessity and trust.

How do you deal with the stresses of your job?

Sometimes it is not easy because our job requires us to turn negatives into positives. However, we do have debriefing sessions which assist us mentally in dealing with work and personal issues. We also de-stress by talking to our colleagues or during the formal debriefings from the wellness programmes arranged by our manager.

Why did you become a Court Preparation Officer?

Being a CPO affords us a daily opportunity to give care. We are able to help people that need it the most, in a place where they least expect to be given support, warmth and attention.

We became CPOs because we share a love for working with victimised and abused children. Our lives are about passion, love, support, motivation and a willingness to assist people with a positive attitude. Knowing that you have made a difference and a positive impact in a person's life is our daily character catalyst.

A day in the life of a Court Preparation Officer

Each day you need to start with a heart filled with bravery, a bucket of love and emotional strength.

Each morning involves meeting and building relationships with our colleagues and our witnesses. We listen carefully to their needs and concerns, and act on the information provided. Witnesses are prepared to give their evidence in court according to the KeBona Lesedi Court Preparation Programme, which has been scientifically tested and works. They are empowered during this process. Feedback is given to prosecutors and advocates should there be any special needs that are discovered or concerns that are raised by the victim or witness. We can act as support persons in court for victims or witnesses once their preparation is complete. At the end of the trial process or end of the day, if the case is remanded, we sit with our witnesses to offer closure and containment. We check that they have understood the day's proceedings and are aware of the processes still to come.



What are some of the challenges faced by CPOs?

The biggest challenge is when there is an acquittal and witnesses feel that the criminal justice system has failed them. They are emotional. As a CPO you have to calm them down and help them understand the outcome of the matter or facilitate the process of them speaking to the prosecutor. Further challenges that we face is the lack of office space and inadequate resources. Some CPOs share offices with

intermediaries and sit in the intermediary room. They have to leave and wait in the passages each time a child witness gives evidence. Very few courts have witness waiting rooms and this exposes our witnesses to further trauma, such as, seeing the accused on the day they are scheduled to give evidence. Learning to rise above these tangible challenges and yet continue to strive towards giving a sterling service to our victims is always a motivating factor.Yes we can! ■

Getting to Understand the Research Management Unit

Research Management is one of the four directorates of the Strategy Management Office (SMO). It is responsible for research, evaluation, and knowledge management. The directorate reports directly to the Deputy National Director of Public Prosecutions responsible for Administration. Research Management is guided by the National Evaluation Policy Framework and other research and evaluation guidelines issued by the Department of Planning, Monitoring and Evaluation (DPM&E).

On an annual basis, Research Management develops a Research Agenda, which comprises a list of research, evaluation and knowledge management projects. The list of projects in the Research Agenda is informed by an assessment of research needs from the annual performance plans as well as individual requests from the management of NPA Business Units and Chief Directorates. The Research Agenda is a living document and is updated whenever a new project is identified.

Research Management comprises of the following personnel: Ms Marthi Alverts- Director and head of the unit, Ms Kefilwe Ramatsekane, her Personal Assistant, two Senior Researchers Mr Thomas Tshilowa and Mrs Kefentse Mojaki-Moremogolo, three Researchers Mr Marius Bester, Ms Nozipho Manqele and Mr Chris Griffiths, one Legal Researcher Mrs Zeldu du Bruyn and one Knowledge Information Officer Mr Wilfred Noble.

Research Management adds value to the NPA by supporting business units in achieving their annual goals by encouraging the inclusion of research as well as knowledge and information management activities in NPA Business Unit and Service Centre Annual Plans. It also provides assistance with the above planned activities to help ensure that:

- i. **Projects, initiatives and undertakings are measured in terms of their outputs and outcomes against project plans;**
- ii. **Shared understanding of projects, initiatives and undertakings are generated within the NPA;**
- iii. **New knowledge is generated and properly shared within the organisation supporting an ongoing culture of learning;**
- iv. **Awareness and understanding of the place and importance of Research, Monitoring and Evaluation (M&E) and Knowledge Management (KM) is promoted; and**
- v. **That as a result accountability for NPA service delivery is fostered within the organisation.**

As such Research Management plays a supportive, but crucial role within the administration of the NPA.

Research Management conducts a number of projects on a



Research Management Unit staff

regular basis. These include:

Situational Analysis Research (SAR):

An annual SAR aims to identify external and internal factors that are likely to influence the performance of the organisation, and thus service delivery.

Employee Satisfaction Surveys:

Research Management conducts an annual satisfaction survey amongst NPA employees to establish their level of satisfaction within the organisation as well as with regards to their service environments.

Crime and Criminal Justice Survey:

The NPA seeks to measure its services from the perspective of its external customers through a bi-annual Crime and Criminal Justice Survey.

Evaluation Projects:

Evaluation projects are done on a project by project basis in line with the demand and supply principle of evaluation needs by the organisation.

Assistance to other SMO components:

Annually, close to the end of the 3rd operational quarter, during a 'peak time' for Strategy Management and Performance Information Management in terms of finalising the annual performance plans and annual reporting by the SMO, Research Management shifts some of its human resources to help sister components within the SMO to moderate Business Unit and Service Centre annual performance plans and to assist with compiling the NPA annual report. ■

34 Year Old Man Sentenced for his Crimes

Tsepo Ndwalaza

Lubabalo Mlungwana, a 34 year-old man was sentenced to 20 years imprisonment for an incident that took place on 9 April 2015 at Gelvandale in the northern areas of Port Elizabeth. On the night in question, members of the South African Police Services (SAPS) were patrolling this gangster infested area. They saw the accused with three other suspects and as they stopped to talk to them, they started firing shots at the police and all three fled. Fortunately, no SAPS member was injured in the process. Ultimately, Mlungwana was arrested and the firearm was found in his possession.

He was charged with attempted murder, possession of an unlicensed firearm and possession of ammunition. The prosecutor in this matter, Mark Driman called three witnesses who testified that they never lost sight of the accused from the time he started running. They also saw the accused jump over a fence and hid next to a shack where he was apprehended still with a firearm in his possession.

The accused, in his defence, argued that he ran because he was in possession of dagga and he denied shooting at the police. Prosecutor Driman advanced various reasons as to why the court should reject the accused version.

Arguing in aggravation of sentence, the prosecutor stated that the personal circumstances of the accused must give way to the seriousness of the offences and the interest of the community. Driman asked for the minimum sentence. He argued that the accused showed no remorse whatsoever throughout the trial by maintaining his innocence.

The presiding officer of the court agreed with the state submission and the accused was sentenced to 20 years imprisonment. He was further declared unfit to possess a firearm. ■



Prosecutor Mark Driman

The court also held that the lighting was sufficient to make a reliable identification and that the witness had sufficient time and opportunity to make a reliable identification. I believe that the sentence was fair, given the seriousness of the crime. ■

Insights from the Prosecutor, Mark Driman

I had a few concerns at the start of the trial. The fact that the gun powder residue test was negative, was a challenge (bearing in mind the tests were done soon after the arrest). Another challenge was that, no touch DNA was found and the identity of the perpetrator was disputed based on the fact that the perpetrator was caught at night. With regard to the shooting incident, I relied on the evidence of a single witness, whom the court saw as honest, credible, reliable and trustworthy, thus, leading the court to reject the version of the accused as false where it was in conflict with that of the state.

In respect of the negative gunpowder residue test, I argued that it should not be looked at in isolation. The circumstances under which the shot was fired must be taken into consideration. Hand activity can remove gunshot residue. Handcuffing the suspect with hands behind the back also has an impact on the test. If a person puts his hands in his pocket, the gunshot residue can be removed from his hands. The position of the hands during the discharge of the fire arm can also influence the probability to find particles on the hand area where the samples were taken.



Judge Takes Big Swipe At SA's Greedy Lawyers

“Lawyers are like rhino - thick skinned, short-sighted and always ready to charge”

That was the view of UK politician David Mellor - and it is shared by the Johannesburg High Court.

In a damning judgment handed down in Johannesburg last week, the deputy judge president of the South Gauteng division of the High Court, Judge Phineas Mojapelo, reprimanded lawyers who fleece their clients with exorbitant fees and then add costs.

Masango Mlungisi sued the Road Accident Fund in the Johannesburg High Court for compensation for injuries he sustained in a road accident in 2011. Central to the case were the fees lawyers charge and the cut they take from clients for “expenses and add-on” claims.

Among the expenses that irked Mojapelo was the VAT lawyers demand from their clients as part of their expenses. Mojapelo found that lawyers could not claim VAT from a client and that attorneys could only recover “out-of-pocket” expenses from them. In terms of the Contingency Fees Act, lawyers must cap their fees at 25% if they win the case. Mojapelo said there was no basis for a lawyer to charge 25% of the client’s award.

“The attorney charges a success fee which shall not exceed 25% of the client’s capital award,” he said. He said the agreement in Mlungisi’s case simply provided for the attorney to charge 25% of the capital award.

“There is [nothing] in the act that authorises or sanctions such a provision in fee agreements or such practice by legal practitioners.

“There is reason to believe that the practice of attorneys simply

charging 25% of their client’s capital award is widespread, especially in personal injury claims.

“This court has seen many such agreements ... the practice is not legal and needs to be weeded out,” the judge said. He said an attorney renders professional services and therefore charges professional fees.

“An attorney cannot charge for anything other than the services he has actually rendered. His charge is neither a percentage commission nor a share in the [compensation for] injuries or damages suffered by his client.

“An agreement or practice that makes an attorney a partner in the injuries suffered by his client is illegal under the act.”

Mojapelo said the agreement between Mlungisi and his attorney gave the lawyer the right to charge 25% of the award as a fee and then impose VAT on the amount.

“VAT is a tax on the lawyer and not on the client. Consequently the lawyer pays the tax to SARS ... and [it] cannot be recovered from the client.

“It is not an ‘out-of-pocket expense’ and is not recoverable above the 25% cap.”

Mojapelo ordered the Road Accident Fund to pay Mlungisi R664000, declared that the contingency fee agreement he had with his lawyers, Renier van Rensburg Inc, was invalid, and ordered that the firm’s fees not exceed 25% of the settlement.

Polity.org.za ■



Life Sentences For Mbizana Rapists

Luxolo Tyali



Prosecutor Thamsanqa Vinindwa

The community of Mbizana have reason to celebrate after the Mbizana Regional Court sentenced three rapists, in three different trials in one week.

The court sentenced 30 year-old Xolile Ngantweni to life imprisonment for raping his 40 year-old neighbour in April 2014. The court sentenced Ngantweni to a further five years for house breaking with intent to commit crime and 15 years for robbery with aggravating circumstances. The sentences were not ordered to run concurrently.

According to evidence that was presented in court, on the night of 16 April 2014, Ngantweni broke through the window of the victim's house who was asleep with her toddler son. After gaining entry, the rapist stabbed the mother and proceeded to rape the bleeding woman twice before fleeing the scene, apparently thinking that she would bleed to death and not be able to identify him.

With the help of her neighbours, the victim was taken to hospital and thereafter opened a case at the Mzamba police station and identified the perpetrator. He was found with blood stained clothes and arrested the following day. The clothes were sent for DNA tests and the tests confirmed that the blood on Ngantweni's clothes was indeed that of his victim.

Armed with the DNA results and evidence from the victim, the Regional Court Prosecutor, Thamsanqa Vinindwa, was able to convince the court that Ngantweni was guilty beyond a reasonable doubt and thus deserved the harshest sentence for preying on his neighbour that he was supposed to protect.

Vinindwa also represented the state in other rape cases where Sifiso Chutshela aged 22 and Mandlenkosi Dlungela aged 43 were sentenced to life imprisonment. Both the men were convicted of raping nine year-old girls from their neighbourhoods in separate incidences.

According to evidence that was presented in court, on the night of 22 March 2015, Chutshela, of Mamcakhani village in Mbizana, gained entrance into a room in which three children

were sleeping on the floor. Using the torch on his cellular phone to light up the room, he removed the blanket from his young victim and threatened to kill her if she screamed and then proceeded to rape her. He fled the scene. When the older sister who was not at home during the night returned home, the victim told her what had happened and the following morning the matter was reported to the police.

Chutshela pleaded not guilty and claimed that he was with his girlfriend when the incident occurred. His girlfriend even testified in his defence but evidence from both the victim and her sister, who are also the rapist's neighbours, was accepted as the truth by the court and he was convicted.

In the second case, Dlungela who worked as a gardener at a local shop in Mbizana raped his victim twice during the month of May 2014. On both occasions the victim had gone to the shops and Dlungela lured her to a secluded area within the shop yard where he showed her a knife, threatened her not to tell anyone what was to happen and raped her. After raping the young girl, he gave her a R1 coin and a R2 coin after the second rape. His victim did not immediately report the rapes at her home. It is when Dlungela attempted to rape the victim's friend, who told her mother what had happened that the victim told her mother. She was taken to a doctor who confirmed that she had been violated.

Dlungela also pleaded not guilty but the evidence of the victim and the doctor convinced the court that he was guilty. ■

Insights from Prosecutor Thamsanqa Vinindwa

I had a challenging role during the proceedings as I had to simplify the proceedings for the child witnesses, but being able to put together pieces of admissible evidence to create a complete picture of events, assisted in ensuring that all three rapists were convicted.

My previous experience in dealing with rape cases involving young victims assisted me a great deal in presenting the evidence before court.

Ensuring that the child witnesses were ready before the start of the proceedings, was vital. I therefore, spent more than two days preparing and consulting with the two young victims with the assistance of two intermediaries, Ms Cebana and Mrs Ndlangisa.

Through teamwork and co-operation with the two dedicated investigators, Sergeant Zwane and Warrant Officer Mgoqi, we managed to remove at least three rapists from society. Now that the work has been done, there is relief and satisfaction on my part, knowing that these dangerous and ruthless criminals are where they belong, but there is still a lot of work that lies ahead to stop the scourge of rape in our communities and country. ■

Gauteng Local Division Hosted Annual Stakeholder Conference

Phindi Louw

“Stakeholder Relations is at the heart of rendering an efficient and effective Criminal Justice System. It is crucial to recognise the fact that we cannot work in isolation, if we are to win the battle against crime”, said Director of Public Prosecutions in the Gauteng Local Division (GLD), Andrew Chauke in his opening remarks at the auditorium of National Prosecuting Authority (NPA) offices in Johannesburg, during the stakeholder conference hosted by the NPA in the GLD as part of its strategic planning.

The two-day conference hosted from 18-19 January 2017 was attended by senior managers of the NPA in the region, senior public prosecutors and control prosecutors from three clusters of the GLD, namely, the Eastrand, Westrand and Johannesburg clusters. Also in attendance were representatives from key stakeholders made up of senior managers of the Judiciary and senior managers of the South African Police Service (SAPS).

The conference aimed at reviewing the overview performance of the region so that stakeholders can achieve a real sense of problems to be overcome. The conference created a common understanding on the role and/or involvement of each stakeholder, whilst creating a platform for stakeholders to offer informed views and inputs that can result in improved and expedited service delivery. Challenges and disputes were identified and discussed at this forum by way of presentations and dialogue with the aim of developing dispute resolution mechanisms.

Upon arrival, each delegate was given a conference pack containing a programme, a draft of the NPA Annual Performance Plan 2017/18, a draft of the National Prosecutions Service Annual Performance Plan 2017/18, a draft of the GLD Annual Performance Plan 2017/8 and Annexure A- which contained the topics of discussion during the conference.

On day one, the performance of the division against strategic and operational targets was discussed so that challenges that stand in the way of the region from attaining these targets can be brought to the fore. Statistics and challenges in successfully prosecuting these prevalent crimes like sexual offences, trio crimes and corruption were unpacked and discussed through lengthy presentations by Deputy Directors of Public Prosecutions appointed to manage the units dealing with these offences.

Thereafter, stakeholders were given an opportunity to make presentations aimed at raising awareness about their challenges and the role that the NPA can play in alleviating those challenges. The Judiciary’s made a presentation on Case Flow Management, the purpose for its implementation, challenges identified and the role of the NPA in improving/eradicating those challenges. Amongst the challenges identified was the co-ordination of leave as it impacts on court performance, the lack of oversight on investigations which causes delays and unnecessary postponements. Acting Chief Magistrate, Henro du Plessis suggested that where postponements for further investigations are requested, the prosecutor must inform the court about the nature of instructions given to the investigating officer, which instructions were complied with, which ones are outstanding and reasons why they could not be carried out. The Judiciary was also concerned about the manner in which the NPA rankings were structured, suggesting that it is important to compare “apples with apples”. According to the Regional Court President, Mr. Modibedi Djaje, cases heard in economic hubs like Gauteng are lengthy trials due to their complex nature and at times they involve multiple accused persons and felt that it is therefore unfair to rate such courts against courts with simple cases.

Their presentation was followed by SAPS who presented statistics on prevalent crimes in the division, the challenges they are faced with, with regards to investigations and court preparations as well as the role of the NPA in assisting them to expedite some of these investigations.

After lunch the delegates were divided into eight groups of 15 each and they discussed challenges identified by the stakeholders (SAPS and the Judiciary) as well as challenges in prosecuting prevalent crimes. This was a deliberate exercise to establish solutions in minimising these challenges.

On the second day, delegates provided feedback from their group discussions. Thereafter, delegates once again broke into groups and discussed the draft Annual Performance Plan for the new financial year, amendments and inputs to the draft, as well as the collation of statistics and streamlining of reporting. Lastly, the Director Administration, Ms. Judith Mackay did a presentation on Employment Equity followed by the Strategy Management Unit presenting the Enterprise Risk Management Plan. ■



Who's Who in Gauteng DPP South Gauteng



DPP
Adv Andrew Chauke



DDPP
Adv Zaais Van Zyl SC



DDPP
Adv Johan J Du Toit



DDPP
Adv Mary Munyembate



DDPP
Adv Johannes Wolfaardt



DDPP
Adv Rasigie Bhika



DDPP
Adv Herman Broodryk SC



DDPP
Adv Nengovhela Mutuwa



DDPP
Adv Tom Dicker



DDPP
Adv Gerrit Roberts SC



DDPP
Adv Chuma Mtengwane



DDPP
Adv Riegald Du Toit



DDPP
Adv Daniel Dakana



DDPP
Adv Suren Naidoo



DDPP
Adv Mona Naidoo



Regional Head
SCCU Gideon Nkoana



Chief Prosecutor: Eastrand
Thomas Leboa



Chief Prosecutor: Westrand
Lynn Wessels



AFU Regional Head
Wendy Da Silva



Chief Prosecutor
Adv Pumeza Futshane

DPP North Gauteng



DPP
Adv Sibongile Mzinyathi



DDPP
Adv Vernon Nemaorani



DDPP
Adv Hein Johannes Van der Merwe



DDPP
Adv M. Jansen Van Vuuren



DDPP
Adv Retha Meintjies



DDPP
Adv George Baloyi



DDPP
Adv Esther Dlelwani Mnguni



DDPP
Adv Cornelius Johannes Erasmus



DDPP
Adv Johan Van Heerden



DDPP
Adv Helen Elizabeth Van Jaarsveld



DDPP
Adv Evidence Nthabiseng Riba



DDPP
Adv Elaine Moonsamy



DDPP
Adv Karen Van Rensburg



DDPP
Adv Elizabeth Leonard



DDPP
Adv Andrea Johnson



Chief Prosecutor:
Pretoria
Adv Matric Lufhondo



Chief Prosecutor:
Witbank
Adv Ronell Wentzel



Chief Prosecutor:
Nelspruit
Adv Marius Van Heerden



Chief Prosecutor:
Klerksdorp
Adv Jacques Swanepoel



Chief Prosecutor:
Middleburg
Adv Marie Loots



Chief Prosecutor:
Vaalrand
Adv Johan Venter

NPA Commemorated the Human Rights Day

Vuyolwethu Sigaji



Mxenge family with Deputy National Director of Public Prosecutions (DNDPP), Advocate Nomvula Mokhatla and Deputy National Director of Public Prosecutions (DNDPP), Mr Willie Hofmeyer



NPA VGM employees at the Human Rights Day Commemoration

Human Rights Day is a national day that is commemorated annually on 21 March to remind South Africans about the sacrifices that accompanied the struggle for the attainment of democracy in South Africa.

The commemoration provides the country with an opportunity to reflect on progress made in the promotion and protection of human rights.

Government hosted various activities throughout the Human Rights month to remind all South Africans to continue working together to uphold the culture of human rights. The National Prosecuting Authority (NPA) commemorated this event at the head office in VGM on Friday, 31 March 2017. The session was graced by the presence of the Mxenge family, who shared with employees the history on the contribution made by their parents, (Griffiths and Victoria) whom the NPA Head Quarters was named in their honour.

Welcoming the guests, the National Director of Public Prosecutions (NDPP), Advocate Shaun Abrahams, mentioned the importance of commemorating Human Rights Day, and how significant the day is, in remembering what happened during the struggle for freedom. The NDPP said we must never forget the sacrifices made in order for us to enjoy our rights today. "The constitution that we enjoy today, we enjoy it because of the sacrifices and the blood that was shed by people such as the Mxenge's who fought during the struggle. On 21 March,

each year, we remember the 69 people who lost their lives in demonstration to the opposition of the apartheid regime, in particular, education laws." He concluded by saying that, the sacrifices that Griffiths and Victoria Mxenge were made for the freedom we enjoy today and must never be forgotten, he said. The Mxenge family is always welcome at the NPA.

In her opening remarks, the Deputy National Director of Public Prosecutions (DNDPP), Advocate Nomvula Mokhatla, said that South Africa commemorates all those who have fought for legal and human rights, including, Victoria and Griffiths Mxenge and that the NPA is honoured to have members of the family, gracing the occasion. "The NPA is a significant participant in the JCPS structure and has a vital role in ensuring that people of this country are safe and do feel safe. We are required as members of the institution to exercise our roles and responsibility in line with the prescripts of the NPA Act, NPA policy directives and within the framework of the human rights as enunciated in the Constitution." She concluded by saying each one of us in this country has a contribution to make towards the strengthening of our human rights, you may be rendering a support service to a prosecutor and that service is very critical in supporting prosecutions to further render a service to our people.

One of Griffiths and Victoria Mxenge's daughters, Namhla, was a key note speaker at the event. During her speech, she spoke about her and her sibling's struggles growing up without both of their parents. She said she wanted to tell her story and that of her family, and she was honoured to be doing so at the NPA. "The NPA is the lawyer of the people that is exactly what my parents were, lawyers of the people. She said it is not a coincidence that the NPA chose to name VGM building after their parents. She encouraged NPA employees to live up to the NPAs vision and applauded the work done by the NPA in ensuring that victims of crime get justice.

"Today, as we commemorate this day, our parents would be proud to know that South Africa has the most progressive constitution." She acknowledged that a lot has changed but there is still a lot of work that needs to be done to change the lives of the majority of South Africans. Her message to the young generation was that it must live to the aspirations of our struggle heroes and heroines, and not stand with arms folded and allow their deaths to be in vain.

The Human Rights Commission was represented by Human Rights Commissioner, Jonas Sibanyoni who reminded attendees that the Human Rights Commission is championing the rights of all South Africans, support constitutional democracy, and committed to promote respect for, observance of and protection of human rights for everyone without fear or favour. Employees got an opportunity to interact with the guests and reflected on how human rights have changed our lives and the need to ensure its history is preserved and strengthened for future generations. ■

Sexual Offences Court Opened in Boschfontein, Mpumalanga

Monica Nyuswa

The National Prosecuting Authority (NPA) together with the Department of Justice and Constitutional Development (DOJ) officially launched a Sexual Offences Court in Boschfontein, Mpumalanga on 24 March 2017. The Deputy Minister of DOJ, Honourable John Jeffery was a key note speaker at the event.

In his speech, he said the new court will serve as a foundation for safer communities in which all people will enjoy their constitutional rights. "The Sexual Offences Courts provide a 24 hour service for rape victims and other sexual crimes. Thuthuzela Care Centres (TCC) and Sexual Offences Courts aim to improve the conviction rate in sexual offences, decrease the turnaround time in resolving these matters and provide support to the victims throughout the process." He informed the community that five Sexual Offences Courts were established in Mpumalanga, and encouraged members to make use of the TCCs and Sexual Offences Courts. He added that harsh sentences must be imposed on those who commit such offences.

The launch included representations from different departments such as DOJ, Community Safety and Liaison, SAPS, Mpumalanga Legislature, Social Development, Executive Mayor, Councillor T Khoza; Department of Correctional Services, National House of Traditional Leaders, South African Social Security Agency and other stakeholders.

All speakers shared the same sentiments about sexual abuse, including the Chief for the Nelspruit Cluster, Advocate Marius Van Heerden. He told participants about the work of the NPA as well as how the court processes work, he also urged members to make use of the new court and TCCs, should they fall victims to gender-based violence. He acknowledged the criminal justice cluster for working hand in hand in combating the scourge against crime.

Services offered by the new model for sexual offences:

Court preparation services: The programme familiarises victims of crime with court processes, procedures, services and benefits. It aims to help them to be effective witnesses in court. On the date of trial, they will be welcomed in court by the Court Preparation Officer (CPO).

Pre and post-trial trauma debriefing services: The CPO take the victim of the crime through trial trauma debriefing sessions before the trial commences and once it is concluded, that help to deal with the trauma brought about by the incident.

Intermediary services: for child victims or a person who is mentally challenged, the prosecutor applies to the court to allow them to testify in a private testifying room with the assistance of an intermediary. The role of the intermediary is to convey questions from court to them in a manner that they understand.

Private testifying room, closed circuit room services: for adult witnesses, the law allows them to testify from a private testifying room via a closed-circuit TV system, if they feel more comfortable to do so. It will be ensured that they need to be in the physical presence of the accused when testifying.

Private waiting rooms for adult and child victims: The child witness room has standard furniture specifically designed to meet the needs of traumatised children. It also provides a play area, reading centre and a child's bed-sofa for resting. The adult waiting room is also furnished to make the court experience more comfortable for victims. Information services are available at the private waiting rooms for victims, mainly to inform them of their rights and the available court services. The information is offered in the form of educational books, DVD and in braille. ■



Deputy Minister of Justice and Constitutional Development Honourable John Jeffery with other dignitaries at the launch of the Sexual Offences Court in Mpumalanga



Community members at the launch of the Sexual Offences Court in Mpumalanga



Advocate Marius Van Heerden (Chief Prosecutor for Nelspruit Cluster) addressing the community about prosecution services

Classification of NPA Information

The NPA is the custodian of large volumes of sensitive information which is politically and personally sensitive and it has to be classified to protect it from any unauthorised disclosure.

Why should we classify NPA data?

- We classify NPA information to preserve its confidentiality. Some NPA information is meant to be kept secret or restricted to only a small circle of authorised individuals. This can include NPA budget plans, pending investigation cases or other information that could adversely affect the NPA, if made public prematurely (or at all). Again, the more confidential and/or valuable such information is, the tighter its access controls must be.
 - Sensitivity: Although it may not do irreparable harm to the NPA if everyone knew the payroll details of any of the NPA employees, the approved NPA Security Policy states that the 'NEED TO KNOW PRINCIPLE' should always apply when sharing information. Thus, it is a good idea to consider the implications of making data or some related resource public knowledge when assessing its sensitivity. The more sensitive the information, the tighter its access controls should be applied.
 - Potential liability: Beyond privacy concerns, legal agreement, such as, nondisclosure, copyrights or other contracts, may require NPA employees to preserve information provided by or through a third party, for example, tender documents or job applications. Given that unauthorised disclosures can lead to legal and financial penalties through litigation in many cases, information held in trust for or behalf of others may also be subject to tight access controls.
 - Intelligence value: Seemingly innocuous documents, such as, telephone lists, discarded paperwork, purchase orders and the like can often reveal valuable NPA information to competitors or malefactors. When tempted to assume that a document or resource has no value and therefore needs no access controls, ask "what is the worst that could happen if our competitors got this?" or "how could this information be used to subvert or bypass NPA security measures?" Very few NPA documents require no access controls at all, unless specifically designed for public use.
 - Privacy: Certain information may be obtained during interviews, research, criminal investigations or through privileged relationships that should never be made public. This could relate to doctor-patient or attorney-client privilege, or to reasonable or legal expectations of privacy. The more private such information is, the tighter its access controls must be.
- Kindly take note that NPA Classification Guidelines can be accessed on the NPA intranet for easy reference.
- NB: For more information about Classification of documents kindly contact the Security Management Services. ■

SECURITY MANAGEMENT TEAM

Sources: MISS document & NPA security policy.

News in Brief

Trial against Guatemalan murder accused expected to start in Cape Town

The family of 39-year-old American marketing executive Gabriela Kabrins Alban arrived at the Western Cape High Court on Monday, determined to see justice in the case against Guatemalan murder accused Diego Novella.

The woman's mother and stepfather, Doris Weitz and Alexander Williams, arrived from the US last week ahead of the first day of the trial against Novella.

Alban's father, Howdy Kabrins and his wife Linda, also flew into Cape Town last week. Howdy Kabrins is expected to be the first witness to take the stand on Monday.

Novella, who is from a prominent Guatemalan family who run a successful cement business, was denied bail in the Cape Town Regional Court in May last year. He allegedly murdered his girlfriend at a five-star boutique hotel in Camps Bay, where they had been on holiday, on July 29 last year. Alban was strangled and sustained blunt force trauma to the face.

Novella allegedly had hallucinations induced by drugs on the night of the murder, according to a report submitted to court by a panel of psychiatrists who assessed him at Valkenberg Psychiatric Hospital.

Defence lawyer William Booth is expected to argue diminished capacity.

The case could not immediately get underway on Monday, as Booth was involved in another matter. ■

Sinoxolo Mafevuka murder case postponed

The trial of the two cousins accused of raping and killing 19-year-old Sinoxolo Mafevuka in Khayelitsha was postponed in the Western Cape High Court on Monday.

Judge Papier Tashwill postponed the case until Tuesday because the trial of Howard Oliver, accused of killing Franziska Blochliger, was scheduled to continue in the court room.

The cousins, who may not be named for their safety, stand accused of killing Mafevuka on March 2, 2016, and dumping her body in a communal ablution block in SST Block, Town Two. A post-mortem confirmed that she had been strangled. Her naked body was found slumped over a toilet. Her clothes had been stuffed into the cistern. Water from the leaking toilet is believed to have washed any DNA evidence away.

Police claimed the two were angered by her leaving a Khayelitsha tavern with another man, while their cousin was making plans to marry her. ■

Another missing girl found murdered and burnt

The following day, her uncle started circulating her picture on social media, begging for clues on her whereabouts.

"She was last seen yesterday at 17:00 when she was sent to the shops. She never returned home. Help us find her. She is my niece," Kono Nombeu wrote on Facebook.

But the next day, he delivered the terrible news.

"Thank you guys for sharing.... She has been found burned to death. I'm so hurt and broken right now. Mnta ka bhuti (my brothers child)," Nombeu wrote. The family's tragedy was strikingly similar to that of Karabo Mokoena.

Mokoena's uncle Tshepo had taken to Facebook and pleaded for help in finding his niece, whom he regarded as a daughter. She had been missing since 28 April.

Two weeks later, her boyfriend Sandile Mantsoe was arrested and charged with her murder. Mokoena's body had been burnt in a ditch near a park in Lyndhurst, Johannesburg, on 29 April.

Mokoena's family claim that Mantsoe has confessed to the crime.

He returns to court on May 24 for a formal bail application. ■

E-books Implementation by the NPA Library

As part of its efforts to achieve efficiency and convenience for its library users, the National Prosecuting Authority is now offering a selection of library books in digital format. The NPA library's gradual migration to digital seeks to make the accessibility of legal books to be much more user-friendly,

Prosecutors/Users no longer need to loan out all the books they require from the library or spend hours searching for books in the library. An easier option is now available in order to download the books earmarked for usage. Internet connectivity is the only requirement. Once connected to internet, users are able to access the books online and importantly, they will then be able to download the selection of books. These being the:

1. **Litigation skills for SA Lawyers by Marnewick**
2. **Hiemstra's Criminal Law**
3. **Criminal Law by Snyman**
4. **South African Law of Evidence by Zeffer**

Once downloaded, the content is interactive in that notes can be made, user groups created, sections can be copied and pasted into documents and the user groups will be able to see the group's notes and comments. The books have numbered pages, table of contents, pictures and graphics, exactly like a printed book the application comes with the benefits of allowing the user to make highlights, make notes and copy on the text.

E-books are searchable as it allows the user to search any term they want to read on as it takes you straight to the chapter and paragraph. Users can easily search for any information in an e-book, instead of turning page after page. E-books can show links for easy access to more information and related websites.

There are a number of other benefits that this exciting development brings about. Firstly, the digital migration means that prosecutors will no longer have to always carry books to court and don't have to worry about books not being available at the library due to being loaned out. When a user has downloaded a particular book, the e-reader software will automatically alert them when a new edition of the book is available for download thus ensuring up-to-date content as new updates become available.

Users can stay offline when working on the book which makes it easier to access books wherever place they are. Users don't have to be connected to the Internet in order to read. Once connected to the Internet the book is automatically updated and notes saved.

The e-books can be accessed on a number of platforms, i.e. a laptop, an ipad / tablet or from a smartphone, that is why they are called mobile books. Further to that, a book cannot be stolen or lost. A copy is always available in the cloud and can be accessed with the unique user ID and password.

During 2017, the implementation of e-books for prosecutors in the lower courts will commence.

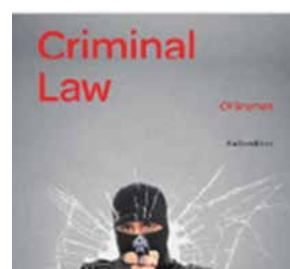
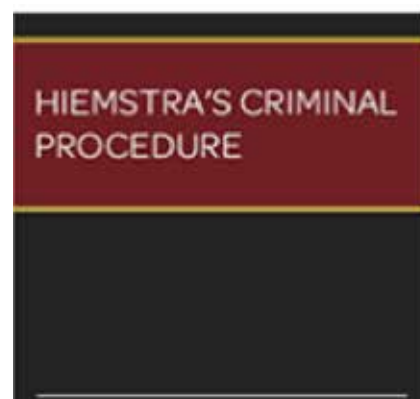
The library is on a process to expand its digital offering and looks forward to assisting its users to access the digital updated and relevant material, thus making sure they also have easy access to information.

Once the e-books are deployed to a user, the hardcopy must be returned to the libraries. The libraries will keep additional copies as to ensure that copies are available for court purposes.

Prosecutors/Users who have not yet received the e-books they must contact their respective libraries at the Head Office and DPP Offices. ■

Email: Librarypta@npa.gov.za

Contact: 012 845 6650 / 126650



Life Imprisonment For Murdering Cousin

Monica Nyuswa



Advocate Mapule Matjokana

In aggravation of sentence the presiding officer Judge Maumela said it is disappointing to see how the accused betrayed the relationship of trust with the deceased. He said the deceased was a defenceless woman who was brutally killed in the sanctity of her own home. He sentenced them to one life imprisonment for murder and 15 years for robbery with aggravating circumstances, no order was made for the sentences to run concurrently.

Insights from Advocate Mapule Matjokana

As a victims lawyer, my role during trial was to serve as a middleman between the witnesses and the court and to present evidence to the court in order to assist the court in making the right decision.

Definitely, I am pleased with the outcome of the case and the family, friends and colleagues of the deceased were also pleased about the sentence imposed by the presiding officer.

Most crimes committed by youth are due to drug abuse. They commit these crimes whilst they are under the influence of drugs. The fact that the deceased and the accused were related, shows that there was a level of trust amongst them. The accused abused the position of trust and that destroyed the relationship between the families. ■

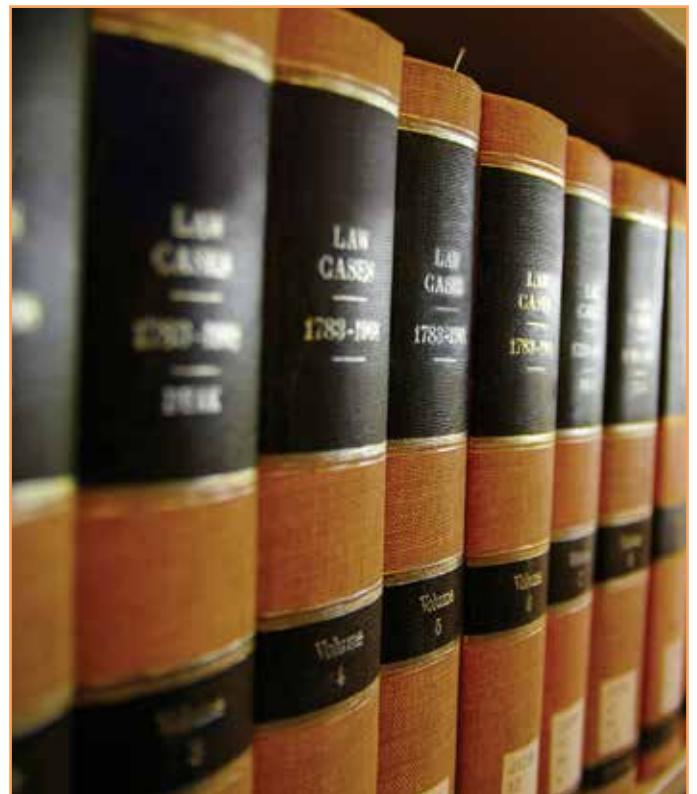
Julius Moshuype (25) and his co-accused, Samuel Makhubela (27) were both sentenced to one life imprisonment for murder and 15 years for robbery with aggravating circumstances by Middelburg High Court in August 2016.

Moshuype and the female deceased in the matter were related and shared a close family bond. It is alleged that he phoned and informed the deceased that he will visit her on 19 May 2015 at the deceased property in Witbank.

Two days, he indeed came with his friend. On their arrival, the accused and the deceased bought liquor and started drinking and sniffing drugs. Two local women came to visit the deceased and she went outside to attend them. On her way back, she sat on the sofa then Moshuype approached the deceased from behind and grabbed her. Makhubela began to assault her with a hammer on her head several times and strangled her with an electric cord. Moshuype took a knife from a kitchen drawer and slit her throat until she died.

During the time of the arrest, the shoes of the deceased were recovered by the police at Makhubela's home and the DNA results obtained from the deceased shoes matched him. Moshuype showed the police where he had sold the vehicle that belonged to the deceased.

Both accused pleaded guilty to crimes committed on the day.



Coffee Shop Ethics Forum Make 2017 Your Happiest Year Ever!

Vuyolwethu Sigaji

In an effort to stimulate a more structured integrity dialogue and indirectly promote better workplace ethics amongst employees, the Integrity Management Unit (IMU) had established the concept of Coffee Shop Ethics Forum in March 2013. The Forum has matured since then and it includes the VGM, DPP Grahamstown, Bloemfontein, Kimberly, Durban SCCU, Pietermaritzburg and Cape Town offices to ensure that all NPA officials benefit from the initiative.

Welcoming the employees of the NPA into the New Year, IMU hosted the first installment of the Coffee Shop Ethics Forum in the last quarter of the 2016/17 financial year at the VGM building, Bloemfontein, DPP Cape Town, Kimberley, Durban SCCU and Pietermaritzburg. The initiative was aimed at simply exchanging information and ideas among NPA colleagues and invited motivational speakers. The discussions focused mostly on issues of common interest relating to social, financial and professional wellbeing of all employees.

“Make 2017 Your Happiest Year Ever” was the theme for these events, which featured guest speakers from different professional fields, such as Yvette Thandekile Shibambo, an Executive Manager at Eskom, Pastor S'thembiso Mtshali of Upper Room Ministries, and Fredrick Mamabolo a motivational speaker, facilitator, life coach and strategist.

All the speakers motivated employees to take control of their lives in both their social and professional spaces. This includes working hard to reach own dreams, and making behavior changes that will pave the way for more happiness, success and fulfillment. They all encouraged employees to identify their purpose in life, discover passion for their jobs, boost self-confidence and learn to let go of whatever is holding them back. Employees expressed their wishes for a bright, progressive 2017.

The second installment of the Coffee Shop Ethics Forum, took place on 23 March 2017, at the VGM building. The theme was Mindfulness and Self Care. The purpose of the session was to look at the relationship between stress, worker's integrity and service delivery. Employees were given an opportunity to share ideas of how they deal with everyday stresses. Some of those ideas were; gym and exercise, praying, going to a spa for a massage or simply spending some time alone to think. These sessions were aimed at inspiring and motivating employees to work hard, enhance their quality of life and contribute to the realization of their dreams and aspirations, manage stress, as well as helping them to find balance in their personal and professional lives.

The intention of these forums has always been to stimulate new conversations amongst employees to help them reflect on their moral standings at work and in their personal lives. The forums are seen as a safe and informal environment where new thinking can be stimulated. Currently the forums are scheduled to run monthly, on the last Thursday of the month in all the regions. ■



Fredrick Kaonafatso Mamabolo a Motivational Speaker, Facilitator, Life Coach and Strategist at the Coffee Shop Ethics Forum



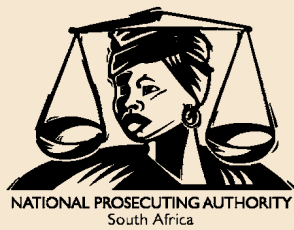
Yvette Thandekile Shibambo, Motivational Speaker, Philanthropist and an Executive Manager at Eskom at the Coffee Shop Ethics Forum



Pastor S'thembiso Mtshali of Upper Room Ministries at the Coffee Shop Ethics Forum



Pietermaritzburg Staff members during the Coffee Shop Ethics Forum on 28 February 2017



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