

Christmas Edition 2015

# KHASHO



ENSURING PROSECUTIONS WITHOUT FEAR, FAVOUR OR PREJUDICE

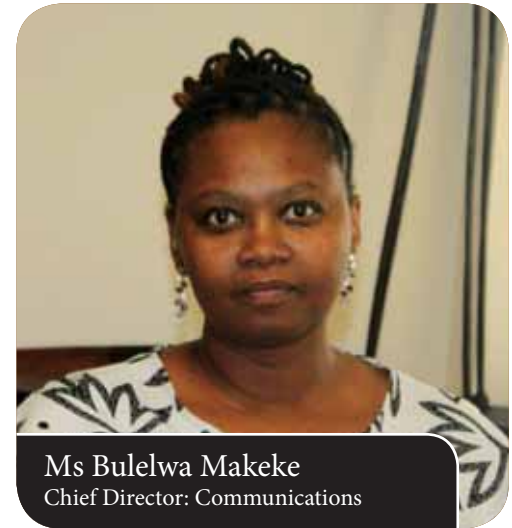


**Two Sexual  
Offences Court  
opened in Durban &  
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**Another dent in  
Cape flats gang  
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**16 Days of Activism  
Against Women and  
Children**

**NPA takes  
government  
services to the  
people**



**Ms Bulelwa Makeke**  
Chief Director: Communications

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## Letter from the Managing Editor

Festive season is the time to be spent with family and friends but also time for giving and sharing especially sharing with the less fortunate. The DPP Western Cape office provided festive cheer to the residents of Masiphumelele Township where more than four thousand residents were left homeless after a shack fire ravaged their residential area. They donated boxes of clothes and food. We share this story of giving on page seven.

As a country, we just celebrated 16 Days of Activism Against Women and Children, and the NPA participates in this annual commemoration. On page 11 we share pictures taken from various events that took place across the country as we celebrated with the rest of the country. Khasho would like to caution vulnerable groups, especially women and children who continue to be exposed to all forms of violence and abuse around this time to be vigilant and not let the guard down.

The Minister of Justice and Constitutional Development, Advocate Michael Masutha and the National Director of Public Prosecutions (NDPP), Advocate Shaun Abrahams recently opened a Sexual Offences Court in Durban and Atlantis. These launches form part of the department's efforts to promote a justice system that is victim-friendly, efficient and sensitive to the needs of victims of sexual offences. The Thuthuzela Care Centre (TCC) in Atlantis was also launched. Both the Sexual Offences Court and TCCs provide specialised victim-support services that are intended to reduce secondary trauma of victims and turnaround times in the

finalisation of sexual offences matters. We welcome these innovations in the justice system.

We continue to bring you the Ethics Promotion Office's (EPO) part two series of "Ethics in Action." In this edition EPO shares with you tips on having an ethical Christmas, find this interesting article on page 13.

It is always commendable to see our prosecutors get convictions in the cases that they prosecute. Once again, we share their successful cases as this showcases the caliber and quality of our prosecutors in order to motivate up and coming prosecutors.

Please continue to link up with us on our Facebook page; we want to hear from you more often.

*On behalf of the Khasho team, I would like to deeply extend to you our best wishes for a joyous holiday and a new year full of happiness.*

**All the best for 2016. Enjoy!**





## Letter from the NDPP



Advocate Shaun Abrahams  
NDPP



### Six months into Advocate Shaun Abrahams' appointment as the National Director of Public Prosecutions, Khasho caught up with him and this is what he had to say:

#### You are now six months at the helm of this magnanimous institution, how has your journey been?

Thank you for requesting to interview me.

At the outset, I must say it is a great honour for me to be entrusted with the responsibilities of leading this all important institution in our country which is the cornerstone of justice to all of society, rich and poor, rural and urban. It is certainly the greatest honour that could be bestowed on any career prosecutor.

In appointing me the President of the Republic placed immense confidence and responsibility in me to deliver justice to the people of this country without fear, favour or prejudice. I was extremely humbled to learn that my appointment had been received with overwhelming excitement and support. My journey over the last six months has been filled by support and commitment from all sectors within the NPA and externally. In this regard, I must extend my sincerest gratitude to those officials, both senior and junior, for sticking up their hands and standing up for what is right and in contributing in taking this institution to the next level.

From the very first day that I walked into my new office it was a seamless transition largely due to my historical roots, which have been entrenched in the institution, and the journey I have travelled throughout my career. (In reflection, the very first questions I asked upon entering my new office was 'Where are the law books? How can a National Director not have any law books? How am I supposed to do my work?')

Back to the question: The last six months have not all been smooth sailing. With what has been achieved to date it feels as though I have been in this position for a number of years.

It would be disingenuous of me not to mention that I inherited an institution whose staff morale was at its lowest since its birth at the commencement of the National Prosecuting Authority Act 32 of 1998 on 16 October 1998. (This is an open secret). In fact, I inherited all the historical challenges of the institution since its inception. Both the staff and public confidence in the institution, its leadership and the administration of justice had taken a serious knock, especially so, over the last two years.

My main objective was to bring stability to the institution, be transparent, transform the institution, regain both the staff and public confidence in the NPA, its leadership and the administration of justice and by letting the work of the NPA speak for itself.

#### In line with your vision, high level organisational changes were made. Are there tangible institutional gains from these changes?

There is this complete misconception that when I reallocated the responsibilities of the four Deputy Nationals (DNDPPs) that some people were promoted and others demoted. This is a complete fallacy to say the least.

Section 11(1) of the NPA Act, empowers the President to appoint a maximum of four DNDPPs. As such, I inherited an existing structure of four DNDPPs. All four DNDPPs are equal and appointed in the office of the NDPP (my office). The DNDPPs exercise all their powers subject to my control and direction. As such, it is within my prerogative to assign responsibilities to the respective DNDPPs. It is prudent to note that



the assignment of responsibilities does not amount to a promotion nor a demotion. It is mischievous to suggest that any one of the DNDPPs were promoted or demoted.

During 2014, my predecessor reassigned the responsibilities of the DNDPPs, with the exception Mr Willie Hofmeyr, who at the time headed the Asset Forfeiture Unit (AFU). Adv Nomgcobo Jiba headed the NPS (National Prosecution Services), Dr Silas Ramaite SC the NSPS (National Specialised Prosecution Services), whilst Adv Nomvula Mokgatla headed the LAD (Legal Affairs Division). After my predecessor reassigned the responsibilities of the DNDPPs, Dr Ramaite SC headed NPS, Adv Jiba headed LAD and Adv Mokgatla the NSPS.

Immediately after my appointment I commenced with independent engagements and briefings with the DNDPPs, Directors of Public Prosecutions (DPPs), Special DPPs, the former CEO, the former Deputy CEO and other NPA officials. The decision to reassign the responsibilities of the DNDPPs, CEO and Deputy CEO was made after these intense consultations and having deliberated independently deeply thereon.

As such I reassigned the responsibilities of the DNDPPs on 17 August 2015 as follows:

- Dr Ramaite SC, as head of Administration (formerly Corporate Services);
- Mr Hofmeyr, as head of LAD;
- Adv Mokhatla, as head of AFU, and
- Adv Jiba, as head of NPS.

In this regard I, inter alia, incorporated three of the NSPS Business Units, namely, the Priority Crimes Litigation Unit ('PCLU'), the Special Commercial Crime Unit ('SCCU') and the Sexual Offences and Community Affairs Unit ('SOCA'), into the NPS and thereby dispensed with the NSPS. This notion was first mooted at the very least five years ago but for some unknown reason had never been implemented. The SDPPs are required to conduct their responsibilities in consultation with DPPs. It only makes complete sense for SDPPs and DPPs to report to one DNDPP. This move was overwhelmingly supported by all the DPPs and SDPPs.

The NPA Act does not make provision for a CEO but does provide for administrative support in the office of the NDPP and at each DPP office. As such, in giving effect to the letter of the law, the positions of CEO

and Deputy CEO were dispensed with. The former CEO, who is a Senior Deputy DPP, had been appointed on a five year contract in terms of section 15(1)(c) of the NPA Act. She was reassigned to the DPP office, Pretoria. The Deputy CEO position was vacant and was occupied by an acting incumbent who returned to her position as head of Communications.

The object of the re-assignment of responsibilities was to make the institution more efficient by eliminating duplication of functions and promoting inter-departmental collaboration. The responsibilities of several officials, including that of the four DNDPPs were re-assigned, taking optimal advantage of the DNDPPs respective capacities and experience and in transforming the institution. Adv Jiba and Dr Ramaite SC are the only two DNDPPs with any significant prosecutorial experience. Mr Hofmeyr and Adv Mokhatla have both never prosecuted a case in their entire careers and have extensive experience in civil litigation. It was thus only proper to reassign the responsibilities accordingly.

None of the DNPPs who were assigned new responsibilities in the reorganisation received a salary increase or decrease as a result of their lateral re-assignment. The aforementioned changes and reassignment of responsibilities were supported and welcomed by the overwhelming majority of the DPPs, SDPPs and DNDPPs.

I deem it prudent to record that the newly created NPS structure is not a so called super structure with immense powers being attributed to the DNDPP heading that responsibility. The DNDPP concerned is vested with the overall managerial and administrative responsibility for the newly-consolidated NPS and is not accorded day-to-day decision making powers as to individual prosecutions. Moreover, all DNDPPs remain, as prior to the re-assignment of responsibilities, accountable to me for all major decisions. In this regard I have not assigned any powers to any of the four DNDPPs to institute and conduct prosecutions as envisaged in s. 22(9) of the NPA Act.

You would recall that I also dissolved the previous EXCO. The DPPs and SDPPs are responsible for the core function of the NPA, which is prosecutions. Prior to my appointment EXCO was, inter alia, constituted by the NDPP, DNDPPs, CEO and Deputy CEO. The DPPs and SDPPs did not form part of EXCO. As such I decided to embrace an all-inclusive leadership approach by including the DPPs and SDPPs as part of the NPA leadership. EXCO would in effect serve no purpose, hence, I dissolved it. This approach is supported by the majority of the NPA leadership.



The changes were effected to streamline prosecution services and to ensure efficiency. I firmly believe that the structural changes have brought a great degree of stability to the NPA and to this end, there is a renewed confidence in the leadership of the institution by staff and the work of the NPA, which speaks for itself, is turning the tide of regaining the public confidence in the NPA and its leadership. We are rapidly gaining ground in succeeding in building the NPA into an institution of excellence and choice. This, in a very short period. Imagine how much we could achieve during my remaining term in office.

**With all the recent court successes, the NPA is certainly earning its place in the hearts of many SA citizens. What is your impression on this?**

I have in part discussed this already. As previously alluded to, I envisioned that the work of the NPA in delivering a more victim-centric service to society must speak for itself. This is happening as we speak. To this end, I cannot single-out any prosecutor. I must take this opportunity to commend all our prosecutors across the spectrum for their commitment and selfless service to our people. We however can never do enough. As such, I implore all of us to do so much more and be the very best that we can be.

We must not forget the contribution of the support staff, particularly from the Administration component, Office for Witness Protection, AFU, Thuthuzela Care Centre Staff and our Court Preparation Officers.

**You have just come from a gruelling strategic session with your deputies and DPPs. This, being your first strategic session as the NDPP and in your own assessment, how oiled is the NPA machinery?**

The very frank, robust and highly enthusiastic deliberations during the strategic session is an indication of a well-oiled machine, ready to rumble. The entire leadership committed to ensuring that we perform exceedingly beyond our set targets in pursuance of delivering a more victim-centric service to society. In this regard, the National Development Plan 2030 sets out a long term strategic vision for government to ensure that, by 2030, all people in South Africa are safe and feel safe. This means that the NPA, together with all partners in the JCPS cluster, must intensify and redouble our efforts in the fight against crime.

In line with this vision we cannot afford to have people across South Africa suffering at the hands of criminals. We understand the implications that crime has for the

quality of life and for the social fabric and health of our communities. It is for this reason that Government has strengthened its commitment to take the fight against crime to higher levels. To this end, the NPA remains an integral partner in the battle for justice.

In this regard, we continue to enhance stakeholder relationships, especially with our critical partners in the JCPS Cluster.

**With holidays underway – a time for us to refresh and recharge, what parting short message do you have for your staff?**

It has been an extremely tough year for many. The institution has once again experienced a change in leadership, accompanied by strategic structural changes. The institution has had to overcome many extremely challenging circumstances during the past year. None of these have proved to be insurmountable. The staff has remained resilient and resolute during these challenging times and have largely remained true and committed to the NPAs Constitutional mandate and responsibilities.

It however remains disconcerting that some of our officials remain intent on contributing significantly to attempts to undermine the integrity of this all important institution in our democracy by leaking information to the media and civil society. This conduct is not only unlawful but is a catalyst for instability both in the NPA and in the country. This certainly cannot be in the interests of the community nor the NPA and its officials. I once again call upon you to desist from such conduct. I know change is hard!

Christmas is about the birth of Jesus Christ. It is a time for love, peace and prosperity. It is also a time for family and friends. Let us not forget, it is also a season for sharing, giving, caring and forgiving. Let's put the past behind us and move forward for the betterment of the NPA and the people of this country.

For many of us, it is also a time to rest (albeit for a few days) and to reflect on life's successes and failures, and to return rejuvenated and committed to the responsibilities and the journey we have committed to.

I wish each and every one and their loved ones a blessed and merry Christmas and happy holidays. Please travel safe and be true ambassadors of the NPA.

**I thank you!**



## Life sentence for raping a minor

Frank Lesenyego



A 21 year-old man was convicted and sentenced to life imprisonment by the Taung Regional Court on a rape charge. The incident took place at Magogong village when the accused grabbed a nine year-old girl whilst she was on her way to the shop and took her to the veld where he raped her. The matter was reported to the police and he was arrested immediately through the assistance of community members who were infuriated by the conduct of the accused. The police were also helpful and handled the case diligently by following the correct processes which resulted in positive DNA results from the accused.

The accused pleaded guilty as the evidence against him was overwhelming. The defence argued in the mitigation of sentence, citing immaturity as reasons for the accused's actions. They requested the court to deviate from minimum sentence which is life imprisonment.

The state prosecutor argued that the accused committed the crime against an innocent and defenceless child who endured a terrible ordeal. She further argued that there is no room for excuses in condoning the behaviour of the accused and that he was brutal in raping a nine year-old and further that the accused did not succeed to present compelling and substantial reasons which requires the court to deviate from imposing life imprisonment.

During sentencing, the court said offenders like the accused must be removed from society and that the rights and dignity of women and children as enshrined

in the Constitution needs to be protected by the courts, otherwise the community will take law into their own hands. The court also stated that the acts of rape humiliate and degrade the dignity of human beings and the court is entitled to protect those rights.

Khasho asked Advocate Joyce Maseko some questions about the case:

### **How do you feel that this case is now finalised?**

I am relieved that this case is finalised and justice has been served. The family and the victim have now found closure. The community of Magogong are very pleased about the outcome of the case and praised the prosecutions for a job well-done.

### **What was your position during the trial?**

I was in a very difficult position because the victim was a minor. During consultation she would break into tears and it was clear that she would still be traumatised during the trial. However, I took comfort in the fact that the case was thoroughly investigated and I would still secure a conviction through forensic evidence. I was under severe pressure due to huge public interest generated by this atrocious crime. As a result, the community packed the courtroom every time to listen to proceedings.

### **Any lessons experienced as you move forward to deal with other cases?**

I have learnt that good working relationships between the community and the police is crucial. Community members played an important role by apprehending the suspect and handing him over to the police. This is very inspiring and I still encourage members of the public to work together with criminal justice departments to assist in preventing and solving crime in South Africa.

# ARINSA Asset Recovery Conference



Sibongile Mogale

The Asset Recovery Inter-agency Network of Southern Africa (ARINSA) together with the AFU hosted an Asset Recovery Asset Conference at the Birchwood Hotel recently.

Welcoming the attendees, the National Director of Public Prosecutions (NDPP), Advocate Shaun Abrahams extended his gratitude to the United Nations Office for Drugs and Crime (UNODC) and the Department for Industrial Development (DFID) for their roles in making ARINSA possible, both through financial and other assistance.

He explained that the mandate of asset recovery is to support the function to prosecute and is an important civil litigation based weapon in the fight against crime.

He further said that asset recovery in essence means taking the profit out of crime, sending a message that crime does not pay and targeting criminals where they feel it most (in their pockets).

According to the NDPP, asset recovery is a very new weapon in the fight against crime. Up until the early 1980s, law enforcement showed little interest in retrieving money from illicit activities. This was changed when Forbes magazine listed Pablo Escobar as the seventh richest person in the world, estimated to be worth US\$25 billion – almost all of which was derived from cocaine, he said.

“Anti-money laundering measures were implemented to criminalise the conduct of possessing or dealing with the proceeds of crime. It is evident that asset recovery is a vital weapon in the fight against crime, albeit a drastic and tough weapon, he quitted.

He said our challenge is that law enforcement often does not have sufficient capacity, skills and experience to deal with resourced and highly organised crime syndicates. It is our responsibility to change this.

Advocate Abrahams praised members of AFU who play a crucial role in the administration of justice and prosecutors who are the proverbial cardinal gatekeepers of the criminal justice system.

He further reminded prosecutors that they are first and foremost officers of the court, and have an obligation to uphold and protect the Constitution and the fundamental rights entrenched therein to enforce laws vigorously, without fear, favour or prejudice. This they can do by being ultimately duty bound to assist the court in seeking the truth, he said.

ARINSA's Country Representative, Nicola Neuss added that fighting crime was a global issue not something that has to be tackled in South Africa only.

She also said that they not only recover assets, but they also cede that money to benefit other charities, government and all sections of society.

“The programme has a staggering US\$4m, which will be utilised to fund projects that they still need to identify,” she concluded.

The Deputy National Director of Public Prosecutions (DNDPP) responsible for the legal affairs unit at the NPA Mr Willie Hofmeyr finally added that the AFU has made significant progress but must continue to work together, in conclusion he said there is profit to be taken out of crime.

Financial Investigator, Nkosiphendule Mradla, advised that the use of interception and monitoring of conversation tools assist in knowing where the syndicate is. By providing prosecutorial and technical support, the conversation is then analysed, he said.

In closure, Advocate Ivy Thenga advised that dealing with complex cases can be done by providing a multi-disciplinary approach, project team approach, highly skilled project teams and a project plan.



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## 20 years imprisonment for a nanny

Tsepo Ndwalaza

*“When the case was brought to us by the police we quickly set up a team that worked around the clock to ensure that the case was followed up as quickly as possible.”*



There was jubilation in the Mdantsane Regional Magistrates Court when Sindiswa Cresentia Alberto Ntsoakana, (32) from Mozambique was sentenced to 15 years imprisonment for the kidnap of a three year-old girl. Magistrate Moss who presided on this matter also sentenced her to three months imprisonment for entering the Republic of South Africa without a valid permit. Over and above this sentence, five years imprisonment was added by the magistrate for the charge of attempting to extort R500 000 from the child's parents.

This matter emanates from the allegations that a three year-old child was kidnapped by her nanny on 03 August 2015 and taken across the borders to Mozambique. The kidnappers demanded R500 000 ransom from the parents to return the child. Due to swift action of the law enforcement agencies both in South Africa and Mozambique, the nanny was arrested and the child was safely returned to her parents on 03 September 2015, a day before her fourth birthday.

During sentencing, the magistrate did not order that the sentences should run concurrently but ordered that the accused should serve an effective 20 years imprisonment. Handing down the sentence, the magistrate referred to other countries where the accused could have been sentenced to much harsher sentence such as an effective life imprisonment or even a death sentence if convicted on such serious charges.

Representing the State was Advocate Joel Sesar, Advocate Zelda Swanepoel and Advocate Selvan Gounden, who is the Head of Organised Crime in the Eastern Cape.

### COMMENTARY BY ADVOCATE JOEL SESAR

When the case was brought to us by the police we quickly set up a team that worked around the clock to ensure that the case was followed up as quickly as possible. Experienced advocates from organised crime were brought in, as well as detectives from SAPS were brought on board. They promptly engaged the detectives from Mozambique and within a short period of time, the nanny was arrested and brought back to South Africa to face charges.

Her conviction and sentencing brought relief to many people, especially the parents who were obviously traumatised by the kidnapping of their daughter. This was quite an experience for me and I am satisfied that the accused in this matter was successfully sentenced and justice was served.



# NPA Donates Clothes and Food for Fire Victims



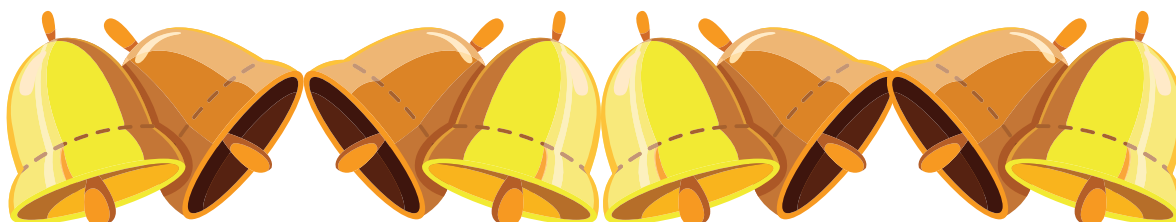
Eric Ntabazalila

Recently more than four thousand residents of Masiphumelele township were left homeless after a shack fire ravaged their residential area. At least two people were left dead. After witnessing this devastation, the members of the National Prosecuting Authority (NPA) in the Western Cape donated clothing and food to the victims of this fire. Within a week they collected the clothes and food. NPA members that are based in other courts outside the DPP Building in

Cape Town played their part and donated handsomely. On the afternoon of 08 December 2015, they handed over the donations to Cape Town Fire Department, which will hand them over to the Cape Town Disaster Management for distribution. The DPP of Western Cape, Advocate Rodney De Kock would like to thank everyone who contributed and was able to make a difference in the lives of people of Masiphumelele especially during this time of giving.



Staff from the Fire Department and NPA with the food parcels



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# International Anti - Corruption Day

Matimu Mahundla

NPA Performance Christmas Edition 2015

International Anti- Corruption Day is commemorated on 9 December every year throughout the world. Fighting corruption is a global concern because corruption is found in both rich and poor countries, and evidence shows that it hurts poor people disproportionately. It contributes to instability, poverty and is a dominant factor driving fragile countries towards state failure.

Governments, the private sector, non-governmental organizations, the media and citizens around the world joined forces to fight this crime.

Events were held across the country to commemorate this day, the National Prosecuting Authority (NPA) and other government institutions took part in commemorating the day at the University of South Africa and at the NPA headquarters. See pictures below:



Deputy Minister in the Presidency responsible for Planning, Monitoring and Evaluation, Buti Manamela



Author of 'Killing for Profit', Julian Rademeyer



From left to right: Mr Tim Steele, Mr Julian Rademeyer, Col. J Joste, Mario Scholtz and Ms Magdel Boshoff



United Nations Office on Drugs and Crime regional representative, Ms Zhuldyz Akisheva and Adv RK Sizani Deputy Chairperson of the Public Service Commission



Deputy General of the office of the premier Ms Liz Botes speaking at the Anti Corruption day in Kimberley



Staff at VGM celebrating Anti-Corruption Day

# Celebrating 25 years of protecting the best interest of the child



Monica Nyuswa

The National Prosecuting Authority was invited to participate in an outreach event hosted by the Office of the Family Advocates, celebrating 25 years of service at uMbumbulu Multipurpose Centre recently.

Not all trustee officials had access to the Office of the Family Advocates. For example, children who were born out of wedlock were denied access to these services but this is no longer the case. Before 1988, a father who was not married to the mother of his child, had no rights to his child, except through the services of an advocate to the High Court. All one needs to do now is approach the Office of the Family Advocate and complete the relevant form without paying a cent.

This service was not available in areas like the former Bophuthatswana, Venda, Transkei and Ciskei as these were areas that were designated for black people.

The Member of the Executive Council (MEC) for Social Development, Weziwe Thusi was present at the event. She thanked the Deputy Minister of Justice and Constitutional Development, John Jeffery for choosing

the area of uMbumbulu for the event, as well as all the stakeholders present for working hand-in-hand with Office of the Family Advocate. She went on to remind people that it takes a village to raise a child. The Deputy Minister of the Department of Justice and Constitutional Development, John Jeffery urged the community of uMbumbulu that if they know of any couples in the community that are fighting over a child, they should refer them to the Office of the Family Advocate for mediation and resolution. These services are free of charge and he urged the teachers as well as the traditional leaders present to make use of the services available and take the message back to the community as a way of empowering, educating and creating awareness among the community. Concluding his speech, he quoted an African saying from Ghana which uses the analogy of a tree to express family ties and importance of a family: "A family is like a tree, when you are outside you cannot see anything besides the leaves so the Office of the Family Advocate is there to help the little tree grow to be a strong tree."



Members of the community



Deputy Minister of Justice and Constitutional Development, John Jeffery

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# 16 Days of Activism Against Women and Children

Vuyolwethu Figaji

NPA Events | Christmas Edition 2015

The 16 Days of Activism for No Violence Against Women and Children is an international awareness-raising campaign. It takes place every year from 25 November (International Day for the Elimination of Violence Against Women) to 10 December (International Human Rights Day). The period includes Universal Children’s Day and World AIDS Day.

South Africa adopted the campaign in 1998 as one of the intervention strategies towards creating a society free of violence. The campaign continues to raise awareness amongst South Africans about the negative impact of violence against women and children (VAW&C) on all members of the community. The President of South Africa, President Jacob Zuma officially launched 16 Days of Activism at a small community of Naauwport village just outside Mahikeng, accompanied by the Minister of Women, Susan Shabangu, Premier of North West, Supra Mahumapelo, MEC of Social Development, Fenny Gaolaolwe and Executive Mayor of Ngaka Modiri Molema District Municipality, Councillor Tshepo Justice Makolomakwa. The 2015 theme is “count me in, together moving a non-violent South Africa forward”. Events were held across the country to commemorate the event and the NPA also played its part by being involved during the campaign by raising awareness. See following pictures:



Members of the community at the 16 Days of Activism launch in Mahikeng



President Zuma, Premier Mahumabelo, Minister Shabangu at the 16 Days of Activism launch in Mahikeng



Minister Susan Shabangu with other delegates at the 16 Days of Activism Celebrations in Soshanguve



Members of the community at the 16 Days of Activism event in Kimberley



Maintenance prosecutor Hanedzani Tshusa educating about maintenance and domestic violence in Diepsloot where the NPA hosted a community outreach in commemoration of 16 Days of Activism



Deputy Minister of Communications, Stella Ndabeni Abrahams, (2nd from left) flanked by Adv Kholeka Gcaleka (left) and DOJ Regional Head, Emily Dlamini



Community members of Diepsloot together with Mr Percy Ramushu, Control Prosecutor of Alexandra Magistrate Court (blue t-shirt)

# Rapist lover sentenced to life imprisonment

Mashudu Malabi



Three life sentences were handed down in the Northern Cape High Court to Mbuyiselo Fish, 34, after he was convicted for assaulting, raping and killing the mother of his two young children. He was found guilty of smothering Betty Sisinyana Obos, (32), to death by using a pillow. Her lifeless body was discarded in a street in Promised Land in February 2013. Fish was later arrested after he confessed to the witness that he killed the deceased.

Judge Mpho Mamosebo pointed out that despite the seriousness of the offence, Fish never showed any remorse, even after he was found guilty of the crimes. He brutally killed her and while no sentence can bring a person back to life, an appropriate sentence can help bring a measure of closure to the family. She indicated that the deceased was defenceless, due to the large amount of alcohol that was found in her bloodstream.

While taking into account Fish's ill health, Judge Mamosebo pointed out Fish needed to take responsibility and accountability for his actions. He was evaluated by a panel of psychiatrists who were of the opinion that, at the time of the crime, he was fully aware of what he was doing.

The judge acknowledged that compelling circumstances included that the accused suffered from bipolar mood disorder, HIV and haemorrhaging on the brain. Psychiatrist, Dr Keith Kirimi, assessed the accused. The patient is described as being delusional, irritable, makes impulsive decisions and can be outright psychotic. It is highly discouraged and unwise for a person receiving bipolar treatment to consume alcohol and drugs, which is what the accused had done.

The judge noted it was never disputed that the use of alcohol and drugs had caused the accused to become aggressive and violent towards the deceased. She indicated that the accused was a habitual dagga smoker while he was taking medication for his bipolar disorder. Since his incarceration the accused only smokes tobacco.

The accused, who had provided his own legal representation, had requested the court to grant him correctional supervision or community service as punishment.

She noted that the deceased's family were still struggling to come to terms with Betty's cruel death. Mamosebo pointed out that violence against women in society was rife. "Rape is humiliating and degrading

and a brutal invasion of the victim's privacy and dignity. The accused lacked any sense of humanity, the community expected the court to protect women against such crimes"; Judge Mamosebo concluded.

## COMMENTARY BY ADVOCATE JOYLEEN MABASO

The accused tried to delay the court proceedings by pretending to be mentally ill and by firing three consecutive legal representatives. At the end, the accused was ordered to represent himself, with an amicus curiae legal representative being appointed by the court.

Prosecution in this case was made extremely difficult by the actions of the accused, difficult legal issues, bipolar mood disorder, confessions made to private persons; circumstantial evidence had to be clarified in court.

The accused testified and was found to be an unreliable witness and his version was found to be false. Thus, three years after the alleged incidents, on 12 November 2015, justice caught up with him and he was sentenced on all charges and sentenced to two years imprisonment for the assault and three periods of life imprisonment.



NPA Performance Christmas Edition 2015



## Ethics in Action Series

### An Ethical Christmas

#### ETHICS ALERT - CHRISTMAS IS A TIME OF JOY AND CELEBRATION

2015 is on its head, and what a year it has been! The festive season is now upon us, and as our thoughts turn to the festivities with lavish gifts and scrumptious food, how do we make sure that we maintain our ethical awareness over the Christmas period? Start with the small practical things. More love and giving; water conversation and taking care of our immediate environment, the purchasing of cruelty-free products when we shop, and become alert to the pay and working conditions of those who made our lovely gifts and food. No doubt that we all know of people who are currently alert to these broader ethical issues. So what does our individual moral-bar look like?

#### A TIME FOR REFLECTION

##### WHAT OF THE CHRISTMAS TREE?

The centrepiece of our festive home decor is no stranger to debate. Cut down a real tree every single year, or go faux and invest in an artificial tree? People point out that a fake tree is usually made from non-recycled plastic and ends up in landfill, whereas studies found that using an artificial tree for at least 10 years is better for the environment than using real trees – so if you do use one, hang on to that plastic and make sure you get the maximum out of it.

There's another alternative – get creative with your decorations and take a look at these brilliant examples of Christmas trees using other materials.

- If you have trees in your garden you could also decorate them, while allowing the tree to carry on with its natural role, by being of service to our atmosphere!
- Don't forget about the decorations on your trees – buy to last so that your decorations, beads and other ornaments can be treasured for years (and even passed down to the next generation).

#### WHAT OF THE GIFTS, CARDS AND WRAPPINGS?

Gifts bought for loved ones all come with a story – materials for them have to be sourced, the gifts need to be made by people somewhere, along with the manufacturer plus transported to a shop, to you, and then on to your recipient. You can avoid the horrors of sweatshop conditions by finding fair trade gifts that guarantee producers across the world that a fair price was paid, in decent working conditions. For the inevitable toiletries and cosmetic gifts sets, cruelty and no animal testing makes sure no creatures were harmed for your privilege. Organic or paraben-free beauty products help avoid pesticides and harmful chemicals. Watch out for products presented in excess packaging, especially plastic that only ends up in landfill after its brief use.

Another issue could be to avoid products that cause a high environmental impact; such as, the product's materials and where it comes from, the material's scarcity, the expected lifespan and whether it is really necessary. Don't forget the cards and wrap – in South Africa we threw away a whopping 106 million tons of waste in 2011, and assuming that we match global growth rates of waste generated every year, about 2.5 billion tons of that waste will be produced in South Africa this year. Over the Christmas week, we would have binned 227 000 kilometres of Christmas paper, enough to go around the world nine times! While municipalities give handy tips on recycling, you can reduce the waste in the first place with eco-friendly wrapping ideas and using already recycled paper.

#### GIVE A LITTLE!

Volunteering your time over Christmas can be a great way to give a little back, especially if you don't have money to spare. Charities are always in need of assistance and will appreciate your time spent with them. Here's to a wonderful ethical Christmas. Enjoy!



For further information on the work of the Ethics Promotion Office, contact our Ethics Officers on either 012 8456978 or 012 8456871

# NPA brings hope to terrorised remote community



Luxolo Tyali

In a space of a year, the far-flung communities surrounding Zabasa village made headlines in three separate incidents, after elderly women and children were killed after being accused of practicing witchcraft.

It is for this reason that the National Prosecuting Authority (NPA) hosted a Road Show at Zabasa Primary School in November to address general issues relating to the Criminal Justice System and forge partnerships to ensure community cooperation in fighting crime.

About 500 people defied the pouring rain and converged at the venue where the South African Police Services (SAPS), NPA, the Department of Justice and Constitutional Development (DoJ&CD) and the Eastern Cape Department of Safety and Liaison made presentations and engaged with concerned communities.

Zabasa is situated on top of a mountain about 35 kilometres on gravel road from Dalasile Police Station where the periodic court that serves them and the village, can only be accessed by 4x4 vehicles when it rains. The mostly poor community have to part with at least R90 to reach the police station to report a matter or attend court.

Criminals seem to be taking advantage of the situation, and in October 2014, three members of one family, a grandmother, her daughter and her grandson were found with their throats slit by the community. Five men were arrested and the matter is before the Mthatha High Court.

In August this year, a 10 year-old boy was kidnapped while playing with other boys and his body was found in the nearby bushes. A 28 year-old man was arrested and is still in custody. He told the police that he killed the young boy because he wanted to consume his blood.

In November, an elderly woman was butchered with a spade after her hut was burnt down in the same village.

During the road show, Ngcobo District Court Control Prosecutor, Nomatamsanqa Booi took the community through the court process and advised them on how to assist the investigations and prosecution of cases in order to ensure that criminals are convicted.

During the question and answer session, almost all the community members raised concerns about the distance and time it takes for them to reach the police station and the court, some even referring to their village as a "forgotten" village.

After many deliberations, the road show, with the assistance from SAPS and the provincial Safety and Liaison Department, launched village committees to serve as a link between the community and law enforcement authorities. This development was described by the community as a ray of light.



Ngcobo District Court Prosecutor addressing the road show at Zabasa



Eastern Cape Safety and Liaison official, Fikile Hintsa speaks during the launch of the Village Committee at the Zabasa road show



A community member poses a question during the road show

NPA Performance  
Christmas Edition 2015



## NPA joins discussions at the International Poaching Conference in Angola

Phindi Louw

Angola hosted delegates from various countries in September at Menongue, Cuando Cubango province to discuss poaching and its effects on Africa.

Two delegates from the NPA, State Advocate, Sharon Masedi (DPP Johannesburg) and Regional Court Prosecutor, Caleb Ngubane (Mtubatuba) were deployed to represent both the organisation and South Africa.

Prosecutors from African Countries were invited to talk about the reality on poaching, search for consensus in order to adopt laws and effective measures to combat poaching. Khasho spoke to Advocate Masedi about her experience and what transpired during the conference.

### **How was your first experience at the conference?**

I had an amazing experience. It was an opportunity of a life time to represent the country on the biggest stage of African Lawyers. I must say, I am truly grateful that the employer exposed me to such a platform.

The conference itself was very hectic and intense. The programme and topics changed at least five times on the morning of the conference, we had to amend our presentations in the conference venue right there and then.

I did not have a problem with that because working under pressure excites me, taking into account that the conference was a live TV broadcast in Angola, there was no room for panic attacks. So if you were not well prepared you were going to be exposed.

### **What was the duration of the conference?**

It was three days (2-4 September 2015).

### **What were the topics discussed by the delegates from the NPA?**

South Africa debated two issues, namely the intervention of countries regarding issues of poaching in Africa with panel members from Angola, Namibia, DRC, Zimbabwe, Tanzania and Cameron, and contributions to African strategy on combating poaching with a second panel from Angola and Tanzania. Topics which the delegates had to debate afterwards.

I have addressed the issue of exporting rhino horns with Convention on the International Trade in Endangered Species of Wild Fauna and Flora (CITES) permit. Furthermore, I gave incite on our statistics since 2011 where 85 horns were exported legally to 10 different countries.

This was good news for many of the countries because we are not only losing not only horns and tusks, we are also losing species. I also conducted radio interviews on what led to the decision to trade with those 10 countries and whether we have any close ties. In my responses to the questions posed, I had to educate about CITES permit to preserve wildlife.

### **How did you manage to use the platform to educate about the role of the NPA as part of marketing the NPA?**

I did live television interviews and two radio interviews. Prosecutor Ngubane was also busy with radio interviews so I believe we managed to reach as many people as possible, spreading the word about the NPA and how things are done in our country.

### **Amongst the topics discussed, which topic/s resonated amongst all delegates/countries?**

The most commonly asked questions which were mostly addressed by delegates, were the issue of harmonising legislation across the African continent as far as sentencing is concerned for poaching offenders. Another topic that was close to the hearts of delegates was the challenge of legal trading of horns and ivory, which we all agreed that in order to minimise the killings of the endangered and protected species we all need to stringently monitor and regulate this practice. The delegates also discussed whether there were any programmes in prison to rehabilitate poachers on how to relate well with wildlife after serving their sentences, which I found most appropriate if we were to win the fight against poaching.

### **What else can you highlight about the conference?**

Advocate Thoko Majokweni has really set the bar quite high for NPA South Africa in the African continent, and we were expected to perform really well. I must say that South Africa did really well, even if we may say so ourselves. We thank the NPA for entrusting us with such a massive responsibility.



Minister of Environmental Affairs, Fatima Jardim, Adv Sharon Masedi, The President of African Prosecutors Association, Dr Joao Maria Moreira De Sousa, and Prosecutor Caleb Ngubane at a Gala dinner at Cuando Cubango Province, Angola



# Another dent in Cape flats gang underworld

Eric Ntabazalila



A quick thinking Advocate, Esna Erasmus thwarted plans by a gang hit man who wanted to take the rap for crimes committed by his boss and other hit men in order for them to walk free. Isadore Links, a hitman of the Young Red Criminals gang which operates in the Worcester area, pleaded guilty to seven counts including two counts of murders, possession of illegal firearm and ammunition, being active members of a gang and dealing in drugs

As a result of this quick thinking, Isadore Links, Henwill Wolhuter and Clayton Swartz were sentenced to life imprisonment after they were convicted on seven counts including two murders, possession of illegal firearm and ammunition, being active members of a gang and dealing in drugs. Their co-accused Jerome Basson was sentenced to twenty years direct imprisonment.

Clayton Swartz is the leader of the Young Red Criminals, a known active criminal gang in the Worcester area. Henwill Wolhuter, Clayton Swartz and Jerome Basson were hit men of the gang. Mitchell Lakay and Deswill Coetzee sold drugs on behalf of Swartz. Swartz believed that the duo smoked his drugs and he gave orders that they must be killed. His henchmen first assaulted the deceased and then took them to a farm where they were supposed to be executed. As they were about to be killed, an owner of the farm showed up and chased them away. The henchmen then drove the deceased to another farm between Worcester and Villiersdorp where the two men were shot. Lakay died but Coetzee survived. As the henchmen were driving away from the scene, they saw Coetzee running away and they chased him. They tried to shoot him but ran out of bullets. They then stoned him to death and went to report to Swartz that they have finished the job. Swartz instructed them to get rid of the bodies.

Advocate Erasmus asked the court to hand the accused life imprisonment considering the severity of the case and the brutality in which they killed the deceased. She further argued that the case was gang related and the murders were premeditated and the only appropriate sentence was life imprisonment. She further argued that the accused did not show any remorse or took responsibility for their actions. She asked that the accused be removed from society for a very long time. The court found that the evidence

against the accused was overwhelming and obliged to our request for life imprisonment.

## COMMENTARY BY ADVOCATE ESNA ERASMUS

According to the indictment the accused were only charged with 2 counts of murder, possession of firearms and possession of ammunition. It was however clear from the statements of the two Section 204 witnesses, that the state will be able to prove contravention of Sections 9(1)(a) and 9(2)(a) of the POCA Act, Act 121 of 1998.

I amended the indictment accordingly and also included a charge of dealing in drugs, as that was the day-to-day activity of the gang. The new indictment was signed and served on the accused. I had to arrange a video consultation with the one Section 204 witness as he was in the witness protection program.

Isadore Links pleaded guilty to all the charges. It was however clear from the contents of his guilty plea that he was trying to exculpate the other three accused and took the blame for the murders. I did not accept his guilty plea and proceeded with the trial.

The Judge found at the end of trial that the evidence of the state was overwhelming against the accused and convicted them of all the charges.



NPA Performance  
Christmas Edition 2015



## Bloemfontein woman sentenced for theft and fraud

Phaladi Shuping

NPA Performance Christmas Edition 2015

A 27 year-old businesswoman, Lianne Greyling from Bloemfontein was sentenced by Magistrate Marina Voges in the Bloemfontein Regional Court to seven years in prison after she pleaded guilty to 24 charges of theft and fraud. According to the charge sheet, Greyling duped her clients into believing that she could import goods from the United State of America at discounted prices which attracted many clients. She also placed advertisements of her “business” on the internet.

According to evidence presented to the court, Greyling led her clients into believing that she was able to import luxury cars, motorcycles and household items from across the world at lower prices. She requested them to pay the full price and transfer costs upfront for the goods.

The unsuspecting clients paid large sums of money into her account for the goods. When the goods failed to arrive, she lied to her clients by telling them that the imported goods were held back by the South African Revenue Services (SARS) and once she had paid the “bond stock,” SARS will release the goods to her and she will in turn hand over the items to the clients.

Advocate Vick De Bruyn provided evidence in court that the accused had never paid the money to justify the acquisition of the goods. He also provided evidence to the court that there were no records from Customs and Excise that could prove that such goods were processed.

Greyling committed the offences from 2009 until May 2014. She defrauded her clients of R5.5 million.

In sentencing the accused, Magistrate Voges said that although Greyling has shown remorse, she has no choice but to sentence her to prison for her crimes. White collar crimes were on the increase in the country. She subsequently sentenced her to seven years imprisonment.

### COMMENTARY BY ADVOCATE VICK DE BRUYN

This matter was one of the most challenging cases that I have dealt with because we were dealing with a real con artist. Whilst we were busy with the trial, the accused committed another offence in May 2014.

The accused concluded a plea agreement which did not materialise and the matter was transferred to another magistrate. She was granted bail pending the finalisation of the plea agreement, however, at a later stage she withdrew the plea agreement, citing that she was coerced into it but she could not tell the court who coerced her into the agreement.

Whilst the matter was pending in front of the new magistrate, she committed another offence in May 2014. I had to make an application for cancellation of her bail and the process took longer, as we called many witnesses and produced a lot of evidence.

I am thankful to the police for the thorough investigation that they had conducted. This matter could have dragged on longer if it was not for the thorough investigation that was conducted by the police.



# Official opening of the Sexual Offences Court in Durban and Atlantis



Monica Nyuswa and Eric Ntabazalila

The National Prosecuting Authority (NPA) together with Department of Justice and Constitutional Development (DOJ) officially launched two Sexual Offences Courts in Durban and Atlantis respectively. The Minister of Justice, Advocate Michael Masutha also launched a Thuthuzela Care Centre in Atlantis, Western Cape. The events took place during a period where South Africa commemorates the 16 Days of Activism Against Women and Children Campaign.

The launches form part of the department's efforts to promote a justice system that is victim-friendly, efficient and sensitive to the needs of victims of sexual offences and takes place as part of the 16 Days of Activism for No Violence Against Women and Children. Thuthuzela Care Centres and Sexual Offences Courts provide specialised victim-support services that are intended to reduce secondary trauma of victims and turnaround times in the finalisation of sexual offences matters.

The launches included presentations from different departments such as DOJ, SAPS, Legal Aid Board, etc. whereby the community was encouraged to report rape and any form of sexual abuse.



Community member posing a question at the opening of the Sexual Offences Court in Durban



Adv Moipole Noko DPP-KZN Addressing the community during the opening of the Sexual Offences Court in Durban



Minister Masutha and the NDPP, Advocate Shaun Abrahams at the opening of the Sexual Offences Court in Atlantis



NPA Exhibition stand during the day of the opening of the Sexual Offences Court in Durban

## Inside the new court in Atlantis



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## NPA takes government services to the people

Natasha Kara

The province of KwaZulu-Natal recently hosted its thirteenth NPA Service Delivery Roadshow and this was in Loskop, situated in Northern KZN (Ladysmith cluster). These road shows aim to take information and services to communities in outlying area.

The NPA partnered with the South Africa Police Service (SAPS), the Department of Correctional Services, the Department of Justice and Constitutional Development, the Department of Home Affairs, the Department of Social Development, SASSA and the office of the Public Protector.

Each stakeholder was given an opportunity to briefly address the community on their mandate and the services they offer. This was followed by a question and answer session. The community requested the NPA to explain bail and bail conditions and Senior Public Prosecutor, Israel Zuma did so.

On conclusion of the formal program, community member were urged to visit the exhibition stand of the various stakeholders. The event was hailed as a huge success with an approximate 750 people attending.



From left: Mr BHR Strydom (Dept. Correctional Services), Adv. E Khuzwayo (Chief Prosecutor Ladysmith Cluster), Mr I Zuma (SPP Ladysmith Cluster, Ms N Shembe (Dept. Correctional Services) and Mr F Khuzwayo (Dept. Home Affairs)



Community members during the Q & A session directing questions to Ward Councillor, Mlangeni



Some of the community members who attended the event

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