

KHASHO

APRIL/MAY 2011



Vision

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

Mission

Guided by the Constitution, we in the
National Prosecuting Authority (NPA)

ensure that victims of the crime

are treated with favour or

in our

e

Life Sentences
for murderers
and rapists

Celebrating
Freedom

The NDPP
speaks at
UCT

Strategy
and
Operations

Division Under
Spotlight

ENSURING PROSECUTIONS WITHOUT FEAR, FAVOUR OR PREJUDICE



MESSAGE FROM THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS

The start of the new financial year gives us all an opportunity to reflect on the year just ended and to assess those areas in which much progress was made. It is important that this be done so that we are able to measure ourselves against not only organisational objectives but also our personal ones. The question that we should all be asking ourselves is, "Have we accomplished that which we set out to accomplish when we started the financial year"? An honest and sober assessment should help each one of us chart another path towards improving our performance. I trust then that the assessment of individual performance during this period will encompass a good spirit of honesty and purpose and that those who deserve recognition, will be recognised for their accomplishments.

At the same time, the new financial year means that we should determine those activities which in our assessment will enable us to achieve our strategic objectives as an organisation and also as employees. Accordingly, a fresh attitude must determine our altitude. This year should be better than last year. Some things must be done differently in order to achieve a different and better result!

Many of you will recall that new delegations of authority were provided from January this year. Comments are being prepared with a view to making improvements thereon. Further changes will be made in the not too distant future. I mention the delegations as a reminder of the responsibility that we all have to not only appreciate the challenge that comes with exercising a delegation of authority, but also the need to accept the leadership of those to whom such delegation has been given. It is a task for all of us to make their work smooth and less difficult than it already is. Equally, those who exercise delegated authority are reminded that with power comes responsibility. The exercise of such delegation must benefit organisational outcomes.

I also would like to congratulate Adv Karen van Rensburg for her appointment as acting CEO. I hope that she is settling well in her new challenge. As previously communicated, she will act in this position until a permanent



Advocate Menzi Simelane,
National Director of Public Prosecutions

CEO is appointed. This process is already well under way. I would like to express our thanks to Dr De Wee who held the position in an acting capacity for a number of years following his secondment from National Office. We are grateful for his leadership over this period.

In the past couple of weeks I have received communication from various DPP offices reporting on successful cases where good law is being made, especially in news areas. We have seen this in cases involving the theft of electricity from Eskom. In other words, we have been able to prove that criminals do steal electricity using illegal connections and/or sophisticated equipment. In addition we have recorded good successes in utilising the provisions of the Prevention of Organised Crime Act (POCA) wherein racketeering was a main charge. It has been successfully argued even in cases involving housebreaking, breaking into vehicles with an intention to steal etc. This innovation indicates clearly that if we do not place limitations to our ideas and obstacles in our path, we can provide leadership and contribute greatly in the fight against crime. Other successes have been noted in the cases that we finalise in the general prosecutions and in the lower courts resulting in long term sentences. I am certain that there are many more in other areas. Our challenge is to ensure that we remain driven to succeed so that we continue to produce good results. I sincerely hope that we will all remain motivated and encouraged.

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LETTER FROM THE EDITOR

We had quite a few intermittent breaks in April as a result of official public holidays, which is why it feels like this edition has been long coming.

The NPA has embarked on a national educational campaign to educate the public about the work of the NPA and the Criminal Justice System in general. The broadcast will be on 15 SABC Public Broadcast Service (PBS) radio stations.

Prosecutors from all language groups have been selected to participate in the discussions in the languages of the respective radio stations, to encourage easy engagement with the listeners in their home languages. The campaign started on 2 May and will continue for 26 weeks until October 2011. So far we have covered the following topics: Understanding the Criminal Justice System, Bail & Bail Conditions, Plea & Sentence Agreements and Withdrawals & Strike-offs. This campaign has been a mammoth task - co-ordinating with prosecutors nationally and liaising with the SABC and all the producers of the various stations almost on a daily basis is nothing to be under-estimated. However, we are not complaining.



Bulelwa Makeke
Executive Manager: Communications

The response from the prosecutors from all the DPP offices and regions has been nothing less than FABULOUS. We are so humbled by everyone's co-operation and support in this educational campaign. Thank you very much to all those who have already taken part in the interviews, and to those who have indicated willingness to participate in future interviews. Your commitment and passion for the work of the NPA is not going unnoticed. We are indeed doing great work in uplifting society by empowering them with relevant information and knowledge, which is sure to facilitate better access to justice for everyone.

Internal information bulletins detailing interview schedules for all the topics will be sent out regularly. Please tune in whenever you can, your feedback on the roll out and the perceived impact of the programme will be very useful for us.

In yet another quest to educate members of the public about the work of the NPA, we once again participated in the Rand Show in April-May 2011.

Like in previous years, our exhibition stall, which was built as a court room, attracted a number of enthusiastic visitors who interacted with the equally enthusiastic NPA members at the stall. In recognition for our excellent display, we brought home a bronze medal.

Last year in the Royal Show in Pietermaritzburg we won the highly coveted gold medal. This shows that we are becoming a force to be reckoned with when it comes to exhibition prowess and the quality of information we disseminate at these events. We are finalising plans to participate again in this year's exhibition which will be on 27 May - 5 June.

On 20 April, the NDPP participated in a panel discussion hosted by the University of Cape Town Black Law Students Forum, which has been included in this issue. One can infer that these requests for the NDPP to speak on various topics confirm that we have a leader that holds significant respect in the South African legal tapestry. It is indeed in our interest to see the NDPP and the NPA leadership team having these meaningful interactions with the public. We will continue to facilitate particularly those in the legal field.

In this issue we profile the Strategy and Operations division led by the Deputy National Director of Public Prosecutions, Adv Nomgcobo Jiba. The objective of this exercise is to learn more about the duties discharged in this high executive office of the NPA.

Bulelwa Makeke
Executive Manager: Communications

CELEBRATING FREEDOM

Nomilo Mpondo

The first democratic elections in South Africa were held on 27 April 1994. On this important day, the country celebrates the gains that have been made in deepening democracy and improving the lives of all South Africans. This year's commemoration marked the 17th celebration of freedom and democracy. The main commemoration was held at the Union Buildings in Pretoria on Wednesday 27th April. The highlight of the event was when President Jacob Zuma awarded 36 South Africans with the highest orders for their contributions on various areas of development in the country.

Why we celebrate Freedom Day:

- This day is celebrated annually as a reminder of the struggle for a free and just South Africa.
- This is a day for all South Africans to collectively participate in the commemoration of pain and struggle to build a non-racial and democratic country.
- This is a day to remember sacrifices of heroes and heroines from all walks of life in South Africa who sacrificed so much to ensure freedom for all.

- It is a day that enables all South Africans to celebrate the Bill of Rights which guarantees us fundamental human freedoms.

In the Bill of Rights which is a cornerstone of our democracy, all types of human freedoms that should be protected are enshrined as follows:

- Freedom and security of the person;
- Freedom of religion, belief and opinion;
- Freedom of expression;
- Freedom of association;
- Freedom of movement and residence; and
- Freedom of trade, occupation and profession.

Role of prosecutions in protecting human freedom

Prosecutors play a crucial role in safeguarding the gains of freedom in the country. They have powers to both institute criminal proceedings and carry out any necessary functions incidental to instituting criminal proceedings on behalf of the state. Section 179 of the Constitution and the NPA Act both give prosecutors legislative mandate to

prosecute anyone who inhibits citizens to exercise their freedom of choice that the martyrs of South African freedom fought for.

It is therefore the role of prosecutors, amongst others, to protect South Africa's freedom and democracy. The mission of the NPA envisions a fundamental need for all prosecutors to act without fear, favour and prejudice to enable the achievement of justice in our society so that people can live in freedom and security.

The full value of freedom requires prosecutors that respect human dignity and human freedom for them to be able to perform professional duties with full recognition of the supremacy of the Constitution and the rule of law.

In keeping with this year's Freedom Day theme, the NPA and its partners in the protection of freedom and democracy will continue to "work together to unite the nation, promote democracy and project freedom".

WIDOW JAILED FOR LIFE

Charlene Labuschagne

Mulalo Sivhidzo, daughter-in-law of former City Press editor, Mathata Tsedu, and her two co-accused, Ntabudzeni Matzhenene and Arnold Sello, were sentenced to life imprisonment by the South Gauteng High Court for murdering her husband Avhatakali Steven Netshisaulu. The media reported extensively on the case over a period of two years and labelled Sivhidzo 'a husband-killer' and 'black widow'. The three accused were given an additional five years each for kidnapping Netshisaulu and three years for damage to property.

The court held that Sivhidzo plotted with Matzhenene, who then organised hitman Arnold Sello.

COMMENTARY BY THE PROSECUTOR ADVOCATE MARO PAPPACHRISTOFOROU

The deceased was a young man who had a very bright and prosperous future ahead of him. He had the qualities and qualifications to contribute to our country on a whole lot of levels.

This was an extremely challenging case to prosecute, since it ran from 11th August 2008 and finally ended on 4th March 2011. The case did not run interruptedly and sporadically over the two and half year period, but ran almost solidly for the entire period, as court was in session for between 3-5 hours per day.

I spent a lot of time after court and on weekends preparing for cross examination and summarising the contents of the weekly court proceedings. The running record exceeded 14000 pages and 30 lever arch files.

I can recall how I would suddenly remember things that I had to do or say during the night, and would awake many a night. This case consumed my life, marriage and at times my sanity. However, I never once ever doubted the hard work which I and the investigation team had put into this case. If I had to do it all over again, I would.

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FREEDOM AT LAST

Charlene Labuschagne

The trial of the State versus Mogale (44) started at the end of December 2010 in the Gauteng South High Court.

Mogale was convicted to 20 year's life imprisonment for the 16 counts of murder, 19 counts of rape, robbery and assault, two counts of theft, fraud, sexual assault, and for escaping from lawful custody.

Mogale was found to be a brutal serial killer after many female bodies were found killed allegedly by him in the open fields of Lenasia and Westonaria areas.

COMMENTARY BY ADVOCATES ELLAINE MOONSAMMY AND NERISSA MULLER

When the dockets arrived at our office the investigations were not complete and therefore only the dockets from Westonaria were received.

After the indictment was drafted, we received a positive DNA result from the Forensic Science Laboratory linking the accused to another Lenasia case. We had to call for all Lenasia dockets where we discovered that the modus operandi was the same as highlighted in the Westonaria dockets. This promoted the amending of the indictment to also include the Lenasia dockets.

There were lots of hurdles along the way, one of which was the State's lack of evidence in nine of its case dockets. There was no evidence linking the accused to the crimes as the identity of the victims were unknown and the bodies were badly decomposed rendering it impossible to obtain DNA evidence.

However the modus operandi was the same and the State had to rely heavily on similar fact evidence. We called various expert witnesses to prove our case.

The experts included Capt Shamil Govan from the Forensic Science Laboratory who conducted DNA analysis, Captain Moller, a communication analyst and forensic cellphone examiner who analysed the cellphone records from the various service providers, and Col Bergh who conducted an analysis on the sangoma beads and string found at the crime scene and linked it to that found at the accused's home at the time of his arrest. Professor Labuschagne conducted a linkage analysis, concluding that the crimes were perpetrated by one and the same person.

The court placed a great deal of weight on the evidence of the expert witness, in particular Prof Labuschagne, and referred to him as an "awesome" witness, with regard to the cases involving similar fact evidence.

The State argued that the accused made the following plea to Brigadier Byleveld:



Advocates Ellaine Moonsammy and
Nerissa Muller

"Director, I want you to help me, because when I am with a woman I lose control and don't know what I am doing. I kill all of them if they don't give me what I want".

The State further argued that it was incumbent on the court to accede to the accused's request for assistance, by sending him to jail for a very long time. The court agreed with this submission by the State, stating that it was assisting the accused by not releasing him back into society as he is unable to live amongst women.

Charlene Labuschagne is the Regional Communications Manager for DPP South Gauteng

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The case was based on circumstantial evidence only. There was no eye witness. When we started, I only had bits and pieces of good and weak circumstantial evidence which I had to fine tune and present to court. The endless interlocutory applications which I had to fight were exhausting. I had to fight applications against myself, the judge, the court interpreter, hearsay, media complaints, and allegations that the state was coaching witnesses. All the hard work and all the

days in court were all worth it. When the court convicted the accused on 7th Dec 2010 and the mother and father of the deceased were in tears with joy and the investigating officers were smiling and hugging each other, that was the moment for me.

I learned valuable lessons in the case and one such lesson was that the defence counsels do not like a prosecutor who works hard, does great research

and never gives up. If counsels bring applications to load the court record with unfounded irregularities, you must know you are doing a good job and they fear you. I never lost sight of the NPA's mission to prosecute without fear, favour or prejudice. This is a victory! Justice has prevailed!

Charlene Labuschagne is the Regional Communications Manager for DPP South Gauteng

ASPIRANT PROSECUTORS ARE BEING PREPARED TO DEAL WITH ILLEGAL MINING

Medupe Simasiku

Illegal miners must be warned! Our Aspirant Prosecutors are getting ready to wage a war against this criminal activity which in recent years has resulted in many people losing their lives.

Illegal mining can be defined as an “operation where people mine minerals in the form of gold, diamonds and many

Mineral resources can therefore only be operated by a licensed operator who can legally mine after obtaining the necessary permission from government. Most illegal mining takes place in low grade areas or abandoned mining sites, such as in the Welkom Goldfield areas. The main characteristics of illegal mining are low productivity and limited production.

mining. The overall intention was also to prepare them very well to be able to prosecute cases related to illegal mining, which are common in the Welkom courts.

According to Ms Mokgoetsi, most of the people arrested for illegal mining in the area are people from neighbouring countries such as Lesotho, Zimbabwe, Mozambique and Swaziland, who claim that they were brought into the country with promises of good jobs in the mines – making it another form of human trafficking. It is also alleged that the kingpins of these operations are South Africans.

Some of the dangers associated with illegal mining are lack of ventilation, diseases, unsecured tunnels and methane.

Mr Ben Molutsi, Senior Public Prosecutor for the area said that these illegal miners actually live underground to avoid being seen and arrested, which ultimately leads to exploitation by some of the local community members who sell them groceries at ridiculous prices.

Those that are arrested are at times found with huge amounts of money which they cannot prove to have legitimately obtained.

One of the Aspirants, Mr Monde Mfanekiso, said the excursion was an eye-opener for him. He said: “It is a relief to know that the NPA has an ace up its sleeve with the new recruits who will not only help to prosecute other criminal matters, but also lend a hand to eradicate this problem of illegal mining, while working hand in hand with all the stakeholders such as South African Police Service and others”.

He said efforts like these would help to take the fight against illegal mining to new levels, and ensure that perpetrators were made to face the full might of the law.

Medupe Simasiku is the Regional Communications Manager for DPP Free State.



The 2011 Welkom Aspirant Prosecutors with their Tutor Ms. Anna Mokgoetsi (Front Left) and Mine employees (in blue overalls). Mr. Johnny Zondo (Back Right) was the organiser.

other minerals without proper legal documents that authorise them to do so” according to Phillipe Dozolme, Mining Guide (2011). This kind of operation can happen either underground or in open cast mines.

It is illegal because in terms of Precious Metal Act 37 (2005), underground mineral resources do not belong to an individual but to the State.

Recently, a team of Welkom Aspirant Prosecutors, together with their tutor Ms Anna Mokgoetsi, visited one of the official mines in Welkom, to give them an overview of how a mine operates. The team was also taken to mine sites which are no longer in operation and are suspected to be operated illegally.

The objective of that excursion was to give the team first hand information about the dangers associated with illegal

READERS' FEEDBACK

ON THE NEW LOOK AND CONTENT OF KHASHO

Nomilo Mpondo

**Charity Mpofu -
Corporate Manager: NPS**

"Congratulations colleagues on the latest issue of Khasho. It looks fresh and refined. I like the part where employees are given a voice, keep it up."



**Oshana Shete - Corporate
Manager: DPP Mthatha**

"I feel I must not keep quiet, the work you are doing is so marvelous. Khasho is so interesting to read and very professionally laid-out. Opening Khasho pages is reverting. I like the colours, lay out and setting. Keep up the good work, I am so excited."

**Judith Mackay - Corporate Manager: DPP
South Gauteng**

"I like the new look. It invites me to read it".



**Adv Trish Matzke - Governance and
Administration Division**

"I would like to congratulate you and your team on the new Khasho. I think it is great and very informative. It will go a long way in promoting the image of the NPA to the outside world and to be a showcase for the excellent work done by all employees in the organisation. It is really put together professionally. The VOX POP is a great idea!"



Moses Rantao - Corporate Manager: DPP North West

"This morning when I opened Khasho and read about the state of the nation address by the President of South Africa I said, Wow! Magnificent! Reflecting on the JCPS Cluster is my highlight. I thank Khasho for covering the State of the Nation Address by the President of South Africa hoping that you will do the same for the budget speech by the Minister of Finance. This is a clear focus of change management. By taking this angle, NPA employees will be well informed. If perhaps one did not read newspapers or TV news, Khasho will provide. I personally thank the new leadership of the NDPP and his team as Khasho now covers the wider scope of government activities that are affecting JCPS cluster unlike before."

THE NPA RESPONDS TO THE NATIONAL CALL TO TRAIN GRADUATES

Tebogo Seate

The challenge of unemployment among graduates in South Africa was put under the spotlight during the State of the Nation Address and Budget Speech of both 2010 and 2011.

The Public Service, which is the largest employer in South Africa, has responded to this challenge by enabling unemployed graduates to gain experience through the Public Service Graduate Internship Programme offered by PALAMA.

in addressing this need. Since December 2010, the NPA has, through the Fleet and Facilities Management section, employed 14 interns who have since successfully completed the PALAMA Graduate Internship training programme. These interns have been employed on a one-year contract.

Mr Jacques du Toit, the Acting Senior Manager for Fleet and Facilities Management, said the arrangement was a win-win situation for the NPA.

the NPA cannot offer them employment. He said, "We are giving them real work experience, teaching them the necessary computer skills, and providing them with ongoing mentoring and coaching. By the time they complete their programme, they will have a better understanding of the work environment, particularly the public service. They will be able to market themselves externally with confidence".

He said the interns are responding very well to the programme and are hungry to learn. They would also be visiting the regions to broaden their scope on assets management.

The interns are also delighted to have been offered the opportunity by the NPA. One of them, Ms Nthabiseng Mpetse, described it as more than just a learning opportunity. "We are actually working, and we are treating the opportunity as a working experience," she said.

Mr Samuel Thoka, another intern, said, "This internship has given us the opportunity to put theory into practice, and made us to understand the accounting framework and principles much better".

The interns said even if the NPA was unable to offer them employment at the end of the programme, the experience they were gathering would open new avenues for them elsewhere. They all expressed one spirit of optimism – that they would be able to sell themselves with confidence elsewhere.

Mr Du Toit said the Fleet and Facilities Management section was very proud to have been part of this ground breaking phase regarding the internship programme, and that the NPA would reap the fruits of the investment made to develop the youth of today to be the leaders of tomorrow. He said the plan was to continue with the intake of new interns next year.



From left to right front row: Nthabiseng Mpetse; Mpho Letlapa & Mmamudi Makgaleng
Middle row: Musa Malungani; Dzunisani Mashele; Lebogang Morifi; Mapula Mokgalabone; Thabang Mathumbe; Vanessa Senong & Johannes Mnisi
Back row: Bennet Modiba; Samuel Thoka & Jan Labuschagne (Supervisor & Mentor)

The purpose of the programme is to prepare graduates to access employment opportunities in the Public Service. In addition to on-the-job training opportunities through the utilisation of internship programmes, the Minister of Public Service and Administration, Mr Richard Baloyi requested PALAMA to design a programme called 'Breaking Barriers to Entry into Public Service'. This Programme is aimed at preparing unemployed graduates to become public service cadres of a special kind.

The NPA has also been playing its part

He said, "The work that these interns have been doing is very useful. They have been working around the clock to help us rectify our assets register, which came out as an audit finding. They are definitely doing a great job in this regard".

Mr Du Toit said the NPA was doing all its best to equip these interns with the necessary skills and knowledge to ensure that by the time they complete their internship programme, they would be able to find employment elsewhere if

THE NDPP SPEAKS AT UCT

Eric Ntabazalila

On 20 April 2011, the National Director of Public Prosecutions, Adv Menzi Simelane, took part in a panel discussion which was hosted by the University of Cape Town (UCT) Black Law Students' Forum.

The topic of the discussion was **"Catching the Scorpion's Tail: A panel discussion of the recent Constitutional Court Judgment calling for an independent anti-corruption unit"**.

Adv Simelane shared the platform with Professor Wouter De Vos, Professor of Public Law at UCT and Adv Aifheli Tshivhase, Public Law Lecturer at UCT.

The debate was sparked by the recent ruling made by the Constitutional Court that the legislation which replaced the Scorpions with the Hawks was "constitutionally invalid," because the Hawks were still "vulnerable to political interference."

According to the Court, changes to the South African Police Service Amendment Act did not pass "constitutional muster" as the Hawks were "insufficiently insulated from political influence in its structure and functioning", which according to the Court, created a "significant risk of political influence and interference."

The Constitutional Court therefore suspended its "declaration of constitutional invalidity" for 18 months to allow parliament to "remedy the defect" in the law.

It was against this background that the University of Cape Town organized a panel discussion involving experts in this field to air their opinions, including the National Director of Public Prosecutions.

The forum was opened by Professor De Vos who outlined how developing states, which were vulnerable to organised crime and corruption, established crime and corruption fighting organisations like the Scorpions. Professor De Vos also voiced his belief that there was political intervention in Polokwane which saw the demise of the Scorpions.

However, Adv Simelane differed. He said, "I am happy that today we are getting different views from this debate. I will be failing in my duties if I do not express my views on the judgement. There are many views on the judgement. Others see it as a victory for Mr Hugh Glenister and others see it as victory for government. At least clarity has been provided by the highest court in the land on this issue. The DSO was created for fighting organised crime. Police needed to be assisted in the fight against crime."

Adv Simelane further stated that in his view, the creation of the Scorpions was legal because it was done through legislation. He said the same applied to the Hawks because they were also created through normal legislative processes.

The NDPP said the judgment was not about who won the battle or who lost it, but it was about making the necessary corrections to the legislation that created the Hawks, and government was given 18 months to fix it.

In his conclusion, the NDPP emphasised that the judgment did not in any way hinder the work of the NPA. He said, "The judgment does not take anything away from our duties to prosecute. For us at the NPA, it's business as usual".

Eric Ntabazalila is the Regional Communications Manager for DPP Western Cape.



The NDPP with some of the organisers of the panel discussion.

DPP WESTERN CAPE STALWART RETIRES AFTER 42 YEARS OF SERVICE

Eric Ntabazalila



Adv Jan Cornelius Gerber

Advocate Jan Cornelius 'JC' Gerber joined prosecution after he was impressed by prosecutors while attending courts as a young police officer in the small 'dorpies' of Herold, Colesberg, Mossel Bay and Oudtshoorn. His sheer determination to be a prosecutor saw him very often studying on the toilet seat in the bathroom at night while other members of his family slept.

Khasho caught up with him before he could say good-bye:

Was it always your dream to become a Prosecutor?

No. During my final years at school in Oudtshoorn, I wanted to go to the University of Stellenbosch to study for a BSc degree in Agriculture to become a teacher at an agricultural school. We stayed on a farm in the district of Oudtshoorn and my nephews and their parents lived at Boland Agricultural School and we visited them during school holidays.

After matric in 1963, I joined the police at the age of 17 and worked at Mossel Bay, Herold and Oudtshoorn. After five years I resigned and joined the Department of Justice in order to become a prosecutor. I had no legal qualifications and was appointed as a clerk. I was the only clerk and performed duties of the Clerk of the Criminal and Civil Courts, Receiver of Revenue, etc.

I started my law studies at the University of South Africa in 1971 which I finished in 1978. After three years at Colesberg Magistrate's Court I was transferred to the Head Office of the Department of Justice. I started there on 1 November 1972 as Assistant Parliamentary Officer and Private Secretary to the Director-General of Justice. I did parliamentary service for five years.

When I obtained my LLB I applied for a transfer to the Cape Town office of the then Attorney-General. I started at that office on 1 September 1979 as a State Advocate. On 1 August 1982 I was promoted to the rank of Senior State Advocate.

During the period 1989 to 1991 I was the Senior Public Prosecutor at Wynberg Magistrates' Court. The Athlone and Mitchells Plain Courts were both still part of the Wynberg District and I was responsible for the prosecution of those two offices as well. I, however, had strong Control Prosecutors at those offices. I remember that the current Judge Nathan Erasmus was the Control Prosecutor at Mitchells Plain.

I was also part of the Office for Serious Economic Offences when it was established in Cape Town by the previous Director of Public Prosecutions, Adv Frank Kahn SC.

On 1 September 1992 I was promoted to the rank of Deputy Attorney-General and was transferred back to the Attorney-General's office in Cape Town. On 7 May 2002 the President appointed me as Senior Counsel (SC).

What were the highlights of your career?

The prosecution of Dr Allan Boesak is one of my highlights. I had the opportunity to travel overseas to consult with witnesses. I also had the opportunity to speak to Mr Paul Simon, the well-known singer.

Another important highlight in my career was when I was appointed as a Senior Counsel (SC) by the President.

What do you think the future holds for the NPA?

There lies a bright future ahead for the NPA. There are very good lawyers and managers in the NPA. Those that are still inexperienced should be properly managed and trained and they should be very careful who to appoint.

Are you going to miss prosecution?

Yes, I will miss prosecution. I have been in a managerial position for many years but still miss court appearances.

Eric Ntabazalila is the Regional Communications Manager for DPP Western Cape.

TURNING CHILDREN INTO WITNESSES OF WORTH (WOW)

Jeanette Neveling

The Governance and Specialised Prosecutions Units in the Office of the Director of Public Prosecutions in Mthatha embarked on a project to re-decorate and re-furbish the intermediary room at the High Court in Mthatha.

This room was not child-friendly and was extremely hot as there was no ventilation and no windows.

There was also no waiting room for children. Their waiting room consisted of a wooden bench in the corridor in front of Court A. The accused would walk past the witnesses sitting on the bench. This was very intimidating.

The original aim of the project was only to re-decorate and refurbish the intermediary room to allow for it to be used as a small waiting room as well.

A general invite for friends in Mthatha was posted on Facebook with a request to bring old toys, paint and old furniture and to join the team on Friday 4 March 2011 at the High Court.

When the High Court Manager was informed of the plan and asked for permission, not only did we get the requested permission but we were also allocated an unused room adjacent to

Court A. This room, with en-suite male and female toilets, was a perfect waiting room. Children would be able to walk out of the waiting room directly into the intermediary room. In addition, we were allocated a store room for all the extra toys and paint.

Once posted on Facebook, the project got a life of its own with community involvement beyond any expectation! We were inundated with donations and offers of assistance.

A multi-talented community member and friend coordinated the donations and offers and made arrangements for electricians.

Rotary and Round Table in Mthatha made the industrial fans, heaters and lounge suite possible.

Circle Spar, Steers and Spargs Cash & Carry donated paint and AGMAC and many other businesses and individuals gave toys and stationery.

Mrs Dondashe from the High Court made arrangements for plumbers, locksmiths and persuaded the Court Manager to provide a water cooler for the room.

We received calls from friends from Gauteng, Port Elizabeth and

Pietermaritzburg with offers to assist. We referred those friends to the Chief Prosecutors in the specific areas and requested them to assist the sexual offences courts in their own towns.

Our aim was for children to remember the waiting and intermediary rooms as WOW and not the OUCH of testifying. The WOW would also represent that they are Witnesses of Worth.

On the day of the project, advocates, high court staff, court orderlies, community members, victims and other children took up paint brushes and painted. The rooms were decorated and ready for the first case on Monday. The 12-year old victim in the case due to be heard on the Monday was one of the volunteers on Friday.

Each child testifying in this court will be given a stuffed animal to hold while testifying and take home as a reminder of their WOW day at court.

Hopefully, this will not be "THE END" of this wonderful story. We have received enough to allow us to do the same to the waiting and intermediary room at the lower court.

Seeing our enthusiasm and commitment, our sponsors have pledged the same for the future.



Waiting room before



Waiting room now

STRATEGY AND OPERATIONS – THE LIFE BLOOD OF THE NPA

Tebogo Seate

As part of Khasho's ongoing campaign to educate you about the roles of the various divisions and units within the NPA, in this issue we focus on Strategy and Operations, headed by the Deputy National Director of Public Prosecutions, Adv Nomgcobo Jiba. This is what she had to say about her division:

Can you briefly outline the role of Strategy and Operations?

The Strategy and Operations Management component is entrusted with overseeing the development and implementation of strategy for the organization. In this regard we also assist all business units to draw up their annual plans and ensure that their plans are aligned to the organization's national strategic plan. We oversee the adherence of business units to their annual plans.

The operations management component focuses on the implementation of strategy with regard to prosecutions. When the strategy has to be implemented in various divisions the focus is on monitoring prosecutions. The idea is to drive prosecutions to meet their objectives and targets.

The core element of the operations management component is the evaluation and monitoring of performance of all courts in the country to assist leadership in making decisions. The primary purpose

is to identify and remove blockages to enable all courts to perform optimally.

Your division is generally perceived as housing the core function of the NPA. Do you agree with this or do you have a different view?

Yes I agree. The core function of the NPA is prosecutions and operations in the NPA are mainly about prosecutions, which are the life blood of the NPA. They are the engine of the organization.

Prosecutions are the sole justification for our existence, hence the name National Prosecuting Authority. We are judged according to the manner in which we conduct prosecutions, and all decisions we make relating thereto.

When were the two components merged, and what was the rationale behind it?

The merger occurred when the current NDPP took office. The sole purpose for this merger was to ensure better service delivery in a much more coordinated manner.

What challenges are currently facing the division and how are you addressing them?

The challenge is to ensure that strategy is understood and owned by all employees of the NPA - both prosecutions and support services. We have a continuous engagement process with all the heads,

both nationally and in the regions to ensure that this is achieved at all levels.

The other challenge is the commitment to the implementation of the strategy by all in the organization. We might put our plan in place, but if the soldiers who are supposed to implement it have no knowledge of it or are not committed to its implementation, we are bound to fail. Strategy is a road map coming from the vision of the government to provide a better life for all. The main objective of the Justice, Crime Prevention and Security (JCPS) cluster is to ensure that people feel safe and are safe in South Africa.

In the broader context this is not a task that we can achieve alone as the NPA. Our success is linked with the service delivery by other stakeholders, particularly the police and the judiciary. To overcome challenges we need to engage all external and internal stakeholders and ensure that we all move in the same direction.

What is it that the division is doing which you are proud of?

It is the contribution that the division is making in facilitating and ensuring that the organization achieves better service delivery. We have in place processes to ensure that the organization performs optimally and excels in the execution of its mandate. We communicate with all employees at all levels and ensure that we all move in the same direction with the same speed.

What do you want to achieve by the end of the financial year?

We want to ensure that all targets and objectives set for organizational performance are achieved. We want to see improved organizational performance all round. Our call is that all prosecutors of all ranks must prosecute. If we all put our shoulders on the wheel, we will achieve our targets and objectives.

Where would you like to see the NPA in the next five years?

We need to be an effective, efficient, stream-lined and well-oiled organization that delivers prompt service to all people without prejudice. This means that as prosecutors we need to exercise caution in the use of prosecutorial processes, for



Sitting, from left to right: Adv Marelize Potgieter, Adv Nomgcobo Jiba and Adv Jannie Schutte.
Standing, from left to right: Dikeledi Moganyaka, Ivy Masete, Princess Nevondo and Betty Langa.

example, the granting of section 204s to persons facing serious offences, as such practices might damage the reputation of the organisation and generate negative public perceptions about the NPA as an organization. We would like to see justice dispensed equally to all.

Internally, work allocation needs to be done in an equitable manner to all employees. The performance bonuses, which to some extent flow from the skewed manner of work allocation and support, are not the exclusive privilege of a certain sector of our employees. Work needs to be allocated fairly and equitably, and work performance evaluated and remunerated meritoriously, not historically. Performance bonuses are not meant to reward patronage or awarded on the basis of friendship.

It simply cannot be true that employees that perform are from a certain category of our population. This demoralises the

workforce and damages our image in the eyes of our employees, who are either victims or observers of these kinds of unfair practices. We need to change this.

Transformation, which is linked to some of the aforementioned issues, needs to be tackled quite urgently. At SMS level a particular population group is still dominant. Persons from the designated previously disadvantaged group are far from being within acceptable levels. Women, particularly from this group at SMS level, are still very few. We need to tackle the issue of transformation quicker. There is also a need to reassert the proper organizational culture at all levels. All employees need to be accountable and responsible. We cannot afford having highly paid employees in the organization who contribute little to the organizational performance and output. We cannot afford to have employees who are unable to account for what they do, or who do whatever they like. We therefore need to

entrench the culture of accountability and responsibility.

Do you have any message for NPA employees?

Let us all work hard and know that South Africans who are victims of crime are dependent on us for the pursuit of justice to their cause. With the strategy in place, and operations aligned thereto, we trust that we will all play our part to ensure that the NPA succeeds.

As the Strategy and Operations Management team, we pledge our ongoing support in ensuring the successful implementation of strategy by all business units. If we all pull together as one team, we are bound to succeed and excel.

Let us all make the contribution expected of us as the NPA to ensure that people do and feel safe in South Africa.

I WILL BE FAIR BOTH WAYS – PROMISES ADV MAHLATI

Malherbe Marais

The DPP for Port Elizabeth and Grahamstown, Adv Lungi Mahlati SC, has made a mark in the fight against women abuse.

He did the opposite recently, when Vanessa Walters from East London took advantage and lodged false charges of rape against two men. Adv Mahlati did not hesitate to challenge the decision of the Regional Court where both men were charged with rape.

This began when Ms Walters claimed that she was raped when accompanying the two men from a tavern at night en route to another local tavern.

She explained in her affidavit that the first accused raped her whilst the second was holding her down.

The accused were later charged with rape in the Regional Court. Both faced minimum sentences. However, during the trial, Ms Walters admitted that she was never raped and had laid false charges. Both accused were discharged.

Adv Mahlati immediately instructed that Walters be prosecuted for attempting to defeat the ends of justice, alternatively for perjury.

He also charged her in the Regional Court and she was convicted and sentenced to eight years imprisonment, five suspended, on a charge of attempting to defeat the ends of justice.



Adv Lungi Mahlati

COMMENTARY FROM ADV MAHLATI

I strongly feel that the Minimum Sentences Legislation Act is a powerful deterrent. If abused, the system runs the risk of being discredited. We should be swift to send out the message that abuse of the system by the very ones we strive to protect, will not be taken lightly.

NPA EVENTS

UKZN LAW PROFESSIONS DAY

Natasha Ramkisson

In March 2011 the NPA participated in the annual Law Professions Day hosted by the University of KwaZulu Natal (UKZN). The event, which was held at both the University's Durban and Pietermaritzburg campuses attracted various law firms from KwaZulu Natal and other provinces to discuss various opportunities they offer to outstanding law students, such as vacation work and serving of articles.

The NPA's main focus was on showcasing the Aspirant Prosecutor Programme, which generated a lot of interest among many law students. We have found over the years that a growing number of

students are taking an interest in the NPA as a prospective employer as opposed to private law firms. Some students even said that they often visit the NPA website to learn more about the work that we do.

The Law Professions Day has been running for five years and attendance by interested students has been growing. The event has also experienced increased participation by firms and government departments.

Robynne Louw, the event organiser from the UKZN Law Clinic is proud of the fact that the NPA has been part of this event over the past four years. He said, "The NPA is a very valuable partner in this event. From what we have seen it is clear that more and more students are showing a great interest in the organisation due to

the wealth of information provided by the Authority".

Mr Louw said the NPA has really succeeded in showing the students that they do not all have to be "lawyers" in law firms and that there is more scope for people with LLB degrees. He said he wanted to see the partnership continuing for many years to come.



Enthusiastic law students wanting to know more about opportunities offered by the NPA.

Natasha Ramkisson is the Regional Communications Manager for DPP KZN

ANOTHER THUTHUZELA CARE CENTRE FOR GAUTENG

Charlene Labuschagne

On 29 March 2011, another Thuthuzela Care Centre (TCC) was launched in Gauteng at Vereeniging's Kopanong Hospital. The official opening was done by the Minister of Women, Children and Persons with Disabilities, Mrs Lulama Xingwana, who said the launch marked a historic moment in history for children and women as the country was also remembering the sixty nine precious lives which were lost on 21 March 1960 in Sharpeville, making Vereeniging the cradle for women and children's rights. The launch formed part of the national human rights celebrations.

The Minister stressed that women and children in South Africa remained vulnerable to all kinds of abuse, including rape.

She said that the establishment of rape crisis centres formed part of a strategy to support vulnerable women and children

in society, as they provided one-stop facilities for rape victims. She said TCCs were established to reduce secondary trauma for rape victims, improve conviction rates and reduce the cycle of time for finalising rape cases. The Minister also expressed her gratitude for the assistance received from USAID.

Mr Jeff Borns, the Mission Director for USAID, said his organisation would continue supporting this noble project by assisting in the establishment of yet another seven Thuthuzela Care Centres. He mentioned that USAID had been supporting the fight against gender based violence for fifty years.

Mr Borns said USAID was currently supporting the Sexual Offences and Community Affairs (SOCA) Unit to upgrade and expand a network of TCCs for survivors of rape and sexual violence.

They aim to have refurbished six existing TCCs and established and handed over 23 new TCCs by the end of 2012, at the cost of approximately US\$14.5 million.

Adv Thoko Majokweni, the Head of the SOCA Unit, stressed that the TCC concept involved many partners, each playing a vital role. She thanked all the partners that are so willing to assist with de-victimizing the society and supporting the inter-sectorial efforts to achieve their ultimate goal of providing support for the most vulnerable members of society.



Minister Lulu Xingwana and Mr Jeff Borns

Charlene Labuschagne is the Regional Communications Manager for DPP South Gauteng

THE HAMMANSKRAAL IMBIZO - MEN AND BOYS TAKING THE LEAD AGAINST DOMESTIC VIOLENCE

Sibongile Mogale

The Ndabezitha Programme is an initiative led by the SOCA unit on behalf of the NPA, in partnership with the Department of Justice and Constitutional Development, National House of Traditional Leaders and Malibongwe Women's Development Organisation. The aim of this programme is to reach out to rural communities which are still under traditional leadership to educate them about various issues related to domestic violence, in the form of imbizos.

On 12 April 2011, it was taken to a village called Majaneng outside Hammanskraal (north of Pretoria), with the theme: "Men and boys taking the lead against domestic violence". It was held at Majaneng, Hammanskraal on the 12 April 2011. It was a well attended event which saw community members coming in large numbers. Also in attendance was the Chief of Majaneng Village, Kgosi Kekana, accompanied by Kgosi Kgolo Lekonoto from the Free State and Kgosi Seatlholo from the North West, who represented the National House of Traditional Leaders.

Mr Alex Kekana, who welcomed all the attendees, dignitaries and community members on behalf of the Chief, said the people of Majaneng appreciated government's efforts to include rural communities and their traditional leadership in initiatives such as Ndabezitha. He said: "Tradition has been here, and it is going nowhere. Political parties will come and go, but traditional leadership will always remain". Hence it was very important for government to also keep rural communities in the loop.

Ms Pumeza Mafani, the National Co-ordinator for TCCs, took some time to explain what the purpose of the event was, namely:

- To educate communities on the effects of domestic violence;

- To close the gap that exists between urban and rural communities;
- To empower rural men and boys on domestic violence and its laws;
- To engage men and boys in developing strategies to combat and prevent domestic violence; and
- To empower rural women and girls on issues of domestic violence and legal intervention.

Adding to Ms Mafani's statement, Adv Joey Mabote, the Section Head for Domestic Violence, SOCA Unit, explained that the NPA was working together with its partners to educate traditional leaders about how to tackle domestic violence issues when approached by their communities seeking advice. She further explained that traditional leaders had the power to apply for a Protection Order on behalf of their affected community members.

Kgosi Seatlholo told the attendees that she was worried that since this Domestic Violence Act came into existence in 1998, the behaviour of women towards their partners was becoming worse. She also advised parents to be careful not to shout in front of their children, because the vulgar words used in front of them had a negative effect. Kgosi Seatlholo

also urged boys to be protectors of their families, particularly their mothers and sisters.

Speaking to all the boys and men, Rabbuh Raletsemo, Programme Manager from SOCA, urged them to prevent the abuse of women and children by reporting all cases of abuse and never keep silent. He also urged them to be responsible and take the lead against women and children abuse.

Mr Raletsemo advised them that there were a number of channels that people could use to report abuse, such as forums, churches, and NGOs. He said that programmes were also in place to assist abusers to get help.

After all the speeches were made, people were given opportunities to ask questions which were answered professionally by Adv Mabote and the team. It was quite amazing to see men and women from rural areas talking openly about domestic violence and bedroom issues. With this kind of openness and attitude, as well as the efforts of organisations such as the NPA, hopefully South Africa will soon see a significant decline in domestic violence.

However, the NPA and the government in general will continue forging partnerships with communities in order to resolve issues such as domestic violence, because it is not only the responsibility of government.



Local community members performing drama on domestic violence to re-enforce the message

Sibongile Mogale is the Assistant Director: Communications



LUNGI'S LAND IS NOT A HAPPY GROUND FOR RAPISTS!

Malherbe Marais

Two youngsters, aged 16 and 18, found themselves on the wrong side of Adv Lungi Mahlati SC, the DPP for Port Elizabeth and Grahamstown, when they broke into a bungalow at Addo and raped a 15 year old German tourist, by the pseudo-name Grete.

She was a virgin and they each raped her twice. While taking turns, one would rape her with his partner holding a knife at the throat of her 14 year old male cousin. Afterwards the culprits stole all the valuables and locked up the petrified and traumatised children in their own bungalow.

The South African tourist industry was up in arms. They lose millions annually because of the negative publicity following serious violent crime on tourists. The tourist industry is the world's largest job provider. Locally, it employs some 920,000 individuals countrywide. In terms of global tourism South Africa ranks 26th. The estimated contribution of tourism towards the South African GDP is a massive R190 billion. We are the second largest tourist destination in Africa, with almost 10 million visitors annually (Egypt boasts 11 million).

Lungi appointed one of his "Oumanne" to prepare the case over the weekend. Both accused were arrested and appeared in Addo in November last year on a Friday. The following Monday the papers and indictment were served upon them for trial in the High Court of Grahamstown. In the mean time, the Forensic Science LAB in Cape Town agreed to give the case priority and analysed matching DNA within days.

To say that Grete's father was not happy, would be to flirt with the truth. Grete was traumatised both physically and emotionally. Her dad would under no circumstances allow her to return to South Africa to testify. Like any father, his only concern was the well being of his child. Moreover, both Grete and her dad spoke German. The German embassy appealed to us to respect their wishes that the proceeding should be conducted in German. That is when the "1st Ouman", bailed out and called for reinforcements. He appealed to Lungi that someone who is fluent in German, should take over. Lungi agreed and appointed a "Bull Goose", Johan Bezuidenhout, to do the case.

We all know what happens if Johan takes charge: accused and their counsel begin to stress, yes, but, in addition, things happen and they happen fast. Within less than three months after their arrest, both accused were tried in the High Court of Grahamstown. The 16 year old got 16 years (following a plea and sentence agreement). His partner in crime chose to put up a fight and was less fortunate. He too was convicted on all charges. In aggravation of sentence, Johan led the evidence of a respected board member of the Eastern Cape Parks and Tourism Agency. The 18 year old was given life for the rape (plus 19 years for good measure on charges of robbery and housebreaking).

The story does not end here: how did Johan and Lungi get Grete to testify? She spoke from Germany and she was clearly audible and visible. Johan brought an application in terms of section 158(2) of the Code to lead her evidence by way of a closed circuit television link. In terms of section 169 of the said Act, he brought a second application to have the proceedings adjourned to a suitable venue at Rhodes University. Both applications were granted and the laborious, painstaking arrangements worked like a charm. Grete testified via a direct link from Wiesbaden in Germany. She spoke in German and Johan had a German interpreter in court.

The savings in terms of costs were enormous. And now for the cherry on the cake: Grete and her father developed a wonderful relationship of trust with Johan. They were impressed with the way he handled the case and the swift and effective dispensation of Justice in our country. Whereas they previously vowed never to set foot in our country again, they are now planning their next visit to South Africa during the Summer season and invited Johan to be their guest. Reliable sources have it that he plans to introduce them to red wine and Kenton on Sea, where he has been living for the past 30 years and plans on living for the next 30 (Deo Volente).

Well done, Johan and Lungi, apart from Grete and her family, the Tourism Board was suitably impressed and has already called for a copy of the judgment on sentence.

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Send your news and letters to
Khasho@npa.gov.za

OR

fax your stories and information to

012 843 2120

