

# KHASHO

SEPT/OCT 2011



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**Belgian  
Fraudster  
to be  
Extradited**

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**Security  
& Risk**  
matters under  
the spotlight

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**Employee  
Wellness  
Programme  
Rolled Out**

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**Wheels  
of Justice  
Turning Full  
Circle for  
Fraudsters**

ENSURING PROSECUTIONS WITHOUT FEAR, FAVOUR OR PREJUDICE



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## LETTER FROM THE MANAGING EDITOR

Once again, this edition of Khasho is packed with fascinating articles about NPA events, news, and organisational performance. The challenge though is to strike a balance between articles that showcase prosecutorial successes and those that are about corporate services. Our intention is to reflect on various facets of this organisation and to keep you informed about the entire organisation. That is why we never tire of receiving inputs from you; we are here to serve you.

In this issue we share with you our first Environmental Crimes Test Case in the Western Cape. By showcasing this article we seek to educate our readers that environmental crimes are not limited to rhino poaching but also other crimes that degrade and destroy the natural resources that many local communities rely on for their survival. We take our hats off to the prosecutor who brought home a conviction on this case.

We also bring you a case that involves extradition. We hope that this case will send a strong message to fraudsters out there that South Africa is not a safe haven for criminals.

We also enlighten you with the deliberations and resolutions that were taken at the Asset Forfeiture Unit (AFU)'s Legal Indaba that took place on the 27 - 29 September.

As part of our internal education initiative, we feature an article about Security and Risk Management. This article seeks to educate us about the



Bulelwa Makeke  
Executive Manager: Communications

roles and responsibilities of this unit. We hope that you will find it useful.

Employee wellness programmes are today becoming a mainstay among organisations. The universal objective of these programmes is to nurture wellness amongst employees by making the work space a more inviting and relaxing environment. Our employee wellness team is rolling out the sports and recreation programme in all the DPP offices. The launch has already taken place in Pretoria, VGM and in Bloemfontein. Turn to the events page in this edition and learn more about the benefits of sports and recreation in our organisation.

Please read our articles and stay informed.

*Bulelwa Makeke is the Executive Manager: Communications*

### THE NPA HOTLINE

# 0800 212 580

BUILDING A CULTURE OF REPORTING UNETHICAL AND UNLAWFUL PRACTICES, PROMOTING AND ENABLING WHISTLE-BLOWING.

## FROM THE DESK OF THE CEO



As we approach the end of the year, I would like to thank all staff members for the dedication, energy and commitment they displayed during the year. It is through your individual and collective efforts that the organisation has managed to make inroads in certain areas. I am mindful of the complexity of the environment in which we operate and the efforts required to manage the results in key performance areas. I am particularly thankful to Corporate Services staff members for the progress made in making support services more effective and efficient. The most noteworthy is the progress made in addressing audit findings and maintaining the wins made in the last financial year. On the same note I also want to recognise the support we have received from all staff members on the prosecutions' side of the business – it is indeed through the efforts of people of your calibre that the NPA will continue to be a respected prosecuting authority.

I am also encouraged to see that line managers are also starting to take labour relations matters very seriously, by trying to instil and re-enforce the culture of discipline within the organisation. As a result, more cases of misconduct and unethical behaviour are reported and dealt with. In this manner the organisation is able to take pro-active measures to correct behaviour. What particularly concerns me is an increase in reported cases of fraud and corruption, but we are dealing with these cases with the appropriate severity. I want to urge everyone to comply with all policies and procedures of the organisation and of course, to refrain from participating in criminal acts. It is not an option. In fact, it should become a way of life, an integral part of how we conduct our business in the NPA.

This year we have really made an effort to improve communication and relations with the regions. I have held meetings with most of the regional managers on how we can improve service delivery to the regions, and the feedback and suggestions I have received have been very fruitful. By the end of the financial year I would have visited all the regions as part of the drive to reach out to them as well.

As far as governance issues are concerned, an Audit Action Plan has been developed by the organisation to address matters of emphasis that were identified by the Auditor-General. Progress is being monitored very closely on a continuous basis. So far, I am pleased with the milestones that have been achieved, and I urge everyone in the organisation to continue making their valuable contributions. I also want to remind you of the new Delegations of Authority



Karen van Rensburg  
Acting CEO

which were communicated to you on 17 November 2011 via Document Management. I encourage you to peruse the document and familiarise yourself with the contents thereof.

I recently had the pleasure of attending the Free State annual awards ceremony. I was impressed to see NPA employees that, despite the environment in which they operate, and others despite personal constraints, are excelling. I am convinced of the positive impact of the Aspirant Prosecutor Programme in the NPA and most of all, the role of good managers in a successful province. I want to extend my gratitude to all the NPA employees that are putting their heads down and getting the job done. Know that your work is not going unnoticed. You are valued and appreciated even if we fail to say this as much as we should.

Finally, I know that most of you will be taking leave in December and that things will slow down in the organisation in the next month. Let me take this opportunity to wish you a peaceful and joyous festive season and I hope that you'll come back refreshed and energised in 2012. As you all know, the roads usually become extremely busy during this time of the year, and I therefore urge you to be vigilant, for your safety and that of your loved ones. As members of a law enforcement agency, let us be exemplary to all people by consistently obeying all the traffic regulations and laws of this country. Please take time to appreciate the ones that support and love you.

Thank you all!



# A MAN CONFESSES TO THE MURDER OF HIS PARTNER

Eric Ntabazalila

Advocate Lenro Badenhorst proved that Lauwaren van der Ross was a liar and a murderer who planned his partner's murder. He successfully applied for the evidence of the deceased's friends to be admitted as the hearsay evidence in the main trial in terms of Section 3(1) of Act 45 of 1988. As a result of this application and the admission of the hearsay evidence by the court, Van der Ross was sentenced to life imprisonment for the murder of Jenine Zyrilde Amyns and for obstruction of justice.

Van der Ross and Amyns met four years ago and were blessed with a three year old daughter Yinisha Warnique Amyns. In June 2010, the Beaufort West couple started experiencing problems in their relationship after Van der Ross discovered he was HIV positive. He discovered his status after he was arrested for assaulting Amyns. They also learnt that Amyns was pregnant with their second child. Van der Ross accused Amyns of infecting him with HIV/AIDS and told her that the child she was carrying was not his.

On 26 July 2010, Amyns returned from work at around 11pm and they started arguing. The argument progressed to the point where they had a physical fight. Van der Ross told the Beaufort West Magistrate's Court that Amyns scratched his face and threw a mug on his face during the argument.

"I lost my temper and grabbed her by the throat and throttled her until I felt her going limp," he told presiding Western Cape Judge President John Hlophe.

He tried to resuscitate her but realised that she was dead. He did not report the matter to the police but slept in the house with the corpse and their three year old daughter. The next morning he took their daughter to the neighbour who usually

looks after her when they are at work. He told the neighbour that he was on his way to work. He then went to another neighbour to borrow a wheel barrow. He bundled Amyns' limp body into the wheel barrow, covered it with sand and pushed the wheel barrow to a secluded area where he burnt the body. He then went to the police to report Amyns as missing. He told the police that she was picked up by a taxi with a partial registration number '283 EC'. He also informed his friend that Amyns was missing and asked him to accompany him to the deceased's family to enquire about her. He and his friend then took the deceased's picture which they used to show to people at the local hospital while looking for her. They also went to the deceased's work place to look for her.

On 28 July 2010, Van der Ross went to the scene where he burnt the deceased's body and removed the remaining body parts and threw them down an embankment of a nearby excavation site. After being confronted by the police, Van der Ross confessed to the murder and pointed out the scenes to the police.

He told the court that the incident was spur of the moment because he lost his temper. However, the hearsay evidence of Lucinda van Wyk, Janine Bostander, Rachel Maasdorp, Harold George and Ivan George painted a different picture. They told the court that the couple always argued and on the morning of the murder the deceased went to the local court to get an interdict against him as she wanted him out of the house. The evidence also revealed that three weeks before the murder, the deceased took a concoction of tablets in an attempt to commit suicide. It is this evidence which Advocate Badenhorst used to motivate for a maximum sentence of life. The court obliged.



Adv Lenro Badenhorst

## COMMENT BY ADV LENRO BADENHORST

The accused was successfully prosecuted in the Beaufort West Circuit Court on a charge of premeditated murder of his pregnant life partner and a further charge of obstructing the course of justice. The accused admitted that he strangled his wife and that he incinerated her body and filed a false missing persons report at a police station.

His guilty plea on murder based on facts of a spur of the moment killing (*dolus eventualis*) was not accepted and the matter was taken to trial. He alleged that he was provoked by the deceased in that she infected him with HIV and informed him that she was not pregnant with his child. The state successfully applied that hearsay evidence of reports she made to colleagues and a friend prior to her death be admitted in evidence by calling three witnesses. The hearsay evidence showed that the accused had threatened to kill the deceased before the fateful night, probably had known much earlier that she was infected with HIV, that the deceased wanted to evict the accused from their common dwelling, and that the accused had earlier made the allegation that she was not carrying his child and that he would kill her.

The speedy trial, including the sentence procedures, was finalised within three hours and the accused was sentenced to life imprisonment. Pro-active steps were taken to ensure that the mini trial could take place on the date scheduled for the pre-trial.

*Eric Ntabazalila is the Regional Communications Manager for DPP: Western Cape*

# ASSET FORFEITURE UNIT ALL FIRED UP AFTER LEGAL INDABA

Nomilo Mpondo

The Asset Forfeiture Unit (AFU) conducted a Legal Indaba (or training seminar) from 27 to 29 September 2011. The Indaba was attended by all AFU members countrywide. Members from SAPS, our key stakeholder, also attended. The event was also graced by the NDPP, some DPP's, some NPA EXCO members and the Minister of Justice and Constitutional Development (DoJ&CD), Mr Jeff Radebe.

Opening the ceremony, the Minister placed great emphasis on the threat posed by corruption and the NPA's significant role in the fight against crime and corruption, specifically in the context of the multi-agency Anti-Corruption Task Team. The Minister specifically commended the AFU on its good work in the fight against the scourge of crime and corruption plaguing our country.

Reflecting on the history of the AFU, Mr Willie Hofmeyr, Head of the AFU, likened it to a guerrilla unit that had over the years become a bigger army, requiring it to become more rule based and standardised in its operations. Consequently, the AFU became more bureaucratic as it strived to be compliant with the NPA's and Government's governance requirements, he said.

Articulating on the AFU's big cases, he said criminals tend to play the person involved in such cases and not the ball. He therefore made a call to do things meticulously and properly, to ensure consistent work of the highest quality. He pointed to a need to manage institutional knowledge better, including knowledge of legal issues. He invited people to debate and resolve issues in the interest of building a continuously learning organisation.

"The AFU needs to make an even bigger impact and therefore we should increasingly focus on doing higher value cases. There is a lot more work involved in those cases and the seniors will have to focus on complex high value cases, whilst the juniors will cater to larger volumes of smaller cases", he asserted. Further, he said a strategic and operation management role was necessary at Head Office to ensure effective implementation of strategies. This was necessary to ensure that the AFU Head Office would be able to provide the necessary support to the regions, and to ensure the necessary quality control, national coherence and standardisation.

He also highlighted the need to strengthen enforcement capacity, both at Head Office and in the regions. In relation to financial investigators he stressed the importance of finalising the draft standard operating procedures aimed at streamlining and standardising work processes.

With the AFU's current budget allocation of R125 million, it is hoped that all the intended changes would be accommodated. He reassured everyone that the allocated budget will be spent well towards service delivery.



Minister Jeff Radebe opening the Legal Indaba on 27 September 2011 at Birchwood

Closing the Indaba, the NDPP expressed his appreciation for having attended the Legal Indaba. He said he wanted to have firsthand experience of the AFU's work and also to partake in the discussions. He indicated that his duty was to provide the best support for all NPA units, including AFU. He pleaded that we should all encourage each other to develop intellectually and to have confidence in our abilities. In his articulation about big cases, he encouraged AFU to continue with the challenge - by tackling one case at a time and doing it well to ensure maximum impact.

In closing, he congratulated the unit for its sterling work. He encouraged the unit to be a catalyst for change and to influence others to reach for the same heights.

# BELGIAN FRAUDSTER WHO IS A FUGITIVE FROM THE LAW WILL BE EXTRADITED AFTER SPENDING EIGHT YEARS IN A SOUTH AFRICAN JAIL

Eric Ntabazalila

**H**e committed fraud in his native country, Belgium, and was convicted and sentenced to four years direct imprisonment. After successfully appealing his conviction and sentence, he fled Belgium for South Africa in 2002.

When he arrived in South Africa, he took up where he left off in his native country and continued with his fraudulent activities. He was arrested, and State Advocate Wimpie Els made sure that he paid for his criminal activities by successfully prosecuting and securing his conviction.

Now the 54 year old Belgian citizen, Paul Feyen, will spend eight years in prison and once he has finished his sentence in South Africa, he will be extradited to Belgium to serve his outstanding four year sentence. Besides the eight year imprisonment imposed on him, Feyen will also pay the South African Revenue Services (SARS) more than R2m. This money was realised from the sale of all assets he possessed.

Advocate Els said: "It is once again clear that South African criminal courts are taking a strong stance against white collar crimes and following principles laid down by our Highest Court of Appeal in cases such as the State vs Blank and the State vs Sadler, where tough custodial sentences for white collar crimes were imposed and confirmed.

"The message that we want to send to criminals, irrespective of whether they are South African or foreign citizens, is that should they defraud or steal from SARS, they will get caught, prosecuted, convicted and sent to prison for a considerable period of time".

Feyen was a smart fraudster but like they say, there is no such thing as a perfect crime. When he arrived in South Africa, he bought two properties in Somerset West and Botrivier. He then acquired six close corporations which he used as vehicles to commit fraud. He



Adv Wimpie Els

submitted fraudulent VAT claims and claimed VAT refunds from SARS. He perpetrated the crimes by creating false and fictitious transactions and invoices which were used to support the claims that were submitted. He continued with these fraudulent activities for more than four years resulting in a loss of R3,19m. A further R368m was cited as potential prejudice as these amounts were claimed fraudulently but not paid to the accused for various reasons.

He was arrested in 2008. After his arrest, Advocate Els successfully opposed his bail attempts on the basis that he was a flight risk. On 26 July 2011, the Blue Downs Regional Court found Feyen guilty of 79 counts involving fraud, Income Tax and VAT statutory offences.

These included:

- 54 counts of fraud;
- 17 counts of failing to keep books as required by the VAT Act;
- 10 counts of failing to submit Income Tax Returns ; and
- 10 counts of failing to submit VAT Returns and pay over VAT levies.

His six close corporations were fined R160 000, suspended for five years on condition that the accused was not convicted of fraud, failing to keep books as required by the VAT Act, failing to submit Income Tax Returns and failing to submit Vat Returns and pay over VAT levies.

## COMMENTARY BY ADV WIMPIE ELS

The accused, Paul Feyen, who fled from his country of origin, Belgium, in order to escape serving a sentence on a conviction of fraud, was arrested after most of the tax offenses committed in South Africa had been investigated.

It quickly turned out to be a case in which the accused would manipulate and abuse the right to legal representation by employing multiple sets of lawyers who came up with one pre-trial application after the other. It is well understood why in the State versus King, it is strongly discouraged to tolerate unnecessary pre-trial applications as in this matter more time and effort went into the preparation.

*Eric Ntabazalila is the Regional Communications Manager for DPP: Western Cape*



# SECURITY AND RISK MANAGEMENT, AN IMPORTANT PART OF OUR BUSINESS

Tebogo Seate

**K**hasho spoke to Mr Tshilidzi Ramahana, the Executive Manager for Security and Risk Management (S&RM), to find out what value they add to the work of the NPA.

## Why was S&RM established within the NPA?

This Unit was established to enable the NPA to comply with the Minimum Information Security Standards (MISS) and the Minimum Physical Security Standards (MPSS), both approved by Cabinet. The Unit came into existence in 2001 with only one person based at the VGM. Today, the Unit has grown to a staff complement of 39 people, with a presence in six provinces, namely: Northern Cape, Eastern Cape, Western Cape, North West, Kwa-Zulu Natal and Gauteng.

## What are the roles and responsibilities of S&RM?

Our key role is to manage the total security function of the organisation, which entails security of employees, NPA assets as well as visitors to our buildings. We also conduct vetting on employees to determine their level of security competencies in dealing with sensitive information.

The security of our Information Technology and Communication (ICT) infrastructure also falls under S&RM, including the security of all key documents, such as personnel records, and prosecutions-related documents.

Thirdly, we need to develop a Business Continuity Plan. This is an emergency plan, which will enable the NPA to conduct its normal business in case of a disaster, for example, if the VGM building should be completely destroyed by fire, we should find an alternative way of continuing with business as usual.

We also provide protective security services to the organisation. We facilitate the provision of close protection services to threatened NPA employees, for example, prosecutors who receive threats when dealing with high profile cases.

Finally, the Unit is also responsible for enhancing compliance with Occupational

Health and Safety Regulations (OHSA).

## What challenges is S&RM currently facing?

Like any other Unit, we also have our own challenges. The most important one pertains to the improvement of security systems to building facilities which the NPA is leasing. These are a problematic area because we can't fully and efficiently roll-out our security systems at these facilities because of the terms and conditions of lease agreements, as well as the building structures which are not adequate to provide more security systems.

We also haven't rolled out our security programmes on a full scale because we are still at the stage of putting together the compliance framework as outlined in MISS and MPSS. For example, we still need to develop Business Continuity Plans for the entire NPA.

Another challenge is that employees do not report incidents of security breaches so that weaknesses could be identified and reported to external security agencies. These incidents include:

- Loss of laptops which might contain sensitive information;
- Theft by employees or other external parties;
- Leakage of sensitive information to hostile parties or to the opposition; and
- Entry of suspicious intruders into NPA buildings.

We therefore request staff members to report all incidents of security breaches to S&RM officials, no matter how unimportant or small they might be.

## Are there any achievements that the Unit has made so far?

Despite the above challenges, yes, there are achievements that the Unit has made. Most importantly, we have developed internal security policies and directives and related issues for the NPA, and put sufficient capacity in place.



Mr Tshilidzi Ramahana

Furthermore, we have extended the function of security and risk management to six provinces, and plans are in place to also extend it to the remaining provinces. All NPA offices around the country have dedicated physical security guarding services. We also pride ourselves in having managed to minimise the risk of life threats to our prosecutors, who sometimes deal with highly sensitive and high-profile cases.

## What are your plans for the immediate future?

We plan to roll-out the NPA's security programmes throughout the country. The Business Continuity Plans of all the regions must also be finalised as soon as possible. In fact, this is a matter of urgency for the organisation. We are also working hard to ensure that NPA employees are vetted and obtain the necessary security clearances, especially for employees on higher positions and those who deal with sensitive information.

## Do you have any message to staff?

My plea to all employees is: please take security very seriously and make it your responsibility. Everyone must ensure that the environment in which they work is secure.

# CELEBRATING HERITAGE

Nomilo Mpondo

It is no coincidence that the building the NPA occupies is named after two martyrs of our freedom, a son and a daughter of this soil who were united in life and separated by death in the hands of unscrupulous enemies of the time. The sculptured faces of Victoria Mxenge (wife) and Griffiths Mxenge (husband) erected at the entrance of the VGM building should serve as an everyday reminder to all of us in the NPA to uphold the legacy of all fallen heroes and heroines of the liberation struggle in South Africa for which they died.

On 23 September the NPA Head Office held its Heritage Day celebration under this year's theme: Celebrating the heroes and heroines of the liberation struggle in South Africa". This theme is aimed at branding South Africa as one of the greatest theatres of struggle, pain, victory and mostly reconciliation and nation-building.

Paying tribute to SA's fallen heroes and heroines of the struggle, Acting CEO Adv Karen Van Rensburg said this theme allowed the NPA not only to celebrate its employees' cultural differences and the lasting legacy of the national liberation struggle for a just society, but also to reflect on the common culture the NPA employees share and what the people of the NPA would want its heritage to be, going forward.

Drawing parallels between the rich legacy left by the martyrs of freedom and the constitutional duty of the NPA, she said embracing NPA values would be a good step in the right direction for us to achieve the vision of a crime free society. The envisioned crime free society would

then be the NPA's heritage for future generations.

She would not have done justice to her speech if she did not emphasise on the universal value of the NPA - integrity. She cautioned that integrity was not just an abstract concept but can be interpreted in practical terms.

The guest speaker, Mr Asaph Chuene from the Department of Public Service and

Administration, delivering a passionate rendition said heritage day was a day to celebrate defeat, dedication, conviction, selflessness and uprightness upon values of humanity. He asserted: "Whether we are conscious or unconscious, everyday as we come to work and serve in our various positions, we are actively creating heritage. It is up to you now, to ensure that your heritage for posterity will be the one that is worthy of being celebrated and cherished".

Mr Prince Mokotedi, Senior Manager: Integrity Management Unit (IMU) concluded the speeches of the day. Central to his speech was a feeling of melancholy caused by the dissipation of humanity. He said that humanity should be cherished at all times and that it should always underpin organisational values for them to be sustainable. One element of humanity was the respect for social space which should be afforded to people enabling flow of creative juices, he quipped. Reiterating the Acting CEO's words, he alluded that we all share one organisational culture which is the NPA values, which we must uphold at all times.



From left: Sasha Grigor, Sonja Grigor and Maritza Grigor-Brisley showcasing different traditional outfits

The NPA heritage celebration turned out to be a very colourful event that was embraced across the spectrum. Employees were encouraged to celebrate their cultural heritage and the diversity of their beliefs and traditions, in the wider context of a nation that belongs to all its people. They indeed responded to the call by adorning different and colourful traditional gears that symbolised their diverse heritage.



# OLD AGE HOME GETS STOLEN MONEY BACK

Phaladi Shuping

The wheels of justice turned full circle on 25 July 2011 when AFU in Kimberley handed a cheque of more than half-a-million rand to the Andalusia Old Age Home after a former employee defrauded the home more than seven years ago.

Sakkie Koekemoer was found guilty on 78 charges of fraud committed between 2004 and 2007 while he was employed at the home. He was accused of defrauding the home of R544 925. Counts 1 to 76 were taken together for the purpose of sentencing and the accused was to undergo correctional supervision for three years in terms of Section 276 (1) (h) of the Criminal Procedure Act. For counts 77 and 78 he was sentenced to four years in prison, suspended for a period of five years on condition that he was not found guilty of a similar offence.

Koekemoer entered into a plea bargain with the State and promised to reimburse the old age home by the end of November 2010. He failed to do this, and the AFU

applied for a confiscation order against his assets. After receiving the referral, the AFU conducted a financial investigation and established that the accused had a property registered in his name which he acquired prior to committing these offences. The accused used the fraud proceeds to purchase other items. The AFU applied and used the restraining process to freeze the property as a security to pay the fraud benefit even though there was no link between the benefit and the property.

A curator was appointed to take care of the property. Upon conviction, the accused agreed to the sale of the property and such an agreement was recorded in a form of a confiscation order in the plea agreement.

In terms of the agreement between the State and the accused, only the capital amount of R544 925 had to be paid back to the home. The curator arranged an auction and conveyancers to transfer the property to the new owner who paid the money which was then given to the old age home.

Koekemoer's property, which was situated in Hartswater was sold for R650 000 at a public auction. Additional funds were used to pay the curator and all other administrative costs.

On handing over the cheque, the Regional Head of AFU, Advocate Chris Ndzengu, stated that this should send a message to would-be fraudsters that the law would not turn a blind eye to fraudsters who targeted the aged or anyone else, and would also demonstrate that fraud, like any other criminal activity does not pay.

"The law will, in addition, ensure that fraudsters are convicted and effectively punished. The return of the money to the rightful owner fits well with the principle of restorative justice. Law enforcement agencies must work together in this regard to redeem the confidence the public ought to have in the criminal justice system", he said.

*Phaladi Shuping is the Regional Communications Manager for DPP: Northern Cape*

# MURDER SUSPECTS SENTENCED TO 269 YEARS

Frank Lesenyego

Two of the five suspects accused of the brutal murder of five family members at Lethabong Village outside Rustenburg just before Christmas in 2009, were convicted and given five life sentences by the North West High Court on 28 September 2011.

The sentence followed long court proceedings that were interrupted by the escape from lawful police custody of two main suspects. About 27 state witnesses were led within a period of three days and the case was finalised on the sixth day. The decision by the presiding Judge, Justice Gura at Mogwase Circuit Court (North West High Court) indicated that the judgement will serve as a deterrent to anyone who may still think of committing such an awful deed.

The accused, Goodboy Mzandile Mabazo, (34) and Sibongile Mabazo (27), were each given five life sentences for the murder of Mirriam Khoza and

four family members, 15 years for house robbery, three years for illegal possession of firearms and two years for illegal possession of ammunition. Sibongile was also linked by fingerprints to the housebreaking with intent to steal and theft, which was also committed at the house of the deceased business woman on 14 October 2009. He was convicted and sentenced to six years imprisonment. Three other suspects and a minor were acquitted after it was found that there was no sufficient evidence linking them to the crime. The bodies of the five family members, 45-year-old business woman, her three children, and her 41 year-old old brother-in-law, were found in their house on Christmas day, after they were brutally murdered on the Christmas Eve of 2009, in what was believed to be a robbery at the business woman's house.

The shocking discovery was made by a neighbour who visited and found the gates open. He informed the deceased's



Adv Ditaba Rantsane

*Continued on page 13*

# NPA IN THE WESTERN CAPE WINS ITS FIRST TEST CASE IN ENVIRONMENTAL MATTERS

Eric Ntabazalila

A dispute over the over-flowing of the Swartvlei wetlands resulting in the flooding of the residential area in the scenic coastal town of Sedgefield has pitted the residents against the Wilderness National Park and SANParks. Although various organisations like the 'Friends of Swartvlei' (FOS), the Sedgefield Action Group (SAG) and the Sedgefield Flood Action Committee (SFAC) had concerns about the flooding and ideas on how to solve it, they never took action to correct what they believed needed to be done to avoid flooding.

Only Richard Batson went ahead and dug a trench to increase the flow of the water between the lake and the estuary. Batson, a 75 year old retired civil engineer and a resident of Sedgefield was approached by SFAC to assist with plans to promote the health of the Swartvlei wetlands, attempt to control the flow of the water during floods and prevent or minimise the impact of floods on residential areas. SFAC believed:

- The natural state of the Swartvlei estuary is a permanently open estuary;
- The construction in 1928 of the railway bridge and the embankment across the estuary together with the over extraction of fresh water from the rivers feeding the estuary, have had major negative effects on the hydrology of the wetland and especially tidal flows throughout the estuary;
- Until the bridge and embankment are removed and the over extraction of fresh water is mitigated, it is necessary, amongst other measures, to artificially maintain open mouth conditions in the estuary. This will promote the overall condition of the estuary and increased biodiversity, and
- With the bridge and embankment in place, storm waters periodically build up in the lake, eventually overtopping the embankment and causing flooding in residential areas of Sedgefield. The



bridge and embankment should be removed to restore the natural flow between the lake and the estuary and so reduce the risk of flooding.

Batson devised a plan to artificially increase the flow of water between the lake and estuary, inter alia by digging a channel between the two. This was in accordance with his and SFAC's views that the channel would be beneficial to Swartvlei because it would assist their goal of maintaining artificially open mouth conditions in the estuary by raising the water level in the estuary. On 15 May 2009 Batson informed Martin Smith, a Marine Ecologist from SANParks of his plans. Smith informed him that his plans were illegal.

Despite this advice, Batson implemented

his plans on 5 July 2011 by supervising a group of labourers who dug a trench that was 50m long, 1m wide and 50cm deep.

The trench had the following effects:

- It created a new artificial shortcut that had not existed before over the wetland between the two bodies of water;
- It diverted the flow of water from the lake into the new channel and so on to the estuary, in turn entering the estuary at a new point;
- The soil, sand or rock so dredged, excavated, removed or moved exceeded five cubic metres, being approximately 25 cubic metres based on the dimensions of the channel as described above (50m long, 1m wide and 50cm deep);
- Indigenous salt marsh vegetation of more than 10 square metres was



Adv Mmatlhapi Tsheole

removed or damaged; and

- Batson knew his actions were illegal, but had not sought permission nor obtained authority to dig the channel on SANParks managed property that did not belong to him and he sought to impose his own contentious views on SANParks and other law abiding members of the public.

The NPA prosecuted Batson with unlawful water use by impeding or diverting the flow of water in a watercourse or altering the bed, banks, course or characteristics of a water course and commencing with a listed activity without environmental authorisation.

During the trial the accused displayed arrogance and bragged that he understood environmental law better. He fired his legal representative. He even told State Prosecutor, Advocate Mmatlhapi Tsheole that it would take her whole life to understand science. But the State had the last laugh as Batson was found guilty and fined R40 000 or ten months imprisonment suspended for three years. He was ordered to pay R20 000 damages to SANParks Knysna.

### COMMENT BY ADV MMATLHAPI TSHEOLE

The NPA is still considering setting up a Unit in Environmental matters. This was a test case in the Western Cape. Even though Gauteng seemed to have dealt with several environmental matters, this was the first of its kind in the Province.

The accused was a very difficult (in fact arrogant) person. He had been represented at all material times when the matter was enrolled and investigated. He wrote through his legal representatives many representations and challenged the State's charge sheet. I am grateful that he did that as it helped me to tighten the screws and forewarned me of the challenges when preparing for the trial.

On the day of the trial, Mr Batson dismissed the services of his legal representative arguing that he understood environmental laws better than him. He told the court that he

understood the criminal proceedings. He told me that it would take me my whole life to understand science. I noticed that he could read the law but battled to implement it. His interpretations of the law were biased.

Every time the matter was adjourned, he briefed the local media. The State could not comment on the misdirection as that would amount to trial in the media. He was convicted as charged and sentenced. I must commend SANParks employees, especially Dr Randall, Dr Russel, Ms Grootesdorst, Mr Patterson and the Investigating Officer - Deputy Director of the Department of Water and Environmental Affairs, Ms Marie-Louise Lume. The scientists helped me understand the facts and the Investigating Officer helped me implement the Environmental Laws. I brought my experience in prosecution, the Criminal Procedure Act and a lot of listening and I was eager to learn.

Mr Batson told me he would never attempt the law in his life time.

*Eric Ntabazalila is the Regional Communications Manager for DPP: Western Cape*



# FOUR MEN SENTENCED TO TWO LIFE TERMS AND 105 YEARS FOR MURDER AND TORTURE

Eric Ntabazalila

A fair sentence does not only mean to be merciful towards the accused but also recognises the negative impact the crime had on the victim and his family members, Western Cape High Court Acting Judge Joey Moses said this as he sentenced four Hermanus men to two life sentences and 105 years imprisonment.

The four men - Xolani Ndumo, Thembaletu Khameni, Mawanda Mabenu and Vuyisani Mfundeni - were charged and convicted of murder, robbery with aggravating circumstances and unlawful possession of a firearm and ammunition. They were charged and convicted of shooting and torturing Hermanus businessman Hannes Kleynhans, torturing his wife Jean, the gardener and the domestic worker for four hours during a brutal robbery that left the husband dead.

The four hour ordeal for the Kleynhans, their gardener and the domestic worker started at about 5am on the morning of 24 April 2009 when Ndumo, Khameni, Mabenu and Mfundeni of Zwelihle Township, Hermanus, met to plan the robbery of Kleynhans' property. They believed that they would get very rich after robbing the property as they understood the owners to be very rich and that they kept gem stones and money in their property.

When they arrived at Kleynhans' property at around 8am, Ndumo, Khameni and Mfundeni tried to force open the kitchen door but were unsuccessful. They saw the gardener working in the yard and pointed their firearms (9mm pistol and .38 revolver) at him. They grabbed him and dragged him to the kitchen door where they forced him to open the door. After entering the property, they instructed the gardener to take them to the main bedroom upstairs. They tried to open

the main bedroom door gently and noiselessly but found it locked.

While the robbery was in progress, Mabenu had driven back to Zwelihle with the vehicle that brought them to the property. He came back to fetch the robbers.

The three men, Ndumo, Khameni and Mfundeni, were armed with two guns and a knife. Inside the property Ndumo and Mfundeni waited for Kleynhans and his wife Jean to wake up. They asked Khameni to keep guard over the gardener. When Kleynhans opened his main bedroom door, he saw Ndumo and Mfundeni. Mfundeni fired a shot into his groin, grabbed him and dragged him back into the main bedroom. They repeatedly tortured the elderly couple, demanding money while the gardener and the domestic worker were made to lie down on their stomachs and face downwards.

After the long hours of torture, death threats and of searching all the safes in the house, the four men demanded keys to Jean's vehicle as well as the remote control. They then tied Jean's hands and feet with a nightdress in the pantry and locked the gardener and the domestic worker inside a toilet in the main bedroom. They left in Jean's grey Mercedes Benz, taking with them two rifles, R3000, two laptops, a pistol and some semi-precious stones and rings. They dumped the vehicle.

The breakthrough in the case came



Adv Manyenya Sebelebele

when police arrested an unsuspecting Norman Mathengwa who was given stolen jewellery to sell by Ndumo.

After two years of gruelling work which included a state witness who turned hostile towards him, Advocate Manyenya Sebelebele secured a successful conviction and the four men were sentenced to long jail terms. They were sentenced on 19 July 2011 as follows:

- Xolani Ndumo entered into a plea and sentencing agreement and turned a State witness. He was sentenced to 20 years in prison;
- Mawanda Mabenu was convicted of murder and robbery with aggravating circumstances as an accomplice. He was acquitted on the charges of unlawful possession of a firearm and unlawful possession of ammunition. He was sentenced to 20 years for murder and 15 years for robbery with

- aggravating circumstances;
- Thembalethu Khameni was convicted of all counts and was sentenced to life imprisonment for murder, 10 years for unlawful possession of a firearm, 10 years for unlawful possession of ammunition and 15 years for robbery with aggravating circumstances; and
- Vuyisani Mfundeni was convicted of murder and robbery with aggravating circumstances and sentenced to life imprisonment for murder and 15 years for robbery with aggravating circumstances.

In his judgement, Acting Judge Moses said that from their evidence in mitigation, the accused were gainfully employed and therefore their own desire to commit crime was driven by greed rather than poverty.

#### COMMENTARY BY ADV MANYENYA SEBELEBELE

The State relied solely on the evidence of a Section 204 witness, Mawanda Mabenu, and a Section 105A accused, Xolani Ndumo, to implicate the other accused persons in the case. There was no forensic evidence such as fingerprints or DNA. Although Mabenu was cross examined for four days, he stuck to his version that he drove the four men to the crime scene and picked them up later that afternoon. However, the same cannot be said of Ndumo. On the day he was due to testify, he complained of a headache and the matter was remanded to the following day.

The next morning, I consulted with Ndumo before the court started. He told me that he was ready to testify and the headache he had the previous day had faded away. As I was leading his

evidence-in-chief, Ndumo substituted the three accused with people that I had never heard of before. I informed the court that I intended to invoke the provisions of Section 190 of Act 51 of 1977 because it was apparent to everyone that Ndumo was hostile towards me.

The court was however not interested in declaring him a hostile witness and simply excused Ndumo from the witness stand. The accused were eventually found guilty on the strength of the Section 204 witness alone. The court remarked that it found sufficient safeguards to accept the evidence of the Section 204 witness from other independent corroborative evidence such as the evidence of Norman Mathengwa, who was approached by Ndumo to find a buyer for the stolen jewellery.

*Eric Ntabazalila is the Regional Communications Manager for DPP: Western Cape*

## MURDER SUSPECTS SENTENCED TO 269 YEARS

*Continued from page 9*

sister, who in return requested her friend who was a police officer to go and investigate the allegations. He allegedly went to the main door and found that the security gate was locked, after he repeatedly knocked at the door. He eventually looked through the windows of the house and saw the legs of a person.

Shortly after that the sister of the deceased arrived and gave the police permission to break open the garage and went inside the house where they discovered five partially decomposed bodies. Four members of the family, including the 45 year old mother, were allegedly strangled or hanged, whilst the 41 year old brother-in-law was found with a bullet wound from the left to the right ear. Following a tip-off from members of the community, three suspects were arrested in Meriting on 27 December 2009 and the suspected stolen property, such as groceries, jewellery, clothing, cutlery and cash, were also recovered. The deceased's Nissan Navara, which was stolen during the incident, was recovered abandoned just outside Brits. This recovery led to the arrest of two other suspects, who were positively linked to the scene by

preliminary forensic investigations, on the night of 28 December 2009 at Sebokeng in the Vaal Triangle. During the initial arrest at Meriting, the police also seized a 9 mm pistol that was allegedly used during the crime.

The version of Goodboy and Sibongile was to the effect that Sibongile had some business dealings with the deceased

business woman. They went to collect the payment and Goodboy went there as a witness. However, when they got to the deceased's house she indicated her inability to pay and opted to hand over items together with a Nissan Navara as security until she could gather enough funds to pay, the version which was rejected as false by the court during judgement stage.

#### COMMENTARY BY ADV DITABA RANTSANE

This was one of those cases that we do not come across regularly. It was so horrific that even the Judge indicated that in his entire judicial experience he never presided over such a horrific case. I was grateful that at least there were some people who were held responsible for this heinous crime.

The Judge was eager to finalise the matter speedily so he was not taking kindly to request for adjournment. Such attitude by the Judge resulted in me working under a lot of pressure because most of

my witnesses were either expert or not linking their clients directly so even cross examination was either minimal or absent. As a result I would be standing most of the time leading one witness after another.

I learned that each case needs to be approached with the right attitude and its finalisation will leave you with a lifetime lesson. This case taught me that I am ready to take whatever challenge that comes my way. It further made me realise that I have grown as a prosecutor from the position I was the previous year or the year before because I never closed the door to learning.

*Frank Lesenyego is the Regional Communications Manager for DPP: North West*

# ARMED ROBBER GETS 39 YEARS IMPRISONMENT

Tsepo Ndwalaza

On 23 September 2008, a gang of about seven men armed with firearms, attacked and robbed a supermarket that belonged to a person of Bangladesh origin in KwaZakhele, Port Elizabeth, in broad daylight. The cashier, also of Bangladesh origin, was shot in the head by one of the robbers and died on the scene. They fled the scene with goods and cash to the value of R9 000.

A fingerprint was lifted from the money tray inside the cash register behind the counter matching that of the accused. He was subsequently arrested on 23 February 2010. The fingerprint was the only evidence that linked the accused to the crime. Mr Mcoki often went to the shop in order to steal, he would sneak in behind the till area and take the money from the till whilst the owners were busy serving customers. On many occasions on his stealing sprees, before the incident, he would handle the money tray, thus explaining how his fingerprint ended up there.

On 26 April 2011, the accused was charged on counts of murder and robbery with aggravating circumstances in the Port Elizabeth High Court. He pleaded not guilty to all the charges.

The defence argued that his version is possibly true and that he did not partake in the armed robbery, and if the court found him guilty of the armed robbery that the State did not prove that the accused had a common purpose to commit the murder; that because of the evidence he was not the shooter and only the cash tray handler. The defence also argued that the State did not prove that the accused had prior agreement or knowledge of the murder and therefore did not act in concert; also that there was an absence of dolus on the part of the accused.

In presenting its case, the State argued that the accused knew that at least



Adv Andre Canary

three of the attackers were armed with firearms. He must have foreseen that someone might be injured or killed in a confrontation, nevertheless he continued associating himself with the robbery with reckless consequences.

The court rejected the version of the accused and found that the State did prove that the accused acted in common purpose to rob and murder the deceased. During the trial, the accused was sentenced to 15 years imprisonment on a charge of robbery with aggravating circumstances on a separate matter before another court.

The court deviated from the minimum sentence of life imprisonment and gave 14 years imprisonment of which five years is suspended for a period of five years for count one and another 15 years for count two. Effectively, 24 years imprisonment plus 15 years (of the other separate matter) means that Mr Mcoki will serve 39 years in prison.

## COMMENTARY BY ADV ANDRE CANARY

I felt that to get a conviction in Mcoki's case was a great success for the State, because we could only rely on a single fingerprint of the accused found on the inner tray of the cash register. Since the accused admitted fingerprints on the scene his version ought only to be reasonably possible true for an acquittal. I felt that cross-examination of the accused would be key; and focussed a lot on the improbabilities of his version.

Luckily I managed to break down his version and he was subsequently convicted. I felt the sentences of both cases were fair and just. No criticism can be levied against the sentence imposed by the learned judge in Mcoki's case. The next of kin of the deceased in Mcoki's case were satisfied with the sentence.

*Tsepo Ndwalaza is the Regional Communications Manager for DPP: Grahamstown*



# NPA EVENTS

## GLOBAL PARTNERSHIP TO END VIOLENCE AGAINST WOMEN

Nomilo Mpondo

The NPA participated in a four day programme called Sexual Violence Institute which took place from 3 to 6 October 2011 in Cape Town. This global partnership is a collaboration between Vital Voices, the Avon Foundation for Women and the U.S Department of State. It was launched on International Women's Day, 8 March 2010 in Washington DC. Representing the NPA at the launch was Ms Pumeza Mafani. She made a remarkable presentation on the Thuthuzela Care Centre (TCC) model yielding positive feedback from all delegates. Consequently, a decision to hold the next session in South Africa was undertaken where the delegates would have interactive TCC visits to experience best practice in action.

This year's session took a regional focus with 35 multidisciplinary participants coming from the DRC, Liberia and South Africa. The calibre of participants varied from judges, prosecutors, law enforcement officers to NGO service providers and members of the medical fraternity. The NPA was represented by Adv Thoko Majokweni, Adv Bronwyn Pithey and Ms Pumeza Mafani.

The objective of the Institute's multidisciplinary approach was to identify, evaluate and overcome obstacles related to the successful investigation and prosecution of sexual assault cases in these countries. The topics ranged from offender accountability, health consequences, case assessment, cultural context to misinformation

and investigative techniques.

The working session provided an interactive, practical training session and opportunity for collaboration among the professionals across disciplines to develop new strategies for handling sexual violence cases. Sharing experiences, a learning platform was created to arrive at a coordinated community response to sexual violence.

The highlight of the session was a visitation by the delegates to two TCC sites in Cape Town. It was an invaluable experience for the participants to observe the coordinated community response provided by the TCCs in practice. They took time to examine the facilities whilst others engaged TCC counsellors by asking pertinent questions. This humbling experience drew an unequivocal demonstration of interest by the delegates in establishing TCCs in their countries. The session ended with a successful fostering of cross-jurisdictional and multi-disciplinary partnerships amongst delegates.





## TAKING SERVICES TO THE PEOPLE

Natasha Ramkisson

The NPA in KwaZulu Natal ended off this year's Service Delivery Road Shows in Singisi, situated on Durban's south coast. The road show concept is to partner with other government and non-government organisations and take services to people situated in far-lying and impoverished communities. Singisi is one such community.

To make this initiative a success, the NPA partnered with the government's local offices, in Umzimkulu (2 hours away from Singisi). The Senior Public Prosecutor (SPP) in the area set up meetings with the various role players. After much planning the NPA had the buy-in and subsequent participation of the following: Department of Health, Department of Correctional Services, Legal Aid South Africa, Department of Home Affairs, Umzimkulu Municipality, Department of Justice, Traditional leadership and Umzimkulu College of Education.

The Department of Health provided free eye tests as well as blood sugar, blood pressure and cholesterol tests. They also set up mobile clinics which offered gynaecological screening and family planning information; and VCT (Voluntary Counseling and Testing). The Department of Home Affairs assisted community members with ID and birth

certificate applications and queries. Other participants provided information about their services and facilities. The SPP, Mr. Lungisa Madlavu addressed the community about the role of the Prosecutor and how the justice cluster works together.

All stakeholders reported that they were extremely successful in their interventions. Community members were overjoyed to be able to get access to these services in a weekend and within such close proximity to their homes. This just

goes to show the need and appreciation with which the community responds to these road shows. Approximately 600 people attended. Amongst the attendees were two old women of 86 and 94 years of age.

Both the ward Councillor, Mrs. Cira and the Chief, Inkosi Sethuse, shared the same sentiments about the event. They lauded it as a huge success and commended the NPA for such an initiative. They conveyed their gratitude on behalf of their people to have been afforded the opportunity.





## NPA LAUNCHES EMPLOYEE WELLNESS PROGRAMME IN THE FREE STATE

Medupi Simasiku

The DPP Free State held a triumphant sports day in Bloemfontein which simultaneously took place with the provincial launching of the NPA Employee Wellness Programme (EWP). All employees in the province were invited to take part in the whole event. Amongst the activities of the day were soccer and netball games which involved four teams (DPP Office, Welkom, Bloemfontein and Bethlehem Clusters). The Welkom Cluster came out victorious at the end of the day and the DPP Office won the netball game.

During the opening, Adv Du Toit, Acting Free State DPP stressed the significance of keeping fit in order to lessen health risks such as heart attacks. "It is not easy to keep the body healthy based only on what you eat, but you also need to make sure that there is some form of activity that you are involved in to complement what you eat to keep well" he said. The event was also graced by the presence of the Acting Chief Executive Officer, Adv Karen van Rensburg and Ms Phuti Semanya, a representative from the NPA's EWP section.

It was through the EWP section that the day was such a success. Ms Semanya urged all members to utilise the EWP to improve their well being.

Adv Van Rensburg urged all employees to find time for physical activity during their spare time despite their busy life schedules. She said employee physical health and well being was an integral part of a healthy working environment.

Amongst some of the activities of the day, the local Virgin Active Gym was present to promote healthy lifestyle in as far as body toning is concerned. They conducted a one hour session of aerobics for all interested members. The GEMS Medical Aid team was also in the midst to conduct tests ranging from blood pressure, sugar and cholesterol levels to HIV tests. New sports jerseys for Bloemfontein were also revealed. These were for the two provincial teams (Netball and Soccer). These provincial teams were selected during the games and they will partake in other government games/tournaments in the province as and when they arise.

The sports day will be an annual event in the interest of promoting fitness and a good lifestyle.





## PROSECUTOR'S DAY CELEBRATED IN STYLE: DPP SOUTH GAUTENG

Sibongile Mogale

The three pronged celebration took place on 23 September 2011 at Mayfair, Johannesburg. The DPP office celebrated Prosecutors' Day together with Quarter 1 Report Review and the launch of the Sports and Recreation Programme.

To kick start the celebrations, Adv Khanyile, who was acting DPP South Gauteng at the time, gave feedback on the Quarter 1 Report Review.

She announced the establishment of the Anti-Corruption Task Team. She said only 47 corruption cases were not finalised nationally. Giving reasons for this figure, she said suspects occupied very senior positions. She said that presented a challenge in the investigation of those cases which also hindered their completion. She was however happy with the screening protocol followed in dealing with such cases. The screening protocol has been a success and the support received from SAPS has been overwhelming, she said.

She said there were only 4% of drug related cases in the Westrand. This low record was attributed to a programme running in Boksburg that is aimed at fighting drugs. Adv Khanyile said full implementation of such programmes would reduce drug related crimes, ultimately reducing the inmates in correctional facilities.

She urged prosecutors to take responsibility and leadership in dealing with sexual offences cases against children. She recognised the support that they are getting from the Metro Police,

Department of Health, Premier's Office and SAPS.

Adv Khanyile announced the plan to resuscitate the Saturday Courts. She said the management in the DPP office were still discussing it. However, she said only bigger offices like Johannesburg would be given that opportunity. She was hoping that they would start operating on 1 November 2011.

Apart from the excitement of giving the report back on the Quarter 1 Report Review, she said she was however disappointed by the Johannesburg Judiciary for not giving more effort in improving court operations. She said the court backlog has however been reduced from 88% to 28%. She was confident of reaching the set target of 25% by the end of the year.

She expressed her concern about the 383% Specialised Commercial Crimes pending cases; she said they were looking at negotiating an additional court that would specifically deal with these cases.

Launching the Sport and Recreation Programme was Ms Phuthi Semenya from the Employee and Wellness Programme. Explaining the rationale behind the launch, she said the whole idea was to support the wellness

of employees; manage absenteeism and substance and alcohol abuse by employees.

She said during last year's health screening, the results showed that 50% of NPA employees were not physically active, something that got EWP very worried. People who are not physically active develop a lot of sicknesses such as stress, depression and other chronic diseases, she added. She emphasised that the NPA wants employees that are active and energetic for them to be productive. Expressing management's views, she said they understood how stressful and traumatising it can be for prosecutors sometimes, hence this stress management technique.

Concluding, she said the regional offices should develop different sporting codes and compete against one another on their sports and recreation days.



## VICTIMS' RIGHTS WEEK IN KZN

Natasha Ramkisson

To signify 'Victims' Rights Week' in KwaZulu Natal, the Department of Justice and Constitutional Development (DOJ&CD) hosted an event in the Phoenix area. The NPA partnered very closely with them, resulting in a successful event.

Grade 7, 8 and 9 learners from the surrounding areas were bussed in to the Spes - Nova School hall for the informative and fun-filled programme. The Regional Head for DOJ&CD, Ms B Shabalala, welcomed the learners, educators and role players and outlined the purpose of the day.

There were several other partner organisations and departments at the event which included: the South African Human Rights Commission, Nicro, Legal Aid South Africa, Open Door Crisis Centre, Bobby Bear, Khulisa, Department of Social Development, South African Police Service, Childline and SANCA (The South African National Council on Alcoholism and Drug Dependence). These partners set up exhibitions and participated in the programme as well.

Topics affecting youth such as the Victims Charter, teenage pregnancy, alcohol and substance abuse and the dangers of social media networking were discussed. Learners participated in the Q&A session and received prizes for their correct answers and enthusiasm.



Senior State Advocate, Omashani Naidoo (SOCA) with learners who attended the event

NPA officials spoke about a few of the organisation's priorities. Nokwanda Mkhize from the Phoenix Thuthuzela Care Centre (TCC) told the learners about the services available at the TCC. Brian Lushaba talked about the Sexual Offences Act and the special protection offered to children, while Val Melis did an interactive demonstration on how easy it is to become a victim of Human Trafficking. She then went on to give the learners practical information about Human Trafficking.

The organisers of the event were thankful to the stakeholders for their attendance and were impressed by the big turnout from the schools. About 200 learners attended the event. Of these, 40 were learners with special needs. It was indeed a successful event.

*Natasha Ramkisson is the Regional Communications Manager for DPP: KZN*

## PUBLIC EDUCATION PROGRAMMES IN THE EASTERN CAPE

Tsepo Ndwalaza

In September the NPA participated in two public education programmes that were well attended. The first was on 4 September 2011 where the NPA and members of the Criminal Justice Cluster were invited by St Stephen's Church in New Brighton, Port Elizabeth to educate them about the NPA, the role of prosecutors and court processes.

An exhibition stall was set up in the church yard and prosecutors from the High Court, Senior Public Prosecutor, the DPP and officials from the Thuthuzela Care Centre assisted the congregants with their queries. Pamphlets with information on domestic violence, court interdicts, maintenance, understanding the criminal justice system, etc., were also distributed.

The DPP, Adv Lungi Mahlati addressed the congregation and explained the role of the NPA and its mandate and how the NPA fits in the criminal justice system.

It was a very successful effort which was appreciated by the congregants.

On 8 September 2011 the NPA also participated in an event organised by the Provincial Department of Safety and Liaison with Criminal Justice Cluster partners to engage with the community of Thornhill and Ntabethemba in the Chris Hani District Municipality in Queenstown. Once again the DPP was there and shared the stage with other senior members of the criminal justice cluster in educating the community about the criminal justice system and how it works.

A number of issues were raised by community members, such as unavailability of magistrate's offices and the long distances

they have to travel to court. The topic of bail and bail conditions was also of great interest to them and was thoroughly explained. The event was very well attended and the presence of the NPA made a great difference.



*Tsepo Ndwalaza is the Regional Communications Manager for DPP: Grahamstown*





# R90 000 IN 19 DAYS! A GREAT ACHIEVEMENT FOR ALIWAL NORTH PROSECUTORS

Tsepo Ndwalaza

One of the the DPP Grahamstown's Annual Plan prescript is that prosecutors must be sensitised about cases in which restorative justice is the appropriate mechanism. Four prosecutors stationed in Aliwal North have taken this to heart. In the course of 19 court days they successfully recovered over R90 000 in four different cases. Rhona Scheun, the Head Control Prosecutor said "The profile of the NPA has been powerfully boosted and everyone in town is talking about how successful we have been."

In the Annual Plan it is further stated that the challenges with alternatives to punitive justice are that they require a lot of time and patience, running the risk of the prosecutor being blamed should the perpetrator not deliver on the victim's expectations. It is often easier to take a matter to trial and leave it for the court to make a final verdict. However, this is not necessarily the right route to take in the interests of justice; prosecutors must make a paradigm shift towards not regarding every suspect as 'the enemy' or an adversary, but a human being with many good qualities as well.

With this in mind, Ms Scheun identified a case in which a young

licensed driver collided with a South African Police Service (SAPS) vehicle. Her colleague decided to prosecute the youngster. Although this was a correct decision, she noted that there appeared to be contributory negligence on the part of the SAPS driver. She entered into negotiations with the attorney of the accused. The accused was clearly contrite over his negligence and offered to pay the damages to the SAPS vehicle. She then obtained the agreement of the SAPS to the proposed alternative dispute resolution. In the end a formal agreement was drawn up in terms of which the accused paid over R10 000 to the SAPS to cover their damages. Armando Damarah, the Senior Public Prosecutor for the Eastern Queenstown Sub-Cluster, supervised the agreement and hailed it as a textbook example of how successful the Alternative Dispute Resolution Method (ADRM) can be. "It is a time-consuming process but well worth the effort," he said.

In another fraud case, an accused agreed to plead guilty on two counts and to pay back the R40 000 by which he had been



enriched. This led to a case in which another accused pleaded guilty to 97 counts of theft and agreed to pay back R30 000. Most recently, an accused pleaded guilty on a count of arson and agreed to pay R10 000 damage to the shack he had destroyed. In all three cases the complainants were overjoyed that they had been reimbursed.

The Aliwal North prosecutors are buoyed by their successes. "R90 000 in 19 days has a good ring to it," said Ms Scheun, "Our team of prosecutors is determined to achieve this and more."

*Tsepo Ndwalaza is the Regional Communications Manager for DPP: Grahamstown*

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