



JUNE 16: The East London Regional office hosted a soccer tournament in Mdantsane to celebrate National Youth Day. Local soccer teams competed for the “Fairplay” trophy which carries the message of: “Do unto others as you would like them to do unto you”.

Full story on page 8

Highgate massacre revisited

The 1993 Highgate Massacre, in which five people died and seven others were seriously injured has again come under the spotlight.

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Mthatha In focus

This month, Khasho looks at how the Mthatha DPP is overcoming its challenges. It boasts of having no backlog in appeals.

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Farewell from the CEO

A personal note to all staff from outgoing CEO of the NPA and the DSO Marion Sparg.

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Let's choose the values we need to adopt

The process of developing the core values for our organisation is moving full speed ahead.

We are now moving into the exciting stage where we are going to ask you to participate in the process and use your vote to express yourself on what are the values that should guide us as we carry out our work.

Remember that this MyNPA My Values initiative forms part of our 2020 vision to transform this organisation into one that ensures people of this country live in freedom and security.

In order for us to achieve this we are going to have to change a lot including our own behaviour and adopt those values that ensure we give the people of South Africa the best service with high levels of professionalism and our integrity is beyond reproach.

It is very important to me that as the leadership of this organisation, we are listening to you and are visible so that we can converse with you and exchange ideas about how best we serve our country.

We are aware that it is very crucial for us to take care of you and your needs so that you are satisfied and therefore better serve the broader public. And so in the near future, together with some members of senior man-



National Director of Public Prosecutions Adv Vusi Pikoli

"we are going to have to change a lot including our own behaviour and adopt those values that ensure we give the people of South Africa the best service."

agement I'll be visiting our regional offices doing roadshows, so that we are in constant contact with you and hear what your needs are.

One of the things that concern me is that among employees of the NPA there are still many people who do not have a full understanding of what we are all about and there is no sufficient understanding of many of the initiatives we are undertaking.

We are going to be improving our Internal Communication Education systems so that we educate and inform each other about everything that is going on in the organisation.

The goal is to create an NPA ambassador of very employee so that we have within us people who can speak passionately to the broader South African society passionately and carry our message about what our mandate is and explain our vision.

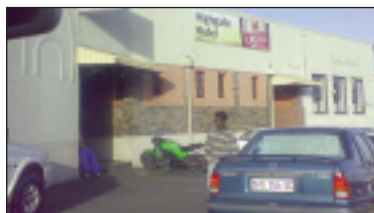
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Frustration over Child Justice Bill

The NPA is at the forefront of the campaign to have the Child Justice Bill promulgated. Once passed, the bill will, among others, protect the rights of children and promote ubuntu in the child justice system.

The NPA has urged Parliament to fast track the Child Justice Bill which has been lying dormant since 2004.

In the absence of comprehensive legislation dealing with young offenders, the NPA and other relevant departments have developed an interim National Protocol on the Management of Children Awaiting Trial. The Child Justice Bill was tabled in 2004.

"We are frustrated that the Bill is taking too long. It sets out to promote the best interest of the child as entrenched in the Constitution and in the United Nations Convention on the Rights of the Child," says Advocate Maggie Tserere, head of Child Justice at Sexual Offences and Community Affairs Unit.

Tserere indicated that she was looking forward to the new legislation which would deal with children in conflict with the law in a holistic manner from arrest until sentencing.

NPA head Adv Vusi Pikoli said in parliament that the Bill would deal with the high level of case backlogs.

"It would alleviate some of the problems that we are experiencing, especially when it comes to children," Pikoli said that prison was not a place for children. "Children have to be treated in a special way without necessarily undermining some of the serious offences they commit," he added.

According to Adv Tserere, the delay was impacting on the quality of services rendered to children in conflict with the law.

According to the NPA, children who have committed petty offences should not be



CHILD JUSTICE: Little Treehouse Pre-schoolers learn about their rights.

prosecuted, but on acknowledging responsibility for the crimes, they should be referred by courts to diversion programmes that rehabilitate and reintegrate them into their families and communities.

One of the main features of the Child Justice Bill is diversion. "At present the diversion is conducted by the NPA based on its national policy guidelines. As from April 2006 until March 2007, the NPA has conducted 43 944 diversions.

Though not all children are afforded the opportunity of diversion, a large number are reliant on the system for rehabilitation. It is the responsibility of the Department of Social Development to ensure the availability of diversion programmes in the country. Some of these programmes are rendered by non-governmental organisations and community based organisations," says Adv Tserere. Together with the Department of Social Development, the NPA (SOCA Unit) has developed minimum standards on diversion for children in conflict with the law, based on the provisions of the Bill. "This is to address the unequal access to diversion services for children in rural and urban areas due to inadequate diversion programmes, adds Tserere."

The NPA is expecting that as soon as the Bill

is passed, it will improve on the efficient and effective management of children in conflict with the law in the criminal justice system.

The NPA and other relevant departments, through the Intersectoral Child Justice Committee chaired by the Department of Justice and Constitutional Development, are submitting

contributions to the Bill's development committee to update its costs and implementation plans.

The aims of the Child Justice Bill are to:

- (a) Protect the rights of children as contemplated in section 28 (1) (g) and (h) of the Constitution
- (b) Promote ubuntu in the child justice system through – (i) fostering children's sense of dignity and worth (ii) reinforcing children's respect for human rights and fundamental freedoms of others by holding children accountable for their actions and safeguarding

- the interests of victims and the community
- (iii) supporting reconciliation by means of a restorative justice response and
- (iv) involving parents, families, victims and communities in child justice processes in order to encourage reintegration of children
- (c) Promote co-operation between all government departments and other organisations and agencies involved in implementing an effective child justice system.



Adv Maggie Tserere

A quicker solution to staff queries

Six years and still going strong. The NPA call centre continues to strive for excellence in its service delivery.

Headed by Thami Nkonyane, the eight head strong call centre team has a record of resolving 80% of queries received. "We try our best to offer the best service we can, and the 20% that we can't solve, we escalate to the relevant department," Nkonyane says.

According to Nkonyane, the call centre has undergone a lot of changes over the years, as she and her team are always looking at better and faster ways of service delivery to staff. "We are constantly looking at ways of fast tracking queries which are escalated," she says. Often, feedback on escalated queries takes a while due to the volume of work. They introduced a new computerised system so that all queries are channeled to the relevant departments electronically, therefore saving time and allowing for better query management.

The call centre operates within NPA working hours. "We get calls as soon as we start at 8am and most of them are salary related." The call centre consultants who start work at 8, familiarise themselves with NPA policies so that they can resolve queries efficiently. They also make use of Persal and BAS to respond to some of the queries at first contact.

"The first time we receive a call, we need the client's personal details, but after that, as the system stores all the relevant info, we require only the Persal number for security reasons," says Nkonyane. In cases where



ONE STOP SHOP: Call Centre Manager Thami Nkonyane says the centre's mission is to always satisfy clients.

queries are not resolved immediately, clients are given reference numbers. Nkonyane admits they haven't entirely managed to become a one stop service centre due to some

of the cases needing to be escalated to other departments. "We try and solve all the problems we can ourselves, but we have to escalate those that need implementing, correcting or auditing. There are plans at hand to improve Corporate Service's turnaround times. This will enable the call centre to give feedback to clients faster than at present.

"I would like to encourage everyone to make use of the call centre to log queries to free service centres from telephone interruptions so that they can concentrate on their core functions," says Nkonyane



Call Centre numbers

Tel: 012 845 6600

Fax: 012 845 3111

Call Centre Supervisor: Tel: 012 845 6603

Call Centre Manager: Tel: 012 845 6610

NPA in the news

NPA wins execution order for Mauritius documents

Permission has been granted to the NPA to retrieve documents from Mauritius relating to arms deal corruption allegedly involving Jacob Zuma. Judge Jan Hugo of the Durban High Court made the ruling after a letter of authorisation granted by Judge Philip Levensohn. These documents include the 2000 diary of Alain Thetard, the former chief executive of Thales International's South African subsidiary Thint (Pty) Ltd, which details a meeting between him, Zuma and convicted businessman Schabir Shaik. The NPA alleges that an agreement on a R500 000 a year bribe for Zuma was reached at this meeting. NPA spokesperson Panyaza Lesufi said no decision had been made to charge Zuma. All the evidence was still being analysed by the

National Director of Public Prosecutions, Vusi Pikoli. *Sapa* - 12/06/07

Blast from Pagad past

Former Pagad member, Shahied Davids, is not off the hook yet. A new case has surfaced shortly after recent bomb charges were withdrawn. Prosecutors are reopening an attempted bombing case that was allegedly linked to him seven years ago. Helen Booysen of the Office of Public Prosecutions confirmed that an old case of the attempted bombing of a restaurant in 2000 will be reopened. Davids attributes this to police wanting him behind bars and driving him to a point of insanity. *Daily Voice* - 12/06/07

Selebi for Agliotti report

The Scorpions are breathing down National Police Commissioner Jackie Selebi's neck. The NPA crack squad have secured access to four New Scotland Yard intelligence reports which show that for four years police failed to act against alleged drug smuggler Glenn Agliotti, a friend of Selebi, the *Sunday Times* reported. According to the report, it can no longer be denied that senior police officials, directly under Selebi's command, knew about Agliotti's links to the underworld. The NPA requested the court to postpone the case to 9 October, the agreed date for the trial to begin. *M&G Online* - 26/05/07

Highgate massacre revisited



POST MASSACRE: Highgate Hotel as it now stands in East London. In 1993 five men opened fire on patrons in the bar. Shooting at random, they killed five and injured seven.

The NPA has re-opened investigations into an apartheid era mass murder.

It was on 1 May 1993, at a bar in East London's Highgate Hotel, that a group of four or five armed men in balaclavas walked in just after 10pm, armed with AK47s, started shooting randomly at the bar and hurled a teargas grenade at patrons. Five were killed and seven seriously wounded.

The Azanian People's Liberation Army (APLA) was reported to have claimed responsibility for the attack. They had earlier claimed responsibility for attacks including on the Queenstown Spur, Fort Beaufort's Yellowwood Hotel and King Williamstown Golf Club.

But now, 11 years after the case was closed, new information which suggests different people were responsible, has emerged.

"The Highgate investigation was closed in 1996, after police felt that all investigations were fruitless," says Daryl Els, Senior Special Investigator from the Scorpions. "I received many threats for being involved in the case, prompting me to stop," Els adds.

He says that all leads ran to a dead end. "Because what I saw at Highgate started haunting me, I tried to get the TRC to investigate the case again because APLA members were applying for amnesty but none

were taking responsibility for the massacre," Els says.

Similar to other victims of gross human rights violations, the victims of the Highgate Hotel shooting received R30 000 from the TRC. For Els, this was no closure.

Letlapa Mphahlele, former APLA Director of Operations recently appeared on MNET's Carte Blanche programme saying they were not responsible for the attack.

He said the statement claiming their responsibility, was not from APLA, but someone just called the media and mentioned APLA.

One of the victims, who still remembers one of the attackers, described him as "standing at the door with a balaclava, with a navy blue uniform, blue combat boots and gloves."

It has surfaced that APLA had at that time stopped using the AK47, balaclavas and teargas. APLA members also had no formal training in shooting; therefore they couldn't have been able to kill as many people, claimed Mphahlele.

As the investigations were taking place before the case's closure in 1996, many came forward claiming that because the attacker was

wearing a balaclava with only the eyes visible, it could have been a white man. They claimed he could've painted black around the eyes for camouflage. Els says he still believes that white people were involved.

Senior State Advocate of the Priority Crimes and Litigation Unit at the NPA,

"The TRC gave people a chance to get amnesty but since no one has been accountable for the massacre, the perpetrators will have to be brought to book and prosecuted."

Mthunzi Mhaga, explains why the NPA is working on the case. Mhaga says it is the NPA's mandate to follow up cases emanated from pre-1994 and which might have been politically linked. After the TRC, unaccounted political activity has to be followed up. "The TRC gave people a chance to

confess and get amnesty, but since no one has been accountable for the Highgate massacre, the perpetrators will have to be brought to book and prosecuted," says Mhaga.

Els hopes that all the victims' families and survivors, including himself, will get closure with the convictions of those responsible.

Mhaga says the investigation is under way but due to the sensitive nature of the case, they can't reveal any information. Mhaga adds that those implicated can be prosecuted at anytime – be it in a year or fifty years.

Mthatha DPP boasts no appeals backlog

From a backlog of 400 appeals last year, the Mthatha DPP is now handling only new appeals

An accused found guilty of conspiring to murder in Mthatha was given a jolt when his sentence was increased after his appeal.

In the matter of Smoli Mogolo Njara vs the State, the accused's sentence was increased from 10 years (with three years suspended) to 15 years after the State's cross appeal was successful on 14 June this year.

This is just one of the successes to emanate from the Directorate of Public Prosecutions in Mthatha.

"We have no appeals backlog in this division. I believe we are the only division that can boast this," said Advocate Humphrey Lusu, the Director of Public Prosecutions in this region.

At the beginning of last year, the region had a backlog of 400 appeals. They've since cleared that backlog and handled new appeals that have come in.

A change in methodology is attributed to the progress made. "We took over the setting down of appeals from the court registrars. In that way we were able to monitor the process more effectively. Previously, a high court registrar was in charge of allocating appeals hearing dates. We now decide how many appeals are heard per day and we can load the roll as much as we want to," Adv Lusu said.

"We've already allocated dates for appeals to be heard in July, August and September. The appeals court in this region sits on Fridays

only," he added.

In 2006, out of 177 appeals noted, only 10 were in favour of the appellant. In 2007, the State was successful in 54 of the 57 appeals heard.

Adv Lusu indicated that he felt there was a habit, nationally, for people convicted in lower courts to note appeals to the high court and then fail to prosecute. "In this way, they take advantage of the process. If they don't prosecute

their appeals, the case remains an open ended matter. In many instances, after they apply for bail, they simply vanish," he adds.

According to Adv Lusu, the Mthatha DPP was the first division to take up the initiative of going around to all the district courts to check the appeals registers and follow up on those who were out on bail and had not prosecuted their appeals.

"If appeals are noted and are not prosecuted after a

certain period of time, the right lapses and the accused has to go to prison. We secured warrants, traced those cases where appeals had lapsed and made arrests. From the start of this process last year, we have arrested about 90 people who've been charged with crimes from across the spectrum," he adds.

Dealing with the increasing population of awaiting-trial detainees is a challenge for most regions. In 2006, the Mthatha DPP formed a

case review task team. "We are a generally rural division that is struck heavily by poverty. This results in juveniles in areas approximate to the towns, engaging in criminal activity. This increases our awaiting-trial population for both adults and juveniles," Adv Lusu says.

The task team is composed of Deputy Director of Public Prosecutions Advocate Silumko Ngqwala, two chief prosecutors and the seven public prosecutors in the division. Its main purpose, amongst others, is to see to the prioritisation of cases where children are involved as accused. This is facilitated by the involvement of the senior public prosecutors who are in constant touch with the court roll prosecutors in the district.

In this way, they are also able to work closely with the Department of Correctional Services at district level and get the full list of awaiting-trial detainees.

However, despite making these strides, the division does have its challenges. "We are not yet able to provide prosecutors in the lower court to every magistrate. The NPA will never achieve as much as it desires if we do not go beyond filling vacancies to creating them," he says.

The capacity of the Legal Aid Board is also of concern. "This area is very poor and people rely on legal aid. It is not uncommon for one practitioner to deal with the regional court and the district court at the same time. At present, there are only four advocates from the Legal Aid Board providing the service."

The region has, despite these challenges maintained a 75% average conviction rate.



Adv Humphrey Lusu



CORE STAFF: (Left Picture L- R) Chief Prosecutor of the Mthatha Cluster Adv Vuyani Genu, Corporate Manager Lilyrose Shithelani, DPP Adv Humphrey Lusu, Chief Prosecutor Butterworth Cluster Vela Balfour and DDPP Adv Silumko Ngqwala. Right picture: Mthatha Staff



UP IN SMOKE: Illegally built cottages are removed.

Court action reduces illegal holiday homes

Always a popular tourist destination, the Wild Coast has also been the site for the setting up of illegal holiday homes by people attracted to this rich coastline.

"We've have had a number of cases where we've acted against financially comfortable people who build these cottages. The cases are of serious concern to the provincial Department of Economic Affairs and the national Department of Tourism," said Adv Humphrey Lusu, Director of Public Prosecutions in Mthatha.

The Deputy Director of Public Prosecutions in Mthatha who is involved in the prosecution of these cases is Adv Nigel Carpenter.

"There has been widespread support for the Eastern Cape government's stand on removing these buildings and charging the offenders who, in many cases, acquired multimillion rand holiday homes for little more than a bottle of brandy, some meat and R200 for a local chief or headman," Advocate Carpenter said.

In 1994, the Wildlife and Environment Society of SA (WESSA) brought an interdict against the Minister of Environmental Affairs and Tourism for the ministry's failure to prevent the establishment of illegal holiday cottages on a coastal conservation area, said Adv Carpenter.

WESSA contended that the establishment of the cottages caused environmental degradation and that the chiefs or headmen granted rights of occupation and allocated sites within the declared coastal conservation area

to private individuals without having the legal mandate to do so.

"Shacks and dwellings constructed on those sites resulted in environmental degradation. Roads, pathways and tracks had been created through environmentally sensitive areas," said Adv Carpenter.

In 1995, the Minister of Environmental Affairs and Tourism was ordered by court to have the illegal cottages demolished. Five years after the favourable court findings very little had happened, said Adv Carpenter.

"In 2000, a concerted and renewed effort was undertaken by the Eastern Cape Department of Economic Affairs, Environment and Tourism (DEAET) together with a task team comprising various state departments. A spate of joint law enforcement operations resulted in numerous arrests and the opening of about 70 criminal cases. This added to dozens of civil cases that had been in progress since 1995. This is when our office became involved as we then provided a dedicated prosecutor for these matters," he said.

In July 2004, criminal charges were enacted against an illegal cottage owner at Poenskop, near Port St Johns. The owner was ordered to demolish the R70 000 building. He also had to pay the costs of restoring and rehabilitating the site and was sentenced to a fine of R6 000 or 12 months in jail, of which R5 000 or 10 months was suspended for three years.

"Thereafter several illegal cottage owners at Dakane, Manteku, Sinangwana and

Fast Facts

Major languages: Xhosa, seSotho, English

Population: This region is home to 60 percent of the Eastern Cape's population and occupies 50 percent of the province's land area.

Director of Public Prosecutions:
Adv Humphrey Lusu

Deputy Directors of Public Prosecutions:

Adv Nigel Carpenter
Adv Nico du Plessis
Adv Silumko Ngqwala

Chief Prosecutors:

Adv Vuyani Genu (Mthatha cluster)
Vela Balfour (Butterworth cluster)

Corporate Manager:
Lilyrose Shitlhelani

Senior State Advocates: 10

Senior Public Prosecutors: 9

Junior State Advocates: 14

Public Prosecutors: 130

Total staff complement (legal and admin): 206

Corporate Services: The 'engine room' of the region. It has been instrumental in all strategic planning sessions. All workshops have been led from the CS section. "As we grow, I observe an improved team spirit. It is CS that has taken the lead in seeing to the training of staff, human resource related matters and finance," says Adv Lusu.

Thuthuzela Care Centre:

Operational from St Barnabas hospital. The rate of convictions through cases channeled to the courts averages between 80-85% per month.

Thuthuzela Case Manager:

Jongikhaya Busakwe

Mngazana in the Port St Johns/Lusikisiki district, volunteered to break down their cottages to avoid criminal records. Forty cottages have been demolished to date, but about 200 illegal structures remain in sensitive environmental areas along the coast," Adv Carpenter said.

There are about 50 cases being investigated. Five of these matters are ready for trial and three are on the trial roll in the regional court.

"It is foreseen that within five years this problem will be eradicated and the majority of prosecutions will be finalised. The amount of illegal activity has decreased along the coast due to the successful court actions," Carpenter said.

Partnering with the youth to fight crime

As part of Youth Day celebrations, the East London regional office hosted a soccer tournament in Mdantsane.

The message of 16 June was communicated with a strong emphasis on the fact that the youth have a responsibility to ensure they live in a crime free environment. The youth were also urged to participate in initiatives that would attract investment into the area so that more employment opportunities could be created.

The event was part of the Community Prosecution programme, a pilot project of the NPA aimed at fostering relations with communities to prevent crime.

The Community Prosecutor in the area, Gugulethu Mampofu, said they wanted to raise

awareness around the problem of violence against women and children, drug abuse and gangsterism.

The event brought together different local soccer clubs to compete for a trophy known as "Fairplay." The competition's underlying message was: "Do unto others as you would like them to do unto you".

Mampofu said the aim of the 'Fairplay trophy' was to inculcate a culture of caring and being considerate.

"If you are a young person who has a sister, mother or aunt, you can't go and rape someone else's sister, mother or aunt," he said.

The Community Prosecution Project ensures that a Community Prosecutor is placed in an area identified as a crime "hot spot".

The prosecutor will establish partnerships with community members and together they come up with strategies to help fight crime in that specific area.

Several pilot sites have been established across the country.

Mampofu says his priority is to engender a new kind of peer-pressure among young people to ensure they alienate all criminals.

"I want to build a sense of pride among the youth through the slogan 'let's make NU1 the safest gateway to the sprawling splendour'. NU1 is the entry point to the greater Mdantsane Township," he said.

The slogan also seeks to promote tourism as a vehicle for social and economic development for the previously neglected township of Mdantsane.

"If you are a young person who has a sister, mother or aunt, you can't rape someone else's sister, mother or aunt."

Second recruitment drive phase nearly complete

The second phase of the NPA's Recruitment Drive is close to completion, says Nick Johnson, head of Strategic Resources Management.

"The design will allow us to roll out additional system functionality on a monthly basis for a period of a year," he says.

The recruitment drive is meant to speed up the process of filling of posts while being cost-effective. The previous process, which required a high level of manual labour, was slower because it used typists to capture the data of applying candidates.

"In this phase, we want to start expanding the applications database to enhance the availability of information to decision makers in the NPA," says Johnson.

He says that previously, the process of appointing an individual for a post took close to three months.

"This was because there was no line of communication between the data capturers, the HR department and the Business Units.

The first phase of the drive addressed the issue of receiving and recording applications accurately. The second phase addresses the issue of getting applications to the correct point where they are needed in the business units.

"With the new system in place, when the data capturers capture info, it is readily available to the HR department, which in turn

passes it on to the relevant people," says Johnson. The second phase also includes notifying individuals via email, sms or post of applications received, and sends statistics of potential candidates filtered through the computerised system to HR.

Sending a "confirmation of receipt" was previously non-existent and at present with the new system, this is sent out within a month of receiving the application. All the applications are then kept, even in cases where individuals weren't successful, according to National Archive rules.

The system is able to filter through applications which are not new through ID numbers. Also included are templates for the various departments when posting an application for a job, which ensures consistency and a standardised way of appointing staff.

"Through the system, we will be able to have a uniform way of doing things through these templates, which will in turn help in ensuring quality staff are employed." The templates contain various forms derived from the various departments' needs and features. This includes facilitating individuals for their posts by way of specifying from the onset

offices, stationery, parking bays and salaries.

"A lot of managers don't know some of the needs of staff according to their positions, but with the new system in place, managers will be able to choose from a dropdown list electronically the basic needs of positions," says Johnson.

He adds that an important issue being addressed in support of the system is a review of the recruitment strategy and supporting policies.

The system is to streamline the filling of posts and make them electronically available, while minimising errors. The various templates are available on <http://ithala/underforms/templates>

and staff are encouraged to familiarise themselves with them.

"While our focus in the first phase of the development was primarily aimed at securing an expandable technology base, the main focus during the second phase engages with business units regarding the processes and disciplines they need to implement in order to gain optimised benefit from the system," concludes Johnson.

The final phase of the development will implement decentralised processing and transacting of recruitment related activities.

"We want to start expanding the applications database to enhance the availability of info to decision-makers in the NPA."

'I am a prosecutor and will always remain one'

Adv Amanda Bester is one of the two recipients of the Ukuqwesa Award after she successfully concluded the first racketeering case brought to full trial in South Africa



PROUD PROSECUTOR: Adv Amanda Bester the 2007 recipient of Ukuqwesa award

I am a prosecutor and I am always going to remain a prosecutor," says Adv Amanda Bester.

Bester, a senior state advocate with the office of the Director of Public Prosecutions shares the honour with Adv Bruce Morrison of the DSO in Cape Town.

The Ukuqwesa award, presented by the Society of State Advocates, is given to a prosecutor nominated by his/her peers after debate and a presentation at the annual general meeting of the society.

"The criteria are excellence as a prosecutor and carrying forward the image of a professional advocate in spite of political pressure or any other obstacles," says Adv Carine Teunissen, the previous chairperson of the society.

The award was the brainchild of a group of Cape Town members of the Society of State Advocates. Adv Billy Downer from the Cape Town DPP was the chairperson at the time and we felt we needed to rise above a trade union image," says Adv Teunissen.

Adv Bester was honoured with the award after successfully concluding the first racketeering case in South Africa.

"In July last year, two accused were found guilty of drug trafficking and racketeering. They were the leaders of a drug syndicate in the Free State. The first accused was sentenced

to 18 years and the second, 12 years. It was a project that we'd been running with the police for 22 months. We established that all the dealings were taking place at a club called Reds in the Free State. The drug syndicate was dealing in ecstasy, cocaine and LSD. The club was busted and closed," says Adv Bester.

"It was a tough case to work on. My first witness's statement was 600 pages! Also, because it was the first time a case like this had been tried, there were no precedents to look back to. We were doing everything for the first time," she says.

"However, it was also a wonderful experience as there was excellent teamwork with the police on this project," she says.

Studying law was something of an impulsive decision for Bester. She studied her B Juris at the University of the Free State in 1980 and started her career as a prosecutor at the Magistrate's Court in Botshabelo in 1986.

Adv Bester started studying for her LLB part-time and completed the degree in 1991.

She was then transferred to the Bloemfontein regional court. She has been an advocate with the DPP's office since 1993.

Adv Bester grew up in Marquard in the Free State and has called the province home all her life.

Defining moments for her include joining the Directorate of Public Prosecutions office in the Free State region in 1993 and going on to become a senior state advocate in 2000.

Adv Bester is passionate about her work.

"It's important for me to make a difference in every single case I'm working on. It doesn't

matter if it's a murder, rape or assault case," she says.

"I am a prosecutor and I am always going to remain a prosecutor."

She advises dedication and pride in carrying out the duties of a prosecutor.

"Teamwork is also an important element. You must have the co-operation of the police," she adds.

Bester said she felt strongly about the protection of children and does a lot of work with the Child Welfare organisations and sits on its board.

In her free time, she loves to read and travel. "From all the places I've been, I have enjoyed Switzerland the most. Almost crime free, and it's such a clean environment. The natural beauty is just fantastic and the chocolates are divine," she says.

Previous winners of the prestigious Ukuqwesa award:

- Adv Anton Ackerman for his "Dr Death" prosecution,
- Advs Kevin Rossouw, Malherbe Marais and Anthony Stephen for generally exceeding every boundary in promoting successful prosecutions in the most difficult cases.
- Adv Gerda Ferreira for her prosecution of Tony Yengeni and the groundwork she did in the Schabir Shaik investigation.
- Adv Billy Downer and his team for their work in the Schabir Shaik prosecutions.

Getting awaiting-trial prisoners out of jail

Awaiting-trial prisoners are being educated on their rights while in jail to help them make informed decisions about their cases.

This is part of a transformation project aimed at reducing the number of awaiting trial prisoners. Educational brochures have been distributed to detainees at various jails, as well as all NPA offices.

The initiative, headed by Charin de Beer SC, DPP of Johannesburg, launched earlier this year following large backlogs in awaiting trial prisoners. "We saw that at times it takes a long time to prosecute persons accused of petty crimes, hence we launched the project," says de Beer.

She says the brochures are aimed at informing the detainees about their rights while inside.

"We want them to know their rights and equip detainees to take informed decisions relating to their cases in good time, with an appreciation of the implications of each case, which could likely impact on the duration of their incarceration before their trial commences," says de Beer. The brochures inform ways of getting a plea bargain, therefore making



Charin de Beer, SC, DPP of Johannesburg

ing it more possible to get cases finalised. She says that in some areas, there are prisoners who are awaiting their trial dates while they

have a bail option.

"We want to discover why such things happen, and in cases where the bail is not feasible, we can arrange payment in instalments or reduce the bail based on our investigations," says de Beer.

In cases involving children, de Beer hopes that with the Child Justice Bill being finalised, it will be possible to be channel back to their communities through the NPA's diversion programme, to continue living useful lives on the right side of the law.

"We are prioritising old cases which in fact should have been concluded a long time ago, which are not so serious, so that we can focus on the more serious ones," she says.

The guidelines sent out to NPA offices, set out procedures prosecutors can follow when dealing with awaiting trial prisoners.

Although de Beer says it is not compulsory for prosecutors to use the guidelines, she recommends them in correcting mistakes of the past. "We hope that the prosecutors will implement the guidelines in applicable cases, and continue to bring about change in the lives of all affected by crime," says de Beer.

In terms of the Disciplinary Code, an employee charged with misconduct must be given notice of the enquiry at least five working days before the date of the hearing. This notice must provide a description of the allegations of misconduct and the main evidence on which the employer will rely, as well as details of the time, place and venue of the hearing.

The notice should also explain the rights of the employee to be represented and to bring witnesses to the hearing.

Schedule eight of the Labour Relations Act 66 of 1995, paragraph four states that the employer should allow an employee the opportunity to state a case in response to the allegations (*audi alteram partem* principle) and the employee should be entitled to a reasonable time to prepare a response with the assistance of a trade union representative or fellow employee.

Article seven of the ILO (International Labour Convention) 158 of 1982 reiterates that the employment of a worker shall not be terminated for reasons related to a worker's conduct or performance before he is provided an opportunity to defend himself.

The employer may suspend an employee on full pay or transfer the employee on the grounds that the employee is alleged to have committed a serious offence; and if the employer believes that the presence of an employee at the workplace might jeopardise any investigation into the alleged misconduct, or endanger the well being or safety of any

Time frames for disciplinary enquiries

This is the second of a three-part series published in Khasho on the NPA's disciplinary code and procedures. This article explains the time frames that an employer and employee have to adhere to when dealing with a charge of misconduct.

person or state property. A suspension of this nature is a precautionary measure that does not constitute a judgment, and must be on full pay.

The employer must commence a disciplinary hearing within a month. This implies that the employer must serve the charges on the employee within the suspension period. The suspension can only be extended by the chairperson of the hearing at the first sitting of the matter, before the suspension lapses. This was confirmed in the SAMA obo Kikomba vs Department of Health PSCB 102-03/04 matter.

In NEHAWU obo Nkuthi vs NPA PSCB 220-05/06, the applicant was suspended by the respondent as a precautionary measure. The applicant wanted the suspension to be uplifted as the suspension was way beyond the 30 days prescribed in the resolution. The Respondent argued that the applicant was not disadvantaged in any way as employee was receiving a salary while on suspension. The arbitrator ruled that the fact that the applicant was still receiving a salary during suspension was irrelevant what was important was compliance with a binding collective agreement. The arbitrator ruled that the suspension should be lifted.

The employer must ensure that such a hearing is held within 10 working days after the notice of the hearing is delivered to the employee. The enquiry has to be finalised within 10 working days from the date of commencement of the hearing.

At the conclusion of the disciplinary hearing, if the chairperson of the hearing finds that an employee has committed misconduct, the chairperson must pronounce the penalty within five working days. Depending on the nature of the case and the seriousness of the misconduct, the employee's previous record and any mitigating circumstances must be taken into consideration when determining the appropriate sentence.

The employee has five working days within which to file an appeal against the penalty or sentence meted out by the chairperson of the hearing.

Farewell from the CEO

How does one take leave of organisations like the NPA and DSO? The short answer, I suppose, is with great difficulty but with a sense of great achievement as well.

When trying to explain my departure to the media recently, I said that seven years was a long time to be a CEO of any organisation, let alone two. In 2000, I was appointed to the post of CEO of the NPA. After the NPA Amendment Act was passed in 2001, bringing into being the Directorate of Special Operations or Scorpions, I was also appointed to the post of CEO of the DSO.

While the Scorpions continue to report to the National Director, a decision has been taken, which I believe is the correct one, that the DSO has its own dedicated CEO and administration.

It was with a great sense of pride that I participated in the launch of the NPA Strategy 2020 at our National Stakeholder Conference at the end of March 2007 in Gallagher Estate, Midrand. This strategy not only charts the way forward for the NPA but also represents the collective effort of many people over many years. It must always be remembered as such.

When I closed the conference, my thoughts went back three years to February 2004 and the national transformation conference held in Emperor's Palace. On that occasion, as we commenced a formal programme of transformation in the NPA, I likened the development of the NPA to that of a human being; from infancy to childhood and so on. At the time, I said that in our first five years as the NPA from 1998 to 2004 we, like any baby, learned valuable lessons about trust and mistrust as we slowly moved from dependency to a growing sense of independence. By the end of our fifth year, we could use our own initiative and work processes – again similar to the development of a human child.

From the sixth year towards puberty, the child goes to 'big' school and is constantly tested against others. The NPA has gone through a very testing time since 2004 and is now almost 10 years old.

As we move towards the 10th anniversary in 2008, I believe that the organisation is ready for the heady years of adolescence and early adulthood. One does not want to stretch this comparison too far, but this is to emphasise several important points.

"The NPA has, I believe proved to be more than equal to the challenges it has faced and will continue to face."

The first point is that building and transforming an organisation takes a long time and secondly, it is an ongoing process with new challenges and that the search for knowledge is never-ending.

There may have been times on our transformation journey when we wondered whether we would ever get anywhere. The launch of Strategy 2020 is a remarkable achievement. It is gratifying, as we proceed with its implementation, to hear Chief Prosecutors standing up and saying that they can now see what transformation is about.

The NPA has, I believe, proved to be more than equal to the challenges it has faced and will continue to face. We are at times perhaps tempted to lapse into moments of self-pity and bemoan our fate as we are, unfortunately often unfairly, lambasted by various organisations.

As I leave the NPA and Scorpions, I cannot improve upon the words and message of Joel Netshitenzhe (Director of Policy Co-ordination

in the Presidency) at our SMS Conference in March 2007, when he said: "In an evolving democracy such as ours, there are institutions and individuals who have to suffer the curse of having to live and to act almost transcendently as representatives of the Good that has yet to be born. Such is the NPA; and society is justified in expecting from you the extraordinary."

In conclusion, it would be amiss of me not to make special mention of all my current and past colleagues at Corporate Services. I say thank you to all of you, in particular for your loyalty and support in the trying times over the past 12 months.

These were difficult times, but they do not and could not outweigh the overwhelmingly positive experience and privilege it has been for me to work at the NPA over the past seven years.

To all NPA employees, I say that the NPA has a valuable role to play as we continue to build our democracy.

We should not let anyone convince us otherwise, but we must also always listen and strive to improve ourselves in the struggle for justice in our society so that people can live in freedom and security.



PARTING SHOT: After spending seven years at the NPA as CEO of both the NPA and the DSO, Marion Sparg left in the middle of June to pursue a career in the corporate world.

BOOBY- PRIZED



GOOD SPORTS: A prize of donkey droppings was shared between Acting Director of Public Prosecutions in the Free State, Adv André du Toit, and Adv Danie Pretorius from the same office. They clocked up the worst total in a shoot-out competition in May.

The Free State DPP and regional SCCU and DSO offices held their competition at Adv Colin Steyn's farm, Leeuberg, outside Bloemfontein. Each participant had 10 shots at a target at a distance of 20 metres with a 9mm pistol. After some fierce competition and a final shoot out, Senior Special Investigator Peter Mabheba from the DSO won the competition and was presented with a cash prize of R400. Du Toit and Pretorius said they were determined to improve by the next competition.

NEW APPOINTMENTS AT THE DPP MTHATHA

Claudia von Meyer: Receptionist
Adv Ansurie Deoraj: State Advocate
Hyron Golding: Control Prosecutor

MARRIAGES AND BIRTHS AT THE DPP MTHATHA

HR Practitioner Nosiseko Dome got married.
Librarian Ayanda Sileku gave birth to a baby boy.

UPCOMING EVENTS

The Asset Forfeiture Unit (AFU) is hosting the annual Legal Indaba at the Regent Hotel in East London from 17 to 20 July 2007.

Prosecutor turns midwife

Advocate Cheryl Richter, a Control Prosecutor at the Johannesburg Magistrate Court, usually spends her days putting criminals behind bars. This changed on 18 June when Sarah Mabela walked into her courtroom.

Mabela had gone to court to plead for the withdrawal of a case she had opened against her husband. However, while waiting in the public gallery for her case to be called, she went into labour.

Cleaners Mildred Ndlovu and Vivian Nhlapo were first to notice her state and immediately called Richter for assistance.

It was then that Richter, a mother of two and a grandmother, realised her abilities as a midwife, and a healthy baby boy was born.

"It was quite a moment for me, nobody else wanted to deliver the baby as they felt they had no experience. I, of course, with no experience, felt I had to do something. Suddenly, I had to quickly recall what I had read in the past about giving birth and tried to apply it. I was very excited that baby "Junior" was born with no complications and was healthy," she says.

Richter said she had to think positively and concentrate on what she was doing throughout the delivery.

"After the amazing experience, I just washed my hands and went straight back to work. The only emotion I was feeling at the time was just utter excitement," she says.

Her deed has brought her overnight fame. "I have since received hundreds of sms's from friends, relatives and colleagues congratulating me for what I did. My family is very proud of me, but was at first shocked to hear the news," says Richter.



HEROES: Cheryl Richter, Mildred Ndlovu and Vivian Nhlapo helped baby "Junior" into the world.

**Your
Action
COUNTS**



Send your news – serious and funny – as well as letters, to the editor, to Khasho at pkotane@npa.gov.za
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