

Department of Justice and Constitutional Development & NPA 2020/21 APPs, with Deputy Minister

[Justice and Correctional Services](#)

22 May 2020

Chairperson: Mr G Magwanishe (ANC)

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Meeting Summary

Video: [Portfolio Committee on Justice and Correctional Services, 22 May 2020](#)

Audio: [AGSA on work during lockdown, possible delays to PFMA Audits & MFMA Audits Part 2](#)

[Annual Performance Plan \(APP\) of Government Departments & Entities 20/2021](#)

The Portfolio Committee on Justice and Correctional Services conducted a lengthy virtual meeting with the Department of Justice and Constitutional Development and the National Prosecuting Authority to review their Strategic Plan, Annual Performance Plan and Budget for 2020/21. The Deputy Minister of Justice and Constitutional Development was in attendance.

The Department informed the Committee that it was under severe budget constraints that had been exasperated by the Corina-19 budgets cuts, the cost of sanitising courts and providing personal protective equipment and the additional costs of Commissions of Inquiry and the need to support entities under its umbrella. The Department would be bringing 12 pieces of legislation to the Committee in terms of its strategic plan. The focus at an operational level would be the development of the IT system, including the Integrated Justice System and the Audio Visual Remand system. IT had long been considered important but Covid-19 had starkly highlighted the importance of electronic communication. The Department, especially at senior management level was operating largely with acting personnel owing to a restructuring of the Department and a number of suspensions of personnel following lapses in the procurement and financial divisions. The Department apologised for the fact that the MojoPay IT system had crashed and delayed the pay-out of maintenance benefits to recipients, particularly in the Eastern Cape.

The National Prosecuting Authority acknowledged that matters had become exponentially worse since Covid-19 had hit the country, especially the problem of the rising backlog of cases. The Justice Cluster had put a system in place so that it could react very swiftly to crimes of corruption or “hands in the cookie jar” following the easing up of regulations, especially procurement regulations. The current system was not designed to deal with the issues of corruption and a new system had to be built in the course of the five years of the strategic plan to deal with corruption swiftly and efficiently. The outcomes of the NPA had changed from achievements to the impact of the actions of the NPA. The NPA had saved funds on personnel compensation because many of the new prosecutors had only started in February 2020 and the Department of Justice and Constitutional Development had provided R90 million for laptops for prosecutors in preparation for increased online working.

The Deputy Minister noted that the number of criminal cases, including gender-based violence crimes, had been significantly lower than usual during the period of lockdown. He informed the Committee that Cabinet had approved the constitution of a Council for Gender-based Violence and Femicide under the administration of the Minister of Women.

Members had many, many questions for the NPA. What contingencies had been put in place to deal with dispensing justice during the lockdown, particularly to ensure that people were not

retained in prison cells or as remand detainees in prison unnecessarily? How were people going to be informed of the hundreds of cases that had been re-scheduled? When was a high profile case going to court? What the NDPP doing about cleaning house? Why was the NPA using conviction rates as a target? Did the rate of convictions not lie with the judiciary?

Members asked about the arrest of a prosecutor in Thohoyandou. Had that arrest been part of a broader strategy? Did the NPA have a communication strategy so that the negative public perception did not overwhelm the NPA? Did the NPA have training on ethics and integrity management for its prosecutors? What steps had been taken to prevent fraud and corruption during the period of Covid-19? Was the NPA taking steps to expedite the case of Mr Khoza? Could the NPA report on the increased numbers of gender matters? What had been done about the allegations of racism and the people who were dissatisfied with their job allocation? Why did the NPA want to send staff to be trained by Oxford University?

Members had even more questions for the Department. Members asked about the capital works budget and how the Covid-19 budget cuts would impact on that programme. The Department had said for twenty years that it was going to be migrating its system online. When was the Integrated Justice IT system going to be finalised? How was the Department going to ensure that cases were not lost in the process? How many Audio Visual Remand System mechanisms did the Department intend to roll out that year and in the following years? Would systems have to be procured to roll out the e-submission programme planned for that year? How was the plan to address the backlog of cases to be measured? How did the Solicitor General plan to address the problems with the way in which briefs were allocated to legal professionals? What had the Acting DG found in the Grant Thornton Report on corruption by Bosasa? Was that the reason for the senior management suspensions? Was it true that African Global Operations had been awarded a part of a security contract with the Department? How could the Department justify a contract that benefitted Bosasa, given that Bosasa had corrupted a sister Department?

Members asked about sign language interpreters on the Audio Visual Remand system. When was sign language to become an official language of SA? What were the figures for the employment of people with disabilities? Could the Department provide an update on the emergency action plan in relation to gender-based violence? Had the proposed Council for Gender-Based Violence and Femicide been set up? How far was the National Action Plan in respect of Xenophobia? Would the Zondo Commission be extended in the light of Covid-19?

Meeting report

Opening remarks

The Chairperson greeted the Committee Members, Deputy Minister of Justice John Jeffery, Adv Jacob Skosana Acting Director-General, Department of Justice and Constitutional Development (DoJ&CD) and Shamila Batohi, National Director of Public Prosecutions (NDPP) and their teams.

The Chairperson requested that the DOJ&CD present first, followed by the National Prosecuting Authority (NPA). The Committee concurred. He indicated that the presentations had been received timeously and the Committee had perused them so each entity had only 30 minutes to present.

Briefing by Department of Justice and Constitutional Development on its Strategic Plan, APP and Budget 2020/21

Adv Skosana said that Covid-19 had a huge effect on the Department but it had used the opportunity to rely more on ICT. He assured the Committee Members that the Department was ensuring that all health regulations were being followed in the courts.

The Department was assessing the impact of Covid-19 but the greatest impact was on the budget that would be severely cut. Nevertheless, the Department was committed to working towards a clean audit. Adv Skosana commented that he had learnt so much in the seven months that he had been in the position of Acting DG and if he had known at the beginning what he knew then, he would have been much better at directing the processes for a clean audit. He had also

been guided by the Portfolio Committee in November 2019 and he had now put strong processes in place and while the Department might not get a clean audit for 2019/20, he was convinced that it was on track for a clean audit in 2020/21.

One of the challenges had been the lack of alignment in the structure of the Department but help had been sought from National Treasury's Government Technical Advisory Centre (GTAC) to set up the Office of the Chief Justice.

The Department intended to bring 12 pieces of legislation to the Portfolio Committee in the period of the Medium Term Expenditure Framework (MTEF). A critical outcome would be the enhancement of Audio Visual Remand Systems (AVRs) in the courts and the use of ICT to deal with many aspects of the courts services so that the public could deal with much of their business online, in much the same way as had happened with the SA Revenue Service. The Department had appointed a new IT manager who had been responsible for Armscor IT systems.

Adv Skosana apologised for the IT system that had crashed over the period of the lockdown which had meant that some of the maintenance payments had not been paid out. The Department of Science and Technology would be assisting DoJ&CD to manage the problems. One of the problems was that some of the systems could not cope with the demand on the systems. Another cause was fraud and corruption in the Department, which he assured the Committee was being dealt with. There had been a number of suspensions, including the suspension of the Chief Director for Supply Chain Management and the Chief Financial Officer as there had been a number of lapses in the procurement and payment system. He assured the Committee that the Department was working to remedy the system.

Adv Skosana explained that the probable budget cut by National Treasury was R1.7 billion and that would come mainly from Goods and Services (40%) and from infrastructure (50%). In addition to budget cuts, the cost of PPEs and other services required for Covid-19 had had a huge impact on the budget. The intention of the Department was simply to complete projects that were underway and not to start any new projects. The Department would present a mini-budget showing the changes. He trusted that the Department would receive its full budget in 2021/22.

The Chairperson asked the Deputy Minister for input but he indicated that he would respond during question time.

Briefing by National Prosecuting Authority on its Strategic Plan and APP 2020/21

Adv Shamila Batohi presented the five year strategic plan. She said that if she had thought things were bad before Covid-19, they had become exponentially worse since Covid-19 had hit. Some adjustments might need to be made to the NPA's plans. However, it was important to note that the Justice Cluster had put a system in place so that it could react very swiftly to crimes of corruption or "hands in the cookie jar" following the easing up of regulations, especially procurement regulations.

Adv Batohi said she had been in office for one year and four months and it could not be business as usual. The strategy had to balance the need to change things immediately but at the same time, it had to work towards a credible and sustainable future for the NPA that had to be driven by innovation. Restoration of credibility of the NPA was key to the strategy.

She accepted that the big elephant in the room was the prosecuting of those who had been involved in corruption. Unfortunately, the current system was not designed to deal with matters of corruption. A new system had to be built in the course of the five years of the current strategic plan to deal with corruption swiftly and efficiently. She informed the Committee that the outcomes of the NPA had changed from achievements by the NPA to the impact of the actions of the NPA.

Adv Rodney J De Kock, Acting Deputy National Director of Prosecutions, NPA, presented the NPA Operational Plan for 2020/21. Training of the first group of prosecutors had been halted by the Disaster Management regulations and the NPA was looking at innovative ways of addressing this. The NPA had introduced an additional three indicators that it believed would improve its service levels: Level of quality of prosecution; number of cases involving money laundering; number of public awareness sessions conducted. The NPA's quarterly performance reports

would no longer only measure conviction rates, but would include, inter alia, the percentage of TRC reviews concluded; the conviction rate in priority corruption cases; conviction rate in femicide prosecutions; conviction rate in murder of intimate partner femicide prosecutions, etc.

Adv Batohi addressed the risks and risk mitigation. One of the interventions would be the training of the top 100 members of the NPA. The programme had been specifically tailored for the NPA by the University of Cape Town in collaboration with Oxford University.

Adv Hanike Van Zyl, Head of Administration, NPA, presented the budget. The NPA had saved funds on personnel compensation, but that had been because recruitment processes had taken a long time and many of the new prosecutors had only started in February 2020. DoJ&CD had provided R90 million for laptops in preparation for increased online working but delivery had only taken place in the new financial year. R150 million was required for Covid-19 safety measures and would come from the personnel budget as it was not possible to make any cuts on the Goods and Services budget as those funds were fully committed.

The Chairperson requested DoJ&CD to present the Department's budget for 2020/21.

Department of Justice and Constitutional Development Budget

Adv Skosana stated that the tracking system had found that the Acting Chief Financial Officer had been in close contact with someone who had shown signs of Covid-19 and the Acting CFO had had to leave. He and others would have to be quarantined, including the Director for Finance.

Adv Skosana stated that the Department was still in discussions to how it would manage the normal budget cuts. R354 million was required for the PPEs and sanitisation of courts, etc., and that had not been anticipated. It had a huge impact on the Department. Cuts would not be effected in the IT programme because it was accepted that the IT system was vital to the Justice Cluster. However, tension between ICT Innovation and stringent legislative and policy environment in the Criminal Justice Cluster made it very difficult to make progress. For example, the digitisation of the bail process in courts was hindered by protracted legislative amendments. The DoJ&CD baseline was burdened with the responsibility to fund Commissions of Inquiry and budget shortfalls in its entities. He added that he was concerned about the fact that Legal Aid would suffer a R300 million budget cut.

Discussion

The Chairperson invited Members to ask questions and make comments. Members were requested to address their questions to either the Department or the NPA

Adv G Breytenbach (DA) commented upfront that, despite her questions, the Deputy Minister had been extremely helpful and had assisted her promptly and kindly and for that she was very grateful. Her issues were not a reflection on him.

Adv Breytenbach addressed her questions to the Department of Justice. What contingencies had been put in place to deal with dispensing justice during the lockdown, particularly to ensure that people were not unnecessarily retained in prison cells or as remand detainees in prison? What procedures had been put in place to ensure that there were sufficient support personnel in courts to keep the wheels turning and simultaneously ensure the safety of the personnel? How were people going to be informed of the hundreds of cases that had been re-scheduled? For 20 years, the DoJ&CD had said that it was going to be migrating its system online. When was the Integrated Justice IT System going to be finalised? How was the Department going to ensure that cases were not lost in the process? How were they going to migrate the systems online?

Noting that the Deputy Minister had helped her with the case, Adv Breytenbach related the story of a gentleman who had been arrested in Cape Town on a bench warrant for contempt of court in the early hours of Thursday morning at his home two weeks previously. No one knew where he was taken but he was at Goodwood Prison where bail was set at R2 000. His employer was willing, even eager, to pay the R2 000. No prisons were accepting money. Neither Goodwood Court nor Bishop Lavis Court were open to accept payments. Seven days later, for a bench

warrant for contempt of court, the man was still in prison. After daily efforts and much travelling in an attempt to get someone to accept the bail money, he had eventually been released. How many other people were in the same situation? The Acting DG said he had a boardroom of senior managers waiting to work. That was what management should be working on.

Adv Breytenbach informed the NPA that Covid-19 had not been factored into the strategic plan but it was inconceivable that Covid-19 would not have a huge impact on the NPA. The strategic plan was not relevant without the effects of Covid-19. How was the NPA going to remedy that? Had the NPA made an evaluation of the successes of the 2014 - 2019 strategic plan – it would be a short list – and the failures of the previous strategic plan – that would be a long list. If it had been done, what were the results?

She felt that the goals on Slide 5 were to be lauded and chased. It spoke of crime being reduced and everyone feeling safe. It was very nice but how was it going to be achieved in a country that had reached an incredible state of criminality and corruption with absolutely no consequences? Why were people going to respect the law?

Adv Breytenbach applauded Adv Batohi's good ideas and plans but how was the NPA going to do that when there had not been even one high profile case and it was already the last week of May? Ideas were one thing; achieving them was another. How was the NPA going to reduce crime? How was it going to boost investor confidence? How was she going to make people safe? When was a high profile case going to court?

Adv Breytenbach was pleased to see the recruitment drive succeeding but it took 10 years to produce a good prosecutor and 20 years to produce a really good one. However, what she wanted to know was what the NDPP doing about cleaning house? After 14 months, all those prosecutors who had been involved in state capture were still there. Adv Batohi knew who they were. Some of them were even in her core team. The NDPP had not even taken a decision in the Jiba matter. Why was that? How did she expect to clean up the NPA? Unless those people were dealt with, there would be no credibility and no moving forward. When would that happen?

Adv H Mohamed (ANC) thanked the presenters. He asked DoJ&CD about slide 26 of the budget presentation that referred to infrastructure and capital works. He noted a budget of R874 million in comparison to a R510 million budget in the previous year which was a variance of R364. He noted that the day-to-day budget was -56%. In the light of Covid-19 and the fact that the Department could not dispose of the full capital budget in 2019/20, how was it going to spend the funds in 2020/21? Would it be adjusted? Was the full budget for the projects that still had to be completed? The Acting DG had indicated that large cuts would come from capital budget but could he clarify the situation.

Adv Mohamed said that he had read in the Daily Dispatch that there had been a problem with the MojaPay system because third parties had not submitted accurate information that matched with beneficiaries in East London. From an Annual Performance Plan (APP) perspective, what was the current status?

Adv Mohamed asked the Department to send the exact dates for completion of capital infrastructure and maintenance infrastructure. He also asked for a copy of the Integrated Justice System governance framework. The existing ABR system mechanism totalled 47 but the target for the next three financial years was 10 per year. Was that a national figure or was it per province? Previously eight ABR systems had been rolled out in one province in a year in 2012. Why was the target so low? The APP referred to the 309 magistrates courts to be upgraded to be victim-centric. How many would be upgraded in the coming year and where would the targeted funding come from? He asked if the audit and stabilisation plan been signed off by the Minister and what the impact of Covid-19 was on the plan. Had the asset qualification and contingent liability been assured at the end of the previous financial year?

Turning to the recruitment of senior management in March 2020, Adv Mohamed asked about the adjusted plan for the 40 senior management service posts. He did not see an indicator to measure the backlog case plan. How was it to be measured? Would the target be added to the APP? Referring to the Acting Solicitor General and the briefing patterns for previously

disadvantaged individuals, he asked about quality control because often executives at national and provincial government level had certain preferences for counsel. Had the risk been captured in the policy itself? How was that being managed?

Adv Mohamed said that Pillar One of the the Department's Covid-19 Risk-Adjusted Plan referred to: "Leveraging from the imposition of technology particularly focusing on rapid expansion of Audio-Visual Remand system, Acceleration of On-line application prioritising maintenance and small claims court applications; phasing out the use of cash for bail and court fines." In light of the R250 million budget cuts on state capture and the IJS, how was that being budgeted for? Also how was the replacing of the warehouse for off-site storage being budgeted for? Was there a closing report on the previous project in that regard? What was the legislation pertaining to that was to be presented in the next three years?

With regard to e-submissions, he noted a very exciting target date of 30 June 2020 where memoranda and communications would take place via e-submissions. He assumed that was internal to the Department but asked if Department would have to procure a system to facilitate that. What would the cost of that be?

He asked if he could get an update on the cold cases relating to the gender-based violence and femicide plan and the emergency response action plan. It was a national priority. Was it in the APP? What had happened to those cases? Lastly, he asked about the Grant Thornton Report on Corruption by Bosasa. The Acting DG reported at the previous meeting that he had received the Grant Thornton Report. Was that the reason for the findings? He asked for clarity on the matter.

Ms W Newhoudt-Druchen (ANC) asked about the access to justice for people with disabilities during the lockdown. What access to court had been provided for women and youth during lockdown? She was concerned about the sign language interpreters that the Department was using on the AVR systems. Was the Department working with NGOs to provide those services? She had heard reports that people were mocking sign language interpreters when the President was making the Covid-19 presentations. Was there a process underway to fast track the sign language as an official language? Her opinion was that if it were an official language of SA, people would not mock sign language.

Ms Newhoudt-Druchen noted that there was no figure for the employment of people with disabilities in the Administration Programme. What was the figure? What was the percentage of people with disabilities in the Court Services? What were the reasonable measures put in place to deal with people with disabilities? She requested an update on the emergency action plan in relation to GBV.

She also requested an update on the MojaPay system and an indication of whether it was working well.

In addressing the NPA, Ms Newhoudt-Druchen said that technology was critical. Especially with the virus, virtual meetings were the way to go. Was there was a process of fast tracking IT in the system and how would the NPA be doing that?

Mr W Horn (DA) asked DoJ&CD about the target of establishing one additional specialised crimes court in the five provinces that did not have one over the next five years. Would that target be impacted by the budget cut? In respect of the National Action Plan in respect of Xenophobia, the target had been March 2020. The Minister had indicated that significant progress had been made in developing the action plan. How near the implementation stage was the action plan? He asked because there was a huge risk if social circumstances worsened in the country that South Africans would focus their anger on foreigners.

Mr Horn referred to the establishment of a "Social Compact" between three arms of state: the President and Cabinet, the Chief Justice and Judge Presidents and Chapter 9 Heads. The intention was to strengthen accountability but had the format of the engagements been formalised? He cautioned against the use of the term "social compact" which entailed an implicit agreement to cooperate and to give up freedoms in return for security. It seemed to him that it was the wrong term. Nevertheless, the Legislature should be given more information as it had oversight over the separation of powers of the state.

Addressing GBV, and specifically the national strategy settled on after the President's national summit, Mr Horn knew that there had been an interim steering committee which had come to an end at the end of April 2020, and that it should have been replaced by a national council on GBV and femicide but there was no council. Was the Department involved in the administration, had there been any movement on the council and had there been any engagement with civil society as it had to have a 51% representation on the council? What was being done to ensure that that representation was done on a representative basis? The GBV and femicide fund had already been the subject of controversy. What was the Department doing about the fund as, ultimately, it would identify those who qualified to benefit from the fund? Some of the targets for GBV had percentages and others had numbers. Adv Batohi had agreed, when she took over the NPA, that the targets were not appropriate but they had not been changed in new strategic plan. Why were unhelpful targets repeated? Was the NPA and the Department thinking about changing the targets?

Mr Horn was very concerned about the backlogs created by the lockdown. The Minister had shared some very worrying figures. If the Justice System was non-functional for another two months, there would be a huge mountain to climb. The Minister had advised that the Department, the NPA and Legal Aid SA had to create a backlog case management plan. Had it been started? What progress had been made and by when would they be in a position to provide a copy of the plan to the Committee?

He recalled that when the President had announced the 21-day lockdown, he had said that the NPA would set up special units to deal with corruption and profiteering from public procurement during the pandemic. The SIU had said that at a meeting of the Anti-Corruption Task Team (ACTT) (which the NPA had previously said was non-functional), the NPA had said that SIU would deal with the matter because of the SIU's unique characteristics. The Committee felt that, while the SIU was good, it was very, very slow. Given the President's announcement, had the special units been set up and what had been done so far?

Mr Horn addressed the matter of the arrest of a prosecutor in Thohoyandou, Limpopo, following an undercover operation. He welcomed the fact that there was movement on corrupt prosecutors. The reaction on social media had been that if there was one, there had to be many. Had that arrest been part of a broader strategy by the leadership of the NPA and did the NPA have a communication strategy so that the negative public perception did not overwhelm the NPA?

Lastly, he referred to the Bosasa issue. The CFO in the Department had been suspended but the case turned on, or had the effect that, certain awards of security tenders that the CFO had been involved in had been set aside and the net effect was that African Global Operations had been awarded a part of the security contract. How could the Department justify that contract that benefitted Bosasa, given that Bosasa had corrupted a sister Department, the DCS, which had then cancelled all contracts with them? How could the Department take a decision that benefitted Bosasa after the way in which it had corrupted government?

Ms N Maseko-Jele (ANC) welcomed the presentations. She asked about the security around visual platforms, noting that continuous disruptions had been experienced by prosecutors working on the DoJ&CD network. How was that being resolved by the Department? The Acting DG had indicated that DoJ&CD would move to online services but what plans were there to take the previous disadvantaged communities along? What plans did the Department have to make sure that the MojoPay system crash did not happen again?

Ms Maseko-Jele lost connectivity with the meeting and the Chairperson indicated that he would go back to Ms Maseko-Jele when she had addressed her connectivity problems.

Ms J Mofokeng (ANC) thanked the presenters. She asked the NPA what lessons had been learnt from the 2014 to 2019 strategic plan that could be applied to the current strategic framework. What risks had been identified that would jeopardise the achievement of the outcomes and targets? How would the NPA mainstream the focus areas of women and disabled persons? How was the NPA going to clear the increased number of cases of GBV that had occurred during the lockdown? Was the NPA going to train prosecutors to manage those cases? How far was the

matter regarding the prosecutor arrested in Limpopo? Did the NPA have training on ethics and integrity management for its prosecutors? She was aware of serious economic crimes cases that were over 10 years old. How many such cases were there and what were the challenges?

Ms Mofokeng asked the DoJ&CD and the NPA what systems they had for case management and whether the systems were manual or electronic. Did DoJ&CD have any plans to improve client service, especially where there was no privacy when women came to request protection orders?

When modernising the courts, could the Department improve the hard benches that one sat on in the courts?

Ms Maseko-Jele asked the NPA about the aim to address the system for once and for all. Were there timelines for addressing the system? Was there any consistency in the directives issued by the Minister, the Chief Justice and the Judges President in respect of accommodating the use of technology? She expected a report on how far the NPA was in its strategy to restore the credibility of the NPA as that had been Adv Batohi's first task. What steps had been taken to prevent fraud and corruption during the period of Covid-19? Could the NPA report on the increased numbers of gender matters? She asked for the statistics on cases postponed through the AVR centres and the statistics on the accused who were in custody but had appeared physically in court.

Ms Maseko-Jele noted that Adv Batohi had alluded to a lifestyle audit of prosecutors. It should already have happened because the community had long been raising concerns about the corruption within Justice. Adv Batohi had a lot of work to do in dealing with corruption because it was a threat to the impartiality and independence of justice. Could she comment on that? What were the plans to eradicate fraud and corruption? Fraud was across all Departments and now it was in the same Department that had to deal with it. She asked for a report on the recovery of proceeds of crime, especially in respect of the offshore cases. How far was that matter?

The last time that Adv Batohi had appeared before the Committee, Ms Maseko-Jele had questioned her about the allegations of racism and the people who were dissatisfied with their job allocation. Those issues were now being raised on social media. Were those voices being attended to? In respect of racism, she asked if the NPA was advocating for jail sentences and no fines for those found guilty of racist remarks. The matter had to be dealt with, once and for all.

Adv S Swart (ACDP) acknowledged that there had been a huge number of questions but he had some of his own that he felt he had to ask. Adv Skosana was facing massive challenges and most of the management positions in the Department were held by people in an acting capacity. While he was sure that they were doing their best, when would those positions be filled?

Adv Swart said that he had raised concerns about the DoJ&CD and NPA budgets before and now the Department was facing further cuts. It did not make sense. The Committee needed to start exercising powers in terms of the Money Bill and using its powers in the Adjustment Appropriation Bill when the Members saw the funds that would be moved for Covid-19. He was deeply concerned about the expenditure of those funds and he was glad that the NPA and the SIU would be looking into the use of those funds. What was being done on a daily basis? He expressed concern about the stories about what was happening at OR Tambo Airport.

He stated that the collapse in the maintenance payments was inexcusable given the situation of the lockdown and people were starving. An apology was good but it did not cut it. He needed an assurance that maintenance people would get their money.

Adv Swart said that if school children and teachers had to go back to school, then every court should open because there were massive backlogs. He had asked for an updated figure of dockets referred to NPA for decision since its last report. The NPA wished to restore credibility and compliance but he was of the view that the petty regulations were going against that and making criminals of people for the smallest matter. What was a petty offence in court? He was not sure what the prosecutors would take into consideration when deciding whether to prosecute, but he asked that they take into account the trauma already experienced during the arrest, etc. He pleaded with the NPA to look into that.

If the budget of the legal entities were cut, how could they collect the money that should be collected?

Could Adv Cronje advise on the progress in respect of high profile cases? Could he get an indication of the progress in regard to the agreement with the United Arab Emirates and the mutual legal assistance? He was concerned about the issue of Covid-19. He appreciated that it was an unknown area but it was estimated that 500 people would die by the end of May 2020. If one person showed symptoms of Covid-19, there was a complete disruption. He appreciated the President's regulations but 50 000 people had died of other diseases during the lockdown. Some balance was needed in the situation. The Committee needed to exercise oversight to bring about balance.

Adv Swart had noted the scathing [judgement](#) in the matter of Mr Khosa. It impacted on law enforcement. Was the NPA taking steps to expedite the case of Mr Khoza? It was a great concern when the judge was concerned about the heavy-handed, militant attitude of the military. He knew that it had been addressed but it was not enough for the Human Rights Commission to say that it condemned the action. The United Nations had issued a scathing report.

Mr R Dyantyi (ANC) addressed the matter of Court Services output indicators which he believed required a footnote to clarify the phases as the documents were available to the public and so should be understandable.

Mr Dyantyi addressed the indicators in respect of the number of sexual offences courts. The indicator was the number of sexual offence courts but the issue should not be the number of courts. What about the quality of service that had to come out of those courts? People were interested in things like the access to the courts, availability of water and the results that came from those courts. Numbers were easy to achieve but did not indicate the quality of the service. It did not help Khayelitsha to have a sexual offences court when the building was not accessible. The number of 27 courts did not impress him.

He moved onto the matter of policy, for example, to reform the Criminal Procedure Matters Act. Where were the terms of reference, etc. How far were the officials three months down the line in the financial year?

He had an issue with the foreign language interpreters. That was a challenge and he wanted to know how that would be addressed. The number of ARVs that had to be rolled out was an issue because nothing had been rolled out in the first quarter whereas phase 3 of femicide was data analysis which could have been done in Quarter 1? He did not go in detail but the thrust of his comments was that there was no quality in the outcomes in the court services. He was concerned about the court services because if that was not properly done, it impacted negatively on the NPA.

Mr Dyantyi stated that what the NPA had presented suggested a plan that was coming together. In [October 2019](#), the NPA had been asked to produce a plan and he had reminded them again in [March 2020](#). He was happy with the process plan and there was roadmap on slide 4. The NPA indicated that the strategy was underpinned by four key pillars: Independence, Professionalism, Accountability & Credibility. He approved of the four pillars but suggested a fifth pillar as none of the pillars would give results. He believed that "Effective Prosecutions" would be a suitable fifth pillar. He particularly liked slide 6 which showed how the NPA had arrived at the outputs. The questions were exciting but an inquiry was only as good as the response and the remedy. He was looking at the actions and whether they would be effective. How would the NPA measure the level of satisfaction with prosecution? It could be linked with No 3 and a survey could be undertaken.

Mr Dyantyi said that the Committee should take a hard and soft approach. The Committee had to recognise the good work that was happening.

Mr Dyantyi noticed that some targets had been reduced. Was the reduction done in order to improve the quality of the work? Towards the end of the presentation, the NDPP had presented the risk register. He liked the process of arriving at the risks but the strategic risk was not complete. Of the four risks, three are high risks and only one was classified as a medium risk.

However, the NPA had not indicated actions that it would take in order to mitigate the risks. The Committee could only measure the risks through the mitigating factors.

Overall, Mr Dyantyi was happy that a proper plan was beginning to emerge from the NPA and he embraced the plan.

Mr Q Nqola (NCA) noted that the impact statement of the NPA was that it wanted everyone to feel safe and abide by the law but there were cases against prosecutors. What was going to be done about that prosecutors, e.g. those who had solicited bribes? One of the MTEF priority areas promoted a sound workplace and employee wellbeing but a number of complaints had been received from groups of prosecutors alleging that there was racism and persecution of prosecutors who spoke out against their bosses. There were complaints about favouritism and nepotism in the recruitment process. He added that he had had complaints of an alleged shortage of PPEs during level 4. Had the NPA prepared for level 3 in terms of preparing offices and procuring sufficient PPEs?

Mr Nqola referred to the NPA APP which used the rate of convictions as an indicator even though the Chief Justice was adamant that the rate of prosecutions was not the work of the prosecutors. What was the view of the NPA? Did the rate of convictions not lie with the judiciary? Another very serious issue was the attempts by stakeholders to tamper with or undermine the independence of the NPA. Had Adv Batohi experienced any such attempts to undermine the NPA? The backlog of cases was caused partially by the absence of court officials and litigation parties. To what extent did the NPA contribute to the backlog? If the answer was in the affirmative, what was the plan to stop prosecutors causing backlogs?

Mr Nqola asked the DoJ&CD about the report from the legal profession that there was a bias in the Masters Office in that larger estates were given to previously advantaged prosecutors and smaller estates given to previously disadvantaged prosecutors. Had the Acting DG noticed that and what was being done about it? Mr Nqola noted that his questions on the paperless administration had been addressed.

The Chairperson indicated that he had a few questions. Why had the reprioritised strategy for the College of Justice not been finalised by 31 March 2020? Why had the DoJ&CD allowed the vacancy rate to reach 22%? What was special about Oxford University that SA universities did not have and what were the financial implications? In addition, he asked DoJ&CD about the implications of Covid-19 on the Zondo Commission considering that the Commission had only been given until March 2021. What were the implications? Would that timeframe be extended in the light of Covid-19?

DoJ&CD and the NPA were given five minutes to confer about the answers as there were many, many questions.

Adv Skosana stated that Mr Nicholas Munyai had recently joined the Department from Armscor and would be responsible for the Integrated Justice System (IJS) project.

Mr Munyai explained that he had been seconded from Armscor to manage the IJS. The first question on IJS was from Adv Mohamed and related to the governance framework. He had heard lots of complaints about the government model and so a document was to be presented on Monday that would clarify the three levels of governance. On one level was the board that had been legally constituted by Government Information Technology Officers (GITO) legislation and consisted of representatives of all the departments and entities in the Justice Cluster. To force accountability, a second level would be developed as an oversight committee and would consist of the DGs or Heads of all members of the Security and Justice Cluster as well as Home Affairs, Correctional Service, SITA and SARS. Chaired by the DG of Justice, the oversight committee would have to approve all business cases relating to the system and monitor the development of the project. On the third level was a Committee of Ministers in the Criminal Justice Cluster. The GITO level would be the practical level that would address the practical work of developing the system. Mr Munyai said that the document would be shared with the Committee after it had been shared with Exco and Cabinet.

Mr Fhedzisani Pandelani, Acting Solicitor General (SG) , DoJ&CD, responded to Adv Mohamed's questions on briefing patterns. The State Attorney's Act as Amended, which created the office of the SG, also de-centralised the State Attorney's Office. Clients were allowed to recommend counsel but that recommendation was not decisive. There was a need to interact with the State Attorney and there was also a briefing committee which determined the suitability of counsel. The SG also advised on the suitability of counsel and that was intended to eliminate those aspects of a briefing highlighted by the Member, as well as all other aspects. There were policies being developed that would address the issue of briefing and they would be tabled before Parliament.

Mr Tsietsi Malema, Acting Head of Court Services, DoJ&CD, addressed some of the concerns about the payment of maintenance beneficiaries. The Department had experienced problems with the payment of beneficiaries, largely in the Eastern Cape as a result of the system that had collapsed. The system of MojoPay had collapse but the service provider, Mr Johnson, had rescued that and the maintenance payments had been made. Other problems were where the people could not access the courts as the clerks and security guards had turned them away. He had instructed courts to allow all maintenance beneficiaries to access the courts, even during level 5, and since then they had not been turned away. Another problem was that a lot of people were not paid by their employees and so there was no money to pay the maintenance. He thought that a lot of the problems came from that direction but people blamed the courts. Generally, the courts paid out about R53 million a month.

Mr Malema stated that, with respect to the allegations that the criminal justice system was friendly towards offenders and not towards victims of crime, DoJ&CD was considering a plan to modernise the courts and had a draft discussion document about how the courts could support vulnerable groups. It would be discussed with all role players but it was a system that spoke to the facilities in the courts. The courts had been constructed long before any consideration was given to human rights, human dignity, etc. The intention was to make courts more amenable to human rights but the Department would not be waiting for the finalisation of the document before beginning to modernise the courts. The process relating to procurement of furniture for staff members and for the public could begin immediately. It was a process but the court benches that Members had spoken about were gradually being replaced.

Mr Malema said that a backlog project initiated by the Deputy Minister had commenced that week. The Deputy Minister had had a meeting with the Chief Magistrate and others to discuss the challenges posed by the backlogs that emanated from the lockdown. There was a two - pronged approach to the backlog regarding the postponements, but under level 4 movement was limited. In addition, the project would deal with the backlogs that had been created over time. The DoJ&CD was creating a structure to address backlogs under the Risk Adjusted Strategy: the Integrated Case Backlog Recovery Plan. The Department was currently developing terms of reference to guide the work to be done.

He responded to the question about people with disabilities and sign interpreters. He explained that DoJ&CD did not have interpreters on the payroll but there was a database of qualified interpreters and service providers available to all courts and the court acquired someone for every court appearance where such a person was needed. The Department also worked with community organisations and non-government organisations to be able to incorporate cultural nuances and to ensure that the people were interpreting correctly, and so on.

Mr Malema added that DoJ&CD was working with the Department of Public Works to provide railings and ramps, and to modify facilities, etc. for court buildings. The Department was also offering sensitivity training to judicial officers and training on cultural issues. Officials were being encouraged to go out of their way to listen to the needs of the public. Officials who were sharing an office were encouraged to vacate the office to allow privacy for people making complaints. He admitted that social distancing of 1.5 metres was creating a challenge in some of the very small offices but the officials should accord respect.

Referring to the utilisation of the AVR system, Mr Malema warned that the numbers might look small but they were actually not small. AVR had been deployed at 47 sites. Total utilisation of the AVR for postponements during the lockdown, across the country, was as follows:

06 – 09 April: 1092 cases

14 – 17 April: 2040 cases

20 – 24 April: 1863 cases

28 – 30 April: 955 cases

04 – 07 May: 2003 cases

11 - 14 May: 2040 cases

18 – 19 May: 347 cases

Total: 10 340 cases

There had been a few system challenges in the Eastern Cape but the Department was working with Correctional Services. The Minister had instructed officials to work very closely on the matter and meetings of DoJ&CD and the Department of Correctional Services (DCS) had been held and committees had been set up. They were looking at new sites. Originally DoJ&CD had procured all the equipment and so asset registers were being sorted out as well as the funding of the entire project. When it came to the Sexual Offences Courts, it was not about numbers only, but a number of issues such as personnel, training, AVR, facilities, assistance. While numbers were important, the Department had to look at the quality as well as the quantity of the courts.

Mr Malema informed the Committee that DoJ&CD was in discussion with DCS about foreign language interpreters. DCS had a tender for foreign language interpreters and DoJ&CD was looking at the DCS system to understand whether it would work for DoJ&CD. He suggested that government should have a unified approach and pay the same amount to foreign language interpreters so that the departments paying less were not let down when a better paying department required the services. Generally government needed a uniform approach. DoJ&CD also wanted to use technology, i.e. the AVR system, instead of paying the foreign language people to travel and be accommodated whenever a court required a person. That would be helpful and much more economical.

He informed the Committee that PPEs had been purchased at the beginning of lockdown and the Department had increased procurement over the weeks. PPEs were being procured at three levels: at court level where procurement had been facilitated with delegations and petty cash; at regional level by a Committee called the Regional Procurement Committee which arranged procurement and at national office there was a large office doing procurement for the whole country. The Department had deployed a monitoring team to check each site in respect of PPEs, soap etc. All courts were satisfied with the allocation of PPEs.

Mr Donald Mpholo, Acting DDG: Corporate Services, DoJ&CD, responded to the question about the vacant posts. The structure of the Department had been revised during the Fifth Administration and the matter had been delayed with the move to the Sixth Administration. For levels two below SMS, posts had been filled. The Department had created capacity at the lower levels before the senior levels. Most of the senior staff were in acting positions but all were doing their best. Most of the acting positions would be filled by the end of June.

Mr Mpholo added that he had appointed a company to assist with appointing staff as so many people were acting.

Adv Skosana informed Members that the Deputy Minister would speak on GBV. The figures on the MTEF for the AVR roll-out would be supplemented and revised in line with the Risk-Adjusted Plan (RAP) and which he would share the new plans with Members. There had been cuts in key areas, but what would be prioritised, would be all those projects that were intended to stop the spread of Covid-19, such as the AVR and the IJS project as well as the modernisation projects that were intended to limit contact between people.

He added that the Department was working closely with other departments on the IT project at a cluster-level but including other entities such as SARS that had an effective e-system. The Commissioner of SARS was a member of the DG's Forum.

In response to Adv Breytenbach's concern about people being unable to pay bail, he acknowledged that courts had stopped accepting cash because it could spread the virus. The Department did not want to accept cash in courts; it wanted to work smart. It also meant that there would be no need to pay the company currently contracted to take cash from courts to the bank. Currently the Department was paying R7 000 for the company to collect and bank less than the cost of transferring the money which was sometimes as little as R6 000 and even less. Those things would be regulated.

Adv Skosana informed Mr Horn that his question relating to Bosasa had some truth in it but he could not provide further information at that stage because the details would be provided in evidence at the Zondo Commission. The matter related to not only that transgression but other actions as well.

In respect of the system crashes, as raised by Ms Maseko-Jele, Adv Skosana assured her that the Department had addressed the network interruption and that plans were in place to prevent it from happening again. He explained to Adv Swart that one thing Covid-19 had taught the Department was the need to invest in IT. One could not wait a week before repairing a system. A management plan was being developed to improve IT systems and to deal with any incidents in the shortest space of time. The systems could not be allowed to collapse.

The Department did not end with its apology to the beneficiaries: by the end of June, the Department needed to have in place an sms system that would allow the courts to communicate with those who had to go to court to collect maintenance, or to deal with any other issue. The sms system would be used to inform them when their money was available or if there were any delays in any of the processes in the courts. It would particularly serve the vulnerable people and prevent them from standing in queues unnecessarily.

In response to Adv Swart's questions on the budget cut, Adv Skosana explained that the budget had been finalised by November 2019 and it had been stretched. It was now being further stretched by the Covid-19 budget cuts. He informed Mr Dyantyi that the turnaround plan would be adapted to take the same approach to mitigate the risks. Although the risk plan had been impacted by Covid-19, the Department would not have got a clean audit for 2019/20 in any event. The fourth quarter report showed that there were still issues to be resolved but those deficiencies had been addressed and would allow the Department to move forward to a clean audit in 2020/21. He assured Mr Dyantyi that he would consider quality in setting the targets.

Adv Skosana was unable to give an answer to the question of how the Department would make sure that the online system did not advantage the already advantaged people, but he would take that point on board. He could say that manual systems would run for some time for those who did not migrate to online systems.

Adv Skosana was not going to address the questions on the vacancies but he could assure the Chairperson that the Department of Public Service Administration had, the previous week, given DoJ&CD permission to advertise vacant posts. That would include senior management posts and the posts for the heads of entities, such as the Solicitor General post. In addition, those posts that had been advertised with a closing date during lockdown could have an extended the closing date so that people were not disadvantaged by the events that might have prevented their applications from being received or have prevented people from finalising their application.

The Chairperson reminded him of the question on an extension of the Zondo Commission.

Adv Skosana said that he had met with the Zondo Commission team. They had used the lockdown period to navigate through the masses of evidence. The Department had indicated that it could not pay invoices unless work continued during the lockdown. The Commission team had continued working during the lockdown and the lockdown had had no impact on what had to be done. Hearings would happen in September and October 2020 and he was sure that the levels of lockdown at that stage would allow the hearings to take place. The Department had transferred

R150 million to the Commission for the current year. He had signed the letter transferring the money and the Deputy Director had already attached his signature. The Commission had requested R240 million and the Department would try to shift the budget to find the additional money if it were needed because it did not want the Commission to be hamstrung by the lack of funding.

Deputy Minister John Jeffery addressed the question of the gender-based violence council. He informed Members that the lead ministry was the Ministry of Women. Cabinet had agreed on a GBV Council and a Committee had been established under the Minister of Women and so the process was moving, although it had probably been impacted by the lockdown.

The Minister of Police had released statistics for the lockdown period compared to the same period in 2019. There had been a 63.9% reduction in the murder rate, rape showed an 82.8% reduction; attempted murder was down 56%; assault and grievous bodily harm was down 80.4% and robbery with aggravating circumstances was down 63.6%. Domestic violence showed a 64.8% reduction with a decrease from 21 033 cases to 6 051 during lockdown. The reality was that murder figures were accurate because the dead bodies of those who had died from unnatural causes could be counted but rape and domestic violence depended on people reporting the incidents. Nevertheless, there did seem to be a general reduction in the occurrence of those incidents. The lower crime rate would help courts with the backlog. He also suggested that it would be a good idea to get the number of protection orders taken out during the lockdown period to get a sense of the levels of domestic violence.

The Deputy Minister informed Members that all courts had been open from 10:00 to 13:00 during level 5 lockdown but since the country had moved to level 4, all courts were open from 7:45 to 16:15. It was a problem if a Covid-19 positive person had been in court as a court was then closed for two days for sanitisation. The service provider that undertook the sanitisation had said that generally court officials could go back immediately but court staff and magistrates had complained that they experienced headaches if they returned too soon. He explained that the case that Adv Breytenbach had referred to had occurred because Bishop Lavis court had been closed on the Monday and Tuesday but he asked the Acting DG to make alternative arrangements for the provision of services when a court closed down. It was not right that a person sat in custody when he had been given bail.

The Deputy Minister made a point on the sexual offences court. There was a new problem because the separate testifying rooms were very small and that created challenges in respect of Covid-19 and social distancing when children were testifying because the support person sat very close to the child. Court officials were looking at the possibility of putting a screen between the two but he was not sure if that would work.

Responding to Ms Newhoudt-Druchen's question about the status of sign language, the Deputy Minister pointed out that the President had indicated that it would require a change to the Constitution and, while the DoJ&CD was responsible for amendments to the Constitution, the matter of Languages fell within the domain of the Department of Arts and Culture. The Department need to engage with the Department of Arts. He agreed that it was regrettable that people mocked the sign language interpreter during the President's speech.

The Deputy Minister reminded the Committee that the Risk-Adjusted Plan for Level 4 was available on the Department's [website](#). He informed Members that the Zondo Commission and SIU Tribunal had been closed during the lockdown. The Ministers did not think so but a number of employees from the Tribunal had pointed out that the regulations did not permit them to work. The Minister suggested that it might have been an oversight but the problem would be corrected. The concern was that the National Action Plan was too slow and the Department had to address that urgently.

The Deputy Minister stated that he had addressed the matter of racism [earlier in the week](#). The amendment to the legislation was ready for Parliament but could not be taken forward until the Court had made a decision on the Masuka case and also on the Qwelane matter but, unfortunately, the Judge had delayed arguments in the Qwelane matter. He reminded Members that crimen injuria remained an offence.

Adv Mohamed stated that six of his questions had not been answered. He repeated the questions.

Ms Pheladi Kadiaka, Chief Director: Facilities Management, DoJ&CD stated that the infrastructure budget of R510 million for 2019/20 was the revised budget. The original budget had been R900 million but owing to the challenges on the ground and the litigation that the Department had had to go through, about R400 million was shifted to other programmes. The amount of R845 million in 2020/21 was correct. After the Covid-19 adjustment, about R70 million would be moved from capital to maintenance but that was to assist in paying for the contractors who were doing the cleaning and sanitisation as per the requirements for preventing the spread of Covid-19.

Mr Prian Naicker, IT Manager, DoJ&CD, stated that the e-memoranda and e-submission solution had been developed in-house for memoranda and letters. All expenses would be covered by the day-to-day expenses. In terms of the AVR, the unit had been tasked to come up with a plan to increase the number of AVR sites in line with the RAP. A number of factors had to be taken into account when considering sites and that included the number of cases that would make use of the facility and the bandwidth at the particular site because the system did use a great deal of bandwidth. The unit would develop an accelerated plan and once approved by Exco there would be a process to be followed to extend the use of AVRs.

The Chairperson requested that further answers be supplied in writing by 25 May 2020.

Adv Batohi explained that the impact of Covid-19 was not in the strategic plan because it had been set up prior to the pandemic. Within the NPA, a Covid-19 task team of officials from the various divisions within the NPA had been formed to look at Operations, Communications, etc. and to develop a holistic response to Covid-19, in addition to the NPA work with DoJ&CD. The committee was looking at the impact on prosecutors as the country moved towards the peak of Covid-19 in July or August and the challenges that the NPA would face. It was also looking at the role of prosecutors during Covid-19 and looking at the need for respect for rule of law. One Member had alluded to the fact that there were some indications of heavy-handedness of law enforcement. The partners in the Justice Cluster had to work together but they had to hold each other accountable. The prosecutors would do what was necessary to ensure that they upheld the rule of law.

Adv Batohi responded to the question regarding what prosecutors would do to fast track Covid-19 matters. Usually the investigation was undertaken by SAPS, and not the NPA. In the particular case mentioned, the Department of Defence was involved. The NPA gave direction to the investigators, where necessary, but it was not the investigating authority. The cases were usually relatively simple, but there could be prosecutor guidance. It was important to make the point that the NPA was not the investigator.

She stated that the NPA had done an assessment of targets that had not been achieved in the previous five years 2014- 2019. One of the major concerns was the Trio Crimes which included carjacking, house breaking and business robbery and armed robbery. There were various reasons why the NPA had not met the targets. Many related to investigations. Those were the quality of life crimes. If one wanted to feel secure, one stayed in one's house but if one was attacked in one's home, one really felt violated and unsafe. The NPA was focusing on quality of life crimes because crimes that took place in one's home made one feel really unsafe. Focusing on quality of life crimes would make an impact in many ways, including building investor confidence.

Adv Breytenbach had asked how the NPA could achieve the outcomes. Adv Batohi stated that she was aware that they were ambitious outcomes but the intention was to have impact targets. So with regards to people's feeling of safety, the NPA wanted to target certain crimes, e.g. house breaking. It might lead to other crimes not being targeted, but the value in the approach was critical to addressing feelings of safety by the public. Obviously, the NPA would have discussions with its partners about priorities.

Adv Batohi agreed that the impact statement of people being compliant with the law would not be easy to attain but the more that there were conviction rates and people saw cases investigated, prosecuted and consequences for the offenders, the easier it would become.

As far as high profile cases were concerned, Adv Batohi stated that one or two had been enrolled but they were quickly forgotten by the public. Nevertheless, there was a lot of work going on in that area. However, as it was a strategic session, she had not reported on details but Adv Hermione Cronje, Head of the Investigative Unit, would add some details if there was time later on. People had to understand that the NPA was operating in a very, very inefficient system. Members needed to know that there were plans in place to address the inefficiencies, but it would take time. To deal with corruption properly, one needed a system with human and cyber forensic capabilities. The NPA wanted to build a system that would be very effective in dealing with those crimes so that, by the end of the five-year period, South Africans could truly be proud of its capabilities.

In respect of the issue of corrupt prosecutors and cleaning up the NPA, Adv Batohi noted that it was a strategic session but she admitted that there had been various allegations in the public space. Allegations were against several staff members and had to be addressed holistically. The Zondo Commission was addressing the matter of corruption in the country and she did not want a process that ran parallel with the Zondo process. There would be an investigation, but it had to be done in an organised manner.

When it came to fast tracking technology, Adv Batohi could not overemphasise the importance of technology. Again, it had to be dealt with systemically. Fortunately, the IJS system was now a priority in the economic recovery strategy of the Justice Cluster and the NPA had procured laptops for prosecutors as the APS (the case management system) had been identified as a priority for prosecutors.

Adv Batohi agreed that the President had referred to units in the NPA that would deal with corruption during Covid-19, but the JCPS cluster had decided to create a fusion centre at which bodies such as the NPA, SARS, SIU, Financial Intelligence Centre (FIA), and key components of law enforcement would work together at a national level to deal with the incidents in a coordinated way and would also monitor regions so that there was a speedy response which would be a deterrent. She was very excited at the prospect of the fusion centre and different bodies working together and hoped to see the fruits of the coming weeks.

When it came to the prosecutor in Limpopo, Adv Batohi said that they would be fooling themselves if they thought that was the only one but she hoped that it was a small number who were that way inclined. As she had earlier said, the Office of Complaints and Ethics was being put into place as one of the initiatives to deal with such behaviour. Pending that, there were other initiatives such as increased vetting and lifestyle audits. The DPSA was looking at lifestyle audits across the entire public service and that was something that was excellent and long overdue. The audits would be starting in the NPA with herself and all top management. Integrity was part of the credibility of the NPA.

The review of the targets showed that the NPA had not met targets regarding people involved in corruption, government officials involved in corruption and the finalisation rate. She could say that previously there had been no will to deal with the high profile corruption cases but Adv De Kock was dealing with that and working closely with the Directorate for Priority Crime Investigation (DPCI). At the planning session in October 2019, DPPs were requested to prioritise high profile cases in their areas. Of the 80 cases identified together with the DPCI, 16 cases had been placed on the roll. That was significant in the space of five months. The Investigative Directorate was addressing the issues but capacitating the directorate was a challenge and she had spoken to the Minister and they were looking into that. The NPA was working closely with the DPCI and there was the Anti-Corruption Task Team (ACTT) that she had not said was disbanded but had said that it was hugely inefficient at dealing with corruption matters. However, there were now some heads of institutions who were on the ACTT and were currently working very closely together and were prioritising some of the cases as there were far too many for all to be tackled at once. Adv De Kock was working closely on the issue.

In response to the allegations of racism and nepotism by members of the NPA, a senior advocate had been appointed to do a fact finding investigation into the matter. It was a serious issue but she hoped the fact finding would help as the NPA did want to be an employer of choice and so it was important that those issues were addressed.

The NPA had a five-year plan and it had been submitted to Parliament along with that of the DoJ&CD. That plan would take the NPA to being an independent body. Adv Batohi understood Mr Dyantyi's point about a fifth pillar but explained that prosecuting was meant to underpin the four pillars. She stated that there had been absolutely no interference at all in the NPA. Effective prosecutions would have to cut across all sectors. The NPA would do it right, albeit not as fast as wanted. She took the hard and soft approach of the Committee to heart.

Mr Nqola had asked about the conviction rate and she agreed that the measurement of the conviction rate could not be the only measure of success; however, the conviction rate was internationally accepted as one measure of performance. It could not be the only measure. Prosecutors wanted to see justice done but justice was not conviction at all costs. There had to be consequences when evidence pointed towards accountability so the prosecutors worked closely with law enforcement with the aim of ensuring accountability and, if that led to conviction rates; that was indeed part of it.

Adv Batohi said she had alluded to mitigating actions at the outset and agreed that should have been included in the presentation but she had previously been submitted to Parliament and she had not wanted to change the presentation as that might have caused confusion. But the lack of credibility in the NPA was an issue and so was a pillar of the strategy. It was important that people trusted the NPA. There were so many aspects that talked to credibility that it needed constant work to achieve credibility. The NPA was looking at an office of complaints and ethics, an oversight donor mechanism, looking at lifestyle audit, integrity testing, training of senior leadership and a transparent and deliberate process for the appointment of the NDPP, and improved communication with victims of crime. Adv De Kock had spoken about the community prosecutions issues.

The second risk was inadequate stakeholder coordination but the JCPS cluster was where coordination happened. The task team would address the inadequate coordination but at different levels, there were various discussions happening, e.g. for the first time the NPA was looking at joint measures with SAPS, i.e. joint measures that went beyond an arrest. The National Performance Enhancing Committee and the Provincial Enhancing Committees had a huge role to play as ultimately the environment was led by the judiciary, even so, the system still needed to become more efficient. Courts were currently sitting for a little under three hours and that was leading to huge backlogs. How could one ensure that courts sat for the 4 hours 30 minutes that they were meant to be sitting?

Adv Batohi had touched on the insufficient use of technology. She had a unit in her office looking at skills training, a recruitment and retention strategy, a professional development strategy and web-based training. The NPA was working with stakeholders. Covid-19 had pushed the NPA to find ways of doing things better.

She noted that the Chairperson had asked three questions and the third question had related to the training of NPA staff. The training was a joint venture between Oxford University and the University of Cape Town and the universities had been seeking donor funding for the training. Oxford University added prestige and motivation for senior staff and provided recognition of their work. The NPA had a strong relationship with the Head of Ethics at UCT. The prosecutors could not travel to Oxford but if top management could receive tailor-made leadership training, it would be wonderful. She added that she did not yet know of the impact of Covid-19 on the training.

Adv De Kock stated that the prosecutors were concerned with upholding the rule of law but in making the decision to prosecute the dockets received relating to the Covid-19 regulations, they did not want to criminalise the country. 25% of the dockets relating to Covid-19 had not been enrolled by prosecutors. Prosecutors were dealing with the dockets subject to the Constitution. People could approach the prosecutors to discuss their cases. Offenders whose cases had been

enrolled would all appear in court and so each one would still have an opportunity to present his or her case.

He said that the measure of performance in the NPA would include the conviction rate, which was important but there had to be a balance in measuring performance. The NPA had developed a basket of measures, including, for example, deciding how many corruption cases, or other specific cases needed to be prosecuted, and those cases would be linked to prosecution rates which would result in a conviction rate of a certain number of a particular type of case, e.g. corruption cases. A third measurement in the basket was surveys that would independently evaluate the work of prosecutors. He was hopeful that the basket of measures would lead to an improvement in the performance of prosecutors.

Adv De Kock stated that the strategic plan was a response to the failures of the NPA. The NPA had developed a risk mitigation plan but there were five key areas which the NPA was looking at: modernisation; enhanced cooperation; sharing of information with stakeholders, particularly SAPS and the DPCI, in terms of a common database and all would work on the same list of priority cases; the alignments of targets and common indicators; sufficient resources. Police had to ensure the quality of investigation and NPA had to ensure the prosecutors were trained and skilled to do it. The NPA would look at reducing the workload in order to improve the quality of work and specially trained and skilled prosecutors would be identified to do the high priority work. As things progressed, the NPA would look at the further development of prosecutors.

Adv De Kock noted that the NDPP had spoken briefly about its response to the possible corruption in relation to the Covid-19 funds. A fusion centre had been set up at the FIC offices and under the leadership of FIC. It was dedicated group of officials from the FIC, SAPS detective services, SIU, SARS, NPA, and Intelligence Agencies. They were looking at an intelligence-based approach. The centre had to be able to analyse if money was being misappropriated or abused. The group would meet on a daily basis to do an analysis and, if transgressions were found, investigations would follow and criminality would be prosecuted by the NPA at the relevant court.

Lastly, Adv De Kock referred to the delay in the prosecution of corruption matters older than 10 years. Some of the initiatives that he had already mentioned would address that issue, such as closer co-operation, but the NPA would also address the matter of long outstanding forensic reports and ways of improving forensics. It would set aside sufficient budget to pay for forensic experts to finalise reports and to go to court to testify. The cooperation, sharing of the database and resourcing would take place. That was all linked to the dedicated Specialised Commercialised Crime Unit Courts.

Adv Pierre Smith, Sexual Offences and Community Affairs Unit, NPA, reported on the Emergency Plan Update. The NPA had participated in developing the plan and had provided a detailed report to the Department and Ministry of Women which could be made available to the Portfolio Committee. The NPA had been working with their colleagues to identify DNA cases in the backlog of sexual offences cases. Those cases would be identified and the NPA was working closely with the forensic offices and SAPS to prioritise those cases. To date 235 cases in six divisions had been identified as priority cases for SAPS to address so that those cases could be prioritised once the DNA reports were available.

He wished to add that in respect of targets and numbers, it had to be noted that the conviction rate was an internationally accepted target in respect of quality of performance, volume of performance and also progressive forward planning, but that the basket of criteria, together with the numbers, was how the NPA could enhance its victim-centric service which was part of the NPA outputs as indicated on slide 10.

Adv Smith noted that the Deputy Minister had addressed the matter of GBV and whether there had been an increase in GBV cases noted by call centres during the lockdown. Adv Smith had personally done an analysis for April 2020 comparing the period to April 2019. A 51.9% decrease was evident across the two years and only 1 497 visits had been registered in 2020, but under the lockdown process it was understandable as people could technically not move about. He had asked that matters reported to victim support be reported to SAPS. Those cases would then be

prioritised in NPA plans.

Adv Batohi added that, in relation to the Thuthuzela Care Centre, the NPA national coordinating centre would manage and resource the sites properly. The NPA would develop gender-based policy.

The Chairperson asked that Adv Cronje report on progress in the Investigative Directorate.

Adv Hermione Cronjé, Head of the Investigative Directorate, NPA, stated that it was not true that nothing had happened. Her Directorate had focused on the prosecutions of senior police members, some of whom were still in the police service, a former acting national commissioner, a provincial commissioner and eight generals relating to contracts that had been awarded by the supply chain management in SAPS. She added that there was already a matter related to Bosasa before the courts which related to the first phase of investigations into the controversial company. The matters would continue shortly and the public would get more of an idea of what was involved in those matters. The NPA had been in the process of bringing a person from abroad but the issue of travelling to South Africa had been delayed by the Corona virus.

The second phase of the Bosasa investigation related to evidence that was led at the Zondo Commission of Inquiry into state capture. Two issues should have been introduced during the last few weeks. While the courts had been open during the lockdown, there were logistical issues which had made it difficult to bring the matters to court. However, she believed that as the lockdown was eased, it would be easier to bring the matters to court.

A number of the cases involved mutual legal assistance from countries abroad. A Member had asked how the Directorate was faring in getting money back to SA. The Investigative Directorate was also working on the Estina matter. Adv Cronjé stated that her Directorate was still awaiting further assistance from the UAE. Assistance had been promised and a first instalment had been received but further instalments were awaited. She added that the Directorate was working on additional evidence. Many people had prompted her to go after the low hanging fruit but she explained that it would cause grave dissatisfaction if low hanging fruit was targeted and she did not get those people that her Directorate had been set up to get, i.e. those people who did not get their hands dirty in the awarding of contracts, but were benefitting and orchestrating behind the scenes. One needed critical pieces of evidence, such as cell phone conversations, emails and bank statements around the world and that was why the UAE had been so critical to the case. Now that a measure of that evidence had been made available, her Directorate was determined to get the evidence it needed so that it had the full scope of those that were responsible in that matter before court. Arrests of low hanging fruit did not address the people who were most responsible for what had happened in the SoE matters. The Directorate was dealing with that. There was a freezing order in the Transnet matter which would be in court on an opposed basis the following week. That would give an understanding of what was at stake.

The Directorate had been presented with an investigation done by an international corporation that the NPA had been looking to prosecute. The investigation had been undertaken to exonerate themselves. She had told them that she would share with Parliament what had been shared with her. The US corporation had conducted an investigation into one of their officials - it involved one of their top New York Washington-based law firms that was involved with a leading set of SA attorneys. The investigation had looked into 9 million documents with over 39 million pages; one million dockets of four million pages had been reviewed; emails totalling more than

3 000 documents had been examined and had between 30 to 65 attorney document reviewers had looked at the documents while over 600 individuals had been interviewed and a third party forensic organisation had been employed. That was one investigation into someone who had been involved in looting vast sums of money from SA. She would not say what resources the NPA had at its disposal but it needed to upscale its resources, although not to that extent, to ensure its ability to finalise the cases.

Adv Batohi, said that people needed to understand that the NPA was operating in a very inefficient system. It had plans in place to address those inefficiencies and to build a system that could respond to those crimes. She added that she could categorically state that there had been absolutely no interference in the work of the NPA. The work was sometimes not as fast as people would like, but it was hugely important that the NPA got things right.

The Chairperson noted that some of the Members' questions had not been responded to, especially by the DoJ&CD. Adv Breytenbach, Adv Mohamed and Adv Swart were awaiting responses. The Secretariat would ensure that the questions would be answered in writing.

The Deputy Minister stated that he was satisfied with the discussions.

Closing Remarks

The Chairperson said that it been a very fruitful engagement. He would like to engage more with the Solicitor-General in the future, especially in respect of the briefing patterns for legal professionals, but the most pressing issue was that legal people were not paid in time by the Department for work done in respect of those briefings.

The Chairperson said that he wanted stability in the DoJ&CD. One could not have all those acting positions. By October, those posts had to be filled. His experience in government told him that targets would not be achieved if the senior management positions were not permanently filled. He knew that the DG could manage certain posts but others were in the control of Cabinet. He asked the Deputy Minister to inform the Minister that the Committee wanted a DG by October 2020. He noted the good work being done by the NPA and added that the DoJ&CD had also done a lot of good work.

He noted that the Committee would like to engage more with the NPA on the risks going forward and he wanted the investigation into the alleged racism in the NPA to be expedited and concluded as soon as possible. He wanted finality in the IJS IT system as it could not go for more than a decade without a conclusion. He appreciated that DoJ&CD had appointed a dedicated person but he did not want the Committee to end its term of office without the IJS in place and operative.

The Chairperson was pleased to see the need for a unified government policy on the services of language interpreters, noting that government departments did not cooperate sufficiently. That had to be followed up. He would also appreciate a sharing of good practice, especially between departments and entities in the same cluster. Each department behaved as if it were a separate republic. Departments should share good practices. For example, DoJ&CD was struggling to achieve a clean audit but the Legal Aid Board had achieved 16 years of clean audits. The Board ought to be able to give guidance and support to DoJ&CD. Also the IT system of the NPA had allowed the Committee to hear officials very clearly but the DoJ&CD system was very indistinct. They could share information so that DoJ&CD could improve their IT connectivity. The Committee was seeing a lot of energy in the DoJ&CD under Adv Skosana.

He did not want the Committee's term to end without the IJS being in place and the entities all had to have a clean audit. If that happened the Portfolio Committee would have failed and he could not recommend bonuses if those things were not achieved. A vacancy rate of 22.6% was unacceptable. The NPA had reminded the Committee that it was not a report back session but when that report back session was held, he did not want to see a vacancy rate of the 22.6%.

The Chairperson thanked everyone for the participation and closed the meeting as another was starting shortly.

The meeting was adjourned.



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- [DOJCD: 2020/21 APP & 2020 25 Strat Plan](#)
- [DOJCD: Strat Plan](#)
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- [23 May 2020 Media Statement: Committee Calls for Finalisation of the Integrated Justice System Project](#)