

KHASHO

NEWS

3rd Edition



STOP
GENDER BASED VIOLENCE
against women

FEATURED INSIDE

- > Serial Rapist Sentenced to 100 Years Imprisonment
- > A Glance at the Community Prosecution Initiative
- > The Value of Tax Unit Prosecutions
- > Two Thuthuzela Care Centers Launched



National Prosecuting Authority
South Africa

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Published for the NPA by:
Milk Brown Design and Communications
www.milkbrowndesign.co.za



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Letter from the Managing Editor

As we publish this edition of Khasho over the period of the 16 Days of Activism Against Violence on Women and Children, in the Leadership Corner Advocate Bonnie Currie-Gamwo provides background to the significance of this campaign in focusing the country's attention on the scourge of sexual offences and gender-based violence and the NPA's strides in addressing it, especially through the very successful Thuthuzela Care Centre model. We also report on some important GBVF cases that were successfully prosecuted, in the words of our prosecutors.

We also showcase successful prosecutions in various key crime types across divisions, which reflects the depth of the skill and expertise of our prosecutors. We are pleased to report

remarkable progress in community prosecution, which is a key strategic initiative of the NPA, by way of an example from the Gauteng Local Division. In future editions, we will feature more successes in this prosecutorial approach, especially since it has been identified as one of the top priority initiatives at the NPA's Strategy Implementation Review Session held in November (see page 23-24 for more). **The outcomes were reported comprehensively in the Manco Decisions and Updates of 22 November 2022**

As usual, we look forward to your feedback or suggestions for stories, at khasho@npa.gov.za

Best Wishes!



Adv Bonnie Currie-Gamwo
SDPP: SOCA

Leadership Corner

South Africa is currently in the midst of the global 16 Days of Activism for no violence against women and children campaign which started on 25 November 2022 and ends on 10 December 2022. This campaign was started as a result of the massacre of three sisters, Patria, Minerva and Maria Mirabel in the Dominican Republic in 1960. They opposed brutal violence. The campaign was introduced in South Africa in 1998. Sadly, 24 years later, vulnerable people - women and children are still facing the same violence on a daily basis - they are raped, sexually assaulted, kidnapped, assaulted and killed.

In 2001, the SOCA Unit introduced the Thuthuzela Care Centre (TCC) model, an internationally recognised best practice for providing pre-trial services to victims of sexual violence. This includes psycho-social services, medical services and legal services under one roof. Today, there are 62 such centres across the country, which since 2021 service not only victims of sexual offences, but all victims of gender-based violence. SOCA is committed and geared towards expanding the TCC footprint as rapidly as possible to ensure that although GBV victims may be facing the same violence as before 1998, they will receive an enhanced response from those tasked to assist them at their most vulnerable; the prosecution, the police, the medical doctors and nurses, counsellors and social workers will provide the GBV sensitive appropriate response. SOCA will continue to strive to create safe spaces for GBV victims by ensuring that the pre-trial services that the TCCs offer reduce secondary trauma, increase the conviction rate of GBV cases and decrease the time between reporting and the finalisation of the cases.

TCCs will continue to transform victims into survivors - empowered victims who are strong enough to tell their story in court and enable the NPA to secure convictions and ensure that the criminals who perpetrate GBV are removed from the society they prey upon and imprisoned.

The scourge of GBV is too big for only one sector of society to address effectively. This was made clear by the introduction of the National Strategic Plan on Gender Based Violence and Femicide in 2020. All of society is tasked with working towards addressing GBV, not in silos but together. SOCA has engaged in various private public sector partnerships, which epitomises what is expected of both the private and the public sector. These partnerships are integral to not only addressing GBV but also speeding up the process. Any delay means more victims, more rapes, more assaults and more deaths.

Value driven leadership is needed to effectively address GBV in South Africa. This is the type of leadership that leads from a deep sense of purpose and demonstrates a commitment to the values such as integrity, empathy, honesty, accountability, effectiveness, passion, courage, excellence, resilience and respect. It is the type of leadership which achieves excellence. Victims of GBV deserve no less. This leadership is evident in both the private and public sector partners who are courageous and resilient. As we embark on this journey together, we make a formidable team who can and will make a huge impact on those who need us most. May we continue to display value-driven leadership in the fight to eliminate GBV in SA, victim by victim, community by community, TCC by TCC.

KZN SCCU SECURES LANDMARK CORRUPTION CONVICTION

Natasha Kara
RCM: KwaZulu-Natal Division

The Durban Specialised Commercial Crimes Unit (SCCU) recently secured a landmark corruption conviction. In early September, Dumisani Siphon Derrick Shabalala, was sentenced to 15 years imprisonment for fraud, 15 years imprisonment for corruption, 10 years imprisonment for money laundering and 5 years imprisonment for contravening the PFMA. The sentences were ordered to run concurrently, resulting in an effective 15 years imprisonment. He then made an application for leave to appeal his sentence and conviction. The court refused his application, his bail was cancelled, and he had to start serving his sentence.

Khasho spoke to Senior State Advocate Mlungisi Qhubekani Israel Magwanyana (MQIM), and State Advocate Sithembile Fortunate Ngcobo (SFN), who were instrumental in finalising this matter.

1. Tell us a bit about yourself.

SFN: I obtained my LLB degree from the University of Zululand and joined the NPA in 2005 as an aspirant prosecutor. I have been with the SCCU for the past two years

MQIM: I studied at the University of Zululand and graduated with an LLB degree. I also joined the NPA as an aspirant prosecutor in 2005. I have been with the SCCU for eight years, having previously prosecuted in the Pietermaritzburg High Court.



Advocate Sithembile Ngcobo



Senior State Advocate Mlungisi Magwanyana

2. Why did you choose to prosecute commercial crimes?

SFN: My passion for prosecution overall, arose when I was exposed to the justice system while attending the case of my late cousin who was murdered in my hometown in Piet Retief. I was 14 years old at the time and prior to that I had no idea that an organisation such as the NPA existed.

MQIM: While prosecuting in the Pietermaritzburg High Court, I decided that I wanted to move to specialised prosecution from general prosecution. I enjoy prosecuting high profile cases.

3. Please provide some background on this matter

In 2003, Gaston Savoie attended a meeting in Cape Town where he met officials from the Department of Trade and Industry in KwaZulu-Natal (KZN), as well as officials from the KZN Provincial Government, including Dumisani

Shabalala who was the Head of Provincial Department of Treasury in KZN and the accounting officer of the department. This is where Savoï learned that KZN faced formidable challenges in relation to the provision of potable drinking water.

In March 2004, he invited Shabalala and a delegation to visit several hospitals in South America to view 'Watakas' and 'Oxyntakas' operating in the public health environment. 'Watakas' were water purification plants and 'Oxyntakas' were the oxygen self-generating equipment. Savoï wanted them to see how the self-generating oxygen units and water purification plants operated.

On his return to South Africa, Shabalala expressed to Savoï his interest in purchasing the water purification plants. Following another meeting in Cape Town, Skyros Medical was registered with Beatrice Shabalala (Shabalala's wife) and Savoï as its directors.

May 2005 - Shabalala advised Savoï that the process to acquire the 'Watakas' for the province was underway.

June 2005 - Savoï sent a quote for over R1.9 million to Shabalala for the supply of one Wataka transportable water purification plant.

17 July 2005 - Shabalala lobbied for the purchase of water purification plants from Savoï and/or Intaka Investments and proposed that the Poverty Alleviation Fund be used for that purpose.

10 October 2005 - Shabalala motivated for Savoï and/or Intaka Investments to be granted the contract to supply 22 water purification plants using Delegation 701 to circumvent tendering procedures. This proposal was to be acted upon without testing the market and without giving potential bidders the opportunity to tender.

06 December 2005 - Shabalala sat in a meeting of the Central Procurement Committee and supported the request for a waiver without disclosing his relationship with Savoï and the business relationship which existed between his wife and Savoï.

05 June 2006 - the Department of Local Government, Housing and Traditional Affairs issued an order number to Intaka Investments for R44.5 million for the purchase of 20 water purification plants without having tested the market and/or determining that the price they were being charged was both fair and market related.

4. Who are the other accused in this matter?

Gaston Savoï, Intaka, Fernando Praderi, Busisiwe Nyembezi (former HOD at the KZN Dept. Health), Victor Ntshangase (SCM Manager at KZN Dept. Health, Alson Siphon Buthelezi (CFO Dept of Health). The matter returned to the Durban High Court on 14 November 2022 and was postponed to 27 February 2023, pending the interlocutory applications and application for permanent stay of prosecution.

5. What were the challenges that you experienced during this prosecution?

Most of the witnesses had retired from the Department of Local Government and some were deceased.

The matter had been delayed for 10 years and it related to an incident that occurred in 2005 to 2007 – about 15 years ago, so the memory and documents were missing in some instances we did not have original documents as they could not be found.

6. How did you overcome this?

We used Section 3(c) of the Hearsay Evidence Act, and we called the witnesses who authorised the documents and/or received same. It also helped that a lot of those documents and issues were common cause.

7. Parting shots?

We would like the public to know that we are dedicated and are working tirelessly to ensure that those who commit these offences are brought to account. Further, as recently stated by the NDPP, it is within all of us who are responsible to ensure that the values of Batho Pele, integrity, service delivery and dedication are revived in the public sector.

THE VALUE OF TAX UNIT PROSECUTIONS

Phindi Mjonondwane
RCM: Gauteng Local Division

Tax offences are often viewed lightly by members of the public. Also, the impact of these offences on our country's fiscus and on service delivery is underrated.

In a recent case finalised in September 2022 by the Tax unit of the NPA in the Gauteng Local Division, Johannesburg, Nokuthula Cynthia Nene (39) was sentenced to 15 years direct imprisonment for 25 counts of Value Added Tax (VAT) fraud. Seven years of the sentence was suspended for a period of five years on condition that the accused is not convicted for fraud committed during the period of suspension.

Nene was found guilty of submitting fraudulent VAT returns to the South African Revenue Service (SARS) to the tune of R1 922 368.75 for the tax periods July 2008 to July 2012.

Senior State Advocate Mzuhleli Mcosini, successfully prosecuted the case and spoke to Khasho about the work he does.

Q. When did you join the tax unit and what (skills, expertise) would you say is needed to prosecute tax related matters?

A. I joined the NPA Specialist Tax Unit when it was established in 2003.

Around 2000, NPA and SARS senior management team saw a need to create dedicated tax units that will deal decisively with tax related offences, in other words, there was a need to create or enhance a division within SARS (i.e. the Criminal Investigations Division with dedicated capacity), that will work closely with the dedicated capacity of the NPA (i.e. the Specialist Tax Units) to prepare solid cases that will be ready for prosecution.

This was to be done in a coordinated manner across the country. Initially, the NPA tax units were established in 2003, in Johannesburg, Pretoria, Durban and Cape Town.



Tax Units have since been rolled out to other provinces and cities.

In order to successfully carry out the mandate to prosecute tax offences: I am of the view that prosecutors need to possess the following skills at least.

- (i) an appropriate legal qualification,
- (ii) computer literacy,
- (iii) good analytical and communication skills,
- (iv) ability to work in a team and independently with minimum supervision,
- (v) attention to detail and ability to guide investigations.

Q. What value is the tax unit adding to the lives of South Africans?

A. The tax unit plays a crucial role in the lives of South Africans apart from the fact that SARS collects revenue on behalf of government for the benefit of all its citizen. It is acknowledged that whilst the NPA and SARS have different mandates, they share a common purpose – to make South Africa a safer and a better place.

There is no doubt that any offence committed against SARS or fiscus (especially fraud and theft) also prejudiced the larger South African community whose welfare the SARS is by law obliged to protect. SARS is responsible for tax collection to enable the government to fulfil its constitutional obligation to provide infrastructure and services. Members of the public sometimes think it is fine or acceptable to cheat the "taxman". Sometimes they believe there is no victim if they defraud or steal from SARS. This is not true. The truth is that tax offences are not victimless or faceless crimes. The face of tax offences is to be seen in the:

- (i) budgetary shortfalls in hospitals and clinics which prevent them from providing a better health care service to communities;

- (ii) inadequate number of teachers to enable smaller classes at school;
- (iii) inadequate number of police officers in our communities to fight crime;
- (iv) the potholes in the streets, and more importantly
- (v) insufficient money to build more houses for the homeless or to provide running water to all of our citizens. Consequently, the aspirations of a better future for all South Africans are ruined by the unethical and criminal behavior by some private and public sector criminals.

It is the tax unit's view that if our courts were to take appropriate action against perpetrators of these kinds of offences, society at large would benefit tremendously. Government would be able to provide for lower personal taxes, higher pensions for the elderly and better services on all levels.

Q. How complex is the nature of preparing a formidable tax prosecution? Please share some insights about the type of investigations that must be conducted and the role that you play as the prosecutor in guiding the investigation processes.

- A. Tax matters are by their very nature complex and technical. I normally advise colleagues that as soon as you are allocated a docket for a decision, you must be in a position to decide:
- (i) If indeed it falls within the mandate of the tax unit,
 - (ii) If it is an Income Tax (including PAYE) matter, VAT matter or Customs and Excise matter,
 - (iii) If there is a syndicate involved,
 - (iv) If it is a bulk cash smuggling matter (emanating from OR Tambo International Airport) – if so, the South African Reserve Bank must also be notified.
 - (v) Whether any loss was suffered by SARS or the fiscus. This is important to determine whether to also refer the matter to our colleagues in the Asset Forfeiture Unit for possible recovery of assets.

After careful perusal of the docket, then you can decide if the evidence obtained in the docket is enough to enroll the matter in court or you can contact your SARS criminal investigator for consultation purposes, and together prepare a case and investigation plan.

Q. What types of challenges negatively impact on successfully prosecuting tax related matters and what can you suggest to the NPA to remedy them?

- A. I would not like to dwell much on the negatives but only focus on the positives that I have noticed thus far, *inter alia*:
- (i) NPA senior management approval of the recruitment of colleagues who recently joined the Johannesburg Tax Unit to reinforce and capacitate our team, despite budgetary constraints,
 - (ii) What is important to me is that these colleagues are young, vibrant, energetic, and most importantly are experienced prosecutors - certainly they are highly motivated, they are bringing in new ideas and are familiar with the latest technology - and there is no doubt in my mind that because of their presence, the tax unit's performance has improved tremendously.
 - (iii) The head of the tax unit (the DDPP) has now been permanently appointed (the post had been vacant since October 2017). There is now clear leadership, stability, and direction in the tax unit.
 - (iv) Regular or ongoing training and intervention programmes have been identified and organised by the NPA and SARS Management (i.e. between NPA prosecutors and SARS criminal investigators) for 2022/23 financial year. The efforts of senior management are appreciated).

Lastly, the Johannesburg tax unit has now reached a turning point in the fight against tax offences - and results will speak for themselves.



A GLANCE AT THE COMMUNITY PROSECUTION INITIATIVE

Phindi Mjonondwane
RCM: Gauteng Local Division

The project of Community Prosecution is managed by the Sexual Offences and Community Affairs (SOCA) unit, and was piloted between 2006 and 2007 in selected high-crime areas across South Africa. It was revived in 2020 wherein a Community Prosecution Task Team was convened to consider the outcomes of the Pilot Evaluation Study.

The Task Team comprised of representatives from all divisions of the NPS, as well as Strategy Management Office, Communications Unit, and Innovation and Policy Support office. Prosecutors were trained in November 2020 for the preparation to revive the Community Prosecution Initiative (CPI) and for the implementation thereof. It was during this workshop that a decision was taken that each division will identify at least two initiatives to address community exasperations within each specific division. The Gauteng Local Division identified gender-based violence, substance and drug abuse as well as proliferation of liquor outlets. Leonard Dakile from the West Rand Cluster was moved to Eldorado Park South African Police Service to deal with substance and drug abuse around the area of Kliptown and Eldorado Park.

Khasho interviewed Dakile who works under the supervision of Senior Public Prosecutor Carlette Muller, to establish progress and challenges in implementing the CPI.

How long have you been doing community work with Eldorado Park and is your work adding value/ does it have any impact?

I have been doing community work within Eldorado Park for almost a year now. Yes, I believe my work is adding value because some locations have even adopted our programmes and approaches, and implemented them in their own areas including Chiawelo, Klipsruit and Pimville. They are following the approach developed by the NPA in some of their schools.

Is the community embracing this initiative by the NPA? Please substantiate your answer

Yes, indeed the people accept the NPA initiative of reducing crime and poverty. There has been a substantial



Mr Leonard Dakile addressing learners

number of people who are visiting the NPA office not only on criminal matters but on civil matters as well, which include among others, divorce cases, home disputes, job seeking, drug rehabilitation, child neglect, closing down of lolly lounges, addressing early childhood pregnancy as well as focusing on children that are not attending school. The community reported these cases, and we have intervened, leading to a high success rate in terms of providing solutions, but there is still a long way to go.

What are some of the challenges you come across?

We come across a lot of challenges. Remember we are working with human beings and trying to address different expectations. We have to manage different interests and high expectations. We are focusing on our common goal of community development and reducing crime. The areas of Eldorado Park and Kliptown are experiencing high unemployment rate, poverty and gender-based violence and the areas have been stigmatised as having a lot of drug lords and car hijackers residing there. We realised the importance of implementing our programmes at schools to ensure kids benefit from the programmes at an early age.

What kind of support would you like to receive from the NPA to enhance your work?

I wish the NPA could realise the extraordinary work we do to assist the communities and the influence we have within our communities. I also wish the NPA could use its influence for the betterment of these communities, for instance, asking the provincial government to lease the land to the NPA so that it could be used to benefit the communities.

What more can be done for the work of community prosecutions to have a sustainable impact on citizens?

There is still a lot to be done especially on drugs. Drugs are a big problem in Eldorado Park. I wish we had a dedicated court and a special unit that will deal solely with this scourge. It is scary that even eight-year-olds are groomed to sell or use drugs.

FIVE GANG MEMBERS SENTENCED TO LIFE IN JAIL FOR MURDER AND ROBBERY

Phaladi Shuping
RCM: Free State Division

"The accused were part of a criminal gang and acted in furtherance of a common design to initiate accused 1, Motlalepula Isaacs, into the Born To Kill (BTK) gang. They went out looking for innocent people to kill because they were driven by the initiation and they came across the two deceased who just happened to be victims of this random killing. Two families are now without fathers because of the gang activities, and I therefore call upon the court to impose harsh punishment on all the accused"

This was part of Advocate Antoinette Ferreira's argument in court in trying to convince the Free State High Court Acting Judge, Danita De Kock, to impose harsh punishment on five BTK gang members who were convicted of killing Daniel Mmoka and Josias Sesinyi in the early hours of Monday, 24 October 2016. Ernest Isaacs, Mahlomola Zapeza, Thabo Nkone and brothers, Thabang and Thabiso Komane, were sentenced to two life terms each after they were found guilty on two counts of murder.

Ferreira lambasted the actions of the accused in that they killed two people within an hour just because they wanted to initiate Isaacs, who, before the killings, was not a member of the BTK

"The evidence is that the accused got together at the house of Bongani Mphatseng, who was accused 6, but sadly passed away before the start of the trial, to train Isaacs in the BTK rules and lingo as a new gang member. Part of the initiation was that Isaacs must spill blood hence they went out looking for victims. They came across Mmoka, who was from a nearby tavern, and stabbed him several times".



Advocate Antoinette Ferreira

According to Ferreira, the gang was not satisfied that they have attacked an innocent man and went out looking for more victims. "They came across Sesinyi and stabbed him several times. They took the belongings of both victims. Fortunately, the police got the tip off, few hours after the incidents and went to search Mphatse's house. They found all the accused in the house, with cellular phones taken from the deceased. Some of them were still wearing blood-stained clothes which were also confiscated, and the DNA samples of the deceased were found on them".

Isaacs and Thabiso Komane made confessions to the police but later changed their stories. Isaac, says Ferreira, told the court that he was assaulted by the police. "However, the statement was ruled admissible after a trial within a trial. Komane stated that the interpreter exaggerated, and some of the things were not as he stated, questioning credibility of Captain Van Zyl, who took his statement".

Ferreira says that the case was on the verge of being withdrawn because they could not find their main witness, Pulane Mokheseng, who was a girlfriend to Mphatse. She submitted a statement to the police but somehow, disappeared before the trial could begin.

"Mokheseng disappeared without a trace before the start of the trial. I made an application for her statement to be admitted as evidence, but the court denied it. The investigating officer, Constable Sechaba Thulo, had to go an extra mile to find her. He traced her to a new address and brought her to court. She testified that the accused left together carrying knives and came back in the early hours of the morning, with cellular phones and some of them were wearing bloodstained clothes".

Ferreira says it was a challenge to prove her case beyond reasonable doubt with just one eyewitness, but the DNA results strengthened her case. All five accused were sentenced to two life terms of imprisonment, each for two counts of murder and 15 years each for robbery with aggravating circumstances. They were further handed a prison term of five years for gang related activities. The sentences imposed on the accused were a relief to Constable Thulo and Advocate Ferreira because this was the last known gang that was terrorising the community of Khayelitsha in Bloemfontein.

GENDER-BASED VIOLENCE PERPETRATOR SENTENCED TO 3 LIFE TERMS AND 63 YEARS IMPRISONMENT

Monica Nyuswa
RCM: Mpumalanga Division

The High Court of South Africa: Mpumalanga Division convicted and sentenced Prince Thokozane Mazibuko (34) of Langeloop Trust in Nkomazi to three life terms and 63 years for four counts of rape, three counts of housebreaking, two counts of robbery with aggravating circumstances and one count of theft. These crimes were committed between the period of January 2013 and January 2017 in the district of Nkomazi, where Mazibuko and his unknown accomplices would target female-headed houses, break into their houses and rape them.

Mazibuko's victims did not know the perpetrators. Three of them were minors when the incidents happened, and one was repeatedly raped. Some of the victims reported the incidents at the Tonga Thuthuzela Care Centre (TCC), which facilitated the progress of the report of the matters to the police as well as assisting them with access to medical treatment. This meant that the victims did not struggle to receive appropriate assistance after their ordeal.

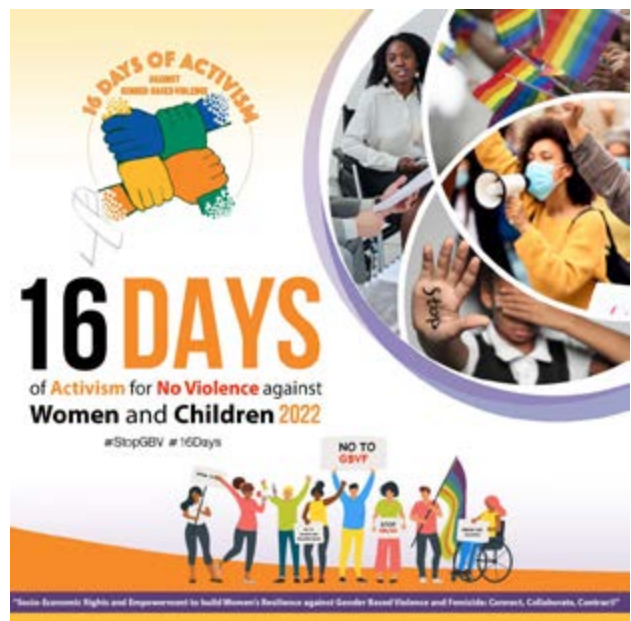
Mazibuko was arrested in January 2020, for a separate rape case and was linked to other rapes through DNA. In court, he claimed that the sexual intercourse with the victims was consensual, and that he paid all the victims amounts ranging from R100 to R200. Senior State Advocate Vuyo Mkhulise led the evidence of all the victims and first reports. One of the victims told the court that since the incident of rape, she suffered a breakdown in the relationship and as a result her erstwhile fiancé ended the then impending marriage. Medical reports and DNA was handed in. Mkhulise submitted Victim Impact Statements compiled by the Court Preparation Manager, Xolile Mzobe, where the victims outlined the psychological trauma they experienced after the incidents. One of them also indicated that her academic progress was severely affected. Mazibuko was sentenced to three life terms and 63 years imprisonment. The court ordered his name to be



Senior State Advocate Vuyo Mkhulise

entered into the National Register for Sexual Offenders. He was declared unfit to possess a firearm and unsuitable to work with children. The NPA remains steadfast in vigorously prosecuting sexual offences as well as gender-based violence cases.

"The biggest challenge in this case was to consult with the victim's mother whose child was gang raped in front of her on the same bed. I had to deal with the self-blame by the mother who was always indicating that she should have done something to protect her daughter. During the court proceedings, Mazibuko did not show any signs of remorse, instead he kept laughing when the victims were testifying and re-living the trauma he put them through. What makes the case worse is that one of the victims who was highly pregnant during her ordeal indicated that the boyfriend disputed the paternity of the child which resulted in her having a fatherless child, we are satisfied with the sentence and justice was served," said Advocate Mkhulise.



LIMPOPO SERIAL RAPIST SENTENCED TO 8 LIFE AND 100 YEARS IMPRISONMENT

Mashudu Malabi Dzhangi
RCM: Limpopo Division

The Thohoyandou High Court convicted and sentenced Ndivhuwo Tshisikhawe (29) to eight life sentences and 100 years imprisonment for two counts of housebreaking with intent to rape, three counts of robbery with aggravating circumstances, three counts of kidnapping and eight counts of rape including raping a minor girl aged 13. The accused was terrorising Lwamondo, Duthuni, Tshisaulu and Mvelaphanda villages. He would enter the homesteads of the victims and threaten them. The matter was before Judge Nare Frans Kgomo.

Challenges that advocate Mulangaphuma encountered when dealing with the case:

During the trial, the accused always indicated to court that he cannot proceed due to sickness. The case took long because most of the witnesses were coming from Gauteng and each time the accused indicated to court that he was sick, the witnesses became reluctant to return for the next court proceedings. Also, victims who were sexually assaulted by unknown assailants are usually unwilling to attend court proceedings to face the perpetrator, especially if the accused is arrested through DNA.



Advocate Ndivheni Mulangaphuma

Most victims of gender-based violence especially rape, are reluctant to come to court to give evidence because they feel shameful about the ordeal, especially when the incident happened when they were young, and are currently married. It is not easy to get hold of the witnesses especially when cases are prolonged.

What key evidence did you rely on?

DNA, also some of the victims have seen the accused before, so, they were able to identify him.

How did you finalise the case?

The trial ran its course and at the end the accused was found guilty on all counts and was ultimately convicted and sentenced accordingly.

Would you say the criminal justice system is winning the fight against GBV perpetrators?

Yes, cases are being prosecuted successfully.

FOUR LIFE TERMS HANDED TO A SERIAL RAPIST BRINGS CLOSURE TO THE VICTIMS AND THEIR FAMILIES

Henry Mamothame
RCM: North West Division

The High Court of South Africa: North West Division handed down four life terms to a 28 year-old serial rapist, Tumisang Sesinyi on 04 October 2022.

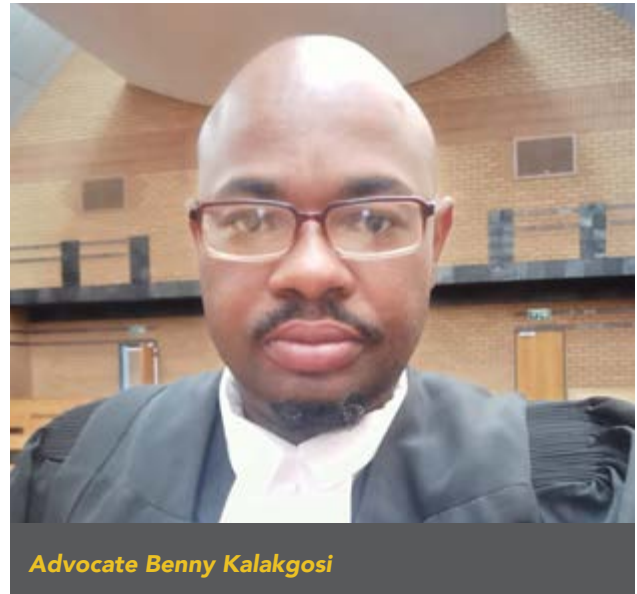
Sesinyi who terrorised the community of Dinokana in Lehurutshe near Zeerust, between 2012 and 2018 was apprehended on Thursday 11 October 2018 at a dumping site after community members spotted him and informed the police.

The court heard during the proceedings that the accused targeted the local Technical and Vocational Education & Training (TVET) College female students and raped them. During the commission of the crimes, the violent Sesinyi would attack and ultimately rape women aged between 19 and 26.

Advocate Benny Kalakgosi represented the state in this matter and had this to say about his experience prosecuting the case:

The accused knew exactly what he was doing as all his victims were unsuspecting innocent students. I appreciate the collaboration between myself, Captain Pretorius and Captain Rabe who is the investigator of Serial and Electronic Crime, which led to a successful conviction.

I inherited the case from Adv Florence Rasakanya, and therefore it had been heard in court before. The challenges in the case were the witnesses who had to relive the ordeals of being raped by the accused. Proceedings had to be occasionally adjourned to afford those witnesses the opportunity to regroup and collect themselves. The case was a success and I am satisfied with the outcome. I further made an application in terms of section 299A of the Criminal Procedure Act wherein I



requested the Judge to afford all the complainants the opportunity to make representations to the Commissioner of Correctional Services in the event that the accused is considered for parole.

Sesinyi who remained in custody since his arrest, was sentenced as follows:

- Count one of rape: life Imprisonment
- Count two of robbery: three years imprisonment
- Count three of rape: life Imprisonment
- Count five of rape: 10 years imprisonment
- Count seven of rape: life imprisonment
- Count nine of rape: 10 years imprisonment
- Count 10 of rape: life imprisonment
- Count 11 of robbery aggravating: 15 years imprisonment

This case further illustrates the importance of collaborating with communities in the advocacy against criminality.



TEAMWORK MAKES THE DREAM WORK

Lumka Mahanjana
RCM: Gauteng Division: Pretoria

A team of prosecutors and senior financial investigators, Adv Kehilwe “Lucky” Possa, Adv Thandiwe Raikane, Adv Munene Mahlaule, Dr Anthony Botha and Ms Lorraine Eayrs of the Pretoria Asset Forfeiture Unit (AFU) managed to secure a preservation order of state owned properties worth over R144 million; farm 405 Randjesfontein (property earmarked for the Pan African Parliament) Erf 170 Hurlingham measuring 4051 square meters, and Erf 1 Hyde Park measuring 3251 square meters and freezing of bank accounts that belonged to law firms, amongst others. These properties were irregularly and fraudulently sold to parties or entities.

When asked how the team came to know about this matter, they said the matter was referred to the AFU by the Special Investigating Unit (SIU) in January 2022, after the SIU unsuccessfully tried to reverse the ownership of the properties back to the state. The SIU was met by several delays described as a “Stalingrad” strategy. However, as the AFU has certain powers in terms of the Prevention of Organised Crime Act, 121 of 1998, the unit was able to follow processes that expedited the process and were able to secure the order preserving the property.

Over and above the preservation order, a criminal docket has been opened and is being investigated by the Hawks. A prosecutor from the SCCU Pretoria has also now been appointed. Dr Botha said he realised while working on this matter that working in silos does not help, it only delays the process and takes time. The team was able to do so much in a short space of time because of partnerships and working together with SIU. They said that it will be no surprise when they get more from SIU. As it is, the team is working on finalising other matters that involve stolen properties from the state.

The second round of preservation is estimated to involve seven more properties. A case docket is currently being investigated and the Deeds Registry offices are busy with internal investigations. The head of the AFU, Advocate Ouma Rabaji-Rasethaba, said she is pleased by the team’s work, and that this is a true example of what collaboration with other law enforcement agencies can achieve. Truly, teamwork makes the dream work.



**Top row from left: Adv Kehilwe “Lucky” Possa and Dr Anthony Botha
Bottom row from left: Adv Thandiwe Raikane, Ms Lorraine Eayrs and Adv Munene Mahlaule**

MAN SENTENCED TO 20 YEARS FOR ATTEMPTING TO KILL PARTNER

Mojalefa Senokotsoane
RCM: Northern Cape Division

Cases of abuse, femicide, and attempted murder by intimate partners continue to make headlines. Some of these cases are very gruesome as they show the extent to which partners continue to abuse and kill each other. One of these cases was handled by Advocate Corrie Jonker, based at the De Aar Regional Court. Advocate Jonker prosecuted Kobus Dallar (34) who was convicted in Carnarvon Regional Court on a charge of attempted murder of his partner.

On 07 May 2022, the accused had a verbal argument with his girlfriend with whom he was in a co-habiting domestic relationship. Both the accused and the victim were arguing over money to the sum of R50. The accused who was under the influence of liquor during the commission of the crime took out a knife and stabbed the victim 14 times.

The Regional Court Prosecutor Advocate Corrie Jonker had this to say about the case:

The accused who had two previous convictions of assault GBH was arrested on the same day, and he made his first appearance in the Carnarvon District Court where he chose to abandon bail. The case was transferred to the Carnarvon Regional Court where it was handled by myself.



I strongly argued for long-term imprisonment due to the seriousness of the offence. I emphasised the importance of ensuring that the accused as a repeat offender, be sentenced to a maximum prescribed sentence which will send a clear message to other perpetrators of such offences.

The accused pleaded guilty to a charge of attempted murder, and he was sentenced to an effective 20 years of direct imprisonment in terms of the Criminal and Related Matters Amendment Act 12 of 2021, which came into operation on 25 January 2022. The said Act places attempted murder committed on a victim who is or was in a domestic relationship under the minimum sentence regime where life imprisonment is prescribed. The accused was also declared unfit to possess a firearm.



HEFTY SENTENCES FOR DAMAGE TO ESSENTIAL INFRASTRUCTURE

Luxolo Tyali
RCM: Eastern Cape Division

As incidents of damage to essential infrastructure continue to have a crippling effect on the economy and the livelihoods of communities, the invoking of the Contravention of Section 3(1)(a) and/or (b) of the Criminal Matters Amendment Act, No. 18 of 2015 (i.e. Tampering with, Damaging or Destroying Essential Infrastructure) has attracted the prescribed minimum sentence of 15 years in a matter recently finalised in the Gqeberha Regional Court. Siphelele Guga (21) of New Brighton will now serve the lengthy sentence after he was convicted for digging up cables near the railway line at Grahamstown Road, North End, on the district of Gqeberha on 22 August 2021.

In what might previously be regarded as mere theft for which Guga was sentenced to four years, the court further sentenced him to 15 years. He had pleaded not guilty to both charges but Regional Court Prosecutor, Bhongo Makasana led evidence that convinced the court of Guga's guilt.

On the night of the incident, patrolling security officials in a marked Transnet vehicle, came across two male persons digging up cables near the railway line. One of the men ran away and the other, Guga was apprehended and found to be in possession of gloves, a bucket, spade, and iron rods. The two men had been digging up Transnet Copper Cables and had caused damage to the tune of R50 000. The cables which they had been stealing affected the train signal operations of Transnet, which could potentially have resulted in train derailment or collision.

In a separate matter, on 26 August, the Gqeberha Regional Court sentenced Logan Augustus, to 10 years imprisonment for having tampered with the streetlights next to the M4 in Gqeberha in an attempt to steal electrical copper cables belonging to the Nelson Mandela Bay Municipality. He was similarly charged with a contravention of s 3(1)(a) and/or (b) of the Act 18 of 2015.



Prosecutor Bhongo Makasana

On 16 August 2022, the same court sentenced Masixole Makasi, to eight years imprisonment for having caused R5000 worth of damage to Transnet property, whilst attempting to steal cables in Deal Party, Gqeberha. He was similarly charged with a contravention of s 3(1)(a) and/or (b) of Act.

On 18 May 2022, the court sentenced Ndoda Ntose, to 12 years imprisonment for having caused damage to a Transnet Track Points Machine, by hitting it with a rock to open it. He was similarly charged with a contravention of s 3(1)(a) and/or (b) of Act.

The courts are therefore increasingly imposing the desired long-term imprisonment terms for even the slightest interference with essential infrastructure.

Regional Court Prosecutor, Bhongo Makasana had this to say about how she argued in court and prosecuted the case:

The evidence was clear and precise, as I led the evidence of the two security officers who effected the arrest, and the technician from Transnet who identified the property and explained the impact including the cost involved when these offences are committed.

At issue was the point of law, as the defence attorney alleged that the theft charge and Contravention of Section 3(1) of the Criminal Matters Amendment Act 18 of 2015 were a duplication of charges. I then argued that point by using the case of *S v Mambane Laurance* and two others, where the judge, Ndlokovane AJ said: "If the elements constituting the offences differ, there cannot be a duplication even though the one single act is committed".

Second, was the issue of a common purpose that was stated on the charge sheet, so the attorney argued that the accused cannot be liable for theft. The state argued on that point as well and the court confirmed the same by saying even if the common purpose was not specified on the charge sheet by the state, the evidence led by the state cured that.

The state argued in aggravation of sentence pointing out the economic damage that is caused by the offenders who commit these offences, the disturbances that inconvenience the public and companies which also affects service delivery. The state argued the prevalence of these offences and need for courts to impose the prescribed minimum sentence.

CYBER CRIME INVESTIGATION AND PROCESSING OF INFORMATION

Karina Malapane and Tebogo Kelaotswe
SCCU Head Office Cyber Desk

The Constitution

Section 14 of the Constitution provides that: "Everyone has the right to privacy, which includes the right not to have:

- (a) their person or home searched.
- (b) their property searched.
- (c) their possession seized; or
- (d) their privacy and communication infringed."

The right to privacy is also limited under section 36 of the Constitution, which provides that:

"(1) The rights in the Bill of Rights may be limited by only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality, and freedom, taking into account all relevant factors including;

- (a) the nature of the right;
- (b) the importance of the purpose of the limitation.
- (c) the nature and the extent of the limitation;
- (d) the relation between the limitation and its purpose; and
- (e) less restrictive means to achieve the purpose.

It follows, therefore, that when an investigation is carried out in a digitised or centralised trust, the rights of the beneficiaries which inter alia, encompass the right to privacy should be protected whenever the need arises.

Protection of personal information act 4 of 2013 (popia)

The purpose of POPIA, is to:

- (a) give effect to the constitutional right to privacy, by safeguarding personal information when processed by a responsible party, subject to justifiable limitations that are aimed at-
 - (i) balancing the right to privacy against other rights, particularly the right of access to information; and
 - (ii) protecting important interests, including the free flow of information within the Republic and across international borders;
- (b) regulate the manner in which personal information may be processed, by establishing conditions in harmony with international standards, that prescribe the minimum threshold requirements for the lawful processing of personal information;

- (c) provide persons with rights and remedies to protect their personal information from processing that is not in accordance with this Act; and
- (d) establish voluntary and compulsory measures, including the establishment of an Information Regulator, to ensure respect for and to promote, enforce and fulfill the rights protected by this Act.

POPIA, defines personal information as: information relating to an identifiable, living, natural person and where it is applicable, an identifiable, existing juristic person, including but not limited to-

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of a person;
- (b) information relating to the education or the medical, financial, criminal, or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment of the person;
- (d) biometric information of the person;
- (e) personal opinions, views, or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person;
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person, but excludes information about an individual who has been dead for more than 20 years;".

In terms of POPIA, "responsible party"- means a public body, or private body or any other person which alone or in conjunction with others, determines the purpose of or and means for processing personal information.

POPIA further provides eight (08) conditions for lawful processing of personal information of data subjects, and they are listed as follows:

- (a) Accountability;
- (b) Processing limitation;
- (c) Purpose specification;
- (d) Further processing limitation;
- (e) Information quality;
- (f) Openness;
- (g) Security safeguards; and
- (h) Data subject participation.

Processing as defined by POPIA means - "any operation or activity or any set of operations, whether or not by automatic means, concerning personal information including -

- (a) The collection, receipt, recording, organisation, collation, storage, updating, or modification, retrieval, alteration, consultation, or use;
- (b) Dissemination by means of transmission, distribution or making available; or
- (c) Merging, linking as well as restriction, degradation, erasure or destruction of information."

Data subjects in terms of POPIA, are therefore, entitled to privacy as espoused in section 14 of the Constitution, subject to the limitation clause in section 36 of the Constitution. As such POPIA is an enabling legislation which safeguards processing of personal information and with exemptions.

Exemptions from conditions for processing of personal information in terms of popia

In terms of section 37(1)(a) of POPIA, the Regulator, may grant an exemption if such exemption is in the public interest, and such public interest includes the provisions of section 37(2) of POPIA:

- (a) the interest of national security;
- (b) the prevention, detection, and prosecutions of offences;
- (c) important economic and financial interests of the public body;
- (d) fostering compliance with legal provisions established in the interests referred to under paragraph(b) and (c)
- (e) historical, statistical or research activity; or
- (f) the special importance of the interest in freedom of expression.

Whereas section 38 of POPIA, provides for further exemptions based on execution of relevant functions conferred on any person by law. It follows, therefore, that law enforcement agencies are exempted from conditions for processing of personal information if they execute their legal duty therefore there will be no impediment for them to investigate or monitor any suspicious transactions or illegal/unlawful activities of subjects who are under investigations by law enforcement.

Notwithstanding the fact that Section 6 of POPIA provides for exclusions to all, inclusive of law enforcement agents who ought to comply with POPIA when processing personal information for the purpose of investigations and proof of offences. The exclusions are subject to protection of such personal information. In an event where the law enforcement office become aware that there is personal information, then the exemption must be sought to proceed lawfully with the procession so as to avoid challenges which might hamper the investigation or admissibility of evidence.

Does processing of personal information of suspects pose a risk due to easy access?

If access is lawfully authorised and consented to by the suspect, the law enforcement officers will have exclusive rights of access and process as per enabling warrant or consent by the lawful or rightful owner of the article subject to accessing for purposes of processing the information. No person with interest can also have access to such processed information, other than person/s so authorised.

In terms of section 19 of the POPIA, the responsible party must ensure that the integrity and confidentiality of personal information in its possession or under its control is safe by taking appropriate, reasonable and technical and organisational measures to prevent -

- (a) Loss of or damage to or unauthorised destruction of personal information; and
- (b) Unlawful access to or processing of personal information.

It follows, therefore, that the responsible party, under these circumstances, law enforcement officers, must at all costs safeguard personal information in its possession to prevent criminal activities such as extortion and other undesirable activities.

In terms of section 22 of the POPIA, responsible parties have a duty to report any data breaches which occur in their institutions. Responsible parties have the duty of data protection and controlled access of personal information.

Conclusion

It can be argued that the rights of suspects which encompass personal information will always be protected subject to limitations and exemptions as provided for in the Constitution and POPIA respectively. Should there be a need for access of such personal information as a result of a criminal investigation, such access will be permitted. Criminal activities within the digital space are shaping our laws and as a result, e-investigations have now become standard practice. However, security measures must always be in place to minimise the impact of breaches and unlawful access to such information for any other purpose other than that which is enlisted in the POPIA.

UBER'S FORMER SECURITY CHIEF CONVICTED OF DATA HACK COVER UP

Business Maverick

Joe Sullivan, was found guilty in the San Francisco federal court on Wednesday by a jury which rejected his claim that other executives at the ride-hailing giant were aware of the 2016 hack and were responsible for it not being disclosed to regulators for over a year.

The trial featured almost four weeks of testimony that explored cyber security management as well as a shakeup at Uber in 2017 when a series of scandals drove co-founder Travis Kalanick out as chief executive officer.

Sullivan was convicted of both charges of obstructing a government investigation and concealing the theft of personal data of 50 million customers and 7 million drivers, brought against him.

Sullivan, a former federal prosecutor who previously headed security for Facebook, is well-known for his expertise in the field in Silicon Valley. He faces as long as eight years in prison, though his sentence will likely be far less.

"While we obviously disagree with the jury's verdict, we appreciate their dedication and effort in this case. Mr Sullivan's sole focus – in this incident and throughout his distinguished career – has been ensuring the safety of people's personal data on the internet," said David Angeli, a lawyer for Sullivan. "We will evaluate the next steps in the coming days".

Companies are required under state and federal laws to promptly disclose data breaches. Uber's mishandling of the 2016 attack on its servers resulted in the company paying \$148-million in a settlement with all 50 states, which at the time was the biggest data-breach payout in US history. Uber had previously been reprimanded by the Federal Trade Commission over a similar data breach from 2014.

"Sullivan affirmatively worked to hide the data breach from the Federal Trade Commission and took steps to prevent the hackers from being caught," Stephanie



Hinds, US attorney for San Francisco, said in an emailed statement. "We will not tolerate concealment of important information from the public by corporate executives more interested in protecting their reputation and that of their employers than in protecting users."

Sullivan was accused of quietly arranging for Uber to pay the hackers \$100,000 in Bitcoin to delete the stolen data under the guise of a programme used to reward security researchers for identifying vulnerabilities, known as a "bug bounty". In return, the two hackers agreed not to disclose that they had stolen the data. The hackers later pleaded guilty for their role in the incident.

The October 2016 hack stayed secret until the following November when it was disclosed by the new CEO, Dara Khosrowshahi, about three months into his tenure. At the same time, he fired Sullivan.

Khosrowshahi testified that after discovering inconsistencies in Sullivan's account of what happened, he decided it was time to replace his security chief. "I couldn't trust his judgment anymore," he said.

Sullivan's defense was that Uber's legal department and other managers were aware of the incident before it blew up publicly.

Angeli challenged the notion of a coverup by pointing to Sullivan's sharing of information with numerous employees, before Khosrowshahi arrived at the company. Jurors were shown a 1:24am text that Sullivan sent to Kalanick describing the breach less than 12 hours after it happened.

"Remember, Mr Kalanick is the top person at Uber," Angeli said at closing arguments. "Mr Sullivan could not have reported this to someone higher up at the company."

Prosecutors argued that Sullivan, who joined Uber in 2015, was well aware of the requirements to disclose the breach, especially after the company's dealings with the FTC over the 2014 hack.

Sullivan, who was supposed to have improved security after the earlier breach, didn't want the details of the new hack to get out because it would have hurt his reputation, prosecutor Ben Kingsley told jurors.

Rather than disclose it, Sullivan "prioritised his reputation, and the company's reputation, over his obligations", he said.

Sullivan didn't testify, nor did Kalanick.

ANDREA JOHNSON CELEBRATED AT NEWS24 EVENT

Sindisiwe Seboka
ID Spokesperson

The News24 On the Record Summit was attended by former Public Protector, Advocate Thuli Madonsela, who wrote the State of Capture report and published it after a failed high court gag by those implicated in 2018.

The report brought about the Commission looking into allegations of State Capture, presided upon by the then Deputy Chief Justice (CJ) Raymond Zondo, as the Chair of the Commission.

In attendance and delivering the keynote speech CJ Zondo who had just released the final instalment of the State Capture report read verbatim how the state-owned freight agency Transnet was crippled by looting. "State Capture was a well-orchestrated scheme" he remarked.

On the panel was News24 Assistant Editor and panel host Pieter du Toit, Minister of Justice, Ronald Lamola, Investigating Directorate (ID) Head, Advocate Andrea Johnson, Council for the Advancement of the South African Constitution (CASAC) Executive Director, Lawson Naidoo, and Legal Journalist, Karyn Maughan.

The ID was celebrated for its contribution to the NPA's 6 months priority to enroll seminal cases by 30 September, more so for the progress made in the enrolment of several high-profile matters from March this year. It has now come to pass that the NPA, jointly with the Hawks, were able to meet this deadline.

The event coincided with a spate of high-level arrests at Transnet linked to the 1064 locomotive acquisition in 2012. Advocate Johnson remarked that the ID is not an island



Investigating Director, Advocate Andrea Johnson

and all the successes are due to stakeholder collaboration within law enforcement. She emphasised that public/private partnerships are key to fighting crime and doing so effectively.

Asked about what the ID needs urgently, Adv Johnson said, "while we appreciate the strides made by the ministry, our main need currently is permanency". This wish came to pass as President Cyril Ramaphosa announced the ID's permanence in his recent response to the State Capture Commission reports. The ID has become a permanent prosecution-led agency with requisite investigative powers and capacity to effectively tackle the most complex and serious forms of corruption, including State Capture. The new ID, like the erstwhile Scorpions before it, will become a global leader in investigating and prosecuting the most complex forms of corruption.

It was very clear from the event that the strides made by the ID in the past few months were being seen, felt and appreciated. Whilst there was agreement that there was still a lot to do, South Africans were hopeful that finally things were starting to happen.



NEW TCC TO SERVE MORE THAN A HUNDRED SUBURBS AND EIGHTEEN INFORMAL SETTLEMENTS LAUNCHED

Eric Ntabazalila

RCM: Western Cape Division

The NPA officially launched its 61st Thuthuzela Care Centre (TCC) at the Victoria Hospital in Wynberg, in the Western Cape, that will serve more than a hundred suburbs and eighteen informal settlements.

The launch was attended by the Minister of Justice, Ronald Lamola who delivered the keynote address, the Western Cape Health MEC Dr Nomafrench Mbombo, NDPP, Advocate Shamila Batohi, Deputy National Director of Public Prosecutions, Advocate Rodney de Kock, Special Director of Public Prosecutions: Sexual Offences and Community Affairs (SOCA), Advocate Bonnie Currie-Gamwo, Western Cape Director of Public Prosecutions, Advocate Nicolette Bell, Regional Head of the Department of Justice and Constitutional Development, Mr Rodney Isaacs, the Spar Group Executive, Mr Kevin O'Brien, councillors and other dignitaries.

Previously, the hospital operated a clinical forensic unit that supported victims of gender-based violence and served a wide jurisdiction of victims that presented at the clinical forensic unit. The NPA and the Department of Health engaged on the feasibility of the unit becoming a TCC to augment and enhance the services at the unit to enable improved service delivery for victims.

As a result, the Victoria Hospital TCC became operational in July 2022, and it serves two regional court jurisdictions (Cape Town and Wynberg) which are designated Sexual Offences Courts with dedicated prosecutors. There are also five Family Violence, Child Protection and Sexual Offences (FCS) units and twenty-two police stations that feed into the TCC.

Addressing dignitaries present at the launch, Minister Lamola said the contribution and the increase in the number of victims served, is a clear sign that the TCCs are doing exactly what they were planned to do, which is to help the victims. "The TCCs provide a sensitised and compassionate method through which victims are assisted to participate in the entire justice system".

Advocate Currie-Gamwo said South Africa has one of the highest rates of gender-based violence (GBV) in the world. "In execution of its mandate to develop best practices and policies for the optimal management of GBV matters, SOCA Unit of the NPA, in 2000, introduced the TCC model as one such best practice.

TCCs are one-stop facilities, which initially were a critical part of South Africa's anti-rape strategy. They are now expanded to all GBV offences, are aimed at reducing secondary victimisation, increasing the conviction rate by building cases ready for successful prosecution and reducing the cycle times of these cases from the time of reporting to finalisation. In essence, the victim receives psycho-social, medical, and legal services in a safe space under one roof.

Unfortunately, despite having 61 TCCs across the country, it is simply not enough to address the scourge of GBV in this country. Too many victims, too few TCCs. For the NPA to truly make an impact it must increase the number of TCCs to ensure an increase in the number of victims that are able to report at a TCC. The increase in the number of TCCs will ensure increased visibility and thus increased accessibility of the TCCs to GBV victims



Victoria Hospital TCC

We therefore welcome the launch of the Victoria Hospital Wynberg TCC as the 61st TCC. This is but the start. SOCA has developed a vigorous plan to rapidly increase the TCC footprint in South Africa so that all GBV victims, no matter where they are, what language they speak or who they are, have access to these fundamental services to ensure our victims become survivors," she assured the audience who were elated to hear the plans.

Advocate Batohi emphasised the importance of TCCs and their role in ensuring successful prosecution of sexual and GBV cases.

"To have a successful prosecution, you need to have a witness, very often the victim, but more importantly, you need DNA and forensic evidence. So, what this kind of collaborative approach of the TCC means is that the victims get all the support that they need but importantly, we can have forensic evidence obtained and the necessary tests done.

If you are able get forensic evidence quickly, it means that the chances of you getting a successful prosecution are much higher and that is why the conviction rate of cases that go through the TCCs are much higher. What we've also found is that in analysing these test results, we have been able to identify potential serial rapists. So, what we are doing together with the police, is looking at engaging a project to track down these serial rapists and we are hoping that this will have more of an impact on sexual and GBV cases in our country".

She echoed Advocate Currie-Gamwo's sentiment on the lack of TCCs throughout the country, particularly in rural areas.

"There are so many other areas in the country that need these centres. We are going to certainly work with colleagues in the private sector to really reach these far-flung areas that need these services. We are going to try to be innovative to ensure that victims of GBV can make the unbearable bearable, that we can contribute to making the unbearable bearable throughout the country. That takes time. We do want to put pressure on ourselves to establish more TCCs with our partners. So, we are certainly hoping that we will be able to assist and provide support to victims of GBV generally not just sexual offences more in the future," she said.

NPA has already appointed a Site Coordinator to assist with coordinating the services at the centre. TCC staff and stakeholders attached to the centre will engage with communities through public legal education and awareness raising initiatives. Through the collaboration of all partners which includes government departments, civil society organisations and corporate sponsors, we will be able to provide optimal service delivery which addresses the needs of the community.



Minister of Justice and Correctional Services Mr Ronald Lamola, NDPP Adv Shamila Batohi, SOCA Unit Special Director Adv Currie-Gamwo with Victoria Hospital staff

THE OFFICIAL OPENING OF THE DILOKONG THUTHUZELA CARE CENTRE IN LIMPOPO AFFIRMS STRONG PUBLIC-PRIVATE PARTNERSHIP IN DEALING WITH GENDER-BASED VIOLENCE

The Tubatse community and greater Limpopo are the beneficiaries of a brand new Thuthuzela Care Centre (TCC), courtesy of a partnership between the NPA and Glencore Ferroalloys. The 62nd TCC at Burgersfort was built from scratch by Glencore Ferroalloys, in support of the NPA's and government's commitment to fighting sexual offences and Gender-Based Violence (GBV) against women and children.

Glencore has built a fully-fledged stand-alone brick-and-mortar structure at the Dilokong Hospital, which will be known as the Dilokong Thuthuzela Care Centre. This is the first built, fit-for-purpose Thuthuzela Care Centre in the country and is part of the NPA's drive to assert the permanence of vital pre-trial services for GBV victims in South Africa. It is the prototype for what the NPA wants to roll out across the country and with the investment from, and partnership with businesses such as Glencore, that the vision has been brought to life.

The official opening of the Dilokong Thuthuzela Care



Inside Dilokong TCC

Centre on 22 November 2022 was elevated to a provincial government event, headlined by the attendance of the Premier of Limpopo, Stan Mathabatha, who delivered a keynote address, as well as MEC of Health, Phophi Ramathuba and MEC for Social Development, Nkakareng Rakgoale. The presence of the local traditional leadership from beneficiary communities was a significant show of buy-in and ownership of the facility and recognition of the importance of the service offering to empower members of the community, especially those most vulnerable to gender-based violence.

Dilokong TCC boasts two fully equipped medical examination rooms, a children's centre and a SAPS office that will be open on a 24/7 basis, which is linked to six Family Violence, Child Protection and Sexual Offences (FCS) units that service the community. The centre will have a full-time psychologist stationed at the premises to provide psychosocial services to GBV survivors and their families. The Dilokong Hospital services about 166 villages, with an estimated population of over 300 000.

The official opening ties in with the 16 Days of Activism of No violence against women and children campaign, which takes place from 25 November to 10 December annually.

In his address, the Acting National Director of Public Prosecutions, Adv Rodney de Kock highlighted the success of the Thuthuzela Care Centre Model since its establishment in 2006, as the government's comprehensive response to sexual offences and gender-based violence. "The ultimate victory for the victims is the prosecution and conviction of GBV perpetrators. More than 12 years ago, the conviction rate for GBV cases was below 60%, and currently, we are convicting above 72%, with 201 life sentences achieved to date," he said.

The National Strategic Plan on Gender-Based Violence and Femicide (GBVF) was approved by Cabinet in March 2020. The plan, the President said, builds onto the Emergency Response Action Plan, and focuses on improved

accountability and responsiveness to the needs of survivors, addressing impunity and driving a comprehensive prevention agenda. "Glencore responded to the call made by President Cyril Ramaphosa, and decided to invest in a public-private partnership with the National Prosecuting Authority, by building this fit-for-purpose Thuthuzela Care Centre for the benefit of the residents of Dilokong and other surrounding areas in Burgersfort", said Mr Jappie Fullard, CEO of Glencore Ferroalloys.

Accepting the keys to the facility, on behalf of the National Prosecuting Authority, Special Director of Public Prosecutions: Sexual Offences and Community Affairs, Adv Bonnie Currie Gamwo, alluded to the symbolism of the keys as follows: "The keys represent access to justice for the victims of crime and GBV. The keys give power to victims to become survivors. The keys represent a new powerful partnership in Limpopo and lastly, the keys represent the start of a legacy of building fit-for-purpose facility which will consistently provide dignity to survivors". The centre will also provide comfort packs for the survivors on a monthly basis, courtesy of another important partnership with the Spar Group which covers all Thuthuzela Care Centres nationally.

Limpopo province is one of the provinces with a high rate of GBVF cases in the country. This gives a very clear indication of the significance of this opening and proves that private-public sector partnerships can decisively address GBVF.



Limpopo Health MEC, Dr Phophi Ramathuba



Acting NDPP Advocate Rodney De Kock with Limpopo Premier Stanley Mathabatha

MEN'S DIALOGUE FOR PROSECUTORS ON GENDER BASED VIOLENCE

Luxolo Tyali
RCM: Eastern Cape Division

In an endeavor to raise awareness amongst prosecutors, the Sexual Offences and Community Affairs (SOCA) Unit hosted a Men's Dialogue on GBV for male prosecutors in Mthatha's Savoy Hotel during Women's Month. In addition, the dialogue was to share best practices in dealing with GBV matters as the public pins its hopes on the criminal justice system in putting an end to the scourge.

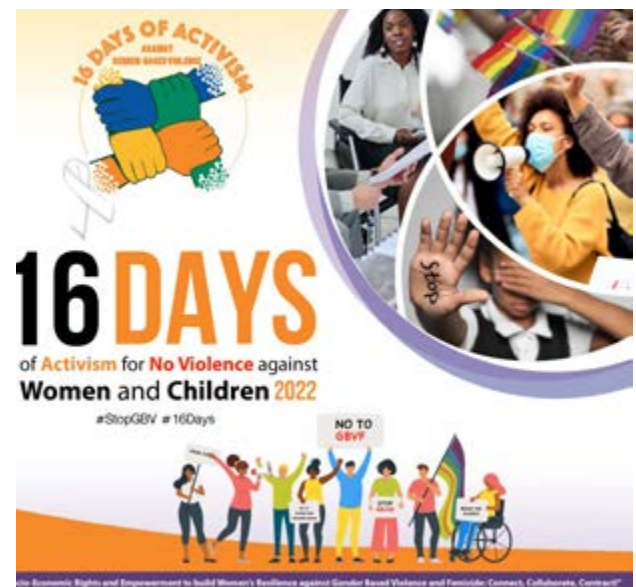
Addressing the event, DPP Barry Madolo pleaded with the prosecutors to be extra gentle when dealing with victims of GBV by communicating better with them and

explaining reasons for prosecutorial decisions in simple terms to the victims' understanding.

Prosecutors expressed challenges they come across on a day-to-day basis in relation with GBV and its complexities which are caused by the fact that in most cases it is perpetrated by people with history of romantic relationships. That leads to a pattern where women open cases and withdraw them shortly after, which calls for prosecutors to apply the law at all material times.

Amongst the speakers, was the well-known Eastern Cape-based child activist Petros Majola of Khula Community Development Projects, whose address showed the prosecutors the point of view usually held by the layman on the street.

Eastern Cape Judge President Selby Mbenenge led the prosecutors in a pledge committing them to the fight against GBV and other forms of crimes targeted at vulnerable groups in society.



Male prosecutors of the DPP Mthatha office with DPP, Barry Madolo

HARNESSING THE FULL POTENTIAL AND IMPACT OF THE 2020/25 NPA STRATEGIC PLAN

On 09 to 11 November 2022, the NPA senior leadership held a Medium-Term Strategic Review Planning Session to reflect on progress made towards harnessing the full potential and impact of the 2020 – 2025 NPA Strategic Plan. The strategic review session focused on the NPA's mid-term progress in implementing its 5-year Strategic Plan. It allowed for reflection on recent developments including successes on high-profile cases and achievement of 6-months priorities, Financial Action



NDPP and DG of the Department of Justice

Task Force (FATF) response measures, collaboration with JCPS partners and the implementation of strategic initiatives to date.

The NDPP, Adv Shamila Batohi provided the keynote address reflecting on the mid-term progress, challenges, and opportunities towards an Independence, Professionalism, Accountability and Credibility (IPAC) organisation. She said the NPA can be proud of what it has achieved in the past two years. "We have worked hard at creating a solid foundation. In recent years, the NPA has often been in the headlines for wrong reasons. It suffered inappropriate political interference



Delegates attending the session

which impacted negatively on its independence and accountability. The NPA is committed to once again become an organisation that puts justice first, that upholds the rights of victims of crime, and is a prosecuting authority that South Africans can be proud of. This will require hard work, innovation, and perseverance. I feel honoured and blessed to be leading this group of people who are dedicated to the new vision of the NPA. Even though we are not where we would like to be, we are climbing up the mountain. With the calibre of people in the NPA, we will remain resilient and keep moving up," she added.

In attendance was also the Director General at the Department of Justice and Constitutional Development (DoJ&CD), Adv Mashabane who provided the overview of the DoJ&CD strategic priorities for 2023 and reflections on the departmental 5-year strategy. He said the department is currently building an ethical, professional, and capable organisation which remains a major challenge. He highlighted some of the challenges faced by the department and law enforcement agencies. He emphasised the importance of modernisation and capacity building. "Generally, the country is struggling with modernisation. Capacity building and skills development remains a challenge. We are 15 years behind other countries when it comes to skills and capacity. Crime has moved into the cyberspace in the country. There is a huge increase on cyber related crimes. Cyber security and lack of skills is one of our biggest challenges. Lack of resources and facilities in the courts is another major challenge." He concluded his presentation by urging law enforcement agencies to collaborate and that everyone has a role to play, and stressed the need for a central coordinating mechanism to give direction in order to win the fight against high levels of crime and strengthen the entire criminal justice system.

Delegates resolved that in the next two years, while maintaining the NPA strategic focus on high-level and complex corruption matters, the NPA will elevate four strategic priorities as part of its efforts to future-proof the organisation and affirm the strategic pillars of independence, professionalism, accountability, and credibility. These priorities are:

- **Prosecution Prioritisation Policy and Practice** – to prosecute more smartly and strategically, targeting repeat offenders and crime syndicate leaders together with their assets, as well as crimes which disproportionately undermine public safety
- **Community Prosecution Initiative** – to strengthen partnerships between prosecutors, communities, police, and local authorities to develop joint solutions to ongoing forms of public safety concerns, including serious and violent crime
- **Service Delivery Improvement** – through the implementation of client satisfaction surveys; the expansion of victim-centric support measures, including improved engagement on whistle-blower protection; and
- **Amplifying NPA's voice and strategic influence on broader JCPS priority matters, including** – by developing an NPA strategy on organised crime that will guide the NPA's interventions and enhance relevant collaboration with key JCPS partners, especially the Hawks.



Delegates attending the session

FAREWELL TO A TRUE LAWYER OF THE PEOPLE

Advocate Nomvula Mokhatla was appointed as Deputy National Director of Public Prosecutions (DNDPP), responsible for the Asset Forfeiture Unit (AFU) in 22 December 2010 and has a long history of service in Government. Since April 2019, she has served as DNDPP for Legal Affairs Division (LAD). Prior to joining the NPA, Adv Mokhatla worked for the Department of Justice and Constitutional Development's Litigation Unit as a Senior State Advocate.

Through her intense involvement with the Black Lawyer's Association (BLA), she got commissioned to tutor trial advocacy in Namibia, Botswana and Lesotho. She had a stint as a Magistrate at the Pretoria Central Magistrates' Court. During this time, she adjudicated over criminal and civil matters. In 2009, she proceeded to higher institutions of learning lecturing in South African universities, imparting her vast knowledge on the high court litigation and trial advocacy. Advocate Mokhatla bid the NPA farewell on Monday, 31 October 2022.

The leadership of the NPA, held an official farewell ceremony on behalf of all staff for Adv Mokhatla on 09 November 2022, during the NPA's Mid-Term Strategic Review Session to thank and recognise her dedication and commitment to the work of the NPA.

The NDPP, Adv Shamila Batohi shared her positive experience working with Adv Mokhatla. "Adv Mokhatla brought to the organisation a wealth of knowledge, legal experience, especially in civil litigation, which was valuable for the NPA's strategy to balance expertise in both criminal and civil litigation. I want to convey my and ExCo's appreciation, together with that of all NPA staff, to Advocate Mokhatla for her work during her tenure at the NPA. As Head of LAD, she made notable strides to enhance the NPA's working relationship with the Office of the Solicitor General, one of our key strategic stakeholders.

The past few years have meant a lot to all of us. It's been a pleasure working with you, and while we hate to say farewell, we know that you're moving forward to a new chapter in your life, and you will do well." In her reply, Adv Mokhatla reflected and reminisced on her time with her NPA colleagues and said she felt honoured to have worked for an organisation such as the NPA. "There are so many colleagues that I have met and worked with who have welcomed me with open arms and supported me in my journey with the organisation. Thank you NDPP and the rest of the leadership team for making me feel at ease, I have worked well with all of you. We've gone through a lot, but we somehow always managed to get through all our challenges. I have enjoyed my tenure at the NPA, and I appreciate having had the opportunity to work with you. Thank you for the support, guidance, and encouragement you have provided to me during my time at the NPA. I will miss you all."

The NPA extends its gratitude to Adv Mokhatla for her selfless service to the NPA and her fearless commitment to justice and the rule of law.



NDPP, Adv Shamila Batohi handing over a gift from NPA Exco to Adv Nomvula Mokhatla

Adv Nomvula Mokhatla with her aunt

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