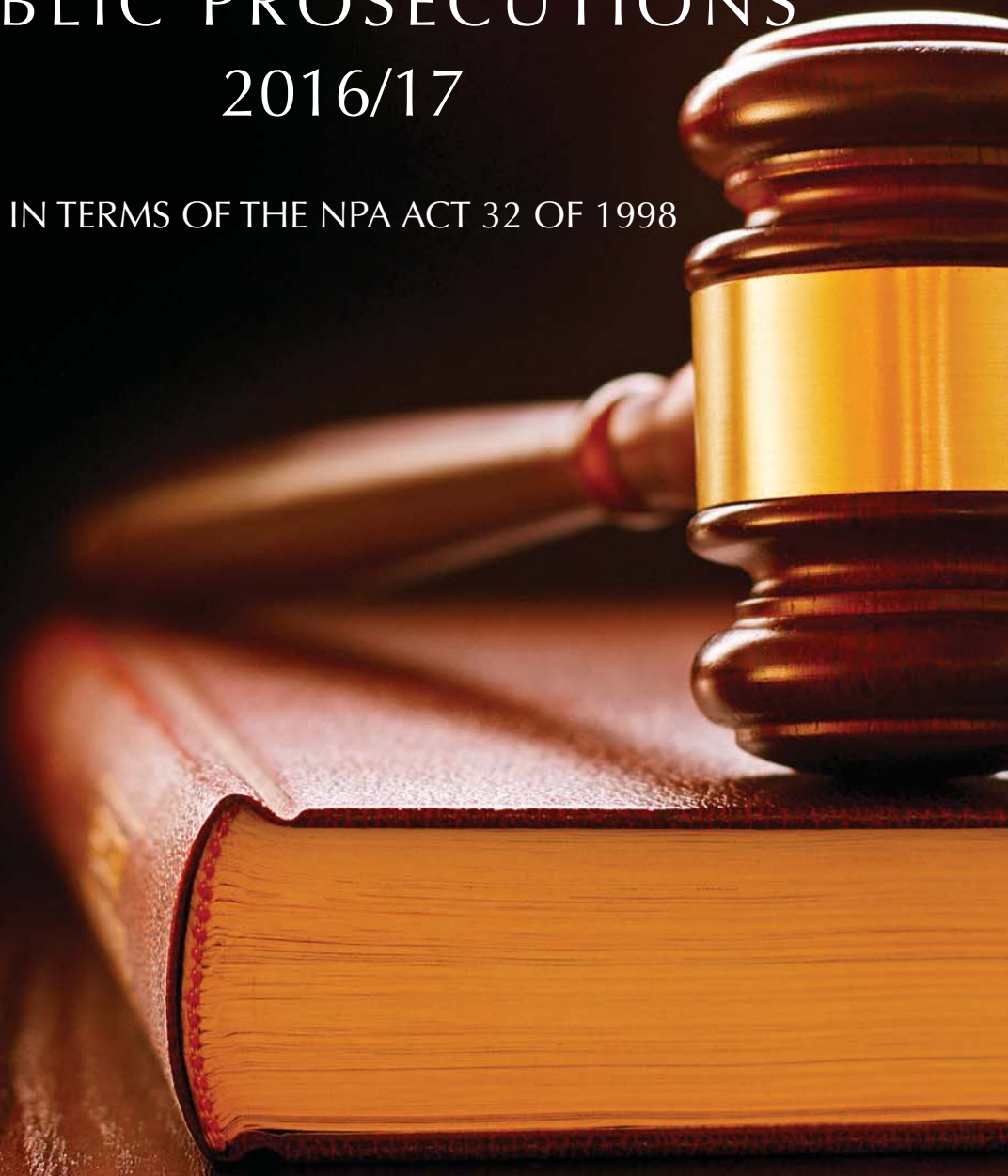




ANNUAL REPORT NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS 2016/17

IN TERMS OF THE NPA ACT 32 OF 1998







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LIST OF ABBREVIATIONS /ACRONYMS

ACTT	Anti-Corruption Task Team
ADRM	Alternative Dispute Resolution Mechanism
AFU	Asset Forfeiture Unit
APA	Africa Prosecutors Association
APP	Annual Performance Plan
CARA	Criminal Assets Recovery Account
CJA	Child Justice Act
CJS	Criminal Justice System
CPO	Court Preparation Officer
DCS	Department of Correctional Services
DEA	Department of Environmental Affairs
DHA	Department of Home Affairs
DDPP	Deputy Director of Public Prosecutions
DNDPP	Deputy National Director of Public Prosecutions
DoD	Department of Defence
DoH	Department of Health
DoJ&CD	Department of Justice and Constitutional Development
DPCI	Directorate for Priority Crime Investigation
DPME	Department of Planning, Monitoring and Evaluation
DPP	Director of Public Prosecutions
DSD	Department of Social Development
ECTA	Electronic Communications and Transactions Act
EE	Employment Equity
ENE	Estimates of National Expenditure
FAFI	Financial and Asset Forfeiture Investigations
FATF	Financial Action Task Force
IAP	International Association of Prosecutors
ICT	Information Communications Technology
IJS	Integrated Justice System
IPID	Independent Police Investigative Directorate
JCPS	Justice, Crime Prevention and Security
LAD	Legal Affairs Division
LGBTI	Lesbian, Gay, Bisexual, Transsexual and Intersexual
MLA	Mutual Legal Assistance
MOU	Memorandum of Understanding

MPTT	Missing Persons Task Team
MTEF	Medium Term Expenditure Framework
MTSF	Medium Term Strategic Framework
NCA	National Crime Agency
NCPF	National Cyber Security Policy Framework
NDP	National Development Plan
NDPP	National Director of Public Prosecutions
NEEC	National Efficiency Enhancement Committee
NPA	National Prosecuting Authority
NPS	National Prosecutions Service
NSPS	National Specialised Prosecutions Services
OECD	Organisation for Economic Cooperation & Development
OHS	Occupational Health and Safety
OWP	Office for Witness Protection
PCLU	Priority Crimes Litigation Unit
PEEC	Provincial Effectiveness Enhancement Committees
PFMA	Public Finance Management Act
PGI	Prosecutor Guided Investigations
PI	Preliminary Inquiry
POCA	Prevention of Organised Crime Act
SAPS	South African Police Service
SARS	South African Revenue Service
SCA	Supreme Court of Appeal
SCCU	Specialised Commercial Crimes Unit
SCOPA	Standing Committee on Public Accounts
SDPP	Special Director of Public Prosecutions
SLA	Service Level Agreement
SMS	Security Management Services
SOCA	Sexual Offences and Community Affairs
SORMA	Sexual Offences and Related Matters Act
SIU	Special Investigating Unit
SS	Support Services
SSA	State Security Agency
TCC	Thuthuzela Care Centre
TIP	Trafficking in Persons
TRC	Truth and Reconciliation Committee
UNCAC	United Nations Convention Against Corruption
UNODC	United Nations Office on Drugs and Crime
USA	United States of America
VIS	Victim Impact Statement



FOREWORDS

FOREWORD BY THE MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

The mandate of the NPA is very broad considering a plethora of legislation and policies the organisation is tasked with implementing, over and above, its core mandate set out in chapter 8 of the Constitution.

The National Prosecuting Authority (NPA) plays a very critical role in combatting crimes: either sexual violence; violent crimes; transnational crimes as well as organised crime and corruption. To this extent the NPA occupies a strategic position in the entire justice system in the country, let alone in the Justice, Crime Prevention and Security (JCPS) Cluster of government. To this end it is critical that the NPA participates in inter-sectoral fora such as the ACTT so as to support an interpreted and coordinated approach in the fight against crime and corruption.



The achievements attained by the NPA during the course of the 2016/17 financial year are commendable and this is attributable to the stability in the leadership of the organisation under the National Director of Public Prosecutions (NDPP), Adv Shaun Abrahams. We are beginning to see the improved coherence in the entire criminal justice value chain which should change perceptions about society's confidence in the criminal justice system, despite challenges relating to the speedy resolution of cases. This is a matter that all the structures established to look into the coordination of our work in the justice cluster is seized with, including the participation and leadership of the Judiciary at various levels. Hence the NPA and the SAPS, Hawks and other law enforcement agencies are working closely to stem the scourge of crime in the country.

All courts managed to obtain 321 166 convictions with a remarkable 94.1% conviction rate. High courts maintained a 91% rate with 968 convictions and exceeded the target with 4%. The regional courts maintained a rate of 79.8% which represents the highest rate in the past decade. The district courts exceeded their target with 7.6%. From 2012/13 the prosecutors managed to increase the overall conviction rate with 4.2%. Against this backdrop it is evident that the NPA has successfully upheld its strategic focus to improve the successful prosecution of cases whilst enhancing the quality of prosecutions. It is also noteworthy that there is a high success rate in high profile and serious crimes.

The NPA is increasingly playing a critical role in the affairs of the global and continental prosecuting bodies which signifies its growing stature and recognition internationally. Transnational crimes keep increasing and so is the nature and complexity of such crimes.

I have intimated with the NDPP the urgency to address capacity issues in the organisation, having noted challenges relating to budget allocations to the extent that the very important aspirant prosecutor programme was adversely affected. This development has in turn affected the rate at which the NPA can inject the much-needed human capacity into the organisation through the recruitment and retention of personnel. The constrained budget allocation for human resources will inevitably also adversely affect the retention of skilled and experienced personnel when the scourge of organised crime keeps increasing. The increasing sophistication of crime requires the specialised skills and expertise in the prosecution authority.

Thus I have directed the NDPP and his management team to look closely into the current budget allocation in order to ensure recruitment and retention of skilled personnel into the institution.

Finally, the NPA is currently engaging with the Department of Justice and Constitutional Development about the status of the NPA in the Department, i.e., whether it should remain a programme within the Department or the NPA should be an independent entity with its separate budget vote. This engagement is critical in order to determine the accountability mechanism that the prosecuting authority should be subjected to as is the case with other institutions.

Adv. T. M. Masutha, MP
Minister of Justice and Correctional Services

FOREWORD BY THE NATIONAL DIRECTOR

The National Prosecuting Authority (NPA) annual report for the period 2016/2017 is presented in terms of Section 35(2)(a), read with section 22(4)(g), of the NPA Act, 1998 (Act No. 32 of 1998). Both over-achievement and under-achievement are reflected openly and transparently in this report.

The NPA remains committed to give effect to the long-term vision of the Justice and Crime Prevention Security (JCPS) Delivery Agreement in ensuring that all South Africans are safe and feel safe. In the execution of its mandate and responsibilities, the NPA continues with every endeavour to realise government's objectives as envisioned in the National Development Plan. To this end, the National Prosecutions Service (NPS), as the primary contributor towards achieving the Constitutional and legal mandate of the NPA, ensures that criminal proceedings are instituted on behalf of the State and performs all functions incidental thereto.

As we celebrated the 20th anniversary of our Constitution we still faced many challenges as a young and growing democracy. However, none of these were unique nor undefeatable.

The scourge of both private and public sector corruption; the increase in violent protests and industrial actions; the continuous threat posed by gangsterism to the safety and security of all; the unending substance abuse and trade in illicit substances that plague the most vulnerable communities; the unlawful possession of unlicensed firearms and ammunition that remain a threat to the safety of all; the forever threats of cybercrime in all sectors; investigations into money laundering, terror financing and illicit money flows, which are high focus areas as billions of Rand and foreign currency enters and leaves the Republic's borders, can only be overcome by a collective effort of all stakeholders, including the community, who remain our eyes and ears.

In enhancing close collaboration with stakeholders, the NPA participates in the Anti-Corruption Task Team (ACTT), chaired by the Head of the Hawks, and which also includes the SIU, FIC, SARS, SSA, National Intelligence Co-ordinating Committee (NICOC) and other key stakeholders. The ACTT was established to fast-track investigations and prosecutions of serious corruption cases. In this regard, the NPA was instrumental in the crafting of the ACTT draft strategic plan. The NPA also contributed in the compilation of the Draft Government Anti-Corruption Strategy, requiring a whole governmental and societal approach in the fight against corruption.

Ensuring that trial ready cases proceed timeously remains a primary challenge that the CJS is yet to adequately address. The implementation of pre-trial hearings has been identified as one of the solutions to minimise the remands of trial ready cases. Although gaining traction, the implementation has been somewhat slow, particularly in the lower courts. The aforementioned challenge is compounded by the placing of too few cases on the court



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roll for trial, resulting in the inability to optimally utilize court hours. The Norms and Standards issued by the Chief Justice, which, inter alia, vests the responsibility of determining the number of cases placed on a court roll daily, is yet to yield the required increase in the utilisation of court hours and an increase in the finalisation of court cases.

The NPA nevertheless continued to participate in all relevant structures, which are subject to the control and leadership of the judiciary, seeking to improve court performance such as the Case Flow Management forums (CFM forums), the National Efficiency Enhancement Committee (NEEC), the Provincial Efficiency Enhancement Committee (PEEC), the Regional Efficiency Enhancement Committees (REECs) and the District Efficiency Enhancement Committees (DEECs). We remain optimistic that our engagement in the aforementioned structures will alleviate the many challenges.

The NPA also participates meetings with the Heads of Departments and National Entities falling under the responsibility of the Minister of Justice & Correctional Services and chaired by the Director General of Justice to minimise challenges in the Criminal Justice Cluster and to streamline processes with the aim of enhancing efficiency and efficacy in delivering justice to the citizenry of this country.

Budgetary constraints also remained a challenge resulting in vacant posts not being filled, placing severe strain on the institution's staff establishment. The aspirant prosecutors program, which is critical to sustaining the institution's professional staff, was also affected with no intake of new prosecutors materialising.

These budget constraints notwithstanding, I am pleased to submit this report with its reflection of our tremendous achievements this past year, which can only be attributed to the commitment and many sacrifices made by our managers and prosecutors. Although we achieved well, there are areas in which we acknowledge we can improve. Our challenge, which we embrace in its totality, remains our ability to strive to improve on our performance year on year.

I thank the Minister of Justice and Correctional Services for the very professional manner in which he exercised final responsibility over the NPA as envisioned by the provisions of section 33 of the NPA Act and section 179(6) of the Constitution and for his support during a very difficult political climate. I also thank the Deputy Minister of Justice and Constitutional Development for his contribution thereto and the Director-General: Justice and Constitutional Development for his role as accounting officer of the NPA.

I would like to take this opportunity of extending my gratitude to my Deputy National Directors, Directors of Public Prosecutions and Special Directors and my Advisors for their leadership, immeasurable contributions and support. I thank the administrative staff for their immense contribution as a support functionary to the core responsibilities of the NPA, namely, prosecutions.

Lastly, I would like to thank my wife Lindi, my children and family for their love, support and understanding during a difficult year when I was not always present whilst attending to the immense responsibilities I have had as the Head of this all important institution and in delivering justice to the people of this country.



Adv. Shaun K. Abrahams
National Director of Public Prosecutions
Date: 31 May 2017

STRATEGIC OVERVIEW

VISION

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

MISSION

Guided by the Constitution, we in the National Prosecuting Authority, ensure justice to the victims of crime by prosecuting without fear, favour or prejudice, and by working with our partners and the public to solve and prevent crime

VALUES

- Integrity which is displayed through ethical conduct, high moral standards, honesty, moral principles and values, no corruption or fraud – zero tolerance, keeping promises, truthfulness and being beyond reproach
- Accountability which is depicted by being responsible and answerable for our actions
- Service excellence which is found in providing first class customer service and complying with the Batho Pele principles
- Professionalism which can be seen through commitment/dedication, punctuality, competence, and professional conduct in and out of court
- Credibility which is depicted in the following behaviour: consistency and the ability to inspire belief or trust

CONSTITUTIONAL MANDATE

The NPA derives its mandate from section 179 of the Constitution. Section 179(2) expressly empowers the NPA to institute criminal proceedings on behalf of the state, and to carry out any necessary functions incidental thereto. Furthermore, section 179(4) requires that the NPA must exercise its functions without fear, favour or prejudice.

The National Director of Public Prosecutions (National Director), as head of the NPA, and Directors of Public Prosecutions (DPPs), as the NPA heads at various seats of the high courts, and Special Directors who are assigned specific powers, are responsible for ensuring performance of the NPA's constitutional obligations. In terms of section 179(5) of the Constitution, the National Director must determine prosecution policy and issue policy directives, which must be observed in the prosecution process. The prosecution policy is determined with the concurrence of the Minister responsible for the administration of justice and after consultation with the DPPs. Furthermore, in terms of section 179(6) of the Constitution, the Minister exercises final responsibility over the prosecuting authority, and may request reports from the National Director regarding the functioning of the prosecuting authority.

LEGISLATIVE MANDATES

The NPA, as the sole entity seized with the responsibility of instituting prosecutions on behalf of the state, is legally bound by various pieces of legislation. Below is a short discussion of key legislation.

National Prosecuting Authority Act, 1998 (Act No. 32 of 1998) (NPA Act)

In terms of section 20(1) of the NPA Act, the power vests in the prosecuting authority to—

- (a) institute and conduct criminal proceedings on behalf of the state;
- (b) carry out any necessary functions incidental to instituting and conducting such criminal proceedings; and
- (c) discontinue criminal proceedings.

National Director of Public Prosecutions (NDPP)

Section 5(2) of the NPA Act establishes the Office of the National Director of Public Prosecutions, with the NDPP as the head of the office and control the Office; Deputy National Directors and Special Directors; other members of the prosecuting authority appointed at or assigned to the Office, and members of the administrative staff of the Office.

Deputy National Directors of Public Prosecutions (DNDPPs)

In terms of section 11 of the NPA Act, the President, after consultation with the Minister and National Director, may appoint not more than four persons as DNDPPs. Their powers and functions are exercised subject to the control and direction of the National Director. The National Director may also assign certain specific functions to a DNDPP.

Directors of Public Prosecutions (DPPs)

Under section 13(1) of the NPA Act, the President may, after consultation with the Minister and the National Director, also appoint DPPs as heads of the prosecuting authority at the respective seats of each high court in the Republic, established by s6(1) of the NPA Act. A DPP appointed in terms of section 13(1)(a) of the NPA Act has original prosecutorial powers in respect of any offence committed in his or her area of jurisdiction but not in the area of jurisdiction of another DPP.

Special Directors of Public Prosecutions (SDPPs)

A Special DPP may be appointed in the office of the National Director, in terms of section 13(1)(c) of the NPA Act to exercise certain powers, carry out certain duties and perform certain functions conferred or imposed on or assigned to him or her by the President by proclamation in the

Government Gazette [section 13(1)(c)]. The SDPP also has original prosecutorial powers in respect of those specific offences identified in his or her Presidential Proclamation in any area of jurisdiction, but subject to the concurrence of the DPP of the area of jurisdiction concerned. Currently there are two SDPPs to deal with Serious Commercial Crime and Priority Crimes related to terrorism and other priority offences, respectively.

Deputy Directors of Public Prosecutions (DDPPs)

A Deputy Director of Public Prosecutions (DDPP) appointed by the Minister under section 15(1)(b) of the NPA Act to the office of a DPP also has original prosecutorial powers in the area of jurisdiction concerned. However, such DDPP must exercise such powers subject to the control and directions of the DPP concerned and only in the area of jurisdiction for which he or she has been appointed and only in respect of such offences and in such courts as he or she has been authorised in writing by the National Director or a person designated by the National Director.

Prosecutors are appointed in terms of section 16(1) of the NPA Act. A prosecutor may be appointed to the office of the National Director, the office of a DPP, or any lower court in the Republic. A prosecutor does not possess original prosecutorial powers contemplated in section 20(1) of the NPA Act. He or she may only exercise and perform such prosecutorial powers and functions if authorised to do so by the National Director or a person designated to do so by the National Director.

Investigating Director to support the Directorate for Priority Crime Investigation (DPCI)

Section 28 of the NPA Act provides for the establishment of an Investigating Directorate headed by an Investigating DPP. This section should be read with Chapter 6A (sections 17A to 17L) of the South African Police Service Act, 1995 (Act No. 68 of 1995) (SAPS Act), which provide for the establishment of a separate division in the South African Police Service (SAPS), namely, the DPCI or commonly known as the Hawks. These provisions, among others, ensure a multi-disciplinary and integrated approach in the prevention, combating and investigation of the priority crimes, including corruption offences. In terms of section 17D(3) of the SAPS Act, the National Head of the DPCI may, if he or she has reason to suspect that a national priority offence has or is being committed, request the National Director to designate a DPP to exercise the powers of section 28 of the NPA Act. In terms of section 17F(4) of the SAPS Act, the National Director must ensure that a dedicated component of prosecutors is available to assist and cooperate with members of the DPCI in conducting its investigations.

Currently, no such designation is in place.

Criminal Procedure Act, 1977 (Act No. 51 of 1977)

This Act regulates matters relating to criminal proceedings in a court of law and contains various provisions relating to the powers, duties and functions of members of the prosecuting authority. These include provisions relating to the power to withdraw a charge and stop a prosecution, the attendance of witnesses in court, the issuing of summonses, admission of guilt, bail, the release of an accused person, summary trials, the charge, the plea, jurisdiction, preparatory examinations, trial before different courts, conduct of proceedings, witnesses, evidence, competent verdicts, previous convictions, sentence, reviews and appeals, and compensation.

Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998)

The Prevention of Organised Crime Act, 1998 (POCA) provides measures for law enforcement agencies and the NPA to combat organised crime and money laundering. The primary feature of the POCA is to provide for the recovery of the proceeds of unlawful activity. Chapter 5 provides for the freezing and confiscation of the value of benefit derived from crime in cases where the accused is convicted of an offence. Chapter 6 focuses on property that has been used either to commit an offence or which constitutes proceeds of crime. It provides for freezing and forfeiture of proceeds and instrumentalities of crime through a process that is not dependent on a prosecution. In addition, section 71 of the POCA empowers the National Director to request information from government departments and statutory bodies in respect of investigations relevant to this Act without having to issue subpoenas.

Implementation of the Rome Statute of the International Criminal Court Act, 2002 (Act No. 27 of 2002)

The Priority Crimes Litigation Unit (PCLU), situated in the office of the National Director, is mandated to manage and direct the investigation and prosecution of the crimes of genocide, crimes against humanity and war crimes as contemplated in the abovementioned Act. This Act makes provision for extraterritorial application in its implementation in certain circumstances.

Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004)

The Priority Crimes Litigation Unit (PCLU) is also mandated to manage and direct the investigation and prosecution of terrorism, terror financing and related offences as contemplated in this Act. This Act also makes provision for extraterritorial jurisdiction in respect of specific offences as contemplated in the Act.

Witness Protection Act, 1998 (Act No. 112 of 1998)

The Office for Witness Protection (OWP) is established in terms of this Act and provides a support service for the criminal justice system and judicial proceedings, providing temporary protection, protection, support and related services to vulnerable and intimidated witnesses and related persons, enabling such witnesses to testify without intimidation, fear or danger. The OWP is established in the Department of Justice and Constitutional Development (DoJ&CD) with the Director-General as the accounting officer, but is administered by the NPA.

Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004)

Much of South Africa's anti-corruption legislation has been consolidated in the above Act. The Act provides, among others, for the strengthening of measures to prevent and combat corruption and corrupt activities, for the offence of corruption and offences relating to corrupt activities, for

investigative measures in respect of corruption and related corrupt activities, for the establishment and endorsement of a register in order to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts, for placing a duty on certain persons holding a position of authority to report certain corrupt transactions, and for extraterritorial jurisdiction in respect of the offence of corruption and offences relating to corrupt activities.

**Criminal Law (Sexual Offences and Related Matters) Act, 2007
(Act No. 32 of 2007) (Sexual Offences Act)**

The Act comprehensively and extensively amends all aspects and implementation of the laws relating to sexual offences, and deals with all legal aspects of, or relating to, sexual offences in a single statute. The Act, *inter alia*, repeals various common law offences and replaces them with statutory offences that are gender neutral and applicable to all forms of sexual penetration and sexual violation committed without consent. It also creates new offences for certain compelled acts of penetration or violation, and enacts comprehensive provisions for new or amended offences against children and persons who are mentally disabled.

Child Justice Act, 2008 (Act No. 75 of 2008)

The Act establishes a child justice system for children in conflict with the law.¹ This Act seeks to ensure that child justice matters are managed in a rights-based manner and assists children suspected of committing crime to become productive members of society by engaging with them in restorative justice processes, diversions and other alternative sentencing options.

Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013)

The Act gives effect to South Africa's obligations in respect of the trafficking of persons in terms of international agreements. The Act provides for an offence of trafficking in persons, penalties that may be imposed in respect of such offences, measures to protect victims, as well as the prevention and combating of the trafficking in persons within or across the borders of the Republic.

State Attorneys Amendment Act, 2014 (Act No. 13 of 2014)

The Act may have an impact on the mandate of the Legal Affairs Division (LAD) in particular, and the NPA as a whole. Therefore, the NPA will have to liaise with the DOJ&CD regarding the envisaged policy to be determined by the Minister, in terms of the Act.

¹ Refers to children under the age of 18, who are suspected to have committed crime. They will not be dealt with in terms of the normal criminal court procedure which is used for adults, but the child justice process will be followed.

POLICY MANDATES

National Development Plan 2030 (NDP)

The NDP 2030 sets out a long-term vision for government to ensure that, by 2030, all people in South Africa should feel and be safe. This vision can only be achieved if there is a well-functioning criminal justice system in which the police, the judiciary, the correctional services and the NPA work together to ensure that suspects are caught, securely detained where appropriate, prosecuted, convicted if guilty, appropriately punished and rehabilitated. The NDP also provides the parameters for the 2014-2019 Medium Term Strategic Framework (MTSF) and supporting delivery agreements.

Medium Term Strategic Framework (MTSF)

The MTSF introduces sub-outcomes towards achieving the goals set out in the NDP 2030 for the Justice, Crime Prevention and Security (JCPS) cluster. The 2014-2019 strategic framework sub-outcomes will support the primary outcome of all people in South Africa feeling and being safe. The MTSF requires the cluster to focus on seven expected sub-outcomes to achieve this vision (only outcomes relevant to the NPA are discussed below. All seven sub-outcomes are defined and underpinned by activities and timelines that are managed and monitored at the highest executive levels within the JCPS.

The NPA contributes to the achievement of the following sub-outcomes:

- 1: Reduced levels of contact crime
- 2: An efficient and effective criminal justice system
- 4: Secure cyberspace
- 5: Ensure domestic stability
- 7: Corruption in the public and the private sectors reduced

These sub-outcomes are further refined and specific activities and measures are identified for each. In respect of the NPA the following require priority:

- Focusing on the prosecution of serious and priority crimes, which includes corruption and contact crimes (especially sexual offences and the trio crimes²)

² Trio crimes consists of robbery at residential premises, robbery at business premises and vehicle robbery / car hijacking

- Participating in the implementation of the Criminal Justice Review 7-point plan
- Contributing to increasing the finalisation of criminal cases, both through trials and alternative dispute resolution mechanisms, and reducing the case backlogs
- Contributing to cybersecurity through the successful prosecution of cybercrimes
- Contributing to domestic stability through the successful prosecution of criminal and violent conduct in public protests
- Convicting persons for serious corruption or offences related to corruption where the amount benefitted per case is more than R5 million, freezing of assets and the recovery of losses and proceeds of crime
- Contributing to the reducing of corruption by government officials through the conviction of persons and recovery of proceeds and government losses

National Cyber Security Policy Framework

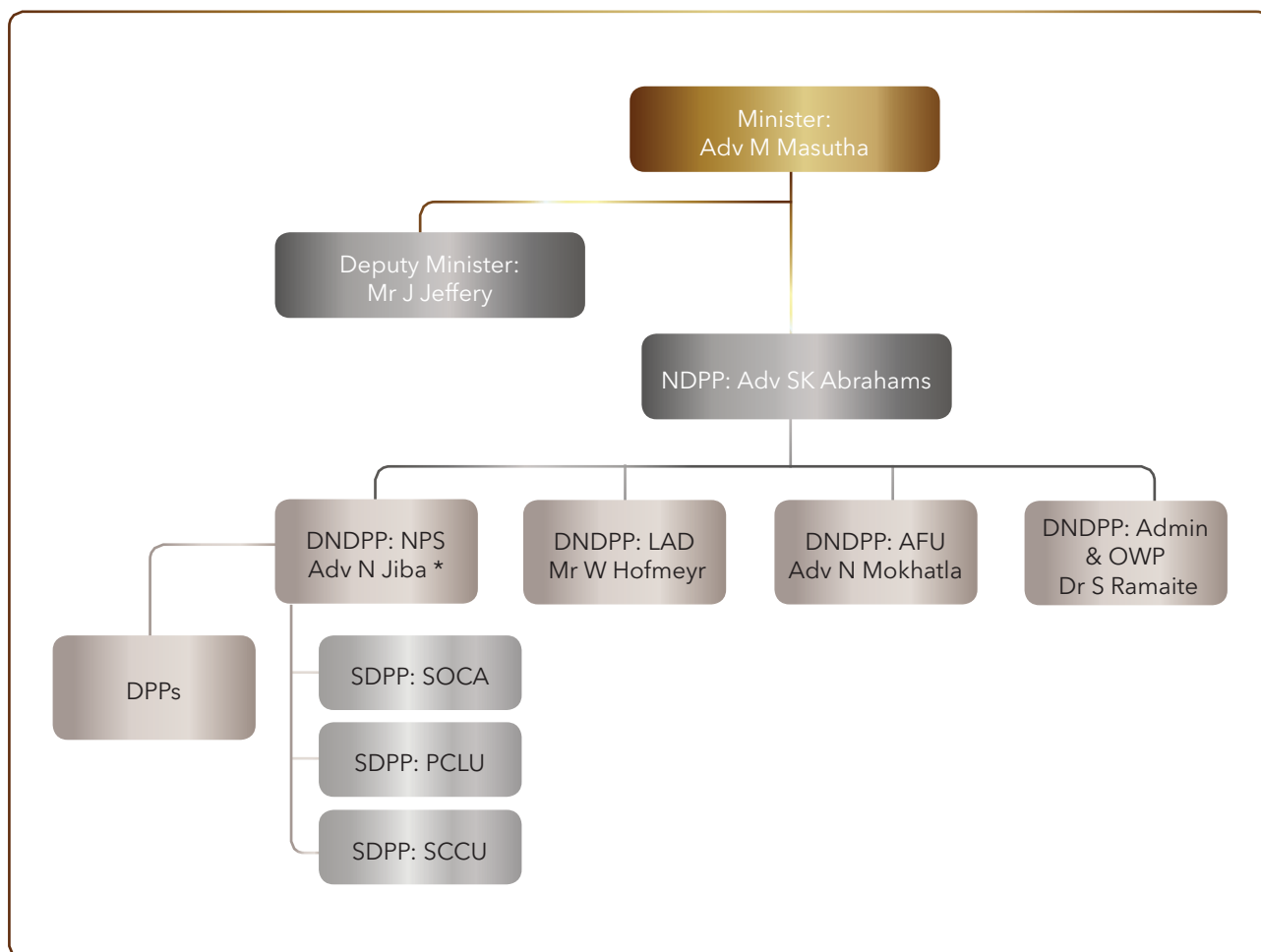
The fight against cybercrime remains one of the key priorities for the JCPS cluster in particular and government in general. In its effort to fight cybercrime, the JCPS cluster has developed the National Cyber Security Policy Framework which was approved by Cabinet in March 2012. The framework provides for policy positions intending to:

- Address national security threats in cyberspace
- Combat cyber warfare, cybercrime and other cyber ills
- Develop, review and update existing substantive and procedural laws to ensure alignment
- Build confidence and trust in the secure use of information and communication technologies

Overview of the NPA

Organisational Structure

Figure 1: High Level Organisational Structure of the NPA



* Adv T Majokweni was acting after Adv Jiba went on special leave

Strategic Objectives

The NPA has four strategic objectives:

- Increased successful prosecution
- Improved prosecution of matters that require specialised prosecution
- Ensure that the profit is removed from crime
- Ensure threatened witnesses and related persons are successfully protected

The National Prosecutions Service (NPS) is primarily responsible for general and specialised prosecutions and the appeals that might follow. This includes resolving criminal matters outside of the formal trial process through alternative dispute resolution mechanisms, settling admissions of guilt for minor offences and considering dockets brought by the police where persons have not been charged. The Sexual Offences and Community Affairs Unit (SOCA) and the Specialised Commercial Crime Unit (SCCU) within the NPS focus on specialised prosecution services related to sexual offences and complex commercial crimes, respectively.

The Priority Crimes Litigation Unit (PCLU) in the office of the National Director is a small specialist prosecutions unit that manages investigations and prosecutes crimes that impact on state security, nationally and internationally.

The Asset Forfeiture Unit (AFU) seizes assets that are the proceeds of crime or have been part of an offence through a criminal or civil process.

The Office for Witness Protection (OWP) provides for temporary protection, protection, support and related services to vulnerable and intimidated witnesses and related persons in the judicial proceedings in terms of the Witness Protection Act, 1998.

The Director-General of the DoJ&CD, as the accounting officer of the NPA, has prepared a full report that incorporates NPA information on its performance against pre-determined objectives and financial statements, as Programme 4 of the Department. This information is available in the DoJ&CD's annual report.



OVERVIEW OF THE OPERATIONS AND PERFORMANCE

NATIONAL PROSECUTIONS SERVICE

General Prosecutions

The NPS is headed by a Deputy National Director of Public Prosecutions (DNDPP). The general prosecutions stream consists of 10 Directors of Public Prosecutions (DPPs) who head up their respective divisions in the provinces, supported by public prosecutors and state advocates in the district, regional and high courts. The prosecutors in the lower courts form the core of the NPS, prosecuting more than 90% of cases in district courts and touching the lives of many individuals.

The 2016/17 NPS Annual Performance Plan (APP) sets out the strategic objectives and activities undertaken to ensure successful prosecutions, maintaining a high conviction rate in general prosecutions and in respect of specific crime categories such as organised crime. In addition, the NPS focused on advancing the rights of victims through initiatives such as the Thuthuzela Care Centres (TCC) and court preparation services.

Some of the main highlights achieved by NPA during this reporting period include:

Maintaining high conviction rates is regarded as a measure of quality prosecutions. All courts managed to obtain 321 166 convictions with a remarkable 94.1% conviction rate. High courts maintained a 91% rate with 968 convictions and exceeded the target with 4%. The regional courts maintained a rate of 79.8% with 25 210 convictions, which represents the highest rate in the past decade.

The district courts achieved a rate of 95.6% with 294 988 convictions and exceeded the target with 7.6% whilst a marginal improvement of 0.8% was also achieved. From 2012/13 the prosecutors managed to increase the overall conviction rate with 4.2%. Against this backdrop it is evident that the NPA has successfully upheld its strategic focus to improve the successful prosecution of cases whilst enhancing the quality of prosecutions.

Financial Years	2012/13	2013/14	2014/15	2015/16	2016/17	Change over previous year	Change over period 12/13-16/17
CONVICTION RATE	89,9%	91,7%	92,3%	93,0%	94,1%	1,0%	4,2%
District Court	91,9%	93,6%	94,2%	94,7%	95,6%	0,8%	3,7%
Regional Court	75,1%	76,0%	76,6%	78,4%	79,8%	1,3%	4,7%
High Court	87,5%	88,8%	91,0%	89,9%	91,0%	1,1%	3,5%

Plea and sentence agreements

Section 105A of the Criminal Procedure Act (Act No. 51 of 1977) provides for the use of guilty pleas for matters of substance, the disposal of which will actually serve the purpose of decongesting or reducing the court rolls without sacrificing the demands of justice and/or the public interest. Negotiations for plea and sentence agreements are not meant to bargain away a sentence of imprisonment for a non-

custodial sentence or for unwarranted lenience. In all instances these negotiations must always serve justice and/or the public interest.

A total of 1 988 plea and sentence agreements in terms of section 105A were concluded during the past financial year. Most of the agreements involved longer and more serious cases and the 1 988 agreements involved a total of 11 149 counts.

Cases finalised through verdict and Alternative Dispute Resolution Mechanisms (ADRM)

In pursuit of its strategic objective the NPS successfully improved the number of verdict cases. The prosecutors finalised 341 336 verdict cases, which represents a 9.8% improvement to the number finalised in the previous year.

ADRM encompasses several methods for the resolution of disputes between the parties, including diversion and informal mediation. An improvement in delivering justice by means of ADRM was achieved and the NPA finalised a total of 164 015 cases, a slight decline of 1.8% compared to 166 952 finalised last year. This decline is ascribed to the focused approach on quality prosecutions especially on cases suitable to be resolved through ADRM. The renewed victim centric approach of the NPA is quality driven and any enhancement of quality indicators should be applauded.

Better screening processes resulted in a reduction of 6.1% (6 519) in the number of cases withdrawn. This reduction confirms the enhancement of screening processes to ensure the enrollment of trial ready matters.

Convictions on serious crimes

The enhanced focus of the courts on serious crime, in line with the priorities set by the Medium Term Strategic Framework (MTSF), resulted also in an improved conviction rate in this category of crime. The conviction rate in sexual offences cases increased from 70.1% during 2015/16 to 71.7% in the reporting period, with 4 779 convictions.

The focused approach by the courts on the growing international phenomenon of cybercrime has reaped results as the courts managed to maintain a remarkable 97% conviction rate with 289 convictions. The conviction rate in organised crime increased with 1.1% from 88.9% during FY2015/16 to 90%. The focus on environmental crime has also reaped rewards since a conviction rate of 95% with 361 convictions was maintained whilst the prosecution of rhino and related matters resulted in a conviction rate of 96.3%, with 26 convictions.

The focus on copper theft prosecutions resulted in a remarkable 91.8% with 234 convictions, 43 more convictions than the previous year. Prosecution of trio crimes indicated a conviction rate in continuously at a rate above 80% which is well above the minimum norm (74%) required for other serious crimes.

The NPS also deals with decision dockets that include all criminal matters presented to the prosecutors to consider the institution of a prosecution. These exclude dockets in cases enrolled. The prosecutors excelled by dealing with an additional load of 57 417 more decision dockets as well as the dockets carried forward from the previous year, to the extent that a total of 915 128 dockets were dealt with during the year. This resulted in only 4 635 dockets carried forward to the new financial year. The

rapid turnaround time on decision dockets is an indication that prosecutors are committed to high levels of service delivered to all victims of crime.

In line with the priority focus of the MTSF on dealing with corrupt government officials, the NPA increased the number of these convictions to 224 compared to 219 last year. An inspiring increase of 16.7% in the number of persons convicted of corruption where the amount involved is more than R5million was achieved. The number of persons convicted increased from 24 during in the previous financial year to the current 29.

A collective approach between all partners in the criminal justice value chain ensured overall improvement in many of the strategic indicators, proof that persistent stakeholder collaboration and integration is critical for the successful performance.

Table 1: Achievement against Strategic Indicators

		Annual Target	YTD 2015/16	YTD 2016/17	% Deviation from target	Progress over previ- ous year
1	Conviction rate in high courts	87% 897	89,9% 910	91,0% 968	4,0%	1,1%
2	Conviction rate in regional courts	74% 26 660	78,4% 24 958	79,8% 25 210	5,8%	1,3%
3	Conviction rate in district courts	88% 258 488	94,7% 263 377	95,6% 294 988	7,6%	0,8%
4	Number of criminal court cases finalised including ADRM	486 026	477 802	505 351	4,0%	5,8%
5	Number of criminal court cases finalised with verdict	330 794	310 850	341 336	3,2%	9,8%
6	Number of court cases finalised through ADRM	155 232	166 952	164 015	5,7%	-1,8%
7	Conviction rate in complex commercial crime	93% 937	94,1% 951	92,1% 793	-0,9%	-2,0%
8	Conviction rate in organised crime	90% 435	88,9% 359	90,0% 367	0,0%	1,1%
9	Conviction rate in environmental crimes	85% 143	95,2% 357	95,0% 361	10,0%	-0,2%
10	Conviction rate in rhino prosecutions	74% Baseline	n/a	96,3% 26	22,3%	NA
11	Conviction rate in sexual offences	69% 5 753	70,1% 4 978	71,7% 4 779	2,7%	1,5%

		Annual Target	YTD 2015/16	YTD 2016/17	% Deviation from target	Progress over previ- ous year
12	Conviction rate in trio crimes	85% 1 647	82,2% 1 391	83,5% 1 553	-1,5%	1,3%
13	Conviction rate in violent protests and industrial actions prosecuted	74% 65	68,2% 73	55,9% 57	-18,1%	-12,3%
14	Conviction rate in cybercrime prosecutions	74% 161	95,7% 244	97,0% 289	23,0%	1,3%
15	Conviction rate in copper theft prosecutions	74% 111	95,5% 191	91,8% 234	17,8%	-3,7%
16	Number of persons convicted of corruption where the amount involved is more than R5m	25	24	29	16,0%	20,8%
17	Number of Government officials convicted for offences related to corruption	90	219	224	148,9%	2,3%
18	Number of operational TCC's	55	55	55	0,0%	0,0%
19	Conviction rate at TCC reported cases	67% 1 482	71,8% 1 679	71,1% 1 659	4,1%	-0,7%
20	Number of criminal matters finalised	894 798	1 016 699	1 072 673	19,9%	5,5%
21	Clearance ratio on decision dockets received	85% 690 990	99,9% 857 711	99,5% 915 128	14,5%	-0,4%
22	Number of VIS completed	8 269	8 362	10 897	31,8%	30,3%
23	Number of witnesses assisted by CPO's	107 889	111 697	126 949	17,7%	13,7%

Conviction rates in high courts

The high courts received 939 new cases and finalised 1 064 cases. The number of cases finalised increased by 6.4% from the previous year. The conviction rate also increased from 89.9% to 91.0%; 4% above the target of 87% set for high courts. A comparative analysis with previous years indicates overall improvement in the conviction rates achieved by high court advocates and confirms their dedication to improve the level of service to the victims of serious crime. The advocates managed to improve the conviction rate with 5.5% from 85.5% obtained during FY2006/07 to the current 91% during FY2016/17.

Figure 2: Conviction rate by high courts:

The manner in which the high courts dealt with their case flow is indicated below.

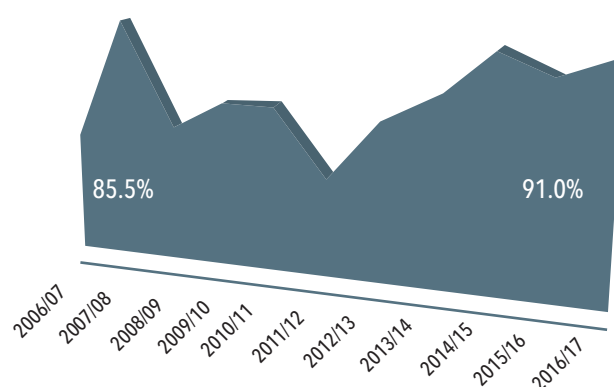
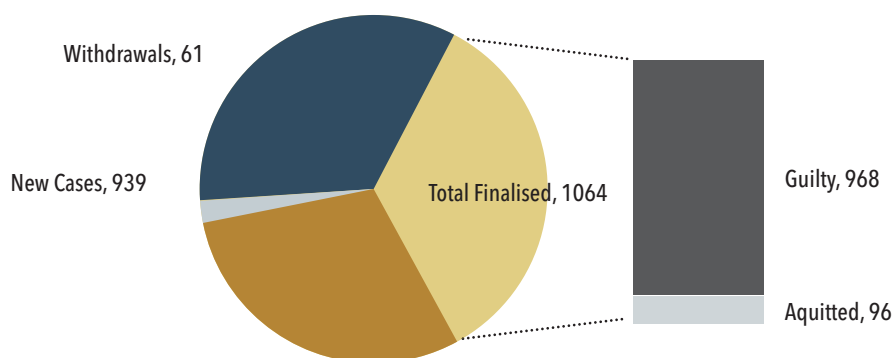


Figure 3: Case finalised by high courts



The number of formal bail applications in the high courts increased remarkably by 115% from 26 to 56. The reason for such increase could mainly be attributed to the increase in complex and lengthy cases.

Appeals:

The high court also deals with appeals and motion applications emanating from criminal cases. There was a slight decrease in the number of appeals received and finalised as indicated in the table below. Appeals unsuccessfully finalised have also decreased and only reflects appeals by accused as appellants which were rejected *in toto*. The number of appeals finalised decreased by 3.4% from 2 520 to 2 439 appeal cases.

Table 2: Criminal appeals dealt with

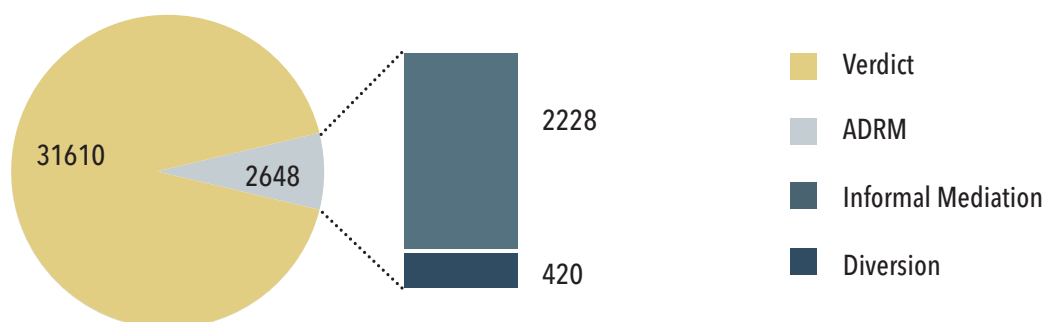
Financial Year	Newly Received Appeals	Finalised	Appeals Unsuccessful	% Unsuccessful
2011/12	1 328	1 922	645	33,6%
2012/13	2 249	2 418	791	32,7%
2013/14	2 762	2 422	878	36,3%

Financial Year	Newly Received Appeals	Finalised	Appeals Unsuccessful	% Unsuccessful
2014/15	2 651	2 423	899	37,1%
2015/16	3 065	2 520	944	37,5%
2016/17	2 520	2 439	941	38.6%

Conviction rate and progress of regional courts

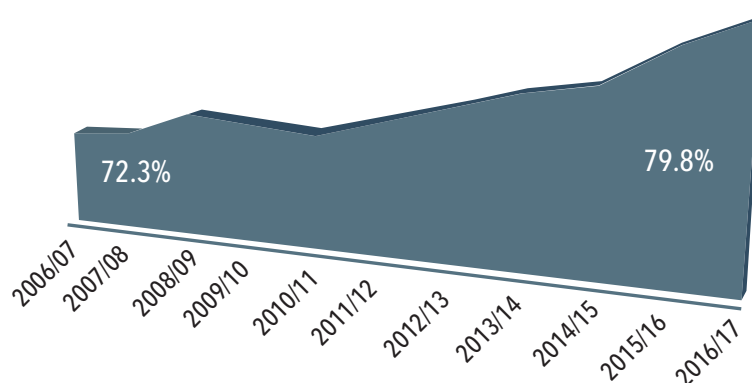
The regional courts enrolled a total of 55 550 cases compared to the previous year, noting a marginal decline since only 925 (1.6%) fewer cases were enrolled than the total of 56 475 new cases enrolled during the previous year. The courts finalised 34 258 cases comprising 31 610 verdict cases (92.3% of the total finalised cases) with a conviction rate of 79.8% and 2 647 ADRM cases (7.7% of the total finalised cases). This represents a finalisation rate of 0.6 cases per court per day.

Figure 4: Cases finalised by regional courts:



A comparative analysis with previous years indicates the year on year improvement in the conviction rates achieved by regional court prosecutors and confirms their dedication to improve the level of service to the victims of serious crime.

Figure 5: Conviction rate by regional courts:



In addition to the cases finalised including ADRM, the prosecutors in the regional courts finalised 7 530 court and criminal matters which include a range of additional functions that take up valuable court time. From the list below it is evident that formal bail applications (58.8%) coupled with the application for leave to appeal (29.2%) utilised the most court time.

During this reporting period a total of 4 428 formal bail applications were dealt with, which represents an increase of 27.4% from the total bail applications (3 476) dealt with last year.

Table 3: Progress on court/criminal matters finalised

COURT/CRIMINAL MATTERS FINALISED	TOTAL	% OF TOTAL
Suspended sentences	497	6,6%
Conversion of maintenance trial to enquiry	9	0,1%
Application for leave to appeal	2 196	29,2%
Committal to mental institution	281	3,7%
Conversion of sentence	104	1,4%
Formal inquests	2	0,0%
CJA: prelim inquiries	13	0,2%
Formal bail applications	4 428	58,8%
TOTAL MATTERS FINALISED	7 530	100,0%

The regional court prosecutors received furthermore a total of 119 234 dockets for decision which represents 14 649 (14%) more than the 104 585 received during FY2015/16. Prosecution was instituted in 18 940 dockets whilst prosecution was declined in 43 298 dockets. A total of 57 270 dockets were referred back for further investigation before a final decision could be made.

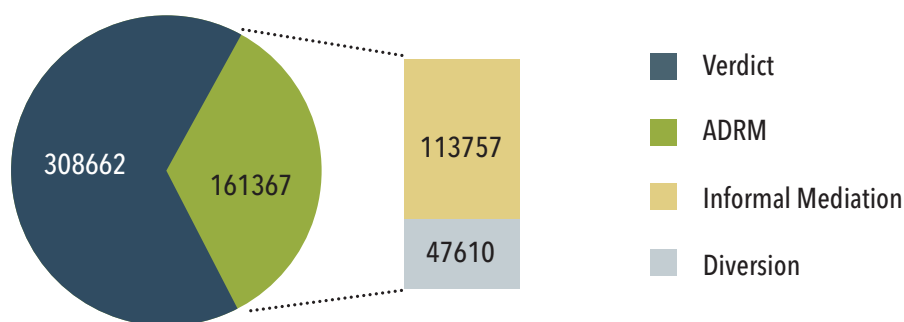
Enhanced screening processes implemented throughout the regions have again yield positive results as 12.3% (1 507) fewer cases were withdrawn by the regional courts. This decline in withdrawals reflects the commitment of the regional court prosecutors to increase quality prosecution of cases.

Conviction rate and progress of district courts

The district courts enrolled 827 599 new cases which is 2.6% (20 630) more than the 806 969 new cases the previous year. The courts finalised 470 029 cases comprising of 308 662 verdict cases (65.7% of the total finalised cases) and 161 367 ADRM cases (34.3% of the total finalised cases). This represents a finalisation rate of 3.7 cases per court per day. High conviction rates were maintained during this reporting period and a conviction rate of 95.6% was ultimately maintained by all district courts.

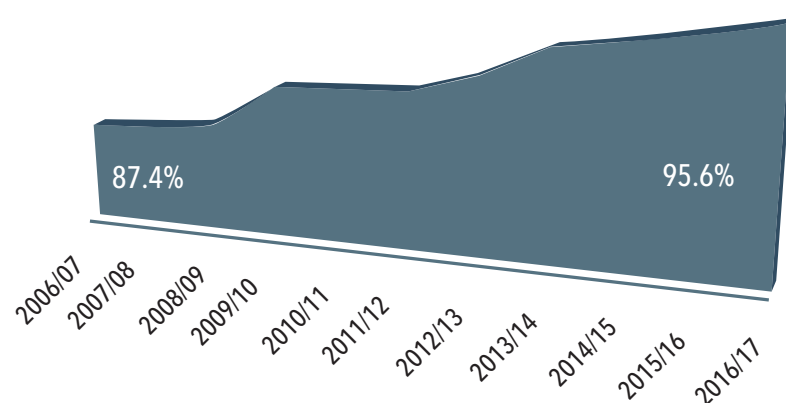
The increased inflow of cases could be ascribed to a definition change of a criminal court case which allows for traffic cases (previously excluded) where the accused appears in court to be counted. Notwithstanding a decline in court utilisation, the prosecutors excelled during this reporting period by not only exceeding the conviction rate target of 88% with 7.6% but also by obtaining 31 611 more convictions compared to the previous year.

Figure 6: Cases finalised by district courts:



A comparative analysis with previous years indicates the year-on-year improvement in the conviction rates achieved by district court prosecutors and confirms their dedication to improve the level of service to the victims of crime. The prosecutors managed to improve the conviction rate from 87.4% last year to the current 95.6%.

Figure 7: Conviction rate by district courts:



In addition to the cases finalised including ADRM, the prosecutors in the district courts finalised 72 019 court and criminal matters which include a range of additional functions that takes up valuable court time. From the list below it is evident that formal bail applications and preliminary inquiries in terms of the Child Justice Act utilised the most of the court time.

Table 4: Progress on court/criminal matters finalised

COURT/CRIMINAL MATTERS FINALISED	TOTAL	% OF TOTAL
Suspended sentences	4 146	5,8%
Conversion of maintenance trial to enquiry	890	1,2%
Application for leave to appeal	297	0,4%

COURT/CRIMINAL MATTERS FINALISED	TOTAL	% OF TOTAL
Committal to mental institution	546	0,8%
Conversion of sentence	275	0,4%
Formal inquests	171	0,2%
CJA: prelim inquiries	10 161	14,1%
Formal bail applications	55 533	77,1%
TOTAL MATTERS FINALISED	72 019	100,0%

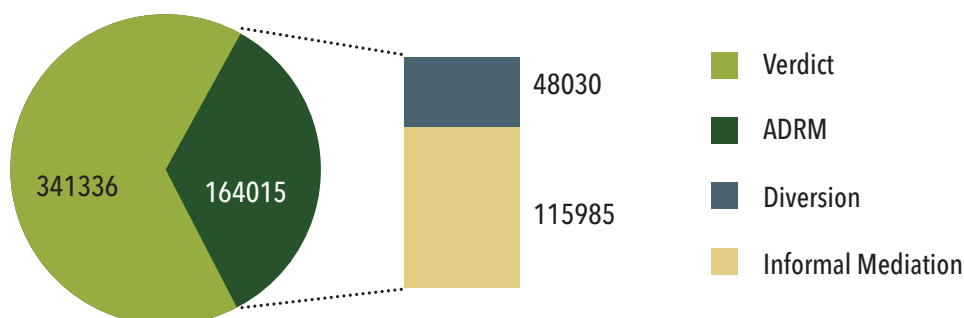
The district court prosecutors received furthermore a total of 777 196 dockets for decision which represents 36 263 (4.9%) more than the 740 933 received during FY2015/16. Prosecution was instituted in 91 687 dockets whilst prosecution was declined in 430 363 dockets. A total of 253 710 dockets were referred back for further investigation before a final decision could be made.

Enhanced screening processes implemented throughout the regions have again yield positive results as 5.3% (5 019) fewer cases were withdrawn by the district courts. This decline in withdrawals reflects the commitment of the district court prosecutors to increase quality prosecution of cases.

Number of criminal court cases finalised including ADRM

All courts excelled by finalising 505 351 cases comprising of 341 336 (67.5%) verdict cases and 164 015 (32.5%) cases finalised through ADRM, maintaining a positive ratio between verdict cases (67.5%) and ADRM cases (32.5%),

Figure 8: Progress on criminal court cases finalised including ADRM



A breakdown of cases finalised including ADRM per forum is indicated in the table below and compared to the performance during the previous financial year. The progress per forum is evident from this comparison:

Table 5: Progress on criminal court cases finalised including ADRM

FORUM	2015/16	% of National	2016/17	% of National	Progress
High Court	1 012	0,2%	1 064	0,2%	5,1%
Regional Court	34 419	7,2%	34 258	6,8%	-0,5%
District Court	442 371	92,6%	470 029	93,0%	6,3%
ALL	477 802	100,0%	505 351	100,0%	5,8%

Court utilisation showed a downward trend over the years and a similar reduction is noted again during this reporting period as indicated in the table below.

Table 6: Progress on criminal court hours

Financial Years	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	Change over previous year	Change over period 10/11-16/17
Average Actual Criminal Court Hours	03:34	03:31	03:30	03:29	03:31	03:16	03:13	-1,7%	-10,2%
District Courts	03:36	03:32	03:31	03:29	03:29	03:13	03:09	-1,9%	-12,5%
Regional Courts	03:34	03:31	03:31	03:34	03:38	03:26	03:22	-1,9%	-5,4%
High Courts	02:59	03:06	02:57	03:04	03:04	02:48	02:56	4,6%	-1,8%

Table 7: Progress on criminal court days

FORUM	2015/16	AVE HOURS	2016/17	AVE HOURS	Progress
High Court	9 596	02:48	9 347	02:56	-2,6%
Regional Court	73 759	03:26	74 090	03:22	0,4%
District Court	174 432	03:13	179 088	03:09	2,7%
ALL	257 786	03:16	262 525	03:14	1,8%

Another factor impacting on the achievement of this indicator is the inflow of cases. The number of cases finalised is also reliant on the inflow of new cases enrolled. During FY2016/17, an increased inflow of 2.3% (19 812) of cases was recorded. Both high and district courts recorded an influx of new cases whilst the regional courts indicated a reduced inflow of 1.6%.

Table 8: Progress on new cases enrolled

FORUM	2015/16	% of National	2016/17	% of National	Progress
High Court	832	0,1%	939	0,1%	12,9%
Regional Court	56 475	6,5%	55 550	6,3%	-1,6%
District Court	806 969	93,4%	827 599	93,6%	2,6%
ALL	864 276	100,0%	884 088	100,0%	2,3%

The analysis of this indicator should be done holistically by taking into account the additional duties allocated to all prosecutors. In addition to the 505 351 cases finalised, the prosecutors also finalised a total of 79 903 court and criminal matters which include a range of additional functions. From the list below it is evident that formal bail applications (75.1%) utilised the most court time. Progress on all matters finalised compared to the previous year, are listed in the table below:

Table 9: Progress on court/criminal matters finalised

COURT/CRIMINAL MATTERS FINALISED	2015/16	% OF TOTAL	2016/17	% OF TOTAL	Progress
Formal inquests	293	0,4%	173	0,2%	-41,0%
Committal to mental institution	783	1,0%	830	1,0%	6,0%
Conversion of maintenance trial to enquiry	882	1,1%	899	1,1%	1,9%
Application for leave to appeal	2 800	3,4%	2 787	3,5%	-0,5%
Conversion of sentence	3 518	4,3%	380	0,5%	-89,2%
Suspended sentences	6 114	7,5%	4 643	5,8%	-24,1%
CJA: prelim inquiries	9 576	11,7%	10 174	12,7%	6,2%
Formal bail applications	57 928	70,7%	60 017	75,1%	3,6%
TOTAL MATTERS FINALISED	81 894	100,0%	79 903	100,0%	-2,4%

The NPS also deals with decision dockets that include all criminal matters presented to the prosecutors to consider the institution of a prosecution. These exclude dockets in cases enrolled.

Table 10: Progress on new decision dockets received

FORUM	NEW DOCKETS 2015/16	% of National	NEW DOCKETS 2016/17	% of National	Progress
High Court	15 459	1,8%	17 820	1,9%	15,3%
Lower Courts	845 521	98,2%	896 222	98,1%	6,0%
ALL	860 980	100,0%	914 042	100,0%	6,2%

Number of criminal court cases finalised with verdict

The progress per forum during FY2016/17 is indicated in the table below.

Table 11: Progress on cases finalised with a verdict

FORUM	2015/16	% of National	2016/17	% of National	Progress
High Court	1 012	0,3%	1 064	0,3%	5,1%
Regional Court	31 832	10,2%	31 610	9,3%	-0,7%
District Court	278 006	89,4%	308 662	90,4%	11,0%
ALL	310 850	100,0%	341 336	100,0%	9,8%

Declining experience levels within the Detective Service and inadequate training have resulted in a greater burden on prosecutors to guide investigations by providing specific instructions to investigating officers. There has been a focus on screening of cases, with experienced prosecutors responsible for the review and screening of cases. Case review teams have been established at most urban offices. Enhanced screening processes may impact negatively on the number of new cases as prosecutors ensure that they enrol only trial ready matters.

In order to address the perception that prosecutors are selective with cases dealt with, the number of withdrawals is also measured to ensure quality prosecutions and a just outcome in all cases. The lower courts indicated a positive decline of 12.3% and 5.3%, respectively,, whilst an unfortunate increase of 13% is noted in the high courts. However, a decline of 6.1% in the number of cases withdrawn by all prosecutors is depicted in the table below and confirms the enhancement of proper screening procedures implemented by the prosecutorial component:

Table 12: Progress on cases withdrawn

FORUM	2015/16	% of National	2016/17	% of National	Progress
High Court	54	0,1%	61	0,1%	13,0%
Regional Court	12 228	11,4%	10 721	10,6%	-12,3%
District Court	95 119	88,6%	90 100	89,3%	-5,3%
ALL	107 401	100,0%	100 882	100,0%	-6,1%

Table 13: Progress on ADRM matters per indicator

FORUM	2015/16	% of National	2016/17	% of National	Progress
Diversion after enrolment	37 516	22,5%	42 240	25,8%	12,6%

Diversion CJA	5 528	3,3%	5 790	3,5%	4,7%
Informal mediation	123 908	74,2%	115 985	70,7%	-6,4%
ALL	166 952	100,0%	164 015	100,0%	-1,8%

Diversions in terms of the Child Justice Act, 2008 (Act No.75 of 2008)

The CJA came into operation on 1 April 2010 and created a new procedural framework for dealing with children who are in conflict with the law. This Act seeks to ensure children's accountability and respect for the fundamental freedoms of others, to prevent crime and promote public safety through the use of diversions, alternative sentencing and restorative justice.

During 2016/17, a total of 7 673 children were diverted, comprising of 5 790 children diverted in term of CJA and 1 883 children diverted after they were referred for trial in a criminal court. Compared to the previous year, 710 (27.4%) fewer children were diverted after enrolment but 262 (4.7%) more children were diverted before enrolment. As indicated in the table below, an overall decline of 5.5% in the number of children diverted is recorded compared to the previous year.

Table 14: Progress on diversion of children

Diversion of children	2015/16	2016/17	Progress
Diversion after enrolment	2 593	1 883	-27,4%
Diversion before enrolment	5 528	5 790	4,7%
Total	8 121	7 673	-5,5%

Diversions in terms of the CJA before enrolment increased by 4.7% as 262 more children were diverted compared to FY2015/16. The number of Section 41 diversions was, however, reduced by 14.4% with 199 fewer diversions, although the number of PI diversion increased with 527 (13.4%) diversions. A decline of 33.5% (66) is also noted in the number of Schedule 3 diversions. The latter comprised schedule 3 offences known to be more serious transgressions where the Director of Public Prosecutions may, if exceptional circumstances exist, authorise such a diversion. A breakdown of the CJA diversions is illustrated below:

Table 15: Breakdown of the manner in which children in conflict with the law were dealt with

	2015/16	2016/17	Progress
Sec 41 Diversions:	1386	1187	-14,4%
PI Diversions	3945	4472	13,4%
Schedule 3 Diversions	197	131	-33,5%
Total	5528	5790	4,7%

Conviction rate in organised crime

The NPS focused in particular on organised crime and achieved an inspiring conviction rate of 90%, which is on target and represents an increase of 1.1% compared to the previous year. A total of 367 cases were finalised by all dedicated personnel dealing with organised crime, an increase of 2.2% on the number of cases finalised during the previous financial year.

The organised crime section also deals with emerging gang violence, especially in the Eastern Cape and Western Cape. The Northern Areas of Port Elizabeth (Bethelsdorp, Gelvandale, and immediate surrounds) have been infested with gang activities since the 1950's. Currently, about 15 gang groups with several splinter groups and with about 816 members actively participate in the commission of various offences such as murder, attempted murder, house-robberies, drug dealing, intimidation and gang rape.

In March 2016, a multi-disciplinary task team comprising three junior state advocates under the leadership of a Deputy Director of Public Prosecutions (DDPP) in the Port Elizabeth office, was formed to deal with the gang violence in the area. For this reporting period the prosecutors concluded 28 gang violence cases from the Northern Areas, with an outstanding conviction rate of 93%; 26 convictions and two acquittals.

HIGH PROFILE CASES

Hitman for 3 gang groups sentenced to life and 32 years.

Marcus Malgas, a 24 year old hitman for three gang groups was convicted on 13 counts: murder, attempted murder, 6 other counts of attempted murder, 2 counts of possession of an unlicensed firearm and 2 counts of possession of ammunition. He was sentenced to life imprisonment and to 32 years in prison on 31 May 2016.

Dustlife gang gang sentenced to life imprisonment despite intimidation tactics by the leader

On 1 September 2016 Ludonian Allies, affiliated to the Dustlife gang was convicted in the High Court for murder, 3 counts of attempted murder; unlawful possession of a firearm and unlawful possession of ammunition. He was sentenced to life imprisonment on the murder count, 10 years imprisonment on two counts of attempted murder; 5 years imprisonment on unlawful possession of firearm and 5 years imprisonment on possession of ammunition without a licence. The trial was a success despite the leader of the gang; one Wendall Pieterse presenting himself and his generals in court during the trial with a view to intimidate state witnesses. A witness and victim of an attack by the accused, consequently refused to testify, opting for incarceration.

State v Sibanda and others

Four accused were charged with 62 counts ranging from murder, rape, robbery, extortion, kidnapping, and assault with intent to cause grievous bodily harm. Accused 1, 2 and 3 were sentenced to 8 life terms plus 692 years imprisonment by the high court sitting in Palmridge. This after the fourth accused Charles Brewer pleaded guilty and was sentenced to 350 years during the early stages of the trial.

State v Laughton and others

This case was dubbed "*the cold case*" relating to the murder of Betty Ketane. Accused 1 was convicted of attempted kidnapping, 2 counts of kidnapping, attempted murder and murder. Accused 2 and 3 were convicted of kidnapping and culpable homicide in respect of Betty Ketane. Accused 1 was sentenced to an effective term of 30 years' imprisonment, whilst accused 2 and 3 were sentenced to an effective term of 4 years imprisonment.

State v Mayekiso and others

In this matter the accused were targeting rented vehicles in and around Soweto, which were then robbed. The accused were convicted of *inter alia* racketeering, robbery and murder. Those convicted on the murder charge were sentenced to life imprisonment, whilst an effective term of 15 years' imprisonment was handed down on the racketeering count.

State v Ledwaba

The accused in the murder of German businessman Uwe Gembala escaped before sentence. On 21 November 2016 he was brought before the High Court and sentenced to an effective term of 25 years' imprisonment.

State v Sibanda and others

This is a racketeering matter. One of the accused (Jackson Msiza) entered into a section 105A plea and sentence agreement with the state on condition that he will testify against the remaining accused. He was sentenced to 15 years' imprisonment.

State v Manganyi and others

The accused were convicted of murder and possession of firearms and ammunition following the contract killing organised by a Chinese national to take out his competition. All accused were sentenced to life imprisonment.

State v Ugochukwu

The accused, a Nigerian national was convicted *inter alia* for human trafficking in terms of the Prevention and Combatting of Trafficking in Persons Act in the High Court. The accused was sentenced to an effective term of 20 years imprisonment. This is one of the convictions in the High Court in terms of this legislation in this Division.

Conviction rate in environmental crimes

The number of environmental crimes finalised with a verdict increased from the previous year by 1%; from 375 to 380 verdict cases. The conviction rate slightly decreased from 95.2% to 95.0%. Specific attention on the illegal hunting, dealing and possession of rhino and rhino horns, ivory, abalone, cycads, waste and pollution cases are amongst the prioritised focus areas that impact on the environment.

Noteworthy cases

State v Zhao Huiru and two others

The two accused admitted that they possessed and stored illegally harvested abalone at Langebaan. 37 941 units of abalone, 70 cannabis plants and twenty-five grams of loose cannabis (with an approximate value of R10 929 500 without the authority of a valid permit) were found by the authorities. They were the only two people occupying the premises during the search and seizure.

Count 1: Both accused are sentenced to 18 months direct imprisonment and a further 2 years direct imprisonment wholly suspended for a period of 5 years, on condition that the accused is not convicted of Regulation 36(1)(a) of the regulations as promulgated under Government Notice R1111 and published in Government Gazette 19205 of 2 September 1998, as amended, read with Regulation 1 and 96 of the said Regulations as issued in terms of Section 77 of Act 18 of 1998, the Marine Living Resources Act and read with Section 1 and 58(4) of the said Act and also read with Section 250, 256 and 257 of the Criminal Procedure Act 51 of 1977 during the period of suspension.

Count 2: Both accused sentenced to 18 months direct imprisonment and a further 5 years direct imprisonment wholly suspended for a period of 5 years, on condition that the accused is not convicted of a contravention of Section 18(1) of Act 18 of 1998 of the Marine Living Resources Act as cited for Count 1.

Count 3: Both accused sentenced to 18 months direct imprisonment and a further 2 years direct imprisonment, wholly suspended for 5 years on same condition as above.

Count 4: Both accused are sentence to 18 months imprisonment and a further 2 years direct imprisonment wholly suspended for a period of 5 years, on same condition as above

Count 5: Both accused are sentence to 18 months direct imprisonment and a further 18 months wholly suspended for a period of 5 years, on condition that the accused is not convicted of the offence of contravening the provisions of Section 4(a), 4(b), 5(a) or 5(b) read with Sections 1, 13, 17, 18, 19, 20, 22, 23, 24, 25 and 64 of the Drugs and Drug Trafficking Act 140 of 1992 (Read with the provisions of Section 51(2) of the Criminal Law Amendment Act 105 of 1997) as amended during the period of suspension.

Count 6: Accused 2 (Huan Han Ran) was sentenced to R1 000 or 3 months imprisonment and a further R1 000 or 3 months imprisonment suspended for 5 years, on condition that the accused is not convicted of contravening the provisions of Sections 22(7) and 37(b) read with Section 1 of the Refugee Act 130 of 1998 during the period of suspension.

Count 7: Accused 2 was sentenced to R1 000 or 3 months imprisonment and a further R1 000 or 3 months imprisonment wholly suspended, on condition that the accused is not convicted of a contravention of Section 49(1) read with Sections 1 and 9 of the Immigration Act 13 of 2002 read with Section 250 of the Criminal Procedure Act 51 of 1977 during the period of suspension.

The sentences in counts 1,2,3,4,6 and 7 to run concurrently with count 5 in terms of Section 280(2) of the Criminal Procedure Act 51 of 1977. The seized abalone, cannabis, drying equipment and cultivation equipment are declared forfeited to the State.

Conviction rate in rhino prosecutions

The South African government recognises that the ongoing killing of the rhino for its horns is part of a multi-billion dollar worldwide illicit wildlife trade and that addressing the scourge is not simple. Government continues to strengthen holistic and integrated interventions and explore new innovative options to ensure the long-term survival of this species. The prosecution plays a crucial role in this integrated fight to curb the scourge of rhino and related crime, and as such has incorporated it into their annual performance plan.

During this reporting year, the prosecutors finalised 27 verdict cases and obtained 26 convictions representing a conviction rate of 96.3%. This indicates the commitment of the prosecution component to ensure quality prosecutions in all rhino and related matters.

Noteworthy cases

State v Chen:

Possession of rhino horn - Accused pleaded guilty and was sentenced to R1.5m or 5 years imprisonment, half suspended for 5 years.

State v Wuw:

Possession of rhino horn - Accused pleaded guilty and was sentenced to R1.5m or 5 years imprisonment, half suspended for 5 years

Other Noteworthy Cases

State v K Sedumedi

The accused, dubbed the Century City Serial Rapist, is a serial rapist and murderer. His modus operandi was to lure young women who had recently matriculated with offers of a job and then he would rape and kill them. The bodies were then mutilated and hidden in bushy areas or buried in shallow graves. The matter was finalized by way of a plea and sentence agreement in the Western Cape High Court a year after his arrest. He was sentenced to 7 life sentences.

State v N Ajam

The accused is a child pornographer. The matter was finalised by way of a plea and sentence agreement in the Western Cape High Court. The accused created two fake Facebook profiles presenting himself as a teenage boy and girl, respectively. He then lured other teenagers of both sexes, by sending them friend requests on Facebook. He would then groom them sexually and they would send naked pictures of themselves to the accused, who sent pictures of other children to them. He would then ask to meet them and when they refused he would threaten to post their pictures on Facebook or send them to their friends and parents. He met with some of the children and raped or sexually assaulted them. The accused was sentenced to a cumulative sentence of 25 years imprisonment.

S v Denver Carolissen

The accused was a civil servant who was befriended online by a FBI agent after it was discovered that he was part of an international child pornography ring. SA authorities were alerted and received

an application for his extradition from the USA. An extradition order was granted but a docket was also opened locally to determine if he should be prosecuted here. The accused was extradited in November 2016.

SPECIALISED PROSECUTIONS

Specialised Commercial Crime Unit (SCCU)

The SCCU experienced a number of challenges which led to an increase in backlog cases and resulted in a reduction in the number of cases finalised. The challenges include a very high vacancy rate in some offices, non-availability of magistrates or legal aid practitioners and lengthy complex trials, which involve extensive pre-trial litigation. These factors impacted upon the finalisation of cases.

The restructuring of SAPS has also impacted on the operations of the SCCU. The DPCI (Hawks) now mostly deals with projects, which has resulted in lesser cases being referred to the unit. The cases the Hawks dealt with in the past in accordance with the Commercial Crime Unit mandate are now dealt with by SAPS Detective Services working at the stations and the newly established commercial crime units therein. Detectives at station level are currently not dedicated to do commercial work. They thus have a staggering case load and are not able to prioritise commercial cases. The detectives also fall short in terms of the requisite skill that comes with dedication to effectively investigate commercial crime cases.

In order to address these challenges, the SCCU embarked upon the following measures to mitigate the challenges:

- Well-resourced offices assisted the smaller offices to alleviate the challenges of under staffed offices.
- The regions hold monthly meetings with DPCI: Serious Commercial Crime Heads to address blockages in investigations and the prioritization of the finalisation of cases with minimal outstanding investigation.
- Some offices have established relations with specific court centres or police stations to assist with the identification of cases which fall within the specific office's case selection criteria.
- The prioritisation of part heard cases on the court rolls.
- Clean out sessions with the police whereby deadwood cases are finalised.

Notwithstanding these challenges, the SCCU recorded an excellent overall conviction rate of 92.1% and achieved key successes in its focus areas, namely corruption, cybercrime and money laundering. The unit contributed significantly to redress for victims of commercial crime, in this regard securing compensation of more than R72 million. The SCCU also contributed significantly to the work of the AFU in that 433 of their completed forfeitures involving an amount of more than R 334 million and 283 freezing orders involving more than R900 million were obtained in commercial crime cases.

Table 16: Progress of complex commercial crime conviction rates

Financial Years	2012/13	2013/14	2014/15	2015/16	2016/17	Projected Change over previous year	Change over period 12/13-16/17
Complex Commercial Crime	91%	93,9%	94,3%	94,1%	92,1%	-2,0%	0,9%
Convictions	841	1099	1069	951	793	-16,6%	-5,7%
Verdict	922	1170	1134	1011	861	-14,8%	-6,6%

The unit's methodology of prosecutor guided investigation (PGI) and the system of co-location of prosecutors with the police in courts continues to provide the winning formula for efficient finalisation of cases and contributes immensely to the high conviction rates achieved. A special focus was placed on the prosecution of corruption cases, particularly to improve investor perception and trust in South Africa. In line with the priority focus of government in dealing with corrupt government officials, the SCCU secured the conviction of 87 government officials against a target of 52 officials.

Noteworthy Corruption Cases (involving government officials):

State v Motaung

The accused, a policeman was convicted of fraud and corruption and sentenced to 7 years imprisonment. The accused used 3 police petrol cards to purchase fuel for his private cars whilst corrupting the petrol attendants by paying them for allowing him to do. The accused then used the police computers to certify the transactions as correct. The AFU obtained a confiscation order against his pension, to the value of R300 000.

State v Nokele and Manzini

Two police members were convicted of various fraud and forgery charges involving fraudulent travel and accommodation claims, to the value of R67 200. They were both sentenced to an effective period of 10 years imprisonment.

State v Petrus Meyer

The accused was a South African Revenue Services (SARS) official who assisted Arthur Webb (the sole member of both Webb's Arms and Ammunitions CC and Scarlet Dawn Trading 59CC) to submit fraudulent VAT 201 returns to the value of more than R4 million. The accused was convicted of fraud (3 counts) and corruption (1 count of a contravention of Section 4 of Act 12 of 2004) and sentenced to 15 years imprisonment.

State v Cornelius Cameron Wessels

The accused, a Cape Town sergeant, was sentenced to eight years direct imprisonment after he was convicted of corruption involving a bribe of R100 at the Bellville Specialised Commercial Crime Court, for smuggling drugs to persons detained at Cape Town Police Station.

State v Nozinzi Dyonase

The accused was employed at the Department of Home Affairs where she committed fraud and corruption. She was convicted of 1 count of fraud and 1 count of corruption and was sentenced to an effective 8 years imprisonment.

The NPA participates in the Anti-Corruption Task Team (ACTT) which was set up to fast track the investigation and prosecution of serious corruption cases and to increase the success in fighting and preventing corruption in South Africa. The SCCU was instrumental in crafting the draft strategic plan for the ACTT and its members actively participate in its Secretariat. The target to convict at least 25 people of corruption where the amount involved is more than R5 million was exceeded and 29 convictions were achieved. Integrated case plans were developed for all priority cases and prosecutors are part of the multi-disciplinary operational teams from the start.

Noteworthy ACTT Cases**State v A C Scholtz and Others**

The accused were convicted of offences involving corruption and money laundering involving R600 million. Accused 1 (AC Scholtz) was sentenced to 15 years imprisonment each in respect of two corruption charges, 12 years imprisonment each in respect of two money laundering charges. The court ordered that the sentences were to run concurrently, wherefore accused 1 will serve an effective 15 years imprisonment.

The companies being accused 2 to 7 were convicted of corruption and money laundering and sentenced to fines of between R75 000 and R150 000.

Accused 8 died during the course of the trial.

Accused 9 (John Block) was sentenced to 15 years imprisonment in respect of a corruption charge and 12 years in respect of a money laundering charge. The court ordered that the sentences are to run concurrently, wherefore the accused will serve an effective term of 15 years' imprisonment.

The AFU secured confiscation orders of R63 million against the accused 1 to 7 and R2.7 million against accused 9.

State v EUS (Pty) Ltd and Others

The accused were charged with fraud and money laundering involving R65 million, where Eskom (Pty) Ltd and its subsidiary were defrauded. They were convicted as charged, and accused 1 was sentenced to a fine of R600 000 wholly suspended in respect of fraud, and a fine of R400 000 wholly suspended in respect of money laundering. Accused 2, D Malherbe was sentenced to 10 years imprisonment for fraud, and a further 10 years imprisonment, half of which was suspended in respect of the money laundering. He will therefore serve an effective 15 years imprisonment. AFU's confiscation proceedings are expected to be finalised in the next reporting period.

State v Bradley Freeman and Others

The accused, employed by the North West University, altered banking details of the university at Edu-loan and other service providers to that of his own and had money deposited into his account. Money was then laundered to various family members. The amount involved is more than R17 million. The accused were convicted of fraud and money laundering. Accused 1 was sentenced to 15 years in respect of fraud and 15 years imprisonment in respect of money laundering. Accused 3 was convicted of money laundering charges and sentenced to 10 years imprisonment, wholly suspended for 5 years.

CYBERCRIME

A special focus was placed on the prosecution of cybercrime cases in order to curb this growing international phenomenon. Although new technologies create new criminal opportunities rather than new crime types, cybercrime is an extension of an ordinary crime committed within cyber space where information and communication technologies are used as an instrumentality, target or as a means of perpetuating further crimes. The SCCU performed exceptionally well in the area of cybercrime and maintained a high conviction rate of 99.4% against a target of 74%, with convictions in 170 cases.

Noteworthy Cybercrime Case:**State v Mduduzi Mkhize**

The accused, an employee of the Department of Education in KwaZulu-Natal, formed part of a syndicate who made use of key loggers to obtain confidential information from the Nelson Mandela Metropolitan Municipality which was then used to unlawfully transfer R19 722 000 from the municipality's accounts. Some of the members of the syndicate were employees of the municipality who abused their positions to obtain the information for the syndicate. After a lengthy trial, the accused was convicted of a contravention of Section 86(4) of the Electronic Transactions and Communications Act 25 of 2002 (1 count), fraud (1 count) and a contravention of Section 4 of Act 121 of 1998 (1 count). The accused was sentenced to an effective term of 15 years imprisonment on 7 October 2016.

State v N Idediora and another

The accused were charged with fraud related to an online dating scam involving an amount of R100 000. Accused 1 was convicted as charged and was sentenced to 12 years imprisonment, suspended for a period of 5 years on certain conditions. The court further made a confiscation order to the amount of R506 000 against him.

State v Matatu and 4 others

The SASSA officials were convicted of one count of corruption and eight counts of fraud involving a total loss of approximately R70 000 in the Bellville Specialised Commercial Crime Court. The State had proved the links to the suspects, who created false beneficiaries on the IT system for benefit by leading the evidence of a cyber forensic expert. The accused were each sentenced to an effective period of 7 years imprisonment.

Representation on International Bodies

The SCCU represents the NPA in the Financial Action Task Force (FATF), the Council of Europe's Global Action on Cyber Crime Project (GLACY) and the Organisation for Economic Cooperation and Development (OECD). The FATF is an inter-governmental body established by the Ministers of its member jurisdictions. The mandate of the FATF is to set standards and to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and the financing of proliferation, and other related threats to the integrity of the international financial system.

As a member of FATF, South Africa's anti money laundering (AML) or counter-financing of terrorism (CFT) regime will be assessed as part of a peer review mutual evaluation process based on FATF recommendations and methodology. In order to assess technical compliance and effectiveness of a country's AML/CFT regime, the mutual evaluation assessment process examines a country's adherence to the FATF recommendations. The SCCU collates the information related to enforcement action in the form of the prosecutions instituted and finalised. In the year under review, the SCCU accounts for 39 of the 49 money laundering cases finalised by the NPA.

The OECD Working Group on Bribery in International Business Transactions is responsible for monitoring the implementation and enforcement of the OECD Anti-Bribery Convention, the 2009 recommendation and related instruments. The Working Group is made up of representatives from the States Parties to the Convention, including South Africa, and meets regularly.

The OECD Anti-Bribery Convention establishes legally binding standards to criminalise bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective.

Two personnel from the SCCU participated as lead examiners in the UK 4th Phase Country Evaluation during October 2016 and the Head of the SCCU served as the co-chair to the OECD's Law Enforcement Group.

The role and function of the SCCU, in representing the NPA in FATF and in the OECD, together with the South African Police Service (SAPS), being operational authorities, is to provide information on specific cases involving the particular area under assessment. Information that is required for this purpose includes:

- updates on investigation and prosecution of cases related to the OECD and FATF;
- estimated amounts of proceeds of crime based on information on the predicate offence;
- relevant statistics on foreign bribery (or other charges related thereto), money laundering or terrorist financing investigations, prosecutions, and convictions;
- international cooperation requests made and assistance rendered;
- criminal modus operandi obtained during the course of an investigation.

With the view to managing its deliverables related to the FATF, GLACY and OECD, the SCCU, together with the SAPS, have undertaken to:

- develop strategies for the effective investigations and prosecutions of the cases;
- ensure that there are sufficient resources for the cases
- build expertise, especially for foreign bribery cases
- develop systems to improve detection and reporting of the cases.

Noteworthy cases

In addition to cases mentioned in the specific categories of offences, the SCCU had significant success in prosecuting serious commercial crime. The following cases are noteworthy in respect of the convictions and/or sentences imposed:

State v Abraham Coetzee

The accused, a former attorney, was charged with 2 counts of theft and 1 count of fraud involving an amount of more than R5,2 million. He was convicted as charged and was sentenced to 5 years direct imprisonment in respect of each count of theft and 15 years imprisonment in respect of the fraud charge. He is thus sentenced to an effective term of 25 years imprisonment.

State v Leandri Snyman

The accused, a payroll administrator, was charged with numerous counts of fraud involving an amount of R5 million. She was convicted of some of the charges and was sentenced to 15 years imprisonment on 20 counts of fraud and a further 25 years in respect of 2 other counts of fraud. The court ordered that the sentences should run concurrently, thereby sentencing the accused to an effective 25 years direct imprisonment.

State v Margaretha du Toit

The accused, a credit controller acting in execution of a common purpose with accused 2, the company's book keeper, created fictitious beneficiaries and creditors' accounts. They then transferred R48 million from the company to accused 2's bank account. Accused pleaded guilty and was convicted of 1 081 counts of fraud. All counts were taken together for purposes of sentence and the accused was sentenced to an effective 20 years imprisonment.

State v Henry Schreuder

The accused was charged with fraud involving an amount of R73 million misappropriated from his employer. He was convicted as charged and was sentenced to 18 years direct imprisonment.

State v Hilton Boyce and another

The accused were charged with 964 counts of fraud and money laundering, respectively, involving an amount of R25 million. The accused misrepresented to the company that they had performed services or delivered goods for which they were entitled to be reimbursed. They were convicted as charged, and accused 1 was sentenced to 20 years direct imprisonment, whilst accused 2 was sentenced to 15 years direct imprisonment.

State v Natalie Watson

The accused was employed at an estate agency as a portfolio manager. She was convicted of 165 counts of fraud involving over R1.4 million and sentenced to 12 years direct imprisonment.

State v Gladys Namutebi

This case is one of an emerging trend in the Eastern Cape, where foreign nationals target female government employees, especially nurses and teachers and defraud them of their pension payouts by falsely promising to multiple the benefits. The accused was convicted of fraud involving an amount of R400 000 and sentenced to an effective 10 years imprisonment.

State v Werner Smit

The accused was an investment broker working for Liberty Life in Carletonville, earning commission on the amounts invested by clients. He convinced a client to invest by falsifying the interest rate given on investments by Liberty Life, causing a loss of R2.5 million. The case was built on an analysis of falsified policies and actual interest rates to determine the criminality. The accused, during the course of proceedings, escaped to George in the Western Cape where he continued his criminal activities. Liberty Life helped in tracing accused to George Regional Court where he stood trial on various charges of fraud. He was sentenced to 7 years imprisonment after 4 years of trial, but once again disappeared. The prosecutor established that the accused was transferred to Klerksdorp prison for more fraud charges in Carletonville. He consolidated all cases and successfully prosecuted the accused who was sentenced to 10 years imprisonment.

State v Pumla Silinga

The accused was an attorney who stole trust funds of R95 000. She was sentenced to 8 years imprisonment, two of which were suspended for 5 years.

SEXUAL OFFENCES AND COMMUNITY AFFAIRS (SOCA) UNIT

The broad outcomes that SOCA seeks to achieve are to:

- Improve the conviction rate in gender-based crimes and crimes against children
- Actively protect vulnerable groups from abuse and violence
- Ensure access to maintenance support
- Systematically reduce secondary victimisation

To achieve the aforementioned the Unit focuses its activities & interventions in 5 sections, namely; sexual offences, child justice, domestic violence, maintenance, and trafficking in persons.

SEXUAL OFFENCES

The Thuthuzela Care Centre (TCC) model specifically focussing on survivors of sexual offences is regarded as international best practise in successfully addressing rape care management. The focus of the model is to reduce secondary victimisation, reduce the cycle period from reporting to the finalisation of the case and to improve the conviction rate of these cases.

In the year under review, the unit focused on improving services at the sites with assistance from the relevant stakeholders. No new sites were established due to the financial limitations. However, new possible sites were identified for when funding is available.

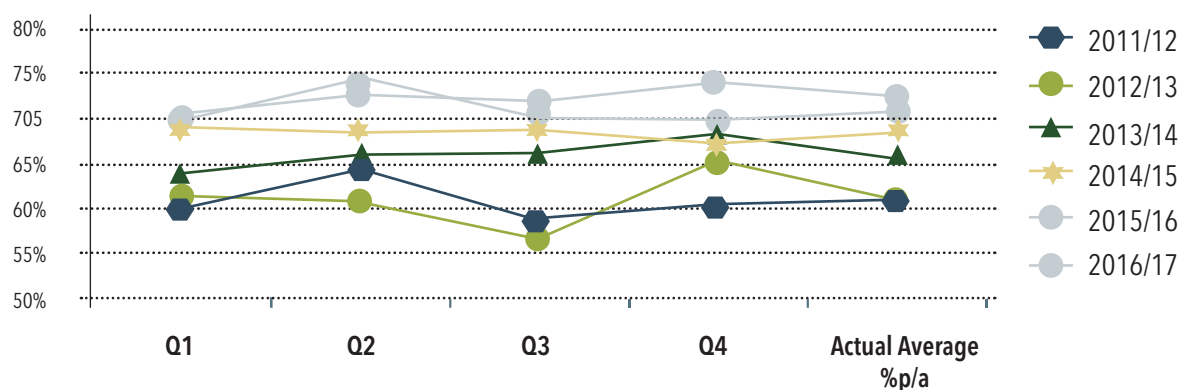
There are currently 55 TCC-sites based on the verification criteria, providing services for victims of sexual and gender based violence. The number of matters reported at the TCCs reflects a slight decrease from the previous year and an excellent average conviction rate of 71.1% was achieved. This drastic improvement in conviction rates (over 70%) for TCC reported cases was maintained over the past two financial years from the position in the year 2000 where the conviction rate stood at 48% for sexual offences (Monitor Group Research).

The table below illustrates the conviction rate performance over the past six years.

Table 17: TCC cases finalised & conviction rate (2011/12 up to 2016/17)

TCC cases finalised and conviction %, Q1-Q4 comparison; 2011/12 - 2016/17

FY	Q1	Q2	Q3	Q4	Total number of cases finalised & average conviction rate
2011/12	563 / 60%	638 / 64.6%	464 / 58%	515 / 60.2%	2180 / 60.7%
2012/13	577 / 61.7%	614 / 60.6%	542 / 56.8%	515 / 65.2%	2248 / 61.03%
2013/14	580 / 63.8%	702 / 65.8%	513 / 66.3%	562 / 68%	2357 / 65.9%
2014/15	521 / 69.1%	605 / 68.4%	600 / 68.8%	559 / 67.3%	2285 / 68.4%
2015/16	610 / 69.8%	711 / 72.2%	540 / 71.5%	480 / 74%	2340 / 71.8%
2016/17	615 / 69.8%	596 / 74.2%	583 / 70.5%	540 / 69.8%	2334 / 71.1%



When victims and/or survivors report these matters at TCCs they receive support services by victim assistance officers and are also referred for trauma containment counselling. Once police dockets are registered the dockets are submitted to TCC case managers for prosecutor guided investigations. When these cases are trial-and-court-ready they are referred for prosecution, either by the case managers or by prosecutors that have received specialised and sensitised training in sexual offences. It must be noted that in approximately 35% of matters reported by adults, the victims only required the TCC-services and opted not to proceed with registering a police docket for investigation.

During this year a total of 6 920 cases reported at TCCs were referred to court for prosecution.

Table 18: Breakdown of sentences in TCC-reported cases

Sentencing Term:	Number of sentences (per offender and per charge)	
	2016/17	2015/16
Life Imprisonment	255 (+ 8%)	236
20 – 25 years' imprisonment	160 (- 5.8%)	170
10 – 19 years' imprisonment	705 (- 1.4%)	715
Number of victims:		
Under 18 years of age	1011 (+ 3.8%)	974
Above 18 years of age	849 (- 0.7%)	855
Gang rape cases	37 (+15.6%)	32
Serial rapist cases	18 (+20%)	15

The Thuthuzela Care Centres Compliance Audit and Gap Analysis

SOCA identified the need to independently evaluate compliance of each TCC site in respect of the TCC Blueprint. This will assist in improving the effective and efficient oversight and management of sites and the delivery of services to victims of sexual offences and gender based violence (SGBV).

An audit was conducted by the Foundation for Professional Development (FPD), funded by USAID, with the following objectives:

- To evaluate the quality of services provided,
- To assess the availability of equipment,
- To determine staffing at the sites, and
- To review the relationships between the TCCs and relevant stakeholders.

The report is a comprehensive analysis of the sites evaluated and provides critical information for future planning, both on a strategic and operational level. The findings of the final report suggest that the TCCs are overall well-functioning. However, the services and stakeholder involvement vary across provinces and even within provinces.

SOCA facilitated the UNODC Round Table Discussion in collaboration with the DOJ&CD and the Department of Social Development at the Netherlands Embassy during March 2017 in Pretoria. The aim was to share experiences and to highlight challenges encountered in gender based violence. This round table would also be a precursor for a national dialogue on GBV later in 2017, initiated by the Deputy Minister for DOJ&CD. The Deputy Minister wanted to ensure that SORMA as implemented makes a difference in the criminal justice system towards SGBV matters and also to have a programme of action and commitment from the relevant stakeholders dealing with gender based violence matters. A member of the judiciary emphasised the need to legislate the pre-trial conference process for criminal matters, in the same way as for the civil jurisdiction process.

SOCA officials also participated in the DOJ&CD launch of the Women's Engagement on Intimate Femicide in Durban KZN in March 2017, wherein relevant stakeholders pledged their commitment to join hands against the scourge of these unwanted deaths in families. It was attended by approximately 200 community members.

SOCA is in the process of developing a SGBV training manual for the Africa Prosecutors Association (APA) regarding the legislative and case law position in South Africa on SGBV which includes the social context in a prosecutorial environment, sexual offences, child justice, domestic violence, maintenance, trafficking in persons, mutual legal assistance, the Children's Act and other related legislation. This will be a training manual on the South African position, specifically for our prosecutor colleagues in other African countries.

The NPA is in the process of reviewing the implementation and application of the Victims Charter in the criminal justice system since its inception 10 years ago. With reference to the victim-centred approach of the Victim Charter, this is an in-depth analysis of relevant legislation, applicable case law, related programs & initiatives implemented in SA but also what the position is on the matter in other African countries and abroad.

The unit also hosted international delegations from Namibia, Nepal, Uganda and a UN-delegation, sharing information about, *inter alia*, SA legislation on SGBV, the criminal justice system, the TCC-model, relevant statistics, training and protective measures put in place by law.

During October 2016 a senior SOCA-official delivered a presentation on how the SA criminal justice system deals with sexual offences and domestic violence (challenges and successes), as well as on the TCC-model, at the Specialised Judicial Services Expert Group Meeting in Jordan.

SOCA officials participated at the 1st SA National Conference on Violence in Johannesburg, which was hosted by the Foundation for Professional Development (FPD). The theme of the Conference was **Mobilising Science, Community and Policy for Prevention**. The conference covered six streams, namely (i) Epidemiology and Data, (ii) Gender Based Violence, (iii) Child and Youth Violence, (iv) Trauma and Trauma Care, (v) Under- represented and Marginalized Communities, (vi) Public Protest and Collective Violence.

Noteworthy cases reported at TCCs**State v Khumalo**

In a gang rape case at the Bhisho High Court, the three accused were charged for 6 counts of rape, compelled rape, robbery and kidnapping. The accused were found guilty of all counts of rape, robbery and kidnapping, but acquitted on compelled rape. The victim in this case was 15 years old at the time of the rapes and minimum sentence provisions applied. The accused was sentenced to life imprisonment on the counts of rape, 5 years each for kidnapping and robbery respectively.

State v Mondleki

The accused faced numerous charges: 1 count of rape, robbery with aggravating circumstances, murder, attempted murder, possession of unlicensed firearm and possession of ammunition. The accused pleaded not guilty and proceeded with trial and was found guilty on all counts. He was sentenced to life imprisonment for rape, 15 years for murder and for robbery aggravating, respectively, 8 years for attempted murder, 10 years for the possession of unlicensed firearm and 5 years for possession of ammunition.

State v Nkumanda

The accused faced 12 counts of rape and 6 counts of robbery. The accused pleaded not guilty, but after the trial the court found him guilty on all counts and sentenced him to 6 life terms for 6 counts of rape, 10 years each for the other 6 counts of rape and 10 years each for 6 counts of robbery.

State v William Beale

The accused faced a number of charges regarding possession and distribution of child pornography (thousands of hard core child and baby pornography images). The Antwerp Police, Criminal Investigation Department traced the accused because of his involvement in a child pornography network where 239 people are involved internationally. The accused pleaded guilty during February 2017 and was accordingly convicted, at present the matter is postponed for sentencing.

CHILD JUSTICE

SOCA participated in the DOJ&CD committee to critically analyse the existence of the age of criminal capacity, currently 10 years, in terms of section 7 of the Child Justice Act (CJA). The purpose thereof was to enable the committee to provide a comprehensive report to Parliament, in line with section 96(4) of the CJA, based on the review of the current minimum age of criminal capacity. The said report was tabled in October 2016.

SOCA also participated and delivered a presentation at the United Nations Committee on the Rights of the Child in Geneva in September 2016. South Africa submitted its Country Report at the 73rd session of the Committee, on the implementation of the UN Convention on Child Rights. The sessions dealt extensively with questions regarding all protection measures in line with legislation on the rights of children.

DOMESTIC VIOLENCE

SOCA participates at the National Task Team for LGBTI matters, facilitated by the DOJ&CD. The Eastern Cape provincial LGBTI forum, during its meeting in the third quarter specifically discussed the reasons for the delay in the handling of these cases in the CJS. The forum also set up a rapid response team to look into instances where there are hate crime cases reported.

With reference to the Western Cape High Court judgment in **S v Adams** (par 48-50, dealing with the conduct of SAPS in the matter), SOCA participated in a workshop convened by Western Cape Ombudsman for Police on the effective implementation of the Domestic Violence Act. As an outcome of the workshop, a protocol document around the roles, responsibilities and accountability of relevant officials dealing with the vulnerable in relation to sexual and gender based violence matters will be tabled at their upcoming Gender Justice Forum session. Ultimately, the goal is to develop a national standardised protocol that provides guidelines which will ensure effective management and accountability to the most vulnerable in our communities.

Ndabezitha Izimbizo sessions were conducted at Vrede, Batlokwa Ba Mokgalong, Free State and at Sokhulumi Village, Bronkhorspruit in Gauteng. In these sessions the focus is on domestic violence and sexual offences matters with reference to the law and remedies in place for victims of these offences.

MAINTENANCE

Senior maintenance prosecutors are responsible for, inter alia, the overall management of maintenance matters in the provinces. They provide support and guidance to maintenance officers and prosecutors and also deal with contentious maintenance matters themselves (regarding both the civil and criminal process); additionally they are responsible for skills development in their respective provinces. A total of 273 842 formal and informal maintenance enquiries were processed, of which 164 380 (60%) were finalised in the period under review.

TRAFFICKING IN PERSONS (TIP)

After the Trafficking in Persons Act was gazetted for implementation in 2015 a comprehensive training manual particularly focusing on the obligations of the NPA was developed and further reviewed during the reporting period.

The focus of the National Task Team is to holistically discuss TIP matters and cases as well as trends and/or initiatives implemented in successfully addressing TIP in the affected or related areas. This process is essential to ultimately ensure stakeholder co-operation and mutual understanding regarding the scope of TIP in these provinces.

Public awareness campaigns

SOCA facilitated or participated in several public awareness and community projects on gender based violence, human trafficking and relevant legislation by the TCC-personnel and SOCA provincial officials nationally, in line with the "365 National Action Plan of no violence against women and children".

The TCCs in the provinces participated in several events focussing on relevant topics including: the essence and reporting of gender based violence, TCC-services, the influence of drugs at schools, child pornography, LGBTI-cases, sexual violence at schools and tertiary institutions, ukuthwala practices and human trafficking specifically for sexual exploitation.

Skills development and training on SOCA mandate:

SOCA developed comprehensive training manuals for all 5 sections specifically for skills development of prosecutors including an integrated training program for TCC-stakeholders and staff. These manuals are reviewed annually to ensure they are in line with the latest developments in case law and legislation.

A breakdown of formal training delivered by SOCA during this year is as follows:

- Sexual Offences: 7 sessions, attended by 177 delegates.
- Child Justice: 5 sessions, attended by 71 delegates
- Domestic Violence: 5 sessions, attended by 71 delegates
- Maintenance: 4 sessions, attended by 85 delegates
- Trafficking in Persons: 6 sessions, attended by 105 delegates
- Integrated training for stakeholders at TCCs: 22 sessions, attended by 543 delegates.

PRIORITY CRIMES LITIGATION UNIT (PCLU)

Noteworthy Matters

S v Thulsie

The case against terror-accused twins Brandon-Lee and Tony-Lee who were accused of having close links with ISIS received much prominence in the public domain during the year under review. The unit was involved with the arrest and bail application of the so called Thulsie -Twins, who are accused of a plot to attack the US Embassy in South Africa. After the search and seizure warrant and a statement were obtained, the two accused were arrested. The defence brought an urgent “unlawful arrest” application, which was eventually dismissed by the court.

Counsel prepared papers to have an urgent High Court application on arrest dismissed with costs and assisted in a civil High Court application to have searches declared unlawful. Members of the unit liaised with the FBI, Russian police attaché and Interpol to follow up on foreign evidence. The accused appeared in court in January 2017 after numerous applications and successfully opposed an application to have the case struck from the roll.

The two accused remained in custody.

The PCLU liaised with the FBI, Scotland Yard and the Kenyan Prosecution Authority regarding foreign evidence necessary for the prosecution, and held meetings with the FIC regarding the financial aspects in regard to this case. The case was postponed for finalisation of the investigation and the service of the indictment, including the authorisation by the NDPP.

Okah appeal

Members of the unit reconstructed the appeal record and exhibits of this matter and argued the appeal before a bench of five judges at the Supreme Court of Appeal (SCA) during August 2016. Mr Okah was appealing his conviction and sentence for terrorism acts conducted in Nigeria in 2010, challenging South Africa's jurisdiction over crimes committed in Nigeria. In the end the PCLU had to do most of the arguing as the appellant's constitutional attack did not materialise. The interpretation of South African legislation was the main issue. Whereas some of the convictions were overturned Mr Okah was still sentenced to 20 years imprisonment.

The state appealed the interpretation of Section 15 of the Protection of the Constitutional Democracy Act. The unit proceeded with an appeal in the Okah matter due to the importance of the principles of *aut dedere aut judicare* in the decision of the SCA, where it held that the facts of s15(2) did not apply to any of the counts, and so extra-territorial jurisdiction would only apply if the requirements of s15(1), which in this case the court found did not apply. When the judgment was received in October the unit provided an opinion and advised an appeal to the Constitutional Court. The final heads were filed and the office awaits the final date for argument.

MISSING PERSONS TASK TEAM (MPTT)

The MPTT continued with research and investigations into the fate of those who disappeared in political circumstances between 1960 and 1994, i.e. the period covered by the Truth and Reconciliation Commission (TRC).

Gallows Exhumation Project

Following the official launch of the Gallows Exhumation Project in the previous year, the MPTT recovered the remains of 14 political prisoners who were hanged in 1964 in the Gallows at Kgosi Mampuru Correctional Facility (then known as Pretoria Central Prison). All fourteen were members of the Pan Africanist Congress (PAC)'s armed wing, then known as Poqo. The exhumations took place on 13 December 2016 and on January 2017. They had been buried in unmarked pauper graves in Rebecca Street and Mamelodi West cemeteries. The remains were exhumed in the presence of the affected families at a ceremony hosted by The Minister of Justice and Correctional Services, Mr Michael Masutha, MP.

Other Exhumations and Excavations

Aside from the fourteen exhumations relating to the Gallows Exhumation Project, the following remains were exhumed:

- The remains of an adult female were exhumed from Soweto's Avalon cemetery and these were positively identified as being those of Priscilla Melekgetho Mosoeu aka Kuki Zwane.
- The remains of four individuals were exhumed from pauper graves in Red Hill cemetery in Durban. Forensic examination and DNA tests are underway to establish their identity. They may be linked to several MK members who disappeared in 1987 in KwaZulu-Natal.

Excavations were also carried out on several pauper graves in Soweto. The remains were not exhumed but DNA samples were taken from the remains *in situ*. Similarly, excavations continued in Mamelodi cemetery's pauper section in search of the remains of Odirile Maponya. The MPTT also opened and examined some sixty graves in Mthatha in search of two missing MK members, but no viable candidates were found.

DNA identifications

A positive DNA match was obtained in the case of exhumed remains believed to be those of missing MK member Thabo Rammutle (MK Gift). His remains are now ready for handover.

Handover of remains

The MPTT participated in the handover of the remains of Mr Norman Petersen in Paarl, Western Cape. The handover was presided over by the Minister of Justice and Correctional Services (Minister Masutha). His remains were buried the same day in Hero's Acre in Paarl.

- The remains of the 14 hanged PAC (Poqo) members were handed over to their families by Minister Masutha in a ceremony in Mputhi village on 11 February 2017. They were reburied in the weeks that followed.

Symbolic Reburials/Spiritual Repatriations

The MPTT refers cases for spiritual repatriation or symbolic reburial ceremonies where no remains can be recovered due to the nature of their disposal. Three spiritual repatriations were held during the year concerning individuals who were killed in the Komatipoort area as follows:

- **Sizwe Kondile** was abducted in 1981 by the security police and after detention and interrogation, his release was faked. He was driven to the Komatipoort area near the Mozambique border where he was drugged, shot and his body burnt to ashes. The Kondile family and former comrades performed rituals at the site in July 2016.
- **Selby Mavuso** was abducted by the SADF during the January 1981 Matola Raid. After a period of detention he was found to be uncooperative by the Security Police and he was driven by then Vlakplaas commander Dirk Coetzee to the Komati River where he was drugged, shot and his body burnt. The Mavuso family performed rituals at the river bank where his ashes were pushed into the Komati River waters.
- **Johannes Sweet Sambo** died under interrogation by the security police at the Squamaans police base in July 1991 in the Komatipoort area. His body was then taken to a police explosives training site in Limpopo where it was repeatedly blown up. Rituals were performed at the Squamaans police base where he died. The family was also later taken to the Limpopo explosives training site.

All three of the above families were then transported to Freedom Park in Tshwane where a ceremony was performed at *Isivivane* and the *Gallery of Leaders*, hosted by Minister Masutha.

Closing of cases

The MPTT conducted an end-of-year progress review of cases and closed 31 cases for the period under review.

ASSET FORFEITURE UNIT (AFU)

The AFU has had a spectacular year and it exceeded its targets in all of its 9 key performance indicators. This is despite the severe budget cuts that the organisation continues to experience, which have posed a significant impediment in the AFU's ability to perform optimally.

Amongst the strategies that produced positive results were the unit's focus on high value cases using the civil forfeiture regime.

Number of completed forfeiture cases

During the year under review, the AFU completed 572 forfeiture cases compared to 396 forfeitures in the previous year. A significant number of the said cases were opposed high value complex cases that were carried over from the previous year.

Value of freezing orders relating to corruption or offences related to corruption where the amount benefited is more than R5 million

During the year under review, freezing orders to the value of R627.3 million were obtained against a target of R600 million, resulting in an over achievement of 5%. In the previous financial year the amount frozen was R243.8 million.

Number of freezing orders

The unit secured 377 freezing orders against a target of 324 in the year under review, which reflects a year on year improvement of over 9%. The positive result can be attributed to improved coordination with its partners and a concerted effort to resolve the inhibiting factors.

Value of completed forfeiture cases

The AFU obtained forfeiture and confiscation orders to the value of R423.6 million against a target of R230 million. This means an overachievement of 82%. The continued focus on high value cases and the increased use of non-conviction based forfeiture contributed to the excellent performance. The value of completed forfeiture cases in the 2015/16 financial year was R349.6m. This means that there was a 20% improvement year-on-year performance.

Table 19: Annual comparison of value of completed forfeiture cases

Indicator	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
Value of completed forfeiture cases	R164m	R119m	R296.4m	R1.940bn	R349.6m	R423.6m
Target	R224m	R167m	170m	R180m	R210m	R230m

VALUE OF RECOVERIES IN TERMS OF POCA

Recoveries in terms of POCA to the value of R219.5 million were obtained, significantly exceeding the target of R170 million by 29%. This was as a result of a significant number of matters that had been rolled over from previous financial years.

Table 20: Value of recoveries over five years

	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	Cumulative
Payments to Victims	R93.8m	R28.6m	R84.4m	R1 658m	R390.2m	R149 m	R2.4bn
Payments into CARA	R37.3m	R34.8m	R98.5m	R58.2m	R54.2m	R69.16m	R352.5m
Value of Recoveries ito POCA (Victims + CARA)	R131.1m	R63.4m	R182.9m	R1 716.2m	R444.2m	R219m (Identified payment and recoveries)	R2.7bn

Success rate

A success rate of 99% was achieved, which can be attributed to a more cautious approach in case selection in big complex cases being handled in terms of Chapter 5 and a more aggressive approach in pursuing cases using the civil forfeiture regime.

Value of recoveries in relation to corruption where the amount benefited is more than R5 million (proceeds of crime and government losses)

A result of R122.7 million was achieved against a target of R50 million, thus exceeding the target by 145%.

Value of recoveries from government officials convicted of corruption and other related offences (proceeds of crime and government losses)

A result of R1.16 million was achieved against a target of R300 000. This performance was due to a single case involving a recovery of more than R1 million. In the previous financial year a result of R 1.3m was achieved, thus resulting in a year on year result of 10% above that of the previous year.

Noteworthy cases

During the period under review the AFU focused on cases addressing several priority crime focus areas such as drugs and gangsterism, fraud, corruption, environmental crimes and illicit financial flows, amongst others. The cases mentioned hereunder are some of the notable cases that were undertaken to address such focus areas.

ADDRESSING DRUG DEALING ACTIVITIES**NDPP v Faadwaan Murphy**

This is a matter involved a certain high flyer drug dealer in the Western Cape, whose assets consisting of 5 immovable properties, 24 motor vehicles, and several bank accounts to the total value of R9.4 million were seized by the Unit on the basis that they were proceeds of drug dealing activities.

NDPP v Kraak

The unit obtained a preservation order against a certain immovable property used to cultivate and process dagga in Pinelands, Cape Town. The unit has since filed a forfeiture order and the matter is pending in court.

NDPP v Theron

A preservation order was granted against a house in Durbanville, Cape Town, which was used as a sophisticated hydroponic dagga-cultivation and a processing operation. Various other drugs such as Methylene dioxy methamphetamine (Ecstasy), Methcathinone (CAT), Lysergic Acid (LSD) and Amphetamine including to the estimate value of R1 319 815 including cash in the amount of R134 090 were also found and seized.

NDPP v Camal Mussa Waziri

The AFU obtained a final forfeiture report in respect of a drug dealer found in possession of drugs to the value of R90 000 in Limpopo including cash amount of about R240 000 and a vehicle used to convey the drugs from Mozambique (through Limpopo) to Zimbabwe and Botswana. The case highlights the on-going intervention that AFU together with its counterparts have embarked on it tackling transnational organised drug dealing syndicates. .

Section 18 Confiscation Rollout Initiatives

The AFU Western Cape is working closely with its counterparts, the NPS and the SAPS continues to embark on an intervention to address several drugs related community irritants in the Western Cape. In this regard the unit obtained 87 confiscation orders to the total value of R2.6 million in several drug related cases.

Section 51 Notices in respect of rented premises used for drug dealing activities

The AFU, working closely SAPS and NPS, amongst others, identified five houses in the Bellville-Parow area of the Western Cape that were rented and used by several illegal foreign nationals for drug dealing activities.

The unit issued out five notices in terms of Section 51 of POCA, a precautionary warning to the respective owners of the said premises to take step to ensure that said premises do not continue to be used for such unlawful activities and further warning them of the consequences should such activities continue on the said premises.

The said notices have resulted in, amongst others, the evictions of several of the identified implicated tenants and occupants by their respective landlords and the discontinuation of the said activities in most of the aforesaid premises.

The AFU has embarked on a nationwide campaign in all provinces to prevent the usage of rented premises for drug dealing activities.

Addressing Gangsterism

NDPP v Christian Prinsloo,

A Western Cape police colonel in charge of the SAPS firearm store was involved in stealing several firearms and selling them to several gangsters over a period of time. After being charged and convicted for theft, money-laundering, racketeering and corruption, the AFU obtained a confiscation order to the value of approximately R1.1m against him. The unit further obtained restraint order against the assets of several other gangsters that bought the stolen firearms from Prinsloo after they were charged for their involvement

Addressing corruption

The Prinsloo case mentioned above also addresses government corruption more specifically in the JCPS Cluster. As indicated above, he was convicted for, amongst others corruption and a confiscation order of R1, 1 million was granted against him.

NDPP v Dawjee and others

The AFU obtained a restraint order against Dawjee, a private individual and four senior SAPS officers, Lieutenant General Arno Lamoer, a retired Provincial Commissioner, Brigadier Darius van der Ross, Brigadier Kohlindhren Govender and Brigadier Sharon Govender, who were implicated in several incidences of fraud and corruption. The gratifications included cheque deposits into bank accounts, payments for cars rented, payment for guesthouse accommodation, petrol accounts, payment for home pool maintenance, etc. This is another case that indicates the seriousness of the JCPS cluster in rooting out corruption amongst its own members.

NDPP v Hattingh

The case in question addressed corruption at municipality level. The AFU working together with the City of Cape Town and the SAPS obtained a restraint order valued at approximately R7.5m against the assets of a certain Paul Matthew Hattingh, who allegedly abused his position as a member of the Bid Adjudication Committee of the municipality to award certain tenders to companies owned by his wife and daughter. The matter is also still pending.

NDPP v Nawal Peters

A confiscation order in the amount of R90 000 against a clerk of the Department of Basic Education was recovered and paid into the Criminal Asset Recovery Account.

NDPP v Leon Crawford

A further confiscation order in the amount of R7 000 was granted against a member of the SAPS member employed as an Admin Clerk. The amount has since been paid into the Criminal Assets Recovery Account.

NDPP v Motaung

The AFU obtained a forfeiture order in the amount of R35 000 against Malefetsane Petrus Motaung, a captain in the SAPS stationed at Sasolburg Police Station as Head of Supply Chain Management. Motaung was charged for theft, fraud and corruption after he stole and used fuel cards linked to three SAPS vehicles that were recommended for boarding and write off, for his personal benefit.

NDPP v Lintoe

The AFU Free State office obtained a restraint order to the amount of R3.9 million against Nkosi Piet Lintoe, a regional finance manager employed at SASSA in Bloemfontein. He was charged for fraud and corruption after he manipulated the SCM processes during the acquisition of service providers for the distribution of food parcels intended for indigent persons in the province. The criminal trial is pending in the regional court in Bloemfontein.

NDPP v Majola and Others

The AFU in KZN obtained a restraint order in the amount of R547 million against assets of several assets of a syndicate involving senior officials from the Dept. of Transport KZN and several companies and individuals who colluded in fraudulently circumventing the Dept. of Transport's supply chain management processes. Several substantial corrupt payments were made to several Department officials. The said individuals were charged for amongst others, fraud corruption and money laundering.

KZN DEPARTMENT OF RURAL DEVELOPMENT.

The AFU KZN office obtained several preservation orders relating to several farms that had been fraudulently sold and transferred to several entities including fraudulently created Trusts. During the period under review several farms to the amount of R55.6 million were returned to the Department of Rural Development and Land Reform.

NDPP v Trifecta and Others

The AFU Northern Cape obtained a confiscation order in the amount of R59.8 million that had been fraudulently claimed and charged by a company known as Trifecta in respect of a lease agreement

that was fraudulently concluded between Trifecta and the Northern Cape Provincial Government in contravention of the supply chain management processes.

Addressing illegal mining

NDPP v Moahla

The unit obtained a preservation order in respect of R410 300 in cash which was found in the possession of Roseline Jabulile Moahla, an employee at Harmony Gold Mine in Odendaalsrus. The cash was found concealed in her locker in a black refuse bag and it was established to be proceeds of illegal mining.

Addressing Environmental Crimes

In its operational planning for the current financial year the AFU undertook, amongst other goals, to address abalone drying facilities more robustly. The following successes are notable:

NDPP v Basson

The AFU working with its partners obtained a forfeiture order against in respect of a farm to the value of R6.7 million in Tulbagh, WC. The farm was used solely for abalone poaching and in particular as a drying and processing facility. Evidence indicated that the farm was also bought with proceeds of illegally poached abalone.

NDPP v Gemini

The AFU Western Cape obtained a forfeiture order in respect of a boat valued at R178 000 which was used by an abalone poaching syndicate to transport illegally harvested abalone. The boat was bought with proceeds of illegally harvested abalone and had been continuously used in the depletion of the marine resources.

NDPP v Orrie

The AFU and its partners obtained a preservation and forfeiture orders in respect of a motor vehicle valued at about R99 000 that was seized for being used as an instrumentality in the illegal transportation of illegally harvested crayfish valued at R135 000.

Further to the above a total of about 38 confiscation and forfeiture orders to the value of about R11.9m were further obtained in the financial year up to 20 February 2017.

NDPP v Mazuze

A white rhino bull belonging to Mapungubye SANParks was poached. Investigations led to the arrest of one rhino horn dealer based in Gauteng, who led the police to Mazuze a Mozambican residing in RSA. It was alleged that Mazuze sold the horns to a Chinese dealer in Mozambique for over R1million. Mazuze was arrested in Mpumalanga and stood trial in Musina where he was convicted for dealing in rhino horn. When he was arrested he was found in possession of cash in the amount of R248 600, which was subsequently forfeited as it was believed to be proceeds of his rhino poaching.

Addressing Stock Theft

NDPP v Liebertrau

The unit obtained a restraint order in the amount of about R500 000 against Albert Liebetrau who stole and sold 224 head of cattle and calves valued at R1.3 million as well as 98 sheep, to a stock theft syndicate.

Addressing money laundering and the illicit money flows

NDPP v Wright

A forfeiture order was obtained in respect of a cash amount of R2 968 135 and a motor vehicle valued at R82 640 that were established to have been involved in the offenses of money laundering.

NDPP v ASANI

A forfeiture order was granted in respect of a cash amount of over R76 million and a Hilux bakkie valued at about R400 000 that was used to transport the said cash amount from Mozambique into RSA in a false compartment in the vehicle.

NDPP v Wang Matter

The Unit obtained a forfeiture order in respect of R25 million in cash that was to be laundered out of RSA by a certain money International laundering syndicate. Upon the said funds being intercepted by the South African Reserve Bank (SARB), a syndicate member was arrested and charged for corruption after she attempted to bribe an official from SARB with R5million.

NDPP v Rollen Olince

The AFU obtained a preservation order and a forfeiture order in the amount of R981 380 in cash as well as the Toyota Hilux Bakkie valued at R390 000. Rollen Olince was travelling in a Toyota Hilux Bakkie when he was stopped by traffic officers on the N1 *en route* from Cape Town to Johannesburg. When traffic officers searched his vehicle they found a box containing R981 380 in cash which he failed to provide any explanation for its source and origins. Investigations further established that the said funds were linked to several unlawful activities.

NDPP v Mohammed Baig

The Unit obtained a preservation order in the amount of R21 285 518 in cash. The said cash amount was found and seized from Mohammed Baig who was about to board an international flight to Dubai at Bram Fisher Airport, Bloemfontein. Upon being questioned about the said cash amount Baig was unable to provide a proper explanation about the source and origins of the said funds. Investigations revealed that Baig was part of a broader money laundering syndicate involved in smuggling currency in and out of the RSA.

OFFICE FOR WITNESS PROTECTION (OWP)

The OWP provides temporary protection, protection, support and related services to vulnerable and intimidated witnesses and related persons in judicial proceedings in terms of the Witness Protection Act (1998).

The Office for Witness Protection is an independent covert office and derives its mandate from the Witness Protection Act 112/1998. All OWP's functions are classified secret so as to ensure the safety of witnesses, their related persons and OWP officials. Witnesses and their related persons must voluntarily agree to be admitted onto the Witness Protection Programme (WPP).

Judicial proceedings are defined as:

- Criminal proceedings
- Proceedings before a commission or a tribunal
- Proceedings under the Inquest Act
- Proceedings relating to investigations conducted by the ICD (IPID)
- Proceedings referred to in Chapters 5 and 6 of POCA

Performance Highlights

OWP achieved all its 5 targets in the reporting period. It is particularly notable that OWP for the past 16 years achieved its key performance indicator (KPI), "no witnesses or related persons harmed, threatened or killed whilst on the programme who complies with the rules of the programme".

Special audit by Auditor General

Since 2001, OWP has been subjected to a special audit by the office of the Auditor General and has for the past 15 years continued to receive a clean audit with minor housekeeping issues. It is noteworthy that the OWP received a clean audit outcome in respect of its administration, financial management and operations, for this reporting period. OWP continues to ensure good governance of its administration, operations and finances.

Witnesses and related persons handled for the reporting period

Highlight: The number of witnesses and their related persons managed by OWP is the highest since the proclamation of the Witness Protection Act 112/1998 as highlighted hereunder:

In the period under review there were 228 new admissions on to the programme, bringing the total number of witnesses managed to 404. This number exceeded the target of 300 witnesses in the witness protection programme.

There were 366 related persons in the programme, of which 187 were new admissions during the year. A total of 196 witnesses and related persons were successfully discharged and resettled, guided by OWP's humane after care initiatives.

Despite all efforts to ensure witnesses and related persons remain on the programme, sometimes witnesses are unable to adjust to a new area / place of safety when moved from the danger area, their historical homes. Their removal from their comfort zones with all support structures causes tremendous trauma. It creates challenges when negotiating resettlement and discharge agreements. Further, once in the programme some witnesses are unable to adjust to the strict witness protection agreement and rules. The moment a witness or his/her related person is detected as having walked off, it is reported to the investigating officer and prosecutor, 99% of the witnesses who walk off the programme still end up testifying.

OWP's challenges are inter-related namely:

- The budget allocation to OWP remains a serious challenge. OWP's budget is impacted upon by a set of common interrelated factors. This is an international challenge.
- During the period under review the increase demand for OWP services had a negative impact on OWP's budget.
- The lack of budget to fill OWP's existing critical vacant posts;
- The lack of budget to create new junior protector critical posts, the appointment of 9 protectors (5 females and 4 males) on Level 7 or 8;
- Lack of budget to provide humane after-care through discharge and resettlement agreements for witnesses and their related persons who cannot go back to their historical homes due to the danger still existing;
- The increase demand for OWP services and the increase in OWP having to provide salary replacements to witnesses and or their related persons has a negative impact on the budget;
- Inability of CJS to fast-track investigation and prosecution of OWP cases.
- The need for DOJCD to advocate for increase budget allocation for OWP.

Percentage of witnesses that attended judicial proceedings.

264 (65.3%) witnesses attended judicial proceedings in the reporting period. This target is out of the control of OWP. However, OWP works very closely with the partners and stakeholders in the criminal justice system so as to fast track OWP cases.

COLLABORATION WITH PARTNERS AND STAKEHOLDERS

OWP has maintained excellent partner and stakeholder relations in the CJS, where inter-sectoral collaboration between government departments is a constitutional imperative. The collaborative approach adopted by OWP is further embodied in the Victim Empowerment Programme and has as its goal, the provision of a seamless suite of services to victims of crime with the emphasis on vulnerable and intimidated witnesses and their related persons.

OWP developed a special project to deal with ACTT cases, supported by CARA funding. The CARA-funds during the reporting period became depleted in January 2017. OWP submitted a new motivation for additional CARA funds to support the witnesses/victims crime with the emphasis on after-care and serious crime.

OWP's role in protecting key witnesses in judicial proceedings for 2016/2017 ensured value for money and has contributed ensuring the following outcomes; convictions and sentences:

- 8 life sentences.
- 308 jail terms.
- 28 Accused were found guilty.

The above outcomes are as a result of excellent work by investigators, prosecutors and OWP.

OWP continues to provide training to prosecutors through the Justice College and takes advantage of every opportunity to sensitize prosecutors and law enforcement in witness protection. OWP has identified the need to begin to sensitize judges and magistrates on Witness Protection in the new financial year.

There is a need to promote OWP/WPP by Law Enforcement and CJS in all crime hot spots.

International co-operation

The South African Witness Protection Act is internationally acclaimed, so too is OWP's 24/7 operating model which is sought after. The Director is serving as the South African representative on the EUROPOL Witness Protection Head of Experts Forum since 2003 to date. OWP continues to play a key role in the development of witness protection good practice in Africa and the world through the Africa Prosecutors Association and the WP Head of Experts Forums. OWP provided high-level training/capacity building for the Kenyan Witness Protection and to the Namibian Department of Justice Delegation in South Africa.

The Director was invited to Namibia by its Chief Justice to assist with the finalisation of the Witness Protection Law. The Namibian Witness Protection law is modelled on the RSA Witness Protection Act. The Namibian Chief Justice extended a further invitation to the Director to do a presentation at the first Chief Justice Conference in Windhoek.

LEGAL AFFAIRS DIVISION (LAD)

Goal of LAD

LAD's goal is to provide sound legal advisory services to the National Director, and it contributes to the following NPA strategic objectives:

- Increased successful prosecution.
- Improved prosecution of cases that require specialised prosecution.
- Remove profit from crime.

Civil claims

The unit received 1 383 cases compared to the 1 109 received last year. The increase in the influx of cases is being monitored and it is likely that significant increases will continue for the foreseeable future. Despite its capacity limitations, it is remarkable that the unit was able to meet its turnaround time targets despite the big increase in cases.

Applications

256 applications were received and dealt with, compared to 251 in the previous year, demonstrating a small increase of 3.2%. Ensuring effective responses to applications has contributed to the number of cases being slightly reduced by 0.8% in the last two years.

Legal agreements

64 agreements were vetted in 2016/17 compared to 51 in 2015/16, a significant increase of 25.5%. The number varies from year to year depending on the needs of the NPA.

Capacity of LAD

The capacity of LAD is not growing at nearly the same pace as the volume of work. The consequence is that staff members are increasingly not able to make meaningful input into cases.

They essentially have to focus on ensuring that processes run smoothly, and are not always able to take any active part in litigation. This is a matter that will receive better attention in the new financial year, to ensure better alignment between capacity and the organisation's needs.

Noteworthy cases - applications relating to the constitutionality of legislation**National SPCA v Min of Justice and the NDPP**

The NSPCA's leave to appeal to the Constitutional Court was granted and the matter was heard on 23 August 2016. The Minister of Justice and Correctional Services and the National Director of Public Prosecutions were first and second respondents; and Corruption Watch joined in the matter as Amicus Curiae. The essence of the appeal was that there was no rational basis for distinguishing between natural and juristic persons.

On 8 December 2016 the Constitutional Court confirmed the decision of the High Court that section 7(1)(a) of the Criminal Procedure Act is constitutional and that private prosecutions in terms of section 7 are only permitted on grounds of a direct infringement of human dignity, thus excluding juristic persons other than those permitted in section 8, to institute private prosecutions.

Robert James Stransham-Ford

Mr Robert James Stransham-Ford, was suffering from terminal cancer and he was likely to die within two to four weeks from renal failure or some other complications. On 25 March 2015, Dr Cameron Bruce a physician, took over his care and was the doctor who cared for him until his death.

On 17 April 2015, Mr Stransham-Ford brought an application for an order that his medical practitioner could administer a lethal agent at his request or provide him with a lethal agent that he could use to end his life. The National Director was cited as the head of NPA, the institution that implements the law and the main respondents were the Minister of Health, the Minister of Justice and Correctional Services and the Health Professions Council of South Africa (HPCSA). The other respondents, such as Doctors for Life, were joined in the proceedings as *amicus curiae*.

In support of his application, Mr Stransham-Ford described his circumstances and prognosis of the future course of his cancer. He then set out his fundamental, basic human rights and asked that the common law be developed to give effect to his request for assisted dying, to ensure that he dies with dignity. His aim was to ensure that there was juristic oversight of his request of assisted dying. The North Gauteng High Court, under Fabricius J, granted the order sought by Stransham-Ford to allow physician administered euthanasia or assisted suicide. However, he died at 8h00 on 30 April 2015 and the order was only granted later that day.

On 6 December 2016 the Supreme Court of Appeal overturned the order of Fabricius J and held that the order made a profound change in our law of murder, without any considerations of the applicable principles, should not have been made, and as such had to be set aside. It further pointed out that the judge should not have granted the order as Stransham-Ford had already died.

De Vos N.O. and Others v Minister of Justice and Constitutional Development and Others 9/2/5/3-43/14

This matter relates to an application for confirmation of a declaration of constitutional invalidity of section 77(6)(a)(i) and (ii) of the Criminal Procedure Act, 1977. A presiding officer is required to institutionalise, imprison or place a mentally ill or an intellectually disabled accused person in a psychiatric hospital.

Griesel J, in the Western Cape Division of the High Court, held that the impugned section is peremptory and thus inconsistent with the Constitution in that it infringes a mentally ill or an intellectually disabled person's right to freedom and security, as well as children's rights. One of the provisions concerns serious offences and the other concerns minor offences and cases where it is found that no criminal act has been committed by an accused at all. The constitutionality of these provisions was challenged separately by the respective *curators ad litem* of two persons charged with criminal conduct. The cases were subsequently consolidated in the Western Cape Division of the High Court, Cape Town. The High Court concluded that the provisions unjustifiably violate the constitutional rights to freedom and security of the person and the rights of children, as they do not provide a presiding officer with the necessary discretion to craft an appropriate remedy for an accused person with a mental illness or intellectual disability.

In the Constitutional Court, the applicants argued that the section infringes or threatens an accused person's constitutional rights to equality, dignity, freedom and security and the rights of children. They submitted that, since there is no evaluation as to whether the accused poses a threat to himself or to society, and because the provision allows for no discretion, the deprivation envisaged is far-reaching, arbitrary and without just cause.

The respondents maintained that the matter was not ripe for hearing. They also argued that the provisions are consistent with the Constitution and South Africa's international law obligations. They submitted that the provisions protect broader society and ensure the proper treatment and care of persons with mental illness or intellectual disabilities and are therefore rational. The Cape Mental Health made submissions as *amicus curiae*. They specifically asked the Court to rule that imprisonment is always inappropriate as the purposes of the provisions are never to punish an accused.

In a unanimous judgment written by Leeuw AJ, the Constitutional Court found the provision dealing with serious offences to be inconsistent with the Constitution and invalid to the extent that it provides for compulsory imprisonment of all accused persons and compulsory hospitalisation of children. The Court found that the mandatory hospitalisation of adult accused persons is rational as a precautionary measure to guarantee the care of the accused and the safety of society. The Court held further that the second provision is constitutionally invalid as it prescribes that an accused person who has committed no act or a minor offence be institutionalised, regardless of whether they are likely to inflict harm to themselves or others and do not require care, treatment and rehabilitation in an institution which violates their freedom and security of the person.

The Court suspended the order of invalidity in respect of the compulsory imprisonment of adults and the compulsory hospitalisation and imprisonment of children for a period of 24 months to allow Parliament to remedy the defects. The order does not operate retrospectively.

Centre for Child Law and 4 others / Media 24 Ltd and 13 others – protection of identity of minors

An application was brought to protect the identity of a 17 year old minor who had been stolen by her "mother" when she was a baby. The applicants also sought a declaratory order that section 154(3) of the Criminal Procedure Act can be read to extend to victims of crime and to not only apply to the accused and witnesses, in the alternative that the provision be declared unconstitutional. The National Director abided the decision of the court.

Justice Project South Africa and two others v Minister of Transport, Minister of Justice and Correctional Services and the NDPP – unequal implementation of AARTO

The application relates to the prosecution of road traffic offences under the Criminal Procedure Act, 51 of 1977 (CPA) in jurisdictions where the Administrative Adjudication of Road Traffic Offences Act, 46 of 1998 (AARTO) is not being applied. They seek a declaratory order against the National Director that the inequality created thereby is inconsistent with the Constitution and therefore invalid. The applicants further seek an order to discontinue all prosecutions of road traffic offences alleged to have been committed in all jurisdictions in the Republic, which fall outside the current jurisdiction of the AARTO Act.

The applicants contend that the partial implementation of the AARTO Act has resulted in unintended unequal treatment of road traffic offenders. The applicants submit further that the AARTO Act provides an alternative method of adjudication of traffic offences which is mainly administrative in nature, whereas offences in terms of the National Road Traffic Act, of 1996 (NRT Act) are enforced in terms of the Criminal Procedure Act. Therefore, under the AARTO Act an offender may simply walk away with a fine, and at worst a demerit, while under the NRT Act another offender guilty of the same offence in an area where AARTO is not operational, may end up with a conviction and a criminal record.

It is also submitted that following an instruction (or notice) by the Judicial Quality Assurance Office of the Magistrate's Court, dated 27 December 2012, some of the notices issued by traffic enforcement officers state that an admission of guilt fine will result in a conviction and a criminal record. It is alleged that this endorsement is not uniform (i.e. it does not appear in all the traffic offence notices issued to offenders).

The NPA is opposing the matter on the basis that the prosecution of a traffic offence is only effected by the enrolment of a particular notice in the criminal court. In practice, it is only where the traffic offence is related to the opening of a docket and fingerprints are taken that there is the possibility of having a traffic offence recorded as a previous conviction. The NPA has filed its answering affidavit.

S v Xhegwana - single evidence of a confession

The applicant has brought an application to challenge the constitutionality of section 209 of the CPA. It stipulates that an accused may be convicted of any offence on the single evidence of a confession by such accused that he committed the offence in question, if such confession is confirmed in a material respect or, where the confession is not so confirmed, if the offence is proved by evidence, other than such confession, to have been actually committed.

The applicant alleges that that this section is unconstitutional to the extent that it leaves a vacuum and provides no guidelines on what will constitute a confirmation in a material respect. The applicant further alleges that the presence of a police official when making confession brings some fear to an accused person and compromises his right to remain silent. The respondents will oppose the matter on the basis that the courts have developed the meaning of material respect and that section 217 has built-in safeguards in respect of confessions made to peace officers, in that such confessions shall not be admissible in evidence unless confirmed and reduced to writing in the presence of a Magistrate or Justice of Peace.

Boswell John Mhlongo and the State and Alfred Disco Nkosi and the State - admissibility of *ex curiae* confessions against co-accused

The Constitutional Court confirmed the position held in the similar *Litako 2014, ZASCA 54* judgment concerning the inadmissibility of *ex curiae* confessions against co-accused. The court per Theron, AJ, unanimously found that admissibility would violate the rights to equality and a fair trial. The common law position was restored, and prosecutors can no longer rely on the exception to the admissibility of hearsay in terms of section 3(1)(c) of the Evidence Amendment Act to have such evidence admitted. Adv Carpenter of DPP North West argued the matter on behalf of the NPA.

Other Applications

Thembisile Phumelele Nkadimeng in re Nokuthula Simelane

The applicant brought an application to compel the National Director to have a judge appointed to hold a formal inquest in the matter of Nokuthula Simelane, a former MK operative. The application to compel an inquest is kept in abeyance as the National Director decided to institute a prosecution and the issue became moot.

Mfundo Vaphi and 43 others

This urgent application related to the #FeesMustFall campaign. The matter was dealt by the DOJ&CD and the Cape Town State Attorney. Amongst other relief sought, the applicants wanted bail conditions to be amended and to gain access to the Cape Peninsula University of Technology.

Arthur Bengis / Hout Bay Fishing

This is an application for an order to declare that the action of the South African Government and the National Director to receive a restitution amount of about US\$ 22.4 million from the United States was unlawful and unconstitutional. Mr Bengis and others also asked for an order to compel the South African Government and three former NPA employees to pay an amount of \$11.3m damages, being costs they incurred in defending criminal proceedings instituted against them by the United States.

The court delivered judgement on 24 February 2016 in favour of NPA and the State. It dismissed the claim for damages as frivolous and vexatious, and found that Bengis and others could have challenged the participation of former NPA officials in the restitution proceedings in the United States. The importance of this ruling for the NPA is that plea and sentence agreements concluded by NPA prosecutors are not binding on other countries who wish to institute criminal proceedings against the same accused, on the same facts and in terms of their own laws.

DA v NDPP (Zuma matter)

The DA brought an application to review the decision of Adv Mpshe, the then Acting National Director, to discontinue the prosecution of Mr Zuma. The review application was heard from 1 until 3 March 2016 before a full bench of the North Gauteng High Court. The court upheld the DA's application and ruled that the decision by Mr Mpshe to discontinue the prosecution of the case against Mr Zuma is irrational and should be reviewed and set aside. The judgment was delivered on 29 April 2016.

Mail and Guardian (M&G) Centre for Investigative Journalism

The matter concerns an application by a newspaper to review a decision by the Acting National Director to decline the request for permission to publish the evidence obtained in terms of s28 of the NPA Act ("the decision"). Judgment has been reserved in the review application.

The applicants are M&G, the M&G Media Limited and Stephen Sam Sole. The National Director is the first respondent, Mr Mac Maharaj is the second respondent and his wife, Ms Zarina Maharaj the third respondent.

In 2011, the applicants made a request to the NPA in terms of s41(6)(c) of the NPA Act for permission to publish a report prepared from evidence given at the investigation of the NPA in terms of s 28(1) of the NPA Act. The interview was conducted by the former Directorate of Special Operations with the second and third respondents in terms of s 28 of the NPA Act on 19 June 2003.

The Acting National Director considered the request for permission to publish the information concerned and, in particular, took into account the applicants' contention that the essence of what they wished to publish was already in the public domain and was in the public interest. The Acting National Director further considered the NPA's policy in relation to s28 investigations, the UN Guidelines on the role of prosecutors, the NPA prosecution policy, the NPA Act and the Constitution.

After these considerations, she declined to permit the applicants to publish the record of the said interview on 4 January 2012. The applicants then brought an application to review and set aside the decision not to grant them permission to publish the record of the interview.

The basis for opposing the matter was that prior to the request by the applicants, criminal charges had been laid against the applicants by the second and third respondents, alleging a contravention of s41(6) of the NPA Act. While these charges were pending, the disclosure of this information could be construed as an attempt to condone the alleged commission of a criminal offence.

It is also not the policy of the NPA to disclose the record of evidence given at an investigation in terms of s28(1) of the NPA Act. This is necessary to encourage and preserve confidence and trust in the NPA. Legislative provisions restricting disclosure are necessary for the combatting of crime and corruption. Any limitation that these provisions have on the rights of freedom of expression and those of the media, are justifiable. The importance of non-disclosure has been emphasised by the NPA Act that imposes a significant penalty of imprisonment for a contravention of s41(6).

There is a criminal investigation underway relating to the disclosure of the information that the applicants now seek permission to disclose. The granting of permission to disclose this information will no doubt affect an incomplete investigation. There is no basis for the argument that the information is already in the public domain through the actions of the second and third respondents. The NPA Act requires that permission be sought from the National Director and the conduct of the subject of the investigation does not change this.

Although it is acknowledged that there is a significant public interest in the person of the second respondent, the interests of the public also extend to ensuring that legitimate institutions and mechanisms established by Government effectively serve their intended purposes. This is particularly so in the current environment where the combatting of crime and corruption is considered by the general public to be one of the highest priorities.

In considering a request for permission to disclose evidence, attention must be given to more than just the interests of a particular witness. The interests of other persons must also be taken into account. These would include people who are referred to both by the witness in evidence and in questions that may be put to the witness during the inquiry. Consideration also needs to be given to the entire investigation, all the persons who testified, or from whom documents were seized, or who were referred to in the investigation. All the facts and circumstances must be considered.

In summary, the Acting National Director found that the construction of the relevant provisions of the NPA Act, compelling considerations of policy, the effective functioning of the administration of justice and the balancing of different interests involved, taking into account constitutional rights and values, support the non-disclosure of the record of evidence given at the investigation.

The High Court set aside the decision to decline access to evidence obtained pursuant to s28 of the NPA Act. The NDPP has filed a notice of appeal in the SCA and the matter will be enrolled for hearing during the next reporting period.

Themba Michael Masinga

The LAD monitored the progress in this matter which had been referred to the DPP to deal with in the ordinary course. The prosecutor instituted a prosecution against a magistrate with a verbal authorisation of the DPP and not a written one, as is required in terms of the NPA policy directives, but rather the verbal authorisation of the DPP. The court found this to have been an irregularity but declined to grant the relief sought to set the proceedings aside, as the applicant was not prejudiced by the irregularity.

Noteworthy Cases - Damages Claimed

CN Patel

The former Judge President of KZN brought a civil claim against the NPA based on malicious prosecution after a decision was taken to prosecute him, whereafter charges against him at a later stage. A recommendation was made on the handling of the matter. Members of LAD and its former head consulted with the DPP KZN who has been cited. The trial has been concluded and a judgment is awaited during the next reporting period.

The Marikana claims of Vayeke Sivuka and 274 others

The case was evaluated and a recommendation was made to defend. The suspects were arrested when between 3 000 and 5 000 protesters clashed with the police on 16 August 2012 at the Marikana Platinum Mine. The DPP of the North West decided to add murder and attempted murder charges against the accused persons. Evidence was produced in court for purposes of the bail application. The opinion was held that the claim can be defended as–

- a) the common law doctrine of common purpose is well-recognised and applicable in our criminal law and constitutional dispensation;
- b) the doctrine of common purpose fits well into the context of the Marikana case
- c) the reasoning of the DPP: North West in taking the decision to charge the accused persons for murder and attempted murder was based on sound legal principles.



OVERVIEW OF NPA INTERVENTIONS

Representations

The component at the NPS national office responsible for representations comprises of four prosecutors and an administrative assistant. The majority of the representations received during the performance year were requests to reconsider decisions in criminal matters. The policy directives require that the remedy of recourse to the relevant DPP be exhausted before the National Director will review the decision of the DPP. The review process to be followed by the National Director is prescribed in Section 22(2)(c) of the NPA Act and is adhered to.

Representations at the national office are received either directly from representors or via the office of the National Director. The NPA also provides for representations to be submitted via email to communication@npa.gov.za. A significant percentage of representations were received through this channel in the year under review.

The NPS component has implemented an electronic system to ensure that accurate statistics are kept and that information can quickly be accessed. A total of 571 files pertaining to representations were received. 384 files were finalised reflecting a clearance ratio of 73%. 69 of the finalised files were matters placed before the National Director as review decisions, where 61 were confirmed and only 8 were overturned.

Table 21: Summary representations reviews placed before the NDPP

Eastern Cape - Grahamstown	5	2
Western Cape	23	3
Kwa- Zulu Natal	12	0
North Gauteng, Pretoria	6	1
South Gauteng , Johannesburg	5	0
Free State - Bloemfontein	4	0
North West- Mmabatho	3	0
Northern Cape - Kimberley	0	0
Polokwane	3	2
Eastern Cape - Mthatha	0	0
Total	61	8

NOTE: The table above reflects review decisions channelled through the NPS representations system.

Centralisation authorisations*Table 22: Matters in which centralisation was authorised*

Citation of matter	DPP division requesting jurisdiction	Charges committed in requested division	DPP division from which jurisdiction was removed	Date of Authorisation by NDPP
State v Meyer and Others	North Gauteng Provincial Division	Contravening section 4(1) of the Precious Metals Act and Contravening section 6 Prevention of Organised Crime Act	North West Division	02/03/2016
State v Berthold Friederich Eggers	Kwazulu Natal	Attempted Murder Kidnapping	Gauteng Division Pretoria	26/05/2016
State v Siyabonga Zizi Alias Gift Mgushuane	Free State	Criminal Law (Sexual Offences)	Gauteng Division Pretoria	26/04/2016
State v Andile Jamani	Bhisho	Housebreaking Robbery Rape	Eastern Cape	24/03/2016
State v Lesly Mashangu Maluleke and two Others	Gauteng Local Division Johannesburg	Kidnapping Immigration	Limpopo	24/03/2016
State v Kgakgamatso Piet Moate	North West	Sexual Offences	Gauteng Division Pretoria	25/04/2016
State v Isaac Molatudi Tshabalala	Free State	Sexual Offences Kidnapping Robbery	Gauteng Division Pretoria	25/07/2016
State v Shea Phate and 3 Others	Gauteng	Murder Defeating the ends of Justice	Gauteng Local Division Johannesburg	06/5/2016
State v William Andrew Cupido	Northern Cape	Contravention of section 5(1) of Act 32 of 2007 Alternatively, Contravention of section 5(2) of Act 32 of 2007	Western Cape	02/6/2016

Citation of matter	DPP division requesting jurisdiction	Charges committed in requested division	DPP division from which jurisdiction was removed	Date of Authorisation by NDPP
State v Mabula Tebogo William	Gauteng Local Division Johannesburg	Murder Assault with Intent to do Grievous Bodily Harm Contravention of section 117(a) Escaping Kidnapping Sexual Offences Robbery Attempted Murder	Gauteng Division Pretoria	26/05/2016
State v Fernando Manuel Filipe and five others	Gauteng	Robbery Kidnapping Contravention of the Organized Crime Act Gang related Contravention of the Organized Crime Act Money Laundering	Free State	01/06/2016
State v Imthias Dawood	KZN	Contravening the provisions of section 5 Sexual Offences Contravening the provisions of section 18(2) Sexual Offences	Gauteng Division Pretoria	08/8/2016
State v Bongani Mokwena and Others	Free State	Robbery with aggravating circumstances The unlawful possession of firearms	Gauteng Local Division Johannesburg	24/09/2016
State v Samuel Butibuti Ngobeni and Another	Mmabatho	Kidnapping Rape Robbery	Gauteng Division Pretoria	20/09/2016
State v Sboniso Vusi Mavuso	KZN	Contravention of section 3 Rape Housebreaking with intent to rob and rape Robbery with aggravating circumstances	Gauteng Division Pretoria	20/09/2016
State v Medimark Marketing and Shakeel Ahmed Sayed	Gauteng Local Johannesburg	Fraud Reckless Trading	Western Cape	15/09/2016

Citation of matter	DPP division requesting jurisdiction	Charges committed in requested division	DPP division from which jurisdiction was removed	Date of Authorisation by NDPP
State v Jabulani Manyike and Others	Gauteng Local Division Johannesburg	Reckless and negligent driving Attempted murder Possession of stolen property Unlawful possession of firearm Unlawful possession of ammunition	Gauteng Division Pretoria	15/10/2016
State v Kerneels Koopman	Northern Cape	Sexual assault	Western Cape	28/10/2016
State v Buti Tlomatsane and Another	Gauteng Division Pretoria	Robbery with aggravating circumstances Kidnapping Possession of police paraphernalia Giving out to be police officers	Gauteng Local Division Johannesburg	09/11/2016
State v Valentine Zak and five Others	Free State	Murder Fraud Contravening section 31(1) (b) of the Births and Deaths Registration Act Defeating the Ends of Justice	Gauteng Local Division Johannesburg	10/11/2016
State v Kabelo Calvin Shiloan and Another	Gauteng Division Pretoria	Robbery with aggravating circumstances Murder Possession of a prohibited firearm Possession of an unlicensed firearm Unlawful possession of ammunition	Gauteng Local Division Johannesburg	19/12/2016
State v Raymond Jones	North West	Rape Sexual Assault	Gauteng Division Pretoria	13/02/2017
State v Bruce Roelofse	North Gauteng	Rape	Northern Cape	04/04/2017
State v Jacob Johannes Straus	Northern Cape	Sexual Assault	Free State	04/04/2017

International Cooperation In Criminal Matters

Mutual legal assistance (MLA), Extraditions and related matters

The NPA deals with incoming formal requests for MLA wherein the Minister of Justice and Correctional Services has issued a notification in terms of section 7 of the International Co-operation in Criminal Matters Act, Act 75 of 1996. These matters are coordinated in the Office of the National Director (ONDPP) and the necessary assistance in the execution of the requests is rendered in conjunction with the offices of the Directors of Public Prosecutions in whose respective jurisdictions the evidence sought is located.

In the case of incoming requests for extradition the NPA renders the necessary assistance once the minister has issued a notification in terms of section 5 of the Extradition Act, (Act 67 of 1962) and the office of the DPP in whose area of jurisdiction the fugitive is traced, works with the Interpol officers to ensure that an extradition enquiry is held before a magistrate.

The office also deals with outgoing requests for mutual legal assistance and extradition in cases where South Africa is the requesting state. It happens often that material evidence is located beyond the borders of the Republic and it is sought for successful prosecution, or that perpetrators of crime have moved to other states. In these cases, South Africa initiates the process of obtaining the required evidence from a particular country or for the fugitives to be surrendered to the Republic so that they can be prosecuted or serve sentences, as the case may be.

During the reporting period, the NPA received 104 new requests for mutual legal assistance. 78 of these requests were received from foreign states and 26 were initiated by South Africa and transmitted to foreign states. The office also received 46 new requests for extradition, 29 of these were received from foreign state and 17 were initiated by the RSA. 61 requests for mutual legal assistance and 21 requests for extradition were finalised during the 2016/17 period.

Ensuring efficiency in international relations, treaty negotiations and related matters

The NPA has concluded a Memorandum of Understanding with the Office of the Prosecutor General of the Russian Federation as a means of strengthening relations and enhancing cooperation in the area of the fight against transnational crime.

The NDPP also concluded a Memorandum of Understanding with the office of the Prosecutor General of the Arab Republic of Egypt. Furthermore, the ONDPP is working closely with the Chief Directorate: International Legal Relations of the Department of Justice and Constitutional Development as well as the Department of International Relations and Cooperation (DIRCO), to facilitate the conclusion of Extradition and Mutual Legal Assistance Treaties between the Governments of the Republic of South Africa and the Republic of Mozambique.

The NPA participated in the 8th Conference of the State Parties to the United Nations Convention Against Transnational Organised Crime in as well as in the 5th Session of the Working Group on International Cooperation in Vienna, Austria in October and November 2016, respectively.

The NPA was represented at the Consultative Workshop which was held in Johannesburg on 13 February 2017 to discuss the Draft Country Report on the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The official responsible for international cooperation in the ONDPP is a member of the NPA Anti-Trafficking in Persons Task Team which ensures that the relevant legislation is implemented and that prosecutors are trained on the all relevant aspects including the transnational nature of trafficking related offences and international cooperation.

The ONDPP has participated in the Inter-Departmental meetings coordinated by DIRCO relating to international engagements.

Africa Prosecutors Association (APA)

The NPA is one of the founding members of the APA, which was established to focus specifically on prosecution related matters affecting prosecuting agencies and offices of prosecutors general in the African continent. The National Director is the Treasurer-General in the Executive Committee and two DPPs of the NPA are members of the Strategic Committee.

International Association of Prosecutors (IAP)

The NPA is a member and the National Director a member of the executive committee of the IAP, an international body that represents the interests of prosecuting agencies, prosecutors and prosecutors' associations worldwide, with members from all regions of the world. The National Director attended the annual conference of the IAP in Dublin, Ireland in September 2016. The theme of the conference was **The Prosecutor and the Investigator**, which provided an opportunity for the delegates to examine the relationships between prosecutors and investigators in different jurisdictions – to consider governance issues that arise in the prosecution and investigation of crime and to learn about best case management practice from investigation to conclusion of a criminal trial. The National Director presented a paper titled **Developing a clear understanding of the various functions of prosecutors/ investigators in criminal matters**, which outlined the South African position in this regard.

The conference also marked the signing of the first Memorandum of Understanding between the IAP and the African Prosecutors Association (APA), with a view to strengthening collaboration between the two associations towards shared goals. As a result of this new official collaboration, the National Director considered it fitting for the NPA to host the first ever joint IAP – APA conference in South Africa in 2018, when the organisation will be celebrating 20 years of its establishment. Such a proposal will serve for consideration before Cabinet in the normal approval process for hosting international conferences, as guided by DIRCO.

BRICS Heads of Prosecuting Agencies

The NDPP is a member of the BRICS Heads of Prosecuting Agencies and led a delegation during November / December 2016 to a meeting of the heads of prosecuting in Sanya, People's Republic of China, where he presented a paper on **Fighting Corruption To Ensure Sustainable Economic and Social Development**.



HUMAN CAPACITY AND FINANCIAL RESOURCES

FINANCIAL OVERVIEW

Although the NPA experienced serious constraints in respect of the Compensation of Employees budget allocations, the NPA managed to curb its expenditure and spent 100% of its budget allocation after virement. National Treasury approved the virement of Operational budget to Compensation of Employees after the publishing of the Adjustment Estimate of National Expenditure (AENE) which enabled the NPA to process payment of the 2015/16 performance rewards.

The NPA monitored expenditure very closely during the financial year and also centralised the budget towards the end of the financial year in order to ensure that the NPA remained within the allocated budget baseline.

The NPA is not a revenue generating department, and does not charge tariffs for services rendered. Neither does the NPA provide free services that would have yielded revenue had a tariff been charged.

As from the 2014/15 financial year the NPA's annual financial statements and report against pre-determined objectives are incorporated into the Department of Justice's annual report, reflected as Programme 4 of the Department's Budget Vote. The Auditor-General no longer expresses a separate audit opinion on the NPA, but audits the institution as part of the overall departmental budget vote.

Expenditure Report

Table 23 : Expenditure report

Sub-programme name	2016/17			2015/16		
	Final appropriation	Actual Expenditure	(Over)/under expenditure	Final appropriation	Actual Expenditure	(Over)/under expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
Asset Forfeiture Unit	133,690	133,011	-	133,138	133,138	-
Office for Witness Protection	184,980	183,521	-	183,689	183,689	-
Support Services	461,759	461,758	-	432,037	432,037	-
Total	3,554,576	3,554,576	-	3,374,346	3,374,346	-

Budget allocation as it relates to the core business of prosecution and related services are divided into four sub-programmes, as follows:

Table 24 : Budget allocation per economic classification

Sub-Programme	National Prosecutions Service	Asset Forfeiture Unit	Office for Witness Protection	Support Services
Compensation of employees	2 657 954	110 657	88 400	182 983
Goods & services	105 497	23 759	96 225	240 492
Payment of capital assets	2 838	98	209	28 717
Other	10 170	176	146	9 567
Total	2 776 460	134 690	184 980	461 759

Expenditure on compensation of employees before virement, was at 101.08% (R3,039 billion) which resulted in a overspending of R32,5 million. This overspending was due to the implementation of cost of living adjustment, including increases in the housing and medical aid allowances during the financial year. The underspending within goods & services and capital expenditure was used to defray this overspending in conjunction with virement within DoJ&CD.

Goods and services was underspent by 4.97% (R24,2 million) before virement, as at the end of the financial year. This underspend was used to defray the overspending in compensation of employees.

Personnel position of the NPA

The NPA as with most government department is under severe financial constraints. Given the high ratio of Compensation of Employees (CoE) to Goods and Services budget which is currently 85:15, the national project driven by government to reduce employment costs in the public service has a severe impact on the NPA. As a result, the organisation has not been able to fill vacated posts, nor has it been able to create new posts to meet the resource demands of newly established courts in Limpopo and Mpumalanga. This means that for the year under review, the organisation had to operate with stretched resources, a situation that is not sustainable in the long term. While the report reflects vacancy rates, these are artificial and the reality of the situation is that no vacancies can be filled as they are not funded.

The Aspirant Prosecutor Programme, the NPA's flagship programme that creates a gateway into prosecutions as a career for legal graduates was also a casualty of the financial constraints facing the organisation. This programme is also a contributor to the Youth Development Programme which is one of the policies in government to deal with youth unemployment. The suspension of this programme has the effect of closing entry opportunities for legal graduates particularly from a disadvantaged background. All avenues are being explored to find alternative funding options for the programme so that it can be re-established soon, and plans are afoot to revamp the programme to be repositioned as an academy for prosecution services.

Due to the harshness of the court environment, the Employee Wellness Programme (EWP) is key within the NPA especially for those employees who interact directly with the courts on a daily basis.

We aspire to respond within 48hrs of incident reporting, in at least 95% of the cases, irrespective of the location of court personnel. During the past financial year 100% of the cases reported were dealt with within the 48hrs response time. Further programmes were offered to empower court personnel to respond to work and personal pressures and almost all NPA personnel were reached through different messages and interventions. The most affected of NPA employees are those personnel working at TCCs and special programmes are designed for their equipment and capacitation.

The tables below provides employment status in the NPA as at 31 March 2017

Table 25: Breakdown of total employment in the NPA per office

Officer / Division	Total Establishment	Total Filled	Total Vacant	Vacancy Rate
DPP: Eastern Cape Division	431	390	41	10%
DPP: Free State	295	274	21	7%
DPP: KwaZulu-Natal	732	626	106	14%
DPP: Limpopo	323	275	48	15%
DPP: Mpumalanga	250	201	49	20%
DPP: Mthatha	216	181	35	16%
DPP: North Gauteng	523	437	86	16%
DPP: North West	208	195	13	6%
DPP: Northern Cape	179	146	33	18%
DPP: South Gauteng	572	500	72	13%
DPP: Western Cape	643	572	71	11%
Sexual Offences & Community Affairs	220	164	56	25%
Specialised Commercial Crimes Unit	192	164	28	15%
Asset Forfeiture Unit	166	130	36	22%
Administrative Support	466	347	119	26%
Office for Witness Protection	165	152	13	8%
Office of the NDPP	102	87	15	15%
	5 683	4 841	842	15%

Table 26. Breakdown per core responsibilities

Functional Area	Total Establishment	Filled	Vacant	Vacancy Rate	Contracts Additional to Establishment
Prosecutions	3 620	3 168	452	12%	68
Legal Administrative Support	247	201	46	19%	3
Administrative Support	1 515	1 184	331	22%	66
Office for Witness Protection	164	151	13	8%	0
Total	5 546	4 704	842	15%	137

Employment equity profile per office/ Division*Table 27: Status of employment equity per office*

OFFICE / DIVISION		A	C	I	W	Total Female	A	C	I	W	Total Male	Grand Total
Office of the NDPP	Admin	12	2	2	9	24	11	3	0	5	19	43
	Legal support	1	0	0	0	1	0	0	0	0	0	1
	Prosecution	5	0	1	14	20	15	1	1	6	23	43
DPP: North Gauteng	Admin	40	4	1	10	55	24	1	0	6	31	86
	Legal support	15	0	0	0	15	0	1	0	0	1	16
	Prosecution	87	4	6	66	163	129	0	2	41	172	335
DPP: South Gauteng	Admin	39	4	2	3	48	28	1	0	7	36	84
	Legal support	13	0	0	0	13	1	1	0	0	2	15
	Prosecution	88	10	25	62	185	178	2	4	32	216	401
DPP: Eastern Cape Division	Admin	37	7	3	5	52	20	4	1	6	31	83
	Legal support	6	0	0	1	7	1	0	0	0	1	8
	Prosecution	61	28	3	45	137	104	17	4	37	162	299
DPP: Mthatha	Admin	25	3	1	1	30	14	0	0	0	14	44
	Legal support	3	0	0	0	3	2	0	1	0	3	6
	Prosecution	42	2	1	1	46	81	3	0	1	85	131
DPP: Mmabatho	Admin	24	1	0	2	27	14	0	0	3	17	44
	Legal support	9	0	0	0	9	1	0	0	0	1	10
	Prosecution	45	1	0	6	52	78	0	0	11	89	141
DPP: Free State	Admin	12	9	1	4	26	9	3	0	4	16	42
	Legal support	9	1	0	0	10	2	0	0	0	2	12
	Prosecution	48	4	2	52	106	81	3	2	28	114	220
DPP: Mpuma- langa	Admin	14	1	1	4	20	7	0	0	1	8	28
	Legal support	4	0	0	0	4	1	0	0	0	1	5
	Prosecution	47	2	2	23	74	78	2	1	13	94	168
DPP: Limpopo	Admin	25	0	0	0	25	18	0	0	1	19	44
	Legal support	12	0	0	0	12	1	0	0	0	1	13
	Prosecution	82	3	0	7	92	115	0	0	10	125	217
DPP: KwaZulu Natal	Admin	44	10	14	10	78	20	0	3	2	25	103
	Legal support	17	0	1	1	19	3	0	0	0	3	22
	Prosecution	153	7	68	27	255	179	8	35	25	247	502
DPP: Northern Cape	Admin	15	8	0	2	25	10	1	0	2	13	38
	Legal support	3	2	0	0	5	0	0	0	0	0	5
	Prosecution	17	7	0	12	36	46	13	0	8	67	103

OFFICE / DIVISION		A	C	I	W	Total Female	A	C	I	W	Total Male	Grand Total
DPP: Western Cape	Admin	26	37	2	5	70	12	11	1	4	28	98
	Legal support	12	7	0	2	21	2	0	0	0	2	23
	Prosecution	34	119	17	71	241	68	83	6	53	210	451
Asset Forfeiture Unit	Admin	17	5	1	7	30	13	2	2	3	20	50
	Legal support	1	2	2	3	8	8	3	1	10	22	30
	Prosecution	10	0	6	4	20	15	3	3	9	30	50
Specialised Commercial Crimes Unit	Admin	28	0	3	4	35	16	2	1	5	24	59
	Legal support	0	0	0	0	0	0	0	0	0	0	0
	Prosecution	16	5	8	12	41	42	6	2	14	64	105
Sexual Offences and Community Affairs	Admin	44	3	1	2	50	12	0	0	1	13	63
	Legal support	21	2	0	0	23	12	0	0	0	12	35
	Prosecution	22	3	3	14	42	20	2	0	2	24	66
Office of Witness Protection	Admin	52	1	5	13	71	36	10	4	31	81	152
	Legal support	0	0	0	0	0	0	0	0	0	0	0
	Prosecution	0	0	0	0	0	0	0	0	0	0	0
Administration	Admin	154	12	3	21	190	124	14	6	13	157	347
	Legal support	0	0	0	0	0	0	0	0	0	0	0
	Prosecution	0	0	0	0	0	0	0	0	0	0	0
Total		1491	316	185	524	2516	1651	200	80	394	2325	4841

Skills Development

The skills development programme was scaled down due to the budget constraints but within the limits of the budget, the following programmes were offered and attended by NPA personnel.

Table 28: Breakdown of training programmes attended

Type of Course	Attendees	Type of Course	Attendees
Management & Leadership	0	Trial Advocacy	225
Microsoft user training	50	Victim support and related	98
iBase	9	Legal drafting and related	34
Dynamics	18	Law of Evidence/ presenting and admissibility of evidence	264
PMDS	14	Environmental crimes	54
Business / Professional Writing	44	Trio and other serious crimes	107
Workplace Discipline	54	Specialised / Organised Crime	53

Type of Course	Attendees	Type of Course	Attendees
Diversity	16	Cybercrime	83
Asset and Disposals	15	Child Justice and child pornography	129
Ethics, Integrity and Related	830	Stock Theft	59
Public Administration	734	Road Traffic fines	16
Mutual Legal Assistance	17	Domestic Violence and Sexual Offences	154
Communication Technology	51	Human Trafficking	96
Emigration and related matters	82	Maintenance	44
Mediation and ADRM	47	High Court Bridging	49
Forensic Expertise	53		

Discipline

The below table indicates the number of misconduct cases dealt with during the year as well as the nature of finalisation. Most of the cases were resolved through final written warnings followed by dismissals.

Table 29: Misconduct and Disciplinary Outcome

Types of misconduct	Number	% of total
Racism	1	2.4%
Sexual harassment	1	2.4%
Improper conduct	1	2.4%
Bringing the name of the NPA into disrepute	4	9.6%
Misuse of state vehicle	3	7.4%
Incompatibility	1	2.4%
Dereliction of duty	3	7.4%
Negligence	2	4.9%
Non-compliance with the NPA Policy	2	4.9%
Dishonesty (6 matters are related to corruption)	14	34.2%
Absenteeism	5	12.3%
Breach of Code of Conduct for the Prosecutors	1	2.4%
Misrepresentation	2	4.9%
Abscondment	1	2.4%
Total	41	100%

The table below indicates the nature of the misconduct for the 41 cases above. From the table it is clear the biggest area of concern is related to corruption, most of the cases involving bribery.

Table 30: Outcomes of Misconduct and Discipline Enquiries Finalised

Outcomes of disciplinary hearings	Number	% of total
Corrective counselling	2	4.9%
Written warning	5	12.2%
Final written warning	14	34.1%
Suspension	2	4.9%
Dismissal	10	24.4%
Not Guilty	3	7.3%
Case withdrawn	5	12.2%
Total	41	100%

The table below indicates combination of grievances, disputes as well as suspensions.

Table 31: Grievances, Disputes and Precautionary suspensions

Labour Matter	Total cases	Total Resolved	Total Referred	Resolution rate
Grievances	152	122	30	80.3%
Labour Matter	Total cases	Upheld	Dismissed	Success rate
Disputes	23	21	2	91.3%
Labour Matter	Total Cases	Total Within Time	Total exceeding Time	Total Cost of Suspensions
Precautionary Suspensions	15	1	16	R3 535 845.02

The Integrity Management Unit (IMU) of the NPA is responsible for the investigation of cases of possible integrity breaches by NPA staff. During 2016/17 financial year a total of 64 cases were received, 29 cases were reported directly to IMU and 35 reported via a Hotline established to protect the identity of whistleblowers.

Table 32: Reported cases of integrity breaches

Type Of Integrity Breach	No. Of Reported Cases	Nature Of Reporting	
		General Cases	Hotline Cases
Unethical conduct/misconduct	36	13	23
Corruption	10	6	4

Conflict of interest	6	6	-
Prosecutorial discretion	9	2	7
Defeating the ends of justice	2	1	1
Irregular appointment	1	1	-
Total	64	29	35

Table 33: Status of cases ethical breach matters that were dealt with in the period

STATUS OF THE CASE	NO. IN THE STATE
Cases Finalised	40
Cases unsubstantiated	9
Cases referred	15
Pending	24

The IMU is responsible for managing the Code of Conduct for prosecutors on behalf of the National Director of Public Prosecutions. During the period no amendments were made to the Code of Conduct.

Implementation of Electronic Case Management System (ECMS)

ECMS is a system being developed for prosecutors to manage cases and case information electronically. It is being piloted at 42 magistrates courts nationally. The system allows for manual registration of criminal cases and electronic registration through integration with the SAPS Case Administration System (CAS) or case data transfer from SAPS.

Challenges: IJS

One of the main activities for the reporting period was to develop a capability that will make communication between investigating officers (IOs) and the prosecutors much simpler. This was going to be achieved through a module to be developed on ECMS, referred to as an IO Diary functionality. This could not be achieved due to the following reasons:

- SAPS had planned to deliver certain aspects of this module from their side by December 2017 (Q3), however SAPS submitted a change request to IJS, delaying the delivery of their IO Diary requirements. This impacted the NPA's ability to deliver the Prosecutor IO diary requirements.
- There is still a prevalent constraint with regards to the bandwidth in the courts. This is impacting the ECMS roll-out endeavours as the system cannot be rolled-out if the bandwidth is not sufficient. The DOJ&CD is responsible for the infrastructure in the courts and the matter is receiving their attention.

Network Connectivity

51 TCC sites have been installed with network capability and are connected to the NPA's Virtual Private Network (VPN). In spite of the financial challenges, the library continued to provide critical information needs to users.

Protection of NPA personnel

The Security Management Service unit coordinated the provision of protective security to NPA staff in building facilities, assets as well as threatened employees. The unit registered 99 cases of threats in which the affected threatened employees were protected. A total number of 9 high profile cases and special events were coordinated in collaboration with other security agencies and external stakeholders.

Provision of information security (vetting), awareness sessions and pre-employment screening.

The unit is responsible for facilitating the vetting process for all senior management (SMS members) through the State Security Agency (SSA). A total of 179 SMS members has complied with vetting requirements.

Occupational Health and Safety (OHS) Measures

A total of 16 OHS audits were conducted and 16 reports were signed off and sent to the respective regions/buildings for implementation. Evacuation drills and HIRA (Hazard Identification and Risk Assessment) were conducted in NPA buildings.

Public Education Campaigns

The NPA's ability to pursue public education campaigns was severely constrained in the reporting period, due to the financial constraints facing the organisation. The community television campaign called **NPA for My Justice**, with informative content about prosecutions and all other work of the NPA, was developed for two seasons. The last season ran on Tshwane TV until the end of March 2017. It was also syndicated to other community television stations in other provinces to cover a national footprint. The NPA also participated in the DoJ&CD's **Let's Talk Justice** campaign, a community radio campaign to educate the public about the entire justice system, broadcast through GCIS facilities.

Community Outreach

The NPA participated in community outreach events, mainly in partnership with other partners in the criminal justice system, to inform the communities about the performance of the NPA and to report back on specific issues related to those respective communities.

Annexure A Technical indicators and descriptions

Indicator Title	Number of criminal court cases finalised including ADRM
Short definition	Criminal court cases finalised in the reporting period by verdict, or through the use of alternatives such as diversion or informal mediation, irrespective of the date of enrolment
Purpose/importance	Tracks the ability of the NPA to deal with the demand for services for the purpose of measuring productivity
Source/collection of data	NPA daily court return
Method of calculation	The criminal court case is measured as finalised on the date on which the verdict of not guilty [including stopping of prosecution in terms of section 6(b) of the Criminal Procedure Act 1977, (CPA)] is given, or sentence is imposed in the case of a guilty verdict, and includes cases dealt with in terms of section 57A of the CPA. Should there be multiple accused, the case is only counted on conclusion of the case against all accused
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	491 397 by 2017/18
Indicator responsibility	DNDPP: NPS

Indicator Title	Conviction rate
Short definition	The percentage of cases finalised with a verdict in which a guilty verdict was obtained
Purpose/importance	Internationally viewed as an indicator of the success of the prosecution. Also regarded by South African public as such
Source/collection of data	High courts, regional court, district courts and SCCU central data sheets
Method of calculation	The percentage of cases finalised with a guilty verdict (including Sec 57A of the CPA) divided by the number of cases finalised with a verdict. Conviction rate is measured at the date of sentencing or verdict of not-guilty irrespective of the date when the plea was entered Only cases dealt with by the organised crime prosecutors are measured
Data limitations	Manual system
Type of indicator	Output
Calculation type	Percentage based on cumulative verdict cases for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance	HC 87%, RC: 74%, DC: 88% Cybercrime: 74%, Complex commercial crime: 93%, Organised crime: 90%, Sexual offences: 69% and Trio crime: 85%, Violent protest and industrial action: 74%, PCLU: 80% by 2017/18
Indicator responsibility	DNDPP: NPS

Indicator Title	Number of operational TCCs
Short definition	The number of operational TCCs

Purpose/importance	To measure the availability of the services provided at a TCC
Source/collection of data	TCC operational status verification document
Method of calculation	The total number of TCCs which meet the requirements of an operational TCC on the last date of the reporting period
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance	65 by 2017/18
Indicator responsibility	DNDPP: NPS

Indicator Title	Number of completed forfeiture cases
Short definition	Number of forfeiture or confiscation orders obtained
Purpose/importance	It measures the reach of the impact that the AFU has by indicating how many cases were dealt with
Source/collection of data	Case report form that is captured on a central data sheet
Method of calculation	The total number of cases in which a forfeiture or confiscation order was obtained in the reporting period
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance	440 by 2017/18
Indicator responsibility	DNDPP: AFU

Indicator Title	Value of freezing orders
Short definition	Value of assets frozen in freezing orders obtained in the reporting period
Purpose/importance	It measures the total value of the proceeds or instrumentalities of crime removed from the control of criminals and provides an indication of the depth of the impact of the AFU
Source/collection of data	Case report form that is captured in a central data sheet
Method of calculation	The total estimated net market value of assets frozen by orders obtained in the reporting period. The value is estimated and counted at the time when the initial order is obtained
Data limitations	The estimate of the value is made at the time when not all the information is available
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	R1.2 billion by 2017/18
Indicator responsibility	DNDPP: AFU

Indicator Title	Number of witnesses and related persons harmed, threatened or killed whilst on the witness protection programme
Short definition	Witnesses and related persons harmed, threatened or killed whilst on the witness protection programme
Purpose/importance	Measures the effectiveness of the witness protection programme
Source/collection of data	Central datasheet
Method of calculation	The total number of witnesses and related persons that were harmed, threatened or killed during the reporting period by a person or persons from whom they were protected either directly or through an agent, while on the NPA witness protection programme
Data limitations	Manual system
Type of indicator	Output
Calculation type	Non-cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	No witnesses or related person must be harmed, killed or threatened
Indicator responsibility	DNDPP: Administration and OWP

Indicator Title	Criminal court cases finalised with verdict in the lower courts
Short definition	Number of criminal court cases finalised with verdict in the reporting period (irrespective of the date of enrolment) in the lower courts
Purpose/importance	Measures the ability to deal with the demand for trial cases
Source/collection of data	NPA daily court return
Method of calculation	Criminal court cases finalised with a verdict are measured on the date that the verdict of not guilty is given or sentence is imposed in the case of a guilty verdict, and includes cases dealt with in terms of section 57A of the Criminal Procedure Act 1977, Act No. 51 of 1977. Should there be multiple accused, the case is only counted upon conclusion of the case against all accused
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	333 060 for 2017/18
Indicator responsibility	DNDPP: NPS

Indicator Title	Number of criminal court cases finalised in the lower courts through ADRM
Short definition	Number of cases finalised in the reporting period through the use of alternative dispute resolution mechanisms such as diversion and informal mediation, irrespective of the date of enrolment in the lower courts
Purpose/importance	Tracks the ability of the NPA to deal with the demand for services for the purpose of measuring productivity
Source/collection of data	NPA daily court return and diversion register

Method of calculation	The case is measured as finalised on the date on which the case is withdrawn from the criminal court roll or the matter is removed from child justice court roll (whichever applicable). In the case of a diversion this is done after the certificate for the successful completion of the diversion programme is received and in the case of an informal mediation after the case was successfully mediated
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	158 337 by 2017/18
Indicator responsibility	DNDPP: NPS

Indicator Title	Number of persons convicted of corruption or offences related to corruption where the amount benefited per case is more than R5 million
Short definition	Conviction of persons for the offence of corruption and/or offences relating to corruption where the amount benefitted exceeds R5 million per case. The total amount benefited in the case is measured i.e. amounts benefited by all accused in case are added up
Purpose/importance	To measure whether serious corruption is being successfully dealt with by the JCPS
Source/collection of data	Corruption Register
Method of calculation	Number of persons convicted of corruption in the reporting period, where the amount benefited exceeds R5 million per case
Data limitations	Information is provided manually
Type of indicator	Outcome
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	100 by 2017/18 (cumulative)
Indicator responsibility	DNDPP: NPS

Indicator Title	Number of government officials convicted for corruption or offences related to corruption
Short definition	Conviction of government officials that committed offences relating to corruption
Purpose/importance	To measure whether serious corruption is being successfully dealt with inside the government sphere
Source/collection of data	NPA Daily Court return
Method of calculation	The total number of government officials convicted of corruption in the reporting period
Data limitations	Information is provided manually
Type of indicator	Outcome
Calculation type	Cumulative

Reporting cycle	Quarterly
New indicator	No
Desired performance	1000 by 2017/18 (cumulative)
Indicator responsibility	DNDPP: NPS
Indicator title	Percentage of cases reported at a TCC that is referred to court for prosecution
Short definition	Percentage of matters reported at a TCC that is referred to court for prosecution where TCC case managers are appointed
Purpose/importance	To reflect the volume of cases which resulted in a prosecution that case managers are responsible for in line with TCC model and performance contract
Source/collection of data	Site coordinators register and the case manager's register
Method of calculation	The number of sexual offences TCC case dockets referred to court by the case management for prosecution divided by the total number of matters reported at the TCCs (which resulted in a police docket)
Data limitations	Manual system
Type of indicator	Output
Calculation type	Non-cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	52% by 2017/18
Indicator responsibility	DNDPP: NPS
Indicator Title	Number of freezing orders
Short definition	Total number of freezing orders obtained in the reporting period
Purpose/importance	It measures the reach of the impact of the AFU, and indicates in how many cases alleged criminals were affected by its actions
Source/collection of data	Case report form is captured on a central data sheet
Method of calculation	The total number of cases in which freezing orders were obtained in the reporting period. An order is counted only once for each case, at the time when the initial order was obtained. In complex cases with several legs the head of the AFU may approve in writing that the separate legs be counted separately. Any other orders are not counted (they are counted as other orders). When an obtained order is reversed on the return date or on appeal, this is not counted as a negative order but will be reflected in the AFU success rate. If an order is refused after litigation, it is counted as finally lost. If it is redone, the new order granted will be counted (see also definition of success rate)
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	327 in 2017/18
Indicator responsibility	DNDPP: AFU
Indicator Title	Value of completed forfeiture cases (Rm)
Short definition	Estimated value of the assets of which the persons subject to the order is likely to be deprived as a result of confiscation or forfeiture orders obtained

Purpose/importance	It measures the amount of proceeds likely to be finally removed from the possession of criminals and provides an indication of the depth of the impact made by the AFU
Source/collection of data	Case report form is captured on a central data sheet
Method of calculation	The total estimated net market value of all property of which persons are to be deprived as a result of confiscation or forfeiture orders obtained in the reporting period. The value is estimated and counted on the date when the order is obtained. It includes the value of property returned by a person by an agreement reached as a result of the litigation in terms of POCA
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	R260 million by 2017/18
Indicator responsibility	DNDPP: AFU

Indicator Title	Value of freezing orders relating to corruption where the amount benefited per case is more than R5m
Short definition	Value of the freezing orders relating to the offence of corruption and/or offences related to corruption where the amount benefited exceeds R5 million per case
Purpose/importance	To measure whether serious corruption is being successfully dealt with by the JCPS
Source/collection of data	Monthly office report is captured on the serious corruption register
Method of calculation	The total estimated net market value of assets frozen in the reporting period, relating to cases involving the offence of corruption and/or offences relating to corruption where the amount benefited exceeds R5 million. The value is estimated and counted at the time when the initial order is obtained
Data limitations	Information is provided manually
Type of indicator	Outcome
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	R1 billion by 2017/18 (cumulative R4.866 billion) ¹
Indicator responsibility	DNDPP: AFU

Indicator Title	Value of recoveries in terms of POCA
Short definition	The amount of recoveries including payments paid to CARA or victims of crime in terms of court orders in terms of the Prevention of Organised Crime Act (POCA)
Purpose/importance	It provides an indication of the total value of cash or property recovered by the NPA which is paid either identified victims who have suffered financial loss due to crime, or to CARA.
Source/collection of data	The proof of payment is reflected on the case report form and captured on the central data sheet. CARA payments are obtained from the CARA bank statements.
Method of calculation	The total amount paid or the net market value of property transferred to the victims of crime or CARA during the reporting period resulting from orders or agreements obtained. This refers to orders obtained as a result of litigation in terms of POCA. It is measured only when the proof of payment is received

Data limitations	Confirmation of payment may be received late from the victims
Type of indicator	Output
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	Yes
Desired performance	R190 million by 2017/18
Indicator responsibility	DNDPP: AFU

Indicator Title	Success rate
Short definition	The percentage of cases litigated by the AFU in which it was ultimately successful
Purpose/importance	It provides an overall indication of the ability of the AFU and its CJS partners to deal with and litigate AFU matters successfully
Source/collection of data	Combined figure derived from registers of cases finally won and cases finally lost
Method of calculation	The total number of cases finally won divided by all cases which were finally won or lost. Cases are finally won or lost when a final order is obtained in favour of or against the NPA, ie after all appeal or other legal processes have been finalised. It is counted at the date when the case became finally won or lost. Cases finally lost include all cases abandoned after an order was obtained. If a lost case is redone it is not finally lost and the new order will not be counted again
Data limitations	The data may occasionally be received late when there is a delay in receiving a judgment after it is made
Type of indicator	Output
Calculation type	Non-cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	93% in 2017/18
Indicator responsibility	DNDPP: AFU

Indicator title	Value of recoveries relating to corruption where the amount benefited is more than R5 million (proceeds of crime and government losses)
Short definition	The amount of recoveries in cases relating to corruption where the amount benefited exceeds R5 million per case
Purpose/importance	To measure whether very serious cases of corruption is being dealt with successfully by the JCPS
Source/collection of data	Monthly office reports are captured on the serious corruption register
Method of calculation	The total amount paid or the net market value of property transferred to the victims of crime or CARA during the reporting period resulting from orders or agreements obtained in respect of corruption or related offences where the amount benefited is more than R5m per case. This refers to orders obtained as a result of litigation in terms of POCA. It is measured only when the proof of payment is received
Data limitations	Information is provided manually
Type of indicator	Outcome
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No

Desired performance	R60m in 2017/18 R180m cumulative
Indicator responsibility	DNDPP: AFU

Indicator title	Value of recoveries for government officials convicted of corruption and other related offences (proceeds of crime and government losses)
Short definition	The amount of AFU recoveries in cases from all government officials in offence of corruption and/or offences related to corruption.
Purpose/importance	To measure whether the state is successful in recovering the proceeds of corruption from government officials in cases dealt with by the JCPS
Source/collection of data	Monthly office reports are captured on the serious corruption register
Method of calculation	The total amount paid or the net market value of property transferred to the victims of crime or CARA during the reporting period resulting from orders or agreements obtained in respect of corruption or related offences by government officials. This refers to orders obtained as a result of litigation in terms of POCA. It is measured only when the proof of payment is received
Data limitations	Information is provided manually
Type of indicator	Outcome
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	No
Desired performance	R400 000 2017/18, cumulative R1m
Indicator responsibility	DNDPP: AFU

Indicator Title	Percentage of witnesses and related persons that walked off the witness protection programme
Short definition	Witnesses and related persons that walked off the programme without prior notification
Purpose/importance	Measures the ability of the programme to ensure that witnesses are available to testify in court proceedings where applicable
Source/collection of data	Electronic datasheet
Method of calculation	The number of witnesses and related persons that walk off the programme in the reporting period divided by the total number of witnesses and related persons on the programme
Data limitations	Manual system
Type of indicator	Output
Calculation type	Non-cumulative
Reporting cycle	Monthly
New indicator	No
Desired performance	1.5% or less in 2017/18
Indicator responsibility	DNDPP: Administration and OWP

NOTES

NOTES

A black and white photograph of three South African National Prosecutors. On the left is a woman, in the center is a man, and on the right is another woman. They are all wearing traditional legal robes (togas) over their professional attire. The man in the center is holding a document, and the woman on the right is also holding a document. They are standing against a dark background.

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RP147/2017
ISBN: 978-0-621-45495-6