

# KHASHO

9<sup>th</sup> Edition

NEWS



## FEATURED INSIDE

- > Pangolin transaction disrupted
- > Prosecution ensures another danger is rooted out from society
- > You are what the country needs: Rape survivor to the prosecuting team
- > The NPA celebrates GBV women survivors

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National Prosecuting Authority  
South Africa

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# Letter from the Managing Editor

# LIFE SENTENCE FOR RAPING VULNERABLE HOMELESS WOMAN

Mojalefa Senokoatsane  
Acting RCM: Free State Division

*The National Prosecuting Authority (NPA) continues to be at the forefront of fighting against the injustices inflicted on the most vulnerable sectors of the communities. The NPA continues to be the defender of the vulnerable, and the voice of the voiceless through its prosecutions of perpetrators of crimes against these sectors of the communities. Unquestionably as showed by its slogan, the NPA continues to prosecute without fear, favour or prejudice.*

This was more evident when the Sasolburg Magistrates' Court in a case that was successfully prosecuted by Regional Court Prosecutor Ntombi Marase, convicted and sentenced Thabo Maseko (32), to life imprisonment after he was convicted of rape of a homeless woman residing on the streets of Sasolburg.

The state's case emanates from an incident on 16 September 2021, when the accused, and his unknown co-perpetrator, targeted the homeless woman as they knew that she was defenceless. On that chilly night, they saw it befitting that they would confront the homeless victim who was trying to keep warm on the fire on the street. The two perpetrators knowing that no one was going to come to the immediate aid of the victim, as she had nobody to defend her, took advantage of her situation and began dragging her. They also started assaulting the victim accusing her of being some other woman they named Sibongile. Even though the victim pleaded for her life and told them that she was not Sibongile they showed no mercy and continued to attack her.



**Prosecutor Ntombi Marase**

While still pleading with the accused and his unknown conspirator, they began taking turns to rape the victim without sympathy and when they were done, they left her at the scene. The victim who was not too far from the police station went and reported the matter to the police. The police were able to track and locate the accused as he was known by the victim and was arrested and charged with rape. The accused's co-conspirator was never arrested.

During the trial, the prosecution led by Prosecutor Ntombi Marase, argued that there was no better or worse rape, rape is demeaning and an atrocious act. The prosecutor fought tooth and nail in arguing the state's case in that the accused took advantage of the victim as she was homeless, and he knew that no one was going to defend her. The accused disregarded the victim's rights because she was homeless. Marase further argued that the accused had shown no mercy even when the victim pleaded with him considering that they knew each other.

At the conclusion of the trial that Prosecutor Marase so diligently prosecuted, the court found the accused guilty and sentenced him to life imprisonment. He was also declared unfit to possess a firearm by the court.

Marase emphasised the importance of teamwork in getting the accused sentenced to life imprisonment. It was not only her role in the trial stage that ensured that the matter was successfully prosecuted, as her colleagues in the district court played a pivotal role in working on the matter. Marase further thanked the Court Prep Officer (CPO), Kelly Mbasa, who assisted the 28-year-old victim with her Victim Impact Statement (VIS) which detailed how the rape had affected the victim and through that VIS the victim was able to have a voice to tell the court on how the incident had stripped her off her dignity and that she did not deserve what had happened to her.

The NPA the defender of the defenceless and voice of the voiceless will continue to aggressively prosecute all cases of sexual violence since they encroach on the rights to dignity and privacy of the victims.

# PROSECUTION ENSURES ANOTHER DANGER IS ROOTED OUT FROM SOCIETY

*Lindiwe Mabasa and Mojalefa Senokoatsane*  
RCM: Northern Cape Division

**The work of prosecutions is to ensure that victims of crime particularly Gender-Based Violence and Femicides are protected at all costs, whether the perpetrator is a stranger, is known to the victim, or is in a relationship with the victim. This was the situation with a case where Regional Court Prosecutor Phakiso Tabane, prosecuted a case and ensured that a boyfriend was sentenced to life imprisonment for raping his girlfriend.**

This victorious moment for the prosecutor came after a hefty sentence was handed down at Colesburg Regional Court where a 32-year-old man was sentenced to life imprisonment for raping his girlfriend near her home in Victoria-West, Northern Cape.

This triumph against the scourge of GBVF comes at a time when the country is commemorating Women's Month to celebrate strides that have been made by women since they took to the streets and marched to Union Buildings to fight unjust laws of the apartheid regime. Even though women have made inroads in fighting for equality, they continue to bear the brunt of Gender-Based Violence and Femicides related crimes within our societies, particularly perpetrated by their partners.

On 06 February 2023, the victim was at her home when the accused arrived in the early hours of the morning knocking at her door. When the victim refused to open the door, the accused kicked the door open whilst carrying a knife in his hand and instructed the victim to accompany him to a nearby golf club. The accused forced the victim to accompany him to the golf club even though he knew she did not want to continue with their relationship. When they arrived at the golf club he started to rape the victim. The victim opened a case of rape with the police.

The state, through the police instituted a manhunt led by the Investigating Officer. He was finally captured on 14 April 2023 when he was traced down and arrested by police. Through diligent teamwork by the prosecutions and police, the accused bail application was successfully opposed.



**Regional Court Prosecutor Phakiso Thebane**

During the trial, Thebane stood his ground by arguing extensively on the merits of the state's case in that the accused's overall impression during the court proceedings was that of a man who did not show any remorse, that he was a danger to society, and that the most suitable sentence for the accused was that of life imprisonment.

In sentencing, the court ruled in favour of the prosecution by finding the accused guilty of rape and sentenced him to life imprisonment. The court furthermore ordered that his name be enlisted on the National Register for Sexual Offenders and he was also declared unfit to possess a firearm.

After the sentencing, Prosecutor Phakiso Thebane, indicated that he was satisfied with the sentence by the court, as he hoped that it would send a clear message to other perpetrators of GBVF. Individuals particularly men should understand when the relationship is over, and they should accept when they are no longer wanted by their partners. Sentences such as this one increase the confidence of the communities in the work of the NPA in its quest to fight the scourge of GBVF. What brings fulfillment to his work is knowing that a victim has been provided with closure and that another perpetrator has been removed from society.

Prosecutor Tabane concluded by extending his gratitude to the prosecution team for their stellar job in ensuring that the state case was strong and, even opposing the accused's application for bail. He also directed his appreciation to the police, particularly the Investigating Officer Sergeant Ilze Fan, who worked tirelessly with the prosecutors to ensure that the case was successfully prosecuted.

The NPA welcomes this moment as its mandatory function is prosecution, particularly in cases of this nature. The prosecution is satisfied that finally the Gender-Based Violence victim has received justice and in turn, is a survivor more than a victim in the end.

# TRIO SENTENCED TO LIFE IMPRISONMENT FOR THE GRUESOME MURDER OF SAM MBATHA

Sivenathi Gunya  
Communication Officer  
RCM: North West Division

The High Court of South Africa North West Division, sitting in Ga-Rankuwa Regional Court, sentenced Author Khoza (22), Nkuna Mahlatsi (24) and Thatho Masetla (25), to life imprisonment each for murder, 20 years for robbery with aggravating circumstances, 15 years for kidnapping, 10 years for malicious damage to property and 7 years for defeating the ends of justice. The court ordered that all sentences should run concurrently with the sentence of life imprisonment imposed on count number one.

The incident occurred in the Phutha Section, near Klipgat, on 21 June 2021. Through the intensive investigation by the Police Services following reports of a missing person who was the deceased, the three were easily linked to the murder of Sam Mbatha. It is alleged that the deceased went missing and was last seen at a local tavern with Thatho Masetla, accused number three. During the trial, the court heard that the police found bloodstains on the floor, on top of the bed as well as on the carpet in the house where Thatho Masetla was residing. The court heard that an axe that was used during the commission of the gruesome act was found on top of the roof where bloodstains were also discovered.

The body of the deceased was found inside a Hyundai i20 vehicle at a soccer field in the Ikakeng section, he was burnt beyond recognition. DNA samples assisted the investigating team to easily identify the burnt body and it was identified as that of Sam Mbata.



**Advocate Nangamso Goloda from DPP Office Mmabatho**

In aggravation of the sentence, the Advocate Nangamso Goloda, said "The sentences that should be imposed must be fit to their brutal savage". He further argued that the accused not only killed the deceased they also burnt him to ashes and took away his dignity. Advocate Goloda, in closing further said that all three accused participated in this brutal murder with a common purpose, so they must be sentenced to nothing less than a life sentence.

## ADV NANGAMSO GOLODA HAD THIS TO SAY ABOUT THE CASE:

The first challenge I noticed when I got hold of the police docket in the matter was when I realised that the deceased body was burnt beyond recognition inside his motor vehicle. Only bones remained and there was no postmortem in the docket stating the cause of death. I then geared myself that there was going to be a lot needed in terms of guiding investigations in the matter as the case would solely be hinging on circumstantial evidence. There was no eyewitness to the incident. I guided investigations and requested that DNA samples be taken from the bone. The samples taken from the said bone were matched with the DNA samples taken from the mother and the match was positive. That is how we got the breakthrough regarding the identity of the deceased. The same bone samples matched the bloodstains that were found in the bedroom of accused number 3 who was the last person to be seen departing with the deceased from the tavern.

# JUSTICE SERVED AS MAN SENTENCED TO LIFE IMPRISONMENT FOR RAPING A MENTALLY IMPAIRED WOMAN

Monica Nyuswa  
RCM: Mpumalanga Division

*The NPA always strives to bring justice to the victims of crime and will always ensure that justice is delivered promptly to the victims. This is after the Nelspruit Sexual Offences Court convicted and sentenced Sifiso Lubisi (38), to life imprisonment for raping a mentally impaired woman in 2019.*

On the morning of 26 May 2019, the victim was walking on the street in Pienaar Trust when she met Lubisi. He assaulted the victim with a bottle and forcefully dragged her to his place and raped her.

A passerby witnessed the incident and went to the victim's home and informed her family since he knew the victim's mental condition. The eyewitness together with the victim's family members went to the accused's place. They knocked at the door and the accused did not open for them, as a result they broke the door and entered the house. They found the accused raping the victim both naked.

The incident was reported to the police and during investigation the accused was arrested. The victim was taken to hospital for medical examination and psychosocial support. In court the state successfully opposed the accused's bail application.



**State Prosecutor John Mahlwele**

During the trial, Lubisi pleaded not guilty and denied all allegations levelled against him. To prove the accused guilty beyond reasonable doubts, the state relied on the evidence of the victim's brother, the eyewitness, and the forensic nurse who examined the victim as well as the evidence of the psychiatrist who assessed the victim. The court found their evidence credible, honest and reliable.

In aggravation of sentence, the state requested the court not to deviate from the prescribed minimum sentence of life imprisonment in terms of Section 51 (1) of Act 105/1997. State Prosecutor John Mahlwele, addressed the court that Sexual offence by its nature strips the victim of her dignity, affront to their sense of safety and makes the victim vulnerable.

## PROSECUTOR MAHLWELE HAD THIS TO SAY ABOUT THE CASE:

What makes this case different from other cases you have prosecuted?

This case involves a person who is mentally impaired who needs support in her daily life and was clearly a target due to her vulnerability.

How do you feel about the sentence imposed on the accused?

The Sexual Offences Courts and all the relevant role players are essentially victim centric and have a victim empowerment approach. Therefore, the sentence imposed on the accused is appropriate for the offense he is convicted of. Credits must be given to the team effort and a close working relationship between the NPA and Family Violence Child Protection and Sexual Unit.

# LIFE IMPRISONMENT FOR MURDER OF COLLINS CHABANE MAYOR

Mashudu Malabi  
RCM: Limpopo Division

The High Court of South Africa, Limpopo Division, Polokwane sentenced Shumani Nemadodzi, Avhatakali Isaac Mudau, Wiseman Baloyi, Tshianeo Munyai and Pfunzo Lidzebe to life imprisonment for the murder of the Mayor of Malamulele Municipality, Moses Maluleke. They were each further sentenced to fifteen (15) years for attempted murder for shooting the son of the mayor, 15 years for robbery with aggravating circumstances, five (5) years for possession of firearm and three (3) years for possession of ammunition.

The five (5) accused persons, acting in concert with other unknown accomplices, conspired to attack the deceased and rob him of money. Wiseman Baloyi, who was close to the deceased, had informed his co-accused that the deceased possessed cash money amounting to R10 million. The accused persons were told that the money the deceased possessed was because of kickbacks the deceased received after awarding tenders to people he preferred.

## ADVOCATE TSIBANE MABAPA HAD THIS TO SAY ABOUT THE CASE:

### What were the challenges that you encountered in this case?

"This was one of those cases I will never forget, considering the extent to which the accused had meticulously planned and executed the offences with the goal of laying their hands on the ten million rands".

The matter was complex as it was generally and widely viewed as a political killing. The deceased's family and the community believed that there was a political criminal mastermind who was close to the deceased, who orchestrated this killing for political



**Senior State Advocate Tsibane Mabapa**

gains. The deceased occupied a high social, political, and moral standing in the community and drew interest from senior politicians, businesspeople, and ordinary community members. I must, however, first acknowledge and credit much of the success on this case to Colonel Boshomane and his team for their excellent investigative work that unraveled all the clandestine activities into the killing of the deceased.

Only Nemadodzi was positively identified at the identification parade by the deceased's son who was also shot during the incident. The cell phone robbed during the incident could not be traced even after the SAPS involved their cyber-crime investigative methodologies to track it.

The Section 204 witness who was initially an accused (Avhatakali Mulaudzi) at the commencement of the trial, was of vital importance. He provided crucial information, gave insight into the accused's actions and was also useful to the state in securing these convictions. The witness provided evidence regarding how he was first approached by accused 3 about this nefarious plan. He detailed how subsequent meetings were conducted and how each of the accused were recruited into the evil plot to rob the mayor. During the trial he further implicated himself and elaborated each of the accused's roles in the commission of these offences.

Though the defence used every trick in the book to discredit the Section 204 witness, the court found that the witness was truthful and candid in his testimony.

Mudau and Baloyi disputed the admissibility of statements they made upon their arrest, wherein they admitted having been involved in the matter. After a

trial within a trial to determine the admissibility of such statements was held, the court found that Mudau had made the statement freely and voluntary and it was accepted as evidence.

#### **What were the strategies used to link the accused to the offences?**

The testimony of Baloyi's girlfriend was also fundamental. She testified that Baloyi and the deceased used to meet, which proved that the two had at least a form of relationship. This evidence corroborated the Section 204's testimony that Baloyi was the one who told the other accused that he knew the deceased and that the deceased had large amount of money hence they believed the narrative.

#### **Comments on the finalisation of this case**

I feel relieved that the case was eventually finalised, especially because of political and social standing of the deceased in the community. The case was a marathon trial, which had many interlocutory applications. In total about 14 witnesses testified and several documents were submitted in court to prove the allegations against the accused.

However, this victory did not come easy as there were many challenges. The prosecution relied heavily on the evidence of a Section 204 witness, who was inexperienced and was cross examined for a period of six (6) days by three experienced advocates. This was a difficult terrain for prosecution to traverse. At some stage during cross examination, the witness informed the court that he no longer wanted to be a witness as he was accused of misleading the court by the defence.

Moreover, finalising and securing this sentence proved that the wheels of justice do turn, though sometimes slowly but they surely turn. I am pleased with the sentence meted out by the court as the accused were convicted on all counts and sentenced accordingly

# PANGOLIN SMUGGLERS NABBED

Lumka Mahanjana  
RCM: Gauteng Division: Pretoria

*Senior State Advocate, Jeffrey Nethononda, who has been a prosecutor for 26 years, successfully prosecuted a case where two Zimbabwean nationals, Lovemore Tapfumanyei (52), and Benjamin Hundo (24), were sentenced by the Cullinan Magistrates' Court to 10 years imprisonment at which two years were suspended, 5 years for a charge of carrying out a restricted activity involving a threatened or protected species.*

They were further sentenced to four years direct imprisonment on a charge of cruelty to animals. Hundo was further sentenced to 12 months of direct imprisonment for being illegal in the country. The court ordered that the sentences should run concurrently

Advocate Nethononda who specializes in prosecuting environmental crimes but also prosecutes general and organised crimes, started working for the National Prosecuting Authority (NPA) in November 1998 at Tiyani Magistrates' Court in Limpopo, where he rose through the ranks until he was appointed as a Senior State Advocate at the Pretoria DPP office in 2021, a position he still occupies today. He said he was pleased by the sentence the two received because what they did to the animals was cruel. The two ran an operation where they would hunt the Pangolins and sell them, however in this case the Police got wind of their operation, and a trap was set in terms of section 252 (A) and the two were arrested while trying to sell the pangolin to an undercover agent. Unfortunately, the pangolin died before delivery could take place, hence, they were also charged with cruelty to animals.



When asked if such sentences shocked him, Adv Nethononda said no, because those are the type of sentences he asks for in court. "Pangolins are highly poached and are in high demand, especially outside the country. Therefore, I feel as a prosecutor who prosecutes environmental crimes, it is my responsibility to ensure that species are protected, and people who commit such crimes face the full might of the law" he added. In 2021 I also dealt with a similar case where the accused was sentenced to 10 years direct imprisonment, and the motor vehicle, a Toyota Fortuner, used to commit the crime was forfeited to the state through the involvement of the Assets Forfeiture Unit (AFU). Another fulfilling sentence I secured in 2021 at the Nelspruit Regional Court was a sentence where a company FJ Joubert Seuns (PTY) LTD, was charged with unlawfully and intentionally commencing or continuing with an activity listed in terms of section 24(2)(a) of NEMA without an environmental authorisation was sentenced to building 50 toilets for two rural communities in Ngodwana, Kwa-Banjie and Mankele Trust Sudwala and buy four bailing machines for youth employment project as well a new 4x4 Nissan Bakkie to be used to by investigators who investigate environmental crimes in Mpumalanga.

When asked if he enjoyed prosecuting such crimes, Adv Nethononda, said, he enjoys prosecuting environmental crimes because they expose him to a subject that he would not otherwise understand. Such that I am currently busy with a pollution matter involving a municipality, which allows me to work with specialised investigators from the Department of Environment, Forestry and Fisheries (DEFF), Department of Water and Sanitation as well as Gauteng Department of Agriculture, Rural Development and Environment (GDARD) which are specialist in the field.

This makes me appreciate my decision to choose law as a career because it never occurred to me that one day I would link law with science. To me, this is an interesting journey, and I look forward to disputing operations that seek to limit the right to the environment.

The Director of Public Prosecutions, Advocate Sibongile Mzinyathi said prosecuting environmental crimes is a specialised field, and having dedicated prosecutors in the division who make it their priority to disrupt unlawful activities while preserving the environment is a win for the division.

# DURBAN CLUSTER PRIORITISES HOUSEBREAKING

*Khethukuthula Sangweni  
Communication Officer: KZN Division*

The Durban Cluster in KwaZulu-Natal has embarked on a housebreaking project which is yielding positive results in addressing the issue. Khasho spoke to Senior Public Prosecutor, Roshiela Benimadho, to gain more insight.

## How did the project come about?

According to Statistics South Africa (Stats SA), housebreaking is the most common crime experienced by households in South Africa, with a total of 1 million households experiencing housebreaking incidents in the 2022/2023 period. Housebreaking is closely followed by house robbery, which ranks as the second-highest crime affecting residential communities.

The National Prosecution Services (NPS) sought to redress this in the National Prosecuting Services Annual Operational Plan 2023/2024. Priority 2 of the Plan requires a stronger focus on serious, violent, and organised crime that disproportionately undermines public safety. Within that context, the NPS created the prioritisation practice and policy. Prioritisation Practice means that Prosecutors in the Lower Courts do not have the capacity, resources, and ability to prosecute all crimes. We must therefore conduct strategic prosecution of specific crime types. In other words, we must focus on high-impact prosecutions that will make a difference to our communities.

## Ikhaya Lethu

The eThekwin District is made up of urban and business areas with a high number of incidents of housebreakings, and trio crimes (carjackings, house robberies and business robberies), hence the Durban Cluster was requested to pilot a housebreaking and house robbery project. We named the Project Ikhaya Lethu – meaning, Our Home. It presumes the notion that all our dedicated work within this project will contribute towards safer communities and safer homes.

## Strategic objectives and outcomes

Finalisation and successful prosecution of matters remains a top priority. Our plan includes reviewing withdrawn cases with a view to ensuring that these cases are enrolled. It is also vital to identify repeat offenders as well as dismantling the criminal groupings.



**Adv Sagren Naidoo, Chief Prosecutor**

The collaborative efforts between us and other critical role players like SAPS, Department of Home Affairs, Department of Correctional Services as well as the NPA's Asset Forfeiture Unit (AFU) continues to yield results. We also work with external stakeholders like private security companies, CCTV operators, Tracking companies, micro dotting companies, car hire companies, network service providers, insurance companies and others.

## Effective supervision of matters

Dedicated prosecutors in the District Courts, and dedicated supervision of matters in the Regional Courts has proven to be fruitful. Cases in general prosecutions receive similar attention regardless of their nature or impact. The dedicated prosecutors can prioritise these cases thereby achieving:

- Quicker finalisations
- Low backlog of cases
- Decreased withdrawals as case investigations are prioritised
- Change in sentencing trend (from fines / wholly suspended sentences to direct imprisonment)

We have also employed strategies such as Prosecutor Guided Investigation (PGI), to focus on stations with housebreaking hotspots as well as repeat offenders. Through PGI, prosecutors in the project are trained to play a pro-active role in guiding detectives from the onset of the investigative process. The value of it within the project:

- Prosecutors advise on the type and quality of evidence required, therefore ensuring that critical evidence is collected and properly preserved, and thereby countering admissibility issues.
- Investigations are streamlined ensuring detectives focus on securing the most relevant aspects - making the investigation more timeous, efficient, and targeted.

- Prosecutors make strategic decisions early in the investigation, such as when to seek search warrants / cyber warrants, enhancing the overall strength of the case.
- Prosecutors consult with witnesses at an early stage - enhancing their co-operation (this has also reduced our withdrawal rate).
- With a strong case, prosecutors are in a better position to negotiate plea deals early, potentially saving time and resources for the court system.

### Cold cases

The consistent successful prosecution of repeat offenders is a significant force in disrupting criminal networks and pattern of criminal activity. It disrupts the operational flow of criminal groups and removes criminal skills from the system – preventing further crimes. I call this scorching the earth on which the criminals ply their trades.

It is a robust legal strategy aimed at neutralising the accused and his/her counterparts and weakening the broader criminal networks. The criminal profiles yield that the accused individuals can morph into 'House and business robbers,' 'hijackers,' and motor vehicle thieves as the situation requires. These accused are also able to join different criminal groupings, depending on their own special skill set. Removing repeat offenders weakens the broader ecosystem within which they operate.

### Impact on the community

Between 01 January 2022 and 31 July 2023, 112 accused have been removed from the community as they were sentenced to direct imprisonment [mostly three (3) years]. 21 of the accused were sentenced to imprisonment with a portion partially suspended, these are 133 community irritants removed from the community.

From 01 January 2023 to 31 July 2024, the Regional Court prosecutions successfully removed 19 community irritants, most of whom are serious and violent repeat offenders.

### Disrupting the stolen goods market:

It is envisaged that SAPS will offer a greater service within the scope of financial investigations and social media investigations in terms of following the goods taken during break-ins and robberies. This will guide the way to introducing money laundering prosecutions and Section 18 confiscation orders within the ambit of the Project. It will also serve to disrupt the stolen goods market within South Africa and across our borders.

As a Cluster, we stand tall on the work we have achieved so far within the limited resources at our disposal. It takes commitment, resilience, and a good sense of humor to turn obstacles into innovative solutions. The project is still in its infancy and has unlimited potential to impact on the community in terms of public safety and fostering stronger community confidence in the NPA.



**Back row from left to right: Roshelia Benimadho, Tristan Morris, Camille Narainsamy, Smiso Khanyase,  
Front row from left to right: Nkululeko Msiya, Seema Reddy**

# NPA LAUNCHES TENTH STATE OF THE ART TCC IN WC AND 65<sup>th</sup> NATIONALLY

*Eric Ntabazalila  
RCM: Western Cape Division*

*The NPA launched the tenth Thuthuzela Care Centre in the Western Cape, bringing the number of operational Thuthuzela Care Centres (TCCs) to 65 across South Africa - a phenomenal increase from 55 in 2021.*

The Deputy Minister of Justice and Constitutional Development, Andries Nel, the National Director of Public Prosecutions Adv. Shamila Batohi, Western Cape MEC of Health, high ranking officials within the NPA, SAPS, business, councilors and Gender-Based Violence activists attended the launch of another state-of-the-art facility.

Delivering the keynote address, Deputy Minister Nel said: "the government continued to put in place various

interventions to prevent and combat Gender-Based Violence in all its forms". He said the Department of Justice and Constitutional Development has introduced online service of domestic violence protection orders by clerks of the court which means that within 24 hours after receipt of the order from the court, a court clerk must serve the protection order to the respondent via email, where circumstances so permit. With that intervention, survivors of domestic violence will receive speedy protection.

He said, the addition of the Mitchells Plain TCC with its own state advocate brings vital resources to enhance the fight against Gender-Based Violence in the area. It was also inspiring to see the manner in which government is partnering with civil society organisations, NGOs, community leaders and the private sector in the journey to rid society of Gender-Based Violence incidents.

Adv Batohi said: "The launch of this site, during the month that we celebrate women, contributes to our vision to extend the TCC footprint to as many areas as possible, to address GBV and increase access to services, as these TCCs are victim-centred, and enable all services to be provided under one roof. We are proud that this South African model is regarded as an international best practice," she said.

"Our focus is not only on increasing the TCC footprint - given the potential benefits - but also on enhancing the service provision at TCCs. We are currently rolling out the Domestic Violence (DV) Protocol to help victims obtain protection orders and aid with safety plans. At



**From left to right:** Ms Sasha Paulse, TCC Coordinator; Mitchells Plain TCC; Major General Anna Lekhele, National Head: SAPS Family Violence Child Protection & Sexual Offences; Specia Director of Public Prosecutions: SOCA Unit, Adv Bonnie Currie-Gamwo; Deputy Minister of Justice, Mr Andries Nel; NDPP, Adv Shamila Batohi; DNDPP: NPS, Adv Rodney De Kock; Western Cape Health & Wellness MEC, Mireille Wenger; SPP: Western Cape SOCA Unit, Mr Garry Titus; Chief Operations Officer: Western Cape Health & Wellness.

this TCC, staff members along with their colleagues at Mosaic, the court preparation officer and the domestic violence clerk at the Mitchells Plain Magistrates' Court have been trained on the online domestic violence applications as Mitchells Plain is the pilot site for the online applications. This service will enhance more efficient service delivery for domestic violence victims in the area."

"It is evident that in Mitchells Plain and across the country, there is an incredible amount of work being done to address the national GBVF crisis that we face. Unfortunately, statistics show that barely 10 % of victims receive justice. Notwithstanding, together with key partners, we are determined, and will work tirelessly to ensure that victims and survivors receive justice and are properly supported in the process. Failure is not an option; the future of the next generation demand that we continue to fight the good fight and protect the vulnerable in our society," she said.

TCCs are one-stop facilities which provide pretrial services, psychosocial, medical, and legal services to victims of Gender-Based Violence (GBV) in a victim-centred manner. They are court-directed and have been developed to reach three main objectives: reducing secondary victimisation; increasing the conviction rate, ensuring that cases are court-trial ready and reducing the cycle times of these cases from reporting to finalisation.

The strength of TCCs lies in the fact that they function as a multi-disciplinary team consisting of the National Prosecuting Authority (NPA), Department of Health (DOH), South African Police Service (SAPS), Department of Social Development (DSD) and various NGO's. The TCC's integrated approach to Gender-Based Violence (GBV) care is one of respect, comfort, restoring dignity and ensuring justice for children, women and all vulnerable persons who are victims of GBV.

Crime statistics indicate that Mitchells Plain is regularly one of the highest crime areas in the country and the Western Cape. Previously, Mitchells Plain Hospital rendered services for rape survivors but, due to a fire that engulfed the facility, services could not be continued, and victims were referred to the Heideveld TCC. This new facility, which became fully operational on 08 July 2024, ensures that services are rendered close to where victims reside.

The residents of Portlands, Westridge, Eastridge, Rocklands, Beacon Valley, Tafelsig, Lost City, Lentegeur, Mandalay, Montclair, Colorado Park, Montrose Park, Woodlands, Rondelvlei, Morgans Village, Highlands Village, Weltevreden Watergate, Bayview, Sea-crest, Wavecrest, Siqualo, Pook se bos, Reality Village, Kapteinskloof (Tafelsig), Sewende Laan and Macendani will enjoy the services of a state-of-the-art facility manned by professional staff members.

As can be seen, the jurisdiction of this facility is vast and its cases feed onto the magistrate's court in Mitchells Plain, which also houses the regional court. These courts have experienced prosecutors who deal with all Gender-Based Violence (GBV) cases. There is a Family Violence, Child Protection and Sexual Offences Unit and three police stations that feed into the centre. There is a link to the magistrate's court in the instance where the victim can enquire about the progress of their case. The TCC Manager will contact the TCC state advocate who is based at the Mitchells Plain Court.

*Summing up the day's events, Special director of Public Prosecutions: Soca Adv Bonnie Currie-Gamwo, said: "The opening of the Mitchells Plain TCC displays the success of the SOCA Units strategy to combat the scourge of GBV by accelerating the expansion of the TCC footprint in the WC and the country. The impact of this strategy has seen the addition of 10 TCCs since 2021 which effectively increased the number of victims we have been able to provide comprehensive pretrial services to experiencing a change in their lives and transforming from a victim into a survivor."*

# TEMPERING WITH ESSENTIAL INFRASTRUCTURE

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RCM:-----

*On 31 December 2022, in the area of Boschkop, East of Pretoria, a Transnet Fuel pipe was breached. A hole was dug to expose the fuel pipeline and a fitting was attached to the pipeline for a hose to be connected so that fuel could be extracted once it ran through the pipeline.*

In the early hours of 1 January 2023, Transnet Officers in Pinetown, KZN, discovered a drop in pressure in the fuel line near Silverton, Pretoria. A group of security officers were dispatched to investigate. While on the way to investigate the particular area, they spotted a truck pulling a liquid tanker wherefrom liquid was spilling out. They followed the truck and after several attempts to stop the truck, the driver alighted the truck from the left side while the vehicle was still in motion. The truck collided with some trees and came to a halt.

The driver hid in the bushes where he was detected using a camera-fitted drone and apprehended.

The BidVest Protea company which is contracted to Transnet to provide security services assisted a great deal in the investigation of the case in the following ways:

- Transnet officers in KZN, were engaged to provide evidence/statements as to how they spotted the loss of pressure in the pipeline in Pretoria.
- To quantify how much fuel was siphoned from the pipeline, the truck had to be emptied, and the contents had to be measured. Fortunately, all the siphoned fuel was recovered (34 000 liters of 93 Octane fuel), valued at +/- R900 000.00.
- The fuel had to be tested to compare with fuel that was running in the pipeline to confirm that it was the same, and to quell any assertions that the fuel from the truck could have been from elsewhere. Tests revealed that it was raw fuel, without additives that retailers add to their final product. Such raw fuel is not sold to any

**Adv Elaine Moonsamy**

person nor available in the market anywhere.

- The truck was searched and no loading documents were found, meaning that the driver was not authorised to have such fuel.
- Fingerprints taken from the truck driver matched with that found in the truck, proving that he was in the vehicle.
- The fitting on the pipeline was illegal, not authorised by Transnet.
- The area where the pipeline was bridged to affix the fitting was heavily affected by the fuel spillage during the pumping from the pipeline into the truck.
- It was established that the truck and trailer were stolen in Bapsfontein. The owner of the truck was traced and testified in the trial.

The prosecution could not have been successful without the assistance of Bidvest Protea for the apprehension of the accused and obtaining vital evidence immediately from the scenes. The DPCI also played a crucial role in extra measures it took in obtaining and securing evidence, and ensuring that witnesses were present in court, despite some of them traveling from out of the province.

#### **The accused were sentenced as follows:**

Count 1: Damage to infrastructure

20 years imprisonment

Count 2: Theft Of fuel

10 years imprisonment

Count 3: Theft of the truck

5 years imprisonment

The sentence in counts 2 and 3 run concurrently with the sentence in count 1. The effective term of imprisonment is 20 years.

# BARRISTERS SET FOR POSITIVE DUTY TO ADVANCE EQUALITY AND DIVERSITY

Legalbrief

*Barristers will have a positive duty to act "in a way that advances equality, diversity and inclusion" under a shake-up of the equality rules launched by the Bar Standards Board (BSB).*

However, Sam Townend KC, chair of the Bar Council, warned that "radical change" may have "unintended detrimental consequences".

The consultation launched yesterday looks set to intensify the disagreement between the two bodies – in June, Mr Townend called on the BSB to let the Bar Council lead the way on Equality, Diversity and Inclusion (EDI), which the regulator firmly rejected.

The BSB said the new positive duty would replace existing core duty 8, under which barristers "must not discriminate unlawfully against any person".

The new duty would "form the basis of our future regulatory action in this area and will be central to achieving behaviour and culture change across the profession".

New "outcomes-based" general equality rules would be introduced alongside the new duty.

Barristers in chambers and BSB entities would have to "eliminate unlawful discrimination and advance equality of opportunity, particularly in relation to recruitment, retention, and progression".

They must "prevent bullying, harassment, and victimisation, and have systems in place to respond to such behaviour", ensure "equal access" to their services and promote an inclusive culture.

In addition to the existing policies chambers are required to have on EDI, anti-harassment and bullying, reasonable adjustments, flexible working and parental leave, the BSB would require them to have a policy on the allocation of unassigned work.

On diversity data, the BSB is proposing that chambers are required to take "reasonable steps" to annually collect, analyse and publish monitoring data.

They should have a written action plan that is "specific and measurable to address any disparities identified through analysing the data".

To promote disabled access, chambers would be required to publish an "accessibility audit", reviewed every five years.

Barristers would be expected to "take reasonable steps to ensure" that the premises from which they practise are fully accessible to all.

The BSB said this meant disabled pupils and tenants could "fully integrate into chambers", with "independent access to enter and exit the building, and move within the building to independently access toilets, communal areas, a conference room, and clerks' room".

The BSB proposed that the existing requirement on chambers to have equality and diversity officers (EDOs) and diversity data officers should be removed.

Although some EDOs were "very dedicated", it had also heard that the role was "delegated to a junior member of chambers" from under-represented groups.

There were concerns that this put "a disproportionate burden on junior members of the Bar from minoritised ethnic backgrounds", and could impact progression, especially in larger chambers, where there was more data.

The BSB acknowledged that the profession would need time to adapt to these changes, with the likes of the Bar Council needing to "prepare to support the profession" on implementation.

During an initial period, which was "likely to be around a year", the BSB would concentrate on "supporting the profession through supervision", rather than taking enforcement action.

Responding to the consultation, Mr Townend said that although "much progress" had been made in improving EDI at the Bar, there was "clearly much more to be done".

He went on: "Much of the progress made on EDI in chambers is thanks to the voluntary work of EDOs and we are keen to make sure that any regulatory changes do not undermine the work. Radical change is certainly disruptive and may have unintended detrimental consequences."

"On the proposals to move to outcomes-based regulation, we have previously raised concerns that this could pose significant challenges for the Bar and may be ineffective."

Mark Neale, BSB director general, commented: "We want to ensure that the Bar is as inclusive as possible and that it is truly representative of the society it serves."

"Regulation alone cannot achieve that, but regulation can help by supporting barristers to challenge practices which work against diversity and inclusion."

# GET TO KNOW THE LEGAL AFFAIRS DIVISION

The Legal Affairs Division (LAD) is the civil litigation unit within the NPA. The unit defends the NPA, NDPP, DPP, and Prosecutors against malicious prosecution claims, delictual claims, and incidental matters that fall outside the criminal prosecutorial space and are civil in nature. This means that the division is tasked with dealing with matters that arise against the NPA or its officials, mostly regarding compensation for malicious prosecution and unlawful detention.

In litigation matters, the LAD considers all supporting information regarding malicious prosecution and unlawful detention claims, thereafter, makes informed decisions about the matters, gives instructions, and advises accordingly. The NPA continues to rely only on the State Attorney as their attorney of record. The LAD, however, continues to actively participate and contribute to the running of trial matters to achieve a fair and just outcome, whether it be a settlement of a claim or judgement in favour of the NPA or NDPP.

The LAD's vision is to be the vanguard for prosecutors to be fearless executors of the NPA mandate. The NPA is currently sitting at an 87.5% success rate in defending claims.

One of the successful claims was recently litigated by Adv Danny Vorster, an advocate based at the head office, where after a murder case was removed from the court roll, the plaintiff instituted civil proceedings and claimed against the NDPP for malicious prosecution. This was after the East London High Court sentenced Sifiso Mgwele and Vukile Thunywashe to an effective life imprisonment term.

In this case, there were strict time frames to adhere to and to counter the claim, Adv Voster worked with Adv Gounden. The two advocates discussed the merits of the case and they decided to re-institute a prosecution.

Had the plaintiff not issued a summons in the civil claim, the criminal case would probably not have been reviewed. Not only was justice served in that the plaintiff/accused was convicted and sentenced to life imprisonment, but the civil claim was removed from the roll, and money was saved by the NPA.

This year, the LAD led by Advocate Mthunzi Mhaga, has been criss-crossing the country, visiting NPA Divisions in its quest to empower prosecutors and sharing ideas on best prosecutorial practices for prosecutors. The aim of the training is to empower prosecutors with knowledge of civil litigation with a view to enhancing the prosecutorial decision-making process and minimise exposure to lawsuits from accused persons. Attendees were Chief Prosecutors, Senior Public Prosecutors, Control Prosecutors, and Advocates.

During these sessions, legal eagles from across the country graced the sessions by sharing best practices, practical session preparation of prosecutors in testifying in civil matters, also presenting recent caselaw, providing fundamental knowledge on how prosecutors should conduct themselves when prosecuting cases, presenting detailed and very informative Civil and Criminal Appeal Processes, malicious prosecution and unlawful detention.

These important sharing of ideas events were received by even those outside the NPA who saw the value of the fight against crime, as a responsibility of all. They also took questions from the prosecutors and provided much-needed advice. The sessions took an engagement form with legal minds who are experts in their fields providing insight on a variety of topics.

The sessions were blessed with the presence of the Acting Western Cape Judge President Patricia Goliath, Acting Deputy Judge President Andre Le Grange, Judge Gayaat Sallie, Justice Madlanga, Deputy Judge President Ledwaba, Adv Van den Borger SC, Adv ZZ Matebese SC. The NPA leadership provided support during the sessions, and they were graced by the presence of NDPP, Adv Shamila Batohi, the Acting DDG of the NPA, Ms Bulelwa Makeke, and DPPs,

During the program, the participants were also provided with an opportunity to share their views on their experiences as prosecutors and the challenges they encounter when executing their daily duties as prosecutors.

In August, the unit conducted an induction session at the NPA head office for the newly appointed LAD colleagues who will be serving all the regions.

The NDPP, Adv Shamila Batohi, gave an inspiring message of support also pleaded with new colleagues to serve with integrity and in keeping with the NPA's IPAC values. DNDPP for the AFU, Adv Ouma Rabaji-Rasethaba, welcomed the new colleagues, and pledged her support. She urged them to ensure that they support prosecutors in their decision-making processes. Head of LAD, Adv Mthunzi Mhaga, unpacked LAD's training initiative in partnership with the Bar Council to empower prosecutors.

# NPA COMMEMORATES WORLD DAY AGAINST TRAFFICKING IN PERSONS IN MOZAMBIQUE

Monica Nyuswa

RCM: Mpumalanga Division

Trafficking in Persons is a serious crime and a grave violation of human rights. It presents a serious challenge to communities and to the society at large hence, the Mpumalanga Trafficking In Persons Task team joined forces with the Office of the Attorney General of Mozambique to commemorate the World Day Against Trafficking in Persons in Ressano Garcia, Maputo Province. The campaign is aligned with the broader objectives of the United Nations Office on Drugs and Crime and the Southern African Development Community (SADC).

This joint initiative comes after a bilateral meeting where both teams agreed to collaborate more closely in fighting

human trafficking in areas near shared borders. The National Prosecuting Authority's Sexual Offences and Community Affairs Unit together with the Department of Justice and Constitutional Development led by Advocate Ramathikithi was part of the delegation including Home Affairs, SAPS, (UNHCR), Salvation Army, Save the Children and other departments. The objective was to raise awareness of the plight of human trafficking and enhancing the capacity of law enforcement to effectively prevent and address human trafficking.

The campaign started with a march at Lebombo Border joined by the community and learners from various schools on the Mozambique side of the border. The National Prosecuting Authority's Advocate Beauty Cibangu, was on the programme, she emphasised on the role played by the NPA Mpumalanga Trafficking Task Team in fighting the scourge of trafficking In persons for sexual and labour exploitation.

Furthermore, she highlighted the dangers of Trafficking In Persons. She said, traffickers prey on the vulnerable and rob them of their fundamental rights. She explained that trafficking in Persons takes many forms and knows no borders. Closing her presentation, Adv. Cibangu said "let us come together around the key issues of prevention, protection and prosecution to build a future where crime cannot exist".

*The event was good and characterised by entertainment activities and people were eager to obtain information.*



**Stakeholders marching together against trafficking in persons**

# EMPOWERING YOUTH FOR A SAFER FUTURE: NXUBA'S PIONEERING COMMUNITY PROSECUTION INITIATIVE

*Nokuthula Makupula  
Communication Officer: Eastern Cape Division*

In a bold move to address the pressing issues facing South Africa's youth, the National Prosecuting Authority (NPA) has launched an innovative initiative designed to empower young minds and foster a safer community.

The Nxuba (Cradock) Division of the NPA hosted a groundbreaking Community Prosecution Initiative (CPI) at Matthew Goniwe High School. Spearheaded by Senior Public Prosecutor Lubabalo Qenge, the event featured expert speakers from the South African Police Service (SAPS) and the Department of Social Development, engaging Grade 10 – 12 learners on critical issues.

"The event is designed for you to ask all the uncomfortable questions," Mr. Qenge told the learners in his opening remarks, "and they will be promptly answered."

The programme tackled challenging topics such as gender-based violence, substance abuse, and the NPA's role in the criminal justice system. Speakers shared real-life experiences, prompting lively discussions and debates among the learners. This initiative demystified the prosecution process, whilst emphasising the NPA's vital role in ensuring justice.

State Prosecutor Mr. Unathi Kwebulana, explained his role as a state prosecutor and the processes of court, providing the learners with valuable insights into the judicial system.

Additionally, the event highlighted the essential work of Thuthuzela Care Centres (TCC) in supporting rape victims. Ms. Anela Nontso, TCC Site Manager, advised learners about the purpose of the TCC located at Cradock Hospital, where SAPS, the Department of Health, and the Department of Social Development are all housed to avoid secondary victimisation.

By partnering with SAPS, the Department of Social Development, and other stakeholders, the NPA underscored its commitment to collaborative approaches in addressing the complex challenges facing South Africa's youth.

This pioneering initiative represents a significant milestone in the NPA's efforts to promote community engagement and awareness of the criminal justice system, empowering young people to make informed decisions and contribute to a safer community.



**NPA Nxuba Division prosecutors, stakeholders, and students of Matthew Goniwe High School at the event**

# NPA UNVEILS KM HUB TO PRESERVE INSTITUTIONAL MEMORY

Pretty Mabanga  
Knowledge Management: SMO

*In a significant stride towards modernising the public service, the National Prosecuting Authority (NPA) has unveiled its new Knowledge Management Hub (KM Hub) – a centralised repository designed to transform how officials access information and expert knowledge across its operations.*

The initiative was born out of the NPA's recognition for streamlined access to knowledge resources and expert advice, especially in regional offices and among various business units. Ms Pretty Mabanga, who is overseeing the project, highlighted the challenges faced by prosecutors and officials in accessing critical information and expert guidance, which often led to inefficiencies and missed opportunities.

"This marks a pivotal moment for us," Ms Mabanga stated. "The KM Hub not only consolidates vast information and expert feedback but, also fosters a culture of shared learning and informed decision-making."

## Key features of the Knowledge Hub include:

**Knowledge Centre:** A repository housing harvested knowledge, expert feedback, and prosecutor references.

**Information Centre:** Provides access to comprehensive information databases.

**Library Catalogue:** Enables easy search for book titles from office locations.

**Ask an Expert Facility:** Allows officials to submit queries and receive feedback.

**Prosecutor Quick Guides:** Provides essential resources such as case summaries/ judgements, examples and guidelines

The hub aims to prevent duplication of efforts, facilitate the sharing of expertise, and ensure that new employees can quickly integrate into their roles with access to comprehensive resources. Moreover, it promises to safeguard institutional memory by preventing the repetition of past mistakes.

"Officials are encouraged to explore the hub's features, including an instructional tour available under the training material tab," Ms Marti Alberts, emphasised. "This ensures everyone can maximise the benefits offered by this transformative tool."

The launch of the KM Hub signifies a proactive step by the NPA towards enhancing operational efficiency and knowledge management, ultimately reinforcing its commitment to excellence in prosecutorial services.



# THE NPA CELEBRATES GBV WOMEN SURVIVORS

*Eric Ntabazalila*  
RCM: Western Cape Division

The National Prosecuting Authority in the Western Cape held two Women's Day events in Cape Town and George on 23 August 2024 to celebrate Gender-Based Violence survivors who have had the courage to claim back their lives and dignity, following their gruesome and degrading experiences.

The special guests were 60 survivors from all over the peninsula who were hosted at the Hellenic Community Centre in Mouille Point, Cape Town. Opening the event, Western Cape Director of Public Prosecutions, Adv Nicollette Bell, said the best time to celebrate the brave, courageous and powerful women of strength who are no longer referred to as victims but, survivors of a crime, is during the Women's Month.

"The ones who survive these vicious attacks of violence and who are brave enough to report the crimes are our brave survivors. As prosecutors and court preparation officers we believe their bravery to face their assailants and to go through the criminal process needs to be celebrated. A conviction not only instils trust in the justice system, but also encourages others to report and hopefully deter people from perpetrating these violent crimes.

"The aim of this event is for the NPA staff to spoil and serve 60 of our survivors for the day by pampering them with gifts and entertainment to show them that the NPA cares. They are not alone in this journey and we will always do our best to support them all the way until they have recovered their dignity."

It is the second year the NPA hosts this event with the assistance of sponsors who donated the venue and other precious presents which were handed over to the survivors. Sponsors were recognised for their contribution with Adv Bell handing over certificates as a token of appreciation for their generosity. NPA staff members worked tirelessly to make the day a success. They paid out of their own pockets for the meals, spot prizes and additional gifts.



**Women who are Gender-Based Violence survivors from across the Western Cape province.**

Advocates from the DPP Office, Chief Prosecutors, Prosecutors and Court Preparation Officers from different clusters, Soca Unit staff members, Friends of Child Protection, Matla A Bana and MOSIAC also attended the event.

The event resumed with a moment of silence paying tribute to women who passed on due to Gender-Based Violence and Femicide. Speakers included survivors of Gender-Based Violence and sexual assaults who shared their experiences; and this brought about shared emotions as many people in the room could understand their odeadls.

Mosaic informed the survivors of the role and services in supporting Gender-Based Violence and provided all the survivors with their Power 2 U bag and a safety demonstration on how they can protect themselves in a potentially dangerous situation. The bag had a whistle, pepper spray and a safety plan map.

As the event drew to a close, Adv Bell led NPA staff members in a pledge committing themselves to continue the fight against Gender-Based Violence and to support all victims and survivors to the best of their ability. At the close of the event, one of the survivors, Ms Zono made a special request to thank the NPA staff and delivered a heart-felt and overwhelming message of appreciation to the team.

# YOU ARE WHAT THE COUNTRY NEEDS: RAPE SURVIVOR TO PROSECUTING TEAM

*Luxolo Tyali  
RCM: Eastern Cape Division*

A rape survivor who was raped more than 27 years ago, Siphokazi Nonjobe, who gave permission for her name to be published to encourage other victims to disclose their ordeals, had praised the prosecution and investigating team that ensured that the Zwelitsha Regional Court sentences Xolani Qanqane (58), to 11 years imprisonment for raping her when she was only 14 years old in 1997. The now 41-year-old woman, a communications officer for the Eastern Cape Department of Social Development, was visiting a shopping centre in Qonce (formerly King Williams Town), where Qanqane was working as an independent photographer. She was with her cousin, and they were approached by the photographer who requested that he take a photograph of them. They reluctantly agreed.

After the photo shoot, Qanqane lured the victim to another photographer's stand to find change. During that time, the victim's cousin had gone into another shop to purchase some items. Whilst at the other photographer's stand, he had a photograph taken with the victim although without her consent. Sometime later, it came to the attention of the victim that the accused was claiming her to be his girlfriend and that he was sharing with people the photograph taken of the two of them to bolster his claim. The victim was very annoyed by this and was concerned that this would get to the ears of her parents. She decided to confront the accused at his place of work.

Qanqane offered to give the victim the photograph of the two of them. However, he said the photograph was at his house. As they got close to his vehicle the accused slapped the victim and bundled her into his vehicle and threatened her with a firearm, telling her that "he kills young girls who do not listen". He then drove her to his flat in the nearby township of Dimbaza, where he violently raped her before threatening her with death

if she told anyone about the incident. This terrified the victim and indeed she made no report about this incident for years.

When the victim enrolled at a university she fell in love with someone, however, this relationship experienced problems when her partner wanted to be intimate with her. It was only after constant prodding that she revealed to her partner what had happened to her. It was the first time that the victim spoke about the incident. Years passed with the victim carrying this emotional baggage. She sought the assistance of a clinical psychologist to help her cope with the trauma. At some time during 2020, the victim was crossing a road in East London when a Minibus taxi drove passed. She recognised the driver as the man who had raped her years before. The taxi had cellphone numbers written on it and she wrote them down. After building up the courage, she phoned him with the sole purpose of seeking an apology. Instead of acknowledging his actions, Qanqane mistook her for someone else and told her that he was already punished for what he did to her. It was at that moment that she realised that she was not the only victim of the accused.

She opened a case in 2021. The only evidence in the docket was her statement. The Senior Public Prosecutor, Brenan Sam, had to find evidence to corroborate the victim's version after more than 24 years. He embarked on a painstaking process, working closely with the investigating officer, and building a case against the accused from scratch. Regional court prosecutor, Mzwandile Selanto, led the evidence of the victim and her first report, the ex-boyfriend, and confronted the accused with a robust cross-examination. With the assistance of the court preparation officer Phelisa Matinise, the highly emotional victim was able to give accurate evidence.

(Attached, find a message sent by the victim to the NPA expressing her gratitude for the states' efforts.)



**Court Preparation Officer, Phelisa Matinise, rape survivor Siphokazi Nonjobe and Regional Court Prosecutor Mzwandile Selanto**

# DNDPP APPLAUDS GAUTENG LOCAL DIVISION'S SUCCESSFUL PROSECUTION RATE

*Abram Mohlatlole*

*Communication Officer: Gauteng Local Division*

The Deputy National Director of Public Prosecutions (DNDPP), Advocate Rodney De Kock, visited the Gauteng Local Division (GLD) office as part of his nationwide campaign to evaluate the division's performance and its contribution to the Criminal Justice System.

During his address, Advocate De Kock acknowledged the challenges faced by the institution and emphasised the importance of collaboration with other law enforcement agencies to ensure successful prosecutions. He highlighted the need for the National Prosecuting Authority (NPA) to align its policies with the new administration of the Government of National Unity (GNU), to foster a cohesive approach to combat crime and promote justice.

The DNDPP pointed out that the public and media measure the fight against crime by the number of cases in court and convictions thereof. He commended the prosecutors for their efficient case finalisations, stating that, "We currently have a 91% conviction rate in the

High Courts, exceeding the 87% target. The Regional Courts also showed notable achievements, with an 82.5% conviction rate against a target of 74%." The Sexual Offences and Community Affairs (SOCA) unit demonstrated exceptional performance, with a 94% conviction rate in femicide prosecutions and the successful finalisation of 369 murder cases and 119 sexual offenses.

While the conviction rate is impressive, the DNDPP highlighted the need for the prosecution to work tirelessly to address the alarming murder rate, which he described as a "sad indictment" on the prosecution. Adv De Kock visit aimed to reflect on the division's performance and vision, and his address served as a motivational boost to the prosecutors and administrative staff. He encouraged them to continue their excellent work in the fight against crime, acknowledging that isolated delays do occur, but overall the division has shown remarkable results.

Reflecting on the division's performance; it was noted that the High Court has demonstrated commendable performance, whereas the Regional Court finalisation rate has shown gradual improvement but, not yet at pre-COVID-19 levels. Meanwhile, the District Courts are also showing improvement, but case management remains an essential tool to manage performance. Despite the NPA's commitment to advertising vacancies, budget constraints may necessitate strategic approach to recruitment for the capacitation of the institution.

"The NPA and other stakeholders must work together with prosecutors guiding investigations to ensure successful prosecutions," he said. The DNDPP's visit reinforced the importance of collaboration and efficient case finalisation in the fight against crime. The visit demonstrated the DNDPP commitment to supporting the GLD in achieving its vision and overcoming challenges. The impressive conviction rates and successful finalisation of cases testify to the hard work and dedication of the GLD, prosecutors and administrative staff.



**DNDPP: NPS, Adv Rodney de Kock, DPP Gauteng Local Division, Adv Andrew Chauke with leadership and staff of the GLD office**

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# KHASHO

NEWS

8<sup>th</sup> Edition



## FEATURED INSIDE

- > Double life sentence for rape of two minors
- > Landmark SCA appeal victory for KwaZulu-Natal Division
- > Community Prosecution Initiative - JHB High Court precinct
- > NPA participates in Integrated Criminal Justice System Conference

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National Prosecuting Authority  
South Africa

# KHASHO

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# DOUBLE LIFE SENTENCE FOR RAPE OF TWO MINORS

*Mashudu Malabi Ndzhangi  
RCM: Limpopo Division*

The Lenyenye Regional Court in Limpopo convicted and sentenced Thabang Joel 'Jepe' Makgopa (32), and Aarone Makhubele (34) from Ga-Motupa village to double life imprisonment for rape and compelled rape, 10 years for a count of witnessing a sexual offence and five years for assault with intent to cause grievous bodily harm. The court further sentenced Makgopa to 10 years for two counts of robbery and Makhubele to an effective 14-year imprisonment for two counts of robbery.

## Are there any challenges you encountered while prosecuting this case?

When I started the trial, both victims were students at tertiary institutions, and they had to skip classes to accommodate court proceedings. Makgopa's brother was alleged to have been involved in negotiating with the accused persons to return the cellphones, however, the brother distanced himself from such allegations and did not want to be involved. The community member who identified the accused persons was found to have been closely related to one of the accused (Makgopa) and she was reluctant to testify against him. The DNA evidence could not link Makgopa, and the prosecutor overcame this challenge by leading the evidence of the forensic expert who clarified that Makgopa's exclusion does not imply that he did not commit the offence. Lureshini Naidoo, was able to clarify that Makgopa's exclusion may have occurred as a result of using condoms during the incident, lack of ejaculation, or insufficient swabs taken. The cases could not proceed on more than one occasion due to the ill health of the accused, and at times, unavailability of the legal representative of both accused.

## How did the incident affect the minor?

According to the Victim Impact Statement, the incident affected both victims physically, emotionally, academically, psychologically, and financially. It is indicated that the female victim felt ashamed about the incident and had to relocate to another village to protect her dignity. It is indicated that the incident left her powerless and vulnerable because she could not face community members. The reports further indicated that the male victim used to experience nightmares after the incident, and the accused once threatened to come for him, which resulted in him living in fear.



**Prosecutor Yuza Ebson Baloyi**

He also indicated that the attendance of court strained him financially and the decline in his academic performance resulted in him losing the NSFAS funding.

## What evidence did you secure for the state's case?

I led evidence of the victims and told the court that on 25 March 2017, the victims were in Ga-Motupa village when the accused persons emerged and robbed them of their cellphones. Their evidence revealed that during the said robberies a certain woman attempted to rescue them, however, the accused instructed her to leave. They said that after the robbery the accused dragged them to a soccer field where the female victim was raped by both suspects in the presence of the male victim. They then forced the male victim to have sexual intercourse with the female victim, and further assaulted him. The victims reported the incident to their parents and directed them to the homestead of a woman who attempted to rescue them during the robbery. In conclusion of the evidence by the state, we led evidence of the medical practitioner who examined the female victim and the DNA evidence which only linked Makhubele.

## Final comments:

I have passion of prosecuting Gender-Based Violence cases. There is nothing that motivates me than seeing myself working hard to save society by protecting their rights and ensuring justice. I am here to deliver justice for the victims of Gender-Based Violence and I want to see women and children being safe and being able to walk in any place at any time freely without any fear of being victimised. When it comes to my career as a prosecutor, I do it with all my heart, without fear or favour. The main thing is that, as a people's lawyer, I must always strive for justice, fight, and protect the rights of the victims and also to uphold the Constitution, and the rights which every person has in the Constitution. As prosecutors, we need to work hard to bring Gender-Based Violence to an end and this is what I did in this matter.

# ADV KRAUSE SECURES A LENGTHY JAIL TERM FOR A SERIAL RAPIST

*Henry Mamothame  
RCM: North West Division*

The zeal and commitment of Adv Riekie Krause, persuaded the High Court of South Africa; North West Division, sitting at the Klerksdorp Regional Court, to sentence Johannes Ontsheketse Tshabile (43) to 11 life terms on rape charges and a cumulative 363 years for other serious charges that include 9 other charges of rape, attempted murder, theft, robbery with aggravating circumstances, robbery, attempted robbery, assault, assault with intent to commit grievous bodily harm, attempt to commit a sexual offence and sexual assault. Tshabile, who was on the list of the most wanted criminals in the North West, pleaded not guilty to all 65 charges on which the court found him guilty.

According to Adv Krause, the conviction emanates from incidents that took place in Wolmaransstad in the district of Maquassi, between December 2012 and May 2018, wherein he accosted unsuspecting women on the streets. He would then drag them to nearby fields, threaten them with a knife, rob them of their belongings and rape them before fleeing the scene. In some instances, he would strangle, stab them with a knife, assault with bricks and other objects before robbing and raping his victims. He would in some instances, accost couples and attack and assault the male counterparts before robbing and raping their partners after they had fled the scene. Amongst his victims are a 15-year-old girl and a 65-year-old woman. It also emerged in court that in some incidents he was accompanied by an unknown accomplice who also committed similar offences with him. He was linked to the offences through DNA.

Adv Krause gave much credit to Sergeant Pule Morake, and his team who were assigned by the South African Police Service (SAPS) and, who through their commitment and thorough investigations, managed to trace and arrest Tshabile in 2019. The collaboration between the two teams ensured that the court denied him bail. The accused, at some stage, managed to escape from the Wolmaransstad Police Station, aided by a police officer, but he was later rearrested and the police officer who assisted him was dismissed and criminally charged.



**Advocate Riekie Krause**

In aggravation of the sentence, Adv Riekie Krause, urged the court not to deviate from the prescribed minimum sentence of life imprisonment, considering the emotional, physical, and psychological trauma suffered by the victims in the hands of Tshabile. She further urged the court to consider the Victim Impact Statements, wherein the victims describe their ordeal and the trauma they continue to suffer in their day-to-day lives as a result of the rape and assault incidents. Adv Krause described the experience of engaging with the victims as too emotional, as they had to relive their ordeal when explaining what had happened to them. She expressed her gratitude and commended the Court Preparation Officer, Thabo Marige, from the NPA's Thuthuzela Care Center for the support and guidance given to the victims in preparation for trial.

The state managed to persuade Judge Tebogo Djadjie with its arguments and she remarked on the responsibility the court has in protecting society against such perpetrators, particularly after the victims lived in fear for almost six years. She further described Tshabile as remorseless and having no regard for women and children.

The Director of Public Prosecutions in the North West, Dr Rachel Makhari, together with the North West Provincial Police Commissioner, Lieutenant General Sello Kwena, lauded the prosecutor and Sergeant Pule Morake from the SAPS for ensuring that the victims were afforded the justice they deserve. They further commended the role played by the Sexual Offences and Community Affairs (SOCA) for discharging their mandate of prioritising sexual offences cases, and the Thuthuzela Care Center for providing the necessary support for the victims.

# YOU ARE WHAT THE COUNTRY NEEDS: RAPE SURVIVOR TO PROSECUTING TEAM

*Luxolo Tyali  
RCM: Eastern Cape Division*

A rape survivor who was raped more than 27 years ago, Siphokazi Nonjobe, who gave permission for her name to be published to encourage other victims to disclose their ordeals, had praised the prosecution and investigating team that ensured that the Zwelitsha Regional Court sentences Xolani Qanqane (58), to 11 years imprisonment for raping her when she was only 14 years old in 1997. The now 41-year-old woman, a communications officer for the Eastern Cape Department of Social Development, was visiting a shopping centre in Qonce (formerly King Williams Town), where Qanqane was working as an independent photographer. She was with her cousin, and they were approached by the photographer who requested that he take a photograph of them. They reluctantly agreed.

After the photo shoot, Qanqane lured the victim to another photographer's stand to find change. During that time, the victim's cousin had gone into another shop to purchase some items. Whilst at the other photographer's stand, he had a photograph taken with the victim although without her consent. Sometime later, it came to the attention of the victim that the accused was claiming her to be his girlfriend and that he was sharing with people the photograph taken of the two of them to bolster his claim. The victim was very annoyed by this and was concerned that this would get to the ears of her parents. She decided to confront the accused at his place of work.

Qanqane offered to give the victim the photograph of the two of them. However, he said the photograph was at his house. As they got close to his vehicle the accused slapped the victim and bundled her into his vehicle and threatened her with a firearm, telling her that "he kills young girls who do not listen". He then drove her to his flat in the nearby township of Dimbaza, where he violently raped her before threatening her with death



if she told anyone about the incident. This terrified the victim and indeed she made no report about this incident for years.

When the victim enrolled at a university she fell in love with someone, however, this relationship experienced problems when her partner wanted to be intimate with her. It was only after constant prodding that she revealed to her partner what had happened to her. It was the first time that the victim spoke about the incident. Years passed with the victim carrying this emotional baggage. She sought the assistance of a clinical psychologist to help her cope with the trauma. At some time during 2020, the victim was crossing a road in East London when a Minibus taxi drove passed. She recognised the driver as the man who had raped her years before. The taxi had cellphone numbers written on it and she wrote them down. After building up the courage, she phoned him with the sole purpose of seeking an apology. Instead of acknowledging his actions, Qanqane mistook her for someone else and told her that he was already punished for what he did to her. It was at that moment that she realised that she was not the only victim of the accused.

She opened a case in 2021. The only evidence in the docket was her statement. The Senior Public Prosecutor, Brenan Sam, had to find evidence to corroborate the victim's version after more than 24 years. He embarked on a painstaking process, working closely with the investigating officer, and building a case against the accused from scratch. Regional court prosecutor, Mzwandile Selanto, led the evidence of the victim and her first report, the ex-boyfriend, and confronted the accused with a robust cross-examination. With the assistance of the court preparation officer Phelisa Matinise, the highly emotional victim was able to give accurate evidence.

(Attached, find a message sent by the victim to the NPA expressing her gratitude for the states' efforts.)

# KHASHO

8<sup>th</sup> Edition

NEWS



## FEATURED INSIDE

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- > Landmark SCA appeal victory for Kwazulu-Natal division
- > Community Prosecution Initiative - JHB High Court precinct
- > NPA participates in Integrated Criminal Justice System Conference

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National Prosecuting Authority  
South Africa

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# TAX PROSECUTOR ENJOYS TAXING FEATS

*Eric Ntabazalila*  
RCM: Western Cape

Senior State Advocate Wimpie Els, of the Specialist Tax Unit: Western Cape, enjoys the outdoors and achieving great feats. He recently completed the 8,5km Robben Island Crossing, a non-stop ocean swim. Els is a member of the Cape Long Distance Swimming Association (CLDSA) and swimming from Robben Island to Big Bay (Bloubergstrand), is a challenge, not a race. Medals are awarded to finishers and finishing times are recorded by CLDSA.

*He recently completed the Midmar 9-mile (14,4km) Open Water Challenge in February this year.*

Els is counted among a few who had braved the chilly Atlantic Ocean waters. In fact, his name is mentioned among those of greats like Henry Charteris Hooper, who took the first Robben Island swim in 1909 and swum from Robben Island to the old Cape Town Harbour.

His motivation- "Life is an adventure, which I enjoy and that should not get wasted. Swimming and staring into a clear, unfamiliar, massive water world beneath you is such a wonderful experience.

Regular walks on a beach or the extremely popular 5km Park Run/Walk are all great starts. I was blessed to grow up in a family where sport and the outdoor activities were shared and enjoyed by all family members. I was never a podium contender but loved sport in general. The blessing of still having it today, is overwhelming."

Sport activity still runs in the Comrades Marathon medalist's family. His son and friends regularly go on early morning mountain hikes, his wife regularly dons her jogging shoes, his mom in her 80's, does not miss a day without playing her bowls and his younger sister is in full preparation to join her brother in the Two Oceans Marathon.



**Senior State Adv Wimpie Els**

*"I suppose as the years passes by, one also realises that our ability to enjoy sport, is not indefinite and that our physical abilities have expiry dates; and so, for that reason, my motto is, ... grab the day, tomorrow is nothing more than a hope".*

"We are blessed with a beautiful country. Mountains, 1000 of kilometers of pristine seashore, rivers and dams, hiking routes, open air as well as endless kilometers to go for a jog. Getting up at 4:40am daily to jump on the motorbike to get to where my morning bit of exercises happens (on tar or in the water), is a great daily routine."

Adv Els recently completed his 16th Cape Town Cycle Tour (Argus). He then tackled the Robben Island Crossing. When this article is published, he would have completed the West Coast Marathon in the West Coast National Park, Langebaan, in preparation for the Two Oceans Ultra Marathon and then the Comrades Marathon in June.

"I love the variance in activities. Cycling, running, swimming etc. all require different training and demand all of one's body to be kept in a reasonably fit and healthy condition, which to my view, is more beneficial for overall health.



**Senior State Advocate Wimpie Els enjoying the outdoors in his spare time**



# NPA COMMEMORATES WORLD DAY AGAINST TRAFFICKING IN PERSONS IN MOZAMBIQUE

Monica Nyuswa  
RCM: Mpumalanga Division

*Trafficking in Persons is a serious crime and a grave violation of human rights. It presents a serious challenge to communities and to the society at large hence, the Mpumalanga Trafficking In Persons Task team joined forces with the Office of the Attorney General of*

Mozambique to commemorate the World Day Against Trafficking in Persons in Ressano Garcia, Maputo Province. The campaign is aligned with the broader objectives of the United Nations Office on Drugs and Crime and the Southern African Development Community (SADC).

This joint initiative comes after a bilateral meeting where both teams agreed to collaborate more closely in fighting human trafficking in areas near shared borders. The National Prosecuting Authority's Sexual Offences and Community Affairs Unit together with the Department of Justice and Constitutional Development led by Advocate Ramathikithi was part of the delegation including Home Affairs, SAPS, (UNHCR), Salvation Army, Save the Children and other departments. The objective was to raise awareness of the plight of human trafficking and enhancing the capacity of law enforcement to effectively prevent and address human trafficking.

The campaign started with a march at Lebombo Border joined by the community and learners from various schools on the Mozambique side of the border. The National Prosecuting Authority's Advocate Beauty Cibangu, was on the programme, she emphasised on the role played by the NPA Mpumalanga Trafficking Task Team in fighting the scourge of trafficking In persons for sexual and labour exploitation.





Furthermore, she highlighted the dangers of Trafficking In Persons. She said, traffickers prey on the vulnerable and rob them of their fundamental rights. She explained that trafficking in Persons takes many forms and knows no borders. Closing her presentation, Adv. Cibangu said "let us come together around the key issues of prevention, protection and prosecution to build a future where crime cannot exist".

The event was good and characterised by entertainment activities and people were eager to obtain information.





# THE NPA CELEBRATES GBV WOMEN SURVIVORS

*Eric Ntabazalila*  
RCM: Western Cape Division

The National Prosecuting Authority in the Western Cape held two Women's Day events in Cape Town and George on 23 August 2024 to celebrate Gender-Based Violence survivors who have had the courage to claim back their lives and dignity, following their gruesome and degrading experiences.

The special guests were 60 survivors from all over the peninsula who were hosted at the Hellenic Community Centre in Mouille Point, Cape Town. Opening the event, Western Cape Director of Public Prosecutions, Adv Nicollette Bell, said the best time to celebrate the brave, courageous and powerful women of strength who are no longer referred to as victims but, survivors of a crime, is during the Women's Month.

"The ones who survive these vicious attacks of violence and who are brave enough to report the crimes are our brave survivors. As prosecutors and court preparation officers we believe their bravery to face their assailants and to go through the criminal process needs to be celebrated. A conviction not only instils trust in the



justice system, but also encourages others to report and hopefully deter people from perpetrating these violent crimes.

"The aim of this event is for the NPA staff to spoil and serve 60 of our survivors for the day by pampering them with gifts and entertainment to show them that the NPA cares. They are not alone in this journey and we will always do our best to support them all the way until they have recovered their dignity."

It is the second year the NPA hosts this event with the assistance of sponsors who donated the venue and other precious presents which were handed over to the survivors. Sponsors were recognised for their contribution with Adv Bell handing over certificates as a token of appreciation for their generosity. NPA staff members





worked tirelessly to make the day a success. They paid out of their own pockets for the meals, spot prizes and additional gifts.

Advocates from the DPP Office, Chief Prosecutors, Prosecutors and Court Preparation Officers from different clusters, Soca Unit staff members, Friends of Child Protection, Matla A Bana and MOSIAC also attended the event.

*The event resumed with a moment of silence paying tribute to women who passed on due to Gender-Based Violence and Femicide. Speakers included survivors of Gender-Based Violence and sexual assaults who shared their experiences; and this brought about shared emotions as many people in the room could understand their ordeal.*

Mosaic informed the survivors of the role and services in supporting Gender-Based Violence and provided all the survivors with their Power 2 U bag and a safety demonstration on how they can protect themselves in a potentially dangerous situation. The bag had a whistle, pepper spray and a safety plan map.

As the event drew to a close, Adv Bell led NPA staff members in a pledge committing themselves to continue the fight against Gender-Based Violence and to support all victims and survivors to the best of their ability. At the close of the event, one of the survivors, Ms Zono made a special request to thank the NPA staff and delivered a heart-felt and overwhelming message of appreciation to the team.