

KHASHO

NEWS

8th 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



National Prosecuting Authority
South Africa

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Letter from the Managing Editor

It brings us great pleasure to have the National Director of Public Prosecutions as our number one reader of Khasho. Her feedback drives us to do better in all our editions. We encourage all of you to take a leaf from the NDPP's book and do the same. As you all know, we use Khasho to strengthen our internal communication for effective organisational information flow, with the aim to reach the entire NPA readership.

The past six months of the year have been characterised by a mixture of challenges and achievements for the organisation, which we have shared with you through information bulletins. The highlight was indeed the signing of the NPA Amendment Bill into law to establish the Investigating Directorate Against Corruption (IDAC) as a permanent and adequately empowered entity within the office of the NDPP. This is a big deal for the NPA as this will strengthen our resolve to take the fight to the criminals, and as we forge ahead to break the spinal cord of crime. Read more about the importance of the signing of this bill into law on page 22 – 23.

This edition is jam packed with many exciting news that include the launch of new TCCs; signing of an MOU by the NPA and ACFE; Electronic Case Management System (ECMS) implementation and NPA's participation on the Integrated Criminal Justice System conference. We bring you all these articles for your information, we hope you will enjoy reading them.

To keep you in the loop, we have always adopted a strategy of publishing NPA performance and other important organisational information in Khasho. Read the Leadership Corner and learn about where the organisation is with respect to its governance issues.

Articles about court cases are a common feature in all our editions so that we can share with you experiences of our hard-working prosecutors and to brag a little about their work. This edition is no different.

We continue to value your feedback and contributions which are the ones that have made Khasho the cutting-edge newsletter that it is, which positions the work of the NPA and its people. Use this email address: khasho@npa.gov.za for feedback.



Ms Bulelwa Makeke
Acting DDG:
Corporate Services

Leadership Corner

The financial year 2023/24 was one characterised by a hive of activity on all fronts for the NPA, as it would be expected for the final year of the MTSF, which also signalled the last lap before the end of the Sixth Administration of the Republic of South Africa.

Most significantly, we faced an intensive audit process. For this year, the Auditor-General focused on Programme 2 (Court Services) and Programme 4 (NPA) of the Department of Justice for their audit. The selection of these programmes is primarily because they most reflect the department's performance on its primary mandated functions that are of significant national, community or public interest.

The decision of ManCo in February 2024 to report performance on the Electronic Case Management System (ECMS) as from 01 April 2024 is a bold step going forward, to circumvent the high risk that human error brings to our performance reporting processes.

This decision was not made easily; it was out of realisation of how much risk a manual performance reporting system poses for an organisation such as the NPA, which is highly performance driven in its nature. The high risk of human error in capturing and reporting performance information by prosecutors, while also being responsible for the actual performance in court (including the necessary preparation and relevant consultations, in the act of dispensing justice) led to the change in approach to performance reporting.

Of course, full reliance on ECMS does not come without a fair amount of challenges. A technical committee comprising of officials from various key areas including NPS Ops, ISM, Finance, Communication and HR's Organisational Development meet on a weekly basis to monitor implementation progress, to troubleshoot technological and connectivity issues and to come up with workable solutions to overcome the challenges. The Acting DDG is responsible for escalating challenges to the DG and top leadership of the DoJ&CD and to find effective solutions.

The audits will be finalised by the end of July 2024 and the AG will publish their findings in the management report that is part of the annual report, which includes the Department's annual financial statement. The AG's interim management report issued in May 2024 gave a reflection of all the problem areas in our environment, mainly relating to performance reporting. As a result of this, the NDPP engaged with the DPPs and heads of business units and instructed them to submit their reports on lessons learnt from this audit process, and the commitments they were making to ensure that all identified issues never come up again.

The lessons from this audit must inform our strategy to enhance governance and compliance in the organisation. As an organisation that seeks to establish its operational and financial independence, it is critical that governance and compliance with legislation and regulatory frameworks of government are strictly adhered to. This will be particularly important to ensure, as we move into the Seventh Administration of government.

PROSECUTION: NOT FOR THE FAINT HEARTED

Lumka Mahanjana
RCM: Gauteng Division, Pretoria

"Prosecution is not for the faint-hearted", said regional court prosecutor, Salesah Phahlamohlaka who has been a prosecutor for 19 years. She joined the NPA in 2005 as an aspirant prosecutor in Bloemfontein and moved to Boksburg as a district court prosecutor. In 2007, she was appointed as a relief prosecutor in the Vaal Rand and was later appointed as a regional court prosecutor in Springs from 2015. "With so many years of experience, it is still shocking when I have to prosecute cases such as the case of Sibusiso Richard Rapedi (35), who was sentenced to two life terms for two counts of rape of a nine-year-old girl. Rapedi lived in the same area as that of the minor girl who was staying with her grandmother. He would wait for the child at a corner of a local shop when returning from school and would force her to walk with him to his place, where he raped her. Thereafter, would give her R5 to buy chips. The incidents happened 6 times, but the child was only able to remember dates of two incidents.

Dealing with such a case is somehow traumatising especially because I am also a mom to a girl, but through experience, I learnt not to take such cases personally. But because I am passionate about my work, I sometimes catch myself thinking of ways to tackle the court cases even during my spare time. Ensuring justice for the victims is my priority and is the reason I do what I do.

What makes this case stand out for me, is the fact that it was the first time I dealt with a case where the accused person was given two life sentences, after he denied committing the offences. I had to rely on a single witness, which was the child, and the



Regional Court Prosecutor, Salesah Phahlamohlaka

first count evidence was supported by medical evidence of the second count which was reported on the same day of the incident. I have also found out that consulting with the victims assists a lot when dealing with cases such as this one. Furthermore, what is helpful is sending the victims to the court preparation officer to proceed with the relevant court preparation services. I discovered that when victims have consulted with the court preparation officer, they start to open up more and are able to give their evidence in court.

When asked what else she would do if she was not a prosecutor, Phahlamohlaka said, there is nothing else she would do other than this. She tried to register for education but soon after, realised that her calling was to become a prosecutor?

The Director of Public Prosecutions, Advocate Sibongile Mzinyathi said, prosecution is not for everyone. He is therefore thankful to have prosecutors in his division who understand that prosecution is not for the faint-hearted but still chose the career.

MAN SENTENCED TO LIFE IMPRISONMENT FOR FEMICIDE

Monica Nyuswa
RCM: Mpumalanga Division

The Mpumalanga High Court sitting in Delmas convicted and sentenced Thabo Silas Tsotetsi (42) to life imprisonment, for premeditated murder of his lover Nosipho Caroline Mthombeni (34). Before the incident happened, the accused was residing with another woman who fell pregnant in 2020 and went to her homestead to prepare for the child to be born. It was at that time when the accused dated Mthombeni, brought her into his house and they stayed together in Balfour. On 26 August 2022, the couple and the deceased had a heated argument about the accused's baby mother. It became physical and the accused throttled her to death. He then hid her lifeless body on the ceiling of his house.

A few weeks after the incident, the accused requested the mother of the child to come back so that they could raise their child together. She agreed. Whilst in the house, the mother of the child was disturbed by a bad smell and the worms coming from the ceiling board of the house. When she asked him about it, he told her that it is the smell of rats and that she must not enquire more about it. She further witnessed the accused twice climbing through the ceiling trap door in possession of jeyes fluid trying to snuff out the smell in the ceiling. As time went by, the deceased's family noticed that she was not



Advocate Getrude Nkosi

in communication with them and went silent on social media. They enquired from the accused about their child and he could not give a satisfactory answer. Instead, the accused disappeared under the pretext that he was going to pay the bills for the house and never returned.

Mthombeni was reported missing to the police and the search was intensified. Which led to the discovery of her decomposed body and his arrest. State Advocate Getrude Nkosi represented the state in this matter. During sentencing, she addressed the court about the seriousness of the offence the accused is convicted of and the prevalence of femicide cases in the country. She submitted that there were no substantial and compelling circumstances justifying deviation from the prescribed minimum sentence. Furthermore, she handed in 3 Victim Impact Statements facilitated by the Court Preparation Officer, Khethiwe Mathebula, where the victims expressed how the death of their beloved daughter affected them. The deceased's mother detailed that they are still tormented by the death of their daughter and she was still carrying a lot of pain and anger as the deceased was her only child and a breadwinner. The court did not find any substantial and compelling circumstances to deviate from the prescribed minimum sentence of life imprisonment.

Commentary from Advocate Getrude Nkosi

What stood out for me, are the tactics used by the police in tracing the accused until his arrest, after he disappeared for a period of six months. The collaboration between myself and the investigating team which led to the successful prosecution of the matter is another highlight. Furthermore, the deceased's family was pleased with the sentence imposed on the accused. They indicated that this sentence has restored their faith in the criminal justice system.

WOMAN SENTENCED FOR HIRING HITMAN TO KILL RELATIVES FOR INSURANCE MONEY

Mojalefa Senokotsoane
Acting RCM: Free State Division

In what has become a phenomenon of people killing their relatives and loved ones for insurance money, the High Court of South Africa, Free State Division, sitting in Bloemfontein, recently sentenced Molefi Molise and Keletsang Martha Motladile after the two accomplices were found guilty of murdering two relatives of Motladile. Motladile had hired Molise to kill her aunt as well as her cousin at their home on 23 March 2019.

On the day of the incident, the two victims, Lesang Sarah Motladile and her son Bongani Goodwill Motladile were abused, shot, and killed by unknown persons using automatic rifles in their home in Ramakgari Location near the town of Thaba Nchu, in the Free State Province. This unfamiliar sight within a sleepy rural village of the Free State shocked the community. Due to the seriousness of the case, most experienced members of the detectives unit within the South African Police Service were assigned to the case.

The police began their investigations and continued until Molise was arrested in Fourniesburg and the R1 Automatic rifle as well as other guns were discovered in his possession. The accused was arrested after an intelligence-driven operation by the intelligence operatives discovered that the accused was in the area. The rifle was taken for ballistics testing and it came back positive for the two murders of the mother and her son. It also came back positive for the murder of Ernest Mokhele who had been killed on 26 January 2019, in the town of Botshabelo near Bloemfontein, after the accused demanded the keys to his Sports Utility vehicle. The son of Ernest Mokhele was also arrested as a suspect for orchestrating the murder of his father but was later acquitted by the court due to lack of evidence.

After the arrest of Molise, the police investigation continued to link the two incidents where three people had lost their lives. The police forensic investigation connected



Advocate Dansi Mpemvane

Keletsang Motladile as having hired Molise to kill her two relatives as she had life policies/insurances worth R347 000 on them. The investigations also proved that the accused was paid an amount of R29 000 to kill the mother and her son.

Molefi Molise, was charged with attempted robbery with aggravating circumstances, attempted murder, three counts of murder, possession of a semi-automatic rifle without a licence, possession of ammunition, and possession of a prohibited firearm. Keletsang Martha Motladile was charged with two counts of murder of her two relatives.

One of the best legal eagles of the NPA was assigned to this important case. During the trial, the state represented by State Advocate Dansi Mpemvane, argued for the court not to deviate from prescribed sentences for such heinous crimes. That there were no substantial and compelling circumstances that would impel the court to deviate from prescribed sentences for such gruesome murders. Mpemvane further argued that the accused did not take into consideration that the deceased had a right to life and protection when he killed them. The advocate added that "these murders were senseless, premeditated, and callous. The accused were motivated by greed which drove them to even killing family members. Molise showed no remorse as he continued on his killing spree, taking the lives of three innocent victims. The accused robbed the deceased of their future and the enjoyment of all other rights. The accused does not belong in society, and the court should impose life imprisonment for both accused."

Due to the diligent work by the prosecution team in getting this matter successfully concluded. The High Court sentenced Molefi Molise to life imprisonment on three counts of murder, 7 years for attempted robbery with aggravating circumstances, 12 years imprisonment for attempted murder, 25 years imprisonment for possession of automatic rifle without a licence, 15 years for possession of a semi-automatic rifle, 12 years for ammunition for an automatic rifle and 3 years for ammunition for a semi-automatic rifle. Keletsang Martha Motladile was sentenced to 30 years on each count of murder, an effective term of 60 years which will run consecutively.

UNCLE SENTENCED TO 18 YEARS FOR RAPING NIECE IN 1992

Mojalefa Senokotsoane
RCM: Northern Cape Division

The saying "Letsoho la molao le letelele" loosely translated (the long arm of the law has no expiry date) was more evident when an uncle (who cannot be named to protect the victim) who had raped his niece 32 years ago, was sentenced by the Mothibstad Regional Court. The accused was charged with two counts of rape under common law. He was found guilty by the regional court and sentenced to eighteen years of direct imprisonment.

The state alleges that the accused, who was a teacher, raped the teenager on numerous occasions between the years 1992 and 1994. The prosecution charges that the accused raped his niece who was 16 years old during the commission of the offence in February 1992, and then on numerous occasions between 1992 and 1994.

The accused who was 32 years old at the time and living in a school hostel in Mothibstad with his wife, baby daughter and the victim, started to rape the victim in her bedroom in February 1992, when the victim awoke one night to find a pillow covering her face and the accused raping her. Following the first rape incident, the accused took advantage during the times when his wife was not at home and would continue to rape the victim in the same manner.

The accused would also on occasions make up excuses as to why the victim needed to accompany him to the building site of his new home where he would rape her. The victim gave birth to a child in 1995 as a result of the rape incidents. Thereafter, various family meetings were held, where the victim was urged to keep "family secrets" and not tell anyone of the rape incidents, as this would destroy the accused and his wife's career. The victim only dared to report the rapes to the police in 2017, and after an intensive and rigorous investigation by the police, the accused was arrested.



State Prosecutor, Bernice Bronkhorst

During the trial, the court heard how the accused after one of the rape incidents at the building site, had told the victim to "keep her little mouth shut" about the rapes and how he threatened her that he "prayed very hard and that she would be killed by God" if she says anything. He further urged the victim to read Proverbs 4:4 (to listen to her elders, lest God punishes you) as part of threatening the victim to never report his crimes. The testimony of the victim adduced that she was raped at least 15 times by the accused in the period of 1992 and 1995.

Even though the crimes were committed over 30 years ago, the State Prosecutor, Bernice Bronkhorst fought tooth and nail to ensure that the case was successfully prosecuted. During the trial, Bronkhorst argued that in light of the serious nature of the offences in the circumstances of the case as well as the irreparable psychological harm of the rapes on the victim, deterrence of would-be offenders, as well as the retribution for the victim's harm outweigh the personal circumstances of the accused. Further, that his age (64), was a non-factor in the court's sentencing consideration, and that the court should sentence the accused to a maximum sentence applicable for such a crime.

In sentencing, the court found in favour of the prosecution and the accused was found guilty on both counts of rape. The Accused He was sentenced to 8 years direct imprisonment on count one and 10 years of direct imprisonment on count two. The sentences are to run consecutively.

Prosecutor Bronkhorst would like to thank the prosecution team and the police, who ensured that even if the crimes were committed 30 years ago, justice was served, and the victim got closure. The prosecutor hopes that this sentence will send a clear message to other perpetrators of GBVF that justice does not have an expiry date, they will be caught and prosecuted without fear, favour or prejudice.

LANDMARK SCA APPEAL VICTORY FOR KWAZULU-NATAL DIVISION

Natasha Ramkisson Kara
RCM: KwaZulu- Natal Division

This year, during the month of March, the Supreme Court of Appeal (SCA) handed down a judgement overturning the controversial *S v Mahlatse* case that has been used by the courts when handing down sentences in gang rape matters, where only one person is arrested. While this precedent setting judgement is a huge triumph for the KwaZulu-Natal Division (KZND) and the NPA at large, it is a mammoth victory for the victims of rape.

Deputy Director of Public Prosecutions in KwaZulu-Natal (KZN), Advocate Candy Kander, gives Khasho an in-depth and heartfelt account of the victory and her experience in securing this historical achievement.

Some background into the original case

The appellant was one out of a three-man gang who kidnapped and ganged raped a 22-year-old woman. The accused had prior to the incident in question, made romantic advances toward the complainant. The complainant spurned his advances, which angered the appellant and prompted him to kidnap the complainant and rape her. Together with two cohorts, they broke into the complainant's home in the dead of night. They kicked down the door to the home and forcefully removed the complainant, dragging her to the appellant's house a distance away. They left her crying infant behind.

At the appellant's house, the complainant was stripped naked, tied to a bed, blind folded and repeatedly raped for hours, which caused her to bleed. The assailants



Deputy Director of Public Prosecutions, Advocate Candy Kander

taunted and jeered her while they sat smoking. The only assailant she was familiar with and could identify was the appellant. The others concealed their faces. The assailants discussed killing the complainant. At some stage the complainant was locked up in a room while the assailants went out drinking. It was then that she managed to loosen her constraints and fled through a window and ran until she reached her home.

Before the regional court, the appellant was the only assailant prosecuted. He was convicted of the kidnapping and rape in circumstances where the complainant was raped by a gang of males. The Appellant was sentenced to life imprisonment. He appealed the sentence. On appeal, the KwaZulu-Natal (KZN) full bench was split, and a third judge was therefore added to the bench. The majority decision of the KwaZulu-Natal Division (KZND) Appeal Court held that it was bound by the doctrine of precedence and therefore bound by Mahlase. As such, since the appellant was the only perpetrator brought to book, life imprisonment was not a competent sentence. The KZND substituted the sentence of life imprisonment with a 15-year sentence.

What gave rise to the present appeal?

The fact of the matter is that since 2013, the Mahlase dictum has placed the courts in a quandary. The legal effect of Mahlase is that, persons who acted in execution or furtherance of a common purpose would receive a much lesser sentence, if they were prosecuted and convicted as a single accused before the other perpetrators are apprehended. That may occur when the other perpetrators are not or cannot be identified. Also, where the single accused is the sole remaining perpetrator, the others having escaped or cannot be extradited or dead. While no court accepted that

Mahlase was a correct interpretation of the minimum sentence act in gang rape cases, as trenchantly criticised as Mahlase has been, the courts had to accept that by virtue of the doctrine of precedent that the SCA dictum was binding.

The dictum in Mahlase created a dire injustice to victims of rape. It also presented as a grave Constitutional violation. Despite the victim attesting to the fact that she was raped multiple times by the different perpetrators, this evidence was effectively ignored by the court if all her assailants were not before the court and prosecuted. In January 2022, new legislation was passed which served to undo the effects of Mahlase. These amendments only came into effect from 04 August 2022. Since law cannot operate retrospectively, the amendments impacted gang rape cases where the crimes were committed from 04 August 2022 to date. What about all the violations committed before 04 August 2022?

The KZN appeal court judgment was handed down in August 2019. I vividly recall a line in the complainant's Victim Impact Statement where she said: "I am completely destroyed." The injustice gave me sleepless nights. I was heavily committed in trial court. The appeal was therefore booked out to a colleague to consider appealing the majority decision. Soon thereafter the world was afflicted with the COVID-19 pandemic which created a myriad of challenges. The file had passed through a few hands with no constructive decision or progress in sight, it was eventually closed. The file came into my hands when I was collating monthly statistics. I decided to make work of it. The decision was that the DPP KZN was going to appeal the KZND majority judgment on a question of law. And so, we took up our arms and continued the fight for justice, determined to break the shackles enforced by the Mahlase dictum that served to trample women's rights to equality and dignity. We were approaching the SCA in essence to request the court to overturn Mahlase as a clearly wrong decision and to undo the KZND ruling in favour of reinstating a life sentence.

At the SCA

We raised three questions of law for the SCA to decide on. Before the SCA, the five appellate justices unanimously decided all the questions of law in favour of the State. The SCA decided that the DPP appeal hinged on the wording of the relevant minimum sentence provision that applied at the time. Further, the court considered a facet of elements including the importance of statutory interpretation; the importance of interpreting legislation by considering the language and context in which the law was created, and the importance of giving

effect to the Constitution. There is no escaping that the prevailing South African context is one where the scourge of rape and sexual violence continues unabated.

The outcome was that the SCA overturned Mahlase and concluded that the Mahlase judgment and its rationale could not withstand scrutiny. Further, the SCA ruled in favour of the DPP and reinstated the sentence of life imprisonment.

The Task

The process was at times an overwhelming task. It involved a lot of reading, researching, and drafting in between the myriad of other commitments and responsibilities I had. It was a challenging road. There were many sacrifices made along the way – professional and personal. It was important to stay focused on the end goal and not to give up. Whichever way I look at it, it has been a journey of intense growth, self-development and confidence building for which I am humbled, blessed, and grateful. Our mandate as prosecutors is to be warriors for the victim - to be the gatekeepers of justice! We must manage that responsibility with utmost responsibility, intelligence, and commitment.

The outcome

In overturning Mahlase, the Ndlovu SCA judgment has undone the injustice created by Mahlase. It has reinforced the Constitutional rights afforded to the victims of crime, pertinently to women, and the determination of our courts to give voice to those rights. The Ndlovu SCA judgment clarifies the sentencing principles under the Minimum Sentencing Act that is applicable to gang rape crimes committed before 04 August 2022.

The Director of Public Prosecutions, Kwazulu-Natal Pietermaritzburg v Ndlovu (888/2021) [2024] ZASCA 23 (14 March 2024)



COOPERATION BETWEEN STAKEHOLDERS SECURES LIFE SENTENCE AGAINST SERIAL RAPIST

Eric Ntabazalila
RCM: Western Cape Division

Cooperation between stakeholders once again, secured a long-term imprisonment for a serial child rapist, Travino Arries, as the Beaufort West Regional Court sentenced him to life imprisonment for the rape of minors. Arries was convicted and sentenced to life imprisonment for the rape of a 9-year-old boy and 8 years direct imprisonment for the rape of a 6-year-old girl.

Although this is a plausible sentence that sends an unambiguous message that the NPA's commitment to fight gender-based violence, femicide and crimes against the most vulnerable in our society is unwavering and yielding results. The state initially faced frustrations as the case stalled which led to the withdrawal of charges against the accused.

In September 2018, Arries, who was 17 years old then, raped a 6-year-old girl in an outside toilet she visited to relieve herself. A year later at the age of 7, she was requested to testify against him in the Sexual Offences Court, but the case had to be withdrawn as she could not testify due to her tender age. In September 2020, when Arries was 19, he was arrested for raping a 9-year-old boy in an old caravan in the yard of the victim's friend.

The Regional Court Prosecutor, Hyron Goulding, says one of the challenges of the case was that the victims were minors, and the boy was shy and did not want to talk about the incident. The 6-year-old girl did not feel comfortable to speak to the prosecutor.



Regional Court Prosecutor, Hyron Goulding

The state called Eunice Jacobs, a Court Preparation Officer at the Beaufort-West Magistrates' Court, who prepared the minors for the case and continued to support them throughout the years. As part of a continuous duty of care and in terms of preparations services, Jacobs, accompanied the minors to Oudtshoorn when the Beaufort-West intermediary facilities broke down.

She reported that both minors were extremely emotional, traumatised and withdrawn when she commenced the court preparation services in 2019. She allowed them to apply the unspoken emotions by sketching how they felt during the sessions, and it was evident that the crime affected them deeply. Subsequently, the girl was able to sketch and depict the feelings she experienced with regards to the level of impact the crime had on her by completing the Victim Impact Statement. Jacobs' support and that of a Social Worker, A. Antonie, encouraged the victims and brought back their confidence to successfully testify in court.

In addition to the challenges, DNA evidence took a long time to be released, the COVID-19 pandemic happened, and the constant breaking down of the intermediary system proved to be more of a hindrance for the case. The DNA results were not linked to both victims and Goulding had to rely on viva voce evidence from the witnesses. The state also had to arrange for a minor witness to be transported to Oudtshoorn Regional Court to finish with the child witnesses' testimony as the Beaufort West intermediary system kept breaking frequently broke down.

Despite these challenges, the prosecutor, the Court Preparation Officer, the Social Worker and the Investigating Officer, Constable Ngemntu worked together to ensure justice for the victims of this heinous crime, and ensured that the court handed down the most severe sentence of life imprisonment.

"The courage and confidence the victims got after our consultation left a feeling of contentment in my heart, when I see young survivors feeling and walking proudly out of the courtroom knowing their voices have been heard and what they did is to save the lives of many other children without even knowing it. I believe each child deserves to be recognised for their bravery, just for standing up against the perpetrator by reporting what happened to them, and the life sentence reflects the children's bravery," reflected Jacobs after the sentence.

Goulding shared the same sentiments: "I want to congratulate Constable Ngemntu, Ms A. Antonie and Ms Jacobs on a job well done. I also want to thank the victims and their parents/guardians who were brave enough to testify and get closure. It was a team effort to ensure justice is served. I'm happy that we were able to ensure that a repeat sex offender was removed from society for a long time, and that he will not harm children in future."



**Ms Eunice Jacobs, Court Preparation Officer,
Beaufort West Magistrates' Court**



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 Djadje 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.

INTRODUCTION TO ECMS

Jannie Schutte
National Prosecutions Service

Welcome to our vibrant community dedicated to leveraging the Electronic Case Management System (ECMS) to advance the cause of justice in South Africa. We are excited to have you join us in this digital journey towards greater efficiency, transparency, and effectiveness in our legal system. As from 01 April 2024, we no longer rely on manual data for the Annual Performance Plan 2024/2025, which now enables prosecutors to focus on their primary function namely, prosecutions.

It is however not as easy and management is aware of all the challenges experienced. Some steps taken by management within NPA to assist in this regard, includes the following:

- EXCO has directed an Implementation Committee to meet weekly where issues are discussed and addressed between internal units of the NPA – these include the network and connectivity issues. The first meeting of ECMS Champions was held on 09 April 2024. The role and responsibilities of the ECMS champions were outlined, which among others include that they should be aware of the training that is taking place within their jurisdiction, ensure that the training venue is conducive, with available network connectivity, ensure that prosecutors have laptops, and must assess where there is lack of computer literacy among prosecutors. Champions were informed to ensure that the implementation is well received and challenges are addressed at local level. In instances where they are unable to address the challenges, escalate them to Head Office immediately. Issues from the regions are discussed at these meetings – including the backlog on registration of prosecutors on the ECMS and the uploading of Annexures to charge sheets. A number of interventions have since implementation been identified and are being addressed to ease the

use of the ECMS – such as completing annexures electronically on the computers and saving to the particular case.

- Training that will commence after all backlog on registration of users have been completed.
- Communication directed to the Deputy National Commissioner of SAPS as well as the National Head of the DPCI was sent out on 10 April 2024 to sensitise and alert them of the usage of the ECMS information for reporting.
- Recently, SAPS has been encountering technical problems on sending dockets to the ECMS (NPA) which includes incorrect docket information. The SAPS technical support has been working on rectifying this. A meeting was also scheduled with the SAPS team on 16 April 2024 to discuss these issues and impact on NPA.
- Prosecutors may initially encounter additional burden in addressing issues that are brought to the attention of managers, both locally and nationally, but once we can solve these and move forward, it will be to the benefit of prosecutors.

It is important to understand, the ECMS is not a 'standalone' system in the Criminal Justice procedure. The ECMS is but one system in the CJS value chain and a number of other inter-related systems are running – some of which also still provide challenges from time-to-time. Some integration from other Departments includes among others – the means tests that are done electronically by SAPS after arrest and submitted to Legal Aid for early assistance. In cases of juvenile offenders, the DSD is electronically notified, the Persons Identification Verification Application (PIVA) system of SAPS links to Home Affairs and other departments to collect information on arrested persons from which information is collected for bail consideration. The draft Bill on Victim Support Services will require NPS to notify victims of decisions made by prosecutors as well as constant updates on court appearance information – this requires a complete functional system.

The following graph by ISM depicts the reasons for calls logged during March 2024:

CALLS AND TRENDS FOR MARCH 2024



TRENDS FOR MARCH 2024	COUNT
User registration	1381
BIZTALK messages	77
SAPS validation issue	45
Search Docket	26
Re-open Docket	22
Timeout	21
Update Case	13
Docket Request	11
Slow Response	11
Profile Update	9

TRENDS FOR MARCH 2024	COUNT
Access Issues	8
Training relate	7
Capture Case	4
Javascript error	4
Duplicate Accused	3
Changes	2
Child Justice Docket	1
ITHALA forms	1
SAPS CAS error	1

FATF PLENARY CONFERENCE

21-23 FEB 2024

Marthi Alberts
Strategy Management Office

- The FATF president, Raja Kumar, presented the key outcomes of the FATF plenary that closed during the course of the week in Paris. The three-day plenary was preceded by working group meetings involving delegates from the FATF global network of over 200 jurisdictions, and representatives from international organisations.
- New risk-based guidance for the implementation of recommendation 25 on the beneficial ownership and transparency of legal arrangements has been developed. Its objective is to strengthen the FATF standards on the transparency of beneficial ownership.
- This set of guidance will help stakeholders from both the public and private sectors dealing with trusts or similar legal arrangements to assess and mitigate money laundering and terrorist financing risks. This guidance benefited from a public consultation process prior to finalisation and will be published by the FATF.
- South Africa has 22 action items and five of these items have been addressed. There is still substantive work to be done on 17 other points.
- South Africa has demonstrated progress in a number of areas by improving its use of financial intelligence to support investigations and addressing pending deficiencies in its regulatory regime for targeted financial sanctions. However, there are other areas that need to be addressed and South Africa should continue working to complete its action plan by addressing three areas focusing on the first one which includes:
 - improving risk-based supervision in respect of designated non-financial businesses and professions, what is commonly referred to as Designated Non-Financial Businesses and Professions (DNFBPS)
 - a need to develop a mechanism to provide timely access to adequate accurate beneficial ownership and,
 - improvement in the implementation of its revised framework for targeted financial sanctions.

CRIMINAL: LAW ANOMALY COULD LOWER SENTENCE FOR RAPIST GRANDSON

Legalbrief

The High Court has sent the case of a Malawian teenager, charged with raping his 89-year-old grandmother, back to the Magistrate's Court because the court had wrongly prosecuted a case of rape instead of incest. If convicted in a re-trial, however, Malawi's incest law could see the accused sentenced to a mere five years. Malawi's penal code provides for a significant difference between the sentence to be imposed when a man rapes a close family member, and in a case where the two are not related. When they are unrelated, the code provides that a rape offender 'shall be liable to be punished with death or with imprisonment for life' (However, Malawi has had what amounts to a moratorium on carrying out the death penalty since 1992.) By contrast, reports **Carmel Rickard**, 'incest by males', is categorised in the code as a 'felony', and anyone convicted 'shall be liable for imprisonment for five years'. There is an exception: if it is proved 'that the female person is under the age of 16, the offender shall be liable to imprisonment for life'.

A new judgement from Malawi shows a worrying feature of that country's legal provisions around forced sex.

The case on review before the judge, Mzonde Mvula, concerns a 19-year-old charged with raping his grandmother, aged 89. He was prosecuted for rape under section 133 of the country's penal code, and after he was convicted by the Magistrate's Court, the presiding magistrate forwarded the file to the chief resident magistrate, to be sent on to the High Court for sentencing.

That's when things got more complicated. The chief resident magistrate spotted that the man should have been charged with incest, and not rape, because of the family relationship between the accused and the woman he raped.

The judge who reviewed the case goes to some lengths to explain the process of review that would allow the High Court to re-examine decisions and processes of subordinate courts. And he details how, when he carried out this re-examination, he found there were several irregularities in the case.

Not only had the prosecuting authorities failed to notice that the relationship between the parties meant the accused should have been charged with incest, but the penal code stipulates another fundamental: section 160 of the code says that, in a case of alleged incest, whether committed by a male or a female, the permission of the Director of Public Prosecutions (DPP) must first be obtained before a prosecution can go ahead.

In this case, however, the DPP wasn't approached for prior authorisation to prosecute.

The judge writes that the prosecution 'understandably' based the charge sheet 'on the mere fact that the offender had (unlawful) carnal knowledge without her consent', something that would ground a charge of rape.

However, the investigation team 'let a very important observation slip through their grasp', namely that 'the pair' are closely related by blood. This relationship changed things and the charge, instead of rape in terms of section 133 of the penal code, should have been brought as incest under section 157.

'The magistrate who tried the case should have had eyes wide open and (picked) up this fact, to send the charge sheet back at least the moment the complainant entered court ... to give evidence. She was 89-years-old and raped by her 19-year-old grandchild who alleges he was drunk at the material time.'

'The age gap between the pair' and other circumstances of the offence should have alerted the trial magistrate, said the judge. 'Magistrates should always be curious of the facts before them, being the managers of the evidence they gather. Cases should never be routinely tried.'

He also underlined the provision that, in cases of sexual assault involving close family members, the DPP had to give consent for the case to be prosecuted. 'This would have happened had the trial magistrate not fallen in deep slumber the moment evidence of the complainant was being recorded.'

The DPP 'retains discretion to allow certain matters from proceeding in open court,' the judge said. 'The consent is sought, in writing, just as it must be granted in writing.' And any trial allegedly involving incest that goes ahead 'without such written consent is null and void.'

The judge added that 'legal policy considerations precede mere whimsies to prosecute' and that 'the intention of Parliament must strictly become applicable'.

He therefore sent the matter back to the Magistrate's Court to start from scratch, writing: 'The magistrate who took the evidence should now open their eyes and draft a charge sheet on the offence under (the incest provisions of the penal code) as reminder that close blood ties sexual acts are incestuous, not generic sexual offences.'

He ordered that leave to prosecute should then be asked from the DPP 'as a matter of legal policy'. If that permission is granted, the trial should go ahead under another magistrate of the court, though the previous magistrate would be entitled to deal with any bail applications that might arise.

On the law, the judge is surely correct – though in an earlier decision, another Malawian judge, Patrick Chirwa, took a slightly different view on the question of the DPP's permission where the person raped was under 16.

But the judge overlooked the fact that the accused was named. Since the complainant was a close relative and the village where he lives is also named, she could well be identified on this score alone.

Even more fundamentally, the case highlights features of Malawi's penal code that should cause some alarm.

Why does the Malawian penal code create such an enormous discrepancy between the sentence to be passed when the rapist in an incest case violates someone under 16 and someone over 16?

The code states that 'any male person who has carnal knowledge of a female person, who is to his knowledge his grand-daughter, daughter, sister, mother or grandmother, shall be guilty of a felony and shall be liable to imprisonment for five years'.

If the 'female person' is under 16, however, the 'offender shall be liable to imprisonment for life'.

And compare the five-year sentence for incest with the provisions of section 133 of the penal code: 'Any person who commits the offence of rape shall be liable to be punished with ... imprisonment for life.' Likewise, anyone

who 'attempts to commit rape shall be guilty of a felony and liable to imprisonment for life'.

All this means that, should the DPP authorise prosecution, and the accused is re-tried, this time charged with incest, then the maximum sentence that may be imposed on the 19-year-old accused for raping his 89-year-old-grandmother, is five years. However, if he had raped any other, unrelated, 89-year-old person, he would be liable to life imprisonment.

It is hard to imagine how this discrepancy has been allowed to remain on Malawi's statute books, apparently without any outcry in that country.

There is a similar anomaly in Kenya, raised in 2019 by Kenyan judge William Musyoka. In that case, an uncle raped his nine-year-old niece and there was confusion about the section under which he was charged. Under section 8 of Kenya's Sexual Offences Act (SOA), he was initially charged with 'defilement' – rape of a child. However, this charge was changed during the trial to another section that deals with incest.

Section 8 provides that in a case of defilement of a child who is 11-years-old or younger the perpetrator 'shall, upon conviction, be sentenced to imprisonment for life'.

But in the case of an incestuous rape, dealt with by section 20, the perpetrator is liable to imprisonment 'for a term of not less than 10 years'.

The judge commented on this: 'I do not understand why there should be that distinction or discrimination'.

It seems that the law in Kenya has not changed since then, while Malawi's penal code will permit the extraordinary anomaly that will almost inevitably result in the case of the raped grandmother. Either there will be no trial if the DPP withholds permission, or, if the prosecution is allowed to proceed and is successful, the maximum sentence that may be imposed will be five years.

Recent protests have shown that women in both countries are deeply concerned about the high levels of violence against women and girls and the failure to bring those responsible to justice. This must be seen against the background of studies that show few perpetrators of rape and sexual assault are strangers to their victim. Almost a quarter are assaulted by a family member and more than 40 % by someone known to the victim.

Changing the law on incest-rape sentencing would surely be a way to reflect this reality and ensure that rape by family members isn't treated so lightly by the law. Lobbyists in both countries, opposed to violence against women, could well take up the challenge to see that the law is changed.

20 YEARS OF SCRUMMING TO MAKE CRIME UNPROFITABLE

Luxolo Tyali
RCM: Eastern Cape Division

This year marks two decades since the Eastern Cape Regional Head of Asset Forfeiture Unit, Dr Nkululeko Christopher Ndzengu became one of the vital cogs of the NPA's grinding machinery aimed at taking ill-gotten gains from criminals and forfeiting instruments utilised to facilitate the easier commission of offences. After joining the NPA as a Senior State Advocate in March 2003, Dr Ndzengu has over the years risen through the ranks. From cutting his teeth as an attorney from 1994, after attaining his LLB degree from Rhodes University, he left the private practice after nine years, for the noble cause of being the people's lawyer.

In 2007, he acted as Deputy Director of Public Prosecutions until his permanent appointment in 2009, the same year he obtained his LLM degree on asset recovery from Nelson Mandela Metropolitan University. While occupied with the demanding duties of DDPP, the married father of 2, managed to complete his LLD from the same university in April 2016. Proof that thorough leadership comes with conscious capacitation. Dr Ndzengu has also attended local and international training seminars including CARIN Hague, Prague, Maryland, France, and Guernsey meetings as South Africa's asset recovery observer, as well as Asset Recovery International Conference in Ireland and Malawi, to mention just a few. He has over the years written a number of published academic asset recovery journals.

Among the many successful AFU cases that Dr Ndzengu has been involved in, two stand as highlights to him. One being the corruption case of Bishop Samuel Mzukisi Banzana,



whose appeal against his 12 years sentence in 2017 is currently before the Constitutional Court. After his conviction, he was ordered to pay a confiscation amount of R351 000 into the Criminal Assets Recovery Account (CARA), and AFU had in 2013 already obtained a forfeiture order on his house and 3 motor vehicles as gratifications amounting to R2.9 million. The second notable case is that of NDPP vs Yolanda Botha (now late), Trifecta, Block and Others, who were prosecuted in the infamous Trifecta corruption scandal in the Northern Cape. The late Ms Botha received gratification through renovations to her house and AFU successfully argued at the apex court that it be forfeited to the state. Trifecta paid a R59 million confiscation order to the state. Mr Block lost his gratifications too.

The avid rugby fan attributes his longevity and team success in his job to total commitment to the asset recovery cause, to make the citizenry regain confidence in justice and that crime must never pay.

Dr Ndzengu is indeed one of the brightest beacons in the NPA, whose footsteps should be followed by the younger generation.



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 pass 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 PARTICIPATES IN INTEGRATED CRIMINAL JUSTICE SYSTEM CONFERENCE

Phindi Mjonondwane
RCM: Gauteng Local Division

Senior Managers of the National Prosecuting Authority, led by the National Director of Public Prosecutions (NDPP), Advocate Shamila Batohi, participated in the National Conference on the Integrated Criminal Justice System and the review of the Criminal Procedure Act 51 of 1977 (CPA). The conference was hosted by the Department of Justice and Constitutional Development at the Birchwood Hotel in Boksburg, from 27-29 February 2024.

The aim of the conference was to promote an integrated criminal justice system that will ultimately lead to a cohesive network of agencies and institutions involved in the administration of justice. The integration encompasses various stages of the criminal justice process, from investigation and arrest to trial, sentencing and ultimately curbing reoffending by rehabilitating offenders so that they can successfully be reintegrated into society.

The integration of various components of the criminal justice system, including law enforcement, prosecution, the judiciary, and correctional services, is aimed at streamlining processes, enhancing communication, and ultimately delivering justice more effectively. One crucial aspect of this integration is the legislative framework governing criminal procedures (CPA). "The function or object of the criminal justice system is to provide a social mechanism with which to coerce members of society to abstain from conduct that is harmful to the interests of society. The modernisation of the relevant criminal justice services, from integration of data to efficiency of the forensic services, to usage of technology to deal with criminal investigations, and to even hybrid witness appearance to protect victims, and many other areas of our justice system which this conference will have to address.

Honorable Minister Ronald Lamola said, "Our entire system, from crime reporting to crime investigation and ultimately to the judicial intervention and correctional services, we must have an integrated repository of information to ensure that efficiency is attained", said Honorable Ronald Lamola, Minister of Justice and Correctional Services, in his opening remarks.

The keynote address was delivered by Deputy President of the Republic of South Africa, Honorable Paul Mashatile, who said, "I believe that the criminal justice system serves as the bedrock of every democratic society, ensuring the protection of individual rights and the maintenance of order. For many years, the integrated criminal justice system and the Criminal



NDPP, Adv Shamila Batohi, speaking during the conference



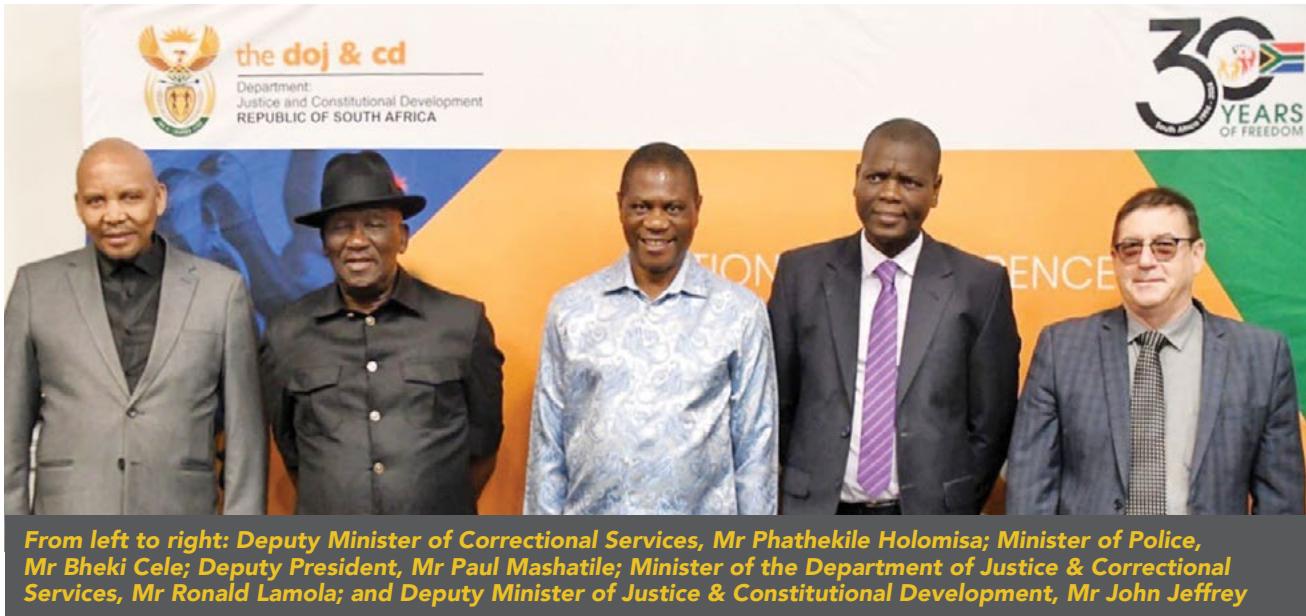
NPA Acting DDG: Corporate Services, Ms Bulelwa Makeke during the conference



Adv Penelope Pillay with Adv Jannie Schutte from National Prosecutions Service



Minister of Justice and Correctional Services, Mr Ronald Lamola, delivering his address



From left to right: Deputy Minister of Correctional Services, Mr Phathekile Holomisa; Minister of Police, Mr Bheki Cele; Deputy President, Mr Paul Mashatile; Minister of the Department of Justice & Constitutional Services, Mr Ronald Lamola; and Deputy Minister of Justice & Constitutional Development, Mr John Jeffrey

Procedure Act of 1977 have had a profound impact on how we handle law enforcement, prosecution, and adjudication in South Africa. However, we must examine the current legal framework and identify areas that require transformation or amendment. Our laws must be responsive to the changing needs of society and aligned with international standards".

Thereafter, the conference went into discussion panels, with the first panel, facilitated by the Director General of the Department of Justice and Constitutional Development, Advocate Doctor Mashabane, under the topic "Assessing the South African Integrated Criminal Justice System and International Perspectives on Crime Fighting". The panel discussed key challenges in fighting crime in the 21st century, delving into how technology can be used as leverage to fight crime. The United Kingdom was used as a yardstick, with the British High Commissioner to South Africa, Mr. Antony Phillipson, sharing information about how the UK has used technology to combat crime. The National Commissioner of the South African Police Service (SAPS), General Fanie Masemola, presented challenges in combatting, preventing, and investigating crime and during closure, the panel reflected on key lessons learned from the July 2021 civil unrest that happened in South Africa. This was presented by the South African Human Rights Commission's Chairperson, Mr Chris Nissen, looking into the human rights perspective.

The second panel outlined the background of the ICJS and the JCPS 7-point plan, how it was implemented and gave an account of the successes and challenges encountered. The NDPP was one of the supporting panelists, with the speakers being Ministers Ronald Lamola and Bheki Cele of the SAPS.

The second and third day were marked by breakaway sessions, investigating how the CJS can be strengthened through engagements with civil society and legal practitioners as well as the role that modernisation/digitisation can play in strengthening the CJS. Alternative Dispute Resolution (ADR) in criminal matters, pre-trial processes, and bail were also topics for discussions. At the forefront of these discussions were the NPA's own Deputy National Directors of Public Prosecutions, Advocate Rodney De Kock and Advocate Ouma Rabaji-Rasethaba.

The delegates were in unison in that the CPA serves as the legal backbone governing the conduct of criminal proceedings. Its provisions outline the rights of the accused, procedures for investigation, trial processes, and sentencing guidelines. In the context of building an integrated criminal justice system, several aspects of the Act warrant review and potential reform. They further submitted that the CPA should be amended to be more victim-centric and meet the growing needs of society. The Act should recognise the rights and needs of victims, including provisions for victim support services, restitution, and participation in the criminal justice process. It was the delegates' view that ADR should not be considered in GBV matters and that perpetrators of such, including those of femicide should not easily be admitted into bail.

In closing the conference, Deputy Minister of Justice and Constitutional Development, John Jeffery, MP remarked that, rather than operating in silos, entities with the CJS must continue collaborating closely, sharing information and resources to address criminal activities comprehensively.

"By fostering collaboration, accountability, and fairness, we can move closer to realising the fundamental principles of justice in our communities."

NPA AMENDMENT BILL (IDAC) SIGNING

Recently, President Cyril Ramaphosa, signed into law the National Prosecuting Authority (NPA) Amendment Act to establish the Investigating Directorate Against Corruption (IDAC) as a permanent and adequately empowered entity.

This groundbreaking development will create a permanent prosecution-led unit, within the NPA, with criminal investigative powers to pursue the most complex forms of corruption and associated crimes, in line with its mandate. This accords with international best practice, to protect anti-corruption entities from political interference. It also gives the IDAC the critical powers and resources it needs to succeed with the tried and tested prosecution-led model that has been utilised so effectively in South Africa in the past.

IDAC replaces the Investigating Directorate (ID) that was established in 2019. The mandate of the IDAC is to investigate, and where appropriate, institute criminal proceedings and carry out necessary functions incidental to investigations and instituting criminal proceedings,

relating to serious, high-profile or complex corruption or commercial or financial crime cases arising from the recommendations of commissions of inquiry; referred to the Investigating Director by the National Director of Public Prosecutions; referred to the Investigating Director in terms of section 27 of the NPA Act; and relating to such other existing offences or categories of offences as determined by the President by Proclamation No. 20 of 2019.

Despite its pivotal role in leading South Africa's criminal justice response to high-level corruption, the ID was statutorily not a permanent entity within the NPA. The ID was established by proclamation and the executive had the power to amend or revoke such a proclamation. The other key constraining factor for the previous ID was that it did not possess the required criminal investigative powers and had to rely on a patchwork of seconded staff from various partner entities who could be recalled at any time, and whose line function managers remained in the partner entities, outside the ID.

IDAC will now have the ability to recruit permanent criminal investigators with full police powers, who work solely under the direct leadership of the Investigating Director and IDAC's teams of prosecutors, together with forensic experts and analysts. This will give full effect to the prosecution-led model and will enable IDAC to recruit and retain the specialised skills to deliver on its mandate. This will also allow the NPA's Asset Forfeiture Unit to work closely with the IDAC moving forward, to institute asset recovery interventions, side by side with prosecutions, considering that money is a key driver of corruption.

IDAC will also collaborate with the private sector especially in the fields of digital forensics, evidence collection and presentation. The NPA is part of the innovative Presidential Public Private Partnership initiative which is working to create a digital evidence unit



President Cyril Ramaphosa flanked by Security Cluster Ministers and NPA leadership during the IDAC Bill signing ceremony

specialising in the identification, collection, analysis, and presentation of digital evidence in criminal cases. This is critical in complex and high-profile investigations against corruption and related crimes. This will exponentially enhance the capability of the IDAC to deliver on its mandate.

Linked to the process of developing this amendment to the NPA Act, is the important aspect of enhancing the NPA's financial and operational independence.

This crucial aspect was highlighted by a number of civil society organisations during the public deliberations on the Bill. Prosecutorial independence is essential for the NPA to effectively prosecute and hold accountable both political figures and private sector leaders who engage in corrupt practices. This structural and operational autonomy reinforces the rule of law and is crucial for bolstering public trust and confidence in the prosecuting authority. It's also an important obligation under various international and regional treaty requirements and key judgements by South Africa's Constitutional Court.

To give effect to the Minister's commitment during the parliamentary deliberations on the NPA Amendment Bill, the NPA is collaborating with the Department of Justice and Constitutional Development to advance legislation that anchors the NPA's financial and operational independence in law by January 2025.

The NPA will in the coming months prioritise the resourcing and capacitation of IDAC to enhance its ability to effectively and speedily deliver on its important mandate.



Special Director of Public Prosecutions, Adv Mthunzi Mhaga; DNDPP: SOC, Adv Anton du Plessis; NDPP, Adv Shamila Batohi; DNDPP: AFU, Adv Ouma Rabaji Rasethaba; IDAC Head, Adv Andrea Johson, and DNDPP: NPS, Adv Rodney de Kock



DNDPP: SOC, Adv Anton du Plessis with the Acting DDG: Corporate Services, Ms Bulelwa Makeke at the IDAC Bill signing ceremony



The NDPP, Adv Shamila Batohi talking to the media at the IDAC Bill signing ceremony



President Cyril Ramaphosa signing the IDAC Bill



IDAC Head, Adv Andrea Johnson; NDPP, Adv Shamila Batohi, and DNDPP: AFU, Adv Ouma Rabaji-Rasethaba



President Cyril Ramaphosa with NPA leadership

NPA IN MPUMALANGA ADDRESSED STAKEHOLDERS AND COMMUNITY ON LAW PERTAINING TO UKUTHWALA

Monica Nyuswa

RCM: Mpumalanga Division

A Non-Governmental Organisation to South African Human Rights Commission drafted a petition regarding the challenges of uKuthwala practice in Steenbok where minor girls are kidnapped, assaulted, and raped by older men. Steenbok is situated at the border between South Africa and Mozambique and this is where the practice of uKuthwala is more prevalent.

The NPA partnered with the Human Rights Commission and other stakeholders to address the issue. In this engagement, there were two sessions. The first was a stakeholder engagement in which issues of how to deal with the scourge were raised and which role each stakeholder should play in addressing the said challenge.

The role of the NPA was to address stakeholders regarding a relevant section under the Sexual Offences Act, being the Prevention and Combatting of Trafficking in Persons Act as well as the role of the NPA within the criminal justice cluster. This was followed by a community engagement where the NPA addressed the community about the dangers of committing such crimes. The community was further advised to report cases and desist from withdrawing them. The Tonga Thuthuzela Care Centre Case Manager addressed the community on the services rendered by the Thuthuzela Care Centre.



Steenbok community members listening attentively to the speakers

SEARCH YOUR SOUL, AND PICK A CAREER THAT IS FOR YOU AND NOT FOR OTHERS

Addressing over 2000 parents and learners at a Sandton based school, St Stithians College for girls in Johannesburg, Adv Andrea Johnson urged the learners to make the tough decision in 2024 about their future career paths, by choosing careers that are uniquely them and not careers decided for by others.

"In the 28 years as a prosecutor, my career is directed by my oath to the office and to serve citizens. I am a voice for a family that has gone through a traumatic robbery where someone is raped. For me, this is not a job but a calling"

Johnson added, "If as matriculants you decide to go into prosecution, know that it must be a calling and not a job. The watershed moment came when a judge makes a ruling in court, in the presence of a family that has lost a family member to murder, and she heard these words 'the accused is found guilty and sentenced to 25 years in prison, is a feeling that money can't buy.'

The beauty about living your calling is that it's not about the money. As a prosecutor you are not a hot shot lawyer that bills exuberant fees to peruse documents and represent the accused, it's about ensuring justice is not only done but seen to be done. Just recently, I spoke with the grandparents of Benjamin, he was the child who was 6 years old when his mother, the late Chanelle Henning, was murdered outside Bengi's creche over a decade ago. He is now 17-year-old and through myself and Advocate Gerrie Nel, we were able to get justice for his mother. Bengi is a solid human being today.

On 01 March 2022, the President appointed me as the only Investigating Director, it is a dangerous, daunting and difficult job, but I'm rest assured that mine is a calling second to none, it restores dignity and faith to a system that is often failing people. Once again, I ask that when confronted with making a choice about what career path to follow, follow your heart".

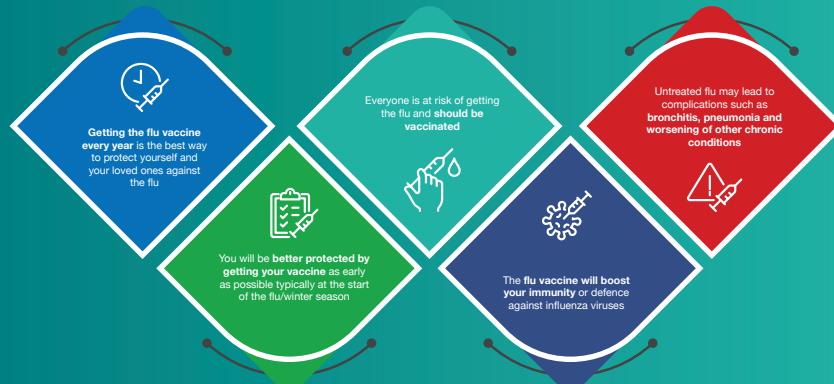
In closing, Adv Johnson urged the learners to remember that in all they do, put God first, because if you are steadfast in your faith, you will overcome anything. "To the parents, you are truly blessed, and I wish you all the very best, as you continue to guide these children. Dream with your children and not for your children".

The school offered a monetary donation to Adv Johnson which she indicated will be donated to the Teddy Bear Clinic which assists abused children.



GEMS has you and your dependants covered for the **flu vaccine, payable from risk-benefit. VACCINATE TODAY!**

Did you know?



GEMS Flu Vaccine Benefits – Be healthy without using your day-to-day benefits!

- ✓ Your flu vaccine **will not deplete your savings or your day-to-day benefits** as it is payable from the risk-benefit.
- ✓ The flu vaccine is **available to all GEMS members and their dependants**, across ALL benefit options.
- ✓ Every **GEMS beneficiary from age 6 months and above** is **eligible for one flu vaccine per year**.

Where to get your flu vaccine

- ✓ You can visit your nearest Network Pharmacy, Doctor (GP), or Nurses' Practice to get the flu vaccine.
- ✓ Book your flu vaccination appointment today!

Members in the following high-risk categories are advised to get their flu shot to safeguard against preventable illness and possible hospitalisation:

- ✓ Adults 65 years and older.
- ✓ Children younger than 5 years.
- ✓ Pregnant women and new mothers up to 2 weeks after the end of pregnancy.
- ✓ Healthcare workers
- ✓ People who have weak immune systems (e.g. immunosuppression caused by certain medications or the Human Immunodeficiency Virus (HIV/AIDS).

People with long-term illnesses such as:

- ✓ Any type of chronic disease.
- ✓ Disorders or diseases of the lungs (e.g., asthma).
- ✓ Heart conditions (e.g., congestive heart failure and congenital heart disease).
- ✓ Kidney disease (e.g., chronic renal failure).
- ✓ Liver disease (e.g., poor liver function or liver failure).
- ✓ Nervous system disorders (e.g., epilepsy).
- ✓ Blood or bleeding disorders (e.g., leukaemia and Haemophilia).
- ✓ Metabolic disease (e.g., diabetes mellitus).

Important to note

That you are no longer required to space the flu vaccinations for 2 weeks apart as it was previously communicated. Flu vaccination can now be co-administered with other vaccinations. It is therefore important, to inform your healthcare provider of your vaccination history.

COMMUNITY PROSECUTION INITIATIVE - JHB HIGH COURT PRECINCT

State of JHB High Court precinct - June 2023

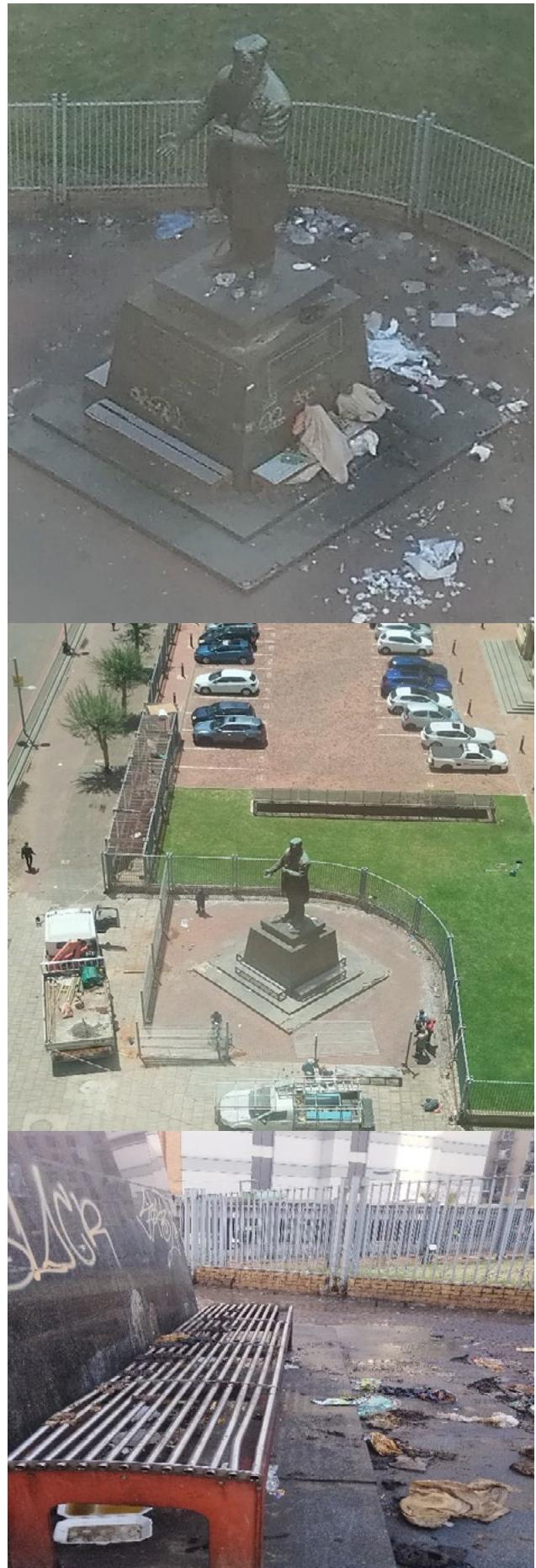
This public area where hundreds of ordinary people pass on a daily basis was filthy with an unbearable smell hanging in the air. Offences like loitering, vandalism, littering and public urinating happened daily. This was not in the proper character of a place that was supposed to be associated with law and order and where the administration thereof was to take place daily.

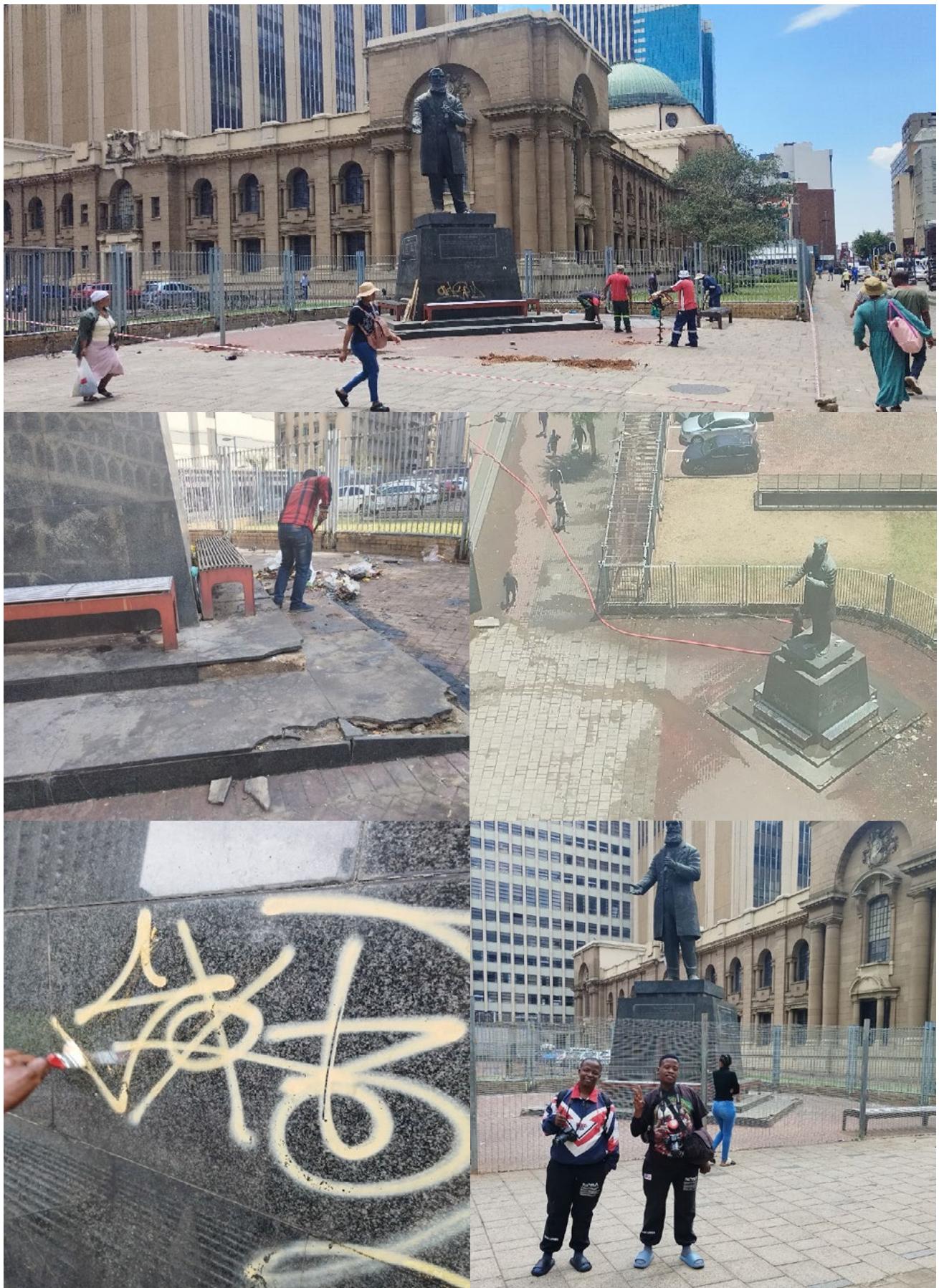
As the saying goes, 'Crime just attracts more crime'!

In order for people's perspective to change, it is sometimes necessary to change their reality. It might be daunting and tedious. Start small, but start! Others will join.

Gradually, the situation is changing as other stakeholders also up their efforts. Sometimes it will be a planned collective effort, but sometimes it will be individual efforts jointly contributing to achieve the same goal.

Focusing on a reduction in social and environmental conditions that can promote and sustain crime can changes people's reality and their perspective of and feeling of safety, not only for the community in general but specifically for photographers like Joseph and Paris who are reliant on a cleaner and safer environment. The Community Prosecutions Initiative has the ability to create relationships with members of the public and change people's quality of life.





Outside the JHB High Court precinct

NPA SIGNS MOU WITH ACFE

Recently, the National Prosecuting Authority (NPA), led by the Deputy National Director of Public Prosecutions, Adv Rodney de Kock and Mr Jaco De Jager, CEO of the Association of Certified Fraud Examiners - SA signed an MoU aimed

at enhancing collaboration between the NPA and ACFE SA.

ACFE SA is a recognised professional body, representing and governing fraud examination professionals in South Africa. This is the world's largest anti-fraud and white-collar crime organisation and the premier provider of training and education in these industries. The MoU will formally strengthen cooperation and coordination between ACFE SA and the NPA. The parties agree to effectively collaborate and assist each other in fulfilling their respective mandates regarding training and awareness, establishing a monitoring review committee, and consultative committee.



DNDPP: NPS, Adv Rodney de Kock; IDAC Head, Adv Andrea Johnson; DDPP: NPS, Adv Daphney Rangaka; Senior State Advocate: SCCU, Treasure Ndou; SDPP: SCCU, Adv Nkebe Kanyane with ACFE SA representatives



DNDPP: NPS, Adv Rodney de Kock with ACFE South Africa CEO, Jaco de Jager



From left to right: NPA Director of Media Relations, Isaac Dhludhlu; Senior State Advocate: SCCU, Treasure Ndou; DNDPP: NPS, Adv Rodney de Kock; IDAC Head, Adv Andrea Johnson; SDPP: SCCU, Adv Nkebe Kanyane; DDPP: NPS, Adv Daphney Rangaka

NPA LAUNCHES STATE OF THE ART 64th TCC IN STELLENBOSCH

Eric Ntabazalila
RCM: Western Cape Division

The National Prosecuting Authority launched its 64th state-of-the-art Thuthuzela Care Centre in Stellenbosch, as it took its internationally recognised model in the fight against Gender-Based Violence (GBV) to every corner where there is a need. It is the first TCC which is not on hospital premises and has overnight facilities onsite. It is a flagship heralding a new era for TCCs.

It serves a vast area (37 suburbs/towns and 12 informal settlements) and its cases feed into the Stellenbosch Magistrate's Court and Paarl Regional Court. These courts have experienced prosecutors who deal with all Gender-Based Violence cases on their rolls. A Family Violence and Child Protection Unit (FCS) and six police stations feed into the centre. It has a link to the magistrate's court in the instance where a client enquires about the progress of her case. The Victim Assistant Officer or SC will then contact the prosecutor at the court to follow up on the case. Before the launch, February/ March 2024, the facility had already assisted 80 victims of sexual offences and domestic violence.

In the fight against the scourge of Gender-Based Violence across the country, President Cyril Ramaphosa, called on the private sector to be active participants in the implementation of the National Strategic Plan (NSP) on Gender-Based Violence and femicide. The Ring for Peace Cape Trust heeded the call and partnered with the NPA, and this important partnership resulted in the establishment of the Stellenbosch TCC.

Addressing stakeholders, guests and media attending the launch, the National Director of Public Prosecutions, Adv Shamila Batohi, welcomed the establishment of the facility saying it was accommodated within a GBV Centre which will also include a GBV Desk and facilities for GBV awareness building and training to empower the Stellenbosch community. She added that the facility was directly linked with the University of Stellenbosch which allows easy access for the thousands of students who



TCC National Coordinator: SOCA, Genevieve Devereux; Brigadier Sonjani from SAPS; Wendy Pekeur from Ubuntu Rural WomXn; Professor Wolfgang Schurer from Ring for Peace; Holger Wellmann from Ring of Peace; Special Director of Public Prosecutions: SOCA, Adv Bonnie Currie-Gamwo; NDPP: Adv Shamila Batohi; Vonita Thompson from WCDOH; Deputy Minister of Justice & Constitutional Development, John Jeffery; Western Cape Social Development MEC, Sharna Fernandez; NPA Western Cape Director of Public Prosecutions, Adv Nicolette Bell; DNDPP: NPS, Adv Rodney de Kock

may need their services, especially now that legislation recognises female students under the age of 25, and who are victims of sexual offences, as vulnerable persons.

Adv Batohi said besides providing better quality services to victims of GBV, a larger footprint of TCC translates to improved reporting. In the 2020/21 financial year, 29 593 cases were reported at 60 TCCs around the country. In the following financial year, 2022/23, 36 813 cases were reported and for the past 8 years combined, TCCs have dealt with 266 593 cases. Conviction rate on TCC finalised cases has also improved. Since 2010, the conviction rate increased from 60% to 77,5 % representing an improvement of 17,5% over 13 years. The number of long-term sentences on TCC finalised case also increased since the amendment to the minimum sentence legislation and the National Strategic Plan (NSP) on Gender-Based Violence and femicide. Over the past two years, up to December 2023, the courts imposed 337 life imprisonment sentences, 236 sentences of between 20-25 years imprisonment and 624 sentences of between 10-15 years imprisonment.

Adv Batohi wants the number of TCCs to increase which could lead to increased access for victims of GBV, and to realise dreams of a country where each of the 185 FCS Units of the South African Police Service countrywide are linked to a TCC.

Also in attendance at the launch was Deputy Minister of Justice and Constitutional Development John Jeffery, Western Cape Social Development MEC Sharna Fernandez, Stellenbosch Mayor Adv Van Deventer, Deputy National Director of Public Prosecutions Adv Rodney de Kock, Western Cape Director of Public Prosecutions Adv Nicolette Bell, Special Director of Public Prosecutions: Soca Unit Adv Bonnie Currie- Gamwo, Spar Chief Executive Officer Kevin O'Brien, Ring of Peace Trustees, GBV Leadership Group, Prosecutors and TCC staff members.

Thuthuzela Care Centres (TCCs) are one-stop facilities, established by the NPA, to offer psycho-social support, medical treatment, and legal services on-site for victims of GBV aimed at reducing secondary victimisation and building a case ready for successful prosecution. The TCC process ensures that service providers are available to gender-based violence survivors in one location. The model has been internationally recognized as a best practice for the provision of services to gender-based violence victims. Due to its success, the need to increase the number of TCCs has become imperative.

CRADOCK TCC LAUNCH

The NPA proudly added another TCC in Cradock to the existing stable of 11 TCCs in the Eastern Cape, the launch was made possible by the generous contribution of Vodacom, as a strategic corporate partner. TCCs are led by the NPA's Sexual Offences and Community Affairs (SOCA) unit and provide psycho-social support, medical treatment, and legal services on-site for victims of sexual offences and gender-based violence (GBV).



In attendance at the launch was Deputy Minister of Justice and Constitutional Development, John Jeffery; NDPP: Adv Shamila Batohi; Special Director of Public Prosecutions: SOCA Unit, Adv Bonnie Currie-Gamwo; DPP Eastern Cape Division, Mr Barry Madolo; Eastern Cape SOCA Head: Adv Maggie Tserere; Vodacom representative and GBV activists.

SOUTH AFRICAN POLICE SERVICE



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OFFICE OF THE UNIT COMMANDER
 FAMILY VIOLENCE, CHILD PROTECTION
 AND SEXUAL OFFENCES UNIT
GA-RANKUWA
0208

2024-04-15

Dear ADV Tania Brits
 Senior Public Prosecutor
PRETORIA NORTH COURT

APPRECIATION: ADV TWALA AND Ms VALENCIA KGAME: PRETORIA NORTH COURT

1. This office will like to comment on the hard work displayed by the above mentioned officers for positive contribution towards our sexual related cases which are referred to Pretoria North court on a daily bases.
2. The working relationship between our office and ADV Twala is of a very high level. We could not solve and attend to this kind of cases, should we not have someone of his calibre within ourselves. He is always on point when coming to court/prosecution driven investigations, consultations with our clients, advises and many more. Through him we manage to secure news worthy convictions. He is indeed the lawyer of the victims.
3. Ms Valencia Kgame's involvement is always assisting our victims in preparation of court proceedings by accommodating them and make them to feel safe. We feel like she is our mother in justice for our young victims. She is leading from the front during community outreaches, act as a liaison between ourselves and prosecution which takes our communication and relationship to the next level.
4. We are so pleased to have ADV Twala and Ms Kgame in our working environment. Their attitude is what we call commitment to the safety of our clients at its best and have showed dedication and resilient in pursuit for justice for the victim of gender based violence and related matters. We look forward to work with them until the end of time, which is our intended purpose service delivery towards the victim of gender based violence and femicide.
5. Hope our working relationship is sustainable.

.....LT COLONEL
UNIT COMMANDER: GA-RANKUWA FCS
SA MALEHO

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