

# The National Prosecuting Authority *of South Africa*

## NPA Strategic Plan 2013 - 2018



## Foreword

The five year Strategic Plan for the National Prosecuting Authority (NPA) is informed by government priorities and in particular the Refined Justice, Crime Prevention and Security (Refined JCPS) Delivery Agreement (July 2012), which sets out the priorities for all JCPS departments. The aim of government is to ensure that mandates are translated into clear outcomes with the intent to improve service delivery to all South Africans.

The NPA, as Programme 4 of the Department of Justice and Constitutional Development (DoJ&CD), supports the efforts of the DoJ&CD to improve, modernise and strengthen the work of the criminal justice system (CJS). By working with its CJS partners, the NPA strives to address inefficiencies in the system, such as unnecessary delays, and to ensure better collaboration.

The DoJ&CD remains responsible for resourcing the lower courts, and the NPA's relationship with the department remains pivotal. The resourcing of the lower courts continues to be a threat to service delivery in the courts, where prosecutors are faced on a daily basis with physical infrastructure constraints, such as inadequate accommodation, poor working conditions and limited resources. These conditions hamper prosecutors from performing optimally, which in turn impacts on other role-players in the CJS and ultimately results in poor service delivery. The NPA together with the DoJ&CD will continue to investigate means to alleviate the resourcing hurdles in the lower courts.

The organisation strives to continually build a strong and highly skilled team of prosecutors who will bring about remarkable improvements in specialisations. The NPA's focus on addressing the vacancy rate, specifically amongst prosecutors, has yielded results in the previous financial year (2011/12). However, the Compensation of Employees budget has come under strain and will negatively affect the organisation's ability to build critical capacity to increase performance in the lower courts. The mandate of prosecution cannot be successfully executed if the organisation is unable to provide the necessary resources, particularly human resources.

Therefore, the NPA will continue to focus on increasing its capacity to effectively carry out its mandate through the investigation of the use of operations management principles such as lean thinking, to ensure that more is done with less. Furthermore, the organisation will explore options to optimally utilise existing resources within the NPA to achieve the performance targets. The NPA Human Resources (HR) Plan will be used as the vehicle to guide these processes and identified interventions. This Plan aims to "*set out the plans to acquire and develop the requisite skills to ensure service delivery*" (HRP 2012: 10).

This Strategy is aligned to Outcome 3 of the Government Priorities, which seeks to ensure that all people in South Africa are and feel safe. In conducting prosecutions, the NPA plays a critical role towards achieving the outcome. The 2012 Government Midterm Review report states that in addition to crime in general, one of the key challenges for government is corruption. Corruption is increasingly damaging government's ability and determination to deliver on its mandate.

Furthermore, as recommended by the National Planning Commission (NPC)<sup>1</sup> based on the findings of the NPC Diagnostic Report (June 2011), the NPA facilitated a National Stakeholders Workshop (on 14 November 2012) in order to align the strategic plans of the JCPS cluster departments and the 7-Point Plan. During the workshop discussions focused on the challenges and bottlenecks which impact on performance and service delivery, such as delays within the system. It included the identification of interventions to address these challenges and bottlenecks, and an approach to monitor identified interventions jointly. These interventions will be refined and action plans will be developed to facilitate and coordinate the implementation of the identified resolutions.

The NPA has adopted a zero tolerance approach to corruption in respect of its employees and closely monitors the prosecution of corruption cases, particularly in respect of JCPS officials in line with government priorities. The organisation will continue to be active on the interdepartmental structures established to address corruption. Even though the targets in respect to convicting persons in relation to corruption exceeding R5m have not been met, noteworthy progress has been made in the identification of potential cases and the development of investigation and prosecution strategies to deal with these cases in the short to medium term. However, there has been a huge improvement (269%) in the number of JCPS officials convicted of corruption, which increased from 29 in 2010/11 to 107 during 2011/12.

The organisation is committed to transforming itself to meet the needs of society by contributing to the effectiveness of the CJS. The NPA structure has been re-aligned to improve service delivery in identified areas through specialist units and an integrated prosecution service. The alignment was necessitated by an analysis of the performance of the organisation and the links to the structure. These changes will ensure that the provision of these services is efficient and that the accountability level is enhanced.

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<sup>1</sup> Cited in National Development Plan Vision for 2030, November 2011:350

The NPA is committed and determined to attain the strategic objectives as set out in the Strategic Plan for 2013-2018. Against the back-drop of global and local economic constraints with the resultant need to enforce government efficiency measures, the objectives are realistic and achievable with the focus on delivering essential services without compromise to our customers and stakeholders.



Adv N Jiba

**National Director of Public Prosecutions (Acting)**

Date: 27/1/2013

**Official Sign Off**

It is hereby certified that this Strategic Plan:

- Was developed by the management of the National Prosecuting Authority (NPA) under the guidance of the Minister of Justice and Constitutional Development.
- Takes into account all the relevant policies, legislation and other mandates for which the NPA is responsible.
- Accurately reflects the strategic outcome orientated goals and objectives which the NPA will endeavor to achieve over the period 2013-2018.

**Mr G Hollamby**

**Executive Manager: Finance and Procurement**

**Signature:**



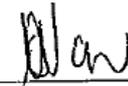
**Date:**

25/1/2013

**Ms K van Rensburg**

**Acting Chief Executive Officer**

**Signature:**



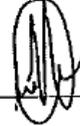
**Date:**

25/1/2013

**Adv N Jiba**

**Acting National Director of Public Prosecutions**

**Signature:**



**Date:**

27/1/2013

**Approved by:**

**Ms N Sindane**

**Director General of Justice and Constitutional Development**

**Signature:**



**Date:**

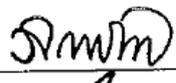
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**Supported by:**

**Mr AC Nel, MP**

**Deputy Minister of Justice and Constitutional Development**

**Signature:**



**Date:**

6-2-2013

**Authorised by:**

**Mr JT Radebe, MP**

**Minister of Justice and Constitutional Development**

**Signature:**



**Date:**

18/02/13

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## Part A: Strategic Overview

### 1. Vision

***The vision of the NPA is to achieve:***

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

### 2. Mission

***The mission of the NPA is:***

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

### 3. Values

***Values of the NPA are:***

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

The values are contextualised in the NPA Code of Conduct.

## **4. Legislative and other mandates**

### **4.1 Constitutional mandate**

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

The National Director of Public Prosecutions (National Director), as head of the prosecuting authority, and Directors of Public Prosecutions (DPPs), as heads at various seats of the High Court, are responsible for ensuring compliance with the above-mentioned constitutional obligation. In terms of section 179(5) of the Constitution the National Director must determine prosecution policy and issue policy directives, which must be observed in the prosecution process. Furthermore, in terms of section 179(6) of the Constitution, the Minister responsible for the administration of justice, exercises final responsibility over the prosecuting authority, and may in terms of national legislation request reports from the National Director regarding the functioning of the prosecuting authority.

### **4.2 Legislative mandate**

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

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

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

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

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

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

In terms of section 11 of the NPA Act, the President may, after consultation with the Minister and National Director, appoint not more than four persons as Deputy National Directors of Public Prosecutions (DNDPP). A DNDPP has all the powers as set out in section 20(1) of the NPA Act above. The DNDPPs' powers and functions are exercised subject to the control and direction of the National Director. The National Director may assign certain specific functions to a DNDPP, for example legal affairs, which includes constitutional action. The NPA Act also allows for the appointment of Special Directors of Public Prosecution (SDPPs) to deal with special focus areas.

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

This Act provides measures for the law enforcement agencies and the prosecuting authority to combat organised crime and money laundering. The primary features of the Act include provisions for the recovery of the proceeds of unlawful activity. Chapter 5 provides for the forfeiture of benefits derived from crime in those cases where the “defendant” is convicted of an offence. Chapter 6, on the other hand, does not focus on wrongdoers themselves, but on property that either has been used to commit an offence or which constitutes proceeds of crime. Although it provides for forfeiture of proceeds of and instrumentalities used in crime, it is not conviction based and may be invoked even where there is no prosecution.

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

The Priority Crimes Litigation Unit (PCLU) headed by a Special DPP in the Office of the National Director is mandated to manage and direct the investigation and prosecution of crimes contemplated in the above Act. These crimes include serious national and international crimes, such as acts of terrorism and sabotage, high treason, sedition, and foreign military crimes committed by mercenaries.

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

The Office for Witness Protection (OWP) provides a support service to the criminal justice system by providing protection to threatened or intimidated witnesses, thus enabling them to testify in criminal proceedings. The OWP is established in the Department of Justice with the Director-General as the accounting officer. However, the DG has delegated these responsibilities to the NPA Chief Executive Officer (CEO).

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

The South African anti-corruption legislation is primarily contained in the above Act. The Act provides, among others, for the strengthening of measures to prevent and combat corruption and corrupt activities; for the offence of corruption and offences relating to corrupt activities; for investigative measures in respect of corruption and related corrupt activities; for the establishment and endorsement of a register in order to place certain restrictions on persons and enterprises convicted of corrupt activities relating to tenders and contracts; to place a duty on certain persons holding a position of authority to report certain corrupt transactions; for extraterritorial jurisdiction in respect of the offence of corruption and offences relating to corrupt activities.

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

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

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

The Act establishes a child justice system for children in conflict with the law.<sup>2</sup> This Act seeks to ensure that child justice matters are managed in a rights-based manner and assists children suspected of committing crime to become productive members of society by engaging with the child in restorative justice measures, diversions and other alternative sentencing options.

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<sup>2</sup> Refers to children under the age of 18, suspected to have committed crime, who will not be dealt with in terms of the normal criminal procedure which is used for adults, but the child justice process will be followed.

### 4.3 Policy mandate

The outcome that the Refined JCPS Delivery Agreement (2012) seeks to achieve is that all people in South Africa are and feel safe. The agreement requires of the cluster to focus on seven expected outputs (only outputs relevant to the NPA are discussed throughout this document). All seven outputs are defined and underpinned by activities and timelines that are being managed and monitored at the highest executive levels within the JCPS.

The NPA contributes to the achievement of the following outputs:

- *Output 1:* Reduced overall levels of serious crime, in particular, contact and trio crimes
- *Output 2:* A more effective Criminal Justice System (CJS)
- *Output 3:* Reduced corruption
- *Output 4:* Managed and improve perceptions of crime among the population
- *Output 7:* Secure cyber space

These outputs are further refined and specific activities and measures are identified for each.

In respect of the NPA the following require priority:

- a. A focus on the prosecution of serious and priority crimes, which includes corruption and contact crimes (especially the trio crimes)<sup>3</sup>
- b. Improve prosecutor capacity and efficiency
- c. Participate in the implementation of the Criminal Justice Review 7-point plan
- d. Participate in the implementation of integrated case flow management in all courts
- e. Increase the finalisation of criminal cases, both through trials and alternative dispute resolution mechanisms, and reduce the case backlogs and average length of time persons spend in remand detention
- f. Develop and implement a plan for effective and efficient joint case planning with SAPS to reduce corruption
- g. Improve support to victims of crime, which includes increase in the number of Thuthuzela Care Centres (TCCs)
- h. Successful convict 100 people by 2014 for corruption where the amount involved is more than R5 million

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<sup>3</sup> Trio crimes consists of robbery at residential premises, robbery at business premises and carjacking (JCPS Delivery Agreement).

### ***National Development Plan Vision***

A National Development Plan Vision for 2030 (2011: 350) was compiled by the National Planning Commission (NPC)<sup>4</sup> based on the findings of the NPC Diagnostic Report (June 2011). This Plan identifies the following proposed priority areas relevant to the NPA; i) Strengthen the CJS<sup>5</sup>, ii) Build safety using an integrated approach<sup>6</sup> and iii) Build community participation<sup>7</sup> in community safety. Furthermore the plan (2011:353) recommends and supports the ongoing efforts to align the strategic plans of the JCPS cluster departments and the 7-point plan.

### ***Key policy developments and legislative changes***

**Judicial Matters Amendment Act (Act 11 of 2012)** - amends the NPA Act, 1998, so as to further regulate the remuneration of Deputy Directors and prosecutors; and to regulate the continued employment and conditions of service of persons employed by the NPA as financial investigators and analysts; and to provide for matters connected therewith.

**National Prosecuting Authority Amendment Bill** - in the beginning of 2011 the Minister of Justice and Constitutional Development requested the DoJ&CD to prepare draft amendments to the NPA Act so as to provide for an independent administration of the NPA; to further regulate the executive authority of the NPA; and to provide for the appointment of a Chief Executive Officer (CEO) as accounting officer for the NPA. At the beginning of April 2012, the Minister submitted a draft Bill to the Acting National Director for comment. The NPA has submitted its input on the Bill to the Minister for further consideration.

## **5. Situational Analysis**

The NPA annually conducts a situation analysis<sup>8</sup> aimed at identifying internal and external opportunities and/or challenges that may have an effect on service delivery and performance of the organisation. This process explores both the internal and external environmental factors. The situation analysis report (SAR) provides a summary of the findings, challenges, implications and recommendations for the organisation.

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4 Cited in National Development Plan Vision for 2030, November 2011:350

5 Through the correct implementation of the recommendations in the Review of the South African Criminal Justice System (2007) to deal with current system weaknesses.

6 Refers to the achievement of long-term, sustainable safety which requires an integrated approach which focuses on tackling the fundamental causes of criminality and requires active involvement of both governmental and non-governmental resources and capacities.

7 The two critical elements required are civil society organisations and civic participation, for a safe and security society.

8 Full report available from the Strategy Office; Situational Analysis Report (SAR)

## 5.1 Performance Environment

The foundation for the development of this Strategic Plan is the government priorities determined by the Presidency. Government remains committed to the five priorities of education, health, rural development and land reform, creating decent work and fighting crime including corruption.

The total crime levels have decreased by approximately 24% to 2,08 million according to the 2011/12 released figures, of which 623 486 are serious crimes ranging from murder to shoplifting. This is 2,3% fewer than in the previous year (638 468) and 7,8% fewer than 2 years ago (684 199). Figure 1<sup>9</sup> below depicts the “anatomy” of the serious crime, which shows that contact crime represents the largest portion of serious crime at 33% followed by the other serious crime at 25,9%, and property related crime at 25,7% (respectively).

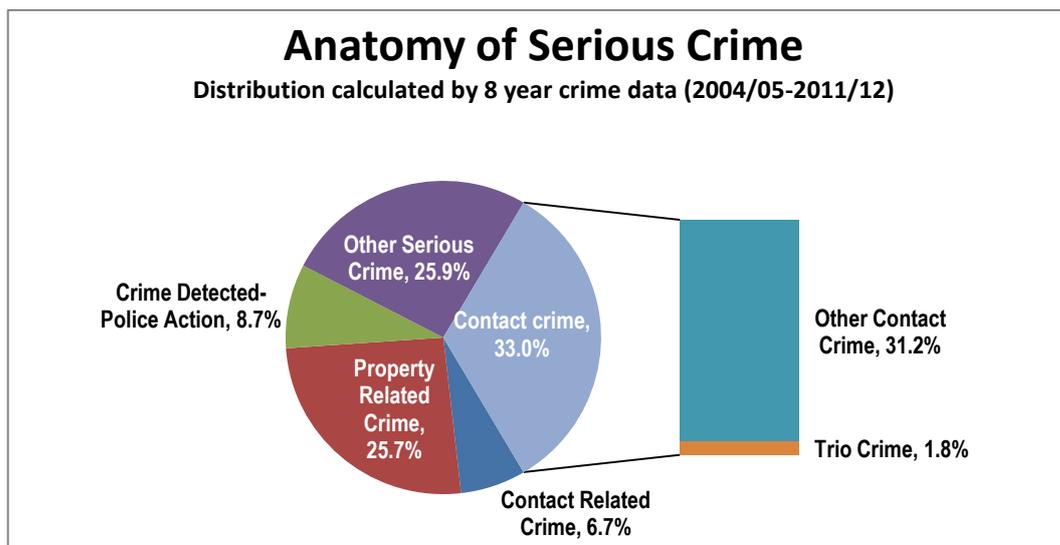


Figure 1: Anatomy of Serious Crime

The trend in the categories of serious crime is as follows when compared to previous years:<sup>10</sup>

Overall Serious Crimes	Baseline 2008/09	2009/10	2010/11	2011/12	Deviation 08/09-11/12	Deviation 10/11-11/12
Contact crime	1 405	1 371	1 277	1 233	-12.3%	-3.5%
Property related crime	1 093	1 122	1 069	1 060	-3.0%	-0.9%
Crime detected-police action	385	431	464	514	33.6%	10.9%

Table 1: Crime trend deviation for serious crime category

<sup>9</sup> This chart has been adapted from the SAPS Crime Statistics Report.

<sup>10</sup> This table has been adapted from the SAPS Crime Statistics Report.

Table 1 show that contact crime decreased by a more noticeable percentage compared to property related crime over the last 4 years. Crime detected though police action has increased by 10,9%, which can be attributed to police efforts to clamp down on crime.

Table 2<sup>11</sup> depicts the crime trend of those crimes that are regarded as priority:

Priority Crimes	2008/09 Baseline	2009/10	2010/11	2011/12	Deviation 08/09-11/12	Deviation 10/11-11/12
Murder	37	34	34	31	-17.2%	-3.1%
All sexual offences	145	139	132	128	-11.9%	-3.7%
Rape	98	100	99	95	-2.9%	-3.7%
Trio Crime	97	96	84	83	-14.1%	-1.2%

Table 2: Crime trend on selected priority crime

The overall priority crimes, as depicted in the table above, declined over the 4 year period; murder decreased by 3,1% on a year-to-year (2010/11-2011/12) basis and 17% over the 4 year period (2008/09-2011/12). A sharp decrease in rape at 3,7% on a year-to-year (2010/11-2011/12) basis compared to the four-year period at 2,9% (2008/09-2011/12). However, although the overall priority crimes (as depicted in table 2) decreased the levels of the listed crimes (murder, rape, and all sexual offences) are still high.<sup>12</sup> Additionally, for rape and sexual offences overall, these figures should be viewed against the fact that these types of crimes are generally under reported due to the nature of the crime.

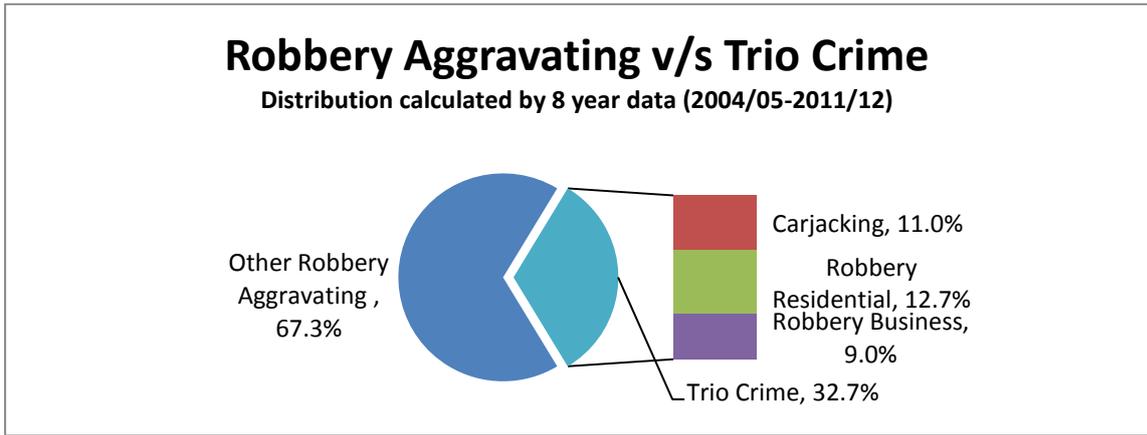


Figure 2: Robbery Aggravating v/s Trio Crime

Figure 2<sup>13</sup> shows that the number of robbery aggravating crimes (67,3%) far outweighed that of trio crimes (32,7%). There was a recorded decline of 10,8% in vehicle hijackings, which shows a noteworthy decrease since 2009/10 of 34,4%.

11 This table has been adapted from the SAPS Crime Statistics Report.

12 Institute for Security Studies. (2012). Fact Sheet: Explaining the official crime statistics for 2011/12. Accessed from: [http://www.issafrica.org/crimehub/system/components/blog/files/2012\\_Crime\\_Factsheet\\_20.09.12\[3.14pm\].pdf](http://www.issafrica.org/crimehub/system/components/blog/files/2012_Crime_Factsheet_20.09.12[3.14pm].pdf), dated 12 October 2012.

13 This chart has been adapted from the SAPS Crime Statistics Report.

A marginal decrease of 0,7% was reported for residential robbery following an alarming 100% increase between 2003/04 and 2009/10 period. This is supported by the findings of the National Victims of Crime Survey (2012), which reveals that more people (50,4%) are scared of residential robberies. Furthermore, business robberies continued to climb with an 8,8% increase compared to the 2010/11. What is more alarming, is that since 2004/05 this crime increased by a substantial 380%.

### *Emerging Crime Types*

There has been an increasing trend of the involvement of organised crime in a number of emerging crime types. Examples include various forms of cyber crime and related scams, illicit mining on a large scale, environmental crimes such as abalone and rhino poaching and illegal fishing and other areas such as theft of electricity, cables and other non-ferrous metals, ATM bombing and gang related crimes. This includes illegal drugs and substances, smuggling of firearms, human and child trafficking, money laundering and theft.<sup>14</sup>

Most of these are areas where traditionally there is little law enforcement focus as they are seen as more regulatory type offences. As a result, risks for criminals tend to be low but the profits are high. The result has been a significant increase in the organised commission of crime in these areas which often have very high economic or other impact for the country.

These developments require a much greater flexibility from law enforcement to ensure that such trends are dealt with pro-actively and effectively. Other emerging crime types are trafficking in fraudulent medicines and human organs, vigilante attacks by communities and counterfeiting of money.

### *Crime Survey*

The recently released Victims of Crime Survey (VOCS, 2012)<sup>15</sup> undertaken by Statistics South Africa (SSA) highlights the following relating to the courts:

- 38,1% of households believe that violent crimes have decreased during the period 2009 to 2011, in comparison with the 41,8% reported in the VOCS 2011 conducted during 2010.
- Similar to 2011 64,7% of the households indicated that they were satisfied with the way the courts did their work in 2012, of which 53% thought that courts passed appropriate sentences compared to 51,8% in the previous

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<sup>14</sup> South African Police Service (2010). Annual Performance Plan and reiterated in the Annual Performance Plan of 2011/12

<sup>15</sup> For the period between January and December 2011

year. Furthermore, approximately 27,6% (slight decrease from the previous year's 29,8%) indicated that courts achieved a good conviction rate, whilst 18,7% (shows a 0.8% increase against the 17,9% during 2010) praised the courts because they were not corrupt.

However, the VOCS reveals a disparity between the crimes that are seen as priority crimes and those that concern the public. The VOCS reports that 59,3% of the households perceived housebreaking/burglary as the most common type of crime. Furthermore, it reports that 5,4% of households were victims of housebreakings during 2011, with a 0,9% increase from the 4,5% in 2010. The increase of 0,9% is against the backdrop of 2,0% decrease of burglary residential between 2010/11 and 2011/12 as per the police crime statistics.

#### *Drivers of demand for services*

The main indicator for demand in the NPA remains the number of cases referred to the NPA for prosecution, with the South African Police Service (SAPS) being primarily responsible for this demand. The increase in investigative capacity of the SAPS was expected to result in an increase in cases referred to the NPA for enrolment. However, there has been a decrease in the number of cases enrolled with a significant increase in the number of cases referred to the NPA for decision. The conclusion is that the SAPS are investigating first and delaying arrests vs. arresting first and investigating thereafter.

The level of crime is an indirect indicator of the demand for the NPA services and there has been a decline in reported crime over the past years. However, the actual demand is the number of resolved (or detected cases) that are referred to the NPA. As the overall level of crime decreases, it should result in an increase in resolved cases as the investigators can focus on fewer cases. The NPA needs to prepare for this eventuality through an increase in prosecutors.

The effective functioning of the CJS may be compromised by the increase in new cases, coupled with existing court rolls. This will result in the increase of outstanding court rolls (work in progress) unless the NPA completes more cases than it receives.

#### *Factors impacting on the performance of the NPA*

The availability of diversion programmes provides an option of diverting suitable cases from the mainstream prosecution thereby alleviating the trial demands on the courts. However, in most jurisdictions the CJS has been unable to cope with this demand, adding to the overburdened court rolls.

The NPA is dependent on the role players within the JCPS to deliver on its mandate. A successful partnership with key stakeholders and effective service delivery by all is required. Furthermore, all stakeholders need to align their plans and targets. During the National Stakeholders Workshop two main interventions were identified to jointly deal with corruption; i) establishment of a multidisciplinary sub-committee to focus on all the areas of corruption (i.e. organised crime, commercial crimes etc) and ii) NPA to review resourcing model for ACTT cases to ensure either dedicated prosecutor or 2 prosecutors per case.

The quality of investigations in some cases also impacts negatively on the NPA's ability to deliver as does the general inefficiency of the CJS. The NPA also depends on the public to report crime and give evidence, which requires confidence in the CJS. Equally correct media reporting enhances public confidence.

The following challenges and/or bottlenecks have a major impact on court performance and service delivery (but not limited to):

- i. Insufficient integrated operational planning with role players to facilitate practical implementation.
- ii. Representation of role players in different structures – officials representing the department should be at the correct levels to ensure that decisions can be made during these meetings, and there should be continuity.
- iii. Existing structures at national and regional (provincial) levels are ineffective – together we need to revive existing structures to ensure that they add value and inform decisions.
- iv. Ineffective implementation of CFM – implementation of the proposed CFM model in regional courts.
- v. Slow finalisation of demarcation process – impacts on operational management within the regions.
- vi. Lack of joint and/or integrated training for JCPS officials focused on improving court performance and/or service delivery.

#### *NPA Performance Overview*

The NPA increased the number of cases finalised by way of alternative dispute resolution mechanisms (ADRM) by 2,2%. All levels of courts maintained a positive clearance ratio during 2011/12 thus disposing of more cases than the number of new cases enrolled. There was a 12, 2% reduction in the number of cases withdrawn in the courts due to improved screening mechanisms.

The Asset Forfeiture Unit (AFU) had limited success in respect of achieving its targets. It continued to improve its success rate and achieved the highest rate of 96,1% against a target of 90%. Overall, it did well on its value targets with more than R540 million frozen for the second consecutive year. R131 million was recovered and paid to the victims of crime and to the Criminal Assets Recovery Account (CARA). However, it was approximately 5,5% below target on the number of cases done, partly because of the increased focus on more complex high impact cases.

The enhanced focus of the courts on serious crime has resulted in improved finalisation of cases by both the high and regional courts. Increases of 4, 7% and 3,1%, respectively, were achieved.

Furthermore, the regional courts managed to improve the conviction rate in an effort to curb serious crime. The courts also excelled in the prosecution of trio crimes by finalising 232,1% more cases compared to the number reported in the 2010/11 financial year.

High conviction rates were maintained. An average of 1 685 high and lower courts finalised 316 098 cases with a verdict, achieving an 88,8% conviction rate. This is slightly higher than the conviction rate achieved during 2010/11, although 4,5% fewer verdict cases were finalised compared to the total of 331 045 verdict cases finalised during 2010/11. This reduction must be viewed against the increase in cases finalised through informal mediation and steady decline in court utilisation, and the 6,9% (70 630) increase in formal bail applications compared to the 66 046 applications dealt with during 2010/11.

The most challenging aspect of the JCPS Delivery Agreement was the previous output 5, which required an improvement in investor perception trust and willingness to invest in South Africa. A target was set to convict at least 100 people with assets of more than R5 million obtained through illicit means, by 31 March 2014. The NPA participates in the Anti-Corruption Task Team (ACTT) which was set up to focus on this target.

Although the coordinated effort has not yet resulted in any such convictions, it has made remarkable progress. In the past 20 months, the ACTT has brought 22 such persons to court as accused in these matters and froze the assets of 23. The ACTT is investigating a further 34 persons that potentially have R5 million or more in criminal assets. The ACTT has already frozen assets to the value of R604 million in these cases, and forfeited R61 million. In addition, the ACTT is dealing with a number of other serious corruption cases. In total, it is investigating 57 cases involving 414 persons. Of these, 22 cases are in court with 15 people already convicted and another 167 accused standing trial.

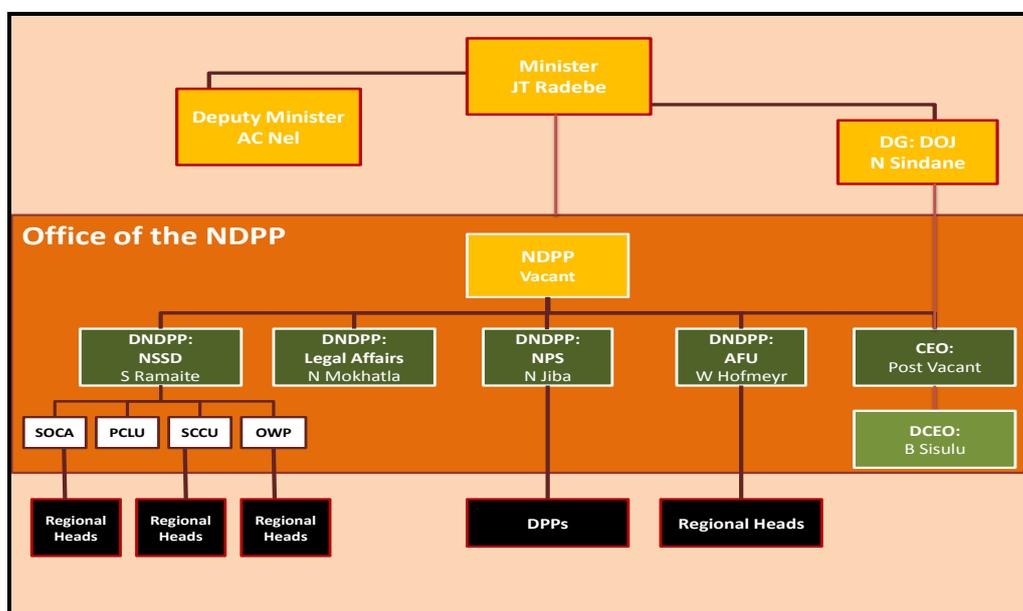
The other 232 persons are still being investigated as suspects. The total value of all assets frozen to date in cases dealt with by the ACTT is R647 million.<sup>16</sup>

The organisation has through its Integrity Management Unit (IMU) developed Fraud and Corruption Response Plan (FCRP), which serves as the NPA's strategy to deal with and prevent fraud and corruption in the organisation. In addition, Enterprise Risk Management (ERM) identifies the risks relating to corruption and put systems in place to prevent it. A fraud and corruption risk register has been developed and is closely monitored. Specialised services to the victims of sexual offences were delivered at 30 fully operational TCCs nationally, which increased from 27 to 30.

## 5.2 Organisational Environment

The purpose of the NPA is to provide a coordinated prosecuting service that ensures that justice is delivered to the victims of crime through general and specialised prosecutions, protects certain witnesses, and removes profit from crime.<sup>17</sup>

Figure 1: High Level Organisational Structure of the NPA<sup>18</sup>



### Service Delivery

Services of the sub-programmes are primarily rendered in the lower and high courts in all 9 provinces in collaboration with national and international stakeholders, where necessary. To this end, the NPA developed a Service Delivery Improvement Plan (SDIP, 2012-2015), which sets out the primary and secondary service areas that the organisation intends to focus and deliver on within the next three years.

<sup>16</sup> Figures relating to ACTT matters presented in this report have been verified by the ACTT.

<sup>17</sup> Vote 23, Estimates of National Expenditure p2.

<sup>18</sup> Currently Adv N Jiba is acting NDPP and Mrs Karen van Rensburg the acting CEO

The NPA provides services through the high courts (which represent approximately 0,4% of workload), regional courts (12.2% of workload) and the district courts (87,4%).<sup>19</sup> The SDIP primarily focuses on improving the service to customers in the district courts as this is where the bulk of its customers are served.

### *Resourcing*

To ensure that required resources are allocated to the various service points the organisation developed a Human Resources (HR) Plan. This Plan aims to “*set out the plans to acquire and develop the requisite skills to ensure service delivery. Crime is evolving as criminals find new and innovative ways to commit crime. There has been a shift to cybercrime in the broadest sense of the word, as cyber technology is increasingly employed to commit crime. The core of the organisation, the National Prosecutions Service needs to keep up with these developments and be up-skilled in this emerging phenomenon*” (HRP 2012: 10). The information within the HRP is “*drawn from a number of processes and will be utilised as a guide in the management of human resources; to assist with planning for future service delivery needs and to analyse the gaps between the demand and the supply of human resources as well as identifying strategies to close the gaps*”.

### **5.3 Description of the strategic planning process**

The NPA annual situation analysis process reviews the following:

- Political environment and factors
- Economic environment and factors
- Social environment and factors
- Technological environment and factors
- Legislative developments
- Environmental factors
- Crime statistics and trends
- Internal performance
- Super-ordinate plans and CJS partner plans

The report is used to identify factors to which the NPA needs to respond in its strategic planning. A summary of the report is included in the strategic plan. Input is obtained from senior managers and the strategic plan is developed using the latest templates from National Treasury. The NPA also aligns its plan to that of the DoJ&CD and seeks to support initiatives and strategic goals of the department. The Refined JCPS Delivery Agreement forms the basis for the current NPA plan.

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<sup>19</sup> Q 3 Performance Report for Public Prosecutions, 2011/12

## Part B: Strategic Objectives

### 6. Strategic outcome orientated goals of the institution

JCPS Outcome:	All people of South Africa Are and Feel Safe
NPA Strategic Outcome Oriented Goal	Improved prosecution service
Goal Statement	Render a prosecution service that is effective

### 7. Programme 4: National Prosecuting Authority

**Purpose:** Provide a coordinated prosecuting service that: ensures that justice is delivered to the victims of crime through general and specialised prosecutions, removes the profit from crime and protects certain witnesses.

There are five sub-programmes:

- i. National Prosecutions Service (NPS)* is primarily responsible for general prosecutions and the appeals that may follow. The NPS is also responsible for the resolution of criminal matters outside of the formal trial process through Alternative Dispute Resolution Mechanisms (ADRM), the setting of admission of guilt for minor offences and consideration of dockets brought by the police where persons have not been charged.
- ii. Specialised Prosecutions Service (SPS)* refers to specialised prosecution units dealing with priority crimes litigation, sexual offences and community affairs, and specialised commercial crime.
- iii. Office for Witness Protection (OWP)* provides for the protection, support and related services to vulnerable witnesses and related people in judicial proceedings.
- iv. Asset Forfeiture (AFU)* seizes assets that are the proceeds of crime or have been part of an offence through a criminal or civil process.
- v. Support Services (SS)* provides corporate services in terms of finance, human resources, information communication technology, supply chain, communication, security services, strategy and risk management.

## 7.1 Strategic Objectives

The NPA has linked its strategic objectives to the outputs in the Refined JCPS Delivery Agreement:

1	JCPS Output	Reduced overall levels of serious crime, in particular contact and trio crimes, and secure cyberspace
1	NPA Strategic Objective	Increased successful prosecution of serious and priority crime
	Objective Statement	To increase the number of convictions in the RC and HC to 33 365 by 2017/18
	Baseline	Number of convictions in the RC and HC 2011/12: Actual Performance 29 628
	Justification	This objective will contribute to reducing the overall levels of serious and priority crimes
	Links	This objective will contribute to achieving the JCPS output 1 and 5
2	JCPS Output	A more effective Criminal Justice System (CJS)
2	NPA Strategic Objective	Improved collaboration with JCPS partners
	Objective Statement	To increase the number of criminal court cases finalised including ADRM to 534 359 by 2017/18
	Baseline	Number of criminal court cases finalised including ADRM 2011/12: Actual Performance 448 793
	Justification	This objective will contribute to the effectiveness of the CJS
	Links	This objective will contribute to achieving the JCPS output 2
3	JCPS Output	Reduced corruption
3	NPA Strategic Objective	Improved prosecution of JCPS officials charged with corruption and prosecute serious corruption cases
	Objective Statement	To successfully convict 100 people by 2014 for corruption where the amount involved is more than R5million To increase the number of JCPS officials convicted of corruption: to 210 (74%) by 2017/18
	Baseline	Number of persons convicted of corruption where the amount involved is more the R5m 2011/12: Actual Performance 0; Estimated Performance 2012/13: 50 Number of JCPS personnel convicted for offences related to corruption 2011/12: Actual Performance 107 (72.6%)
	Justification	This objective will contribute to combating corruption in the JCPS cluster and to ensure its effectiveness and its ability to serve as a deterrent
	Links	This objective will contribute to achieving the JCPS output 3
4	JCPS Output	Managed and improved perceptions of crime among the population
4	NPA Strategic Objective	To improve justice services for the victims of crime
	Objective Statement	To expand the number of TCCs to 60 by 2017/18
	Baseline	Number of operational TCCs 2011/12: Actual Performance 30
	Justification	This objective will contribute to managing and improving the population's perception of crime
	Links	This objective will contribute to achieving the JCPS output 4

## 7.2 Resource considerations

**Table 3: Budget allocation for the NPA per sub-programme over the MTEF period**

R thousand	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
	Audited Outcomes			Adjusted Appropriation	Medium-term estimates		
National Prosecutions	1,300,193	1,622,904	1,722,710	1,840,810	1,968,248	2,103,133	2,207,314
Specialised Prosecutions	269,158	207,047	229,148	237,880	294,286	316,967	334,668
Office for Witness Protection	120,376	127,977	132,870	154,962	159,615	167,842	174,230
Asset Forfeiture Unit	78,640	156,956	104,507	109,326	116,685	124,141	129,895
Support Services	419,843	380,388	426,180	496,845	511,525	536,631	556,330
<b>TOTAL</b>	<b>2,188,210</b>	<b>2,495,272</b>	<b>2,615,415</b>	<b>2,839,823</b>	<b>3,050,359</b>	<b>3,248,714</b>	<b>3,402,437</b>

**Table 4: Budget allocation for the NPA per economic classification over the MTEF period**

R thousand	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16
	Audited Outcomes			Adjusted Appropriation	Medium-term estimates		
<b>CURRENT PAYMENTS</b>							
Compensation of employees	1,620,171	1,952,222	2,100,960	2,227,293	2,421,253	2,592,369	2,723,790
Goods and services	453,246	465,388	457,270	514,410	541,220	565,970	586,512
<i>Of which:</i>							
Communication	39,134	34,070	33,596	47,402	39,852	43,013	43,255
Computer services	56,683	29,320	38,766	70,788	72,731	70,262	81,476
Consultants	56,308	97,379	93,931	61,894	49,530	51,321	50,412
Agency and support/ outsourced services	15,148	16,866	7,337	6,896	17,448	17,389	18,192
Inventory	20,879	8,382	22,030	29,621	31,091	33,084	32,893
Lease payments (Incl. operating leases, excl. finance leases)	15,729	34,920	15,971	15,354	14,840	60,016	63,553
Property Payments	75,233	68,797	74,635	82,257	97,337	60,426	59,166
Travel and subsistence	85,026	81,009	76,950	80,979	144,273	150,652	153,156
Assets <R5000	11,505	769	1,130	3,677	4,633	4,425	5,027
Operating Payments	47,516	56,679	54,863	67,604	10,427	11,296	10,437
Advertising	4,934	5,211	6,577	7,107	3,194	3,180	3,688
Audit cost: External	4,849	6,238	5,008	7,000	6,998	7,292	10,823
Venues and facilities	6,911	6,086	4,544	4,810	4,977	5,391	5,491
Other	13,391	19,662	21,932	29,021	43,889	48,223	48,943
Interest and rent on land	25,114	10,224	8,893	10,961	7,509	7,884	8,199
Payments for financial assets	418	3,940	323	0	0	0	0
<b>Total current payments</b>	<b>2,098,531</b>	<b>2,427,834</b>	<b>2,567,123</b>	<b>2,752,664</b>	<b>2,969,982</b>	<b>3,166,223</b>	<b>3,318,501</b>

<b>TRANSFERS AND SUBSIDIES TO:</b>	<b>18,934</b>	<b>7,447</b>	<b>7,442</b>	<b>9,334</b>	<b>9,800</b>	<b>10,290</b>	<b>10,702</b>
Departmental agencies and accounts	1,373	1,826	2,031	2,330	2,446	2,568	2,671
Households	17,561	5,621	5,411	7,004	7,354	7,722	8,031
<b>PAYMENTS FOR CAPITAL ASSETS</b>	<b>70,327</b>	<b>56,051</b>	<b>40,527</b>	<b>77,825</b>	<b>70,577</b>	<b>72,201</b>	<b>73,234</b>
Buildings and other fixed structures	21,046	14,716	15,923	16,604	22,434	23,556	24,498
Machinery and equipment	49,281	41,335	24,604	61,221	48,143	48,645	48,736
<b>TOTAL</b>	<b>2,188,210</b>	<b>2,495,272</b>	<b>2,615,415</b>	<b>2,839,823</b>	<b>3,050,359</b>	<b>3,248,714</b>	<b>3,402,437</b>

The current emphasis of the organisation is to ensure that the focus is on the core business and outputs of the organisation. Envisaged initiatives include saving on major cost items through streamlining the organisational structure, merging or combining service offerings, and appropriate and effective resource planning and allocation. Other cost saving initiatives will include forced savings in respect of Travel and Subsistence (S&T) in line with government cost saving measures.

The compensation budget of the NPA is currently under severe stress and it is anticipated that the situation will not improve during the current MTEF period. The strain is primarily due to the carry through costs of the Occupation Specific Dispensation (OSD) for prosecutors and the need to absorb the higher than anticipated cost of living adjustments.

A reprioritisation process was initiated to inform decisions regarding allocation of compensation budgets, which are mainly based on the funding of existing resources and reduction of budgets, where posts were not filled.

As and when vacancies now arise, the funding is redirected to cover the existing salary bill shortage. The NPA is not in a position to fill any vacancies unless more funds from Goods and Services are vired to Compensation of Employees.

### 7.3 Risk management

The NPA has identified the top ten risks and has developed mitigation plans. However, only the top five risks are discussed below.

**Table 5: NPA Top Five Risks and mitigation actions**

No	Risk	Key Controls in place	Rating	Mitigating Plans	Responsible
1	<p><b>Emerging crime trends</b></p> <p>As the Criminal Justice System improves, criminals find new and innovative methods to commit crime. Technological developments increasingly facilitate the commission of crime. Crimes have become faceless and detection and prosecution thereof complex. The CJS has not always been able to match the rapid changing criminal environment. This inability to be more flexible and responsive, if unchecked, can translate into increased crime levels. Seemingly less serious crime is increasingly being committed in an organised fashion, some of which poses a threat to the local economy.</p>	<p>Prosecutors' Policy and Manual</p> <p>Categories of serious crimes as per definition available</p> <p>Docket screening protocol process</p> <p>Training and capacity building programmes</p> <p>Training on cybercrime</p>	High	<p>Develop a joint strategy/approach with partners to deal with emerging organised crime trends such as illicit economy areas, as part of the economic crime categories</p> <p>Develop joint strategy to have multi-disciplinary approach to these crimes from the various business units in the NPA</p> <p>Grow capacity in emerging organised crime prosecution and improve coordination between stakeholders as well as creating awareness of the crime types</p>	<p><b>DNDPP:</b> Adv Majokweni</p> <p><b>DNDPP:</b> Dr Silas Ramaite</p> <p><b>DNDPP:</b> Mr Willie Hofmeyr</p>
2	<p><b>Resource Capacity</b></p> <p>Adequate resourcing in terms of people, skills, finances and facilities remain central and requisite for the NPA to achieve its objectives. However, the organization operates with limited resources, which hampers adequate planning to ensure effective execution of sustainable and efficient operations across all levels within the NPA.</p>	<p>NPA staff establishment</p> <p>Workplace Skills Plan (WSP) monitored regularly</p> <p>Recruitment processed</p> <p>Cost adjustments through the MTEF planning process</p> <p>Implementation of the victim's charter and minimum standards in the NPA</p> <p>Reprioritization of funding and cost measures introduced</p> <p>Submission to request more funding from National Treasury</p>	High	<p>Optimize staff allocation and move where demand is and relief teams for low performing areas - Lower courts vs. High court resource requirements</p> <p>Review training and development and ensure full implementation of the WSP</p> <p>Prioritise posts and fill critical posts</p> <p>Develop approach for building capacity and transferring skills within AFU</p> <p>Continue to re-prioritise funding and save costs where possible</p>	<p><b>ACEO:</b> Ms K van Rensburg</p>

No	Risk	Key Controls in place	Rating	Mitigating Plans	Responsible
3	<p><b>Stakeholder management</b></p> <p>The NPA operates in a highly complex value chain with several dependencies. In order to ensure that it achieves its strategic objectives, the NPA requires the cooperation of a number of stakeholders. The NPA also does not have any control over the role players and sustainable and coordinated stakeholder relations are essential. Currently the NPA does not have a stakeholder management strategy to ensure a coordinated and coherent approach to managing stakeholder relations.</p>	<p>Refined JCPS Delivery Agreement</p> <p>JCPS Forums and Meetings</p> <p>Case flow management meetings</p> <p>Joint NPA/SCCU/SAPS and Hawks strategy</p>	High	<p>Develop and implement a plan for effective and efficient joint planning amongst stakeholders</p> <p>Develop a coherent stakeholder strategy for the NPA</p> <p>Identify person who has overall responsibility for stakeholder management within the NPA</p> <p>Mobilise stakeholders and play an active role in contributing to re-establishing the sexual offence courts</p>	ANDPP: Adv N Jiba
4	<p><b>Information and knowledge management</b></p> <p>Non availability of information and knowledge management strategy leads to limitations on service delivery.</p>	<p>Process in place to ensure that information is shared</p>	Medium	<p>Develop an information management strategy</p> <p>Develop a knowledge management strategy</p> <p>Review the SISP</p>	ACEO: Ms K van Rensburg
5	<p><b>Public Perception and reputation of NPA</b></p> <p>The NPA operates in a highly complex value chain that has several interdependencies. The public perceptions and understanding of the NPA is of paramount importance. It is upon NPA to educate the public about its operations. Lack of understanding of the mandate of NPA by the public generates negative perception and damages the image and reputation of NPA.</p>	<p>Refined JCPS Delivery Agreement</p> <p>Fraud and Corruption Awareness Campaigns</p> <p>Vetting of staff by SSA</p> <p>Prosecutors policy and manual/ Screening protocol process</p> <p>Continuously addressing negative/inaccurate reporting by media</p>	High	<p>Continuous filling of senior vacant positions</p> <p>Establish the extent of corruption within the NPA</p> <p>Provide training on ethics</p> <p>Intensify and improve internal communications</p> <p>Continuous education and awareness campaign on the role of NPA</p>	ACEO: Ms K van Rensburg

## **Part C: Links to other plans**

### **8. Links to the long-terms infrastructure and other capital plans**

The NPA, as a programme within the DoJ&CD, does not develop its own long-term infrastructure or capital plans. The NPA provides its needs, which are incorporated into the DoJ&CD strategies and plans.

## **Annexure A            Organisational Information and Institutional Environment**

### **Organisational Information and Institutional Environment**

The NPA, in line with the President's call for dedicated and committed public servants that understand the needs of the public that it serves, will build a culture of service excellence. A transformation strategy is being developed and its implementation over the next five years will be closely monitored. The NPA will identify its responsibility at both a national and international level to report on transformation issues such as racism, gender discrimination etc. and prepare reports timely.

### **Ensure that the NPA Transforms**

The implementation of the Transformation Strategy of the NPA will require a transformed workforce at all levels. To transform the organisation to meet the needs of the people of South Africa, the NPA needs to change the manner in which things are done as well as its approach. Not only do aspects relating to employment equity and diversity need to be addressed specifically at the management levels (level 12 upwards), but the transformation of the organisational culture is required. The transformation required is how the NPA executes its functions at a process and system level.

The NPA strives to comply with the Code of Good Practice of the Integration of Employment Equity into Human Resource and Practices Policies issued in terms of the Employment Equity Act, 1998 (Act No. 55 of 1998).

### **Performance Management**

The success of the implementation of the NPA strategy lies in individual and enterprise performance management (EPM). The NPA will ensure that individual performance is aligned to the NPA strategic objectives as well as reward and recognition. There is a strong focus on monitoring performance at all levels in the NPA which will continue. As a result of this commitment the organisation has re-established the Exco Performance Review Committee to ensure close monitoring of performance within the NPA.

## **CJS Review**

The CJS Review 7 point plan adopted by Cabinet, aimed at establishing a new, modernised, efficient and transformed CJS has been acknowledged as key in the achievement of the objectives of the NPA. The Delivery Agreement for the cluster largely embodies the single vision and mission of the cluster, as well as the primary objectives and priorities. This has also resulted in a more streamlined management of and reporting on these priorities.

The NPA has contributed significantly in defining the 28KPI for the dashboard indicating the performance of the CJS, which should soon be finalised by the IJS Programme.

The NPA has also participated in the development of protocols, such as those relating to 63A Bail requests, mental health, legal aid cases and forensic services, one relating to blood alcohol analysis as well as one relating to toxicology reports. The NPA has, in particular, proceeded with the implementation of the unsigned Screening Protocol, in the face of the challenges experienced by other Departments who have raised capacity and accommodation challenges as inhibitors.

## **Annexure B**

## **Glossary**

ADRM	Alternative Dispute Resolution Mechanism
AFU	Asset Forfeiture Unit
CJS	Criminal Justice System
DNDPP	Deputy National Director of Public Prosecutions
DoJ&CD	Department of Justice and Constitutional Development
DPP	Director of Public Prosecutions
EE	Employment Equity
ENE	Estimates of National Expenditure
FCS	Family Violence Child Protection and Sexual Offences units
JCPS	Justice, Crime Prevention and Security Cluster
Legal Aid SA	Legal Aid South Africa
NCPF	National Cybersecurity Policy Framework
NPS	National Prosecutions Service
NDPP	National Director of Public Prosecutions
NPA	National Prosecuting Authority
NPC	National Planning Commission
NSSD	National Specialist Services Division
NVCS	National Victims of Crime Survey
OWP	Office for Witness Protection
POCA	Prevention of Organised Crime Act
PCLU	Priority Crimes Litigation Unit
SAPS	South African Police Service
SCCU	Specialised Commercial Crimes Unit
SDPP	Special Director of Public Prosecutions
SOCA	Sexual Offences and Community Affairs Unit
SPS	Specialised Prosecutions Service
SSA	State Security Agency
TCC	Thuthuzela Care Centre

## **Annexure C            Technical Indicator Description**

### **PART A: KEY CONCEPTS**

#### **Amount involved**

The amount involved in a corruption case is the amount that is stated in the charge sheet.

#### **Case**

In the NPA a case includes criminal court cases and civil court cases. These concepts are defined as:

**Criminal Court Case** - is a matter that has been enrolled in a criminal court of South Africa regardless of the forum. At present, excluded from criminal court cases are traffic matters not contained in a police docket, domestic violence matters as far as they do not form part of a police docket, maintenance inquiries, appeals, civil motions, inquests, decision dockets, reviews and ex parte applications. A criminal court case may have multiple counts and/or accused and can involve multiple police dockets. A single docket may result in multiple court cases.

**Civil Court Case** - is a civil matter that has been enrolled in a court of South Africa regardless of the forum. This includes ex parte applications or applications on Notice. It includes motion and trial proceedings. Examples are restraint, preservation, forfeiture and confiscation applications. It also includes interlocutory applications relating to living and legal expenses and curators in civil matters.

**Alternative Dispute Resolution Methods (ADRM)** - alternative dispute resolution encompasses the following methods for the resolution of disputes between the parties. Within the NPA this includes Diversion and Informal Mediation:

**Diversion** - is one of the alternative ways of delivering justice. It is the process of electing, in suitable and deserving criminal court cases, a manner of disposing of a criminal court case other than through normal court proceedings. (It usually includes the withdrawal of the charges against the accused person, after the accused person has participated in particular certified programmes.) After the offender has completed the diversion programme, the social worker submits a report to the prosecutor. If it is clear that the offender has cooperated and benefited from the programme, the matter is withdrawn and recorded as a diverted case on the daily statistics. These figures are totalled on the last court date of each calendar month. Separate statistics are recorded for children (persons younger than 18 years) and adult diversions.

**Informal mediation** - it is the process by which a prosecutor, duly authorised thereto and within the ambit of the restorative justice guidelines, while acting as a mediator between the victim and offender, resolves the conflict which resulted in the criminal court case or addresses the harm caused in a manner that does not require formal justice but seeks to deliver justice. The matter is subsequently withdrawn.

### **JCPS Officials<sup>20</sup>**

- Defence and Military Veterans (DOD)
- Justice and Constitutional Development (including such entities such as: Legal Aid South Africa, Judicial Services Commission etc.)
- National Prosecuting Authority (NPA)
- Department of Home Affairs (DoA)
- South African Police Service (SAPS)
- Safety and Security
- Special Investigating Unit (SIU)
- State Security Agency (SSA)
- South African Revenue Service (including Customs)

### **Complex commercial crime case**

Complex commercial crime matters are those commercial crime matters which require specialised prosecution due to their intricate nature, or have a high impact on the community.

### **Corruption**

Corruption should be understood as the misuse of public and private office or position or resources with a corrupt intent, and may include acts of bribery, nepotism, extortion, fraud and theft.

### **Cyber crime**

Cyber Crime means illegal acts, the commission of which involves the use of information and communication technologies.

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<sup>20</sup> As identified in consultation with stakeholders during the NPA National Stakeholders Workshop dated 14th November 2012

**Decision dockets**

In the NPA decision cases include all criminal matters presented to the NPA to consider the institution of a prosecution recording in a decision register. These exclude dockets recorded in the Inquest Register and matters directly enrolled. It also includes all matters referred to the AFU to consider whether to initiate civil litigation (regardless of whether the matter has been enrolled for a criminal trial or not).

**Serious crime**

Serious crime is regarded as all criminal court cases prosecuted in the regional and high courts.

**Specialised prosecutor**

A specialised prosecutor is a prosecutor with a particular skills set and experience that has been assigned to deal primarily with the prosecution of certain crime types.

**Successful prosecution**

A successful prosecution of a corruption matter for purposes of outputs 3 and 5 is a prosecution that has resulted in a conviction.

**TCC**

Thuthuzela (“comfort” in Xhosa) Care Centres are 24 hour one-stop service centres where victims have access to all services that include police, counselling, doctors, court preparation and a prosecutor for a strong therapeutic effect on victims. They are aimed at turning victims into survivors. These multi-disciplinary care centres have been established to streamline the process of reporting, care –giving, investigation of cases and the subsequent prosecution of the case. The main objectives for these centres are to eliminate secondary victimisation, reduce case cycle time, and to increase convictions.

**Witness** means any person who is or may be required to give evidence, or who has given evidence in any proceedings

## Indicators and descriptions

Indicator Title	Number of convictions in the RC and HC
Short definition	Criminal court cases which resulted in a conviction in the regional and high courts
Purpose/importance	Measures whether serious crime is being dealt with
Source/collection of data	Lower courts: NPA Daily Court Return High courts: NPA Daily Court Return
Method of calculation	Number of cases finalised with a guilty verdict (including Sec 57A) in the regional and high courts divided by the number of cases finalised with a verdict (i.e. excluding diversions) in the regional and high courts. Conviction rate is measured at the date of sentencing or verdict of not-guilty irrespective of the date when the plea was entered
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	Yes
Desired performance	An increase of 2% per annum
Indicator responsibility	DNDPP & DPPs
Indicator Title	Conviction rate
Short definition	The percentage of cases finalised with a verdict in which a guilty verdict was obtained.
Purpose/importance	Internationally viewed as an indicator of the success of the prosecution. Also regarded by South African public as such. Not a correct indicator for the quality of the prosecution though
Source/collection of data	None – combined figure derived from other KPI's
Method of calculation	Percentage of cases finalised with a guilty verdict (including Sec 57A) divided by the number of cases finalised with a verdict (i.e. excluding diversions). Conviction rate is measured at the date of sentencing or verdict of not-guilty irrespective of the date when the plea was entered
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance <sup>21</sup>	HC 87%, RC: 74%, DC: 87% Cybercrime: 74%, Complex commercial crime: 94%, Organised crime: 90%, Sexual offences: 66% and Trio crime: 86% for 2013/14
Indicator responsibility	DNDPP: NPS and NSSD
Indicator Title	Criminal court cases finalised including ADRM
Short definition	Number of criminal court cases finalised in the reporting period by verdict, or through the use of alternatives such as diversion or informal mediation, irrespective of the date of enrolment
Purpose/importance	Tracks the ability of the NPA to deal with the demand for services for the purpose of measuring productivity
Source/collection of data	Lower courts: NPA Daily Court Return High courts: NPA Daily Court Return
Method of calculation	The criminal court case is measured as finalised on the date on which the verdict of not guilty given

<sup>21</sup> Standard desired performance

	(including stopping of prosecution in terms of section 6(b) of Act 51 of 1977) is given or sentence is imposed in the case of a guilty verdict and includes cases dealt with in terms of section 57A of the CPA. Should there be multiple accused, the case is only counted upon conclusion of the case against all accused
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance <sup>22</sup>	493 665 for 2013/14
Indicator responsibility	DNDPP: NPS
Indicator Title	Number of case backlogs
Short definition	Number of cases on the outstanding court roll in which the duration from the date of enrolment in that forum exceeds 6 months in a District Court case, 9 months in a Regional Court case and 12 months in a High Court case
Purpose/importance	The measure is used to ensure that cases are finalised within acceptable timeframes
Source/collection of data	Lower courts: NPA Daily Court Return High courts: NPA Daily Court Return
Method of calculation	The number of backlog cases divided by the number of outstanding cases as at the last day of the reporting period
Data limitations	Manual system
Type of indicator	Output indicator
Calculation type	As at a specific day
Reporting cycle	Quarterly
New indicator	No
Desired performance <sup>23</sup>	DC: 90% not longer than 6months on court roll, RC: 75% not longer than 9 months on court roll HC: 75% not longer than 12 months on court roll (reduction of the backlog of all cases by 10% by 2013/14)
Indicator responsibility	DNDPP: NPS
Indicator Title	Number of people convicted of corruption where the amount involved is more than R5 million
Short definition	To have successfully convicted 100 persons by 2014 for the offence of corruption and/or offences relating to corruption where the amount involved (loss, actual prejudice or benefit) exceeds R5 million per case
Purpose/importance	To measure whether serious corruption is being successfully dealt with by the JCPS.
Source/collection of data	Register
Method of calculation	Number of persons convicted for corruption in the reporting period, where the amount involved exceeds R5million per case.
Data limitations	Information is provided manually
Type of indicator	Outcome
Calculation type	Cumulative
Reporting cycle	Quarterly

<sup>22</sup> Standard desired performance

<sup>23</sup> Standard desired performance

New indicator	Yes
Desired performance <sup>24</sup>	Conviction of 100 persons by 2014 where more than R5 million is involved
Indicator responsibility	DNDPP:NSSD & SDPP: SCCU
Indicator Title	Number of JCPS personnel convicted for offences related to corruption
Short definition	To have successfully convicted 170 persons employed, or formerly employed, by the JCPS Departments for offences relating to corruption (not just the specific offence, but how members of the public understand corruption)
Purpose/importance	To ensure that the JCPS cluster is dealing criminally with corrupt officials
Source/collection of data	Register
Method of calculation	The total number of f JCPS personnel (or former personnel) convicted of offences related to corruption in the reporting period.
Data limitations	Manual provision of information
Type of indicator	Outcome
Calculation type	Cumulative
Reporting cycle	Quarterly
New indicator	Yes
Desired performance <sup>25</sup>	To have convicted 170 persons by 2013/14
Indicator responsibility	DNDPP:NSSD & SDPP: SCCU
Indicator Title	Number of operational TCCs
Short definition	The number of one stop centres for
Purpose/importance	To measure the availability of these services
Source/collection of data	TCC returns
Method of calculation	The total number of TCC in which all steps to the project plan relating to the establishment of the centre has been completed and all role-players are represented at the centre measured at the last day of the reporting period.
Data limitations	Manual system and operational measure
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance <sup>26</sup>	To increase the number of fully operational TCCs in 2012/13 to 35
Indicator responsibility	SDPP: SOCA
Indicator Title	Criminal court cases finalised with verdict
Short definition	Number of criminal court cases finalised by verdict in the reporting period (irrespective of the date of enrolment)
Purpose/importance	Measures the ability to deal with the demand for trial cases
Source/collection of data	Lower courts: NPA Daily Court Return High courts: NPA Daily Court Return
Method of calculation	Criminal court cases finalised with a verdict are measured on the date that the verdict of not guilty is

<sup>24</sup> Standard desired performance

<sup>25</sup> Standard desired performance

<sup>26</sup> Standard desired performance

	given or sentence is imposed in the case of a guilty verdict, and includes cases dealt with in terms of section 57A of CPA. Should there be multiple accused, the case is only counted upon conclusion of the case of the case against all accused.
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance <sup>27</sup>	351 308 for 2013/14
Indicator responsibility	DNDPP: NPS
Indicator Title	Number of witnesses harmed or threatened while on the witness protection programme
Short definition	Witnesses harmed or threatened while on the witness protection programme
Purpose/importance	Measures the effectiveness of the Witness Protection Programme
Source/collection of data	Electronic datasheet
Method of calculation	The total number of witnesses that were harmed or threatened during the reporting period by a person or persons from whom they were protected either directly or through an agent, while on the NPA witness protection programme.
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the reporting period
Reporting cycle	Quarterly
New indicator	No
Desired performance <sup>28</sup>	No witnesses must be harmed or threatened
Indicator responsibility	DNDPP: NSSD
Indicator Title	Number of completed forfeiture cases
Short definition	Number of cases in which a final order has been obtained or the court refused to make an order
Purpose/importance	It measures the number of cases in which the AFU acted and provides an indication of the impact made by the AFU, i.e. in how many cases it has been seen to be acting.
Source/collection of data	The data is submitted by an AFU advocate on a case report form and is captured on the ECMS and a central data sheet
Method of calculation	The total number of cases enrolled in which a final order has been obtained or the court refused to make an order in the reporting period regardless of when the matter was enrolled.
Data limitations	None
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance <sup>29</sup>	To increase the target in 2013/14 to 350
Indicator responsibility	DNDPP: AFU

<sup>27</sup> Standard desired performance

<sup>28</sup> Standard desired performance

<sup>29</sup> Standard desired performance

<b>Indicator Title</b>	<b>Number of freezing orders</b>
<b>Short definition</b>	Number of cases enrolled in which freezing orders were obtained in the reporting period.
<b>Purpose/importance</b>	It measures the number of cases in which the AFU acted and provides an indication of the impact made by the AFU, i.e. in how many cases it has been seen to be acting.
<b>Source/collection of data</b>	The data is submitted by an AFU advocate on a case report form and is captured on the ECMS and a central data sheet
<b>Method of calculation</b>	The total number of cases enrolled in which freezing orders were obtained in the reporting period irrespective of when they were enrolled. An order is counted only once for each case, at the time when the initial order was obtained or refused. Return dates and appeals are therefore not counted (they are counted as other orders). When an obtained order is reversed on the return date or on appeal, this is not counted as a negative order for the reporting period in which it occurred. It is reflected in the AFU success rate.
<b>Data limitations</b>	None
<b>Type of indicator</b>	Output
<b>Calculation type</b>	Cumulative for the year
<b>Reporting cycle</b>	Quarterly
<b>New indicator</b>	No
<b>Desired performance<sup>30</sup></b>	To increase the target in 2013/14 to 375
<b>Indicator responsibility</b>	DNDPP: AFU
<b>Indicator Title</b>	<b>Value of completed forfeiture cases (Rm)</b>
<b>Short definition</b>	Value of assets ordered by court to be forfeited or agreements in completed confiscation or forfeiture
<b>Purpose/importance</b>	It measures the amount of proceeds finally removed from the possession of criminals and provides an indication of the depth of the impact made by the AFU, i.e. in dealing with those who have accumulated significant wealth from crime.
<b>Source/collection of data</b>	The data is submitted by an AFU advocate on a case report form and is captured on the ECMS and a central data sheet
<b>Method of calculation</b>	The total value of assets ordered by court to be forfeited or agreements in completed confiscation or forfeiture cases in the reporting period. It excludes cases where the order was refused. It is reported in Rand and estimated on the best available evidence on the date when the order is obtained.
<b>Data limitations</b>	None
<b>Type of indicator</b>	Output
<b>Calculation type</b>	Cumulative for the year
<b>Reporting cycle</b>	Quarterly
<b>New indicator</b>	No
<b>Desired performance<sup>31</sup></b>	To increase the target in 2013/14 to R250m
<b>Indicator responsibility</b>	DNDPP: AFU
<b>Indicator Title</b>	<b>Value of freezing orders</b>
<b>Short definition</b>	Value of cases enrolled in which freezing orders were obtained in the reporting period.
<b>Purpose/importance</b>	It measures the number of cases in which the AFU acted and provides an indication of the impact made by the AFU, i.e. in how many cases it has been seen to be acting.
<b>Source/collection of data</b>	The data is submitted by an AFU advocate on a case report form and is captured on the ECMS and a central data sheet

<sup>30</sup> Standard desired performance

<sup>31</sup> Standard desired performance

<b>Method of calculation</b>	The total value of cases enrolled in which freezing orders were obtained in the reporting period. An order is counted only once for each case, at the time when the initial order was obtained or refused. Return dates and appeals are therefore not counted (they are counted as other orders). When an obtained order is reversed on the return date or on appeal, this is not counted as a negative order for the reporting period in which it occurred. It is reflected in the AFU success rate.
<b>Data limitations</b>	None
<b>Type of indicator</b>	Output
<b>Calculation type</b>	Cumulative for the year
<b>Reporting cycle</b>	Quarterly
<b>New indicator</b>	No
<b>Desired performance<sup>32</sup></b>	To increase the target in 2013/14 to R600m
<b>Indicator responsibility</b>	DNDPP: AFU
<b>Indicator Title</b>	Success rate
<b>Short definition</b>	The percentage of cases litigated by the AFU in which they were ultimately successful
<b>Purpose/importance</b>	It provides an overall indication of the ability of the AFU and its CJS partners to deal with and litigate AFU matters successfully
<b>Source/collection of data</b>	The information is based on a manual list of all cases finally won or lost prepared for CARA audit purposes
<b>Method of calculation</b>	Number of enrolled cases finally won as a percentage of all cases which were finally won or lost. Cases are finally won or lost when a final order is obtained in favour of or against the AFU, i.e. after all appeal processes have been finalised. It is measured at the date when the case was finally won or lost irrespective of the date when the matter was enrolled. Cases finally lost include cases abandoned after an order was obtained. Cases re-done will be taken into account separately.
<b>Data limitations</b>	The data may occasionally be received late when there is a delay in receiving a judgement after it is made
<b>Type of indicator</b>	Output
<b>Calculation type</b>	Cumulative for the year
<b>Reporting cycle</b>	Quarterly
<b>New indicator</b>	No
<b>Desired performance<sup>33</sup></b>	92% success rate
<b>Indicator responsibility</b>	DNDPP: AFU
<b>Indicator Title</b>	Value of freezing orders for corruption where the amount involved is more than R5m
<b>Short definition</b>	Value of cases in which the NPA has successfully frozen the assets of persons relating to the offence of corruption and/or offences relating to corruption where the amount involved exceeds R5m per case.
<b>Purpose/importance</b>	To measure whether serious corruption is being successfully dealt with by the JCPS.
<b>Source/collection of data</b>	Register
<b>Method of calculation</b>	The total value of cases in which the NPA has successfully frozen the assets of persons relating to the offence of corruption and/or offences relating to corruption where the amount involved (loss, actual prejudice or benefit) exceeds R5m per case.
<b>Data limitations</b>	Information is provided manually
<b>Type of indicator</b>	Outcome
<b>Calculation type</b>	Cumulative
<b>Reporting cycle</b>	Quarterly

<sup>32</sup> Standard desired performance

<sup>33</sup> Standard desired performance

New indicator	Yes
Desired performance <sup>34</sup>	Ensure that there are a 100 persons by 2014 where freezing orders have been obtained in respect of corruption where more than R5 million is involved
Indicator responsibility	DNDPP: AFU
Indicator Title	Time to finalise internal disciplinary cases relating to corruption
Short definition	To have finalised the disciplinary process within an average of three months where the allegations relate to corruption – as understood in the broad sense (not just the specific offence, but how members of the public understand corruption)
Purpose/importance	To ensure that JCPS Departments are dealing efficiently with disciplinary matters that relate to corruption
Source/collection of data	Registers (kept by each Department)
Method of calculation	The average length of time, measured in calendar days, in which corruption related disciplinary matters are finalised in the reporting period
Data limitations	Information is provided manually
Type of indicator	Output
Calculation type	As at a specific date
Reporting cycle	Quarterly
New indicator	New
Desired performance <sup>35</sup>	3 months
Indicator responsibility	SS: CEO
Indicator Title	Conviction rates in the prosecution of sexual offences reported at the TCCs
Short definition	Percentage of sexual offences cases finalised with a guilty verdict at the TCCs
Purpose/importance	Internationally viewed as an indicator of the success of the prosecution. Also regarded by South African public as such. Not a correct indicator for the quality of the prosecution though.
Source/collection of data	None – combined figure derived from other KPI's
Method of calculation	The conviction rate in sexual offences cases that were reported at TCCs, irrespective of when they were reported
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Monthly
New indicator	No
Desired performance <sup>36</sup>	66%
Indicator responsibility	Special Director: SOCA and DNDPP: NSSD
Indicator Title	Payment to victims of crime in terms of the Prevention of Organised Crime Act (POCA)
Short definition	The amount paid to the victims of crime in terms of the provisions of POCA
Purpose/importance	It provides an indication of the ability of the NPA to assist victims who have suffered financial loss due to crime
Source/collection of data	The information is based central data sheet of AFU
Method of calculation	The total amount paid to the victims of crime during the reporting period resulting from orders or

34 Standard desired performance

35 Standard desired performance

36 Standard desired performance

	agreements obtained stated in Rand. This refers to orders in terms of POCA where a person has suffered damage to or loss of property or injury as a result of an offence or related criminal activity (sec 30 of POCA) or the exclusion of property from a forfeiture order to pay a victim (sec 52 of POCA).
Data limitations	Manual system. The data reflects the amount of the court orders and these amounts may not be paid by the accused
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance <sup>37</sup>	To increase the target in 2013/14 to R94m
Indicator responsibility	DNDPP: AFU
Indicator Title	Value of compensation orders obtained
Short definition	Compensation orders in terms of sections 300 and 297 of the Criminal Procedure Act where a person has suffered damage to or loss of property or injury as a result of an offence
Purpose/importance	It provides an indication of the ability of the NPA to assist victims who have suffered financial loss due to crime
Source/collection of data	The information is based on NPA daily court returns and the ECMS
Method of calculation	The total value of compensation orders obtained in terms of sections 300 and/or 297 of the Criminal Procedure Act in criminal court cases finalised in the reporting period.
Data limitations	Manual system. The data reflects the amount of the court orders and these amounts may not be paid by the accused
Type of indicator	Output
Calculation type	Cumulative for the year
Reporting cycle	Quarterly
New indicator	No
Desired performance <sup>38</sup>	To increase the target in 2013/14 to R35m
Indicator responsibility	DNDPP: all DPPs
Indicator Title	Number of witnesses that successfully discharged and resettled
Short definition	Number of witnesses that successfully resettled and or discharged.
Purpose/importance	Measures the ability of the programme to ensure that witnesses are successfully re-integrated back into the society.
Source/collection of data	Electronic Datasheet.
Method of calculation	The average number of witnesses is calculated by adding the total number of witnesses on the programme each day of the reporting period and dividing it by the total number of days in the reporting period. Measured daily and consolidated for the reporting period.
Data limitations	Manual system
Type of indicator	Output
Calculation type	Annual for the reporting period
Reporting cycle	Monthly
New indicator	No

<sup>37</sup> Standard desired performance

<sup>38</sup> Standard desired performance

Desired performance <sup>39</sup>	20%
Indicator responsibility	DNDPP: NSSD and SDPP: OWP
Indicator Title	% of witnesses that walked off the witness protection programme <sup>40</sup>
Short definition	Percentage of witnesses that walked off the programme against the average number of witnesses on the programme.
Purpose/importance	Measures the ability of the programme to ensure that witnesses are available to testify in court proceedings where applicable.
Source/collection of data	Electronic Datasheet.
Method of calculation	The average number of witnesses is calculated by adding the total number of witnesses on the programme each day of the reporting period and dividing it by the total number of days in the reporting period. Measured daily and consolidated for the reporting period.
Data limitations	Manual system
Type of indicator	Output
Calculation type	Cumulative for the reporting period
Reporting cycle	Monthly
New indicator	No
Desired performance <sup>41</sup>	2%
Indicator responsibility	DNDPP: NSSD

<sup>39</sup> Standard desired performance

<sup>40</sup> Definition (2010/11) and calculation method (2008/09) has been revised over the last two years. The percentage is calculated at the end of the financial year using the total number of witnesses that remain on the programme plus those that walked off as the denominator (Annual Report 2008/09). The definition of walk-off was amended

<sup>41</sup> Standard desired performance