

NATIONAL PROSECUTING AUTHORITY ANNUAL REPORT 2021-2022

**(PFMA and NDPP report, in terms of
Section 22(4)(g) of the NPA ACT 32 of 1998)**



National Prosecuting Authority
South Africa

25 October 2022

INTRODUCTION

- The NPA is midway through implementing its 2020-2025 strategic plan and rebuilding efforts are bearing fruit
- NPA has achieved a marked improvement in performance during this financial year and has clear initiatives in place to maintain this progress
- The 6-months priority plan resulted in impactful prosecutions instituted, and significant asset recoveries obtained:
 - ID enrolled over 20 matters; charged 65 accused and obtained freezing orders of R5.5bn including the biggest restraint ever of R3.8bn from the Gupta network

INTRODUCTION

High impact prosecutions enrolled:

- Gauteng: seized assets worth R1.4bn relating to Kusile power station (extradition hearing of Michael Lomas in the UK, who was an Eskom contractor)
- Free State Department of Agriculture: PFMA, fraud and money laundering
- Restraint order of R520m Nulane Investment, and Gupta company, Islandsite
- Provisional restraint order against Edwin Sodi of almost R300m
- Approximately R500m involved in Free State Housing matter
- Finalised 1 leg of Steinhoff matter – MLA requests being finalised

INTRODUCTION

Other notable cases:

- Bathabile Dlamini convicted of perjury, and sentenced to 4 years imprisonment or R200k fine
- Dudu Myeni, charged with defeating the ends of justice; sentenced to 2 years imprisonment or R120k fine

- Government employees convicted of corruption increased by 38,4% and private sector convictions increased by 39,5%

- Continued focus on crimes that affect the quality of life, specifically GBV:
 - 74,3% conviction rate in sexual offences;
 - 94,3% conviction rate in femicide; and
 - 93,8% in intimate partner femicide

- 3 600 murder cases were finalised, and 2 787 convictions were obtained (77,4%)

- 1 038 convictions were obtained in trio crimes with a conviction rate of 81,3%

INTRODUCTION

- Significant progress in implementing innovative strategic initiatives to drive implementation and sustainability of our strategy, i.e., but not limited to (discussed in more detail later in the presentation):
 - Office for Ethics and Accountability;
 - Community Prosecution Initiative; and
 - Capability Enhancement Initiatives
- New monitoring and review processes to ensure implementation and accountability; 3 main performance monitoring and accountability reviews form part of ExCo & ManCo oversight, which are:
 - **Organisational performance review:** NPA core performance indicators as per APP;
 - **Six-month priority review:** Six-monthly priorities, as well as task force (Zondo) input and identifying interventions needed; and
 - **NPA strategic initiatives review:** NPA's longer-term strategic priorities and initiatives to build a fit-for-purpose organisation

INTRODUCTION

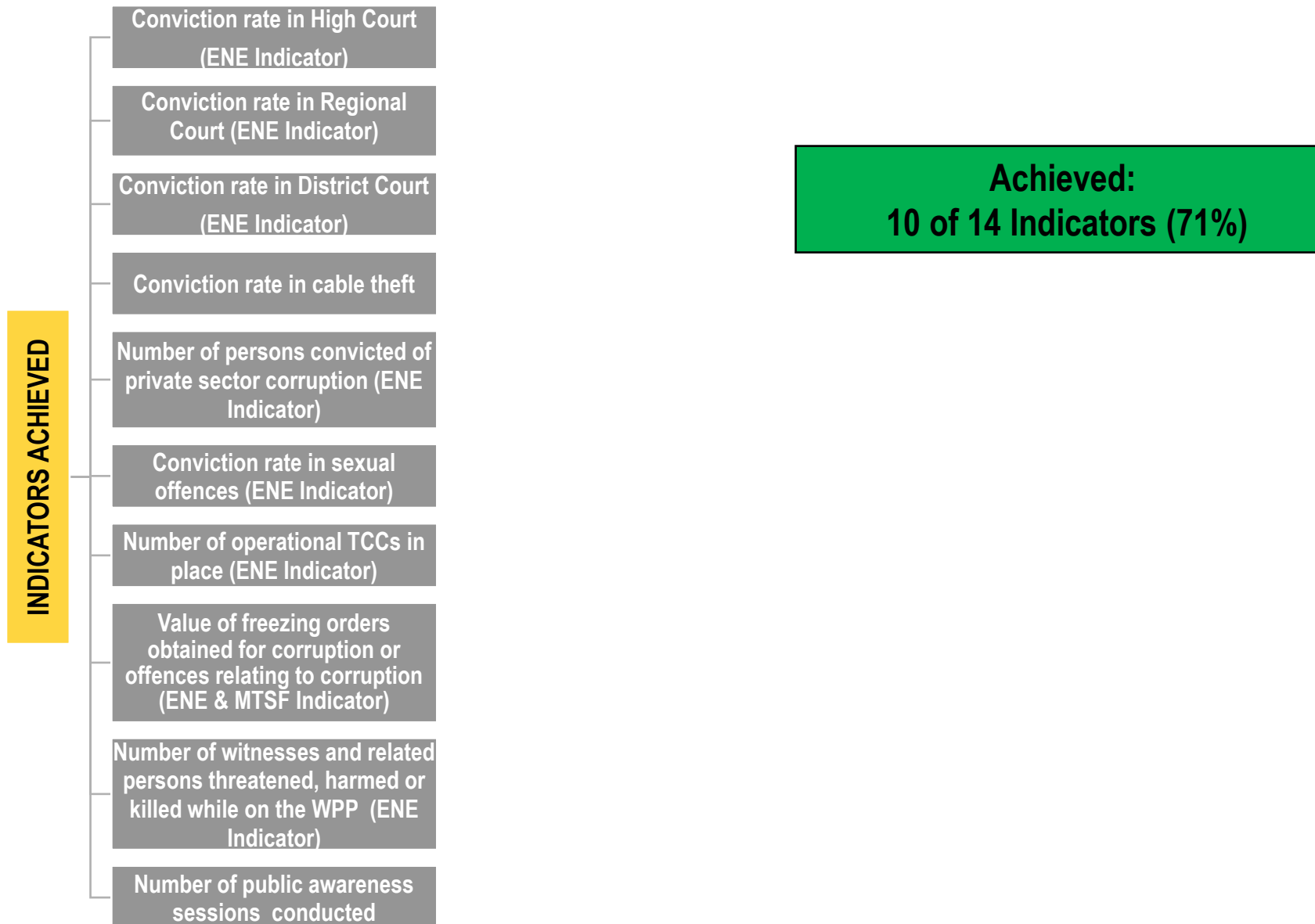
- The NPA sustained its recruitment drive and over the past 4 years, more than a thousand employees were recruited, creating much needed capacity in critical areas
- The EE profile significantly improved: 54% of all staff are female (0,8% increase), with 65% of women in key management positions – many high-level, new appointees, are women
- Budget advocacy has yielded results, and we are grateful for the additional budget for the current MTEF period (but further increased budget is required, and we must expand our partnerships to continue the current performance trajectory)
- With the nature and scale of challenges facing the NPA, additional funding will be vital to deliver effectively and to ensure the NPA becomes a cutting-edge and modernised prosecuting authority
- NPA is delivering on what we promised during last year's presentation to the Portfolio Committee - it is by design and not by default that we are not reacting but rather working more strategically

ONGOING RESPONSE TO STATE CAPTURE AND HIGH-LEVEL CORRUPTION

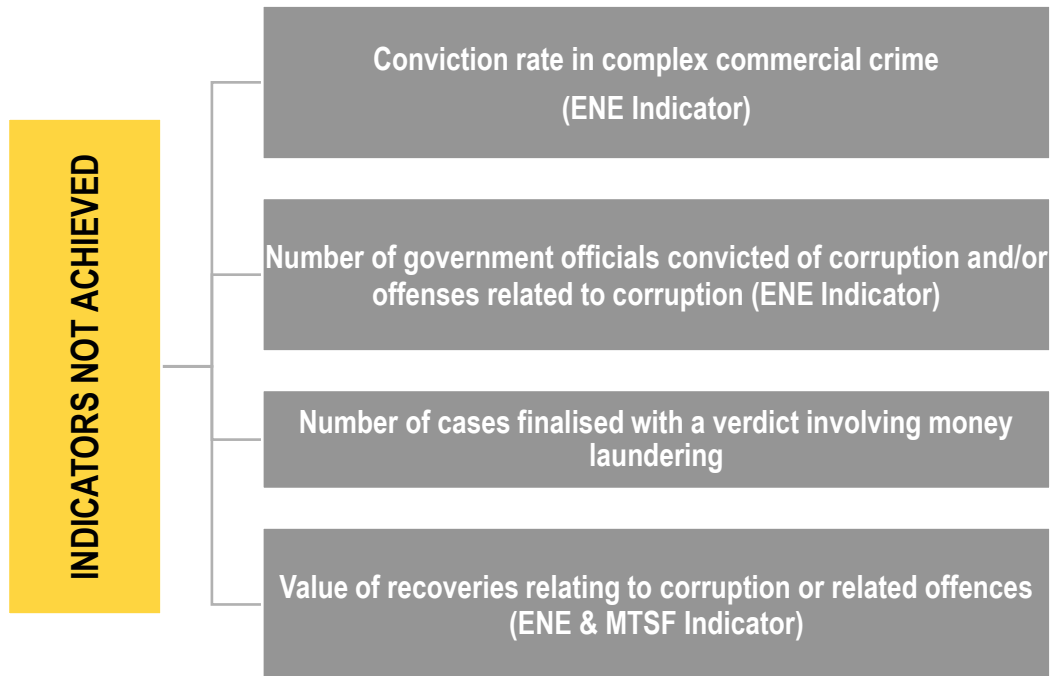
- The NPA committed to enroll, and successfully enrolled, 9 seminal matters before end September 2022 as part of its constitutional mandate to take decisive and visible action against high-level corruption and state capture
- Cases listed below are seminal because these exemplify the workings of state capture, involving accused persons from both government and the private sector who allegedly played vital roles in repurposing state institutions, syphoning off public funds for private gain and committing the most damaging forms of high-level corruption, incl. crimes committed as part of the state capture project:
 - Estina Dairy Farm - **Fraud, corruption, money laundering – R280m; Tax fraud – R37.7m**
 - SAPS Tender Corruption - **Procurement corruption in Crime Intelligence Division – R54m**
 - Transnet - **Corruption – R398.4m**
 - Tegeta Exploration - **Corruption – R107.5m**
 - Asea Brown Boveri (ABB) - **Corruption, fraud and money laundering – R549.6m**
 - Eastern Cape Chief Director of Community Safety and Liaison - **Bribery – R3.5 million**
 - SAPS - **PPE Corruption – R8.5m**
 - SA Express - **Fraud, corruption, money laundering and contravention of the PFMA – R221m**
 - Winnie Madikizela Mandela Museum (Brandfort) - **Fraud – R700k**

2 Performance Overview 2021/2022

OVERALL PERFORMANCE ON NPA ANNUAL PERFORMANCE PLAN



OVERALL PERFORMANCE ON NPA ANNUAL PERFORMANCE PLAN



**Not Achieved:
4 of 14 Indicators (29%)**

OUTCOME: IMPROVED INVESTOR CONFIDENCE IN SA THROUGH HIGH IMPACT PROSECUTIONS

Output: Fraud and corruption dealt with			
Output Indicator	Audited Actual Achievement Performance 2020/21	Planned Annual Target 2021/22	Actual Achievement Performance 2021/22
Conviction rate in complex commercial crime	90,2% (277)	93%	90,5% (344)
Number of persons convicted of private sector corruption	147	158	209
Number of government officials convicted of corruption and/or offenses related to corruption	86	232	130
Number of cases finalised with a verdict involving money laundering	44	100	86

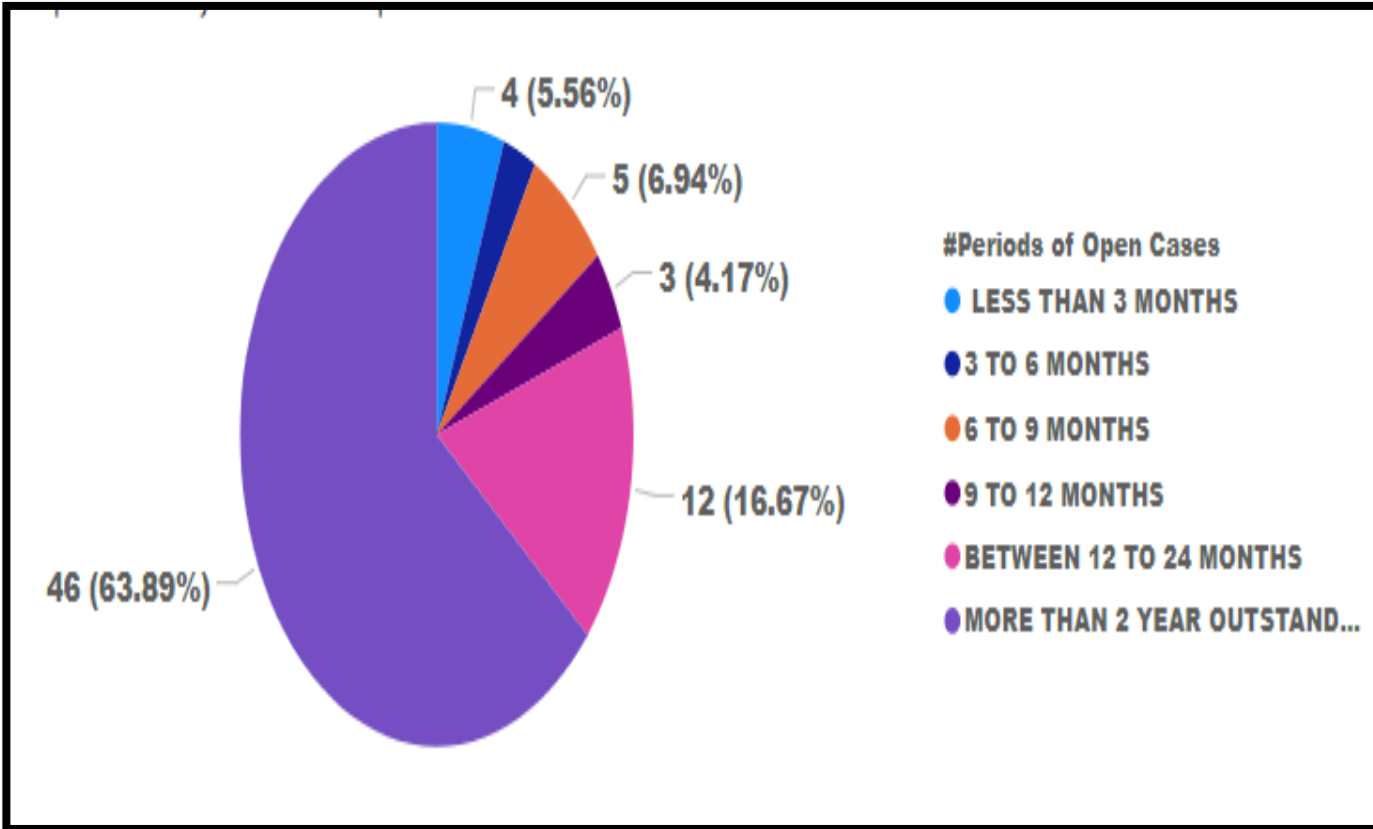
- The SCCU focuses on serious and complex commercial crime cases; 380 cases were finalised with a verdict and the 344 convictions illustrate significant improvement of 24% compared to the previous financial year
- 18 dedicated specialised commercial crime courts were established
- 209 persons were convicted of private sector corruption, significantly exceeding the target by 32%
- 130 government officials were convicted of corruption – a significant increase of 44 (51%) compared to the previous financial year
- 86 cases involving money laundering were finalised, which is a significant increase of 42 (95%) compared to the previous financial year

REASONS FOR NOT ACHIEVING TARGETS

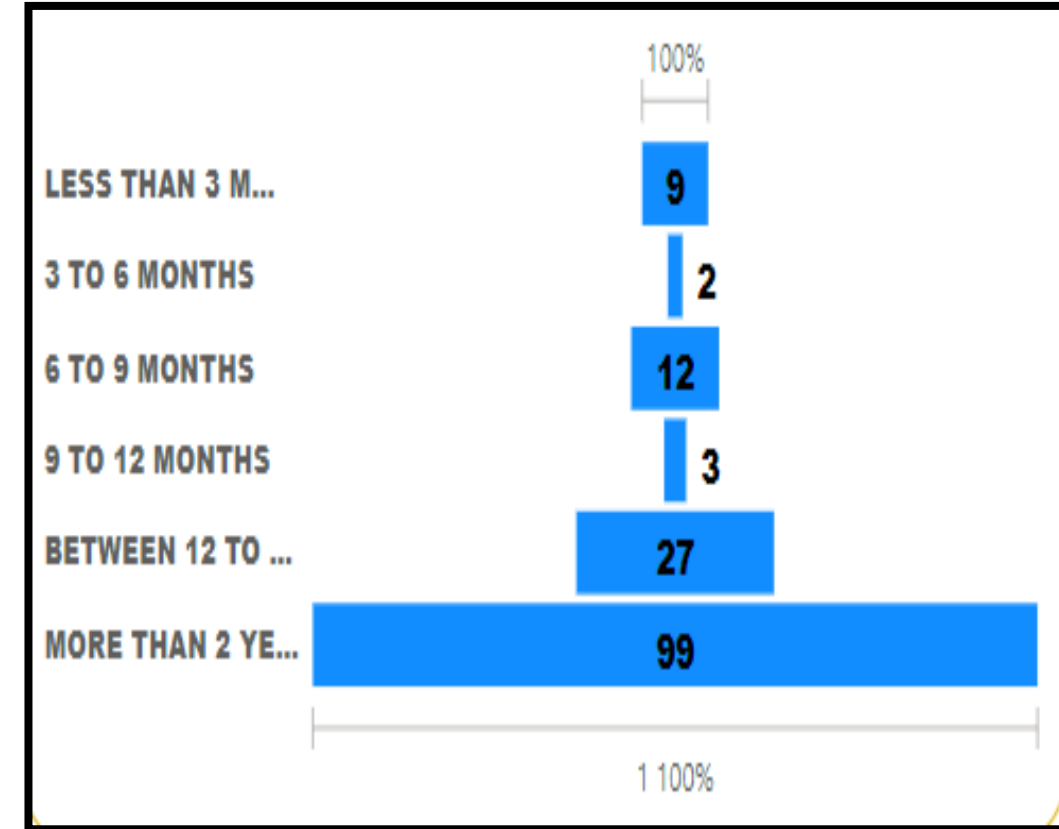
- **Complex commercial crime cases:** Failing memory of witnesses, uncertainty in evidence, contradictions and uncorroborated evidence
- **Government officials convicted of corruption:** The number of persons convicted significantly increased; NPA does not have control over the number of cases received; cases were intricate and there were several legal challenges causing delays
- **Money laundering** matters usually consist of several charges and intricate financial investigations, which are time consuming, trials are protracted with several legal challenges; cases involve accused with financial means, who are often aware of probable long-term imprisonment on conviction, therefore drag out trials if possible as they know court rolls are packed, especially within SCCU; more than 80% of cases are currently outstanding longer than 12 months (as indicated in next slide); much has been done with DPCI and other agencies on improving detection of money laundering
- **Value of recoveries:** Serious corruption cases take long to finalise; in many cases, large amounts are under restraint and will remain so until the accused are convicted; accused in high-value corruption cases have the means to vigorously oppose all actions, which leads to delays; once cases are finalised, vast amounts stand to be recovered

REASONS FOR NOT ACHIEVING TARGETS

Money launderinging cases (only Regional Courts)



Number of accused in cases



The figures above also apply to the complex commercial crime cases within the SCCU where long delays in the finalisation of cases are experienced

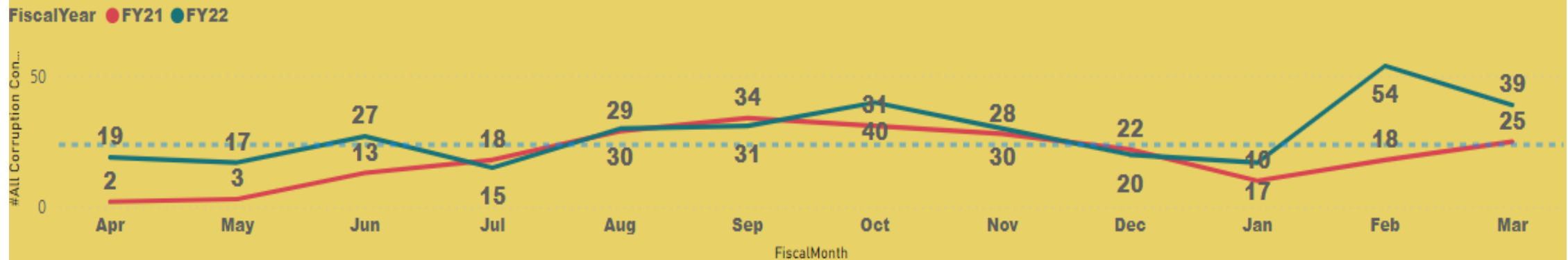
INTERVENTIONS FOR TARGETS NOT ACHIEVED

- **Complex commercial crime:** Expediting high-profile corruption cases nationally and provincially; focused attention on cases longer than 2 years on the court roll; prioritising high-level corruption matters, and closely monitoring progress
- **Government officials convicted of corruption:** Corruption matters are prioritised; NPA participates in various initiatives and partnerships i.e., Fusion Centre, which responds to maladministration and corruption linked to COVID-19 relief funds
- **Money laundering** cases are being prioritised and closely monitored; this crime category is part of FATF assessment and training that was provided and continued to be provided to investigators and prosecutors
 - Active member of the SA Anti-Money Laundering Integrated Task Force (SAMLIT), private-public working group that has 3 focus areas: understanding financial crime trends; coordination of law enforcement agency efforts, and increased detection and investigation
 - Capacitating NPA to respond to existing and emerging priorities through recruiting crucial additional skills, expertise and capabilities
- **Value of recoveries:** Prioritisation of large corruption cases, such as state capture matters, in collaboration with ID
- Participating in ACTT, Health-Sector Anti-Corruption Forum, Fusion Centre and top 10 priority corruption cases

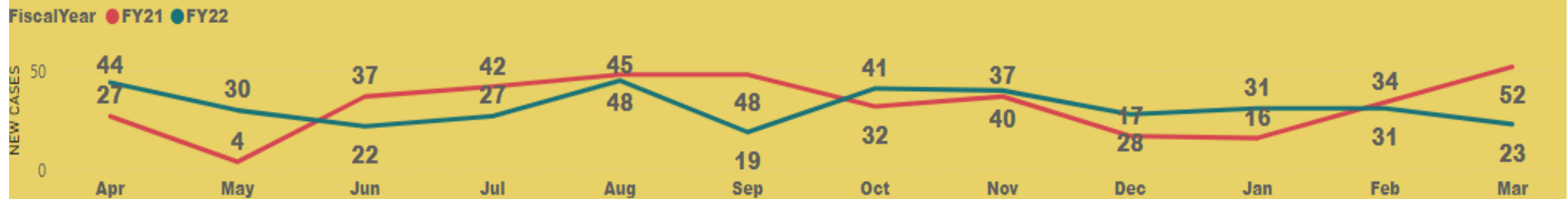
OVERALL PERFORMANCE ON CORRUPTION

Despite a decrease in new cases from 394 to 381,
the number of convictions increased in corruption from 233 to 339

ANNUAL COMPARISON: CORRUPTION FINALISED



CORRUPTION: NEW CASES



PERFORMANCE OF SCCU COURTS

Less than 10% of SCCU cases were disposed of within 9 months
High backlogs and long outstanding cases impact on availability of witnesses, memory of witnesses and credibility findings

CLUSTER	# Prev Year SCCU OS ROLL	TOTAL OUTSTANDING ROLL at the end of month	# % CHANGE OVER PERIOD IN SCCU OS ROLL	# Prev Year SCCU BACKLO G	BACKLOG CASES: No.Cases older 9 months	# % CHANGE OVER PERIOD IN SCCU % BACKLOG	# %SCCU Backlogs
SCCU-JHB	418	389	-6.9%	341	309	-9.4%	79.4%
SCCU DURBAN	211	184	-12.8%	175	143	-18.3%	77.7%
SCCU-PTA	277	230	-17.0%	174	92	-47.1%	40.0%
SCCU-PE	180	66	-63.3%	147	56	-61.9%	84.8%
SCCU-CAPE TOWN	145	139	-4.1%	105	137	30.5%	98.6%
SCCU-BLOEMFONTEIN	125	160	28.0%	41	41	0.0%	25.6%
SCCU-NELSPRUIT	57	48	-15.8%	36	0	-100.0%	0.0%
SCCU-KIMBERLEY	55	49	-10.9%	19	35	84.2%	71.4%
SCCU-MMABATHO	36	49	36.1%	2	5	150.0%	10.2%
SCCU-MTHATHA	66	71	7.6%	0	0	0.0%	0.0%
SCCU-LD		88	0.0%		5	0.0%	5.7%
Total	1595	1473	-7.6%	1040	823	-20.9%	55.9%

SERIOUS VIOLENT ORGANISED CRIME

Output indicator	Past performance			Current performance
	2018/19	2019/20	2020/21	2021/22
Conviction rate in murder prosecutions	78.3% (3 601)	80.1% (3 193)	79.3% (2 123)	77.4% (2 787)
Conviction rate in trio crimes	82.4% (1 578)	82.2% (1 355)	85.2% (809)	81.3% (1 038)

 **3 600**

murder cases finalised by the NPA, with a verdict.

 **2 787**

convictions obtained, with a conviction rate of 77.4%.

 **95.9%**

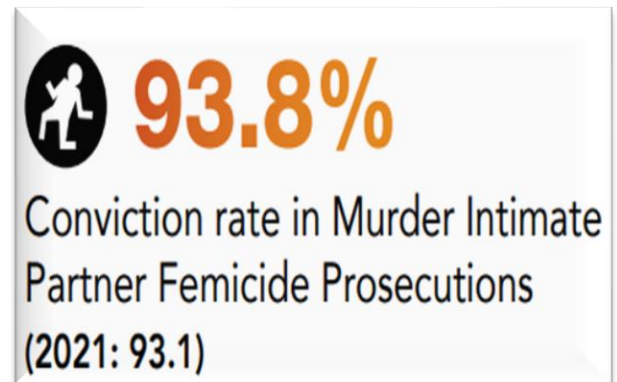
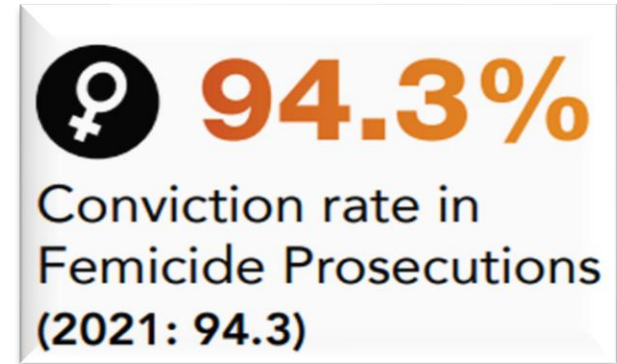
Conviction rate in organised crime
(2021: 92.5)

 **97.1%**

Conviction rate in environmental crime
(2021: 96.8)

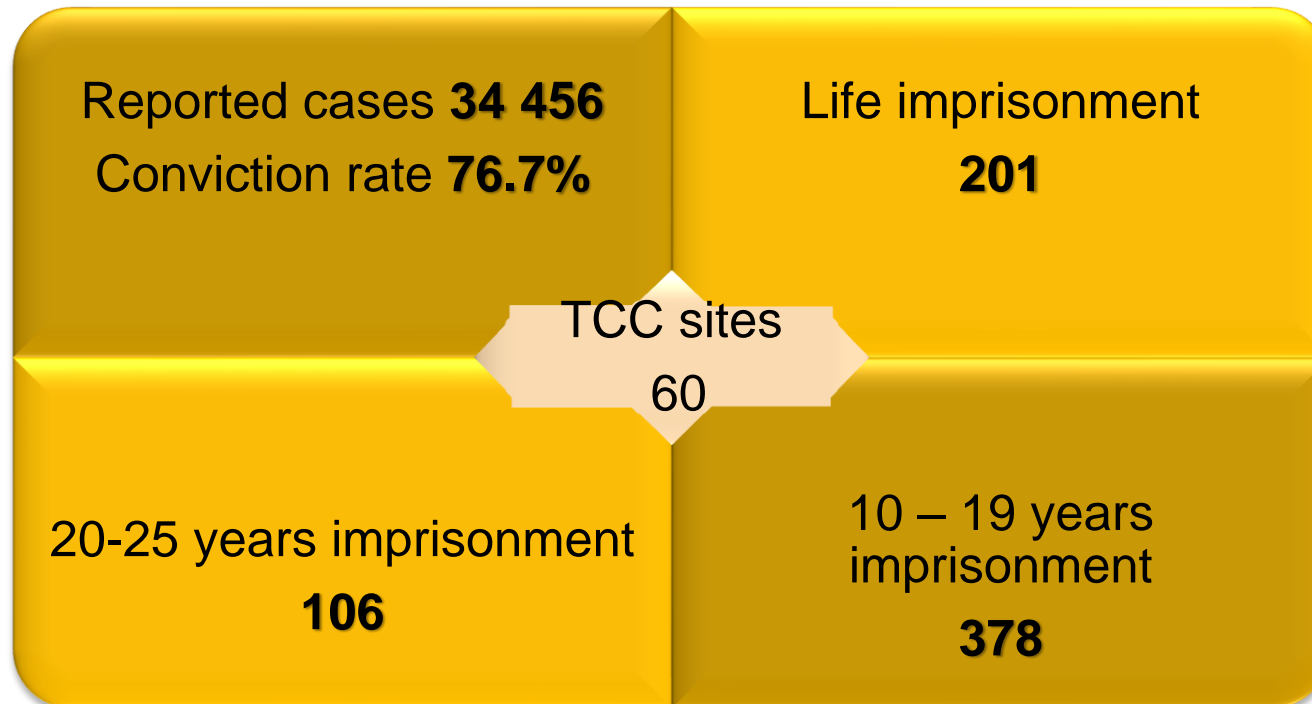
GENDER BASED VIOLENCE AND FEMICIDE

Output indicator	Past performance			Current performance
	2018/19	2019/20	2020/21	2021/22
Conviction rate in Femicide Prosecutions	n/a	n/a	94.3% (231)	94.3% (396)
Conviction rate in Murder Intimate Partner Femicide Prosecutions	n/a	97.7% (87)	93.1% (190)	93.8% (316)
Conviction rate in sexual offences	74.4% (4 724)	75.2% (4 098)	75.8% (2 539)	74.3% (3 379)



OPERATIONAL THUTHUZELA CARE CENTRES

Output indicator	Past performance			Current performance
	2018/19	2019/20	2020/21	2021/22
Number of operational TCCs	55	55	55	60



DNA GBV analysis reports between NPA and SAPS (FSL) assisted to reduce backlog of related cases in court - since October 2020, SOCA unit consolidated & facilitated **16 084 DNA reports** and identified **1 235 serial rapist reports** from Oct 2021

OUTCOME: IMPROVED INVESTOR CONFIDENCE IN SA THROUGH HIGH IMPACT PROSECUTIONS

Output: Freezing of money and assets that are the proceeds of crime			
Output Indicator	Audited Actual Achievement Performance 2020/21	Planned Annual Target 2021/22	Actual Achievement Performance 2021/22
Value of freezing orders obtained for corruption or offences relating to corruption	R611m	R2.4bn	R5.5bn
Output: Recovery of money and assets that are the proceeds of crime			
Value of recoveries relating to corruption or related offences	R3m	R311m	R117m

- **Freezing orders** to the value of R5.5bn were obtained, target exceeded by 129%, this significantly exceeds the performance of the previous financial year by 800%

NB: The recovery of proceeds is the last step in the asset forfeiture process and the significant success achieved in the value of freezing orders obtained will translate to a success in recoveries. Close collaboration between AFU and ID contributed to this outstanding performance, as large State Capture orders were obtained

- AFU obtained **recoveries** in the amount of R117m in corruption matters, which is a significant increase of R114m from the previous financial year

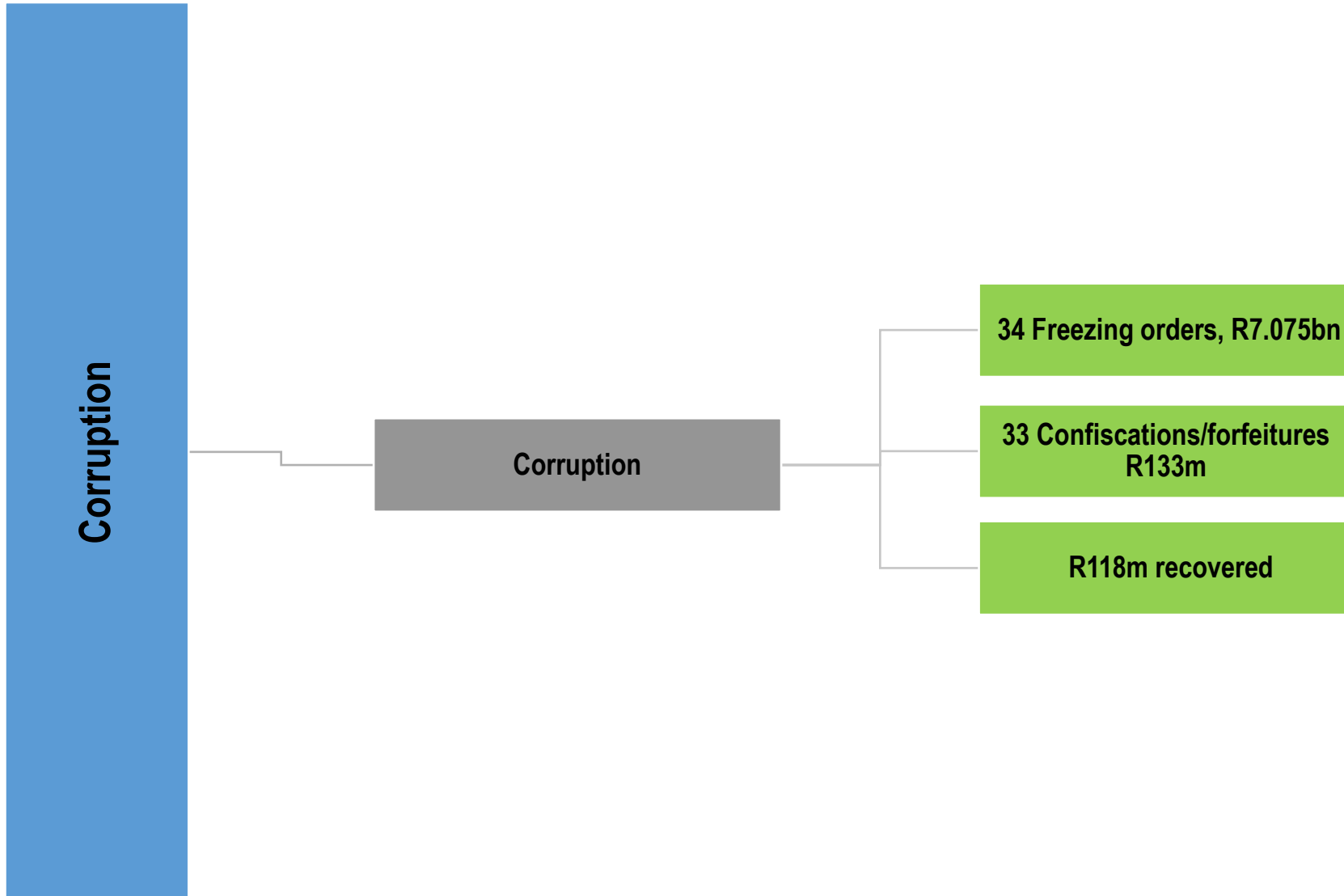
ASSET FORFEITURE

- The focus was on capacitating and empowering the AFU
- Commenced with implementation of the High-Performance Plan
- **Capacitating the AFU:**
 - Developed an Asset Recovery Strategy (local and international)
 - Developed novel approaches to recovery of funds lost in state capture and other serious corruption matters
 - Developed Non-Prosecution Resolution guidelines
 - Appointment of International Asset Recovery Specialists – policy developed
 - Filling of vacant management posts – very important
- **Strengthening Partnerships:**
 - Skills development in conjunction with ACTT Partners
 - Co-location with DPCI completed
 - Participation in several multi-disciplinary structures

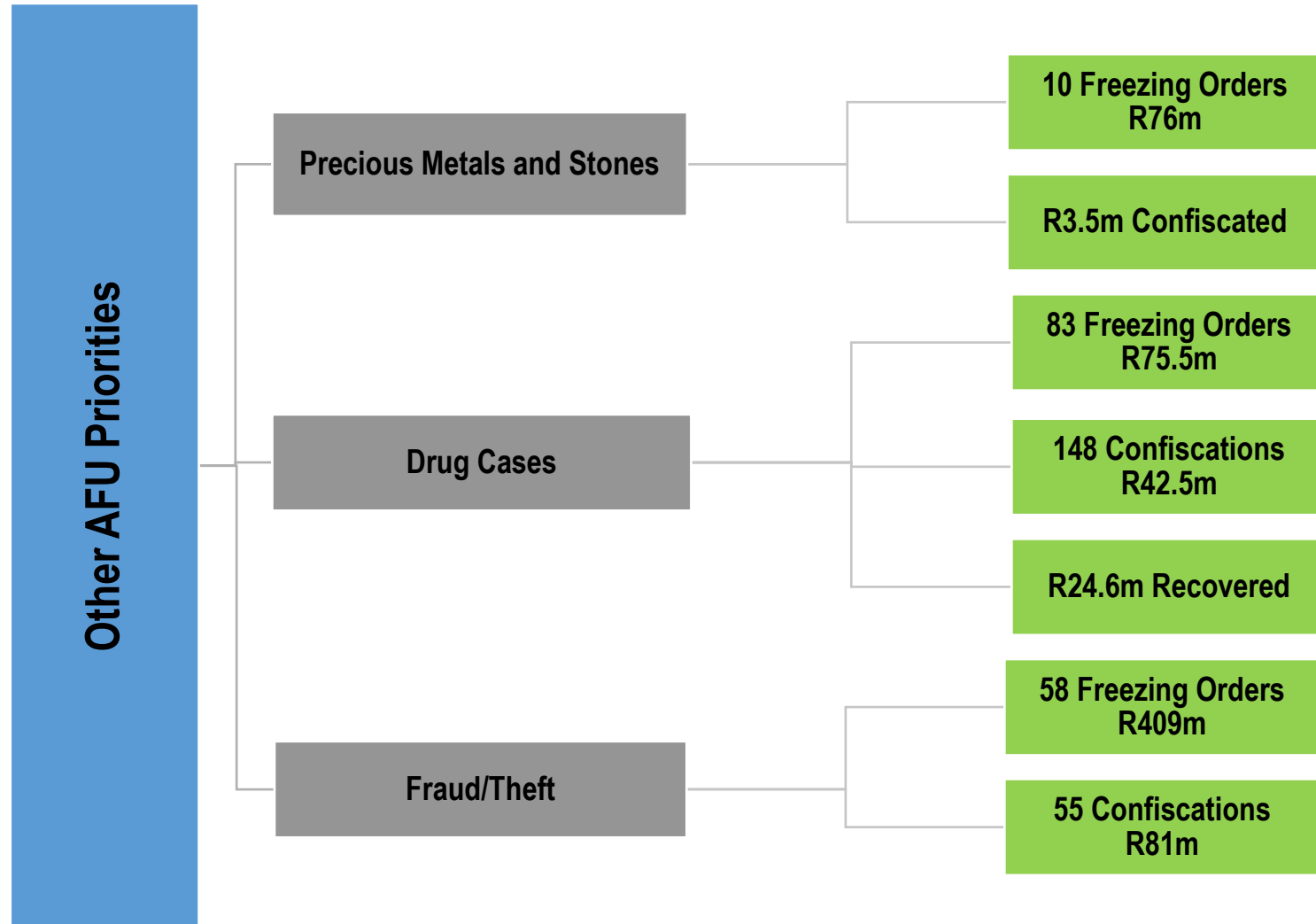
ASSET FORFEITURE SIGNIFICANT CASES

- Enegamba (Nigerian Syndicate) – R7.7m preserved
- Impossible Solutions (UIF Fraud – COVID-19 Funds) – R112m preserved and R114m returned to victims
- Project Phoenix (Drug King Pin) – R31m preserved
- Sunny Penny Matter (Lesotho Nationals laundering proceeds of fraud and corruption in Lesotho) – R26m preserved, R18m forfeited and paid back to Lesotho
- Nulane Investments (Iqbal Sharma) (FS Department of Agriculture) – R47.2m restrained
- **Optimum Coal Mine and Colliery (Tegeta Exploration - Guptas) – R3.975bn preserved**
- Tegeta/Templar/OCM – R1.385bn preserved

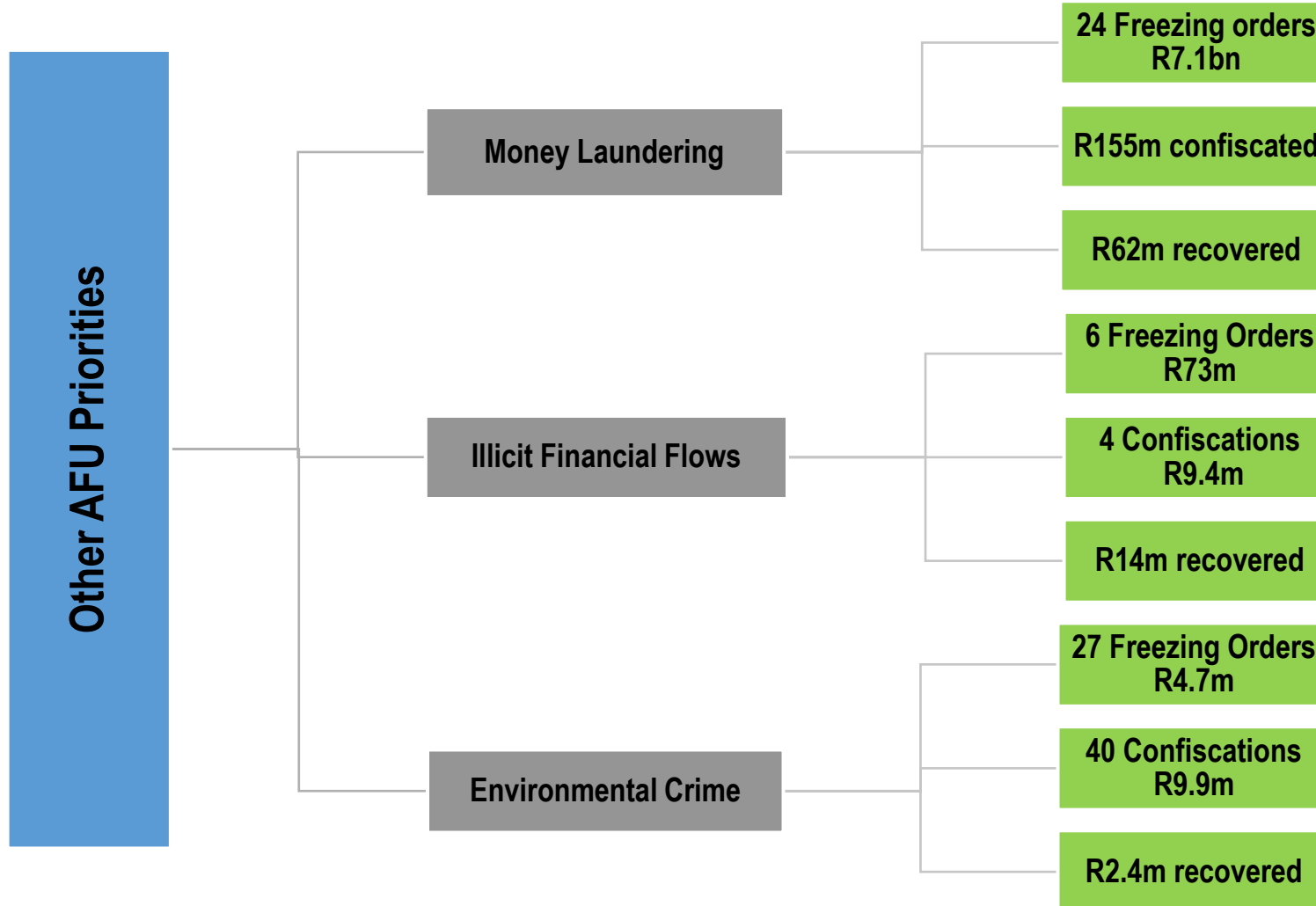
CORRUPTION



OTHER AFU PRIORITIES



OTHER AFU PRIORITIES



3

Strategic Initiatives to Professionalise and Future-proof the NPA

STRATEGIC INITIATIVES

- NPA autonomy
 - NPA leadership remains focused on strengthening the independence of the prosecution authority
- Restoration of NPA credibility
 - All senior leadership positions (DPP, SDPP & Chief Director posts) have been filled
- Enhancement of organisational capacity
 - 341 positions have been filled – a further 40 contract appointments instituted
 - 104 Aspirant Prosecutors were provided with permanent appointments
- Strengthening organisational performance through skills development
 - A benchmark process was conducted with the UK, Ireland, USA, Canada and Australia

STRATEGIC INITIATIVES

- NPA Ethics and Accountability mechanism
 - The establishment of an NPA Office for Ethics and Accountability is at an advanced stage – Regulations for the Office are awaiting approval from the Minister of Justice and Correctional Services
- Innovation and Policy Support Office
 - Posts for the Innovation and Policy Support Office (IPSO) have been advertised
- Community Prosecutions
 - A community prosecutions evaluation workshop is planned, whereafter permanent community prosecutors will be appointed in all the divisions

STRATEGIC INITIATIVES

- Strengthening NPA communications
 - Continued to implement proactive communication initiatives, with a particular focus on anti-corruption and asset recovery efforts
- Promotion of sound workplace relations and employee wellbeing
 - The roll-out plan for the Culture Enhancement Initiative has been conceptualised
 - Developed and approved a anti-harassment policy, followed by the rollout of sensitisation sessions
 - Re-launch of the Employee Wellness Programme services to encourage use by all employees
- Implementation of the Electronic Case Management System (ECMS)
 - ECMS has been fully implemented – all DPPs trained and reporting case progress using the system

CULTURE ENHANCEMENT INITIATIVES

- Several interventions were initiated aimed at changing the culture in the NPA and to create a NPA that is fit for purpose:
 - Design and development of a Management & Leadership Programme which is at the final stage of design and will be implemented during the first part of 2023
 - A joint training programme with DPCI to capacitate prosecutors and investigators to respond to commercial and corruption related matters
 - Defining “*fit for purpose prosecutors*” for commercial/corruption through capability review initiatives – international review and comparison
 - Working with Justice College to institutionalise new programmes to future proof NPA capabilities
 - Entrenching IPAC values

MISCONDUCT AND DISCIPLINARY HEARINGS FINALISED

Outcomes of disciplinary hearings	Number	% of Total
Corrective counseling	6	7,5
Verbal warning	2	2,5
Written warning	14	17,5
Final written warning	20	25
Suspension	6	7,5
Demotion	0	0
Dismissal	7	8,75
Section 17 Deemed dismissal	2	2,5
Case withdrawn	0	0
Case closed	21	26,25
Resignation	2	2,5
TOTAL	80	100

HUMAN RESOURCES CAPACITY

MONTHLY REPORT FOR SEPTEMBER 2022

Total Establishment	Filled	Vacant	Vacant %	Contract Appointments	Total Establishment	Vacant % Including Contracts
6578	5164	1414	21%	511	7089	20%

PROSECUTORS

Total Establishment	Filled	Vacant	Vacant %	Contract Appointments	Total Establishment Including Contracts	Vacant % Including Contracts
4065	3411	654	16%	406	4471	16%

4 Budget Overview

BUDGET VS EXPENDITURE AS AT 31 MARCH 2022

- The NPA spent 99,72% of the total budget allocation as at the end of March 2022
- The R74m additional funding virement to the NPA in respect of goods & services relates to overspending due to State Attorney payments
- The biggest contribution to the underspending of 0,28% relates to Machinery and Equipment (R12m); this was due to service provider delays in the delivery of laptops before the end of the financial year
- The NPA demonstrated the capacity to spend allocated budget which is an indication of correct budgeting; additional funding requested through the MTEF process of R1.8bn to enable us to continue with our fight against crime and corruption

BUDGET VS EXPENDITURE AS AT 31 MARCH 2022

Economic classification	2021/22					
	Adjusted Appropriation	Shifting / Virement	Final Appropriation	Actual Expenditure	Variance	Expenditure as % of final appropriation
	R'000	R'000	R'000	R'000	R'000	%
Compensation of employees	3,926,048	-2,619	3,923,429	3,923,429	0	100.00%
Goods and services	527,782	74,006	601,788	601,788	0	100.00%
Transfers & Subsidies	21,083	13,668	34,751	34,515	236	99.32%
Machinery and equipment	60,712		60,712	47,796	12,916	78.73%
Payment for financial assets	0	5,290	5,290	5,290	0	100.00%
Total	4,535,625	90,345	4,625,970	4,612,818	13,152	99.72%

5 Avoiding FATF Grey-Listing

NPA PART OF COLLECTIVE EFFORT TO PREVENT SA BEING GREY-LISTED

- Grey listing is not something this country can afford, especially coming through a global pandemic
- NPA is playing its part in the whole-of-government response to the FATF report and findings
- Multiple fora where partners actively participate to ensure focussed case attention and prioritisation:
 - High level participation at DG level in IDC; and
 - IDWG participation including working groups relating to 6 of the Immediate Outcomes (IO)
- Sustained attention to high-level corruption and other priority crimes with focus on institutional capacitation and skills development
- Ramped up efforts to bring perpetrators of state capture corruption to justice
- Private sector collaboration
- Whilst the NPA has received additional funding, more is required to respond adequately to the level of crime in SA
- Continue to collaborate with our partners within the CJS
- Development of a focused organised crime strategy in coordination with DPCI

6 Conclusion

CONCLUSION

- NPA is finding its feet after 3 years of focused rebuilding efforts
- Wheels of justice are turning, not just against corruption, but also against perpetrators of other violent crime, including SGBV
- NPA 2020 – 2025 Strategy was crafted out of the ashes of state capture, birthed into the clutches of the Covid pandemic, but has effectively guided the NPA path towards sustainable impact – the next two years will be pivotal for the NPA, and the rule of law in SA
- Impunity is no longer a given, and stolen money is being reclaimed and forfeited
- South Africa can avoid being grey listed, and the rule of law will again light our way
- We thank our hard working and dedicated prosecutors and staff for their commitment and courage – you truly are living up to your role as lawyers for the people of SA



National Prosecuting Authority
South Africa

Thank you

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