

SIU REFERRALS TO NPA

PRESENTATION TO STANDING COMMITTEE ON PUBLIC ACCOUNTS (SCOPA)



National Prosecuting Authority
South Africa

22 November 2023

Progress on Investigating Directorate's Investigations on SIU Referrals

BACKGROUND

- ❑ In **March 2019**, the President issued a proclamation creating an Investigating Directorate (**ID**) within the Office of the NDPP in terms of s7 of the NPA Act largely in response to allegations of widespread corruption at the State Capture Commission (**SCC**)

- ❑ The initial Head of the ID was appointed in **May 2019** and capacitation of the ID began in July 2019 primarily through
 - reassignment of prosecutors from within the NPA;
 - secondment of investigators from the SAPS, IPID, SARS and SIU; and placement on duty arrangements of DPCI investigators
 - recruitment of investigators and prosecutors on contract for 3 years additional to the NPA establishment. Its first cohort of 21 financial investigators came on board in **January 2021**

- ❑ The current Investigating Director was appointed in March 2022.

BACKGROUND

- ❑ The powers and functions of the Directorate are set out in chapter 5 of the NPA Act and include the power to:
 - ***subpoena witnesses to furnish documents*** or to ***answer questions***;
 - ***apply for and execute search and seizure warrants***;
 - ***compel witnesses to answer*** questions under oath, including ***self-incriminating questions***, subject to a ***use immunity***
 - ***prosecute*** cases after consultation with the relevant DPP.

- ❑ Through secondment arrangements entered into with partner organisations, the ID can access additional powers such as police powers, subject to the direction of the National Commissioner of Police; and through MoUs with SARS, the FIC and the SIU, the ID can use additional capabilities to investigate corruption.

BACKGROUND

The ID's mission is to hold those most responsible for serious, complex and high-level corruption accountable in a criminal court.

- ❑ **Any person** may report a matter to the *head of the ID* by means of an affidavit (s27) and the Director, in the absence of a report, may authorise an investigation into the matter if the following requirements are met:
 - There are **reasonable grounds to suspect** that an offence has been committed (s 28(2)); and
 - the offence is **a specified offence**, which is defined in the NPA Act as, **any matter which in the opinion of the head of an Investigating Directorate falls within the range of matters set out in the proclamation.**
- ❑ **If the NDPP refers** a matter in relation to the commission of a *specified offence* to the Director, **the ID is obliged to conduct an investigation** into the matter. (s 28(1)(b))

BACKGROUND

- ❑ **Investigations into TRANSNET, DENEL and ESKOM authorised by the ID**
 - The Report of the Public Protector on the "State of Capture" dated 14 October 2016
 - Testimony before the SCC alleging serious and high-level corruption within State Owned Enterprises, particularly testimony relating to ESKOM, DENEL and TRANSNET
 - Ongoing criminal investigations into unlawful activities committed at ESKOM, DENEL and TRANSNET relating to serious and high-level fraud and corruption
 - Ongoing civil litigation relating to alleged irregularly awarded contracts and payments made by ESKOM, DENEL and TRANSNET and related entities
 - A report submitted in terms of section 27 of the NPA Act on fraud and corruption

BACKGROUND

❑ SIU Referrals

- The SIU referred matters to ID in relation to the unlawful activities committed at ESKOM, namely ABB – Impulse, Kusile Project, and SAP
- The SIU also referred matters to ID in relation to the unlawful activities committed at TRANSNET, namely Neotel, Cutting-Edge, and SAP
- The SIU referred matters to ID in relation to the unlawful activities committed at DENEL, namely VR Laser and Hulls Contract (Hoefyster contract)

PROGRESS ON SOE INVESTIGATIONS WITH SIU REFERRAL

ID INVESTIGATIONS THAT THE SIU HAS CONDUCTED

Criminal investigation and prosecution
of matters referred by SIU

8 TOTAL NUMBER
OF SOEs MATTERS
REFERRED BY SIU

Lifecycle status of the criminal investigations and prosecutions of
matters referred by SIU



MATTERS UNDER INTAKE

ID INVESTIGATIONS UNDER INTAKE REFERRED BY SIU

Investigation Priority / Key Focus Areas	TRANSNET NEDBANK LOAN SWAPS		Case number	Not yet registered
Date Referred	05 April 2023	Contract Value	Not yet quantified	
Offence	Fraud, and PFMA			
Summary	<p>Improper or unlawful conduct by Transnet officials or employees in respect of the contracting or awarding through confinement without procurement process being followed:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The swap trades were not properly concluded on the part of Transnet on the execution dates in December 2015 and March 2016. <input type="checkbox"/> Failure under FICA to verify that Regiments and/or Trillian had the authority to act on behalf of Transnet before entering into the swap trades, <input type="checkbox"/> Failure to report suspicious transactions, a criminal offence under FICA, <input type="checkbox"/> Contractual (ISDA) breaches by Nedbank. 			
Action to Date	<p>The matter is still under Under Intake Process or Application for Authorisation Is in-progress.</p> <p>Reason for why the investigations are taking long:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Complex nature of Investigation 			



**MATTERS UNDER
INVESTIGATION
REFERRED BY SIU**

ID INVESTIGATIONS REFERRED BY SIU

Investigation Priority / Key Focus Areas	ESKOM & TRANSNET SAP CONTRACTS		Case number	Sunnyside CAS 170/12/2017
Date Reported	29 April 2021	Contract Value	R545 million (Transnet) R558 million (Eskom)	
Offence	PRECCA, POCA and CA contraventions, Fraud and Corruption			
Summary	Improper or unlawful conduct by Eskom & Transnet officials or employees in respect of the contracting for or procurement of software licenses and support services to Eskom Transnet.			
Action to Date	<p>The matter is still under investigation.</p> <p>Reason for why the investigations are taking long:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Complex nature of Investigations 			

ID INVESTIGATIONS REFERRED BY SIU

Investigation Priority / Key Focus Areas	TRANSNET NEOTEL CONTRACTS		Case number	Nat HO Anti-Corruption Enquiry 08-10-2019
Date Referred	14 February 2020	Contract Value	R 834 million	
Offence	PRECCA, POCA and CA contraventions, Fraud, Corruption, and PFMA			
Summary	<p>Improper or unlawful conduct by Transnet officials or employees in respect of the contracting or awarding through confinement without procurement process being followed:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The appointment of Neotel was unlawful and invalid in terms of section 2 of the Constitution, because the procurement process was not compliant with applicable prescripts regulating public sector procurement. 			
Action to Date	<p>The matter is still under investigation.</p> <p>Reason for why the investigations are taking long:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Complex nature of Investigation <input type="checkbox"/> The ID dependent for personnel on secondments from law enforcement partners, the NPA Act does not make provision for appointment of investigators in the NPA on a permanent basis. 			

ID INVESTIGATIONS REFERRED BY SIU

Investigation Priority / Key Focus Areas	TRANSNET CUTTING EDGE CONTRACTS		Case number	Not yet registered
Date Referred	25 October 2021	Contract Value	R84 million	
Offence	PRECCA, POCA contraventions, Fraud, and PFMA			
Summary	<p>Improper or unlawful conduct by Transnet officials or employees in respect of the contracting or awarding through confinement without procurement process being followed:</p> <p><input type="checkbox"/> The appointment of Cutting Edge was unlawful and invalid in terms of section 2 of the Constitution, because the procurement process was not compliant with applicable prescripts regulating public sector procurement.</p>			
Action to Date	<p>The matter is still under investigation.</p> <p>Reason for why the investigations are taking long:</p> <p><input type="checkbox"/> Complex nature of Investigation</p>			

ID INVESTIGATIONS REFERRED BY SIU

Investigation Priority / Key Focus Areas	DENEL		Case number	Not yet registered
Date Authorised	12 April 2023	Contract Value	R229 million	
Offence	Fraud, Theft, PRECCA, POCA Contraventions, and PFMA			
Summary	Improper or unlawful activities relating to the contract concluded between Denel and VR-Laser.			
Action to Date	<input type="checkbox"/> Matter has been authorised and investigation is currently underway.			



**MATTERS BEFORE COURT
REFERRED BY SIU**

SOE MATTER IN COURT REFERRED BY SIU

Investigation Priority / Key Focus Areas	ESKOM ABB IMPULSE CONTRACTS		Case number	Sandton CAS 413/7/2017
Date Reported	July 2017	Contract Value	R1.58 billion (Overpayments to ABB and the Variation Orders – this excludes Rotek Contracts)	
Offence	Corruption PRECCA contraventions AND Fraud	Entity involved/Person/s involved	<ul style="list-style-type: none"> • Eskom: Executives • ABB : Employees • Impulse International Employees 	
Summary	<ul style="list-style-type: none"> <input type="checkbox"/> During the period 2013 – 2017 Eskom/Rotek awarded contracts to ABB and Impulse International (Pty)Ltd. <input type="checkbox"/> ABB was awarded the Early Works Order and ultimately the Control & Instrumentation (C&I) contract at Kusile Power Station in 2015 to replace Alstom. <input type="checkbox"/> ABB appointed a sub-contractor, Leago EPC and Leago Engineering, to conduct work in terms of the C&I contract at Kusile. <input type="checkbox"/> ABB was later awarded Variation Orders at Kusile Power Station and appointed a sub-contractor, Impulse International (Pty)Ltd to complete the work. <input type="checkbox"/> ABB was awarded the contract after it was included in the submission to the tender committee after the report was finalized; <input type="checkbox"/> ABB received an unfair advantage over its competitors in that it received information which was not available to other bidders; <input type="checkbox"/> After a fall out between Leago EPC/Engineering, Impulse was brought on board; <input type="checkbox"/> Further contracts were awarded to Impulse International (Pty)Ltd by Rotek and Eskom which was as a result of a corrupt relationship; <input type="checkbox"/> There was a corrupt relationship between employees of Impulse International (Pty)Ltd and employees of ABB. 			
Action to Date	<ul style="list-style-type: none"> <input type="checkbox"/> The matter was enrolled on 27 October 2022. The accused were arrested and appeared in the Middelburg SCC Court, and they were granted bail. It is now postponed to 09 & 10 November 2023 for continuation of 342A cross examination <input type="checkbox"/> The following accused are before the court: <ul style="list-style-type: none"> ✓ Matshela Koko, Koketso Aren, Mosima Koko, Thato Choma, Watson Seswai, Johannes Coetzee, Thabo Mokwena, Johannes Mutchinya and Frans Sithole 			

SOE MATTER IN COURT REFERRED BY SIU

Investigation Priority / Key Focus Areas	ESKOM ABB GRATIFICATION		Case number	Sandton CAS 620/3/2020
Date Reported	March 2020	Contract Value	R549 million	
Offence	Corruption PRECCA contraventions AND Fraud	Entity involved/Person/s involved	<ul style="list-style-type: none"> • ABB Employees • Impulse International (Pty)Ltd 	
Summary	<p>It is alleged the two former ABB employees and their spouses received gratification from Impulse International (Pty)Ltd ("Impulse") to secure contracts/inflate prices with ABB, who was their employer at the time.</p> <p>From the investigation it was discovered that ABB employees received large amounts of money from Indiwize Construction (Pty)Ltd ("Indiwize"), a company owned by the late Pragasen Pather who was also the sole director (except for the period March – September 2016) of Impulse International.</p>			
Action to Date	<ul style="list-style-type: none"> <input type="checkbox"/> The matter was enrolled on 12 July 2022. It was postponed to 14 October 2022 for the State to analyse the information collected during the search and seizure operation conducted on 12 July 2022. The next court date is 26 March 2024 for further particulars. <input type="checkbox"/> The following accused are before the court: <ul style="list-style-type: none"> ✓ Vernon Pillay, Aradhna Pillay, Mohammed Essop Moodheen, and Raesa Moodheen 			

SOE MATTER IN COURT REFERRED BY SIU

Investigation Priority / Key Focus Areas	ESKOM KUSILE PHOLA BUILD PROJECT		Case number	Phola CAS 123/3/19 & Phola CAS 124/3/19
Date Reported	March 2019	Contract Value	Over R1.5 Billion	
Offence	Corruption PRECCA contraventions Fraud Theft PFMA contraventions POCA contraventions	Entity involved/Person/s involved	<ul style="list-style-type: none"> • Babinatlou Business Services CC • Tubular Holdings (Tubular) • Esor Construction (Esor) • Stefanutti Stocks (Stefanutti) • Tenova Mining & Minerals SA (Tenova) 	
Summary	<p><input type="checkbox"/> It is alleged that employees of Eskom service received gratification from contractors. Investigations conducted revealed that on entity by the name of Babinatlou received an amount of R74 999 035.03 from Kusile Build project contractors namely: Tubular Holdings (Tubular, Esor Construction (Esor) Stefanutti Stocks (Stefanutti) and Tenova Mining & Minerals SA (Tenova). The monies paid to Babinatlou were for either Corporate Social investment (CSI) projects or consulting works according to contracts obtained from aforementioned Eskom Contractors.</p>			
Action to Date	<p><input type="checkbox"/> Tubular Holdings (Tubular) Investigation (Bedfordview CAS 345/08/2017 & Phola CAS 125/03/2019). The matter is current enrolled, to reappear on 23 May 2024 for pre-trial in the Johannesburg High Court.</p> <p><input type="checkbox"/> Stefanutti Stocks Investigation and Tenova Mining & Minerals SA (Tenova) are still under investigation.</p> <p><input type="checkbox"/> Reason for why the investigations are taking long:</p> <ul style="list-style-type: none"> ▪ Complex nature of Investigation 			

SOE MATTER IN COURT REFERRED BY SIU

Investigation Priority / Key Focus Areas	ESKOM KUSILE PHOLA BUILD PROJECT (Cont.)		Case number	Phola CAS 123/3/19 & Phola CAS 124/3/19
Date Reported	March 2019	Contract Value	Over R1.5 Billion	
Offence	Corruption PRECCA contraventions Fraud Theft PFMA contraventions POCA contraventions	Entity involved/Person/s involved	<ul style="list-style-type: none"> • Babinatlou Business Services CC • Tubular Holdings (Tubular) • Esor Construction (Esor) • Stefanutti Stocks (Stefanutti) • Tenova Mining & Minerals SA (Tenova) 	
Action to Date	<p>SARS Contribution</p> <ul style="list-style-type: none"> <input type="checkbox"/> Polokwane 389/12/19 and 391/12/19 State vs Hudson Kgomoewana currently on the roll at Pretoria Specialised Commercial Crimes Court. Matter is postponed to 15 February 2024 for trial. <input type="checkbox"/> Garsfontein 248-250/12/19 State vs France Hlakudi is currently on the court roll at Pretoria Regional Court. Matter postponed to 07 November 2023 for partly heard. <input type="checkbox"/> Brooklyn 341/09/22 State vs Jacqueline Legoabe is currently on the court roll at Pretoria Specialized Commercial Crimes Court. Matter postponed to 18 January 2024 for defense to consider further particulars provided. <p>AFU Contribution</p> <ul style="list-style-type: none"> <input type="checkbox"/> AFU freezing order of R1.4 billion 			



PROGRESS ON STATE CAPTURE MATTERS

STATE CAPTURE COMMISSION INVESTIGATIONS


Criminal investigation and prosecution of matters emanating from the Zondo State Capture Commission

32 TOTAL NUMBER OF MATTERS WITH SPECIFIC RECOMMENDATIONS

122 TOTAL NUMBER OF ZONDO RECOMMENDATIONS

12 TOTAL NUMBER OF MATTERS WITH NO SPECIFIC ZONDO RECOMMENDATIONS

Lifecycle status of the criminal investigations and prosecutions of matters with specific Zondo Recommendations

 Under Intake Process or Application for Authorisation Is in-progress
7 Matters
15 Recommendations

 Under Investigation
18 Matters
85 Recommendations

 Before the Criminal Court
7 Matters
22 Recommendations

INSTITUTIONAL IMPEDIMENTS

- ❑ The non-permanence of the ID
- ❑ Dependency of the ID on secondments for personnel from other law enforcement partners
- ❑ Limited skilled and capable investigators and prosecutors – who are equal to the scale and scope of the investigations and prosecutions the ID is seized with
- ❑ Shortage of specialised forensic accountants, auditors and financial investigators in the public sector
- ❑ Inability to recruit and retain critical skilled and experienced personnel at sustainable remuneration rates
- ❑ Lack of digital forensic and data analysts capability that are critical in cases where terabytes of data have to be analysed and processed

REASONS FOR INVESTIGATIONS TAKING LONG

- ❑ Criminal conduct characterised by a high degree of complex and sophisticated methods of committing and camouflaging the crimes
- ❑ Investigations span over multiple jurisdictions that require Mutual Legal Assistance and extraditions that are both lengthy processes outside of the ID's control
- ❑ The length of time that has passed since the crime was committed and the investigation commenced such as witnesses/suspects that are no longer available and critical evidential material that is not retained by institutions
- ❑ Voluminous and data intensive dockets that run into multiple terabytes of information that require analysis and management in light of onerous discovery requirements in criminal cases

Progress on SCCU Referrals from SIU

NPA Mandate

The National Prosecuting Authority (NPA) was established in terms of section 179 of the Constitution and bears the responsibility of providing a coordinated prosecuting service that:

- ensures justice is delivered to the victims of crime through general and specialised prosecutions;
- removes the profit from crime and recovers stolen funds; and
- protects certain witnesses in the process.

SIU Legal and Referral Framework

SIU Act

- In terms of section 4(1)(d) of the SIU Act, the SIU must:
 - during an investigation of any matter in terms of the SIU Act, wherein the evidence collected points to the possible commission of an offence;
 - refer the matter to the NPA as soon as is practicable

For its part, the **SIU Act** allows members of the SIU to conduct searches, seizures and production of documents by parties (civil evidence)

Why the need for SIU Referrals?

- In essence, the investigations undertaken by the SIU do not satisfy criminal standards for prosecution
- Therefore, the NPA must work with investigators in the DPCI & SAPS to conduct criminal investigations and ensure that the evidence meets criminal prosecution standards
- That said, the work of the SIU is important and contributes greatly in this process.

MoU On SIU Referrals

- All parties, including DPCI and SAPS, signed during December 2022
- The result is that, even before referral is made, DPCI / AFU / Prosecutor / SIU work in collaboration
- Dockets are often registered before SIU obtain Proclamations
- Various cases dealt with by NPA against mentioned SOE's do not flow from SIU investigations

Measures to enhance prosecutions

- The tide is turning – impunity is no longer a given
- Over the past months, the NPA's leadership and its staff – by design and not by default - have implemented key initiatives to rebuild a fit-for-purpose organisation to deliver accountability and uphold the rule of law
- Co-location of investigators, analysts and prosecutors

Measures to enhance prosecutions

- Increased collaboration through structures such as the Integrated Task Force on State Capture cases, Advisory Panel, NPCOC EXCO and Case Management meetings, NPA EXCO, DPP Case Management Meetings and SCCU Management meetings
- Building partnerships and adopting bold and innovative measures with the private sector to strengthen and supplement the skills of our prosecutors through specialised training and the contracting of forensic specialists, while zealously guarding our independence
- Enhanced capacity within SCCU from 154 (120 legal) on 1 March 2019 to 257 (201 legal) at the end of October 2023 (67% increase / 68% legal)



**PROGRESS ON SIU
MATTERS BY SCCU**

SCCU SUMMARY

	CASES	IN COURT	UNDER INVESTIGATION	FINALISED
PRASA	8	2	5	1
TRANSNET	3		3	
SABC	1	1		
SAA	9	1	8	
DEPARTMENT OF WATER AND SANITATION	9		7	2
ESKOM	5	1	1	3 (6 accused)



**CASES IN COURT DEALT
WITH BY SCCU**

SCCU COURT CASE - 1

Focus Areas / Case Name	Department of Transport and Safety (North West) and SA-Express	CURRENT STATUS
Case number	MMABATHO CAS 181/5/2020	In court. Postponed to 24 January 2024 for pre-trial. Trial date arranged for 14 May 2024
Offence	Fraud, Theft, Money Laundering and PFMA	ACTION AGAINST AS PER SCC RECOMMENDATION
Tax Contravention(s)	Section 73 Request sent to SARS	1. Brian Tebogo van Wyk
Asset Recoveries	None	2. Nothando Dube
State Capture Commission Report PART, VOL	Part 1, Vol 1 (Page 11)	3. Sipho Levy Phiri
State Capture Commission Recommendation(s) Numbers	ZCR001	4. Thabong Baily Mahlakoleng
		5. Batsamai Investments Holdings (Pty) Ltd
		6. Servilex Investments Holdings CC
		7. Lavato Estavao (Pty) Ltd
		7 accused (4 natural persons & 3 entities)

SCCU COURT CASE - 2

Focus Areas / Case Name	Asbestos - Department of Human Settlements (Free State)	CURRENT STATUS
Case number	Park Road CAS 486/02/2020	The matter was postponed to 5 April to 23 June 2024 for trial. ACTION AGAINST AS PER SCC RECOMMENDATION
Offence	Fraud and Corruption	1. Nthimotse Mokhesi
Tax Contravention(s)	Section 73 Request sent to SARS	2. Mahlomola John Matlakala
Asset Recoveries	R1.958bn (2 restraints)	3. Pheagane Edwin Sodi
State Capture Commission Report PART, VOL	Part 4, Vol 2 (Page 447-451)	4. Sello Joseph Radebe
State Capture Commission Recommendation(s) Numbers	13 recommendations ZCR0175 ZCR0176; ZCR0177 ZCR0178; ZCR0179 ZCR0181; ZCR0184 ZCR0185; ZCR0186 ZCR0187; ZCR0190 ZCR0191; ZCR0193	5. Abel Kgotso Manyeki
		6. Thabane Wiseman Zulu
		7. Sarah Matawana Mlamleli
		8. Elias Sekgobela Magashule
		9. Nozipho Belina Molikoe
		10. Thabiso Makepe
		11. Albertus Venter
		12. BlackHead Consulting (Pty) Ltd
		13. Diamond Hill Trading 71 (Pty) Ltd
		14. 605 Consulting Solutions (pty)Ltd
		15. Mastertrade 232 (Pty) Ltd
		16. ORI Group (Pty)Ltd
		17. Moroadi Cholota (still to be extradited from USA)
		17 accused (13 natural persons & 4 entities)

SCCU COURT CASE - 3

Focus Areas / Case Name	Prasa - Mashaba	CURRENT STATUS
Case number	Hillbrow CAS 189/03/2021	The matter is remanded to 24 January 2024.
Offence	Fraud and Corruption	ACTION AGAINST AS PER SCC RECOMMENDATION
Tax Contravention(s)	Section 73 Request sent to SARS	1. Auswell Mashaba
Asset Recoveries	Provisional asset recovery GRANTED, Vincent Smith = R46 000 000.	1 natural person
State Capture Commission Report PART, VOL	Part 5, Vol 2 (page 701 paragraph 1870)	
State Capture Commission Recommendation Numbers	No specific recommendation	

SCCU COURT CASE - 4

Focus Areas / Case Name	Prasa – Mthimkulu	CURRENT STATUS
Case number	Hillbrow CAS 566/07/2015	The matter is remanded to 4, 5 and 8 December 2023 for sentencing procedures.
Offence	Fraud and Corruption	ACTION AGAINST AS PER SCC RECOMMENDATION
Tax Contravention(s)	None	1.Daniel Mthimkulu
Asset Recoveries	In process of identifying assets to be recovered	1 – natural person
State Capture Commission Report PART, VOL	(not a specific recommendation – see Part 5 Vol 2 p851 Para 2191.4 (a) for related recommendation)	
State Capture Commission Recommendation(s) Numbers	(not a specific recommendation – see Part 5 Vol 2 p851 Para 2191.4 (a) for related recommendation)	

SCCU COURT CASE - 5

Focus Areas / Case Name	SABC ; SM Mtsweni	CURRENT STATUS
Case number	Brixton CAS 156/5/2018	The matter is remanded to 29 and 30 November 2023 for further evidence.
Offences	Fraud and Corruption	ACTION AGAINST AS PER SCC RECOMMENDATION
SIU REF	PRDNATSBC1HOF	1.SM Mtsweni
Asset Recoveries	No assets to be recovered	1 – natural person
State Capture Commission Report PART, VOL	None	
State Capture Commission Recommendation(s) Numbers	None	

SCCU COURT CASE - 6

Focus Areas / Case Name	ESKOM (MyTeddy)	CURRENT STATUS The matter was enrolled on 8 November 2023 and is remanded to 15 January 2024 for further investigation and disclosure
Case number	MIDDDELBURG CAS 527/11/202	
Offence	Fraud and Corruption	
SIU REF		
Asset Recoveries	No assets to be recovered	
State Capture Commission Report PART, VOL	None	
State Capture Commission Recommendation(s) Numbers	None	



CASES FINALISED BY SCCU

SCCU FINALISED CASE - 1

Focus Areas / Case Name	ESKOM
Court	Palm Ridge Commercial Crimes Court
Offence	Fraud and corruption
SIU REFERRAL REF	N/A
Asset Recoveries	Preservation order in November 2021
Conviction and Sentence	30 March 2022
	Former Eskom Financial Controller Mosai Barnard Moraka and Eskom service provider Victor Vilosi Tshabalala, were each found guilty of 53 counts of fraud and theft that cost Eskom R35 million. They were each sentenced to 20 years' imprisonment.

SCCU FINALISED CASE - 2

Focus Areas / Case Name	ESKOM
Court	Mbombela Magistrate's Court
Offence	Fraud, theft, and money laundering
SIU REFERRAL REF	N/A
Asset Recoveries	Freezing orders relating to Edward Moropane's stand at Kanyamazane township, his 2011 GWM Steed single-cab bakkie, and another GWM Steed 5 single cab bakkie were obtained. Another freezing order relating to Jeffrey Moropane's vehicle, a 1996 Toyota Corolla, was obtained. The confiscation application was launched on October 6. The matter has been postponed to 22 January 2024 for judgement on the confiscation order.
Conviction and Sentence	14 December 2022 / 4 March 2023 + 23 January 2024
	Michael Chimanzi, Nwabisa Ngxola and Cinderella Moropane were convicted on 14 December 2022 and sentenced on 4 March 2023 to 8 years imprisonment wholly suspended (however, Chimanzi had already spent four years in prison awaiting trial) Nwabisa Ngxola was sentenced on 2 May 2023 to 17 years imprisonment Cinderella Moropane was convicted on 14 December 2022 – sentencing postponed to 23 January 2024

SCCU FINALISED CASE - 3

Focus Areas / Case Name	ESKOM
Court	KRIEL
Offence	FRAUD
SIU REFERRAL REF	N/A
Asset Recoveries	R500 000
Conviction and Sentence	2 May 2023
	Former Kriel power station finance manager, Sifiso Masina, was sentenced to eight-years imprisonment wholly suspended, and ordered to repay over R500,000 over 48 months.

SCCU FINALISED CASE - 4

Focus Areas / Case Name	PRASA - Mthimkulu
Court	Johannesburg Specialised Commercial Crimes Court
Offence	FRAUD (x3 counts)
SIU REFERRAL REF	N/A
Asset Recoveries	N/A
Conviction and Sentence	4, 5 and 8 December 2023
	The matter is remanded to 4, 5 and 8 December 2023 for sentencing procedures

**SCCU MATTERS
DECLINED TO
PROSECUTE**

SCCU WITHDRAWN CASE - 1

Focus Areas / Case Name	Amatola Water Board – 5 referrals (Eastern Cape)	<p>Current Status</p> <p>There is no evidence that any suspects received any gratification on behalf of themselves and or a third party, therefore a decision to decline to prosecute was taken in relation to the matter</p>
Case number	Cambridge Cas: 100/06/2020 & 268/02/2021	
Offence	Corruption	
SIU REFERRAL REF	Proclamation R23 of 2020	
Asset Recoveries		

SCCU WITHDRAWN CASE - 2

Focus Areas / Case Name	Department of Water and Sanitation CIDB-ASCUL Construction	<u>CURRENT STATUS</u> A decision to decline to prosecute was taken as the Accused passed away in relation to the matter of CIDB-ASCUL Construction
CAS no	Sunnyside CAS 846/04/2018	
Offence		
SIU REFERRAL REF	DWAR33NAT2NAT/NPA/EOH	
Asset Recoveries		
Conviction and Sentence	NA	



SCCU MATTERS UNDER INVESTIGATION

SCCU GUIDING DPCI INVESTIGATION- PRASA

- There is collaboration with other stakeholders in the investigation of the matter, and these are National Treasury, FIC, SIU and SARS.
- Some major challenges still exist:
 - Affidavits from PRASA are still outstanding as some of the PRASA employees are not cooperative. There have been engagements with senior members of PRASA in this regard.
 - Critical original documents necessary for the investigations to be located. National Treasury with Law Enforcement Authorities assist to unblock challenges in the investigation and prosecution of public procurement cases



**ASSET FORFEITURE
PROGRESS ON SIU
REFERRALS**

ESKOM MATTERS

- Eskom/ABB
 - AFU/ID recovered R2,55bn from ABB
- Moyo Matter (Kusile Power Station Project)
 - AFU has a preservation in place for R24,6m – Forfeiture proceedings ongoing
- Tamukelo Matter (Kusile Power Station Project)
 - AFU has preservation in place for R9,8m – Forfeiture proceedings ongoing
- Patrick Jones and Others (Corruption at Eskom Mpumalanga)
 - AFU has preservation in place for R14,7m – Forfeiture proceedings ongoing
- Chris Obutse Mere (Eskom Provident Fund)
 - AFU obtained a confiscation for R647k.
- Tegeta/OCM/Templar
 - AFU has a preservation in place for R1,84bn – Forfeiture proceedings ongoing

ESKOM MATTERS (ctd.)

- Tegeta OCM
 - AFU has a preservation in place for R3,9bn
- Moodheen/Pillay (ABB)
 - AFU has a restraint in place for R584m – Criminal Trial is ongoing
- Hlakudi and Others
 - AFU has a restraint in place for R1,44bn – Criminal Trial is ongoing

PRASA MATTERS

- PRASA (D Mthimkulu)
 - AFU has a restraint in place for R3m - Confiscation application filed
- PRASA (Royal Security)
 - Still under investigation - AFU involved in the investigation
- Swifambo
 - Still under investigation - AFU involved in the investigation
- Siyangena
 - Still under investigation - AFU involved in the investigation
- Nandisa Milisa consulting
 - Still under investigation - AFU involved in the investigation

WATERBOARD MATTERS

- Mhlatuze Waterboard (MP Duze and others)
 - AFU has a preservation order in place in the amount of R28m
- Mhlatuze Waterboard (SR Mhlanga and Others)
 - AFU has a preservation in place for R18m
- Lepelle Northern Waterboard
 - AFU Investigations ongoing – Immovable property has been identified
 - Recovery specialists appointed.
- Amatole Waterboard
 - AFU is involved in the investigation

NATIONAL LOTTERIES COMMISSION

The NLC matters are an excellent example of cooperation between the SIU and AFU

- Lotteries 1
 - The AFU has obtained a preservation order in the amount of R23,2m
 - The forfeiture process is in motion.
- Lotteries 2
 - The AFU has obtained a preservation order in the amount of R56,3m
 - The forfeiture process is in motion.
- Lotteries 3
 - The AFU has obtained a preservation order in the amount of R14,8m
 - The forfeiture process is in motion.
- Total of R94,3m preserved.

TRANSNET MATTERS

- Regiments Capital (Transnet Pension Fund)
 - The AFU has a restraint in place for R1,658bn
 - A confiscation application will be launched on conviction.

OTHER MATTERS

- SA Express
 - AFU at an advanced stage – conviction-based confiscation proceedings envisioned
- Department of Human Settlements (Asbestos Case)
 - 2 restraints to the value of R1,958bn in place
- Bosasa (Vincent Smith)
 - R4,5m restraint in place
- PRASA (Royal Security)
 - Still under investigation
 - AFU involved in the investigation
- Freestate Housing (Asbestos Matter)
 - AFU has a restraint in place for R300m

OTHER MATTERS (ctd.)

- Department of Public Works (Masiqame Trading)
 - A confiscation order for R500k was obtained
- Ethekwini Municipality (Western Breeze)
 - A forfeiture order for R19m was obtained
- Ethekwini Municipality (Ngcobo - Jaguar)
 - A forfeiture order for R450k was obtained.
- Ethekwini Municipality (Abbu, Zandile Gumede)
 - The AFU has a restraint in place for R51m. A confiscation will be applied for on conviction
- Amatole Municipality (Mlonzi, Kwane Capital)
 - The AFU has a restraint in place for R23,6m. A confiscation will be applied for on conviction

OTHER MATTERS (ctd.)

- Vhembe District Municipality (Freddy Tshivengwa)
 - The AFU has a restraint in place for R11,2m – A confiscation application will be launched on conviction.
- Various SAA Matters
 - The AFU is involved in the investigation of a number of SAA matters with the SCCU. These include:
 - SAA (Obsolete Stock)
 - SAA (Pilanesberg Airport Company, Mahikent Airport)
 - SAA (SIB Paint)
 - SAA (Plane Swap agreement)
 - SAA (BNP Capital)
 - SAA (New Age News Paper)

Asset Forfeiture Summary

- SIU Referrals – Results (SIU as Referral Agency incl. ACTT)
- Confiscations/forfeitures
 - Number **56**
 - Value **R132m**
- Preservations
 - Number **50**
 - Value **R1,8bn**
- Recoveries **R98m**



National Prosecuting Authority
South Africa

Thank you

Head Office: 012 845 6000

E-mail: communication@npa.gov.za

VGM Building, 123 Westlake Avenue (Cnr Hartley Street),
Weavind Park, Silverton, Pretoria, 0184

www.npa.gov.za