

Justice • Freedom • Security

2008/09



National Prosecuting Authority

Annual Report 2008/09



NATIONAL PROSECUTING AUTHORITY
South Africa

VISION

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

MISSION

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.

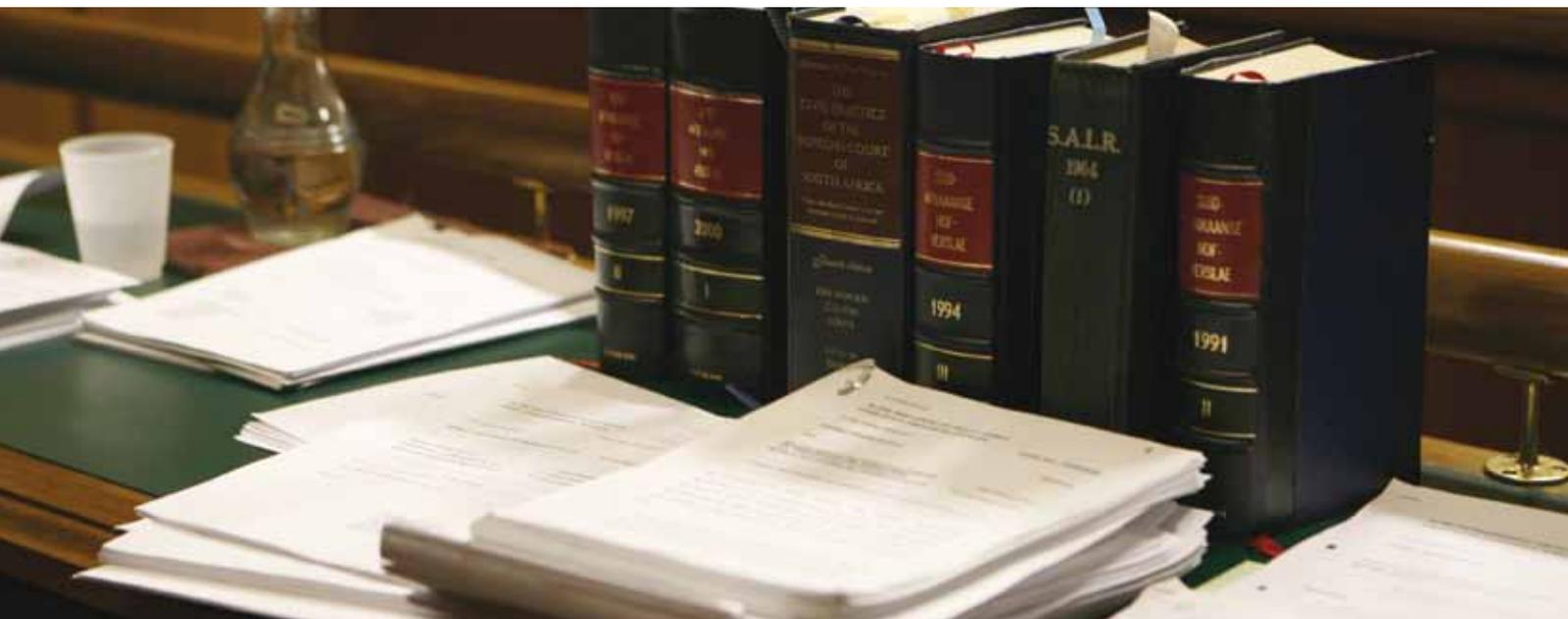


Table of Contents

1. GENERAL INFORMATION

SUBMISSION OF THE ANNUAL REPORT TO THE EXECUTIVE AUTHORITY	ii
INTRODUCTION BY THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS	iii

2. PROGRAMME PERFORMANCE 8

SUB-PROGRAMME 1: PUBLIC PROSECUTIONS	12
National Prosecutions Service (NPS)	13
Priority Crimes Litigation Unit (PCLU)	21
Specialised Commercial Crime Unit (SCCU)	24
Sexual Offences And Community Affairs (SOCA)	26
SUB-PROGRAMME 2: WITNESS PROTECTION	30
SUB-PROGRAMME 3: DIRECTORATE OF SPECIAL OPERATIONS	34
SUB-PROGRAMME 4: ASSET FORFEITURE	38
GOVERNANCE AND RESOURCING	44
GOVERNANCE	45
Office of the Chief Executive Officer	45
Enterprise Risk Management	46
Internal Audit	46
Programme Management Office	46
Integrity Management Unit (IMU)	47
Communications Unit	47
RESOURCING	49
Human Resource Management & Development (HRM&D)	48
Finance & Procurement	50
Security & Risk Management (S&RM)	51
Information Management Service Centre (IMSC)	51
Research & Policy Information	53
Departmental revenue, expenditure, and other specific topics	54

NPA Annual Financial Statements	56
---------------------------------	----

CARA Financial Statements	122
---------------------------	-----

HR Oversight Report	140
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Glossary	170
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Submission of the Annual Report to the Executive Authority

To: Mr Jeff Radebe, Minister for Justice and Constitutional Development

I have the honour of submitting the 2008/2009 Annual Report of the National Prosecuting Authority in terms of the Public Finance Management Act, 1999



Dr Khotso De Wee

Chief Executive Officer (Acting)

August 2009



Introduction by the National Director of Public Prosecutions

The National Prosecuting Authority (NPA) upholds Government's vision of a better life for all. In support of this vision and the strategy of the Department of Justice and Constitutional Development (DoJ&CD), the NPA continued to strive to realise the long term vision of ensuring justice in our society so that people can live in freedom and security. As part of the criminal justice cluster, the NPA co-operated with its partners in the review of the Criminal Justice System (CJS) that is aimed at enhancing all the structures involved in the fight against crime and improving co-operation and co-ordination within the justice system.



Towards the end of 2008, the NPA welcomed the Minister of Justice and Constitutional Development, Mr Mohamed Enver Surty. Although Mr. Surty served for a short period, the NPA valued the support the Minister provided. The organisation as a whole looks forward to establishing a good working relationship with the new Minister, Mr Jeff Radebe.

Last year proved to be an extremely trying period for the NPA, with many high profile events impacting on the image of the organisation. Although the organisation remained firmly resolved not to veer from the path that the Constitution and the NPA Act clearly set out, this transitional period proved to be particularly difficult for those men and women who served in the DSO. The year was marked by continued deliberations regarding the relocation and disbandment of the DSO and many difficult decisions had to be made by executive management. Despite great efforts to manage the impact of these resolutions, individual employees and their families were affected. The NPA wishes to commend those individuals who continued to fulfil their duties diligently and effectively despite the uncertain environment they worked in during this period. We wish those DSO members who have already moved on, success in their endeavours. We are also encouraged by the commitment shown by those who have agreed to transfer to the Directorate of Priority Crime Investigations (DPCI) to make a success of the new unit under the South African Police Service (SAPS).

There were highlights and celebrations in the past year, and good work was done by the NPA in many areas with improvements on the performance of last year. The performance achievements within this period are dividends of the work of dedicated and committed employees led by a strong management and leadership corp.

The NPA celebrated the launch of its organisational values: accountability, credibility, integrity, service excellence and professionalism. In the spirit of these values, employees embraced change and challenge alike, put their heads down and served customers without respite. The operational performance of the NPA improved in several areas. The Asset Forfeiture Unit (AFU) recorded its best year to date in spite of decreased referrals from the DSO. The National Prosecutions Service (NPS) finalised more cases through the controlled use of suitable alternative justice mechanisms. The use of alternatives allowed the courts to focus on cases where full prosecution was the given course of action.

Overall the conviction rate is extremely satisfactory. Specific mention should be made of the work of the Specialised Commercial Crime Unit (SCCU) for achieving a conviction rate of 93, 7% and the DSO for achieving a conviction rate of 98% during a very taxing period. The withdrawals in all courts have been reduced significantly which indicates that the screening of cases improved. When cases are carefully screened, time and effort are significantly reduced. The investment and focused attention in this area paid off and it is an encouraging step in the right direction. Hard work and dedication by all the Criminal Justice Departments also ensured a reduction in the number of awaiting trial detainees.

During the reporting period the NPA ensured that no witnesses on the witness protection programme were harmed or threatened by the parties from whom they were protected. There has been a significant increase in the number of people who walked off the programme. This should be clarified in the context of the amended definition to include all persons who left the programme before testifying.

The NPA established seven Thuthuzela Care Centres (TCCs), bringing the total to 17 in South Africa, in support of the victims of crime, particularly the victims of sexual offences who are mainly women and children. Relations with the Southern African Development Community (SADC) and other African countries were sustained by sharing knowledge acquired in the areas of victim support and human trafficking.

In terms of financial governance, the NPA had challenges in budgeting for operations. These constraints were the result



of the reprioritisation of funds to ensure the implementation of the Occupation Specific Dispensation (OSD) for Legally Qualified Personnel.

Requests for Mutual Legal Assistance

During the reporting period the NPA registered fifty six (56) new applications for Mutual Legal Assistance (MLA), and finalised eighty four (84) applications carried over from the previous financial year. Forty three (43) of the requests were received from a wide range of countries, such as Finland, Brazil, the Czech Republic, Zimbabwe, the Russian Federation, Argentina, Cyprus, Austria, Spain, Malawi, the Netherlands, Germany, the United Kingdom (UK), Luxembourg, Switzerland, Belgium, Tanzania, Canada, Germany, Denmark, Australia, France, the United States of America (USA), the Kingdom of Lesotho, Hong Kong and Thailand.

Thirteen (13) requests for MLA were issued by the NPA to countries such as Zimbabwe, Portugal, Sweden, Belgium, Monaco, the United Arab Emirates (UAE), Switzerland, Lichtenstein and Botswana.

Extraditions

The NPA registered twenty one (21) requests for extradition of individuals from South Africa in the past year. Of these, fifteen (15) requests were received from countries such as Swaziland, Botswana, the UK, Namibia, Ghana, Hungary and Portugal. Six (6) requests for extradition were issued by South Africa to inter alia, Namibia, the UK and the USA. The NPA finalised 25 matters during the year.

Following discussions with the former Deputy Minister of Justice and Constitutional Development a joint DoJ&CD/NPA committee was established to draft terms of reference with regard to future co-operation in all matters relating to MLA and Extraditions. Draft guidelines were received from the DoJ&CD relating to MLA and Extradition matters. These guidelines are being discussed and inputs collated.

In the Quagliani matter the court held that the Extradition Agreement between the USA and the Republic of South Africa was valid and enforceable. This is significant progress and matters that were previously removed from the roll due to the initial judgment which found the treaty to be unenforceable, can be reinstated and pursued. The decision also allowed the NPA to finalise the Goodwin matter which is part of the greater Fidentia investigation. A request for the extradition of Mr Goodwin was addressed to the USA during April 2008 but given the initial decisions on the treaty, he opposed the request and litigation ensued in both South Africa and the USA. However, the abovementioned decision prompted Mr Goodwin to cease his opposition and he returned voluntarily to South Africa where the matter was successfully finalised with a plea agreement which entailed a significant period of imprisonment.

Acknowledgement

I wish to thank all NPA employees for remaining steadfast during the past year. Prosecutors have not allowed the upheaval relating to high profile matters, and the disbandment of the DSO to cause them to falter in delivering a service to our customers. Last year, faced with drafting a similar acknowledgement, I hoped that the coming year would be marked by less turbulence, but that has not been the case. Nonetheless, the NPA has taken significant steps on the road to recovering from the setbacks. Unfortunately the position of the National Director of Public Prosecutions (NDPP) remains unresolved after the dismissal of Adv. Vusi Pikoli and his subsequent court challenge which must still be finalised. Even so, the NPA embraces the change in government leadership and looks forward to rebuilding the NPA. The appointment of Dr Khotso De Wee as the Acting Chief Executive Officer (ACEO) has already aided the organisation in many ways and significant progress has been made in addressing the audit findings of last year under his leadership. He has also managed to regroup Corporate Services (CS). As they put it in nautical terms, full steam ahead, colleagues.



Adv. Mokotedi J Mpshe SC

Acting National Director of Public Prosecutions

