



16



The National Prosecuting Authority of South Africa
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Die Nationale Vervolgingsgesig van Suid-Afrika

Priority Crimes Litigation Unit (PCLU)

**REPORT TO JUSTICE & CONSTITUTIONAL DEVELOPMENT
PORTFOLIO COMMITTEE**

Presented by Adv AR Ackermann SC

Head: PCLU

March 2007



MANDATE

17



- Created by Presidential Proclamation on 23 March 2003.
- Manages and directs investigations and prosecutions as specified in the Proclamation.

SUPPLEMENTARY MANDATE

- Contraventions of nuclear, chemical/biological and conventional arms control legislation;
- Prosecutions arising from TRC;
- Selected civil claims impacting on the work of the NPA;
- Tracing of persons reported missing by TRC.



THE ROLE OF THE PCLU

18



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• **PROSECUTIONS**

- Investigations are conducted by SAPS and DSO.
- Provides legal support to such investigations.
- Institutes prosecutions arising from such investigations.
- Actively engages with State departments, controlling bodies and agencies which may enhance the investigations and prosecutions dealt with.
- Actively involved in mutual legal assistance and extradition.
- Engages in proposing legislative amendments.
- Conducts legal research and furnishes legal opinions.
- Provides assistance to DPP's.



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MISSING PERSONS' TASK TEAM

- Investigates cases of persons who disappeared as reported by TRC with the aim of locating, exhuming and returning the remains to the families.
- Engages with other State departments, Provincial and Local Government and Non-Governmental organizations as well as the families themselves.
- Aligned to the Ministry's TRC unit.
- Develops forensic and DNA skills.
- Contributes to Government's restoration of dignity programmes.



STRATEGIC DIRECTION OF THE PRIORITY CRIMES LITIGATION UNIT



20

Committed to ensuring that all investigations and prosecutions:

- are successful;
- that a reduction in crime is achieved.

This direction requires focus on enhancing:

- investigative capacity;
- prosecution efficiency;
- engagement with relevant role players and stakeholders;
- legislative developments;
- research and training; and
- transferring of skills within the NPA.

The Missing Persons' Task Team is a short-term project dedicated to finalizing the investigation of the reported missing persons.



THE UNIT'S STRATEGIC PLAN AND DELIVERABLES

- Strategic plan and outcomes focus on above areas.

Summary of Performance /Major Achievements

- **Prosecutions**

- Nuclear non-proliferation

- ***S v Geiges, Wisser & Kirsch Engineering***

Serious case of international nuclear proliferation – Trial set down in the Pretoria High Court.

Thefts at a nuclear facility investigated - insufficient evidence to justify a prosecution.

Three further sensitive matters under investigation.



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22



- Chemical / Biological non-proliferation
 - Unit part of SA delegation at International Conference in The Hague.
 - Decision taken not to prosecute in two matters.
- Mercenary activities
 - ***S v Archer & 6 Others***
Seven persons acquitted in the Pretoria Regional Court on charge of attempting to overthrow the Government of Equatorial Guinea. Accused acquitted on basis that they were unaware that their conduct was unlawful. Discussions taking place with foreign countries regarding the role of foreign nationals.



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23



- International terrorism
 - PCLU attended UN Counter-Terrorism Conference in Namibia.
- Conventional arms
 - Assistance provided to Czech Republic re international arms smuggling.
 - Export of military vehicle to conflict region in Africa under investigation.
- Statute of Rome
 - Complaint that deportation of Pakistani national constituted an offence i.t.o. the Statute – under investigation.
 - Opinion furnished *re* SA jurisdiction for taking over cases from Rwandan International Criminal Tribunal.
 - Assistance to Belgian Government *re* murder of Belgian peace keepers.



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24



- **Civil litigation**

Singh v The Minister & NDPP

Attempt to institute a private prosecution against former NDPP and other key NPA officials successfully opposed.

- **Other matters**

Assistance provided to foreign law enforcement agency re human trafficking.

- **Legal research and opinions**

Research and/or opinions provided to DPP's and DSO on various matters.

- **TRC prosecutions**

- ***S v Van Zyl & Another (Pebco 3)***

Accused indicted in High Court. Review of Amnesty decision pending.

- 16 other matters identified for investigation.

- Representations received.

- Ministerial request for reopening of ***Samora Machel*** air crash investigation.

- Guidelines - multi-departmental task team set up. Previous decisions reviewed and 20 cases closed.



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25



- Missing Persons

- (i) Exhumations conducted

- Minister requests formulation of guidelines
 - Ten exhumations conducted and 22 planned
 - Seven cemeteries surveyed
 - Forty eight burial sites forensically examined
 - Site of Pebco 3 murder examined

- (ii) Identifications

- Fourteen victims positively identified
 - 11 DNA tests concluded
 - 3 other matters under investigation

- (iii) Reburials

- Nine reburials conducted
 - Fourteen reburials pending



MAJOR CHALLENGES

26



PROSECUTIONS

- Professional staff inadequate for case load
- Office space inadequate
- Difficulty in obtaining evidence in mercenary cases
- Delays with TRC prosecutions

MISSING PERSONS

- Cases outside South Africa's borders
- Cases not reported to TRC
- Ongoing destruction of records



THE IMPACT OF CHALLENGES ON WORK

27



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- Inadequate staff to attend to all cases
- Inadequate office space
- Delays with TRC prosecutions – evidence being lost

STEPS TAKEN TO MITIGATE THE CHALLENGES/RISK

- Risk Mitigation - and Action Plans adopted
- Continuous re-organization and re-prioritization in progress



BUDGET / CONCLUSION

28



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- **BUDGET**

- Unit has operated within budgetary constraints.
- Savings effected due to delays in implementing TRC prosecutions.

- **CONCLUSION**

- Despite difficulties, the PCLU continues to function and give proper attention to cases falling within its mandate.